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Property, Housing, Consents and Licensing

NOTICE OF DECISION

Service Request No. 186264
File Reference: 1054230

HEARING DATES: Monday 31 August – Thursday 10 September

HEARING

COMMITTEE: Commissioners Robert Armstrong (Chair), Neil Penney and David McMahon

DATE OF REPORT: 28 September 2009

<u>Site</u>	'Johnsonville Triangle' which comprises:	
<u>Address:</u>	– 23 Moorefield Road	
	– 26, 34, 58, 66, 70, 76, 80-94, 98-104 Johnsonville Road	
	– 4, 8, 24-32 Broderick Road	
<u>Legal</u>	34 Johnsonville Road	80-94 Johnsonville Road
<u>Description:</u>	– Pt Lot 1 DP 29655	– Unit A, AU 4-5 DP 83668
	– Lot 4 DP 66837	– Unit B, AU 1 DP 83688
	– Lot 1 DP 71879	– Unit C, AU 2-3 DP 83668
	– Lot 4 DP 79336	
	23 Moorefield Road	
	– Lot 3 DP 79336	
	26 Johnsonville Road	98-104 Johnsonville Road
	– Lot 3 DP 16955	– Lot 1 DP 60601
	– Lot 1 DP 21101	4 Broderick Road
		– Pt Lot 2 DP 81705
	58 Johnsonville Road	8 Broderick Road
	– Lot 2 DP 12862	– Pt Lot 3 DP 81705
	66 Johnsonville Road	
	– Lot 2 DP 15155	24-32 Broderick Road
		– Lot 1 DP 66837
	70 Johnsonville Road	– Lot 2 DP 66837
	– Lot 2 DP 71879	– Lot 3 DP 66837
<u>Applicant:</u>	Diversified NZ Property Fund and DNZ Property Fund Ltd (together called DNZ) c/- Urban Perspectives Ltd	
<u>Proposal:</u>	The construction, use, operation and maintenance of a complex of buildings and structures collectively referred to as the "Johnsonville Shopping Centre", for a range of activities including retail and commercial activities, together with provision for vehicle access, on-site parking and servicing.	
<u>Owner:</u>	Dominion Retail Fund Limited (1/2 Share) and Diversified NZ Property Fund Limited (1/2 Share)	

DECISION OF THE HEARING COMMITTEE

1. SUMMARY OF DECISION

The Hearing Commissioners under delegated authority from the Council, pursuant to Section 104(B) of the Resource Management Act 1991, and under the provisions of the Wellington City District Plan, **grant consent** to the proposal for the construction, use, operation and maintenance of a complex of buildings and structures collectively referred to as the “Johnsonville Shopping Centre”, for a range of activities including retail and commercial activities, together with provision for vehicle access, on-site parking and servicing at the site for which the legal description is provided on page 3.

2. THE PROPOSAL

Overview of the Site and Proposal

1. The site and the Applicant’s proposal are well described in the DNZ application documents, the Applicant’s legal submissions and evidence, and the Wellington City Council Officers’ Report¹.
2. In summary, the ‘site’ is located within what is commonly referred to as the ‘Johnsonville Triangle’ and contains the area as detailed on the plan by The Buchan Group entitled “Site Plan” (Drawing A-RC2-0001, issue F).
3. The application land comprises many existing activities including the current Johnsonville Shopping Centre, other commercial and retail buildings, a former service station, a former car dealership, and extensive surface carparking and servicing areas.
4. The existing Countdown Supermarket building is located within Lot 3 DP 79336 which is one of the sites subject to the application. The Commissioners note that this site is subject to a 20 year lease from the Applicant, with two rights of renewal. However, the site is also fully integrated into the current Shopping Centre and will remain so with this proposal.
5. At the hearing the Applicant advised the Commissioners that 26 Johnsonville Road, owned by another party at the time of notification, has since been acquired by the Applicant.

Overview of the Application

6. In October 2008, DNZ Diversified NZ Property Fund and DNZ Property Fund Ltd (together called DNZ) applied for land use consent for the construction, use, operation and maintenance of a complex of buildings and structures collectively referred to as the “Johnsonville Shopping Centre”, for a range of activities including retail and commercial activities, together with provision for vehicle access, on-site parking and servicing.
7. On November 12, 2008, the Council requested further information from the Applicant. The request related to traffic, urban design, gross floor area calculations, building height information, wind, earthworks, noise,

¹ Cullen/Stevens: Officers’ Report – paragraphs 1-8

encroachments, consultation with Maori, and vehicle access. A response was provided by the Applicant on May 25, 2009.

8. In conjunction with providing the further information requested, the Applicant updated its proposal by seeking consent to undertake the development in two stages. It requested the standard RMA five year consent period for Stage One and a ten year consent period for Stage Two, and indicated that a decision on whether Stage Two would proceed would be made within the five year lapse period of Stage One.
9. Stage One would be comprised of the redevelopment and upgrade of the existing Shopping Centre, with the retention of the existing shops fronting Johnsonville Road (South of the Eastern corner of the Hawea Street remnant) and at the Eastern end of Broderick Road. It would also include the construction of a separate four level carparking building in the South Western corner of the site, which would also contain a limited number of shops and a gymnasium.
10. Stage Two would involve the redevelopment of the shops retained as part of Stage One as well as the associated rooftop carparking.
11. Given the staging proposed and the different lapse dates sought, it is possible that Stage One may represent the final proposal – a matter that the Commissioners addressed quite carefully during both the hearing and in the deliberations following the hearing adjournment. They return to a discussion on this matter later in this decision.

Relevant Resource Consents

12. The Commissioners were advised that there have been two other recent and relevant resource consents relating to the site of this application and that these relate to on-site contamination issues and roading improvements, as follows:
13. Resource Consent SR 169084 was lodged by the current Applicant on September 14, 2007 and issued on 21 December 2007 for the use of potentially contaminated and/or contaminated land within the subject site for any activity permitted by the District Plan, or allowed by any future resource consent. The consent approved the use of the land subject to a suite of conditions relating to the remediation of contaminated land, and the mitigation of noise and traffic effects generated by earthworks.
14. Resource Consent SR 186223 was lodged by Cardno TCB on behalf of the Wellington City Council on October 15 2008 and approved on Friday 28 August, 2009. This consent relates to roading network improvements to Broderick, Johnsonville and Moorefield Roads and the small part of those overall works which are outside legal road reserve and thus are not permitted by the District Plan. The Applicant has undertaken its traffic assessment on the basis that the surrounding roading network has been improved to accommodate anticipated growth which may include, but is not limited to, the proposed redevelopment of Johnsonville Shopping Centre.
15. The Commissioners were advised that the Council intends undertaking road upgrade works irrespective of whether the proposed Shopping Centre is developed, due to the roading network already operating over capacity. It was also noted during the hearing that any required removal or reconfiguration of

carparks, including park and ride carparks, required in order to give effect to this consent will be the subject of a public bylaw process before any removal or reconfiguration of carparks can occur.

16. The shopping centre proposal is subject to a consent condition volunteered by the Applicant which requires the works associated with this roading consent to be implemented and operational before any part of the redeveloped centre that exceeds 10,000m² can open to the public².

3. NOTIFICATION, CONSULTATION AND THE HEARING

Notification

17. Prior to the request for further information made on November 12, the Council then delegated its decision-making on the processing of the application under section 93 and 94 of the Act to an independent Commissioner. On 26 November 2008 the independent Commissioner made the decision on behalf of the Council that the subject application must proceed on a publicly notified basis. The independent Commissioner also endorsed the need for further information prior to notification.
18. Following the receipt of further information from the Applicant in May 2009³, the application was publicly notified on Thursday 11 June 2009, and submissions closed on Thursday 9 July.

Submissions

19. 29 submissions were received on time. Three late submissions were received and subsequently accepted. An additional late submission was not accepted as it was considered to be excessively late. Of the 32 submissions accepted, 17 were in support, one was neutral and 14 were in opposition.
20. In addition, two submissions included petitions. The Johnsonville Business Association included a petition signed by 51 Johnsonville business owners or managers in support of the proposal. The Johnsonville Progressive Association, Newlands Paparangi Progressive Association, Churton Park Community Association, and Grenada Village Community Association, together also submitted a petition in support of the proposal, which had been signed by 1244 individuals.
21. In their report, the Council Officers summarised the key issues raised in submissions, and these are quoted below.

Support

1. *Transportation*
 - *Pedestrian improvements are supported*
 - *The roading network improvements are supported as they are needed for the Shopping Centre and to meet general traffic growth*

² McKinnon: Project Management Evidence for the Applicant paragraph 4.36

³ Refer to paragraph 7 of this Decision

- *The Shopping Centre redevelopment is a catalyst for the Wellington City Council to deliver roading improvements*
2. *Economic*
 - *CBD retailers should not be given priority and protecting CBD retailers actually only drives shoppers to neighbouring cities*
 - *The proposal will revitalise Johnsonville*
 - *The current shopping centre is inadequate in size and range*
 - *The centre will result in a significant economic boost to Johnsonville and the Northern suburbs*
 3. *Strategic*
 - *The proposal will progress the Town Centre Plan and the Wellington Regional Strategy*
 - *It is idealistic to restrict the proposed development in order to protect Lambton Quay particularly given the lack of parking available in the CBD and the spread of shops over a considerable distance*
 - *The proposal is consistent with the “Heart of Johnsonville” document*
 4. *Design*
 - *The design is attractive and has minimal effects on the townscape.*
 - *The proposal meets the needs of the local community now and into the future and is a green approach to retail endeavours*
 - *Improved street frontages with quality shopping and enclosed parking are supported*
 - *Johnsonville Shopping Centre is on an elevated and windy site and therefore sheltered shopping is essential*

Opposition or Matters of Concern

5. *Transportation*
 - *Adverse effects on the traffic network*
 - *Upgrades to the traffic network must be undertaken before the Shopping Centre is extended*
 - *Poor integration with bus and rail*
 - *Poor provisions for pedestrians and cyclists and too many carparks*
 - *Lack of detail about the proposed park and ride and staff carparking*
 - *No parking for local businesses to lease*
6. *Economic*
 - *The proposal is disproportionate to the needs of the centre and will have adverse effects on the viability and vitality on the “Golden Mile” and other surrounding centres*
7. *Strategic*
 - *Inconsistency with the Regional Policy Statement*
 - *Inconsistency with the Council’s Proposed Plan Change 66*
 - *The proposal does not allow people and communities to provide for their social, economic and cultural wellbeing and health and safety*
8. *Design*
 - *Building height*

9. *Community*
 - *Construction noise and disruption*
 - *Destruction of existing community spirit and feel*
 - *Glare from any lighting into the rail corridor and surrounding residential properties*
 - *Rubbish*
 - *Lack of open space suitable for picnics, lunch breaks etc*
 - *More community activities should be located within the mall*

The Hearing

Hearing Committee

22. The Hearing Committee comprised three independent hearing Commissioners; Robert Armstrong (Chair), Neil Penney and David McMahon. Under section 34A(1) of the Act the Commissioners held delegated authority from the Wellington City Council to determine all matters relating to the land use applications.
23. Wellington City Council Hearings Advisor Anna Bray Sharpin was appointed to assist the Commissioners with process matters and note taking during the hearing and deliberations.

Hearing Details

24. The Hearing was held at the Willeston Conference Centre in the Wellington CBD from Monday 31 August until Thursday 10 September, 2009. The Hearing was adjourned on Thursday 10 September for deliberations, and to await a response to a question the Commissioners had requested from submitter Greater Wellington Regional Council. Following receipt of the response, the Hearing was closed on Monday 14 September.
25. The Commissioners conducted a site visit on Friday 4 September, accompanied by the Hearings Advisor Anna Bray Sharpin.

Hearing Evidence

26. Evidence was heard at the hearing from the Applicant's counsel and witnesses, submitters and Council Officers as follows:

Council Officers

27. A report under section 42A of the Act was prepared and circulated to all parties to the application a minimum of five days prior to the commencement of the hearing. That document contained reports from a range of disciplines and authors⁴. The Commissioners, with the agreement of the parties, took the Officers' report as read at the commencement of the hearing and instead focused on brief presentations from, and question to, the following Officers:

⁴ Cullen/Stevens – Planner's Report, Spence – Transport Assessment, Blunt/Beard – Urban Design Assessment, Small – Economic Assessment, Anderson – Earthworks Assessment, Wood – Vehicle Access Assessment, Borich – Noise Assessment, Donn – Wind Assessment

- Bill Stevens (Planning Manager: North and West)
 - Alice Cullen (Resource Consents Planner)
 - Luke Troy (Manager City Planning)
 - Gerald Blunt (Chief Urban Designer)
 - Tom Beard (Urban Designer)
 - Steve Spence (Chief Transport Planner)
 - John Small (Economic Advisor – Covec Ltd)
28. The Council Officers recommended that the application be granted subject to proposed conditions which mostly related to traffic and urban design issues. In particular, they drew the Commissioners' attention to the Council's Urban Design Advisors' concerns over the configuration of an East-West pedestrian link within the proposal's design. They recommended that this link be further explored during the course of the hearing.
29. At the conclusion of the hearing, the Commissioners heard again from five of the Officers in their reply to the issues raised during the course of the hearing by the Applicant, submitters and the Commissioners. Mr Spence responded to certain traffic matters relating to modelling and roading upgrades. He confirmed he was satisfied that the transport assessments presented by the Applicant were accurate and the proposed conditions relating to roading upgrades and Travel Management Plans were appropriate. Mr Blunt and Mr Beard responded to several urban design matters canvassed by submitters. They indicated that, although they preferred a relocated east-west link configuration they were not uncomfortable with the Applicant's proposed link.
30. In wrapping up, Mr Stevens and Ms Cullen advised that having heard the evidence they retained their original recommendation to grant consent. They tabled a revised set of proposed conditions that had been discussed with the Applicant and some submitters

Applicant's Evidence and Witnesses

31. In addition to the Counsel for the Applicant, who coordinated the applicants presentation, the Applicant called a number of witnesses covering a comprehensive suite of disciplines as follows:
- Duncan Laing (Counsel for DNZ)
 - Paul Duffy (Chief Executive of DNZ)
 - Ralph (Alan) McKinnon (Project Manager for Johnsonville Shopping Centre)
 - Alistair Aburn (Planning Consultant)
 - Peter Zillman (Architect)
 - Evan Harris (Property Management Consultant – Retail Planning Advisor)
 - Clinton Bird (Urban Design Consultant)
 - Michael Hawes (Landscape Architect)
 - Deyana Popova (Urban Design Consultant)
 - Francis (Frank) Stoks (Crime Prevention through Environmental Design Consultant)
 - Peter McCombs (Transportation Engineer)
 - Mark Georgeson (Transportation Engineer)

- Peter Bradshaw (Traffic Consultant)
 - Gary Clark (Traffic Consultant)
 - Andrew Mein (Traffic Consultant)
 - Neil Jamieson (Wind Effects Consultant)
 - Constantin (Con) Wassillief (Noise Advisor)
 - Raymond O’Callaghan (Earthworks Engineer)
 - Angus (Gus) Smith (Construction Manager)
 - Michael Copeland (Consulting Economist)
 - Greg Blackler (Electrical Engineer – Lighting Advisor)
 - Ganesh Nana (Economist)
32. The Applicant outlined the proposal and presented a suite of suggested conditions. The Applicant’s witnesses focused on the following principal matters for assessment:
- the proposal’s traffic effects,
 - urban design outcomes,
 - the impact on the sustainability of the CBD’s “Golden Mile”; and
 - Public transport and transportation sustainability;
33. Overall the Applicant argued that the strategic policy context at both the regional and city level was supportive of a major intensification of development at Johnsonville, and that the proposal would actively implement various outcomes sought by key strategic planning documents.
34. The Applicant concluded that any potential residual effects would be no more than minor and would be adequately mitigated and remedied through the imposition of a suite of conditions that were tabled and modified by the Applicant, with input from Council Officers and certain submitters, during the course of the hearing.

Submitters

35. Submitters who appeared at the hearing included transport companies, transport authorities, interest groups, local residents, community group representatives, and local and regional business representatives..
36. The full list of the submitters attending the hearing is as follows;
- Mana Coach Services - Brent Blann
 - David Wanty
 - Graeme Sawyer
 - Kiwi Property Holdings – Ronald Parkins
 - New Zealand Transport Agency – Selwyn Blackmore
 - Johnsonville Progressive Association – Tony Randle
 - Newlands Paparangi Progressive Association – Jim Candiliotis
 - Churton Park Community Association – Marie Thomson
 - Grenada Village Community Association Inc – Bruce Patterson
 - Tony Randle (individual submission)
 - Bernice Williams
 - Michael Mellor
 - Paula Warren
 - Estar Wallace
 - Brian Smythe

- Andrew Crook
 - Guardian First National - Paul Coltart
 - Johnsonville Business Association - Chris Kirk-Burnnand
 - Greater Wellington Regional Council - Wayne Hastie, Ling Phang, Adam Lawrence
 - KiwiRail – Aaron Hudson (evidence tabled but not presented)
37. Although scheduled to appear at the hearing, the following submitters advised during the first week of the hearing that they would not do so:
- Westfield (NZ) Ltd
 - Kirkcaldie and Stains Ltd
 - Building Solutions
 - KiwiRail
38. Kiwi Rail tabled a statement for the Commissioners saying that it was generally comfortable with the revised conditions proposed by the Applicant⁵.
39. In addition to hearing from those submitters who attended the hearing, the Commissioners had the benefit of full access to all notices of submission that were lodged, including those submissions which were accepted as being late. The Commissioners record that they gave due consideration to the material contained in the notices of submission⁶.
40. The Commissioners addressed the views of all the various submitters in this decision insofar as they were relevant to the issues of contention in the evaluation section. In this decision document, the Commissioners have not listed each individual submission in isolation. Rather, they have adopted an ‘issues approach’ to the consideration of submission points. As part of that approach, submissions have been grouped under the matters over which the statutory instruments (particularly the District and Regional Planning documents) reserve discretion.

