

**Before the Independent Hearings Panel
For Wellington City Council**

Under the Resource Management Act 1991 (**RMA**)

In the matter an application for resource consent for an extension to the existing car parking area of the Khandallah New World supermarket at 26 Ganges Road, 3 Dekka Street, 31-33 Nicholson Road, Khandallah

**Statement of Evidence of Evita Key on behalf of Foodstuffs North
Island Limited – Planning**

Date: 15 April 2024



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INTRODUCTION

- 1 My full name is Evita Caroline Key. I am a planning consultant and Senior Associate at Barker & Associates (**B&A**), an independent, specialist planning and urban design consultancy with offices throughout New Zealand.

- 2 I am providing planning evidence on behalf of the Applicant, Foodstuffs North Island Limited (**FSNI**) in support their resource consent application for an extension to the existing car parking area of the Khandallah New World supermarket (**Proposal**) at 26 Ganges Road, 3 Dekka Street, 31-33 Nicholson Road, Khandallah (**the Site**).

QUALIFICATIONS AND EXPERIENCE

- 3 I hold a Bachelor of Science with Honours from the University of Canterbury and a Post Graduate Diploma in Resource Studies from Lincoln University.

- 4 I have over 20 years' experience covering a wide range of planning matters on behalf of local authorities and private entities in New Zealand, Australia, and the United Kingdom. During that time, I have been involved with many aspects of planning including preparation and lodgement of resource consent applications, submissions and presentation of evidence to local authorities in respect of resource consents, proposed plans, and plan changes as well as acted as a reporting planner for local authorities on a range of complex resource consent applications.

CODE OF CONDUCT

- 5 I have read the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing my evidence and will continue to comply with it while giving oral evidence before the panel. My qualifications as an expert are set out above. Except where I state

I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

SCOPE OF EVIDENCE

- 6 My statement of evidence addresses the following matters:
 - 6.1 Involvement with the application;
 - 6.2 District Plan;
 - 6.3 Site and surrounds;
 - 6.4 Carpark extension proposal summary;
 - 6.5 Reasons for consent;
 - 6.6 Assessment of environmental effects:
 - 6.6.1 Construction related effects;
 - 6.6.2 Stormwater management; and
 - 6.6.3 Neighbourhood Amenity;
 - 6.7 Statutory planning assessment;
 - 6.8 Response to submissions;
 - 6.9 Response to Wellington City Council's (**Council**) section 42A report (**s.42A report**);
 - 6.10 Response to Council's draft conditions of consent; and
 - 6.11 Conclusions.

- 7 In preparing my evidence I have considered the s.42A report and the submissions received. I respond to matters raised in the s.42A report and submissions throughout my evidence. On matters where I am in agreement with the Council's evidence, instead of repeating the analysis contained in the s.42A report, I explain this in my evidence where applicable. For any matters where I do not agree with the s.42A report, I also give reasons in my evidence.

INVOLVEMENT WITH THE APPLICATION

- 8 I have been involved with the Proposal since its consenting inception in late 2021. I prepared the original Assessment of Environmental Effects (**AEE**) submitted with the application in July 2022 as well as the updated AEE being the October 2023 version¹ which incorporated all of the section 92 responses that has been incorporated into the Proposal such as the pedestrian walkway, signage details and updated landscaping. I visited the Site and its surroundings initially in May 2022 and again in April 2023 and April 2024. Furthermore, over the past 8 years, I have been involved with a number of other supermarket developments for FSNi throughout the North Island.

DISTRICT PLAN

- 9 Since the preparation of the AEE almost two years ago, which was prepared under the Wellington City 2000 District Plan (**WDP**), Council have undertaken a full review via the Proposed District Plan (**PDP**). Parts of the PDP that relate to intensification recently become operative on March 2024 where the Council has accepted the Independent Hearing Panel's (**IHP**) recommendations. Other parts of the PDP where the Council rejected the IHP's intensification recommendations have been referred to Minister Chris Bishop to make a final determination, and therefore are not

¹ Barker & Associates "New World Car Park Assessment of Environmental Effects" (11 October 2023) Wellington City Council Public Notification: 26 Ganges Road, 3 Dekka Street and 31-33 Nicholson Road, Khandallah (Khandallah New World Carpark) Application Documents.

yet operative. Lastly, some the parts of the PDP that relate to the Part 1, Schedule 1 process have legal effect but are not yet operative. These are now clearly annotated in the Wellington City 2024 District Plan: Council Decisions Version (**WDP:CDV**). Where relevant, I have noted this within my evidence.

- 10 To be clear, all relevant objectives and policies from the WDP and the WDP:CDV have been assessed in my evidence. While the activity status for the activity from the WDP was crystallised at the time of application, the operative rules in the WDP:CDV do become relevant as addressed below.

SITE AND SURROUNDS

- 11 The Site and locality are described in detail in the AEE² as well as within Mr Wallace's and Mr Nixon's evidence. For these reasons, I will only comment on what I consider to be the important planning characteristics of the Site and surrounding area, which are as follows:

11.1 26 Ganges Road accommodates Khandallah New World (approximately 1,317m² gross floor area (**GFA**)) at the southern end of the Site, and 38 car parking spaces located to the north, which are accessed from Ganges Road. This part of the Site is zoned Centre under the WDP and Local Centre under the WDP:CDV. The centre is commonly referred to as Khandallah Village, which contains a mixture of retail and commercial offerings as well as some community and healthcare activities.

11.2 3 Dekka Street and 31-33 Nicholson Road are located to the west of the existing supermarket and accommodate three residential dwellings that are all owned by FSNI. This part of the Site is zoned Outer Residential under the WDP. In the s.42A report, Ms Amy Camilleri, the reporting

² AEE, section 2.0.

planner, makes reference to the site being Medium Density Residential zone with a 14m Height Control,³ however the WDP:CDV amended the zoning to High Density Residential with a 22m Height Control. This amendment has been sent to Minister Bishop for his consideration. Properties in this area generally containing a one or two-storey dwelling set within landscaped gardens which are suburban in nature.

11.3 The topography slopes up from the Dekka Street frontage to the highest point of the Site, being in the rear garden of 31 Nicholson Road. South of this rear garden, the land then begins to slope down towards the Nicholson Road frontage.

