REPORTING OFFICER

1. This report has been prepared by Sam Le Heron. I hold the qualification of Masters in Planning from the University of Otago. I also hold a Bachelor of Physical Education and Bachelor of Arts from the University of Otago. I have had over 8 years’ experience in planning roles in Local Government in New Zealand. This experience includes both policy development and consent processing roles under the Resource Management Act 1991 (RMA). I have been a Full Member of the New Zealand Planning Institute since October 2017.

2. At present I hold the position of Consents and Certificates Lead for the Hamilton City Council in the Planning Guidance Unit, a role I have held for approximately 3 months. Prior to this role I held the position of Senior Planner for the Hamilton City Council Planning Guidance Unit, a position I held for approximately 1 ½ years.

3. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and have complied with that practice note in preparation of this report. I agree to comply with it in presenting this report and any evidence at the hearing. The opinions and assessment within this report are within my area of expertise, except where I have stated my reliance on other identified evidence. I have considered all material facts that are known to me that might alter or detract from the opinions that I express in this evidence.

4. No formal pre-hearing meetings or mediations concerning submissions covered by this evidence have been undertaken pursuant to sections 99 and 99A of the RMA.

REPORT STATUS

5. This report is a s42A Report prepared under the Resource Management Act 1991 (RMA) which provides my advice and recommendations as an independent planner. The report has been prepared based on the information available on 26 April 2019. It does not represent any decision on the applications and the conclusions and recommendations reached in the report are not binding on the Hearing Commissioners. The report will be considered by the
Commissioners in conjunction with all other technical evidence and submissions to the application to form and make their decision under delegated authority on behalf of Hamilton City Council as the consenting authority.

6. In this report, I will outline the statutory planning framework insofar as it relates to the proposal. I will provide my assessment under section 104 of the RMA and, in doing so, I will identify the issues raised through the notification process and will assess the effects of the proposal (both adverse and positive) and the effectiveness of mitigation measures proposed by the applicant. The report draws on specialist advice concerning transportation and economics matters primarily, with other expert commentary regarding geotechnical matters and three waters infrastructure. The specialists’ technical assessments are attached as numbered appendices as follows:

<table>
<thead>
<tr>
<th>Processing Team</th>
<th>Personnel</th>
<th>Technical Expertise</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>HCC Consents and Certificates Lead</td>
<td>Sam Le Heron</td>
<td>Resource Management</td>
<td>This Report</td>
</tr>
<tr>
<td>Gray Matter Ltd</td>
<td>Alastair Black</td>
<td>Transportation</td>
<td>Appendix A</td>
</tr>
<tr>
<td>WSP Opus</td>
<td>Mike Meister</td>
<td>Transportation</td>
<td>Appendix B</td>
</tr>
<tr>
<td>Market Economics</td>
<td>Susan Fairgray</td>
<td>Economics</td>
<td>Appendix C</td>
</tr>
</tbody>
</table>

7. In addition to the above appendices, several attachments and a memo relating to geotechnical, contaminated soil, hazardous substances and engineering are included in this report, but no statement of evidence on these matters is intended to be lodged by Council (as consent authority), given the relatively straightforward issues.

8. The Hearing Commissioners will have a copy of the application documents, all further information documents and submissions that have been received. The application documentation has been made available to the public on the HCC website, accessed via www.hamilton.govt.nz/foodstuffs. For this reason, it is not intended to extensively repeat information that is provided in the application documentation. Where appropriate I have identified those parts of the application AEE which I have adopted for the purposes of the section 42A report.

**APPLICATION TIMELINE**

9. To record the timeline for the application, the following are the key dates of the application process:

- **23 July 2018** Application lodged with Council
- **16 August 2018** S92 Further Information Request
- **23 October 2018** Responses to Further Information Request
- **21 November 2018** Request for Public Notification by Applicant
- **11 December 2018** Application Notified

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1 Reference to “Council” in this report is a reference to Hamilton City Council as regulatory authority, unless otherwise stated.
### COMMISSIONERS’ DIRECTIONS

10. The Commissioner Panel will hear and determine the application under delegated authority from Hamilton City Council. Commissioner Kivell has issued a direction for the pre-circulation of evidence and for the hearing process. The direction notice is dated 1 April 2019.

11. With respect to the pre-circulation of evidence for technical witnesses, the following dates are to be complied with for the availability of reports and evidence:

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>30 April 19</td>
<td>Council s42A report</td>
</tr>
<tr>
<td>7 May 19</td>
<td>Applicant’s statements of evidence</td>
</tr>
<tr>
<td>14 May 19</td>
<td>Submitters’ expert statements of evidence</td>
</tr>
</tbody>
</table>

12. It is expected that the Applicant will table any rebuttal evidence at the opening of the hearing. I intend to provide an update or addendum to this s42A report during the hearing, when Council presents to the Hearing Commissioner Panel.

### EXECUTIVE SUMMARY

13. This application seeks resource consent for the construction and operation of a new Pak N Save supermarket with an associated fuel facility, at-grade car parking and all other associated enabling works.

14. The critical issues arising from the application relate to transportation effects and economic effects.

15. The Foodstuffs North Island Limited (the ‘Applicant’), has presented expert technical reports in support of its application. This includes a Broad Integrated Transport Assessment and a Centres Assessment Report, in addition to other technical information. While the original application was considered to be a complete application and additional information was provided as part of responses to Council’s S92 Request for Further Information, at the time of public notification being requested by the Applicant there were several important elements which remained outstanding (see Attachments 1 and 2 S92 Outstanding Matters – Transportation 9/11/2018 and Centres Assessment 27/09/2018).

16. At the time of public notification, given the degree of the gap in information available to Council (regarding transportation and economic matters), I made the decision, in consultation with internal and external experts, that additional modelling would be required for both transportation and economic matters. That additional work was consequently commissioned by Council.
Six submissions have been received, the majority of which are in opposition to the application and focus on transportation and economic effects. Many of the submissions are stated in general terms, with limited specific relief or issues identified. I have considered the submissions for the purpose of my assessment of the application.

The additional transportation modelling resulted in the creation of a 2031 VISSIM Model. This VISSIM Model was subsequently provided to all parties on the 18th April 2019, in advance of my S42A Hearing Report being made available, given the benefit this modelling could have for all parties. The 2031 VISSIM Model will assess any future land uses trips within the Te Rapa Corridor to inform overall network efficiency. The same approach was taken with the Independent Safety Audit, which focused on key intersections associated with the proposal and was also distributed on the 18th April 2019.

Council commissioned Market Economics to review the economic reports provided with the application and assess the scale of the effect of the proposed supermarket. The purpose of this work was to assist in determining whether the proposal would undermine an existing centre in the localised catchment. The modelling work concluded that while the economic impacts of the proposal were sizeable, and the economic impacts were felt across a number of established centres, the effects would not undermine the business hierarchy, as it is unlikely that any established supermarket within the localised catchment would close as a result of the proposed supermarket. The closure of a supermarket was considered by Market Economics as being a measure that would likely contribute to the undermining of a business centre.

I agree with the Market Economics interpretation of the supermarket provisions in the Industrial Zone, particularly Rule 9.5.4. The rule does not define or provide criteria to determine what it means to ‘undermine’ the role or function of other centres. In this context Market Economics have determined this to mean the closure of a supermarket, thereby changing the role or function of an established centre. The Market Economics reports records that the most significant effects in terms of % change to floorspace productivity and vulnerability to adverse effects is the Nawton Suburban Centre Countdown which would experience measurable impacts, that would contribute to lower floorspace productivity and less overall sales, but not to the extent that closure of the supermarket is likely. I therefore rely on the Market Economics conclusion that the scale of the proposed Pak N Save supermarket will not undermine the Nawton Suburban Centre and established Countdown supermarket.

Accordingly, based on the assessment criteria for supermarkets seeking to establish in the industrial zone, I have concluded that the proposal will not undermine the centres hierarchy and that the effects of the application in that regard are acceptable.

In my view the critical issue is the adverse transportation effects arising from the proposal. From a review of all the evidence, including technical assessments and submissions, the conclusion that I have reached is that the proposal with the mitigation measures proposed by the applicant introduces significant transportation safety and efficiency effects which will create unacceptable levels of risk to the immediate and wider transportation network. I have relied on the technical expertise of Mr Black and Mr Meister, in addition to Mr Inder’s updated
2031 VISSIM Model and the Independent Safety Audit, when coming to this conclusion. I consider that both Council’s independent experts, in addition to the matters raised by Mr Inder and the Independent Safety Audit highlight significant concern with the proposal from a transportation perspective as it currently stands.

In that regard, I asked Mr Black and Mr Meister to turn their minds to additional mitigation options which could address those effects. Such additional mitigation could form the basis of conditions, should the Commissioners be minded to grant resource consent for the proposal. Such additional mitigation could be available to the Applicant to address the outstanding safety and efficiency concerns. Based on the information received from Mr Black and Mr Meister I have drafted some additional conditions which are included in Attachment 12. This provides a draft set of conditions that may require further refinement, but essentially capture that key aspects the Applicant would need to address for Council’s experts, and myself, to be satisfied that the proposal is appropriate in this location. In that regard, I note that I have signalled that it would be beneficial for the traffic experts to have the opportunity to caucus during the hearing to determine whether the adverse traffic effects can be addressed.

The District Plan sets out a clear policy framework to consider when processing applications for supermarkets within the Industrial Zone. The current proposal will generate adverse transportation safety and efficiency effects which I have assessed to be significant. Furthermore, an evaluation of the proposal against the relevant objectives and policies of the Plan (i.e., those relevant to the matters of discretion which include the Strategic Framework consideration of integrated land use occurring with infrastructure), I consider the proposal to be contrary to the objectives and policies of the Plan.

In my opinion, when considering the matters in s104, including the positive and adverse effects of the proposal and the relevant objectives and policies of the district plan, in the absence of additional mitigation of the adverse traffic effects, at this point I recommend that the application by Foodstuffs North Island Limited be declined.

If the Applicant incorporates the additional mitigation measures outlined in this S42A Report and Attachments, I consider this would likely address the safety and efficiency concerns that are currently identified. The proposed mitigation measures can be incorporated into the current application and are considered within the scope of the application.

Nevertheless, should the Commissioner’s determine that consent may be granted following the hearing of evidence from all parties, I have attached a draft suite of conditions as Attachment 12, which include the additional mitigation to address adverse traffic effects.
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Attachment 2 – S92 Outstanding Matters – Centres Assessment 27/09/2018
Attachment 3 – Wider Porter’s Site Land Use Consents
Attachment 4 – Wider Porter’s Site Subdivision and Land Use Consent for Transport Corridor
Attachment 5 – Operative District Plan Rules Assessment
Attachment 6 – Submitter 5 Clarification on Giving Effect to Porter’s Consents
Attachment 7 – Letter Dr Paul Wood
Attachment 8 – Updated 2031 VISSIM Model Report Cameron Inder
Attachment 9 – Independent Safety Audit
Attachment 10 – Gray Matter Review
Attachment 11 – Market Economics Report
Attachment 12 – Draft Conditions

Appendix A – Traffic Statement of Evidence by Alastair Black
Appendix B – Traffic Statement of Evidence by Mike Meister
Appendix C – Economics Statement of Evidence by Susan Fairgray
Appendix D – Engineering Memo by Jonathon Brooke
### 1.0 APPLICATION DETAILS

The administration details for the application are listed as follows:

<table>
<thead>
<tr>
<th><strong>Applicant</strong></th>
<th>Foodstuffs North Island Limited</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposal</strong></td>
<td>Establishment and operation of Pak N Save Supermarket with an associated on-site fuel facility including car parking and all other enabling works.</td>
</tr>
<tr>
<td><strong>Street Address</strong></td>
<td>980 Te Rapa Road</td>
</tr>
<tr>
<td><strong>Legal Description</strong></td>
<td>Section 23 SO 465769 and Section 24 SO 465769</td>
</tr>
<tr>
<td><strong>Site Area</strong></td>
<td>2.013 hectares</td>
</tr>
<tr>
<td><strong>Zone</strong></td>
<td>Industrial Zone</td>
</tr>
<tr>
<td><strong>Areas</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Features</strong></td>
<td>Designation E81 – Te Rapa Road</td>
</tr>
<tr>
<td><strong>Flood Hazard Area</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Selected Site</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>File No</strong></td>
<td>010.2018.00009962.001</td>
</tr>
<tr>
<td><strong>Date</strong></td>
<td>April 2019</td>
</tr>
<tr>
<td><strong>Activity Status</strong></td>
<td>Restricted Discretionary Activity</td>
</tr>
<tr>
<td><strong>Consent Trigger</strong></td>
<td>New supermarkets in the Industrial Zone are a Restricted Discretionary Activity where the applicant has demonstrated effects do not undermine a localised business centre.</td>
</tr>
</tbody>
</table>

**Aerial Photo, Zoning and Features Map**

![Aerial Photo, Zoning and Features Map](image-url)
2 SITE AND LOCALITY

29 The site is in the northern suburb of Te Rapa, Hamilton. Te Rapa is an area that is characterised by a mix of activities and underlying zoning. The subject site is zoned Industrial. The site is surrounded by a road network that includes Te Rapa Road (Major Arterial Transport Corridor) to the west, Eagle Way (local road) to the south and Maui Street extension (Future Collector Road currently under construction) to the east.

30 The site is part of the former Porter Group Headquarters at Te Rapa which previously 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.

31 A granted subdivision consent (see Figure 1 below) will create Lot 8 for which the proposed supermarket and fuel facilities is subject to, which will have interfaces with three road frontages. 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. Within the existing boundaries of the site there are two existing vehicle crossings along the Te Rapa Road frontage and two crossings along the Eagle Way frontage.

2.1 Site Visit

32 Over the course of my assessment of the application I have undertaken a number of site visits both during weekend peak and off peak to gain a full appreciation of the existing traffic environment and the wider site context.

2.2 Surrounding Locality

33 The site is adjacent to ‘The Base’ sub-regional centre located directly opposite the site on the western side of Te Rapa Road. The site is adjacent to Business 4 Zone Large Format Retail to the south, where Countdown and Kmart both operate. Access to both these activities is via Eagle Way and Karewa Place, with no direct access from Te Rapa Road. North and east of the subject site has an Industrial zoning under the Operative District Plan. Important to note is a consented baseline that exists over the wider Porters Development Land, where multiple land use consents were granted in 2014 for a mix of activities, including office, places of assembly, drive through services and large format retail (See Attachment 3 for a copy of the land use consents for the Porter’s Site).

34 The wider Porter’s Site went through a subdivision and land use consent (see Attachment 4) to establish the realignment of the previously consented transport corridor and intersection creation at Eagle Way / Karewa Place and Maui Street extension, in addition to fee simple creation of 7 industrial lots. As part of this subdivision consent it was considered that a give
way Tee intersection was sufficient for the Industrial zoning of the land, and the consented baseline attributed to the wider Porter’s Site.

I consider the subject site, and more generally the wider area to the north, as a contiguous block of Industrial zoned land which is surrounded by a combination of open space, residential and commercial activities. The traditional land use of Industrial is transitioning into a mix of activities that reflects the underlying zoning, the consented activities and incorporates some non-industrial uses. Part of the wider Porters Development Limited land was identified for a Special Housing Area (SHA), where I understand it went through the application process with Council and was endorsed subject to a statement of intent between the developer and Council. Importantly, however, this was not submitted to the Ministry for the Environment for Gazettal. The SHA was for approximately 186 new dwellings (on Lots 1 -4 from approved subdivision) but given the Ministry for the Environment confirming SHAs legislation will not be continued, in my opinion this Special Housing Area is unlikely to proceed.

Figure 1: Approved Subdivision Consent 011.2018.6674.001 including the creation of Lot 8, which is subject to the proposed supermarket and fuel facilities.
Further detailed descriptions of the site are found in the Foodstuffs North Island Limited’s Application for Land Use Consent.

### 2.3 Planning History

Prior to considering the application in detail, I consider it relevant and important to acknowledge the planning history associated with the wider Porter’s Site. The subject site was previously zoned Industrial under the previous District Plan. In 2012 the Proposed District Plan (PDP) was publicly notified and identified part of the ‘Porter’s Site’, which included almost all of the area identified for the proposed Pak ‘N Save, as Business 4 Zone Large Format Retail. Due to the policy direction of the PDP regarding the centres or business hierarchy, Hamilton City Council (in its role as promulgator of the proposed district plan) had engaged economic experts to provide advice regarding the business hierarchy and related submissions and appeals on the PDP.

In summary, the PDP business zone hearings identified that the provisions in the proposed District Plan regarding the various Business Zones required further refinement in order to appropriately establish a planning framework to restrict inappropriate development of retail and office activity in non-centre locations, like the industrial zone, to enable the primacy to be achieved in the Central City, sub-regional centres and other lower tier centres.

As part of the commissioners decisions to the PDP the underlying zoning of the ‘Porter’s Site’ was rezoned Industrial. Porter Developments Ltd and Porter Properties Ltd appealed to the Environment Court [ENV-2014-AKL-000145] seeking various relief, including the rezoning of the ‘Porter’s Site’ to Business 4 Zone – Large Format Retail.

The Commissioner’s Decision on the Porter Developments Ltd Submission point to extend the Business 4 Zone – Large Format Retail area was rejected where the Commissioner noted in the decision document; “Significant weight has been given to the PRPS provisions given that the parties who appealed the PRPS are now in agreement. The Commissioners have been provided with the joint memorandum (3 June 2014 hearing) which has been lodged with the Environment Court in the form of a consent order; Retail evidence submitted at hearings has indicated that significant large format retail development beyond the identified out of centre zones is not envisaged for the Plan period; The relief sought is not considered to be valid in the context of ensuring vitality and vibrancy of the higher order centre’s within the business hierarchy; It reduces the efficient and effective implementation of the Plan to achieve its objectives” [Decisions Report – Chapter 6 Business Zones, 9 July 2014, Hamilton City Council].

