

**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** Resource Consent –  
**REFERENCE** 010.2018.00009962.001

**Evidence of Mark Gauntlett Tansley  
on behalf of Foodstuffs North Island Limited**

**Retail Consultant**

**Dated 20 September 2019**

## **1. INTRODUCTION**

- 1.1 My name is Mark Gauntlett Tansley and I am a Statistical and Retailing Consultant.
- 1.2 I am the sole proprietor and director of Marketplace New Zealand Limited, which is a consultancy providing advice, information and evidence on growth and demographics, retail planning and related resource management matters. I have over fifty years of professional experience throughout New Zealand and have been called as an expert witness for forty-eight of those.
- 1.3 In 1988, I was called to give expert evidence in a matter before the High Court, but the admissibility of my evidence was challenged, on the basis of my lack of formal credentials. The subsequent Ruling (C.L. 49/88) dismissed the challenge.
- 1.4 Both before and since then, I have worked with a number of territorial authorities across New Zealand, reviewing and amending district plans, peer reviewing and assisting at hearings. I have also advised retailers, property developers and investors, albeit to a reducing degree in recent times.
- 1.5 I have read and agree to comply with the Environment Court's Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014 and have done so in the preparation of this statement.

## **2. HAMILTON EXPERIENCE**

- 2.1 I have had extensive local experience in Hamilton, tracing back to the establishment of the original Chartwell Square in the early 1970's and with the planning of Centreplace in 1983. In the former case, I acted as real estate agent on the sale of the site to a property developer and was then involved in supporting a zoning change, leasing and management of Stage 1 and planning and leasing the ongoing development. In the second, I was asked by a prospective investor to review and report on the development plan for the original layout,

which in essence proceeded. I was first engaged by Hamilton City Council ("**HCC**") in 1986 and again through the 1991-94 period, for several purposes. More specifically, my involvement over the last three decades included the following.

- a) presentation of evidence, on behalf of Challenge Properties Limited, on the proposed second review of the Town and Country Planning Act 1977-based District Plan, culminating in 1992. The thrust of this evidence was concern about sustainable management of the CBD and in particular "*the blighted southern part of the core*";
- b) preparation and presentation of evidence before HCC in 1999 and 2000, on behalf of Westfield NZ Limited and Kiwi Property Management Limited ("Kiwi") concerning proposed Plan Change 39 (the Decisions Version of which introduced what has become Te Awa-The Base) opposing both the absence of constraints on its retail development, and proposed permissive rules concerning retailing in the Industrial Zone;
- c) preparation and presentation of evidence before the Environment Court in 2002, on the same matters as in b);
- d) preparation and presentation of evidence on behalf of Kiwi, in 2006, before HCC, concerning proposed Variation 8 – the Rotokauri Structure Plan;
- e) preparation and presentation on behalf of Kiwi Property Holdings Limited in 2012, of evidence before the Waikato Regional Council, concerning provisions bearing upon the sustainable management of the Hamilton City Centre;
- f) preparation and presentation also on behalf of Kiwi, of evidence before the HCC in 2013, concerning the Proposed District Plan 2012; in particular, the sustainable management of the CBD Core (again with a focus on its southern sector) and the appropriate management of retail and other commercial activities in the rest of the city (including at The Base);
- g) preparation and presentation of evidence on behalf of Kiwi, before HCC in 2013 and the Board of Enquiry in 2014, concerning the proposed Ruakura Development Plan Change; and

h) preparation and presentation of evidence before the Environment Court in 2016, on behalf of HCC, concerning Council's appealed decision, in the context of the Proposed Plan, to not approve a retail permissive overlay on an Industrially zoned site in South Frankton.

2.2 Most directly relevant to the Te-Rapa Pak'nSave proposal ("**Proposal**") are items 1.2 b) and c) above, where I was one of two retail/economic witnesses (of five who presented evidence) seeking limitations through the use of a permitted retail threshold at the Base. I was concerned that the proposed provisions would enable a retail mall to be established at The Base, as well as other extensive retailing and related activities, which would generate adverse distributional effects, on the CBD in particular. However, the Court preferred testimony that such a prospect was "*more theoretical than real*" and placed no constraints on retailing, holding that "*the impact will not be sufficient to generate flow-on consequential effects*". As discussed below, the outcome anticipated by my evidence subsequently occurred, which has influenced the Waikato Regional Policy Statement ("**WRPS**") and the Hamilton City District Plan ("**Plan**") provisions adopted through the processes addressed in items 2.1 e) and f) above.

### 3. **THE APPLICATION & BRIEF**

3.1 Foodstuffs North Island Limited seeks a resource consent for the construction and operation of a new supermarket, with an associated fuel facility, at grade car parking and all other associated enabling works, at 980 Te Rapa Road, Puketete ("**Site**"). The Site is located at the corner of Te Rapa Rd and Eagle Way with an area of just over 2 hectares. The proposed supermarket structure would have a gross floor area ("**gfa**") of just under 6,500sqm, including a mezzanine of about 500sqm.

3.2 I accepted the brief to prepare evidence after undertaking an extensive preliminary assessment of the Proposal and its circumstances. The Brief involved:

- a) a review of the methodology and analysis undertaken by Property Economics ("PE");
- b) observations on the scale of commercial affects identified by PE's June 2018 Impact Assessment ("PE2018"); and
- c) observations on the potential for relevant RMA effects to arise.

3.3 My evidence responds to the above matters of scope, reaching the view, in relation to item c) above, that the prospects are negligible. In reaching that opinion, I have also had regard to:

- a) the history summarised in topic 2 above;
- b) the Plan; and
- c) the WRPS.

#### **4.0 RESOURCE MANAGEMENT CONTEXT**

4.1 The Plan's Purpose at Topic 6.1 identifies an hierarchical strategy for centres, at the head of which is the Central City, as the Waikato's Regional Centre, under which there is a primary sub-regional centre at Te Awa-The Base and a secondary sub-regional centre at Chartwell, then suburban centres and commercial fringe zones, over a range of other zones. Provision 6.1 f) indicates that a purpose of the hierarchical structure is to "support the primacy of the Central City".

