

Hearings Commissioner

Notice of Meeting

A meeting of the Hearings Commissioner will be held in the Whangarei Library, May Bain Room, Rust Avenue, Whangarei on:

**Thursday
19 December 2013
10am**

**Application by
Progressive Enterprises Limited**

**Commissioner
David Hill**

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Report to Hearings' Commissioner David Hill on a Resource Consent Application

This land use consent application was lodged by Jane Douglas on behalf of Progressive Enterprises Limited and was reported on by Council's Senior Specialist (Consents), Ueli Sasagi.

The proposal involves the refitting of the former Mitre10 building on the subject site to create a Countdown supermarket with a gross floor area of 3,275m² and to develop properties at 8, 10 and 12 Manse Street into car parking and access for the supermarket. The site is located at 9-15 Kamo Road, Regent being legally described as Lot 1 DP 330496, Part Allotment 1 Parish of Whangarei, Lot 16 DP 16462, and Lot 15 DP 20158.

The proposal site is located within the Living 2 and Business 3 Environments of the Whangarei Operative District Plan. The proposal is assessed as a non-complying activity. The District Plan Rules breached by the proposal include:

- Business 3 Environment – Rule 41.3.5: *Provision of Parking Spaces*, Rule 41.3.7: *Signs*, Rule 41.3.10: *Noise*, Rule 41.4.8: *Landscaping*;
- Living 2 Environment – Rule 36.3.1: *Activity General*, Rule 36.3.4: *Provision of Parking Spaces*, Rule 36.3.6: *Traffic Movements*, Rule 36.3.7: *Signs*, Rule 36.3.11: *Noise*, Rule 36.3.12: *Construction Noise*,
- Road Transport – Rule 47.2.1: *Parking and Loading*

The main issue of contention in this proposal is traffic effects. National Trading Company of New Zealand contended that traffic along Manse Street created by allowing this proposal will have more than minor effects on their northern access.



4 December 2013

Ueli Sasagi – Senior Specialist (Consents)

Date

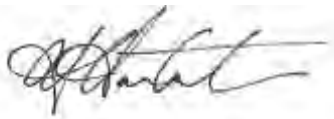
This report was peer reviewed by the following signatory:



4 December 2013

Paul Lees – Principal Planner

Date



4 December 2013

Alister Hartstone – Resource Consents Manager

Date

Statement of staff qualification and experience

Ueli Sasagi – Senior Specialist (Consents)

My full name is Maualaivao Ueligitone Sasagi. I hold the qualifications of Master of Regional and Resource Planning, a Bachelor of Science (Forestry) and a Diploma in Agriculture. I am a full member of the New Zealand Planning Institute. I have been working in resource management and planning matters throughout New Zealand since 1996. I am currently employed as a senior specialist planner for the Whangarei District Council, and have worked for the Council since May 2013. I have been working in a wide range of statutory and policy planning functions, including all stages of the resource consent process in Local and Central Governments, the Private Sector and the Environment Court.

Vladimir Rozov – Senior Environmental Engineering Officer

I am a civil engineer employed by Whangarei District Council in the Resource Consents department. I have the title of Senior Environmental Engineering Officer. I qualified from a Polytechnic University (in former USSR) in 1981 with a Bachelor degree in Industrial and Civil engineering and I am a graduate member of the Institute of Professional Engineers New Zealand Inc. I have many years experience in roading/drainage/earthworks/civil construction and I have worked for the Whangarei District Council as Environmental Engineering Technician, Support Officer, Officer and Senior Environmental Engineering Officer since 1999. My position within the Resource Consent department requires me to assess all engineering aspects of resource consent applications using my technical knowledge and oversee construction works to ensure compliance with Council Standards.

Greg Monteith – Senior Roothing Engineer

I hold the role of Senior Roothing Engineer for the Whangarei District Council. I am a civil engineer, having qualified from Napier University in 2000 with a BSc (Civil). I have twelve years' experience, 10 of these years working as a consultant on a wide range of projects with the last two as WDC's Senior Roothing Engineering. Part of my role within the Roothing department is to assess the rooding aspects of resource consent applications.

Nathan John Harper – Council's Consultant Roothing Engineer

My full name is Nathan John Harper. I am employed as a Principal Transportation Modeller in the Auckland Office of Opus International Consultants Limited (Opus). I hold a Bachelor of Engineering with Honours and a Master of Engineering, both from the University of Auckland. I am a graduate member of the Institute of Professional Engineers New Zealand (IPENZ) and am currently working towards accreditation as a Chartered Professional Engineer. I am the Treasurer of the Auckland / Northland Branch of the IPENZ Transportation Group, a Committee Member of the New Zealand Modelling User Group and an associate member of the Institute of Transportation Engineers (USA). I have been carrying out specialist professional engineering tasks related to transportation modelling, planning and engineering for over twelve years. This has included giving expert advice to local authorities and private applicants related to the transportation effects of various developments and projects, and the combined effects of area wide development strategies.

The above staff/consultant are familiar with the Environment Court's 'Code of Conduct' for expert witnesses and agree to comply with the Code of Conduct in presenting hearing evidence to the Commissioner.

Section 42A Hearing Report

Hearing By: Hearings' Commissioner David Hill of a non-complying land use proposal by Progressive Enterprises Limited to refit the former Mitre10 building on the subject site to create a Countdown supermarket with a gross floor area of 3,275m² and to develop properties at 8, 10 and 12 Manse Street into car parking and access for the supermarket. The site is located at 9-15 Kamo Road, Regent being legally described as Lot 1 DP 330496, Part Allotment 1 Parish of Whangarei, Lot 16 DP 16462, and Lot 15 DP 20158.

Evidence By: Ueli Sasagi, MRRP, BSc (Forestry), Dip (Agr), MNZPI

File Refs: LU1300046, P0112511

Dated: 3 December 2013

1.0 The Proposal & Background

1.1 The proposal

1.1.1 The proposal involves the establishment and operation of a new Countdown supermarket utilising the former Mitre10 building on the site; effectively the relocation of the existing Countdown currently located at Kensington to this site. It also includes the development of site access and car parking and associated signage and landscaping. The site comprises 9,959m² of land legally described as Lot 1 DP 330496 (existing Mitre10 site), Pt Allotment 1 Parish of Whangarei (8 Manse Street), Lot 16 DP 16462 (10 Manse Street), and Lot 15 DP 20158 (12 Manse Street). The features of the proposal include:

- Refitting the existing building to create 3,275m² gross floor area for supermarket activities by the Countdown retail brand (including a new mezzanine of 200m² for office and staff facilities, and a new 100m² plant room);
- Removal of the garden centre and cafe part of the existing building and resurface the area for parking spaces along the Kamo Road frontage;
- Maintain the existing loading dock area on the western and north western side of the building;
- Alter the entry to the existing building to a position slightly west of the current entry and increase the glazed area; provide a trundle storage area with glazing and create a new canopy over this area;
- Relocate the existing Manse Street entry/exit to the customer car park approximately 40m to the west and widen to 10.6m;
- Retain the existing Kamo Road exit/entry to the customer car park and the existing service vehicle egress from the loading dock at the rear of the building to Kamo Road;
- Provide entry only to the truck dock area from Manse Street and exit only onto Kamo Road;
- Increase the overall on-site parking to 155 spaces (through the acquisition of properties at 8, 10 and 12 Manse Street);
- Provide dedicated pedestrian walkways through the carpark to the main entry of the supermarket from both road frontages;

- Retain all existing retaining walls along the northern and western boundaries with adjoining properties;
- Erect new acoustic fencing (2m high) along the northern and western boundaries;
- Provide landscaping at the perimeter of the site (western and eastern boundaries), within the customer car park, at the entrances, and along the Manse Street frontage to the site between the two existing entranceways;
- 'Countdown' signage and logo above the canopies on the southern and eastern sides of the building;
- New pylon signs at the Manse Street entry/exit and Kamo Road entry/exit to the customer carpark; and
- Undertake minimal earthworks.

1.2 Background

1.2.1 A copy of the original application lodged with Council on 15 May 2013 is attached as **Appendix 1**. The following further information has been provided by the applicant for clarification and in support of the application:

- Jane Douglas of Zomac Planning Solution Ltd's letter of 14 June 2013 with attachments clarified further information sought by Council on traffic issues, noise issues, NES contaminants, affected persons and notification. This is attached as **Appendix 2(a)**.
- Letter dated 12 July 2013 by Ruby Mark and Don McKenzie of Traffic Design Group Ltd (TDG) in response to Council Senior Roading Engineer (SRE) and Ray Moriarty (RMHK2 Ltd) review of traffic effects. This is attached as **Appendix 2(b)**
- Jane Douglas' letter dated 7 August 2013 providing further detail of matters raised at the meeting between the Council and the Applicant on 26 July 2013 and a response to the progress of the application. Included with the letter are attachments on queuing on Manse Street by TDG dated 5 August 2013, further noise assessment by Marshall Day Acoustic (MDA) dated 5 August 2013, an Intrusive Site Investigation by Soil & Rock Consultants dated 6 August 2013 and a letter from Russell McVeagh expressing their opinion on the proposal to be a non-notified application. These are attached as **Appendix 2(c)**.
- An Assessment of Landscape and Visual Effects, and a Planting and Maintenance Specification by LA4 Landscape Architect dated August 2013 received on 2 August 2013. This is attached as **Appendix 2(d)**.
- Beca's report to the applicant dated 25 October 2013 which was given to the Council. The report is for a peer review of transport matters for the Countdown proposal. This is attached as **Appendix 2(e)**.
- TDG's memorandum dated 27 November 2013 providing further information on the interaction between Manse Street driveway; an issue raised by NTC in its submission. This is attached as **Appendix 2(f)**.

1.2.2 In addition to the further information supplied, Russell McVeagh wrote to the Council on 20 August 2013, on behalf of the applicant, expressing an opinion that there is no justification for public notification, or for formally limited notifying any party. This is attached as **Appendix 2(g)**.

1.2.3 The proposal was distributed internally to Council's Senior Environmental Engineering Officer (SEEO), Senior Roading Engineer (SRE), and Group Planner (GP) for their respective review on technical engineering, road, traffic and landscape issues. The proposal was also sent to Ray Moriarty of RMHK2 Ltd for peer review on traffic, Jon Styles of JPStyles Ltd for peer review of noise and Opus International Consultants Ltd for further review of road and traffic issues. These reviews are listed as follows:

- The Integrated Transportation Assessment (ITA) report by TDG supporting the application was peer reviewed by Ray Moriarty looking specifically on the traffic signal

SIDRA analysis at the Manse Street/Kamo Road/Bank Street/Mill Road/Donald Street intersection. His report is attached as **Appendix 3(a)**.

Note: During the assessment of the traffic effects of the application Ray Moriarty advised Council that he wished to withdraw from providing an assessment/peer review on traffic matters. The matters covered in Mr Moriarty's report have been reviewed by Opus for completeness.

- Council's SRE compiled a combined report covering issues raised in Ray Moriarty's report and his further assessment of the ITA. This is attached as **Appendix 3(b)**.
- Further peer review of additional information provided by the applicant was carried out by traffic engineers from Opus. These include the assessment of Effects on the New World's northern access and the review of the PM Peak Calibration and Assessment. These are attached as **Appendix 3(c)**.
- Council's Senior Environment Engineering Officer's (SEEO) peer review of the Infrastructure Assessment Report by Harrison Grierson Consultants Ltd and the ITA by TDG including onsite parking design, access, stormwater etc. His report is attached as **Appendix 3(d)**.
- Council's Group Planner's (GP) review of the Assessment of Landscape and Visual Effects report and additional information by LA4 Landscape Architect. This is attached as **Appendix 3(e)**.
- JPStyles Ltd's peer review of the Acoustic Assessment report and additional information by Marshall Day Acoustics. This is attached in **Appendix 3(f)**.
- Nathan Harper's (Opus) expert statement assisting Council in providing an opinion on the overall traffic effects including the review of Beca's peer review of traffic effects, and providing comments on NTC submission. This is attached as **Appendix 3(g)**.

2.0 Site and Surrounds Description

2.1 The Site

2.1.1 The site is situated on the corner of Manse Street and Kamo Road, and adjacent to the intersection of Kamo Road, Manse Street, Mill Road, Bank Street and Donald Street. The site is located in the Business 3 Environment (9-15 Kamo Road and 4-6 Manse Street) and Living 2 Environment (8-12 Manse Street) of the District Plan. There is a large existing building on site which was formally occupied by the Mitre10 store that ceased to trade in December 2012. The site contained associated car parking and landscaping. Existing accesses and exits are situated on Manse Street and Kamo Road. The applicant has recently purchased properties situated at 8-12 Manse Street to contain additional car parking and to accommodate a revised industrial crossing and site access/exit. A full description of the site is provided in the application.

2.1.2 Land use resource consent to establish commercial activities for a real estate agent was granted in November 2007 on land at 8, 10 and 12 Manse Street. The consent lapsed in November 2012, with the consent not given effect to.