Detailed Evidence

41. The written evidence and reports tabled and presented by all parties who presented at the hearing is held on file at the Wellington City Council. The Commissioners took their own notes of the verbal presentations and answers to their questions, and notes were also taken by the Hearing Advisor. It is not intended to record that material in any detail in this decision. However, specific issues raised in the material are referred to as appropriate in the evaluation section of this decision.

4. STATUTORY FRAMEWORK

42. Section 104(1) of the Act sets out matters a consent authority shall have regard to in considering an application for resource consent and any submissions received. Section 104 matters are subject to the purpose and principles of the RMA as set out in Part 2.
43. Regard has been given to the requirements of section 113 of the Act when preparing this Decision.

⁵ See paragraph 191 of this decision

⁶ For a full list of submitters, see Appendix One of Cullen/Stevens: Officers' Report

Statutory Instruments (Section 104(1)(b) Assessment)

44. In respect of the assessment in terms of section 104(1)(b) the consent authority must have regard to any relevant provisions of any national policy statement, a New Zealand Coastal Policy Statement, a Regional Coastal Policy Statement and a plan or proposed plan. In this case, the Commissioners considered the following documents to be relevant.

Operative District Plan

45. The subject site is located in the Suburban Centre Area of the District Plan. It not subject to any special character rules, heritage provisions, or designations.
46. Under the Operative District Plan, the proposal requires consent as a Discretionary Activity (Restricted) pursuant to Rules 7.3.1 (site access and servicing), 7.3.2 (building height and display windows) and 7.3.4 (provision of more than 120 carparks). Under the operative District Plan the Council's discretion is restricted to:
- Vehicle parking, servicing and site access
 - Maximum height;
 - Display windows; and
 - The generation of vehicular traffic
47. The Commissioners noted that the first three matters are relatively minor non-compliances. Traffic generation discretion is also a low level consent and not uncommon with developments generating high vehicle movements/parking demand.

Proposed Plan Change 52

48. Plan Change 52 (PC52) was notified On 20 October 2006. The key components of the proposed plan change are:
- To address the adverse effects of larger scale buildings on the urban design and quality of the built environment; and
 - To address the adverse effects of 'out of centre' retailing, including potential effects on the viability of existing town centres, a compact urban form and sustainable transport systems.
49. Under PC52 the proposal requires consent as a Discretionary Activity (Restricted) pursuant to Rule 7.3.2.5A and the Council's discretion is restricted to design, external appearance and siting. As the application site is "in centre" it does not require assessment against the economic, sustainability and urban form criteria in PC52 and only the urban design and quality of the built environment criteria are relevant. Economic and sustainability criteria are however a consideration under Plan Change 66 as discussed below.

Proposed Plan Change 65

50. Plan Change 65 (PC65) was notified on 1 July 2008. It proposed a change to the objectives, policies and rules for earthworks in all areas of the City.
51. PC65 was withdrawn on 18 July 2009 and immediately replaced with Proposed Plan Change 70 (PC70). Therefore it has relevance only to the activity status of the proposal and PC 70 is the relevant plan change document for the substantive assessment under section 104. Importantly, prior to this there were no earthworks rules in Suburban Centre areas.
52. Under PC65 the proposal requires consent as a Discretionary Activity (Restricted) pursuant to Rule 19B.1.2 as the proposal cannot comply with various permitted activity conditions under Rule 19B.1.1.

Proposed Plan Change 66

53. Plan Change 66 (PC66) was notified on 9 May 2008. It requires any new retail development in the Central Area and Suburban Centres, exceeding a defined size threshold, to provide an assessment on the impact of the development on the sustainability of the City's existing retail centres, particularly the CBD's "Golden Mile", and on the sustainability of the transport network, and the location of retail activities within Wellington City.
54. Under PC66 the proposal is a Discretionary Activity (Restricted) pursuant to Rule 7.3.1.7.C and the Commissioners' discretion is restricted to:
 - The effect of the development on the sustainability of the Golden Mile
 - The effect on the sustainability of the transport network
 - The effect of the development on the location of retail activities within Wellington City
55. As noted previously, these criteria trigger the requirement for traffic and economic assessments and would have largely replicated many of the issues under PC52 (other than urban design matters) that are not relevant here due to the site being "in centre". The principle assessment criterion absent from the PC52 criteria, and the key thrust of PC66, is the effect of the development on the sustainability of the CBD's Golden Mile.

Proposed Plan Change 70

56. Plan Change 70 (PC70) was notified On 18 July 2009, taking effect from the date of notification. PC70 replaces PC65, and proposes a change to the objectives, policies and rules for earthworks in all areas of the City. PC70 proposes policies and rules for:
 - Earthworks stability, to replace the requirements of the Earthworks Bylaw
 - Erosion, dust and sediment
 - Earthworks associated with tracks, streams and wetlands
 - The flooding hazard of earthworks
 - The visual amenity of earthworks – general and urban Coastal Edge
57. The Commissioners accepted the uncontested advice from the Officers' Report regarding the streamlined changeover between PC65 and PC70. As

detailed above, PC70 has no bearing on the activity status of this proposal. It is however, relevant to the substantive assessment of the proposal under section 104 and the Commissioners consider the application against those criteria in their evaluation in Section 6 of this decision.

Suburban Centre Review/Draft Plan Change 73

58. During the course of the hearing, the Commissioners were made aware by the Applicant, one submitter⁷ and Council Officers of a Council policy review and initiative in respect of suburban centre development. They were informed by Council Officers that this had resulted in Draft Plan Change 73 being formulated to deal with, inter alia, controls relating to a hierarchy of suburban centres in the City and various controls and assessment matters pertaining to development in those centres. It was confirmed that Johnsonville is one of the centres affected by this policy review.
59. In terms of the above, the Commissioners were advised that Draft Plan Change 73:
- If adopted by the Council, would be notified for public submissions around the end of September; and
 - Would most likely result in the eventual withdrawal of PC52 and PC66.
60. This matter was also the subject of some comment by the Applicant's Counsel⁸ and one of the submitters⁹.
61. The Commissioners wish to categorically record that, whilst they have had regard to the Council's "*Centres Policy*" as an "other matter" under section 104(1)(c) in Section 8 of this decision, they have had no regard whatsoever to Draft Plan Change 73 for the simple fact that it is not an existing statutory document as defined under the Act. In other words, because that draft plan change had not been publicly notified (and therefore held no legal standing) at the time of the hearing, deliberations and formulation and release of their written determination, it is not legally or practically possible for the Commissioners to take account of its proposed provisions.
62. The Commissioners noted for the record that they have resisted the request by some submitters¹⁰ that they delve into the possible content of the draft plan change to understand how the District Plan rule framework may be altered if and when Draft Plan Change 73 is notified. Whether or not there will be changes to rules or assessment matters was not a matter that the Commissioners wished to speculate on. Further, they concluded that if Draft Plan Change 73 is eventually notified and adopted after this decision, then the relevance of the provisions contained therein may be something that is debated in some future forum.

⁷ Submitter #5 – Kiwi Property Holdings: Hearing Statement

⁸ Laing: Reply for the Applicant – paragraph 2.24

⁹ Submitter #5 – Kiwi Property Holdings: Hearing Statement

¹⁰ Submitter #5 – Kiwi Property Holdings: Hearing Statement

Operative Wellington Regional Policy Statement (1995)

63. The Regional Policy Statement 1995 (RPS) is an overview document that provides the framework for managing the resources of the Wellington region in a sustainable way. The RPS lies beneath the central government instruments (national policy statements, national environmental standards and the New Zealand Coastal Policy Statement - none of which are specifically relevant to this application).
64. The relevant policies of the RPS are in Chapter 14. They focus on efficient use of resources, the need for infrastructure that connects human settlements, and controlling the adverse effects that occur with urban development.
65. The Commissioners accepted the Council Officers' advice that the proposal would meet the intent of the RPS in that it will make efficient use of existing resources and improve the urban environment, while not compromising the upgrade of transport facilities in the future¹¹.

Proposed Wellington Regional Policy Statement (2009)

66. As discussed in the Officers' Report, the Proposed Regional Policy Statement (PRPS) has now been notified, but limited weight can be given to this document, and as such the operative RPS is the dominant regional planning document
67. Under the PRPS, the policies which are particularly relevant to this proposal discuss regionally significant infrastructure, travel demand management, and regional form. The Commissioners accepted the Council Officers' advice that the proposal would meet the intent of the PRPS¹².

Overall Activity Status

68. Based on the uncontested legal¹³ and planning¹⁴ advice, the Commissioners found that overall the application is a **Discretionary Activity (Restricted)**, allowing the Commissioners to grant or refuse the application, and impose conditions on it under Section 108 of the Act.
69. The Commissioners' discretion in respect of this application was therefore restricted to the following matters:
 - Vehicle parking, servicing and site access
 - Maximum height
 - Display windows
 - The generation of vehicular traffic
 - Design, external appearance and siting
 - Earthworks stability
 - Erosion, dust and sediment control
 - Earthworks and structures associated with streams and wetlands
 - Earthworks and structures for tracks
 - Visual amenity – general

¹¹ Cullen/Stevens: Officers' Report – paragraphs 122 - 130

¹² Cullen/Stevens: Officers' Report – paragraphs 131 - 136

¹³ Laing: Legal Submissions for the Applicant – paragraph 4.7

¹⁴ Cullen/Stevens: Officers' Report – paragraphs 24 – 29

- Transport of material
 - The effect of the development on the sustainability of the Golden Mile
 - The effect of the development on the sustainability of the transport network
70. These criteria have been grouped into like topics and form the basis of the assessment conducted by the Commissioners in Section 6 of this decision.

Weighting of Statutory Instruments

71. The issue of the weight to be given to plan changes becomes particularly important when there is a conflict in the conclusion of the assessments against the operative District Plan and proposed plan changes. Many of the effects of the proposal are within the Commissioners' discretion only as a result of plan changes, and therefore weighting is an important consideration.
72. While a decision on PC52 has been released, there are several outstanding appeals. A hearing is yet to be held in relation to PC 66. For these reasons, the Commissioners agreed with the Council Officers that the operative District Plan is the dominant planning document as these plan changes are in their infancy and remain relatively untested.
73. Notwithstanding this fact, and as the Commissioners outline later in Section 6, there is no conflict of any magnitude in the conclusion of the assessments against the operative District Plan and the proposed plan changes, and therefore the importance of assigning weighting between the Operative District Plan and the various Plan Changes is diminished.

Permitted Baseline/ Anticipated Outcomes (Section 104(1)(a))

74. In forming the opinion for the purposes of section 104(1)(a), a consent authority may disregard the adverse effect of an activity on the environment if the Plan permits an activity with that effect (in accordance with section 104(2) of the Act). In this case a permitted baseline comparison could be drawn with a development containing a number of buildings, each with a floor area of 500m² and 120 carparks.
75. The Applicant has not presented a permitted baseline scenario representing this, and the Commissioners accepted the Council Officers' advice that it would be difficult to present a credible permitted development for this proposal as a whole; i.e. a proposal of this scale which could be undertaken without relevant resource consent.
76. Notwithstanding the above, the Commissioners accepted it was appropriate to consider the proposal in the context of what the District Plan anticipates (despite the design and external appearance and traffic generation triggers), such as buildings of up to 12 metres in height, or an integrated retail development of less than 20,000m² (GFA).
77. It was noted that the application has discussed such scenarios and this provided the Commissioners with some useful guidance and context against which to assess the effects of the proposal, particularly the effects associated with bulk and location, and to a slightly lesser extent, the retail distribution effects.

Non - Statutory Instruments (Section 104(1)(c)) “Other Matters”

78. In respect of the assessment in terms of section 104(1)(c), the consent authority must have regard to any other matter it considers to be relevant and reasonably necessary to determine the application. In this case, a number of documents are considered relevant and these are listed in Section 8 of this decision.
79. As discussed in Section 8 of this decision, the Commissioners are of the view that particular consideration of two of these documents - the Johnsonville Town Centre Plan (2008) and Retail Centre’s Policy (2008) – is reasonably necessary given the direct relevance of those document to Johnsonville and retail development in that centre.
80. An assessment of the proposal against these documents is provided in Section 8.

5. BASIS OF ASSESSMENT, DECISION AND WRITTEN DETERMINATION

81. Prior to evaluating the principal issues of contention emerging from the hearing, the Commissioners wished to briefly outline certain matters that provide an important context to the application and the way the Commissioners’ deliberations and decision recording has been undertaken..
82. The approach adopted in the Commissioners’ deliberations and in their delivery of the decision is founded deliberately on the principles of avoiding redundancy in issue consideration and promoting economy in recording. By that, the Commissioners note that they have focused principally on the issues of contention associated with the application and largely (and almost exclusively) take as read those matters where there is little or no disagreement between the parties.
83. Whilst not in itself an unusual approach to decision recording per se, it is usually reserved for decisions on applications where there are few submissions and little assessment required. Whiles this application does not qualify in that regard per se, it is nevertheless reasonably rare in that, despite being a substantial capital investment and a major development for Johnsonville (and indeed Wellington City as a whole), there were very little areas of evidential contention or disagreement presented to the Commissioners at the hearing.
84. The reasons for this approach relate to three matters: the status of the application under the District Plan and plan change documents; the nature of the submissions lodged, and the content of the evidence presented, as follows:
85. Firstly, and as the starting point for their assessment, the Commissioners note the following regarding the District Plan/plan change framework :
 - The highly permissive nature of the Suburban Centre Area rules in the Operative District Plan and the high degree of conformity of the proposal with those rules.

- The relatively infancy of PC52 ,PC66 and PC70 in the statutory process and the low level of weight placed on those documents in comparison to the Operative District Plan and, notwithstanding this weighting matter, the degree to which the proposal is anticipated by those plan changes, subject of course to the limited matters of discretion open to the Commissioners (namely, design, transportation/economic sustainability and earthworks/construction effects respectively).

86. Secondly, and added to this statutory context, the Commissioners record the following pertinent facts pertaining to the submissions lodged to the application:

- The high level of support for the proposal in the lodged notices of submission including support from four Progressive and Community Associations (which included a petition of some 1244 signatories. (NB the Commissioners note that this counted as one submission only)), the business association representing 51 businesses in Johnsonville, the local bus company and several individual residents and business operators of Johnsonville.
- The relatively low level of opposition in the notices of submission lodged and in particular that those submitters opposing the application, with the exception of a handful of instances (listed below), were not seeking outright refusal of the application but instead were seeking conditional approval to give effect to matters such as public transport initiatives, and Travel Plans (i.e. submissions of conditional support).
- The notices of submission with outright opposition were limited in number¹⁵ and were generally limited to trade competitors and two members of the Johnsonville Progressive Association presenting in a private capacity.

87. Thirdly and finally, the Commissioners make the following key observations relating to the evidence and reports presented at the hearing:

- There was an absence of any major evidential conflict between all parties on those specified matters over which the Operative District Plan and the various Plan Changes reserve discretion (a matter touched on in Section 6);
- On the two key issues raised by PC66 - transportation and economic impacts - there was no authoritative or credible challenge to the evidence lead by the Applicant or contained in the Council Officers' Report. This included five traffic engineers (two evidence in chief and three peer reviews) and two economists for the Applicant and two traffic/roading engineers and one economic peer review by the Council. The Commissioners do acknowledge the input of Mr Wanty a submitter and registered traffic engineer and merely note that despite some minor evidential differences between his brief and the other traffic engineers referred to, there were no substantive or fundamental differences between their positions.

¹⁵ Submitters Kiwi Property Holdings, Westfield(NZ) Ltd, Sawyer; Warren; Wallace; Kirkcaldie and Stains, Building Solutions, Williams et al

- Similarly there was reasonably high accord between the urban design and planning evidence of both the Applicant and Council Officers.

88. For completeness, the Commissioners particularly note that there was a paucity of evidence lead by what Counsel for the Applicant termed, “trade competitors”. In this respect, we note that whilst Kiwi Property Holdings did attend the hearing, its focus was on two matters that the Commissioners had no discretion to consider – namely the impact on Porirua’s North City Shopping Centre and the potential impact of Draft Plan Change 73 on the assessment of the application. Conversely, there was no attendance from the remaining trade competitors – Westfield (NZ) Ltd, Kirkcaldie and Stains Ltd and Building Solutions. Whilst the Commissioners acknowledge that this by no means negates their written notices of submission, they do note that those submissions were very generic in nature and without the benefit of any evidence to substantiate the concerns (and in the face of evidence to the contrary supported by the Council peer reviewer), it was difficult if not impossible to ascertain any merit in the matters raised in those notices.

89. In conclusion, and as the Planning Consultant for the Applicant observed in his presentation, there was a strong measure of agreement between the majority of parties associated with the proceedings. The Commissioners refer to this by reference to specific issues in Section 6, but for the time being it is sufficient to state that they agree with and adopt this observation as the basis for the style of this decision report.

