

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF an application for resource consent for the demolition of existing dwelling at 134 Main Street, Greytown; construction and operation of a new vehicle access on Main Street (State Highway 2) for service and customer vehicles of Fresh Choice supermarket; reconfiguration of the loading area; new signage (one free-standing sign adjacent to new access); and landscaping and site works

South Wairarapa District Council
Reference 220081

DECISION OF THE HEARING COMMISSIONER

27 November 2023

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1. Introduction

- (1) This is the decision on a resource consent application made by Woolworths New Zealand Limited, seeking resource consent to demolish the existing dwelling at 134 Main Street, Greytown to facilitate the construction and operation of a new one-way vehicle entry from Main Street (State Highway 2) for service and customer vehicles of the existing FreshChoice supermarket.
- (2) Aside from proposed changes in vehicle access, other works include the reconfiguration of the supermarket loading area, new signage (one free-standing sign adjacent to the proposed Main Street access) with landscaping and site works. The existing FreshChoice is located behind Main Street with frontages to Hastwell and West Streets.
- (3) The proposal is a Discretionary Activity under the Wairarapa Combined District Plan (WCDP) 2011.
- (4) I have been delegated the authority from the South Wairarapa District Council (SWDC or Council) to hear and determine this application on behalf of the Council as consent authority.
- (5) In making this decision I firstly record that, in determining this resource consent I have read and considered the application and further information supplied to SWDC, the submissions received and the s42A report prepared by Council's consultant planner Ms Honor Clark which incorporates other Council adviser comments. In addition, I have taken account of the applicant's evidence and legal submissions, the 82 submissions received, the evidence and representations on behalf of 10 individuals or organisations and the further Council advice presented at the hearing. This was held on 2 October 2023 at the Greytown Town Centre Building and 3 October 2023 at the ANZAC Hall in Featherston.
- (6) At the conclusion of the formal part of the hearing the applicant provided a verbal right of reply and followed that up with a written closing to the hearing. In the written closing the applicant chose to make a significant change to the proposal by recommending the removal of the right turn manoeuvre in to the site from Main Street. After receiving requested comments on these changes from traffic engineering advisers on behalf of Waka Kotahi and SWDC, the proceedings were formally closed on 6 November 2023.

2. The Site and Surrounds

- (7) The s42A report¹ accurately describes the site, the planning history and the wider context surrounding 134 Main Street and the existing Fresh Choice Supermarket as follows:

The site at 2-12 Hastwell Street and 105 West Street is occupied by the existing Fresh Choice supermarket, with associated car parking, landscaping, access and servicing. The supermarket has been operating on the site since 2012, legally established by way of resource consent (Council reference 3919), granted by SWDC on 26 August 2011. On-going conditions of consent relating to hours of the supermarket operation, and delivery times apply. The nature and scale of the supermarket, in terms of the building and activity remain as originally consented.

In 2015 further resource consents were applied for and granted by SWDC relating to changes to access and new signs, similar to the current proposal, as outlined in Section 5.1 of the application. These consents have either been withdrawn due to threat of judicial review or lapsed and therefore have not been given effect to and have no legal status.

134 Main Street is occupied by a residential dwelling, circa 1950s, set back approximately 22m from the street front boundary. The front yard area is used a vehicle access, car parking and lawn area for the existing dwelling. The aforementioned large Copper Beech tree sits on the south-front portion of the site, with other trees and shrubs along the frontage and within the site. There is also a low concrete wall along the site frontage, with a gap for the vehicle access. An existing open concrete-lined stormwater channel runs roughly parallel to the northern side boundary through part of the site and feeds into the public pipe network heading south under Main Street. This forms part of the Moroa water race network. 134 Main Street is also under the control of Woolworths.

- (8) The most notable features of the site are that it contains a residential property well set back from the Main Street frontage, with the two adjoining buildings at 132 and 136 Main Street being built to the footpath edge, both containing shop front windows. The other notable feature of the site is the large Copper Beech tree positioned at the front of the property.
- (9) The existing situation is shown below.

¹ S42A report, paras 14-16.



Figure 1: Existing site at 134 Main Street. Source: Google street view.

- (10) I was also advised that the overall application site, including the current supermarket and the current residential property at 134 Main Street, has a mixture of three different zones under the WCDP. These include part of the site fronting Hastwell Street being Industrial Zone, 105 West Street and approximately half of the length of the site fronting West Street is within the Residential Zone, and 134 Main Street itself is within the Commercial Zone.
- (11) An important factor relating to this application is that 134 Main Street, and a portion of the Industrial Zone land adjacent to 134 Main Street, also fall within the Greytown Town Centre Historic Heritage Precinct overlay. This Historic Heritage Precinct is a feature of the town with the result that there is a successful retail and business concentration along State Highway 2 in this location.
- (12) The existing access to the supermarket is from Hastwell and West Streets. However, this application seeks to introduce a new entry to the supermarket via 134 Main Street which itself is subject to State Highway 2 designation (Ds076), with New Zealand Transport Agency being the Requiring Authority. Main Street is also a Strategic Road shown on the WCDP Roding Hierarchy Plan.

(13) Further details of the site and surrounds are provided in the applicant's AEE and associated plans and technical documents. The existing site plan from the application plan set is provided below.

