

# Hearings Commissioner

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## **Notice of Meeting**

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

**Thursday  
2 February 2017  
10am**

**Application by  
Progressive Enterprises Limited**

**Commissioner  
Ms Justine Bray**

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## Report to Hearings' Commissioner Justine Bray on a Resource Consent Application

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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 applicant proposes to expand the existing supermarket building by 686m<sup>2</sup> floor area; increasing the total floor area to 3,953m<sup>2</sup>.



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**Ueli Sasagi – Senior Specialist (Consents)**

10/7/2017

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**Date**

This report was peer reviewed by the following signatory:



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**Kelly Ryan – Principal Planner (Consents)**

10<sup>th</sup> January 2017

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**Date**

## Statement of staff qualification and experience

### **Ueli Sasagi – Senior Specialist (Consents)**

My full name is Ueli 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.

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 – LU1600149 (Countdown)

Hearing by: Hearings' Commissioner Justine Bray of a discretionary land use proposal by Progressive Enterprises Limited to expand the existing supermarket building by 686m<sup>2</sup> floor area; increasing the total floor area to 3,953m<sup>2</sup>. The site is located at Kamo Road and Wallace Street, Regent being legally described as Lot 15 DEED 337, Lot 16 DP 16462, Lot 15 DP 20158, Lot 14 DP 20158, Lot 1 DP 26246, Lot 2 DP 26246, Lot 1 DP 330496.

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

File Refs: LU1600149, P0112511

Dated: 8 January 2017

### 1.0 The Proposal & Background

#### 1.1 The proposal

1.1.1 The applicant proposes to expand the existing supermarket building by 686m<sup>2</sup> floor area; increasing the total area to 3,953m<sup>2</sup>. The expansion involves:

- Building over part of the existing parking area at the eastern edge of the building towards Kamo Road;
- Retain the existing loading dock area on the northern side of the building;
- Amend the entry to the loading dock by creating service vehicle only entry from Wallace Street and exit to Kamo Road;
- Retain the existing southern Kamo Road entry/exit to the customer carpark;
- Retain the existing service vehicle egress to Kamo Road (northern exit) and remove all customer vehicles from this entry/exit;
- No changes to the Manse Street entry/exit driveways;
- Increase the overall on-site parking to 179 parking spaces;
- Provide a security gate at the service lane entry and timber fencing;
- Rearrange the western side of the supermarket building and unloading area by providing additional parking and a 2m high solid wall to retain a portion of the carpark and demarcate the separate areas;
- Retain all existing walls along the northern boundary with adjacent property and erect new fencing along the northern boundary of the service lane;
- Provide landscaping at the perimeter of the expanded site (western, eastern and truck service lane boundary); and
- Provide a dedicated pedestrian pathway into the site to the supermarket entry from Wallace Street.

## 1.2 Background

- 1.2.1 A copy of the original application lodged with Council on 21 September 2016 is in **Attachment 1**. The following information has been provided by the applicant for clarification and in support of the application:
- An “Assessment of Effects on the Environment” by Zomac Planning Solution Limited dated September 2016;
  - “Transportation Assessment Report” by TDG dated August 2016;
  - “Assessment of Landscape and Visual Effects” and “Soft Landscape Works” by LA4 Landscape Architects dated June 2016; and
  - “Change in Truck Location – Assessment of Environmental Effects” acoustic assessment by Marshall Day Acoustics reference Rp 002 2013072 dated 8 July 2016;
- 1.2.2 Transportation was considered the main issue of contention for this proposal given that delivery/service vehicle movements in and out of the site will be shifted from Manse Street to Wallace Street. As such the Transportation Assessment Report by TDG was peer reviewed by Wes Edwards of Wes Edwards Consulting Ltd. This is **Attachment 2** of this report.

## 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. It is referred to as 9-11 Kamo Road, 4-14 Manse Street and 2 and 2A Wallace Street Kamo Road is the eastern boundary, Manse Street the southern boundary, Wallace Street the western boundary and the northern boundary aligns with adjoining properties in the Living 1 Environment. A full description of the site is provided in the application (pages 2 and 3).
- 2.1.2 The applicant holds Resource Consent (reference LU1300046) for the establishment and operation of the existing Countdown and car parking granted on 30 January 2014 for the subject site. LU1300046.02 (S127 decision) varying the original consent was granted on 19 November 2014. The changes addressed the fence location and design.