2.2 Surrounding Environment

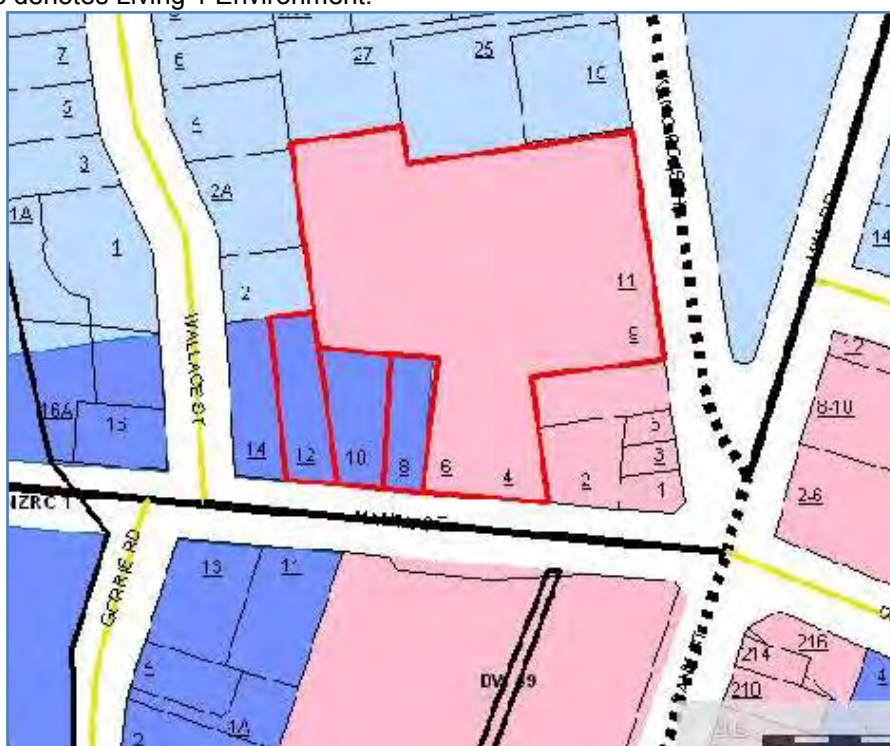
2.2.1 Adjoining land at the corner of Kamo Road and Manse Street is occupied by a commercial building tenanted by United Video and the Cactus Liquor store with car parking in the front of the site and access directly off Manse Street. Land to the west within the Living 2 Environment of the District Plan is occupied by residential dwellings along Manse and Wallace Streets. Further to the west, across Wallace Street is the Age Concern premises occupying a residential styled building and further to the west across Lupton Avenue is a large block of land occupied by the Whangarei Girls High School. Land immediately adjacent to the north is a commercial premises occupied by Eye Specialists and the Cypress Court Motel business, both fronting Kamo Road. Land to the south and fronting Manse Street and Bank Street is occupied by the New World supermarket, a fuel depot, and associated car parking. Adjacent to the supermarket site in Manse Street are two residential properties one of which is a block of flats.

- 2.2.2 To the east across Kamo Road, at the intersection with Mill Road and Bank Street, are a number of commercial premises including commercial upholster, lawnmower sales and service centre, and a Hells pizza outlet. The Anglican Parish occupies land immediately across Kamo Road.
- 2.2.3 The wider environment is characterised by a number of mixed commercial, community and residential uses.

3.0 District Plan Assessment

3.1 Zoning, resource areas and other notations

- 3.1.1 The proposal site is located in the Living 2 and Business 3 Environment of the Whangarei Operative District Plan. The subject site is enclosed by bold red lines. The properties in pink denote the Business 3 Environment while navy blue denotes Living 2 Environment. The light blue denotes Living 1 Environment.



- 3.1.2 Part of the site is flagged in the Council GIS system as being a Hazardous Activities and Industries List (HAIL) site under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES). This indicates there has been evidence that HAIL activities was either undertaken on the site or may likely present on the site. The site is also classified as being low hazard instability.

3.2 Reasons for consent

Living 2 Environment

- 3.2.1 Rule 36.3.1 (Activities Generally) stipulates that subject to rules 65.5.2 and 62.5.3, an activity is permitted if among other requirements:
- Commercial or industrial activities do not operate or open for visitors, clients or deliveries before 0800 or after 1800 on any day, provided that this rule does not apply to residential activity and
 - Commercial or industrial activities are screened from view from roads and adjoining sites by fences, planting or buildings; and
 - Commercial or industrial activities are carried out in conjunction with a residential activity on the site.

The proposal is not provided for as permitted activity in this rule. The properties affected are located in Living 2 Environment and will be used for car parking and

access; therefore part of the proposal located in these properties is considered to be a non-complying activity.

- 3.2.2 Rule 36.3.4 (Provision of Parking Spaces) stipulates that any activity is permitted if (a) parking spaces are provided in accordance with Chapter 47; and (b) no formed parking space is constructed or provided within 2.0m of a road boundary. The proposal needs 159 parking spaces in accordance with the gross floor area of development. Only 155 parking spaces are proposed; a shortfall of 4 spaces. This part of the rule still applies to the Living 2 zone as the subject properties are considered relevant to the entire proposal. The proposal complies with the 2m setback from the Manse Street boundary although the proposal fails to comply with the setback provision along Kamo Road. That non compliance is in the Business 3 Environment of the proposal site. It is therefore considered to be a restricted discretionary activity with discretion restricted to road matters listed in Chapter 47 and those matters listed in rule 36.4.11 (landscaping)
- 3.2.3 Rule 36.3.5 (Heavy Vehicles) stipulates that any activity is permitted if (a) a maximum of 1 heavy vehicle used for commercial or industrial purposes is stored or parked on-site at any time, and the use of the vehicle meets the provisions for temporary activities as defined in the Plan; or ... (c) the heavy vehicle(s) are on-site for the purpose of site maintenance and/or development, including works associated with building, provision of access, site servicing and drainage. There will be technical non compliance with this rule as in the event of delivering goods, there is likely to be more than 1 heavy vehicle to be parked on site. It is therefore considered to be a restricted discretionary activity with discretion limited to shading effects, effects of noise, size of heavy vehicle, screening from neighbours, and effects on amenity values.
- 3.2.4 Rule 36.3.6 (Traffic Movements) stipulates that any activity is permitted if it does not generate more than 30 traffic movements in any 24 hour period, excluding residential or temporary activities. The proposal expects to generate more than 200 vehicle movements a day because of its nature as a shopping destination. As such it is considered a restricted discretionary activity under this rule with discretion restricted to:
- Manoeuvring requirements;
 - Need for acceleration and deceleration lanes;
 - Type, frequency and timing of traffic;
 - Safety of pedestrians;
 - The availability of other roads for access for proposals leading onto arterial roads or state highways;
 - Traffic safety and visibility;
 - Effects on the amenity of the locality;
 - Effects of dust;
 - Need for forming or upgrading roads in the vicinity of the site;
 - Need for traffic control, including signs, signals and traffic islands.
- 3.2.5 Rule 36.3.7 (Signs) stipulates that any activity is permitted if, among other requirements, any sign is no higher than 2.0m; and the sign is no larger than 1.0m². The pylon sign to be erected at the entry to the car park from Manse Street is not permitted and it thus considered a restricted discretionary activity in a Living 2 Environment.
- 3.2.6 Rule 36.3.11 (Noise) stipulates that any activity is permitted if (a) Noise generated by the activity, measured within the boundary of any other site in the Environment, does not exceed:
- 45 dBA L₁₀ between 0700 and 2200; and
 - 35 dBA L₁₀ at any other time; and
 - 60 dBA L_{max} on any day between 2200 and 0700, except for emergency service vehicles and the operation of emergency service call-out sirens; and
- (b) Sound levels shall be measured in accordance with NZS 6801:1991 Measurement of Sound and assessed in accordance with NZS 6802:1991 Assessment of Environmental Sound. The predicted noise level does not comply with properties at 14 Manse Street, 2 and 2A Wallace Street so it is a restricted discretionary activity with discretion restricted to:
- Maximum level of noise likely to be generated;
 - The nature and frequency of the noise, including any special audible characteristics;

- Effect on nearby residential units;
- Compatibility within the Environment;
- Compatibility with surrounding Environments;
- Length of time for which the specified noise level is exceeded, especially at night;
- Likely adverse effects on-site and beyond the site;
- Mitigation measures to reduce noise generation.

- 3.2.7 Rule 36.4.11 (Landscaping) stipulates that site redevelopment is permitted if (a) all land, other than accesses, is planted in lawns, trees or shrubs within:
- 2.0m of the road boundary in the Living 1 and Living 2 Environments,
 - 3.0m of the road boundary in the Living 3 Environment; and
- (b) the planting is completed within 6 months of occupation of the building and is maintained continuously thereafter. The setback from the Manse Street boundary is only 2m. It requires 3m. Carparking along Kamo Road will be located hard against the footpath; there will be no setback. It is considered to be a restricted discretionary activity with discretion restricted to effects on neighbours, amenities of locality and alternative means of landscaping or screening.

Business 3 Environment

- 3.2.8 Rule 41.3.5 (Provision of Parking Spaces) stipulates that any activity is permitted if (a) parking spaces are provided in accordance with Chapter 47 and (b) no formed parking space is constructed or provided within 2.0m of a road boundary. The proposed activity does not provide the District Plan parking requirements of 159, instead the proposal offers 155. The parking spaces abutting the footpath along Kamo Road do not comply with the 2m setback requirement. It is considered to be a restricted discretionary activity with discretion restricted to those matters listed in Chapter 47 and those listed in rule 41.4.8 (landscaping).

- 3.2.9 Rule 41.3.6 (Traffic Movements) stipulates that any activity is permitted if (a) it does not generate more than 200 traffic movements in any 24-hour period, where the activity gains access to a Local Road; and (b) the activity complies with Sheet 4 of the Whangarei District Council's Environmental Engineering Standards 2010 where it gains access to a Collector or Arterial Road, or a State Highway. The proposed activity will create traffic movements of more than 200 within a 24 hour period. It is therefore considered to be a controlled activity with Councils control reserved over:

- Parking, loading and manoeuvring requirements;
- Need for acceleration and deceleration lanes;
- Location of activity;
- Type, frequency and timing of traffic;
- Access design, number and location of vehicle crossings;
- Safety of pedestrians;
- Traffic safety and visibility;
- Effects on the amenity of the locality;
- Effects of dust;
- Need for forming or upgrading roads in the vicinity of the site;
- Need for traffic control, including signs, signals and traffic islands.

- 3.2.10 Rule 41.3.7 (Signs) stipulates that the construction or placement of a sign which is visible from a public place or neighbouring properties is permitted if, among other requirements,
- If illuminated, the sign is not within 20.0m of any road intersection; and
 - No more than 3 signs are displayed per site; and
 - On sites with frontage greater than 25.0m, the total area of all signs shall be 0.10m² per metre of frontage, to a maximum of 6.0m².

The proposed activity does not comply with the above requirements. The proposed pylon sign along Kamo Road will be illuminated and will be located within 20m of the intersection. There will be more than three signs to be erected on the site and the combined area will exceed 6m². The proposal is therefore considered to be a restricted discretionary activity with discretion restricted to:

- Traffic safety;
- Whether the proposed sign will have an effect on visual amenity values by:

- Being visually inappropriate to the neighbourhood. The Council will ensure that general advertising signs do not dominate a site or surrounding area and will limit such signs accordingly.
- Being visually obtrusive on Living, Countryside, Coastal Countryside or Open Space Environments. In general, the height of freestanding signs should be related to the height of surrounding buildings.
- Creating an effect of clutter in the immediate neighbourhood because of poor relationship to other signs or elements. In general, clutter will be determined by the amount of signage in relation to the frontage of the site.
- Being sensitive (in terms of scale, form and harmony) to the building on which or place where it is to be erected or displayed, to the immediate surroundings, or to the places from which it can be seen.
- Obscuring or detracting from important visual landmarks of the City, such as visual landmarks, or buildings or areas of architectural or heritage value.
- Obscuring or detracting from landscape elements in the front yard of a site.
- Being of such construction that its method of support or fixing is not aesthetically incorporated into its design.

3.2.11 Rule 41.3.10 (Noise) stipulates that any activity is permitted if (a) noise generated by the activity measured at the boundary of any other site in the Environment does not exceed 55 dBA L_{10} at any time; and (b) noise generated by the activity, measured at the boundary of the nearest site in a Living Environment does not exceed (i) 50 dBA L_{10} between the hours of 0700 and 2200; and (ii) 40 dBA L_{10} and 65 dBA L_{max} , between the hours of 2200 and 0700, except for emergency service call-out sirens; and (c) except where expressly provided elsewhere in this Plan, sound levels shall be measured in accordance with NZS 6801: 1991 Measurement of Sound and assessed in accordance with NZS 6802:1991 Assessment of Environmental Sound. The assessed noise from the proposed activity does not comply with the noise level at the identified properties. It is therefore considered to be a restricted discretionary activity with discretion restricted to:

- Maximum level of noise likely to be generated;
- The nature and frequency of the noise, including any special audible characteristics;
- Effect on nearby residential units;
- Compatibility within the Environment;
- Compatibility with surrounding Environments;
- Length of time for which specified noise level is exceeded, especially at night;
- Likely adverse effects on-site and beyond the site;
- Mitigation measures to reduce noise generation.

3.2.12 Rule 41.4.8 (Landscaping) stipulates that construction of a building is permitted if (a) a vegetation screen, or other physical barrier, which limits visibility, is maintained at a minimum height of 2.0m along Living Environment boundaries; and (b) where buildings are setback at least 2.0m from a road, all land within 2.0m from the road, other than accesses is to be planted in trees, shrubs or grass; and (c) The planting is completed within 6 months of occupation of the building and is maintained continuously thereafter. The proposed activity does not provide a landscape strip along Kamo Road. It is therefore considered to be a restricted discretionary activity with discretion restricted to the amenity of adjoining residential properties.

Transportation Rules

3.2.13 Rule 47.2.1 (Parking and Loading) stipulates that any activity is permitted if off-street parking spaces, loading bays and associated manoeuvring areas, are provided in accordance with Appendix 6A and constructed in compliance with Whangarei District Council's Environmental Engineering Standards 2010. The proposal does not meet this rule because of failure to provide the required 159 parking spaces. It is therefore considered to be a restricted discretionary activity with discretion restricted to:

- Parking space numbers;
- Availability of parking spaces;
- Parking area location;
- Parking area design;

- Parking spaces for people with disabilities;
- Loading areas;
- Access design;
- Safety for pedestrians;
- Location of activity;
- Type and frequency of use;
- Efficiency and safety of roads;
- On-site manoeuvring.

3.2.14 The proposal complies with all other relevant rules in the District Plan.

3.2.15 It is considered that the different components of the proposed supermarket activities assessed against the District Plan rules cannot occur separately. The common acceptable practice therefore is to bundle these different activities such that the most restrictive activity status is applied. Overall, the proposal is considered to be for a **Non-Complying Activity**.

