

REPORT

Item Number:



To	Independent Hearings Panel
From	Michelle Carmine Consultant Planner – Element Planning Ltd
Date	31 st July 2019
Approved By	Jason Wright – Consents Team Leader
DWS Document Set #	
Application	LUC0408/19
Report Title	Section 42A Report on a publicly notified resource consent application by Woolworths NZ Ltd to construct and operate a 3000m ² Supermarket and form a public road at 58 Great South Road Pokeno.

Experience and Qualifications of Reporting Officer

I have been engaged by Waikato District Council to provide an evaluation and recommendation on an application by Woolworths NZ to construct and operate a 3000m² Supermarket activity and associated enabling works. I am a Director and Principal Planner at Element Planning Ltd. I hold a Bachelor of Science in Earth Science from The University of Waikato. I have 13 years' experience as a Resource Management Practitioner with a specific focus on resource consenting within the Local Government environment. Previous roles held include, Senior Planner at Rodney District Council, Principal Planner at Auckland Council and Consents Team Leader at Waikato District Council. I am a qualified Hearings Commissioner.

Executive Summary

The subject site is situated at 58 Great South Road, Pokeno and is within the Waikato River Catchment.

The Proposal

The land use consent application seeks to construct and operate a 3000m² Countdown supermarket along with ancillary car parking, signage, loading, servicing, access and landscaping; as well as an amenity seating area along the site frontage to Great South Road. Formation of an existing unformed road is proposed (Wellington Street). The site works to accommodate construction of the store and road include; retaining, cut and fill earthworks and realignment of overland flow paths all on land zoned Business. Store operating hours will be 7am to 12midnight.

The application was lodged with Waikato District Council on 6th May 2019 with a request under section 95 to fully notify the application. The activity is provided for as a Discretionary Activity under the Operative Waikato District Plan (Franklin Section 2000).

District Plan Provisions

The land use proposal is unable to comply with rules in relation to building in a flood plain, earthworks, cleanfill, signage. All buildings within the Pokeno Town Centre area need resource consent and in this case the buildings fail to meet the four of the Development Standards under rule 29.5, these standards relate to Buildings being required to be constructed along the frontage of Great South Road and Wellington Street, Verandah Cover requirements along the frontage of Great South Road and Wellington Street, Façade Design, and design standards for Vehicle Crossings.

The application does not trigger any rules in the Proposed District Plan (Notified Version July 2018) that have legal effect nor does it trigger the NES for Contaminated Land.

Submissions

17 Submissions were received in relation to this proposal. 15 in support, 1 neutral and 2 in opposition. 10 Submitters indicated they wish to be heard. Since close of submissions one party has withdrawn their wish to be heard (the Ministry of Education). In summary the topics traversed in submissions relate to adverse effects in relation to traffic, parking,

pedestrian safety, signage, construction effects, and positive effects in relation to providing an anchor for the town centre, economic and community benefits. One of the submissions is a late submission and it is recommended that timeframes be extended under section 37 to accept this submission.

Recommendation

The following report provides an assessment of the proposal against the requirements of section 104 and 104B of the Act, including the actual and potential effects of the proposed activity on the environment, an assessment of the relevant plan provisions, all other relevant matters and Part 2 matters. The report contains a recommendation to the Commissioner on whether or not consent should be granted evaluating all of the evidence presented at the time of report writing.

In light of the evaluation below it is my view that the consent should be granted for this proposal. The reasons I have come to this conclusion can be summarised as follows:

- In my conclusion on actual and potential effects under section 104(1)(a) I found that effects on construction, transportation, parking, servicing, earthworks and noise could be mitigated through condition of consent. I concluded that although some adverse effects in the particular areas of urban design were evident, the positive effects for the community and town centre outweighed the adverse effects associated with loss of building frontages, veranda's and carparking within the frontage.
- In my conclusion on relevant plan provisions under section 104(1)(b) I have concluded that the proposal aligns with the NPSUDC, it does not trigger the NESCS, and it is consistent with both the Regional Policy Statement and the Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010. The provisions of the Operative District Plan have been assessed where it is concluded that although the proposal does not comply with a number of Design Element Criteria, the proposal is consistent with the Objectives and Policies in the plan and meets the outcomes sought for the Pokeno Town Centre under the Structure Plan.
- Under section 104(c) other matters I have found the proposal to be somewhat inconsistent with Policies of the Proposed District Plan, in particular as they relate to Urban Design matters in a Town Centre, but the proposal is consistent with the

Objectives relating to Urban Design and the Objectives and Policies of the plan as they relate to Infrastructure, Transportation and Earthworks. I concluded that the proposal does not meet the non-statutory Pokeno Town Centre Architectural Form Design Guidelines.

- When weighing up the competing factors I have afforded little weight to the matters the proposal is inconsistent with because these matters are either non statutory documents or the Proposed Plan which is in the early stages of decision making and is likely to change. I therefore considered Part 2 of the RMA would be better met through reliance on the acceptable effects and consistent plan provisions and the granting of this consent would better meet the purpose of the Act than declining it would.

However, the conclusions reached and recommendations made in this evaluation report are not binding on the Commissioners and it should not be assumed that the Commissioners will reach the same conclusions or decision after having considered all of the evidence.

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1.0 INTRODUCTION

Pursuant to s88 of the Resource Management Act 1991 (the Act), Woolworths NZ (the Applicant) has applied for land use resource consent to construct and operate a Supermarket within the Business Zone at 58 Great South Road, Pokeno.

1.1 Proposal

The Applicant proposes to construct and operate a Countdown supermarket on the subject site along with ancillary car parking, signage, loading, servicing, access and landscaping; as well as an amenity seating area along the site frontage to Great South Road; site works to accommodate construction of the store and the formation of Wellington Street – such works include retaining, cut and fill earthworks and realignment of overland flow paths on land zoned Business.

Earthworks and Construction

- Bulk Earthworks volumes within the site have been calculated at 16,200m³ across 1.37ha (inclusive of Wellington Street formation). This will consist of 750m³ of cut and 15,500m³ of fill.
- In total 18,700m³ of clean fill will be imported to site to establish the finished subgrade levels. This compacts down to the 15,500m³ noted above. 4500m³ will also be imported to construct the carpark and road pavements as well as the subbase to the building slab.
- A volume of stripped topsoil 4300m³ will be removed from the site with around 400m³ stockpiled to use in landscaping areas and formation of the road berm.
- Bulk Earthworks are expected to take approximately 3-4 months with an initial additional pre loading stage of 6-8 weeks. Construction of the sub grade, the supermarket building and site works to form Wellington Street could take approximately 7-8 months.
- To establish the site levels three retaining walls are proposed.
- Wall 1 will be just inside the northern boundary of the site with a finished maximum face of 6.1 metres across a length of 108 metres. This wall will be a mechanically

stabilised earth (MSE) located with a 70 degree slope to its finished face. This will be a green wall and a landscaping plan has been provided with the application that details how this wall will be landscaped. The wall has been placed inside the boundary to allow for an overland flow path and stormwater drainage from Wellington Street stormwater run off to pass through the site for discharge.

- Wall 2 will be incorporated into the buildings structural design and provide a retaining function as well as the buildings west facing wall along a length of 63m. Construction of this wall is using precast concrete, it will interface with Wall 1 at the north western corner of the site to a maximum height of 5.8 metres.
- Wall 3 is a proposed masonry block wall along the road frontage of Wellington Street it is 35.7m long and has a maximum height of 0.6m
- Erosion and sediment control measures will be installed in accordance with the proposed earthworks methodology proposed in the application (Page 3, Civil Engineering Infrastructure Report by Civil Plan). Measures include a stabilised construction entrance to the site, a sediment retention pond, a decanting earth bund and silt fences.
- Traffic and parking during construction is proposed to be managed through a Construction Traffic Management Plan.
- Construction Noise will comply with the limits set out in the district plan and will be subject to a Construction Noise Management Plan.

Buildings, Access, Parking and Service areas

The proposed supermarket building is 3,000m², including 200m² of at-grade office and 100m² for plant;

It is set back from the road frontage with parking and an amenity plaza located between Great South Road, Wellington Street and the supermarket building.

- The Supermarket is proposed to be approximately 7.6m in height
- Signage on the building is shown on the elevations provided with the application. A 7.7m-high pylon sign on the site frontage is proposed; The Countdown signage along the rear of the building that faces the residential property at 15 Selby Street, will be illuminated between the hours of 6am and 10pm. The free standing sign and signage

located along the other elevations will be illuminated from 6am – 12midnight. This coincides with the store opening hours.

- 146 parking spaces on-site, including 5 parent parks and 4 accessible parks. Additionally, 8 parallel parks are proposed on Wellington Street and a number of queuing spaces for customers collecting online orders;
- All vehicular access from Wellington Street will be via two crossings, the first for customer vehicles only and then second for both customer vehicles and service vehicles; it is likely that the second will be mostly used by customers utilising the drive through pick up service “Click and Collect”.
- As discussed above Retaining walls will be located along northern and eastern boundaries, and acoustic fencing will be installed surrounding the service yard to the rear of the site;

Infrastructure

Water Supply

The proposal will connect to Council’s reticulated water supply system. This will include an extension of the 100mm main which will cross both Great South Road and Wellington Street to provide a suitable connection point at the front of the site. A new bulk water metre within the site will connect the internal reticulation.

Wastewater

The proposal is to connect to the existing wastewater network that was recently installed in 2014. This will be done through the installation of a 150mm pipe into the existing 250mm pipe within the Great South Road carriage way.

Stormwater

A new public network and outfall is proposed to discharge stormwater from the Wellington Street and the subject site to the Helenslee Stream via a dry basin located on unformed road reserve.

Treatment of the public stormwater created from Wellington Street will be via tree pits, swales and proprietary device, extended detention will be stored in the basin and released via a 45mm orifice over 24hrs.

Private reticulation within the site will collect all internal run off for treatment and storage in an underground detention system located underneath the service and loading area to the rear of the site. Rainwater from the roof and canopy will be provide groundwater recharge. The applicant proposes to further explore options to reuse the stormwater from the canopy for possible landscape irrigation and has proposed a condition in relation to this.

Wellington Street Formation

The applicant proposes to form Wellington Street (currently a 20 metre wide unformed road vegetated in grass). The carriage way will be 8.4 metres wide located centrally within the road reserve with widening at the intersection suitable for supermarket truck tracking. A total of eight parallel public parking spaces will be provided along North Eastern side of road along with a footpath. The South Western side of the road that adjoins other Business zoned land will be battered and grassed with a swale proposed to collect stormwater to be fed to the proprietary device and dry basin. The applicant proposes to introduce further low impact design measures through detailed design stage.

Landscaping and Amenity Seating Area

The proposal includes a provision of on-site and boundary landscaped planting, including construction and ongoing maintenance of a public amenity area along the Great South Road frontage, comprising approximately 650m² in area and incorporating covered seating areas and a street veranda. Landscaped planting along the southern / rear boundary also forms a large component of the landscape strategy for the site;

The applicant proposes that lighting will illuminate the area at night. Soffit lights are proposed under the canopy and high level lights are proposed to be mounted on the canopy supports to flood-light the landscaped area. Soffit lighting will illuminate the smaller canopies that lead to the supermarket entrance.

Operation of the Supermarket

Hours of Operation:

Goods delivery loading dock use and waste collection are limited to between the hours of 7am to 10pm.

Store Operating Hours are limited to between the hours of 6am to 12am.

Alongside the traditional supermarket services the applicant proposes to establish a drive through pick up collection point for groceries within the store operating hours.

Operational Noise

It is proposed that the operation of the supermarket will comply with the permitted standards for noise in the district plan. The following mitigation measures are proposed to ensure compliance:

- Service delivery vehicles are restricted to between the hours of 7am and 10pm
- The use of LPG or Electric forklifts and lift stackers
- The use of broadband reversing alarms
- The design and location of the mechanical plant shall be reviewed by an acoustic engineer to ensure appropriate acoustic attenuation and location of the plant
- A 2 m high acoustic fence shall be constructed on top of the Walls 1 and 2 around the perimeter of the service area to the North, North East and North West.

The application is supported with technical assessments in the following areas; Planning, Landscape, Urban Design, Traffic, Civil Engineering Infrastructure, Stormwater, Acoustic, Geotechnical, Detailed Site Investigation.

The topography of the southern portion of the site is flat, with the site gradually sloping away in part and then steeply to the northern corner of the site. The site is currently pastoral land vacant of any development. There are no vegetation or water features on-site.

Immediate Surrounding Area

The immediately surrounding area consists of a mixture of features and uses. There are a number of shops (about seven) located on the opposite side of Great South Road, to the south-west of the site. (Cafes, Bakeries, Butchery, Takeaways and Ice Cream Shops). Other commercial establishments, such as an existing service station located to the north-west of the site, a truck stop to the south and motel to the South East form with the retail shops to make up the existing Pokeno Village Centre. Residential dwellings are located to the south-east of the site and adjoining the north–eastern boundary of the site. On the opposite side of unformed Wellington Street is a large area of land currently vacant of development which hosts the Pokeno Sunday Markets. The southern section that makes up unformed Wellington Street on the opposite side of Great South road is currently used as public parking. To the North of the site within further unformed paper roads runs the Helenslee Stream, approximately 30metres from the site. The northern area is currently undeveloped.



Image 2: Aerial photo of site and surrounding area.

Wider Pokeno Area

Pokeno is a town that has experienced large scale growth over the past 5-10 years. To the south is an established small pocket of residential living and a new industrial area that is made up of heavy industrial activities including a large milk formula processing factory. The North and West of the town is made up of new medium density residential dwellings.

District Plan Zoning

Image 3 on the following page shows the subject site and the surrounding District Plan zoning.

- The blue/purple colour is Business Zone.
- The orange colour is Residential Zone.
- The darker green to the west of the site is Recreation Zone.