11.4 St. Benedict's Primary School, at 50 Nicholson Road, is located approximately 110m from the Site on the opposite side of the road. In July 2023 the school roll was 252 students.⁴

11.5 There is a bus stop located in front of the Site on Dekka Street.

PROPOSAL SUMMARY

12 The Proposal has been fully described in Section 3.0 of the AEE. Paragraph 13 of the s.42A report agrees with the description. I do not propose to repeat that description in my evidence.

13 By way of summary, the Proposal is for the construction of an extension of an additional 66 parking spaces to the existing supermarket car parking area, resulting in an overall total of 100 parking spaces (when the retained existing parking spaces are

³ S.42A Report, at [12].

⁴ Ministry of Education, "Education Counts – St Benedict's School (Khandallah)" (1 July 2023) <www.educationcounts.govt.nz/find-school/school/population/trends?district=47®ion=9&school=3000>.

included).⁵ Details of the Proposal are shown on the plans and reports appended to the AEE, although there have been some subsequent updates in response to further information requests by the Council as well as to address submitters comments. The latest updated plans are appended to the evidence of other witnesses.

14 I have noted that there are some inaccuracies within the s.42A report at paragraph 14 with respect to the proposal description:

14.1 The proposed number of car parking spaces have been amended slightly with the overall total now being 100 parking spaces;

14.2 The maximum height of retaining wall 1, which is located along the eastern and southern boundaries, is 3.4m. This wall is 86.4m in length with only 32.5m being greater than 2m in height (chainage 40-72.5). The acoustic fencing, which is setback slightly from the retaining wall, is 1.8m in height so the maximum total height is 5.2m, not 5.5m; and

14.3 The car parking layout included as Figure 3⁶ is an outdated plan that does not illustrate the pedestrian walkway that extends from Nicholson Road through to the supermarket building. This was included within updated plans sent to the Council back in March 2023.

WELLINGTON CITY DISTRICT PLAN - REASONS FOR CONSENT

15 The reasons for resource consent have been identified in the AEE⁷ and within the s.42A report with respect to the WDP. I am in

⁵ Four existing spaces require removal to allow for the accessway connecting to the new parking area.

⁶ S.42A Report, page 5, Figure 3.

⁷ AEE, section 4.0.

agreement with the reasons for consent stated in paragraph 23 of the s.42A report.

- 16 The Proposal requires resource consent for a series of matters with different activity statuses under the WDP. As identified above in the AEE I have adopted a bundling approach and have undertaken my assessment of the Proposal as a discretionary activity overall. This is also the approach adopted in the s.42A report.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

- 17 A comprehensive and detailed assessment of effects has been undertaken within the AEE.⁸ Where required, the Commissioner will hear from the other witnesses on behalf of FSNI during the hearing, with respect to the following specific matters:

- Traffic (Mr Michael Nixon);
- Urban Design (Mr Cameron Wallace);
- Acoustic (Mr Miklin Halstead);
- Landscaping (Ms Caitlin Cook);
- Civil Engineering (Ms Sumin Wang); and
- Corporate (Mr David Boersen).

- 18 I have reviewed the above expert witnesses' evidence and I concur with the detailed analysis and consideration of effects undertaken in their evidence. I therefore do not intend to repeat their analysis and conclusions, rather I will confine my evidence to the principal matters in contention, the key adverse amenity effects associated with the Proposal and the objectives and policies relevant to them,

⁸ AEE, section 8.0.

and any effects not already addressed by other witnesses that are within my area of expertise. This is guided by the reasons for consent referred to in paragraph 15 of my evidence above.

19 My overall conclusions with respect to adverse effects on the environment arising from the Proposal differ in parts from those expressed in the s.42A report. I set out the reasons for that divergence of opinion below.

20 At the outset, I confirm that my overall conclusion is that the application should be approved as, subject to a number of proposed mitigation measures, any adverse effects from the Proposal will be no more than minor in nature. And, together with the positive effects, I consider that the Proposal is not contrary to the relevant objectives and policies of the WDP.

Construction Related Effects

Earthworks

21 As with any project, there is potential for adverse effects associated with the construction phase of the project. Such effects may include uncontrolled sediment runoff, noise, dust, vibration and traffic impacts. Eight submissions⁹ have been received relating to construction earthworks, dust and noise.

22 Any effects associated with the construction phase of the project will be temporary in nature, and in the event that consent is granted, these can be effectively managed through the proposed Construction Noise and Vibration Management Plan (**CNVMP**),¹⁰ the imposition of conditions and through the implementation of

⁹ Submission numbers 24, 27, 47, 49, 51, 52, 64, 66 and 67 (noise) and numbers 26 and 51 (construction).

¹⁰ Evidence of Mr Miklin Halstead, at [53], referring to the Noise Report provided with the Application.

appropriate sediment control measures and construction management measures.

- 23 Construction related works are a required precursor to any development and, given the temporary nature of the disturbance effects and proposed mitigation measures, it is considered that any adverse amenity impacts relating to earthworks activities can be appropriately managed, subject to compliance with conditions of consent. I also note that Mr John Davies (the Council's Earthworks Engineer) and Ms Camilleri both reach a similar conclusion.

Construction Noise and Traffic

- 24 One submission¹¹ from a resident at 35 Nicholson Road has raised concerns with respect to construction noise as a consequence of development. As addressed in Mr Halstead's evidence, there is likely to be some temporary exceedances of the construction noise limits due to the close proximity of the neighbouring sites to the Proposal including 35 Nicholson Road.¹² This is not unusual for construction sites throughout Wellington. The scale and nature of construction noise and traffic will not be dissimilar to a residential development.
- 25 It is intended that a regional earthworks consent from the Greater Wellington Regional Council will be applied for, if required, prior to starting any works on site. A construction methodology will be developed once a contractor is engaged.
- 26 Two submissions¹³ raised concerns with respect to disruption and pedestrian safety impacts during the construction period, and one¹⁴ sought a limitation on construction hours from 7.00am until 6.00pm.

¹¹ Submission number 51.

¹² Evidence of Mr Miklin Halstead, at [32] – [38].

¹³ Submission numbers 26 and 62.

¹⁴ Submission number 68.