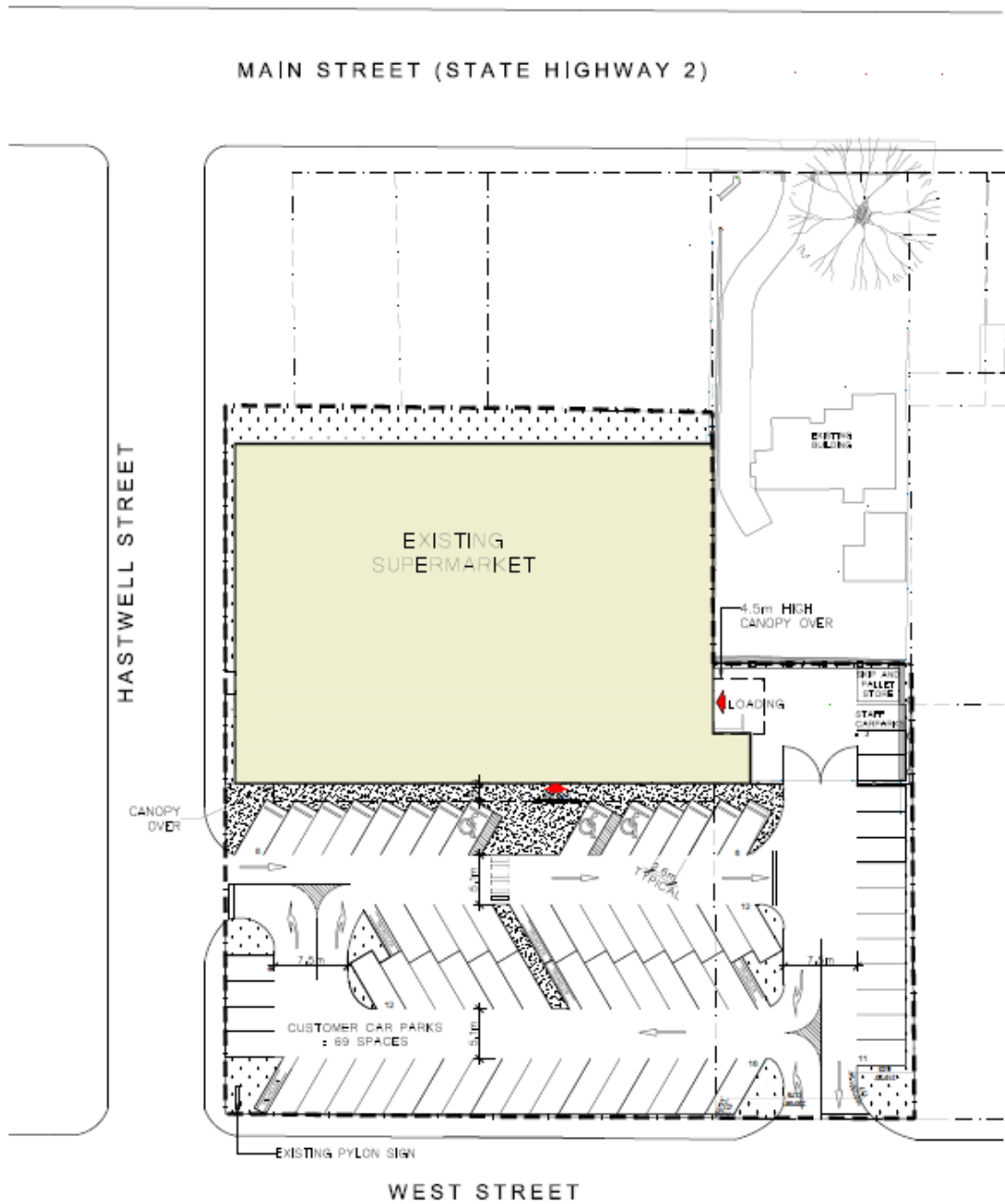


Figure 2: Existing Site Plan DWG RMA 104 prepared by Woodhams Meikle Zhan Architects.

3. The Proposal

(14) Ms Clark² summarised the proposal for which resource consent is sought in her report³ as follows:

The scope of proposed works consists of:

- *Retention of the Copper Beach tree on the Main Street frontage of 134 Main Street;*
- *Demolition of the existing dwelling at 134 Main Street, Greytown;*
- *Construction of an 8.3m-wide new vehicle crossing for entry only manoeuvres from Main Street (State Highway 2) for use by service and customer vehicles of Fresh Choice supermarket, with larger servicing vehicles including semi-trailers and B-train's making left-hand turns only;*
- *Construction of a 2m-wide separate pedestrian path along the southern boundary of 134 Main Street to the front of the supermarket, constructed of materials that protect the Copper Beech tree's root system;*
- *Reconfigured loading area in the general location of the existing loading area for the Fresh Choice supermarket, with revised circulation;*
- *New canopy cover and enclosure associated with the secure loading dock;*
- *New 2.4m high acoustic fence along the southern boundary;*
- *One new customer car park within the existing car park to the west of the supermarket building;*
- *One new free-standing sign at the Main Street entrance comprising 1.8m in width and 3.6m in height, with a maximum face area of 3.7m², to be externally illuminated;*
- *Retention of the existing low stone wall along part of the frontage of the site; and*
- *Associated landscaping and site works.*

(15) I was advised by the planner for the applicant Ms Kay Panther Knight⁴ that since the close of submissions, Woolworths identified an error on the drawings with respect to the layout and number of existing and proposed car parking associated with the supermarket. This would result in

² S42A Report para 7

³ S42A report, para 13.

⁴ Evidence of Kay Panther Knight para 6.4, 6.5

a net loss of 5 car parking spaces (from 70 existing to 65 proposed) which differs from the application drawings indicating no loss of on-site customer car parks.

- (16) As stated in the introduction, the applicants also amended the layout with the removal of the right turn in manoeuvre through its written right of reply. This is shown in the applicants final proposed plan below.



Figure 3: Fresh Choice Greytown prepared by Commute Transportation Ltd 10/10/23.

4. Planning Framework and Activity Status

4.1 Operative Wairarapa Combined District Plan (WCDP)

(17) I have already outlined that the overall site including 134 Main Street is subject to three zonings with the Main Street portion also being subject to a Heritage Precinct Overlay.

(18) In respect of the proposal Ms Clark’s s42A report contains her summary of the consent status of the activity status under the WCDP which is paraphrased below:

Rule	
<p>Rule 5.5.5 (a) for alteration to the loading dock being a commercial activity in the Residential Zone.</p>	<p>Discretionary</p>

<p>Rule 6.5.5 (b) for the installation of a new sign in the Commercial Zone that exceeds the permitted standards for signs in Rule 6.5.2 (f).</p> <p>Specifically, the proposed free-standing illuminated sign at 3.7m² is larger than the illuminated sign total face permitted area of 2m², and constitutes more than one free-standing sign on the site.</p>	<p>Restricted Discretionary</p>
<p>Rule 6.5.5 (b) for a 3rd access point to the site in the Commercial Zone which exceeds the permitted standards in Rule 6.5.2(g) for Roads, Access, Parking and Loading Areas in Appendix 5</p> <p>Specifically in the South Wairarapa District, only one vehicle crossing is permitted per site.</p>	<p>Restricted Discretionary</p>
<p>Rule 6.5.5 (b) for not meeting the Landscape and Screening standards in Rule 6.5.2(h) as the site across the road is zoned Residential and the servicing area is more than 10m² and visible from a site zoned Residential and a formed public road.</p>	<p>Restricted Discretionary</p>
<p>Rule 21.6 (a) for the installation of a new sign in the Historic Heritage Precinct (HHP) which exceeds the permitted standards for signs in Rule 21.1.3 (b). Specifically, the HHP limits free-standing signs to 0.5m² in area. Additionally, no sign in the HHP is to be illuminated by any means (another permitted standard).</p>	<p>Discretionary</p>
<p>Rule 21.6 (g) for the demolition of structures and buildings in the HHP.</p>	<p>Discretionary</p>

(19) I note that Ms Panther Knight⁵ had some reservations about all of the matters covered by the rules above, particularly whether the existing supermarket site should be treated as a separate site to 134 Main Street. However, it was agreed by the applicant that the appropriate activity status applying to the proposal would be a fully Discretionary Activity. I consider that to be correct in relation to bundling of the range of rules that the activities trigger, and I have considered the application as a Discretionary Activity under the Operative Wairarapa Combined District Plan.

4.2 Proposed District Plan

(20) On 11 October 2023 the three Wairarapa Councils notified the Proposed Wairarapa Combined District ('PDP'). As the resource consent application for the proposal was lodged prior to notification of the PDP, (and indeed the formal part of the hearing was completed before then), I have taken

⁵ Evidence of Kay Panther Knight para 6.12

no account of the PDP provisions. I have also received no evidence of what changes to the PDP may be applicable that were not relevant factors in a determination under the ODP.

