

**Before Hamilton City Council**

**IN THE MATTER** of the Resource Management Act 1991 (**Act**)

**AND**

**IN THE MATTER** of an application for resource consent for the construction and operation of a new supermarket including associated fuel facility, at 980 Te Rapa Road, Pukete

**HEARING REFERENCE** Resource consent – 010.2018.00009962.001

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**Evidence of Matthew Forbes Norwell on behalf of Foodstuffs North Island  
Limited**

**Planning**

**Dated 20 September 2019**

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## **1 Introduction**

- 1.1 My full name is Matthew Forbes Norwell. I am a resource management consultant and Director of Barker & Associates Limited, an independent, specialist planning consultancy operating throughout New Zealand. I hold the Degree of Bachelor of Planning from the University of Auckland and I am a full member of the New Zealand Planning Institute. I have 25 years' experience covering a wide range of land use planning matters on behalf of local authorities, government departments and private entities in New Zealand.
- 1.2 During that time, I have been involved with many aspects of resource management including preparation and lodgement of resource consent applications, submissions and presentation of evidence to local authorities in respect of proposed plans and plan changes, presentation of evidence at the Environment Court.
- 1.3 I have acted as Foodstuffs North Island Limited's ("**Foodstuffs**") lead planning consultant on various supermarket developments throughout the North Island over the past 17 years. This has included preparing resource consent applications for proposed supermarket developments, providing strategic advice for plan reviews and undertaking due diligence in the acquisition of sites for new developments.

### **Involvement in Proposal**

- 1.4 I was first engaged by Foodstuffs to provide planning advice on the feasibility of establishing a new supermarket at this location in April 2017. This involved examining the relevant planning provisions for the site under the Hamilton City District Plan ("**District Plan**") to identify the land use direction for this site under the District Plan and principal resource management matters for consideration associated with such a proposal. I also advised Foodstuffs on the technical reporting that would be required to support the resource consent application.
- 1.5 Since my involvement with the proposal from April 2017, I have attended two pre-application meetings with Hamilton City Council ("**the Council**") in August 2017 and June 2018. The purpose of these meetings was to introduce the proposal to Council Officers and discuss the proposal in context of the District Plan, in addition to identifying any other information requirements from the Council and their specialist advisors for the proposal. I also visited the site on these two occasions and am familiar with this part of the wider Hamilton area.
- 1.6 I have overseen the preparation and lodgement of the resource consent application and associated tasks. I co-authored the Assessment of Environmental Effects ("**AEE**") report submitted with the application for resource consent, and liaised with Council Officers over the course of processing in my capacity as the lead planner for the applicant. I was also responsible for liaising with Foodstuffs specialists to coordinate responses for section 92 further information requests from the Council.

- 1.7 I have also reviewed the conditions of the subdivision consent<sup>1</sup> for the site obtained by Old Porter HQ Limited; and formation of a new transport corridor with associated earthworks<sup>2</sup>.

### **Code of conduct**

- 1.8 I record that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving oral evidence before the Hearing Commissioners, as if this were a hearing before the Environment Court. I have considered all material facts that I am aware of that might alter or detract from the opinions that I express. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

## **2 Scope of evidence**

- 2.1 My evidence addresses the planning aspects of the Proposal.

- 2.2 In my evidence I will:

- (a) Provide a brief overview of the proposal and a summary of the reasons resource consent required under the District Plan;
- (b) Outline the Application Activity Status;
- (c) Outline the statutory framework under which the Proposal is required to be assessed;
- (d) Provide an assessment of the actual and potential effects of the Proposal on the environment;
- (e) Provide an assessment of the Proposal against the relevant planning provisions;
- (f) Provide an assessment of the Proposal against Part 2 of the RMA;
- (g) Respond to matters raised in submissions made on the Proposal and the Officer's Report; and
- (h) Discuss the proposed conditions of consent.

- 2.3 I have reviewed the submissions made in respect of the Proposal and the Council Officer's section 42A report ("**Officer's Report**"). I respond to matters raised in submissions and in the Officer's Report throughout my evidence, with additional comments on the latter at the conclusion of my evidence. I note there are a number of matters on which the Council Officer and I are in agreement in respect of matters that do not relate to effects on centres and traffic. Instead of repeating the analysis contained in the Officer's Report, I explain these areas in my evidence below where applicable. For any matters where I do not agree with the Officer's Report I also give reasons in my evidence.

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<sup>1</sup> Decision on an application for subdivision consent, application number 011.2018.0000674.001, Hamilton City Council, 12 October 2018

<sup>2</sup> Council application number: 010.2018.00010068.001

- 2.4 I respond to matters raised in submissions and in the Officer's Report later in my evidence.
- 2.5 I have reviewed the other statements of evidence provided for Foodstuffs by Mr Nick Hanson, Mr John Burgess, Mr Michael Martin, Mr Christopher Brading, Mr Tim Heath and Mr Mark Tansley. I refer to and rely on those statements where relevant in my evidence.

### **3 Overview of Proposal**

- 3.1 The proposal is fully described in the AEE, the Officer's report and within the evidence by Foodstuffs' expert witnesses. I agree with those descriptions of the proposal and do not propose to repeat this in my evidence. For completeness, the proposal involves the removal of all existing buildings on site to facilitate the construction and operation of a new supermarket with an associated fuel facility, ancillary car parking and all other associated enabling works and installation of underground services. The proposed hours of operation for the supermarket are 7am to 10pm over seven days of the week.
- 3.2 The new supermarket building will be constructed at the north-western corner of the site with a gross floor area of 6358m<sup>2</sup>. The forecourt for the associated fuel facility will be constructed at the north-eastern corner of the site. Other proposed structures on site include a loading canopy at the northern elevation of the supermarket building, and a canopy partly over the dedicated pedestrian access within the development.
- 3.3 The proposed vehicle access on Te Rapa Road will be restricted to left-turn movements in and out only. Similarly, the proposed access along Eagle Way will be restricted to left-turn movements in and out only too. A solid median traffic island within Eagle Way is proposed adjacent to this access to prohibit right-turning movements at this access while still allowing access to the Countdown supermarket on the other side of the road.
- 3.4 A signalised intersection between Wairere Drive and Karewa Place is proposed to be formed to enable right-turning movements into Karewa Place for vehicles approaching from the east. In turn, the traffic modelling undertaken by Mr Burgess and further modelling<sup>3</sup> by the Council indicates that this will relieve the critical right-turn movements at the intersections between Te Rapa Road with Eagle Way and Wairere Drive (i.e. will also benefit the wider traffic network).
- 3.5 Since lodgement of the application, the following modifications to the proposal in response to further information requests and comments from Council Officers:
- a. Offering conditions of consent to prepare and submit a landscaping plan to Council for review and approval; and implementing the approved landscaping within the first planting season following the completion of works.
  - b. Bicycle and motorcycle parking that satisfies the minimum requirement under the District Plan will be provided on site.
  - c. Changes to the traffic layout discussed in Part 4 below.

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<sup>3</sup> Updated VISSIM 2031 Transportation Model by Bloxam Burnett Olliver dated 16 April 2019.

## **4 Application Amendments**

- 4.1 The April 2019 Officer's Report contained the Council's recommendation to refuse consent for reasons that the proposal will generate significant adverse transportation safety and efficiency effects on the wider transport network that were considered to not be sufficiently mitigated. As a result, an iterative traffic caucusing process occurred between traffic experts, along with additional traffic modelling by the Council.
- 4.2 A suite of traffic mitigation measures emerged following caucusing which were considered to be necessary for ensuring traffic effects arising from the proposal were sufficiently mitigated and acceptable. This subsequently led to amendments to the application to formally incorporate the traffic mitigation measures agreed through caucusing as part of the proposal. The amendments to the application did not change the design or scale of the supermarket or ancillary fuel operations proposed.
- 4.3 The amendments are principally in relation to ensuring traffic arrangements approaching and entering the site were safe while wider operations of the traffic network continued to operate safely and at an appropriate level of efficiency. These amendments include the following:
- a. The access on Te Rapa Road will be restricted to a left turn entry only. No exit movements will be provided for at this access. In association with this, a left turn slip lane is to be provided along Te Rapa Road to enable left turns into the site at this access to move clear of following through traffic.
  - b. The Eagle Way/Karewa Place/Maui Street intersection will be controlled by a roundabout rather than a T-intersection. This provides more flexibility by enabling U-turns and will result in reduced traffic speeds through this intersection. A single lane approach is provided on Karewa Place and Maui Street, and two approach lanes on Eagle Way.
  - c. The left turn slip lane on Eagle Way is extended to enable customers to pull clear of the through lane as soon as possible after leaving the Te Rapa Road intersection. The existing median island on the Eagle Way approach to the Te Rapa Road intersection is also adjusted to effectively provide a longer right turn lane for customers entering the adjacent Countdown site.
  - d. The left turn entry into the Site at the Maui Street vehicle crossing is provided with a short slip lane upon exit from the roundabout to reduce any potential conflict between vehicles slowing down to enter the site and following vehicles leaving the roundabout.
  - e. The on-site car parking layout has been modified to remove car parking spaces immediately inside the three entrances in order to minimise any potential for queuing to extend back out onto the road network. The position of the proposed fuel facility has

been adjusted to accommodate the new roundabout. The revised site layout attached to Mr Brading's evidence now provides a total of 270 parking spaces which still satisfies the minimum requirement of 257 spaces based on the gross floor area of the proposed supermarket.