4.2 The only direct reference in the Plan, to the changes that have occurred over the past decade and a half, largely as a consequence of the Decision on Plan Change 39, is found at provision 7.1 b):

*"Although Hamilton is growing, the unplanned dispersal of retail and office development under the previous planning framework has contributed to the underperformance of some elements of the Central City with consequential effects on its function, amenity and vitality."*

4.3 Further to paragraph 2.2 above, my professional opinion concerning impacts in 2002 included, in relation to the proposed uncapped Commercial Service Zone at the Base:

- 1\* *"... I consider that the practical retail capacity of such zoning could be closer to 80,000m<sup>2</sup> glfa, in the context of perhaps 90,000m<sup>2</sup> of glfa in a mainly one-level complex or series of complexes ..."*
- 2\* *"... I would expect the CBD to lose some 12-13,000m<sup>2</sup> of retail trading space (of the potential 15,000m<sup>2</sup> to close or relocate). That would represent a decline of 14%, leaving the CBD with around 73,000m<sup>2</sup> in supermarkets and gm stores*  
 3\* *a much reduced (44%) share of the City's supply – currently 63%."*
- 4\* *"Such a decline in actual and relative importance would impact on both the core and fringe of the CBD, because the proposed rules at Te Papa would encourage a large retail mall as well as a large format centre (indeed a full range of retailing and related activities) thereby exacerbating the impacts on the CBD core ..."*

4.4 My focus on Central City sustainability, going back to, and indeed before the item at sub-paragraph 1.2 b) has been consistent, and on the evidence, particularly in the southern core, was appropriately targeted. In the evidence referred to in above sub.paragraph 2.1 f) I noted that the CBD Core had shrunk by some 10,000sqm of gm retail trading space<sup>5\*</sup> between 2005 and 2011 and by a further 4,500sqm in the two year period between 2011 and 2013. This was a greater reduction than I had anticipated (paragraph 4.3 above, second quotation). In gfa terms, that reduction would have represented close to 20,000sqm of general merchandise shops – about 30% of the core supply in 2005, or 32% of what it had been when I presented evidence in 2002. The CBD fringe had peaked in 2008, but had declined to 2013, albeit not significantly.

<sup>1\*</sup>Ex paragraph 11.0.7 the author's evidence-in-chief.

<sup>2\*</sup>Ex paragraph 11.1.1 the author's evidence-in-chief.

<sup>3\*</sup>"gm stores" is an abbreviation for general merchandise (non-food/grocery) stores.

<sup>4\*</sup>Ex paragraph 11.1.2 of the author's evidence-in-chief.

<sup>5\*</sup>Trading space is that used for fully enclosed public access and egress and associated lobbies, basket and glider areas, display and sales (including fitting rooms, counters and areas behind counters to enable customer service) and any other use of publicly available space for stairs, lifts, escalators, play or in-store entertainment.

- 4.5 Reference to the NZ Shopping Centre Directory, printed by the Property Council of New Zealand, indicates that in 2014, The Base provided some 74,000sqm of retail gfa within a total of 82,600sqm (the balance mainly in the Cinema Complex). At the last count that I have (the 2016 edition) those numbers had increased slightly to 77,000sqm and 84,400sqm respectively. The former figure appears to include some 3,300sqm of vacant retail area, which may or may not be attributable to the unutilised first floor retail premises. In any event, the generalities of the foregoing are below those adopted for my original impact assessment (paragraph 4.3 first quotation). The quantum of retail development at Te Awa-The Base has been slightly less than I had anticipated, but the decline in gm retailing within about 11 years of the hearing was greater than I had projected (c/f paragraphs 4.3 and 4.4) so the CBD situation that had evolved six years ago was worse than I had anticipated.
- 4.6 Since 2013, I understand that there has been modest expansion of retail supply at The Base. Despite that, however, Te Awa-The Base is nowhere near fully developed, so is probably capable of accommodating well over 100,000sqm gfa of retail activity, prepared food and beverage services and related commercial activities.
- 4.7 A further consideration is that the housing and population growth of HCC during the last five years has exceeded the expectations on which I and the City had relied fifteen or more years ago. Furthermore, the direction of suburban growth in the City has been determined by the ongoing, mainly northward thrust of Residential and Future Urban Zoning provisions. The rapid take-up of such due to market demand, has in turn accelerated the need for retailing activities in the northern part of the City, but done little to assist in maintaining the Regional function of the increasingly eccentric CBD, especially in relation to regular/convenience<sup>6\*</sup> needs.

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<sup>6\*</sup>“convenience” shopping means a visit to purchase goods as conveniently as possible (but weighing prices, size of purchase and distance of travel) and generally involves consumables such as groceries, food, liquor and pharmaceuticals.

- 4.8 My final observation on this topic is that whilst HCC is now striving to accelerate residential growth in its southern suburbs, the northward drift is foreseeable under the known circumstances. Reasons for that include:
- a) the ongoing momentum and extent of current and future northward and eastward urban growth provisions in the Plan;
  - b) the need to provide better infrastructural connections between Peacocke and the rest of the City, particularly a new main roading link across the Waikato River; and
  - c) the extent to which HCC and environs are increasingly caught up in a sub-national but supra-regional economic strategy, extending to Auckland and Tauranga [as the underlying driver of the Ruakura initiatives referred to in above sub-paragraph 2.1 g)]. The current infrastructural emphasis on completion of the northern Expressway will continue to attract much of HCC's residential demand to its existing and potential northern suburbs.
- 4.9. In my opinion, which I shall expand in paragraph 7.3, this northward expansion has placed and will continue to otherwise place the Mill St Pak'nSave under significant pressure, which would be relieved by the establishment of a new branch at Te Rapa.

## **5. CBD INSPECTION**

- 5.1 In the second week of April 2019, I undertook an inspection of most of the Downtown Precinct of the Central City. I have shown the areas concerned on a copy of Figure 5-1 of Appendix 5: Central City Zone of the Operative Plan, referring to them by the following names:
- Retail Core;
  - Northern Environs;
  - Western Environs;
  - Riverbank Link; and
  - Southern Environs.

The Map is located immediately ahead of **Appendix 1**.