### 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 a 2Dollars shop 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 site is located in the Living 1 & 2 and Business 3 Environment of the Whangarei Operative District Plan as shown in Figure 1 below. The subject site is enclosed by yellow lines. The properties in pink denote the Business 3 Environment while navy blue denotes Living 2 Environment. The light blue denotes Living 1 Environment.



Figure 1: Zone map

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

3.2.1 Chapter 4 - District Plan Compliance (pages 31–42) of the application contains a detail assessment of the proposal against the District Plan rules of which I concur. For ease of reference, the permitted activity rules of the District Plan that the proposal does not meet are summarised below.

##### Living 1 and 2 Environment

3.2.2 Rule 36.3.1 (Activities Generally) stipulates that subject to rules 65.5.2 and 62.5.3, an activity is permitted if amongst other requirements:

- e) 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
- h) 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 under Rule 36.3.1(e) and (h) above. The properties affected are located in Living 1 and 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 discretionary activity.

3.2.3 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 does not provide the required parking spaces to satisfy the permitted activity standards under this rule and Council's discretion is restricted to the following:

- Those matters listed in Chapter 47 Road Transport Rules;
- Those matters listed in Rule 36.4.11 (Landscaping).

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 36.3.8 Fences stipulates that construction or alteration of a fence is a permitted activity if (a) fences within 2m of a boundary are no higher than 2m. The fence will be higher than this and is therefore considered to be a restricted discretionary activity with Council discretion being restricted to the following:

- Effects of shading;
- Effects on amenity values;
- Effects on health and safety.

#### **Business 3 Environment**

3.2.6 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 and it therefore considered to be a restricted discretionary activity with Council's discretion being restricted to the following:

- Those matters listed in Chapter 47 Road Transport Rules;
- Those matters listed in Rule 36.4.11 (Landscaping).

3.2.7 Rule 41.3.8 Fences stipulates that construction or alteration of a fence is a permitted activity if (a) fences within 2m of a boundary are no higher than 2m. The fence will be higher than this and is therefore considered to be a restricted discretionary activity with discretion restricted to the following:

- Effects of shading;
- Effects on amenity values;
- Effects on health and safety.

## Transportation Rules

3.2.8 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.

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

3.2.10 It is considered that the different components of the proposed supermarket extension 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 a **Discretionary 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 13<sup>th</sup> October 2011 and took effect on 1<sup>st</sup> 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.

3.3.2 Hawthorn Geddes Engineers & Architects Ltd considered the NES Contaminated Soils and concluded that "*The entire area is currently sealed and will be covered with a concrete surface so there is no exposure pathway. Furthermore, previous site investigations indicated that the area has no contaminant source with respect to heavy metals, TPH and OCP. We consider that further site investigation prior to work commencing are not required.*" I concur with this statement.

## 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. A copy of the Section 95 report is in **Attachment 3**. In summary, the assessment concluded that there will be an effect on some property owners' and occupiers of Wallace Street as a result of the vehicle crossing for the delivery trucks that is considered to be minor.
- 4.1.4 On 27 October 2016, it was determined under authority delegated to the Resource Consents Manager 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 approvals of owners and occupiers of 1A, 1B and 3 Wallace Street who were considered to be adversely affected have not been obtained.
- 4.1.5 On 1 November 2016, notices were served on 1A, 1B and 3 Wallace Street (owners and occupiers) who were considered to be adversely affected in a minor way by the proposed activity.

## 4.2 Submissions

- 4.2.1 A submission was received from Stephen Dunn (owner of 1A Wallace Street) in support of the proposal and for the application to be granted approval while not wishing to be heard in support of his submission. A submission was also received from Marilyn Andela who opposed the proposal and seeks that the application be declined. She wished to be heard in support of her submission. The submissions are in **Attachment 4**.
- 4.2.2 The submission in opposition is summarised in Table 1 below:

Table 1: Summary of Submission

Issues and Relief Sought
<p>Issues:</p> <ul style="list-style-type: none"> <li>• Wallace Street is a residential street and shall not be used for commercial purpose;</li> <li>• The changes to the entrance to Countdown delivery trucks (commercial vehicles) will have an impact on the residents in Wallace Street;</li> <li>• Traffic flow along Wallace Street will be affected by truck and trailers lining up at Wallace Street to turn into the Countdown site;</li> <li>• The volume and type of vehicle traffic expected to use the proposed Wallace Street entrance is uncertain;</li> <li>• Noise on nearby residential properties has not been fully considered;</li> <li>• Putting car parks on a residential area will change the character of the area.</li> </ul> <p>Relief sought:</p> <ul style="list-style-type: none"> <li>• The application be declined for the new crossing from Wallace Street;</li> <li>• Review the number of car parks required.</li> </ul>

4.2.3 The main issue of contention in the submission is traffic along Wallace Street and the proximity of car park spaces to properties on Wallace Street. The issues summarised above are assessed in sections 5, 6 and 7 of this report.