6. ISSUES OF CONTENTION

Section 104(1)(a) Assessment

90. The primary purpose of this assessment is to anticipate the effects that the proposal may have on the environment in respect of the matters over which the Council has restricted discretion; particularly the extent or degree to which the proposal would adversely affect the amenity values of the neighbourhood as well as the effects on economic and transportation sustainability in the City as a whole,

91. Section 113 of the Act requires the consent authority to focus on the principal issues of contention and to state the main findings of facts in relation to those issues. Having considered the application documents, the submissions, the evidence and the Officers’ Report, the Commissioners considered that the principal issues of contention could be divided into those that would arise during construction, those that would arise during operation, and other miscellaneous effects.

92. These issues, and their many subsets, are discussed individually below.

Construction Effects

93. Demolition and construction effects are not specifically referred to in the District Plan; however the operative District Plan and PC70 – Earthworks (Objective 29.2.1 and Policies 29.2.1.1 – 29.2.1.12), have standards for controlling the effects of noise, dust and traffic associated with construction activities.

94. In addition, some of the effects of demolition and construction such as safety noise and dust are issues dealt with more thoroughly by the Occupational Safety and Health (OSH) requirements under the Health and Safety in Employment Act, 1992, and the Building Acts.
95. The key effects identified by the Commissioners for consideration were:
- Construction Noise
 - Construction traffic
 - Earthworks effects
 - Effects on Public Transport

Construction Noise

96. Noise from the construction of the proposal would be controlled under the District Plan Construction Noise Standard Provisions, and the Suburban Centre and Outer Residential Noise Limits.
97. The Commissioners heard that the noise effects resulting from the proposal's construction phase should achieve compliance with both the Provisions and the Limits¹⁶. The Applicant's witnesses and the Council Officers agreed on this matter.¹⁷ It was also pointed out that the existing ambient noise levels greatly exceeded the residential noise limits.¹⁸
98. Two submitters¹⁹ expressed concern regarding construction noise, including noise generated by pile driving. The Applicant's witnesses explained that a suitable Construction Noise Management Plan²⁰ would ensure that noise effects could be mitigated to acceptable levels for the surrounding community. Those witnesses also explained that there are now many alternative means of inserting piled foundations, which minimise noise and vibration. These would be addressed within the Construction Management Plan.²¹
99. The Commissioners accepted the complementary advice of both the Applicant and Council Officers regarding construction noise, and considered the Applicant adequately addressed the relevant concerns raised by submitters. They accepted that proposed Condition 7, requiring an Earthworks/Construction Noise Management Plan to be prepared, would provide for the mitigation or avoidance of construction noise, in conjunction with proposed Condition 8, which required the use of "Best Practicable Options" to reduce noise.

¹⁶ Wassilieff: Noise Evidence for the Applicant – paragraphs 3.2 and 4.14

¹⁷ Cullen/Stevens: Officers' Report – paragraph 111 and Jones: Officers' Report Appendix Five Noise Report – paragraph 2.0

¹⁸ Wassilieff: Noise Evidence for the Applicant – paragraph 4.14

¹⁹ Submission #12: Barbalich and Submission #21: Silvester

²⁰ Smith: Construction Evidence for the Applicant – paragraph 5.12 and Wassilieff: Noise Evidence for the Applicant – paragraph 4.21

²¹ Smith: Construction Evidence for the Applicant – paragraph 5.3 and Wassilieff: Noise Evidence for the Applicant – paragraph 5.3

Construction Traffic

100. Policy 29.2.1.11 from Plan Change 70 requires the Applicant to:

“Ensure the transport of earth or construction fill material, to and from a site, is undertaken in a way that is safe, and minimises adverse effects on surrounding amenity and the roading network.”

101. The proposal could impact on the roading network due to the amount of construction traffic associated with the proposed construction, demolition and earthworks activities. The proposed earthworks would result in a surplus of excavated material of approximately 35,000m³ that would need to be removed from the site and approximately 6,000m³ of construction fill would be imported to the site²².
102. The Commissioners heard from the Applicant’s witnesses that construction traffic management was a key provision within the proposed conditions. It was proposed that a Construction Traffic Management Plan (CTMP) would be prepared as part of a later stage of construction planning, and submitted to Council for approval before site works began²³.
103. This evidence aligned with the Officers’ Report, which stated that adverse effects from construction traffic would be minor, and that potential effects could be adequately controlled with appropriate conditions of consent²⁴.
104. The potential disruption to the traffic network caused by construction traffic was raised in one submission²⁵, which was addressed by the Applicant’s Construction Manager. He explained that as the majority of construction vehicles would arrive or depart via the motorway, the effects would be minor.
105. The Commissioners accepted the complementary advice of both the Applicant and Council Officers regarding construction traffic, and considered the Applicant to have adequately addressed relevant concerns raised by submitters. They accepted that proposed Condition 2, requiring a CTMP to be prepared, would provide for the mitigation or avoidance of the negative effects of construction traffic.

Earthworks

Traffic route and Disposal site

106. Policy 29.2.1.11 from Plan Change 70 also applies to fill being removed from the site. The proposed earthworks would result in a surplus of excavated material of approximately 35,000m³ to be removed from the site and disposed of at a suitable disposal site²⁶.
107. The Officers’ Report stated that the Council’s traffic advisor had indicated that it would be preferable for the Applicant to select a disposal site for construction and earthworks material, to allow for transport related effects

²² Cullen/Stevens: Officers’ Report paragraph 112 and O’Callaghan: Earthworks Evidence for the Applicant – paragraph 4.8

²³ Georgeson: Transportation Effects evidence for the Applicant – paragraph 16.1 and 16.3

²⁴ Cullen/Stevens: Officers’ Report paragraph 115

²⁵ Submitter #12 – Barbalich and Smith: Construction Evidence for the applicant – paragraphs 8.1 – 8.3

²⁶ O’Callaghan: Earthworks Evidence for the Applicant – paragraph 4.8

both close to the development site and also along the haul routes to be identified and addressed as early as possible²⁷. However, that report also pointed out that cleanfills and landfills that are currently operating will be doing so under existing planning permission. Therefore the effects of traffic using the main traffic network to access these sites would have been addressed at the time these permissions were considered²⁸.

108. The Applicant's witness considered this suggestion unreasonable, as it could result in unfair commercial gain to third parties, at the disadvantage of the Applicant, and would rule out the possibility of better solutions which have not yet been explored²⁹. It was also noted that as landfill capacity can change over time, particularly with privately owned landfills, it would be more appropriate to select a fill site closer to the time of excavation³⁰

109. Following the evidence presented at the hearing, Council Officers agreed with draft conditions suggested by the Applicant, which did not require specification of a fill disposal site or sites until the development of a Construction Traffic Management Plan. The Commissioners accepted that this is provided for under proposed Condition 2, and agreed that it was not appropriate to specify a disposal site or sites any earlier in the process.

Erosion, Sediment and Dust Control

110. Policy 29.2.1.4 from PC70 requires the design and management of earthworks to minimise erosion, and the movement of dust and sediment beyond the area of the work.

111. The Commissioners heard that:

“The excavation, loading, and removal of material from the site will require the management of dust and sediment runoff to minimise adverse effects on neighbours and the downstream receiving waters³¹.”

112. The Applicant's Earthworks Engineer explained that potential impacts would be managed using an Erosion, Sediment and Dust Control Management Plan³² within the Earthworks and Construction Management Plan, as outlined by the Council, and subject to its approval³³.

113. In its written submission, KiwiRail raised concerns about potential nuisance from dust on cars parked in car parks owned by them³⁴. The Applicant's Earthworks Engineer pointed out that dust will be minimised under the proposed management plan. He stated that while he did not support the request to “approve” the plan prior to works commencing, he did consider it appropriate to consult KiwiRail, prior to the plan being submitted to Council for approval³⁵.

²⁷ Spence: Officers' Report Appendix Five Transport Assessment – paragraph 16.

²⁸ Cullen/Stevens: Officers' Report paragraph 114

²⁹ Smith: Construction Evidence for the applicant – paragraph 9.8

³⁰ O'Callaghan: Earthworks Evidence for the Applicant – paragraphs 4.29 and 7.1

³¹ O'Callaghan: Earthworks Evidence for the Applicant – paragraph 4.10

³² Anderson: Officers' Report Appendix Five Earthworks Assessment – page 50.

³³ O'Callaghan: Earthworks Evidence for the Applicant – paragraph 4.12

³⁴ Submitter #14: KiwiRail

³⁵ O'Callaghan: Earthworks Evidence for the Applicant – paragraphs 6.2 and 6.2

114. KiwiRail tabled further evidence at the hearing, indicating that it accepted the Applicant's suggested conditions as they related to its concerns³⁶.
115. In response to a written submission which expressed concern at potential environmental damage caused by construction activities³⁷, it was reiterated that the earthworks activities can be carried out without causing more than minor adverse effects³⁸.
116. The Commissioners accepted the complementary advice of both the Applicant and Council Officers regarding the management of erosion, dust and sediment, and considered the Applicant to have adequately addressed relevant concerns raised by submitters.
117. The Commissioners accepted that proposed Condition 4, requiring an Erosion, Dust and Sediment Control Plan to be prepared, would provide for the mitigation or avoidance of any negative impacts, in conjunction with proposed Conditions 5 and 6.

Effects on Public Transport

118. Extensive evidence was heard regarding the passage of public buses through the proposal site, and the proximity of the Johnsonville Railway Station to the site. The Commissioners acknowledged that the construction phase could affect both access to the Railway and Bus Station by pedestrians or drivers, and access through the site by buses.
119. The Greater Wellington Regional Council (GW) Officers suggested their own construction management condition³⁹, however the Applicant considered this was unnecessary, as the matters raised would be covered under the Applicant's proposed Condition 2 (Earthworks and Construction Management Plan)⁴⁰. This would require the Applicant to provide bus access through the site from Gothic St to the Johnsonville Railway Station bus stop at all times during construction. Under the same proposed Condition, a Construction Traffic Management Plan would be required to ensure that pedestrians and vehicles accessing or departing from the Johnsonville Railway Station and the associated bus stop could do so in a safe manner at all times during construction.
120. The Commissioners have accepted the Applicant's response to the GW submission, and adopted proposed Condition 2.

³⁶ Submitter #14: KiwiRail – hearing statement

³⁷ Submitter #4: Williams

³⁸ O'Callaghan: Earthworks Evidence for the Applicant – paragraph 6.3

³⁹ Submitter #1: Greater Wellington Regional Council

⁴⁰ Laing: Legal Submissions for the Applicant – paragraph 3.72

Construction Effects – Conclusion

121. The Commissioners acknowledged that a robust construction management plan would be the most appropriate way of managing and mitigating effects resulting from the demolition and construction process. Whilst effects associated with construction are temporary, in this case those effects are predicted to occur for some 30 months and therefore it is important that they are adequately mitigated. In this respect, the Commissioners accepted that the Earthworks and Construction Management Plan and related management plans would play an integral part in minimising potential noise, dust and traffic impacts on the surrounds.
122. The Commissioners were also pleased to note that the Applicant had engaged the services of an experienced construction consultant in Mr Smith. In terms of mitigating the effects resulting from the demolition and construction process, it is commonly held that adhering to best practical options is a key element. Matters discussed throughout the hearing gave the Commissioners confidence that this will be followed, especially in terms of compiling the Earthworks and Construction Management, Construction Traffic Management, Earthworks and Construction Noise Management, and Erosion, Sediment and Dust Control Plans.
123. As with any development in a Town Centre, the Commissioners noted that there would inevitably be temporary effects relating to the construction process and these were largely anticipated by the District Plan. The Commissioners were satisfied that the suite of conditions recommended by the Applicant, and endorsed by Council Officers, will ensure such effects are managed to acceptable levels. Additionally, the long term benefits of the proposal will outweigh the potential construction effects in the short term.

Operational Effects

Urban Design Effects

124. The Commissioners have discretion under the Operative District Plan to consider display windows (Rule 7.3.2), and under PC52 they have discretion to consider design, external appearance and siting. In addition, aspects of urban design are referred to in the Operative District Plan under the following Objective and Policy:

Objective 6.2.3

To maintain and enhance the physical character, townscape and streetscape of Suburban Centres.

Policy 6.2.3.4

Maintain identified retail frontages within existing Suburban Centres.

125. On the above basis, the Commissioners grouped their consideration of urban design effects into three categories as follows:

- Height (shading, wind and urban form)
- Design – external appearance and siting, road frontages, east – west Link, CPTED, and streetscape)
- Townscape/Visual

Height effects

126. The permitted building height is 12m and the District Plan anticipates and provides for a building height of up to 18m as a Discretionary Activity (Restricted) under Rule 7.3.2. Some parts of the proposal exceed the 12m height. Those parts are all quite minor in extent and scale, and their maximum height is 15m - excluding the light standards⁴¹.

Shading

127. The Commissioners heard that the additional height would have only minor effects, and would have no significant or material adverse effect on sunlight through shadows falling across Residential Areas or public spaces⁴². This was uncontested in the Officers' Report, which also pointed out that shading would be potentially less than could occur if the site was developed differently, yet in compliance with the 12 metre height allowance⁴³.

128. A submission was received from the owners of the commercial property across the road to the east of the subject site, which included concerns regarding shading to their property⁴⁴. The Applicant's shading diagrams indicated that there would be a minimal impact on the western margin of that submitter's land in mid afternoon, mid winter only⁴⁵.

129. The Applicant consulted with the Submitter prior to the hearing⁴⁶, and it was accepted that any additional shading would be very minor⁴⁷.

Wind

130. With regard to the potential wind effects generated by the height of the building exceeding the permitted limit, the Council's wind advisor stated that these effects were likely to be very small at street level⁴⁸.

131. Evidence presented at the hearing suggested that although taller than existing buildings on the site, and most of the surrounding buildings, changes in wind conditions resulting from minor height encroachments would be de minimis⁴⁹.

⁴¹ Auburn: Planning Evidence Part B for the Applicant – paragraph 85

⁴² Auburn: Planning Evidence Part B for the Applicant - paragraphs 86 and 95

⁴³ Cullen/Stevens: Officers' Report paragraph 98,99 and 102

⁴⁴ Submitter#19: Antipodean Properties Ltd

⁴⁵ McKinnon: Project Management Evidence for the Applicant – paragraph 5.37 and Zillman: Architecture evidence for the Applicant – paragraph 5.2

⁴⁶ McKinnon: Project Management Evidence for the Applicant – paragraph 5.32

⁴⁷ Auburn: Planning Evidence Part B for the Applicant – paragraph 87

⁴⁸ Donn: Officers' Report Appendix Five Wind Assessment – pages 77 and 78.

⁴⁹ Jamieson: Wind Evidence for the Applicant – paragraphs 5.7 and 5.8, and Auburn: Planning Evidence Part B for the Applicant – paragraph 89

Form

132. The Applicant and Council Officers agreed that the additional building height sought would have positive urban form effects. It would enable more interesting and varied building lines and “roofscape” than would otherwise be the outcome through strict compliance with the 12m permitted activity limit.
133. The Commissioners agreed and overall, concluded that the additional height would contribute positively to the design and visual presence of the building. It would also establish the height continuity envisaged by the District Plan⁵⁰.

Height Effects Conclusion

134. The Commissioners accepted the complementary evidence regarding the height effects of the proposal, and did not believe that any wind, shading, or urban form effects from the height of the building would be more than minor.
135. Other aspects of wind and urban form will be commented upon further in subsequent sections.

Design – external appearance and siting

136. The Council’s urban design advisors raised two primary concerns with the design of the proposal. These were:
 - the maintenance and enhancement of activity on Johnsonville Road and
 - the alignment of the east – west pedestrian link through the site.⁵¹

These are now discussed in turn.

Road Frontages – Johnsonville, Broderick and Moorefield Roads

137. The Commissioners heard that the Johnsonville Road elevation of the Shopping Centre is particularly important to the Council as it is on the main street of Johnsonville. The Council’s Urban Designers requested that the Applicant provide assurance that the fine grain of retail tenancies would be retained in order to maintain a truly active edge, and thus meet the intention of the District Plan and the long term vision for Johnsonville⁵².
138. The Officers were also concerned that the Broderick Road elevation would not read as separate buildings, would be blank, and lacked active edges. They suggested that provision of display windows or other building articulation could assist in improving the Broderick Road elevation⁵³.
139. Concerns were also raised by the Officers about Moorefield Road; particularly that the north western edge of the development was very bulky and featureless, with no shops or active edges. However, it was acknowledged by both planning and urban design Officers that this aspect of the development complied with the District Plan, and was appropriate for the subject site,

⁵⁰ Auburn: Planning Evidence Part B for the Applicant – paragraph 90, 91 and 94, Bird: Urban Design Evidence for the Applicant – paragraph 5.10 and Cullen/Stevens: Officers’ Report paragraph 145

⁵¹ Blunt/Beard: Officers’ Report Appendix Five Urban Design Assessment – page 33

⁵² Cullen/Stevens: Officers’ Report paragraph 79

⁵³ Cullen/Stevens: Officers’ Report – paragraph 80

particularly given its central location and Suburban Centre zoning. The Council conceded that it was more important to focus on activating Johnsonville Road and Broderick Road frontages where the building would meet the road edge⁵⁴.