- 5.2 For the purpose of the inspection and further to my comments in paragraph 4.6, the term “retail” has been taken as inclusive of prepared food and beverage (café’s, restaurants, bars, taverns, lunch bars, fast food and other takeaway) outlets. In the author’s opinion, these are services, rather than retailers, but they use commercial premises that could otherwise be in retail use, whilst their significant national sales increases in recent times are, to some extent, diverting sales potential from grocery food and liquor retailers, due to changing social priorities. The many commercial service and professional activities that otherwise occupy retail level premises were not counted. Comments below should be seen in that context.

### **Retail Core**

- 5.3 This sub-precinct contains the two elements of Centreplace (in which the relocated Farmers Department Store is the comparison shopping<sup>7\*</sup> anchor) and the block between Garden Place and Ward St. In the northern section of Centreplace, the overall comparison shopping offer has declined in relative terms. In part, this reflects the conversion of the entire upper level to leisure/entertainment activities, whilst the changing main level occupancy is less representative of leading brands and comparison shopping than it was at peak.
- 5.4 1 in 4 (25%) of the street-facing retail or retail-orientated premises (excluding the closed part of Ward St that has been used to link the two Centreplace sections) were vacant when inspected in April 2019. These included mall-based shops with frontages only to Victoria St, as well as other external premises in the Retail Core. This situation has been broadly similar for a number of years, but indicates that immediate proximity to Centreplace’s internal attractions has not had a halo retail effect in the Mall’s close environs, given the latter’s relative popularity. Recent strategies to encourage CBD custom by offering 2hrs of free parking in and around the sub-precinct had not had time to effect material changes.

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<sup>7\*</sup>“comparison shopping” is the term used for whole or part-shopping trips, the purpose of which is to identify a particular good or goods by comparing competing merchandise within a store or multiple stores. The process may entail more than one such trip before a decision and purchase are made and normally occurs in large stores and/or large centres offering an appropriately wide range of competing general merchandise outlets.

### **Northern Environs**

- 5.5 In some respects, this sub-precinct has been least affected in a retail sense by changes over the last decade and a half. It is on the northern side of the Retail Core, which was already significantly devoted to inner city retailing at the turn of the century. It remains a strong and relatively conveniently accessible sub-precinct for purposeful shoppers visiting the CBD, albeit without any major retail anchor.
- 5.6 Whilst more than 20% of its retail and potentially retail premises are vacant, this proportion is doubly exacerbated by a high vacancy ratio in offstreet Casabella Lane premises, all representing small shops, rather than the more average-sized occupied shops in the rest of the Northern Environs.

### **Western Environs**

- 5.7 This sub-precinct is mainly characterised by the substantial two-level retail development directly west of Centreplace, featuring The Warehouse and its subsidiary brands. Beyond that is a reconstruction site which formerly housed Kmart and a raft of small, largely vacant retail/commercial premises. A small count of fringe-type retail activities is also found. The re-development under way may well reinstate Kmart as a CBD-based department store, which would be very welcome, but is not greatly conducive to expanding the Central City's comparison shopping role in a significant way, due to its disconnection from the Retail Core, which will limit the extent of supporting activities within the complex.

### **Riverbank Link**

- 5.8 This sub-precinct coincides with that part of the Plan's River Overlay that applies to the Downtown Precinct. It is a strip which seeks to encourage pedestrian connections between Victoria St and views of the Waikato River. Numerically, a quarter (8 of 33) of the retail/potentially retail premises in this are vacant, but only 1 of the 8 is offstreet, in an east-west walkway. The other vacancies are on the

Victoria St frontage. It appears to me that prepared food and beverage outlets have increased their occupancy in recent years, with purely retail shopping having declined, remaining relevant to the CBD's comparison shopping role in only a very minor way.

### **Southern Environs**

- 5.9 The closure of the former Farmers Department store, south of Collingwood St, has never been ameliorated by its partial re-occupation by retail, or any commercial activity. This has not only re-defined the southerly extent of the Retail Core further north, but has discouraged the advent of some alternative replacement retail activities in this sub-sector. Even settling the ex-Farmers' site to one side, there has been a decline in comparison shopping activities south of Garden Place. One in six retail or prospective retail premises was found to be vacant in my inspection, despite an established status as the CBD's main dining quarter.
- 5.10 There is no dispute that the prepared food and beverage trade in New Zealand has expanded exponentially in the last 6-7 years, but my inspection indicates that the "eat street" areas on and north of Hood St, west of Victoria St frontages, have not been able to capitalise or consolidate on that trend. In fact, the offstreet areas north of Hood St have a very low level of amenity, with vacancies outnumbering operating premises. I consider this likely to reflect the competitive effect of the smaller but more attractive dining quarter on the Bryce St frontage of Centreplace, as well as the increased food and beverage competition that has emerged along the Riverbank Link and along the Victoria St frontage of the Southern Environs. The latter may be more attractive due to more affordable rentals, in the absence of other retail demand for premises on those high profile frontages.

### **Elsewhere**

- 5.11 Notwithstanding the extent of the City Living and Ferrybank Precincts of the Central City, they make limited contributions to CBD retailing, especially as the Pak'nSave Clarence St is outside their boundaries.

Collectively, they accommodate eight medium-large retail outlets and offer little or no opportunity (or incentive) for more of the same, given the contours and the availability of more land at Te Awa-The Base. North of London St and in the block containing Hamilton's public transport centre, there may well be theoretical retail development opportunities, but little practical prospect of a CBD retail upturn. Some former retail premises have been taken up and converted to non-retail use, whilst distance from the Retail Core derogates the prospect that a successful initiative could materially alter the CBD's retail pulling power, all else remaining equal.

### **Conclusion Based on Inspection**

- 5.12 My inspection gives me no confidence that the CBD's retail decline can be improved in relative terms, other than by the southerly expansion of the City, via the Peacocke growth area. This would improve the CBD's sub-regional catchment prospects. Critically however, for reasons discussed below, the proposed Te Rapa Pak'nSave would not adversely affect the CBD or the prospect of it benefitting from future residential development at Peacocke. I did not consider it necessary, therefore, to update the inspection.