4.2.4 The map below shows property owners and occupiers who have given their written approvals and those who did not. The properties denoted by red stars were those who have not given their written approvals but considered to be affected in a minor way by the proposal. Properties denoted by blue stars were those who gave written approvals. A full assessment of affected property owners and occupiers are in the Notification Assessment report (S95) in **Attachment 3**.



Figure 2: Affected Properties

4.2.5 It is noted that Mr Geoff Seerup (owner and occupier of 6 Wallace Street) wrote to the Council on 21 December 2016 confirming his phone discussion with the author of this report seeking clarification on matters contained in his letter in **Attachment 3(b)**. While Council has responded to the matters raised in Mr Seerup’s letter separately, most of these matters are covered by the effects assessment in section 6 of this report.

4.2.6 Since Mr Seerup was not considered to be an affected person under the ‘Notification Assessment’ decision (s95 of the RMA) in Attachment 3, he was advised that he has a right to appeal Council’s decision under the provisions of the Judicature Amendment Act 1972.

### 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.

Table 2: Written Approvals

Names & status	Property
Hilda Crossley - owner	27C Kamo Road
G & P A Shaw Family Trust – part owners	27B Kamo Road
Bruce Chandler & David Adams - occupiers	27B Kamo Road
Margaret Rose Gurney - owner	4 Wallace Street

## 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](#).*

## 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 1 and 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.

6.2.5 It is noted that Landuse Consent LU1300046 for the establishment and operation of the existing Countdown supermarket and car parking on this site was granted on 30 January 2014. LU1300046.02 (S127 decision) varying the original consent was granted on 19 November 2014. The changes addressed the fence location and design.

6.2.6 The aerial photograph below on the left shows the current Countdown supermarket setup. There are dwellings on 2 and 2A Wallace Street which will be removed to make space for additional parking spaces. Car parking spaces are located over the site from the Kamo Road frontage to the western side of the building. Cars enter from two Kamo Road entry/exits and the Manse Street entry/exit. Service vehicles enter from the Manse Street entry and exit from the Kamo Road northern entry/exit.

6.2.7 Depicted on the right picture below shows the proposed additional changes to be within the area enclosed by red lines. To the east of the site will be additional building for the supermarket expansion. It is within the Business 3 Environment of the District Plan and complies with all relevant rules. The area in the west is located within the Living 1 and 2 Environment. The existing dwellings will be replaced by parking spaces and a new vehicle crossing for service trucks off Wallace Street.

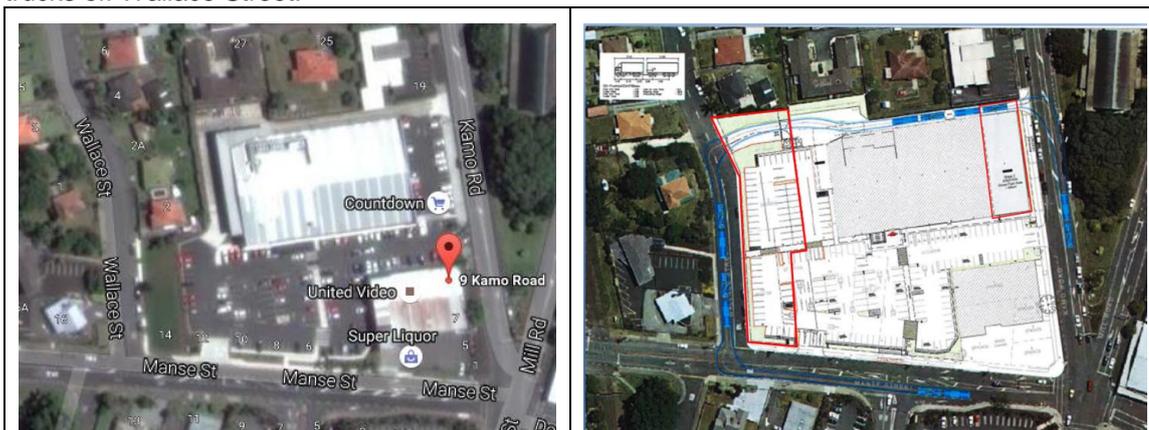


Figure 3: Existing Setup (left); Proposed Changes Enclosed by Redlines (right)

6.2.8 The existing service vehicles entering the site from the Manse Street entry/exit is now proposed to be relocated to the new crossing off Wallace Street. Service vehicles will continue to exit from Kamo Road.