- The blue cross hash at the rear of the site is Amenity Planting area
- The purple and white striped line is the Main Frontage Control Line



Image 3: District Plan zoning (site shown in in red outline)

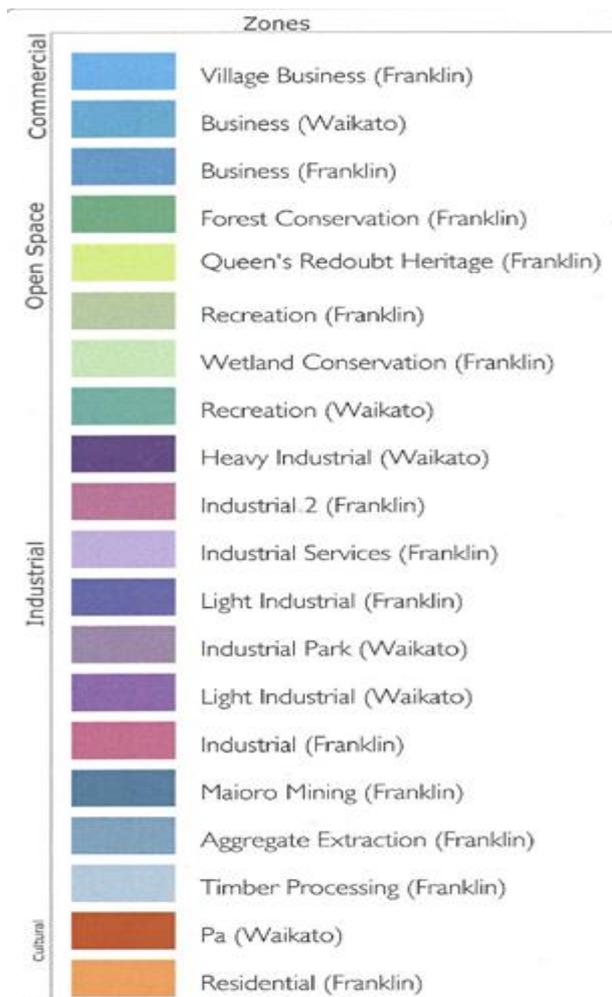


Image 4: District Plan Map Zoning key

1.3 Legal Interests in the Property

There are no interests registered on the Records of Title for the subject site.

1.4 History

The subject site has been subject to potential supermarket proposals for a number of years. In 2008 a Certificate of Compliance was issued confirming that a proposal for a supermarket was a permitted activity. This certificate of compliance lapsed in 2013. In 2015 Progressive Enterprises applied for resource consents to establish a small “Fresh Choice” supermarket and two separate blocks of speciality retail shops as well as subdivide the site to vest 110m² as local road from the frontage of Great South Road. A decision was issued for both the

Land Use and Subdivision Consent on the 15th March 2017. A copy of the Decision and Approved Plans are attached as APPENDIX B.

In 2018 Woolworths purchased from Council two titles of stopped road that were adjacent to the site. (Allotments 366 Parish of Mangatawhiri and Allotments 366 Parish of Mangatawhiri)

In November 2018 Woolworths NZ entered into Pre Application discussions with the Council's Planning Team with a revised proposal to establish a larger "Countdown" supermarket and engaged with Council on all relevant consenting matters until lodgement of this application on 6th May 2019.

The applicant requested full notification and the application was notified on 21st May 2019. Submissions closed on the 18th June 2019.

Further information and clarities have been requested in an informal way without the use of section 92 throughout the processing of the application.

2.0 STATUS OF ACTIVITY

2.1 Waikato District Plan

The Franklin Section of the Waikato Plan was made operative in February 2000.

An assessment of the proposal's compliance with the relevant rules of the Operative District Plan has been completed. (APPENDIX C)

The proposal fails to comply with the following rules under the Operative District Plan:

Rule 7.3.4: Any building shall be located outside the 1% Annual exceedance probability floodplain. In this case the Retaining wall Structures meet the definition of building and are located within 1% flood plain – Discretionary Activity.

Rule 15.4.2.2: A permanent sign that doesn't not meet the height standard of 2 metres under standard 15.4.3.4(d). In this case the freestanding sign is 7.7 metres in height – Discretionary Activity

Rule 15.5.2(ii): Earthworks throughout the district - Earthworks that do not comply with the standards for permitted activities under 15.5.2.3. In this case the earthworks infringe the area, volume and depth of cut permitted – Restricted Discretionary Activity.

Rule 15.1.2.8: The deposition of over 100m³ of cleanfill. In this case the proposal seeks to import 23,200m³ of clean fill - Discretionary Activity.

Rule 29.4: In the Pokeno Structure Plan Area the construction of buildings that do not comply with the Development Standards under Rule 29.5 – Discretionary Activity.

In this case the proposal does not comply with the following Development Standards under 29.5:

- 29.5.1 – Main Frontage Control Line: The proposed buildings do not have buildings right up to the road.
- 29.5.3 – Verandah Cover: The proposal Verandah does not extend along the entire frontage, nor does it cover the width of the footpath.
- 29.5.4 – Façade Design: The proposal does not propose windows or display space along the main frontage control line.
- 29.5.8 – Vehicle Crossings and Driveways: Two vehicle crossings are proposed from Wellington Street (9m and 10m). These do not comply with the maximum width requirements of 6m at the boundary and 7m width at the kerb line.

The proposal is therefore a Discretionary Activity under the Operative District Plan.

2.2 Proposed Waikato District Plan

On 18 July 2018 Council notified the Proposed District Plan (Stage 1). Submissions closed on 9 October 2018.

The further submission period closed on 17th July 2019. Decisions have not yet been made.

Notification of Stage 2 of the Proposed District Plan will occur in late 2019 and will include the Natural Hazards and Climate Change section.

In accordance with Section 86B(1), a rule in a proposed plan has legal effect only once a decision on submissions relating to a rule is made and publicly notified under clause 10(4) of Schedule I, unless the rule has immediate legal effect in accordance with Section 86B(3).

An assessment of this proposal against the rules of the Proposed District Plan (that have immediate legal effect) has been completed. Two chapters of the Proposed District Plan contain rules relevant to the proposal. Chapters 14 – Infrastructure and Energy (this is in relation to Water, Wastewater Stormwater and Transportation matters) contains no rules with immediate legal effect. Chapter 18 – Business Town Centre Zone has only one relevant rule that has legal effect, this is rule 18.3.7 Building Setbacks from Waterbodies. The proposal complies with this rule as a permitted activity as buildings are set back 30.4 metres from the Helenslee stream (The setback required is 23 metres). There are no other rules that are relevant to this proposal.

On the basis of the above assessment no consideration has been given to any of the rules of the Proposed District Plan (Notified Version July 2018).

2.3 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS)

The applicant provided a Detailed Site Investigation with the application that confirms that the NESCS is not applicable to this application.

Overall the activity status for the proposal is Discretionary.

3.0 PROCESS MATTERS

3.1 Key Dates

Date	Description	Working days
06/05/2019	Application lodged under Section 88 of the Resource Management Act 1991 (RMA)	1
06/05/2019	Application accepted under Section 88 of the RMA.	1
28/05/2019	Publicly notified	16
18/06/2019	Submissions closed - 17 submissions received.	36

3.2 Technical Comments

As part of my evaluation I have engaged various technical experts to review the applicant's application and advise me aspects of the proposal in relation to Engineering, Urban Design, Transportation and Acoustics.

The Infrastructure Report, Geotechnical Report and Stormwater Report were reviewed by Mr Christopher Gatehouse, Senior Land Development Engineer (LDE) at Waikato District Council. Mr Gatehouse's report includes comment with regards to water supply, stormwater and wastewater matters related to this proposal and recommends conditions to mitigate effects on servicing should consent be granted. A copy of this report has been included in APPENDIX D.

Urban Design Effects and the Urban Design Assessment undertaken by ASC Architects have been reviewed by Ms Lauren White Technical Lead – Urban Design at GHDWoodhead creativespaces. Ms White is a qualified Urban Designer with a Master of City Planning and Urban Design, she has 20 years experience in the Urban Design field. Ms White concludes that on balance the urban design outcomes are an acceptable solution. A copy of this assessment is included in APPENDIX E.

Traffic and Parking Effects and the Traffic Assessment by Stantec have been reviewed by Ms Naomi McMinn and Mr Alasdair Gray of Gray Matter Ltd. Ms McMinn holds a Bachelor of Engineering degree in Civil Engineering from the University of Canterbury, she is a member of Engineering New Zealand and has worked in the Civil and Transportation field since 2002. Mr Alasdair Gray holds a BSc in Civil Engineering from the University of Aberdeen, is a Corporate Member of the Institution of Professional Engineers New Zealand and a member of Engineering New Zealand and has worked in the field of civil/transportation engineering for more than 30 years, with more than 20 years in the Waikato Region. Their report concludes that subject to a range of conditions the efficiency and safety effects on transportation matters and effects on parking can be mitigated. A copy of this review has been included in APPENDIX F.

The applicants acoustic report undertaken by Marshall Day Acoustics has been reviewed by Acoustic Consultant Mr Daniel Winter of Styles Group Ltd. A copy of his review has been included in APPENDIX G.

4.0 NOTIFICATION AND SUBMISSIONS RECEIVED

4.1 Notification Decision

The application was publicly notified pursuant to Section 95A of the Act because the Applicant requested that the application be publicly notified. A copy of the Notification Decision is appended within APPENDIX H.

The application was publicly notified on 28 May 2019 and submissions closed on 18 June 2019.

4.2 Submissions Received

A total of 17 submissions were received during the submission period.

Three submissions have been made by Trade Competitors to the applicant (Submission #12, #16 and #17). I will address this in section 4.2.1 below.

One submission (Submission #17) was received after the submission period closed at 5pm on the 18th June 2019. This submission was received at 10.50pm on the 18th June 2019. I will address this in section 4.2.2 below.

Submissions #13 and #14 have been made by the same person on two different forms. These submissions raise slightly different issues. In this case the submitter in question owns multiple properties within the vicinity of the site. The two submissions need to be treated as one submission; this is because a submission is made by the person not the property referenced in the submission.

Of the 17 submissions received, two were opposed to the proposal. 15 were in support and one was neutral. Of these submissions, nine parties wish to be heard in support of their submission. One party (Ministry of Education, submission #10) has withdrawn their wish to be heard since making a submission.

A copy of submissions is attached in APPENDIX I.

The key matters raised by submitters are summarised below:

1. Traffic

- Concern regarding conflict with the existing truck stop activities
- Operation of Great South Road including traffic safety, impeding traffic flows, cohesion and viability of existing uses along the corridor
- Concern regarding the broader traffic effects beyond the immediate area both during construction and operation
- Traffic safety
- If consent is granted ensure that the Consultation is undertaken with Z Energy as an affected party requiring that a Construction Traffic Management Plan is developed and adhered to in consultation with Z Energy.

2. Parking

- The loss of parking along Great South Road, how this will affect businesses

3. Pedestrian movement and safety

- Lack of a pedestrian crossing
- Lack of pedestrian convenience
- How school children will navigate intersections during construction and operation.

4. Signage

- Height of freestanding signage
- Lack of adherence to Pokeno Design Guidelines

5. Design Matters

- Design of Wellington Street should be amended to relocate Stormwater Swale drain away from 44 Great South Road
- Design should extend the seating area to the south corner and along Wellington Street so that people are located away from trucks
- Design of plaza/seating area should be pushed back to lose car parks in Countdown and retain parking along Great South Road.
- Design should incorporate a dark green colour for the front of the building
- Building Materials should be of high quality materials
- Landscape design (planting and seating areas) should be high quality
- Ongoing maintenance of buildings and landscaping should be required

6. Construction Effects

- Construction Management Plan will address construction effects
- Earthworks may be coordinated between the applicant and adjoining property to the northwest at 26 Market Street, Pokeno.

7. Residential Amenity

- Consideration of the long-term effects on the adjoining residential property and persons located at 15 Selby Street Pokeno
- Design should take into account reducing acoustic effects on residential property to the rear.

8. Positive effects and community benefits

- Provides a needed and fundamental service for the community
- Well-designed attractive streetscape
- Creates jobs and employment opportunities within the local area
- Prevents driving to Pukekohe and back to go to the supermarket
- Uplifts and improves the appearance of the town centre
- Provides compact urban form within an existing business zone
- The supermarket supports a viable and functional town centre.

9. Planning Framework

- The proposal supports the vision set out in the Pokeno Structure Plan
- The proposal is consistent with the Waikato District Plan
- The proposal aligns with the National Policy Statement on Urban Development Capacity.
- The proposal should be integrated with the town centre strategy that is being prepared in accordance with the Blueprints already developed for the town.

I have addressed these matters throughout my assessment below.

4.2.1 Trade Competition Matters

Three parties have identified that they are Trade Competitors to the Woolworths Operation.

These are:

Submission #12 - Todd Kenneth McIntosh

This submission is in support of the proposal and does not wish to be heard.

Submission #16 – Pokeno Bacon / John and Helen Clotworthy

This submission is in opposition to the proposal and relates to concerns around removal of parking spaces, traffic and access, construction effects, and appropriate location of the proposed seating area.

Submission #17 – Tha Mao

This submission is generally in support of the proposal but requests that the swale drain along Wellington Street is relocated as it will conflict with the design they are working on to redevelop the site at 44 Great South Road.

I am of the view that the matters raised in these submissions relate directly to environmental effects on these parties and are not for the purposes of trade competition as required by Section 308B of the Resource Management Act. It is my view that these submissions can be accepted as valid submissions.

4.2.2 Late Submissions

As identified above, one submission was received on 18th September 2019 (6 hours after close of submissions). The submission was received from Dan McDaid (Landform Surveys Ltd) on behalf of Tha Mao.

The Commissioner will need to resolve whether to accept or reject this late submission in accordance with section 37 of the Act (extension of timeframes) after taking into account the following matters specified in subsection (4):

- (a) The interests of any person who, in its opinion, may be directly affected by the extension; and*
- (b) The interests of the community in achieving adequate assessment of the effects of any proposal ...; and*
- (c) Its duty under section 21 to avoid unreasonable delay.*

In this context, the following are relevant considerations:

- The submission was only just out of time on the same day as submissions closed, it was 6 hours late received at 10.50pm after submissions closed at 5pm.
- Due to the timing, no actions had been taken on collating and summarizing submissions at the time the submission was received.
- At the time that submissions were closing the Council was having significant IT issues across their systems resulting in delays receiving and sending email correspondence.

In this circumstance, my recommendation is to extend the timeframe to allow receipt of the submission (pursuant to s37A RMA) and thereby enable the above submission to be accepted.

I have advised the applicant's agent of my recommendation to extend the timeframes and they have not raised any concern or objection to this.

5.0 RMA CONSIDERATIONS

This section of the report outlines the statutory framework of the Resource Management Act 1991 under which the evaluative analysis of the application will be undertaken. As the proposal is a Discretionary Activity, the Commissioners have full discretion to grant or decline consent to this application.

5.1 Section 104

Matters to be considered by the Council when assessing an application for resource consent under s104 of the Act include, subject to Part 2, any actual and potential effects on the environment, any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan and any other matters considered necessary (i.e. under s104(1)(c)).

The following sections of this report will assess the proposal's effects on the environment; the relevant provisions of the Waikato District Plan (Franklin Section), the Waikato Regional Policy Statement and the Waikato Regional Plan and other relevant regulations; and other matters considered necessary.