## **6. RETAIL MARKET CONTEXT**

- 6.1 The commercial context that has emerged in HCC is that speciality and comparison retailing, along with associated and related activities, is now concentrated in two locations, the Central City and Te Rapa, both on the western side of the River. In terms of urban and regional retail destinations and notwithstanding the Plan's hierarchical distinctions, they have a similar depth and choice of retail brands and functions, although more compactly presented at Te Awa-The Base with much more dedicated parking.
- 6.2 Whilst the Central City is officially the Waikato's regional commercial centre and clearly remains its administrative and commercial office core, this dominant status no longer applies, insofar as perceived and actual high-level shopping attractiveness is concerned. The third largest retail centre is Chartwell, which provides a much less

extensive comparison shopping experience than either the Central City or The Base, and serves a subservient and complementary retail function, rather than one that has diminished the role of the Central City. In a trade competition sense, Chartwell has been materially impacted by Te Awa-The Base, but the strong growth in north-eastern Hamilton has helped to offset that impact, especially as the Rototuna Centre has been anchored solely by supermarket functions and has a convenience-oriented role, with little in the way of specialised/comparison operators. Thus, Chartwell remains a viable retail and commercial centre, albeit one that serves more of a district function than a sub-regional one.

- 6.3 The sequence of events which enabled the establishment of a new and unconstrained centre from scratch, allowed development on The Base of a very large, comparison-styled complex, much more comprehensive and influential than Chartwell. Whereas a district centre typically needs to contain a supermarket to maximise its more localised influence as a lower-tier centre, a sub-regional centre contains much more comparison and specialised retailing and as a consequence has a broader catchment. Thus The Base was able to establish as a strong sub-regional centre despite there being no supermarket on its site.

## **7. PAK'NSAVE CONTEXT**

- 7.1 The Proposal is for a stand-alone Pak'nSave supermarket, on a site directly opposite Te Awa-The Base, across Te Rapa Rd. Apart from the fuel station, no other ancillary activity is included in the proposal. To its immediate south, also opposite Te Awa-The Base, are a stand-alone Countdown supermarket and a stand-alone Kmart discount department store. Other retailing occupies more of the eastern side of Te Rapa Road, opposite Te Awa-The Base, particularly along its southern flank. Retailing in this area had already been established when the circumstances surrounding sub-paragraph 1.2 b) and c) provided the baseline for evidence concerning such.
- 7.2 Pak'nSave supermarket strategies were developed from exploratory work undertaken by Foodstuffs, in the early 1980's. The banner has

been very successfully employed, since its introduction, developing a strong market presence through locational and spatial selections. In established urban markets, large enough to not constrain Pak'nSave representation (ie: offering a spread of suitable locations) the banner is capable, in the author's opinion, of achieving a market share of supermarket spending of around 30% (ie: approximately 30% of total supermarket spend can be spent in Pak'nSave stores, if they are distributed in a relatively accessible pattern). Because of their pulling power, such a market penetration could be achieved with much less than 30% of the supermarket gfa on offer. However, the Hamilton market is a mixture of urban, rural and township components. 30% penetration would be harder to achieve than in larger, heavily urbanised markets like Auckland and Wellington, where Pak'nSave distribution can be optimised.

- 7.3 The two Pak'nSave supermarkets at Mill and Clarence Streets, Hamilton Central were established in 1993 and 1994 respectively; 25 or so years ago. Incremental expansion of those store footprints helped them to cater for their market potential for two-thirds of that time, bearing in mind that the nearest Pak'nSave supermarkets to Hamilton over most of that period were found only at Pukekohe, Thames and at Rotorua. The banner was and still is located at opposite ends of the HCC CBD fringe, but these locations were also the nearest available to significant parts of the Waikato Region. For reasons of inconvenience and relative inaccessibility, this supply level and location will have restricted the brand's potential market share below that possible, but driven up the productivity of the individual stores, primarily the Mill St outlet, beyond the point where peak trading period customers could be serviced efficiently. This is a classic precursor to opening a new store, where established customers are able to switch their patronage, taking pressure off the incumbent(s).
- 7.4 The opening of Pak'nSave Te Awamutu in 2010 will have increased the banner's accessibility for customers south of HCC, increased its overall market share and taken some pressure off the two Hamilton outlets, largely regional pressure (ie: from customers living at the southern end of the region). However, since then the strong, mainly

north-easterly growth of HCC will have continued to put over-trading pressure on the established HCC stores, mainly on the Mill Street operation, nearest to the residential growth areas in the northern parts of the City. The Proposal is a clear attempt to rationalise both store and consumer efficiencies, in and beyond the northern City areas.

7.5 The only distributional issues legitimately raised by the Proposal concern supermarket usage and their implications, if any, for current supermarket-dependant centres. Anything else falls into the trade competition impact category, which alone is outside the relevant scope of the exercises on which the application must be weighed. In summary:

- a) the new supermarket will take trade predominantly from other supermarkets; particularly other Pak'nSave outlets;
- b) the redistribution of spending is a trade competition matter, which of itself is not a relevant RMA consideration;
- c) the caselaw establishes that it is only if adverse trade competition impacts result in significant consequential effects that relevant RMA effects arise;
- d) impacts on stand-alone supermarkets will not be relevant, even where closure is a possibility, as they are not part of a centre that may be adversely affected as a consequence of those impacts;
- e) the relevant importance, of in-centre supermarkets to their host centres, varies with size and function of the centre and whether one or more supermarkets operate in the centre concerned;
- f) if a supermarket in a centre will be adversely impacted commercially but unlikely to close, no relevant RMA effect should arise, as the centre will continue to provide the same level of service; and
- g) if a centre-based supermarket is likely to close as a result of the extra competition, the prospect of wider adverse effects on the centre is only likely to arise if it is the only supermarket in that centre and even then, an assessment would need to be made as to the nature and extent of any consequential

changes in the function, vitality and viability of the centre as a whole.