### 6.3 Assessment of Effects on the Environment

6.3.1 Having regard to the above and after undertaking an analysis of the application, including any proposed mitigation measures, the adverse effects of the activity on the localised environment are discussed below.

### 6.4 Amenity Values and Character

6.4.1 Amenity has two components; one is 'amenity attributes' which are tangible matters such as noise, odour, density or shading and the other involves 'perceptions and expectations' which are more intangible values which individuals and communities hold to their neighbourhoods such as their own perceptions of noise, culture, desires and tolerance. The Living Environments are 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 setbacks;
- 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.”

6.4.2 As the proposed extension straddles over Living 1, 2 and Business 3 Environments, it is also appropriate to consider the amenity of the Business Environments because they are Environments 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 following comments therefore assessed the impact of the proposed extension on the amenity values of the Living and Business Environments.

6.4.3 The applicant assessed the proposed extension, focussing on the landscape and visual amenity of the surrounding area where it concluded overall that *“the effects of the proposed supermarket extension will be acceptable in the context of the existing landscape and visual environment and the visual amenity of the environment surrounding the site will not be adversely affected.”*

6.4.4 I have considered whether the use of properties in the Living 1 Environment as part of this proposal for parking and delivery vehicle access will blur the distinction between the Living and Business Environments. Because of the school buildings in the background and other commercial businesses along Manse Street and Wallace Street, I cannot establish a clear boundary distinction between the two environments. However, there will be new effects on residential amenity created by service trucks using Wallace Street and the exposure of nearby residential properties to new parking development. This is further assessed below.

6.4.5 The following is the assessment of effects on the amenity characteristics (in 6.4.1 above) of the adjacent properties located within the Living Environments and along Wallace Street.

Low intensity development;

The Living Environment part of the site is currently occupied by two residential units (see Figure 3). These two buildings will be removed to make way for car parks. It is noted that there are existing car parks immediately adjoining these properties and if additional parks are created, it can be viewed from the adjacent property as the continuation of that character. Parking spaces may not be fully occupied by cars all day. Therefore, an empty car park will provide openness with limited activities undertaken on it. As such this part of the supermarket area is likely to have a low intensity development characteristic.

Presence of trees and private gardens;

The site will be landscaped along the edge of the parking lot. Along Wallace Street frontage, the planting programme by LA4 Architects will involve a *“2m wide planted berm extends back from Council’s footpath to the car park with massed plating of flax...”* The visual effects of viewing the car parks from Wallace Street residents will therefore be screened by the presence of these proposed plants.

Landscaped frontages and street setbacks;

See comments above. In addition, LA4 Architects assessed the visual effects of the development on Manse Street, Kamo Road and Wallace Street frontages on pages 7 – 14. The

	assessment concluded overall that “... <i>the effects will be entirely acceptable in the context of the existing landscape and visual environment for the reasons outlined. The visual amenity and quality of the environment surrounding the site will not be adversely affected by the development.</i> ”
Off-street parking;	Not considered relevant as assessing the effects of parking and traffic along Wallace Street.
High degree of privacy;	With the 1m height of flax landscape planting along Wallace Street, it is expected that the traffic movements within the parking area will be partially screened from the adjacent properties. However, as the supermarket has already been operating in the area, the actual privacy has been compromised.
Low levels of vehicular traffic;	The existing Countdown activity is a high traffic generating operation and coupled with the adjacent area to be covered with parking spaces, vehicular traffic will increase as viewed from these properties. However, vehicular traffic movement within the Countdown site has contributed to an existing character of the area.
A high proportion of private and public open space;	As the site adjoins the Business 3 Environment and commercial development has already covered the majority of the Business 3 Environment, it is therefore not possible to provide space for private and public open space.
Low levels of noise, visual pollution, odour and nuisances;	It is not possible to achieve this given that the site is already occupied by a commercial development. However, the noise emission will meet the district plan standards. Odour and nuisance effects are unlikely to occur.
Safe environment for children, cyclists and pedestrians;	The traffic assessment provided by the applicant and reviewed by an independent traffic engineer have not identified any safety concerns with the proposal.
Feeling of community;	The operation of the Countdown in the area contributes to a feeling of community where people meet and shop.
Non-residential support activities, such as business and community activities, of an appropriate scale.	I consider the Countdown to be an activity that serves the community needs. It has been operating successfully for several years. Effects are less than minor.