Environment Court Judge M Harland issued a decision on the 30th March 2016 which resolved the Appeals relating to the ‘Porter’s Site’.

[12] In 2012 the Council publicly notified the PDP and the site was shown to comprise a split zoning of Industrial and Business 4 (Large Format Retail), with the Business 4 zoning applying to the site nearest to its Te Rapa Road frontage, and the Industrial zoning applying to the rear of the site, namely the part of it furtherest away from Te Rapa Road.
[13] Porters supported the Business 4 zoning of its land, but sought an extension of it over its land to the north of Eagle Way and therefore a deletion of the Industrial Zone over the rear of its site. It also sought a more enabling activity status for several of the activities that it considered would complement the core activities in the Business 4 Zone.

[14] Tainui Group Holdings Limited ("TGH") opposed the Business 4 zoning around the perimeter of The Base and sought its retention as an Industrial Zone. Kiwi Income Property Trust ("Kiwi") also opposed the Business 4 zoning around the perimeter of The Base and sought its replacement with the Business 1 Commercial Fringe Zone, which provides for retail as a discretionary activity. These submissions were opposed by Porters, who filed further submissions.

[15] The Council then undertook a further evaluation, which included an economic evaluation. This evaluation recommended that the area of Business 4 Zone be reduced on the land around the perimeter of The Base. Porters' concerns about the appropriateness of the Industrial zoning of its land in the context of the surrounding zoning and use were discounted in this further evaluation.

PDP decision

[16] Decisions in respect of this part of the PDP were released in July 2014. The Council's decision excluded Porters' land at 980 Te Rapa Road from the Te Rapa North Sub-Regional Centre. It also renamed the centre to "The Base Sub-Regional Centre". The submission by TGH to rezone the land around the perimeter of The Base to Industrial was accepted in part. As a result, Porters' land was all zoned Industrial.

[17] Porters appealed the Council decision. It sought to apply the Business 4 Zone to its land. In its reasons for appeal Porters said, in relation to its site: ... is an isolated industrial remnant site within a locality characterised by residential development, open space, large format retail, offices and service uses. The industrial zone is inconsistent with the existing character and amenity of the area and is not the most appropriate zoning for the land. The Business 4 zone is the most appropriate zone for the land as it can accommodate a compatible mix of commercial and light industrial uses. Specifically Porters was concerned that the specific circumstances of its site had not been sufficiently taken into account in the formulation of the PDP [ENV-2014-AKL-000060].

Relevantly, the status of supermarkets in the industrial zone was also the subject of appeals against decisions on the (then) PDP. The outcome of that appeal process was the Environment Court Decision No. [2016] NZEnvC 075 made by Environment Judge M Harland in relation to the addition of supermarket provisions within the Industrial Zone.

[7] A critical issue on appeal by both appellants concerned the activity status of supermarkets within the industrial zone and the assessment criteria relating to the same. This issue was the subject of detailed and lengthy discussion and negotiations between the parties, particularly during Court-assisted mediation.

[8] In addition to the issue of activity status of supermarkets in the industrial zone, the standards and assessment criteria applying to supermarkets in the business zones and central city zones in the proposed Plan were also of concern to the appellants. These matters were also discussed by the parties during the course of negotiations.

[9] The outcome of these discussions led to an agreement to resolve the Supermarkets topic which is based on a suite of amendments to the proposed plan. The parties agree that these amendments recognise and provide for the unique characteristics of supermarkets as an activity. However, the amendments also establish appropriate standards and criteria which will ensure that the strategic policy direction of the proposed Plan is maintained and not undermined. [ENV-2016-AKL-075, dated 3rd May 2016] [emphasis added added].
The above summarises the policy directional change over the course of the PDP development, whilst providing insight into the rationale around directional change. I consider based on the above summary, that given the Restricted Discretionary Activity status afforded to Supermarkets within the Industrial Zone, that there is a clear anticipation for supermarkets to occur in the Industrial Zone, where the application demonstrates that there is clearly no undermining of the business hierarchy and established centres.

3 APPLICATION

Proposal
This application seeks resource consent for the construction and operation of a new Pak N Save supermarket with an associated fuel facility, at-grade car parking and all other associated enabling works.

Details of the application have been summarised in the Applicants AEE under Section 4.0. I concur with the applicant’s summation and rely on this for an overview of the proposal.

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 6358m$^2$. 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 submitted in Appendix 2 of the application outline 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 N Save branding.

The operational hours of the proposed supermarket are 7am until 10pm Monday – Sunday.
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

The application included an assessment undertaken by Babbage Consultants which provided an assessment against the Hazardous Facility Screening Procedure in accordance with the Hazardous Substances and New Zealand Organisms (HSNO) Act 1996, identified as Appendix 9 in the application. An Emergency Management Plan (EMP) was submitted as Appendix 10 of the application 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.

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 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 submitted in Appendix 2 of the original application 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.

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 spaces are proposed on site.

**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 13,600m$^3$ 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.

**Landscaping**

The development will comprise 6.7% of permeable surfaces primarily made up of the 2m wide planting strip along each frontage of the site, except at the access points. Landscape buffers will also be spread out across the car parking areas providing opportunities for specimen planting. The conceptual landscaping strategy presented on the proposed site plan indicates that 31 specimen trees will be planted throughout the carpark.

**Infrastructure and Servicing**

A Water Impact Assessment (WIA) for the proposal has been prepared by Babbage Consultants and this was enclosed as Appendix 5 in the application. 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 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 will assist in understanding any pressure capabilities onsite and given the potential for water pressure to decrease overtime within the wider Te Rapa area, to
achieve sufficient fire sprinkler design capacity an on-site tank provision is likely required.

3.2 Activity Status

The District Plan was made fully operative in October 2017.

An assessment of the proposal against the relevant chapters of the Operative District Plan (ODP) has been undertaken (see Attachment 5) and it has been identified that the proposal requires resource consent for the following reasons:

Activity Triggers:

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 ’N Save supermarket on this Industrial zoned site which is accompanied by a Centre Assessment Report demonstrating that the effects do not undermine a localised business centre (see Appendix 4 of the application) and has been subject to robust assessment by Market Economics (Council’s expertise in economic effects), and both conclude that the proposal is considered to satisfy the standards in Rule 9.5.4, where it will not undermine the role and function of other centres within the localised catchment in the business hierarchy. I am therefore satisfied the application is a Restricted Discretionary Activity under this Rule, further detailed discussion on this is outlined below within Section 7.7 Centres Effects.

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, submitted with the application, demonstrates compliance with the standards in Rule 25.4.4 and the HSNO regulations and consent is sought as a Controlled Activity.

Chapter 25.10 Signs
- Rule 25.10.3h) Any electronic sign in the Central City, Business 1 – 7 Zones, Industrial Zones, Ruakura Logistics Zone and Ruakura Industrial Park Zone which complies with Rule 25.10.4 and Rule 25.10.5 is a Restricted Discretionary Activity. The proposal includes three freestanding pylon signs which will feature backlit LED panels measuring 1220mm in height by 1830mm in width. These fall within then definition of an electronic sign and are a Restricted Discretionary Activity.

Chapter 25.13 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. A WIA was included in the application.

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, the provision of a new vehicle access to this transport corridor and the number of vehicle movements proposed by the activities onsite.

Infringement Triggers:

Chapter 9 Industrial Zone
- Rule 9.4.1(a) – Eagle Way is a local road which requires a building setback minimum of 5m. The eastern side of the fuel canopy will be setback 3.75m from the Eagle Way transport corridor boundary which does not comply with the standard.
- Rule 9.4.5 – The minimum permeability required across the site is 10% or 2001.3m. The proposal will provide 6.7% or 1,353m² of permeable area on site which is 3.3% or 648.3m² less than the minimum required.

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.

Chapter 25.5 Landscaping and Screening
- Rule 25.5.3.1(h), (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.

- Rule 25.5.4.4 Planting Strips e) Planting strips shall include 1 specimen tree for up to 10m of length of the planting strip and an addition 1 specimen tree for each addition 10m or part thereof. No specimen trees are provided between the parking areas and the Eagleway transport corridor boundary, where a frontage of approximately 130m exists and no specimen trees are proposed along this frontage. Only 4 specimen trees are provided between the parking areas and the Maui Street extension transport corridor boundary, where a frontage of approximately 100m will occur, made up of both the public and service entrance.

- Rule 25.5.4.6 Internal Planting c) Internal planting shall include 1 specimen tree for up to 20 parking spaces and an addition 1 specimen tree for each additional 5 parking spaces or part thereof. 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.
Chapter 25.10 Signs

- Rule 25.10.5.7(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 three 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.

Chapter 25.14 Transportation

- 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 site will be over 100m wide and a total of three vehicle crossings are proposed along this frontage.

- Rule 25.14.4.1(h)i – The maximum permitted width of a vehicle crossing in the Industrial is zone is 7.5m. The vehicle crossings proposed along the Te Rapa Road, Eagle Way and Maui Street Extension frontages of the site are in excess of the permitted standard.

- 25.14.4.2 Parking, Loading Spaces and Manoeuvring Areas - Where on-site parking is provided, sufficient space shall be provided for vehicle queuing. The Te Rapa Road and Eagle Way accesses do not comply with the queuing spaces outlined in 25.14.4.2n).

In summary, this application is for a controlled activity in relation to the hazardous facility and restricted discretionary activity in relation to the proposed supermarket under the Operative District Plan, with discretion reserved in relation to General Criteria; Supermarkets; Transportation; Function, Vitality and Amenity of Centres; Hazards and Safety; and Three Waters Capacity and Techniques.

NATIONAL ENVIRONMENTAL STANDARD FOR CONTAMINATED LAND

The Detailed Site Investigation (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 based on 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 has been submitted as Appendix 6 of the original application. The criteria under regulation 9(1) will also be met.

Councils Contaminated Land Officer Carmel Mangan has advised that the DSI report prepared by Babbage Consultants (dated June 2018) recommends management of the pieces of land associated with the former HAIL land uses to ensure potentially impacted areas pose no risk to human health or the environment prior to its redevelopment. The DSI demonstrates that the relevant standards are not exceeded, therefore conditions for site management only is warranted to ensure that the proposal meets the purpose of the NESC. Accordingly, consent is required under the NES as a controlled activity.
The land use application and associated application for soil disturbance with the change of use of land under the NESCS are inextricably linked for developing the site for urban development. However, a Controlled Activity and a Restricted Discretionary Activity cannot be bundled, and individual assessments and decisions will relate to both.

4 SUBMISSIONS

In accordance with s95(2)(a) of the RMA, the applicant requested public notification. The application was publicly notified on 11 December 2018 and the submission period closed on 7 February 2019.

A total of six (6) submissions to the application were received. One (1) neutral submission and five (5) submissions in opposition.

The submissions primarily focus on the main components of the application, being the potential transportation effects associated with the establishment of a supermarket activity and associated fuel facilities, in addition to two submitters also submitting on the other main component being the centres hierarchy and overall activity status of the application.

Aspects of the submissions cover similar issues. The key comments and matters raised in the submissions include:

- Potential adverse transportation effects on the wider network, including safety and efficiency;
- Potential adverse effects on the established centres hierarchy in the ODP, with the establishment of a supermarket within the Industrial zoned site; and
- Overall activity status of the application, where it was publicly notified without a confirmed activity status, pending outcome of centres assessment economic work.

Council staff had previously indicated to the Applicant and some submitters that a transportation focused discussion would occur pre-hearing to ensure all parties were up to speed on relevant matters. A tentative date was agreed amongst parties. Prior to this meeting occurring, it became clear that the updated 2031 VISSIM Modelling work would not be finalised until early April. As such, there was insufficient time to convene caucusing or to commence pre-hearing discussions that would be of a benefit to the S42A Report being finalised in advance of the scheduled May hearing.

Nevertheless, the updated 2031 VISSIM Modelling work and Independent Safety Audit were made available on the 18th April 2019, approximately five working days prior to the S42A Report being available. As noted in the executive summary, I consider it to be beneficial for traffic caucusing to be convened during the course of the hearing to assist the Commissioners in making their decision.

Some of the submissions are relatively general in nature, and do not go into a detailed explanation of the key issues from the submitters perspective. Most of matters raised in the submissions are addressed in the evidence of the technical experts appended to this report.
have relied on those expert statements for my assessment of environmental effects. Where appropriate I have made specific reference to some submissions in my assessment.

87 Submission 6, by Woolworths New Zealand Limited, outlined that the overall activity status of the proposed activity is uncertain due to the insufficiency of the information provided. At the time of public notification Council considered it had enough information to notify the application, but it was acknowledged that the activity status would be determined as part of the S42A Hearing Report. The expert economic advice subsequently confirmed the activity status of the proposal in this report.

88 Council received on the 11th April 2019 a request from the legal representatives of The Base Shopping Centre (Submitter 5), where clarification on a submission point was sought. The letter stated;

"The Base Te Awa Limited (TBTA) has concerns with the traffic effects of the Application. Among other things, the transport assessment relies on the existence of the suite of resource consents granted to Porters Properties Limited to enable a mixed-use development at 980, 986, 1010, 1018 and 1024 Te Rapa Road. TBTA understand that the Porters Consents lapse on 31 July 2019 if not given effect to.

This letter is to ask the Council to confirm whether any of the Porters Consents have been given effect to, or whether an application to extend any of them has been made (or granted)” (Russell McVeagh Letter Received 11 April 2019, see Attachment 6).

A formal response to the letter will occur separately to this S42A Report, but I felt it was pertinent to discuss for the benefit of transparency and to address the submission point. At the time of issuing this S42A Report, no extension of time application has been received by Council, nor has any extension of time been previously granted. Council provided interim advice to the planning representative of the consent holder in February 2018, regarding whether proposed infrastructure works would give effect to the consented land uses on the wider ‘Porter’s Site’. To which Council at that point in time had the view that the infrastructure works are a pre-requisite to enable the land use activities to be undertaken, and they are not a component of the consented activities. To the best of my knowledge, this view has not changed.

89 In addition to the above, a letter was received on the 8th March 2019 by Council staff. The letter from Dr Paul Wood was addressed to the Mayor and was described by the author as a submission on the Pak N Save proposed for Te Rapa. It did not address any of the statutory requirements for a submission and did not confirm whether the author wished to be heard. On the basis that the letter was received considerably later than the closing date for submissions and that it did not conform with any aspect of the RMA regarding submissions, I did not respond to this letter until at the time of preparing my S42A Report. I acknowledge that this is somewhat delayed but I can confirm that I have read and considered the points raised by the author as part of my assessment of the application. In that regard, I have contacted the letter writer to confirm that it was not being treated as a submission, and if he wanted to discuss this further he could do so at the beginning of the hearing process. This decision was made based on the month duration that had lapsed from the closing of
submissions, the format of the letter not constituting a submission, and the letter not identifying any relevant matters outside of general support for the proposal. I have appended the letter to my S42A Report for completeness (Attachment 7). I do not consider Council’s position on the letter raises any issues of prejudice for the applicant, or any submitter.

5  NOTIFICATION

Following lodgement of the application, the applicant subsequently requested public notification of the application on the 21 November 2018, and the application was publicly notified on the 11 December 2018, with an applicant agreement to a 25-working day submission period given the Christmas break period.

6  STATUTORY PROVISIONS

The proposal by Foodstuffs North Island Limited requires land use consent under the provisions of the District Plan as a restricted discretionary activity for the establishment of a supermarket within the Industrial Zone, Integrated Transport Assessment, Water Impact Assessment, in addition to controlled activity consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) in relation to the hazardous facility.

6.1 Resource Management Act 1991 (RMA)

The Resource Management Act 1991 (RMA) sets out the statutory provisions for the assessment and determination of the application with Sections 104, 104C providing the primary assessment framework.

Section 104 Consideration of applications

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—

(a) any actual and potential effects on the environment of allowing the activity; and

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of—

(i) a national environmental standard;

(ii) other regulations;

(iii) a national policy statement;

(iv) a New Zealand coastal policy statement;

(v) a regional policy statement or proposed regional policy statement;

(vi) a plan or proposed plan; and]

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Section 104C Determination of applications for restricted discretionary activities

(1) When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—

(a) a discretion is restricted in national environmental standards or other regulations:
(b) it has restricted the exercise of its discretion in its plan or proposed plan.

(2) The consent authority may grant or refuse the application.
(3) However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which—
   (a) a discretion is restricted in national environmental standards or other regulations:
   (b) it has restricted the exercise of its discretion in its plan or proposed plan

As a Restricted Discretionary Activity, Council has restricted its discretion to General Criteria, Supermarkets, Transportation, Function, Vitality and Amenity of Centres, Hazards and Safety and Three Waters Capacity and Techniques.

The following assessment considers the land use application in terms of the relevant assessment matters of the RMA. These are (in the order they are discussed in this report):

- Assessment of Environmental Effects (section 7)
- Objectives and Policies of the District Plan (section 8)
- Assessment of the application pursuant to s104 RMA (section 9)
- Assessment in terms of the statutory documents (section 10)
- Other Matters (section 11)
- Consideration of Part 2 Matters (section 12)

7 ASSESSMENT OF ENVIRONMENTAL EFFECTS Section 104(1)(a)

Under S104(1)(a) of the RMA, the following section assesses any actual and potential effects on the environment of allowing the activity.