3.3 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

3.3.1 The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) were gazetted on 13th October 2011 and took effect on 1st January 2012. Council is required to implement this NES in accordance with the Resource Management Act 1991 (RMA). The standards are applicable if the land in question is, or is more likely than not to have been used for a hazardous activity or industry, and the applicant proposes to subdivide or change the use of the land, or disturb the soil, or remove or replace a fuel storage system. The following table assesses the proposal's compliance with the NES regulations:

Question	Answer	Comment
Is an activity described on the HAIL currently being undertaken on the piece of land to which this application applies?	No	Site is vacant. A Preliminary Site Investigation (PSI) report by Soil & Rock Consultants confirmed there is no activity described in HAIL currently being undertaken on the site.
Has an activity described on the HAIL ever been undertaken on the piece of land to which this application applies?	Yes	The PSI report confirmed that there was treatment of hazardous waste including sludge from dairy processes, caustic cleaners and acidic cleaners recorded on the site. The site is included in the Northland Regional Council contaminated sites spreadsheet and on the Whangarei District Council's GIS as a HAIL site.
Is it more likely than not that an activity described on the HAIL is being or has been undertaken on the piece of land to which this application applies?	Yes	See comment above.
Is the activity involved removing or replacing a fuel storage system or parts of it?	No	Regulation 8(1) – the proposal meets this regulation.
Does the activity involve sampling soil?	No	Regulation 8(2) – the proposal meets this regulation.
Does the activity involve disturbing soil?	Yes	Regulation 8(3) - There will be earthwork on 8, 10 and 12 Manse Street to level the parking area with the

		existing car parking. There will also be minimal earthwork for plumbing and other minor alteration on the Business 3 Environment. The applicant has yet to confirm the amount of earthworks proposed.
Does the activity involve the subdivision of land?	No	Regulation 8(4) – the proposal is for land use and thus meets the regulation.
Does the activity involve changing the use of the land?	Yes	Regulation 8(4) - For the properties at 8, 10, and 12 Manse Street, the change of use is from residential to commercial. The old Mitre10 site which is a HAIL site will not change its use.

3.3.2 The PSI report submitted in support of the application is in conformity with the scope of the work and the NES. The report concluded that: *The NES assessment was performed on the subject site and it is concluded that the proposed activity is permitted under the NES as it is unlikely that there will be risk to human health if activity is carried out. However, this activity is discretionary (referring to conclusion remarks), due to past activities on the site, if ground breaking activities (such as foundation, basement excavation or cut into the slope) occur within the investigated site in the future, an Intrusive Site Investigation (SIR) should be carried out to ascertain potential level of contamination (if any) and disposal conditions of removed materials.*

3.3.3 Further information was sought on 24 May 2013 under section 92 of the RMA for the applicant to clarify the above conclusion. The applicant confirmed that there would be no excavation or ground breaking on the site during construction. On 8 August 2013, the applicant provided a full Intrusive Site Investigation where it concluded:

- *All samples were within the Background Levels for Northland soils;*
- *All samples were below SCSS_{health} of the NES thus, would not be considered a risk to Human Health;*
- *Total Petroleum Hydrocarbons (TPH) and Organochlorine Pesticides (OCP) were not detected in all samples;*

Generally, the investigated area would not be considered as contaminated.

3.3.4 The report further commented: *“Under the NES and its provisions, an Intrusive Site Investigation (SIR) has been conducted for the existing car park area and the former Garden Centre. Results were all below the applicable standard (SCSS_{health}) set under Regulation 7 of the NES. The proposed carpark extension was not investigated nor any samples collected in said area. Resource Consent may be required, the approval of which will be subject to Council’s discretion.”*

3.3.5 In view of the conclusion of the SIR discussed in 3.2.3 above that *‘investigated area would not be considered as contaminated’* Council is satisfied that there is no need to carry out a NES assessment for land in Living 2 Environment. It is considered that the requirements for NES are satisfied.

4.0 Notification, Submissions and Written Approvals

4.1 Notification

4.1.1 Pursuant to sections 95A-95F a consent authority may, using its discretion make a decision whether to notify an application for resource consent. In determining the notification decision the consent authority must firstly have regard to the likely adverse effects on the environment of the proposal and secondly whether any persons are considered to be adversely affected by the proposal.

- 4.1.2 If the consent authority decides that the adverse effects on the environment may be more than minor it must notify the application. If the decision has been made that the effects will not be more than minor, the consent authority must then identify any persons adversely affected by the proposal to determine whether limited notification is required.
- 4.1.3 A full assessment pursuant to Section 95 of the Act has been undertaken in order to reach a conclusion as to whether the effects of the activity will be more than minor or minor, and who may be adversely affected by the proposed activity. Copy of the Section 95 report is attached at **Appendix 4**. In summary, the assessment concluded that there will be an effect on the northern access of the New World car park (National Trading Company of New Zealand Ltd) that is considered to be minor.
- 4.1.4 On 10 October 2013, it was determined under authority delegated to the Principal Planner (Consents) of Whangarei District Council pursuant to Sections 95B and 95E of the Act that the application be subject to limited notification because any actual or potential effects of the proposed activity are considered minor and the written approval of National Trading Company of New Zealand Ltd (NTC) who was considered to be adversely affected has not been obtained.
- 4.1.5 On 14 October 2013, notice was served on NTC who was considered to be adversely affected by the proposed activity.

4.2 Submission

- 4.2.1 Early in the process, Kathy Wilson of Minter Ellison Rudd Watts Group acting on behalf of NTC requested copies of the Countdown proposal in a letter dated 7 June 2013 to be released to them for viewing pursuant to the Local Government Official Information and Meetings Act 1987. Kathy Wilson wrote back to the Council on 5 July 2013 expressing concerns on the proposal and registered their interest in the application as an affected party. NTC considered that the effects of the proposal on them will be at least minor and potentially more than minor. These correspondences are attached as **Appendix 5(a)**.
- 4.2.2 Council received a submission from NTC who opposed the proposal and requested that the application be declined. NTC have indicated that they wish to be heard in support of their submission.
- 4.2.3 The submission is summarised as follows (a full copy of the submission is attached as **Appendix 5(b)**).

Issues and Relief Sought

Issues:

- Traffic effects will compromise the operation of the New World access because of additional traffic along Manse Street;
- The applicant did not provide adequate information for Council's assessment of traffic effects;
- Assessment of traffic during the peak period between 3.15 – 3.45pm was not provided. NTC considered that the absence of such vital information will affect Councils assessment of traffic along Manse Street and the Northern Access for New World;
- The proposal is contrary to relevant objectives and policies of the Whangarei District Plan.
- The proposal does not meet either statutory test in the RMA.

Relief sought:

- The application be declined;
- If granted, Countdown's proposed Manse Street access/egress be removed and redesign access/egress to be at Kamo Road.

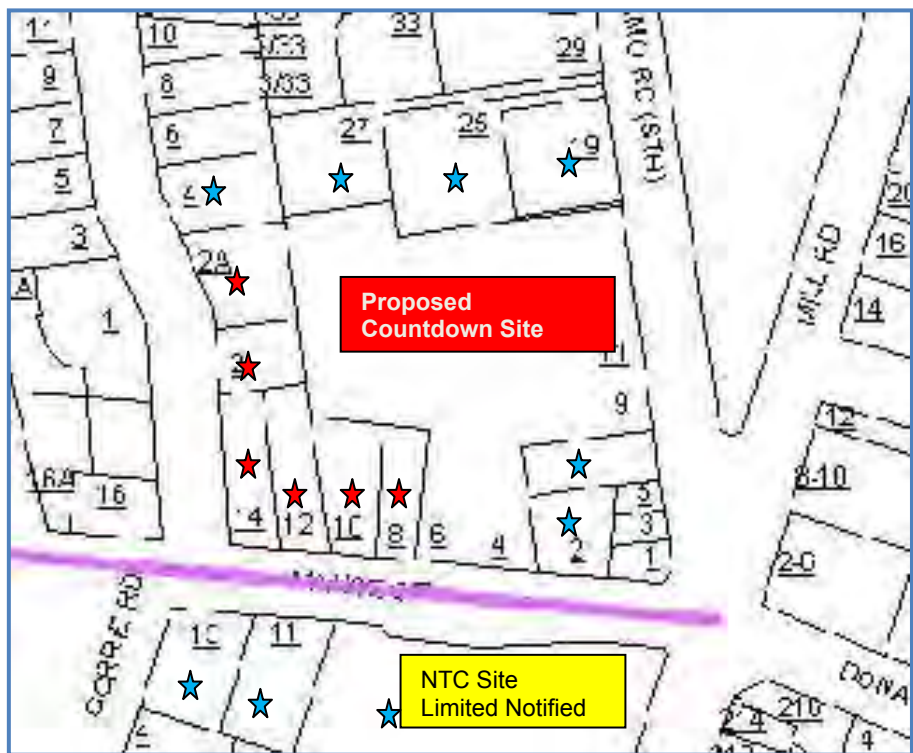
Issues and Relief Sought

- Consequential changes through conditions addressing the removal of the access/egress from Manse Street.

4.2.4 The main issue of contention in the submission is traffic along Manse Street affecting the New World's northern access. The issues summarised above are assessed in sections 5, 6 and 7 of this report.

4.2.5 Council considered that the further information provided on traffic effects in support of the original application by the applicant was sufficient to undertake a comprehensive assessment of traffic effects.

4.2.6 The map below shows property owners and occupiers who have given their written approvals and those who were not considered in the assessment of wider environmental effects. The properties denoted by red stars were those who have given their written approvals on the proposal. Properties denoted by blue stars were excluded from public or limited notification assessment.



4.3 Written Approvals

4.3.1 The table below provides the list of those who gave their written approval and their location in respect to the map provided above.

Names & status	Property
Allan & Bronwyn Inglis – Owners	8, 10 and 12 Manse Street – Part Allotment 1 Parish of Whangarei, Lot 16 DP 16462, and Lot 15 DP 20158
Diane Noble and Natasha Boobyer – Owners	14 Manse Street, Lot 14 DP 20158
Nirita Sara Whane - Occupier	2/14 Manse Street, FLAT 2 DP 90486
Dean Sebastian & Sharyn Lisa Prime - Owners	1/14 Manse Street, Lot 14 DP 20158

Josephine Lee McIntosh – Occupiers	2 Wallace Street, Lot 2 DP 26246
Benjamin John Price – Owners (through Wayne Michael Coutts – agent)	2A Wallace Street, Lot 1 DP 26246
Niki Taylor – Occupier	2A Wallace Street, Lot 1 DP 26246

5.0 Resource Management Act 1991- Statutory Considerations

5.1 Section 104

5.1.1 Section 104 provides the matters, subject to Part 2 of the Act that Council must have regard to when considering and application for resource consent and any submissions received. These matters are:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- [[*(b) any relevant provisions of—*
 - (i) *a national environmental standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand coastal policy statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and]]*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

5.2 Section 104B

5.2.1 Section 104B outlines Council’s powers when making a determination on a discretionary or non-complying activity. Section 104B states that:

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under [section 108](#).*

5.3 Section 104D

5.3.1 Being a non-complying activity, the proposal is subject to the thresholds outlined in section 104D of the Act, ‘Particular restrictions for non-complying activities’. Section 104D states

- (1) *Despite any decision made for the purpose of [section 95A\(2\)\(a\)](#) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
 - (a) *the adverse effects of the activity on the environment (other than any effect to which [section 104\(3\)\(a\)\(ii\)](#) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- (2) *To avoid doubt, [section 104\(2\)](#) applies to the determination of an application for a non-complying activity*

6.0 Actual and Potential Effects on the Environment (s104 (1)(a))

6.1 Definition of Effect

6.1.1 Section 3 of the Act defines the term ‘effect’ as including –

- (a) any positive or adverse effects; and
- (b) any temporary or permanent effect; and
- (c) any past, present or future effect; and
- (d) any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect, and also includes-
- (e) any potential effect of high probability; and
- (f) any potential effect of low probability which has a high potential impact.”

6.2 Permitted Baseline

- 6.2.1 In terms of determining whether the adverse effects of the proposal are more than minor, section 104(2) of the Act provides that Council ‘may’ have regard to the permitted baseline in order for effects on the environment that are permitted under the Plan (or by way of resource consent) to be disregarded.
- 6.2.2 The permitted baseline approach to effects assessment enables Council to disregard any adverse effects on the environment if those effects are related to an activity or activities permitted by the District Plan. Existing activities and any activity which could be carried out as a permitted activity without being fanciful may be discounted as giving rise to any adverse effects.
- 6.2.3 In this case, the following activities are permitted as of right by the District Plan within the Living 2 Environment:
- Any commercial activities which are carried out in conjunction with a residential activity on the site; provided that the activities are operating between the hours of 0800 and 1800, and screened from view from roads and adjoining sites.
- 6.2.4 In addition, the following activities are permitted as of right by the District Plan within the Business 3 Environment:
- Commercial activities that only operate or open for clients and customers between the hours of 0600 and 2200 if the activity is located within 50m of a Living Environment and complies with all other relevant rules in the District Plan.

6.3 Assessment of Effects on the Environment

- 6.3.1 The following effects assessment is presented in a ‘bottom up’ or ‘inside-out’ approach considering the localised environment first then the wider environment afterward. It focuses on assessing the proposal’s matters of non-compliance with the District Plan rules and its effects on the site and the immediate environment. It then considers the extent of these effects on the wider environment and the objectives and policies of the District Plan.

6.4 Effects of Signage on Road Safety and Amenity

- 6.4.1 Because of signage associated with the proposed supermarket activity in both the Living 2 Environment and Business 3 Environment being assessed as not permitted, it is important that a comprehensive assessment of effects of signage is undertaken. The applicant assessed signage effects and concluded that *“The signs are located within the site boundaries and well clear of footpaths along both streets. As such they do not hinder driver visibility either for vehicles travelling along the roads or for vehicle manoeuvring into and out of the site. The signs are integrated into the overall signage package for the building and site and are deemed to have less than minor effects on the amenity or character of the site and its surrounding area.”*
- 6.4.2 In terms of traffic safety Council’s SEEO reviewed the application and commented that *“Noting all the facts it is considered that any potential effects of proposed signage will be less than minor.”*
- 6.4.3 The second consideration is the effects of the signs on the visual amenity values and whether it will be visually inappropriate to the neighbourhood. The visual amenity of the neighbourhood will not change significantly. The addition of a sign facing Manse Street will not be inappropriate in the area given that there is a New World pylon sign on the opposite side of Manse Street and a large sign for Super Liquor and United Video in close proximity. The

Assessment of Landscape and Visual Effects by LA4 Landscape Architect Ltd states *“Having undertaken a comprehensive landscape and visual effects assessment of the implications of the proposed supermarket, I conclude that the effects will be acceptable in the context of the existing landscape and visual environment for the reasons identified. The visual amenity and quality of the environment surrounding the site will not be adversely affected by the development.”* I concur with the assessment. I consider that the sign located at the entrance at Manse Street will not be inappropriate because it provides the identity of the supermarket brand and site direction. The pylon sign along Kamo Road can be viewed in the context of the adjoining liquor store and video store. The signs on the building are large enough to be easily visible to the public at most vantage points. As such, all these signs are placed at visually appropriate positions in the neighbourhood.