140. External appearance was also raised by one submitter, who expressed concern that the proposal would be a “faceless edifice”⁵⁵.
141. The Commissioners were told that the Applicant worked with the Council’s Urban Designers prior to the hearing⁵⁶, and in response proposed elevations which modulate the visual bulk of the Johnsonville and Broderick Road frontages, and avoid blank walls facing public spaces. All shops on Johnsonville Road would continue to have direct street front access⁵⁷, and the design would maximise the number of entrances and windows located along ground floor street frontages, which would be almost continuous shop frontages⁵⁸.
142. In terms of these road frontage matters, the Commissioners acknowledged that the Applicant and Council Officers agreed on an urban design condition (proposed Condition 10) to address the Johnsonville and Moorefield Road elevations at the detailed design level. The Commissioners accept that proposed Condition 10 codifies the certification process, and provides guidance which will allow these design issues to be worked through in greater detail at the detailed design stage.
143. The Commissioners were also mindful that the streetscape outcomes would be different if Stage One was to be the final proposal (and Stage Two did not proceed). This potential outcome and associated effects on the Johnsonville Road and Broderick Road frontages is discussed later in this decision within “staging”.

East – West Link

144. In their report and verbally at the inception of the hearing, the Council’s Urban Designers suggested that the east-west pedestrian link through the site should be shifted to the south to match the historic alignment of Hawea and Wanaka Streets. Their rationale for this was to provide for better permeability and legibility between the town centre, and the public transport hub⁵⁹. This concept was canvassed extensively at the hearing.
145. The Applicant was strongly opposed to moving the link for management, architectural, retail, and urban design reasons⁶⁰, which were outlined by several witnesses. The key reasons were: the Applicant’s existing lease agreement with Countdown, which included having its principal entry adjacent to the current location of the link; the reduced financial viability of the shopping centre due to the creation of “deep retail space” to the north of the link and increased common mall space; and the compromising of the

⁵⁴ Cullen/Stevens: Officers’ Report – paragraph 83

⁵⁵ Submission #30: Sawyer

⁵⁶ McKinnon: Project Management Evidence for the Applicant – paragraph 6.3

⁵⁷ Zillman: Architecture Witness for the Applicant – paragraph 6.25

⁵⁸ Bird: Urban Design Evidence for the Applicant – paragraphs 5.13 – 5.17, 7.16 and 8.18

⁵⁹ Blunt/Beard: Officers’ Report Appendix Five Urban Design Assessment – page 33

⁶⁰ McKinnon: Project Management Evidence for the Applicant – paragraph 6.3

proposal's retail plan due to the creation of more large format retail space and negative impacts on internal sight lines and foot traffic⁶¹.

146. Urban Design evidence from the Applicant emphasised that any such large scale retail development required a balance between urban design and retail ideals⁶², and also that the Applicant's proposed link would still provide an excellent east-west connection⁶³. The Applicant's Planning Consultant also pointed out that this link was in alignment with the link depicted in the Draft Johnsonville Town Centre Plan (JTCP), and this connection was only aligned with Hawea St when the final JTCP was produced⁶⁴. During questioning, the urban design witness for the Applicant also discussed the alignment. He explained that while it can be a "seductive notion" to re-establish historic linkages, particularly when looking at a site from above, pedestrians do not necessarily have such an "axial link" in mind while they are walking.
147. The Commissioners noted that the Applicant had made an effort to address the issue as far as it could within the constraints discussed, by aligning the first floor and the roof level "clerestory glazing elements" with the former Hawea Street. This retained the option of the ground floor level being brought into this same alignment, if future retail or site planning imperatives permitted⁶⁵. It was explained that the Hawea St alignment would be appropriate for the first floor, where the development did not extend as far North, and the same sight line or shopper flow issues did not exist as there would be no major retail shopping "anchor" (such as the ground floor supermarket)⁶⁶.
148. The Commissioners questioned several submitters from the local community⁶⁷ about the two options for this link. Submitters provided a local viewpoint on the pedestrian desire lines in the Johnsonville Town Centre. Many of the local submitters were unconcerned as to the specific alignment of the link, given that the direction of the pedestrian movement to and from the East to the transport interchange is mainly to the North and North-East, or to the South-East, due to the location of pedestrian tunnels under the motorway⁶⁸.
149. The Commissioners found this issue to be a valid point and considered it at length. They regarded the Johnsonville Town Centre plan (considered as an "other matter" to which they are required to have regard) as a conceptual guideline only, and felt that it simply indicated the importance of the link, which would be retained either way. They acknowledged the constraints faced by the Applicant, and concluded that the benefits of realigning the link would be minor in comparison to the impediments imposed on the shopping centre.
150. For the above reasons, the Commissioners have not sought to alter the east - west link and they noted the Council's Urban Designers' conclusions on the final day of the hearing that whilst realignment to the south was preferred it was not essential.

⁶¹ Harris: Retail Planning Witness for the Applicant – paragraphs 6.6 – 6.14, 6.17 and 6.18

⁶² Bird: Urban Design Evidence for the Applicant – paragraph 9.4

⁶³ Zillman: Architecture Witness for the Applicant – paragraph 6.16 (a(i))

⁶⁴ Auburn: Planning Evidence Part B for the Applicant – paragraph 252

⁶⁵ Bird: Urban Design Evidence for the Applicant – paragraph 9.5 and McKinnon: Project Management Evidence for the Applicant – paragraph 6.6(d), and Zillman: Architecture Witness for the Applicant – paragraph 6.11(d)

⁶⁶ Harris: Retail Planning Witness for the Applicant – paragraph 6.14

⁶⁷ Submitter #15: Combined Progressive and Community Associations, Submitter #20: Randle, Submitter #17 Crook, and Submitter #22: Johnsonville Business Association, et al

⁶⁸ Laing: Reply for the Applicant – paragraph 2.4 and 2.5

151. The Commissioners did note the Applicant's efforts to "future proof" the Shopping Centre layout, by aligning the first floor with the link desired by Council, and were comfortable that nothing in the design precluded the realignment of the ground floor link in the future, should circumstances change.

Crime Prevention through Environmental Design (CPTED)

152. CPTED is addressed in the Operative District Plan under the below Objective and Policies:

Objective 6.2.9

To promote the development of a safe and healthy city

Policy 6.2.9.1

Improve the design of developments to reduce the actual and potential threats to personal safety and security.

Policy 6.2.9.2

Promote and protect the health and safety of the community in development proposals.

153. The Commissioners took a particular interest in this issue, and agreed with the evidence that:

"the proposed JSC redevelopment is low risk in CPTED terms...and safer than the existing site"⁶⁹.

154. They supported Condition 11 (proposed Condition 10A), which specifically requires the adoption of best practice principles in terms of CPTED for the design.

155. The only contested issue with regard to CPTED was the desirability of after hours access to the mall for pedestrians, in order to provide a link to the public transport hub for the entire period in which the rail and bus network would be operating. Such access was requested in the submission from Greater Wellington⁷⁰, and also suggested in the Officers' Report, in order to improve connectivity through the site⁷¹.

156. Evidence was presented by the Applicant to suggest that this was not advisable as:

"on the basis of foreseeable risks to the public and to property...it would be safer, albeit less convenient, if pedestrians took the better supervised route via the public footpaths"⁷².

157. This statement was complemented by evidence from submitters regarding the pedestrian desire lines to the North, North-East and South-East as outlined above⁷³.

⁶⁹ Stoks: CPTED Evidence for the Applicant – paragraph 7.3

⁷⁰ Submitter #1: Greater Wellington Regional Council

⁷¹ Cullen/Stevens: Officers' Report - paragraph 78

⁷² Stoks: CPTED Evidence for the Applicant – paragraph 5.3

⁷³ Laing: Reply for the Applicant – paragraph 2.4 and 2.5

158. The Commissioners noted the evidence indicating that public access after hours would be unwise. They concluded that it was an issue outside their discretion⁷⁴, as it was a commercial issue, rather than a planning issue, and accepted the evidence of Mr Stoks for the Applicant in this regard.

Streetscape

159. Various other streetscape issues were raised in the Officers' Report and in submissions, with relation to pedestrian permeability, accessibility and legibility. These included pedestrian access from Moorefield Road, the western and north western car parks and access to/from the train station to the shopping centre; pedestrian access to the main shopping centre building from the south west carpark building; surface and general treatment of the Gothic Street west 'shared space' environment⁷⁵; and verandah continuity.
160. The Commissioners heard that while the goal of the streetscape design was to balance the character of the pedestrian, cycle and vehicle environment, and ensure sufficient, safe, and well defined space for pedestrians, the concept for Moorefield Road was responding to lower levels of pedestrian activity in comparison to Johnsonville or Broderick Roads⁷⁶. In addition to this, the Applicant referred to its current inability to address and enhance the pedestrian environment in the western and north western car parks, and around the train station, due to constraints imposed by a long term lease agreement with the Countdown supermarket⁷⁷.
161. The Applicant stated that Hawea Street west would be a primarily pedestrian space over which cars could be driven slowly, and Gothic Street would be an "entry plaza" – a multi-functional street providing for pedestrians, limited car parking access, set down/drop off and open space⁷⁸. Concern was expressed by the Council's Urban Designers that this area could be car dominated, rather than a shared car and pedestrian space⁷⁹. In response to Council concerns, the Applicant emphasised that the area would be a significant improvement on the current environment, and would have an emphasis on attracting pedestrians through attractive urban design including a continuous ground surface treatment, shop fronts and active edges⁸⁰.
162. Submitters Mellor and Warren raised the issue of general pedestrian and cyclist accessibility, and suggested additions to Condition 26 (proposed Condition 22) – Pedestrian and Cyclists Plan (PCP), which included incorporating the PCP into the proposal's Travel Management Plan (TMP)⁸¹, and requiring access routes to meet a specified international standard. The Applicant disagreed with this amendment, as the PCP was intended to be wider-reaching than the TMP, and extend to cover such matters as external accessibility to and from the site. High quality outcomes for pedestrian access ways would be provided for under the consultation requirement of the TMP and PCP⁸².

⁷⁴ Auburn: Planning Evidence Part B for the Applicant – paragraph 262

⁷⁵ Blunt/Beard: Officers' Report Appendix Five Urban Design Assessment – page 37

⁷⁶ Hawes: Streetscape Evidence for the Applicant – paragraph 4.1, 4.24 and 5.2

⁷⁷ Laing: Reply for the Applicant – paragraph 3.64(f)

⁷⁸ Bird: Urban Design Evidence for the Applicant – paragraphs 7.24 and 7.34

⁷⁹ Blunt/Beard: Officers' Report Appendix Five Urban Design Assessment – page 37

⁸⁰ Bird: Urban Design Evidence for the Applicant – paragraphs 9.9 – 9.14

⁸¹ Submitters #6: Mellor and #9: Warren - Hearing statement

⁸² Laing: Reply for the Applicant – paragraph 3.39

163. The Commissioners discussed all these issues, and considered that several of them would be suitably addressed at the later detailed design stages, under the guidance of final Conditions 15 (proposed Condition 12 - Gothic St “entry plaza”), 16 (proposed Condition 13 - landscaping details) and 23 (proposed Condition 19 - master plan of streetscape improvements to Johnsonville Road, Broderick Road, and Moorefield Road). They were comfortable with the Applicant’s explanation of Condition 26 (proposed Condition 22), and accepted it in the form suggested by the Applicant.
164. The Commissioners did however add more detail to Condition 23 (proposed Condition 19) to ensure that this condition would require a detailed examination of possible improvements to the northern and western access points to the shopping centre from Moorefield Road.
165. The Commissioners noted that while they understood that it would require the acquisition of property rights from the Council⁸³, an overhead pedestrian bridge connecting the south west carpark to the shopping centre would be a valuable addition to the proposal at some point in the future, and they included a note in the conditions to draw this issue to the attention of the Compliance Monitoring Officer.
166. The Commissioners agreed with one submitter⁸⁴ who suggested that a verandah extending the full length of the proposal’s Johnsonville Road frontage would enhance the proposal. However, they acknowledged that the break over the Hawea Street remnant in the otherwise continuous verandah is due to this land still holding the status of legal road, and remaining outside the ownership of the Applicant⁸⁵. They noted that this limitation could be addressed at a later date outside of this application, and included a note in the conditions to draw this issue to the attention of the Compliance Monitoring Officer also.

Townscape/Visual

167. The Commissioners heard evidence regarding the scale or ‘fit’ of the proposal into its wider townscape context.
168. The Applicant presented uncontested evidence that the scale of the building was anticipated under the District Plan; that larger foreground or background elements would screen parts of the proposal; and that the large commercial, community and office buildings in the immediate context would assist with a transition between the bulk of the proposal and the finer grain of residential development outside the town centre. In addition, their Urban Design Consultant advised that the effects of the size of the proposed building would be mitigated by breaking the facades down into smaller modules⁸⁶.
169. With regard to submitters’ concerns over the appropriateness of the size and height of the proposal to the town centre⁸⁷, the Applicant explained that in townscape terms, the issue is not specifically size or height, but the way the proposal relates to its surroundings, as addressed above⁸⁸. The Commissioners accepted this explanation.

⁸³ Laing: Reply for the Applicant – paragraph 2.10

⁸⁴ Submitter #26: Wotton

⁸⁵ Zillman: Architecture Witness for the Applicant – paragraph 5.4

⁸⁶ Popova: Streetscape Evidence for the Applicant – paragraph 8.2

⁸⁷ Submitter # 4: Williams and Submitter #12: Barbalich

⁸⁸ Popova: Streetscape Evidence for the Applicant 7.2 – 7.4

Rooftop

170. The Applicant explained that the roof of the building was designed to take account of the fact that it would be viewed from residential areas on the surrounding hills, and therefore the large car parking areas had been broken up into a series of smaller components⁸⁹. While not addressed in the Officers' Report, treatment of the rooftop, in terms of articulation, lighting and the impact that this would have on views was an issue that arose at the hearing and was discussed mainly during questioning from the Commissioners. The Applicant's Architect stated that if the rooftop was well articulated with mechanical plant, different levels, and colouring, the view of the proposal from above could be preferably to the current view. This opinion was supported by the Applicant's Urban Design Consultants.
171. The Commissioners accepted advice that view protection (per se) is not an issue over which the District Plan reserves discretion⁹⁰. However, Condition 12 (proposed Condition 10B) was volunteered by the Applicant to ensure visual differentiation of the surface treatment of the rooftop carpark.
172. The Commissioners added an Advice Note to clarify that the purpose of this condition was to mitigate adverse impacts on the views of residents overlooking the rooftop.
173. The Commissioners were also concerned with effects associated with the night time lighting of the rooftop, and these are addressed later in the decision, under "lighting".

Urban Design Effects Conclusion

174. The Commissioners felt that overall, the proposal would have a positive contribution to the urban form, streetscape and safety of Johnsonville. They gave particular consideration to the contentious issue of the east-west link through the shopping centre, and concluded that retaining the existing alignment while allowing for future changes, is the appropriate solution. They refined the suite of proposed design conditions suggested by the Applicant and Council, and were confident that these would provide appropriate guidance for the later detailed design of the proposal.

⁸⁹ Bird: Urban Design Evidence for the Applicant – paragraph 5.20

⁹⁰ Aburn: Planning Evidence Part B for the Applicant – paragraph 107

Transportation Effects

175. Under Rule 7.3.4 the Commissioners' discretion is restricted to the generation of vehicular traffic. Under Rule 7.3.1 the Commissioners' discretion is restricted to vehicle parking, service, and site access. In addition, under PC66, discretion includes the effect of the development on the sustainability of the transport network.
176. The New Zealand Transport Agency appeared at the hearing, and stated that *"the seven resource consent conditions volunteered by the Applicant meet its concerns regarding the proposal"*⁹¹. In addition, it suggested the refinement of wording in some specific conditions, and these suggestions were adopted in the final suggested conditions from the Applicant⁹².
177. On the above basis, the Commissioners considered the following transportation issues:
- Traffic Generation
 - Vehicle Parking, Servicing, and Site Access
 - Public Transport
 - Transport Sustainability

Traffic Generation

178. Throughout the hearing, the issue of the integration of a coordinated delivery of road and transport improvements in conjunction with the redevelopment was a key aspect of evidence and discussion.
179. Traffic evidence presented by the Applicant was supported by the Council's traffic advisor, as well as the Applicant's own peer reviewers⁹³.
180. The Commissioners heard the Applicant's Planning Consultant that:
- "The local roading network adjacent to and surrounding the Johnsonville Town Centre/shopping centre operates near capacity at peak times and has very little ability to accommodate any increases in traffic flows at the busiest times, before becoming congested with a consequent poor level of service."*
181. In addition they were advised by the same witness that:
- "A number of road and intersection improvements have been identified as being necessary in order to mitigate current deficiencies in the roading network, as well as provide for the combined traffic outcome of the expanded shopping centre and for the significant (future) residential growth that is planned for the Northern suburbs"*⁹⁴.
182. These traffic improvement works were subject to the separate application lodged by the Wellington City Council (granted 28 August 2009 - SR186223). The Commissioners accepted Condition 21 (proposed Condition 17), which was agreed to by both the Applicant and the Council, and refined in response

⁹¹ Submission #3:NZTA – Hearing Statement – paragraph 28

⁹² Applicant's Amended Proposed Conditions of Consent – 10/09/09

⁹³ Georgeson, Bradshaw, Clark and Mein: Traffic Experts for the Applicant

⁹⁴ Auburn: Planning Evidence Part B for the Applicant – paragraph 70

to the submission from NZTA⁹⁵. This proposed condition requires the works to be implemented and operational before any part of the redeveloped centre that exceeds 10,000m² can open to the public⁹⁶.