- f. The safety audit identified the need to reduce the existing 80 km/hr speed limit on Wairere Drive down to 60 km/hr in order for the proposed signalisation of the Karewa Place intersection to operate safely. This initiative is supported by Foodstuffs. However, I note that is a matter for the Council to implement.

- 4.4. Foodstuffs are agreeable to the provision of a left turn entry from Te Rapa Road as a condition of consent. The design of this left-turn slip lane is proposed to be undertaken in a comprehensive manner in conjunction with adjoining landowners. A condition is proposed in respect of the left turn entry from Te Rapa Road. I am advised that the design of the slip lane is being undertaken in consultation and conjunction with other land owners to the north to ensure that it is integrated with those sites and contributes to a comprehensive access arrangement along the Te Rapa Road frontage. The design will need to be approved by Council and the slip lane constructed before the supermarket commences operation.
- 4.5. The service area to the rear of the supermarket remains unchanged. Fuel delivery tankers will also use this service area to discharge fuel remotely through underground pipes to the storage tanks beneath the forecourt.
- 4.6. As a result of incorporating the traffic mitigation measures listed above, the site area has decreased by 299m<sup>2</sup> to accommodate the updated roundabout design and approach lanes which will be vested with the Council. The revised site area is 1.9713 hectares and this has also enabled the total permeable surfaces on site to be increased to 9.6% where a minimum of 10% is required in the Industrial zone.

## **5 The Site**

- 5.1 The site and surrounding locality have been fully described within the AEE and Officer's Report which I do not propose to repeat. I note that the site is zoned Industrial under the District Plan but is located directly opposite "The Base" on the other side of Te Rapa Road. The site achieves a physical separation of approximately 37 metres from "The Base" which is zoned Business 3 – Sub-Regional Centre. To the south, the subject site is located approximately 30 metres from the Countdown supermarket on the opposite side of Eagle Way zoned Business 4 – Large Format Retail.
- 5.2 At the time of preparing the AEE, the site formed part of a larger landholding made up of several contiguous fee simple lots with a combined site area of approximately 11.6 hectares. The supermarket development was planned to be located at the corner of Te Rapa Road and Eagle Way and the application was prepared and submitted to Council on this basis.

5.3 Since then, a fee simple subdivision consent<sup>4</sup> for seven lots and one road to vest has been granted by the Council. The proposal will be contained within Lot 8 of the subdivision with a site area of 2.0012 hectares. However, the site area has now decreased slightly as a result of the application amendments discussed above.

## 6 Application Activity Status

6.1 The activity status table<sup>5</sup> for the Industrial zone specifically provides for new supermarkets, where the activity complies with standards in Rule 9.5.4, as a restricted discretionary activity. Where the supermarket activity fails the standards in rule 9.5.4 it is then deemed to be a non-complying activity.

6.2 For ease of reference, standard 9.5.4 “New supermarkets in the Industrial Zone” is set out below [note underlined emphasis added].

*“Resource consent applications for new supermarkets in the Industrial Zone must provide a Centre Assessment Report, in accordance with section 1.2.2.17 (Information Requirements), which:*

*i. addresses assessment criteria H2; and*

*ii. demonstrates that the proposal will not undermine the role and function of other centres within the localised catchment in the business hierarchy.”*

6.3 A Centre Assessment Report (“CAR”) by Mr Tim Heath was included with the application and subsequent further information provided to Council to address the restricted discretionary assessment criteria in H2<sup>6</sup> of the District Plan. This first criterion of standard 9.5.4 is therefore considered to be satisfied.

6.4 In my view, the second criterion of standard 9.5.4 is flawed because it requires a substantive conclusion in respect of adverse effects on other centres to be demonstrated in order for a new supermarket in the Industrial zone to be assessed as a restricted discretionary activity.

6.5 Notwithstanding this, I have relied on the advice of Mr Heath that the proposed supermarket will not undermine the role and function of other centres within the localised catchment in the business hierarchy. On this basis, I consider that both criteria of standard 9.5.4 have been satisfied and the proposed supermarket can be assessed as restricted discretionary activity as provided for within the District Plan.

6.6 At the time of preparing the AEE I adopted a conservative approach in the event that the Council did not agree that the proposed supermarket is a restricted discretionary activity. I therefore provided the appropriate assessments as if the application was a non-complying activity overall despite my view that the supermarket is a restricted discretionary activity on the basis of the advice from Mr Heath.

6.7 I note from the Officer’s Report that the Council’s economic advisor agrees with my conclusion that the proposed supermarket is a restricted discretionary

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<sup>4</sup> Council application number: 011.2018.00006674.001

<sup>5</sup> Volume 1, Chapter 9 Industrial Zone, Page 9 of Hamilton City District Plan.

<sup>6</sup> Functionality, Vitality and Amenity of Centres.

activity. Given that the Council and I are in agreement on this matter, and none of the submitters have provided any expert evidence to conclude otherwise, I have not included a section 104D assessment as part of my evidence. However, should the Commissioners seek such an assessment I note that this has been provided in the AEE.

## **7 Consents Required**

7.1 The reasons for resource consent under the District Plan have identified in the AEE and further information provided to Council. For completeness, these are listed below:

- a. Controlled activity consent for the construction a new building adjoining the Te Rapa Road corridor;
- b. Restricted discretionary activity consent for a new supermarket in the Industrial Zone;
- c. Restricted discretionary activity consent for a shortfall of the minimum permeability standard in the Industrial Zone;
- d. Restricted discretionary activity consent for the forecourt of the ancillary fuel facility infringing the 5m yard setback to Eagle Way;
- e. Restricted discretionary activity consent for 13,600m<sup>3</sup> of enabling earthworks;
- f. Controlled activity for the retail sale of fuel in underground storage tanks associated with the ancillary fuel facility;
- g. Restricted discretionary activity for shortfall of the minimum tree planting relative to the number of parking spaces provided;
- h. Restricted discretionary activity for three free standing pylon signs that exceed the permitted area standard;
- i. Restricted discretionary activity for a establishing a non-residential activity that requires a Water Impact Assessment;
- j. Restricted discretionary activity for establishing an activity adjacent to Te Rapa Road which requires the provision of a broad Integrated Transport Assessment (“**ITA**”); and
- k. Restricted discretionary activity for establishing three vehicle crossings along the Maui Street Extension frontage of the site.

7.2 Controlled activity consent is also required under the National Environmental Standard for Contaminated Land (“**NES**”) for the total volume of soil disturbance on a piece of land in which a HAIL activity was previously undertaken and a Detailed Site Investigation (“**DSI**”) exists.

7.3 The proposal essentially requires a series of controlled and restricted discretionary activity consents under the District Plan and NES for Contaminated Land. The matters over which the Council has reserved its control or restricted its

discretion to a specific range of criteria for each consent matter. These are summarised in **Attachment 1** of my evidence.

- 7.4 Notwithstanding, I have taken a conservative approach in my assessment of effects (section 9) by considering all potential effects arising from the proposal, as if it were a non-complying activity.

## **8 Statutory framework**

- 8.1 The restricted discretionary activities are to be considered under section 104 of the Resource Management Act 1991 (the "Act").

- 8.2 Section 104(1) of the Act provides:

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
- (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.

- 8.3 Under section 104(3)(a)(i), the Council must not when considering an application have regard to trade competition or the effects of trade competition. I note that there is an existing Countdown supermarket located directly opposite the site at 8 Eagle Way and Woolworths have submitted in opposition to the proposal. Trade competition effects must therefore be disregarded.

- 8.4 Section 104C provides:

(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.

8.5 Section 104A also provides:

After considering an application for a resource consent for a controlled activity, a consent authority—

- a) must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and
- b) may impose conditions on the consent under section 108 only for those matters—
  - i. over which control is reserved in national environmental standards or other regulations; or
  - ii. over which it has reserved its control in its plan or proposed plan.

8.6 I address each of the section 104 and 104C matters in turn in the following sections of my evidence below.

## **9 Effects of the Proposal on the environment: s 104(1)(a)**

9.1 The AEE and Officer's Report have addressed the effects of land disturbance, contamination and the proposed hazardous facility on the environment. I am in agreement with the Council on these matters and therefore do not repeat those assessments in my evidence below.

9.2 In my view, the actual and potential effects of the proposal that warrant further examination at this Hearing are as follows:

- a. Built Design and Site Layout
- b. Business Centres
- c. Traffic
- d. Geotechnical and Civil Engineering

9.3 Before addressing these, I highlight to the Commissioners the positive effects of the proposal on the environment which include positive amenity effects that arise from the built form of the proposed development.

### **Positive Effects**

9.4 A significant positive effect on the environment facilitated by the proposal is improvements to operations of the wider transport network from the proposed signalisation of the intersection between Karewa Place and Wairere Drive. This is a relevant matter of consideration<sup>7</sup> for transport corridor design which meets the needs of the area and the wider transport network. The evidence by Mr Burgess explains that this proposed signalisation will have a positive effect on operations of the Te Rapa Road/Wairere Drive intersection by improving current operations of the network. The overall average delays for vehicles will be reduced and queues on all approaches will also be reduced. This conclusion is further supported by the

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<sup>7</sup> Restricted discretionary assessment criteria 1.3.3(G12)

updated traffic modelling work carried by the Council which incorporates vehicle movements associated the proposed supermarket.