The applicant’s AEE provides in Section 6.4 a detailed assessment of the effects of the proposal and concludes that the effects of the proposal overall are less than minor. The application was originally lodged seeking non-notification. However, the applicant requested public notification of the application on the 21 November 2018. For completeness I note that following my assessment I have formed the view that the proposal will have adverse effects which are more than minor (primarily in relation to traffic effects). As noted at the outset of this report, a number of technical experts were engaged by HCC to undertake assessment of effects of the application relating to specific areas of expertise and relevant to the territorial authority’s jurisdiction. For this report, the assessment of effects endeavours to make comment in respect of all the potential environmental effects either examined by the applicant or raised by submitters. The assessment is presented under nine topics being:

- Cultural effects
- Hazardous Substances Effects
- Construction Effects
- Transportation Effects
- Three Waters Infrastructure and Servicing Effects
- Effects on the Centres Hierarchy
- Built Form and Signage Effects
- Positive Effects
7.1 Cultural Effects

Submission 4 (Te Ha O Te Whenua O Kirikiriroa Trust) to the application was in opposition, where it outlined that no consultation with local mana whenua Maori had occurred in relation to the proposed development. The submission sought consultation to occur prior to granting the application. The proposal site is zoned Industrial in the ODP, has previously been used as part of Porter Groups operations and was previously an orchard. The ODP holds no known information regarding any cultural values associated with the site. Consultation with the relevant Iwi authority is strongly encouraged when the proposal impacts on known or is in close proximity to local areas of known cultural significance. The proposed site is not considered under the ODP to be either culturally significant, nor are there any wider nearby localities that would warrant consultation with the relevant Iwi. The public notification of this proposal has provided the opportunity for the relevant Iwi to engage in the process and their views can be expressed and considered through the hearing process.

7.2 Effects of stored Hazardous Substances

The proposed fuel facilities involve the storage of petrol and diesel in two underground tanks. The proposal is subject to Chapter 25.4 of the Operative District Plan and is considered a controlled activity is the absence of any other requirements.

The applicant has provided information in the application which provides adequate assurance that the general standards of the proposed district plan would be complied with taking into account the scale of this proposal. The proposed construction and design methodologies outlined in the application and plans provide assurance that the risk from this hazardous facility would be low. In fact, the lower volume of hazardous substances and the upgrade of facilities and equipment would be an improvement on the current situation and would decrease any residual risk with the operation of this facility.

An Emergency Management Plan (EMP) for this facility was enclosed as Appendix 10 to the application, 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.

I consider the site is appropriate for this fuel facility given its inherent underlying zoning and mix of wider industrial and commercial activities in the area. Considerable separation between adjoining residential areas on Sequioa Place or Oakfield Crescent is achieved and will be further screened as the wider Porter’s site develops over time. The applicant has demonstrated that appropriate measures will be put in place to manage the site, Council’s Environmental Health Manager Peter McGregor has confirmed his acceptance of this information and its appropriateness in this location. Any potential adverse effects can be appropriately managed by way of conditions and ongoing management plans.
It is my view that adverse effects on neighbouring uses and on the environment in general from the proposed hazardous facility would be negligible, provided that the appropriate conditions on any consent are included, as outlined in Attachment 12.

7.3 Construction Effects

The proposed works require land use consent under the District Plan as the earthworks will exceed the permitted activity standards in Rule 25.2.4.1. Babbage Consultants have estimated that the total volume of earthworks required is approximately 13,600m$^3$ 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.

The purpose of the District Plan controls is to maintain natural character and amenity values by retaining existing landforms, natural features and significant vegetation; avoid creating new or exacerbate existing natural hazards; minimise effects on land and water from erosion and sedimentation; ensuring practical building sites and effective stormwater flow paths; and minimise dust and noise. The site has previously been extensively used as part of general industrial activities, and is fully impervious in nature and predominately flat, with limited natural overland flow paths being present.

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 most 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.

The scale is aligned with the 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 applicant has included an erosion and sediment control plan as Appendix 5 of the application, which 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 onsite 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 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 and this was enclosed as Appendix 8 of the application. In 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. Council engaged an external geotechnical engineer, John Brzeski from Tonkin and Taylor, who confirmed the recommendations of the Babbage report as appropriate, and outlined that there will be some matters to determine as part of detailed design including: quantification of liquefaction risk to determine potential mitigation; confirmation of static total and differential settlement once building/fill loads are known; and confirmation on extents of non-engineered fill, which may have the potential to cause differential settlement if located partially beneath a building footprint.

Based on the specialised input from both Babbage and Tonkin and Taylor, I have relied on their recommendations and that appropriate geotechnical solutions can be achieved to address the susceptibility to liquefaction on the wider site, which can be appropriately conditioned to any land use decision, as outlined in Attachment 12.

7.4 Transportation Effects

Overview

The development of the proposed Pak N Save site will create additional traffic movements on the road network. The application included an Integrated Transport Assessment (ITA) prepared by John Burgess of Traffic Planning Consultants (TPC), which considered the proposal within the existing infrastructure context and provided an assessment against the existing transportation model for Te Rapa, VISSIM 2021 Model.

The assessment and understanding of any potential transportation effects of the proposed supermarket and fuelling facilities is a critical issue for the assessment of the application. The existing traffic environment within Te Rapa is relevant, in addition to the approved, but unimplemented consents (particularly on The Base and wider Porter’s Site). Given the complexity of the transportation issues, the Applicant engaged with Council as part of pre-application meetings to consider and discuss the proposal at a more strategic level prior to the lodging of the land use consent. The pre-application notes from these meetings were attached to the application.

The application AEE includes an assessment of what is considered “the permitted baseline”, being activities permitted by the Plan and approved but unimplemented consents on the subject site. The applicant has outlined that given the site and activity proposed there is no useful permitted baseline under the ODP 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. I concur with the applicant’s assessment on this.

In addition to the new building requiring a controlled activity consent, the supermarket activity also requires restricted discretionary activity consent. In terms of the wider Industrial Zone,
limited opportunities are available to establish a “permitted baseline” which is appropriate in the context of the application. Given the scale and nature of the proposed activity the applicant has not considered a “permitted baseline” to be applicable to this consent.

However, I am of the view that it is appropriate to consider the unimplemented resource consent for a mixed use commercial development which applies to the site that is the subject of this application. The approved consent lapses on the 31st July 2019, and it is Council’s view that the consent has not been given effect to.

The consented activities over the wider ‘Porter’s Site’ include large format retail, offices and drive-through activities. The approved plans for this mixed-use development indicates that this consent provided approval for 1800m² GFA of large format retail, 3745m² GFA of offices and 400m² GFA of drive-through service floor space within the boundaries of Lot 8 (the portion of the Porter’s Site subject to this application). 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, I consider it appropriate to apply the consented baseline in respect of 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.

Accordingly, I have considered the traffic effects which are over and above that which are consented. The additional traffic movements create the potential for adverse effects which have been assessed by the applicants traffic expert in the submitted ITA and has been subject to further analysis through the further information traffic response and input from various technical experts on behalf of Council.

The expected vehicle trips associated with the proposed supermarket and fuel facilities were considered significant and, as a consequence, Council engaged external transportation input from Mr Black of Gray Matter Limited. His evidence is attached as Appendix A and provides a comprehensive transportation assessment of the proposal and the information provided, in addition to recommendations regarding levels of service and network efficiencies associated with the proposal together with the proposed mitigation outlined in the application. Mr Black also prepared a Gray Matter View attached as Attachment 10 which covers off the application more broadly. The transportation assessment also considered in detail the safety and efficiency of the network, particularly given the proposed new partial signalisation of Wairere Drive and Karewa Place. Mr Black also contributed to the Independent Safety Audit, whereby he provided Council’s Safety Engineering comments. In his evidence, Mr Black also provides a response to submissions related to traffic matters.

Mr Black identifies in his evidence additional mitigation options that are available to the Applicant, but importantly provides his recommendations and conclusions based on the current proposal by the Applicant.

In Mr Black Evidence and Report he provides an overview of the application from a transportation perspective where he outlines the five-vehicle crossing on three frontages that
are proposed. Mr Black identifies the applicants proposed mitigation of partial signalisation of the Karewa Place/Wairere Drive intersection to facilitate right-in movements from Wairere Drive to mitigate otherwise unacceptable delays. Mr Black adds that without the proposed partial signalisation of Wairere Drive and Karewa Place the proposal will result in significant increases in delays and queuing on the Te Rapa Road/Eagle Way/The Base Parade and Wairere Drive/Te Rapa Road intersections. This is agreed by the applicants ITA, where John Burgess reaches a similar conclusion.

Based on the above, I consider that Council’s traffic experts and the applicants agree that without the proposed mitigation of the partial signalisation of the right hand turn from Wairere Drive into Karewa Place, then the proposed supermarket and associated fuelling facilities will have levels of service and efficiencies impacts on the wider network that are unacceptable. This is due in part to the inability for a two-lane right hand turn into Eagle Way from Te Rapa Road to be formed, as the width of the existing intersection does not allow for an additional lane to be added. Further, the congestion already experienced at the location regarding the single right-hand turn lane would exacerbate issues of entering and exiting the adjoining Countdown and Kmart site to the south of the proposal site.

In addition to Mr Black, Council engaged Mr Meister, from WSP Opus, who provides a Statement of Evidence which covers a strategic level overview of Mr Black’s findings and of the modelling work undertaken by the applicant, and subsequently the wider updated modelling work undertaken by Mr Inder (2031 VISSIM Model).

To address outstanding safety and efficiency concerns with the application, Council issued a S92 Further Information Request on the 16th August 2018, which included detailed information request regarding transportation matters. The applicant’s traffic expert, Mr Burgess, responded by addressing some of the identified requests for further information, but at the time of the applicant requesting public notification on the 21st November 2018, some matters were still outstanding.

**Update to VISSIM Model**

After careful consideration of the applicants S92 response to traffic related matters, Council initiated discussions with key internal staff and external experts acting for Council, Mr Black and Mr Meister, to ascertain the benefits of updating the current 2021 VISSIM model for Te Rapa. At this meeting it was agreed that the duration of time left on the 2021 VISSIM Model provided Council limited understanding of the potential effects of the proposal within the wider strategic network. Given that Wairere Drive and Te Rapa Road are both significant infrastructure assets and have high volumes of traffic trips further clarity was required prior to making any determination on the application. This view is supported in the ODP where it states;

OPD Volume 2 Appendix 15-2 ITA Requirements outlines:

“*A description of the trip generation, modal split, trip assignment to the network, trip distribution and trip type proportions of the proposal. Consideration of future traffic volumes and trip generation. A 20-year assessment period for major arterial and strategic transport*
corridors should be used. Assessment periods shall be from date of application” [emphasis added].

124 To ensure an appropriate time period is achieved, as set out in the ODP, Council commissioned Mr Inder, from Bloxam Burnett & Olliver, to construct an updated 2031 Micro Simulation Traffic Model for Te Rapa. Council engaged Mr Inder based on being unsatisfied with the current 2021 VISSIM Model and the applicants SIDRA modelling presented as part of the S92 Further Information Response. For completeness I note that because of the wider benefit of this work to the City and to any future land use / subdivision applications within the wider network, Council officers considered it appropriate for Council to commission this work, as it was considered necessary to fully assess the application. As such, while the revised model is helpful to the assessment of the current application, it has a wider application and has not been designed specifically to address a single application. In that regard, I note that Mr Inder was engaged separately to Mr Black and Mr Meister and, to my knowledge, has not discussed the application or Mr Black’s or Mr Meister’s initial recommendations (Furthermore, I note that Council is responsible for meeting the costs associated with this modelling work).

125 The scope, methodology, results and findings are clearly articulated in Mr Inder’s Updated VISSIM 2031 Transportation Model report (see Attachment 8). Mr Inder outlines, “This report has been prepared for Hamilton City Council to document the model build process of the 2031 Saturday Midday Peak Period micro-simulation model for the Te Rapa north area in the vicinity of The Base shopping centre. In addition the report documents the modelling and network effects of a proposed Pak n Save supermarket north of the intersection of Te Rapa Road and The Base Parade” [emphasis added]. The updated 2031 VISSIM Model focused on the Saturday Midday Peak Period, which is the period during when most extensive queueing, delays and lowest levels of service occur under the 2021 VISSIM Model. The applicant and Council’s experts agree that the Saturday peak is the most sensitive part of the proposal in terms of wider network effects.

126 Mr Inder summarises in his report the following:

- “The 2031 Baseline model already shows significant levels of congestion in the network, with both the Te Rapa Road/The Base Parade and Te Rapa Road/Wairere Drive intersections operating at Level of service D.
- Whether the BBO [Bloxam Burnett & Olliver] splits or Pak N Save splits were used in the OD matrix had little effect on the overall network performance.
- The inclusion of the Wairere/Karewa partial signals is expected to have a positive effect on the wider network, and results in lower traffic volumes at the Te Rapa Road/Base Parade and the Te Rapa Road/Wairere Drive intersections. This results in reduced volumes, delays and queuing at these intersections in all modelled scenarios, even with the addition of Pak N Save traffic.
- The addition of traffic signals at the Karewa Place/Eagle Way intersection (Scenario 2) does not improve intersection performance in the modelled scenarios. However, there is likely to be advantages for pedestrian safety and amenity crossing Eagle Way and Karewa Place if signals are the preferred control method.
• *Queues at the Pak N Save access on Te Rapa Road are likely to extend back on Te Rapa Road if there is no left slip lane, resulting in delays and potential safety issues for southbound Te Rapa Road traffic. The other Pak N Save accesses operate with acceptable delays and queues.* (Updated VISSIM 2031 Transportation Model 16th April 2019 Revision 1 P.9)

127 The conclusions outlined in Mr Inder’s report align with the issues and recommendations in both Mr Black’s and Mr Meister’s Statements of Evidence.

128 Mr Inder identifies potential delays and safety issues arising in relation to the Te Rapa Road access where there is no left slip lane. Similar comments from Mr Black and Mr Meister are covered in their evidence.

129 Another outstanding matter from the S92 Further Information Request related to the request for an Independent Safety Audit for the proposed partial signalisation of the Wairere Drive / Karewa Place intersection. The applicant’s traffic expert, Mr Burgess, argued that such an assessment could be a condition on any consent and was not considered appropriate to be provided at this stage. Mr Black has a different view, as the application relies on the mitigation of establishing this new intersection, and therefore Council needs to fully understand any potential safety audit implications of this proposed intersection to make an informed assessment of potential effects.

130 In the absence of the Applicant undertaking a safety audit on the proposed intersection and relying on Mr Black’s expertise in understanding the potential adverse effects of this intersection, Council engaged WSP Opus to provide an Independent Safety Audit. WSP Opus were chosen as they have extensive experience in providing Independent Safety Audits and could undertake this work within the required timeframes. The Independent Safety Audit (Attachment 9) highlights some significant concerns regarding the proposed partial signalisation of the Wairere Drive / Karewa Place intersection. More detailed assessment of the Independent Safety Audit is outlined in Mr Black’s Statement of Evidence, and the expansion of the Safety Audit finding into Mr Black’s Statement of Evidence.

Applicants Evidence

131 The applicants AEE under Section 6.4.5 Transportation Effects, outlines “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” (Applicants AEE p. 20). As outlined above, with the introduction of the updated 2031 VISSIM Model completed by Mr Inder, Council now has a level of modelling that is appropriate for providing robust commentary on the application and an assessment of effects.

132 The applicants AEE states “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” (Applicants AEE p. 21). Mr Black and Mr Meister have raised significant
traffic safety and efficiency concerns with the proposal and mitigation outlined in the application. These concerns are outlined in more detailed below.

133 Overall, in my opinion the level of information presented in the applicants AEE, including its ITA and the S92 Further Information Responses, does not provide me with sufficient evidence regarding the traffic effects of the proposal for me to be satisfied that the adverse traffic effects which are expected to be generated by the proposed supermarket are acceptable.

134 I will now provide a summary of the key issues that I have considered after reading and reviewing the information presented in Mr Black's and Mr Meister's Statement of Evidence, Mr Inder's report and the Independent Safety Audit. Overall, after reading the evidence and reports undertaken, I consider I have sufficient evidence to make an assessment of the adverse traffic effects of the proposed supermarket.

135 Mr Black provides a transportation assessment of the proposal and goes into specific detail of the various transportation considerations for a proposal of this scale. Mr Black provides a summary of the overall mitigation proposed by the applicant which includes:

- Partial signalisation of the Karewa Place/ Wairere Drive intersection to facilitate right-in movements from Wairere Drive - this is to mitigate unacceptable delays that would otherwise result at Te Rapa Road/ Eagle Way/ The Base Parade and Te Rapa Road/ Wairere Drive [intersections];
- A solid median island on Eagle Way, approx. 67m long – this is to prevent right-turns out of the site;
- A left-turn deceleration lane on Eagle Way, approx. 20m long – this is to facilitate access to the site; and
- Providing a priority-controlled intersection at the Karewa Place/ Eagle Way/ Maui St intersection with Give Way control on the Eagle Way approach.

136 I acknowledge that Mr Black and Mr Meister cover a range of matters within their evidence, however for the purpose of my assessment I will discuss the following issues which I consider to be pertinent to the applications assessment;

- Wairere Drive Speed Environment and Wairere Drive / Karewa Place Intersection
- Te Rapa Road Access
- Internal Layout
- Levels of Service and Efficiency
- Summary of Transportation Effects

Wairere Drive Speed Environment

137 Mr Black outlines the Vision Zero and the Safe System approach which has been adopted by Hamilton City Council [paragraph 21 of Mr Black's Statement of Evidence]. The Vision Zero and Safe System approach essentially recognises that serious injuries and deaths are not an inevitable part of the road environment and the onus is on roading engineers to create environments that will not result in serious injuries and deaths. I understand the Vision Zero and the Safe System approach will be incorporated into Access Hamilton Strategy as part of ongoing work. Whilst I acknowledge that Council has made a clear signal in adopting a Vision
Zero and Safe System approach, my assessment only relates to the ODP and the relevant objectives and policies, rules and assessment criteria which relate.

The speed limit along Wairere Drive between Pukete Road and Te Rapa Road is a key consideration. Mr Black, Mr Meister and the Independent Safety Audit identify that the current speed environment (80km/hr) would be too fast if a new intersection were introduced, due to significant safety concerns. Mr Black considers the proposed intersection is not aligned with the intent of the transportation provisions of the ODP\(^2\), where tee-intersection collisions in an 80km/hr speed environment have a significantly higher percentage of causing death [Mr Black Statement of Evidence, Figure 1, p.6].