## **8. THE PE2018 REPORT**

- 8.1 I have reviewed PE2018 at some length and have set out the full scope and outcome of that work in **Appendix 1**. This indicates, importantly, in the context of the Proposal, that some 30% of supermarket trade enjoyed by HCC supermarket retailers was sourced from outside the City boundaries, in the August 2017 year, based on Marketview data. This is an important finding, because whilst other supermarket banners are distributed widely throughout the Waikato, the Pak'nSave brand has no such representation in most Hamilton-centric parts of the Waikato, other than Te Awamutu, between central Hamilton and remote Thames and Taupo, plus stores in Pukekohe (Auckland Region) Rotorua and Tauranga (both in the Bay of Plenty Region).
- 8.2 PE2018 does not consider it necessary to look beyond its theoretical without/with assessment of distributional changes to reach the view that there can be no consequential relevant adverse effects of granting consent to the Proposal. I confirm that to be the only appropriate finding, based on the PE2018 evaluation.

## **9. MY OWN ASSESSMENT**

- 9.1 Notwithstanding my conclusion at paragraph 8.3, my responsibility, as outlined under paragraph 1.5 above, requires that I outline any differences of opinion that I have with PE2018. I have done so in **Appendix 2**, but summarise their essence below.
- 9.2 For reasons already provided (notably at paragraphs 4.7 and 7.3) the applicant has significant motivation to relieve pressure, on its Mill St Pak'nSave in particular. Given its representation in Te Awamutu, the past and ongoing northward growth of the Northern City suburbs and the sub-regional status of Te Awa-The Base, the application is supported by logic.

- 9.3 I differ from the PE2018 impact analysis in that I consider that the Pak'nSave banner's overtrading, in the context of Hamilton's growth, means that the redistribution of existing custom (which is generally easier than changing established brand penetration) will result in relatively greater "impacts" on Pak'nSaves, mainly on Mill St. These are necessary "impacts" if distribution of Pak'nSave outlets is to become more convenient for the market. Other supermarkets in HCC and further afield have achieved their market share in competition with existing Pak'nSaves, so unless the new one is effectively providing more "localised" competition (notably in and around the northern suburbs and Ngaruawahia) the Proposal's impacts should be relatively nominal.
- 9.4 Table C below simplifies a comparison of without/with changes set out in Tables A and B of Appendices 1 and 2, respectively.

**Table C: Comparison of Without/With Trade Diversions**

Source/Location	\$m Sales Difference		Prop'n of Pak'nSave Sales	
	PE2018	Tansley	PE2018	Tansley
CBD Pak'nSaves	-18	-28	29%	43%
Te Rapa Supermarkets	-25	-15	40%	23%
Other HCC Supermarkets	-13	-19	21%	29%
Non-HCC Supermarkets	-5	-3	8%	5%
<b>Supmarket Diversions</b>	<b>-61</b>	<b>-65</b>	<b>97%</b>	<b>100%</b>
Non Supermarket Stores	-2	0	3%	0%
<b>Total Diversions</b>	<b>-63</b>	<b>-65</b>	<b>100%</b>	<b>100%</b>

- 9.5 Table C effectively contrasts a PE2018 geographically-orientated approach, with a brand-orientated overlay on such, in my approach. I adopt a higher total supermarket diversion (\$65m v 61m) and do not factor in non-supermarket gains, for the reason provided at the foot of paragraph 4 of Appendix 2. One particular feature of the differences is my expectation of lower sales diversions from Te Rapa supermarkets. However, at sub-paragraph 9 d) of Appendix 1, I have made it clear that even if the PE2018 Te Rapa diversions were adopted, I have no doubt that Countdown, the most affected, would continue to trade.
- 9.6 At the end of the day, however, on either approach, the sales differences are not impacts, as they are based on the same year, and do not bring into account changes in sales that have already occurred,

let alone impacts over a minimum 2-3 year period from 2018, before a new store could become established. I see no possibility whatsoever, that impacts at either end of the range could conceivably have more than trade competition implications. Furthermore, only significant impacts on a centre-based supermarket could possibly be a pre-requisite to a relevant adverse RMA effect. For reasons I have given, I see no prospect of such an effect occurring.

## **10. COUNCIL'S s42A REPORT**

10.1 Distributional considerations are outlined in the Executive Summary, from paragraphs 15-20 and in more detail at Topic 7.6, from paragraphs 169-192. The key finding at paragraph 20, is that:

*"... the proposal will not undermine the centres hierarchy and that the effects of the application in that regard are acceptable."*