- 6.4.4 The third consideration is the effect of the proposed signs on the visual amenity values and whether or not it is visually obtrusive on the Living 2 Environment. The assessment of effects of the signs has been carried out in the context of the surrounding environment taking into account the height of surrounding buildings and existing signs. The pylon-sign will stand at 6m high, 2.2m wide, and 233mm in depth. It will be located near the entrance into the car park from Manse Street. This part of the site is located in the Living 2 Environment and in the vicinity are single-storied dwellings of approximately 5m high. It is considered that the proposed landscape planting and an acoustic fence to be erected will create an integrated and cohesive development of which the proposed pylon-sign will be a part. Considering the new pylon sign in the context of the existing environment, it is not visually intrusive. This view is supported by the conclusion in the Assessment of Landscape and Visual Effects by LA4 Landscape Architect Ltd which states *“Having undertaken a comprehensive landscape and visual effects assessment of the implications of the proposed supermarket, I conclude that the effects will be acceptable in the context of the existing landscape and visual environment for the reason identified. The visual amenity and quality of the environment surrounding the site will not be adversely affected by the development.”* Regarding the rest of the signs for the proposed supermarket, I consider they will blend in with the existing character of the area.
- 6.4.5 The fourth consideration is the effect of the proposed signs on visual amenity values and whether they create an effect of clutter in the immediate neighbourhood because of poor relationship to other signs or elements. The additional signs proposed for the supermarket are not considered to be cluttered. The signs will clearly portray the activity and brand. The print sizes are large enough to be read by motorist along Manse Street, Kamo Road and Bank Street. Its outlook will be enhanced and blended in with the rest of the Business 3 Environment activities.
- 6.4.6 Are the proposed signs sensitive (in terms of scale, form and harmony) to the building or place where it is to be erected or displayed, to the immediate surroundings, or to the places from which it can be seen? I consider the proposed signs to be in scale, form and in harmony with other commercial activities in the Business 3 Environment. The proposed signs on the building will be similar to those on the nearby commercial buildings.
- 6.4.7 Are the proposed signs obscuring or detracting from important visual landmarks of the City, such as visual landmarks, or buildings or areas of architectural or heritage value? The proposed signs will not obscure any visual landmarks of the Whangarei City. The site is not located next to a heritage building. The signs will generally be facing Manse Street and Kamo Road frontage with few signs seen from the Anglican Church on the opposite side of Kamo Road. It is considered that the signs visible to the Anglican Church are not imposing and will not affect the amenity values in that precinct.
- 6.4.8 Are the proposed signs obscuring or detracting from landscape elements in the front yard of a site? The proposed signs will not obscure or detract from landscaping planting along the frontage with Manse Street and Kamo Road. The landscape plan submitted demonstrates that the signs will be clearly visible from vantage points.
- 6.4.9 The last consideration is the effect of the proposed signs on the visual amenity values by being of such construction that its method of support or fixing is not aesthetically incorporated into its design. It is considered that the pylon sign and those affixed to the building will blend in well with the construction design. Therefore, it is unlikely that there are effects associated with the sign design construction.

- 6.4.10 Overall, I concur with the applicant and the SEEO's assessment. I consider the effects that will be created by the pylon signs on Living 2 Environment and Business 3 Environment plus those on the building to be less than minor.

6.5 Effects of Noise

- 6.5.1 Council engaged Jon Styles of Styles Group to provide expert noise advice. The application is supported by an Acoustic Assessment report by Marshall Day Acoustics assessing the noise associated with all components of the supermarket and concluded that the conditions to be imposed in any consent will ensure noise limits in the District Plan are not breached. Jon Styles peer reviewed MDA's Acoustic Assessment report and after further clarification, he was happy with the assessment. The peer review agreed with MDA that the maximum noise level will not be breached if the conditions are complied with at all time (see further comments below).
- 6.5.2 Jon Styles also assessed the nature and frequency of the noise, including any special audible characteristics and its impact on the environment. The noise associated with supermarket activities are those caused by traffic movement, loading and unloading of goods, air-conditioning and heating units, and general background noise from people. MDA assessed these noises and considered they will create no unacceptable or unreasonable noise. As such any adverse effects associated with the level and frequency of noise generated are considered to be less than minor. After further clarification sought by Jon Styles on MDA's report, he agreed with MDA's conclusion (see further comments below).
- 6.5.3 In particular, consideration was focussed mainly on the effects of noise generated by the activities on nearby residential units. MDA fully assessed the impact of noise generated by the supermarket activities on the adjoining residential units and concluded they will not be affected. Owners and occupiers of residential properties at 2A Wallace Street, 2 Wallace Street, and 14 Manse Street have given their written approvals. Any actual or potential effects on them from the operation including noise will not be considered. However, the review by Jon Styles questions the inability of the report to assess noises cause by un-loading equipment. He also questioned why the properties at 1-9 Kamo Road and 2 Manse Street weren't assessed. MDA was given the opportunity to comment on these questions raised by the Council's noise consultant. MDA advised that they have been fully assessed and concluded that the predicted noise emission from the proposal will meet the standards in the District Plan if appropriate acoustic fences are erected in relevant locations. After further assessments and communications with Jon Styles, it was agreed that these properties are affected in a less than minor way provided an appropriate fence is located around the loading and unloading area.
- 6.5.4 Moreover, consideration was given to whether the construction noise will affect residential and commercial activities in the neighbouring properties. MDA assessed the predicted noise level based on their experience and commented that *"given the site separation, conventional construction methods operating within normal operating hours can readily comply with these noise levels"*. Council's noise consultant reviewed this comment and agreed with them. Construction noise effects are considered to be acceptable.
- 6.5.5 MDA suggested conditions to be imposed for any consent, should the Commissioner be of a mind to grant consent. These conditions are relevant and appropriate. The overall effects of noise created by the supermarket are considered to be less than minor.

6.6 Effects of Vehicle Movements and Parking

- 6.6.1 I have considered the effects of not providing parking space numbers according to the District Plan and whether or not that may create issues around the nearby streets. The District Plan seeks to ensure that commercial activities provide adequate off-street parking for customers and staff associated with the activities. The proposed Countdown supermarket offers 155 parking spaces instead of 159 required; 4 spaces short. The application is supported by a comprehensive Integrated Transportation Assessment Report (ITAR) by Traffic Design Group Limited. The report estimates the potential parking demand for this supermarket based on the current demand of other Countdowns around New Zealand. The report noted that *"The proposed parking provision is 44 spaces greater than the predicted practical demand of*

supermarkets determined from the average maximum demand of nine sites from around the country. The proposed provision of 155 spaces enables this demand to be satisfied whilst preventing parking overflow onto side streets and enabling a higher level of convenience for Countdown customers. Thus the provision of 155 onsite spaces is considered to easily cater for the practical parking demands of the proposed Countdown supermarket.” Council’s Senior Road Engineering Officer and the Senior Environmental Engineering Officer concur with this assessment.

- 6.6.2 I have sought the advice of Council’s SEEO on parking area design and whether or not it meets the Council’s Environmental Engineering Standards 2010 (AS/NZS 2890.1) (EES). Council’s SEEO considered the application and assessed the car park design. He confirmed that the design meets the standards of the EES. The design as shown in the car park plans includes pedestrian crossings and walkways. There are also landscape and fences around car parking areas that adjoin neighbouring properties. Therefore, it is unlikely there will be effects arising from the parking area design.
- 6.6.3 Parking spaces for people with disabilities have also been provided. The parking plan shows 5 disabled parking spaces conveniently located next to the supermarket entrance. It is unlikely that there will be any adverse effect arising by locating disability parking in the spaces shown in the plans.
- 6.6.4 I sought advice from Jon Styles on the effects of the loading areas and whether or not its location and noise created by it will adversely affect the neighbouring properties. The loading area is at the rear of the building. Delivery of goods and services will all be undertaken at the rear and will not be in conflict with customer parking areas. The loading area is located closer to the private properties at the northern boundary of the site. The Noise Assessment Report by MDA predicted the noise emission at that part of the operation to meet the District Plan standard of 50dBA provided acoustic fencing is erected. This assessment was peer reviewed by Jon Styles of Styles Group who concluded that the report did not include noise from other equipment used for loading and unloading (i.e. loaders, conveyors, etc). The rebuttal assessment provided by MDA commented that *“The email from Styles Group states the acoustic report – “...does not consider the noise generated by refrigerated trucks or the machinery that would be used to unload trucks (fork hoists, etc).” Whilst the report did not specifically refer to these in the text, these sound sources have been included as part of the assessment of sound emissions from the loading dock. Such sources of sound occur at almost all supermarket loading docks and have therefore been included in our calculations.”* After discussing this further with Jon Styles he was satisfied that loading and unloading has already been included in the assessment. The noise emission level will be within the District Plan standards provided appropriate conditions are included in any consent.
- 6.6.5 I have sought the advice of Council’s SEEO and SRE for the assessment of access design and whether or not it meets the EES standards and whether it can function as proposed. The assessment of accesses by Traffic Design Group (TDG) indicated that the proposed access arrangement will not cause or exacerbate any traffic safety issues associated with the current operation of the surrounding road network. The application also stated that the access complies with the Council’s Environmental Engineering Standards 2010 Edition. TDG provided further clarification on three separate accesses as follows in their letter of 12 July 2013:
- *Kamo Road Northern Access: “This is an existing access currently providing egress movements from the site. It formerly operated as an egress servicing the timber trade/servicing area of the Mitre10 activity. The existing power pole that is located to the south of the access will be relocated in order to widen the access to provide two-way movements, thus improving the sight visibility to the south. It is estimated that at most, only 17 vehicles during the peak hour will exit via this access. Should Council require this on-street parking to be removed, Progressive would be agreeable to removing these parking spaces to satisfy sightline requirements. Truck turning restriction will be applied to all heavy vehicles that access the services area. This will be managed by Progressive at an operational management level. All truck drivers will be informed and instructed by the store manager to only turn right out of the site. A No Left Turn sign will be located in the service area in advance of the customer car park to advise drivers of heavy vehicles before they exit the site.”*

- Kamo Road Southern Access: Vehicles wishing to turn right into the site at the southern access would be waiting to do so at the end of the existing flush median. The flush median can be readily extended by approximately 10m to allow a waiting area to accommodate the right turning vehicles. Traffic count surveys of the intersection showed that the right turn lane of Kamo Road approach anticipated a maximum queue of 4 vehicles which is approximately 24m. SIDRA analysis further showed that with the proposed development, the 95%ile queue for the right turn lane on Kamo Road is approximately 11m. During the phases where Kamo Road right turn is green, traffic travelling on Kamo Road northbound will be limited to the left turning traffic from Manse Street only. This lower traffic volume travelling upstream will present more opportunities for site traffic to turn right into the site. Thus right turning traffic from Kamo Road to Manse Street will be delayed by right turning traffic. We consider that the right turning traffic into the site and the possibility of extending the flush median will not adversely affect the vehicles turning right into Manse Street. Left turning traffic is expected to have minimal effects on the northbound through traffic as the southern access is an existing access which formerly served Mitre10. Furthermore, public transport service Route 3A and 3 run Monday to Saturday every 15 to 30 minutes at peak times on weekdays. Therefore, a maximum of four buses will travel through Kamo Road and may stop at this bus stop in an hour, thus this area is expected to be available for site traffic to use into when turning left most of the time.*
- Manse Street Access: Given the proposed car park layout, customers are more likely to go straight ahead upon entering the car park towards parking spaces that are closer to the entrance of the supermarket. It is considered that should vehicles exiting the site are blocking vehicles entering to turn right within the car park, customers are more likely to continue straight as oppose to queue in order to make this manoeuvre. [sic] If necessary the internal operation of the car park can be monitored by Progressive and should it present any safety or queuing issue, further mitigation can be implemented such as line marking to encourage through movements. Progressive would accept a condition of consent to monitor the onsite vehicle operations."*

Council's SEEO and the SRE reviewed these comments and agreed that provided relevant conditions are included in any consent; effects on the environment as a result of access design would be less than minor.

- 6.6.6 Manse Street Access however was considered the main issue for further investigation due to its impact on the New World's northern access into Manse Street. Council procured the service of Nathan Harper (Principal Traffic Modeller) of Opus (OPTM) to peer review the assessment of Manse Street impact on New World's Northern Access. OPTM concluded that:

"In summary, the results show that the opening of Countdown will impact on right turning traffic exiting New World, with the exit being blocked approximately 25% of the PM Peak. While the right turn from the New World Northern Access is still within capacity, vehicles destined for Bank Street southbound have no alternative route other than to accept an almost doubling in delay. The increase in delay and decrease in the opportunities for vehicles to exit New World are likely to be noticed by these drivers. With increasing traffic demand as a result of the Countdown, and an increasing proportion of time that the New World exit will be blocked, it is likely that the crash risk at this access will increase. Considering the increased delay, crash risk, and amount of time the exit will be blocked in the PM Peak, the effects of the proposed Countdown will have a more than minor effect on right turning traffic exiting the Northern Access of New World."

- 6.6.7 NTC also challenged the applicant's assessment of Manse Street, and submitted that it will have significant adverse effect on the safe and efficient movement of traffic along Manse Street. NTC considered that the proposal will cause significant conflicts between vehicle attempting to make right turns entering either the Countdown Manse Access or the New World Northern Access.