183. The Commissioners also noted that in questioning during the hearing, representatives of the four local Community and Progressive Associations stated that local residents were ‘desperate’ for the roading improvements to go ahead as soon as possible.

Vehicle Parking, Servicing, and Site Access

184. The Commissioners accepted advice from the Applicant that the proposed on-site parking (at between 1200 and 1300 spaces, including 23 park and ride spaces and 200 spaces for staff parking) would be appropriate for a centre of the type and size proposed; that appropriate on-site servicing provision would be provided,; and that site access arrangements would be appropriate given the nature and quantum of traffic movement(s) to and from the site⁹⁷.

185. In an overview, the Applicant stated that:

“Notwithstanding that the proposed new centre will have an increased number of on-site carparks, the programme of intersection, roading and site access improvements proposed will enable the increased number of car movements to and from the site to occur in a safe and efficient manner. The present ‘insufficient’ provision of on-site car parking results in overspill onto the surrounding road network, with consequent adverse effects on the efficiency and safety of the network, (which has) an adverse effect in terms of the sustainability of the road network”⁹⁸.

186. The Commissioners heard concerns regarding the impact on the park and ride carparks from a few submitters throughout the hearing. Greater Wellington Regional Council (GW), in its role as regional transport authority, accepted that the proposal retained the existing number of park and ride spaces, but it still suggested a condition in relation to this⁹⁹. However the Applicant pointed out that park and ride conditions had already been offered up by the Applicant as conditions 27 and 28 (proposed Conditions 23 and 24)¹⁰⁰.

Public Transport

187. Policy 6.2.8.1 of the Operative District Plan seeks to improve access for all people, particularly people travelling by public transport, cycle or foot and for those with mobility restrictions.

188. The Commissioners heard from the Applicant that:

“Public transport improvements include improved definition of links with the existing bus stops and railway station, options for more bus stops on Johnsonville Road, and provision for safer turning of buses on the network

⁹⁵ Submission #3:NZTA – Hearing Statement – paragraph 22

⁹⁶ McKinnon: Project Management Evidence for the Applicant paragraph 4.36

⁹⁷ Aburn: Planning Evidence Part B for the Applicant – paragraph 72

⁹⁸ Aburn: Planning Evidence Part B for the Applicant – paragraph 80

⁹⁹ Submitter #1: Greater Wellington Regional Council – Hearing Evidence paragraphs 2.4.5 and 5.5

¹⁰⁰ Laing: Reply for the Applicant – paragraph 3.82

*and at the site intersections. These enhancements can be further added to by the public transport stakeholders in the future*¹⁰¹

189. The Commissioners generally accepted the position as outlined by the Applicant and accordingly focused on the principal public transport issues raised in the submission notices by KiwiRail, Mana Coach Services and GW.

KiwiRail

190. KiwiRail had originally raised concerns regarding the inter-relationship between the proposed development and its operations at Johnsonville railway station. However, Kiwi had pre-hearing discussions with the applicant and tabled evidence at the hearing stating that:

*“The Applicant’s revised conditions recognise the concerns raised within our submission, and provide for the Applicant to consult KiwiRail as a key stakeholder in the adjoining public transport hub. KiwiRail is generally comfortable with the revised conditions and therefore seeks for council to accept the revised conditions in their entirety”*¹⁰².

Mana Coach Services

191. Similarly, and following discussions with the applicant regarding their notice of submission, Mana Coach Services Limited stated at the hearing that it was reassured that both the Applicant and Council Officers recognised the critical nature of the bus access provided by the Applicant between Broderick and Moorefield Roads, and that guaranteed and long term protection of this access would be provided by proposed Conditions 25A and 25B (final Conditions 30 and 31)¹⁰³.

Greater Wellington Regional Council

192. GW suggested the removal of approximately 25 car parks on Lot 3 DP 79336 in order to better accommodate the bus stops, and requested the securing of a legal road or registered right of way along the diagonal link proposed by the Applicant. In response, the Applicant reiterated that Lot 3 DP 79336 is subject to a lease in favour of Countdown for 20 years, and that while the Applicant has obtained Countdown’s approval to the access arrangements provided for in the application, it cannot change anything further without Countdown’s consent. In particular, it considered Countdown extremely unlikely to agree to any loss of car parks. It also stated that it does not consider a right of way necessary, given that Condition 31 (proposed Condition 25A) establishes a right of passage, and pointed out that it is not legally possible to create a road through a private car park building¹⁰⁴.
193. The Commissioners recognised the current legal restrictions and their impediment on unfettered alterations to the various public transport options. In particular, they endorsed the following statement from the Applicant:

“Whilst it is unfortunate that historical public transport arrangements are not protected by property rights to the extent which GWRC may consider

¹⁰¹ Georgeson: Traffic Evidence for the Applicant – paragraph 3.5(f)

¹⁰² Submitter #14: KiwiRail – Evidence Tabled at the Hearing – paragraphs 16 and 17

¹⁰³ Submitter #8: Mana Coach Services

¹⁰⁴ Laing: Reply for the Applicant – paragraph 3.79

desirable, this hearing process is not the appropriate forum to resolve these matters¹⁰⁵.”

194. GW also requested certain conditions relating to the location and capacity of bus stops on Johnsonville Road¹⁰⁶. The Applicant pointed out that bus stops on legal road are beyond the scope of the application¹⁰⁷.
195. Proposed conditions from GW regarding the proposal’s impact on the operation of the Johnsonville bus hub were accepted by the Applicant, and were proposed as Condition 25BB and a modification to proposed Condition 18, as tabled at the hearing (final Conditions 32 and 22 respectively)¹⁰⁸.
196. GW also proposed a land use integration condition, requiring a detailed plan of the area to be prepared in consultation with GW and WCC in order to mitigate the impacts of the proposal, and ensure integration with public transport¹⁰⁹. The Applicant stated that the proposed Conditions 1 and 12 would (final Conditions 1 and 14 respectively) address the works proposed by the Applicant, and their related plans, and no further conditions were necessary¹¹⁰. This was accepted by the Commissioners.
197. The remaining public transport issues concerned two topics:
 - Bus Route Alignment through the Site
 - Future Proofing
198. The principle submitter raising these issues was GW and the Commissioners record that there was extensive discussion during the hearing on these two matters.

Bus Route Alignment through the Site

199. In its presentation at the hearing, GW requested that bus stops be relocated to Hawea Street, and bus access be provided along the legal road alignment of Hawea and Gothic Street, rather than via the current diagonal route across the Applicant’s land and through the proposed parking building, as provided for in the application. Reasons advanced by GW for the changed alignment were to avoid mixing buses with internal car parking traffic generated by the proposed car parking building, and concerns about space, turning, and visibility for buses in the proposed accessway¹¹¹. The Applicant strongly disagreed with this change in alignment, citing its lease agreement with the Countdown supermarket, and the pedestrian oriented nature and design of the Gothic/Hawea “entry plaza” as key constraints¹¹².
200. Mana Coaches stated that given the choice, it would prefer to have its buses travel on legal road such as the Gothic and Hawea Street alignment¹¹³. However, it accepted at the hearing that use of this route by buses lacked

¹⁰⁵ Laing: Reply for the Applicant – paragraph 3.88

¹⁰⁶ Submitter #1: Greater Wellington Regional Council - Hearing evidence from Lawrence – paragraphs 2.4.4 and 5.2.1

¹⁰⁷ Laing: Reply for the Applicant – paragraph 3.64(f) and (g)

¹⁰⁸ Laing: Reply for the Applicant – paragraph 3.73 and 3.74

¹⁰⁹ Submitter #1: Greater Wellington Regional Council - Hearing evidence from Lawrence – paragraph 2.4.1

¹¹⁰ Laing: Reply for the Applicant – paragraph 3.66

¹¹¹ Submitter #1: Greater Wellington Regional Council - Hearing evidence from Lawrence – paragraphs 2.4.3(c) – (e) and 5.3.2 – 5.3.4 and 6.3.2

¹¹² Laing: Reply for the Applicant – paragraph 3.75

¹¹³ Submitter #8: Mana Coach Services

feasibility due to potential conflict with other users¹¹⁴, and the difficulty for buses to negotiate the sharp and narrow turn.

201. The Council's Chief Transport Planner, Mr Spence, also expressed concerns at the hearing regarding this alternative bus route. Having had little time to properly consider the matter, he advised that given the high level of pedestrian movement occurring at the entrance area, and the large size of the buses, he was not convinced of the merit of GW's suggestion.
202. The Commissioners noted that during questioning, GW Officers conceded that they would be satisfied with either bus route alignment, and also accepted that the various issues they had identified in relation to the diagonal route could be overcome at the detailed design stage¹¹⁵.

Future proofing

203. The Applicant and Council were in agreement that the proposal has been 'future proofed' by being designed in such a way that it can be readily joined to future upgrades of the railway station and bus interchange, when the public transport stakeholders are in a position to advance such improvements¹¹⁶.
204. The Commissioners agreed with the Council Officers' statement that:

*"the responsibility to upgrade public transport facilities should not be placed only on the Applicant and that appropriate upgrades to these facilities will require a partnership between several; agencies and landowners"*¹¹⁷.

205. They strongly supported the Applicant's view that:

*"The Applicant is not in a position to deliver an integrated public transport solution, and this is not their role as private developers"*¹¹⁸... and

*The way forward is for GWRC and other stakeholders in conjunction with Countdown, as long term lessee, and the Applicants, to reach a consensus on potential public transport improvements outside the current hearing process.*¹¹⁹

206. They urged the Applicant to address the potential for further enhancing the integrated public transport hub in the future. They noted that the Applicant had made considerable efforts already in this regard, and had indicated that they wished to continue to do so. In the spirit with which this intention was expressed at the hearing, the Commissioners were confident that further positive outcomes could be attained without the imposition of proposed conditions.

¹¹⁴ Laing: Reply for the Applicant – paragraph 3.1

¹¹⁵ Laing: Reply for the Applicant – paragraph 3.76

¹¹⁶ Aburn: Planning Evidence Part B for the Applicant – paragraph 65 and Cullen/Stevens: Officers' Report - paragraph 73

¹¹⁷ Cullen/Stevens: Officers' Report - paragraph 73

¹¹⁸ Laing: Reply for the Applicant – paragraph 3.86

¹¹⁹ Laing: Reply for the Applicant – paragraph 3.83

Transport Sustainability

207. The Commissioners heard traffic evidence that the specific measures and initiatives that would make a contribution to transport sustainability outcomes would be the encouragement of non private vehicle modes (walking, cycling and public transport) through implementation of Travel Management and Pedestrians and Cyclists Plans (final consent Conditions 24, 25 and 26)¹²⁰. They were also advised that the development would reduce total shopper kilometres on the roading network by approximately 16%¹²¹.
208. Submitters Warren and Mellor suggested further amendments to proposed Condition 20 (final Condition 24), including setting specific targets for the reduction of the proportion of trips made by private car to the shopping centre¹²². The Commissioners considered their suggested changes, but noted that they were not based on expert advice, and accepted the response from the Applicant that:
- “It is not appropriate to set targets as suggested at this early stage, particularly without consultation with stakeholders, or evidence to support the appropriateness of those targets. The condition as proposed by the Applicant provides for the setting of targets in consultation with appropriate stakeholders”¹²³.*
209. The Commissioners concluded that there is already scope within the proposed Condition to allow those matters raised by these two submitters to be explored and developed through the TMP process without predetermining targets and other such details. The Commissioners also noted that the Submitters agreed with proposed Conditions 20, 21 and 22 (final Conditions 24, 25 and 26) in principle during questioning.

Transportation Effects Summary

210. The Commissioners were satisfied that the Applicant had given extensive consideration to transportation matters, including traffic generation, parking and access. These were considered with regard to both the site and the wider network, and were endorsed by the Council.
211. The Commissioners considered it appropriate to include a condition constraining the operation of the proposal until the roading network improvements had been undertaken. They were satisfied that the Applicant had worked hard to provide for the best possible public transport outcome at this point, and the proposal would not preclude further enhancements of the public transport hub in the future.

¹²⁰ Aburn: Planning Evidence Part B for the Applicant – paragraph 79

¹²¹ Georgeson: Traffic Evidence for the Applicant – paragraph 3.5(g)

¹²² Submitters #6 Mellor and #9 Warren: Hearing statement

¹²³ Laing: Reply for the Applicant – paragraph 3..35

Economic/ Retail Effects

Effect on Golden Mile/CBD

212. PC66 introduces discretion to consider the retail impact of the proposal on the sustainability (“vitality, vibrancy and viability”) of the CBD’s “Golden Mile”.
213. The Commissioners noted that this was the first resource consent application to be considered under this Plan Change. As the Plan Change was still very early on in the statutory process, the Commissioners recognised that its weighting was limited. However, they still gave its economic objectives careful consideration.
214. The Commissioners noted that PC52 also has economic criteria, however these only relate to “out of centre” retail activities, so do not apply in the case of this proposal, as Johnsonville is an identified “suburban centre”¹²⁴.
215. The Applicant’s Consulting Economist, Mr Copeland, drew several key conclusions on the ‘fit’ between the application and PC66 criteria. He stated that retail trade activity is but one of a number of contributors to the sustainability of the Golden Mile, and emphasised the number of natural advantages of the Golden Mile such as topography, geography, concentration of office space, employment, tertiary education facilities, accommodation, event venues and entertainment areas on it or nearby, and the public transport hubs at either end¹²⁵. This evidence was supported by anecdotal evidence from submitters, who emphasised that the Golden Mile had completely different features from a suburban shopping centre, and as such attracted an entirely different market¹²⁶.
216. The Applicant’s methodology was reviewed by the Council’s economic consultant, Dr Small, who found it to be reasonable. He concurred that a 5.6% impact on the Golden Mile’s ‘comparison retail’ sales in 2011/12 as a result of the shopping centre, and full recovery from the impact within three years, was at the most a minor risk to the viability and vitality of the Golden Mile¹²⁷.
217. Five submitters raised concerns that the proposal would have adverse effects on sustainability of the Golden Mile¹²⁸, however (and as outlined in Section 5 of this decision) the Commissioners noted that no-one presented expert economic advice to support this assertion.
218. Kiwi Property Holdings was the only submitter to raise the issue of economic impacts at the hearing. This evidence was of a property oriented nature, and it presented no expert economic evidence. It did not raise the issue of impacts on the CBD, but concentrated on the impacts on Porirua’s North City Shopping Centre. The Commissioners acknowledged the concerns of Kiwi (and had no reason to dispute the impact on the North City Shopping Centre), but noted that these were matters outside the scope of the hearing, and could not play a part in their considerations as the Council has not reserved its

¹²⁴ Plan Change 52 Decision Report – Appendix 2

¹²⁵ Copeland: Economic Evidence for the Applicant – paragraph 4.1

¹²⁶ Submitters: Randle, Coltart, Crook, Johnsonville Business Association et al

¹²⁷ Small: Officers’ Report Appendix Five Economic Assessment – pages 46 - 48

¹²⁸ Submitters: Westfield (NZ) Ltd, Kiwi Property Holdings, Building Solutions, Kirkcaldie and Stains, Barbalich et al

discretion over the effects of the proposal on centres other than the Golden Mile¹²⁹.

219. The Commissioners accepted the complementary evidence of the expert witnesses from the Applicant and the Council Officers along with the many individual and resident/business association submissions, and did not believe the proposal would significantly impact on the Golden Mile's sustainability.

Positive Economic Effects

220. Evidence was presented by the Applicant demonstrating that the development would have positive economic impacts for the entire Wellington City economy, including additional GDP of up to \$124 million, and additional employment of the equivalent of up to 1,775 one year full time positions, spread over the period of construction. Once operational, the proposal would contribute additional annual GDP of up to \$12.8 million to the Wellington City economy, and up to an additional 200 annual full-time equivalent employment positions¹³⁰.

Other Amenity Effects

221. The Operative District Plan addresses amenity effects under Objective 6.2.2 which is:

"To maintain and enhance the amenity values of Suburban Centres and any nearby Residential Areas"

Shading

222. The Commissioners were comfortable that shading effects would be minor, and that the Applicant had addressed the concerns of the one submitter affected, as discussed earlier in the decision within height.

Wind

223. The Applicant's Wind Effects Consultant concluded that there were no aspects of the design which raised significant concerns regarding wind effects, and the proposal would have an overall neutral, if not beneficial, effect on local wind conditions¹³¹.

224. The Council's wind advisor was in general agreement with this position, but drew attention to the risk, as stated by the Applicant, of:

"...wind flows through the building entrances causing cold draughty conditions for the shops inside nearest the windward doors".

225. He pointed out that the current shopping centre already has wind issues with some of its entranceways, and questioned the suitability of the major entrance. He noted however, that these are pre-existing wind issues rather than a potential outcome of the proposal¹³².