- 9.5 In reliance on the advice of Mr Burgess, trip generation effects from the proposal will not only be sufficiently mitigated but equivalent effects from other approved developments in The Base will also be mitigated to the extent that there will be a net benefit to users of the wider transport network with the supermarket development.
- 9.6 Mr Heath has also expressed that The Base, as a sub-regional centre in the same catchment of the proposed supermarket, will not be undermined by the proposal but will experience positive net economic effects from the proposal. This is because the market will have better access to food retailing sector store types, a broader offering and greater choice that will attract more people to the centre. In effect, the proposal will reinforce and enhance the vitality and function of this sub-regional centre to generate positive socio-economic effects on the environment which includes people and communities.
- 9.7 I am advised by Mr Hanson that, on average, this particular supermarket format and size will employ an average of 150 part-time and full-time staff. In this respect, the proposal will have the positive effect of providing substantial local employment opportunities and reinforce the positive socio-economic effects on the environment.

#### **Building Design and Site Layout**

- 9.8 The rationale for the site layout and design of the supermarket building has been addressed in the evidence of Mr Brading and Mr Hanson. In the planning context, the Industrial zoning of the land contains minimal development standards regarding the bulk, massing and location of buildings. There are no side yard setback requirements and the District Plan does not require or encourage buildings to be brought forward and directly address the street. As such, I consider the site layout and location of the supermarket building to be appropriate.
- 9.9 In my experience, supermarkets have specific operational and functional requirements that are integral to the overall design of the building and essential for it to successfully operate. This includes back of house loading and service areas, large refrigeration units for the storage and display of fresh produce and racking systems for the display of goods. These are all functional aspects that are essential to the successful operation of supermarkets and therefore integral to the overall design.
- 9.10 The site will have three public road frontages once Maui Street Extension is formed and vested to the Council. I consider that the design, location and orientation of the supermarket to each respective road frontage of the site to be appropriate. Te Rapa Road is identified as a major arterial road in the District Plan and therefore carries high volumes of through traffic and enjoys the most public exposure. Conversely, Eagle Way and Maui Street Extension are both local roads but with lesser public exposure.
- 9.11 As explained in the evidence of Mr Brading, the southern elevation orientated to Te Rapa Road features the most glazing to provide natural light and views into the active check-out areas of the supermarket to create an active front to the building. The eastern elevation also features glazing to provide views into the building before transitioning to a solid façade when the functional requirements

of the retail floor plan commences. The northern frontage of the site logically contains the loading, delivery and servicing areas of the supermarket which receives the benefit of easy and convenient access to the road by trucks. Equally, this layout avoids circulation in the customer carpark for safety reasons and to enhance customer experiences. Having regard to this and the essential functional/operational requirements for a supermarket, I consider the overall design and location of the proposal to be appropriate.

- 9.12 The setback of the fuel canopy to Eagle Way, the number of specimen trees proposed and amount of landscaped area do not strictly adhere to the development standards for the Industrial Zone. However, it is my view that these infringements are not detrimental to the overall design and external appearance of the proposal as a whole. The fuel canopy is a substantially open and unenclosed structure that will not physically or visually dominate the streetscape. Additionally, external perimeter edges of the site will feature a 2 metre wide landscape buffer with low ground cover and specimen tree planting that will contribute to softening the appearance of the at-grade car parking and sufficiently mitigating effects on the environment. The provision of a landscaping plan for the site is also offered as a condition of consent.

### **Business Centres**

- 9.13 Effects of the proposal on the functionality, vitality and amenity of business centres have been addressed in detail within the application material, further information responses and in the evidence of Mr Heath and Mr Tansley.
- 9.14 I accept the advice of Mr Heath that adverse effects on the vitality, function and amenity of the Central City and sub-regional centres from the proposed supermarket will be avoided.
- 9.15 I note that The Base Te Awa has submitted in opposition to the proposal. A specific concern raised in respect of the proposed supermarket is that it is likely to result in an agglomeration of out-of-centre commercial activities in combination with other non-industrial activities already approved<sup>8</sup> on site. Mr Heath has responded to this submission point in his evidence. I also note from the addendum to the Officer's Report that this consent may now have lapsed. I understand from the Officer's Report that the consent holder applied for section 125 extension of the time which was declined by the Council but is currently subject to objection under section 357 under the Act.
- 9.16 Assuming that this consent has lapsed, any future application will need to be assessed on its merits. This would include taking into account the nature of the new proposed activity, the way it would interact with the supermarket (if consent is granted) and the other retail activities on the eastern side of Te Rapa Road, the nature and extent of development at the Base at that time, and market conditions at that time. For these reasons, it is not possible to prejudge such an application at this stage nor should it be taken into account when assessing the proposed supermarket.
- 9.17 With reference to the evidence by Mr Heath and Mr Tansley, the proposal will avoid adverse effects on the vitality, function and amenity on The Base which is identified as a sub-regional centre for the reasons below:

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<sup>8</sup> Land use resource consent: 10.2014.7726.001

- (a) The supermarket is located immediately adjacent to The Base, albeit across a major road. It is patently not a stand-alone retail activity that could be seen as challenging the status of the Base or any other centre.
- (b) There is no prospect that location of a supermarket 35 metres away from The Base will compromise its status or lead to any loss in functionality or amenity for residents. To the contrary, the supermarket will reinforce the sub regional focus and function of the centre. If members the public wish to obtain services or goods that cannot be purchased at the supermarket their inclination will be to access those services of goods at The Base itself.
- (c) As an aside, for reasons addressed with respect to traffic matters, locating the supermarket alongside rather than within the core of the centre is likely to reduce adverse traffic effects and to improve amenity and efficiency. In turn, I consider that the proposal will promote the efficient use of existing and planned public and private investment in infrastructure with respect to underground services and traffic infrastructure upgrades proposed as part of this application for mitigation purposes but also having wider benefits on the transport network.

### **Traffic**

- 9.18 Traffic effects from the proposal have been addressed in the application material, further information responses to Council that involved additional traffic modelling and in the evidence of Mr Burgess. Caucusing between the various traffic experts also occurred to address the areas of concern to Council and submitters. This resulted in amendments to the application specifically proposing additional traffic mitigation measures which were considered to be necessary and appropriate among the experts. I rely on the expertise and opinion of Mr Burgess in respect of traffic effects arising from the proposal.
- 9.19 In reference to the proposed access arrangements serving the proposal, Mr Burgess has concluded that sightlines achieved from each of the vehicle crossings proposed is in excess of minimum guideline requirements and will therefore function safely. To avoid conflicts with other traffic on the road, turning movements at the Eagle Way access of the site will be restricted to left-turns in and out only. There is no provision for right-turn movements in or out of this access which is ensured by installation of a solid traffic island adjacent to this site access. The Te Rapa Road access has been amended to allow for left turns in only and the additional traffic modelling has revealed that this left turn in is critical for traffic distribution purposes and for avoiding unacceptable queuing effects on the surrounding network. The accesses along Maui Street Extension provides for the necessary loading and servicing of the supermarket in an efficient one-way circular movement designed to minimise impacts on operations of the road network and disruptions within the customer carpark.
- 9.20 The proposal complies with the minimum number of car parking, loading and cycle parking spaces required relative to the gross floor area of the proposed supermarket. The manoeuvring aisle widths and dimensions of the individual car parking spaces have also been certified by Mr Burgess as complying with the District Plan standards. As such, I consider the design of the parking spaces to be appropriate and the number provided to be adequate such that there will be no overspill of car parking on the surrounding road network.

- 9.21 Safety, traffic generation and effects of the proposal on operations of the surrounding road network has been a point of contention between Foodstuffs and the Council. I also note that this is the primary point of concern for the submitters.
- 9.22 Extensive traffic modelling has been undertaken by Mr Burgess to evaluate the carrying capacity of the transport network to accommodate traffic generated by the proposal and the performance of key intersections surrounding the site. Additional modelling has subsequently been undertaken by the Council as part of traffic caucusing that has occurred. The intersections analysed include the Wairere Drive intersection with Karewa Place; and the Eagle Way intersection with Te Rapa Road and The Base Parade. Mr Burgess has stated that the majority of customers to the supermarket are expected to approach from the eastern direction of Wairere Drive.
- 9.23 In order to redistribute traffic on the network to avoid significant queuing effects and delays in the network, it is proposed to signalise the intersection between Karewa Drive and Wairere Place to provide for right-turning movements which is currently not possible. I have relied on the advice of Mr Burgess that installation of these signals will provide significant relief to the critical right-turn movements that not only sufficiently mitigates adverse effects from the proposal but also from various other developments approved along the Karewa Place and Maui Street transport corridor. In reliance on this advice, I consider that vehicle movements generated on the network from the proposal can be accommodated with the mitigation proposed.
- 9.24 A comprehensive suite of additional traffic mitigation measures now form part of the proposal following caucusing amongst Mr Burgess and traffic experts for the Council and submitters. These mitigation measures have been developed to specifically address traffic safety and efficiency concerns of the Council and submitters, and have been informed by the updated 2031 VISSIM model as required by the District Plan.
- 9.25 Based on this additional modelling and suite of additional mitigation measures now proposed, Mr Burgess is of the view that the surrounding road network will not only be able to accommodate traffic generated by the proposal, but will also see an overall improvement in its operation. The modelling indicates that this is particularly evident at the key intersections of Te Rapa Road with Wairere Drive and Eagle Way/The Base Parade, and in terms of improved access to activities along Karewa Place and Maui Street. I accept the advice of Mr Burgess and am therefore of the opinion that adverse traffic effects arising from the proposal will be appropriately avoided or mitigated to be minor.
- 9.26 I note the Council's concerns with respect to the concept design of the left-turn slip lanes on Te Rapa Road, Eagle Way and Maui Street Extension and ensuring that pedestrian and cycle priority is achieved (where appropriate). In my experience, it is not unusual for road designs to be in their concept design phase at the resource consent stage because there is a level of uncertainty if consent will be granted or not and, logically, applicants do not proceed onto the next stage of detailed design until there is certainty. The applicant accepts that these slip lanes will need to be incorporated into the development and will need to be designed and constructed to the appropriate engineering standards. That can be achieved by imposing conditions of consent that require such slip lanes to be approved by Council and implemented before the supermarket commences trading operations.