The proposed new intersection needs to be designed, built and maintained in a manner that is aligned with the ODP. It is noted that the ODP has similar principles that are outlined in the Vision Zero and the Safe System approach.

The Independent Safety Audit identified in Section 2.1.2 Speed Management, that a review of the surrounding speed limits based on the function and risk should be completed to improve safety. Mr Black and Mr Meister concur with this, and consider the onus is on the Applicant to undertake this review to confirm an appropriate speed limit given the proposed partial signalisation on Wairere Drive / Karewa Place. In my view, the applicant has not demonstrated that an 80km/hr speed environment is appropriate for the introduction of a partial-signalisation on Wairere Drive / Karewa Place. The associated safety risks with an 80km/hr speed environment have been summarised by Mr Black, and I accept the expert advice of Mr Black and Mr Meister that a speed limit of 60km/hr is far more suitable and is likely to address some of the significant safety concerns of the proposed mitigation outlined by the applicant. I acknowledge that a speed limit change would require Hamilton City Council to change its bylaw, and this requires a separate Local Government Act public notification process. Such a process would introduce uncertainty and risks to the proposal, but in my opinion, are required to address the current safety concerns associated with the speed environment.

I therefore accept the expert recommendations of a speed environment change to 60km/hr between Pukete Road / Wairere Drive and Te Rapa Road / Wairere Drive intersections. The shared collective view of Mr Black, Mr Meister and the Safety Audit emphasise the need to address speed management on this stretch of road prior to the supermarket being operational and the partial signalisation of the intersection being created.

In forming my opinion, I have acknowledged that the current speed environment of Wairere Drive between Pukete Road and Te Rapa Road will at times operate well below the marked 80km/hr speed environment, however, at times when vehicles can travel at 80km/hr the associated risks of potential serious harm or fatalities at the proposed Wairere Drive / Karewa Place intersection, and in the collective view of Mr Black and Mr Meister, and highlighted by the Safety Audit, the speed environment is required to be changed.

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It is acknowledged that any change in speed environment requires a full Council Reporting process which is subject to public consultation and input from relevant parties, including the New Zealand Transport Agency, who were a significant financial contributor to the Hamilton Ring Road. Mr Black outlines in Paragraph 37 of evidence the relevant Bylaw process and refers to the public consultation requirements of this. The scope of additional mitigation aspects highlighted by Mr Black and Mr Meister would likely be in the form of precedent conditions, but these have not been discussed with the applicant. Attachment 12 to my S42A Report outlines possible conditions, including precedent conditions, for the Commissioner’s benefit should they be of the view to grant consent.

Mr Black and Mr Meister also identify other improvements that are required to support the safety of the partial signalisation of this intersection, where Mr Meister identifies the following in his evidence:

“However, under a safe systems approach and vision zero lens, I agree with the Gray Matter review, that the installation of traffic signals on Wairere Drive needs to be in conjunction with a reduction in the operating speed to no more than 60km/h. In addition, to ensure impact speeds at the conflict points are below 50km/h to avoid deaths and serious injuries, the intersection should incorporate a raised safety platform on the eastbound approach to the Wairere/Karewa Place intersection.

To ensure consistency for drivers, the Wairere Drive approaches to the Pukete and Te Rapa Road intersections should also be upgraded with the raised safety platforms” [Mr Meister Evidence Paragraphs 34 and 36, emphasis added].

Mr Black and Mr Meister, in my view, make it clear that with the current level of mitigation proposed the safety concerns of the partial signalisation of the Wairere Drive and Karewa Place intersection and existing speed environment would result in unacceptable safety outcomes on part of Hamilton’s strategic network.

Te Rapa Road Access

Te Rapa Road is a limited access road, and Council controls the number of accesses and types of accesses that are available. The applicant has relied on the historical operation of the ‘Porter’s Site’ which has multiple accesses to Te Rapa Road. The significant volume of proposed vehicle movements requires the consideration of the appropriateness of this access. Mr Black and Mr Meister have made recommendations based on the Te Rapa Road arrangement outlined in the applicant’s proposal. However, for the purpose of assessing the full range of options for mitigation, additional modelling work is currently being carried out to model the scenario of not having a Te Rapa Road access. This will enable the traffic experts to understand the flow on effects for the other accesses on Eagle Way and Maui Street extension in the absence of an access off Te RAPA Road. The rationale for commissioning this work is to allow input into any revision to the application in terms of accesses provide the Commissioners with additional information to consider effects of the proposal if the Te Rapa Road access is not feasible. Because this work has not been completed I have not sought to rely on it for the purpose of preparing my S42A Report. In that regard, my assessment has considered the
access proposed by the applicant which includes a left-in and left-out on the Te Rapa Road access. My recommendations are based on this proposed arrangement.

147 Mr Meister in his evidence outlines the following regarding the Te Rapa Road access.

148 “I agree with the Gray Matter review that the Applicant has not provided justification as to why an access from Te Rapa Road is required (Paragraph 26)... To understand the implications of restricting access to Te Rapa Road, HCC has engaged BBO to undertake additional modelling creating a 2031 Vissim model. At the time of preparing this evidence the outputs of this workstream is not available, however, I have been advised by HCC that the results will be shared with all parties, once available, and likely to be prior to the hearing (Paragraph 30)...In the interim, I have reviewed the Te Rapa Access as proposed, and hold the view that in its current form it is unsafe as it does not provide a separate left turn lane on Te Rapa Road to provide safe deceleration or accommodate queued vehicles due to site entry congestion. I also agree with many of the safety concerns raised in the Gray Matter review” (Paragraph 31, Mr Meister Statement of Evidence, emphasis added)

149 Mr Black outlines;
I consider that there should be no access to Te Rapa Road (a major arterial and part of the strategic network) as the site has access to Eagle Way (local road) and Maui St Extension (collector road) [Mr Black, statement of evidence, paragraph 52]. Mr Black continues by expanding in Paragraph 55 where he highlights the potential for confusion with the various layout options, with the left turn into Pak ‘N Save and the left hand slip lane onto Eagle Way being of obvious concern, with no deceleration lane proposed on Te Rapa Road in a 60km/hr speed environment.

150 Mr Black continues by stating in his evidence; “The Applicant has not provided an assessment that demonstrates the need for an access to Te Rapa Road. Based on the information provided in the ITA, I cannot support an access to Te Rapa Road. If an access is to be provided to Te Rapa Road, my preferred approach to mitigate the adverse safety [effect] is for the Applicant to provide a left-turn deceleration lane on Te Rapa Road and address concerns raised in the safety audit” [Mr Black, Statement of Evidence, paragraphs 62 and 63].

151 Both Mr Meister and Mr Black conclude that the proposed Te Rapa Road access has not been sufficiently demonstrated as part of the current information to date, and both experts have significant concerns with how it would operate as proposed by the applicant. The safety concerns associated with the proposed Te Rapa access result in unacceptable levels of risk and potential conflict between motorists, and motorists and pedestrians/cyclists. In the absence of any clear justification and the inclusion of a deceleration lane on Te Rapa Road the proposed layout is not supported by either Mr Meister or Mr Black. I rely on their expertise in forming the view that the current proposed Te Rapa Road access creates unacceptable safety effects on the Te Rapa Road strategic network.
152 Mr Black outlines significant concerns with the proposed internal site layout, including car parking widths, locations, and queueing spaces from the various access points (Te Rapa Road, Eagle Way and Maui Street extension).

153 Mr Black in paragraph 79 of his evidence states;

*I consider that the car park layout and lack of queuing space increases the risk of off-site queuing, delays and crashes as a vehicle manoeuvring at these car parks prevent other vehicles from entering or exiting the site. The risk of adverse effects is greatest at the Te Rapa Road and Eagle Way vehicle crossings. Without mitigation, I consider the potential safety and efficiency effects of the internal layout to be unacceptable.*

Mr Black goes on to outline that with the redesign of the internal car park to avoid the potential for offsite queueing, revised car parking widths and correct circulation that a workable overall internal layout can be achieved, albeit likely with a reduced number of car parking spaces. I note that currently there is a 43-car parking space surplus for the site based on the ODP parking standard for supermarkets.

154 The application includes the introduction of three pylon signs, two on the Te Rapa Frontage, and one at the Eagle Way entrance, which will include LED displays of which content associated with the proposed activity will directly relate to the supermarket activity on the site. The ODP has relevant controls regarding lux, types of messages, frequency of change etc, all of which the applicant has confirmed will be complied with. I consider any potential adverse effects on the safety and efficiency of the transport corridor associated with the lux, frequency of change are acceptable, and can be appropriately addressed via conditions of consent to control any potential adverse effects.

Levels of Service and Efficiency

155 The introduction of a partial signalisation of Wairere Drive / Karewa Place will make improvements to the overall levels of service of the wider Te Rapa network. Nevertheless, there remain significant safety concerns associated with the introduction of a new partial signalisation of the Wairere Drive / Karewa Place intersection within an 80km/hr speed environment, potential for crashes entering and exiting the Te Rapa Road access, potential for queuing creating offsite effects onto Te Rapa Road and also Eagle Way.

156 Additional mitigation options (as discussed above) have been considered by Council’s transportation experts, where by Mr Black and Mr Meister outline opportunities for additional mitigation that are fundamental aspects to addressing the safety concerns with the current proposal.

Summary of Transportation Effects

157 Based on the assessment of effects carried out by Council’s technical advisors, the adverse traffic effects are significant and cannot be mitigated by the measures proposed by the applicant. Based on their expert analysis I consider the current mitigation measures do not address the potential traffic effects associated and will not mitigate those effects to an
acceptable level. Accordingly, I am not satisfied that network safety and efficiency will be maintained to an appropriate level if this proposal proceeds in its current form.

158 Having said that, in light of the work carried out by the traffic experts for Council (Mr Black and Mr Meister), and the additional modelling work completed by Mr Inder, I have identified additional mitigation measures to address the adverse traffic effects (which I believe would remain within the scope of the application). Those additional mitigation measures would form the basis for conditions which could potentially lead to a conclusion that the adverse effects are acceptable. The conditions would necessarily be framed as “conditions precedent” as works will be required which involve third parties. Whether these are considered feasible to the applicant could be a matter for discussion at caucusing of the traffic experts, if the Commissioners consider it appropriate for expert caucusing to be convened during the course of the hearing.

7.5 Three Waters Infrastructure and Servicing Effects

159 Mr Brooke’s in his memo outlines the relevant considerations for Three Waters. I rely on his expertise to determine wider alignment with the Regional Infrastructure Technical Specifications and in consideration of the relevant ODP standards.

Stormwater

160 The application included an engineering assessment undertaken by Babbage Consultants, and outlined a methodology of managing stormwater quality prior to discharge into Council’s reticulated system, with grassed swales within the site being the chosen method.

161 A key consideration of the overall site layout and stormwater design needs to consider the impacts of climate change, including the rainfall intensity, where whilst the overall levels of impervious surfaces are being reduced, where the site is fully impervious currently, the applicant needs to ensure a suitable onsite stormwater solution is available to avoid any offsite adverse effects. This is aligned with Council’s approach to all new development where the management of stormwater quantity onsite prior to discharge is a key consideration.

162 As part of the previous subdivision of the wider ‘Porter’s Site’, the development of an Integrated Sub-Catchment Management Plan by Wainui Environmental, provided as part of the site subdivision consent (Council Reference 011.2018.6674.001), requires quantity control mitigation to include the effects of climate change. This requirement will apply to the site via a consent notice condition included in the subdivision consent.

163 Councils Project Engineer Mr Brooke’s, outlines conditions that can be applied to any decision to grant consent, that will mitigate the quantity stormwater effects generated by climate change.

164 Council also own stormwater infrastructure that traverse the site, with a 1200mmØ and a 2300mmØ stormwater pipe lines which run through the site. Babbage’s Engineering Report states that these pipelines will be built over and will be done so in accordance with Section
5.12.10 if the Regional Infrastructure Technical Specifications. This is acceptable mitigation to protect HCC stormwater assets.

**Wastewater**

Mr Brooke’s is satisfied that appropriate wastewater solutions are available to service the site. Babbage propose a connection into the proposed 225mm public pipeline as shown on drawing C04 in Appendix B of Babbage’s Engineering Report. This solution will be in accordance with the Regional Infrastructure Technical Specifications and is considered to be an acceptable means of compliance for managing wastewater.

As per section 9.1 of Babbage’s Engineering report the existing 225mmØ wastewater trunk main will be relocated into Eagle Way and Maui Street extension. This realignment work is being completed under the previously granted ‘Porter’s Site subdivision consent (Council Reference 011.2018.6674.001).

**Water Supply**

Mr Brooke’s is satisfied that appropriate water supply connections are available to service the site. The Babbage Report proposes a single water connection from the proposed 250mm public pipeline as shown on drawing C07 in Appendix B of Babbage’s Engineering Report. This connection will be separated internally into a fire protection and potable water supply. Mr Brooke’s identifies the associated risks of relying on adequate pressure for firefighting purposes, where under Section 6.2.3.3 of the Regional Infrastructure Technical Specifications:

Third paragraph “It should not be assumed that current pressure and flow will be available in the future when designing private fire services as these are likely to reduce in the future due to demand growth and pressure management” (Hamilton Regional Infrastructure Technical Specifications Page 501).

The addition of an on-site storage tank for fire protection will provide the assurance against reduced pressure and flow due to future demand growth. The above layout with an on-site storage tank for fire protection shall provide the site with a suitable level of service for pressure and adequate fire flow capacity.

**7.6 Effects on the Centres Hierarchy**

**Context**

The application included a Centres Assessment Report (CAR) prepared by Property Economics, which concluded the proposed supermarket and associated fuel facilities can establish in Te Rapa without undermining the business hierarchy.

The CAR is significant as it provides the basis for determining the activity status of the application pursuant to Rule 9.5.4. Under that rule, an application for a supermarket could be either Restricted Discretionary Activity or a Non-Complying Activity in the Industrial Zone, depending on whether the application has provided a CAR which “demonstrates the effects do not undermine a localised business centre”.

Due to the role of the CAR in determining activity status, Market Economics were commissioned to provide an assessment of the likely economic effects of the proposal including carrying out economic modelling to quantify the scale of the likely effects of the proposal on Hamilton City’s business centres hierarchy. This external advice provided assistance in determining whether the application could be classed as a restricted discretionary activity, where it would be considered to comply with Rule 9.5.4.

The applicants economic expert and Council’s economic expert met prior to lodgement of the resource consent application, to create some agreed methodologies around the information and inputs into the CAR approach. Since the application has been lodged, the applicant’s expert and Council’s expert have both met to discuss the application and S92 matters prior to the applicant requesting public notification. At the time the applicant requested public notification Council had outstanding matters regarding the S92 Further Information Request relating to the submitted CAR provided by the applicant. These matters are set out in Attachment 2 of this S42A Report.

Once the applicant requested public notification a determination was made that Council had sufficient information to notify the application, albeit with the overall activity status of the application still subject to further confirmation as part of the Market Economics assessment. At the time public notification was requested Market Economics were not able to provide a clear determination of the scale of the effect of the proposed supermarket and subsequent determination of activity status.

For the reasons outlined in Sections 2.3 and 2.4 of the Market Economics Report, I rely on the methodologies and conclusions of the Market Economics report, given some of the inconsistencies highlighted in relation to the applicant’s CAR. This included where Market Economics made the following statement when considering the outputs of the applicants CAR;

“Our assessment also considered that a number of the key assumptions on sales levels and floorspace productivity of the proposed store, total market growth, and future sustainable floorspace were not supported by the information available on the Hamilton supermarket market.” (Market Economics Report Section 2.4 p. 7)

Ms Fairgray, from Market Economics, goes on to discuss sales productivity, where commenting;

“The CAR sales productivity estimate is $8,760 per m2 for supermarkets (implied from Tables 1 and 2 in the CAR). This sales productivity is assumed to remain unchanged over the 2018 to 2038 period. M.E consider that a rate of $8,760 per m2 is significantly too low [emphasis added]. Our experience in the supermarket sector suggests that floorspace productivity for urban supermarkets typically falls within a range of $11,000 to $18,000 per m2, and higher productivities in higher value, busier locations. (Market Economics Report Section 2.4 p. 8)

The underlying assumption in the CAR undertaken by the applicant is questioned by Market Economics where a significantly higher floorspace productivity for the proposed supermarket is anticipated. Ms Fairgray goes on to explain the fundamental importance of floorspace
productivity in extrapolating sales volumes and providing an overall understanding of the scale of the proposal.

Retail Gravity Modelling and Analysis

The scope of this second piece of work was significant, as it required the creation of a retail gravity model to allow for the robust assessment of the existing supermarket retail space in Hamilton and the wider Waikato, and then allows for a full consideration of the introduction of a new supermarket at the proposed location. The robustness and detailed nature of this scope was required due to the clear outstanding matters that were not addressed by the applicant during the S92 Further Information Request and the importance of this information to allow for a determination of the activity status for the application.

I rely on the technical expertise of Ms Fairgray, and Market Economics, in providing a detailed report that assesses the scale of effect of the proposed supermarket application in the Hamilton context. The scope of Market Economics involvement in the application is that of quantifying the scale of the effect and making a determination of whether any other centres role and function within the localised business hierarchy will be undermined. No wider assessment under S104, regarding objectives or policies and relevant assessment criteria was sought, as I consider this is the role of a planner as part of the consenting process.

Ms Fairgray acknowledges that the supermarket retail market in Hamilton is complex, where it serves both Hamilton and the wider Waikato context. This is evident through the applicant’s CAR and Ms Fairgray’s Statement of Evidence demonstrating that the catchment for the proposed Te Rapa store includes a significant portion of sales from outside of the Hamilton boundary.