- 27 The WDP is generally enabling of construction related effects as it recognises that earthworks are essential to the development of the City and integral of construction. Policy 29.2.1.11 seeks to ensure that ensure that construction “*is undertaken in a way that is safe and minimises adverse effects on surrounding amenity and the roading network.*” Based on Mr Halstead and Mr Nixon’s evidence with respect to construction impacts,¹⁵ I consider that the short-term construction effects will be acceptable provided a ‘Construction Noise Management Plan’ and a ‘Construction Traffic Management Plan’ are secured via conditions of consent as well as restricting any construction vehicles using the Nicholson Road access during the school term time during school drop-off and pick-up times. WCC permitted hours of construction are from 7.30am until 6.00pm Monday to Saturday¹⁶ which FSNI intends to comply with.
- 28 The s.42A report raised no concerns relating to construction noise and traffic and Ms Camilleri concludes that traffic related effects are considered to be acceptable.¹⁷
- 29 Overall, I consider construction related effects have been appropriately considered and any adverse effects will be suitably managed subject to consent conditions.

Stormwater Management

- 30 Proposed stormwater infrastructure is addressed in the evidence of Ms Wang. In her evidence, Ms Wang addresses how stormwater runoff from the Proposal will be controlled and treated via stormwater filters.¹⁸ The water will then be discharged in two locations being the kerb along Dekka Street or piped to a 4.2m³ underground detention tank at the Nicholson Road carpark

¹⁵ Evidence of Mr Michael Nixon at [70], evidence of Mr Miklin Halstead, at [32] – [38].

¹⁶ NZS 6803:1999 Acoustics – Construction noise

¹⁷ S.42A Report, at paragraph 120

¹⁸ Evidence of Ms Sumin Wang at [

entrance before being discharged to the public drainage system. This detention will ensure that there are no adverse downstream effects on the surrounding environment and neighbouring properties.

- 31 There were a number of submissions received relating to increased impervious area, flooding to Nicholson Road, water quality and aging infrastructure.¹⁹
- 32 Neither the WDP nor the WDP:CDV includes a specific standard on impervious area. The permitted building coverage of the WDP:CDV (being the Medium Density Residential Standards) is up to 50% in the residential zones, and a minimum of 20% landscaped area is required for dwellings.²⁰ Ms Wang's evidence confirms that the existing 1,474m² impervious area at the Site will be increased to 2,092m². This results in 24% of the Site as landscaped area that will remain permeable – exceeding the minimum 20%.²¹ Ms Wang also confirms that the stormwater calculations demonstrate that the proposed 4.2m³ detention tank will mitigate stormwater run-off flows to the same as pre-development levels for 100-year storm events.²² Given that the Proposal will not increase peak flow discharge into the public system, there is no additional adverse effects on the wider environment, flooding or public infrastructure. Ms Wang also confirms that stormwater filters will ensure that stormwater is appropriately treated before being discharged to the public system.²³
- 33 I also note that Ms Zeean Brydon, Wellington Water's consultant engineer recommended that the consent is granted subject to

¹⁹ Submission numbers 3, 10, 23, 24, 27, 49, 50, 56, 58, 63, 64 and 68.

²⁰ MRZ-S5, MRZ-S9, HRZ-S5 and HRZ-S9 of the WDP:CDV.

²¹ Evidence of Ms Sumin Wang, at [38].

²² Evidence of Ms Sumin Wang, at [23].

²³ Evidence of Ms Sumin Wang, at [25].

conditions and Ms Camilleri confirmed she is satisfied with the Proposal's servicing effects.²⁴

Residential and Neighbourhood Amenity

- 34 The amenity values of an area are those special qualities, in particular natural or physical qualities and characteristics, that contribute to people's appreciation of its pleasantness, and go towards defining the character of that area. In this case, I consider that the amenity values of Dekka Street and Nicholson Road streetscapes require careful consideration.
- 35 In my opinion, the amenity values experienced by the Site's neighbourhood is derived from the commercial activities operating within Khandallah village as well as the adjacent suburban residential environment.
- 36 Given that 3 Dekka Street directly adjoins the existing New World (26 Ganges Road) and the Centre zoning on the northern side of Dekka Street extends approximately 50m further westwards than the southern side of Dekka Street, in my mind this creates an environment that transgresses the traditional amenity values associated with a purely residential area. In other words, I believe the neighbourhood amenity of 3 Dekka Street is not one of a pristine residential environment. Rather, I consider that the level of amenity that this portion of the Site should be derived from should be fringe or potentially transitional commercial/residential character.
- 37 With respect to 31 Nicholson Road, this is a rear site accessed off an approximately 22m long and 3.75m wide driveway. Given that the existing dwelling at 29 Nicholson Road screens the majority of 31 Nicholson Road from view from the streetscape, I consider that

²⁴ Evidence of Ms Zeean Brydon at [56], s.42A Report at [132].

the contribution that this property makes to the amenity values of the neighbourhood are not particularly influential.

38 With respect to 33 Nicholson Road, the existing dwelling is setback approximately 14m from the front boundary and approximately 25m from the Nicholson Road footpath with vegetation between that partially screens the dwelling from view. There is a dual driveway that serves 33, 35A and 37 Nicholson Road which is approximately 11m wide. I consider that the contribution that this property makes to the amenity values of the neighbourhood are neutral given that it is in keeping with the existing residential suburban landscaped character. Notwithstanding, given that under the WDP:CDV the residential neighbourhood has been rezoned to High Density Residential, it is expected that over time this area will transition from being suburban in nature to one with housing types at a greater density and with building heights of potentially up to 22m.

39 With this level of amenity established, I believe the following components of the Proposal, if inappropriately undertaken could potentially give rise to a loss of amenity presently enjoyed by the surrounding neighbourhood:

- Visual effects;
- Lighting effects;
- Traffic effects; and
- Operational noise effects.

40 Each of these matters are addressed below.

Visual Effects

41 The proposed extension to the car park will result in changes to the built environment via the removal of dwellings, loss of some mature

vegetation, the construction of retaining walls, fencing and hard standing and installation of signage.