## **Geotechnical and Civil Engineering**

- 9.27 Civil engineering effects of the proposal are addressed in the evidence by Mr Martin. In reliance on his advice, I am satisfied that the proposal will be adequately serviced in terms of stormwater, wastewater and water supply.
- 9.28 I note that Mr Martin disagrees with the Council's approach with respect to stormwater attenuation for climate change and the need to provide on-site stormwater attenuation. I am guided by technical advice of Mr Martin on this matter and therefore accept his reasoning for why it is unreasonable and unnecessary to provide on-site stormwater attenuation for this proposal.
- 9.29 The geotechnical report in the application material concludes that the risk of land instability from the proposal will be low. Additionally, this report concludes that, subject to implementing the overall geotechnical recommendations, the site will be suitable for the commercial development. On this basis, and in relying on the expert advice, I am of the view that any potential land instability effects on the environment will be avoided.

## **10 Relevant planning provisions: s 104(1)(b)**

- 10.1 The proposal requires controlled and restricted discretionary activity resource consents for discrete matters under the District Plan. The consideration of this application is therefore limited to matters over which control is reserved and discretion is restricted in the Plan. Notwithstanding this, to assist the Hearing Commissioners, I have set out a broader assessment below for completeness if the proposal were to be considered as a non-complying activity.
- 10.2 In terms of matters in section 104(1)(b) of the Act:
- a. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Health Human applies to this piece of land. As previously stated in my evidence, contamination effects of the proposal have been addressed in the AEE and within the Detailed Site Investigation and Site Management Plan provided with the application material. With reference to these technical reports provided I consider that any adverse effects on human health will be avoided and mitigated.
  - b. The Hazardous Substances and New Organisms (HSNO) Act 1996 applies to the ancillary fuel facility which is deemed to be a "hazardous facility" under the District Plan. The application material confirms this ancillary fuel facility has been design in accordance with HSNO regulations. Other regulations that apply to this hazardous facility include Hazardous Substances (Emergency Management) Regulations 2001 and Health and Safety at Work (Hazardous Substance) Regulations.
  - c. There are no National Policy Statements relevant to the application.
  - d. The proposal does not raise any matters relevant to the National Coastal Policy Statement.
- 10.3 I address the remaining matters in section 1014(1)(b) below.

## Waikato Regional Policy Statement

- 10.4 The Waikato Regional Policy Statement (“RPS”) contains an overview of the resource management issues in the Waikato region and the ways in which the integrated management of the region’s natural and physical resources will be achieved.
- 10.5 In reference to the sustainable and efficient use of resources<sup>9</sup>, in my opinion, the proposal represents a sustainable use and management of a physical land resource in an urban environment. The site, on the periphery of a sub-regional centre, can be readily connected to the public civil infrastructure network and has good connections to the transportation network to support efficient use and development of this land resource.
- 10.6 In reference to natural hazards<sup>10</sup>, the geotechnical report for the proposal confirms that the site is suitable for the proposed supermarket development and the risk of land instability arising from the proposal is low. The minor overland flow path on site will be suitably managed to discharge to the piped stormwater network in accordance with a comprehensive sub-catchment integrated catchment management plan approved by the Council.
- 10.7 Development of built environment<sup>11</sup> is to occur in an integrated, sustainable and planned manner. For this proposal in particular, this includes the integration of land use and infrastructure planning by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors. I consider this outcome to be achieved. The proposed supermarket development has been carefully planned and considered against extensive traffic planning and modelling work to analyse the level of effects on the surrounding transport corridors. Appropriate mitigation such as the installation of traffic signals at the intersection of Wairere Drive and Karewa Place, restriction of turning movements at specific accesses into the site and amendments to the application incorporating the additional suite of traffic mitigation measures agreed in caucus collectively seek to ensure that the safe and effective operation of these corridors are maintained.
- 10.8 In reference to the evidence by Mr Heath, the development of a new supermarket at this location on the periphery of a sub-regional centre will not lead to a decline in the economic viability or vitality of the Hamilton City central business district<sup>12</sup>, or the sub-regional centre. Conversely, the proposed supermarket will support the function and vitality of the sub-regional centre and will, in my view, enhance the social and economic wellbeing of the region as a result.
- 10.9 The proposal does not involve any other matters of regional significance in respect of air quality, historic and cultural heritage, outstanding natural features and landscapes, the coastal environment, allocation and use of freshwater, or riparian areas and wetlands.

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<sup>9</sup> Objective 3.10, Part A of the Waikato Regional Policy Statement.

<sup>10</sup> Objective 3.24, Part A of the Waikato Regional Policy Statement.

<sup>11</sup> Objective 3.12, Part A of the Waikato Regional Policy Statement.

<sup>12</sup> Objective 3.12(j), Part A of the Waikato Regional Policy Statement.

## Hamilton City Council Operative District Plan 2017

- 10.10 The proposal has been evaluated against the relevant objectives and policies of the District Plan within the AEE and further information responses to Council. I will not repeat that again here. However, to summarise that analysis, I am of the view that the proposal gives effect to these provisions overall. I reach that conclusion for the following reasons:

### Chapter 9 - Industrial Zone

- 10.11 In my view, the objectives and policies for the Industrial Zone are central to the evaluation of this application under the District Plan. Importantly, I note that this site is specifically recognised in the District Plan as an area in a state of land use transition from heavy industrial use to more non-industrial type activities. Furthermore, the District Plan specifically states that in limited circumstances supermarkets may locate out-of-centre in the Industrial zone provided suitable land is not available within the business centres and where it can be demonstrated that the primacy, function, vitality and amenity of centres within the business hierarchy are not undermined.

#### **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.*

- 10.12 From my reading of objective 9.2.2 it is clearly evident that non-industrial activities, such as a supermarket, is an anticipated outcome for the Industrial zone where it can be demonstrated that the non-industrial activity proposed will not undermine the primacy, function and vitality of business centres. The location of the site is such that proposal will be surrounded by a large quantum of retail activities within the sub-regional centre of The Base, a Countdown supermarket and Kmart both located on the opposite side of Eagle Way. In reference to the evidence of Mr Heath, the proposal will not adversely impact on the strategic role of the centre but will in fact reinforce and support the centre.

- 10.13 Mr Heath has comprehensively addressed the potential adverse effects on the primacy, function, vitality and amenity of other business centres in the local catchment. The sub-regional centre of The Base and the central city as other higher order business centres have also been evaluated and the proposal will not cause adverse retail distribution effects on these centres, nor will their role and function be compromised by the proposal.
- 10.14 In respect of policy 9.2.2(a), I consider that the proposed supermarket will not affect the ability for industrial activities to establish or operate effectively on the wider Industrial zoned landholding. Industrial activities in the Industrial zone are provided for as a permitted activity and supermarkets are not a particularly sensitive land use such as various types of residential activities may be. As such, I consider that reverse sensitivity effects arising from the proposal will be avoided.
- 10.15 In respect of policy 9.2.2(b)(i), I consider this provision of the District Plan to be flawed. In my view, it requires a substantive conclusion to be reached as part of the consideration whereas, in my view, policies are intended to be a method for achieving an anticipated or desired outcome (i.e. an objective). Notwithstanding, I have evaluated the proposal against subsection (i) and (ii) as below.
- 10.16 In reference to subsection (i), Mr Hanson's evidence has explained why land in the sub-regional centre of The Base is not suitable for the proposal. I accept his comments on this.
- 10.17 In reference to subsection (ii), adverse effects of the proposal on the primacy, function, vitality and amenity on business centres have already been addressed and based on Mr Heath's evidence I consider that such effects will be avoided.
- 10.18 For these reasons, I consider the proposal to be consistent with objective 9.2.2 and its supporting 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.*

- 10.19 The proposal will be transformational for the external appearance of the site. It will be redeveloped from an expansive industrial storage yard that, in my view, offers minimal contribution to the amenity of the built environment, to one that is visually compatible with the sub-regional centre surrounds of the site.
- 10.20 Te Rapa Road is a major arterial road and the site is highly visible as a result. The proposal enables the development of a new and modern building with its most activated frontage orientated to Te Rapa Road offering good inter-visibility to the street. Overall, I consider the proposal to represent a significant enhancement to the visual amenity of the site.
- 10.21 Perimeter edges of the site will be planted with a 2 metre wide landscape buffer featuring low ground cover planting that will, in combination with the various specimen trees proposed throughout the development, soften the appearance of the at-grade car parking. Overall, I consider that the design qualities of the proposal will significantly improve and enhance the visual amenity of this

industrial zoned site in a manner that achieves an appropriate interface with the surrounding commercial activities.