“All three of the main supermarket brands – Countdown, New World and Pak ‘N Save – are well-established within the Hamilton market, with a combined 14 main supermarkets. These range in size from a small supermarket serving a localised catchment with estimated annual sales of $19 million [Nawton Countdown], up to a larger supermarket drawing from across a large share of Hamilton’s urban area, with estimated annual sales of $136 million [Mill Street Pak ‘N Save].

The proposed Pak ‘N Save store would be Hamilton City’s largest supermarket, in floorspace, at around 6,400m² GFA. It is larger than the two existing Pak ‘N Save stores, and its location within Te Rapa lends itself to serving an extensive geographic catchment covering both a large share of Hamilton’s urban area as well as southern parts of the Waikato District.

It is estimated that the proposed store would attract annual sales of around $100 million in the base year. This compares to estimated annual sales of $136 million at the existing Mill Street Pak ‘N Save and $93 million at the existing Clarence Street Pak ‘N Save stores. It would equate to a floorspace productivity of around $15,700/m², which is below that of the existing Pak ‘N Save stores ($22,800/m² and $19,900/m²), meaning it is likely to be a conservative estimate of sales.” (Market Economics Report Section 2.4 p. 9)
The summary of the Hamilton supermarket context, the existing variance in sales across supermarkets and the current performance of Hamilton Pak N Save’s demonstrates the proposed supermarket will play a significant role in generating supermarket sales within the Te Rapa catchment. The applicants CAR estimates the proposed new stores annual sales at $60 million, whereas Market Economics identify approximately $100 million in annual sales, as a conservative estimate. The significant difference in overall annual sales is explained in Ms Fairgray’s Statement of Evidence, and I rely on the rationale and methodology used to calculate this estimate, to inform my view that the level of anticipated sales for the proposed Te Rapa Pak ‘N Save are likely to be significantly higher than that outlined in the applicants CAR.

Ms Fairgray has demonstrated the role of floorspace productivity in her evidence, where it is apparent that Pak ‘N Save supermarkets within the Hamilton context operate at a different level of floorspace productivity to New World and Countdown supermarkets.

The contextual understanding of the methodology, floorspace productivity and annual sales are important for informing the wider implications of an additional Pak ‘N Save supermarket locating in Te Rapa. The applicants CAR and Ms Fairgray’s analysis are significantly different, and the importance of these numbers is seen in the extrapolation of the numbers into percentages of effect on the established business centres in Hamilton.

Ms Fairgray outlines in detail in her conclusions the overall summary of the effects of the proposal and the implications within the localised business hierarchy:

“The retail distributional modelling undertaken by M.E shows that the proposed store is likely to have a sizeable impact on a number of the existing stores within Hamilton City’s supermarket network. The largest relative effects are likely to occur on the other Te Rapa supermarkets (Countdown and New World), with modelled 29-30% impacts on sales. The largest share of sales at the new store are likely to be drawn away from the Mill Street Pak ‘N Save, although the percentage impact on this store is lower (12%) as it has a much larger existing sales base.

Significant impacts are also suggested to occur for the existing supermarkets at Rototuna, Nawton and Chartwell – the surrounding suburban and sub-regional centres. These impacts range from between 14% of sales (Chartwell Countdown and Rototuna Countdown) to 19% of sales (Rototuna New World), with a 15% impact on Nawton Countdown.

The modelled effects on Nawton are of greatest concern. The analysis suggests that Nawton Countdown is already Hamilton City’s smallest supermarket, with estimated annual sales of $19 million. It also has the lowest floorspace productivity, at an estimated $6,700 sales per m2. The modelling results indicate that the proposed store may adversely affect the viability of this supermarket. The results suggest that sales are likely to decrease to $16 million, and floorspace productivity to $5,700/m2. The modelling shows that sales in Nawton, with the addition of the proposed store, are likely to take at least 8 years to return to their current levels through growth in demand within the catchment. However, this does not take into account any effect from any potential future supermarket that may establish within the future Rotokauri suburban centre that may serve a share of this demand growth.

These findings are notable because the supermarket plays an important role within Nawton centre. Nawton is a suburban centre located centrally within its surrounding residential catchment within the
outer suburban area of Hamilton – it is a small suburban centre that anchors its surrounding residential neighbourhood.

If the supermarket at Nawton becomes unviable, then it is likely to have a flow-on effect to other retail because it is a major attractor of customers to the centre. If the supermarket closed, then it is likely to begin to undermine the centre. It would also likely result in the closure of other retail within the centre where a substantial share of their trade is likely to be linked to customer supermarket trips to Nawton. If this occurred, then we consider that it is likely that the retail mix would change in Nawton, with the centre performing a lower relative role within its catchment. This would adversely affect the enablement of the surrounding community served by the centre.

However, we consider that a scenario with no supermarket operating within Nawton is unlikely to be an outcome delivered by the market. Nawton’s surrounding residential catchment contains approximately 15,400 people, which amounts to 9% of Hamilton’s residential population, thus making it a significantly sized local area with Nawton centre forming the main local retail centre (there is a small amount of retail on Avalon Drive at the edge of the catchment). Other scenarios may therefore be the continued operation of Countdown, albeit at a smaller scale; the establishment of a competitor store at a smaller scale; or the establishment of a smaller supermarket outside of the main brands (e.g. Four Square or Super Value).

Further modelling was conducted to understand how the custom at Nawton Countdown may be redistributed across the remaining supermarket network if it were to close. A key question was whether the Countdown store network would still be likely to continue to serve most of the demand from Nawton Countdown through its adjacent Dinsdale and Te Rapa stores, or whether this trade would be lost as market share to competitors.

The modelling indicated that the closure of Nawton Countdown would result in a loss of market share within this catchment to competitor stores. It suggested that nearly three-quarters of the sales would be captured by the other supermarket brands, almost all by the Pak ‘N Save Mill Street store and the proposed Te Rapa store, and a small share by New World. Only a small share (28%) is likely to continue to be served by Countdown, mainly within the Dinsdale store.

Given the modelling results, we consider that it is more likely that a supermarket will remain open within Nawton centre. The potential loss of share suggests that it is likely to be more strategic for Countdown to retain the Nawton store, but operate at a smaller scale, than to lose the market share to competitor stores. Alternatively, we consider that the closure of Nawton Countdown is likely to open up a market opportunity for a smaller supermarket to establish at this location and operate at a smaller capacity.

The results suggest that Nawton is likely to continue to have a supermarket operating within the suburban centre, albeit at a reduced scale. We therefore consider, for the purpose of Rule 9.4.5, that the centre is likely to be able to continue to function as a suburban centre, although potentially at a smaller scale. “(Market Economics Report, Pages 48 – 49)

I rely on the conclusions outlined in Market Economics report and Ms Fairgray’s Statement of Evidence to form the view that whilst the scale of effects associated with the establishment of the proposed Pak ‘N Save are sizeable, the supermarket is unlikely to cause the closure of Nawton Countdown, which is considered the most vulnerable to the establishment of the Te Rapa Pak ‘N Save. The Market Economics reports records that the most significant effects in terms of % change to floorspace productivity and vulnerability to adverse effects is the
Nawton Suburban Centre Countdown which would experience measurable impacts, that would contribute to lower floorspace productivity and less overall sales, but not to the extent that closure of the supermarket is likely. I therefore rely on the Market Economics conclusion that the scale of the proposed Pak N Save supermarket will not undermine the Nawton Suburban Centre and established Countdown supermarket.

I understand and agree with the rationale in Ms Fairgray’s Statement of Evidence, where it would be pragmatic for the existing supermarket operator to make a business decision to maintain market share within the Nawton catchment, whilst accepting the viability of the supermarket is likely to be reduced for a period of time.

Ms Fairgray considers that the ODP does not have a clear framework for determining whether a proposal will undermine the role and function of other centres within the localised catchment in the business hierarchy; where Ms Fairgray states;

“However, the results do not provide a sufficiently strong basis to conclude that the proposed store will necessarily undermine the centres hierarchy. This is partly due to the absence of a set criteria within the Plan relating to the thresholds of undermining a centre. The modelling results indicate that a supermarket, albeit at a smaller scale, is likely to remain within Nawton suburban centre. Therefore, the centre is likely to still continue to function as a suburban centre, albeit at a lesser scale. We consider that the likely outcome of activity within Nawton centre is within the definition of a suburban centre within the Plan.” (Market Economics Report, Page 51)

Market Economics for the purposes of assessing Rule 9.5.4, in the absence of any set criteria in the Plan, refer to whether a proposal will affect the scale of an existing centre. I have interpreted that for Rule 9.5.4 to be achieved in the Plan, the proposed activity must not undermine the role and function of other centres within the localised catchment in the business hierarchy. Market Economics and the Applicants CAR have both demonstrated that the proposed supermarket will not undermine the role and function of other centres within the localised catchment in the business hierarchy, with the Nawton Suburban Centre being the most impacted by the proposed supermarket, where the decline in floorspace productivity and sales has the potential to reduce the viability of the supermarket, but the supermarket is considered likely to remain open. I rely on Market Economics assessment and conclusion that whilst the effects on Nawton Countdown will be noticeable, it is unlikely to cause the closure of Countdown, and therefore is not considered to undermine the centre.

I acknowledge Ms Fairgray and the Market Economics Report which identify that an economic assessment of a proposal should consider both the ‘scale’ and the ‘direction’ of the effects in relation to the strategic objectives of the plan. In my view, I have considered the ‘scale’ of the effect to be the pertinent issue within the planning framework of the ODP. I form this view based on my interpretation of Rule 9.5.4, where the Applicant and Market Economics work has demonstrated that the ‘scale’ of the proposed supermarket will not undermine the role and function of other centres within the localised catchment in the business hierarchy.

Overall, as outlined in Ms Fairgray’s Statement of Evidence, whether utilising the applicants or Market Economics numbers to calculate the overall effects on the established business
hierarchy, both calculations demonstrate that a Pak ‘N Save supermarket can establish in Te Rapa without having an effect of a scale that would undermine an existing centre.

Ms Fairgray’s comments in Section 3.4 are relevant to the wider consideration of the role of Centres and the spatial economic structure of Hamilton’s business hierarchy.

“Maintaining and supporting the centres hierarchy forms a core purpose of the District Plan. This reflects the key roles centres play in urban efficiency and sustainability, and in enabling the communities around them in the catchments they serve. They play an important social amenity role (in their centralised provision of social infrastructure), and as commercial centres businesses (including the productivity effects from agglomeration economies).

A key policy requirement of the Plan is to ensure that activity does not undermine the centres hierarchy. Retail, as a major driver of urban form and how the city expands, plays a vital role in the success of centres. It influences other patterns of land use, particularly those contributing to the vitality and viability of centres. The spatial management of retail location therefore plays a core role in achieving the strategic land use and sustainable resource management objectives and policies of the Plan and the Resource Management Act.

Most of the main supermarkets within Hamilton City are located within centres or within the business zones adjacent to centres that effectively function together with the centre. The exceptions are Countdown in Hamilton East/Claudelands and New World in Te Rapa, which are both located within the Industrial Zone away from an existing centre. The remainder of supermarkets are located within the top three tiers within Hamilton’s centres hierarchy – the City Centre, Sub-Regional Centres and Suburban Centres, or in areas immediately adjacent to these centres.

Supermarkets play an important role within the third tier – suburban centres – of the centres hierarchy. “Supermarkets commonly anchor these centres and between 20-30 outlets, comprising a variety of smaller specialist retailers, provide retail, limited office, community and other services to the suburban population on an integrated basis (ODP, p6-7)”. There are a number of Hamilton centres, particularly in outer suburban locations, that are anchored by supermarkets. These include Rototuna, Nawton, Dinsdale, Hillcrest and Glenview. (Market Economics Report Pages 16 and 17)

In Section 4.3.2 of the Market Economics Report significant detailed consideration is given to the closure of Nawton Countdown. The role of a supermarket within a suburban centre is critical for the continuation and livelihood of that centre. The closure of a supermarket in a suburban centre would have significant consequential effects to adjoining retailing offerings that rely on the supermarket as being an anchor tenant, to assist in creating vitality and vibrancy to the suburban centre. Market Economics have considered a situation where a reduced scale of Countdown or supermarket could result from the establishment of the Te Rapa Pak ‘N Save, but consider it is unlikely that no supermarket would be prevalent within the Nawton Suburban Centre.

Travel Efficiency and Community Enablement

Market Economics Report and Ms Fairgray’s Statement of Evidence goes into detail around the retail spatial structure and travel access patterns. A key consideration is looking at the additional travel efficiency or inefficiencies that are created by the proposed supermarket in
Te Rapa. Whilst I acknowledge the additional trips to the proposed Pak ‘N Save would be a by-product of the store establishing, I consider a significant portion would leverage from the wider Business 3 Zone – Sub-Regional Centre. If the proposed supermarket were located within the Business 3 Zone – Sub-Regional Centre, then no centres assessment would be required, nor would any direct consideration of travel efficiency and community enablement be introduced.

Given that the site is located immediately adjacent to The Base Sub-Regional Centre, and not for example in the middle of the Industrial Zone that creates large inefficiencies or new destination trips, I have focused my analysis of Ms Fairgray’s statement of evidence on the scale of the effect.

The scope of the work by Market Economics relates to conducting economic modelling to calculate the likely effects of the proposal on Hamilton City’s business centres hierarchy. However, Market Economics identify that an overall assessment of the potential effects on household travel efficiency as a result of any changes to the distribution of retail across Hamilton’s urban spatial economic structure is also relevant to the modelling process, given the proximity of the proposed supermarket to an established Business 3 Zone – Sub-Regional Centre. However, in my view I consider that a broader assessment of travel efficiency is more appropriately considered under the objectives and policies and assessment criteria of the Plan, in the context of the S104 assessment.

The proposed supermarket would be situated opposite the existing Countdown supermarket and other large format retail (including Kmart) which is located in the Business 4 Large Format Retail Zone adjacent to the Business 3 Sub-Regional Centre Zone of The Base. It would be likely to function as part of the retail grouping together with The Base and the large format retail, increasing the overall size of the retail hub within the northern part of Hamilton City.

**Overall Summary**

I rely on the conclusions outlined in Market Economics Report and Ms Fairgray’s Statement of Evidence to form the view that whilst the scale of effects associated with the proposed supermarket are sizeable, and will have effects on the established centres hierarchy, the proposed supermarket is unlikely to cause the closure of Nawton Countdown, which is considered the most vulnerable to the establishment of the Te Rapa Pak ‘N Save, and therefore the proposal will not undermine the role and function of Nawton, or any other centres within the localised catchment in the business hierarchy.

I am satisfied that the proposal will not undermine the role and function of other centres within the localised catchment in the business hierarchy.

I consider the potential adverse economic effects to be acceptable within the business hierarchy and planning framework of the ODP.

**7.7 Built Form and Amenity Effects**
I have read the AEE submitted with the application which outlines the relevant built form and amenity effects. I largely agree with the planner’s assessment and I do not repeat this assessment. However, I have expanded on some points where I consider additional comment is necessary.

The overall built form of the proposed supermarket has been designed to be relatively consistent with Pak 'N Save supermarkets and I consider it to be a well identified style within both the Hamilton context, and wider New Zealand market. Council's Senior Urban Design Planner, Mr Hattingh, provided urban design comments on the proposal which essentially emphasized the opportunities where redeveloping a comprehensive site, and the chances to create positive and interesting frontages to the streetscape. Further consideration of the street frontage could improve the amenity and streetscape outcomes and contribute positively to the overall frontage, on Te Rapa Road. The inclusion of sculptures and public art can significantly enhance the appearance of a development of this scale, where it can assist in softening the built form and adding interest that takes away from the traditionally dominant car parking aspects of supermarket operations. Planting and specimen trees also play an important role in contributing to wider onsite and offsite amenity. As part of any further detailed design on the internal layout, strong consideration should be given to the landscape amenity outcomes that can be achieved onsite.

The building setback infringement regarding the Fuel Canopy, which fits the definition of building under the ODP, is considered acceptable in the wider context of the size of the site, the nature of the proposed activity and the open appearance of the fuelling pumps below the canopy, whereby any potential dominance of the infringed setback are considered acceptable in this context.

The overall site layout is logical, with the service area to the rear (off Maui Street extension), and well screened from the main public entrances.

The application includes the introduction of three pylon signs, two on the Te Rapa Frontage, and one at the Eagle Way entrance, which will include LED displays of which content associated with the proposed activity will directly relate to the supermarket activity on the site. The ODP has relevant controls regarding lux, types of messages, frequency of change etc, all of which the applicant has confirmed will be complied with. I consider any potential adverse effects associated with the three pylon signs can be appropriately addressed via conditions of consent.

7.8 Positive Effects

An assessment in terms of s104(1)(a) also requires regard to be had to any positive effects on the environment associated with the proposed development. The applicant’s AEE has not identified any specific positive effects, aside from agglomeration benefits in regard to efficiencies of infrastructure and servicing within the existing Te Rapa corridor, the overall level of service improvements and efficiencies associated with the proposed Wairere Drive / Karewa Place partial signalisation. I agree with the applicant’s assessment that there will be level of service improvements and efficiencies to the wider network.
7.9 Summary of Potential Environmental Effects

Overall, after considering all of the above environmental effects in detail, and in particular relying on the expertise of Mr Black, Mr Meister and Ms Fairgray, I come to the conclusion that the potential adverse transportation effects are significant, and more than minor, and the applicant has not at this stage demonstrated how the effects can be mitigated to an acceptable level.

I rely on the conclusions outlined in Market Economics Report and Ms Fairgray’s Statement of Evidence to form the view that whilst the scale of effects associated with the proposed supermarket are sizeable, and will have effects on the established centres hierarchy, the proposed supermarket is unlikely to cause the closure of Nawton Countdown, which is considered the most vulnerable to the establishment of the Te Rapa Pak ‘N Save, and therefore the proposal will not undermine the role and function of other centres within the localised catchment in the business hierarchy. I consider the potential adverse economic effects to be acceptable within the business hierarchy and planning framework of the ODP.

