

IN THE MATTER OF

Section 104B of the Resource Management Act 1991

AND

an application by Foodstuffs North Island Ltd

Application Ref: SRN 517439

FOR

Resource Consent (Land Use) for earthworks and construction and use of four lots to extend the parking area associated with the New World supermarket in Khandallah, Wellington City.

Legally described as:

26 Ganges Road, Khandallah - Lot 42 DP 1828 Part Lot 44-46 DP 1828

3 Dekka Street, Khandallah - Pt Lot 46 DP 1828 Part Lot 44-46 DP 1828

31 Nicholson Road, Khandallah - Pt Lot 45 DP 1828 Part Lot 44-46 DP 1828

33 Nicholson Road, Khandallah - Pt Lot 44 DP 1828 Part Lot 44-46 DP 1828

Council File Reference: 1034912

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INDEX OF ABBREVIATIONS

This report utilises several abbreviations and acronyms as set out in the glossary below:

Abbreviation	Means...
the Act/RMA	Resource Management Act 1991
AEE	Assessment of Environmental Effects report that must be submitted with a resource consent application
the Applicant / FSNI	Foodstuffs North Island Ltd
the Council / WCC	Wellington City Council
District Plan/ODP/PDP	Wellington City District Plan, including the Decisions Version of the Proposed District Plan
GWRC	Greater Wellington Regional Council
HRZ	High Density Residential Zone
IPI	Intensification Planning Instrument, a change to a district plan to incorporate the MDRS and give effect to the NPS-UD intensification policies 3, 4 or 5 (s80E RMA)
LVA	Landscape and Visual Assessment
MDRS / MRZ	Medium Density Residential Standards / Medium Density Residential Zone
NPS-UD	National Policy Statement on Urban Development 2020
ODP	Operative Wellington City District Plan 2000
PDP	Proposed Wellington City District Plan as at May 2024, including operative intensification planning instrument provisions. Unless stated otherwise, PDP shall refer to the Wellington City 2024 District Plan: Council and Minister's Decisions Version
RPS	Regional Policy Statement for the Wellington Region, including proposed Change 1
RMA-EHS	Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021
s[#]	Section number of the RMA; for example, s32 means section 32
s42A report	A report prepared by WCC evaluating a resource consent application pursuant to s42A, RMA
the site	Unless otherwise indicated, the site includes land situated at 26 Ganges Road, 3 Dekka Street, 31 and 33 Nicholson Road, Khandallah, Wellington, that is subject to this application

Wellington City Council

Resource consent application to undertake earthworks, construct and use a car parking area at 26 Ganges Road, 3 Dekka Street, 31 & 33 Nicholson Road, Khandallah, Wellington City, as an extension to an existing car park at New World supermarket Khandallah

Decision of the Independent Hearing Panel

Proposal Description:

A resource consent application made by Foodstuffs North Island Limited to undertake earthworks, construct and use a car parking area at 26 Ganges Road, Dekka Street, 31 & 33 Nicholson Road, Khandallah, Wellington City, as an extension to an existing car park at New World supermarket Khandallah.

Independent RMA Hearing Panel:

Robert Schofield (Chair)
Jane Black
Mary O'Callahan

Date of Hearing:

1 and 2 May 2024

Hearing Officially Closed:

16 May 2024

Date of Decision:

7 June 2024

1 Decision

- 1.1 In accordance with a delegation by Wellington City Council, pursuant to the provisions of section 34 of the Resource Management Act 1991, as the Independent Hearing Commissioner Panel, we had power to act in determination of the following proceedings.
- 1.2 The following resolution represents Council's decision on the resource consent application:

*That the Independent Hearing Panel, acting under delegated authority from Council and pursuant to sections 104B and 104D of the Resource Management Act 1991, **GRANTS CONSENT, subject to conditions**, to the resource consent application made by Foodstuffs North Island Ltd to undertake earthworks, construct and use a car parking area at 26 Ganges Road, 3 Dekka Street, 31 & 33 Nicholson Road, Khandallah,*

Wellington City, as an extension to an existing car park at New World supermarket Khandallah.

1.3 The reasons for the decision on the application are discussed more fully below.

2 The Site and Locality

The Site

2.1 Section 2 of the Assessment of Effects on the Environment (**AEE**) which accompanied the resource consent application, together with the Landscape and Visual Assessment (**LVA**) provide detailed and comprehensive descriptions of the site and the surrounding environment. For the sake of brevity and to avoid repetition, we have not provided a full description of the site and adopt those descriptions.

2.2 In summary, the application site is located in the Wellington suburb of Khandallah and comprises four separate but adjoining lots with the following street addresses, legal descriptions and site areas:

- 26 Ganges Road – Lot 42 DP 1828 Part Lot 44-46 DP 1828, 2,518m² in area
- 3 Dekka Street – Pt Lot 46 DP 1828 Part Lot 44-46 DP 1828, 1,151m² in area
- 31 Nicholson Road – Pt Lot 45 DP 1828 Part Lot 44-46 DP 1828, 717m² in area
- 33 Nicholson Road – Pt Lot 44 DP 1828 Part Lot 44-46 DP 1828, 915m² in area

2.3 An existing supermarket known as ‘New World Khandallah’ is located on the site at 26 Ganges Road, which is a corner site with Dekka Street. Approximately half of this site contains the supermarket building and ancillary facilities at the southern part of the site: the remaining half contains the parking area for the supermarket.

2.4 The main two-way vehicle and pedestrian entrance to this car park is from Ganges Road, about halfway along the Ganges Road frontage. Two alternative pedestrian links are available via stepped accessways onto, first, the corner of Ganges Road and Dekka Street and second at the southern end of the Dekka Street frontage. The existing car park is elevated approximately 1.5m above the footpath on Dekka Street. A bus stop that can accommodate two parked buses is located adjacent to the steps onto Dekka Street, together with a bus shelter. The existing supermarket is partly screened by planting along both street frontages. The existing supermarket site is included as part of the application site because of the proposed changes required to connect the existing car park with the proposed car parking area.

2.5 Deliveries to the supermarket are made via a service way along the rear of the supermarket building, along the southern side, with access off Ganges Road, adjoining No.34 Ganges Road. A small facility for two bike parks is located on the footpath by the Ganges Road entrance to the supermarket.

2.6 The existing New World supermarket at 26 Ganges Road in Khandallah has a gross floor area (GFA) of 1,317m². This comprises 800m² of retail trading area, 304m² of back of house service and storage areas, a 60m² foyer and 153m² of mezzanine level staff facilities.

There are 38 car parking spaces and an unenclosed loading bay, both accessed from Ganges Road.

- 2.7 In January 2004, resource consent was granted for supermarket alterations and additions to extend the ground floor area, provide a mezzanine office level, reorganise the internal layout and service delivery area, reconfigure the site access and parking layout, construct of a retaining wall on the Dekka Street road reserve, and modernise the facades and signage. These works have since been undertaken.
- 2.8 The three other properties that compromise the application site are three residences that adjoin the existing supermarket site that collectively form an inverted L-shaped site between Dekka Street and Nicholson Road:
- a) A large single-storeyed dwelling is located at 3 Dekka Street, largely screened from the street by existing vegetation, and having a wide driveway that curves up from Dekka Street into the site.
 - b) A one-two storeyed dwelling is located at 31 Nicholson Road, a rear site connected to Nicholson Road via an accessway and a garage fronting the street; sloping down towards the street, this site is well vegetated with trees and is largely screened from sight.
 - c) A single storeyed dwelling is a located at 33 Nicholson Road, with the site rising up from the street; this dwelling is partly visible from the street via a wide shared driveway with No.35A Nicholson Road.
- 2.9 A narrow accessway separates the existing supermarket site from the other properties: this accessway, owned equally by the six properties to which it is intended to provide access, exits onto Dekka Street on the northern side of 3 Dekka Street.

The Vicinity

- 2.10 Full details of the locality can be found in the application and the Council's reporting officer's s42A report.
- 2.11 In summary, the site is located centrally within the suburb of Khandallah, adjacent to the local shopping centre known as Khandallah Village, which is generally concentrated on the northern end of Ganges Road, with the existing supermarket denoting the southern extent of the centre. Some commercial activities radiate out along into Dekka Street and Agra Crescent: in particular, on the northern side of Dekka Street, opposite the site, are a service garage, a fitness studio, a medical centre and a real estate agency.
- 2.12 Khandallah Village is surrounded by a residential neighbourhood comprising largely single one to two storeyed dwellings on individual lots, with some rear lot infill development. A rolling topography results in great variances in the visibility and relative positioning of houses.
- 2.13 Boxhill is the nearest train station on the Johnsonville line, about 300m distant, while the bus stop on Dekka Street services two standard bus routes and is the terminus of a peak-only bus route.

- 2.14 The nearest school is St Benedict's, located on Nicholson Road, some 300m directly south of Khandallah Village.

3 The Proposal

- 3.1 Full details of the proposal are contained in Section 3 of the AEE submitted with the application as well as in the Section 42A Council Planner's Report.
- 3.2 In summary, the applicant proposes to construct an extension of an additional 66 parking spaces to the existing supermarket car parking area, resulting in an overall total of 100 parking spaces (when the retained existing parking spaces are included).
- 3.3 To construct the car park extension, it is proposed to remove the existing three residential dwellings at 3 Dekka Street and 31-33 Nicholson Road and undertake earthworks to create appropriate gradients for vehicular accesses and car parking. The proposed earthworks would involve approximately 2,540m³ of cut and 90m³ of fill. The maximum cut depth is 3.5m and maximum fill depth is 1m. The following erosion and sediment control measures are proposed:
- a) Installation of a stabilised construction entrance from Dekka Street;
 - b) Silt fencing;
 - c) Earth bunds and channels to collect the dirty water runoff and discharge from site; and
 - d) Clean water diversion channel.
- 3.4 Cut to waste material would be removed from the site to an approved landfill. All sediment control devices would remain in place until the contribution catchment is fully stabilised.
- 3.5 Four of the 38 existing car parking spaces at 26 Ganges Road would be removed to provide for a connecting internal accessway between 26 Ganges Road and 3 Dekka Street.
- 3.6 All parking spaces have been developed in accordance with the District Plan parking space standards with compliance shown in Sections 6-8 of the Traffic Assessment (see Appendix 5).
- 3.7 In terms of access to and from the site, the following is noted:
- a) Ganges Road - the supermarket's existing two-way vehicular access from Ganges Road and the pedestrian access on the corner would both be retained;
 - b) Dekka Street - the existing vehicular access of 3 Dekka Street would be widened and upgraded to provide two-way access to the new car parking area; and
 - c) Nicholson Road - the existing vehicular accesses from 31-33 Nicholson Road would be removed and a new central access is proposed to provide two-way access to the new carpark.
- 3.8 In terms of circulation, sufficient turning area is available within the carpark to ensure vehicles do not need to reverse exit onto the road carriageways.

- 3.9 In terms of landscaping, the proposal includes the retention of some existing vegetation, as well as proposed new landscaping arrangements, planting schedule and fencing (see Appendix 3). These include:
- a) A mixture of primarily native trees and other vegetation;
 - b) Retention of the street tree on Nicholson Road;
 - c) Where possible, retention of on-site and street trees at the frontage of 3 Dekka Street and the western boundary adjacent to 7 Dekka Street and 29 Nicholson Road;
 - d) Car parking lighting to include poles and bollards; and
 - e) Timber acoustic fencing adjacent to the neighbouring residential properties. The fencing would be externally clad in feather edge vertical timber boards that would be stained black.
- 3.10 Trolley bays would be interspersed throughout the parking area as indicated on the plans with collection back to the supermarket entrance being carried out by staff. Other structures proposed include directional signage and retaining walls.
- 3.11 The existing residential water and utility connections would be capped at the mains connection points or at the property boundaries and the sections of pipe removed or abandoned.
- 3.12 Stormwater runoff from the proposed car parking area would be collected, treated via stormwater filters and then, either discharged to kerb along Dekka Street or, piped to a detention tank at the Nicholson Road carpark entrance before being discharged to the public drainage system.
- 3.13 In response to the s42A report, a number of changes were proposed by the applicant that were traversed at the hearing. These include a change in the type of vegetation to be used for landscaping, the inclusion of a separate walkway from Nicholson Road and replacement of 2 proposed car parks provide for at least 8 on-site cycle parks, reducing the total number of car parks to 98.

4 Consents Sought

The Changing Planning Framework

- 4.1 Under the RMA, the development and use of land in Wellington City is managed under the Wellington City District Plan. The City Council is in the process of replacing its 2000 Operative District Plan (**ODP**) with a Proposed District Plan (**PDP**).
- 4.2 The resource consent application for the proposal was lodged under the provisions of the ODP, just prior to the notification of the PDP in July 2022. However, under s88A of the RMA, an application continues to be processed, considered, and decided upon as an application for the type of activity that it was for at the time the application was first lodged. Thus, while the regulatory framework for the management of land use in the City has changed since the resource consent application was lodged, the activity status of this

proposal remains the same as at the time the resource consent application was lodged under the ODP.

- 4.3 The changing District Plan policy and regulatory framework is still a relevant consideration in the assessment of this application, such as in determining the permitted baseline for assessing effects, and in the assessment of the proposal against the objectives and policies of the District Plan.

The Operative District Plan

- 4.4 At the time this application was lodged, the PDP had not yet been notified, and the application therefore was based on the requirements of the ODP.
- 4.5 Under the ODP, the majority of the site was predominantly zoned *Residential* (i.e., the sites at 3 Dekka and 31-33 Nicholson Road); the site at 26 Ganges Road, where some works are required to connect the existing car park with the proposed extension, was zoned *Centres*.
- 4.6 Under the ODP, the proposal required the following resource consents:
- a) Chapter 5 – Land uses in a Residential Area: as the proposal is for car parking ancillary to a retail activity (including retaining wall structures), it is a non-residential activity and structure that is not specifically provided for in the Zone. In accordance with Rule 5.4.1, this is a **discretionary activity (unrestricted)**.
 - b) Chapter 5 – Accessways in the Residential Area: the proposed accessway widths of the 7m wide access to Dekka Street and 6.6m wide access to Nicholson Road do not comply with the 6m maximum width of standard 5.6.1.4, requiring resource consent as a **restricted discretionary activity** under Rule 5.3.1.3. In addition, the proposed directional signage at the Dekka Street and Nicholson Road accesses is a **restricted discretionary activity** under Rule 5.3.11.
 - c) Chapter 7 – Parking in the Centres Zone: as lodged, the proposal included 68 new parking spaces to create a total of 102 supermarket parking spaces, thereby exceeding the threshold of 70 parking spaces for an activity in the Centres zone, requiring resource consent as a **restricted discretionary activity** under Rule 7.3.1.
 - d) Chapter 30 - Earthworks: the earthworks do not comply with the permitted activity conditions under Rule 30.1.1 and therefore requires resource consent as a **restricted discretionary activity** in accordance with Rule 30.2.1.
- 4.7 Overall, the proposal requires resource consent as a **discretionary activity** under the ODP.

The Proposed District Plan

- 4.8 The Wellington City Proposed District Plan was notified in July 2022, just after this application was lodged.
- 4.9 A critical purpose of the review of the District Plan was to respond to the directions of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**RMA-EHS**), as well as the National Policy Statement on Urban Development 2020 (revised 2022) (**NPS-UD**). These directions require District Plans, particularly in high growth regions

like Wellington, to significantly increase the supply of suitably zoned land to promote housing and business intensification. While the Amendment Act introduced a new baseline of medium density residential standards into the City’s residential zones, the Council also had to respond to the directives under NPS-UD Policies 3 and 4 for intensification in and around the City’s centres (including Khandallah) and rapid transit stations. Collectively, these changes, known as an Intensification Planning Instrument (IPI) seek to enable a much greater level of development, primarily residential, in the City.