6.4.6 Based on the above assessment on specific amenity characteristic, it is concluded overall that the effects of the proposed extension of the Countdown supermarket on the amenity values are considered to be no more than minor.

## 6.5 Effects of Noise

6.5.1 The application is supported by an Acoustic Assessment report by Marshall Day Acoustics (MDA) assessing the noise associated with the additional components of the supermarket extension (i.e. Carpark and the Loading Dock). Although the assessment of noise created by the proposed extension against the relevant noise rules in the District Plan was found to be permitted, an additional effects assessment is still crucial to ensure correct conditions are imposed for ongoing compliance.

6.5.2 The noise effects assessment of these two components conclude that:

- For the carpark, MDA commented that “*It can be seen that the change in carpark location will result in changes to carpark noise levels of between 1 to 3 decibels. At 16 and 16A Manse Street, little change is predicted due to the assumed redistribution of carpark*”

*movements within the carpark. Overall, noise from passenger vehicles within the carpark will be low; noise levels of below 44 dB  $L_{Aeq}$  are expected at all locations”.*

- Regarding the loading dock, MDA commented that *“the change in loading dock configuration will result in increase in noise level at dwellings along Wallace Street and at the dwelling to the north of the loading dock (27 Kamo Road). While appreciable changes in noise level at these dwellings will result due to the change in configuration of the loading dock, overall noise levels will still be below 50 dB  $L_{Aeq}$  and are considered to be reasonable in the context of the existing acoustic environment.... Noise barriers are required along the northern side boundary...”*

6.5.3 MDA suggested conditions to be imposed for any consent, should the Commissioner be of a mind to grant consent. These conditions are considered relevant and appropriate. The overall effects of noise created by the supermarket are considered to be less than minor.

## **6.6 Traffic Assessment**

6.6.1 The main traffic issue for consideration is whether or not the development of an extension to the existing Countdown supermarket at the subject site will create effects that are considered to be more than minor. Traffic Design Group Limited (TDG) provided a Transportation Assessment Report (TAR) in support of the proposed extension to the Countdown operation.

6.6.2 I have considered the effects of not providing parking space numbers according to the District Plan and whether or not that may create effects 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 extension offers 179 parking spaces instead of 193 required; 14 spaces short. The application is supported by a comprehensive TAR by TDG. The report estimates the potential parking demand based on the current demand of other Countdowns around New Zealand and a survey conducted on the operation of the existing Countdown car park. The report noted that *“The proposed provision of 179 spaces enables the parking demand to be satisfied whilst negating any potential parking overflow onto side streets and enabling a higher level of convenience for Countdown customers. Thus the provision of 179 onsite spaces is considered to easily cater for the peak parking demands of the expanded Countdown supermarket.”* Wes Edwards’ peer review of the TAR concluded that *“A small amount of short-duration parking in these areas is unlikely to produce any adverse effects on the site and efficient operation of the road network.”* Council’s Senior Environmental Engineering Officer concurs with this assessment.

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 The TAR also assessed servicing operation, traffic generation, and effects on road network. The assessment concludes overall that *“The proposal complies with the majority of relevant District Plan transport requirements, and compares favourably with the relevant transport-related assessment criteria for restricted discretionary activities and for any non-compliance with the District Plan’s traffic and transport standards. Therefore, it is considered that there are no traffic engineering reasons to preclude the approval of the resource consent as requested.”*

6.6.5 Wes Edwards reviewed TDG’s traffic assessment report and commented that *“the proposal would produce relatively minor adverse effects on the safe and efficient operation of the road network”*. Some small benefits would arise on-site due to the relocation and separation of large truck movements although those would be partly offset by small adverse effects in Wallace Street.