Council’s expert traffic input from Mr Black and Mr Meister have identified that the adverse traffic effects are significant and cannot be mitigated by the measures proposed by the applicant. Based on their expert analysis I consider the current mitigation measures do not address the potential traffic effects and will not mitigate those effects to an acceptable level. Accordingly, I am not satisfied that network safety and efficiency will be maintained to an appropriate level if this proposal proceeds in its current form.

Having said that, in light of the work carried out by the traffic experts for Council (Mr Black and Mr Meister), and the additional modelling work completed by Burneet Bloxam & Olliver (BBO), I have identified additional mitigation measures to address the adverse traffic effects (which I believe would remain within the scope of the application). Those additional mitigation measures would form the basis for conditions which could potentially lead to a conclusion that the adverse effects are acceptable. The conditions would necessarily be framed as “conditions precedent” as works will be required which involve third parties. Whether these are considered feasible to the applicant could be a matter for discussion at caucusing of the traffic experts, if the Commissioners consider it appropriate for expert caucusing to be convened during the course of the hearing.

I am satisfied that all other effects are acceptable and can be adequately avoided, remedied or mitigated by the imposition of appropriate conditions.

8.0 ASSESSMENT OF RELEVANT PLANNING INSTRUMENTS – S104(1)(b) RMA

8.1 National Policy Statement – Urban Development Capacity (NPS-UDC)

The NPS-UDC recognises the need for urban environments to be able to develop and change to meet the needs of people and community’s and the future generations in urban environments. The proposal provides for a commercial development (supermarket) and infrastructure (Wairere Drive / Karewa Place partial signalisation) that are designed to function
within the established wider urban environment to meet the needs of an expanding city, on land that is intended and zoned for this purpose, were it is demonstrated it is not undermining the business hierarchy. Accordingly, I consider the proposal is aligned with the National Policy Statement.

8.2 National Environmental Standard for Assessing and Managing Contamination in Soil to Protect Human Health (NESCS)

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ensure that land affected by contaminants in soil is appropriately assessed and made safe for human use.

If a proposed activity involves any of the following on land that is or has been used or is more than likely to have been used for a hazardous activity or industrial land use (HAIL) then the NESCS regulations apply:
- removal of fuel storage systems and associated soil,
- soil sampling,
- soil disturbance,
- subdivision of land,
- a change in land use

The Detailed Site Investigation (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 has been submitted as Appendix 6. The criteria under regulation 9(1) will also be met.

Councils Contaminated Land Officer Carmel Mangan has advised that the DSI report prepared by Babbage Consultants (dated June 2018) recommends management of the pieces of land associated with the former HAIL land uses to ensure potentially impacted areas pose no risk to human health or the environment prior to its redevelopment. For reasons that the DSI demonstrated that the relevant standards were not exceeded, conditions for site management only is warranted to ensure that the proposal meets the purpose of the NESCS. Accordingly, consent is required under the NES as a controlled activity.

The Council’s Contaminated Land Officer, Carmel Mangan, has recommended a suite of conditions to ensure the necessary site management is undertaken to achieve compliance with the NESCS.

8.3 Waikato Regional Policy Statement and Regional Plan
The Waikato Regional Policy Statement (WRPS) provides an overview of the resource management issues in the Waikato region and sets the direction and foundation of the regional and district plans which must give effect to the WRPS.

WRPS Section 3.12 Built Environment j) outlines the promotion of a viable and vibrant central business district in Hamilton city, with a supporting network of sub-regional and town centres. I consider the proposal to be aligned with this statement. The WRPS Table 6-2 Future Proof Industrial Land Allocation outlines the projected industrial land allocation and staging. Mr Heath in the Applicants CAR has outlined sufficient supply of industrial land within the wider WRPS catchment for the medium – longer term. Market Economics focus on an area specific lens which looks at the northern, eastern/southern and central/western parts of Hamilton and the industrial land supply within. There is potential for some medium-term shortage of industrial land within the northern part of Hamilton, but this is subject to how the market continues to evolve over the coming decades. The wider Hamilton industrial land supply, including Rotokauri and Ruakura are envisaged to provide adequate industrial land allocation in the medium to long term.

Overall, I consider the proposed use of 2ha of industrial land for a supermarket, which is a non-industrial activity, which has a consented baseline for commercial activities that do not align with the traditional ‘industrial activity’, to not have a material impact on Hamilton’s and the Waikato’s ability to allocate and supply industrial land.

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 of the submitted application 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.

8.4 Hamilton City District Plan

The District Plan sets out rules and performance standards for a wide range of matters relevant to the land use applications. These includes construction, infrastructure, transportation, centres assessments and so forth. The proposal is a Restricted Discretionary Activity, therefore an assessment against the relevant standards is appropriate as a guide and for determining appropriate conditions.
The applicant provided an AEE assessment which outlined the reasons for resource consent, which included activity triggers and infringements in the ODP. Additional infringements were identified as part of the S92 Further Information Request and subsequent response. For ease of completeness I have tabulated a full rules assessment as Attachment 5 to my evidence for ease of reference. I generally concur with the applicants AEE rule assessment, but outline additional infringements, and provide clearer context to where compliance is achieved.

8.4.1 Objectives and Policies of the District Plan

I have considered the objectives and policies of the ODP which are relevant to the matters of discretion for the proposal. As discussed in Section 2.3 above, the District Plan provisions for the ‘Porter’s Site’ have been the subject of an extensive public process through the development of the Proposed District Plan, public notification and submission process, and subsequent appeals process. The relevant objectives and policies to the assessment of the proposal are set out within Chapter 2 Strategic Framework, Chapter 9 – Industrial Zone and Chapter 25 – City Wide.

8.4.1.1 Objectives and Policies Chapter 2 Strategic Framework:

Objective 2.2.4
Establish and maintain a hierarchy of viable and vibrant business centres that provide a focus for retail, commercial and entertainment activities and serve the social, cultural, environmental and economic needs of the community.

Policy 2.2.4a
Business activity and development shall locate in the most appropriate centre for its role, according to the following hierarchy: iii. Suburban centres, to provide convenience goods, community services, facilities and employment to serve immediate suburban catchments.

Policy 2.2.4b
The distribution, type, scale and intensity of activities outside the Central City does not undermine the viability, vitality and vibrancy of the Central City, its amenity values, or role in meeting the needs of the region.

Policy 2.2.4c
Significant large format retail development beyond the identified out of centre zones is not envisaged for the Plan period.

Assessment:

The proposed supermarket within the Industrial zoned site has demonstrated as part of the CAR and Market Economics work that it does not undermine the role and function of other centres within the localised catchment in the business hierarchy. I consider the wider business hierarchy that is established under the ODP is not undermined or compromised by this proposal. I form this view given the scale of the effect generated by the proposed supermarket, and the alignment of the proposal as a Restricted Discretionary Activity within the Industrial Zone.
I have also turned my mind to the role of the Business 3 Zone – Sub-Regional Centre within the business hierarchy, and whether the 2ha subject site will essentially grow the size of the wider offerings at ‘The Base’ and adjoining Countdown and Kmart sites. I have considered this in the context of the centres hierarchy, with the Central City being the top tier. I do not consider this ‘growth’ in size of offering to create any misalignment in the planning framework, where supermarkets have been specifically provided for in the Industrial Zone, where a CAR has demonstrated this is appropriate. In addition to this, the ‘Porter’s Site’ has several current consents (due to lapse on the 31st July 2019), of which one directly relates to the subject site for a mix of commercial uses. I also rely on the clear distinction in the Plan between large format retail, retail and supermarkets, where supermarkets are the only one of the three that are specifically provided for in the Industrial Zone, subject to a Centres Assessment Report. Any wider potential for retail distribution into the Industrial Zone is therefore not anticipated in the planning framework.

*Policy 2.2.5c*

*Industrial zoned land shall be safeguarded for industrial purposes.*

**Assessment:**

The proposed use of 2ha of industrial land for a supermarket, which is a non-industrial activity, which has a consented baseline for commercial activities that do not align with the traditional ‘industrial activity’, is not considered to have a material impact on Hamilton’s and the Waikato’s ability to allocate and supply industrial land in the future, where the land has previously been consented for non-industrial activities.

*Objective 2.2.14*

*Land use and development is integrated with the provision of infrastructure (including transport, Three Waters services and open space).*

*Policy 2.2.14a*

*Development shall not compromise the safe, efficient and effective operation and use of existing or planned infrastructure.*

*Policy 2.2.14c*

*New development connects well with existing development and infrastructure.*

**Assessment:**

The integration of land use, transport and infrastructure is an essential means of ensuring development effectively and efficiently uses resources. The applicant has demonstrated the suitability of the location given the existing servicing of infrastructure in the area, in addition to proposing mitigation measures that reduce the potential for adverse effects. Significant weight is given the strategic framework and role of integrated land use planning with appropriate infrastructure, and as demonstrated by Council’s traffic experts, Mr Black and Mr Meister, the proposed mitigation by the applicant does not adequately address the significant safety and efficiency concerns. On this basis I do not consider the intent of Objective 2.2.14 is achieved by the proposal.
8.4.1.2 Objectives and Policies Chapter 9 Industrial Zone

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
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:

231 A supermarket activity and associated fuelling facilities is not considered to be an industrial activity for the purpose of Policy 9.2.1a.

232 Objective 9.2.2 and Policy 9.2.2a introduces the notion that if non-industrial activities are to be established within the Industrial Zone, it is important that they 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. The applicant’s CAR and the subsequent work by Market Economics has demonstrated that the proposed supermarket will not undermine any localised business centres, which in turn I consider will ensure that the primacy, function, vitality and amenity of the Central City, sub-regional centres and lower order centres is not challenged by this proposal. The conclusions reached in the Market Economics work emphasises the most significant economic effects to be on the established Suburban Centre at Nawton, where the existing Countdown Supermarket would experience a reduction in sales of approximately 15% ($2.91 million) which would translate into a floorspace productivity of $5,700/m². I acknowledge that Market Economics and Property Economics
have different views around the scale of effect of the proposed supermarket (discussed in more detail in Section 7.6 above), the majority of my conclusions stem from the significant work undertaken by Market Economics in quantifying the extent of the scale effect on the established business hierarchy, which has informed the wider activity status of the application and subsequent assessment of relevant rules, objectives and policies and assessment criteria.

233 Whilst the scale of the effect is considered sizeable from an overall perspective, this effect is distributed across the established business centres with varying levels of impact. Market Economics reaches the conclusion that the existing Countdown supermarket that operates within the Nawton Suburban Centre is likely to continue to operate, albeit at a reduced level of productivity and with the potential for a reduced scale of operation. In Market Economics view, which I agree with, this does not constitute the undermining of an established business centre.

234 Regarding Policy 9.2.2bi. the applicant’s planner has argued that the existing consented environment for The Base Sub-Regional Centre essentially makes any perception of vacant land within adjoining Business 3 Sub-Regional Centre Zone unlikely given the future development aspirations of the occupier. I agree that The Base has a significant level of consented future development within the area of ‘vacant’ land currently seen, but I would also add that for land to be considered ‘suitable’ within the intent of the Policy 9.2.2bi, regard must be had to the extent to which land within the Business 3 Sub-Regional Centre Zone is readily available, whether to purchase or to lease. Whilst land price may dictate whether activities establish in particular zones, and this is for good reason, the ability for the owner/operator model that aligns with the Pak ‘N Save brand would not be able to be achieved within a lease arrangement.

235 The explanation to Objectives 9.2.1 and 9.2.2 and associated policies anticipates supermarkets as a form of commercial development foreseen in the Industrial Zone in limited circumstances.

236 The subject site has some unique attributes that further supports the establishment of a supermarket in this location, where not undermining the established business hierarchy. The proposal is a significant trip generator and will result in significant additional movements within the wider Te Rapa catchment. Being in immediate proximity to the adjoining Business 3 Zone Sub-Regional Centre supports the co-localational attributes evident from the existing infrastructure, in particular roading. The introduction of a partial signalised intersection at Wairere Drive / Karewa Place will create the opportunity for wider level of service improvements to existing land uses, including Countdown and Kmart, in addition to businesses located on Karewa Place, and future land uses to be established within the wider Porter’s Site as part of the Maui Street extension.

237 I consider the nature of the activity proposed, a supermarket, to essentially expand the existing The Base Sub-Regional Centre, where it will further the role of the Sub-Regional Centre within the wider business hierarchy in the Hamilton context, but importantly not to the detriment of the Central City. For the reasons outlined above in the Strategic Framework Objectives and Policy assessment, I do not consider the introduction of this specific
supermarket activity, which is anticipated to a degree in the Industrial Zone, will undermine the wider strategic imperatives and intent behind the Central City being the primacy and heart of Hamilton. Existing supermarket operations at Clarence Street and Mill Street by Pak ‘N Save fulfil the function of introducing shopping within the southern and northern parts of the Central City currently, and the establishment of the proposed Pak ‘N Save in Te Rapa, whilst detracting from these existing Pak ‘N Save stores, does not do so to an extent that questions the primacy or viability of the Central City, nor does it undermine the business hierarchy.

I view this proposal as being quite different to a proposition of a supermarket in the middle of an industrial zoned area that has no major infrastructure attributes and established business hierarchy to leverage off.

On the basis of the above assessment I consider the proposal for a supermarket is aligned with the directive of Objectives 9.2.1 and 9.2.2 and associated policies.

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:

The existing wider ‘Porter’s Site’ is industrial in appearance, where it has typically been used for expansive storage of large industrial equipment and heavy machinery. The previous headquarters for the Porter Group included an office building that fronted the corner of Te Rapa Road and Eagle Way, but given the significant size of the wider site, added little to the established character and amenity of the wider area.

Given the high-profile nature of the site, with Te Rapa Road being a Major Arterial Transport Corridor on the western boundary, to which The Base Sub-Regional Centre fronts the other side of Te Rapa Road, a real opportunity for improvement of the amenity levels is available as part of any future development. The proposed Pak ‘N Save will enable the redevelopment of the corner location and introduce a modern supermarket building with its primary orientation and activated frontage toward Te Rapa Road. The introduction of a landscape buffer and specimen trees will soften the appearance of the at grade car parking, in addition to the pedestrian connection will improve and enhance the 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 S270, 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:

242 I concur with the applicant’s AEE which considers the provisions of the Plan provide clear recognition and acknowledgement of the unique attributes of the wider ‘Porter’s Site’. It is clearly acknowledged that the wider ‘Porter’s Site’ is in a state of transition and is suitable for a lighter mix of use due to its location and surrounding land uses.

243 I consider the supermarket development gives effect to these provisions and the intended outcomes of the Plan for this site. The supermarket will contribute to a positive supporting function reinforcing the economic viability and vitality of The Base Sub-Regional Centre. 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.

244 Overall, I consider the proposed supermarket and associated fuelling facilities within the Industrial Zone at the site, 980 Te Rapa Road, to be generally aligned with the Industrial Zone objectives and policies, particularly considering that Market Economics work has demonstrated that the primacy of the Central City and the viability of the business hierarchy is not undermined by the proposal. If it were determined that the proposed supermarket did in fact undermine the primacy of the Central City and/or the viability of the business hierarchy then the determination of alignment with objectives and policies would likely be different.

8.4.1.3 City Wide Chapter 25
8.4.1.3.1 Chapter 25.2 Earthworks

245 I concur with the applicant’s assessment in Section 10.1.2 of the submitted AEE in relation to earthworks.

8.4.1.3.2 Chapter 25.4 Hazardous Facilities

246 I concur with the applicant’s assessment in Section 10.1.4 of the submitted AEE in relation to hazardous facilities. The proposed proposed quantities of petrol and diesel mean that the proposal is considered as a controlled activity in accordance with Rule 25.4.3(d). The general standards in rule 25.4.4 apply to this proposal. Council’s Environmental Health Manager, Peter McGregor, has advised that it is his view that adverse effects on neighbouring use and on the environment in general from the proposed hazardous facility would be negligible, provided that appropriate conditions are placed on any decision to grant consent. On this basis and as outlined in the applicant’s assessment the proposal is considered to align with the relevant objectives and policies.

8.4.1.3.3 Chapter 25.5 Landscaping

247 I concur with the applicant’s assessment in response number 26 in the Planning Main Text Further Information Response 15 October 2018. Additional clarity regarding proposed planting and landscaping can be confirmed as part of conditions on any decision to grant consent, and will ensure alignment with the overall intent of the landscaping objectives and policies of the Plan.
8.4.1.3.4 Chapter 25.10 Signs

248 I concur with the applicant’s assessment in Section 10.1.3 of the submitted AEE in relation to signage. I would also add that the location of the proposed pylon signs which are outlined in the applicant’s assessment as providing way finding, I also consider pylon signs to have the ability to distract or create confusion for passing motorists if not displayed in a manner that is in accordance with the Rules outlined in Chapter 25.10 Signs. Conditions on any consent could appropriately address any potential effects associated with safety for road users.

8.4.1.3.5 Chapter 25.13 Three Waters

249 I concur with the applicant’s assessment in response number 27 in the Planning Main Text Further Information Response 15 October 2018.

8.4.1.3.6 Chapter 25.14 Transportation

Objective 25.14.2.1
An integrated multi-modal transport network that meets national, regional and local transport needs and is: responsive; efficient; affordable; safe; accessible; sustainable; integrated with land use.

Policy 25.14.2.1a
The transportation network and related infrastructure is planned, designed, constructed and managed in a manner that: i. is consistent with and supports the land-use spatial framework for the City; ii. Promotes vibrant business centres; iii. Contributes to safe and efficient multi-modal transport corridors serving the Central City, business centres and other key destinations; iv. Contributes to a transportation network that; a. is accessible; b. maximises opportunities for walking, cycling and passenger transport; c. creates good connections between residential areas, passenger transport services, schools, employment notes, recreation areas, shops and other destinations; d. provides a choice of route and transport modes for travelling; v. recognizes the need for effective long-term solutions that are affordable and practicable.