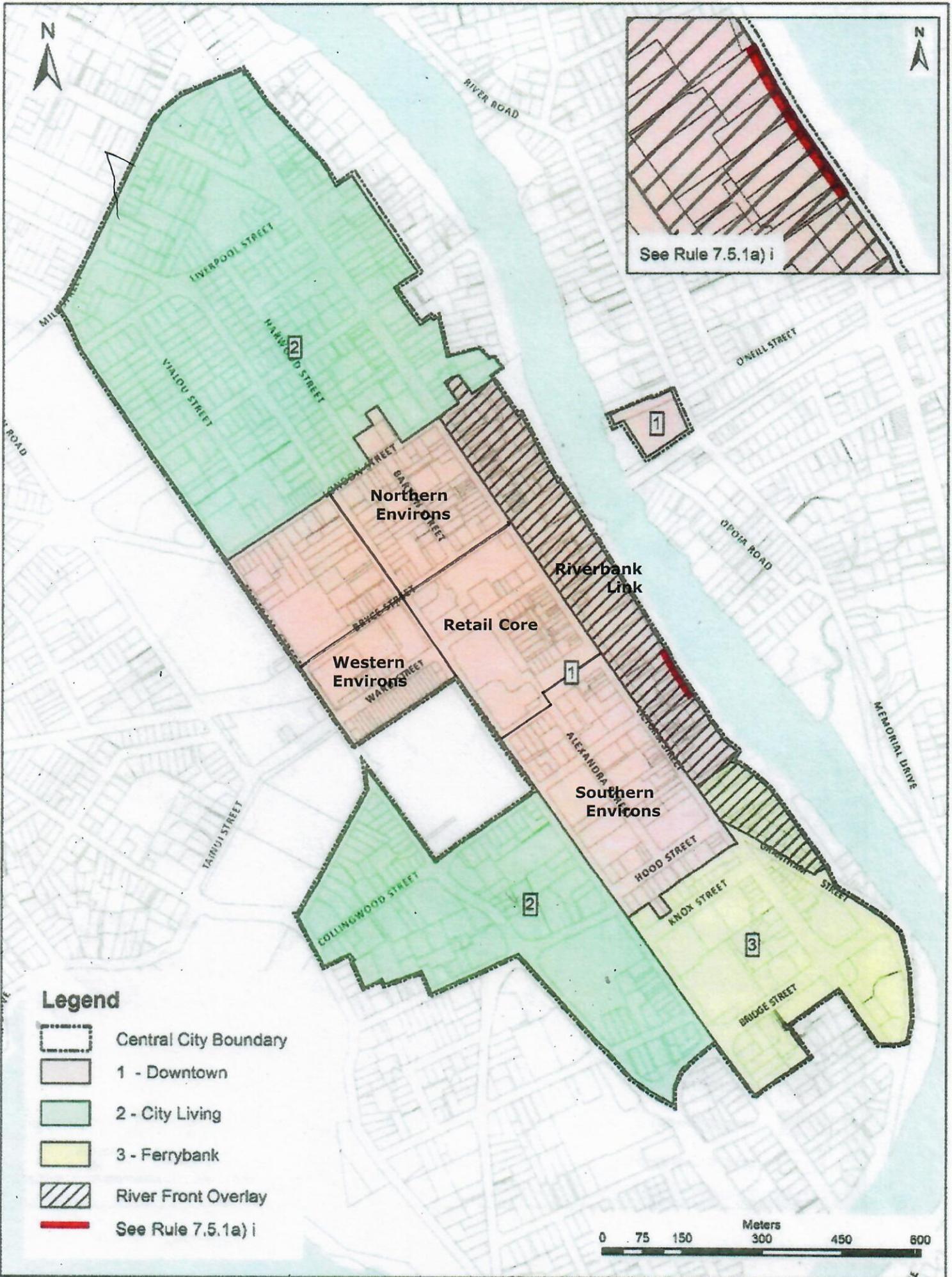
10.2 I agree with that finding, which relies on the distributional analysis by Ms Fairgray of Market Economics Ltd ("**ME**"). While I agree with Ms Fairgray's conclusion, I have concerns with some aspects of her report and evidence and the possible implications of those matters. However, having read Mr Heath's evidence, Section 19 addresses most of my concerns, so I do not consider it essential to do more than state my agreement with his comments.

## **11. CONCLUSION**

11.1 For the foregoing reasons, I support the proposal.

**MARK G TANSLEY**

**20 September 2019**



**Legend**

-  Central City Boundary
-  1 - Downtown
-  2 - City Living
-  3 - Ferrybank
-  River Front Overlay
-  See Rule 7.5.1a) i

0 75 150 300 450 600  
Meters

## **APPENDIX 1: REVIEW OF THE PE2018 REPORT & RELATED MATERIAL**

### **Core Catchment**

1. PE2018 defines a core catchment and indicates its prospective population and household growth. It is noted that its Figure 1 locations are imprecisely identified, but the rates of recent and forecast future growth are accepted at face value, on the basis that ongoing residential development has been experienced and is expected to continue to a greater or lesser extent. Whilst future growth is a factor in the rationale for the proposal, its rate is not considered critical, largely because of the circumstances outlined in Section 6 of the evidence-in-chief.
2. By the same token, the PE2018 exercises in its Topic 5 provide context for the work in Topics 6-8, which are the focus of this Appendix.

### **The Marketview Data**

3. Figure 3 of PE2018 is helpful in considering the likely impact pattern that would arise from a consented proposal. Marketview-based 2016/17 data indicates that nearly 30% of grocery/food trade enjoyed by supermarkets and grocery/superette/dairy outlets in HCC was sourced from outside the City. Not much of that is likely to be attracted to small grocery/food retailers, so it is safe to assume that slightly more than 30% of supermarket-only trade is attributable to non-City shoppers. However, Pak'nSave's proportionate capture of non-City supermarket spending will be higher than that of other supermarkets. The nearest Pak'nSaves outside HCC are at Te Awamutu, Pukekohe (Auckland Region), Tauranga and Rotorua (Bay of Plenty) and at Thames and Taupo. Many Waikato Regional shoppers wishing to patronise a Pak'nSave, especially people resident north-west, north-east and east of Hamilton, are undoubtedly boosting the extent to which that banner contributed to the over-30%, in the year to August 2017. The advent of Pak'nSave at Te Awamutu however, greatly improved access for residents living in an arc south of the City and undoubtedly reduced leakage from those areas to HCC since 2010.
4. In contrast to the distribution of Pak'nSave supermarkets, other supermarket banners (which include New World, Countdown, Fresh Choice and SuperValue) are distributed in town centres from Raglan, through Ngaruawahia, Huntly, Morrinsville, Te Aroha, Matamata, Cambridge, Putaruru and Otorohanga, as well as at Te Awamutu. Residents within this sub-regional "ring" around HCC, closer to one or more of those centres than to the City, do not need to travel to HCC to conveniently shop at such brands, although they may do so for other reasons (eg, employment or education). On the other hand (and setting aside those areas to the south of the City) shoppers wishing to visit a Pak'nSave outlet would generally find Hamilton the most convenient venue, unless a Pak'nSave at Thames, Pukekohe or Rotorua is closer, or less trouble to visit.

5. Based on the above circumstances, it is considered that the existing Pak'nSaves, more particularly at Mill Street, would likely have a split of 35%/65% from outside and within HCC respectively, with all other city supermarkets averaging around 28% from outside, for the City-wide average to be 30% or just over that. Whatever the actual total Pak'nSave proportion of the catchment market may be today, it will be greater if the proposed Te Rapa store is able to be developed.
  
6. What is not shown in PE2018's Figure 3 (or elsewhere) is the extent to which HCC's supermarket spending is leaking to non-City destinations, i.e. the other side of the Figure 3 coin. City residents are, for practical purposes, just as likely to undertake food and grocery shopping whilst away from their residential bases on business, education, sport and recreation, holidays or simply visiting family or friends as other New Zealanders. They would also have a similar propensity to use cards and bank accounts linked to a former residential address, which no doubt contributes to the apparent inflows and outflows discussed above, tending to overstate them, but not pervert them. An improvement in the current relative undersupply of Pak'nSave outlets in and beyond northern Hamilton will not only add to the inflow of supermarket spending, it will reduce the outflow, to at least a small extent.