- 4.10 It is pertinent to understand the changed direction that the District Plan is now taking in the management of land use and development in this part of the City.
- 4.11 Many of the rules relating to the site and its surrounding environment have now changed, significantly in some respects, and are either fully operative (replacing the equivalent ODP rules) or have legal effect.
- 4.12 To assist the Panel’s understanding on what resource consents would be required by the proposal if it were lodged today, the reporting officer, Ms Camilleri helpfully provided an update of the status of the relevant rules just prior to the hearing, although at that time the final residential zoning was uncertain. Since that time, on 8 May 2024, the Minister for RMA Reform has released his decisions on the Council’s recommendations, confirming that the residential zoning surrounding the Khandallah Local Centre is to be zoned High Density Residential Zone (originally notified as Medium Density Residential Zone) with a building height limit of 14m (4 storeys, as a permitted activity) or 22m (6 storeys, as a restricted discretionary activity). In addition, the decision confirmed the zoning of the Khandallah centre as Local Centres but raised the height limit to 22m.
- 4.13 Based on that decision, the status of the relevant rules are as follows:

Relevant PDP Rules	Legal Status
<p><u>Rule HRZ-R8 – Activities not provided for under Rules HRZ-R1 to HRZ-R7</u></p> <p>The provision of car parking (including the retaining/support structures) associated with a supermarket does not comply with HRZ-R8.1.a as the plan does not provide for the proposed activity. Consent is therefore required as a Discretionary Activity pursuant to Rule HRZ-R8.1.</p>	<p>Legal Effect</p> <p>This rule has legal effect through the Part One, Schedule One process but is yet to become operative.</p>
<p><u>Earthworks Rule EW-R4</u></p> <p>Consent is required as a Restricted Discretionary Activity pursuant to Rule EW-R4. The proposed earthworks breach the Permitted Activity condition for earthworks under Rule EW-S1 and S2 with cuts greater than 2.5m (being 3.5m in height) and the area of works would be greater than 250m² (being approximately 2,800m²). In summary the proposal does not comply with <u>EW-R4.2.a</u>.</p> <p>The proposal therefore requires resource consent as a Restricted Discretionary Activity.</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> 1. The matters in EW-P1; 2. The matters in EW-P20, where relevant; 	<p>Operative</p> <p>This rule has become operative and has replaced the equivalent 2000 Plan rule.</p>

Relevant PDP Rules	Legal Status
3. The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standards; and	
4. The matters in EW-P3, EW-P4 and EW-P5.	

4.14 Based on Ms Camilleri’s advice, Rule HRZ-R8 now has legal effect and therefore needs to be considered under section 104(1)(b) of the Act; however, this does not affect the activity status of the proposal under s88A. As Rule EW-R4 is now operative and fully replaces Rule 30.2.1 of the 2000 District Plan, it is now this rule under which consent is required as a Restricted Discretionary Activity under the 2024 District Plan.

4.15 There is one more matter of note in relation to the PDP in that the zoning of the residential properties around the Khandallah Local Centre Zone is now High Density Residential, enabling building heights of 22m (approximately 6 storeys). We return to this matter shortly.

Overall Activity Status

4.16 Overall, applying the most stringent activity status outlined above on a ‘bundled’ basis, the application is a **discretionary activity**. The changes in the regulatory framework that have occurred since the resource consent application was lodged in July 2022 have not changed this status.

5 Notification and Submissions

5.1 Following a notification assessment prepared by the reporting officer on 27 October 2023, the application was publicly notified on 28 November 2023 in accordance with sections 95-95F of the Act. A public notice appeared in the Dominion Post on this date and signs were erected on the site. In addition, notice was served on Greater Wellington Regional Council, Port Nicholson Block Settlement Trust, Ngāti Toa, Khandallah Community Board and Onslow Ward Councillors.

5.2 A total of 68 submissions were received by the close of submissions on 16 January 2024. An additional two submissions were received on 17 January 2024, which were accepted by the Hearing Panel via Minute #2 on 13 March 2024. Of these submissions, 46 stated that they were opposed to the application, 19 stated they were in support of the application, and five submissions were neutral on the application. A full list of submissions received was provided in paragraph 27 of the s42A report, which identified a number of double-ups, namely:

- a) Submission #28, Mark Kirk-Burnnand, was lodged without a full submission, which was not received until submission #57 was received;
- b) There were two submissions recorded as being received from Mark Roberts (#59 and #61); and

- c) Two separate submissions were received from Peter Targett (Submissions #1 and #43), with one recorded as being neutral and the other as being opposed).
- 5.3 In terms of actual submitters on the resource consent application, if the above discrepancies are taken into account, a total of 67 submitters lodged submissions.
- 5.4 The reporting officer summarised the key issues raised in submissions as follows:
- In opposition to consent being granted:
 - ▶ Multimodal transportation related issues
 - ▶ Traffic and safety
 - ▶ Pedestrian safety and access
 - ▶ Character and amenity (including noise and lighting)
 - ▶ Servicing effects
 - ▶ Climate related impacts
 - ▶ Earthworks and dust, and
 - ▶ Other external factors.
 - In support of consent being granted:
 - ▶ More onsite parking frees up on-street parking, and reduces road congestion
 - ▶ Help local business in the community
 - ▶ Provides for a better shopping experience for Khandallah
 - ▶ A better stocked supermarket would decrease the need to travel to alternative Supermarkets
 - ▶ A larger store results in more jobs
 - ▶ Enhance community convenience and accessibility for residents
 - ▶ Providing parking to alleviate street parking congestion
 - ▶ Support the local economy
 - ▶ Supportive of the proposed entrance and exit points
 - ▶ More parks at the supermarkets would decrease the need to travel to alternative supermarkets
 - ▶ Population growth in the area the carpark needs to be bigger to support the increase demand
 - ▶ Positive pedestrian access
 - ▶ Current parking space not fit for purpose
 - ▶ The proposal is not located on blind corners, and
 - ▶ Provides for an overall increase safety.
- 5.5 Following questioning of the reporting officer at the hearing, the issues raised by submitters that Ms Camilleri initially reported were not within scope for consideration in this resource consent application were narrowed to the question of whether the proposal involved land banking to reduce trade competition.

5.6 We record that we have read the submissions and have recorded the points made by the submitters at the hearing. We have had regard to the issues and points raised by submitters as part of our evaluation of the application.

6 Procedural Matters

Pre-Hearing Meetings

6.1 We were not informed that any pre-hearing meetings pursuant to s99 of the Act had occurred.

Hearing Directions

6.2 Prior to the commencement of the hearing, the Panel issued a minute on 5 March 2024 to all parties to confirm the date and venue of the hearing, to provide direction for the circulation of reports and expert evidence, supply advice on the conduct of the hearing, and other information on the hearing.

6.3 The Panel issued a second minute on 13 March 2024 to advise parties of the acceptance of two late submissions and that online attendance at the hearing is available.

6.4 The Panel issued a third minute on 18 April 2024 to seek additional information for the hearing and to advise parties of the hearing procedures.

6.5 Following the adjournment of the hearing on 2 May, the Panel issued a fourth minute to direct the timeframe for the applicant's written right-of-reply.

6.6 The Panel issued a fifth minute on 16 May 2024, formally closing the hearing, as we confirmed we were in receipt of all the information required to make a decision on the matter.

7 The Hearing

7.1 The resource consent application was heard by an independent Hearings Panel comprising Robert Schofield (Chair), Jane Black and Mary O'Callahan. All commissioners are accredited and delegated with the appropriate powers to hear and make a decision on the resource consent application on behalf of the Council.

7.2 The Hearing was held in the Tory Room, Urban Hub, Level 4, 318 Lambton Quay, Wellington City on Wednesday and Thursday 1 and 2 May 2024, commencing at 9.30am each day. All those in attendance enabled a focused hearing process that greatly assisted us in assessing and determining the issues.

7.3 At the start of the hearing, we recorded that the Panel had undertaken a site visit on Thursday 19 April 2024. We record that we were not accompanied by the applicant, submitters, or officers on that site visit.

7.4 The following persons presented submissions and evidence to the Hearing:

- For the Applicant:

- ▶ Stephen Quinn, Legal Counsel
- ▶ David Boersen, Corporate evidence
- ▶ Caitlin Cook, landscape and visual
- ▶ Cameron Wallace, urban design
- ▶ Michael Nixon, transport and traffic
- ▶ Miklin Halstead, noise and vibration
- ▶ Sumin Wang, stormwater, and
- ▶ Evita Key, planning.
- Submitters:
 - ▶ Dave and Michelle Soper, of 25 Nicholson Road, Khandallah
 - ▶ Amanda & Tom O'Brien, of 28 Nicholson Road, Khandallah
 - ▶ Brenda and Robert Vale, of 42 Ganges Road, Khandallah
 - ▶ Judith L Berryman, of 45 Nicholson Road, Khandallah
 - ▶ Ken and Marie Pugh, of 7 Dekka Street, Khandallah
 - ▶ Warren and Gillian Press, of 34 Ganges Road, Khandallah
 - ▶ Alex Dyer, on behalf of Cycle Wellington
 - ▶ Mark Roberts, 45 Ganges Road, Khandallah
 - ▶ Mike Hayward, of 40 Ganges Road
 - ▶ Johanna Reidy, on behalf of St Benedict's School Board, 50 Nicholson Road, Khandallah, and
 - ▶ David Tripp, for Doctors for Active Safe Transport.
- For the Council:
 - ▶ Any Camilleri, reporting planner and author of the s42A report
 - ▶ Edwards Dyer, noise and vibration
 - ▶ Glen Wright, light
 - ▶ Haran Arampamoorthy, transport
 - ▶ Jaime Devereux, urban design
 - ▶ Zeean Brydon, three waters, and
 - ▶ John Davies, earthworks.

7.5 We would record that a number of attendees appeared virtually.

7.6 We note that all of the submitters who attended and presented to the hearing were opposed to consent being granted, with the exception of St Benedict's School of 50 Nicholson Road, which had lodged a submission recorded as 'neutral' but expressing concerns with traffic and pedestrian safety on Nicholson Road.

7.7 We were assisted in an administrative capacity by Sarika Sam.

7.8 The hearing was adjourned at 6pm on Thursday 2 May 2024 after agreeing that the reporting officer would circulate a revised set of recommended resource consent

conditions following day the hearing, which subsequently occurred. Following the issuing of Minute #4 to set direction for the circulation of the applicant’s reply, including the response to the reporting officer’s final recommendations on the recommended resource consent conditions, the applicant’s reply was duly received from the applicant and included a short addendum to the evidence of the planning consultant, Ms Key, in response to questions we raised during the hearing on Policy MRZ-P13 and its equivalent HRZ-P12.

7.9 On Monday 29 April 2024, we reviewed the information before us and determined that we had all the information we required in order to make a decision in this matter. Accordingly, via Minute #5, we formally closed the hearing on that day.

7.10 All of the material presented by the above parties is held on file at WCC. We took our own notes of the oral presentations and the answers to our questions. For the sake of brevity, we have not produced that material verbatim in this decision. We do, however, refer to relevant matters raised in the material in subsequent parts of this decision.

8 Statutory Requirements

Assessment Requirements

8.1 As a discretionary activity, the application must be assessed in accordance with the provisions of sections 104 and 104B of the Resource Management Act 1991 (the Act).

8.2 In addition, sections 108 and 108AA set out the requirements for imposing conditions of resource consent.

8.3 We consider that the relevant section 104 matters are as follows:

- *Any actual and potential effects on the environment of allowing the activity; and*
- *The relevant provisions of the District Plan, objectives, policies and rules; and*
- *The relevant provisions of a National Policy Statement, including the New Zealand Coastal Policy Statement; and*
- *The relevant provisions of the Regional Policy Statement; and*
- *Part II of the Act.*

8.4 The following definitions contained in the Act apply in this case:

a) “Environment” is defined as

(a) Ecosystems and their constituent parts, including people and communities; and

(b) All natural and physical resources; and

(c) Amenity values; and

(d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.¹

¹ Definitions, s2 RMA

b) “Amenity values” are defined as

*those natural and physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes.*²

8.5 We first address the environmental effects of the proposal in section 9 below, focusing on the key issues in contention. We then address the consistency of the proposal with the relevant objectives and policies of the District Plan and other relevant statutory documents, in section 10 of this decision. We then address, in section 11, whether there are any other relevant matters. In section 12, we address the question of whether the proposal is consistent with the purpose and principles of the RMA, contained in Part 2 of the Act. In section 13, we address conditions of consent. Our conclusions are set out in section 14 of this decision.

Existing Environment and Permitted Baseline

8.6 The assessment of the actual or potential adverse effects of the proposed development must be informed by, first, the nature of the *existing environment* in which the site is located, second, how the effects of the proposal would differ from those that could be anticipated from any permitted activities that could occur on the site without resource consent, known as the *permitted baseline*.

8.7 The existing environment is otherwise referred to as the receiving environment as it describes the nature of the area on which the effects of the proposal would impact; for example, a quiet neighbourhood would be more affected by a proposed noisy activity than would an industrial neighbourhood. Our site visit on 19 April provided a good understanding of the existing environment as it is today, which we describe in section 2 of our report.

8.8 Under the RMA, the existing environment must also include potential development that could occur as a permitted activity that would be credible and non-fanciful. As we noted above (Section 4), following the Minister’s decisions on 8 May 2024, the zoning of the Khandallah shopping centre, including the existing supermarket, remains *Local Centres* but now has a maximum building height of 22m or approximately 6 storeys. Furthermore, the zoning of the residential neighbourhood surrounding the Khandallah centre, including that of the properties adjoining the site, has now changed from Medium Density Residential to *High Density Residential*, which also allows for development of building up to 3 storeys as a permitted activity and up to 6 storeys through a resource consent process subject to standards and design guidance.

8.9 In addition to the existing environment, the assessment of effects may be informed by the nature of effects that could occur as-of-right by development on the site that would fully comply with the permitted activity conditions of the District Plan. Section 104(2) states:

...when forming an opinion for subsection 1(a) [in regard to any actual and potential effects on the environment of allowing the activity], a consent authority may disregard

² Definitions, s2 RMA

an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

- 8.10 This concept is referred to as the ‘permitted baseline’. While the ability to apply a permitted baseline is discretionary (i.e., we “*may disregard*”), the permitted baseline identifies what is permitted to occur on a parcel of land without needing consent, so often provides a useful tool to quantify the difference in effects between what is proposed and what is permitted to occur as-of-right. We note that a permitted baseline must also be credible and non-fanciful³.
- 8.11 The application stated that there is no permitted baseline relevant to this proposal⁴. The question of whether there is a relevant permitted baseline was also addressed in paragraphs 45-49 of the s42A report.
- 8.12 Ms Camilleri highlighted that, with the exception of work from home activities which are permitted under the Plan, there is no other permitted baseline for the commercial use of sites within a Residential Area. This includes signage and carparking associated with the commercial use. Further, the earthworks standards only permit a relatively small area/volume as a permitted activity. She therefore considered there is no relevant permitted baseline that provides a credible comparison to what is proposed. Accordingly, she undertook her assessment in the absence of any permitted baseline.
- 8.13 In her statement of evidence to the hearing, the applicant’s planner, Ms Key, disagreed with Ms Camilleri’s assessment, and contended that –
- a) The removal of dwellings and mature vegetation and construction of boundary fencing are all permitted activities under both the ODP and PDP and could currently be undertaken by FSNI without consent.
 - b) Provided the earthworks area does not exceed 250m² per site with a cut height of 2.5m, the construction of retaining walls and hard standing would also be permitted under the ODP if they related to a residential activity, such as a tennis court for example, as there are no side/rear yard or permeable coverage requirements in the Outer Residential zone.
 - c) The PDP does not include a specific standard on impervious area in the residential zones, although the permitted building coverage is up to 50% together with a minimum 20% landscaped area for dwellings. The Proposal would provide for 24% of the Site to be soft-landscaped, with a mixture of planting types, and the remaining 76% would be hard-landscaped as car parking, manoeuvring and a walkway. Aside from the small-scale signage, Ms Key contended that the visual effects of the Proposal are generally provided for in the ODP and PDP.
 - d) We understand that each site could be redeveloped for 3 townhouses or apartments under the provisions of the High Density Residential Zone to 11m (3 storeys) as a

³ Case law – Smith Chilcott Ltd vs Auckland City Council [2001] NZLR 473

⁴ At page 15 of the AEE, noting this statement was made in relation to the notification assessment tests. No assessment of the permitted baseline was provided in relation to the general assessment of effects on the environment.

permitted activity or 22 metres (6 storeys) as a restricted discretionary activity. Accordingly, residential development of the scale enabled by the PDP may affect existing amenity values (e.g. outlook, daylight and sunlight) to a greater extent than the current proposal, and also result in changes to the existing streetscape, character, noise, lighting and transport environment.