**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. [Note underlined emphasis added].*

**Policy 9.2.7b**

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

- 10.22 In my view, these provisions of the Plan clearly recognise and acknowledge that this site is in a state of transition and is suitable for the development of non-industrial activities. I consider a key phrase of objective 9.2.7 is “Enable the redevelopment of the site”. In my mind, the word “enable” specifically means to allow or permit something to occur which, in this case, is the redevelopment of the site that is clearly acknowledged and recognised by the District Plan as being in a state of land use transition from its historical industrial land use to other land uses.
- 10.23 Although, the objective lists a range of residential and accommodation-type activities as suitable forms of non-industrial activities that could establish on site, in my view this does not represent a complete or exhaustive list of land uses that could be established on site. The use of the phrase “*to include provision for*” signals that redevelopment of the site should allow for the development of these residential and accommodation-type activities, but these are not the only activities that could establish. For example, a supermarket is a form of non-industrial activity that could feasibly and suitably establish on this Industrial zoned site. The District Plan also specifically contemplates a supermarket activity as being appropriate given the restricted discretionary activity status.
- 10.24 Further, I consider that the proposal will not preclude the potential or ability to establish the residential and accommodation-type activities on the wider site mentioned in Objective 9.2.7. This wider Industrial zoned landholding totals 11.6 hectares and the supermarket proposal will only occupy 1.9713 hectares. Therefore, over 9 hectares of undeveloped land would remain for future development opportunities including accommodating the activities listed in objective 9.2.7.
- 10.25 Objective 9.2.7 also suggests that redevelopment of this industrial land should achieve a high level of amenity. For the reasons given above, I consider the proposal for a new supermarket and ancillary fuel facility on this site to be appropriate and transformational from an external appearance and visual amenity perspective.
- 10.26 I do not consider the proposed supermarket or fuel facility, both being commercial activities, to be a sensitive land uses that could give rise to reverse sensitivity effects. Additionally, my observations of the immediate environment indicate that surrounding activities are predominately of a retail and commercial nature, as opposed to industrial activities.

- 10.27 The vehicle and pedestrian access connection between Maui Street and Karewa Place will be formed and vested by Old Porter HQ Ltd, being the consent holder of the approved subdivision application for formation of this new transport corridor.

#### **Chapter 25.2 – Earthworks**

- 10.28 I consider that the proposal will give effect to the earthworks objectives. The only earthworks required for this proposal would be that to facilitate removal of the existing buildings and paved surfaces to facilitate the development and to the proposed finished levels. The existing landform of the site is therefore highly modified and there are no natural character values, natural features or vegetation that will be affected by the earthworks proposed. My inspection of the planning maps also confirms that there are no watercourses or riparian vegetation recorded for this site.
- 10.29 In reference to the evidence by Mr Martin, appropriate erosion and sediment control measures will be implemented on site to minimise sediment discharge effects. Conditions of consent can be imposed to ensure that construction noise and dust effects generated can be avoided or mitigated. Overall, the relevant earthworks provisions of the Plan are considered to be met.

#### **Chapter 25.10 – Signs**

- 10.30 The elevations demonstrate that the signs proposed on the exterior of the supermarket building do not visually dominate the façade on which they are displayed. In my view, the signs on the building facades are more for branding purposes of the particular supermarket proposed and for people to instantly recognise this supermarket brand and format.
- 10.31 The proposed freestanding pylon signs serve the purpose of way-finding from the Te Rapa Road and Eagle Way frontages of the site. The content of all signs will be limited to the name of the supermarket, opening hours and weekly special advertisements that will be collectively presented in a simple and legible manner. They will not be flashing or featuring variable messages so will not cause adverse any traffic safety effects.
- 10.32 Overall, I am of the view that that traffic and pedestrian amenity will be maintained, no historic heritage values will be affected and the visual amenity of the surrounding environment will not be compromised.

#### **Chapter 25.4 – Hazardous Facilities**

- 10.33 I consider that that ancillary fuel facility will achieve these provisions seeking to protect people, property and the natural environment from the storage, use or transport of hazardous facilities.
- 10.34 The ancillary fuel facility will be located amongst a commercial environment where there are no sensitive land uses in close vicinity of this hazardous facility. It will be located more than 180m away from the nearest residential property and will be designed in accordance with HSNO regulations to ensure that people and property will be protected from hazardous risks.
- 10.35 The underground fuel tanks will feature double-wall fibreglass tanks to avoid and minimise accidental release due to the built-in secondary containment and leak

detection system. The profiled construction of a slotted channel around the forecourt will ensure that any accidental or undeliberate spills during the refuelling of vehicles or off-loading from fuel tanks will discharge to an oil/water interceptor. Finally, the fuel facility will be operated, managed and maintained in accordance with Foodstuffs Emergency Management Plan that has been successfully implemented at other ancillary fuel facilities nationwide to ensure the on-going safety of people, property and the natural environment.

#### **Chapter 25.14 – Transportation**

- 10.36 A key transportation objective of the District Plan is to achieve an integrated multi-modal transport network that meets regional and local needs and is, importantly for this proposal, efficient; safe and sustainable.
- 10.37 The evidence by Mr Burgess and ITA submitted with the application has comprehensively addressed the potential adverse effects of the proposal on the surrounding transport network. Following significant traffic modelling undertaken utilising the Council's preferred model, and further traffic modelling undertaken by the Council and caucusing between traffic experts, Mr Burgess has concluded that the transport network will continue to operate safely and to an acceptable level of service with the proposed mitigation.
- 10.38 In reference to policy 25.14.2.1a Land Use Integration, the access arrangements and immediate transport network surrounding the site has been redesigned following an iterative caucusing process among traffic experts to ensure the supermarket activity proposed will maintain the safe and efficient operation of the transport corridors in this sub-regional location. The slip lanes proposed on Te Rapa Road, Eagle Way and Maui Street Extension will be designed to ensure that they all maintain a continuous footpath around the site and appropriately accommodate the cycle lanes so that movements by pedestrians and cyclists remain provided for in safe and effective manner. The Officers' Report has recommended this as a condition of consent and this is endorsed by Foodstuffs. Additionally, bicycle parking for staff and customers will be provided on site should anyone wish to travel to the site by bicycle thereby providing choice and supporting sustainable transport initiatives of the Plan.
- 10.39 The site is connected to the public infrastructure network in respect of the three waters and has good connections to the transport network with direct access to a major arterial road and two local roads. In association with this proposal and with reference to policy 25.14.2.1b, Foodstuffs will also invest into public infrastructure by way of signalling the intersection between Wairere Drive and Karewa Place that will provide a wider public benefit that goes beyond mitigating adverse traffic effects from the proposal. Considering these matters in conjunction with the location of the site directly opposite The Base, I consider that the proposal promotes the efficient use of existing and planned infrastructure and promotes a compact urban form at the same time.
- 10.40 The modelling results also indicate that the transport network is expected to operate more efficiently compared to the existing levels of service due to the proposed signalisation of the intersection between Karewa Place and Wairere Drive as part of this application. The provision of a roundabout at the intersection of Maui Street/Wairere Drive/Eagle Way also better manages the flow of traffic through this intersection while avoiding significant queuing effects on the wider network and enabling vehicles to safely enter the site. Adverse effects on the

transport network will therefore be avoided and mitigated to the extent that there will be an overall net benefit to operations of the wider transport network.

- 10.41 Access arrangements to the site have been designed to ensure adverse safety effects on the surrounding road network are avoided by restricting turning movements at the Te Rapa Road and Eagle Way accesses. Modifications to the road markings and provision of slips lanes into the site from the various accesses at each frontage of the site will also facilitate safe turning movements into the site while avoiding disruptions to through traffic and conflicts with other accesses serving adjacent sites.
- 10.42 In reference to policy 24.15.2.1d, the overall number of car parking spaces on-site is compliant with the minimum requirement under the District Plan and from an operational perspective the supply will meet projected demand such that no overspill parking effects are anticipated. The proposal also includes provision for accessible and less mobile car parking adjacent to the main entrance of the supermarket so that users of these spaces can easily access the supermarket without having to navigate their way across the wider carpark. Overall, the relevant transportation provisions of the Plan are considered to be met.

#### **Chapter 25.5.2 – Landscaping and Screening**

- 10.43 The site at present almost solely comprises of impervious surfaces only. It is reflective of its former historical land use as a metalled yard and for the storage of heavy construction machinery. In this respect I consider current amenity values of the site to be low.
- 10.44 The proposal will enhance amenity values of the site by enabling the establishment of edge treatment around the perimeter of the site (excluding access points) in the form of a 2 metre wide landscape buffer. Additional tree planting is proposed throughout the carpark to further enhance and minimise visual impacts of the at-grade carpark proposed.
- 10.45 Considering that the Industrial zoning of the site does not require a high level of amenity and the landscaping proposed will, in my view, result in an overall net benefit of amenity values I consider the proposal to be a significant improvement in comparison to existing circumstances. The provision of a final landscaping plan as a condition of consent and this will provide the opportunity to incorporate native species on site, as appropriate.