6.6.6 In terms of traffic effects as a result of the new access via Wallace Street, Mr Edwards concluded that *“In our view the impact of the proposal on the safety of traffic, pedestrians and residents in Wallace Street will be negligible. The impact on the transport network as a whole will be minimal... any cumulative adverse effects from the creation of the proposed new crossing on Wallace Street are negligible.”*

- 6.6.7 For the purpose of an RMA assessment, the peer review by Mr Edwards concludes that the adverse effects on traffic safety and efficiency are less than minor of which I concur.
- 6.6.8 Council's Senior Environmental Engineering Officer has reviewed the TAR and concludes that the proposal will have effects that are considered to be less than minor in relation to traffic safety and effects on the existing traffic network's efficiency (see **Attachment 5**).

## 6.7 Effects assessment summary

- 6.7.1 On balance, it is considered that the effects of the proposed extension to the supermarket on the environment are acceptable and considered to be minor. The application contains a number of suggested 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 Northland Regional Policy Statement

- 7.1.1 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.

- 7.1.2 New 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;*
- 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."*

- 7.1.3 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 1 and 2 Environments are no more than minor.

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

## 7.2 Operative Whangarei District Plan

7.2.1 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 (copies of these chapters are in **Attachment 6**).

7.2.2 **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.

### 7.2.3 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.*

### 7.2.4 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

- 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.*
- 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.*

7.2.5 The Operative District Plan employs the main method of “Environments” (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 existing supermarket including the proposed extension is located in the Business 3 Environment with adjoining properties at 8, 10 and 12 Manse Street including 2 and 2A Wallace Street located in the Living 1 and 2 Environments are used for access and parking and the new reconfigured 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 residentially zoned land will blur the boundary between Business 3, Living 1 and 2, and whether it will erode the expected amenities values in the surrounding residential areas.

7.2.6 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. Based on the above comments, I consider that the proposal will not be inconsistent with the above objectives and policies.

7.2.7 Further, in assessing the proposal against the above objectives and policies I was mindful of the proposed activity straddling over the Business and Living Environments. 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 extension and associated car parking are significantly greater than those associated with residential activity. In my view, it is not. The reason being the Living 1 and 2 Environments 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.

- 7.2.8 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 existing supermarket and its proposed extension 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 1 and 2 Environments are also no more than minor.
- 7.2.9 Overall, given the scale and design of the access and proposed parking area associated with the supermarket extension, 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 inconsistent with the relevant objectives and policies of the Amenity Values chapter of the Operative District Plan.
- 7.2.10 **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.*
- 7.2.11 **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.*
- 6.4.8 *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 wellbeing.*
- 6.4.12 *Avoid conflict between incompatible land use activities as a result of subdivision and urban development.*
- 7.2.12 **Policies:**
- 6.5.2(iv) *Consolidated Development:*  
*To promote clustered, mixed use activity that focus on existing urban and coastal centres.*
- 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.*
- 7.2.13 I have considered whether the expansion of an existing supermarket operation 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 extension of a supermarket activity and considered overall to be no more than minor. While the existing supermarket and its building expansion 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 1 and 2 Environment that needs to be considered against the above objectives and policies. Considering the appearance and the character of the adjacent Living 1 and 2 Environment, it can be concluded that the removal of the additional two residential properties

for use as access and 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 1 and 2 Environment and Business 3 Environment will not be noticeable.

7.2.14 Allowing the extension of the supermarket 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 1 and 2 Environment that are considered to be more than minor. The properties adjoining the loading dock have given their written approvals. The Business 3 Environment boundary will remain unchanged and the built extension within it is a permitted activity.

7.2.15 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.

#### 7.2.16 **Chapter 8 – Subdivision and Development**

##### 7.2.17 **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.*

##### 7.2.18 **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.*

7.2.19 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 extension to the supermarket operation will be in conflict with residential activities on the adjacent properties at an inappropriate level that cannot be avoided, remedied or mitigated.

7.2.20 The proposed extension to the existing supermarket activity is not inconsistent with the above provisions. Given the scale, design and location of the proposed extension, 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 increased car park and access 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.

7.2.21 Overall, the proposal is not considered to be inconsistent with 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.

## 7.2.22 Chapter 22 – Road Transport

### 7.2.23 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 ....*

### 7.2.24 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.*

7.2.25 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, based on expert opinion expressed by two experience traffic engineers, where 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.

7.2.26 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.

7.2.27 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 inconsistent with the above objectives and policies.

## 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 and access 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 not considered to be in conflict with the main objectives of Whangarei District Growth Strategy.