- 8.14 We accept that, from a land use perspective, there is no permitted baseline that can assist in assessing the overall environmental effects of the proposed development of the three residential sites for car parking for a commercial activity, although we acknowledge that some of the residential activities and enabled non-residential activities will usually require a small amount of on-site car parking. However, we recognise that a range of amenity effects (visual building bulk, privacy, sunlight and outlook) would likely arise with a permitted residential redevelopment on the three sites that would materially change the existing amenity values. Effects could be similar to, and in some cases greater than, those of the proposed car park.
- 8.15 In terms of the removal of residential and accessory buildings, we accept that all three residential sites could be cleared of buildings and vegetation, and, for example, be kept open.
- 8.16 In terms of earthworks and retaining walls, the permitted baseline is of limited assistance. While a contiguous total of 750m² of earthworks could possibly occur (i.e., if the permitted limit of 250m² per site could be contiguously create across all three residential sites, such as the formation of a single accessway to serve all three sites), the scale of the earthworks would be less than a third of the 2,540m² of earthworks proposed in the application.
- 8.17 Boundary fencing, similar to the acoustic fencing proposed for the car park, is relevant to consider as part of the permitted baseline.
- 8.18 Overall, we find that the permitted baseline is of limited assistance in assessing the environmental effects for the purpose of s104(2), primarily in regard to creating an open space, fencing and parking for a permitted residential development under the HRZ.

9 Assessment of Effects on the Environment

Expert evidence and advice

- 9.1 The reporting officer, Amy Camilleri, was assisted in her assessment by advice and information from Council's advisers on earthworks, transport, urban design, noise, lighting, and three waters servicing (Wellington Water). The written assessments from the Council's advisers were provided prior to the hearing, together with the s42A report. In addition to the reporting officer, Council's advisers either attended and spoke to the hearing or were available to do so. Written record of their speaking notes and responses were provided to the hearing.
- 9.2 In addition to the resource consent application and supporting information and assessments, we were also provided with expert advice and evidence from the applicant's advisers on planning, transportation planning, stormwater management, noise and

vibration, urban design, and landscape design. In addition, the applicant submitted a report by 3D Lighting Design entitled 'Exterior Lighting Design Report' for the hearing, which was spoken to by Ewen Cafe. For the record, Mr Cafe did not adduce a statement of evidence for the hearing but was available to answer any questions in regard to the report.

9.3 The applicant was represented by Mr Boersen, Senior Development Manager at Foodstuffs North Island Limited, who attended the hearing to provide information on the history and objectives of the development.

9.4 We also had regard to the presentations of the submitters who attended the hearing to talk to their submissions, and of whom, many provided photographs to support their submissions.

9.5 Based on the material provided in the application, the submissions, the s42A report and evidence presented to the Hearing, we agree with the reporting officer assessment and consider that the principal issues in contention to be:

- Visual, lighting and privacy effects
- Noise effects
- Streetscape and neighbourhood character effects
- Transport effects, and
- Stormwater effects.

Visual, lighting and privacy effects

9.6 The development and ongoing operation of a car park has the potential to create adverse visual, lighting and privacy effects, particularly on adjoining residences. A number of submitters who live adjacent to the site raised these issues in their submissions, and we heard from a number of directly adjoining neighbours on this matter.

9.7 We heard from Mr Cameron Wallace, who provided urban design evidence for the applicant, including on visual amenity issues arising from the car park for neighbouring properties. He explained the factors which he considered were relevant to our consideration:

- a) The incorporation of fencing, generous landscaping areas, including specimen tree planting, to screen and break up the car park visually; and
- b) The relationship with the surrounding context, which includes existing vegetation on neighbouring sites and topographical change arising from proposed cuts which he illustrated with cross-sections.

9.8 On the latter point, Mr Wallace noted that the cuts and the setbacks indicate the car park would generally sit lower than the neighbouring properties, limiting visual impacts for adjoining neighbours.

9.9 Mr Wallace also noted that the open car parking area would maintain sunlight and sky outlook for adjoining sites, more so than permitted high density residential development.

- 9.10 The presentation by the Council’s urban design adviser, Ms Devereux, focused primarily on wider character and streetscape effects, which are addressed separately below. In response to the submission from Mr Pugh at 7 Dekka Street, she confirmed that the privacy of neighbouring residences would be maintained by the proposed perimeter fencing.
- 9.11 In her assessment that accompanied the s42A report, Ms Camilleri commented that, in her opinion, ‘visually there would be a change when viewed from residential properties and the proposal is of a level that is significantly out of character with the residential area’. She also described, in relation to visual outlook that the proposal would ‘drastically change the view’. In addressing us towards the end of the hearing, Ms Devereux reiterated her concern about the intensity, scale and design of the proposal on residential amenity.
- 9.12 We heard from Mr Pugh who lives at 7 Dekka Street, adjacent to the car park site, about mid-point along the southern perimeter. He stated, and we agree, that his family are likely the most affected by the proposed development, given the proximity of their house and outdoor area to the proposed car park, and the visual connection from the upper storey. He explained his concern primarily related to sensory effects associated with the proposal, particularly the level of activity and noise which would affect his family, particularly their son. Privacy effects he felt would arise through a direct line of sight to their upper-level bedrooms from the car park. He also raised concern with light spill affecting his family, noting that existing vegetation and fencing on the subject site would be removed and create views from his property to the existing supermarket building and lighting. He was also concerned about light spill from the new car park.
- 9.13 The lighting evidence of both the applicant’s and Council’s lighting experts was that the lighting levels would be well within relevant standards in the District Plan that both address the requirements of lighting areas for safety reasons and the Lux limits to prevent excessive light spill for neighbours. The advice of Council’s lighting expert Mr Wright was that lighting design outlined in the report presented by 3D Lighting Design for the applicant would result in less than minor adverse effects, subject to the imposition of several conditions, including:
- a) Lighting levels shall not exceed by more than 25% the appropriate AS/NZS 1158.3.1:2020 lighting sub-category;
 - b) The lighting must comply with PDP Light Chapter standards for the residential zone, and for spill light and glare they must meet the lower curfew (10.00pm to 7am) levels;
 - c) The light source colour temperature must be 3000Kelvin or less;
 - d) Any luminaire when installed must not emit any light above its horizontal; and
 - e) The lighting is to be controlled by automatic controls that turn the lights on via daylight switch and a time clock to ensure the lights are only on when it is dark and are not operated between 9.00pm and 7am, Monday through to Sunday. Except that there can be a manual maintenance switch to allow the lights to be switched on during daylight when required for lighting maintenance purposes.

- 9.14 In her s42A report, the reporting officer, Ms Camilleri, concluded that lighting effects would be unacceptable, but, in response to our questions at the hearing, she revised her view to conclude these effects would be minor.
- 9.15 We have considered the expert evidence received and the presentations by the submitters and have concluded that the visual effects on adjoining neighbouring sites would be minor, given the car park is a largely an 'at grade' development, with limited elevated structures (other than fencing) and, in part, at a lower elevation than some adjoining properties. As we noted, new boundary fencing could be established as a permitted activity. The proposed retention of some existing specimen trees, together with additional boundary planting, would provide some further softening of any views of the car park.
- 9.16 Privacy effects are not significant in our view, consistent with Ms Devereux's advice, due to the screening effect of acoustic fencing, the retention of some specimen trees and the additional boundary planting that is proposed. We note that vegetation removal leading to increased viewing opportunities between properties is something that could arise as a permitted activity, with or without any redevelopment.

Noise effects

- 9.17 The proposal would result in noise and vibration effects during construction, and ongoing noise from vehicles and the associated use of the car park. The adverse effects from noise were raised as an issue by submitters living adjacent to the proposal.
- 9.18 We heard expert noise evidence from the applicant's noise specialist Mr Halstead and Mr Dyer for the Council. Construction activities would be managed under the provisions of the relevant NZ construction noise standard and that while noise limits could be exceeded at the immediate adjoining properties on occasion, this was relatively common for construction activities and the standard and proposed conditions of consent provide a process for managing such effects to minimise them to the extent practicable.
- 9.19 Both noise experts advised us that the car park use would conform to the permitted ODP noise levels with the noise attenuation offered by the proposed acoustic fencing.
- 9.20 Ms Camilleri, in her s42A report concluded that, while she accepted the expert advice that the noise complied with the Plan standards for operational noise, 'the change in audible noise sources is inconsistent with the plan and adversely affects the residential amenity in a way that reduces people's right to enjoy an acceptable level of amenity from their property'. She further advised that 'an audible change ... would result in a change of residentially amenity ... [that]...is not considered to be acceptable in this residentially zoned environment'. In our view, her assessment appeared to use the existing environment as the baseline for effects assessment without consideration for permitted baseline.
- 9.21 In her s42A report, Ms Camilleri appeared to have policy lens to her effects' evaluation; however, the report did not advise of any policy suggesting that non-residential noise was unacceptable in a residential zone simply by being audible and different to 'residential noise'. In response to our questions, she verbally advised us towards the end of the

hearing that her opinion on noise impacts had changed and that her revised position was that noise effects would be minor.

- 9.22 The applicant's noise expert, Mr Halstead, considered the nature of the noise in his evidence, not just compliance with the Plan standards. He advised that the type of noise anticipated (vehicle noise and people noise) is common for residential areas, so in this regard his evidence was that such noise is not out of character in this environment. Mr Halstead advised that it is the scale and intensity of that noise which should be managed to maintain amenity values in the manner anticipated by the noise limits set in district plans. He concluded that the noise was consistent with the noise amenity anticipated for this residential area.
- 9.23 Noise was also raised in several submissions, which were well summarised and addressed in the technical report of Mr Dyer for the Council. The primary issues related to construction noise, night-time operational noise and delivery truck noise. Mr Pugh addressed us of his concern about the duration and type of noise associated with the supermarket car park, noting other noise sources such as trolley movements and stacking would contribute to the overall noise envelope.
- 9.24 Several submitters addressed us on the matter of delivery truck congestion and noise. On that matter, we note the proposal would not change this aspect of the existing supermarket operation and the proposed car park extension has been made on the basis that it is for parking only, not for delivery or rubbish servicing activities. A condition can be imposed to ensure this result.
- 9.25 Further noise mitigation measures were proposed and confirmed by the applicant through the hearing, which included restricting the types of shopping trolleys to be used (plastic rather than metal), limiting evening rubbish collections to prior to 10pm, and requiring after-hours staff parking away from residential houses.
- 9.26 We are satisfied that noise effects can be managed through the applicant's good practice measures, which can be imposed via resource consent conditions, the use of acoustic boundary fencing and conditions that specify the operational noise limits that must be complied with.
- 9.27 In considering the evidence and submissions, we conclude that the matters of concern can be satisfactorily managed through the imposition of conditions.

Streetscape and neighbourhood character effects

- 9.28 While the proposal includes changes to the existing parking area associated with the supermarket at 26 Ganges Road which is zoned Local Centre, the most significant changes are within the three sites zoned High Density Residential. The effects on residential amenity and character are therefore potentially more manifest in this part of the site. A number of submitters raised concerns about the adverse effects of this change on the local residential character and streetscape, with most concerns focused on the changes that would be incurred on the Nicholson Road vicinity.

- 9.29 Mr Wallace presented urban design evidence on behalf of FSNI and noted that Council experts had not raised any concerns with the proposal in relation to the Dekka St frontage. He considered that the proposed 10m deep landscaped area would extend to where the existing dwelling is located at 3 Dekka Street, and that this would provide considerable screening of the carpark.
- 9.30 Kevin and Marie Pugh, who live at 7 Dekka St on the southern side of the proposed car park, talked to their submission at the hearing. One of their concerns was that the proposal was out of character with the residential area. They contended that there would be significant changes that would affect their amenity; specifically, that the carpark would bound their property, visible from their upper floors. They noted that the existing shared pedestrian accessway along the southern boundary of the existing supermarket that is jointly shared by six properties, provides a buffer between commercial and residential zones. No such buffer is proposed along the southern boundary of the proposed car park.
- 9.31 An urban design assessment was provided by Ms Devereux for the Council, as part of the s42A report. She described the two residential street environments affected by the proposal. She noted the Dekka St frontage is a mix of residential and commercial activities, with the western side of the road, opposite the supermarket and 3 Dekka St, zoned Local Centre. In respect of this part of the application site, she concluded that:
- As Dekka Street is closely visually related to the commercial centre, the extension of the carpark is considered to be generally in character with the local context on this side of the site. The curved, sloping driveway to an elevated site, combined with the proposed landscaping, would result in the carparking being largely screened from the streetscape and is considered to not degrade the character of the neighbourhood from this frontage.⁵*
- 9.32 We are satisfied that, based on the expert evidence, the effects on the residential amenity and character of Dekka St are less than minor.
- 9.33 In relation to the other street frontages, the site at 31 Nicholson Road is located behind No.29 Nicholson Road and has a well planted narrow street frontage that largely screens it from the street. In contrast, 33 Nicholson Road is a large section extending from its boundary with 26 Ganges with a wide street frontage and clear views of the existing house from the street. The proposed vehicle access to and from Nicholson Road would be located on this frontage. Planting is proposed along the Nicholson Road frontage, to extend between 5m and 17m from the site boundary. Mr Wallace said that, combined with the existing berm, the area of proposed planting along the frontage would set the car back from the existing footpath by approximately 22m.
- 9.34 Mr Wallace provided visual simulations to demonstrate the visual effects of the carpark on the views along and from Nicholson Road. He stated that, as a result of the extent of the planting, the only view of the carpark would be of the driveway and cars arriving and leaving the carpark.

⁵ At paragraph 4.2

9.35 In relation to the residential character of the sites, Mr Wallace commented that it was important to consider how the proposal sits within the area:

In considering the potential urban design effects of change, the overall focus of this evaluation is not on determining whether the proposal neatly “fits in” with what currently exists (or expectations of what some think should exist), rather it is necessary to consider whether the proposal co-exists in a way that maintains the overall qualities of the area (even if it is different to what can be currently seen in the neighbourhood).⁶

9.36 He concluded that in his opinion the proposal has been designed in a way that responds to the residential context of the site and would sit well within the neighbourhood. He further considered that it would enhance the streetscape of Nicholson Road.

9.37 A number of submitters were concerned about the proposal on the residential character of the area.

9.38 David and Michelle Soper from 25 Nicholson Road were most concerned about the access on Nicholson Road and sought that this not be allowed. Mr Soper said that the proposal should be considered in the context of the residential neighbourhood in a residential zone. Currently they don't hear any noise from the local centre activities and this proposal would impinge on that. In his opinion, that visual impact shown on the visual simulations was not compatible with the residential character.