5.2 Permitted Baseline

Section 104(2) contains the statutory definition of the permitted baseline. This section specifies that when forming an opinion with regard to the actual and potential effects on the environment of allowing the activity, the consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits

an activity with that effect. Application of the permitted baseline is a matter of discretion for the consent authority. If it is applied, permitted effects cannot then be taken into account when assessing the effects of a particular resource consent application. The baseline has been defined by case law as being non-fanciful (credible) activities that could be permitted as of right by the District Plan. I will address the permitted baseline further in Section 6.0 below.

5.3 Part 2 Matters

All of the above considerations under section 104 are subject to Part 2 of the Act – purpose and principles (sections 5, 6, 7 and 8). The key matter when considering this application will be the Act’s single purpose as set out in section 5, which is to promote the sustainable management of the natural and physical resources.

In accordance with the Davison Court of Appeal decision referral back to Part 2 is not necessary in some circumstances. A full discussion and assessment of all Part 2 matters is set out in later sections of this report. In this case I have concluded it is necessary to refer back to Part 2 and I have undertaken an overall broad judgement.

EVALUATIVE ANALYSIS

6.0 RULES PERMITTED BY THE PLAN

Section 104(2) states that *“When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.”*

All Buildings within the Pokeno Structure Plan Town Centre overlay require at least a Restricted Discretionary Activity consent. I therefore consider it appropriate to consider all effects created a result of the proposal. The permitted baseline in relation to rules has not been applied to my assessment of effects under subsection (1)(a).

7.0 EXISTING ENVIRONMENT

Case law has held that the 'environment' upon which the effects are to be assessed is the existing and the reasonably foreseeable future environment (that is, the future state of the environment as it might be modified by permitted activities under the District Plan and unimplemented resource consents, where it appears likely that these consents will be implemented).

7.1 Current Environment

The current existing environment has been described in the site description analysis in section 1.2 of this report. The Planner for the applicant Ms Kay Panther Knight accurately describes the current environment in sections 3.1 and 3.2 of her planning assessment. Further to this, Mr Graeme Scott also provides an accurate description of the current environment under section 4 – Site Analysis of his Urban Design Assessment provided as part of the application.

7.2 Unlawful Activities

Currently there are approximately 20 angled parking spaces in Great South Road along the frontage of the site. These parking spaces are partially within the road reserve and partially within the Woolworths site. *Maskill v Palmerston North CC EnvC W037/06* concluded “there can be no presumption that existing but unlawful activities have some form of de-factor existing use advantage”. Because the parking spaces are not lawfully established, I do not consider these spaces make up part of the existing environment. There are approximately three spaces within the throat of the unformed section of Wellington Street that are lawfully established and of which I do considered as part of the existing environment. This matter is relevant to address the effects of parking as a result of this proposal and will be further discussed below.

7.3 Unimplemented Consents

Also for consideration is the unimplemented valid land use and subdivision consent within the subject site (APPENDIX B). The consent allows the following:

- To erect and operate a supermarket and two separate blocks of specialty retail

shops (Retail A and B)

- To allow the sale of alcohol from the supermarket under an off-licence.
- The specialty retail shops will not comply with District Plan requirements for building location and veranda cover.
- The supermarket will not comply with District Plan requirements for signage and vehicle crossings.
- The whole proposal will not comply with District Plan requirements for earthworks.
- To subdivide the site to create Lot 1 which will contain the new supermarket and retail shops and Lot 2 which is to vest in Council as Road.

The applicant has concluded in their application that the unimplemented consent is a relevant consideration making up the existing environment and the effects of the currently proposal should be considered only above and beyond those already consented to.

The courts have stated that the environment consists of unimplemented resource consents, where it appears likely that these consents will be implemented. The question then arises as to whether it is likely that these unimplemented consents will be implemented.

I have turned my mind to the practicality of considering the previous consents as part of the existing environment on the basis that it is likely to be implemented. If granting this application before us, it would wholly replace the unimplemented consent and render it irrelevant. I therefore consider it an artificiality to consider the unimplemented consents as part of the existing environment as there is no situation that can occur where both the existing consent and the current application (if granted) could occur at the same time. Further to this, the applicant has throughout processing the consent stated that the current consent does not meet their needs and is not an outcome they wish for. I am therefore sceptical as to whether if this application was declined that that applicant would implement the consented activity. On this basis I not convinced that it is “likely” that these consents will be implemented when I adopt a “real world approach” to this circumstances. I have therefore chosen not to apply the unimplemented consent as part of the existing environment and have instead assessed the proposal without a consented baseline.

In summary it is my view that the existing environment is made up of the current environment and an assumption that the angled parking on Great South Road do not exist for the purpose of this assessment.

8.0 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT– SI04(I)(a)

As the proposal is a Discretionary Activity, my assessment of effects is not restricted to any particular matters. The Franklin Section of the Plan however provides some guidance in the form of Discretionary Assessment Criteria to assist with decision making but is not limited to such. The relevant effects on the environment are listed below and have been determined from an assessment of the application and supporting documents, further information received and comments from technical specialists, both external and within Council, and with reference to the submissions.

The actual and potential effects of the land use activities on the environment are those effects relating to:

- Positive Effects
- Transportation Network and Parking
- Urban Design and Amenity
- Acoustics
- Earthworks
- Servicing

Where relevant, the assessment below identifies whether actual and potential effects can be avoided, remedied or mitigated with the use of appropriate conditions of consent. It is stressed that the presence of any draft conditions is not a predetermination of a recommendation or decision to grant the application. They are simply set out to be of assistance to all parties, in particular the Hearing Commissioners, should they conclude that the application be granted subject to conditions.

8.1 Positive Effects

Section 3 of the RMA defines the meaning of effects to include positive effects and it is appropriate to consider whether a proposal creates positive effects on the environment (which includes people and communities). Positive effects that result from a proposal can be balanced against any adverse effects that might not be able to be avoided, remedied or mitigated to an acceptable level and may or may not outweigh such adverse effects to draw overall conclusions under section 104(1)(a).

It is my view that the grant of the proposal will create the following positive effects:

- Over the past five years Pokeno has grown significantly with the provision of large greenfield residential housing, little has been developed over this time in relation to providing the supporting commercial services and amenities. This proposal will provide a fundamental service to the town of Pokeno resulting in a community benefit for the residents of Pokeno.
- The proposal utilises land zoned for business activities which is the appropriate zone identified to provide for activities such as supermarkets.
- The proposal means that residents of Pokeno will no longer need to commute to nearby towns to undertake their supermarket shopping.
- The supermarket provides a large amount of car parking infrastructure to service the users.
- The design outcomes promote improved pedestrianisation of the town centre, helping anchor a stronger sense of community and connection between the residential areas and the town centre.
- The design outcome provides an attractive landscaped amenity seating area that can facilitate and act as a meeting point for residents and passing tourists from State Highway 1 that use Pokeno as a service stop this improves community wellbeing and a sense of place.
- The supermarket will create around 80-100 new jobs being a mix of part time and full time.

The Applicant will further detail the positive effects of the application which ultimately will be weighed against the adverse effects of the activity when making a final determination under s104(1)(a).

8.2 Transportation Network and Parking

The applicant has presented a Traffic Assessment Report by Stantec that addresses the relevant matters in regards to the transportation effects and effects on parking (Appendix 6 of the application documents found in APPENDIX A. This traffic assessment report has been reviewed by Council engaged Traffic Engineer, Ms Naomi McMinn of Gray Matter Ltd (APPENDIX F). The assessments take into account other road users and activities within the immediate vicinity and existing and forecasted traffic volumes.

Transportation effects during Construction

Earthworks

The applicant proposes to undertake construction works over a period of 12 months with the initial earthworks taking 3-4 months. The proposed earthworks involve bulk filling that will result in increased truck movement associated with the works. Access to the site is proposed to be gained from the Wellington Street Road Reserve. The applicant has proposed to develop a construction traffic management plan that will ensure the traffic effects are appropriately mitigated. Ms McMinn raised no concerns regarding the capacity of the network or safety concerns associated with the construction traffic. Taking this into account it is my opinion that the effects of traffic management during construction can be adequately managed through condition of consent.

Loss of Parking

The Construction works will result in the loss of existing angled parking along Great South Road. The majority of this parking is not currently lawful and is located partially on Woolworths land. Submissions note that the angled parking was formed as part of the expressway bypass works in the 1990s. Although this may be the case, I can find no legal documentation to secure this parking formally and vest with Council. I therefore consider it reasonable to assume that Woolworths could remove this parking from their property whenever they so choose meaning these spaces cannot be relied upon as public parking

spaces. Approximately three spaces are located within the throat of the unformed section of Wellington Street. These spaces will be lost for the duration of construction works. It is my understanding from discussions with Council's Roding team that they have programmed works for the resealing of Great South Road within the town centre to commence in August/September. This includes formalising sealing the throat of the opposite side of Wellington Street unformed road that is currently utilised for public parking. It is my view these works will encourage drivers looking for parking spaces to utilise this public parking area next to the shops. Further to this, Ms McMinn has reviewed this matter and concludes that onstreet parking is available slightly further from the main shopping areas that will result in additional walking time for pedestrians (typically 2-3 minutes). I do not consider this unreasonable in terms of accessibility to the existing shops. Taking the above into account, it is my view that the loss of three public spaces will not have an unacceptable impact on parking within the town centre during the proposed 12 months of construction. An analysis on the loss of these parking spaces on permanent basis has been further discussed below in the section on Parking.

If there are concerns by the Panel regarding the effects of loss of parking during construction my recommendation would be to explore inclusion of a requirement for the applicant to provide temporary public parking spaces within the Temporary Traffic Management Plan that would be required prior to construction works starting.

Traffic Generation

The applicant has presented an analysis of the traffic that will result from the proposal. This assessment concludes that using the trip generation from six surveys across four Countdown Supermarkets around NZ, that the trip generation for the proposal will equate to 318 vehicles per hour (vph) during peak hour and 2200vph per day. There is an expectation that one third of the traffic will already be passing the site with 70% coming from the north and 30% coming from the south. This assumption is based on future residential growth primarily being in the north of the township. The report concludes that potential traffic from this supermarket is *“just 75 vehicle movements more than the consented situation or around one additional movement a minute more than the approved position”*.

Ms McMinn has reviewed the predicted generated traffic numbers from the applicant and would prefer to use published trip generation figures from NZTA, rather than the surveys

utilised by the applicant. However she concludes that the “rates based on the survey appear reasonable and substantiated. The difference of 1000vpd is not transformation in terms of expected traffic. The passby and diversion rates in the TAE appear reasonable so depending on where you are measuring, the estimated 2,200vpd at Wellington Street would therefore reduce around 18,00vpd upstream and downstream on Great South Road and 1000vpd further away.

Ms McMinn also notes that the applicant has used published results for the consented activity and the survey data for the proposed.

She states “the relative difference in traffic for the proposal should be based on a consistent basis (survey or reference sources, but not both) but would mean that some “additional” traffic has to be recognised. We consider that the nett increase (proposed supermarket compared to consented development option) would be about 120vph or around 850vpd. Ms McMinn confirms that she agrees that the overall vehicle movements predicted putting aside the consented activity is 2200vpd.

The applicants Traffic Engineer Mr Mark Georgeson and Council engaged Traffic Engineer Ms Naomi McMinn differ in terms of their preferred methods of calculating the expected traffic generation when comparing the consented activity to the existing activity. But they agree on the overall traffic volumes created. I am satisfied based on advice from Ms McMinn that the difference in the traffic generation figures between the applicants traffic engineer and Council’s traffic engineer does not result in a material differences in how to mitigate the impacts of increased traffic generation proposed.

Efficiency

The increased traffic generation has the potential to affect the efficiency of the network. Ms McMinn notes the following in relation to efficiency effects:

- A high proportion of the traffic will already be travelling on the network so the effects in regard to efficiency are concentrated to Wellington Street, Great South Road and the Pokeno/Great South Road Intersection.
- There is potential for conflicting movements between the trucks using the truck stop and traffic on Wellington Street Intersection.
- Other road users including trucks using the truck stop opposite are likely to notice additional traffic because of the new intersection.

Ms McMinn concludes that a change in how trucks enter and exit the truck stop site will be necessary as a result of the proposed changes to the road layout. This will mean that trucks

entering the truck site from the north will likely now need to use the southern entrance to avoid crossing into the right turn bay space. The detailed design of the intersection is expected to include the removal of on-street parking to accommodate turning movements at the intersection and the truck stop. Road rules will apply and will likely result in the northern vehicle crossing being used for exiting only. The truck stop is expected to be able to manage manoeuvring internally on its own site to allow for changes to the road layout and in accordance with its consented activities. Provided that the detailed design of the intersection is completed to minimise impacts on the existing truck stop and through-traffic conflicts there is a low risk of delays to other road users. The Wellington Street and local intersections are expected to operate with an adequate level of service.

Taking into account both the applicants report and the assessment on efficiency undertaken by the Council engaged traffic engineer, I am satisfied that the transportation effects in terms of efficiency are acceptable provided the recommended conditions of consents are implemented.

Traffic Safety

Wellington Street Intersection

The applicant proposes to form Wellington Street as a T intersection with Great South Road. Wellington Street is currently a 20 metre wide unformed road vegetated in grass. The carriage way will be 8.4 metres wide located centrally within the road reserve with widening at the intersection suitable for supermarket truck tracking.

Ms McMinn states:

Forming Wellington Street as a T intersection introduces a conflict point and the additional traffic increases the risk of adverse safety effects for vehicular traffic. The intersection is consented and also anticipated as a paper road in a low speed environment and should be formed to appropriate standards. There is the potential for adverse safety effects on users with the interaction of trucks and supermarket traffic, however road rules apply so trucks exiting the truck stop will need to give way to road users. There is space available within the truck stop site to accommodate queuing within the site. To minimise confusion and conflict in relation to truck stop activities opposite, the interaction of the truck stop and the intersection should be considered during detailed design.

As discussed in section 7.3 of this report, I have not considered the unimplemented consent relevant to the existing environment. However I agree with Ms McMinn's conclusions that

the location of the intersection is anticipated as it is forming an existing unformed road. It is noted that Ms McMinn concludes that the design proposed is sufficient to service the demands of the proposed supermarket and therefore whether the unimplemented consent is applied as part of the existing environment is somewhat irrelevant here. As a stand alone proposal without considering the consented activity the design has been assessed as being acceptable for the demand proposed.

The construction of Wellington Street will also introduce a new potential conflict for pedestrians along Great South Road. The existing footpath stops not far south of Wellington Street but is continuous along the opposite side of Great South Road. It is expected that some pedestrian demand will be generated on weekends by the Pokeno Markets, Ms McMinn expects this to be low as it is more likely that pedestrians will use the opposite side of Great South Road due to the lack of footpath. As Council's Roading Team are expected to install a pedestrian crossing within the next three years along Great South Road, it is expected that this will enable pedestrians to cross to the opposite side of the road and utilise the footpath facilities here.