4.3 Wellington Natural Resources Plan

- (21) Ms Panther Knight⁶ advised that no regional consent matters arise and therefore no assessment is required against the Wellington Natural Resources Plan. Recently Greater Wellington notified Plan Change 1 to the Natural Resources Plan. This notification was after the hearing and as with the Wairarapa PDP I have taken no account of this nor have I had any evidence that I should.

5. Relevant RMA Provisions

- (22) As stated, the application is for a Discretionary Activity under the WCDP. My discretion to grant or refuse the application is set out in section 104B of the RMA, which states:

Section 104B – Determination of applications for discretionary or non-complying activities

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

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

5.1 Section 104 Considerations

- (23) Section 104 of the RMA sets out the matters to which I must have regard when considering the application and submissions received. For this application, they are:

(1)(a) Any actual and potential effects on the environment of allowing the activity;

- (24) Actual and potential effects of the proposal are the most significant matter in my view. These are considered in detail later in this decision.

- (1)(b) Any relevant provisions of -*
- i. A national environmental standard.*
 - ii. Other regulations;*

- (25) The NES-CS⁷ in relation to managing contaminants in soil was assessed but both Ms Panther-Knight and Ms Clark considered that no consent was required, no significant risks to human health are

⁶ Evidence of Kay Panther Knight para 8.4(c)

⁷ National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

likely to arise as a result of the proposal, and no further investigation is required. No other NES's or regulations are relevant.

- (26) In respect of regulations Ms Clark considered that should the site be deemed an archaeological site, an Archaeological Authority from Heritage New Zealand Pouhere Taonga will be required. Ms Clark⁸ recommended that this was a matter that can be covered via conditions, if consent is granted.

iii. A national policy statement

- (27) The only potentially relevant NPS is the National Policy Statement for Urban Development 2020 (NPS-UD). However, I was advised by Ms Clark that this is not applicable, as the South Wairarapa District or Greytown does not constitute an urban environment of more 10,000 people.

iv. a New Zealand Coastal Policy Statement 2010;

- (28) Not applicable.

v. A regional policy statement or proposed regional policy statement.

- (29) The applicable documents are the Regional Policy Statement (RPS) for the Wellington Region 2013 and Proposed Change 1 to the RPS which was notified by GWRC on 19 August 2022.

vi. A plan or proposed plan

- (30) The Operative Wairarapa Combined District Plan is the primary document of relevance in terms of determining the application. I also note that the Proposed Wairarapa Combined District Plan and Change 1 to the Natural resources Plan were notified after notification of the application and after the formal part of the hearing. I have therefore afforded no weight to those documents.

(1)(c) Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

- (31) I received no specific information that there was any other matter beyond that contained in the relevant statutory documents prepared under the Act that I need to take account of, in order to determine the application.

6. Notification and Submissions Received

- (32) As advised in the s42A report⁹, the application was publicly notified on 24 April 2023 in accordance with section 95A, with a closing date of 23 May 2023.

⁸ S42A Report para 38

⁹ S 42A Report paras 27 to 30

- (33) At the close of submissions, eighty - one (81) submissions were received, with one late submission received on 21 July 2023. I note that the applicant provided Council with written confirmation that they were happy to receive the late submission, and it is noted this submission does not raise any additional matters that are not already raised in other submissions. For these reasons, I agree that the late submission should be accepted.
- (34) Of the total 82 submissions received, 77 submissions oppose the whole proposal, two opposed parts of the proposal, and three were in support of the whole proposal. The full submissions and all relevant hearing information are included in full on Councils dedicated website¹⁰.
- (35) Ms Clark identified¹¹ the following issues raised within the submissions:
- a. **Heritage** – adverse effects on the heritage character of Greytown, proposal at odds with the Greytown Historic Heritage Precinct aims and Design Guidelines, house or tree have no heritage value;
 - b. **Visual effects** – from the sign, changes to the site from demolishing the dwelling, views of the loading area from Main Street;
 - c. **Copper Beech tree** – retention, CoC application, health of the tree, heritage value;
 - d. **Traffic matters** – Strategic Arterial Road, public safety concerns, traffic safety concerns, pedestrian and cyclist safety concerns, traffic flows/queueing vehicles, visibility issues, loss of street parking, effect of trucks travelling through wider local roading network, stress on the road affected by large turning vehicles, visual distraction, current supermarket loading and parking, safer than current situation;
 - e. **Economic effects** – effects on existing small businesses, cost of compliance, effects on tourism;
 - f. **Stormwater management** – run-off and stormwater disposal, existing water race/open drain infrastructure, flooding;
 - g. **Amenity effects including:**
 - o Noise pollution;
 - o Vibration;
 - o Privacy;

¹⁰ <https://swdc.govt.nz/fresh-choice-woolworths-greytown-public-notification/>

¹¹ S42A Report para 31

- Light spill / Dark Sky;
 - Fuel Pollution.
- h. **Health Effects** such as asbestos and the overall well-being of the community;
- i. **Process issues** including whether an Archaeological Authority is required, inaccuracies in the application and lack of consultation.
- j. **Conclusions** that the proposal is contrary to WCDP Objectives and Policies and to s5 of the Act.
- (36) Ms Clark also informed me that after the closing date of submissions, Council also received a petition from Lorraine Hall presented on behalf of Greytown Safety on Main Street stating general opposition to the proposal. The petition had 1268 signatures, with some of the signatories also being submitters. I have taken no particular account of the petition but observe that the matters outlined in the petition are already covered in other submissions.

7. Section 42A Report

- (37) Prior to the hearing, I received and reviewed the s42A report prepared by Ms Clark. Attached to this report were specialist evidence from Heritage and Architect Conservator Mr Ian Bowman and Traffic and Transportation Engineer Ms Harriet Fraser. Also attached to Ms Clark's report was a set of draft conditions should I be minded to grant consent.
- (38) Upon considering the application, the submissions received and the advice of Mr Bowman and Ms Fraser, Ms Clark¹² concluded in relation to s5 the Purpose of the Act, that:

In my opinion, the proposal will have more than minor adverse effects on the community of Greytown, in that the social and economic wellbeing and the health and safety of the community may be put at risk. I therefore believe that the proposal is contrary to the purpose of the RMA.

- (39) In respect of s6 Matters of National Importance Ms Clark¹³ was of the view that:

In my opinion, the proposal to provide a permanent 8.3m wide vehicle crossing through a site within the identified Historic Heritage Precinct is deemed to have more than minor adverse effects on the historic heritage of Greytown's Main Street and is deemed inappropriate use and/or development, and therefore contrary to this principal (sic) of the RMA.

¹² S42A report para 112

¹³ S42A report para 114

(40) With regard to s7 matters Ms Clark¹⁴ also considered that:

My assessment supports a conclusion that refusing consent would be consistent with the maintenance of amenity values, and ensure maintenance and enhancement of the quality of the Greytown Town Centre environment.

(41) Ms Clark therefore recommended that resource consent should be declined as the proposal is inconsistent with the purposes and principles of Part II of the RMA.