6.6.8 The applicant invited Beca to peer review the TDG, Opus and RMK2 traffic assessments who concluded specifically on the Manse Street's effect on the New World's northern access that:

“On this basis, it is considered that the effects of this potential increase in queues in terms of the overall safe operation of Manse Street and on the safe operation of the New World northern access would be no more than minor for the following reasons:

- *The potential additional delay experienced by New World customers at this access and the Manse Street/Kamo Road intersection, is not considered to be significant in terms of their overall journey experience;*
- *The predicted queue on Manse Street is anticipated to clear every cycle, as it does currently, such that there will still be opportunities for vehicles to turn right out of the New World northern access with good sightlines to/from approaching traffic on Manse Street;*
- *The former Mitre10 access currently opposite the New World access will be re-located to the west with the supermarket proposals, reducing potential conflicts between right turn exit movements from the New World northern access and the former access.”*

6.6.9 Both traffic engineers agreed that there is an effect on the New World northern access. The difference is the magnitude of effect. One expressed the effect as more than minor while the other as minor. From a planning perspective it is important to consider whether or not such an effect will cause irreparable harm to customers of New World and can the effect be appropriately mitigated. Council's consultant traffic engineer suggested that any adverse effects on the New World's northern access can be mitigated by improved design. I noted from the engineers' assessment that they both agreed that the Manse Street queue will be cleared for every traffic-light cycle during weekday PM peak. Therefore, the 7 or 8 seconds wait to get out of the queue at the New World northern access can be tolerated in my view.

6.6.10 It is important to note that OPTM clarifies his use of the term 'more than minor' in expressing his view on the level of effects magnitude. He stated in his brief that:

“In the NW Access Letter I concluded that the “effects of the proposed Countdown will have a more than minor effect on right turning traffic exiting the Northern Access of New World”. In hindsight this planning terminology is difficult to absolutely categorise to this situation.

My best descriptions of the operational traffic effects of the Countdown are ‘moderate’ on the New World Northern Access. The delays and additional queuing in the PM Peak hour will be measurable and noticeable to drivers; however there are opportunities to mitigate the operational effects through design.”

In view of this comment, it can be concluded that OPTM's expression of the level of the effects magnitude will be similar to the assessment made by Beca. The effects are considered to be minor.

6.6.11 I also sought advice from Council's SEEO whether the location of the access into the car park is safe for pedestrians. Within the site, the car parking plan shows that walkways and crossings are marked. Therefore, safety of pedestrian within the site has been addressed. However in the vicinity, pedestrians walking along the street across the three accesses are vulnerable to accident from vehicles entering or exiting the site. It is noted that the three accesses exist, though the access along Manse Street will be moved slightly away from the intersection. People are therefore accustomed to walking across these vehicles crossing (access). It is therefore considered by the SEEO that the safety of pedestrian as a result of the proposal will be acceptable.

6.6.12 I sought advice from Council's SRE, SEEO and OPTM to consider the type of vehicles and frequency of use of the car park and whether or not it will create any adverse effect on the environment. Figures provided by TDG indicated peak average per hour trips generated of 595 (PM) and 468 (Saturday) at the existing Kensington Countdown. The frequency of the car park use would therefore increase in the afternoon and on Saturday. TDG assessed the provision of 155 parking spaces to be more than adequate for the size of the proposed Countdown supermarket. Therefore, it is unlikely that there will be effects that are more than

minor from the frequency of use of the car park. Effects are acceptable provided a management plan for monitoring of the car park is included in any consent.

- 6.6.13 I sought advice from Council's SRE, SEEO and OPTM for the consideration of the car park and its contribution to the efficiency and safety of roads that it serves and whether or not there are any adverse effects that will be created by not meeting the District Plan requirements. The requirement for the provision of certain number of parking spaces in association with a development is to ensure safety and efficient functioning of roads. As such, parking spaces and entry and exit design of accesses are designed and built in accordance with Council Environmental Engineering Standards 2010 Edition. The proposed supermarket is situated adjacent to an intersection that is currently operating at capacity. TDG assessed the effect of the proposed supermarket operation within the local road network. TDG commented that *"overall, it is concluded that the proposed development will have less than minor adverse effects on the operation of the surrounding road network, with no unacceptable delays or increase in queue lengths"*. The efficient operation of the road network was fully analysed by three road engineers who arrived at the same conclusion. Effects are considered to be acceptable.
- 6.6.14 The car park is to be fully illuminated. The applicant commented that they will ensure lighting will not spill over to adjoining properties at an unacceptable level. Illumination will comply with the District Plan standards.
- 6.6.15 The surface of the car park will be sealed and marked. Therefore, it is unlikely there will be any adverse effect arising from the surface of the parking and loading area.
- 6.6.16 It is considered that the provision of 155 parking spaces is sufficient to ensure efficiency and safety of roads in the area is not compromised. The engineers have considered and assessed the technical aspects of traffic matters which all link to the parking and access. Overall, the effects of the proposal on vehicle movements and parking will be less than minor.

6.7 Effects on the Public Road Network

- 6.7.1 In the overall assessment of the proposed supermarket, the effects on the broader roading network needs to be considered. The main traffic issue for consideration is whether or not the development of Countdown's supermarket at the subject site will create effects that are considered to be less than minor, minor or more than minor. The configuration of the intersection adjacent to the proposed site with five roads leading into it could create traffic effects affecting the wider travelling public.
- 6.7.2 The applicant has summarised the existing travel pattern, the traffic environment in the area and the level of service for the intersection as follows:
- *Kamo Road is an Arterial route and forms a signal controlled intersection with Manse Street, Mill Road, Donald Street, and Bank Street;*
 - *Kamo Road is a two-lane, two-way carriageway separated by a flush painted median approximately 2.5m wide with a total carriageway width of some 13.5m;*
 - *Manse Street is a Collector road, two-lane two-way with a total carriageway width of approximately 12.5m. In the vicinity of the site right turn bays (painted flush medians) are provided for traffic turning right into the existing driveway;*
 - *Footpaths are provided on both sides of Manse Street and the western side of Kamo Road adjacent to the site;*
 - *Pedestrian crossing facilities are provided at the Kamo Road/Manse Street signalised intersection;*
 - *There are no specific cyclist provisions provided for in the vicinity of the site;*
 - *The site is well serviced with bus stops on Kamo Road serving both directions within 20m of the site;*
 - *The average traffic volume in both directions on Kamo Road and Manse Street (identified in 2004 and 2007 respectively) identify an average of 11,000 and 4845 vehicles per day and these figures are considered generally appropriate after surveys of the intersection by TDG;*
 - *Traffic count surveys were conducted at the Manse Street/Kamo Road/Bank Street/Mill Road/Donald Street intersection on 5th and 9th March (Tuesday and Saturday) inclusive of peak times;*

- *Directionality of traffic volumes on Manse Street was approximately 25% west and 75% east during both the weekday afternoon peak hour and the weekend peak hour. Directionality of traffic volumes on Kamo Road was 45% southbound and 55% northbound during peak periods;*
- *Over a five year period 2008 to 2012 crash history data indicates six non-injury crashes occurred at the existing driveways to the Mitre 10 site. Four at the Manse Street driveway and two at the Kamo Road driveway.*
- *All four crashes at the Manse Street driveway coincided with school and commuter peak hour traffic (8:30am, 4:35pm and 5:05pm) and Manse Street was congested at the time of the crashes. The crashes involved: two cars turning right into the site through gaps in the traffic and being hit by cars in the oncoming lanes; and two crashes involved cars exiting the site turning right into Manse Street through a gap in the traffic and being hit by cars in the outside lane;*
- *The relocation of the Manse Street entrance/exit approximately 30m to the west will have the effect of extending the queuing length available on Manse Street approximately 5-6 vehicle lengths and reducing the probability of vehicles queuing back past the proposed site driveway. This will reduce the likelihood of similar crashes in the future;*
- *There are no particular physical characteristics of the existing intersection which could be considered to promote this type of crash;*
- *It is considered that the proposed development will improve the safety of this entry/exit; and*
- *Overall the recorded crash history does not indicate any other inherent road safety defects or concerns.*

- 6.7.3 The application is supported by an Integrated Transportation Assessment Report by TDG. TDG employed a SIDRA model to determine the effects of extra traffic movements to the roading network brought about by the relocation of the supermarket activities to the proposed site. The ITAR concluded that *"...the proposed Countdown Kensington supermarket will result in less than minor adverse traffic effects to the function, capacity and safety of the local traffic environment. Proposed access, parking and servicing provisions for the development are appropriate for the expected demand on-site. ..."*
- 6.7.4 Council's SRE, who was supported by Ray Moriarty, disputed the above conclusion. The review comments stated *"There are a number of issues that would have to be address as highlighted....in short the existing intersection would appear not capable of taking any slight increase in traffic volumes and any amendments to the intersection to allow for this increase would not be possible."* [sic] This comment was based on the peer review of the weekday PM Level of Service (LOS) at the intersection where the LOS was generally rated as "F".
- 6.7.5 TDG reviewed the assessment of the LOS by Council and discovered that their original assessment of the LOS at the intersection was flawed because they were not privy to extra information used by Council's peer reviewer. They commented: *"...As part of this additional information work I noticed that Ray Moriarty, Council's peer reviewer of SIDRA models, had been provided some extra information with regard to detailed signal timings which we had not been privy to in our initial assessment of the Kamo/Mill/Manse/Bank intersection. Briefly, on investigation of the information provided, the data shows that there is an additional traffic phase which is run in every cycle (which we had not included in our original assessment on the understanding from on-site inspections that it was an optional phase) and that two of the phases are only run 50% of the time."*
- 6.7.6 This anomaly was corrected after further meetings with Councils SRE and confirmation from Ray Moriarty.
- 6.7.7 Council sought the input of OPTM in assessing the effect of traffic along Manse Street to the New World's access. After analysing effects to the New World's access, OPTM discovered that there may be discrepancies in the use of the SIDRA model as in his opinion using conservative approach without proper calibration of a SIDRA model may not produce correct results. Council therefore instructed OPTM to calibrate the SIDRA model and consider the following:

- *Ensure that the operational performance of the model fairly reflects the observed queue lengths and delays at this location, particularly on Manse Street;*
- *Result in an 'existing' SIDRA model that can be used to fairly predict the effects of the Countdown on the local road network;*
- *Review the results of the 'existing' and 'with Countdown' scenarios; and*
- *Confirm that the conclusions of the effects of the Countdown as stated by TDG have/have not been affected by the change in the 'existing' SIDRA.*

6.7.8 OPTM calibrated the SIDRA model and undertook analysis. He concluded that:

- *A calibrated SIDRA model has been developed for the 'existing' PM Peak, which closely reflects the observed queue lengths and delays at this location;*
- *An alternative assessment of the effects of Countdown has produced similar changes in queues and delays as was predicted by TDG;*
- *Both analyses indicate that the overall traffic impacts of the Countdown will be relatively small on the Bank Street/Mill Road/Kamo Road/Manse Street/Donald Street signalised intersection in the PM Peak;*
- *The results of both analysis predict that 95th percentile queue lengths on Manse Street will increase from less than the critical 70m to around 90m as a result of the Countdown development, and*
- *Therefore queues in the 16:30 to 17:30 hour will now impact on right turning traffic exiting New World Northern Access 24.9% of the hour, whereas previously they did not.*

6.7.9 Council SRE reviewed all these reports and commented that:

- *The effect of the countdown on the proposed intersection has been assessed by three separate engineers and found to be less than minor. It is expected someone using this intersection pre-development will not notice any change in the level of service post development.[sic]*
- *The effect on the properties on the corner of Manse Street and Kamo Road will be less than minor. The modelling shows there will be an additional 3 second delay on Manse Street leg and it is expected the queue will clear each time so there will be no change to vehicles accessing these premises.*
- *The effects on New World and its customers has been assessed in the Opus review as more than minor.*
- *The effects on the residents of the surrounding streets (Manse Street, Wallace Street, Cross Street, Gorrie Road), the modelling has shown some increase in delays and queue lengths on some approaches but these are not sufficient to cause any noticeable effect to the residents.*
- *In summary the only effect would be on the New World exit.*

6.7.10 The applicant commissioned Beca to conduct an independent peer review of all traffic assessment reports by TDG and Whangarei District Council Roding Division including its consultant advisers (RMHK2 and Opus). The peer review concluded:

"The following minor concerns were identified in relation to the SIDRA assessments undertaken by TDGH, which have been assessed by Beca to have negligible effects on the outcomes of the modelling and traffic assessment undertaken by TDG:

- *Site Geometry – The lane geometry for the Kamo Road approach did not reflect the entry angle. However, this has been assessed to only marginally underestimate geometric delays and increase delays for that approach.*
- *Priorities/Conflicts and Vehicle Movement Data – The conflict between the filtered-left turn vehicles and crossing pedestrians, as well as pedestrian protection, had not been included in the TDG models. However, due to the low left turn volumes on Bank Street, Donald Road and Mill Road this has been assessed to have a negligible effect on the modelling results.*
- *Future Queue Prediction – The TDG methodology used to obtain the 'adjusted' future queues was potentially not sufficiently precise, such that further assessment using an alternative methodology was undertaken by Beca. The Beca methodology demonstrated similar outcomes to the Opus review, which*

indicates that the TDG methodology only had a negligible effect on the overall modelling outcomes.

In terms of the overall operation of the Manse Street/Kamo Road intersection, it is considered that the effects of the proposed supermarket are less than minor, which is consistent with the assessment of both TDG and Opus.

In relation to queuing effects on Manse Street, it is agreed that increased queue length are predicted to form on this approach to the Manse Street/Kamo Road intersection, which are predicted to extend up to and beyond the northern access of New World supermarket at times during the weekday PM peak. However, the Beca review indicates these will be slightly shorter and occur for a shorter duration that indicated by the Opus review and only marginally longer than the 'adjusted' future queues predicted in the more recent TDG assessments"

- 6.7.11 OPTM provided an overall conclusion in his brief saying *"Considering the overall traffic effects of the Countdown Supermarket (rather than just the right turn), it is my opinion that the traffic effects are small. Opportunities to mitigate some of the predicted operational and safety effects of the Countdown remain, and these should be captured in the design."*
- 6.7.12 Having considered the above assessments and comments by all traffic engineers involved, it is concluded that, overall the effects of allowing Countdown supermarket to operate on the subject site will have no more than minor effects on the local road network.