In regards to cyclists travelling down Great South Road, the proposed intersection will result in a potential new conflict for them. Ms McMinn notes that there are currently no designated cycling facilities in the current road layout and demand appears to be low. Ms McMinn concludes:

“that provided the intersection is designed to appropriate standards there is no reason to expect a disproportionate increase in cyclist crashes”.

I accept Mr Georgeson's and Ms McMinn's findings and conclude that the safety effects as they relate to the Wellington Street intersection are acceptable provided that the recommended conditions requiring detailed design, and a safety audit of the intersection are implemented onto the consent.

Pokeno Road/Great South Road Intersection

The applicant has assessed the effects of the supermarket traffic generation on this intersection. It is concluded that this intersection will need to be upgraded with or without the supermarket development. Ms McMinn is in agreement with these findings and it is noted that the Council has budgeted \$400,000 to upgrade this intersection in 2021.

I am satisfied with these findings and conclude that the effect on Pokeno/Great South Road Intersection are acceptable.

Pedestrians on Great South Road

The increased traffic generation reduces the gaps available for safe road crossing. Currently pedestrians cross the road to utilise the angled parking spaces partially located within the subject site and in the road reserve. Although these spaces will be removed, they will be replaced with 8 public spaces along Wellington Street as well as the 146 private parking spaces for the supermarket. Ms McMinn has concluded that along with the increased traffic generation it is her view that pedestrian demand for crossing Great South Road will also increase as a result of the proposal. These factors in themselves do not trigger the need for a pedestrian facility. Risk must also be assessed. Conclusions reached by both Mr Georgeson and Ms McMinn show that the incremental increase in safety risk to pedestrians as a result of the introduction of the supermarket is very small and to require a pedestrian crossing would not be in proportion to the effects created as a result of the proposal. Council's Roding Team have confirmed that they would prefer construction of a pedestrian facility to be undertaken as part of the wider town centre strategy and undertaken to ensure an integrated approach to the town centre as a whole. Mr Ross Bayer – Roding Team Leader has confirmed that it is likely a crossing facility of some sort will be installed within three years of the supermarket opening. Ms McMinn concludes that as a result of the proposal it is reasonable to require the applicant to undertake a pedestrian monitoring survey to measure the actual increased traffic generation and pedestrian demand once the supermarket is operational. The monitoring data would be required to be provided to Council's Roding Team to better inform them of the best location, appropriate type of crossing and give a better understanding of timeframes.

I note that Mr Gatehouse Land Development Engineer has made comments in his report that a crossing is required to mitigate the effects of the proposal but has provided no further evidence to support this requirement.

Relying on the above technical evidence and in favour of the two assessed by qualified Traffic Engineers, I conclude that the supermarket will increase the demand for a crossing facility however the increase in risk to pedestrians that are crossing Great South Road is small. The effects in relation to pedestrian safety on Great South Road are in my opinion acceptable.

Parking

A total of eight parallel public parking spaces will be provided along North Eastern side of Wellington Street, along with a footpath. The South Western side of Wellington Street that adjoins other Business zoned land will be battered and grassed with a swale proposed to collect stormwater. Additional parallel parking has the potential to be retrofitted into this area when further buildings develop on the opposite side of Wellington Street. The eight parking spaces mitigate for the three/four lawful spaces that currently exist in the throat of unformed Wellington Street and for the loss of on street parallel parking that will be removed as a result of formation of the intersection. Ms McMinn has reported that as a result of the Intersection design additional spaces will need to be removed on Great South Road. Although the current angled spaces along Great South Road are not lawfully established the reality is that they are well used by the public. Several submissions raise this matter to be of concern and would like to see parking along the frontage of Great South Road.

The removal of the existing spaces will result in the need for drivers to increase their walking distances to access the shops. Ms McMinn has calculated that alternative public spaces may be available around 1-2 minutes walk away. In reality it is likely that users wanting to access the shops on the opposite side of Great South Road who would have previously parked in the angled spaces currently provided, will instead utilise the private carparking spaces within the Countdown and adjacent to the amenity seating area. I acknowledge the concerns set out in submissions around loss of parking along Great South Road, however I do not consider that the loss of all of the parking spaces is a matter that can be addressed through this consent due to some of these spaces being on private land. The applicant addresses the loss of lawful public parking through the provision of spaces on Wellington Street. The number of spaces proposed offsets the loss of lawfully established parking spaces that will be removed as a direct result of the proposal.

It is prudent in my mind given it is a matter raised in several submissions to address whether the spaces proposed for Wellington Street would be more appropriately located as parallel parking spaces on Great South Road. In consideration of this and to assist the Panel in this matter I have set out the following factors I consider relevant to the location of the public spaces.

The design proposed offers a wider than typical footpath along the Great South Road frontage in order to facilitate the design outcomes sought by the District Plan around pedestrianisation and habitability of the street.

In order to provide parallel parking spaces along Great South Road in conjunction with the wide footpath proposed, it is likely that the median would need to be removed and the road would become centreline single line marking only. This would mean the road lane markings along Great South Road would need to be realigned to remove the median. With the introduction of the new Wellington Street Intersection and right turn bay, the median space will be needed for manoeuvres out of Wellington Street.

Parked vehicles can impede pedestrian visibility at crossing points and since there is no pedestrian crossing facility, pedestrians currently relying on the median as an informal refuge from the large amount of heavy vehicle traffic travelling along this corridor, removing the median is not the preferred approach and I have concerns as to whether this would be a safe option.

Further to the above, there is no confirmed location for the pedestrian facility that will be constructed by Council's Roading team in the near future. The most likely location for a facility will be as annotated on the site plan (or in close proximity) as this is where the pedestrian demand will most likely be. The construction of a crossing would result in any established carparks along this frontage being removed to provide the space required in the median for refuge and to protect pedestrian visibility in accordance with design standards for pedestrian facilities.

Currently without certainty around a town centre strategy that sets out the facilities and provisions of the town centre as an integrative whole, it is difficult to know how Great South Road will develop.

It is my view that provision of the wider footpath proposed in combination with the parallel parking spaces in Wellington Street is an appropriate outcome in terms of finding a balance between the urban design and parking outcomes. The location in Wellington Street provides more long term certainty around public parking spaces (knowing they are not going to be removed for a pedestrian crossing within the next few years) and are still located only 1-2min walk from the shops.

Further development of parking spaces and pedestrian facilities should be included in the integrated town centre strategy and redevelopment that is currently in the early stages of discussion. (The Strategic Planning team in Council has confirmed that no proposal to

develop this strategy has been presented to Council for approval to progress, but I note a Town Centre Strategy has been identified in the Blueprints as a matter that is high priority). Internally to the site the applicant proposes 146 onsite parking spaces. Mr Georgeson and Ms McMinn are in agreement that the number of spaces provided is expected to accommodate the onsite supermarket demand. Loading spaces and truck manoeuvring will be to the rear within the service area. The applicant has provided swept paths that show manoeuvring is achievable. Ms McMinn recommends that the internal parking, loading and servicing layout including swept paths are checked during detailed design. I am satisfied this as a reasonable proposed condition to ensure the effects of the internal layout area addressed.

In reliance of the technical evidence provided I consider the effects in relation to parking, loading and manoeuvring to be acceptable.

Vehicle Crossings

The two vehicle crossings proposed are wider than the district plan standards allow for, in order to provide each crossing with two way entry and exit. Ms McMinn has assessed this and notes that *“there will be a longer crossing for pedestrians to pass over and therefore potential for an increased safety risk in a low speed environment.”* She then considers that pedestrian demand in this location is low considering that only 8 public spaces are located down Wellington Street and Wellington Street is a no exit road. The width allows two way movement which will reduce the risk of queues backing up and adversely affecting Great South Road. She concludes *“that the benefits of providing for two way vehicle movements are likely to outweigh potential adverse effects on pedestrian safety as a result of the width of the crossings.”* I am satisfied with Ms McMinn’s findings in this regard and consider the effects as a result of the wider vehicle crossings acceptable.

Overall I am satisfied that the effects on the environment in relation to Transportation and Parking matters can be adequately addressed to an acceptable level through recommended conditions of consent.

8.3 Urban Design and Amenity

The applicant has provided an Urban Design statement from qualified Architect and experienced Urban Designer – Mr Graeme Scott of ASC Architects. Mr Scott’s credentials

can be found in the Urban Design Assessment provided with the application.

The urban design assessment set out in Appendix 5 of the application (APPENDIX A of this report) details the design responses of the proposal. These will not be repeated in detail here. For ease of reference I have summarised these as follows:

Design Response – Overall Site Plan

The operational requirements of the Supermarket require that:

- Carparks are to be visible from Great South Road,
- Large trucks and delivery vehicles are to be separated from customer vehicles

This results in three major elements to the site plan - the customer carpark, the supermarket building and the truck/service unloading area.

Design Response – The Building

- The usual mezzanine floor back of house function has been brought down to ground level to enable the height of the building to be reduced to 7.6 metres.
- The bulk of the building is reduced further as the floor level is one metre lower than the Great South Road Frontage.
- The exterior has a full parapet to conceal the sloping roof.
- Wall panels have been varied in Height, Colour and texture to avoid a monolithic box appearance.
- Canopies have been used to break down the scale and give clear signals on the entrance and pick up points.
- Windows front the Wellington Street frontage giving further scale and texture to the overall form.

Design Response – The Rear Boundary (northern)

- Due to the topography of the site and the requirements for “at grade” loading into the supermarket a 5.2 metre high retaining wall is proposed close to the rear boundary adjoining a residential property at 15 Selby Street. (On seeking further clarification from Mr Scott he has confirmed that the 5.2 metres is the area closest to the residential property. The wall is 6.1 metre at its highest point.)
- The wall is made of mechanically stabilised earth modules. (MSE Wall) that can be planted to provide a completely green wall and amenity planting area.
-

- A landscape plan methodology and maintenance schedule for the MSE wall has been provided with the application.
- Five additional specimen trees are proposed at the end of Wellington Street to assist with screening the residential property.

Design Response – Wellington Street Boundary

- Wellington Street will be formed with two vehicle access points, 8 parallel parking spaces, four street trees, footpath and grass berm.

Design Response – Great South Road Boundary

- Definition of the street edge is provided to face the existing good edge definition on the opposite side of Great South Road this introduces some street enclosure.
- Pedestrian protection from sun and rain for a good portion of the frontage.
- Enclosure of the street through layered vertical elements trees and densely planted ground plane.
- Opportunities to inhabit the street through spaces formed on new paved areas complete with a sense of enclosure and protection from traffic.
- The design allows for pedestrian crossings and traffic calming in the future.

Landscaping

In addition to the urban design assessment provided LA4 Landscape Architects have provided a landscaping plan and planting schedule for the site. Included with this initial plan is a detailed methodology on how the green wall to the rear of the site will be installed and maintained. The landscaping plans provided by LA4 Landscape Architects forms an integrated part of the urban design response undertaken by Mr Scott.

Mr Scott has assessed the proposal from an Urban Design perspective and his conclusion can be found on Page 15 of his Urban Design Assessment (Appendix 5 of the Application Documents set out in Appendix A of this report. In summary he opines:

- The proposal fails to meet some of the Assessment Criteria set out in the Appendix 29.2 of the District Plan. In particular Criteria 1-4 listed in Design Element 1 and Criteria 4 and 6 of Design Element 2.
- A traditional supermarket presents a challenge given the design and operational criteria that apply are somewhat inflexible.

- The vehicle dominant nature of the operation results in a built environment that often breaks basic urban design rules around pedestrian scale, streetscape enclosure, street activation and walkability.
- The proposed supermarket development has been designed to be a good fit within a town centre likely to see significant change of the next few years.
- The design effort applied to the building, the rear boundary and to Wellington Street will result in acceptable visual outcomes for the project when viewed from neighbouring properties.
- The frontage to Great South Road with a classic “shopping street” solution envisaged by the District Plan is only one solution.
- The design proposed provides rain and sun cover along the street edge which is a valid response to the requirement for verandahs albeit not connected to a building in this case.
- The green frames supporting the canopy and the six Titoki trees will assist in providing an overall green landscape dominant on the frontage and diminish the visual impact of the supermarket carpark.
- The proposal for a strong green edge to the street, strengthened by the vertical landmarks of the canopy supports and freestanding sign as well as the contributing new covered seating space that will become a community focus is a good solution for the site.

Technical Peer Review Comments

Ms Lauren White from GHD Limited has been engaged by Council to peer review the applicant's urban design assessment on whether the proposal was in general accordance with the urban design guide and district plan required design elements. In Ms White's review she helpfully sets out the clear expected urban design outcomes envisaged through the District Plan provisions. These are as follows:

- Strong spatial definition of Great South Road through very limited permitted building setbacks and a continuous building façade.
- High pedestrian amenity along Great South Road with weather protection provided by continuous verandahs over the footpath and vehicle access from alternative/side streets.

- Verandahs also desired along Wellington Street.
- Consistent building scale with a general character of 2-3 Stories.
- Pedestrian entry points to be clearly identified and facing primary roads.
- Avoidance of solid walls and requirements for glazing to buildings along Great South Road to promote visual interest and surveillance.
- Landscaped carparking areas that are safe and easily understood and screened from adjacent residential use.

In summary a small scale “main street” retail centre between Market Street and Cambridge Street which includes the subject site.

To give further context to the urban design outcomes sought by the district plan, the design explanation describes *“development should be built to as much of the road frontage as possible, thus enclosing and concealing car parking and service areas to the rear. This is known as perimeter block development, whereby buildings are built to as much of the length of the site’s road boundaries as possible, and on-site car parking and open space is generally behind buildings”*

It also states *“Even large stores such as supermarkets (often characterised by blank walls, car parking to the street edge etc) can and should be built to the key street boundary or boundaries and integrated with streetscape through using well glazed and modulated façades at the frontage. This can be created by including small tenancies with active frontages at the critical street edge”*.

However, it is also recognised that Appendix 29.2 of the District Plan states:

“certain proposals will not achieve absolute accordance with all criteria. Where necessary, in regard to a criterion demonstrably not met, the applicant shall explain with reference to the explanation for the particular design element:

- *whether site constraints inhibit the ability to address the criterion, and/or;*
- *how the intention of the criterion is met by the proposal, and/or;*
- *whether the proposal represents a better design solution than that suggested by the criterion*

In my view the assessment criteria, outcomes and design explanations provide a clear context for a framework around the effects on the environment in relation to urban design for the town centre and are useful for determining effects.

The proposal does not provide a continuous line of building frontage or continuous verandah cover over the width of the footpath along both Great South Road and Wellington Street. The effect of this is to reduce the sense of spatial enclosure and reduce habitability of the space making the area less amenable to pedestrians.

The mitigation proposed by the applicant will help somewhat to reduce the effects of losing the sense of spatial enclosure and this has been assessed by both Mr Scott and Ms White as being an acceptable solution.