8. The Hearing

(42) I held the hearing on 2 October 2023 at the Greytown Town Centre Building and on 3 October 2023 at the ANZAC Hall in Featherston. After hearing the evidence from the applicant, the submitters representations, the views of Council officers and advisers and a brief applicant's verbal right of reply, I adjourned the hearing. This adjournment was for:

- a. the applicant's right of reply to be put in writing; and
- b. if consent is to be granted that conditions be discussed between the applicant's planner and the Council.

8.1 Applicant's evidence

(43) At the hearing briefs of evidence on behalf of the applicant were provided by:

- a. Mr Daniel Shao (Woolworths corporate evidence);
- b. Mr Richard Knott (Historic Heritage and Urban Design);
- c. Mr Leo Hills (Transport); and
- d. Ms Kay Panther Knight (Planning).

(44) Each of these experts summarised their evidence at the hearing and were supported by Ms Allison Arthur-Young, legal counsel for the applicant who gave opening submissions.

8.2 Submitters Evidence and Presentations

(45) Of the 82 submissions I heard evidence and representations from the following 10 Parties:

1. Gerard McGreevy on behalf of Peter Ratner and Caorl Walter #33;
2. David Ross – Greytown School Board of Trustees #9;

¹⁴ S42A report para 116

3. Michelle Dawson and Ian McDonald Greyfriars Hotel #2;
4. Greytown Heritage Trust (GHT) #20 – represented by Carmel Ferguson, Gina Jones and Peter Rowlands on behalf of Richie Hill;
5. Waka Kotahi #55 represented by Hermione Kemp – Legal Counsel, Roxanne Hillard – Wellington Transport Alliance Manager, Terry Church - Traffic Engineer and Kathryn St Amand – Planning;
6. Warren Woodgyer – On behalf of the Greytown Community Board #38;
7. Lastasha Boyce – Owner Alluminus #26;
8. Lorraine Hall – #62;
9. Carolyn Walt – #48; and
10. David Lloyd – #19.

8.3 Council Representatives

- (46) In attendance at the hearing and providing summary comments were the reporting officer Ms Clark, Heritage Consultant Ian Bowman and Traffic and Transportation Consultant Harriet Fraser. I was assisted throughout the process by SWDC Planning Co-ordinator Ms Becks Geddes who prepared comprehensive notes of the hearing.

9. Necessity for and Positive Effects of the Proposal

- (47) Before turning to actual and potential effects of the proposal on the environment under s104(1)(a), it is helpful to consider the rationale for the proposal and other positive effects.
- (48) The primary evidence on this was from Mr Daniel Shao, a Development Manager at Woolworths responsible for the ‘conceptualisation and delivery’ of new supermarket developments.
- (49) Mr Shao¹⁵ outlined the background to the current Greytown FreshChoice supermarket and the reasoning behind Woolworths proceeding with seeking resource consent for the proposal.

Somewhat unusually for a supermarket within a “main street” town, the existing supermarket sits one row back from Main Street, State Highway 2 and there is no direct access to the store from the main road, or indeed good visibility for customers from the road to the Site. The existing store is also constrained for space with the current loading arrangement presenting

¹⁵ Evidence of Daniel Shao para 1.3

challenges in terms of both safe and efficient store and loading operations, and customer amenity.

(50) Specifically, to remedy the existing site deficiencies and improve safe and efficient operations Woolworths has proceeded this application to:

- a. improve access and on-site manoeuvring for loading vehicles, and*
- b. improve awareness of the supermarket and allow customers to access it directly from Main Street.¹⁶*

(51) Mr Shao also recognised that the proposal had evolved in terms of design since it was first submitted to SWDC for assessment. Matters revisited were measures to retain the health and appearance of the Copper Beech Tree, retention where possible of the low wall, attention to signage and detailed traffic engineering design matters.

(52) Further Ms Panther Knight's planning evidence and the opening submissions from Ms Arthur-Young both referred to the positive effects of the proposal. Ms Arthur-Young summarised¹⁷ that the applicant's view was that:

The Proposal will result in a range of benefits. It will see significant health and safety improvements on Site, and ensure an attractive frontage design on Main Street, including through the retention of the Beech Tree and stone wall, which will contribute positively to the amenity values and historic heritage values of the surrounding area.

(53) I consider that the applicant's rationale for the proposal is clear from a supermarket operational perspective in that it will improve the overall operations of the site and remove the conflict within the carpark. I also recognise that it will enhance the visibility of the existing supermarket which has no highway frontage. While the positive effects are recognised, the creation of a new access from the highway needs to be very well justified, particularly considering the Heritage and 'Main Street' context of this part of Greytown as well as Main Street Greytown's function as part of a State Highway.

¹⁶ Evidence of Daniel Shao para 1.4

¹⁷ Opening submissions of the applicant at 1.3

10. Actual and Potential Effects - s104(1)(a)

- (54) Setting aside positive effects which I have discussed above, I now focus on the matter of potential adverse effects from the proposal and whether there are available methods of avoiding, remedying or mitigating any adverse effects.
- (55) I consider that the categories of effect which are of relevance are:
- a. Transport and vehicle access effects;
 - b. Historic heritage effects and streetscape/ visual effects;
 - c. Arboricultural effects in respect of the Copper Beech Tree; and
 - d. Amenity effects including noise and construction effects.

10.1 Transport and Vehicle Access Effects

- (56) A significant part of the applicant's justification was that the proposal would improve both efficiency of supermarket operations but also safety from a transportation perspective.
- (57) There were three traffic engineers who presented evidence to the hearing being Mr Hills for the applicant, Mr Church for Waka Kotahi and Ms Fraser for the Council. I also had extensive representations from Mr Lloyd, a former Heavy Vehicle Company Operator on the proposed operation of the proposed access. All other submitters commented on traffic matters to a greater or lesser degree including Mr Ross on behalf of Greytown School and Michelle Dawson and Ian McDonald from the Greyfriars Motel.
- (58) Firstly, Mr Hills explained the existing traffic environment, with heavy vehicles needing to utilise Hastwell and West Streets and having to manoeuvre through the carpark and reverse into the loading dock before exiting onto West Street in a forward direction. Hastwell Street and West Street are classified as local roads, with Main Street part of the State Highway network (State Highway 2).
- (59) He also referred to proposed works on State Highway 2 by Waka Kotahi that will move the pedestrian crossing some 15m further away from the proposed driveway and that had been considered in the design of the access. Mr Hills also considered traffic volumes and had undertaken a Road Safety search of reported crashes in the general vicinity.
- (60) Mr Hills¹⁸ then outlined the physical access arrangements proposed:

¹⁸ Evidence of Leo Hills para 4.3

- a. *Access 1 – a new entry-only access from Main Street State Highway 2. The access will serve both customer and truck entry and will be further assessed within this report. The existing access to Main Street will be removed and replaced with the proposed entry-only access. The vehicle crossing will measure 8.3m wide at the property boundary, and the internal customer vehicle lane will measure 5.0m wide. Customers and light delivery vehicles (vans and light trucks) will turn both left in and right into the development, with large delivery vehicles only left turning into the site;*
- b. *Access 2 – existing two-way customer access to Hastwell Street. The access currently serves two-way customer movements and entry only truck movements. The access will not be modified as part of the redevelopment, however, will no longer serve truck entry movements; and*
- c. *Access 3 – existing two-way customer access to West Street. The access currently serves two-way customer movements and exit-only truck movements. The access will not be modified as part of the redevelopment.*