## 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 wellbeing 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 extension to the existing supermarket will not have any detrimental effects on the social and cultural values of the residents of the area.
- 9.1.4 The proposal is considered to a discretionary activity in part of the supermarket activities in the Living 1 and 2 Environment zoned land. Because of the mixed use for this part of the Living 1 and 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 re-development of the resources for a supermarket is considered to be an efficient use of physical resources which was consented to by Council in 2014.

9.3.3 I have assessed the effects of the extension of the existing supermarket activity on the amenity values of the surrounding neighbourhood and considered that they are no more than minor. The proposed expanded 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 matters identified to be in conflict with principles of the Treaty of Waitangi.

# **10.0 Conclusion & Recommendation**

## **10.1 Conclusion**

10.1.1 I have considered the proposed extension of the existing supermarket operation and undertook an assessment of actual and potential effects of allowing the activity on the environment pursuant to Section 104(1)(a) of the RMA. It is 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 subject to the conditions outlined in 10.2 of this report.

## 10.2 Recommendation

THAT pursuant to sections 104, 104B, and 108 of the Resource Management Act 1991, it is recommended that consent be granted to Progressive Enterprises Limited (LU1600149) for the extension of the existing supermarket operation on the site at 9-11 Kamo Road, 4-14 Manse Street, and 2 and 2A Wallace Street, Whangarei legally described as Lot 15 DEED 337, Lot 16 DP 16462, Lot 15 DP 20158, Lot 14 DP 20158, Lot 1 DP 26246, Lot 2 DP 26246, Lot 1 DP 330496 subject to the following conditions (Note the following conditions are additional to those given in LU1300046):

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 September 2016 and including the following reports:
  - Site and elevation plans by ASC Architects ref 13804-01, Drawing Sheet KNW-RC01 and RC02 Rev 6, dated 14/08/2013;
  - Transportation Assessment Report by Traffic Design Group Limited ref 11973-15 160808, dated August 2016;
  - Assessment of Landscape and Visual Effects including a Soft Landscape Works Specification by LA4 Landscape Architects, dated June 2016;
  - Acoustic Assessment – Assessment of Environmental Effects by Marshall Day Acoustic, Ref Rp002 2013072 dated 8 July 2016.

### **Landscape:**

2. Before the use of the new access off Wallace Street into the reconfigured loading dock commences, the consent holder shall provide confirmation by an experienced and qualified landscape architect to the satisfaction of Council's Team Leader Compliance that the landscape planting has been undertaken in accordance with LA4 Landscape Architect's "Soft Landscape Works Specification" dated June 2016.
3. The consent holder shall maintain the landscape planting in for the duration of the consent in accordance with LA4 Landscape Architect's "Soft Landscape Works Specification" dated June 2016.

### **Noise (Fence):**

4. Prior to commencement of any development work on the site for this supermarket expansion, the consent holder shall provide for the approval of the Resource Consents Manager a Noise Management Plan prepared by a qualified and experienced acoustic engineer. The Noise Management Plan shall include, but not be limited, to the following:
  - (a) The construction of noise barriers along the northern boundary between the site and 4 Wallace Street and 27 Kamo Road. The noise barriers specifications shall be:
    - (i) In accordance with 'Noise Barrier Detail' in Appendix B Drawing MD0030 Rev B of Marshall Day's Acoustic Assessment report reference Rp 002 2013072 dated 8 July 2016;
    - (ii) The noise barrier between the truck loading dock and the dwelling at 4 Wallace Street shall be the equivalent height as the eave line of the dwelling, which is approximately 2.7 metres high;
    - (iii) The existing noise barrier along the northern side of the loading dock shall be increased in height by one metre.
  - (b) The following noise management measures shall be included within the loading dock which must be implemented continuously:
    - (i) Ensure all forklift reversing beepers are self-limiting broadband beepers;
    - (ii) Reduce goods trolley noise through the fitting of hardwearing resilient materials to the base (e.g. Linatex) and the use of hardwearing rubber tires rather than metal wheels;

- (iii) Ensure all staff are advised of requirements to manage noise and to avoid slamming doors and bin covers whenever possible;
  - (iv) Fit non-alarmed, automatic gate opener at the entrance to the loading dock to reduce idle time adjacent to dwellings.
- (c) The plan should also include construction works of the supermarket extension in accordance Appendix C “Construction Noise Management and Mitigation Measures” of Marshall Days Acoustic Assessment report reference Rp 002 2013072 dated 8 July 2016.