6.8 Effects on Amenity Values and Landscape

- 6.8.1 The Act defines 'amenity values' as those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, cultural and recreational attributes. The WDC Operative District Plan (ODP) describes the characteristics of the Business environments within the context of amenity values as *"...that accommodate a wide range of business activities, from retail to heavy industry. As such, the levels of amenity within the Business Environments vary"*. The ODP also recognised the amenity values in the Living environments as *"....to be passive environments where people relax and interact with each other on a social basis. In general, they have high levels of amenity as a result of a combination of some or all of the following characteristics:*
- *Low intensity development;*
 - *Presence of trees and private gardens;*
 - *Landscaped frontages and street set backs;*
 - *Off-street parking;*
 - *High degree of privacy;*
 - *Daylight and sunlight access;*
 - *A high proportion of private and public open space;*
 - *Low levels of noise, visual pollution, odour and nuisances;*
 - *Safe environment for children, cyclists and pedestrians;*
 - *Low levels of vehicular traffic;*
 - *Feeling of community;*
 - *Non-residential support activities, such as business and community activities, of an appropriate scale."*
- 6.8.2 I have considered the effects of relocating the Countdown supermarket activities from the existing Kensington site to the Regent site and whether or not it compromises the above values.
- 6.8.3 The applicant provided a comprehensive assessment of all relevant statutory documents including the Northland Regional Land Transport Strategy and Land Transport Programme, Whangarei District Growth Strategy, the Whangarei Urban Growth Strategy, the Whangarei Urban Design Strategy, the Whangarei District Council's Operative District Plan objectives, policies and rules. The applicant concluded that *"The environmental effects of the proposed reuse of the building and extension of the carpark have been assessed as less than minor, beyond the properties immediately adjacent and whose owners and occupiers have provided written approval."*

- 6.8.4 The character of the site, if considered within the context of its location, is a continuation of commercial activities along Bank Street and Kamo Road. Heading north along Bank Street from the main town centre and before reaching the site the area is characterised by food outlets (e.g. KFC and McDonalds), New World supermarket, schools, liquor store, etc. The streetscape has an appearance and the feel of a commercial environment. The site contains an empty building which contained Mitre10 retail outlet. Considering the building in isolation, it has an eye-catching element and appearance which featured predominantly on the character of the commercial environment.
- 6.8.5 I have considered whether the use of properties in the Living 2 Environment as part of this proposal will blur the distinction between the Living and Business Environments. With the school building in the background and other commercial businesses along Manse Street and Wallace Street, I cannot establish a clear boundary distinction between the two environments. The main supermarket activities to be carried out in the existing building which was formerly the Mitre10 store will be consistent with the activities around it in terms of the New World supermarket across Manse Street, the United Video, Super Liquor store and many more around the intersection. The fence and landscaping around the car park will soften the intrusion of commercial activities feel to the residential activities on the adjacent properties.
- 6.8.6 The applicant submitted an Assessment of Landscape and Visual Effects report by LA4 Landscape Architect in support of the application. The report considered the existing site with respect to its locality and the surrounding environment. It identified the existing character, the key visual and urban features, and described these elements in the context of the existing environment.
- 6.8.7 In conclusion, the report commented that *“The existing environment is characterised by its commercial attributes with residential activities on the periphery. The proposed supermarket will occupy an existing large-scale building; however the external changes to the building will result in a superior architectural statement. Having undertaken a comprehensive landscape and visual effects assessment of the implications of the proposed supermarket, I conclude that the effects will be acceptable in the context of the existing landscape and visual environment for the reason identified. The visual amenity and quality of the environment surrounding the site will not be adversely affected by the development.”* I concur with the opinion expressed here.
- 6.8.8 The applicant has since provided a ‘Planting and Maintenance Specification Plan’ which was subsequently reviewed by Council’s Group Planner and commented as follows:
- *I have discussed the planting plan for Countdown Kensington with Jeff Devine as Greg is away on holiday. Jeff agrees that clear trunking these trees up to approximately 2m is needed to ensure good visibility in the locations shown, particularly adjacent to the truck exit. The proposed trees at planting will be 160 litres bag size and a minimum height of 3 metres. Clear trunking these trees up to 2 metres in height may be marginal for the health and appearance of the three Magnolia trees, and it may be better for the proposed species to be substituted for a tree or palm species that allow better visibility.*
 - *The existing mulched planting bed fronting Manse Street extends into the road reserve. Planting on the planting plan is shown entirely within the subject site which is appropriate as the road verge area including the footpath is narrow.*
- 6.8.9 These comments are recommended to be included through conditions as part of any consent should the Commissioner be of a mind to grant consent. This will ensure the effects of the proposal on the landscape and visual amenity of the surrounding environment are less than minor.
- 6.8.10 Furthermore, LA4 identified three vantage points for assessment being Manse Street, Bank Street and Kamo Road. LA4 concluded that the effects will be acceptable in the context of the existing landscape and visual environment. The visual amenity and quality of the environment surrounding the site will not be adversely affected by the proposed supermarket. I concur with the assessment.

- 6.8.11 The effects of the proposal on the amenity values of the immediate environment were also considered. The site is located mainly within the Business 3 Environment and this type of activity is anticipated in this environment. Landscape requirements by the District Plan will ensure the amenity of the site will not be compromised as a result of activities associated with the supermarket operation. Provided that the landscape plan is implemented as designed, the amenity value will not be affected.
- 6.8.12 Overall, I concur with the assessment of the effects of the proposal on the landscape and visual amenity by the applicant that it is less than minor.

6.9 Effects assessment summary

- 6.9.1 On balance, the effects of the proposed supermarket activities are acceptable and considered to be minor. The applicant has suggested a number of conditions addressing visual amenity improvements around the site and an acoustic fence to mitigate noise emission. The applicant will also accept a condition for a car park operational management plan which will ensure any confusion or conflicting use of the car park are managed and monitored.

7.0 Relevant Policy Statements, Plans or Proposed Plans (s104 (1)(b))

7.1 Statutory Gateway Test

- 7.1.1 Section 104D (b) directs that Council consider whether the proposed activity will not be contrary to the objectives and policies of the relevant plans.
- 7.1.2 The meaning of 'contrary' was considered in the decision of Monowai Properties Ltd V Rodney District Council (A215/03) where it was established:

"A non-complying activity will rarely, if ever, find direct support in the objectives and policies of a Plan but an absence of support does not equate to the activity being contrary to those provisions. Contrary to in this context means... repugnant to... or opposed to... the objectives and policies considered as a whole".

- 7.1.3 The following sections assess whether the proposal will be contrary to the relevant objectives and policies of the relevant plans for the subject site- being the Operative Whangarei District Plan and the Northland Regional Policy Statement (both the operative and proposed).

7.2 Northland Regional Policy Statement

- 7.2.1 The Northland Regional Policy Statement (RPS) covers the management of natural and physical resources across the Northland region. The provisions within the RPS give guidance at a higher planning level in terms of the significant regional issues. As such it does not contain specific rules that trigger the requirement for consent but rather give guidance to consent applications and the development of District Plans on a regional level. Having reviewed the current operative RPS it is considered that there are no significant conflicts between the proposal and the provisions within the RPS.
- 7.2.2 The proposed Northland Regional Policy Statement¹ presents new objectives and policies regarding 'regional form' which are relevant for the consideration. In particular policy 5.1.1 states that:

"Subdivision, use and development should be located, designed, and built in a planned and co-ordinated manner which:

- a. Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;*
- b. Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;*

¹ Proposed Regional Policy Statement for Northland, Councils Decisions – Clean Copy, September 2013

- c. *Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;*
- d. *Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
- e. *Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;*
- f. *Ensures that plan changes and subdivision to/in a primary production zone, do not materially reduce the potential for soil primary production on land with highly versatile soils, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
- g. *Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and/or district or regional plan provisions.*

Note: in determining the appropriateness of subdivision and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to significant natural areas, landscape, heritage, natural hazards, indigenous ecosystems and fresh, and coastal water quality.”

7.2.3 As has been discussed within the effects assessment in this report, it is considered that the proposal is consistent with the magnitude of commercial activity anticipated in the Business 3 Environment. The effects of the proposal on Living 2 Environment are no more than minor.

7.2.4 Overall for the above reasons it is considered that the proposed activity is consistent with the relevant objectives and policies within the operative RPS and proposed RPS.

7.3 Operative Whangarei District Plan

7.3.1 The relevant objectives and policies in the Operative Whangarei District Plan ('the plan') for the proposed subdivision are located in Chapter 5 – Amenity Values, Chapter 6 – Built Form and Development, Chapter 8 – Subdivision and Development, and Chapter 22 – Road Transport (a copy of these chapters is attached as **Appendix 6** in this report).

7.3.2 **Chapter 5 – Amenity Values:** This chapter addresses issues on land uses that can produce noise, odour, dust, smoke and chemical spray drift problems, which adversely affect the amenity values of the surrounding environment. It also addresses inappropriate development, including the bulk, siting and design of buildings that can compromise amenity values of a locality, especially through effects on access, vehicular, pedestrian and personal safety, day lighting, outlook and privacy. Following are relevant objectives and policies that are relevant to the proposal and whether or not it is consistent with their intentions.

7.3.3 Objective

5.3.1 *The characteristic amenity values of each Environment are maintained and where appropriate enhanced.*

5.3.5 *The actual or potential effects of use and development is appropriately controlled and those activities located and designed, are to be compatible with existing and identified future patterns of development and levels of amenity in the surrounding environment.*

7.3.4 Policy

5.4.1 *Effects on the Local Environment – To ensure that activities do not produce, beyond the boundaries of the site, adverse effects those are not compatible with the amenity values characteristic of the surrounding and/or adjacent environment unless such effects are authorised by a district plan, a designation, a resource consent, or otherwise. The following effects should be given particular consideration in this respect:*

- *Noise and effects;*
- *Shading;*
- *Glare;*

- *Light spill;*
- *Dust;*
- *Smoke;*
- *Odour;*
- *Vibration;*
- *Spray drift;*
- *Visual amenity.*

Where internalisation of effects cannot be wholly achieved, the Council will consider a Best Practicable Option approach.

- 5.4.2 *Character and Timing of Activities – To allow activities where their nature, timing and duration do not result in adverse effect on amenity values beyond the extent compatible with the characteristics of the surrounding and/or adjacent Environment/s.*
- 5.4.3 *Activities in Living Environments – To ensure activities in Living Environments do not have adverse effects that are significantly greater than those associated with residential activities, whilst acknowledging that adverse effects of activities from outside the living Environments, e.g. the Airport, may not be avoidable altogether and may affect amenity values.*
- 5.4.7 *Intensity and Design of and Development – To encourage that subdivision and development do not unduly compromise the outlook and privacy of adjoining properties, and to be appropriate to the Environment in which it is located. Particular regard should be had to:*

- *The location, design and sitting of buildings and structures except where such buildings and structures provide a specific service for the surrounding environment. In the latter case any building or structure shall be designed, laid out and located, so as to avoid, remedy or mitigate any adverse effects on the environment.*

- 5.4.8 *To encourage sites to present frontage to the street that is appropriate to the function of the site, is compatible with and enhances the overall character of the streetscape, and does not visually dominate the road.*

5.4.11 Signs

- a) *To ensure signs are located, designed and of a scale that avoids, remedies or mitigates adverse effects on amenity values of the surrounding environment, and should not compromise the safety of vehicles and pedestrians.*
- b) *To promote the use of clear and unambiguous signage that ensures that members of the public are adequately informed of directions and amenities, irrespective of their travel mode.*

- 5.4.12 *Traffic – To encourage vehicle movements and parking demand, where it does not adversely affect the amenity values of the particular environment in which it is located, having regard to the characteristics of that environment and adjacent environments, and the range of activities for which it makes provision for.*

7.3.5 The Operative District Plan employs the main method of environment (zoning) and rules to manage the effects of use and development of resources, which provides a degree of certainty for people as to the amenity to be expected in a particular area and avoids mixing of incompatible activities. The majority of the proposed supermarket is located in the Business 3 Environment with adjoining properties at 8, 10 and 12 Manse Street located in the Living 2 Environment which are now part of the proposal and contain access and parking. Values expected in the living environments include openness, quietness, outlook and privacy. It needs to be considered whether the extension of the supermarket operation into residential zoned land will blur the boundary between Business 3 and Living 2, and whether it will erode the expected amenities values in the surrounding residential areas.

7.3.6 The applicant contended that “In this respect, amenity values associated with the site are already established. The use of Living Environment land for parking/access purpose will alter the current visual experienced by the public but will not increase intensity of building development across the total site.” The neighbourhood comprises schools, health providers

and premises used for other community activities e.g. church. Along Wallace Street, Manse Street and Gorrie Road is a mixture of community and commercial activities. The individual uses are clear, as is the character and scale comprising single residential, small commercial, large commercial and community uses. It is the mix across the precinct that creates the overall mixed environment that changes from a commercial character on Kamo Road/Bank Street frontage to more residential back into the living environs. I have sought the view of Council's District Plan team where they commented that it is highly unlikely there are noticeable attributes around that area that may influence considering it as a premium living environment because, there is already a mixture of uses in the area with distinct use for community/school facilities in the vicinity. Based on the above comments, I consider that the proposal will not be contrary to the above objectives and policies.