- 42 With respect to a permitted baseline, Ms Camilleri states that she does not consider that there is permitted baseline that provides a credible comparison to what is proposed.²⁵ I would disagree with this assessment as the removal of dwellings and mature vegetation and construction of boundary fencing are all permitted activities under both the WDP and WDP:CDV and could currently be undertaken by FSNI without consent.
- 43 Furthermore, provided the earthworks area does not exceed 250m² per site with a cut height of 2.5m, the construction of retaining walls and hard standing would also be permitted under the WDP if they related to a residential activity, such as a tennis court for example, as there are no side/rear yard or permeable coverage requirements in the Outer Residential zone.
- 44 As referred to in paragraph 32 above, the WDP:CDV does not include a specific standard on impervious area in the residential zones, although the permitted building coverage is up to 50% together with a minimum 20% landscaped area for dwellings. The Proposal will provide for 24% of the Site to be soft-landscaped, with a mixture of planting types, and the remaining 76% will be hard-landscaped as car parking, manoeuvring and a walkway. Details of the type of landscaping are elaborated upon in Ms Cook's expert evidence and accompanying updated landscaping plans.²⁶ In other words, aside from the small-scale signage, the visual effects of the Proposal are generally provided for in the WDP and WDP:CDV and are, in my opinion, appropriate for the Site and surrounding neighbourhood.

²⁵ S.42A Report, at [49].

²⁶ Evidence of Ms Caitlin Cook.

- 45 17 submitters²⁷ raise various concerns with character and amenity. Ms Camilleri also raises concerns with amenity effects with respect to noise, lighting and streetscape character. Her overall conclusion is that residential amenity and streetscape effects are more than minor.²⁸
- 46 Throughout his evidence, Mr Wallace carefully considers the relevant urban design, local character and amenity impacts that will arise from the Proposal with respect to the updated landscaping and lighting plans, as well as a series of Nicholson Road visual simulations which are appended to his evidence. He considers that the level of landscaping proposed will provide for an attractive, vegetated street edge that is consistent with the existing character of the area.²⁹ He goes on to explain that the car parking has been broken up into a number of smaller components which are separated by retaining walls and landscaping, which is more typical of a residential environment rather than typical large, single level supermarket car park.³⁰ Coupled with the fact that the car park will be located lower than the surrounding properties due to the proposed excavation, and 1.8m boundary fencing is proposed, neighbouring sites will have limited views of the Proposal.
- 47 The visual simulations, which are appended to Mr Wallace's evidence clearly illustrate that there is limited ability to obtain a clear view of the Proposal from Nicholson Road. For the majority of the street the Nicholson Road accessway will be viewed as being very similar to a residential driveway (Viewpoint 1 and 3). While Viewpoint 2 has is more car dominated, this is viewed against the backdrop of the existing supermarket therefore it is not out of context with its surrounds. These simulations have enabled me to have confidence that my initial assessment, as stated in the AEE,

²⁷ Submission numbers 4, 6, 21, 23, 32, 34, 37, 40, 41, 44, 45, 49, 50, 52, 63, 66 and 69.

²⁸ S.42A Report, at [90] and [104].

²⁹ Evidence of Mr Cameron Wallace, at [48].

³⁰ Evidence of Mr Cameron Wallace, at [53] – [54].

that the Proposal will not have any significant adverse character and amenity effects to the neighbourhood.³¹

- 48 Overall, in my opinion, the Proposal will not have unacceptable adverse effects with respect to visual amenity, including residential amenity.

Lighting Effects

- 49 One submitter³² from 45A Ganges Road is concerned with lights from delivery vehicles. This property is located further down Ganges Road to the existing supermarket. There are no changes proposed to the supermarket deliveries. Delivery vehicles will continue to utilise the existing consented service lane on Ganges Road.

- 50 Five submitters³³ raise concerns with light pollution in relation to the car park lighting. Four of the submitters reside approximately 400m-900m away from the Site. Given this significant separation distance, it is considered that there will be no adverse lighting impacts to their properties arising from the Proposal which has been designed to be compliant with WDC standards.³⁴ The fifth submitter directly adjoins the site at 7 Dekka Street.

- 51 To address this concern an exterior lighting design report and a lighting plan has been commissioned by FSNI. This lighting design reduced the overall number of lights that were originally proposed from 59 poles and bollards to 23 and a report is being prepared that will confirm that the proposed lighting meets all the recommendations set out in paragraph 58 of Mr Glen Wright's evidence who is the Council's consultant lighting expert. On this

³¹ AEE, at section 5.4.2.

³² Submission number 67.

³³ Submission numbers 6, 37, 47, 56 and 66.

³⁴ Standard 7.6.1.6 of the WDP.

basis, I am of the view that there will be no significant adverse glare and light spill effects onto adjacent sites.

52 Within the s.42A report, Ms Camilleri considers that the scale and nature of the Proposal's lighting will be a departure from what is experienced in a typical residential area and that the non-residential lighting is beyond what is anticipated.³⁵ I consider that Ms Camilleri has not appropriately taken into taken into consideration the existing environment which the Site is located. It is important to remember that the Site adjoins the existing Khandallah Village rather than being located in, for example, a "typical" residential area with no centre, commercial or community activities close by. Furthermore, there are many residential activities that would have a similar level of lighting as the Proposal such as a tennis court or a parking area for an apartment block or retirement village.

53 Given that the car park lighting will only be in use until the supermarket closes at 9pm, and those lighting levels will be compliant with both the WDP and WDP:CDV rules and standards, I disagree with the lighting amenity concerns raised by Ms Camilleri. I consider that the Proposal will be acceptable in this particular location, subject to appropriate conditions of consent that the Proposal's lighting is turned off or dimmed outside of supermarket trading hours.

Traffic Effects

54 Almost all submitters who are opposed to the Proposal expressed traffic related concerns.³⁶ These predominantly relate to safety of pedestrians, increased traffic movements and resultant congestion

³⁵ S.42A Report, at [80] – [81].

³⁶ Submission numbers 3, 4, 8, 9, 10, 19, 21, 23, 25, 29, 32, 34, 37, 39, 40, 41, 44-48, 50-55, 58-64 and 66-70.

impacts, bus safety, staff parking on the road, no need for additional parking and a lack of cycle parking.

55 A further four submitters,³⁷ whose position was neutral, also raised traffic matters. They sought a further traffic safety assessment, cycle parking, provision of a footpath, a reduced speed limit, one-way accesses, traffic calming and limitation of vehicle movements.