9.39 Mr O'Brien from 28 Nicholson Road spoke in support of his submission, opposing the application. His property is located on the southern side of the road and elevated. He expressed concern that, while he and his family do not currently see the supermarket, they would see the proposed carpark particularly as it will be lit at night. In his opinion, the proposal would detract from the residential amenity and should be declined.

9.40 Robert and Brenda Vale who live at 42 Ganges Road presented their submission opposing the siting of the carpark in a residential zone and the effects on their property. They stressed that the site should be used for much needed housing.

9.41 The Council's urban design adviser, Ms Devereux, described the character of Nicholson Road as residential with all properties containing a single dwelling. The street is also characterised by mature planting and trees. In her opinion, a commercial carpark is not consistent with the residential character and does not make a positive contribution to the amenity and visual character of the street. She based this on a number of reasons:

- a) Vehicle dominance within an open area that is not accompanied by any built form that could be expected with carparking supporting a residential development
- b) Visual effects of vehicle dominance at the street edge
- c) Increased vehicle movement that is not consistent with the residential character
- d) Accompanying signage that is not consistent with residential character, and
- e) Visibility of retaining walls.

⁶ At paragraph 63

- 9.42 In Ms Devereux's view, the proposed landscaping would not be sufficient to screen the double width vehicle access and carparking. She presented supplementary evidence at the hearing and concluded that, while a carpark on the Dekka St site could be acceptable from an urban design perspective, she could not support it on the Nicholson Road sites. She said that the design did not sufficiently integrate the carparking into the planned urban character built form of the area when viewed from Nicholson Road. She had undertaken an assessment against the Residential Design Guide and concluded that it was not consistent with those guidelines.
- 9.43 The Panel sought Ms Devereux's opinion on whether she could support the carpark if the Nicholson Road access was closed. She responded that she could support a reconfigured carpark on the Nicholson Road portion of the site if it was not visible and that it could be fully screened through a much greater depth of planting, accepting this would require the loss of car parks and perhaps some reconfiguration of the car park layout. She added a proviso that she would need to see a plan to confirm her position.
- 9.44 Having considered the expert evidence and heard the concerns of the submitters, we agree with Ms Devereux's conclusion that the proposal is not consistent with the streetscape and residential character of Nicholson Road, notwithstanding the proposed landscaping. We took into account that with, a large residential development, it would be reasonable to assume that there could be areas of carparking. While we agreed with Mr Wallace insofar as the proposed landscaping would assist in screening the carpark from the road, we find that the proposed access off Nicholson Road together with signage would detract from this residential frontage. Further, the accessway itself would retain views into the car park that could not be satisfactorily mitigated.
- 9.45 We agree with Ms Devereux that carparking to support residential development is different in that there would be anticipated built form that would be the dominant activity on the site, and any parking areas would be ancillary and secondary.
- 9.46 We therefore find that the effects on streetscape, residential amenity and character on Nicholson Road would be more than minor.
- 9.47 We have concluded that removal of the Nicholson Road access would sufficiently reduce the effects on the residential environment of Nicholson Road, provided that the frontage was more fully landscaped and planted to provide partial screening of the carpark and to soften any views of the car park, recognising that the change in elevation from Nicholson Road would mean some visibility of the car park would be inevitable. We consider this outcome could be achieved without any loss of parking spaces, using the full frontage for planting. We were not convinced, however, that removal of the pedestrian access would be an inevitable consequence of this finding, as alluded to by the experts. We have concluded the proposed walkway could be retained, as its scale can be readily accommodated within the streetscape, mitigated by landscape planting. Pedestrian walkways are not an uncommon feature in residential neighbourhoods.
- 9.48 On the basis of our finding, we have therefore imposed a condition that requires plans showing the revised treatment of the Nicholson Road frontage be submitted as a condition to this decision.

9.49 As a result, subject to the imposition of conditions in regard of the Nicholson Road frontage, we find that the streetscape and neighbourhood character effects would be no more than minor.

Transport effects

9.50 The transport related matters of contention related to:

- the need for additional car parks
- additional vehicle movements and associated congestion effects
- local road safety and impact of new vehicle accessways, and
- climate change effects from additional vehicle emissions and the adequacy of provision for active transport modes to mitigate climate change effects.

9.51 While these issues are interrelated to a degree, we have assessed these four matters separately.

Need for Additional Parking

9.52 Many submitters challenged the need for any car park extension and/or an extension of the scale proposed. Many were concerned about the consequential effects of tripling the amount of parking, in terms of transport effects (such as the additional traffic movements on local streets) and other effects (such as on streetscape and amenity).

9.53 In response, the applicant purposively did not focus on demonstrating a case or need for the project, with the Counsel for the applicant, Mr Quinn, pointing to case law which he submitted meant it was not necessary for the applicant to demonstrate the car park investment was necessary. He contended this was a commercial decision for the applicant to make.

9.54 Notwithstanding Mr Quinn's contention, some of the issues raised in relation to this application suggest it is a relevant matter to consider. In particular, the adverse effects arising from the scale of the proposed expansion, which effectively would triple the size of the existing car park, in relation to traffic generation and movement, climate change and the intrusion of a commercial activity into the residential zone are relevant considerations. Accordingly, while we accept that the need for the car parks in this case is largely a commercial decision for the applicant (as submitted by Mr Quinn in his closing submissions), the effects arising from the scale of the expansion is a relevant consideration and is pertinent to our assessment of the consistency of the proposal with the policy framework.

9.55 We would also observe that Schedule 4 of the RMA, which specifies the information to be provided with resource consent applications, requires that, "if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity". No such description was provided with the application or the subsequent evidence, presumably on

the basis that the assessment of environmental effects concluded the effects would be minor or less than minor⁷.

- 9.56 Turning to the evidence on the demand for parking, we had difficulty reconciling the evidence of Mr Boersen of FSNI, which he asserted was based on customer feedback that parking was inadequate, with the evidence of the applicant's traffic expert, Mr Nixon. We acknowledged that Mr Boersen's assertion aligned with the sentiment contained within many of the submissions received in support of the proposal who stated that the current deficit in on-site parking meant that they did their supermarket shopping at other supermarkets in the City.
- 9.57 However, we found it surprising that the applicant's traffic evidence from Mr Nixon, who concluded from his traffic and parking survey that there was no evidence of a shortage of customer parking, and that the existing car park was adequate to meet customer demands. Based on his surveys, Mr Nixon concluded that the existing parking provision is acceptable for customer demands, but that greater provision is required to 'internalise' the staff parking demands which he contended are largely accommodated by the use the on-street parking⁸.
- 9.58 Through our examination and questioning, it transpires that Mr Nixon's parking survey, which was carried out on a single Tuesday during daytime hours only (up until 5pm), did not cover the peak weekday evening or weekend times of the existing car park use. We consider that it would have been prudent for a more comprehensive and therefore more representative parking and traffic survey so that times of peak activity would have better aligned with the customer 'experienced conditions' and to capture potential times of spillover parking demand.
- 9.59 In terms of demand, in response to questions, Mr Nixon indicated that, using the standard guidelines for assessing parking demands for supermarkets, the existing New World Khandallah supermarket would require a car park in the order of 66-77 spaces to accommodate the parking demand (i.e., more than the current 38, but less than the approximately 100 spaces proposed).
- 9.60 Nonetheless, despite our reservations with the consistency of the evidence provided in support of the application, we are satisfied from the submissions in support of the proposal, Mr Boersen's evidence and our own on-site observations, that there is a demand for additional car parking to support the supermarket in efficiently accommodating customers during peak times, as well as to accommodate staff parking. The fact that the proposal accommodates additional necessary parking on-site is expected to lead to positive transport effects (such as reduced circulation of cars looking for parks, more available kerbside spaces, and reducing travel movements to other supermarkets) and would assist with supermarket accessibility for the Khandallah community.

⁷ Section 8 of the Assessment of Effects on the Environment

⁸ Evidence-in-chief of Michael Nixon, at paragraphs 23 and 56

Additional vehicle movements and associated congestion effects

- 9.61 We now turn to the potential for the additional car parks to create a significant amount of additional vehicle movements that would generate adverse effects by way of congestion, diminished road network safety and increased vehicle emissions. Many submitters expressed a view that a larger car park would encourage more people to drive generally and specifically to and from the supermarket, based on the simple assumption that more car parks mean greater traffic generation.
- 9.62 On this matter, the evidence of Mr Nixon was that traffic generation was a function of shop size, which is not proposed to be enlarged by this application. His advice was that customers to New World Khandallah are already travelling to either this supermarket or to supermarkets further away. Therefore, at a City Network level, he contended that no additional traffic would be generated if customers were to drive to New World Khandallah rather than further distanced supermarkets:

I consider that as the GFA of the supermarket is not changing, the number of traffic movements generated by the supermarket will not increase. What may occur however is that supermarket traffic movements, currently occurring on roads surrounding the supermarket (e.g. staff vehicle movements associated with parking on-street), shift on-site.⁹

- 9.63 Mr Nixon advised that the new car park would absorb the current demand for kerbside parking on local streets, particularly by staff, or change the shopping habits of those travelling to another supermarket further away. In both cases, he contended there would be no additional traffic generation, simply the reassignment of existing traffic movements, encouraging more residents to shop locally rather than travel to other parts of the City. He did not accept that the extra car parks would materially increase traffic generation or lead to new trips, or congestion.
- 9.64 The Council's traffic engineer, Mr Arampamoorthy, in his written report, similarly commented that the impact of generated trips for the additional parking would be less than minor. With minimal changes to trip generation expected from the parking proposal we conclude that congestion related delay or safety effects on the wider transport network were unlikely to be exacerbated by this proposal.
- 9.65 Based on the expert evidence, we accept that the proposed car park extension would not generate additional traffic at a network level.

Local road safety and impact of new vehicle accessways

- 9.66 Turning to the safety effects of the new supermarket accessways and the road network in the immediate vicinity of the proposal, we heard submissions from a representative of the St Benedict's School Board, local residents and responses from the traffic experts on the safety of intersections in the immediate vicinity. We also heard concerns related to the use of the current loading bay on Ganges Road, as well as the risk of the proposed

⁹ At paragraph 63

Nicholson Road supermarket accessway on pedestrians, particularly students of St Benedict's and young children.

- 9.67 The safety and pedestrian visibility of the intersections of Dekka and Nicholson Road, and of Everest Street and Nicholson Road, were also concerns raised by some submitters to the hearing. Mr Mark Roberts of 45 Ganges Road addressed his concerns with the proposed Dekka Street vehicle accessway related to vehicles exiting the car park from this point and the potential to not see vehicles passing buses stopped in the adjacent bus stop.
- 9.68 The applicant's traffic expert Mr Nixon addressed us on traffic safety. In regard to the Dekka Street access and the adjacent bus stop, he noted that, while not ideal, the restricted visibility can work safely given the low approach speeds of vehicles in this location. He recommended the access be monitored to ensure no adverse safety effects are generated. This recommendation was noted in Mr Arampamoorthy's report as well. However, it appears that Mr Nixon's recommendation of monitoring was not carried through to the recommended resource consent conditions, although it may be reflected in a proposed 'review' condition in the conditions put forward to us by both planning witnesses. In our view, a review condition does not on its own equate to monitoring, which implies an active measure-and-respond. Accordingly, we have imposed a condition requiring a post-construction safety audit of the supermarket car park be undertaken, including the functioning of the accessways, alongside the review condition to ensure that active monitoring occurs, with the findings reported on to the Council.
- 9.69 On this basis, we consider the safety effects associated with the proposed new supermarket vehicle access onto Dekka Street would be mitigated through imposition of consent conditions and remedied to the extent necessary should a safety audit of the completed access reveal any significant concerns.
- 9.70 Turning to the Nicholson Road accessway, we received considerable evidence on this matter. It was also subject to many of the submitters who appeared before us at the hearing. The general concern was that a supermarket accessway over a footpath utilised by residents, including by primary school students and young children, where there is no alternative pathway on the other side of the road, was an unacceptable safety risk.
- 9.71 Mr Arampamoorthy went to considerable effort to identify options to mitigate the safety risk with the accessway – initially suggesting a raised platform to slow vehicles entering and exiting and then suggesting a raised commercial style access treatment that would physically prevent right hand turning movements. We felt this option could add to the 'commercial' appearance of the car park from the pictures he provided, and we did not have any other evidence on which to understand how this arrangement might be for pedestrian amenity and streetscape values.
- 9.72 As we have concluded in regard to streetscape and neighbourhood character effects, we found that a new vehicle accessway on Nicholson Road would result in sufficiently significant adverse streetscape effects to justify our decision to only grant consent subject to the removal of this accessway. While our decision on this access point is not based on traffic and pedestrian safety, its removal by way of a resource consent condition does resolve any concerns about the compatibility of this accessway with traffic and pedestrian

safety as there would be no risk of conflict at this point. On this matter, we rely on the oral evidence of Mr Nixon in response to questions that the car park could operate effectively and safely without this access.

- 9.73 Accordingly, while our primary reason for not allowing a Nicholson Road supermarket access was to minimise adverse effects on the residential streetscape, it provides a secondary benefit in removing the conflict and safety concerns expressed by the community and identified as causing potential risk sufficient to require specific mitigation by the traffic experts. In avoiding the Nicholson Road pedestrian conflict, the benefits of improved car parking provision for the supermarket and the proposed pedestrian accessway through the site to facilitate walking trips to the supermarket are still retained.

Climate change effects and provision for active transport modes

- 9.74 We heard from Mr Dyer on behalf of Cycle Wellington and Dr Tripp for Doctors for Active Safe Transport. They raised concern about the lack of provision for cyclists from the perspective of health benefits and to facilitate mode shift to reduce vehicle related emissions and climate change effects. As we concluded that the proposal would not significantly increase vehicle travel, based on the expert traffic engineering advice, it follows that existing vehicle emission levels associated with the use of the land as a supermarket would not be exacerbated either.
- 9.75 We were cognisant of the Cycle Wellington and Doctors for Active Safe Transport submission points on the lack of additional cycle facilities within the proposal. In response, the applicant amended the proposal during the hearing to include 8 new on-site cycle parks, to be accommodated through removal of 2 of the proposed car parks. This change, together with the proposed pedestrian path through the supermarket and e-charging facilities is, in our view, a suitable response to the policy direction of the PDP.
- 9.76 Overall, the transport related effects, as mitigated by our decision to remove the Nicholson Road accessway, would be satisfactorily avoided, remedied or mitigated.

Stormwater effects

- 9.77 The car park will increase the impervious area across the 3 properties by some 618m². Several submitters, including Mr and Mrs Soper who addressed us at the hearing, commented on local flooding experiences caused by existing stormwater overflow issues and expressed concern that the proposal would exacerbate such risks.
- 9.78 The applicant's stormwater witness, Ms Wang, advised the design included two storm filter devices would be installed to treat the quality of the water collected on site prior to discharge to the Council network. She confirmed that stormwater run-off discharged to Dekka Street would be reduced due to reduced impervious area in this part of the site. For Nicholson Road, the impervious area contributing to stormwater flows into the public system would increase. Ms Wang advised these flows will be managed by the proposed 4.2m² detention tank to control peak flows prior to discharging to the Council stormwater network. Her advice to us was that the proposed design was appropriate as the post

development peak run-off flows will not increase compared with the existing situation. In other words, flooding will not be exacerbated by the proposed development.