¹²⁹ Laing: Reply for the Applicant – paragraph 3.22 and 3.23

¹³⁰ Nana: Economic Effects Evidence for the Applicant – paragraphs 3.12 and 3.18

¹³¹ Jamieson: Wind Evidence for the Applicant – paragraph 7.3

¹³² Donn: : Officers' Report Appendix Five Wind Assessment – page 78

226. Submitters raised the issue of the “unpleasant gales” and wind tunnel issues in Johnsonville and suggested that attention should be given to the siting of the main entrances and access points¹³³.
227. The Applicant responded to these concerns, explaining that the design of the main entrances has taken wind effects into consideration, and included recessed entranceways, large canopies, and the possible use of wind lobbies or revolving doors. In addition there would be a number of alternative entrances that could be used in windy conditions¹³⁴.
228. The Commissioners accepted the evidence that the proposal would have a neutral wind effect, but in terms of a ‘belts and braces’ approach, decided to add a design consideration condition (Condition 13). This requires the details of entranceway airlocks or other means of managing wind effects on entranceways to be developed and approved at the detailed design stage.

Operational Noise

229. Operational noise from the proposal is expected to be generated by mechanical plant, vehicle movements, and commercial operations which could include bars, courtyards or a gym. The Commissioners heard that the current noise level around the application site, which is determined almost entirely by road traffic, exceeds the noise limits at all times¹³⁵.
230. The Applicant’s Noise Advisor stated that specialist advice during detailed design would be required to ensure noise limit compliance for any mechanical plant. In terms of vehicle noise, the change in peak hour traffic noise levels was predicted to be generally imperceptible, and the 24 hour average noise level within the Design Noise Level range of the Transit New Zealand Guidelines. Noise levels from the loading dock activities have also been calculated to comply with the respective District Plan noise limits. Where the parking buildings face Outer Residential boundaries, the external panelling would be designed to obscure a clear line of sight to the boundary, thus limiting noise spill. Specialist advice and noise control measures would need to be applied to any commercially generated noise, and would require further analysis at the design stage, and management once operational¹³⁶.
231. A nearby resident lodged a submission requesting a consent condition requiring the carpark surface to be maintained in a condition which would avoid tyre squeal¹³⁷. The Applicant responded that tyre squeal could be avoided through a combination of design specifications and surface treatments¹³⁸. The Commissioners accept this and note that a condition has been formulated to deal with this (Condition 39).
232. The Council Noise Officer was of the opinion that operational noise effects resulting from the proposal would be acceptable, and that District Plan compliance should be achievable. The Officer suggested a range of proposed conditions relating to operational noise (final Conditions 35 – 40), including

¹³³ Submitter #23: Smythe and Submitter #31: Wallace

¹³⁴ Jamieson: Wind Evidence for the Applicant – paragraph 8.1

¹³⁵ Wassilieff: Noise Expert for the Applicant – paragraph 4.6

¹³⁶ Wassilieff: Noise Expert for the Applicant – paragraphs 4.24, 4.30, 4.31, 4.36, and 4.42

¹³⁷ Submitter #21: Silvester

¹³⁸ Wassilieff: Noise Expert for the Applicant – paragraph 4.43

the requirement of a Servicing and Event Noise Management Plan. These were supported by the Applicant.

233. The Commissioners accepted the proposed noise conditions, and concluded that these would adequately mitigate and ensure continued management of any adverse noise effects from the operation of the shopping centre.

Lighting

234. Lighting is controlled under the District Plan. Issues of light spill and glare were raised by submitters.
235. The Applicant and Council Officers agreed that the proposal would be able to comply with the permitted activity conditions with respect to lighting¹³⁹.
236. KiwiRail submitted its concerns regarding the risks for train drivers of light spill and glare¹⁴⁰. The Applicant responded to this by accepting proposed Condition 25D(c) (final Condition 33(c)) and Advice Note 2 as tabled at the hearing¹⁴¹.
237. One submitter expressed concern over the effect of light spill on her residence¹⁴². The Applicant acknowledged this concern, and considered that it could be accommodated through the design process¹⁴³.

Rooftop Lighting

238. The Commissioners were concerned in regard to the effect of the lighting of the rooftop carpark, which was not addressed specifically in any written evidence. In discussion on this topic at the hearing, it was confirmed that any roof top lighting would also have to meet the relevant permitted activity standard¹⁴⁴. The Council's Urban Designer stated that provided it met the standard, some level of light pollution or glare would be acceptable, as the site was in the town centre, and lighting could be expected as a feature of the night time townscape.
239. The Commissioners concluded that any lighting effects would be minor. They accepted the complementary evidence of the Applicant and Council Officers and the proposed lighting conditions.

Verandahs

240. The Operative District Plan also has a policy under the above Objective 6.2.2 which relates specifically to verandahs;

Policy 6.2.2.6

Ensure that on streets or access routes where there are many pedestrians, verandahs are continuous.

¹³⁹ Blackler: Lighting Expert for the Applicant – paragraph 6.1 and Cullen/Stevens: Officers' Report - paragraph 101

¹⁴⁰ Submitter #14: KiwiRail

¹⁴¹ Blackler: Lighting Expert for the Applicant – paragraph 4.6

¹⁴² Submitter #21: Silvester

¹⁴³ Blackler: Lighting Expert for the Applicant – paragraph 4.2

¹⁴⁴ Aburn: Planning Evidence Part B for the Applicant – paragraph 261

241. The Commissioners noted this, and refer to their comments on the Johnsonville Road verandahs within the streetscape section of this decision.

Other Effects and Issues

Cultural Effects

242. No submissions were received regarding cultural effects; however the Applicant presented evidence confirming its ongoing consultation with the Wellington Tenth Trust. This had resulted in its intention to use design measures to locate and recognise the Waitohi Stream which is of significance to iwi¹⁴⁵.
243. The Commissioners accepted that they could not impose a condition relating to the stream, as it was a matter outside their discretion¹⁴⁶. However, they strongly encouraged the maintenance of this mutually supportive relationship, especially with regard to the possible future recognition of the stream's location. They noted that Advice Note 10 provided guidance regarding any archaeological issues relating to the site.

Staging

244. As outlined in the proposal description, the proposal would be built in two 'Stages'. It would be possible that Stage One could represent the final proposal, if the Applicant decided against proceeding with Stage Two. The Commissioners considered the potential issues if Stage One were to represent the final proposal.
245. In terms of economic effects, the Commissioners determined that this could have the 'positive' effect of reducing the predicted impact on the Golden Mile, but it could also reduce the potential positive economic and job creation effects for Wellington City as a whole. On balance they concluded that there was no major disparity between the staging and the positive/negative economic effects.
246. In terms of the physical impact, the South East entrance to the shopping centre would not be built. This could reduce wind issues for the proposal, but would also reduce accessibility to the shopping centre, and permeability from and to the south east corner of the Johnsonville Triangle. The streetscape improvements would also be diminished by the retention of the "tired" facades on Johnsonville Road.
247. The key issue identified by the Commissioners was the blank high wall that would run behind the existing Johnsonville Road shops at the completion of Stage One. The Commissioners considered this to be undesirable from a streetscape and urban design perspective, especially if it were to become permanent. They noted that the suite of design conditions in proposed Condition 10 did not address any issues of façade modulation at Stage One. The Commissioners have refined final Condition 10 to include a requirement for this.

¹⁴⁵ Aburn: Planning Evidence Part B for the Applicant – paragraph 250(c)

¹⁴⁶ Aburn: Planning Evidence Part B for the Applicant – paragraph 259

248. Overall, the Commissioners concluded that it would be unfortunate if Stage Two did not proceed, and Stage One represented the final outcome of the proposal, however they did not consider this an issue significant enough to affect their final decision. They considered consent lapse dates of five years for Stage One and ten years for Stage Two to be appropriate.

Community Liaison Group

249. One submitter, a local resident, requested that a community liaison group be set up for the Applicant to consult with during the construction period¹⁴⁷. The Council Officer responded to this suggestion, and explained that it would be unusual for a development of this scale to have a community liaison group. It would create the risk of raising false expectations, and further complicating the consent compliance processes without adding any benefit to the process¹⁴⁸.
250. The Commissioners considered the matter and accepted the Council Officers' advice that there was not sufficient justification for such a group. They noted that this would not preclude Residents' Associations and the like maintaining an ongoing interest in the construction process, and assisting with the identification of any issues. The Council's Monitoring Officer could then be contacted if necessary to assist in addressing their concerns; or the consent holder could be approached directly.

Hawea Street Remnant

251. The Commissioners noted that the Hawea Street 'remnant' on Johnsonville Road received many different suggested treatments by different witnesses during the hearing. Potential uses included carparking, a pocket park, or a bus 'lounge'. Overall, the Commissioners recognised that it is a difficult space, as while it will be no longer necessary as a servicing area, it is not owned by the Applicant, so cannot be included in the proposal. The Commissioners would be very concerned if it was left in its present neglected state which detracts from the current streetscape, and would likewise detract from the proposed completed development. They were emphatic that it should be integrated, or at least made compatible with, the shopping centre through landscaping treatment.
252. The Commissioners heard evidence from both the Applicant's design professionals and Council Urban Design advisors that a continuous verandah providing pedestrian shelter along the Johnsonville Road frontage would be preferable. They encouraged the Applicant, Council, and any other interested parties to work in conjunction with one another to find a positive outcome for this space.

Greater Wellington Transport Issues

253. The Commissioners were surprised and disappointed that Greater Wellington Regional Council (GW) raised several specific new issues at the hearing that were not directly raised in their original submission. This left the Applicant and Wellington City Council Officers (WCC) in a position where it was too late

¹⁴⁷ Submitter #32: Wanty

¹⁴⁸ Cullen/Stevens: Council Officers' Reply – paragraph 7.5

to call evidence in response¹⁴⁹. In addition, GW's submission presented many issues that, while arguably valid in policy terms, were outside the scope of this resource consent process.

254. The Commissioners were also disappointed that GW had engaged Parsons Brinckerhoff to review Johnsonville's bus operations without consultation with WCC, and that WCC did not engage GW during the Johnsonville roading consent process. They strongly encouraged GW and WCC to engage with each other, and with other relevant authorities, to work through the issues raised.
255. It was explained by WCC Officers at the hearing that there are subsequent consultation processes that must be undertaken in respect of the roading works. These could potentially include a public notification process. The minimal areas of works subject to the already approved resource consent could be fine tuned in conjunction with this process.

7. CONSIDERATION OF POLICIES AND OBJECTIVES

256. Having assessed the nature of the effects from the proposed development, the Commissioners considered the pertinent objectives and policies to have been well traversed in the planning evidence from the Applicant and Council Officers. Of particular importance to this decision were those objectives and policies that were related to the effects of the proposal on urban form, Wellington's retail hierarchy, and the sustainability of local and regional transport networks.
257. The Commissioners accepted that there was a high level of consistency between the overall planning strategy and the outcome represented by the proposed development. The relationship between the proposal and the relevant policies and objectives was well outlined in the Officers' Report¹⁵⁰, and similarly summarised in planning evidence from the Applicant. Due to the high level of consistency of evidence in this regard, the Commissioners have paraphrased and adopted the following summary¹⁵¹:
 - The intensification of development at Johnsonville would be consistent with the long-term urban growth management strategy (the 'growth spine'), and with the regional strategy, both of which are premised on sustainable management principles.
 - Johnsonville is a designated sub-regional centre and as such it is anticipated that a significant retail offering would be available that serves not just the immediate catchment, but that of the wider Northern suburbs. The redeveloped shopping centre would 'anchor' this sub-regional role and function.
 - The Applicant's Consulting Economist, supported by the Council's independent economic peer reviewer, clearly established that potential adverse effects will be no more than minor, and will not put the Golden Mile's ongoing sustainability at risk.
 - Intensified development at Johnsonville would be consistent with promoting an overall compact urban form based on the 'growth corridor',

¹⁴⁹ Laing: Reply for the Applicant – paragraph 3.56

¹⁵⁰ Cullen/Stevens: Officers' Report – paragraphs 122 - 188

¹⁵¹ Aburn: Planning Evidence Part B for the Applicant – paragraph 186

which is central to the urban growth management strategies of the city and region.

- The Johnsonville ‘triangle’ is separated from Residential Areas by (at a minimum) the width of the roads (Broderick and Moorefield). There would be compliance with the specific permitted activity conditions relating to height adjacent to Residential Areas (Rule 7.1.2.2). Thus, in terms of any shading/sunlight loss, there would be no effect beyond the permitted baseline. In terms of noise and lighting effects, the permitted activity standards would be met at Residential Area boundaries.
 - The redeveloped shopping centre would ‘fit’ into its context in terms of townscape. Buildings up to 12m high across the full site are anticipated by the District Plan provisions. Thus, in District Plan terms the bulk and scale would be appropriate. It would also be appropriate in the context of the site and its setting in the Johnsonville Basin. The redeveloped shopping centre would result in an enhancement of the streetscape and provide an attractive and legible street environment.
 - The redeveloped shopping centre would enable efficient, convenient and safe access and make appropriate provisions for both motorised and non-motorised modes of travel, as demonstrated by a rigorous process of traffic modelling, assessment and peer review.
 - The redeveloped shopping centre would promote and protect the health and safety of the community under the principles of CPTED.
 - The adverse effects would essentially be limited to traffic-related effects, urban design effects and temporary construction (including earthworks) effects. The suite of proposed consent conditions would address these and put in place appropriate mitigation measures.
 - The proposal would align with the planning strategy for Suburban Centres, and PC66.
 - The proposed redeveloped shopping centre would be consistent with the Suburban Centre zoning, consistent with the various relevant planning strategies (urban growth management and town centre development/intensification and consolidation) and would enable the people and communities of Johnsonville and the northern suburbs to better provide for their economic and social wellbeing. At the same time, any adverse effects would be appropriately avoided, remedied or mitigated. It would therefore promote the purpose of the Resource Management Act.
258. Overall, the Commissioners consider that the proposal is consistent with the objectives and policies of the Operative District Plan and PC52, PC66, and PC70. The proposed development provides for growth and enhanced vitality within the immediate locality, whilst maintaining the general urban form for the Johnsonville Area and promoting quality urban design and transport outcomes.

8. OTHER MATTERS (SECTION 104(1)(C)) ASSESSMENT

259. Several non-statutory documents were identified as “other matters”. These are

- Wellington Regional Strategy - A Sustainable Economic Growth Strategy for Our Region (2006)
- Wellington Regional Land Transport Strategy 2007-2016
- Northern Area - A Framework for Growth Management (2003)
- Urban Development Strategy (2006)
- Johnsonville Town Centre Plan (2008)
- Centres Policy (2008)
- Where Will Wellington Grow: Review of Infill Housing

260. The Commissioners concurred with the discussions of these matters provided by the Council Officers and the Applicant¹⁵², and considered the application to be consistent with the thrust of the non-statutory plans and strategies noted.

261. The Commissioners considered the proposal to give effect to two of these documents in particular. These were the Johnsonville Town Centre Plan (2008) and the Centres Policy (2008).

262. The Johnsonville Town Centre Plan (JTCP) outlines a framework to guide the future of Johnsonville. The Commissioners were satisfied that the Applicant had appropriately considered the Draft JTCP in providing a pedestrian link between Johnsonville Road and Moorefield road. The proposal also aligned with the JTCP’s encouragement of the expansion and intensification of retail in Johnsonville. In volunteering to provide major roading upgrades prior to the opening of the proposal, the Applicant had addressed the JTCP’s aspirations in terms of traffic improvements for Johnsonville. Finally, by allowing for future improvements to the public transport hub within the proposal’s site, the application does not preclude the JTCP’s goal of excellent public transport access for Johnsonville¹⁵³.

263. The Centres Policy provides a framework to guide the development and management of Wellington City’s centres, with the overall intent of maintaining and strengthening existing centres. Johnsonville is identified as one of two sub-regional centres, below Central Wellington, which is the primary centre. The Commissioners accepted the evidence from the Council Officers that:

“The proposal is consistent with the Centres Policy as it will not impact on the sustainability of the Central City, while providing for the needs of a significant part of the region¹⁵⁴.”

¹⁵² Cullen/Stevens: Officers’ Report – paragraphs 189 – 205 and Aburn: Planning Evidence Part A for the Applicant – paragraphs 61

¹⁵³ Cullen/Stevens: Officers’ Report – paragraphs 197-203

¹⁵⁴ Cullen/Stevens: Officers’ Report – paragraphs 204 - 205

9. PART TWO ASSESSMENT

264. As directed by section 104(1), the consideration of resource consent applications and any submissions received must be undertaken subject to Part 2 of the RMA.
265. The Commissioners heard that case law has clarified the extent to which Part 2 matters apply to applications for restricted discretionary activities. Accordingly, the only relevant assessment under Part 2 for this application is in relation to matters that would support the granting of consent to the proposal¹⁵⁵.
266. As the Part Two assessments of the Council Officers and the Applicant were in accord with one another, the Commissioners adopted the assessment provided by the Applicant's Planner:
267. Part 2 matters that support the granting of consent are as follows:
- Granting the application would promote section 8 of the Act (Treaty of Waitangi) by enabling the Applicant to work with the Wellington Tenth Trust in a mutually beneficial way as requested by the Wellington Tenth Trust and accepted by the Applicant. Also relevant are sections 6(e) and 7(a); and
 - Granting the application would promote three section 7 'other matters' by enabling the Applicant to make more "*efficient use and development of the natural and physical resources*" (s7(b)); enhancing "*amenity values*" (s7(c)); and enhancing the "*quality of the environment*" (s.7(f)).
 - Granting the application would not conflict with any of the matters of national importance listed in section 6 of the Act. As noted above, it would actively promote s.6(e) .
 - Granting the application would promote section 5 of the Act by enabling the Applicant to develop the land that is the subject of the application for an integrated, well designed shopping centre within the Johnsonville Town Centre, and thereby enabling people, particularly residents of Johnsonville and in the northern suburbs, to better provide for their social and economic wellbeing.
268. The Commissioners concluded that the Part Two assessment highlighted many of the benefits of the proposal, and that overall the proposal will achieve the purpose of the Act.