(61) Mr Hills¹⁹ also explained the extent of the truck/delivery movements as:

I understand from the existing store operator that the store currently has the following truck/delivery movements:

- a. *There are on average 5-7 truck deliveries to the supermarket each day.*
- b. *Of these, there is typically 1 B-train and the rest are smaller or medium sized trucks delivering fresh produce, chilled goods, bread and milk.*
- c. *Deliveries usually happen in the morning, and there are very few/infrequent deliveries after midday.*

(62) In respect of traffic modelling Mr Hills stated that he had utilised in his view conservative inputs such as the percentage of supermarket traffic that would use the new entrance, into the SIDRA software, he was confident that both entry movements from the highway, (left turn in from the south and right turn in from the north), could be achieved with the proposal without undue queuing or delay. In response to submissions about potential of queuing of vehicles southbound or any safety effects of needing to allow pedestrians to cross the access Mr Hills was confident that there would be no issues

¹⁹ Ibid para 5.3

(63) Mr Hills²⁰ also considered that there would be an overall improvement in safety and operation of the supermarket where:

I consider the proposed operation to be an improvement on the existing operation. Trucks are no longer required to reverse on-site or within the customer carpark, and are able to easily access and egress the loading area. The trucks also are no longer required to travel within the customer carpark in front of the supermarket. With the improvements detailed as part of this proposal, as well as the visibility mitigation detailed above, the proposed access is considered acceptable, and will have positive effects in terms of safety.

(64) Overall, he concluded in his evidence that:

On the basis of the assessment / review contained in my evidence, I conclude that:

- a. The proposal will not generate any additional traffic but rather redistribute some existing traffic to the new driveway;*
- b. The proposal will remove an existing safety issue on site by removing the requirement of trucks to reverse within the carpark;*
- c. The new driveway has been limited to entry only with large B-train trucks limited through loading management plan to left turns;*
- d. The number of trucks using the driveway will be low (5-7 per day) of which only one will be a large B-train;*
- e. The traffic modelling (including sensitivity modelling) shows any queuing to be minimal (up to 1 vehicle);*
- f. Actual data from other similar supermarket driveways in the region shows no inherent safety concerns and in particular over the last 10 years no reported crashes involving pedestrians or cyclists at these driveways;*
- g. The proposal by Waka Kotahi to move and raise the adjacent zebra crossing will only improve safety in the area (including the proposed driveway);*
- h. While the proposal will reduce on-street parking supply by two spaces it can be accommodated by on street parking without creating any safety or efficiency issues;
and*

²⁰ Statement of Evidence of Leo Hills para 5.28

- i. *Overall, in my opinion the additional information I have provided addresses Ms Frasers concerns in the s42a report and / or the remaining concerns are unfounded.*

- (65) I had a lengthy discussion with Mr Hills at the hearing, particularly the concerns that had been expressed by the two other traffic experts before me. This was also in relation to Mr Hills' conclusions that there is no traffic engineering or transport planning reason that would preclude the application as proposed from being approved. Much of our discussion revolved around the extent of safety improvements for the supermarket carpark and additional safety effects for pedestrians on Main Street.
- (66) Corporate evidence for Waka Kotahi was given by Ms Roxanne Hilliard. This explained the importance that the agency has on safety and also the One Network Framework approach to street classification whereby there is a focus on the commercial part of Greytown on active modes, considering the high numbers of pedestrians. This was also reinforced by Ms Katherine St. Amand in her planning evidence for Waka Kotahi. While Ms Hilliard's evidence was at a high level it introduced the specific evidence of Mr Church relating to site specific concerns that Waka Kotahi had with the proposal.
- (67) In summary Mr Church²¹ disputed a number of Mr Hills conclusions including that the proposed access:
- a. *does not align with the Commercial Zone Policy 6.3.5 as the application includes a poorly sited vehicle crossing, introduces significant safety concerns to all road users and disrupts vulnerable road users (which includes elderly and young children), and will lead to operational issues and safety conflicts on SH2. It also does not align with the Waka Kotahi Activity Street classification as per the One Network Framework ('ONF') where the focus is on active modes, that is, people spending a significant amount of time working, shopping, eating, residing, and undertaking recreation;*
 - b. *introduces a significant number of conflicts to through vehicles on the Strategic Arterial/state highway, turning vehicles, pedestrians and cyclists, posing a safety concern to the general public that significantly outweighs the health and safety risk on-site which the Proposal aims to address;*
 - c. *has been assessed using traffic volumes and survey data that do not reflect the seasonal/summer periods of Greytown, when traffic volumes are greater than that*

²¹ Evidence of Terry Church para 1.9

used in the assessment. As I set out in my evidence below, volumes surveyed and used to inform the Commute Transport Assessment reflect the lower trafficked time period for Greytown, rather than the busy warmer months when visitor numbers increase;

- d. introduces an unacceptable safety risk to all road users, especially vulnerable footpath users including children and elderly. The vehicle access design put forward does not provide priority to pedestrians;*
- e. introduces a high volume access with very poor visibility, that does not accord with RTS 61 guidance, Waka Kotahi's Planning and Policy Manual ('PPM') or Austroads engineering design standards; and*
- f. the proposal has not considered alternatives to mitigate on-site health and safety concerns.*

(68) As with Mr Hills I had a lengthy discussion with Mr Church about the reasons why there was such a divergence of view in respect of traffic engineering matters. This included if there was to be a ban on right turn manoeuvres what physical measures would be required. Mr Church was of the view that without a physical barrier, there would still be potentially unsafe right turn manoeuvres into the site.

(69) In answer to my questioning about pedestrian safety, Mr Church was of the view that the existing Hastwell Street/Main Street intersection operates differently than a crossing to an individual site. At the intersections pedestrians need to give way to traffic whereby with a crossing, pedestrians still maintain right of way. He remained of the view that he could not support the proposal from a traffic engineering perspective.

(70) Mr Lloyd prepared a comprehensive statement considering his background as a heavy vehicle operator including the overall increase in size of some vehicles in the fleet. He too was concerned about safety as well as pavement damage to the crossing as a result of heavy vehicles entering the site as well as left turns north bound that would be required at Humphries Street. He also expressed concern about large vehicles having to cross the centreline.

(71) Mr Ross on behalf of Greytown School was particularly concerned with children who needed to cross Main Street from the west of Greytown to the east where the school is located. This is partly because the pedestrian crossing directly north of the site links with Stella Bull Park that is frequently used as a thoroughfare from Greytown School.

(72) The vast majority of submissions including all of the other submitters at the hearing also referred to traffic matters with some such as Gerard McGreevy on behalf of Peter Ratner and Caorl Walter,

stating that there was not a particular problem with getting into and out of the supermarket to local residents.