- 9.79 The Council's stormwater expert Ms Brydon addressed us towards the end of the hearing, speaking to her report which accompanied the s42A report. She highlighted a need for some redesign of the car park to include additional hydrological control and treatment as far as practicable, using some form of water sensitive design options investigated in liaison with Wellington Water. She confirmed this could be achieved through the consent conditions recommended through her original assessment and included within the s42A report. As we understand, some form of additional stormwater management is required to address potential localised erosion/scour in the receiving environment (i.e., the Kaiwharawhara Stream) as a result of the greater volume of impermeable surfacing associated with the development. She advised that the solutions for managing this effect are typically raingardens or some areas of permeable paving.
- 9.80 At this point we would record that we found her original report was a little unclear in that it did not explicitly state that an element of additional stormwater control and treatment should be required over and beyond the proposed retention system, and the subsequent design changes that this additional redesign could result in; for example, in necessitating amendments to the car park design and the landscaping plan). Notwithstanding that point, we were convinced by Ms Brydon's clear verbal advice to us that water sensitive design was also an important matter for this development to address. Any changes to give effect to the incorporation of water sensitive design should be feasible given the size of the proposed car park, with only minor amendments to site design, according to Ms Brydon. We also note that changes to the landscaping design are already required as a result of our decision to remove the Nicholson Road accessway. Accordingly, we accept this aspect of the stormwater conditions should be imposed, contrary to the applicant's request in their closing submissions.
- 9.81 We note the applicant's own stormwater expert was presumably familiar with the requirements of the water sensitive design guideline referenced in the applicable condition and the meaning of the term 'hydrological control'. No concerns were expressed by Ms Wang in her evidence on the requirements of the conditions included in the s42A report. On this basis, we accept the advice of Ms Brydon.

Summary of findings on effects

- 9.82 In regard to s104(1)(a) RMA, we find that, overall, subject to the imposition of appropriate conditions, the adverse effects of the proposal would be no more than minor.

10 Assessment against Relevant Planning Provisions

- 10.1 Under s104(1)(b) RMA, an assessment of the proposal against the relevant planning provisions is required. For this application, there was no disagreement that the most relevant planning instruments are:

- The National Policy Statement on Urban Development

- The Wellington Regional Policy Statement, and
- The Operative and Proposed Wellington City District Plan.

National Policy Statement on Urban Development

- 10.2 The only national policy statement relevant for this application is the National Policy Statement on Urban Development 2020 (NPS-UD) as amended in 2022.
- 10.3 Section 9.2 of the AEE provided an assessment of the application with the provisions of the NPS-UD, concluding that the proposal is generally in accordance with the outcomes sought by the NPS-UD. The key points to that assessment were that:
- a) The proposed increase to car parking would assist in future proofing for the future intensification of the City as directed by the NPS;
 - b) The proposal would provide for an extension to the car parking while maintaining the supermarket within its District Centre location; and
 - c) The proposal would contribute to the development of Khandallah as a well-functioning urban environment by providing for supermarket expansion within an existing urban area.
- 10.4 No assessment of the proposal against the NPS-UD was provided in the s42A report, as noted in the evidence of Ms Key for the applicant. Ms Key considered that the proposal would provide for an extension to the car parking while maintaining the supermarket within its Centre zone location. She stated that the proposal would contribute to the development of Khandallah as a well-functioning urban environment by providing for supermarket activity within an existing urban area, and that therefore it is consistent with and gives effect to the NPS-UD¹⁰.
- 10.5 In our assessment, we first record that the NPS-UD requires local authorities to provide sufficient development capacity to meet the expected demand for both housing and business. While much of the focus of implementing the direction under this NPS has been in enabling much a greater level of intensification in our cities' residential areas, particularly our high growth urban centres (Wellington City is a Tier 1 local authority), we note that the NPS-UD also provides a strong direction to local authorities to enable business growth to support well-functioning urban environments that enable people and communities to provide for their well-being.
- 10.6 Our second observation is that the NPS-UD provides direction both to local authorities in their plan-making functions and to decision-making generally under the RMA, including making decisions on resource consent applications. Many of the objectives and policies in the NPS-UD relate to plan-making and are not therefore directly relevant to making decisions on resource consent applications.
- 10.7 In regard to making a decision on this application, we find that the key objectives of relevance to this application are Objectives 1, 4 and 6 as follows:

¹⁰ At paragraphs 65-69

Objective 1: *New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.*

Objective 4: *New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.*

Objective 6: *Local authority decisions on urban development that affect urban environments are:*

- (a) integrated with infrastructure planning and funding decisions; and*
- (b) strategic over the medium term and long term; and*
- (c) responsive, particularly in relation to proposals that would supply significant development capacity.*

10.8 In addition to this, Policies 1, 6, and 11 are most relevant to the consideration of this application:

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: ...*

- (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and*
- (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
- (e) support reductions in greenhouse gas emissions; and*
- (f) are resilient to the likely current and future effects of climate change.*

Policy 6: *When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:*

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement*
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - (ii) are not, of themselves, an adverse effect the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)*
- (d) any relevant contribution that would be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*
- (e) the likely current and future effects of climate change.*

Policy 11: *In relation to car parking: ...*

(b) tier 1, 2, and 3 local authorities are strongly encouraged to manage effects associated with the supply and demand of car parking through comprehensive parking management plans.

10.9 In terms of the direction of the NPS-UD we find that the proposal is consistent with these objectives and policies for the following reasons:

- a) The car park extension would provide a more suitably sized supermarket operation that more effectively provides for the current and future retailing demands for this part of northern Wellington;
- b) The car park extension would improve the accessibility of the supermarket and Khandallah local centre for residents and the wider community, including by active modes;
- c) The proposal would support reductions in greenhouse gas emissions by better enabling Khandallah residents to shop locally, and through additional provision for active transport such as enhanced walking access and additional cycle parks;
- d) While the proposal may detract from amenity values appreciated by some people, it would improve amenity values appreciated by other people, communities, and future generations, and provide benefits that are consistent with a well-functioning urban environment;
- e) Through the imposition of conditions of consent, the effects of the proposed car parking would be comprehensively managed.

10.10 We did consider whether the removal of three residential properties from the potential for housing intensification that has now been enabled through the High Density Residential zoning of the land was contrary to the direction of the NPS-UD. As we recorded, under the PDP, the zoning of these sites enables residential development of up to six storeys (22m) to be built, a potential that would be effectively lost in the foreseeable future under this proposal. However, we weighed this loss of potential with the ability of additional car parking to enable the supermarket to better service not only the needs of the existing wider Khandallah community, but also to support the future growth of the area and its retail requirements. We therefore find that the expanded car park would support and enhance the functioning of the Khandallah local centre. We find that this benefit would outweigh the relatively minor loss of three residential properties in the context of the significant intensification opportunities now enabled by the PDP in northern Wellington.

10.11 Accordingly, we find that the application is consistent with the objectives and policies of the NPS-UD in that –

- a) It would enable people and communities to provide for their social, economic, and cultural wellbeing through a better functioning local centre; and
- b) It reflects the changing urban environment of Wellington, recognising the character and amenity values of this part of the City will change over time, in line with anticipated urban form.

- 10.12 Overall, we find the application is consistent with the NPS-UD because it is providing for a well-functioning urban environment through contributing to additional local business capacity needed to support a well-functioning urban environment.

Regional Policy Statement

- 10.13 The AEE submitted with the resource consent application did not address the consistency of the proposal with the Wellington RPS. The s42A report provided a short assessment, concluding the proposal would be inconsistent with the policies of the RPS, although puzzlingly it noted the proposal minimises the potential risk and consequence of serious damage from a large earthquake.
- 10.14 In response to a direction in the Panel's Minute #3, the reporting officer providing via an addendum to the s42A report circulated prior to the hearing, an assessment of the proposal against the relevant provisions of the proposed Change 1 to the RPS. In summary, that assessment concluded that, while the proposal was consistent with many of the objectives and policies, it was not consistent insofar as:
- a) The proposal does not promote greenhouse gas emission reduction and uptake of low emission fuels (Energy, Infrastructure and Waste);
 - b) The proposal is in direct conflict with the associated policies which 'minimises private vehicle travel and trip length while supporting mode shift to public transport or active mode shift to public transport or active modes and supports the more towards low and zero-carbon modes' as the proposal does not reduce car dependency on the private motor vehicle and encourages the use for convenience rather than providing active alternatives (Energy, Infrastructure and Waste);
 - c) The proposal is not consistent with the region's urban design principles and does not promote a compact form, and the proposal does not encourage the use of public transport (Regional Form, Design and Function); and
 - d) The proposal provides emphasis on the use of the private motor vehicle and does not encourage the change to maximising mode shift from private vehicles to public transport or active modes which in turn does not provide for climate resilient urban areas (Climate Change).
- 10.15 In response, the applicant's planner, Ms Key reached a different conclusion, considering the proposal to be consistent with the RPS, although her reasoning for this conclusion was not explained. However, in regard to the use of private transport and modal shift, as succinctly summarised in the reply, the applicant did assert that –
- a) There is an existing bus stop immediately outside the supermarket on Dekka Street;
 - b) Additional cycle parks are to be provided (a total of eight cycle parks would be provided in addition to the two parks currently provided on the footpath), beyond the existing demand or as required by the District Plan;
 - c) EV charging stations would be provided;

- d) Pedestrian accessibility in this vicinity would be enhanced through a new pedestrian link between Nicholson Road and the Khandallah shopping centre;
- e) The Proposal is not designed or expected to increase traffic volumes but rather redirect vehicle traffic currently going to other supermarkets in the City; and
- f) Enhancing the productivity consistent with the region's urban design principles in promoting a compact form.

10.16 Given the contrary nature of the expert opinions provided to the hearing in relation to consistency with the RPS, we have undertaken our own assessment, focusing on the objectives and policies proposing to be introduced through Change 1 to the RPS.

10.17 In our assessment, we find that the proposal is generally consistent with the objectives and policies of the RPS, including those in proposed Change 1, as it will:

- a) Promote the more efficient use of an existing local commercial activity servicing the local community, and to reduce locally generated traffic movements to other more distant supermarkets elsewhere in the City;
- b) Enable other modes of transport to the supermarket through cycling, walking or public transport; and
- c) Enabling the more effective use of an existing supermarket would promote a more compact form and the proposal, with the exclusion of the Nicholson Road access, has been determined to be consistent with the City's urban design principles.

Wellington City District Plan (Minister's Decisions Version)

10.18 The changes to the City's planning policy framework since this application was lodged has created a level of unusual complexity, providing an evolving statutory background for assessing this proposal.

10.19 The PDP provisions were categorised into two different types, subject to two alternative decision-making processes, although both types of provisions were heard by the same Hearing Panel: the IPI provisions of the PDP became operative once the Minister's decisions were released, with no ability for appeals, while the other provisions are subject to the standard Schedule 1 process, and subject to appeals to the Environment Court.

10.20 As we outlined in Section 4, at the time the application was lodged in July 2022, the objectives and policies of the ODP provided the prevailing policy direction for the management of land use and development in the City. Since that date, the PDP was notified, submissions received and, over 2023, hearings were held, primarily focused on the IPI provisions introduced into the PDP in response to the RMA-EHS. The Minister's decisions on the recommendations of the WCC in regard to the IPI provisions were released on 8 May 2024 and are now operative¹¹.

10.21 As we noted in paragraph 4.11, many of objectives and policies of the PDP that are relevant to this proposal are now either fully operative or are not under appeal and must

¹¹ We record that these decisions were released prior to the formal closing of the hearing on 16 May via Minute #5

therefore be given full weight. For simplicity, we do not make any differentiation in our assessment.

- 10.22 For the record, as was traversed at the hearing, as part of its submission on the PDP, the applicant FSNI had requested to rezone the three residential properties that are part of the application site from Residential to Local Centres. This was rejected by the Council, a decision which we were informed at the hearing would be appealed by the applicant. Given the uncertainty of that outcome, we can place little or no weight on that matter and must assess the proposal on the basis of its current zoning of High Density Residential and the relevant objectives and policies.
- 10.23 A detailed statutory assessment of the proposal was included in section 9 of the AEE provided with the resource consent application. This assessment was focused on the objectives and policies within the ODP, which was appropriate given that these provided the prevailing directive for managing land use in the City's residential zones at that time. The conclusion of the AEE was that the proposed development is generally in accordance with the objectives and policies of the ODP and the outcomes of the NPS-UD.
- 10.24 The reporting officer, Ms Camilleri, also provided an assessment of the proposal against key planning provisions in the s42A report. Again, this assessment was focused on the ODP objectives and policies but reached a different conclusion, finding that the proposal, while it is consistent in some regards, is not consistent with the ODP for the reasons we summarise as follows:
- a) The proposal would not promote the efficient use and development of Residential Areas in that it is a non-residential activity in a residential zone and would detract from the residential character and amenity of Residential Areas (Objective 4.2.1 and Policy 4.2.1.5);
 - b) The proposal does not minimise hard surfaces and is not of a character and scale that is appropriate to the residential neighbourhood; in particular, the Nicholson Road entrance would be out of character in a vegetated residential area and would introduce a commercial operation into an environment where it is not expected (Objective 4.2.3, Urban Form, and associated policies);
 - c) The residential amenity values would not be managed appropriately by the proposed development which would compromise the residential values of the adjoining properties (Objective 4.2.4 and Policy 4.2.4.1);
 - d) The adverse effects of the proposed development would not be appropriately avoided, remedied, or mitigated in a manner that retains the residential character or the amenity values of the surrounding environment (Objective 4.2.7 and Policies 4.2.7.3 and 4.2.7.4);
 - e) While the proposed development would facilitate the ongoing availability of parking to supermarket users, which in turn, supports the viability of the centres, the proposal would not maintain and enhance the character and amenity of the Centre (Objective 6.2.2 and Policies 6.2.2.1 and 6.2.2.4);

- f) The proposal does not acknowledge or respect the streetscape and form of the surrounding area, particularly in regard to Nicholson Road (Objective 6.2.3 and Policy 6.2.3.1); and
- g) As the works are not proposed to be screened, the retaining walls would dominate the site when viewed on and off site (Objective 29.2.1 and Policy 29.2.1.7).

10.25 In response to a direction from the Panel (Minute #3), the reporting officer provided a supplementary assessment prior to the hearing, in which she assessed the proposal against the objectives and policies of the PDP, including both for the MDZ and HRZ, given the Minister's decision on the zoning of the area had not been issued at that time. In essence, while accepting the proposal was consistent with some of the relevant PDP objectives and policies, her assessment reached a similar conclusion to that of her assessment of the ODP objectives and policies, finding that (in our words):

- a) The proposal would not provide for residential activities nor anticipated non-residential activities (MRZ-O1 /HRZ-O1, HRZ-P1);
- b) The proposal does not integrate into the residential context and would compromise the residential amenity (MRZ-P13);
- c) The proposal is not considered to be a high quality development (MRZ-P5);
- d) The proposal would not provide a healthy, safe and accessible living environment with attractive and safe streets (MRZ-O3 / HRZ-O3); and
- e) The nature of the artificial lighting and the sources are not compatible with the residential area and with the nature of lighting that would be expected with a residential use of the property (objectives and policies on Light).