#### **The PE2018 Assessment of Distributional Changes**

7. PE2018 proceeds, in topic 8, to address impacts, based on an estimated \$60m sales being initially achievable in the proposed Te Rapa Pak'nSave. This is considered to be a conservative year 1 expectation, bearing in mind that it takes 2-3 years for a new supermarket to reach its more settled or mature position within the supermarket hierarchy. This is not explicitly spelt out, with some confusion possible because a typo in Table 4 shows the estimated CBD supermarket revenue to be \$205m, whereas the second and third paragraphs on p25 state the pre-impact CBD supermarket sales to be \$250m which appears to include only one Countdown.
  
8. Before discussing Table A, it is important to clarify the true meaning of the Table A approach. Columns (a)-(d) do not portray impacts, which can only be assessed on a before and after basis (ie comparing the last year of trading without the competition, with a subsequent year or years in which the new Pak'nSave is operational. Table A is a without/with assessment, in which impacts would only be assessed by comparing column (c) with sales of the previous year, or two-three years previously, to show impacts on a year on year basis. It is considered preferable to compare pre-competition sales with the second or third year of operation projections, which can at least factor ongoing market growth in the short-term assessment. The Table therefore provides an overstated picture of the scale of trade competition effects that might arise from the Proposal.

**Table A: Summary of PE2018 Assessment of Distributional Changes with Pak'nSave Te Rapa included.**

<b>Source/Location</b>	<b>(a) \$m Sales pre-Impact</b>	<b>(b) \$m Impact</b>	<b>(c) \$m Sales post-Impact</b>	<b>(d) Impact Prop'n</b>	<b>(e) New Pak'nSave \$m</b>	<b>(f) T/o Prop'n</b>
<i>Countdown The Base</i>	50	-15	35	-30%	-15	25%
<i>Pak'nSave The Base</i>	0	0	60	0%	+60	n/a
The Base	50	-15	95	n/a	n/a	n/a
Rototuna	95	-11	84	-12%	-11	18%
Nawton	30	-2	28	-7%	-2	3%
CBD	250	-18	232	-7%	-18	30%
Te Rapa New World	47	-10	37	-21%	-10	17%
Increased Inflow from o/s HCC	n/a	-5	n/a	n/a	-5	8%
Non-supermarket transfers	n/a	-2	n/a	n/a	-2	3%

Note: "n/a" in the second and third lines represents "not applicable". Elsewhere, it represents "not available from PE2018".

9. Subject to the foregoing comment and otherwise from the data provided in PE2018 topic 8, its impact assessment is interpreted as follows, with these clarifications:
- a) Countdown, The Base and Pak'nSave, The Base, both in italics, have been separately shown, reflecting the basis of PE2018's Table 4, which provides only the net outcome. Also, Table 4's use of the term "The Base", is assumed to reflect the contention that supermarkets opposite The Base are/or would be, in a generic sense, a part of The Base & Environs as constituting or reflecting one sub-regional shopping destination. This is sensible.
  - b) All of the impact values and proportions in Columns (c) and (d) of Table 1 are overstated, as they do not compare pre-opening with post-opening situations. All should therefore be discounted, because even if one allows only a two trading year impact period, that would lift Column (c) values and reduce Column (d) impact proportions. In all but the example of Countdown The Base, especially given the annual growth going on around the Rototuna Centre, the foreseeable short-term impact levels recorded in Table A would nowhere support a contention that any supermarket would be put at risk of closing.
  - c) The CBD with Te Rapa Pak'nSave provision of \$18m less turnover is based on the second paragraph of PE2018 p25, a rounding up of \$17.5m. The two largest variations are attributed to the Countdown opposite The Base and the New World south of it, neither of them part of a centre.
  - d) The comment in the final sentence of 9 b) above acknowledges that a 30% without/with diversion of trade, if treated as an impact potential, would certainly place Countdown The Base's vulnerability at issue, albeit not in a RMA context. However, for the record, and even were it a real year-on-year impact, the author would not consider Countdown's potential closure to be a conceivable outcome.

Opposite The Base, its location is superb and whatever impact is visited upon it by the Proposal would start to be offset from day 1, given the ongoing northward growth which will also extend housing in the north-west, through the Rotokauri area.

e) Furthermore, in the case of Countdown The Base, the criteria set out in paragraph 7.5 of the evidence-in-chief, at sub-paragraphs e) and g) come into play.

- In the case of 7.5 e) the position is that the sub-regional role of Te Awa-The Base became very successful without the inclusion of a supermarket. Countdown established much later, simply adding a convenience opportunity. The sustainability of Te Awa-The Base is not dependent upon the retention of the adjacent Countdown.
- In the case of 7.5 g) the theoretical closure of the adjacent Countdown would not leave Te Awa-The Base bereft of an adjacent supermarket. A larger and more productive Pak'nSave would be in place, essentially in the same fringe-style relationship with the sub-regional centre.

10. For the foregoing reasons, PE2018 has supported the Proposal. It is considered that such a finding on the assessment is reliable.

## **APPENDIX 2: THE AUTHOR'S ASSESSMENT OF LIKELY IMPACTS AND ADVERSE ENVIRONMENTAL EFFECTS**

### **Context**

1. The context of this Appendix is essentially that provided by Section 6 of the evidence-in-chief. This indicates that the Pak'nSave supermarkets in Hamilton Central, mainly the Mill St store, will currently be trading at extremely high productivity levels (ie, sales/sqm).