¹⁵⁵ Aburn: Planning Evidence Part B for the Applicant – paragraphs 171 and 172.

10. OVERALL EVALUATION (SUMMARY)

269. The Commissioners considered the proposal in terms of traffic effects, urban design outcomes and its impact on the sustainability of the Golden Mile, both during the construction phase, and after the completion of Stage One and Stage Two. They heard extensive evidence, but noted that overall there was an unusually high level of concurrence between the evidence from the Applicant, Council Officers, and many submitters.
270. With regard to submitters, they noted that there was a particularly high level of support for the proposal from the local community, and very little opposition to it. They concluded that overall the proposal was appropriate for the location, and that development of such a nature and scale in Johnsonville was anticipated by the strategic policy context at both the regional and city level.
271. The Commissioners accepted the proposed conditions agreed upon by the Applicant and Council Officers, and made only minor changes, for the sake of clarity.

11. CONDITIONS

272. Section 108 of the Act allows for resource consent to be granted subject to conditions.
273. The Council Officers recommended a comprehensive suite of consent conditions in their Report, and the Applicant's Counsel, provided comments on and suggested amendments to those proposed conditions. At the request of the Commissioners, the Council Officers and the Applicant had ongoing discussions during the Hearing to produce a final suite of agreed conditions.
274. The Commissioners took note that these proposed conditions could be divided into two categories – those within the scope of matters over which the Council has reserved its discretion, and those outside that scope, but that are acceptable to the Applicant¹⁵⁶.
275. The Commissioners have taken those agreed conditions as a starting point, and amended them in places, in order to deal with their various findings as set out earlier in this Decision.
276. Of note, the Commissioners have:
- Added more detail to Condition 23 (proposed Condition 19), to require a more detailed streetscape design examination of possible improvements to the northern and western access points to and from the shopping centre from the Moorefield Road area.
 - Added a note to Condition 12 (proposed Condition 10B) to clarify that the purpose of the condition was to mitigate adverse impacts on views of the shopping centre's rooftop.
 - Added a design consideration condition (Condition 13), requiring the details of entranceway airlocks or other means of managing wind effects

¹⁵⁶ Laing: Reply for the Applicant – paragraph 2.20

on entranceways, to be developed and approved at the detailed design stage.

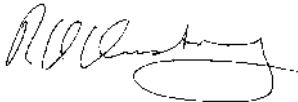
- Refined (proposed and final) Condition 10 to include a requirement for modulation of the Stage One second storey façade, behind the Johnsonville Road shops.
- Added a note to the suite of design conditions drawing the Compliance Monitoring Officer's attention to their recommendations in respect to potential enhancements to the Hawea Street east legal road remnant and to pedestrian access between the south west carparking building and the main shopping centre building.

277. The conditions are attached as Appendix 1 to this Decision.

12. DECISION

278. Consequently, the Commissioners under delegated authority from the Council, pursuant to Section 104(B) of the Resource Management Act 1991, and under the provisions of the Wellington City District Plan, and having regard to the evidence presented, **grant consent** to the proposal for the construction, use, operation and maintenance of a complex of buildings and structures collectively referred to as the "Johnsonville Shopping Centre", for a range of activities including retail and commercial activities, together with provision for vehicle access, on-site parking and servicing at the site for which the legal description is provided on page 3.

279. Consent is granted for a five year period for Stage One, and a ten year period for Stage Two, and is subject to the conditions listed in Appendix One at the end of this decision.



Robert Armstrong (Chair)



Neil Penney



David McMahon

HEARING COMMISSIONERS

28 September 2009

APPENDIX ONE: CONDITIONS OF CONSENT

General

1. Except where necessary to comply with another condition of consent, the proposal must be in accordance with the information provided with Service Request No. 186264 and the following plans by The Buchan Group:

In relation to Stage One:

- “Johnsonville Shopping Centre Redevelopment RC Application - Stage 1” drawings entitled:
 - Ground Floor Retail [R1] & Parking Level [P1] RL 138.5 / RL 139.0 (Dwg No. A-RC2-S1-0003, issue A), dated 18.05.09;
 - Parking Level [P2] & Storage [R1M] RL 142.0 / RL 141.5 (Dwg No. A-RC2-S1-0004, issue A), dated 18.05.09;
 - First Floor Retail [R2] & Parking Level [R2] RL 144.0 / RL 144.0 (Dwg No. A-RC2-S1-0005, issue A), dated 18.05.09;
 - Parking Level [R2M] Parking Level [P3] RL 146.75 / RL 146.5 (Dwg No. A-RC2-S1-0006, issue A), dated 18.05.09;
 - Parking Level [P4] RL 149.5 (Dwg No. A-Rc2-S1-0007, issue A), dated 18.05.09;
 - Sections (Dwg No. A-RC2-S1-0010, issue A), dated 18.05.09;
 - Site Circulation (Dwg No. A-RC2-S1-0011, issue A), dated 18.05.09;
 - Elevations (Dwg No. A-RC2-S1-0013, issue A), dated 18.05.09;
 - Elevations (Dwg No. A-RC2-S1-0014, issue A), dated 18.05.09;
 - Footpath Encroachment Plan (Dwg No. A-RC2-S1-0027, issue A), dated 18.05.09; and
 - GFA Calculations Proposed Development (Dwg No. A-RC2-S1-0031, issue A), dated 18.05.09.

In relation to Stage Two:

- “Johnsonville Shopping Centre Redevelopment RC Application - Stage 1 and Stage 2” drawings entitled:
 - Site Plan (Dwg No. A-RC2-0001, issue G), dated 18.05.09;
 - Ground Floor Retail [R1] & Parking Level [P1] RL 138.5 / RL 139.0 (Dwg No. A-RC2-003, issue L), dated 18.05.09;
 - Parking Level [P2] & Storage [R1M] RL 142.0 / RL 141.5 (Dwg No. A-RC2-0004, issue K), dated 18.05.09;
 - First Floor Retail [R2] & Parking Level [R2] RL 144.0 / RL 144.0 (Dwg No. A-RC2-0005, issue K), dated 18.05.09;
 - Parking Level [R2m] Parking Level [P3] RL 146.75 / RL 146.5 (Dwg No. A-RC2-0006, issue K), dated 18.05.09;
 - Parking Level [P4] RL 149.5 (Dwg No. A-RC2-007, issue K);
 - Ground Floor Retail [R1] & Parking Level [P1] RL 138.5 / RL 139.0 (Dwg No. A-RC2-0008, issue A), dated 18.05.09;
 - Ground Floor Retail [R1] & Parking Level [P1] RL 138.5 / RL 139.0 (Dwg No. A-RC2-0009, issue A), dated 18.05.09;
 - Sections (Dwg No. A-RC2-0010, issue H), dated 18.05.09;
 - Site Circulation (Dwg No. A-RC2-0011, issue A), dated 18.05.09;
 - Elevations (Dwg No. A-RC2-0013, issue C), dated 18.05.09;
 - Elevations (Dwg No. A-RC2-0014, issue C), dated 18.05.09;

- Detail Sections (Indicative Only) (Dwg No. A-RC2-0015, issue C), dated 18.05.09;
- Detail Sections (Indicative Only) (Dwg No. A-RC2-0016, issue C), dated 18.05.09;
- Detail Sections (Indicative Only) (Dwg No. A-RC2-0017, issue C), dated 18.05.09;
- Detail Sections (Indicative Only) (Dwg No. A-RC2-0018, issue C), dated 18.05.09;
- Footpath Encroachment Plan (Dwg No. A-RC2-0027, issue A), dated 18.05.09; and
- GFA Calculations Proposed Development (Dwg No. A-RC2-0031, issue A), dated 18.05.09.

Construction and Earthworks

Earthworks and Construction Management Plan (ECMP)

2. The consent holder shall prepare an ECMP, based on the Construction Assessment Report dated 20 May 2009 and otherwise meeting the requirements of this condition. The ECMP shall be submitted to the Wellington City Council's Compliance Monitoring Officer for approval. No earthworks or construction related activities in relation to the redevelopment of the shopping centre shall commence until the ECMP is approved by the Compliance Monitoring Officer. The consent holder shall implement all of its obligations contained in the approved ECMP.

In the course of preparing the ECMP, the consent holder shall consult with the following:

- New Zealand Transport Agency
- Greater Wellington Regional Council
- Appropriate officers within Wellington City Council
- New Zealand Railways Corporation
- Mana Coach Services

When submitting the ECMP to the Wellington City Council's Compliance Monitoring Officer for approval, the consent holder shall also forward a record of any differing views arising out of the consultation process.

The ECMP is to be based on the intended staging of the proposal, and will establish acceptable performance standards and provisions regarding earthworks and construction management, construction traffic, and public safety and amenity protection during the construction process of this development. Such standards and provisions shall include but are not limited to the following:

- A communication and complaints procedure for adjoining property owners/occupiers, passer-bys and the like, including arrangements to make available a contact (mobile) telephone number of an on-site project manager in the event of complaints from adjoining property owners/occupiers, passer-bys and the like. Contact must be available 24 hours a day, 7 days a week;
- Details of the hours and days of construction and construction-related deliveries;

- Details of appropriate local signage/information on the proposed work including the location of a large (greater than 1m²) notice board on the site that clearly identifies the name, telephone number and address for service of the site manager, including cell-phone and after-hours contact details;
 - Safety fencing and associated signage for the construction site;
 - Appropriate measures to ensure that, at all times during construction of the new shopping centre, including the car parking building, a bus route is provided through the site from Gothic Street to enable buses to access the Johnsonville Railway Station bus stops;
 - A Construction Traffic Management Plan:
 - i. to ensure that pedestrians and vehicles accessing or departing from:
 - a) the Johnsonville Railway Station and associated bus stops; and
 - b) the Johnsonville Town Centre, including any shops within or adjacent to the development site,
 can do so in a safe manner at all times during construction;
 - ii. to identify the intended disposal site or sites, (disposal sites accessed primarily by way of low capacity local road networks are discouraged);
 - iii. to address truck movements associated with the removal of excavated fill.
 - An earthworks/construction noise management plan prepared in accordance with Condition (7).
 - Measures to ensure dirt, mud or debris is not left on the road;
 - An erosion sediment and dust control plan, which conforms to the requirements of the Greater Wellington Regional Council's Erosion and Sediment Control Guidelines for the Wellington Region, and which contains mitigation measures to be implemented to prevent dust effects beyond the construction site boundary.
3. Throughout the entire period of demolition and construction, the ECMP approved under Condition (2) above must be implemented and maintained. The consent holder must modify the approved plan and implement those modifications immediately to deal with any deficiencies in its operations, if so directed in writing by the Council's Compliance Monitoring Officer.

Erosion, Sediment & Dust Control

4. The erosion, sediment and dust control plan prepared for the ECMP in accordance with Condition (2) above must be consistent with the draft Erosion, Sediment & Dust Control Plan submitted with the application (by Cardno TCB, dated 22 May 2009), must make provision to ensure the discharge of dust created by earthworks, transportation and

demolition/construction activities is suitably controlled to minimise dust hazard or nuisance, throughout the demolition and construction period, and must address in particular the following:

- The expected sediment loads to be discharged to the Council's stormwater system at different stages of the project;
 - Phasing of the earthworks operation;
 - Dampening of the working areas with hoses and / or sprinkler system;
 - Installation of grit traps / silt ponds together with diversion channels, interceptor drains and silt fences;
 - A perimeter fence / hoarding that minimises dust escape;
 - Covering temporary stockpiles;
 - Nominated site access points that are sealed and involve wheel wash facilities and a brush down area;
 - Loaded trucks to have loads covered during transit;
 - The laying of site concrete (or similar) over the final excavated areas to stabilise the surface;
 - Monitoring of weather conditions and contingency for inclement weather or strong winds;
 - Additional measures such as flocculation treatment and/or covering disturbed areas with temporary impervious material as necessary;
 - A methodology for monitoring and reporting to the Council on sediment loads discharged to the stormwater system;
 - A process for the contractor and the Council to decide if too much sediment is being discharged and for agreeing on alternative methods to be used to address such a problem;
 - Any other measures that may be necessary to control dust and sediment if construction work is discontinued for any period of time.
5. Within three months of completion of the earthworks (or any earthworks stage), construction of the proposed buildings must have commenced over the exposed surfaces in accordance with the approved architectural plans or the disturbed areas otherwise sealed to prevent erosion, sediment and dust being transported from the site.
6. Excess soil or other waste material produced as a result of excavation or clearing must be removed from the site to an approved disposal site.

Construction Noise

7. The earthworks/construction noise management plan, prepared for the ECMP in accordance with Condition (2) above, must be prepared by a qualified noise

specialist as per the report from Marshall Day Acoustics Ltd in Appendix 3 of the application, in consultation with the approved contractor. The plan must describe the methods by which noise associated with the work will comply in all aspects with the controls set out in NZS 6803:1999 and how all persons undertaking day-to-day site management will adopt the best practicable option at all times to ensure the emission of noise from the site does not exceed a reasonable level in accordance with section 16 of the Resource Management Act 1991. The Plan must follow the guidance contained in the Council fact sheet "Tips on writing a construction noise management plan" and in particular detail how to manage noise and vibration effects from any construction work taking place on site.

8. The construction tender specifications must be submitted to the Compliance Monitoring Officer for approval prior to being issued. These specifications shall require the contractor during the selection process to allow for and use the "Best Practicable Options" to reduce noise and determine the specifics by subsequently assisting the qualified noise specialist with the preparation of the detailed earthworks/construction noise management plan for the ECMP. The plan must identify any requirements or risk that construction may have to take place outside standard construction hours of 7:30 am to 6:00 pm (Monday to Saturday).

General Code of Practice and hours of work

9. The earthworks must be carried out in accordance with the Council's Code of Practice for Land Development, Part B – Earthworks Design and Construction. The hours of earthworks and construction work, subject to compliance with other requirements of the ECMP, are restricted to:
 - Monday to Saturday 7:30am to 6pm
 - Quiet setting up of site (not including running of plant or machinery) may start at 6:30am

No work is to be carried out on Sundays or public holidays, unless agreed in writing by the Council's Compliance Monitoring Officer, or otherwise as provided in the Noise Management Plan.

Any approval to extend the hours of work will be subject to the exemption procedure as detailed on the Wellington City Council website:

<http://www.wellington.govt.nz/services/noisecontrol/residential/exemptions.html>

Urban Design

Detailed Designs

10. Details of all elevations that face public spaces must be supplied to and approved by the Compliance Monitoring Officer in liaison with the Council's Urban Design advisors. The specified aspects are external signage and the detailing of the Johnsonville Road, Broderick Road and Gothic Street (East side) elevations (including canopies). These details must include material specifications, indicative sections, and unambiguous indications of transparency and entrance locations. Of particular concern are the Johnsonville

Rd and Broderick Rd (East of Gothic St) elevations, where the following specific conditions shall apply:

Johnsonville Rd:

- Facades shall be designed as segments that are similar in scale to buildings seen traditionally in a main street.
- No single ground level tenancy to be greater than 20m in frontage length.
- Each tenancy must have a physical entrance to Johnsonville Road and there must be at least six entrances between Hawea Street East and the shopping centre entrance at the Southeast corner.
- Display windows - at least 75% of ground floor building façade measured horizontally is to be display space or transparent window or doors.
- Lighting at street level either under awning or spill out from shop fronts to a level commensurate with ease of access & safety.
- Windows are to visually connect to internal activity. 'False' or blank windows are not acceptable.
- The section of façade visible above and behind the shops fronting Johnsonville Road at the conclusion of Stage One shall incorporate architectural design features or other measures to create visual interest and break down the wall into segments that are similar in scale to buildings seen traditionally in a main street.

Broderick Rd between Gothic St and Johnsonville Rd:

- No single façade section to be greater than 20m in width.
- Any ground level tenancy greater than 30m in frontage length must be visually divided so that it appears as multiple tenancies.
- Display windows - at least 60% of ground floor building façade measured horizontally is to be display space or transparent window or doors.
- Any continuous blank wall greater than 5m shall incorporate architectural design features or other measure to create visual interest and break down the wall into component parts.
- Lighting at street level either under awning or spill out from shop fronts to a level commensurate with ease of access & safety.

Other Design Considerations

11. The consent holder will submit to the Council's Compliance Monitoring Officer with each relevant application for a building consent, an assessment prepared by a suitably qualified person that confirms that best practice has been adopted in relation to the promotion of Crime Prevention Through Environmental Design (CPTED) principles.

12. Details of design measures (materials and/or colours) to visually differentiate vehicle aisles and pedestrian pathways from car park stalls on the rooftop car park must be supplied to and approved by the Compliance Monitoring Officer in liaison with the Council's Urban Designers.

Note:

The purpose of this condition is to mitigate adverse impacts on views of the shopping centre's rooftop from elevated residential areas.