56 Mr Nixon has focused his evidence principally on road safety, pedestrian safety, parking demand and traffic generation. He concluded that the Proposal will not generate any additional traffic movements as the existing size of the supermarket is not being altered. He recommended that the proposed Nicholson Road access be amended to left in/left out only, the inclusion of traffic calming and for the access to be designed to ensure pedestrian priority at the interface with Nicholson Road. He also recommended extending the no stopping markings on eastern side of Nicholson Road which will involve removal of some on-street parking spaces.³⁸

57 As further observations with specific reference to neighbourhood amenity considerations, I make the following comments:

57.1 The enlarged car park will ensure that sufficient parking is provided on site therefore ensuring that staff and supermarket customers are less likely to park on the surrounding streets or create congestion while circulating in the attempt to find a parking space;

57.2 The existing servicing of the supermarket from deliveries is not proposed to be altered³⁹. No delivery vehicles will

³⁷ Submission numbers 1, 2, 33 and 35.

³⁸ Evidence of Mr Michael Nixon at [77] – [79].

³⁹ As authorised by resource consent #108073 approved in 2004.

utilise the proposed Dekka Street or Nicholson Road accesses; and

57.3 There are existing bicycle and motorcycle parking spaces on site and the addition of four electric vehicle charging stations are proposed to be provided. More can be added as and when demand increases.

58 Overall, in my opinion the Proposal has been appropriately assessed with respect to traffic effects and can be safely implemented subject to Mr Nixon's recommendations on the accesses and on-street parking spaces. Furthermore, the Council's traffic experts also consider that traffic safety can be appropriately managed to mitigate any adverse impacts.

Operational Noise Effects

59 Ten submitters⁴⁰ raise concerns with operational noise relating to increased noise from vehicles, deliveries, staff movements and the type of acoustic fence.

60 No changes are proposed to the existing consented delivery hours or movements as part of this application. Delivery vehicles will continue to utilise the existing service lane on Ganges Road and will not need to access the new carparking area at any time.

61 Mr Halstead has confirmed that the noise generated from the proposed car park activity will comply with the noise limits set out in the WDP, provided the Proposal includes the following noise mitigation measures:

61.1 Acoustic fencing to be constructed around the carpark perimeter;

⁴⁰ Submission numbers 10, 24, 27, 47, 49, 51, 56, 64, 66 and 67.

61.2 Staff arriving to the Site prior to 7am via a vehicle are to park at least 10m from any neighbouring property used for residential purposes; and

61.3 Trolleys will be collected prior to 10pm.⁴¹

62 With regards to neighbourhood amenity considerations, I make the following further observations:

62.1 Two submitters⁴² raise concerns with anti-social behaviour within the car park and or un-authorised use outside of supermarket operating hours. The proposed car parking area will be closed off to vehicles after hours and monitored via CCTV cameras. As stated in Mr Boersen's evidence, a security patrol is able to be employed if required.⁴³

62.2 While Mr Xavier Dyer, the Council's noise and acoustic expert, confirms that the Proposal will comply with the permitted noise limits and that any noise effects can be suitably managed by conditions,⁴⁴ Ms Camilleri is of the opinion that the *"types of noise emitted from this proposal in this environment is inconsistent with overall, enjoyment of residential amenity."*⁴⁵ This appears to stem from a belief that non-residential noise differs in scale, nature and character to residential noise and that car park noise is not anticipated in a residentially zoned area. Again, I consider that Ms Camilleri has not appropriately taken into taken into consideration the existing environment in which the Site is located being adjacent to a busy Centre zone. In my opinion, the type of noise that will be generated by the proposal will not be significantly

⁴¹ Evidence of Mr Miklin Halstead, at [24] – [26].

⁴² Submission numbers 35 and 56.

⁴³ Evidence of Mr David Boersen.

⁴⁴ Evidence of Mr Xavier Dyer, at page 11.

⁴⁵ S.42A Report, at [69].

different to the type of noise that is already occurring in the neighbourhood from vehicles driving and parking along the public roads (particularly considering that vehicles on the road are travelling at greater speeds and also include much larger vehicles such as bus and trucks).

62.3 As noted in Mr Nixon's evidence, recent traffic counts confirmed that the average traffic volume to Nicholson Road is 1,600 vehicles per week day (**vpd**) with a peak hour volume of 234 vehicles per hour (**vph**) and Dekka Street averages 3,700 vpd with a peak hour volume of 346 vph.⁴⁶ Survey results show that the supermarket had a maximum of 287 vph during peak shopping hour (4.45-5.45pm) within the existing car park.⁴⁷ Commute's Traffic Assessment anticipated that 40% of vehicles will utilise the existing access on Granges Road, 40% the new Dekka Street access and 20% the new Nicholson Road access.⁴⁸ Given that Mr Nixon considers that the traffic movements generated by the supermarket will not increase, it is clear that the vehicular activity within the proposed car park and the two new access will be significantly less than the existing traffic currently on the public road network.

62.4 As detailed in Mr Halstead's expert evidence, the operation of the proposed carpark expansion will result in reasonable noise levels which will not have a significant noise impact on the neighbours.⁴⁹ I agree with Mr Halstead's evaluations and am of the opinion that the Proposal is acceptable subject to appropriate condition of

⁴⁶ Evidence of Mr Michael Nixon, at [17].

⁴⁷ Evidence of Mr Michael Nixon, at [59].

⁴⁸ Barker & Associates "Traffic Assessment Report" (26 April 2022) Wellington City Council Public Notification: 26 Ganges Road, 3 Dekka Street and 31-33 Nicholson Road, Khandallah (Khandallah New World Carpark) Application Documents, at section 5.2.

⁴⁹ Evidence of Mr Miklin Halstead, at [59] – [60].

consent. Based on the above, I disagree with the noise amenity concerns raised by Ms Camilleri. I consider that the Proposal, subject to appropriate conditions of consent to address noise mitigation measures (as set out in paragraph 61 above) will be acceptable in this particular location. This would be consistent with the views of both the applicant's noise and traffic experts and the Council's noise and traffic experts.

Neighbourhood Amenity Summary

63 Based on the assessment made above, it is my conclusion that any adverse effects on neighbourhood amenity will be no more than minor.

STATUTORY PLANNING ASSESSMENT

64 Below I have set out a broader assessment of the Proposal in terms of the matters under section 104(1)(b).

National Policy Statement – Urban Development 2020 (NPS-UD)

65 The s.42A report does not appear to consider that the NPS-UD is relevant to the Proposal, however, I am of the opinion that it is relevant and requires further consideration.

66 Objective 1 of the NPS-UD is to have well-functioning urban environments that enable people and communities to provide for their social, economic and cultural wellbeing, for their health and safety, now and into the future.