### **Assessment**

2. At a purely pragmatic level, the author's above context explains the motivation behind the Proposal. The vicinity of The Base is more (or uniquely) appropriate than other possible sites for a supermarket with, potentially, a sub-regional catchment. Consent to the Proposal would relieve pressure on the Mill St Pak'nSave, whilst better enabling supermarket customers in the northern parts of the City (and the north-western, northern and north-eastern parts of its regional environs) to provide for their wellbeing, as per the RMA. Council's retrospective allocation of sub-regional centre status to Te Awa-The Base is pragmatic and reflects the reality on the ground, despite the history. That is the basis on which this exercise has been prepared.
3. Further to topic 6 of the author's evidence-in-chief, it is considered that distribution effects pursuant to the Proposal's introduction would involve:
  - a) a direct transfer of trade from existing Hamilton Pak'nSaves (mainly from Mill St) to a more conveniently available outlet; and
  - b) a re-distribution of other supermarket trade, to the extent that the current HCC Pak'nSave market share has been constrained by the limited accessibility of the banner to northern Hamilton and its regional environs. That is to say, latent Pak'nSave market share will be converted to real market share).
4. The reality of supermarket shopping in the event of improved Pak'nSave supply is that impacts will be determined by:
  - a) the extent to which Pak'nSave is currently used by grocery/food shoppers who will be in the new store's potential catchment, so that existing Pak'nSave outlet trade will be primarily diminished rather more so in proportionate terms than by any other redirection of trade;

- b) the extent to which the propensity of other customers of Foodstuffs' supermarkets leads to the relocation of some of their purchasing from a New World to a closer Pak'nSave; and
- c) the extent to which supermarket custom enjoyed by non-Foodstuffs' supermarkets is diverted to an additional Pak'nSave outlet, given its greater accessibility for those potentially closer to the new store than to the existing Pak'nSaves.

Despite ongoing increases in the size and number of supermarkets, there is no evidence, at national level, that any recent material changes of market share, as between supermarkets and other grocery/food outlets, has occurred, or is likely to occur. It follows therefore, that the net trade competition impacts of opening a new supermarket are essentially distributed across the trade of established supermarkets, with trend a) above the greatest relative contributor in this instance.

5. Table B below/overleaf shows the author's view on likely trade diversion (albeit still using the without/with-same year trade comparisons which do not represent impacts). Detailed comments in paragraph 8 of Appendix 1 apply equally to Table B.

**Table B: Without/With Assessment of Trade Diversions**

<b>Source/Location</b>	<b>(a) \$m Sales pre-Impact</b>	<b>(b) \$m Impact</b>	<b>(c) \$m Sales post-Impact</b>	<b>(d) Impact Prop'n</b>	<b>(e) New Pak'nSave \$m</b>	<b>(f) T/o Prop'n</b>
<i>CBD Pak'nSaves</i>	200	-28	172	14%	28	42%
<i>CBD Countdowns</i>	80	-3	77	4%	3	5%
CBD Total	280	-31	249	11%	31	47%
Non-HCC Supermarkets	n/a	-3	n/a	n/a	3	5%
Te Rapa Countdown	50	-8	42	16%	8	12%
Te Rapa New World	47	-7	40	15%	7	11%
Rototuna Supermarkets	95	-9	86	10%	9	14%
Chartwell Countdown	n/a	-4	n/a	n/a	4	6%
Nawton Countdown	30	-2	28	7%	2	3%
Other HCC Supermarkets	n/a	-2	n/a	n/a	2	3%
Total Diversions	n/a	-65	n/a	n/a	66	100%

Note: the n/a explanations under Table A (Appendix 1) apply equally to Table B.

6. In comparison with PE2018, the above assessment (summing to a Te Rapa Pak'nSave trade of \$66m) increases the extent to which CBD Pak'nSaves (mainly the Mill Street store) would see their marketshare re-distributed and diminishes the diversion of closer Pak'nSave competition on Te Rapa and Rototuna supermarkets. It also provides specifically for Chartwell diversions, retains PE2018 transfers from Nawton and provides for some more thinly distributed impacts elsewhere in the City. It does not assume further non-supermarket impacts, for the reasons provided at the foot of paragraph 4 above. Other points by Column are:

- a) Stated PE2018 values have been used, albeit the italicised split is the author's and recognises two CBD Countdowns.
- b)-d) Diversions from CBD Pak'nSaves are assessed at 14% of existing trade levels, exceeded only by a 16% loss at Countdown Te Rapa. Non-HCC supermarkets include the Te Awamutu and more remote Pak'nSaves touched upon in paragraphs 7.3 and 8.1 of the evidence-in-chief, as well as the supermarkets in Ngaruawahia. Other township-based supermarkets outside Hamilton should be little affected, as their marketshare already reflects the influence of Central Hamilton and Te Awamutu-based Pak'nSaves. The two Rototuna supermarkets are considered slightly less susceptible than in PE2018.
- e)-f) the trade of a new Te Rapa Pak'nSave, based on the Table B diversions, would essentially be drawn:
- 43% from CBD Pak'nSaves plus 2% (of 5%) from non-HCC Pak'nSaves;
  - 23% from Te Rapa Countdown and New World;
  - 20% from Chartwell and Rototuna supermarkets, basically 8% for one New World and 12% for the two Countdowns; plus
  - 14% spread thinly across other HCC supermarkets.
7. The Table B impact re-distribution is higher for CBD Outlets than that of PE2018 (47% v 30%) equivalent for Countdown Nawton and less for other identified PE2018 supermarkets. However, because Countdown Chartwell was not separately identified in the PE exercise, the Table B specified propensity to lose \$4m must be regarded as higher than that of PE2018.
8. The author considers that there is no propensity whatever for the greater Table B transfers to result in supermarket closures or wider consequential adverse effects. Whilst the author has neither sought nor been advised of the applicant's expectations of trade re-distribution from its CBD Pak'nSaves, it is considered that the Proposal is equivalent to a declaration that neither of those outlets is going to be closed. It is further considered that no other mainstream supermarket will close. Most supermarket shoppers who regularly patronise New World outlets would be aware that New World and Pak'nSave are Foodstuffs' "stablemates" and for that reason, all else being equal, more likely to also patronise Pak'nSaves and to switch the "ratio" of their supermarket spending as between full service and Pak'nSave, where the latter banner becomes more convenient. The Proposal implicitly indicates that such diversions will not unduly affect New World outlets, in the author's opinion.
9. For the foregoing reasons, the alternative assessment advanced in this Appendix is considered to reinforce the PE2018 findings, concerning adverse consequential effects.