Policy 25.14.2.1b
The transportation network and related infrastructure is planned, designed, constructed and managed in a manner that: iv. Promotes a safe and efficient transport network; vi. Provides access to and has regard for the safety and needs of the mobility impaired, transport disadvantaged, cyclists, pedestrians, passenger transport users, and others using the transport corridor to move from place to place.

Policy 25.14.2.1c
Adverse effects of new transport infrastructure and changes to the existing transport network are minimised while recognising: iii. Safety, access and mobility of all users; iv. The function and the location that that part of the transport network has within the transport corridor hierarchy.

Policy 25.14.2.1d
The design, location and quantity of parking infrastructure is managed in a way that: i. minimises adverse safety and efficiency effects on the transport network.

Policy 25.14.2.1e
Adverse effects of subdivision, use and development activities on the transport network are avoided or minimised with particular regard to: iv. Ensuring performance, condition, safety, efficiency and long-term sustainability and affordability of the transport network; protection of strategic and arterial transport networks, including associated intersections.
Assessment:

Transport networks are complex systems that influence and are in turn influenced by subdivision, use and development. An Integrated Transportation Assessment (ITA) was included with the application, undertaken by Mr Burgess (TPC Limited), and is a key aspect of consideration for the overall transportation effects of the proposal. In addition to this ITA, Council engaged Mr Black (Gray Matter Ltd) and Mr Meister (WSP Opus) to both provide transportation advice on the proposal, with Mr Black providing a comprehensive assessment of the proposal from a transportation perspective, whereas Mr Meister focused on the overall conclusions of Mr Black’s work and the updated modelling work (VISSIM 2031) to provide a higher level strategic view. In addition to the above experts, Council engaged Mr Inder (Bloxam Burnett and Olliver) to undertake an updated VISSIM Model to 2031, and Council engaged WSP Opus to undertake an independent safety audit of the proposal.

Significant transportation expertise has been incorporated into the assessment of the proposal, which in turn emphasises complexities associated with the nature of the proposal and the potential transportation effects that are attributed to a supermarket of this scale, within the existing roading environment in Te Rapa.

The assessment of environmental effects above in Section 7.4 outlines the transportation effects associated with the proposal. Rather than repeating the assessment, the conclusions in regard to alignment with objectives and policies stem from the clear identification of significant safety and network efficiency concerns that have been covered off in detail above.

The extent of the proposed mitigation in the application does not address the safety and efficiency of the immediate or wider network to an appropriate level, and accordingly, Council’s transportation experts have raised significant concerns and outlined additional mitigation measures that the applicant could consider. Without a complete revisit of the access arrangements and mitigation options available to the proposed supermarket operator, the potential adverse effects on the transportation network are considered significant. The proposal creates significant safety concerns, particularly at the Wairere Drive / Karewa Place partial signalisation and the Te Rapa Road entrance / exit. The two above concerns, are exacerbated by the internal site layout, potential for queuing and overall potential for offsite adverse safety and efficiency effects and compromises to the safety of pedestrian and cyclists.

Based on the clear directive of the above objectives and policies, and the significant adverse safety and efficiency traffic effects of the proposal, I consider the proposed supermarket to be contrary to the transportation objectives and policies in the Plan.

8.4.1.4 Summary of assessment of application against the relevant Objectives and Policies

As outlined above, it is my opinion that the supermarket and associated fuelling facility aligns with the majority of the ODP Objectives and Policies, with the obvious exception being the transportation city wide objectives and policies. The current proposal, to which this assessment is based, clearly identifies transportation safety and efficiency concerns that are significant. On balance when weighing the relevant matters outlined in the objectives and policies of the Plan, including the Strategic Framework consideration of integrated land use
occurring with infrastructure, I consider the proposal to be contrary to the objectives and policies of the Plan.

8.5 District Plan Assessment Criteria

Overall, this application is for a **controlled activity** in relation to the hazardous facility and **restricted discretionary activity** in relation to the proposed supermarket under the Operative District Plan, with discretion reserved in relation to General Criteria; Supermarkets; Transportation; Function, Vitality and Amenity of Centres; Hazards and Safety; and Three Waters Capacity and Techniques and the effects of any infringements.

The applicant has provided a thorough assessment of the relevant assessment criteria as part of the S92 Further Information Response Main Text 15 October 2018, which includes the Controlled Matters in relation to the hazardous facility. I concur with the majority of this assessment and have specifically expanded or addressed particular assessment criteria where I consider additional input is required. This primarily relates to H – Functionality, Vitality and Amenity of Centres and G – Transportation. I will also assess any specific criteria that relate to infringed standards.

**B7 Landscaping and Screening**

The extent to which planting and landscaping is used to:

a) Establish and maintain a well vegetated environment that is compatible with the zone and existing character.

b) Visually reduce the bulk of new development and mitigate adverse visual effects particularly from the front boundary and those parts of the site visible from public spaces.

c) Create an attractive environment that maintains safety and amenity for pedestrians.

The proposed planting and landscaping will contribute toward softening of the overall car parking area and contributing to onsite amenity and stormwater functionality. The inclusion of specimen trees throughout the car parking area will further reduce any negative perceptions associated with a large hardstand area for car parking.

**C9 Non-Industrial Activities in the Industrial Zone**

The extent to which the non-industrial activity, within an Industrial Zone, serves the needs of an industrial area and adjoining areas, or is more appropriate to an industrial location than in other areas having regard to the nature of the activity, travel demand characteristics and amenity expectations.

While supermarkets are a non-industrial activity, they are anticipated to a degree in the Industrial zone, where they are specifically provided for as a restricted discretionary activity where not undermining the business hierarchy. The District Plan also specifically recognises that this piece of Industrial zoned land is in a transitional state and that it is appropriate for non-industrial activities to establish due to its location and surrounding land uses.

**F Hazards and Safety**

General

F3 The extent to which the applicant has demonstrated, through the use of an engineering design report: a) That the risk of ground failure can be reduced to avoid the effects on the safety of occupiers and neighbours; b) That any structure will perform safely under hazard conditions for the life of the structure.
Earthworks

The extent to which the earthworks:

a) Will obstruct or provide overland flow paths or natural surface ponding areas.
b) Are managed, designed and constructed to:
   i. Provide any sediment control measures necessary to control the discharge of sediments.
   ii. Remain safe and stable for the duration of the intended land use.
   iii. Provide safe and accessible building sites and infrastructure.
   iv. Provide for the adequate control of stormwater, cater for natural groundwater flows, and avoid adverse effects from changes to natural water flows and established drainage paths.
   v. Avoid exacerbating the effects of natural hazards and ecological effects arising from additional sediment release.

The applicant submitted an engineering report prepared by Babbage which addresses the infrastructure design for the proposed supermarket. This includes an assessment of surrounding geotechnical environment and consideration of the existing stormwater main (2300mm) and rerouted wastewater main (rerouted as part of previous subdivision consent). Council sought geotechnical expertise from John Brzeski (Tonkin & Taylor) to ensure that an appropriate building design could be achieved to avoid any risks associated with instability identified in the Babbage report. Mr Brzeski outlined that further investigation at detailed design stage to address the quantification of liquefaction risk to determine potential mitigation, confirmation of static total and differential settlement once building/fill loads are known and confirmation on extents of non-engineered fill. This may have the potential to cause differential settlement if located partially beneath a building footprint. Mr Brzeski is satisfied that an engineering solution is available to the applicant to achieve a suitable building platform on the site, however this may require further detailed information as part of any subsequent detailed engineering plan approval or building consent process.

There are no flood hazards on site and so the earthworks proposed will not result in the displacement of any flood waters. Erosion and sediment control will be implemented on site including clean water diversion bunds and a dirty water diversion channel leading to an on-site sediment retention pond. 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.

G Transportation

General

The extent to which the proposal:

a) Integrates with, and minimises adverse effects on the safe and efficient functioning of the transport network and infrastructure;
b) Minimises conflicts between users both within the site and any adjoining transport corridor;
c) Encourages easy and safe access and circulation for those not arriving by vehicle;
d) Provides for the accessibility needs of all users of the site;
e) Provides convenient and safe circulation for connections and/or the provision of facilities for passenger transport modes of travel relative to the scale of the proposal;
f) Provides for integration with neighbouring activities to reduce the need for separate traffic movements on the transport network.

Note: Acceptable means of compliance for the provision, design and construction of infrastructure is contained within the Hamilton City Infrastructure Technical Specifications.

262 The Applicant’s ITA and assessment against relevant assessment criteria outlines the extensive traffic modelling that has been undertaken and informs, from the applicants perspective, the overall appropriateness of the proposed development at the site. Whilst I acknowledge that the applicant has provided a thorough assessment and consideration of some key transportation aspects of the proposal, I also acknowledge that as outlined in Mr Black’s and Mr Meister’s statement of evidence, Mr Inder’s updated 2031 VISSIM Model report and the Independent Safety Audit, that significant potential adverse effects are identified and require detailed consideration as part of the assessment criteria of the ODP.

263 I will not repeat the extensive and detailed discussions that Mr Black and Mr Meister have included in their evidence, nor will I expand on the assessment of environment effects related to transportation in Section 7.4 of my report, nor the matters discussed in detail within the objectives and policies of the Plan. I will however summarise the significant adverse transportation effects with the current proposal, which informs my view of whether the assessment criterion G1 is met or not.

**Wairere Drive / Karewa Place**

264 The introduction of a partial signalisation of Wairere Drive / Karewa Place, whilst providing obvious level of service benefits and efficiencies to the wider network, introduces new significant safety concerns given the 80km/hr speed environment. Mr Black and Mr Meister have expanded on the implications of this, where Mr Black has demonstrated the crash implications (and fatality rate) attributed to an 80km/hr speed environment, versus lower speeds. Whilst the speed environment is a significant contributor to the potential for adverse safety effects, the wider intersection design and connectivity is also valid. Mr Black and Mr Meister both outline additional mitigation that, if adopted by the applicant, could significantly improve the safety performance of the partial signalisation. The mitigation available includes raised platforms at the Wairere Drive / Karewa Place intersection, in addition to raised platforms at Pukete Road / Wairere Drive and Te Rapa Road / Wairere Drive for continuity and cohesiveness of the transport network, and the reduced speed limit on Wairere Drive between Pukete Road and Te Rapa Road intersections.

**Te Rapa Road Access**

265 Mr Meister and Mr Black in their evidence have made it clear that the current proposed access off Te Rapa Road, a Major Arterial Transport Corridor and part of the Sensitive Transport Network, is not adequately justified in the application. The applicant relies on the existing access arrangement that the wider Porter’s Site has historically had to Te Rapa Road. The significant trip generation of the proposed supermarket activity raises questions on whether the most appropriate access to the site is via Te Rapa Road, or better suited to the local (Eagle Way) and collector (Maui Street) frontages. The modelling work undertaken by TPC, and the updated 2031 VISSIM model both indicate a Te Rapa Road access would cater for a significant
portion of all trips. Mr Inder will provide an additional 2031 VISSIM Report that models the Te Rapa Road access being removed, to fully understand the wider network implications of removing this access, to then allow for a robust assessment of the safety and efficiency of the other two accesses. This subsequent work will be made available at the earliest convenience, and it is anticipated to be prior to the hearing commencing. No decision has been made on whether the Te Rapa Road access is a suitable option for the proposed activity, at best the current indication by Mr Black and Mr Meister is that a Te Rapa Road access will only be feasible, from a safety and efficiency point of view, with the introduction of a deceleration lane on Te Rapa Road.

**Eagle Way Access**

The current Eagle Way access has the potential to create confusion, given the competing movements going into the Countdown / Kmart site, left turn slip lane for Pak ’N Save, and the through access to the Eagle Way / Maui Street / Karewa Place intersection.

**Eagle Way / Maui Street / Karewa Place intersection**

Mr Black outlines some wider safety concerns regarding pedestrian and cycle movements with the proposed Tee intersection, however does not necessarily consider this is the responsibility of Pak ’N Save to address. The previously consented subdivision consent, which included the extension of Karewa Place into the Maui Street extension included a tee intersection with priority control with a give way on the Maui Street extension, whereas the proposed tee intersection has the give way on Eagle Way. Relying on the expertise of Mr Black and Mr Meister, I consider that either the tee intersection or signalised intersection will provide an appropriate level of mitigation to the proposed vehicle trips to ensure an efficient wider network. However, the safety component regarding pedestrians and cyclists, and the current lack of wider integration in the current internal site layout and accesses, emphasises the benefit of a signalised approach.

**Internal Layout**

Mr Black outlines in his evidence that the internal layout of the proposed supermarket site creates the potential for off-site adverse effects. This includes the proximity of car parking spaces to the entrances off Te Rapa Road and Eagle Way, where vehicle manoeuvring within these spaces could create offsite queueing and safety and efficiency effects. The applicants ITA and AEE does not adequately address the potential safety concerns of queueing occurring, particularly given the significant traffic volumes attributed to the Te Rapa Road and Eagle Way accesses. The fuel tanker manoeuvring accessing the site at Eagle Way and exiting at Maui Street extension creates potential conflicts, where the fuel tanker makes a right turn after entering from Eagle Way, whereas all other traffic makes a left turn, and the fuel tanker manoeuvring is reliant on no other cars obstructing its access.

I agree with the concerns raised by Mr Black and consider without significant internal layout improvement the proposal will generate off-site adverse effects that are unacceptable.

Overall, I consider that Criterion G1 is not satisfied, on the basis that fundamental safety and efficiency concerns remain with the proposal.
G2 The extent to which the proposal and the traffic (including nature and type of the traffic, volume and peak flows, travel routes) generated by the proposal:

a) Requires improvements, modifications or alterations to the transport network and infrastructure to mitigate its effects;

b) Achieves efficient connectivity and accessibility of transport corridors, pedestrian accessways, cycleways, public reserves and green corridors;

c) Adversely affects the streetscape amenity, particularly in relation to sensitive land use environments (e.g. residential land use environments identified within Table 15-5a of Appendix 15).

271 See comment above relating to G1.

G3 The extent to which the proposal considers and responds to:

a) The issues, opportunities and shared outcomes in the Access Hamilton Strategy and its associated Action Plans;

b) Relevant:
   i. New Zealand Transport Agency guidelines;
   ii. Kiwirail guidelines;
   iii. Regional and national transport and growth strategies;

c) The recommendations and proposed conditions of any integrated transport assessment prepared to accompany the application;

d) Issues and outcomes arising from consultation with the relevant road controlling authorities and/or Kiwirail.

G4 The extent to which the proposal incorporates travel demand management and is well-located to be served by passenger transport, or encourages other active modes of travel such as walking or cycling.

272 G3 and G4 are appropriately considered in the applicants Broad ITA and wider consideration of relevant guidelines.

G5 The extent to which an integrated transport assessment assesses how the proposal and any mitigation measures ensure that the safety and efficiency of the transport network is maintained or enhanced.

G6 Whether access restrictions, auxiliary lanes or other measures are necessary to provide for the safe and efficient operation of key transport corridors such as:

a) Major arterial transport corridors;

b) Transport corridors that are part of the Strategic Network

c) Transport corridors carrying more than 20,000 vehicles per day or with four or more vehicle lanes.

Access

G7 The extent to which the proposal minimises the number of vehicle access points to transport corridors, taking into account:

a) Opportunities that exist for shared access with adjoining sites.
b) The hierarchy of the fronting transport corridor and opportunities that exist for access to transport corridors of a lower status (e.g. collector or local transport corridors or service lanes).

c) Traffic generated by the proposal.

d) The siting of the access points with respect to adjacent access points, visibility and flow.

e) The operational requirements of the proposal.

f) Potential obstruction for access to network utilities.

g) The appropriateness of restricting types of movements (e.g. left in/out only, entry or exit only).

h) The impact of multiple vehicle entrances (which break up berm, landscaping, footpath and cycleway continuity) on streetscape amenity, retail frontage areas and pedestrian and cycle movements.

i) The cumulative effects on traffic safety and efficiency from multiple vehicular accesses on to major arterial routes and whether this can be adequately addressed.

273 See discussion in G1 above in addition to Statement of Evidence by Mr Black and Mr Meister.

G8 Except in the Central City Zone where there are no minimum parking standards, the extent to which the proposal provides for anticipated parking demand to meet current and future needs.

274 The proposal complies where a surplus of 43 car parking spaces is provided for the propose supermarket. I consider that an appropriate level of parking is provided to meet the demand of the activity, however as noted above I do consider the internal layout of the car parking to create the potential for off-site adverse effects.

H Functionality, Vitality and Amenity of Centres

H2 Whether and to what extent the proposed Supermarket activity in the Industrial, Business 1 or 4 zones:

a) Avoids adverse effects on the vitality, function and amenity of the Central City and sub-regional centres that go beyond those effects ordinarily associated with competition on trade competitors.

b) Avoids the inefficient use of existing physical resources and promotes a compact urban form.

c) Promotes the efficient use of existing and planned public and private investment in infrastructure.

d) Is located within a catchment where suitable land is not available within the business centres.

e) Reinforces the primacy of the Central City and does not undermine the role and function of other centres within the business hierarchy where they are within the same catchment as the proposed supermarket.

To demonstrate the above criteria can be satisfied an applicant must supply a Centre Assessment report. The content of the Centre Assessment report shall be prepared in accordance with clause 1.2.2.17.
The application included a Centre Assessment Report (CAR) prepared by Property Economics. The conclusion of the applicants CAR outlined that the primacy of the Central City will remain in place, The Base Sub-Regional Centre will experience net benefits and any other centres are not compromised to undermine their vitality, function and amenity.