67 Objective 4 of NPS-UD notes that urban environments, including their amenity values, will need to develop and change over time in response to the diverse and changing needs of people, communities, and future generations. FSNI considers the existing car parking for the supermarket is currently undersized for the needs of the community. The proposal will provide for an extension

to the car parking while maintaining the supermarket within its Centre zone location. The proposal will contribute to the development of Khandallah as a well-functioning urban environment by providing for supermarket activity within an existing urban area.

68 I consider that that Proposal is in keeping with the NPS-UD objectives and policies as it is anticipated that over time, residential intensification in Khandallah will occur and densities will increase which will necessitate servicing of additional customers. The proposed increase to car parking will assist in future proofing for this future intensification.

69 Overall, I am satisfied that the Proposal is consistent with and gives effect to the NPS-UD.

Wellington Regional Policy Statement (RPS)

70 Paragraphs 136 and 137 of the s.42A report state that the Proposal is not contrary to any objectives and policies and is considered to be "in general accordance with the RPS" and that "the proposal would be consistent with Policies" which I concur with. However, paragraph 138 then goes on to state that "the proposal is not considered to accord with the relevant policies of the RPS". It is unclear why there is inconsistency within Ms Camilleri's assessment of the Proposal's compliance with the RPS as she does not provide any reasons for this. I consider the Policy is consistent with the RPS.

Wellington City District Plans

71 A detailed analysis and consideration of the WDP objectives and policies has been undertaken in the AEE.⁵⁰ I will not repeat this again here. However, based on what appears to be the matters

⁵⁰ AEE, at section 9.1.

still in contention, as raised in the s.42A report, I provide further commentary:

Residential Objectives and Policies (Chapter 4 of WDP and Part 3 of WDP:CDV)

- 72 Objective 4.2.1 and Policy 4.2.1.1 of the WDP relate to the City's containment and encouragement of consolidation of the established urban area. Objectives MRZ-O1 and HRZ-O1 of the WDP:CDV provide for predominantly residential activities however I am of the opinion that these objectives do not preclude non-residential activities, particularly given that there are succeeding policies (MRZ-P13 and HRZ-P12) that provide for non-residential activities.
- 73 I am of the opinion that the Proposal will support the ongoing operation of an existing supermarket which is located in an existing urban area that is expected to undergo population growth and intensification in the future. This will assist in providing for better use of multi modes of transport, infrastructure and energy thereby promoting the notion of a compact and more sustainable city.
- 74 Ms Camilleri considers that the Proposal is not considered consistent with the aim of consolidation and intensification.⁵¹ She has curiously considered that Policy 4.2.1.5 and MRZ-O2, that relate to residential development, are relevant policies. I do not consider this to be the case given that the proposal does not include any residential development. Notwithstanding, it is also important to note the use of "enable" in Policy 4.2.1.5 which implies that it allows for residential intensification and suggests a supportive stance without necessarily advocating for it outright. It does not include the word "encourage" or "ensure" which would imply a stronger level of support or endorsement compared to

⁵¹ S.42A Report, at [140] – [142].

"enable." I consider even if Policy 4.2.1.5 was considered to be relevant, it is not as directive a policy as the s.42A report considers.

75 Objective 4.2.3 and Policy 4.2.3.1 of the WDP seek to ensure that new development is of a character and scale that is appropriate within its context. Policies MRZ-P1 and HRZ-P1 of the WDP:CDV are similar to Policy 4.2.3.1 as they seeks to ensure that activities are compatible while ensuring their scale and intensity is consistent with the amenity values anticipated. Objectives MRZ-O3 and HRZ-O3 and Policies MRZ-P10 and HRZ-P10 of the WDP:CDV seek to provide for health, safe and accessible living environments with attractive and safe streets. Policy 4.2.3.6 of the WDP encourages permeable open space area by minimising hard surfaces. Policy 4.2.3.7 of the WDP encourages the retention of mature, visually prominent trees and bush.

76 Ms Camilleri considers that the Proposal detrimentally impacts upon the residential character of the surrounding environment with a particular focus on the Nicholson Road access which, in her opinion, will introduce a commercial operation into an environment where it is not expected.⁵²

77 Whist I acknowledge that the proposal is not a residential activity, I note that there are no objectives and policies in either district plan that seek to "avoid" non-residential uses. I am of the opinion that there has been careful consideration given to the design of the Proposal to ensure that a balance between functionality of the parking and the pedestrian walkway with buffering vegetation. This will ensure that the car park can serve as a transitional space between the commercial and residential zones. I consider that the Proposal will contribute positively to the character and liveability of the area, serving as a functional asset. This is evidenced in the

⁵² S.42A Report, at [143] – [148].

recently commissioned visual simulations that are appended to Mr Wallace's evidence.

- 78 Objective 4.2.4 of the WDP seeks to ensure that residential properties have reasonable levels of residential amenity and Policy 4.2.4.1 of the WDP seeks to manage any adverse amenity effects by ensure that new development is compatible with surrounding patterns. Policies MRZ-P13 and HRZ-P12 of the WDP:CDV provide for non-residential activities that, among other things, are of an intensity, scale and design that is consistent with the amenity values anticipated for the Zone.
- 79 Ms Camilleri considers that the Proposal does not appropriately manage residential amenity values. She has stated that "a reasonable level of amenity would be considered keeping the neighbouring site residential in nature".⁵³ I consider Ms Camilleri views are in direct conflict with Objective 4.2.7 and Policies 4.2.7.3 and Policy 4.2.7.4 of the of the WDP:CDV and Policies MRZ-P13 and HRZ-P12 of the WDP:CDV which provides for a range of non-residential uses. If the district plans anticipated only residential uses in the residential zones, then there would presumably be objectives and policies that stated that specific activities are to be avoided and they would be non-complying activities. As such, I consider that any non-residential activities need to be assessed on their merits as per paragraphs 21-63 of my evidence.
- 80 With respect to compatibly, I consider that the Proposal is wholly compatible within its context being a residential neighbourhood that directly adjoins the Khandallah Village. Except for a limited number of after-hours staff, the car parking will only been in use during the existing supermarket hours of use which is until 9pm. Following the closure of the supermarket each evening, any activity will be similar to a residential property. No loading or deliveries are proposed within the new car parking area. The noise levels and

⁵³ S.42A Report, at [150].

lighting will be wholly compliant with the residential zone requirements and FSNI are accepting of appropriately worded conditions of consent to ensure those levels are adhered to. Mr Halstead's evidence confirms he is also of the opinion that the scale and intensity of the activity is of an anticipated residential zone character.⁵⁴ Lastly, as detailed in Mr Wallace's evidence and in the visual simulations appended to his evidence, the proposed car parking is set well back (approximately 22m) from the Nicholson Road footpath with extensive landscaping between to ensure that the Proposal enhances the existing streetscape appeal of the neighbourhood.⁵⁵

- 81 Given the above assessment, I am of the opinion that the Proposal is not contrary with Objectives 4.2.1, 4.2.3, 4.2.4, 4.2.7 and their related policies within the WDP or Objectives MRZ-O1, MRZ-O2, HRZ-O1 and HRZ-O3 and their related policies within the WDP:CDV.