- (73) Ms Fraser for the Council also shared similar concerns to Mr Church in her evidence as part of the s42A report. In her right of reply after considering the other evidence at the hearing, Ms Fraser²² remained of the view that:

I continue to not support the proposal as lodged, including with consideration of the additional information provided since lodgement, primarily due to the scale of adverse safety effects for pedestrians in the vicinity of the proposed vehicle crossing on Main Street and the lack of available options to mitigate these effects. The part of Greytown where the driveway is proposed has significant pedestrian activity associated with the retail and recreational opportunities, along with children moving to and from the nearby school, and the District Plan objectives and policies recognise and provide for pedestrian safety and amenity. The One Network Framework classification of Activity Street for this part of Main Street also emphasises the place function and the need to consider active modes. I consider that the scale of customer traffic activity and hours of operation of the store will result in significant adverse safety and amenity effects for pedestrians.

Amended Design

- (74) As stated in the written right of reply the applicant chose to amend the application by removing the right turn in south bound manoeuvre to all traffic. Design Changes²³ include:
- a. *An angled vehicle crossing. The revised crossing will include an angled vehicle crossing which will signal to drivers only left-turns are permitted into the site from Main Street. As shown on the attached plan, the dropped kerb section of the crossing is offset to the south; therefore making right turns more difficult for vehicles.*
 - b. *A new "no right turn" sign installed at the vehicle crossing and facing southbound drivers. As shown on the attached plan, this will present as an easily identifiable street sign to drivers travelling south down Main Street that there are no right turns allowed into the site at the location of the crossing. The sign is a New Zealand standard road sign, used throughout the country in various situations to good effect.*

²² Harriet Fraser – Right of reply page 3.

²³ Commute Transportation dated 20 October 2023 page 2.

c. *A separation of the existing combined "supermarket and post shop" sign currently located at the intersection at Main Street and Hastwell. Currently, a single yellow "directional" sign is located at the Main Street and Hastwell Street intersection to indicate the existing supermarket's location. The sign currently combines reference to the "supermarket and post shop" and is difficult to read for motorists travelling south down Main Street. As shown on the attached plan, I have proposed a clear separation of the existing combined "supermarket and post shop" into two separate wayfinding signs. The separation of the single yellow sign will mean people travelling south can easily identify the "supermarket" sign and know to turn right at Hastwell Street to access the supermarket.*

(75) Overall, Mr Hills considered that both the design as proposed, and the alternative design detailed above to provide for safe and efficient movement of all road users. He continued to consider that there are no traffic engineering or transport planning reasons that would preclude either design from being implemented.

(76) I requested by minute that Mr Hills memorandum and Plan be considered by Mr Church and Ms Fraser. Mr Church²⁴ was of the view that:

Having reviewed the Applicant's amended proposal and the changes proposed to the vehicle access design, my position as expressed in my Statement of Evidence remains unchanged. I do not agree that the amendments to the proposal will mitigate the safety effects of introducing a high volume access on Main Street, albeit for left turn movements only.

The wide access and conflicts introduced when establishing a high volume access within a main street environment continues to present safety concerns despite it providing for left in only as well as low cost interventions in an attempt to restrict right turning vehicles. As set out above, the Applicant's proposed design outcomes do not accord with industry guidelines and will in my view do little to mitigate the concerns set out in my Statement of Evidence.

I continue to not support the proposed access at 134 Main Street on the basis that it is not safe and presents a significant safety and operational risk to all road users.

I continue to support an alternative option that provides for a delivery vehicle only exit onto Main Street, which I discussed in my Statement of Evidence at paragraph 9.63, as it better

²⁴ Supplementary Statement of Evidence of Terry Church paras 5.1 to 5.4

addresses the traffic safety concerns than the amended proposal whilst providing the Applicant with an access from State Highway 2.

(77) Ms Fraser²⁵ also came to similar conclusions.

I do not consider that the amended arrangement included in the Applicant's right of reply will prevent right turns into the site. As per the final paragraph of my 3 October 2023 summary, included below, I remain concerned about the scale of customer traffic activity entering the Main Street driveway along with the hours of operation of the store and the associated adverse safety and amenity effects for pedestrians walking along the Main Street frontage.

Assessment of Traffic Effects

(78) As can be seen above there is a divergence of views on whether the amended proposal has merit from a traffic engineering perspective. In my view this divergence revolves on one hand, around improvements in safety for the supermarket operations through the removal of trucks travelling through the supermarket carpark and then reverse manoeuvring into the loading dock. On the other hand, there are the potential effects on pedestrian and other road users safety on both the Main Street footpath where the proposed crossing is proposed to be installed and on the carriageway.

(79) I have no doubt that the current servicing arrangements to the site are sub-optimal in that there should be a separation of heavy traffic from general carpark pedestrians and traffic in an ideal world. It is also obvious that a one-way manoeuvre through the site would also be beneficial for delivery drivers. I also agree that the pedestrian link proposed would have some benefits overall.

(80) However, the servicing numbers are modest with one B-train and six other deliveries on average per day. I also note that most deliveries are in the morning which is typically a quieter time for the supermarket.

(81) It is also noted that there has been no crashes or incidents reported as a result of this conflict, but obviously the potential still exists. In my view however the small inconvenience to the operation of deliveries and to some customers that could use the access to the 65 provided carparking spaces, should not be outweighed by the practical and safety implications of opening up a new entry only access from the highway. This also has other non-traffic related effects that I will come to shortly.

²⁵ Memorandum of Harriet Fraser 30 October 2023 page 3.

- (82) Mr Hills confirmed in questioning that the supermarket was Greytown's largest traffic generator so there could be a significant number of movements into the site instead of utilising Hastwell and West Streets as they do currently. Mr Church was particularly concerned about pedestrian safety of an 8.3 metre wide crossing for reasonable numbers of vehicles only some 40 metres from the controlled intersection at Hastwell and Main Streets. Mr Church also had concerns about the accessway design as did Mr Lloyd.
- (83) Both Ms Fraser and Mr Church have serious doubts about the ability to safely avoid vehicles entering 134 Main Street via a right turn movement without some physical barrier which is not proposed. Both did not agree that a single 'no right turn' sign and a variation in the angle of the crossing would be sufficient to avoid such manoeuvres being undertaken. Other submitters such as Ms Boyce and Ms Hall the owners of the next-door businesses were also concerned about loss of on street parking.
- (84) As noted in evidence from a number of submitters there are reasonable numbers of pedestrians that utilise Main Street. It is part of the primary shopping area and can get busy in the summer. The new entrance will also introduce a new conflict point where one does not currently exist and there is the existing alternative of utilising Hastwell Street, a relatively close distance to the north.
- (85) Overall, I do not consider that there is sufficient justification for the level of traffic effect by the proposal. While it would improve carpark safety this is at the potential expense of pedestrian safety on Main Street where the high use crossing to Greytown's largest traffic generating activity would cross the existing footpath. On traffic reasons alone I support the evidence of Mr Church and Ms Fraser in this regard that the effects of the proposal are not acceptable.