13. Details of design measures such as entranceway airlocks, or other means of managing wind effects on entranceways, must be supplied to and approved by the Compliance Monitoring Officer in liaison with the Council's Urban Designers.
14. Cars parked on the roof of the Mall must not be visible from Johnsonville Rd.
15. Details of surface materials and street furniture for the Gothic St "entry plaza" must be supplied to and approved by the Compliance Monitoring Officer in liaison with the Council's Urban Design advisors. The plaza must read as a primarily pedestrian-oriented space, rather than vehicle-dominated road, and the materials must be both attractive enough to encourage pedestrian activity and robust enough to handle vehicle use.
16. Details of the landscaping, particularly around the Broderick St carpark building but also anywhere else that landscaping is proposed, must be supplied to and approved by the Compliance Monitoring Officer in liaison with the Urban Design and Landscape Architecture advisors. These details shall include the ground treatment and the species and size at planting of all vegetation.
17. Details of all large-scale signage, including the main shopping centre identification signs, graphic display walls and cut-out "P" signs for the parking building, must be supplied to and approved by the Compliance Monitoring Officer in liaison with the Council's Urban Design advisors. A key consideration along the main Broderick St and Johnsonville Rd elevations is that the shopping centre identification signs must not dominate the signage for individual shops.
18. The design requirements of Conditions 10 – 17 must be implemented by the consent holder in accordance with the approval of the Compliance Monitoring Officer.

Note:

The Commissioners draw the Compliance Monitoring Officer's attention to their recommendations in respect to potential enhancements to the Hawea Street East legal road remnant and to pedestrian access between the South West carparking building and the main shopping centre building, as referred to in paragraphs 165 and 166 of the decision.

Vehicle Access

19. Construction plans detailing the final parking layout design, vehicle crossing design, and driveway design must be submitted to, and be approved by, the Compliance Monitoring Officer, in liaison with the Council's Vehicle Access Engineer prior to the commencement of construction. Work must be

undertaken in accordance with the approved design and maintained on an ongoing basis by the consent holder.

Note:

The vehicle parking arrangements can be approved in stages in accordance with the two stages of the proposal.

20. Redundant sections of kerb crossing must be reinstated with full height kerb and channel and standard Wellington City Council footpath at the consent holder's expense. Construction shall generally comply with the Code of Practice for Land Development 1994.

Traffic & Transportation

Road Network and Traffic

21. No redeveloped shopping centre, and no part of any redeveloped shopping centre, which exceeds a retail gross floor area (as defined by Proposed Plan Change 66 to the Wellington City District Plan as publicly notified on 9 May 2008) of 10,000 square metres shall open to the public until roading improvement works for Johnsonville Road, Broderick Road and Moorefield Road have been completed and are open for use by the general public. The works are to be as shown on the "Concept Plan for Network Improvements" prepared by TDG Ltd (being Figure 26 of TDG Ltd's October 2008 report in Volume 2 of the consent application), or an alternative road network upgrade solution which is developed in consultation with the NZTA and achieves a roading upgrade standard that is the same as, or better than, the works shown on that Concept Plan.

For the purposes of this Condition (21), the retail gross floor areas of both:

- the existing supermarket, and
- any other part of the existing shopping centre that continues to trade,

shall be included when the retail gross floor area (as defined by Proposed Plan Change 66 to the Wellington City District Plan as publicly notified on 9 May 2008) of the redeveloped shopping centre, or any part of the redeveloped shopping centre, is being calculated.

22. Once in the period between 7 and 8 months after the road improvement works for Johnsonville Road, Broderick Road and Moorefield Road referred to in Condition (21) above have been completed and opened to the public, or when Stage 1 of the redeveloped shopping centre is opened to the public (whichever is the later), and once again 18 months later, the consent holder must instruct a qualified traffic engineer (at the expense of the consent holder) to prepare a traffic effects monitoring report to assess the traffic effects of the redeveloped shopping centre on the site and on the roading network (including to assess road safety or efficiency effects of the redeveloped shopping centre on queuing on Johnsonville Road during peak travelling times, whether or not any such queuing is adversely affecting the safe and efficient operation of State Highway 1, and consideration of any unreasonable delays or unreliable operation of bus services as a result of the redevelopment).

The consent holder must provide each of these reports to the Compliance Monitoring Officer within 10 working days of receiving it from the traffic

engineer. Following receipt of any report prepared under this condition the Council may review the conditions of this consent pursuant to section 128 of the Resource Management Act 1991 for the purpose of determining whether any additional consent conditions or amendments to consent conditions are required to address the traffic effects of the redeveloped shopping centre.

23. In order to ensure integration of the redeveloped shopping centre with the adjoining public streets, a master plan showing the proposed streetscape improvements to the sections of Johnsonville Road, Broderick Road and Moorefield Road immediately adjacent to the shopping centre, and a more detailed streetscape design examination of possible further improvements to the Northern and Western access points to and from the shopping centre from the Moorefield Road area, must be submitted to and approved by the Compliance Monitoring Officer prior to the construction of any stage of the redeveloped shopping centre. The streetscape improvements in the master plan may be staged in accordance with Stages 1 and 2 as set out in the application, and the works related to each stage must be completed to the satisfaction of the Compliance Monitoring Officer prior to the opening of the relevant Stage to the public.

In preparing the drawings showing the adjacent streetscape improvements the consent holder must consult with the Council's Urban Design Advisors, Chief Transport Planner and Reserves Planning Officer. The streetscape improvements must be generally consistent with Boffa Miskell Drawings LA-01-231 Revision 02 May 2009, LA-01-233 Revision 00 May 2009, LA-01-201 Revision 10 May 2009, and LA-01-203 Revision 04 September 2008.

Travel Management Plan (TMP)

24. The consent holder must, in consultation with the New Zealand Transport Agency, Wellington City Council and Greater Wellington Regional Council, prepare a TMP that sets targets for increasing the use of public transport, walking and cycling to and from the shopping centre, and a modal shift away from single occupancy cars, and sets out methods for achieving those targets, and monitoring performance against those targets, and submit the TMP to the Compliance Monitoring Officer.

No part of the redeveloped shopping centre shall open to the public until a TMP prepared in accordance with this condition has been approved by the Compliance Monitoring Officer or his or her nominee. Once approved, the consent holder must implement all of its obligations contained in the approved TMP.

25. Within 6 months of the official opening of each stage of the redeveloped shopping centre, the consent holder will have an independent survey undertaken of the shopping centre's customers and staff in order to determine a baseline for the number, transport mode and nature of trips to and from the shopping centre. The consent holder will have additional independent customer and staff surveys undertaken at the second and fourth anniversaries of the official opening of each of the stages of the redeveloped shopping centre in order to determine whether or not the objectives and targets of the TMP prepared under Condition (24) have been achieved.

If the objectives and targets of the TMP prepared under Condition (24) have not been achieved to the satisfaction of the Wellington City Council then the consent holder must, in consultation with the New Zealand Transport Agency, Wellington City Council and Greater Wellington Regional Council, review the

TMP and submit an amended TMP to the Compliance Monitoring Officer for approval.

The consent holder must make any amendments to any amended TMP submitted under this condition which are requested by the Compliance Monitoring Officer or his or her nominee. Once an amended TMP has been prepared in line with requests made by the Council Officer(s) pursuant to this condition, the consent holder must comply with all of its obligations contained in the amended TMP.

Pedestrians and Cyclists Plan (PCP)

26. As part of the TMP and in order to encourage walking and cycling to the redeveloped shopping centre, the consent holder must, in consultation with the New Zealand Transport Agency and Wellington City Council, prepare a PCP that identifies all external and internal pedestrian and cycling access into, through and out of the redeveloped shopping centre, the location of cycle racks (or other cycle parking facilities), and how each access will connect to pedestrian routes, roading, the railway/bus interchange and the local cycling network, and submit the PCP to the Compliance Monitoring Officer for approval. No part of the redeveloped shopping centre shall open to the public until a PCP prepared in accordance with this condition has been approved by the Compliance Monitoring Officer or his or her nominee in liaison with the Chief Transport Planner and the Chief Urban Designer. Once approved, the consent holder must implement all of its obligations contained in the approved PCP.

Park and Ride Carparks

27. The consent holder shall, on an on-going basis, allow public access to, and use of, designated all-day commuter parking spaces (comprising the same number as those parking spaces displaced from the current GWRC park and ride area on Moorefield Road as a consequence of road improvements) in the shopping centre car park building.
28. Prior to the commencement of works on the site the consent holder must submit a plan and supporting information, to the Compliance Monitoring Officer for approval, detailing the following in relation to the proposed park and ride carparks that are to be provided within the redeveloped shopping centre in accordance with Condition (27) above:
 - The location and dimensions of the parks;
 - Details of signage and information to direct commuters to the designated parks and discourage shoppers from parking in designated commuter parks.

Work must be undertaken in accordance with the plan approved under this condition.

Servicing Management Plan (SMP)

29. A SMP shall be prepared and implemented as recommended by TDG Ltd (page 102 of their report in Appendix 7) to promote the efficient use of the proposed servicing areas. The SMP must be prepared and submitted to, and be approved by, the Compliance Monitoring Officer in liaison with the Chief Transport Planner prior to the opening of Stage One of the redevelopment. Once

approved, the consent holder must implement all of its obligations contained in the approved SMP.

Bus Route Alignment

30. A two-way bus route from Gothic Street through Car parking Level P2 to Moorefield Road (as shown on Drawing A-RC2-004 Issue K) must be provided at all times unless and until such time that an alternative access route for buses is agreed between the consent holder and the relevant public transport stakeholders (i.e. GWRC, WCC, Mana and other relevant bus operators).

Operation and Review of Bus Alignment

31. A detailed review of the bus route alignment and geometry through Car Parking Level 2 shall be undertaken in consultation with the relevant public transport stakeholders (i.e. GWRC, WCC, Mana and other relevant bus operators) during the developed design process, and prior to submitting any building consent application for the shopping centre car park building, to ensure that operational restrictions on buses using the route within the application site are minimised.
32. The consent holder must ensure that site access, parking circulation and traffic generally does not unreasonably cause delays or unreliable operation of bus services within the site.

Registered Right-of-Way

33. Any development by the consent holder of the application site (or any successor owner of the application site) must not compromise the New Zealand Railways Corporation's registered Right-of-Way which provides access from Moorefield Road to the Corporation's Johnsonville Railway Station car park.

Railway Property and Railway Operations

34. The Consent holder shall submit proposals to New Zealand Railways Corporation for approval prior to submitting any building consent application for:
 - (a) Any alterations to the public storm water and foul water drainage systems within the application site;
 - (b) Litter management proposals for the land between the redeveloped shopping centre and the Johnsonville Railway Station; and
 - (c) All external lighting of the Johnsonville Railway Station and railway line confirming that lighting spill or glare from the light source will not adversely affect railway operations.

The approval of the New Zealand Railways Corporation shall not be unreasonably withheld.

Noise

35. Noise emissions levels emanating from any fixed plant and equipment including heating, cooling and ventilation plant air handling system must be monitored at the commissioning stage before the buildings are first occupied and Certification provided to the Compliance Monitoring Officer by a qualified acoustician to show compliance with the District Plan noise limits.

36. A Servicing and Event Noise Management Plan must be submitted to the Compliance Monitoring Officer for approval prior to the opening of the shopping centre. The Plan shall set out the practices and procedures with respect to noise management to be adopted in order that compliance can be achieved with the District Plan noise provisions:

Servicing

- Mapping of the routes to be followed by arriving and departing vehicles;
- Description of the vehicles or classes of vehicles which will visit the site for loading, unloading and other service activity;
- Description of how each type of vehicle will be handled and how merchandise will be transferred between trucks and storage areas;
- Description of the arrangements made for storing and handling of merchandise, waste, recycling and other equipment;
- Explanation of proposed interim servicing arrangements during construction; and
- Details of contingency arrangements to cover occasions when vehicles arrive while a servicing area is fully occupied or closed.

Events and activities

- Description of how general activity noise will be managed;
- Description of types of events to be held at the centre;
- Details of anticipated numbers of events and hours of operation for various events and activities held at the centre; and
- Description of how event noise will be controlled and managed.

General controls

- Description of and allocation of staff responsibility;
- Details of staff education and training;
- Recording and reporting on complaints received;
- Details of noise monitoring arrangements; and
- Details of how the best practicable option will be adopted to reduce noise to a reasonable level.

The consent holder must submit to the Compliance Monitoring Officer an amended Servicing and Event Noise Management Plan if requested by the Compliance Monitoring Officer in order to address any substantiated noise complaints.

37. A report prepared by an acoustic consultant addressing noise effects and requirements for any noise controls for any future proposals within the centre involving the establishment of a gymnasium or fit-outs for other activities such as licensed bars, nightclubs, restaurants, cafes, public entertainment spaces, outdoor areas, decks and balconies that may result in elevated noise levels emissions from the shopping centre from amplified sound sources from live entertainment, DJ equipment, in-house sound systems or PA systems, must be submitted and approved by the Council's Compliance Monitoring Officer.

Note:

The Compliance Monitoring Officer is to liaise with the Council's Noise Advisor in approving the report prepared under this Condition (37).

38. The Council may, within two years of the opening of the centre review the conditions of consent pursuant to section 128 of the Act to address any adverse effects that may result from exercising this consent. In particular, the impact of noise effects generated by recreation and entertainment activities held within the site.
39. Surfaces to the car parks must be constructed using a design specification and/or suitable treatments that will avoid tyre squeal to the satisfaction of the Compliance Monitoring Officer in liaison with Council's Noise Advisor.
40. The parking areas facing the Western end of Broderick Road and Southern end of Moorefield Road shall be acoustically screened to prevent a clear line of sight to the Outer Residential boundaries.

Monitoring Conditions

41. Prior to starting work, the consent holder must advise of the date when work will begin. This advice must be provided at least 48 hours before work starts to the Wellington City Council's Compliance & Monitoring Team by either telephone (801 4017) or facsimile (801 3165), and must include the address of the property and the service request number.
42. The consent holder shall pay to the Wellington City Council the actual and reasonable costs associated with the monitoring of conditions [or review of consent conditions], or supervision of the resource consent as set in accordance with section 36 of the Resource Management Act 1991. These costs* may include site visits, correspondence and other activities, the actual costs of materials or services, including the costs of consultants or other reports or investigations which may have to be obtained.

* Please refer to the current schedule of Resource Management Fees for guidance on the current administration charge and hourly rate chargeable for Council Officers.

Lapsing of Consent

43. Stage One of this land use consent must be given effect to within 5 years, and Stage Two must be given effect to within ten years of the granting of this consent, or within such extended period of time pursuant to section 125 as the Council may allow.

Advice notes

1. The consent holder is required to comply with the conditions of the resource consent granted under SR 169084 in respect of site contamination.
2. The Council notes that the consent holder will submit to the Council's Compliance Monitoring Officer with the application for building consent a lighting compliance assessment from a qualified lighting specialist that confirms that the lighting proposed will comply with permitted activity condition 7.1.1.4 and that best practice has been adopted in terms of avoiding or mitigating adverse lighting effects.
3. Noise emission levels from activities within the shopping centre site, including noise emanating from any mechanical plant, loading docks, waste collection, recreational and entertainment activities when measured at, or within any residential boundary in accordance with the District Plan, must not exceed the following noise limits:

Monday to Saturday 7am to 7pm	50dBA(L10)
Monday to Saturday 7pm to 10pm	45dBA(L10)
At all other times	40dBA(L10)
All days 10pm to 7am	65dBA(Lmax)
4. A vehicle access approval is required for the construction of the new kerb crossings under Part 5, Section 16 of the WCC Consolidated Bylaw 2008.
5. This Consent does not imply approval of any use or occupation of Road land around the site. All structures over Road land, apart from pedestrian verandahs will require approval from Council Encroachment licence staff. Also, any facilities or features on Road land, including pavement features, will require approval from Council Encroachment licence staff.
6. Where appropriate, the Council may agree to reduce the required monitoring charges where the consent holder will carry out appropriate monitoring and reporting back to Council.
7. This resource consent is not a consent to build. Such a consent must be obtained under the Building Act 2004 prior to commencement of construction.
8. This development will be assessed for development contributions under the Councils Development Contributions Policy when an application for building consent is made. If a development contribution is required it will be imposed under section 198 of the Local Government Act 2002.
9. The Public Drains through this site have to be re-routed/re-laid to suit the final building layout. This is to be carried out in accordance with approved plans by a registered drainlayer who is to take out a Public Drainage Permit prior to work commencing.
10. The Applicant is advised to consult with officers of the New Zealand Historic Places Trust (NZHPT) regarding the need for any archaeological assessment of the site or archaeological authority prior to any earthworks or construction taking place. If any activity associated with the above proposal, (such as earthworks), is likely to modify damage or destroy an archaeological site, an authority from the NZHPT must be obtained for the work to proceed lawfully. In the event that an archaeological site is encountered during work, all works must cease on the site, and you must contact the NZHPT as soon as possible.

The Historic Places Act 1993 provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. Under section 2 of the Act, an archaeological site is defined as a place associated with pre-1900 human activity, where there may be evidence relating to the history of New Zealand. This definition of archaeological sites may include buildings and associated features such as artefacts, rubbish heaps, foundations, pipes, wells, and other archaeological remains. Section 10 of the Act directs that an authority is required from the New Zealand Historic Places Trust) if there is “reasonable cause” to suspect an archaeological site (recorded or unrecorded), may be modified, damaged or destroyed in the course of any activity. An authority is required for such work whether or not the land on which an archaeological site may be present is designated, or a resource or building consent has been granted