- 7.3.7 Further, in assessing the proposal against the above objectives and policies I was mindful of the proposed activity straddling over two environments, Living 2 Environment and Business 3 Environment. In particular Policy 5.4.3 stipulates *"To ensure activities in Living Environments do not have adverse effects that are significantly greater than those associated with residential activities..."* I have considered the effects of the proposal on the surrounding environment and concluded that the effects are no more than minor. The matter to be considered here is whether the adverse effects of the supermarket and associated car parking are significantly greater than those associated with residential activity. In my view, it is not. The reason being the Living 2 Environment adjacent to the existing site is blurred with commercial and community activities. Therefore, the appearance and character of the neighbourhood is of a mixed use environment not a highly prominent or solely residential area.
- 7.3.8 Supermarket activities are anticipated in the Business Environment. Business Environments are places where people work and interact on both a social and commercial level. The levels of amenity therefore vary in different business areas. Supermarkets provide a very important service to people. Therefore, they must be appropriately located for the convenient access of people and communities. I have considered the proposed supermarket to be appropriate on the site because of its zoning being in the Business 3 Environment, the traffic effects have also been assessed as minor and the effects on the encroachment into the Living 2 Environment are also no more than minor.
- 7.3.9 Overall, given the scale and design of the proposed parking area associated with the new supermarket activities, along with the mitigation measures and the recommended conditions of consent, it is considered that the amenity values of the local environment can be maintained at an acceptable level. As such, I consider the proposal is not contrary to the relevant objectives and policies of the Amenity Values chapter of the Operative District Plan.
- 7.3.10 **Chapter 6 – Built Form and Development:** This chapter identifies the following relevant significant issues that shape the development of the city:
- *The need for strategic direction on the location, shape and form of urban development in order to accommodate population growth and industrial and economic development.*
 - *Further fragmentation of the city centre through sporadic commercial development.*
 - *Loss of focus on CBD and town centres which has resulted in a loss of "sense of place" and community character and identity.*
 - *The cost and impact of provision of infrastructure (including transport infrastructure) to efficiently and sustainably meet the demands of future predicted growth.*
- 7.3.11 **Objectives:**
- 6.4.1 *Accommodate future urban growth with an emphasis on urban consolidation of the central business district (CBD) and in and around existing suburban nodes.*
- 6.4.6 *Provide accessible and convenient suburban centres, and focus future residential growth in and around those centres.*

- 6.4.7 *Maintain and enhance characteristic amenity values and the identity of suburban centres.*
- 6.4.8 *Maintain and enhance accessibility for communities and integrate land use and transport planning.*
- 6.4.9 *Recognise and maximise agglomeration opportunities for industrial and economic activity, enabling people and communities to provide for their social, economic and cultural well being.*
- 6.4.12 *Avoid conflict between incompatible land use activities as a result of subdivision and urban development.*
- 7.3.12 **Policies:**
- 6.5.2(iv) *Consolidated Development:*
- To promote clustered, mixed use activity that focus on existing urban and coastal centres.*
- 6.5.5 *Suburban Centres:*
- To provide accessible, well-designed and convenient suburban centres, in a manner that minimise adverse effects on the transport network and the amenities of living environments.*
- 6.5.8(i) *Reverse Sensitivity and Incompatible Land Use:*
- To design and locate land use activities, subdivision and development so as to avoid and reduce, as far as practicable, conflicts between incompatible land uses.*
- 7.3.13 I have considered whether the use of the existing site for supermarket activities strategically fits in with the direction of growth of the City. I have also considered if allowing the proposal will create any conflict between residential use in the adjoining Living Environment and the supermarket activity in the Business Environment. I have assessed the effects of the activity and considered overall, the effects are considered to be no more than minor. While the supermarket activity is to be carried out wholly within the Business 3 Environment where such activity is anticipated, it is the effects of the encroachment into the Living 2 Environment that needs to be considered against the above objectives and policies. Considering the appearance and the character of the adjacent Living 2 Environment, it can be concluded that the removal of three residential properties for use as parking will not significantly change the appearance and outlook of the area from vantage points. Together with the fences and landscape planting around the car parking, any blurring of the boundary between the Living 2 Environment and Business 3 Environment will not be noticeable.
- 7.3.14 Allowing the activity will achieve the above objectives and policies in that, the proposal will promote clustering of commercial activities in the business zoned area in the Regent/Kensington suburban and, conveniently provides for community access which will minimise adverse effects on the transport network. The proposal will not create any adverse effects on the adjoining Living 2 Environment that are considered to be more than minor. The properties adjoining the car park have given their written approvals. The Business 3 Environment boundary will remain unchanged.
- 7.3.15 Overall, I consider that the proposal will not be inconsistent or contrary to the above relevant objectives and policies of the Built Form and Development chapter of the Operative District Plan.
- 7.3.16 **Chapter 8 – Subdivision and Development**
- 7.3.17 **Objectives:**
- 8.3.1 *... development that achieves the sustainable management of natural and physical resources whilst avoiding, remedying or mitigating adverse effects on the environment.*
- 8.3.2 *.... development that does not detract from the character of the locality and avoids conflicts between incompatible land use activities.*

7.3.18 Policies

8.4.1 *Incompatible Land use Activities – To design and locate ... development so as to avoid, as far as practicable, conflicts between incompatible land use activities.*

8.4.7 *Design and Location – To ensure development is designed and located so as to avoid, remedy or mitigate adverse effects on, and where appropriate, enhance:*

- *Amenity values and sense of place;*
- *Infrastructure, particularly roads and the Airport;*
- *Business growth and development opportunities within defined Business Environments;*
- *Cross boundary coordination;*
- *Human health and safety.*

7.3.19 The relevant objectives and policies in Chapter 8 seek to ensure that design and location of developments avoid as far as possible conflict between incompatible land use activities. The question therefore is whether or not the supermarket operation will conflict with residential activities in the adjacent properties at a level that cannot be avoided, remedied or mitigated.

7.3.20 The proposed activity is not considered contrary to the above provisions. Given the scale, design and location of the proposed activity, the proposal is not considered to detract from the character of the locality where commercial activities are permitted subject to compliance with requirements such as hours of operation, noise and traffic movements. While the proposed car park will not be carried out in conjunction with a residential activity on the site and does not comply with the permitted operating hours, these non-compliances have been assessed in the above section of this report and are considered to be no more than minor subject to the mitigation measures and the recommended conditions of consent.

7.3.21 Overall, the proposal is not considered contrary to the objectives and policies of the Subdivision and Development chapter of the Operative District Plan, primarily those that relate to sustainable management of natural and physical resources, amenity values and road transport.

7.3.22 Chapter 22 – Road Transport

7.3.23 Objectives:

22.3.2 *Avoid, remedy or mitigate any adverse effects of road transport activities on the surrounding environment.*

22.3.3 *Protect the road transport network from the adverse effects of adjacent land use, development*

7.3.24 Policies:

22.4.1 *Road Hierarchy - To ensure that all roads are consistent with the roading hierarchy, which categorises roads by their function, to achieve a safe and efficient transport network using the following classifications:*

- *State Highways;*
- *Arterial Roads;*
- *Collector Roads;*
- *Local Roads;*
- *Cycle Ways.*

22.4.5 *Location of Activities - To locate activities and developments in a manner that makes best use of the existing and proposed road transport infrastructure, and minimises adverse effects on traffic flows.*

22.4.6 *Pedestrian Safety - To ensure that cyclists and pedestrians, including vulnerable groups, such as the young, the elderly and the disabled, are safe from vehicles and other road traffic. Suitable facilities for cyclists and pedestrians should be*

provided in new developments and within the existing roading hierarchy, as appropriate.

22.4.7 Parking and Manoeuvring - To provide adequate parking, turning and manoeuvring space on every site, other than sites in the areas shown in Figures 6A.1 and 6A.2 to Appendix 6, to accommodate traffic generated by the activity, and to maintain the safe and efficient operation of the transport network. To facilitate the provision spaces (owned by Council and/or private companies) in the areas shown in Figures 6A.1 and 6A.2 to Appendix 6, both on and off roads.

22.4.8 Visual Obstruction - To ensure that the design, location and extent of buildings, advertising signs and vegetation adjacent to roads does not compromise the safe and efficient operation of the road transport network.

22.4.9 Accessible Parking - To require accessible parking to be provided for every activity in accordance with NZS 4121:2001 to increase access to the community for parking permit holders.

7.3.25 The relevant objectives and policies of this chapter seek to ensure that the function of the road network in the city is not compromised. I have provided a detailed and comprehensive assessment of traffic effects in the assessment of effects and I conclude that the effects are no more than minor. All traffic engineers involved in this proposal have agreed that the function of the road network will not be adversely affected in a more than minor way although New World's Northern Access will be affected more than others.

7.3.26 I consider that the proposal will not be contrary to the above objectives and policies because any identified effects caused by the proposal can be mitigated by condition of the consent.

7.3.27 Overall I consider, based on my assessment of the proposal against the above relevant objectives and policies of the Operative District Plan, that the proposal is not contrary to the above objectives and policies.

7.3.28 Therefore for these reasons it is concluded that the proposal is consistent with the overarching intent of the aforementioned relevant objectives and policies of the Operative District Plan and therefore passes the second gateway test in section 104D (b).

8.0 Other Matters

8.1 Non-statutory Planning Documents & Plan Changes

8.1.1 **Whangarei District Growth Strategy** – Sustainable Futures 30/50 was adopted by Council in September 2010. The strategy outlines a long term, integrated, strategic policy framework and spatial plan which will assist the sustainable development of the district over the next 50 years.

8.1.2 The strategy addresses all aspects of development including economic, environmental, social and cultural. The main objective of the strategy is to provide an integrated and holistic approach to managing growth in the district based upon sustainability principles.

8.1.3 Of relevance to this proposal is the ability of the strategy to be implemented without impediment caused by allowing this type of activity to be carried out where it is proposed under the existing regime. With the District Plan being the main statutory mechanism for implementing such strategy, it must contain strong provisions for achieving its main objectives.

8.1.4 It is considered that the current District Plan anticipates this type of development at the subject site because of its Business 3 Environment zoning. I have assessed the encroachment of the proposed associated car parking area for the supermarket into the residential zoned land to be no more than minor because of its character being mixed uses. As such, it is expected that it will not create any potential conflict with the main objectives of Whangarei District Growth Strategy.

- 8.1.5 **Whangarei Urban Growth Strategy** – was adopted in October 2003 aiming to provide long term guidance for the management of urban environment in and around Whangarei, so that people in Whangarei can enjoy the variety of lifestyles offers by the city.
- 8.1.6 The strategy is being subsumed into the Sustainable Futures 30/50 Strategy 2010. The vision of this strategy has also been largely realised in its District Plan which became full operative in 2007. The proposed supermarket is considered to be within the ambit of the strategy given that the Business 3 Environment of the District Plan anticipates such development.

8.2 Precedent

- 8.2.1 Case law has established that the precedent of granting resource consent is a relevant factor for a consent authority in considering whether to grant a non-complying resource consent. A precedent effect is likely to arise in situations where consent is granted to a non-complying activity that lacks the evident unique, unusual or distinguishing qualities that serve to take the application outside of the generality of cases or similar sites in the vicinity.
- 8.2.2 It is considered that this proposal if granted will not create precedent because the proposed supermarket will utilise a large existing complex on the site. The majority of the proposed supermarket site is located within the Business 3 Environment which is considered to be an appropriate zoning for this use.

9.0 Part 2 Matters

9.1 Section 5 – Purpose

- 9.1.1 Part 2 of the Resource Management Act 1991 details the overarching purpose and principles of the Act
- 9.1.2 In terms of Part 2 of the Act, the proposed activity must meet the purpose of the Act set out in section 5 which is “*to promote the sustainable management of natural and physical resources.*” As outlined in section 5(2), “sustainable management” means:
- “managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety while -*
- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*
- 9.1.3 I have assessed the effects of the proposal on the environment and found them to be no more than minor. I have also assessed the proposal against the relevant objectives and policies of the relevant sections of the District Plan and concluded that they are consistent with them. As such, I consider the proposed activity will not have any detrimental effects on the social and cultural values upheld by some of the residents of the area. I have also concluded that granting consent to this proposal will not set a precedent effect that may influence future decisions of similar proposals.
- 9.1.4 The proposal is also considered to be a non-complying activity in part of the supermarket activities in the Living 2 Environment zoned land. Because of the mixed use for this part of the Living 2 Environment, I concluded in the effects assessment that the proposal encroachment will have no more than minor effects on the residential amenity. I therefore consider that the proposal will promote the sustainable use and development of the physical resource which also provides for the health, cultural and economic wellbeing of the community.
- 9.1.5 Section 5 of the Act is supported by a number of other ancillary principles contained in sections 6, 7 and 8 in Part 2 of the Act that provide decision makers with a set of guidelines that reflect current government policies and ideologies in regards to resource management,

and assist in the interpretation of sustainable management. The relevance of these sections to the proposed development is assessed below.

9.2 Section 6 – Matters of National Importance

9.2.1 Section 6 of the Act highlights matters of national importance that shall be recognised and provided for in order to achieve the sustainable management purpose of the Act. No matters provided under section 6 are considered to be relevant to consideration of this application.

9.3 Section 7 – Other Matters

9.3.1 Section 7 of the Act lists other matters that particular regard shall be given to in order to achieve the purpose of the Act. The relevant sections are:

- 7(b) The efficient use and development of natural and physical resources;
- 7(c) The maintenance and enhancement of the amenity values;
- 7(f) Maintenance and enhancement of the quality of the environment.

9.3.2 The subject site was used for Mitre10 retail outlet which ceased trading at the end of 2012. The premises have since been left idle and the re-development of the resources for a supermarket is considered to be an efficient use of physical resources.

9.3.3 I have assessed the effects of the activity on the amenity values of the surrounding neighbourhood and considered that they are no more than minor. The proposed Countdown supermarket will improve the visual amenity as seen from vantage points. The proposal is therefore considered to be consistent with the identified relevant matters in Section 7 of the RMA.

9.4 Section 8 – Treaty of Waitangi

9.4.1 Section 8 requires that decision makers take into account the principles of the Treaty of Waitangi in managing the use development and protection of natural and physical resources. There are no issues identified in the proposal that requires consideration of principles of the Treaty of Waitangi.

10.0 Conclusion & Recommendation

10.1 Conclusion

10.1.1 I have considered the proposal and undertaken an assessment of actual and potential effects of allowing the activity on the environment pursuant to Section 104(1)(a) of the RMA. I have concluded that the effects of the proposal on the environment will be no more than minor.

10.1.2 I have considered the proposal against the relevant provisions of the National Policy Statement for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, the Northland Regional Policy Statements (operative and proposed), and objectives and policies of the Whangarei Operative District Plan pursuant to Section 104(1)(b) of the RMA. I concluded in my assessment that the proposal will not be inconsistent or contrary to the relevant provisions of the NES, plans and proposed plans.

10.1.3 I also considered the effects of the proposal on Council's Urban Growth Strategy and Sustainable Futures 30/50 Strategy pursuant to Section 104(1)(c) of the RMA and concluded that the proposal is in line with the aims and objectives of the strategies. I also consider that there is no precedent effect created by allowing the proposal.

10.1.4 Having considered the application against the relevant provisions of the Act, it is therefore recommended that this application be **granted**.