10.2 Historic Heritage Effects

- (86) The second main effect is on the Historic Heritage values within the Greytown Historic Precinct, and this is closely allied to urban design effects on Greytown's Main Street. The existing modest 1950's house is set back from the frontage and is somewhat at odds with surrounding Main Street properties that are built to the street edge reflective of the commercial characteristics of the area.
- (87) The primary evidence on Heritage Effects for the applicant was given by Mr Richard Knott. He gave 17 reasons²⁶ why he considered that the design is sympathetic to the heritage values of the Historic Heritage Precinct. These are paraphrased below:

²⁶ Evidence of Richard Knott para 5.2 a to q

- a. *The provision of a well-functioning supermarket is an essential element in the existing well-functioning urban environment.*
- b. *The existing building to be demolished, is well set far back from the street frontage, as the Beech Tree and other planting along the site frontage and within the Site, the building makes little contribution to the Main Street street-scene/environment.*
- c. *The existing wall along the site frontage makes a contribution to the continuity of the site frontage although the gap for the vehicular access will require widening to accommodate the updated access.*
- d. *The Beech Tree on the Site frontage to be retained contributes to the enclosure and continuity of the Main Street.*
- e. *The site entrance has been further considered and redesigned to be of a lesser width than previously proposed at the street frontage and is narrowed further into the site with additional landscape planting to each side.*
- f. *Larger areas of landscape planting are provided either side of the new access.*
- g. *The position of the service yard, the gates enclosing this at each end, the resulting curved alignment of the new access road, retention of the existing Beech Tree and the retention of the wall on the Site frontage and new landscape planting will ensure that there will not be a clear view down the lane towards the new canopy and towards the car park.*
- h. *The proposed externally illuminated sign has been significantly reduced in size from the original proposal and is constructed in painted timber to be in keeping with the heritage values of the historic heritage precinct. It will now be no taller than the eaves height of the adjacent building to the north (132 Main Street),*
- i. *Whilst the proposal includes the addition of a new canopy on the existing supermarket building, this is located around 28m back from the Site frontage to Main Street (although within the historic heritage precinct). The canopy is also simple in design.*
- j. *The Site does not currently make a positive contribution to the creation of a pleasant pedestrian-oriented retail environment, as the existing building is not in commercial use and is set well back from the Site frontage.*
- k. *Whilst the creation of the new vehicular access has the potential to disrupt the free flow of pedestrians across the Site frontage, the potential for this is mitigated by the updated design of the proposed access:*

- l. The access will be designed as a vehicle crossing rather than as a road with kerbs and channel. Pedestrians will therefore maintain priority across the entrance, and they will not be forced to navigate kerbs and channels, rather they will be able to continue across the entrance on a footpath. The reduced width of the vehicle crossing will reduce the distance that pedestrians have to pass by, compared to earlier plans.*
- m. The proposal provides a new pedestrian access to the supermarket entrance which increases the pedestrian focus of the supermarket development.*
- n. Together these matters will mitigate the potential adverse effect of the demolition of the existing building, new access and alterations to the building and ensure that the overall impression is that Main Street has a broadly continuous frontage of buildings and large trees as existing.*
- o. As described above, the proposed access and alterations to the supermarket building have been designed to be in keeping with the existing character and amenity values of Main Street whilst assisting the Applicant in meeting their Health and Safety obligations, which need to be considered under the purpose of the RMA. The use of external illumination for the proposed sign will minimise impact on the Dark Sky Management Area guidelines.*

(88) In evidence attached to the s42A report Mr Bowman went through an exhaustive process as to why the proposal was inappropriate in the Heritage Precinct. Ms Clark²⁷ summarised Mr Bowmans assessment that:

- The proposal will result in a more than minor negative impact.*
- Impacts will be visual, physical, social, direct, permanent, irreversible and cumulative.*
- No mitigation has been proposed that will effectively ameliorate these negative impacts on the character, qualities, heritage values and integrity of the HHP.*

(89) Mr Knott strongly opposed the heritage advice to the s42A report writer of Mr Ian Bowman. At the hearing Mr Knott remained supportive of the proposal and considered that the design changes and the retention of the Copper Beech tree were significant positive improvements to the proposal.

(90) Many submitters also made comment that the proposal was inappropriate from a heritage perspective. Mr Warren Woodgyer on behalf of the Greytown Community Board and Ms Carolyn

²⁷ S42A report para 71

Walt also described their understanding about what makes the Greytown Commercial Area valuable to the community.

(91) The Greytown Heritage Trust (GHT) was represented by Carmel Ferguson, Gina Jones and Peter Rowlands on behalf of Richie Hill presented at the hearing. All three commented on heritage values and questioned the necessity from a traffic perspective with the proposal.

(92) Ms Ferguson succinctly put the position of the Trust as follows:

The GHT oppose this application and we also oppose the Waka Kotahi proposed alternatives of a truck exit only from the site. Firstly because of the damage, even with the revised option, it is likely to do to the Copper Beech and the Horoeka, the unchangeable negative effects this would bring to the town's heritage values, but primarily because of the safety issues which accompany this proposal. This would be the ONLY driveway in the Greytown Historic Heritage Precinct (including the Greytown Residential Extension) which would be catering for vehicles the size of B-Trains AND the predicted number of trucks per day – this is totally incompatible with the aims of the District Plan and the Historic Heritage Precinct and with the quintessence of Greytown.

(93) Latasha Boyce, the owner of Alluminus the property next door, also was concerned about what the proposal would do to her business as did Lorraine Hall, the owner and resident of 132 Main Street immediately to the north. Ms Hall also raised significant amenity concerns to the enjoyment of her property from the driveway entrance which would immediately adjoin her property.

(94) In summary Ms Clark outlined²⁸ that:

The effects of the proposal on the special Historic Heritage Character of Greytown was raised in many of the submissions. Along with traffic this is the main effects of concern to the community. In particular, many submissions oppose the whole proposal on the grounds that the new 8.3m wide access into 134 Main Street will have an adverse effect on the special village character of Greytown and is contrary to the provisions of the Historic Heritage Precinct (HHP) and the South Wairarapa Town Centres Design Guidelines.

Assessment of Historic Heritage and Urban Design effects

(95) After considering the evidence I firstly record that I have no particular problem with the demolition of the dwelling at 134 Main Street. I have to state in this regard that I have considerable difficulties

²⁸ S42A report para 69

with Mr Bowman's view for the Council that the existing dwelling provides a positive contribution to the Heritage Precinct.