#### **Chapter 25.13.2 – Three Waters**

- 10.46 In reference to the evidence by Mr Martin the site can be adequately serviced with the necessary infrastructure and can connect to the three waters network, with adequate capacity in the network to accommodate the development.
- 10.47 To ensure water quality in the downstream environment is not adversely affected by the development, stormwater quality treatment is proposed in terms of utilising inert/low contaminant generating cladding and materials in the building construction and the installation of two grassed swales providing water quality treatment for the new paved areas. Overall, I consider the relevant three waters provisions of the District Plan to be met.

**11 Any other matters relevant and reasonably necessary to determine the application: s104(1)(c)**

11.1 There are no other matters considered to be relevant for the determination of this application.

**12 Part 2 of the RMA**

12.1 The Court of Appeal judgement in the *R J Davidson Family Trust*<sup>13</sup> has clarified that consideration of Part 2 by consent authority in the context of resource consent applications is plainly intended by the phrase “Subject to Part 2”. However, I am advised that the judgement states that relevant plan provisions should be considered under s104(1)(b) and a fair appraisal of the objectives and policies read as a whole be made. Where appropriate the consent authority can decide there is no need to refer to Part 2 because to do so would not add anything to the evaluation of the application. Otherwise it is appropriate and necessary to refer to Part 2.

12.2 In line with my earlier comments, taking a conservative approach, I have assessed the application in the round against the relevant provisions of the Regional Plan and District Plan and I have concluded the grant of consent is not inconsistent with relevant provisions of both Plans. However, for completeness, I also have included an assessment of the proposal against the provisions in Part 2.

**Section 5 – Purpose of the Act**

12.3 I consider the proposal to achieve the purpose of the Act and otherwise the provisions of Part 2. The development represents the sustainable use and development of a natural and physical resource that will provide for the socio-economic well-being of people through the provision of important commercial service that sustains communities. The suite of expert evidence by Foodstuffs technical advisors have also demonstrated that adverse effects of the activity on the environment will avoided, remedied or mitigated to an acceptable level in this transitional and predominantly commercial environment.

**Section 6 – Matters of National Importance**

12.4 There are no matters of national importance relevant to the consideration of this application.

**Section 7 – Other Matters**

12.5 Section 7 identifies a number of “other matters” to be given particular regard to by the Council. The matters of relevance to this application include:

- a. The efficient use and development of natural and physical resources;
- b. The maintenance and enhancement of amenity values; and
- c. Maintenance and enhancement of the quality of the built environment.

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<sup>13</sup> *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316.

- 12.6 I consider that the proposal represents the efficient use of natural and physical resources by developing the site for commercial purposes on the periphery of a sub-regional centre that has available connections to public infrastructure network and good access to transport corridors. The proposal will also significantly enhance the visual amenity of the site by transforming this industrial storage yard to a vibrant and modern commercial development that is more visually compatible with the commercial surrounds of the site in this business environment.

### **Section 8 – Treaty of Waitangi**

- 12.7 Section 8 requires the Council to take into account the principles of the Treaty of Waitangi. My research did not identify any archaeological sites or wahi taonga recorded on this site, or within the vicinity of the site. I consider that the proposal will not offend against the principles of the Treaty of Waitangi.

### **13 Response to Submissions**

- 13.1 Submissions in relation to the topics of traffic and business centres have been comprehensively addressed in the evidence by Mr Burgess and Mr Heath and I do not comment on these further.
- 13.2 The submission by Te Haa O Te Whenua O Kirikiriroa opposes the application for the reason that there has not been any consultation with local mana whenua. I acknowledge that it is considered best practice, in particular circumstances, to consult with mana whenua on resource consent applications. I do not consider this proposal to be one of those circumstances. The District Plan planning maps do not indicate any cultural heritage or wahi taonga recorded on this site, or within vicinity of the site, to warrant consultation with mana whenua. I add that the site is a highly modified urban landform and the proposal will not be developed on greenfield land or within vicinity of any natural watercourses, such examples being situations that would normally trigger the requirement for iwi consultation.
- 13.3 In reference to submission point 3.2(e) of the submission by The Base Te Awa, I clarify that the AEE does not state that the site is located within the “Te Rapa Corridor” as shown on Figure 6-4 in Appendix 6 of the District Plan planning maps. I have not inferred in the AEE that the site is located within the “Te Rapa Corridor” as marked on this planning map. Rather, I have identified that the site has road frontage to Te Rapa Road which is identified as a Major Arterial Road in the District Plan road hierarchy and have assessed the proposal in this context accordingly.

### **14 Response to Officer’s Report**

- 14.1 I have addressed the issues raised in the Officer’s Report throughout my evidence. The overall recommendation in the Officer’s Report is to decline consent on the basis that adverse traffic safety effects are considered to be significant and have not been adequately mitigated. I disagree with the basis of that recommendation. You have heard from Mr Burgess about the amendments to the application arising from the traffic caucusing process. Based on these changes and the detailed evidence of Mr Burgess, I am of the view that adverse traffic efficiency and safety effects arising from the proposal will be avoided or mitigated to minor extent.

14.2 I note that the Officer's Report and council's expert traffic evidence helpfully set out the mitigation measures considered to be necessary for ensuring adverse traffic safety effects on the environment will be appropriately mitigated. I emphasise that the application was purposefully amended to specifically include the suite of mitigation measures listed in my evidence above which have been translated into recommended conditions of consent. I note that Mr Burgess will provide a revised site layout plan at the hearing which illustrates these changes. For these reasons, I disagree with the recommendation in the Officer's Report that consent should be declined because adverse traffic effects have not been mitigated.

## **15 Response to Recommended Conditions of Consent**

15.1 In terms of the proposed conditions, **Attachment 2** to my evidence is a tracked change version of the conditions provided in Appendix D of the Officer's Report addendum and attachments. Attachment 3 to my evidence is a clean version of my Attachment 2 but re-structured for ease of interpretation.

15.2 With reference to **Attachment 2**, I have included comments in the margins by way brief explanation of the various changes proposed. In overall terms, I consider the recommended conditions in Appendix D to be broadly appropriate except for those which are not related to matters which the Council has reserved its control, restricted its discretion or are beyond the control and responsibility for Foodstuffs to implement.

## **16 Conclusion**

16.1 In my view, the proposed supermarket is ideally suited to the site. From a planning point of view, the proposal creates no challenges to the objective and policy framework of the District Plan. Further, other than traffic, both the applicant's and council's experts agree that any environmental effects will be no more than minor.

16.2 Turning to the traffic effects, there appears to be a tension between the applicant and Council. However, when examining that in closer detail, it is my view that if the applicant is to accept the conditions recommended by Council then in fact any residual concerns in relation to traffic are appropriately addressed. Further, Mr Burgess has produced a plan to carefully illustrate a number of the proposed changes intended to address the outstanding traffic effects.

16.3 On that basis and accepting the traffic conditions, it is my view that any traffic effects can be appropriately mitigated.

16.4 For these reasons, the overall proposal is worthy of being granted consent.

**Matthew Norwell**  
**20 September 2019**

**Attachment 1**

Consent Matter	Activity Status	Matters for Assessments			
		Built Form and Site Layout	Traffic	Engineering	Business Centres
Rule 9.3(a) - New building adjoining Te Rapa Road corridor	Controlled	√			
Rule 9.3(cc) - Supermarket in Industrial zone	Restricted discretionary				√
Rule 9.4.5 - Shortfall of the minimum permeability standard in the Industrial Zone	Restricted discretionary	√		√	
Rule 9.4.1(a) - Forecourt of the ancillary fuel facility infringing the 5m yard setback to Eagle Way	Restricted discretionary	√			
Rule 25.2.4.1(f) - Enabling earthworks	Restricted discretionary			√	
Rule 24.3.3(d) - Retail sale of fuel in underground storage tanks	Controlled			√	
Rule 25.5.4.4 - Shortfall of the minimum tree planting	Restricted discretionary	√			

Rule 25.10.5.7 - Establishment of three freestanding pylon signs	Restricted discretionary	√	√		
Rule 25.13.3(a) - Establishing a non- residential activity that requires a Water Impact Assessment	Restricted discretionary			√	
Rule 25.14.3(a) - Establishing an activity adjacent to Te Rapa Road which requires the provision of a broad Integrated Transport Assessment	Restricted discretionary		√		
Rule 25.14.4.1 - Establishing three vehicle crossings along the Maui Street Extension frontage	Restricted discretionary		√		

**Attachment 2 – Proposed Changes to Recommended Conditions of Consent**

The following is a draft list of conditions to assist the Commissioner's should they be of the view to grant consent.