10.26 In her evidence, Ms Key for the applicant assessed comparable objectives and policies of the ODP and PDP, reaching a contrasting conclusion for reasons we summarise as follows:

- a) The objectives and policies do not preclude non-residential activities, and none seek to avoid such activities in residential zones;
- b) The proposal would support the ongoing operation of an existing supermarket located in an existing urban area that is expected to undergo population growth and intensification in the future, which would assist in providing for better use of multiple modes of transport, infrastructure and energy thereby promoting the notion of a compact and more sustainable city;
- c) There has been careful consideration given to the design of the proposal to ensure a balance between the functionality of the parking area and pedestrian walkway with the provision of landscaping and the use of buffering vegetation, so that the car park can serve as a transitional space between the commercial and residential zones;
- d) The proposal would contribute positively to the character and liveability of the area, serving as a functional asset;
- e) The proposal is wholly compatible within its context, being a residential neighbourhood that directly adjoins the Khandallah Village, with the operation of the

car park proposed to be managed to be compatible with the residential amenity, including limitations on overnight use, the closure of the supermarket each evening, no loading or deliveries are proposed within the new car parking area and with noise and light levels meeting District Plan standards; and

- f) The proposed car parking is set well back (approximately 22m) from the Nicholson Road footpath with extensive landscaping between to ensure that the proposal enhances the existing streetscape appeal of the neighbourhood.
- 10.27 Given the contrary nature of the expert opinions provided to the hearing in relation to consistency with the relevant District Plan objectives and policies, we have undertaken our own assessment, focusing on the objectives and policies in the PDP which are now largely operative or have full legal weight.
- 10.28 Our assessment is primarily influenced drawn from our conclusions on the actual and potential adverse effects of the proposal – that the proposed extension is an appropriate and acceptable extension to the existing supermarket to overcome the current deficiencies in vehicle capacity and consequent parking overflow into the Khandallah centre, provided that vehicle access is restricted to its Ganges Road and Dekka Street frontages to avoid the adverse effects that this aspect of the proposal would have on the streetscape and residential character of Nicholson Road, and the safety of road and footpath users, and subject to appropriate conditions regarding the design and ongoing operation of the car park.
- 10.29 The critical objectives and policies are the relevant provisions as they relate to the residential zoning of the three properties at 3 Dekka Street and 31-33 Nicholson Road. There appeared to be no disagreement that the proposal was consistent with the objectives and policies of the Local Centres Zone that apply to the existing supermarket at 26 Ganges Road.
- 10.30 As the Minister’s decisions on the recommendations of the WCC on the IPI provisions were released on 8 May 2024, prior to the closing of the hearing on 16 May 2024, we record that the zoning of these sites is now High Density Residential. We focus our assessment on the provisions as they relate to that zone.
- 10.31 Before we provide our assessment, it is important to understand the purpose and intention of the HRZ. The Introduction to the HRZ states that (emphasis highlighted):

The High Density Residential Zone encompasses residential areas of the city located near to the City Centre Zone, Metropolitan Centre Zones and railway stations forming part of a Rapid Transit service. These areas are used predominantly for residential activities with a high concentration and bulk of buildings and other compatible activities.

The efficient use of land and infrastructure within the High Density Residential Zone is important to meet the strategic objectives of maintaining a compact urban form and providing new housing to help address the City’s housing needs. This will also ensure that residents have convenient access to retail, services, employment and public transport.

...

It is anticipated that the form, appearance and amenity of neighbourhoods within the High Density Residential Zone will change over time to a more intensive urban built form.

The High Density Residential Zone accommodates a range of compatible non-residential uses that support the needs of local communities. Incompatible non-residential activities are not anticipated in this zone.

10.32 The purpose of the HRZ is set out in Objective HRZ-O1 as:

The High Density Residential Zone provides for predominantly residential activities and a variety of housing types and sizes that respond to:

1. *Housing needs and demand; and*
2. *The neighbourhood's planned urban built character, of at least 6-storey buildings.*

10.33 Objective HRZ-O3 is also relevant to this application:

Healthy, safe and accessible living environments

The High Density Residential Zone provides healthy, safe and accessible living environments with attractive and safe streets.

10.34 In terms of the policies for the HRZ, the proposal is not one of the specifically enabled activities under Policy HRZ-P1, being residential activities, home businesses, visitor accommodation, childcare services, and community gardens. Policy HRZ-P5 is relevant as the proposed development does not meet permitted activity status:

Provide for developments not meeting permitted activity status, while encouraging high-quality developments.

10.35 This policy signals that the zone provides a consenting pathway for developments that are not otherwise permitted, which is important in that there is no consent status more onerous than a discretionary activity for the HRZ, and that relates solely to all other activities that are not otherwise specified as permitted activities or restricted discretionary activities (Rule HRZ-R8). Thus, we concur with the applicant's planner that the Zone does not seek to prevent – or avoid – non-residential activities, but rather it provides a consenting pathway that subjects a proposal to a number of tests or criteria that are prescribed under Policy HRZ-P12.

10.36 It was agreed by the two planners that that HRZ-P12, which provides specific direction on non-residential activities and buildings in the HRZ, is the key policy consideration. In full, this policy is as follows:

Provide for non-residential activities and buildings that:

1. *Support the needs of local communities;*
2. *Are of an intensity, scale and design that is consistent with the amenity values anticipated for the Zone;*
3. *Contribute positively to the urban environment and achieve attractive and safe streets;*
4. *Reduce reliance on travel by private motor vehicle;*
5. *Maintain the safety and efficiency of the transport network; and*

6. *Will be adequately serviced by three waters infrastructure or can address any constraints on the site; and*
7. *Are integrated into residential developments, where appropriate.*

10.37 An assessment of the proposal against this policy was provided in the addendum to the s42A report, in response to a direction from the Panel (Minute #3). The applicant’s planner, Ms Key, also verbally provided a full assessment at the hearing, which was later recorded via a supplementary statement of evidence as part of the Reply circulated following the hearing. With a number of exceptions, we prefer the assessment of Ms Key in that we consider it a more apposite analysis. Our assessment against Policy HRZ-P12 is as follows.

1. Support the needs of local communities

10.38 The car park expansion would allow for the supermarket to be more conveniently used by the local community for their grocery and other essential needs and ensure that the existing supermarket maintains an important anchor role for the Khandallah Centre, supporting the vitality of the Village.

2. Are of an intensity, scale and design that is consistent with the amenity values anticipated for the Zone

10.39 The proposed car park has been broken up into a number of smaller components that are separated by retaining walls and landscaping that would be more appropriate for the context than a large single open area of parking. The fencing, landscaping design, and planting palette, with contrasting colours and textures, is consistent with a residential style of planting design. The removal of the access from Nicholson Road and the partial screening and softening of the car park from Nicholson Road through additional landscaping along the frontage would further assist in addressing this criteria. These design and landscaping features assist in managing the intensity and scale of the proposal to ensure that it is appropriately integrated within the surrounding residential environment and the amenity values anticipated for the neighbourhood. The proposed controls on noise, lighting, hours of operations would further assist in ensuring the activity is consistent with the amenity values of the vicinity.

3. Contribute positively to the urban environment and achieve attractive and safe streets

10.40 The incorporation of specimen trees and landscaping within and around the car park would contribute positively to the local urban environment. The inclusion of a new pedestrian walkway to provide access from Nicholson Road to the Khandallah shops would also be a positive contribution. The traffic experts agreed that the proposed car park can be accessed safely from Ganges Road and Dekka Street. The imposition of a condition to remove any vehicle access from Nicholson Road would better achieve the ‘attractive and safe’ policy guidance for that street.

4. Reduce reliance on travel by private motor vehicle

- 10.41 On the basis of the expert traffic evidence, we accept that the additional parking would draw local custom that would otherwise travel further by private motor vehicle to more distantly located supermarkets. While this would not reduce the reliance on private motor vehicle use, it would reduce the total travel by private motor vehicle at a network level. We were not, however, convinced that, at a local level, the provision of a considerably expanded parking area would reduce reliance on private motor vehicles, as the ease of parking is likely to encourage local residents to use their car rather than by active modes.
- 10.42 The proposal does include the following measures to aid in reducing reliance of the use of private motor vehicles:
- a) A pedestrian walkway from Nicholson Road through to the supermarket which is expected to encourage more people to walk to the supermarket, thereby reducing their reliance on private motor vehicles for smaller grocery shops.
 - b) At least eight additional bicycle parking spaces would be provided on the site which will be covered.
- 10.43 In addition, the applicant promotes on-line orders and deliveries which reduces travel to the supermarket via private vehicle.
- 10.44 On balance, while we have concluded the proposal is not fully consistent with this criteria, overall, it is not inconsistent with it.

5. Maintain the safety and efficiency of the transport network

- 10.45 Expert traffic evidence for the applicant concluded that, at a City-wide network level, the proposal will not generate any additional traffic movements as the supermarket floor area is not being altered. In response to questions at the hearing, the applicant's traffic expert advised the car park could operate safely and effectively using the Dekka Street and Ganges Road accessways only. Subject to the preparation of a construction and traffic management plan to manage construction traffic, we have concluded the proposal can maintain the safety and efficiency of the surrounding road network.

6. Will be adequately serviced by three waters infrastructure or can address any constraints on the site

- 10.46 Expert evidence was that the stormwater runoff from the proposal would be adequately serviced through the proposed underground detention tank for high rainfall events and via kerb discharges along Dekka Street. The inclusion of water sensitive design to control stormwater from smaller rainfall events to avoid erosion and scour effects was recommended by the Council's expert, which we have adopted. This system would ensure that there are no adverse downstream effects on the surrounding environment and neighbouring properties.

7. Are integrated into residential developments, where appropriate

10.47 This particular part of the policy is not applicable as the proposal does not include any residential component.

10.48 Overall, we find that the proposal generally satisfies the criteria for non-residential activities in the HRZ under Policy HRZ-P12.

10.49 Two other HRZ policies are also relevant to this proposal:

HRZ-P9 – Vegetation and landscaping

Encourage the retention of existing vegetation, particularly native vegetation and visually prominent trees that may not otherwise be protected, and where vegetation is proposed to be removed, seek new landscaping of equal or better quality to help integrate new development into the surrounding environment and minimise hard surfacing.

HRZ-P10 – Attractive and safe streets and public open spaces

Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.

10.50 We have concluded that the proposal is consistent with Policy HRZ-P9 in that it proposes to retain as much existing vegetation as possible, as well as provide a good level of new landscaping of equal or better quality to help integrate new development into the surrounding environment.

10.51 In regard to minimising hard surfacing, we accept there are practical limitations to a car park achieving that outcome. However, as we concluded in respect of stormwater management (paragraphs # to #), we would agree with the Council's stormwater adviser, Ms Brydon, that the application had not demonstrated that options for improving the water sensitive design for retaining and treating stormwater had been fully explored. We have therefore imposed a resource consent condition that would require options for water sensitive design to be investigated in liaison with Wellington Water. Depending on the outcomes of that process, the proportion of hard surfacing may be further reduced.

10.52 In regard to Policy HRZ-P10, we concluded that the proposed access from/onto Nicholson Road would not be consistent with either achieving a safe and attractive street or in providing passive surveillance. The removal of this access point would be more consistent with achieving this policy.

10.53 In terms of the PDP's objectives and policies for three waters, we accept the assessment of the reporting officer that the proposal is largely consistent in that the expert advice is that the proposed design, which provides for the collection and treatment of contaminants from the new car parking area using below ground proprietary stormwater filters, is an acceptable solution. The proposal did not provide any water sensitive design solutions, contrary to the direction of Policy THW-P1. However, we have adopted the recommendation of the Council's reporting officer to impose a resource consent condition that would require the investigation of potential water sensitive design options for the site.

10.54 In terms of the PDP's objectives and policies for earthworks, we accept the expert evidence of the Council's Earthworks Engineer, Mr Davies, that the effects of the proposed

earthworks in terms of site stability, erosion and sediment control, and dust emissions can be appropriately managed during the construction process, subject to the imposition of resource consent conditions. In terms of the visual effects of earthworks, the proposed landscaping would assist in integrating the cuts and retaining walls into the existing environment.

- 10.55 In conclusion, based on the expert evidence, and subject to the removal of vehicle access via Nicholson Road, as well as the imposition of consent conditions on the design and ongoing use and management of the car park, we find that the proposal is generally consistent with the relevant provisions of the District Plan.

11 Other Matters

- 11.1 Under s104(1)(c), regard may be given to any other relevant matter. The Officer did not identify any other matters that were relevant, and no other matters arose during the hearing.
- 11.2 In regard to positive effects, we concur with the applicant's and Council's planners that the proposed development would have a number of benefits.
- 11.3 The positive effects of this proposal include:
- a) Improvements in transportation efficiency with supermarket customers and employees being able to efficiently park within the supermarket car park and either not rely on on-street parking or travelling to other supermarkets within the City;
 - b) The proposal would give effect to the NPS-UD in terms of creating a well-functioning urban environment, supporting the functioning of the local centre at Khandallah and its ability to service the needs of this part of northern Wellington, now and in the future;
 - c) Comprehensive landscaping is proposed to soften the retaining walls and car parking expanse over time and contribute to the provision of native vegetation;
 - d) The addition of a pedestrian walkway which would provide a more direct access to the supermarket and Village for those travelling from the Nicholson Road area; and
 - e) Stormwater management and in particular treatment to filter sediment and absorb heavy metals created by the car park traffic.
- 11.4 Under s104(1)(ab), consideration must be had to any measures an applicant offers to ensure positive effects to offset or compensate for any adverse effects on the environment. The applicant has not proposed any measures outside those proposed within the site for avoiding or mitigating adverse effects on the environment that would or may result from allowing the activity.

12 Part 2 of the Act

- 12.1 When considering an application for a resource consent and any submissions received, my assessment is subject to Part 2 of the Act, which includes:

- a) The purpose of the Act (section 5)
 - b) Matters of national importance that the consent authority must recognise and provide for when determining a resource consent (section 6)
 - c) Other matters the consent authority must have particular regard to (section 7), and
 - d) The principles of the Treaty of Waitangi that must be taken into account (section 8).
- 12.2 In achieving the purpose of the Act, Part 2 requires the consent authority to recognise and provide for matters of national importance (section 6); have particular regard to other matters (section 7); and to take into account the principles of the Treaty of Waitangi (section 8).
- 12.3 A detailed evaluation of Part 2 matters is mostly helpful where there are deficiencies in the lower order planning documents such as the District Plan. However, in this case, with the recent review of the District Plan to, in part, give effect to recent higher order direction, and with many of the relevant provisions very recently becoming operative, we consider the circumstances of “invalidity, incomplete coverage or uncertainty” do not apply and that the District Plan provides a coherent set of policies designed to achieve clear environmental outcomes. Thus, the relevant planning provisions that apply to this application are sufficiently current to determine the outcome of the application without reference to Part 2 of the Act.
- 12.4 In overall terms, we find the proposed development to be consistent with the purpose of promoting the sustainable management of the City’s natural and physical resources in accordance with Part 2 RMA.

13 Conditions of Consent

- 13.1 Section 104B enables the Council to impose conditions on a consent for a discretionary activity. Section 108 and 108AA sets out the requirements for imposing conditions on resource consents.
- 13.2 Notwithstanding her recommendation to decline consent, the reporting officer did provide a set of recommended resource consent conditions with the s42A report if the Panel were of a mind to grant consent; a revised set of these conditions were circulated immediately following the hearing to response to matters arising during the hearing.
- 13.3 In our approach to the conditions for this proposed development, our starting point was the applicant’s final set of conditions, submitted with their reply on 10 May 2024, which were based on the revised set of recommendations circulated by the reporting officer.
- 13.4 The revised set of recommended resource consent conditions circulated with the applicant’s reply only contained a number of relatively minor changes. Overall, there was general alignment in the recommended resource consent conditions, and, with exception of a number of matters, we have largely adopted them as part of our decision. We have made a number of amendments to take into account elements of our decision or to make improvements to the readability and usability of the conditions. We have updated the numbering of the conditions to take into account the changes we have made, but our

explanation below has also referred as needed to the numbering used in the applicant's final set of revised recommended consent conditions.