Centres (Chapter 6 of WDP and Part 3 of the WDP:CDV)

- 82 Objective 6.2.1 of the WDP and LCZ-O1 of the WDP:CDV both seek to provide for a hierarchy of centres that meet the needs of the local community and are accommodating of anticipated population growth and associated development. Policy 6.2.1.2 of the WDP allows for the outward expansion of existing Centres when they are required to accommodate growth while ensuring that the activities are compatible with adjoining land uses. Policy LCZ-P3 of the WDP:CDV seeks to manage the retention of a mix of activities within the Local Centre Zone, and the function of the transport network.
- 83 Ms Camilleri considers that the Proposal is not compatible with neighbouring residential properties, will not improve or enhance

⁵⁴ Evidence of Mr Miklin Halstead, at [58].

⁵⁵ Evidence of Mr Cameron Wallace, at [63].

multi-modal transport options and will not reduce vehicle use, trip patterns or travel demand.⁵⁶

84 With respect to compatibility, I have already discussed this in paragraph 80 of my evidence above.

85 With respect to multi-modal transport options, Policy 6.2.1.2 refers to accessibility of various transport modes, not enhancement of transport modes as asserted by Ms Camilleri. The Proposal will ensure that the existing supermarket is maintained within the Centre zone thereby supporting the viability and vitality of the Khandallah Village which, in my opinion, is exactly the outcome intended by Objectives 6.2.1 and LCZ-O1 and Policy LCZ-P3. The Centre location ensures that multiple visits to shops and services in the Village continue to be supported and transport is optimised. There is an existing bus stop directly adjoining the supermarket and the Proposal also includes a pedestrian walkway from Nicholson Road through to the supermarket. Given the more direct access this will provide to those in the Nicholson Road area, this walkway is expected to encourage more people to walk to the supermarket. Furthermore, this will improve pedestrian safety given that there is currently no public footpath located at the northern end of Nicholson Road where this connects to Dekka Street.

86 With respect to vehicle use, trip patterns and demand, Policy 6.2.1.2 refers to reducing congestion and not generating more than minor adverse effects on the roading network. The Policy does not seek a reduced use and number of trips as asserted by Ms Camilleri.⁵⁷ Notwithstanding, as detailed in Mr Nixon's evidence, the number of traffic movements generated by the Proposal will not increase as the GFA of the supermarket is not changing. Mr Nixon considers that instead, what may occur is supermarket traffic movements that are currently occurring on roads surrounding the

⁵⁶ S.42A Report, at [159] – [160].

⁵⁷ S.42A Report, at [160].

supermarket (e.g., staff vehicle movements associated with parking on-street), may shift on-site.⁵⁸

87 Given the above assessment, I am of the opinion that the Proposal is whole consistent with the Objective 6.2.1 and Policy 6.2.1.2 of the WDP and LCZ-O1 and LCZ-P3 of the WDP:CDV.

Earthworks (Chapter 29 of WDP and Part 2 of the WDP:CDV)

88 Objective 29.2.1 of the WDP seeks to provide for the use and development of land while avoiding, remedying or mitigating any adverse effects of earthworks and associated structures. Objective EW-O1 of the WDP:CDV is largely similar to Objective 29.2.1 however there is no reference to associated structures. Notwithstanding, Policies EW-P2 and EW-P5 of the WDP:CDV both reference structure. Policy 29.2.1.7 of the WDP and EW-P5 seeks that works are designed to minimise their visual impact having regard to the character and visual amenity of the area.

89 Ms Camilleri considers that proposed retaining walls will visually dominate the Site as they are not proposed to be screened.⁵⁹ Based on site visits I have undertaken and my understanding of the Proposal, as well relying on Mr Wallace and Ms Cooks evidence, I have an opposing view to Ms Camilleri.

90 As is evidenced from the visual simulations appended to Mr Wallace's evidence, there will be limited opportunities to view the Proposal from the public realm. Given the sloping topography of the Site, I consider that it is unlikely that any retaining structures will be visible from Dekka Street. With respect to Nicholson Road, while there will be some ability to view retaining wall 1, located on the eastern boundary, this is setback approximately 55m from Nicholson Road, therefore in my opinion, will not have any dominance effects on the streetscape. Mr Wallace also concurs

⁵⁸ Evidence of Mr Michael Nixon, at [29].

⁵⁹ S.42A Report, at [170].

with this view within his evidence⁶⁰. As detailed in Ms Cook's evidence, extensive landscaping, including a number of specimen trees has been proposed within the car park.⁶¹ Given that the acoustic fencing is setback from the retaining wall 1, it is intended that creeper vegetation will be planted which will help to screen the wall over time. This vegetation will help to soften the appearance of the Proposal when viewed from both the public realm and neighbouring sites.

- 91 Based on the above, I am of the opinion that the Proposal has been appropriately designed and any adverse visual impacts will be suitably softened via the proposed landscaping. Overall, I consider that the proposal is not contrary with Objective 29.2.1 and Policy 29.2.1.7 of the WDP or Objective EW-O1 and its related policies within the WDP:CDV.