**Engineering:**

5. 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 bounds 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 a new entry only vehicle entrance crossing on Wallace Street in accordance with Whangarei District Council’s Environmental Engineering Standards 2010 Edition and noting ASC Architects Limited site plan ref: 13804-01 rev. 6 sheet No: KNW-RC01 provided with the application.
- iii. Design details of any necessary sewerage mainline reticulation upgrade inclusive of any manholes, fittings and connections necessary to service proposed development, inclusive of calculations.
- iv. 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.
- v. Design details of on-site soakage system or detention tanks installed to detain the additional stormwater flow, inclusive of calculations.
- vi. 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 technical reports, assessment and plans provided with the application and in accordance with Whangarei District Council Environmental Engineering Standards 2010 Edition.

6. 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).
7. 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.
8. 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.
  9. 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.
  10. 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.
  11. The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries.
  12. 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.
  13. Prior to the operation of the activity all works as shown on ASC Architects Limited site plan ref: 13804-01 rev. 6 sheet No: KNW-RC01 with at least 179 car parking spaces (including five accessible spaces, four "mothers with pram" spaces, six staff parking spaces & existing HGV loading bay) and on the approved engineering plans in condition 1 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 7 has been approved and all associated plan inspection fees have been paid.

14. 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.
15. 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.

## **Traffic**

16. Prior to commencement of any built development work associated with physical construction of the building extension at Kamo Road frontage, the parking spaces at Wallace Street frontage shall be completed and made available for use by supermarket customers.
17. Prior to the use of the new carparks and the access from Wallace Street the consent holder shall provide for the approval of the Council's Resource Consents Manager a 'Carpark Operational Management Plan'.
18. In addition to Condition 5(ii) above and prior to commencement of any development work at the new access at Wallace Street, the consent holder shall provide to the satisfaction of Council's Senior Roading Engineer or its delegated representative an 'Access Management Plan' showing, but not limited, to the following:
  - (i) Drawings showing the swept path of a large vehicle (semi-trailer) entering the Wallace Street access demonstrates that such a vehicle must turn from the western side of Wallace Street in order to enter the site;
  - (ii) A 'No Stopping At All Times' marked with broken yellow lines is put in place on that side of Wallace Street opposite the proposed access and this would allow a large vehicle to make the turn;
  - (iii) Techniques to ensure no vehicle is allowed to turn left into the driveway, and all trucks shall enter the site from southern (Manse Street) end of Wallace Street.
  - (iv) A vehicle directional sign shall be erected on the northern side of the Wallace Street Access advising all vehicles there is 'No Entry' for vehicles travelling south of Wallace Street.

## **Reasons for the Recommendation:**

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

- It is considered that the proposed extension of the existing supermarket operation and undertook an assessment of actual and potential effects of allowing the activity on the environment pursuant to Section 104(1)(a) of the RMA which was concluded that the effects of the proposal on the environment would be no more than minor.
- The proposal was also considered 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 and concluded overall that the proposal would not be inconsistent or contrary to the relevant provisions of the NES, plans and proposed plans.
- It is also considered that 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 is in line with the aims and objectives of the strategy. No precedent effect is anticipated 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 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.
- 4 The consent holder shall obtain all Building Consents required for the proposal.
- 5 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.
- 6 All archaeological sites are protected under the provisions of the Heritage NZ Pouhere Taonga 2014. It is an offence under that act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the Heritage NZ for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
- 7 Pursuant to Section 102 of the Local Government Act 2002, Whangarei District Council has prepared and adopted a Development Contributions Policy. Under this policy, the activity to which this consent related is subject to Development Contributions. You will be advised of the assessment of the Development Contributions payable under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which consent relates or, in the case of a subdivision, prior to the issue of a Section 224(c) Certificate. Further information regarding Councils Development Contributions Policy may be obtained from the Long Term Community Consultation Plan (LTCCP) or Council’s web page at [www.wdc.govt.nz](http://www.wdc.govt.nz).

## **ATTACHMENTS**

- 1 **The application (as lodged)**
- 2 **Peer Review (Traffic Assessment) by Wes Edwards**
- 3 **Notification Report (s95)**
- 3(b) **Letter from Mr Geoff Seerup**
- 4 **Submissions**
- 5 **Council’s SEEO Report**
- 6 **District Plan Chapters**