- 13.5 Condition 1 is amended to acknowledge the design changes arising with our decision to remove the vehicle access onto Nicholson Road and our requirement to provide additional landscaping within the front part of 31-33 Nicholson Road to mitigate the streetscape and residential character effects of the car park in this location. The condition has also been amended to ensure that the more specific conditions prevail should there be any conflict between the final set of plans and information and the resource consent conditions.
- 13.6 The advice note to Condition 5 has been amended for improved readability.
- 13.7 The heading and advice note for Condition 10 have been amended to link with a similar planting condition, Condition 25 (previously 23). The latter condition contained a conflicting timeframe for a similar planting requirement. The reference to 'grassing' in the condition heading has also been removed as no grassing was apparent from the proposal or landscaping plans. The modification to Condition 10 means that temporary stabilisation maybe required to minimise erosion risk in the event that planting (as allowed for by condition 23) would be delayed until the next planting season so would not occur within a month of the completion of earthworks. In this situation, the revised condition requires some form of temporary stabilisation measure to be used ahead of final planting.
- 13.8 Condition 14 has been modified to remove a duplicated reference to 'certification'.
- 13.9 A typographical error has been corrected in Condition 15.
- 13.10 A missing condition cross reference was added to Condition 16.
- 13.11 Condition 18 (Acoustic Design – Acoustic Fence) was amended by the applicant during the course of the hearing and then adopted by the Council planner without any discussion or specific evaluation of that change by any of the planning witnesses or noise specialists we heard from. The changes made amended the applicable noise performance limits for the acoustic fencing to achieve from the noise limits used under the ODP (which were in place at the time the application was lodged), to the new limits under the PDP, which allow for greater levels of noise. The applicant's change to Condition 18 removed the L_{Aeq} limit of 45 dB L_{Aeq} or the evening period of 7pm-10pm so that the daytime limit of 50 dB L_{Aeq} extended through to 10pm. The change also and increased the L_{max} level from 65 to 75 dB LAF_{max} . Given we heard no evidence in relation to this change from the applicant or the Council, and submitters were unable to comment on it, we concluded that we were more comfortable with the condition originally proposed by the applicant. This was because:
- a) it reflected the scope of the activities for which consent was sought, assessed and neighbours based their decision to submit or not on;
 - b) there was no evidence which indicated any need for a higher noise limit to operate the carpark, as the applicant's noise evidence indicated the lower limits for the late evening period could be met with the proposed acoustic fencing in place;

- c) there could be a risk that the acoustic fence design or maintenance to achieve the target performance level might be relaxed with higher noise levels being allowed by the consent to operate the activity than those predicted through the AEE; and
 - d) we were conscious of the proximity of the site to residential receivers, notwithstanding the acoustic fencing, particularly the closest neighbour at 7 Dekka Street, noting we heard from the residents of that property, Mr and Mrs Pugh, that their family was particularly sensitive to noise and other sensory effects.
- 13.12 We have added additional Conditions 21 and 22 to give effect to the suggestions in the applicant's planning evidence requiring:
- a) early morning and late evening staff parking movements should be at least 10 metres from any neighbouring property used for residential purposes; and
 - b) That the new carpark would not be used for delivery activities.
- 13.13 These conditions are included to minimise noise effects arising from use of the car park.
- 13.14 The landscaping plan condition, Condition 23 (previously 21) has been amended to incorporate suitable landscaping across the removed Nicholson Road vehicle access (condition 23(f)). As we discussed in paragraph 9.47, it is not our intention to require the full screening of the car park from Nicholson Road nor to necessitate the removal of any of the proposed car park spaces to incorporate this change. The removal of this accessway and the provision of additional planting is intended to mitigate the adverse effects on the residential character and streetscape of Nicholson Road from having the car park access rather than 'fully screening' the car park as sought by the Council's urban design adviser. Our approach seeks to retain the pedestrian accessway without either exacerbating CPTED risks or losing car park spaces proposed by the applicant. Our decision also took on board the submissions presented by St Benedict's School and residents about the need to address the pedestrian safety risk arising with the Nicholson Road car park access, given there is no alternative footpath on the other side of Nicholson Road. The commercial driveway design recommended by the Council's traffic area to prevent right turn movements was not considered to be as effective as the removal of the crossing from both a streetscape, residential character and pedestrian safety perspective, noting that the applicant's traffic engineer confirmed to us that the car park could function satisfactorily without an accessway onto Nicholson Road.
- 13.15 Condition 27 (previously 25) has been amended to include additional design requirements that were included in the Council lighting expert's report and reiterated by him at the hearing. These design requirements were omitted from the conditions in the s42A report and the applicant's conditions.
- 13.16 Condition 29 (previously 27) relating to a chain or similar for restricting after-hours vehicle access has been amended to remove the reference to the Nicholson Road entrance.
- 13.17 Condition 31 (previously 29) has been amended to require management of antisocial behaviour both during and outside of supermarket operating hours.

- 13.18 Condition 32 (previously 30) relating to Nicholson Road signage has been amended to relate to the pedestrian accessway only. Our condition specifies non-branded directional signage only, in order to minimise impacts on residential character.
- 13.19 Condition 34 (previously 32) relating to limiting hours for construction traffic access from the Nicholson Road has been amended to align with our decision to not approve a new vehicle access at this location. Our decision does not prevent use of the existing Nicholson Road vehicle access points outside of school times for construction activities that may be impracticable to undertake via the Dekka or Ganges Road access points (for example, the initial removal of houses).
- 13.20 The conditions previously numbered 33 and 35 relating to Nicholson Road design requirements have been deleted due to our decision not to exclude a new vehicle accessway onto Nicholson Road.
- 13.21 Condition 35 (previously 34) relating to the requirement for a safety audit has been retained because of Mr Nixon's recommendation for the post-construction monitoring of the Dekka Street access, particularly in relation to the operation of the bus stop. Our condition is intentionally broad to cover not only this matter, but also the operation of the existing Ganges Road access, and the internal site layout and pedestrian accessway. This is to ensure a comprehensive integrated safety review takes place.
- 13.22 For the stormwater conditions, we have used the Council officer recommended conditions that included, in Condition 46 (previously 44), a requirement for stormwater treatment in accordance with the Wellington Water Ltd *Water Sensitive Design for Stormwater: Treatment Device Design Guideline*, December 2019, Version 1.1. While it was not clear, prior to the hearing, that the Council stormwater expert's advice and recommended conditions necessitated some potential redesign of the proposed car park until Ms Brydon's clarification at the hearing, it seems reasonable to us that water sensitive design options should be considered during the detailed design phase and, where practicable, included in order to provide best practice treatment and hydrological control. While we accept that there may be site constraints present (e.g. slope) but we do not consider that a redesign of the car park, which may include the removal of some car parks to accommodate raingardens) as a site constraint in this situation, given the large number of proposed car park spaces for the activity concerned.
- 13.23 Accordingly, we have added back in the Council's recommended requirement around water sensitive design into the conditions and have added a 'to the extent practicable' caveat on this. This latter amendment is because we heard no evidence on how prescriptive the requirements of the guidelines are. Notwithstanding this, we are confident that this is a matter of detail that can be resolved through the secondary approval processes prescribed by the stormwater conditions.
- 13.24 Overall, we consider, with the conditions we have set out, the actual and potential adverse effects of the proposed supermarket car park would be adequately avoided, remedied or mitigated.

14 Conclusion and Decision

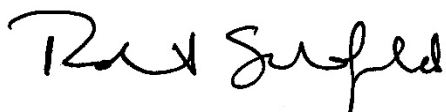
14.1 In conclusion, we have determined that resource consent should be granted to the resource consent application. Accordingly, our decision is as follows:

*That the Independent Hearing Panel, acting under delegated authority from Council and pursuant to sections 104B and 104D of the Resource Management Act 1991, **GRANTS CONSENT, subject to conditions**, to the resource consent application made by Foodstuffs North Island Ltd to undertake earthworks, construct and use a car parking area at 26 Ganges Road, 3 Dekka Street, 31 & 33 Nicholson Road, Khandallah, Wellington City, as an extension to an existing car park at New World supermarket Khandallah.*

14.2 The resource consent conditions are set out in Appendix 1.

14.3 This decision is made for the reasons discussed above and, in summary, because:

- a) Subject to the imposition of appropriate conditions, the activity that is granted would not have any significant adverse effects on the environment;
- b) While the proposed car park would change the existing environment and the amenity values that are currently present, the effects of the car park can be appropriately mitigated through the design and management of the car park to be acceptable to the amenity and character of the surrounding residential environment – in particular, the removal of a vehicle accessway onto Nicholson Road together with additional landscape planting would mitigate the adverse effects of this element on the streetscape and neighbourhood character;
- c) The redevelopment of the site for a supermarket car park extension is consistent with the provisions of the Wellington City District Plan, providing for the more efficient use of the adjacent commercial site;
- d) The intensification of this site for a greater level of business activity in local centres is consistent with the objectives and policies of the National Policy Statement on Urban Development; and
- e) The activity is consistent with the purpose and principles of the Resource Management Act 1991.



Robert Schofield, Chair of the Independent Hearing Panel

Dated this 7th day of June 2024

APPENDIX 1 – CONDITIONS OF CONSENT SRN 517439

General:

1. The proposal must be in general accordance with the information provided with the application Service Request No.517439 and the following plans, except as necessary to amend the design to remove the Nicholson Road carpark vehicle access and landscape this area, or as amended by subsequent conditions:

Prepared by Calibre and titled '*New World Khandallah Carpark Expansion*', project no. 712722, Rev. 4 and dated 10/04/2024:

- Erosion and Sediment Control Plan, Sheet C170;
- Erosion and Sediment Control Detail, Sheet C171;
- Earthworks Proposed Control Plan, Sheet C200;
- Earthworks Cut and Fill Plan, Sheet C201;
- Earthworks Site Section, Sheet C205;
- Retaining Wall Plan, Sheet C210;
- Retaining Wall Sections, Sheet C211;
- Accessway Plan, Sheet C300;
- Accessway Long Plan, Sheet C301;
- Typical Road Cross Section, Sheet C302;
- Roading Construction Detail, Sheet C303;
- Drainage Plan, Sheet C400;
- Stormwater Catchment Plan, Sheet C401;
- Stormwater Long Section, Sheet C405; and
- Standard Details Sheet 1, Sheet C800.
- Store Exterior/Carpark Navigation, New World Brand Standards V5 – 10.18

Prepared by Design Group Stapleton Elliot and titled '*Foodstuffs North Island F537 New World Khandallah 26 Ganges Road*', Project no. F537 and dated 11/04/2024:

- Vegetation to be Retained, Sheet L002, Rev. 6;
- Proposed Landscaping Plan, Sheet L100, Rev.6;
- Proposed Lighting Plan, Sheet L101, Rev. 6;
- Proposed Planting Plan, Sheet L102, Rev.6;
- North Proposed Planting, Sheet L103, Rev.6;
- East Proposed Planting, Sheet L104, Rev.6;
- South Entrance Proposed Planting, Sheet L105, Rev.6;
- South Corner Proposed Planting, Sheet L106, Rev 6;

- Planting Schedule and Typical Details, Sheet L107, Rev.6;
- Acoustic Fencing Elevations, Sheet L200, Rev.6;
- Stair and Accessway Sections, Sheet L202, Rev. 6;
- Planting Pallet, Sheet L600 and L601, Rev.6.

Prepared by 3D Lighting Design and titled '*New World Supermarket 26 Ganges Road Khandallah, Wellington, Proposed Carpark Extension Exterior Lighting Design Report*', Reference 24-025 and dated 17/04/2024:

- Site Plan Lighting Arrangement, Sheet EL01, Rev. 3

Prior to commencement of any works on site, the Consent Holder shall update the above drawings (as necessary) to remove the Nicholson Road vehicle access and provide a full set of the updated drawings to the Council's Compliance Monitoring Officer.

If there is any conflict between any of the above information and the conditions of consent, the conditions shall prevail.

Accessible car parking, bicycle parking and provision for electric vehicles:

2. Prior to the commencement of construction, the Consent Holder must provide an updated carparking layout plan to Council for approval that details:
 - a. The location of required accessible parking; and
 - b. The replacement of two of the existing car parking spaces with covered bicycle parking which would provide for at least eight additional bicycle parking spaces.
3. The Consent Holder must provide up to four designated Electric Vehicle parking spaces with charging facilities.

Earthworks and Construction:

Construction Engineer:

4. A suitably experienced and qualified Chartered Professional Engineer (CPEng) must be engaged by the Consent Holder for the monitoring earthworks, detailed design and construction phase of the project.

The CPEng must advise on:

- a. The methods to ensure the stability of the site and surrounding land;
- b. The construction of cut faces, fill batters, staging, shoring, and benching as required for stability of the earthworks; and
- c. The earthworks methodology to ensure consistency with engineering best practice and the infrastructure report by Calibre Ltd (dated 29 April 2022).

The Consent Holder must follow all the advice of the CPEng in a timely manner. If necessary, the Council's Compliance Monitoring Officer may require information regarding the engineer's monitoring and/or specific assessments to address any potential or actual instability issues in relation to earthworks.

Erosion and Sediment Control Plan:

5. At least 10 working days prior to any work commencing on site, an Erosion and Sediment Control Plan (ESCP) or infrastructure report is to be submitted to the Council's Compliance Monitoring Officer for certification.

Note: The ESCP controls submitted within the infrastructure report by Calibre Ltd (dated 29 April 2022) the application has been assessed and is supported. It is expected that it would form the basis of the final report submitted for certification.

6. The ESCP or infrastructure report would include additional detail around the following:

Dust Controls

- a. Measures to ensure that the discharge of dust created by earthworks, construction and transport activities are suitably controlled to minimise dust hazard or nuisance;

Management of Controls

- b. The methods for managing and monitoring the ESCP or infrastructure report controls; and
 - c. Nomination of a site person responsible for the implementation and administration of the ESCP or infrastructure report.
7. Earthworks must not commence on site until the ESCP or infrastructure report is certified by the Council's Compliance Monitoring Officer. The earthworks and associated work must be carried out in accordance with the certified ESCP or infrastructure report.

8. The erosion, dust and sediment control measures put in place must not be removed until the site is remediated to the satisfaction of the Council's Compliance Monitoring Officer. 'Remediated' means the ground surface of the areas of earthworks have been stabilised (no longer producing dust or water-borne sediment), and any problems with erosion, dust or sediment that occur during the work have been remedied.

Note: If necessary, the Compliance Monitoring Officer may require changes to the implementation of the ESCP or infrastructure report, to address any problem that occurs during the work or before the ground surface is stabilised.

Producer Statements:

9. A copy of the producer statement 'PS4 – Construction Review' and its accompanying documents for structures/buildings required for the stabilisation of earthworks and prepared for the associated building consent process, must be provided to the Council's Compliance Monitoring Officer within one month of the structures/buildings being completed.

Grassing Revegetation of Earthworks:

10. All exposed areas of earthworks, unless otherwise built on, are to be grassed or re-vegetated in accordance with the requirements of condition 23 (Landscaping Plan). Where planting within 1 month of completing each stage of the earthworks is not practicable, earthworked areas are to be temporarily stabilised to a level of establishment satisfactory to the Council's Compliance Monitoring Officer.

The Compliance Monitoring Officer may agree to a longer period than 1 month, if appropriate, and would approve it in writing.

General Earthworks Conditions:

11. All sediment laden run-off must be managed and contained within the site. Any sediment that is deposited onto neighbouring properties or the public road must be cleaned up immediately

(with the landowner's permission on land that isn't public road). The deposited sediment must not be swept or washed into street channels or stormwater inlets or dumped on the side of the road.

Note: As a minimum, 100mm of clarity is required to allow run-off to be discharged offsite. If clarity is less than 100mm then the run-off is considered to be sediment laden and must be contained and/or treated on site.

12. Dust created by earthworks, transport and construction activities must be controlled to minimise nuisance and hazard. The controls must be implemented for the duration of the site works and continue until the site stops producing dust.

Construction Noise Hours:

13. The Consent Holder must ensure that construction activities operate between the hours of 7.30am and 6.00pm Monday to Saturday.