Both Mr Scott and Ms White agree that the supermarket has a well defined entrance that faces the street and that the proposal to provide a landscaped open space interface will encourage activation and inhabitation of the street edge. These factors contribute to the activation interest and surveillance/safety of the street space.

The free standing corner sign works to signal the corner of Wellington Street and Great South Road. The site sign has been assessed by Ms White as being *“consistent with the character of the town centre derived from other signage and uses which reflect the thoroughfare, rest and recovery aspect of the town.”*

Ms White – Urban Designer has further assessed the Sign as follows:

“The permitted height of a free-standing sign is 2m, and the proposed pylon sign is almost 8m in height. Whilst this is significantly higher than permitted, this sign is relatively consistent with the varying height of the proposed canopy structures and does serve to identify the street corner. Considering the maximum permitted building height in the town centre is 12m, the height of this sign is acceptable.

Further to the above Ms White state she considers the effects acceptable from an urban design perspective for the following reasons:

- the value a supermarket brings to Pokeno, with respect to revitalising the town centre, acting as an anchor to attract more visitors as well as servicing the local community who have voiced their support for such an activity;

- the variety in the current Great South Road frontage condition, which includes small scale retail built close to the street boundary, truck stop buildings set back from the street, open spaces with historical value etc.
- the need to accept operational constraints in order to locate the supermarket in the town centre, including the challenge with site size, sleeved retail activity operated by others, the necessary location of customer car parking and loading etc.
- the absence of another viable location for the supermarket building itself without the placement of a blank facade to Great South Road and/or the location of the supermarket entry away from the primary road frontage (Great South Road);
- the partial spatial definition of Great South Road by vertical elements including specimen trees, vertical climbers and steel structures;
- the promotion of frontage inhabitation through the provision of shelter and seating;
- the linear nature of the canopy which recognises the street frontage not just the supermarket entry;
- the strong entry signal and clear and safe pedestrian access to the front door;
- the screening of loading/servicing space from both Great South Road and Wellington Street;
- street trees along Wellington Street and the location of the office and on-line pickup which helps to activate that elevation;
- the acceptable landscape solution to screen supermarket (specifically servicing) activity from adjacent residential activity;
- the delivery of Wellington Street which extends the town centre's grid pattern and creates opportunity for further commercial and/or residential activity;
- the views of the rural backdrop to the east that are maintained from Great South Road;
- the absence of vehicle crossings on Great South Road which therefore prioritises pedestrian safety and amenity along this frontage;

Conclusion on Urban Design and Amenity

I accept the findings of Mr Scott and Ms White in regard to their Urban Design conclusion. Taking into account the existing environment that defines this area, the design proposed goes some way but not all the way to providing design outcomes that promote

pedestrianisation and habitability of the town centre. The lack of small scale building frontages along Great South Road does have the potential to adversely affect the amenity and future establishment of the town centre as a pedestrian friendly space. However on balance I consider it relevant to take into account the nature of the activity proposed in this instance. A supermarket will act as an anchor store by increasing people visitation to the town centre, helping to create a sense of place and purpose for the town centre. A supermarket provides a much-needed amenity for the town's residents. It is my view the development will likely act as a catalyst for further development within the town centre, which has not occurred at the same rate in parallel with the growth of the residential areas. I am therefore of the opinion that on balance the effects on urban design and amenity are acceptable in this instance.

8.4 Acoustics

The applicant has provided an Acoustic Assessment by Mr Curt Robinson of Marshall Day Acoustics. I engaged Mr Daniel Winter an Acoustic Consultant from Styles Group to review this assessment on behalf of Council. The applicant proposes the following in relation to noise.

Construction Noise:

The Applicant's Acoustic engineer has confirmed that full compliance with the construction noise limits is achievable. Mr Winter is satisfied with this and recommends a condition requiring compliance with the construction limits when measured 1m from the façade of any occupied receiver building, as well as the provision of the Construction Management Noise Plan that will detail the methodologies used during construction to ensure compliance with the standard is met.

Operational Noise:

It is proposed that the operation of the supermarket will comply with the permitted standards for noise in the district plan. The following mitigation measure are proposed to ensure compliance:

- Service delivery vehicles are restricted to between the hours of 7am and 10pm
- The use of LPG or Electric forklifts and lift stackers
- The use of broadband reversing alarms
- The design and location of the mechanical plant shall be reviewed by an acoustic engineer to ensure appropriate acoustic attenuation and location of the plant
- A 2 m high acoustic fence shall be constructed on top of the walls around the perimeter of the loading and service area to the North, North East and North West.

Mr Winter concludes that it is practicable to comply with the operational noise limits of the Waikato District Plan and subject to recommended conditions of consent the proposed supermarket can operate without exceeding reasonable noise levels in terms of section 16 of the RMA.

Conclusion on Acoustics

I accept the conclusions reached by the Applicants Acoustic Engineer and Mr Winter on behalf of Council and conclude that the effects in relation to both construction and operational noise are acceptable subject to consent conditions.

8.5 Earthworks

Earthworks associated with re-contouring of land and construction of infrastructure within the site can adversely impact on the environment in respect to noise and dust and visual amenity. In this case, the volumes and areas of earthworks and depths of cut and fill are significantly greater than the permitted standards under the District Plan.

Visual Effects of Earthworks

The earthworks proposed for the site results in the construction of significant retaining walls to the rear of the site adjoining the residentially zoned property at 15 Selby Street in order to provide the levelling required for building construction. (Wall 1 has a 6.1 high wall with a 2 m acoustic fence on top). The walls have been assessed by the applicant's urban design specialist Mr Graeme Scott and the dominance of the wall adjacent to the residential site at 15 Selby Street has been discussed in section 8.3 of this report under Urban Design

and Amenity. It is apparent that a significant change in visual outlook will result for the owner of the property at 15 Selby Street, and that the earthworks facilitate structures that will create some dominance effect on this property. In saying that however, the dominance of the wall is mitigated by the design of wall to incorporate landscaping as a green wall. The wall is also set back from the boundary of the property, these factors work to ensure that visual effects created as a result of the landform modification are acceptable. It is also of note that the owner of this property at 15 Selby Street, has made a submission in support of the proposal. Despite the landform modification proposed Mr Scott has noted in his assessment that views to the Hills can be maintained from Great South Road, as an anticipated outcome of the District Plan. I consider the visual effects of the earthworks and landform modification to be acceptable provided the mitigation proposed by the applicant in relation to the retaining walls is implemented as a condition of consent to ensure ongoing maintenance of the green wall.

Dust effects of Earthworks

In terms of noise and dust, the effects of the proposed earthworks will be temporary in nature, however will cause some disruption to residential neighbours and businesses over this time. Due to the close proximity to the town centre and that earthworks will be undertaken during summer months. Councils Senior Land Development Engineer – Mr Chris Gatehouse has recommended a series of conditions that will ensure dust is managed in a tightly controlled way. I am satisfied that should consent be granted, conditions of consent will ensure that works are undertaken in a manner which ensures acceptable management of dust.

Sediment and Erosion Control

In this case, stormwater ultimately discharges into the Helenslee Stream some 20-30 metres away from the site. As such, it is important that erosion and sedimentation controls are put in place prior to commencement of earthworks to ensure the waterways are protected from sedimentation discharge.

Erosion and sediment control measures will be installed in accordance with the proposed earthworks methodology proposed in the application (Page 3, Civil Engineering Infrastructure Report by Civil Plan). Measures include a stabilised construction entrance to the site, a sediment retention pond, a decanting earth bund and silt fences. Mr Gatehouse

raises no concerns regarding the Sediment and Erosion Control Plan. I have reviewed the plan and can confirm I am satisfied that the methodologies are appropriate.

Notwithstanding this the Applicant is currently preparing consent for lodgement with Regional Council which will also cover earthworks activities. The sediment and erosion control plan can be conditioned as part of the consent if it is granted to ensure that the final plan is aligned to any Regional Consenting requirements or changes that may result at the request of Waikato Regional Council.

Geotechnical

All earthworks across the site will need to be undertaken in accordance with the recommendations of the Geotechnical Investigation Report provided by Lander Geotechnical dated 2 April 2019. Mr Gatehouse notes: *“The Geotech investigation Report identifies the possibility of highly compressible soils especially in the lower corner which is to be retained”* If consent is granted, a condition of consent has been recommended by Mr Gatehouse to ensure that the filling work undertaken is geotechnically sound and to a standard that allows construction and development, this will address the highly compressible soils.

Archaeological

In the case of this application there is limited excavation of the site that will occur as the majority of earthworks on the site will be imported filling. The site is in fairly close proximity to the Queens Redoubt around 250m away. The Queens Redoubt was one of the largest European Forts involved in the New Zealand Land wars. There is no evidence or record of archaeological sites registered at or in the immediate vicinity to the subject site, however considering the history of the area and proximity to the Redoubt, it is appropriate to ensure an accidental discovery protocol condition is placed on the consent should it be granted.

Conclusion on Earthworks

It is my opinion that the temporary effects associated with earthworks to prepare the site for development, the effects related to visual effects of landform modification, dust, sedimentation and erosion, archaeology and the geotechnical effects will be acceptable provided conditions of consent are implemented and complied.

8.6 Servicing

Water Supply

The proposal will connect to Council's reticulated water supply system. This will include an extension of the 100mm main which will cross both Great South Road and Wellington Street to provide a suitable connection point at the front of the site. A new bulk water metre within the site will connect the internal reticulation. Mr Gatehouse notes that "*no problems are expected.*"

Wastewater

The proposal is to connect to the existing wastewater network that was recently installed in 2014. This will be done through the installation of a 150mm pipe into the existing 250mm pipe within the Great South Road carriage way. Mr Gatehouse notes in his report that "*no problems are expected.*"

Stormwater

A new public network and outfall is proposed to discharge stormwater from Wellington Street and the subject site to the Helenslee Stream via a dry basin located on unformed road reserve.

Treatment of the public stormwater created from Wellington Street will be via tree pits, swales and a proprietary device, extended detention will be stored in the basin and released via a 45mm orifice over 24hrs.

Council's Land Development Engineer Mr Chris Gatehouse has raised concerns regarding the public stormwater design. In particular, the use of a proprietary stormwater device in the Council road reserve. These devices are difficult to maintain and can be problematic and therefore are not Council's preferred method of stormwater treatment. Mr Gatehouse is satisfied that this matter can be worked through at detailed design and the conditions of the consent (should consent be granted) can address this matter. The applicant proposes to introduce further low impact design measures through detailed design stage. Mr Gatehouse is satisfied with the applicants' conclusions that the design caters for the volumes of stormwater created as a result of the formation of Wellington Street. It is noted that the

system has been oversized to allow for further development of the opposite side of the Wellington Street road corridor.

Mr Gatehouse notes that Council has an Easement policy that would require any public stormwater assets established over private land to have an easement in gross in favour of Waikato District Council. As this is not subdivision I am unable to condition this easement in a memorandum however have recommended an advice note that the applicant apply for the appropriate easement across the overland flow path that runs parallel to the rear boundary draining stormwater from Wellington Street.

Proposed Private Network

Private reticulation within the site will collect all internal run off for treatment and storage in an underground detention system located underneath the service and loading area to the rear of the site. Rainwater from the roof and canopy will be provide groundwater recharge. The applicant proposes to further explore options to reuse the stormwater from the canopy for possible landscape irrigation and has proposed a condition in relation to this. Mr Gatehouse is satisfied with the design of the private stormwater system within the subject site.

Conclusion on Servicing

Overall, my opinion is that the wastewater, water supply and stormwater can be managed appropriately through conditions of consent. The effects in relation to these matters are acceptable.

8.7 Conclusion on Actual and Potential Effects s104(1)a

- Although a difference in methodology results in slightly different traffic generation predictions, the different in generation does not alter the conclusions draw by both traffic engineers in regard to traffic effects. The effects of the proposal are restricted to the immediate network. The intersection can be appropriated designed to address both efficiency and safety on road corridor users and sites within the vicinity. Mitigation for loss of parking has been provided in the

Wellington Street road design. The effects on businesses as a result of loss of parking along Great South Road cannot be taken into account as these spaces are not lawfully established.

- From an urban design perspective, although there will be effects on the town centre through loss of buildings and human scale to the frontage, it is my view that the design response proposed goes some way to mitigating this through provision of the amenity seating area and canopy to promote improved pedestrianisation of the town centre, helping anchor a stronger sense of community and connection between the residential areas and the town centre. The attractive landscaped amenity seating area can facilitate and act as a meeting point for residents and passing tourists from State Highway 1 that use Pokeno as a service stop and this improves community wellbeing and a sense of place. It is my view that these positive design outcomes outweigh the loss of buildings along the frontage of Great South Road and Wellington Street.
- The supermarket can be serviced appropriately with water and wastewater capacity available. Stormwater has been adequately addressed and can be further developed at detail design stage. Earthworks and construction effects have been addressed along with Acoustic effects during both construction and operation. These effects are all acceptable provided the recommended conditions of consent are implemented.
- Overall, I am of the view that the actual and potential effects of the proposal on the environment for the purposes of section 104(1)(a) are acceptable.

9.0 RELEVANT PLAN PROVISIONS – S104(1)(b)

In accordance with section 104(1)(b) of the RMA, the following assessment considers the proposed land use activities in terms of relevant provisions of policy statements and plans. The focus is to establish if the proposal is consistent with the objectives and policies of relevant plans in addition to the issues, environmental outcomes, rules and explanations and reasons.

9.1 National Policy Statements

9.1.1 Urban Development Capacity 2016

This National Policy Statement on Urban Development Capacity 2016 (NPSUDC) provides direction to decision-makers under the Resource Management Act 1991 (RMA) on planning for urban environments. It recognises the national significance of well-functioning urban environments, with particular focus on ensuring that local authorities, through their planning, both:

- enable urban environments to grow and change in response to the changing needs of the communities, and future generations; and
- provide enough space for their populations to happily live and work.

This can be both through allowing development to go “up” by intensifying existing urban areas, and “out” by releasing land in greenfield areas.

This NPS aims to ensure that planning decisions enable the supply of housing needed to meet demand. The overarching theme of the NPSUDC is that planning decisions must actively enable development in urban environments, and do that in a way that maximises wellbeing now and in the future.

I consider the proposal aligns with the aims of the NPSUDC. The proposal is in a zone already considered for business activities and the use proposed is anticipated in this zone.

9.2 National Environmental Standards

9.2.1 National Environmental Standard for Managing Contaminants in Soil to Protect Human Health

Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) describes a change in land use as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred.