10.2 Recommendation/

THAT pursuant to sections 34A of the Resource Management Act 1991, it is recommended that Commissioner David Hill **grant** consent to Progressive Enterprises Limited (LU1300046) for the establishment and operation of a new Countdown supermarket utilising the former Mitre10 building on the site; effectively the relocation of the existing Countdown currently located at Kensington to this site. It also includes the development of site access and car parking. The site comprises 9,959m² of land legally described as Lot 1 DP 330496 (existing Mitre10 site), Pt Allotment 1 Parish of Whangarei (8 Manse Street), Lot 16 DP 16462 (10 Manse Street), and Lot 15 DP 20158 (12 Manse Street).

The site for the proposal is located within the Living 2 and Business 3 Environments of the Whangarei Operative District Plan. The District Plan Rules breached by the proposal include:

- Business 3 Environment – Rule 41.3.5: *Provision of Parking Spaces*, Rule 41.3.7: *Signs*, Rule 41.3.10: *Noise*, Rule 41.4.8: *Landscaping*;
- Living 2 Environment – Rule 36.3.1: *Activity General*, Rule 36.3.4: *Provision of Parking Spaces*, Rule 36.3.6: *Traffic Movements*, Rule 36.3.7: *Signs*, Rule 36.3.11: *Noise*, Rule 36.3.12: *Construction Noise*,
- Road Transport – Rule 47.2.1: *Parking and Loading*

Overall, the proposal is considered to be for a **Non-Complying Activity**.

It is recommended that pursuant to sections 104, 104B, 104D and 108 of the Resource Management Act 1991, a landuse consent is granted subject to the following conditions:

1. That the proposed development shall be undertaken in accordance with the site plans, elevations and accompanying details submitted with this application by Zomac Planning Solutions Limited dated May 2013 and including the following reports:
 - Site and elevation plans by Woodhams Meikle Zhan Architects ref 2015-81, Drawing Sheet 101-103 Rev B, dated 3 May 2013;
 - Transportation Assessment Report by Traffic Design Group Limited ref 11973ta_final, dated May 2013; Response to Comments from Council Roding Department by TDG, Ref 11973/2 dated 12 July 2013; Memorandum by TDG Ref 11793.001 dated 24 July 2013;
 - Infrastructure Assessment Report by Harrison Grierson Consultants Limited Ref 1030-132515-01, dated February 2013;
 - Assessment of Landscape and Visual Effects including a Landscape Plan Ref 13144 by LA4 Landscape Architects, dated May 2013 and the Planting and Maintenance Specification dated August 2013;
 - Acoustic Assessment – Assessment of Environmental Effects by Marshall Day Acoustic, Ref Rp0012013072 dated 8 May 2013 and further comments by Peter Ibbotson dated 5 August 2013;
 - Preliminary Site Investigation Contamination Report by Soil & Rock Consultant Limited, Ref 13083 dated 15 March 2013 and the Intrusive Site Investigation dated 6 August 2013.
 - Response to Further Information Request from Council by Zomac Planning Solutions Limited dated 14 June 2013;
 - Further information/clarification with attachments by Zomac Planning Solutions dated 7 August 2013,
 - Transport Peer Review by Beca, Ref 3815412 dated 25 October 2013.

Landscape:

2. The consent holder must ensure that landscape planting shall be undertaken in accordance with LA4 Landscape Architect's Landscape Plan Ref 13144 dated 22 April 2013 and the Planting and Maintenance Specification dated August 2013 unless where altered by Condition 3 below.
3. That prior to the commencement of any onsite work the consent holder shall submit for the approval of Council's Team Leader Compliance a revised 'Planting and Maintenance Specification' by LA4 Landscape Architects dated August 2013. The changes must show the replacement of Magnolia grantiflora plants at both accesses along Kamo Road with Syagrus romanzoffiana. This is to ensure good visibility in the locations shown. The proposed trees at

planting must be 160 litres bag size and a minimum height of 3 metres.

Noise:

4. A 2 metre high acoustic fence shall be constructed along the northern and western boundaries of the site in accordance with the site and elevation plans by Woodhams Meikle Zhan Architects Ref 2015-81, Rev 8 sheets 101-103, dated 3 may 2013. Before commencement of supermarket operation the consent holder shall provide evidence from a suitably qualified professional that the fence is designed and constructed to meet the maximum noise limit in the District Plan for the Team Leader Compliance's approval.
5. The proposed mechanical plant sound emissions shall meet a night-time (2200 – 0700 hour) noise limit of 40dB_{A10}. The mechanical services design of the plant shall be reviewed by a recognised acoustic consultant. Before commencement of this plant, the consent holder shall ensure this review is submitted for the approval of the Resource Consent Manager.
6. The consent holder shall ensure that no delivery or waste collection vehicles shall be on the site before 7am and after 10pm everyday.

Signs and Lighting:

7. The pylon sign and signs on the face of the building, and the car park lighting shall be constructed in accordance the site and elevation plans by Woodhams Meikle Zhan Architects Ref 2015-81, Rev 8 sheets 101-103, dated 3 may 2013. The consent holder must provide evidence from a suitably qualified professional that the signs and lightings have been completed as approved to the Team Leader Compliance.

Engineering:

8. Prior to starting any on-site works the consent holder must submit a detailed set of engineering plans prepared in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition . The engineering plans are to be submitted to the Senior Environmental Engineering Officer for approval.

It is to be noted that certain designs may only be carried out by an Independently Qualified Person (IQP) or Chartered Professional Engineer (CPEng) working within the bonds of their assessed competencies. IQP's must have been assessed by Whangarei District Council and hold a current status to submit design work.

Plans are to include but are not limited to:

- i. All work needing design/certification by a Whangarei District Council approved IQP/CPEng will require completion of a producer statement (design).
- ii. Design details of the construction of the carpark including a new entry/exit vehicle entrance crossing on Manse Street in general accordance with Woodhams Meikle Zhan Architects site plan ref: 2025-81 rev. 8 dated 3 May 2013 and in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition.
- iii. Design details of the upgrade of the existing vehicle entrance crossing on Kamo Road and details of reinstatement of all superfluous vehicle entrance crossings on Manse Street in general accordance with Woodhams Meikle Zhan Architects site plan ref: 2025-81 rev. 8 dated 3 May 2013 and in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition.
- iv. Design details of any necessary sewerage mainline reticulation upgrade inclusive of any manholes, fittings and connections necessary to service proposed development, inclusive of calculations.
- v. Design details of any necessary water main extensions/upgrade inclusive of any valves, bulk water meters, fittings and connections necessary to service proposed development, inclusive of calculations.
- vi. Design details of on-site soakage system or detention tanks installed to detain the additional stormwater flow, inclusive of calculations.
- vii. Design details of stormwater mainline reticulation inclusive of any upgrades to the existing reticulation, sumps, manholes, treatment devices, detention structures and connections necessary to service the development.

Note: Stormwater design will require specific approval in writing from Council's Waste and Drainage Department Manager prior to submission of engineering plans.

Note: Plans shall be prepared noting recommendations and restriction identified in the Harrison Grierson Consultants Limited engineering site suitability report ref: 1030-132515-01 dated February 2013, Transportation Assessment Report ref: 11973 complied by Traffic Design Group Limited dated 6 May 2013 plus all other technical reports and plans provided with the application and in accordance with Whangarei District Council Environmental Engineering Standards 2010 Edition.

9. Prior to starting any on-site works the consent holder must submit a Road Opening Notice application or Corridor Access Request for all works to be carried out within the Whangarei District Council Road Reserve in accordance with Whangarei District Council Environmental Engineering Standards to the approval of the Senior Environmental Engineering Officer (refer advisory clauses below).
10. The consent holder shall notify council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Senior Environmental Engineering Officer and include the following details:
 - i Name and telephone number of the project manager.
 - ii Site address to which the consent relates.
 - iii Activities to which the consent relates.
 - iv Expected duration of works.
11. A copy of the approved engineering plans and a copy of the resource consent conditions and the above letter are to be held onsite at all times during construction.
12. The applicant shall ensure that spoil from the site must not be tracked out onto Council or State Highway Road formations to the approval of the Senior Environmental Engineering Officer.
13. Dust nuisance must be controlled onsite (by use of a watercart or similar) by the applicant so as not to cause "offensive or objectionable" dust at or beyond the boundary of the development.
14. The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries.
15. That all damage to the street footpath, stormwater kerb and channel, road carriageway formation, street berm and urban services by the demolition and construction works associated with the subdivision and land use activities shall be reinstated at the expense of the consent holder.
16. Prior to the operation of the activity all works as shown on Woodhams Meikle Zhan Architects site plan ref: 2025-81 rev. 8 dated 3 May 2013 (with at least 155 parking spaces, mobility spaces & existing HGV loading bay) and on the approved engineering plans in condition 10 is to be carried out to the approval of the Senior Environmental Engineering Officer or their delegated representative. All work needing design/certification by a Whangarei District Council approved IQP/CPEng will require completion of a producer statement (construction).

In the case of works to remain in private ownership, these may be inspected and approved by a Whangarei District Council approved IQP who has been certified to design/construct such works. (The works that fall into this category will be advised by the Senior Environmental Engineering Officer as part of Engineering plan approval) A producer statement (construction) is to be provided by the Whangarei District Council approved IQP, along with copies of all test results/photographs etc. The Senior Environmental Engineering Officer is to be advised of any necessary inspections/testing of private works a minimum of 24 hours before they take place in order that the Senior Environmental Engineering Officer may observe the inspection/testing if so desired.

All works that are to be vested in Whangarei District Council require the presence of the Senior Environmental Engineering Officer or their delegated representative at all inspections/testing.

Failure to comply with these requirements may result in the work not being accepted as complying with the RC conditions/Environmental Engineering Standards 2010 Edition.

No construction works are to commence onsite until the engineering plans required in condition 10 have been approved and all associated plan inspection fees have been paid.

17. The consent holder must submit a certified and dated "as built" plan of completed works and services in accordance with Whangarei District Council's Environmental Engineering Standards to the approval of the Senior Environmental Engineering Officer.
18. The applicant following completion of construction shall provide a works producer statement/s from the suitably qualified contractors who completed the works certifying that the works have been completed in accordance with the approved engineering plans, the Whangarei District Council Environmental Engineering Standards 2010 Edition and best trade practise to the satisfaction of the Senior Environmental Engineering Officer or their delegated representative.

Reasons for the Recommendation:

That pursuant to section 113 of the Resource Management Act 1991 the reasons for this decision are as follows:

- 10.2.1 I have considered the proposal and undertaken an assessment of actual and potential effects of allowing the activity on the environment pursuant to Section 104(1)(a) of the RMA. I have concluded that the effects of the proposal on the environment will be no more than minor.
- 10.2.2 I have considered the proposal against the relevant provisions of the National Policy Statement for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, the Northland Regional Policy Statements (operative and proposed), and objectives and policies of the Whangarei Operative District Plan pursuant to Section 104(1)(b) of the RMA. I concluded in my assessment that the proposal will not be inconsistent or contrary to the relevant provisions of the NES, plans and proposed plans.
- 10.2.3 I also considered the effects of the proposal on Council's Urban Growth Strategy and Sustainable Futures 30/50 Strategy pursuant to Section 104(1)(c) of the RMA and concluded that the proposal is in line with the aims and objectives of the strategies. I also consider that there is no precedent effect created by allowing the proposal.

Advice Notes

- 1 The applicant shall pay all charges set by Council under Section 36 of the Resource Management Act 1991. The applicant will be advised of the charges as they fall.
- 2 Section 357B of the Resource Management Act 1991 provides a right of appeal to this decision. Appeals must be in writing, setting out the reasons for the appeal, and lodged with the Environment Court within 15 working days after the decision has been notified to you. Appellants are also required to ensure that a copy of the notice of appeal is served on all other relevant parties
- 3 The Consent Holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
- 4 A Corridor Access Request (CAR) is defined in the new "National Code of Practice (CoP) for Utilities access to the Transport Corridors". This CoP has been adopted by the Whangarei District Council and will be phased in. It provides a single application for TMP/RON applications. Enquiries as to its use may be directed to WDC's TMC on 430-4230 ext 8258.
- 5 The consent holder shall obtain all Building Consents which may be required for the proposal.

- 6 All earthworks are required to comply with section 32.2 (Environmental Standards for Earthworks) of the Northland Regional Council Regional Water and Soil Plan for Northland noting Erosion & sediment control and dust suppression requirements.
- 7 Upon construction of a habitable dwelling, sufficient water volume, pressure and flows be provided in accordance with “NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008” and that this water supply be accessible by emergency vehicles for fire fighting purposes.
- 8 All works to be carried out pursuant to conditions (10) & (18) above shall be undertaken on public land unless written right of entry is obtained from the owners of all private land upon which work is to be carried out. Where any necessary written right of entry has not been obtained, any such infrastructure work shall be re-routed to achieve compliance with this condition.

APPENDICES

- Appendix 1 - The application (as lodged)**
- Appendix 2(a) – Response to Further Information request (s92)**
- Appendix 2(b) – Traffic Design Group Ltd's response to Council's Peer Review of the Integrated Traffic Assessment**
- Appendix 2(c) – Further Information for Clarification on Issues by Jane Douglas**
- Appendix 2(d) – Planting and Maintenance Specifications by LA4 Landscape Architect**
- Appendix 2(e) – Peer Review by BECA**
- Appendix 2(f) – TDG's Memorandum in Response to NTC's Submission**
- Appendix 2(g) – Russell McVeagh's Letter to Council**
- Appendix 3(a) – Integrated Transportation Assessment's Peer Review by Ray Moriarty**
- Appendix 3(b) – Council's Senior Roading Engineer's Peer Review Report**
- Appendix 3(c) – Peer Reviews by Opus's Principal Traffic Modeller**
- Appendix 3(d) – Council's Senior Environmental Engineering Officer's Report**
- Appendix 3(e) – Council's Group Planners Review Comments**
- Appendix 3(f) – Jon Styles Peer Review of Noise**
- Appendix 3(g) – Nathan Harper's Statement**
- Appendix 4 – Council's Notification Assessment and Decision**
- Appendix 5(a) – Letters from Minter Ellison Rudd Watts Group on behalf of National Trading Company of New Zealand Ltd (NTC)**
- Appendix 5(b) – NTC's Submission**