**General**

1. *That the development be in general accordance with the plans and the information submitted with the application on 23 July 2018, except where amended by the further information and updated plans.*
2. *That pursuant to section 36 Resource Management Act 1991, the following fees and charges be paid:*
  - a. *Payment of additional Environmental Health fees for assessing consented reporting will be charged on a time-cost recovery basis in accordance with Hamilton City Council's Schedule of Fees and Charges, with adjustments coming into effect at the beginning of each financial year. The fees will be levied at the completion of the consent review process and will be payable to the Environmental Health Unit upon notification that compliance has been achieved.*
- 2.3. *The opening hours of the consented activity shall be restricted to between the hours of 7.00am and 10.00pm.*

**Commented [MN1]:** Proposed to be deleted – not a matter of discretion for supermarkets in the Industrial zone.

**Landscaping**

- 3.4. *The consent holder shall submit a landscape plan for the approved development to the Council's Monitoring Team Leader for certification within one month prior to the start of works. The objective of the landscape plan is to ensure the permeability established onsite contributes to the amenity and stormwater management of the site. The landscape plan shall include details of the proposed species; plant numbers and density; and sizes/height at the time of planting and maturity.*
- 4.5. *The consent holder shall implement the approved landscaping within the first planting season following the completion of works in accordance with the certified landscaping plan submitted as part of condition 3 of this consent. This landscaping shall be maintained in good condition over the duration of the supermarket operating on site. In the event that any of the planting dies or declines in health beyond recovery, the consent holder shall undertake replacement planting.*

**Electronic Signs**

- 5.6. *The three LED pylon signs must not display any image that:*
  - *Resembles or is likely to be confused with any traffic sign or signal;*
  - *Contains reflective, fluorescent or phosphorescent materials that will reflect headlights, or distract and interfere with a road user's vision;*
  - *Uses flashing or revolving lights or lasers or any other method of illumination that will dazzle or distract drivers.*
- 6.7. *The sign shall be limited to static displays only.*
- 7.8. *The sign content shall not change at intervals greater than once every 8 seconds.*
- 8.9. *Changes to sign content shall be limited to a maximum transition time of 1 second between two messages/images. There must be no scrolls flash, type or fade between the messages/images.*

- a. *Maximum electronic luminance shall have the following limits:*
- *Day time luminance when the sun directly strikes the face of the sign 8000cd/m<sup>2</sup> and otherwise 6000cd/m<sup>2</sup>.*
  - *Day time luminance Morning/Evening Twilight and Inclement Weather: 600cd/m<sup>2</sup>.*
  - *Night Time Luminance: 350cd/m<sup>2</sup>*

- b. *The signs must have a facility for automatically adjusting the sign luminance so that the sign brightness is always comparable with the surrounding luminance conditions and restrictions above.*
10. *The minimum letter size on each sign shall be as follows:*
- *150mm for the main message*
  - *100mm for the property name*
  - *75mm for the secondary message.*
11. *The signs shall include provisions for automatic shutdown in the event of a fault which affects the signs performance.*

#### **Earthworks**

12. *The Consent Holder shall ensure that all appropriate sediment and erosion control measures are adopted to minimise any sediment leaving the site. The measures shall include: creation of earth bunds to protect the site, the erection of silt fence, stabilised entranceways, cut off drains and the connection of downpipes to the stormwater system as necessary. These sediment control measures should be erected and maintained on site for the duration of the works. Note: refer to Waikato Regional Council's "Erosion & Sediment Control, Guidelines for Soil Disturbing Activities" which can be found at <http://www.waikatoregion.govt.nz>*
13. *Earthworks shall not obstruct or divert any stormwater overland flow path or result in changed stormwater drainage patterns on adjacent land in different ownership.*
14. *A water sprinkler cart or similar be made available on-site during earthworks to mitigate any dust nuisance (when necessary).*
15. *All bare earth shall be re-vegetated or re-grassed as soon as practicably possible ~~and~~ within three calendar months following the completion of earthworks. If this cannot be achieved the area shall be temporarily covered by a surface suitable to protect against soil erosion until such time as re-vegetation or re-grassing can occur.*
16. *That the activity is conducted in such a manner so as to not create a dust nuisance. A dust nuisance will occur if:*
- a. *There is visible evidence of suspended solids in the air beyond the site boundary; and/or*
  - b. *There is visible evidence of suspended solids traceable from a dust source settling on the ground, building or structure on a neighbouring site or water.*
17. *That while undertaking earthworks on the site, if any archaeological feature(s) (including human remains) are encountered, all work in the vicinity shall cease immediately and the following persons/parties shall be contacted:*
- a. *The Police (only in the event that human remains are encountered);*
  - b. *Te Ha O Te Whenua O Kirikiriroa Trust;*
  - c. *Heritage New Zealand; and*
  - d. *Manager, Planning Guidance Unit.*

*The earthworks shall not re-commence until written authorisation has been obtained by the Consent Holder from Council's Planning Guidance Unit Manager.*

18. All works shall be undertaken in accordance with the Regional Infrastructure Technical Specifications (available from the internet at [www.hcc.govt.nz](http://www.hcc.govt.nz)) and/or to the satisfaction of the General Manager, City Infrastructure.

**Noise:**

19. All construction work on the site shall be designed and conducted to ensure that construction noise from the site received at any other site does not exceed 70dBA (Leq). In the event that any sound level measurements are recorded they shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.
20. The cumulative noise emission from all sources on the subject site (excluding construction noise) shall not exceed 65dB LAeq(15-mins) at any point within the boundary of any other site. Noise levels shall be measured in accordance with NZS6801:2008 'Acoustics - Measurement of Environmental Sound' and assessed in accordance with NZS6802:2008 'Acoustics - Environmental Noise' before comparison with this level.

**Hazardous Substances**

21. The quantity of petrol and of diesel stored on site shall be limited to a maximum of 100,000 litres and 50,000 litres respectively in underground storage tanks.
22. ~~Design information and an emergency response plan shall be provided to Councils Planning Guidance Manager before commencement of the consented activity. The design information and plan shall demonstrate how the consented activity will comply with Part 4 Subpart A and Clause 47 of the Hazardous Substances (Hazardous Properties Controls) Notice 2017.~~
23. The consented activity shall comply with the Pak 'n' Save Emergency Site Management Plan.

**Commented [MN2]:** Not a resource management issue – perhaps more appropriate as an advice note.

**Geotech**

24. At the time of detailed engineering design, the applicant shall submit to Council a quantification of liquefaction risk report to determine the potential mitigation required, which will outline the static total and differential settlement once the building and fill loads and extent of any non-engineered fill is known.

**NES Contaminated Land**

25. That within three months of consent being granted and prior to any soil disturbance works commencing, the consent holder shall arrange a pre-commencement meeting. The meeting will involve discussions around roles and responsibilities, staging, reporting requirements and compliance relevant to the soil contamination investigation. In attendance must be:
1. A SQEP
  2. HCC Contaminated Land Officer and Compliance Monitoring Officer
  3. All contractors, sub-contractors and works site supervisory staff who are carrying out any works associated with the NESCS part of the project.
26. That a final Site Management Plan (SMP) shall be prepared and implemented in accordance with the RMA National Environmental Standards Contamination in Soil Regulations 2011 (NESCS). The SMP must reference the Foodstuffs North Island Detailed site

**Commented [MN3]:** In acknowledgement that a SMP has already been provided with the application.

*Investigation Report 980-986 Te Rapa Rd Hamilton, prepared by Babbage Consultants Ltd (dated June 2018).*

27. The *final* Site Management Plan shall target the actual onsite conditions relating to human health exposure identified in the report, and the appropriate offsite soil removal relating to transport and disposal. The Plan must include the relevant human health-related controls to ensure minimal exposure via the applicable pathways for the duration of the soil disturbance works. The Plan must also include appropriate contingency measures for any previously unidentified contamination being discovered, and an acceptable method for works completion reporting.
28. A copy of the Site Management Plan shall be provided to Council's Environmental Health Manager prior to any soil disturbance works commencing. Any alternative methods or measures must be proven to be consistent with the objective of the approved Plan prior to their implementation.
29. Works Completion reporting shall be provided within two months of soil disturbance works being completed to confirm that the methods outlined in the Site Management Plan were enforced for the period required, and that the measures were successful in ensuring the potential risks were adequately managed.
30. In the event that any previously unidentified contamination is discovered in any exposed or excavated soil, works are to cease immediately, and Council shall be notified of the discovery. A Suitably Qualified Environmental Practitioner (SQEP) shall assess the risk and determine the appropriate contingency, remediation or management measures that are required to reduce the potential risk to site workers, future site users and the environment.
31. Any investigation, remediation, validation and soil management works shall be undertaken and reported in accordance with current editions of the Ministry for the Environment Contaminated Land Management Guidelines No. 5 – Site Investigation and Analysis of Soils No.2 – Hierarchy and Application of Environmental Guidelines and No.1 - Reporting on Contaminated Sites in New Zealand.
32. That any soil exceeding the applicable NESCS standard shall be removed under controlled conditions to a licensed waste facility or landfill for disposal in accordance with the requirements of the disposal site and the relevant authority. Receipts of transport and disposal must be included in the Site Validation Report or Works Completion Report.
33. ~~That pursuant to section 36 Resource Management Act 1991, the following fees and charges be paid:~~
  - a. ~~Payment of additional Environmental Health fees for assessing consented reporting will be charged on a time cost recovery basis in accordance with Hamilton City Council's Schedule of Fees and Charges, with adjustments coming into effect at the beginning of each financial year. The fees will be levied at the completion of the consent review process and will be payable to the Environmental Health Unit upon notification that compliance has been achieved.~~

**Commented [MN4]:** Condition retained but relocated to "General Conditions" section for clarity.

**Engineering****General**

*34-33. The consent holder shall submit engineering plans detailing service locations, existing and any proposed water, wastewater and stormwater connections and system to the Planning Guidance Unit for review by the General Manager, Development (or nominee) prior to building consent application and construction work commencing onsite, this plan shall be amended by the Consent Holder as required until stamped 'Accepted' by General Manager, Development (or nominee).*