Weighting

- 92 As set out earlier, this Proposal is being assessed as a discretionary activity under the WDP. As detailed in paragraph 10 above, regard must also be had to the objectives and policies of the WDP:CDV.
- 93 As set out above, I consider that the relevant objectives and policies of the WDP are contained in Chapters 4 (Residential Areas), 6 (Centres) and 29 (Earthworks). The new relevant objectives and policies of WDP:CDV are contained in Part 2 (Chapters on Three Waters, Infrastructure, Transport, Natural Hazards, Earthworks, Light, Noise and Signs) and Part 3 (Chapters on Residential and Local Centre zones).
- 94 Weighting only becomes relevant in the event different outcomes arise from assessments of objectives and policies under the WDP and the WDP:CDV. Outcomes under both plans are considered to

⁶⁰ Evidence of Mr Cameron Wallace at [63].

⁶¹ Evidence of Ms Caitlin Cook, at [14] – [18] and [35] – [41].

be reasonably similar, therefore I do not consider that a further weighting assessment is required in this instance.

RESPONSE TO SUBMISSIONS

95 A total of 70 submissions were received on the application, with 19 in support of the application (two from the same person), 46 opposed (two from the same person) and five whose position was neutral. Ms Camilleri has set out a summary of all the submissions received in paragraphs 32 to 35 of the s.42A report.

96 The concerns raised in the submissions in opposition primarily relate to:

- Disturbance throughout the construction period;
- Traffic effects (pedestrian and traffic safety, increased trip generation/congestion, staff parking and impact on climate change);
- Operational noise;
- Impact on village character and suburban environment;
- Neighbourhood amenity;
- Stormwater and flooding effects;
- Contrary to zoning, objectives and policies
- Loss of housing;
- No need for a carpark of this size;
- After hours antisocial behaviour; and
- Light pollution.

97 Each of the above matters has been dealt with by other witnesses and throughout the course of my evidence. Overall, based on the expert opinion of these persons and for the reasons I have outlined,

I believe that the concerns raised by the submitters do not warrant further modifications to the Proposal (other than those already proposed) and certainly do not warrant the decline of the application.

RESPONSE TO SECTION 42A REPORT

- 98 I have reviewed the report prepared by Ms Camilleri, as well as the reports and advice provided by Wellington City Council's experts contained within Appendices 2-7 of the s.42A report.
- 99 I generally agree with the conclusions drawn by Ms Camilleri that the traffic and earthworks related effects can be appropriately managed and are acceptable.
- 100 I fundamentally disagree with the assessment and conclusions drawn by Ms Camilleri that the adverse effects on the environment associated with residential amenity, streetscape and character will not be acceptable and that the Proposal is inconsistent with the relevant policies of the WDP and WDP:CDV relating to residential, centres and earthworks. These matters have been dealt with throughout the course of my evidence and also by other witnesses, therefore, to avoid repetition I will not duplicate these comments again.
- 101 Having considered the experts' advice against the relevant statutory framework, I conclude that adverse effects on the environment will be appropriate and does not warrant the decline of the application as recommended by Ms Camilleri.

RESPONSE TO COUNCIL'S DRAFT CONDITIONS OF CONSENT

- 102 Paragraph 192 of the s.42A report note that a draft set of conditions can be provided to the Hearing Panel prior to or at the hearing and provides recommended conditions of consent as Appendix 1 to the s.42A report.

103 I have reviewed the proposed draft conditions in Appendix 1 and can confirm that I generally concur with them except for conditions 21, 22 and 23 that relate to lighting and traffic safety. I consider that conditions 21 and 22 are not appropriate as they are poorly worded. Furthermore, Condition 22 relates to a single lane access which is not shown on the proposed plans. With respect to condition 23, the updated plans now provide a raised safety platform to the Nicholson Road access, and therefore I consider this condition should be reworded as:

The Consent Holder must ensure that a raised safety platform is constructed at the intersection of the new access and Nicholson Road prior to the use of the new access.

104 With regards to minor corrections and the enforceability of conditions, I make the following comments:

104.1 A condition should be added as to the consent lapse date under section 125 of the RMA.

104.2 Conditions 1 and 33 should be amended to reference the latest updated engineering and landscaping plans appended to the Ms Cook and Ms Wang's evidence.

104.3 Given that removal/demolition structure and clearance of vegetation are permitted activities, Condition 5 should be reworded as:

*~~Work~~ **Earthworks** must not commence on site until the ESCP or infrastructure report is certified...*

104.4 Given evidence from Mr Nixon, the following further traffic safety conditions should be included following condition 24:

The Consent Holder must ensure that construction vehicles do not enter or leave the Nicholson Road access during the school term time between the hours of 8.30am and 9.30pm Monday to Friday.

The Consent Holder must install signage to the Nicholson Road access to notify users that the access operates as left in/left out only.

Pursuant to section 128 of the Resource Management Act 1991, the Council may, at any time, serve notice on the Consent Holder of its intention to review the conditions of the consent in order to respond to any adverse effect on the environment which may arise from the exercise of the consent and which it is most appropriate to deal with at a later stage. These effects include those that may arise in relation to the Dekka Street access to ensure it can operate safely as a two way access.

CONCLUSIONS

- 105 Overall, I am of the opinion that the Proposal has been designed to appropriately address the particular characteristics of the surrounding environment, appearance and amenity effects, having regard to the relevant WDP and WDP:CDV provisions.
- 106 Furthermore, I consider that the Proposal will create positive effects for the area including:
- 106.1 Improvements in transportation efficiency with supermarket customers and employees being able to efficiently park within the supermarket car park.
 - 106.2 The Proposal will give effect to the NPS-UD in terms of creating a well-functioning urban environment.
 - 106.3 Comprehensive landscaping is proposed which will soften the retaining walls and car parking expanse over time and contribute to the provision of native vegetation that will provide shelter and food for local birdlife and food for bees as detailed in Ms Cook's evidence,⁶²
 - 106.4 The addition of a pedestrian walkway which will provide a more direct access to the supermarket and Village for

⁶² Evidence of Ms Caitlin Cook, at [33].

those travelling from the Nicholson Road area, as detailed in paragraph 855 of my evidence; and

106.5 Stormwater management and in particular treatment to filter sediment and absorb heavy metals created by the carpark traffic.⁶³

107 Overall, when balancing the above considerations, I believe that the Proposal is more than appropriate for this location, and it will meet the overall sustainable management purpose of the RMA as well as the relevant objectives and policies of the NES-UD. For these reasons, I consider that the Commissioner should grant consent to the Proposal.

Date: 15 April 2024



Evita Key

⁶³ Evidence of Ms Sumin Wang, at [25].