Given the significant potential effects associated with a supermarket in the Industrial Zone, Council engaged Market Economics to provide technical input on the proposal, in particular around quantifying the scale of effects associated with the proposed Pak ‘N Save. I will not repeat the detailed analysis provided by Market Economics Report and Ms Fairgray’s Statement of Evidence, nor will I repeat the assessment of environmental effects and objectives and policies that have been considered above, however I will expand on the key aspects in relation to the above assessment criterion H2.

The Applicant’s CAR demonstrated that the proposed supermarket will avoid adverse effects on the vitality, function and amenity of the Central City and sub-regional centres.

I consider the location of the site lends itself to a unique location that has well established existing infrastructure that will create further efficiencies with the inclusion of the proposed supermarket activity. The applicant is proposing additional mitigation, the Wairere Drive / Karewa Place partial signalisation, that will in turn create improved levels of service and efficiency within the wider Te Rapa network. I consider the location to provide agglomeration benefits, where the proximity to the sub-regional centre (The Base) will promote a more compact urban form and the ability for travel efficiencies to be generated. For the above reasons I consider the location promotes the efficiency, compact urban form and use of existing and planned public / private infrastructure investment.

The applicant has demonstrated that suitable land is not available within the Business 3 Sub-Regional Centre, where the largely vacant portion of land north of The Base Parade is subject to a comprehensive consent of the area for a mix of activities, and alignment with the owner/occupier model of the supermarket.

The Market Economics work undertaken, including the creation of a gravity model, confirms that the proposed supermarket will have an impact on the existing centres within the localised catchment, with focus on the Nawton Suburban Centre where a Countdown currently exists. The Market Economics work outlines that the floorspace productivity for the Nawton Countdown is currently low, at around $6700/m², compared to a Hamilton average of $14,000/m² and a Countdown average in Hamilton of $11,100/m². The total sales volume for Nawton Countdown are approximately $19 million, compared to the applicants CAR which identifies $30 million, and with the redistribution of $2 million in sale to the proposed supermarket, the floorspace productivity would lower even further.

Market Economics provide a detailed assessment of the implications of this and conclude that it is likely that Countdown Nawton would make a commercial decision to continue to operate, potentially at a reduced scale or offering. The key rationale for this is that if Countdown Nawton were to close Market Economics modelled the likely distribution of their sales share to
the wider established supermarkets. This provided a clear indication that the % loss of sales to Countdown supermarkets is approximately 72% of the Nawton Sales ($12 million), and this primarily goes to Pak ‘N Save operated supermarkets (69%). Market Economics consider it unlikely that Countdown would make a commercial decision to reduce its market share in Hamilton and would likely continue to operate on a reduced level / offering. I agree with the interpretation, as to reduce market share, and directly increase market share to the competitors would not make wider financial sense for the Countdown brand. On this basis, I agree with the Market Economics conclusions that the viability of the Nawton Suburban Centre and Nawton Countdown are not undermined, and therefore I consider that assessment criterion H2e) is achieved.

The size and scale of the Nawton Suburban Centre is at the smaller end, however, in considering the size of the centre and given the mix of retail offerings, the recent investment in the suburban centre, including a new café, and the mix of activities like health care, retail and food and beverage, the overall centre displays characteristics that I would expect to see from a centre that is appropriately identified in the hierarchy as a Suburban Centre. I see strong similarities to the existing suburban centres at Hillcrest (where a New World exists) and Clyde Street (where a Warehouse exists) where the overall size of the suburban centre is not at the upper end of the business hierarchy for suburban centres, but the offering clearly is complimentary to the intent of a suburban centre. I see the Nawton Suburban Centre to continue to operate within the parameters of what is expected to be a suburban centre under the business hierarchy, and therefore I agree with the conclusions in Market Economics Report that it will not undermine its roles as a suburban centre in Hamilton’s business hierarchy.

J Three Waters Capacity and Techniques

J1 The extent to which the proposal:
   a) Can be adequately serviced by capacity within existing Three Waters infrastructure, including access to and use of an appropriate and sustainable water source.
   b) Can dispose of stormwater and wastewater without adversely affecting the surrounding environment.

The engineering report prepared by Babbage in the submitted application confirmed that the site can be adequately serviced with the necessary infrastructure and three waters.

J2 Whether the servicing needs of the proposal would necessitate additional public investment in Three Waters infrastructure, services or amenities.

Additional public investment in infrastructure is considered to not be required.

J3 The extent to which the proposal is consistent with the provisions of any Integrated Catchment Management Plan (ICMP) relevant to the site and a consideration of consent conditions imposed in order to achieve that consistency.

Consistency of the proposal against the approved sub-catchment ICMP, Porters Site Re-Development Sub-Catchment Integrated Catchment Management Plan prepared by Wainui
Environmental Ltd and dated August 2018, has been addressed in the engineering report, WIA and subsequent section 92 responses by Babbage. Council’s Project Engineer Jonathon Brookes is satisfied with the information provided by the applicant and all matters can be appropriately addressed via conditions on any consent.

M Supermarkets (Industrial Zones)

Design and Layout

M1 The extent to which the external appearance, scale and design of buildings (including material and colour), equipment and structures:

a) Provide visual interest through a variety of styles and forms in terms of footprint, design and height.

b) Maintain streetscape amenity and continuity of built form.

c) Within the Central City Zone, whether any proposed building setback will adversely affect the definition, use or safety of public spaces, or the continuity of defined primary or secondary active frontages (Volume 2, Appendix 5, Figure 5-7).

I agree with the statements as outlined in the Applicant’s S92 Response Planning Main Text 15 October 2018, where the exterior of the building will feature a range of exterior materials to add visual interest and to avoid the presentation of a large featureless blank façades facing the street, in particular for both Te Rapa Road and Eagle Way. 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.

M2 The extent to which parking, manoeuvring areas, driveways and outdoor service areas have been designed and located:

a) To appropriately manage any adverse effects resulting from the location and interrelationship between these areas on streetscape amenity.

b) To ensure traffic generation avoids, remedies or mitigates adverse effects on amenity values.

c) So as not to compromise the safe use of the footpath adjacent to the site.

d) To integrate with adjacent activities and development in terms of the provision of entrances, publicly accessible spaces, parking, loading areas, access to public transport and pedestrian linkages.

The site is unique in that it will have three road frontages and a side boundary with a neighbouring allotment. The operational and functional requirements of the supermarket will be located to the rear of the building. Maui Street Extension will carry less volumes of traffic compared to Te Rapa Road and Eagle Way. The streetscape amenity of these more public interfaces will therefore be maintained and enhanced by the development. Car parking is an inherent part of supermarket. To mitigate any adverse visual effects from the parking the perimeter edges of the site will feature a 2m wide landscape buffer as well as additional landscaping strips throughout the carpark and specimen trees.

Landscaping and Screening

M3 The extent to which planting and landscaping is used to:
a) Mitigate adverse visual effects particularly from the front boundary and those parts of the site visible from public spaces and interfaces along state highways, arterial transport corridors and City gateways.

b) Create an attractive environment that maintains safety and amenity for pedestrians.

288 See comment above in relation to Assessment Criterion B7.

Waste Management

M4 The extent to which developments provide for goods handling, storage, waste and recycling areas that are:

a) Easily accessible for collection agencies and avoid adverse visual, noise or odour effects.

b) Consistent with the amenity values of the site and avoid causing nuisance for neighbouring residential activities.

c) Suitable for the demand expected by the activity.

289 The applicant has demonstrated an appropriate sized and located service area is provided off the Maui Street extension that will allow for the requirements of a supermarket to be addressed. The service area will be screened via an internal fence and neighbouring fence to the adjoining lot to the north. I do not anticipate any adverse effects associated with amenity values of the proposed service area.

Character and Amenity

M5 The extent to which the activity makes adequate provision to protect the visual and acoustic privacy of abutting sites including through building and site design.

M6 Considering whether the relationship of buildings and their associated parking, storage and service areas to the street helps to maintain the amenity values of public spaces and streets.

M7 The extent to which any parking or service area is provided, landscaped, screened and maintained in a form which mitigates any adverse effects to adjacent activities and does not detract from the streetscape.

290 I agree with the applicant’s planners assessment relating to M5 – M7, as outlined in the Applicant’s S92 Response Planning Main Text 15 October 2018.

Supermarkets

M10 For the purpose of assessing the above criteria, regard shall be had to the following operational and functional requirements:

a) Store visibility that is easily identifiable when viewed from the street and surrounding area.

b) The provision of appropriate customer car parking, which is clearly visible and accessible to motorists approaching the store from the local roading network and to customers on-site.

c) Where large-format building formats are required, there is provision for some solid façades to facilitate internal shelving and fresh produce display.

d) Adequate and accessible servicing areas that are preferably separated from customer vehicle traffic and pedestrian movements.

291 I agree with the applicants planners assessment, where the western elevation of the building will receive the greatest public exposure given the anticipated traffic and pedestrians passing
by the site. This façade of the building will present 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 a public plaza space for customers.

292 The northern and western elevations of the building serve functional purposes of the supermarket in terms of loading/servicing and internal shelving so opportunities for activating these building facades are limited.

**Conclusion whether relevant Assessment Criteria have been satisfied**

293 Overall, taking into account the specific assessment criteria above, I consider that the proposal to establish a supermarket is not consistent with the assessment criteria of the District Plan, where there are significant outstanding traffic concerns with the proposal that prevent the application from appropriately addressing Assessment Criteria G – Transportation.

### 8.6 Other Matter – S104(1)(c)

#### 8.6.1 Council Strategies and Plans

294 Council has a wide range of strategies and plans in terms of social and economic growth as well as for the supply of services and provision of infrastructure and are referenced in Section 1.1.2.2 of the District Plan. These strategies and plans help to inform and shape the provisions of the District Plan which provides the direct planning framework and assessment of land use activities. I am satisfied through the technical input from Council staff and other technical experts that the applications do not raise any fundamental issues with Council’s strategies and plans that Council has adopted, other than potentially the recent adoption of Vision Zero which is anticipated to be carried into the Access Hamilton Strategy, as discussed in Mr Black’s Statement of Evidence.

#### 8.6.2 Waikato-Tainui Environmental Plan

295 The Waikato-Tainui Environmental Plan includes objectives and policies that aim to ensure that urban development is well planned and the environmental, cultural, spiritual, and social outcomes are positive. The Plan is designed to enhance Waikato Tainui participation in resource and environmental management and for developers and statutory bodies to gain an understanding as to what the aspirations of Waikato-Tainui as an Iwi Authority are.

296 Given the location of the site and the nature of the activity proposed, supermarket, development in accordance with the approved Sub Catchment Integrated Catchment Management Plan will ensure any potential adverse effects are appropriately addressed.

#### 8.6.3 Registered Interests on Record of Titles

297 There is a Building Line Restriction (S240635) in relation to a setback from Te Rapa Road, Major Arterial Transport Corridor, where the proposed supermarket achieves alignment with the BLR where no building is proposed within the 40 feet (approximately 12.2m) setback from the edge of Te Rapa Road.
9.0 PART 2 OF THE RMA

Recent case law has confirmed that it may be appropriate to have recourse to Part 2 in the context of a resource consent application [RJ Davidson Trust v Marlborough District Council [2018] NZCA 316]. Whether that is necessary will depend on the nature and context of the statutory documents in question.

While it pre-dates the decision in RJ Davidson and the earlier decision in King Salmon, I consider that the Operative District Plan, has been competently prepared in regard to the provisions relevant to this application, including in particular the provisions concerning transportation and supermarkets in the Industrial Zone are clear. However, for completeness (and in light of the issues raised by Ms Fairgray about the absence of criteria as to what it means to “undermine” the centres hierarchy), I have also assessed the application against Part 2. In doing so, I note that having recourse to Part 2 is not determinative for my overall recommendation.

Part 2 consists of Sections 5-8 and establishes the purpose and principles of the Resource Management Act 1991. Section 5 provides the overarching requirements of sustainable management and the relevant matters in s6 and s7 to these applications are outlined below.

Section 5 – Purpose

Section 5 defines sustainable management as ‘….. means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while - …’.

Section 6 – Natural Hazards

No relevant matters are considered for the proposal.

Section 7 – Other Matters

Section 7 lists other matters which decision makers shall have particular regard to in order to achieve the purpose of the Act. Subsection 7 (b) is ‘the efficient use and development of natural and physical resources’.

In my opinion, the proposed supermarket within an Industrial zoned piece of land provides for wider efficiencies and agglomeration benefits with the neighbouring Business 3 Zone – Sub-Regional Centre, and the applicant’s CAR and external expertise from the Market Economics Report has confirmed that the proposed supermarket will not undermine the business hierarchy, nor will it create a closure within the geographic catchment, where Market Economics have demonstrated it is likely that Countdown Nawton will continue to operate at a reduce scale or offering rather than relinquishing there market share. I consider the above to meet the efficient use and development of physical resources, where the existing zoned Industrial land is strategically located and the application has demonstrated that the activity is appropriate for the site.

Section 8 - Treaty of Waitangi
This section requires those involved in the development of natural and physical resources to take into account the principles of the Treaty of Waitangi.

While further submissions and evidence of the consultation process may be presented at the hearing, I have no concerns with respect to the applications and how this may be viewed in light of the Treaty.

**Overall Part 2 Conclusion**

Undertaking a Part 2 recourse has not changed my recommendation, where, when applying an overall broad judgement approach the significant outstanding adverse transportation effects outlined in Section 7.4 of this report contribute to this proposal, in my view, not achieving sustainable management under the Resource Management Act (1991), where the safety and efficiency effects have not been appropriately mitigated.

**10 CONCLUSION AND RECOMMENDATIONS**

This application seeks resource consent for the construction and operation of a new Pak N Save supermarket with an associated fuel facility, at-grade car parking and all other associated enabling works.

The critical issues for the application relate to transportation effects and economic effects.

The Applicant, Foodstuffs North Island Limited, has presented evidence to support their application including a Broad Integrated Transport Assessment and Centres Assessment Report, in addition to other technical information.

Council commissioned Market Economics to review the economic reports provided with the application and assess the scale of the effect of the proposed supermarket. The purpose of this work was to assist in determining whether the proposal would undermine an existing centre in the localised catchment. The modelling work concluded that while the economic impacts of the proposal were sizeable, and the economic impacts were evident across a number of established centres, the effects would not undermine the business hierarchy, as it is unlikely that any established supermarket within the localised catchment would close as a result of the proposed supermarket. The closure of a supermarket was considered by Market Economics as being a measure that would likely contribute to the undermining of a business centre.

I agree with the Market Economics interpretation of the supermarket provisions in the Industrial Zone, particularly Rule 9.5.4. The rule does not define or provide criteria to determine what it means to ‘undermine’ the role or function of other centres. In this context Market Economics have determined this to mean the closure of a supermarket, thereby changing the role or function of an established centre. The Market Economics report records that the most significant effects in terms of % change to floorspace productivity and vulnerability to adverse effects is the Nawton Suburban Centre Countdown which would experience measurable impacts, that would contribute to lower floorspace productivity and less overall sales, but not to the extent that closure of the supermarket is likely. I therefore rely
on the Market Economics conclusion that the scale of the proposed Pak N Save supermarket will not undermine the Nawton Suburban Centre and established Countdown supermarket.

Accordingly, based on the assessment criteria for supermarkets seeking to establish in the industrial zone, I have concluded that the proposal will not undermine the centres hierarchy and that the effects of the application in that regard are acceptable.

Submissions have been received primarily in opposition to the application. The submissions focus on transportation and economic aspects, the majority of the submissions are general in nature, with limited specific relief or issues identified.

In my view the critical issue is the adverse transportation effects arising from the proposal. From a review of all the evidence, including technical assessments and submissions, the conclusion that I have reached is that the proposal with the mitigation measures proposed by the applicant introduces significant transportation safety and efficiency effects which will create unacceptable levels of risk to the immediate and wider transportation network. I have relied on the technical expertise of Mr Black and Mr Meister, in addition to BBO’s updated 2031 VISSIM Model and the Independent Safety Audit, when coming to this conclusion. I consider that both Council’s independent experts, in addition to the matters raised by Mr Inder and the Independent Safety Audit highlight significant concern with the proposal from a transportation perspective as it currently stands.

In that regard, I asked Mr Black and Mr Meister to turn their minds to additional mitigation options which could address those effects. Such additional mitigation could form the basis of conditions, should the Commissioners be minded to grant resource consent for the proposal. Such additional mitigation could be available to the Applicant to address the outstanding safety and efficiency concerns. Based on the information received from Mr Black and Mr Meister I have drafted conditions which are included in Attachment 12. This provides a draft set of conditions that may require further refinement, but essentially capture that key aspects the Applicant would need to address for Council’s experts, and myself, to be satisfied that the proposal is appropriate in this location. In that regard, I note that I have signalled that it would be beneficial for the traffic experts to have the opportunity to caucus during the hearing to determine whether the adverse traffic effects can be addressed.

The District Plan sets out a clear policy framework to consider when processing applications for supermarkets within the Industrial Zone. The current proposal will generate adverse transportation safety and efficiency effects which I have assessed to be significant. Furthermore, an evaluation of the proposal against the relevant objectives and policies of the Plan (i.e., those relevant to the matters of discretion which include the Strategic Framework consideration of integrated land use occurring with infrastructure), I consider the proposal to be contrary to the objectives and policies of the Plan in relation to transportation matters.

In my opinion, when considering the matters in s104, including the positive and adverse effects of the proposal and the relevant objectives and policies of the district plan, in the
absence of additional mitigation of the adverse traffic effects, at this point I recommend that the application by Foodstuffs North Island Limited be declined.

If the Applicant incorporates the additional mitigation measures outlined in this S42A Report and Attachment 12, I consider this would likely address the safety and efficiency concerns that are currently identified. The proposed mitigation measures can be incorporated into the current application and are considered within the scope of the application.

Nevertheless, should the Commissioner’s determine that consent may be granted following the hearing of evidence from all parties, I have attached a draft suite of conditions as Attachment 12, which include the additional mitigation to address adverse traffic effects.

Sam Le Heron
29 April 2019