Construction Noise and Vibration Management Plan:

14. The Consent Holder must submit to the Council's Compliance Monitoring Officer a Construction Noise and Vibration Management Plan (CNVMP) for certification at least 20 working days prior to any work commencing on site. The purpose of the CNVMP is to set out the best practicable option for the management of noise and vibration effects associated with the construction activities related to the car park. The CNVMP must be prepared by a suitably qualified and experienced acoustic and vibration expert. The CNVMP shall be drafted in accordance with Appendix E2 of NZS6803:1999 Acoustics – Construction'. No work may commence on site until the CNVMP is certified by the Council's Compliance Monitoring Officer. The construction activities must be carried out in accordance with the certified CNVMP.

Construction Noise Limits and Management:

15. The Consent Holder must ensure that construction activities, except where identified in the CNVMP as predicted to exceed the levels in the NZS Acoustic standard 'NZS6803:1999 Acoustics Construction Noise', shall be managed and controlled so that the noise received at any residential or commercial site does not exceed the limits set out in Table 2 and Table 3 of 'NZS6803:1999 Acoustics – Construction' Noise' when measured and assessed in accordance with that Standard.

Schedule to the Construction Noise and Vibration Management Plan:

16. Unless otherwise provided for in a CNVMP, a Schedule to the CNVMP (Schedule) shall be prepared by a suitably qualified and experienced person, in consultation with the owners and occupiers of sites subject to the Schedule, when construction noise is either predicted or measured to exceed the noise standards in condition 15. The objective of the Schedule is to set out the Best Practicable Option for the management of noise and/or vibration effects of the construction activity beyond those measures set out in the CNVMP. The Schedule shall include details such as (i) construction activity location, the nearest neighbours to the construction activity; the predicted noise and/or vibration level for all receivers where the levels are predicted or measured to exceed the applicable standards in condition and / the proposed mitigation and the proposed communication with neighbours. The schedule shall be issued to Council's Compliance Monitoring Officer for certification at least five working days prior to any works occurring. The construction activities must not be carried out until Council has certified the schedule.

Construction Vibration and Management:

17. The Consent Holder must ensure that construction activities shall be managed and controlled so that the vibration levels received at any site does not exceed the limits in 'DIN 4150- 3:1999 "Structural Vibration – Part 3: Effects of vibration on structures"'.

Operational Noise

Acoustic Design Certificate District Plan Compliance (Acoustic Fence):

18. Prior to the completion and construction of the perimeter acoustic design barrier fence, the Consent Holder must submit to the Council's Compliance Monitoring Officer an Acoustic Design Certificate (ADC) for the acoustic barrier fence. This certificate must certify that a site inspection has taken place and that the final constructed acoustic fence is sufficient to ensure noise emitted from the car park area complies with the following noise limits:

Noise Emitted from Site and Received in Centres Zoned Sites:

- At all times 60 dB LAeq (15min)
- At all times 85 dB LAFmax

Noise Emitted from Site and Noise Received in Residentially Zoned Sites:

- Monday to Sunday 7am to 7pm 50 dB LAeq (15 min)
- Monday to Sunday 7pm to 10pm 45 dB LAeq (15 min)
- Monday to Sunday 10pm to 7am 40 dB LAeq (15 min)
- Monday to Sunday 10pm to 7am 65 dB LAFmax

Note:

1. *The intent of this condition is to ensure final design and specifications of the noise barrier is suitably designed, specified, located and operated to ensure noise emissions comply with the operational noise limits of the District Plan.*
2. *The fence must be maintained in this condition in perpetuity.*

Noise mitigation:

19. The Consent Holder must ensure shopping trolleys are retrieved from trolley bays around the carpark prior to 10pm to avoid noise from trolley collection occurring during night-time hours.
20. All trolleys used in the carpark must be plastic, in order to minimise any noise effects arising from trolleys.
21. Staff arriving or departing between the hours of 10pm and 7am via vehicle are to park at least 10 metres from any neighbouring property used for residential purposes.
22. The new car park must not be used for delivery or waste removal activities.

Landscaping

Landscaping Plan:

23. Before construction commences on the site an updated Landscaping Plan (that includes 26 Ganges Road) must be submitted to, and certified by, the Council's Compliance Monitoring Officer. The Landscaping Plan must include:
 - a. Hard surface treatments, including pedestrian accessways and any semi- permeable surfaces.
 - b. Fence and retaining wall heights and materials.
 - c. Location of accessible car parking, bike parking and e-charging facilities.
 - d. Rubbish storage area that ensures that rubbish can be adequately contained within the site and screened from the street.
 - e. Existing trees and vegetation that would be retained and proposed replacement trees for any trees identified on the submitted landscape plan that can no longer be retained as per the arborists report.
 - f. The individual location and species (with both scientific and common names) including planting to partially screen and soften the appearance of the car park from Nicholson Road, in the location of the removed Nicholson Road vehicle access.
 - g. The bulk of the screening vegetation must be a minimum of 1.2m in height at the time of planting.
 - h. PB size at time of installation.
 - i. A maintenance plan/schedule.
24. The Consent Holder must undertake vegetation trimming and maintenance as required to ensure the lighting as provided in the lighting plans is unobstructed.
25. The Landscaping Plan, approved under condition (23) above, must be completed by the Consent Holder within the first growing season following completion of construction. The plantings must be monitored for 18 months from time of planting in order to allow for plant establishment to the satisfaction of the Council's Compliance Monitoring Officer. Within this period monitoring includes the removal of weeds within the vicinity of the plantings and the replacement of plants that die, or are removed unlawfully, with plants of the same species and original size. Any plants that fail must be replaced at the expense of the Consent Holder. All plantings must continue to be maintained by the Consent Holder thereafter.

Arborist Report:

26. Prior to works commencing, a Council-approved suitably experienced consulting arborist (Project Arborist) must be engaged by the Consent Holder. Refer to the list in the following link:

<https://www.nzarb.org.nz/find-an-approved-contractor>

The Project Arborist must prepare an Arboriculture Impact Assessment in accordance with AS 4970 - 2009 Protection of Trees on Development Sites. As part of this assessment the Project Arborist would identify the trees that are to be pruned or retained as part of the project. This information must be submitted to, and certified by, the Council's Compliance Monitoring Officer prior to works commencing. Any trees identified on the landscaping plan for retention, that cannot be retained for whatever reason, is to be replaced with a similar tree with a minimum height of 1.5m for immediate visual effect.

Lighting, Security and Safety

Lighting:

27. Prior to use of the car park, the Consent Holder must install a suitable system of lighting, to operate within all areas where the public would be given access including the new and existing car park, and the pedestrian access through the site. The lighting must be in accordance with the following:
- a. The requirements of the AS/NZS 1158.3.1, Pedestrian Area lighting and AS/NZS 4282 to control the obtrusive effects of outdoor lighting.
 - b. Lighting levels shall not exceed by more than 25% the appropriate AS/NZS 1158.3.1:2020 lighting sub-category.
 - c. The lighting must comply with PDP Light Chapter standards for the Residential Zone, and for spill light and glare they must meet the lower curfew (10.00pm to 7am) levels.
 - d. The light source colour temperature must be 3000Kelvin or less.
 - e. Any luminaire when installed must not emit any light above its horizontal; and
 - f. The lighting is to be controlled by automatic controls that turn the lights on via daylight switch and a time clock to ensure the lights are only on when it is dark and are not operated between 10.00pm and 7am, Monday through to Sunday; except that there can be a manual maintenance switch to allow the lights to be switched on during daylight when required for lighting maintenance purposes.

Note: This condition is imposed to provide a suitable level of pedestrian safety and accessibility to all publicly accessible areas.

28. Outdoor artificial lighting must not exceed 2 Lux vertical illuminance measured at any window of a habitable room of a dwelling on any adjacent site.

Security:

29. Outside of the hours of operation of the supermarket, the Consent Holder must provide a chain or other form of access restriction to the Dekka Street entrance, and between the existing and proposed (or at the Consent Holder's choosing from Ganges Road) entrances of the car park that would be used to close the car park entrance to vehicles overnight.
30. The Consent Holder would put in place appropriate CCTV recording devices that survey the whole of the car park.
31. The Consent Holder would engage appropriate security measures (for example, external security guards) to respond to antisocial behaviour in the carpark, during and outside of operating hours, if it arises.

Signage:

32. The Consent Holder must limit the size of any signage at the Nicholson Road pedestrian entrance to one non-illuminated, non-branded directional sign consistent with the dimensions of Council's pedestrian accessway signage.

Access and Traffic

Traffic Safety:

33. The Consent Holder must prepare a Construction Traffic Plan (CTP) and Traffic Management Plan (TMP). This information must be submitted to, and certified by, the Council's Compliance Monitoring Officer prior to works commencing.
34. The Consent Holder must ensure that construction vehicles do not enter or leave the existing Nicholson Road accessways during the school term time between the hours of 8.20am to 9.20am and 2.20pm to 3.20pm on Monday to Friday.
35. An independent Safe System Audit must be carried out at both detail design and post construction stages. Any recommendations raised in the detailed design audit report must be considered as part of the Engineering Approval application. The outcome findings of the audit must address and mitigate any identified safety risks with the proposed layout. The proposed layout and the audited outcome must be submitted to Council for approval prior to construction.

General:

36. The construction of the Dekka Street vehicle crossing shall comply with the WCC Code of Practice for Land Development Dec 2012.
37. The Consent Holder is responsible for all costs associated with all changes within the road reserve.

Engineering Standards:

38. The Consent Holder shall comply with the requirements of the Wellington City Council Code of Practice for Land Development (either its current version or replacement document), unless otherwise modified by condition(s) of the consent or agreed in writing by the Wellington Water Land Development Team. These are the engineering standards for mitigating adverse effects on the environment from earthworks, traffic (roading and vehicle access), wastewater and stormwater drainage, water supply and utility structures.
39. Pursuant to section 128 of the Resource Management Act 1991, the Council may, at any time, serve notice on the Consent Holder of its intention to review the conditions of the consent in order to respond to any adverse effect on the environment which may arise from the exercise of the consent and which it is most appropriate to deal with at a later stage. These effects include those that may arise in relation to the Dekka Street access to ensure it can operate safely as a two way access.

Services

Engineering Approval:

40. No construction shall start prior to the following engineering plans in relation to water supply, stormwater, and wastewater drainage, being submitted to Council. These plans must be accepted in writing by the Wellington Water Land Development Team:
 - a. Engineering plans and design certificate, if required; and
 - b. Specifications.

Notes:

1. *Where drainage works are required, permits in addition to this resource consent is required, namely Building Consent for private drains.*

Some of the engineering plans and specifications in the consent condition above are to be submitted during the application stage for these permit(s).

2. *The scheme and other indicative layout plans Scheme and other indicative layout plans that were submitted as part of the application would be used by Council for information purposes only. These plans would not be used for granting approval under the condition above. Approvals would only be given on detailed engineering plans.*
3. *Wellington Water Ltd have has updated to the New Zealand Vertical Datum 2016 (NZVD2016), and As-Built plans are required to be in terms of the NZVD2016.*
4. *Prior to connection / disconnection an application for water supply, wastewater and stormwater must be made to the Council. All works must be inspected, and all testing must be witnessed by the Wellington Water Drainage Inspectors.*

Disconnect Existing Services:

41. Prior to certification, the Consent Holder must, where existing buildings have been or are to be demolished:
 - a. Cap the end of the existing private stormwater and wastewater lateral(s) or for stormwater kerb and channel discharge – the kerb outlet must be removed, and the kerb made good at the main or re-laid from the main to the property boundary for future use;
 - b. Disconnect the redundant domestic water supply connections from the public main; and
 - c. Advise the Council of the final treatment of all abandoned / disconnected laterals / water service pipes by way of including the location of capping on the final as- built plan.

Stormwater – New Connections:

42. Prior to works commencing, the Consent Holder must provide the site with suitably sized, separate, and direct connection(s) to a public stormwater main at a location accepted in writing by the Wellington Water Land Development Team.
43. The existing southern Dekka Street Kerb and Channel connection may be retained if the Consent Holder demonstrates that the existing connection is:
 - a. An appropriate material;
 - b. In good condition, as determined by means of a CCTV inspection provided to Wellington Water for review; and
 - c. Appropriately sized for any increase in stormwater flows.

Note: The development may be provided with 2 x stormwater lateral connections, one to the public stormwater main within Nicholson Road and one to Dekka Street via a kerb and channel outfall.

Stormwater – Treatment, Neutrality and Hydrological Control:

44. A minimum of 10 days prior to the completion of works, the Consent Holder must provide the site with a stormwater management system. The stormwater management system(s) design must be submitted to the Council with the Engineering Approval submitted under Condition (40) and must be approved in writing by the Wellington Water Land Development Team, and the following aspects must be met.
 - a. Stormwater design must be amended to the extent practicable to provide for hydrological control and further treatment to align with the Wellington Water Ltd Water Sensitive Design

for Stormwater: Treatment Device Design Guideline December 2019, Version 1.1 and approved by the Wellington Water Land Development Team;

- b. The stormwater management system(s) must be designed so that:
 - i. The total stormwater discharge post development from the site for all rainfall events up to the 1% AEP event plus climate change must be less than or equal to the stormwater flows prior to development;
 - ii. The potential for scour and erosion is mitigated;
 - iii. all connections to the stormwater system must be trapped to minimise debris entering the system; and
 - iv. increases in runoff volume are reduced as far as reasonably practicable.

Note: Compliance with this condition may require the removal of one or more car parks.

- 45. Prior to works commencing, the Consent Holder must prepare a draft Operation and Maintenance Manual for all stormwater device(s) setting out the principles of the general operation and maintenance for the stormwater system(s) and associated management devices. The draft Operations and Maintenance Manual shall be submitted to the Wellington Water Land Development Team for approval and is to include, but not be limited to:
 - a. A detailed technical data sheet;
 - b. A programme for regular maintenance and inspection of the stormwater system;
 - c. A programme for the collection and disposal of debris and sediment collected by the stormwater management device or practices;
 - d. A programme for post storm maintenance;
 - e. General inspection checklists for all aspects of the stormwater system, including visual check of sumps and outfalls; and
 - f. A programme for inspection and maintenance of vegetation associated with the stormwater devices.

Stormwater – Ongoing Operation and Maintenance:

- 46. With respect to stormwater discharge, the site would be serviced by a stormwater management system providing stormwater treatment, stormwater neutrality and hydrological neutrality. The Consent Holder shall be responsible for the ongoing operation and maintenance of the stormwater system, and;
 - a. Shall operate and maintain the stormwater management system in full working order on an on-going basis, in accordance with the approved Operation and Maintenance Plan, and;
 - i. The location of the shared service/s and associated connections can be found on the As-Built drawing held on the Council certification file;
 - ii. A copy of the Operation and Maintenance Plan can be found on the Council certification file; and
 - b. details of all inspections and maintenance (as stipulated in the manual) for the stormwater management systems shall be retained and provided to Council upon request.
- 47. The Consent Holder must not increase stormwater discharge from the site without prior Council approval.

Note: Any increase in stormwater discharge may result in failure of the stormwater detention systems.

Flooding:

48. To maintain the existing flood flows through the site, prior to certification, the Consent Holder must provide an as-built levels plan to demonstrate that the site earthworks have been completed in accordance with the Calibre Drawings as referenced in Condition 1.

As-builts Plans:

49. At the conclusion of the engineering works and 10 days prior to the completion of works, the Consent Holder is to submit as-built drawings that meet the requirements of Wellington Water Regional As-Built Specification for Water Services for water supply, wastewater and storm-water drainage.
50. Where an existing private service has been abandoned, the final treatment, including the location of the disconnection/capping and details of any water meter removed, shall be detailed on the final as-built plan.