Regulation 6 of the NESCS specifies that an applicant must establish if any HAIL activities have occurred on the subject site. The applicant can do this by adopting one of two methodologies:

1. Review of all relevant council records including dangerous goods files, property files, registers, databases, resource consent databases, records available from Regional Council;
2. Preliminary Site Investigation undertaken by a suitably qualified and experienced practitioner in accordance with the current Ministry for the Environment's Contaminated Land Management Guidelines No. 1 Reporting on Contaminated Sites in New Zealand.

In this case, the applicant has provided a Detailed Site Investigation that confirms that the NESCS is not relevant to this application.

9.3 Waikato Regional Policy Statement

The Waikato Regional Policy Statement (RPS) provides an overview of the significant resource management issues of the region and puts in place objectives, policies and methods to achieve integrated management of the natural and physical resources of the region.

The Waikato Regional Policy Statement became operative in May 2016.

Set out below are the relevant objectives and policies from the Waikato Regional Policy Statement and assessments of this proposal in relation to them.

- **Objective 3.12 Built Environment**

Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:

- k) providing for a range of commercial development to support the social and economic wellbeing of the region.*

This proposal is to establish a new supermarket in Pokeno Town Centre, which does not currently have a supermarket. It is my view that a supermarket is a fundamental amenity for a town the size of Pokeno and the application has been designed to meet the outcomes of habitability the town centre seeks to achieve. I am of the view that this proposal will provide for commercial development which will support the social, economic wellbeing of the region.

- Policy 6.1 Planned and co-ordinated subdivision, use and development

Subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which:

a) has regard to the principles in section 6A;

The principles in Section 6A are detailed below along with assessments in relation to them.

- 6A - General development principles

New development should:

a) support existing urban areas in preference to creating new ones;

This proposal will support the existing urban area of Pokeno as it is located in the town centre.

d) not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure,

Council engaged an external roading and traffic expert (Ms Naomi McMinn) to assess roading and traffic matters from this proposal. that this proposal will not compromise the safe, efficient and effective operation and use of existing and planned transport infrastructure.

e) connect well with existing and planned development and infrastructure;

The proposal will connect with existing wastewater and water supply infrastructure. The Stormwater is proposed to discharge into the Helenslee stream with appropriate detention to avoid flooding effects.

f) identify water requirements necessary to support development and ensure the availability of the volumes required;

Council's Senior Land Development Engineer (Mr Chris Gatehouse) has confirmed that there are available water volumes as required to service the supermarket.

c) is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and

It is my opinion that sufficient information has been provided to allow assessment of potential long-term effects of this development.

d) has regard to the existing built environment.

This development has had regard to the existing built environment which has been described in section 7.0 of this report.

- Policy 6.12 Implementing Franklin District Growth Strategy

The Franklin District Growth Strategy (2007) provides for the management of growth in the part of the Waikato and Hauraki Districts that was the former Franklin District. Growth should be managed in accordance with this Strategy. In particular:

a) management of the built environment should be in accordance with the general visions and development directions described for the relevant towns and rural character areas in Sections 7 and 8, and Map 1.0 of the Franklin District Growth Strategy; and

The Franklin District Growth Strategy applies until the Future Proof Growth Strategy and relevant district plans are amended.

As detailed in section 10.4 of this report further on, this proposal will be in accordance with the general vision and development directions for Pokeno as detailed in the Franklin District Growth Strategy.

Conclusion

Taking into account all of the above, overall it is my opinion that this proposal is compatible with the relevant provisions of the Operative Waikato Regional Policy Statement.

9.4 Waikato Regional Plan

The Waikato Regional Plan contains policies and methods to manage the natural and physical resources of the Waikato region. The applicant is making separate applications to the Regional Council and I consider it appropriate that assessment under the Regional Plan is undertaken by the Regional Council Officer processing the Regional Consents.

9.5 Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010

9.5.1 Vision and strategy

The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 was endorsed with the purpose of implementing co-management of the Waikato River. The overarching purpose of the Act is to restore and protect the health and wellbeing of the Waikato River for future generations. This Act has the same statutory standing as a Regional Policy Statement.

The subject site is located within the Waikato River Catchment. The applicant is proposing appropriate sediment and erosion control measures be implemented to ensure sediment does not enter the waterways. The activity is and will be undertaken in such a way that ensures there is no adverse effect on the Waikato River and its catchments. Stormwater disposal will implement low impact design to treat the stormwater discharges and the applicant has proposed to use groundwater recharge techniques and look into reuse options for stormwater. The proposal is therefore considered to be consistent with the relevant provisions of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

9.6 Operative Waikato District Plan (Franklin Section) 2000

9.6.1 Assessment Criteria

The Franklin District Plan sets out a comprehensive list of required considerations for an application of this nature. Under section 29.7B as a discretionary activity the plan directs the following:

“Applications for Discretionary Activity Resource Consent will be assessed with regard to the following matters (to the extent that they are relevant):

- 1. The assessment criteria for Restricted Discretionary Activities (Rule 29.7A);*
- 2. The matters identified in Part 53 of the plan;*
- 3. Whether any adverse effects on the environment will be satisfactorily avoided, remedied or mitigated;*
- 4. Whether the DEVELOPMENT is consistent with the objectives and policies for a structure plan area;*
- 5. Any other relevant matter under section 104 of the Resource Management Act 1991.”*

Section 29.7A identifies the relevant criteria as follows:

(a) In assessing applications for consent for Restricted Discretionary activities (subject to rules 29.3.2, 29.3.3 and 29.3.4) the Council will, in making a decision, restrict the exercise of its discretion to the following matters (to the extent that they are relevant), and may impose conditions in relation to these:

- (i) The Design Assessment Criteria contained in Appendix 29.2 as relevant and identified for each structure plan area:*
- (ii) Site Planning;*
- (iii) BUILDING form, public interface and external appearance;*
- (iv) Open spaces, parking areas and landscaping;*
- (v) Whether the proposal is in accordance with the Design Assessment Criteria (Appendix 29.2)*

(b) *Servicing*

Whether the DEVELOPMENT can be adequately serviced for stormwater (having regard to the recommendations of the adopted Stormwater Catchment Management Plan and/or an approved stormwater discharge consent), wastewater, water supply, water supply for fire fighting purposes and utilities.

.....

(d) *Vehicle access and car parking design*

This set of assessment criteria directs us to the design standards under Appendix 29.2. (A copy of all relevant Assessment Criteria has been provided in the Appendices included in the Applicants Planning Assessment - APPENDIX A) The applicant has provided an analysis against the Design Standards in their Urban Design Assessments of which Council engaged Urban Designer Lauren White has reviewed. The findings of this have been set out in section 8.3 of this report where the effects on Urban Design have been assessed.

A summary is provided below:

- Design Element 1: The proposal has been assessed to not meet Criteria 1-4 and 7, but meets Criteria 6, 8 and 9. Criteria 10 and 11 are not relevant.
- Design Element 2: The proposal does not meet Criteria 4 and 6. It meets Criteria 1, 2, 5 and 7 and partially meets Criterion 3.
- Design Element 3: The proposal meets Criteria 1-3, 5, 6 and 7. Criterion 4 is not applicable to the site.

The District Plan notes that if a criterion is not met the applicant shall explain with reference to the explanation for the particular design element:

- whether site constraints inhibit the ability to address the criterion, and/or;
- how the intention of the criterion is met by the proposal, and/or;
- whether the proposal represents a better design solution than that suggested by the criterion.

The applicant's urban designer Mr Graeme Scott provides this assessment. On review the Council peer reviewer Ms Lauren White agrees with the findings of the assessment.

I am therefore of the view that although there are a number of criteria that the proposal fails to meet, the design solution proposed is acceptable, noting that the design criteria is not directive and allows flexibility within the standards.

The Assessment Criteria for servicing, vehicle access and parking design have been addressed in my assessment under sections 8.4 and 8.5 above and will not be repeated here. The proposal meets these assessment criteria.

The relevant assessment criteria set out in Chapter 53 as follows:

How the proposed activity will affect:

(a) People in the neighbourhood and, where relevant, the wider community – including any socio-economic and cultural effects. In particular, whether the activity will:

- conflict with the cultural and social values of the community, including those of tangata whenua; or*
- detract from the amenity values of the surrounding area; or*
- adversely affect the convenience, health or safety of people in the neighbourhood or wider community: Including transportation, road safety, risks associated with the use of hazardous substances or hazardous installations and any other adverse effect on the physical or psychological health and well-being of people; or*
- adversely affect the local economy or impose a financial burden on the wider community in terms of creating a demand for services or infrastructure; or*
- affect employment in the neighbourhood or wider community.*

.....

(d) Natural and physical resources. In particular, whether the activity will:

- cause, accelerate, or contribute to natural hazards including inundation, instability or erosion; or....*

I consider that I have adequately covered these matters in my assessment of potential and actual effects in section 8.0 of this report and to address them again here would not add further value to decision making.

I conclude that the proposal fails to meet a number of assessment criteria in relation to Urban Design matters but meets the general assessment criteria of the plan and those relating to parking, transportation and servicing.

9.6.2 Objectives and Policies

Franklin District Plan sets out a comprehensive list of relevant Objectives and Policies. I have included a full list of the relevant sections directly taken from the District Plan with the corresponding Objectives and Policies these can be found in APPENDIX J. I have assessed and considered each relevant part of the provision in the context of this application.

The applicant's Planner Ms Panther Knight sets out in her assessment the Objectives and Policies relevant to this application. I concur with Ms Panther Knight's findings and generally consider she provides an accurate assessment of the relevant planning provisions that require addressing. I will therefore not repeat these findings here. Ms Panther Knight's assessment can be found on Pages 39-48 of the Assessment of Environmental Effects Report provided as part of the application (APPENDIX A). I will below expand on several areas of assessment where I consider further explanation or assessment is necessary to make a full and complete assessment against the operative District Plan provisions:

Part 19 – Urban Environment

Section 19.4.1 – Business Activity Areas

Objective 19.4.1 - To permit a wide range of activities to occur within the district's established urban, commercial and urban industrial areas provided performance standards are achieved, and only allow business activities out of these areas where any adverse effects can be appropriately and effectively addressed.

Policy 2. - That business (and other) activities be permitted within the zone primarily by way of compliance with performance standards which address specific or quantifiable effects, rather than conformity with activity or landuse types.

With regards to Policy 2, this proposal complies with the performance standards in the Business Zone, however does not comply with some of the development standards. This Policy refers to performance standards as including development stands. Non compliances in this instance relate to the main frontage control, verandah cover, façades and vehicle crossing width. The environmental effects relating to those non-compliances have been assessed and discussed in the Urban Design and Transportation effects section of this report. The effects are acceptable and therefore in my view the proposal is not inconsistent with this policy.

Section 19.4.3 Adverse Effects

Objective 19.4.3 - To protect the Residential Zone and other sensitive areas or resources from the adverse effects of business activities.

All of the Policies in section 19.4.3 are relevant to this proposal in my opinion. These relate to performance standards, including airborne emissions, traffic and noise and taking into account amenities for non-business zoned properties.

It is my opinion that this proposal will be compatible with those policies and the objective above, taking into account the following:

- The majority of this proposal is well separated from the Residential zoned site located to the north/north east of the subject site.
- There are restrictions proposed on the hours allowed for loading and unloading of goods, which will occur in close proximity to the northern boundary of the site, there are restrictions on illumination of the signage adjoining the Residential Zone.
- Although the height of the walls to the rear are dominant, these have been set back from the boundary and the applicant has softened the dominance by proposing a green wall and additional landscaping of Titoki trees adjoining the northern boundary. This will serve to partially screen the supermarket when viewed from the north.
- This proposal will provide sufficient on-site parking, loading and manoeuvring space,
- Noise from this proposal will also comply with District Plan requirements. An acoustic fence and additional acoustic mitigation associated with loading and service vehicles is proposed.

It is my view that taking these factors into account and that the owner of the nearest residential property has made a submission in support of the proposal, the application is consistent with the objectives and associated policies listed above. I recognise that Policy 19.4.3 states that: “All business activities must (emphasis added) *comply with the relevant standards and guidelines.*” This is a directive policy that requires compliance with all standards. This policy does not specifically state that it is the standards and guidelines, as they apply to the residential interface. However in my view it is reasonable to assume that this policy should be read in the context of the overarching topic of protecting the residential zone or other sensitive areas from business activities and therefore the policy applies to standards and guidelines that affect this boundary and not to all standards and guidelines triggered by the proposal. In this case the standards the proposal does not comply with have no bearing on adverse effects associated with the amenity enjoyed by the sensitive receiver property to the rear of the site and therefore I consider the proposal is consistent with this policy.

Conclusion on Part 19

Overall It is my view that the proposal is consistent with Part 19 of the District Plan including the Objectives and Policies and overall outcomes sought within this chapter.

Part 54 – Pokeno Structure Plan

Part 54 of the District Plan sets out a comprehensive set of Plan Provisions in relation to the Pokeno Structure Plan Area. These Objectives and Policies look to give effect to the general principles for growing the town of Pokeno.

Objective 54.15.2.4.2 seeks:

To achieve subdivision and development which provides a high standard of amenity, walkability, safety and convenience, and contributes to the creation of a positive sense of place and identity.

I agree with the Ms Panther Knights assessment of this objective, however I find that although recognising these policies in Appendix 4 of her planning assessment she draws no conclusion on whether she considers the proposal to be consistent with the corresponding Policies. My assessment of these policies is provided below:

54.15.2.4.3 Policy - General

Subdivision and development should:

- i. Be of a type and design so as to achieve a high standard of connectivity, amenity, walkability, safety and convenience, and contribute to a positive sense of place and identity in general accordance with the Pokeno Structure Plan.*
- ii. Support and consolidate retailing activities and commercial development in the town centre.*
- iii. Incorporate Crime Prevention Through Environmental Design.*

I am of the view that the proposal meets this policy, the proposal has been reviewed by two separate urban designers, who consider that the landscaping response is appropriate considering the nature of the activity, the existing environment, and the benefits of providing an anchor store to the town centre. The design provides vertical structures with openness to the street and low-lying vegetation and lighting to address crime prevention. The proposal is consistent with this policy.