*35-34. All engineering works and designs shall be in accordance with the Regional Infrastructure Technical Specifications (available from the internet at [www.hcc.govt.nz](http://www.hcc.govt.nz)).*

*36-35. The consent holder shall retain the services of a suitably professional qualified person to oversee the construction of any infrastructure required for the development. This person shall be responsible for ensuring adherence to approved construction plans, quality systems, and project completion requirements. The name and contact details of this person shall be nominated on all engineering plans submitted to the Strategic Development Unit.*

*37-36. A register of all assets to be vested in Council (e.g. roading infrastructure) and associated GST requirements shall be submitted to Strategic Development Unit at the completion of works (ref Hamilton City Council form GST Requirement/Asset Register and Tax Invoice).*

*38-37. All works within the road corridor shall be managed by a contractor operating under a current CAR (Corridor Access Request), made through the [www.beforeudig.co.nz](http://www.beforeudig.co.nz) website) and appropriate traffic management. The Corridor Access Request shall be approved by the Road Controlling Authority prior to construction works commencing onsite.*

**Construction Management Plan**

*39-38. At least one month prior to the commencement of any earthworks or construction activities onsite the Consent Holder shall provide a Construction Management Plan (CMP) for certification by the General Manager, Development (or nominee). The objective of the CMP is to outline the approach to be taken for the managing construction works to ensure that impacts that may arise from the works have been appropriately identified, managed and minimised.*

*40-39. The consent holder shall carry out operations in general accordance with the provisions of the certified Construction Management Plan, and any subsequent changes. The Construction Management Plan (CMP) shall include but not limited to:*

- a. Details of the works, intended construction timetable (including staging) and hours of operation*
- b. Methods to control dust, debris on roads and silt laden runoff during construction*
- c. Existing network utilities*
- d. Anticipated truck movements and routes to and from the site during construction*
- e. Site access and management*
- f. Traffic Management*
- g. Contact details for the contractor, including a process for complaints and remedying concerns*

- h. *Adjacent land owner liaison during the construction stage*
- i. *Quality assurance/quality control*
- j. *General methods to mitigate and manage construction noise and vibration in order to comply with the applicable noise limits*
- k. *Identification of any special construction activities (including any pile driving and concrete pours) that may require specific mitigation measures in order to comply with the applicable noise limits*

*Any changes to the Construction Management Plan shall be confirmed in writing by the Consent Holder following consultation with the General Manager, Development (or nominee) before implementation.*

### **Roading**

- 41-40. The proposed vehicle crossings and site accesses shall be designed to provide pedestrian priority and a continuous footpath and be constructed to the applicable standard in accordance with the Regional Infrastructure Technical Specifications, Drawings D3.3.1 and D3.3.5. The vehicle crossings and site accesses shall be fully formed to the site boundary in the same material as the footpath.*
- 42-41. All service relocation required to accommodate the new vehicle crossings shall be at the consent holder's expense.*
- 43-42. Any obsolete vehicle crossings servicing the site shall be removed, and the kerb and channel, footpath and berm reconstructed as applicable to match the surroundings.*
- 44-43. On completion of site works any roadside damage shall be repaired, and the kerb, berm and footpath reinstated to match the surroundings. The reinstatement work shall not be carried out until all service trenching in the footpath has been completed and shall include the reinstatement of all trenches.*
- 45-44. The footpath and berm shall be kept clear during construction, or, if not practicable, may be temporarily closed along the site frontage. An application for Temporary Use of the Road Corridor can be obtained at no charge from City Transportation Unit.*
- 46-45. The site shall be provided with outdoor lighting for the safety of users in accordance with Section 4.7, AS/NZS 2890.1:2004.*
- 47-46. Prior to operation of the supermarket a left turn deceleration lane on Te Rapa Road shall be constructed in accordance with ~~relevant standard~~ Austroads Design Practices standards, or to the satisfaction of HCC, to avoid operational and safety concerns and to provide ~~access off a left-turn entry Te Rapa Road~~ into the site from Te Rapa Road.*
- 48-47. Prior to the operation of the supermarket a partial signalised right turn movement from Wairere Drive into Karewa Place shall be established.*
- 49-48. Prior to the operation of the supermarket a single-lane roundabout at the Karewa Place/ Eagle Way / Maui Street Intersection shall be established in accordance with the Austroads Guide to design Part 4B Roundabouts.*
- 50-49. Prior to the operation of the supermarket a reduction in posted speed limit on*

*Wairere Drive between the Pukete Road and Te Rapa Road intersections to a maximum of 60km/hr shall be established.*

**Commented [MN5]:** A reduction in speed limit is supported but this is beyond Foodstuffs control as this would be implemented by the Council.

*51-50. Prior to the operation of the supermarket a raised safety platform is provided on the eastbound movement of Wairere Drive at the partial signalisation of the Karewa Place/ Wairere Drive intersection.*

*52-51. Prior to the operation of the supermarket a pedestrian crossing facility shall be provided on Karewa Place.*

*53-52. Fuel tanker deliveries shall ~~be limited to outside shop opening hours and~~ occur via remote fuel filling in the delivery area.*

*54-53. Internal signs and markings shall clearly identify one-way movement through the fuel facility.*

*55-54. ~~Prior to the operation of the supermarket parking restrictions shall be implemented on Karewa Place.~~*

**Commented [MN6]:** No restrictions necessary as explained by John Burgess.

**Commented [MN7]:** Condition is supported if necessary but is beyond the control and jurisdiction for Foodstuffs to implement.

#### **Road Safety Audit**

*56-55. Prior to engineering design acceptance, a detailed design road safety audit of all proposed works within the road corridor in accordance with Sections 3.2.5 of the Regional Infrastructure Technical Specifications shall be undertaken at no cost to Council. The road safety auditors shall be commissioned from another organisation independent of the Consent Holder, designer and contractor. Audit recommendations and design changes arising from the detailed design road safety audit shall be certified by the General Manager, Development (or nominee) prior to changes (if any) being implemented.*

*57-56. At completion of work a post-construction road safety audit of all works completed as part of this consent in accordance with Sections 3.2.5 of the Regional Infrastructure Technical Specifications shall be undertaken at no cost to Council. Road safety auditors shall be commissioned from another organisation independent of the Consent Holder, designer and contractor. Audit recommendations and design changes arising from the detailed design road safety audit shall be certified by the General Manager, Development (or nominee) prior to changes (if any) being implemented.*

#### **Parking**

*58-57. Provision shall be made on site for a minimum of ~~300~~ 270 spaces for parking including 7 accessible parking spaces and 5 less mobile spaces.*

*59-58. Provisions shall be made on site for a minimum of 28 cycle spaces for staff and customers.*

*60-59. Provision shall be made on site for a minimum of 2 showers and 2 changing rooms to cater for end-of-journey cycle facilities for staff.*

*61-60. Provisions shall be made on site for a minimum of 8 motorcycle parking spaces.*

*62-61. A loading bay shall be provided in accordance with the minimum size requirement detailed in Section 4.10, AS/NZS 2890.1:2004.*

*63-62. Vehicle parking spaces shall be delineated with white painted lines with the exception of the accessible needs and loading spaces, which shall be delineated with yellow painted lines and have appropriate signage in accordance with NZS 4121:2001 requirements.*

**Commented [MN8]:** To reflect revised car parking numbers following application amendments, and as recorded in revised plans.

*64-63. Where any sealed car park or landscaped area adjoins a road, kerbing or similar barrier not less than 125mm in height shall be provided.*

**Three Waters**

*65-64. Service connections shall be rationalised on site. Any private pipes and connections not required by the proposed development shall be appropriately disconnected to the satisfaction of the General Manager, Development or nominee. Removal of existing connections shall be done by Council at the consent holder's expense.*

*66-65. All building over or adjacent to the public stormwater mains running through the site shall be designed and constructed in accordance with the requirements of Section 4.2.9 of the Regional Infrastructure Technical Specifications, Building Over or Adjacent to Pipelines.*

**Water**

*67-66. The site shall be provided with a metered water connection.*

**Wastewater**

*68-67. The site shall be provided with a wastewater connection.*

**Stormwater**

*69-68. The stormwater management measures required for the site outlined in the approved sub-catchment ICMP by Wainui Environmental dated August 2018 Version 3 for 980 – 1024 Te Rapa Road shall be in place and fully operational prior to the operation of the supermarket.*

*70-69. A copy of the operation and maintenance procedures for onsite stormwater management measures shall be submitted at engineering design stage.*

**Review Condition**

*71-70. The Hamilton City Council may give notice pursuant to Section 128(1) of the Resource Management Act 1991 of the intention to review the conditions of this resource consent at any time for the following purposes:*

- a. To review the effectiveness of this resource consent in avoiding, remedying or mitigating any adverse effects on the environment. The review shall consider the performance of the site and all associated movements and accesses on the wider network.*
- b. If necessary to avoid, remedy or mitigate such effects by way of further amended conditions.*
- c. To address any other adverse effect on the environment which has arisen as a result of the exercise of this consent; and, if necessary and appropriate, to require the Holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects on the surrounding environment due to the activity.*