54.15.2.4.4 Policy - Town Centre

Subdivision and development should support a town centre (having a “Business Centre” Classification) which provides accessible, walkable and conveniently-located community facilities, retailing activities, service and commercial activities, provided that:

- a) Great South Road should be the focus of retailing activities within Pokeno;*
- b) Great South Road should be lined with a continuous retailing activities strip from Market Square to Cambridge Street. This retailing activities strip should include active building frontages at ground level, with buildings generally built to the street boundary and pedestrian footpaths sheltered by verandas.*
- c) Vehicle access and driveways should avoid breaks in the continuous retail frontage from Market Square to Cambridge Street. Parking and loading should be located at the rear of buildings and wherever practical accessed by a side street or rear lane.*
- d) Development elsewhere in the town centre should be appropriately designed to enhance pedestrian amenity.*
- e) Signs in the town centre should enhance the amenity of the area and be compatible with the historic scale and sense of place, avoid clutter and inappropriate illumination, and be of an appropriate scale;*

- f) *The opportunity is retained for the development of a Train Station and Park and Ride Facility at Lot 1 DP 147726.*
- g) *Development and activities (particularly retailing activities) located in 'Area B' (illustrated on the planning maps) shall be of a design, type and scale to complement Great South Road as the focus of retail activities and pedestrian amenity. Smaller format retail should be located on the Great South Road main street unless the retail activities have operational or design characteristics that would undermine the pedestrian orientation of the main street.*

Although I am of the view that the development provides accessible, walkabout and conveniently located retailing activities through the designed proposed, in this instance it has not meet the specific caveat listed under b) above. The proposal is not proposing retailing activities within the Great South Road frontage. The canopy proposed does not cover the footpath or the length of the entire frontage. The proposal partially meets c) as although there are no vehicle crossings located off Great South Road, parking is located in front of the supermarket. The signs have been assessed by the Urban Designers and I conclude that both the signage on the building and the free-standing sign are of an appropriate scale and fit with the existing environment the proposal meets e). Overall, I consider the proposal to be partially inconsistent with Policy 54.15.2.4.4.

Objective 54.15.2.4.2 Urban Form and Amenity

This objective is to achieve development which provides a high standard of amenity, walkability, safety and convenience, and contributes to the creation of a positive sense of place and identity.

Policy 54.15.2.4.7 Street Interface

(c) Development should address and engage the street and public realm through quality urban design at the interface.

This policy is about having development that addresses and engages the street and public realm through quality urban design at the interface. This proposal has been assessed by Mr Scott and Ms White as having an acceptable solution along the public interface. On that basis I conclude that from an urban design perspective the proposal engages with the street.

Given this, it is my opinion that this proposal will be consistent with the objective and policy mentioned above.

Conclusion on Part 54

In conclusion, although partially inconsistent with the policy relating to town centres above, it is my opinion that when you consider Part 54 in its entire context and take into account the outcomes sought by the Structure Plan. I am of the view that overall the proposal is consistent with Part 54 of the District Plan and associated Objectives and Policies and therefore have placed more weight towards the Objectives and Policies in this Section that the proposal is consistent with.

Part 9 – Transportation

Objective 9.3.1 - Minimise Conflict

To minimise conflict between the movement and access functions of roads and ensure, as far as practicable, that activities are compatible with the predominant function of the roads they front.

Policies 9.3.1 numbers 1, 2, 4, 6 and 7 are considered relevant to this proposal. These relate to the roading hierarchy, locations of high traffic volume activities, parking and loading and front yards.

Both Great South Road and Wellington Street are local roads in the road hierarchy, Vehicular access for this high traffic generating activity will be to Wellington Street from two separate crossings that separate delivery vehicles from the main customer vehicle access. The proposed seating area has been set back with a wide footpath provided to allow some separation from the road activities along the frontage of Great South Road and minimise conflict between pedestrians and road users.

In addition, sufficient off-road parking and loading space has been provided for this development. Given all of this, it is my opinion that this proposal will be compatible with the transportation objective and relevant policies mentioned above.

9.3.2 Objective – Safety

To ensure a safe roading network.

Policies 1 to 4 inclusive are considered relevant to this proposal. These policies relate to standards for vehicle access, driveways, parking and loading areas, road intersection, signage and light overspill.

Both the traffic engineering assessments by Stantec and Grey Matter conclude that the roading network will remain safe as a result of the proposal. Compliance with conditions of consent relating to roading matters will ensure that the location and design of vehicle accesses, parking, loading and manoeuvring areas, will result in a safe roading network. The proposed intersection design has been assessed in consideration of the existing road users and existing environment. Conclusions reached by both the applicants Traffic Engineer and the Council's peer reviewer have concluded that the preliminary design is appropriate from a safety perspective. A condition of consent is recommended to ensure that on construction of the intersection a safety audit is undertaken and any matters of concern identified in that audit are rectified prior to operation of the road. Lighting will be required down Wellington Street and a lighting plan can be conditioned to ensure that the lighting is compliant with the RITS. Lighting of the seating area and signage will be positioned to comply with District Plan Rule 29.6.4 Light Spill and Glare. A lighting plan can also be conditioned for the onsite lighting. Taking into account all of this, it is my opinion that this proposal will be consistent with the transportation objective and policies mentioned above.

9.3.3 Objective – Other Adverse Effects

To ensure that the construction, modification and use of roads do not cause adverse effects.

It is my opinion that this proposal is consistent with Policy 2 as the adverse effects associated with the construction of Wellington Street have been taken into account in the processing of this application.

Conclusion on Part 9

On review of all the above relevant considerations for Part 9, it is my opinion that this proposal will be consistent with the transportation objective and policies mentioned above and meets the anticipated environmental results the plan seeks to achieve in Part 9 of the Plan.

Part 15.4 - Signage

I agree with the Applicant's Planning Assessments provided in section 10 of the application documentation page 48 as they relate to the relevant objectives and policies under section 15.4.1.2. I adopt this assessment.

For ease of reference the Objectives and Policies as they relate to signage are listed below:

15.4.1.2 Objectives

- 1. To enable permanent and temporary signs to be erected, maintained and removed within the district in a manner that avoids, remedies or mitigates adverse environmental effects (Issue 1).*
- 2. To avoid, remedy or mitigate the adverse visual effects of a sign or signs on amenity values of the surrounding environment (Issue 2).*
- 3. To ensure that signs do not pose a threat to community health and safety, and the safe and effective functioning of the road network (Issue 3).*

15.4.1.3 Policies

- 1. Provide opportunities for permanent signs in all areas of the Franklin District (Issue 1; Objective 1).*
- 2. Provide opportunities for erecting temporary signs in all areas, provided that they are taken down once their purpose has been served (Issue 1; Objective 1).*
- 3. Require that the visual and physical attributes of a sign, such as its size, height, colour and illumination, be in keeping with the character and amenity values of the surrounding environment (Issue 2; Objective 2).*
- 4. Avoid the potential for visual clutter of signs in the Rural, Coastal, Rural Residential, Village, Village Business, Residential and Residential 2 Zones, by limiting in any one location the occurrence of multiple signs in close proximity to one another (Issue 2 and 3; Objective 2 and 3).*
- 5. Require that all signs are constructed and maintained to a high standard of structural quality and can be clearly read (Issue 2 and 3; Objective 2 and 3).*
- 6. Ensure that signs do not create an obstruction to road-users or pedestrian traffic (Issue 3; Objective 3).*
- 7. Avoid the potential for visual distraction of a sign or signs adjacent to any road (Issue 3; Objective 3).*

8. *Ensure that the location of a sign does not obscure a road-user's visibility of any road sign, intersection, private entrance, road marking, traffic signal, pedestrian crossing or other road-user (Issue 3; Objective 3).*
9. *Encourage sign design and construction that is simple, legible and communicates clear information (Issue 1, 2 and 3; Objective 1, 2 and 3).*

In summary when taking into account the existing environment and character of the area, the free standing sign (although over the height anticipated for the zone) will not be out of keeping with the existing amenity and character currently enjoyed. The sign will be constructed to a high quality and set back at appropriate distances from the road that does not cause concern for either the applicants or the Council's engaged Traffic Engineers. The sign further acts to create additional verticality to the frontage of the site in lieu of the built form anticipated by the District Plan and act as a guide to the entrance to the site. Signage on the buildings will be proportional to the size of the building proposed, the applicant has proposed that illumination on the rear sign facing the residential property at 15 Selby Street will operate from 6am - 10pm, other signage will be illuminated within the opening hours from 6am to 12 midnight. The sign has been assessed by the Urban Designers as being appropriate in the location.

Although the design guideline developed for Pokeno does not envisage free standing signage there are no objectives and policies in relation to signage that discourages or seeks to avoid free standing signage.

Conclusions on Part 15.4

Taking into account the above, the proposed signage both freestanding and otherwise, is in my view consistent with the objectives and policies of the District Plan provisions.

9.6.2.1 Conclusion on Objectives and Policies of the Franklin Section

The proposal does not comply with a number of what I consider as fundamental Design Element Criteria set out under Appendix 29.2. In order for me to consider just how much weight I should place on these criteria; I have further turned to the Objectives and Policies for additional guidance on what the District Plan is looking to achieve for the Pokeno Town

Centre. I have found that the proposal is generally consistent with the Objectives and Policies of the Operative Plan. The Objectives and Policies make little reference to the Design Element features and methods for achieving a vibrant town centre as detailed in Appendix 29.2. Only one Policy specifically mentions the methodologies adopted by the Design Criteria guidelines in Appendix 29.2 (e.g. buildings should be at the frontage, parking should be at the rear) and that is Policy 54.15.2.4.4 - Town Centre. At best I find the proposal to be partially inconsistent with this policy. Further to this when assessing the anticipated results, I have concluded that the proposal achieves the outcomes sought by the plan for the Structure Plan Area. On this basis I conclude that the proposal is overall consistent with the relevant District Plan provisions.

9.7 Conclusion on Relevant Plan Provisions under Section 104(1)(b)

I have concluded that the proposal aligns with the NPSUDC, it does not trigger the NESCS, and it is consistent with both the Regional Policy Statement and the Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010. The Provisions of the Operative District Plan have been assessed where it was concluded that although the proposal did not comply with a number of Design Element Criteria, the proposal was consistent with the Objectives and Policies in the plan and met the outcomes sought for the Pokeno Town Centre under the Structure Plan.

10.0 SECTION 104(1)(c) – OTHER MATTERS

When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to any other matter the consent authority considers relevant and reasonably necessary to determine the application. These matters are discussed below.

10.1 Proposed District Plan - Objectives and Policies

The Proposed District Plan (Notified Version 2018) was publicly notified in July 2018. This means that the Objectives and Policies set out in this plan have legal effect from that date. However, as it is not possible to undertake a complete assessment under the proposed plan due to an incomplete rule framework (the relevant rules do not yet have legal effect), the objectives and policies of the proposed plan are a relevant s104(1)(c) consideration under the Operative District Plan assessment.

Ms Panther Knight has undertaken an assessment of the relevant Proposed District Plan Objectives and Policies on Pages 54 to 62 of her Assessment of Environmental Effects. I generally concur with her findings and specifically add the following of note:

Under the Proposed District Plan the site is zoned Business Town Centre Zone. This zone seeks to establish small scale retail form that promotes pedestrianisation and has a typical “main street” feel. Larger scale activities such as supermarkets are considered in the Plan to be more appropriately located in the Business Zone.

- The proposal has been found to be partially consistent with Policy 4.1.8 that relates to Integration and Connectivity because the policy seeks for development confirm to the Town Centre Design Guidelines. The proposal only partially conforms to these guidelines.
- The proposal is inconsistent with Policy 4.5.10 - Retail Business Town Centre Zone as the proposal seeks to locate a large-scale supermarket activity on a site zoned Business Town Centre.
- The proposal is partially inconsistent with Policy 4.5.18 and Policy 4.5.20 namely the parts that seek to maintain small scale buildings along the frontage with window facades, continuous verandas covering the footpath and consistency with section 6 of the Architectural Form, Materials and Signage Design Guide 2015.

- The proposal in my view is inconsistent with Policy 4.5.21 as although the freestanding sign provides some signalling of the corner of Great South Road and Wellington Street, I don't consider the sign through its design, position and architectural details ensures positive reinforcement of the corner location.
- The proposal seeks landscaping within the pedestrian frontage area and policy 4.5.22 seeks for landscaping outside of this area to contribute to the streetscape. I agree that the areas of landscaping outside of the pedestrian frontage contribute to the streetscape. I am of the view that the proposal is partially consistent with this policy due to the landscaping being also located within the pedestrian frontages areas.
- The proposal has some inconsistencies with the Urban Design Town Centre Guidelines 2018 – referenced in Policy 4.5.24. The Urban Design Town Centre guidelines seek under *Section 5. Street and Public Realm Interface* to ensure main retail streets are edged with a continuous line of building frontages and encourage buildings to have clearly defined public fronts that address engage and activate the street. promote small scale fine grained architecture to be anticipated within Town Centres. It must however be recognised that the Urban Design Town Centre Guidelines do not have any legal effect at this stage.
- The Proposal is consistent with the strategic Objective 4.1.7 Character of towns, as the development is attractive, connected and reflects the existing character. The proposal is also consistent with the more specific Objective 4.5.12 Business Town Centre Character.

Overall, I consider that the proposal is consistent with the Proposed District Plan Objectives but inconsistent with the Policies. It is difficult to draw further overall conclusions on the Proposed District Plan matters because the Rules, Character Statements, Urban Design Guidelines do not have the same legal effect as the objectives and policies, affording them little weight. Without these it is difficult to determine the context needed on any overall conclusions regarding what the Proposed Plan is looking to achieve within the Business Town Centre Zone.

10.2 Waikato Tainui Environment Plan

The plan is to provide a map or pathway that will return the Waikato-Tainui rohe to the modern day equivalent of the environmental state that it was in when Kiingi Taawhiao composed his maimai aroha. To do this, the plan seeks to:

- 1 provide the overarching position of Waikato-Tainui on the environment (s1.3.1);
- 2 consolidate and describe Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment (s1.3.2);
- 3 underpin the development of a consistent and integrated approach to environmental management within the Waikato-Tainui rohe (s1.3.2);
- 4 describe Waikato-Tainui environmental issues (s1.3.4);
- 5 provide tools to enhance Waikato-Tainui mana whakahaere and kaitiakitanga, particularly when participating in resource and environmental management through (s1.3.5):
 - (a) influencing the development of all environmental policies and plans that affect Waikato-Tainui;
 - (b) establishing a framework for resource and environmental management to support tribal members, whether as whaanau, marae, hapuu, or whatever grouping Waikato-Tainui, from time to time, choose to adopt;
 - (c) providing mechanisms to restore and protect the natural environment of Waikato-Tainui, whilst recognising the reasonable needs of local communities;
 - (d) actively contributing to the co-management of the Waikato river;
 - (e) influencing local and national decision makers;
 - (f) providing a guide for resource users or developers in the Waikato-Tainui rohe;
 - (g) affecting how and where development may occur; and
 - (h) providing clear and consistent issues statements, policies, and methods to manage natural resources.
- 6 provide guidance to external agencies regarding Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment (s1.3.6).

Section 25 of the Plan sets out matters relating specifically to Land Use Planning. The Objectives and Policies generally seek to achieve urban development that is well planned and the environmental, cultural, spiritual and social outcomes are positive.

The stormwater design introducing Low Impact Design techniques and reuse of water, the construction methodology that ensures sediment is controlled appropriately and the overall design of the proposal are all measure that cumulatively ensure the proposal meets the Objectives and Policies set out in Chapter 25 of the Environmental Plan. The applicant has engaged with representatives from Ngati Tamaoho and no submission have been received from Mana Whenua in relation to this application. I am of the view that the proposal is consistent with the Waikato Tainui Environmental Plan.

10.3 District Plan Integrity and Precedent Effect

There is no statutory provision for precedent effect or adverse effects on the integrity of the District Plan to be considered. These are formulated by the Courts and commonly used to reinforce principles and aid in assessments.

Precedent effect

The difference between the legal concepts of precedent and district plan integrity was described by the High Court in *Stirling v Christchurch City Council*, 2011 in the following way:

The concept of precedent reflects the concern that the granting of consent may have on planning significance beyond the immediate vicinity of the land concerned, plan integrity is more likely to reflect the public confidence in the Plan.

In my opinion the precedent effect is a relevant factor for Council to take into account in this instance. Although the activity is a Discretionary activity the High Court in *Stirling v Christchurch CC* (2011) confirmed precedent effect is a legitimate consideration for discretionary activities of a resource consent application.

A precedent reflects the concern that a grant may have on the fate of future applications for consent. In other words, how a decision may influence the way in which future applications

are dealt with.

The concern in this case is that the development of Pokeno Town Centre is still yet under development to support the new growth in the residential and industrial areas. Many of the sites are looking to develop or redevelop within the town centre. I have turned my mind to the question of whether allowing this proposal to proceed will result in other proposals also wishing to depart from providing buildings along the frontages of Great South Road and Wellington Street and wishing to avoid the provision of Verandas with carparking at the front of their sites. On consideration of this I am of the view that this proposal is somewhat unique in the nature of the activity proposed. Although in this case the proposal does not meet a number of plan provisions associated with design, it has a number of positive factors that have counted in its favour that would not likely be replicated by other developments within the town centre. These are as follows:

- The activity proposed being a supermarket is a fundamental core service and anchor shop activity that will provide 80-100 jobs for the area.
- The applicant has designed and invested significantly in the provision of a landscaped amenity seating area available to the public to mitigate the effects of not meeting the plan provisions associated with the Design Criteria.

If these factors were replicated, I do not have any concerns regarding a precedent being set or undermining the function of the town centre because as shown by this proposal the affects have been assessed as acceptable and the proposal is generally consistent with the Operative District Plan.

Administration of the District Plan (District Plan integrity)

District Plan integrity reflects the public confidence in the plan. The Environment Court (EC) in the case *Berry v Gisborne District Council* (2010) considered precedent and plan integrity and cautioned the use of such factors. The EC advised an application will only be declined on the basis of plan integrity where:

- The proposal clearly clashes with important plan provisions; and
- It is likely that further applications will follow which are equally incompatible with the District plan and materially indistinguishable.

In this case, it is my opinion that although the proposal fails to meet a number of key assessment criteria in relation to the design elements, the proposal still achieves the overall outcomes sought by the District Plan and has been shown to be consistent with the Objectives, Policies and Anticipated Results. I am therefore of the view that the integrity of the plan will be upheld if this proposal was to be granted.

10.4 Franklin District Growth Strategy (August 2007)

Section 7.6 of the Franklin District Growth Strategy (FDGS) covers Pokeno. The vision for Pokeno recognises that Pokeno presents an opportunity for significant new ...commercial and industrial activities, given its proximity to State Highways 1 and 2 and railway. The vision further states that *“development of Pokeno is an opportunity to redesign in an integrated manner, combining all the necessary features for an attractive and functional village. It is expected that a comprehensive master plan for Pokeno will address features of a complete, self-contained town – work, live, play and the infrastructure required to support it.”*

Comments:

The Pokeno Structure Plan has now been incorporated into the District Plan – Chapter 54.14. This proposal has been assessed with regards to the Pokeno Structure Plan in section 9.5.2 of this report.

In discussing the character area of the Pokeno Village centre, the FDGS states the following; *“The opportunity to redevelop the village centre should take into account the existing urban structure of adjoining areas, and endeavour to revitalise the village centre.”*

It is my opinion that the provision of a supermarket along with the landscaped seating amenity area proposed will assist with revitalising the village centre, particularly with the provision of the canopy, and the landscaped structures providing verticality and some sense of enclosure for pedestrians. The nature of the activity proposed will promote connection between the residential areas and the town centre through use of the supermarket.

Section 7.6.2 of the FDGS covers work in Pokeno. The following principles are relevant to this application.

11. *Achieve good quality design of business areas*
12. *Ensure compatibility of adjacent users*

13. *Cluster retail activity and residential development in the heart of the village strengthening the existing structure of the village centre*

14. *Ensure efficient use of business land*

Comments:

Principle 11 above will be achieved by this proposal as the design has been assessed by two urban designers as appropriate.

The supermarket will be located within the heart of the business area in Pokeno which will strengthen the existing village centre and will therefore be compatible with adjacent business users. Hours of operation of the supermarket and hours for goods loading and unloading have been proposed so that the activity is compatible with nearby residential uses.

It is my opinion that this proposal is an efficient use of Business zoned land.

10.5 Pokeno Town Centre Architectural Form, Material and Signage Design Guide 2015

The Waikato District Plan – Franklin Section Appendix 29.2 Design Assessment Criteria Design Element 2: Building Form, Public Interface and External Appearance Criterion 1 states:

“When viewed from the road or any public space, buildings should create visual interest through articulation, openings and variation and should be in accordance with any design theme that has been developed for the area.”

The Pokeno Town Centre Architectural Form, Material and Signage Design Guide is one design theme that has been developed for Pokeno in conjunction with the Pokeno community.

The Pokeno Town Centre Architectural Form, Material and Signage Design Guide was adopted by Waikato District Council in September 2015.

The objective of this Guide is to ensure that the Pokeno Town Centre respects the community’s desire to have a small town that retain its country style atmosphere.

This Guide addresses:

- Material to be used
- Architectural style

- Detailed design for signs

The applicant's urban designer Mr Scott has advised through email correspondence that:

"This document expands on the Appendix 29.2 Design Assessment Criteria in the District Plan and, in my view, adds little substantive information apart from the suggested colour palette. I note that the colour of the proposed supermarket building fits within this colour palette.

However, I don't consider the document changes my assessment that, in respect of this site, the wider benefits of having the supermarket in the centre of town outweigh the District Plan's aspirations for a more traditional town centre."

Ms White has reviewed these comments and concludes:

I concur that this document aligns with and extends the intentions of Appendix 29.2 through the focus on small scale buildings along the Great South Road frontage, with traditional and varied roof forms, colours and materials. A supermarket development cannot practically deliver on the majority of these built form outcomes, and setting the large format building back from the street and employing a landscape approach to the frontage provides an acceptable alternative.

Ms White has also assessed the proposed signage against the Guidelines in response to concerns raised in submissions she concludes:

With respect to its inconsistency with the signage guidelines, these guidelines include two principles specific to signage as follows:

Principle 9 – signage should be integrated into the design of the building, namely within/on verandas, fascia's, elevations etc. This principle also acknowledges that signs in other locations should sympathetically integrate with the design of the building.

Principle 10 – signage should not dominate windows and allow people to see into units which provide passive surveillance of the street.

The proposed signage on the supermarket is integrated with the building façade and its green colour generally consistent with those suggested by the guide. The free-standing pylon sign is consistent in colour and material with both the supermarket building and the pedestrian canopy and it allows sightlines across the site and Great South Road."

I conclude that overall the proposal fails to comply with The Pokeno Town Centre Architectural Form, Material and Signage Design Guide

10.6 Waikato Blueprint - June 2019

The blueprint was developed and delivered through a series of intensive consultation and Inquiry-By-Design workshops in 2018. The aim of the Blueprint is to provide a high-level spatial picture of how the district could progress over the next 30 years, address the community's social, economic and environmental needs and respond to its regional context. Nine District Wide themes were developed and 15 Local Area Blueprints. In this case I consider it most relevant to discuss the Local Area Blueprint for Pokeno.

Four initiatives were identified as being of Top priority to the town. Of most relevance to this proposal is that listed at PO6.I which is to:

Prepare a detailed retail needs calculation, preliminary transport and open space options, followed by the production of a town centre strategy that reconciles the current and future retail, employment, community facilities, and open space needs.

It is recognised that it would be ideal to be able to provide for a key anchor activity such as a supermarket in full integration with the above strategy I do not consider it appropriate to hold back development within the town centre until such time as this strategy is developed. At this point in time no further development has been approved through Council to prepare the above.

10.7 SUMMARY OF S104(1)(C)

The conclusions reached under s104(1)(c) in regards to other matters are as follows:

- The proposal is inconsistent with the Policies of the Proposed District Plan as they relate to urban design matters but consistent with the Objectives. The proposal is consistent with all other relevant Objectives and Policies as set out in the Ms Panther Knights assessment.
- The proposal is consistent with the Waikato-Tainui Environmental Plan;
- The proposal does not undermine the integrity of the District Plan;
- The proposal does not set a precedent for other applications.

- The proposal fails to comply with The Pokeno Town Centre Architectural Form, Material and Signage Design Guide
- The proposal is consistent with the Franklin District Growth Strategy and Waikato Blueprint.

11.0 ASSESSMENT OF PART 2 MATTERS

I now turn to the assessment under Part 2. The Court of Appeal in *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA determined that, in the context of resource consents, RMA decision makers should usually consider Part 2 when making decisions on resource consents (this is the implication of the words “subject to Part 2” in s 104). However, it stated doing so is unlikely to advance matters where the relevant plan provisions have clearly given effect to Part 2 or where it is clear that the plan is “competently prepared” with a “coherent set of policies” such that there is no need to refer to Part 2.

In the present application, I consider it is appropriate to apply Part 2 as it cannot be said that the Operative Waikato District Plan – Franklin Section contains a coherent set of policies or gives effect to the Operative Waikato Regional Policy Statement due to the timing of the two plans. There is therefore potential for incomplete coverage in the Operative Waikato District Plan. As this is one of the three caveats where the Supreme Court in *King Salmon* said recourse should be had to Part 2, I provide an assessment of the application against Part 2 below. Furthermore, given the Operative Waikato District Plan was prepared before the *King Salmon* decision, it cannot be said with certainty that the plan was “competently prepared”.

The following assessment has been made in regard to Part 2 matters:

Section 8

Section 8 of the Act concerns the principles of the Treaty of Waitangi. The application provides evidence of consultation undertaken with Ngati Tamaoho and as a result of consultation the applicant implemented additional stormwater management measures and has offered these as a condition of consent. The application was fully notified, and notice was also served directly on Tangata Whenua. No submissions were received from Tangata

Whenua. There are no known sites of interest to Maori on the land of the subject site. Accordingly, it is considered that the proposal will not offend the provisions of section 8.

Section 7

Section 7 of the Act sets out other matters that Council is to have particular regard to in achieving the purpose of the Act. The matters of relevance to this application are:

- (b) *the efficient use and development of natural and physical resources*
- (c) *the maintenance and enhancement of amenity values*

The activity of a supermarket is located within the Business Zone and town centre location in Pokeno. The proposal uses the entire site for the purpose of which it is zoned. The design has been well designed to connect into existing infrastructure where necessary and develop new infrastructure where required. The technical reviews confirm that the efficiency of the road network will be maintained as a result of the proposal. I consider the proposal to be an efficient use of vacant land. In terms of amenity my assessment above concludes that the proposal does not use the prescribed measure of the district plan but does go most of the way to deliver on the outcomes sought for the Pokeno Town Centre. The proposal utilises other measures in the form of a landscaping response that will promote habitability of the street and enhance the current amenity values of the town centre.

Section 6

Section 6 of the Act requires a number of matters of national importance to be recognised and provided for. The only matter I consider relevant to this proposal is:

- (h) the management of significant risks from natural hazards.

The proposal is to develop retaining wall structures within the 1 in 100-year flood plain. The applicant has provided a detailed assessment of the water displacement that will occur as a result of this. The Land Development Engineer has confirmed he has no concerns regarding the design proposed. There is not considered to be any significant risks as a result of natural hazards associated with this application.

Section 5

Section 5 outlines the purpose of this Act which is as follows:

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while -*
 - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Part 2 allows for an overall broad judgement to be made on whether to grant or decline consent, having regard to the competing considerations under s104. It is important to note that s104 does not give primacy to any one matter over the others.

In my conclusion on actual and potential effects under section 104(1)(a) I found that effects on construction, transportation, parking, servicing, earthworks and noise could be mitigated through condition of consent. I concluded that although some adverse effects in the particular areas of urban design were evident, the positive effects for the community and town centre outweighed the adverse effects associated with loss of building frontages, veranda's and carparking within the frontage.

In my conclusion on relevant plan provisions under section 104(1)(b) I have concluded that the proposal aligns with the NPSUDC, it does not trigger the NESCS, and it is consistent with both the Regional Policy Statement and the Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010. The provisions of the Operative District Plan have been assessed where it is concluded that although the proposal does not comply with a number of Design Element Criteria, the proposal is consistent with the Objectives and Policies in the plan and meets the outcomes sought for the Pokeno Town Centre under the Structure Plan.

Under section 104(c) other matters I have found the proposal to be somewhat inconsistent with Policies of the Proposed District Plan, in particular as they relate to Urban Design matters in a Town Centre, but the proposal is consistent with the Objectives relating to Urban Design and the Objectives and Policies of the plan as they relate to Infrastructure, Transportation and Earthworks. I concluded that the proposal does not meet the non-statutory Pokeno Town Centre Architectural Form Design Guidelines.

In drawing my conclusions on a recommendation for this application I have turned my mind to consider how much weight should be afforded to the matters that the proposal has shown inconsistency with, as opposed to the matters that fall in favour of the proposal. In regard to the Proposed District Plan, the Proposed Plan is in the early stages of process, decisions are yet to be made and the plan is subject to a high degree of further change. For that reason, I afford little weight to the Proposed Plan matters at this stage. The Pokeno Town Centre Architectural Form, Material and Signage Design Guide 2015 that the proposal does not comply with is a non statutory document and I consider it appropriate to weight towards the assessments of the two urban designers, and the conclusions demonstrated under the statutory provisions that conclude that the overall outcomes for the town centre are achieved in favour this document. Especially considering that on balance the effects of the proposal are satisfactory and the plan provisions are overall met.

12 RECOMMENDATION

In evaluating and balancing all the various factors, it is my opinion that the purpose of the Act is best served by approving this application in reliance of the findings under section 104(1)(a) (104)(1)(b) over the findings in 104(1)(c) in relation inconsistencies with the Proposed District Plan and the Pokeno Town Centre Design Guidelines. I have provided a draft suite of conditions for consideration below. These conditions have been shared with the Applicant who will provide comment on these in their evidence for further consideration at the Hearing.