- (96) While some submitters including Ms St. Amand on behalf of Waka Kotahi considered that an alternative built proposal was of preference, that is not what the application sought. I also understand the applicant's rationale for wanting to increase the visibility and wayfinding to the supermarket from the state highway.
- (97) Aside from the traffic considerations, it is my view that if you are going to put in an access to a supermarket the design as sought is as favourable as it can be. The key Copper Beech tree is retained, there is separated pedestrian pathway and residual areas that are not used for the hard surfaced accessway are planted appropriately. In these matters I agree with the evidence of Mr Knott. However, there will still be a small view through the site to the 'backhouse' loading functions of the supermarket where one currently does not exist. In this regard I consider that the design of the canopy over the loading area is functional but acceptable in the context of the existing building.
- (98) A key feature and part of the success of Greytown's commercial area is the high utilisation of buildings that have a uniformity of style and position on the street frontages. A key part of this is the heritage fabric that exists along Main Street. This site is one of the exceptions to this uniformity and there are other cases of more modern structures interspersed with the older heritage buildings that exist. There are also sites such as the Greyfriars Motel that have a wide access across the Main Street footpath.
- (99) Even though the dwelling is set back, the most prominent feature is the Copper Beach Tree proposed to be retained. That is definitely a positive but to replace the dwelling with an access that would carry significant traffic including a modest number of delivery vehicles, (as the supermarket is the highest individual traffic generator in Greytown), is a very different proposition to replacing a 1950's house with some other form of development in the context of maintaining and enhancing the heritage values that exist. I refer to amenity effects to those that would adjoin a higher frequency access later in this report.
- (100) The proposal will also provide a different pedestrian experience with people needing to cross the 8.3-metre-wide access at the southern end of the core Greytown commercial activities where one currently does not exist, noting that Hastwell Street is some 40 metres to the north with a, (soon to be relocated), pedestrian crossing in between. I also note the number of submissions that referred to how busy the Greytown Commercial Area can get particularly during the summer months where both pedestrian activity and on street carparking demand is high.

(101) Overall and without sufficient and urgent traffic justification, the introduction of a new accessway carrying supermarket traffic does have a detrimental effect on the Historic Heritage values of the Greytown Historic Heritage Precinct in my view.

Signage

(102) There was some discussion in evidence about the signage proposed and I note that the applicant amended the size and design details of the sign to make the sign smaller and to make it externally illuminated. Mr Knott was of the view that this was acceptable as it is constructed in painted timber to be in keeping with the heritage values of the historic heritage precinct and that it will be no taller than the eaves height of the adjacent building to the north (132 Main Street).

(103) On its own I do not see that the sign is inappropriate in the context of being part of a proposal to provide a 'main street' entrance to the supermarket. However, I note that it would only face northbound vehicles making the, now disregarded, south bound turn in movement even more problematical in terms of potential wayfinding issues. While I did turn my mind to other wayfinding signage that may be appropriate this would be limited to the new AA sign proposed by Mr Hills included in the applicants right of reply.

10.3 The Copper Beech Tree

(104) Evidence on behalf of the applicant relating to the Copper Beech tree at the frontage of the site was presented by Mr Richard Peers an experienced arboriculturist. I note that the tree is very prominent as you approach the site, with its canopy extending over the footpath and being higher than adjoining buildings.

(105) It was agreed by all parties that the tree is of importance to the community and adds to the streetscape of this part of Greytown. A number of submitters also raised how important trees are in Greytown as the home of Arbor Day. Effective protection of the tree was seen to be of significant importance to them.

(106) I was advised by Ms Clark that the application and the technical assessments on the tree, were reviewed by Richie Hill of Paper Street Tree Company. Mr Hill²⁹ had some reservations with the reports in that he recommended:

Therefore, the applicant needs to demonstrate that they have considered the constraints outlined within the Peers Brown Miller report, and provide a protection methodology to show

²⁹ S42A Report para 76

how the impact of the development will affect the tree and how that impact will be mitigated and controlled during construction.

(107) In response Mr Peers outlined the methodology for his assessment of the tree and he was comfortable that subject to implementing a range of matters proposed in conditions that the tree would remain in good health. In his conclusions Mr Peers³⁰ stated:

I respect the status of this Beech Tree as a valued natural feature of the Greytown streetscape and, on both a personal and professional level, I am fully committed to ensuring that it can be incorporated successfully within the design of the proposed accessway.

I am satisfied the tree protection regime that I have outlined above provides adequate protection of the Beech Tree. If successfully adopted and formalised by way of resource consent conditions and the guidelines therein are adhered to with a high level of commitment given to a successful outcome, I am confident that the Beech tree would continue to thrive in its altered environment.

(108) Mr Peers also responded to my questions in relation to pruning lower limbs to achieve the clearance for heavy vehicles entering the site and was of the view that the form of the tree would not be affected.

(109) Mr Hills was not in attendance, but I am satisfied based on the advice of Mr Peers that a new access way can be installed, and successful retention of the Copper Beech tree can be achieved. I also note Mr Peers proposed conditions if consent was granted, stress the importance of aftercare for the tree to ensure its ongoing health.

10.4 Amenity effects

(110) There were also submissions that were concerned about amenity effects such as noise pollution, vibration, privacy, light spill in relation to Dark Sky reserve status in the Wairarapa and fuel pollution.

(111) Of these only the effects to three individual properties were discussed at the hearing. Ms Hall the owner and resident of 132 Main Street was concerned about numerous matters including traffic noise from vehicles particularly heavy vehicles using the accessway, the privacy to her outdoor courtyard, the loss of carparks on street, the boundary fencing proposed and the location of the sign close to the southern façade of her retail business and dwelling.

³⁰ Evidence of Richard Peers paras 8.2 and 8.3

(112) Likewise, Michelle Dawson and Ian McDonald from the Greyfriars Hotel expressed similar concerns in respect of noise from deliveries that they already experience, as well as privacy to guests utilising the motel units that immediately adjoin the newly created access. Ms Boyce the owner of Alluminus to the south of the site also expressed concerns about amenity matters.

(113) I have a considerable degree of sympathy with the views of all three property owners in respect of the loss of amenity that they currently enjoy. Ms Hall in my view would be most directly affected by the proximity of a new access to her boundary.

(114) On its own the 2.4-metre-high fencing on the southern side will provide some mitigation for the motel but it is also less domestic in scale than the current boundary fencing.

10.5 Other Effects

(115) For completeness there were a number of other matters raised and not discussed in any detail at the hearing. These include:

- Effects on the water race where I agree with Ms Clark that protection of its function could be considered through conditions of consent relating to Construction Management.
- Matters such as asbestos removal which are generally managed through the Building Act and conditions of consent.
- Economic effects to existing businesses which are difficult to quantify in my view.

(116) There were also concerns expressed in submissions about process matters and matters such as the Certificate of Compliance for removal of the Copper Beech Tree. While the applicant is entitled to seek this, I note that there was every effort made at the hearing to allay concerns that the tree would not be retained. I am also satisfied that the application has been prepared and evaluated in accordance with due process.

10.6 Conclusion on Effects

(117) Overall and taking account of the assessment above of the actual and potential effects of the proposal, I consider the effects of the proposal are not acceptable and cannot be mitigated. In particular, I consider that the traffic engineering justification for the proposal has not been well made particularly in relation to the modest amount of delivery vehicles per day. I also note the dispute between experts about the traffic engineering solution where I agree with the views of Mr Church and Ms Fraser over the views of Mr Hills.

(118) While traffic safety concerns are my primary finding, I also consider that there are adverse effects on heritage values and upon amenity values. The landscape design and signage aspects of the

proposal has been well thought through and it is the best solution it could be considering what the applicant is aiming to achieve. However, the introduction of a new access to Greytown's highest traffic generator between two buildings that have footpath frontage to Main Street in my view leads to more than minor effects on the Historic Heritage Precinct and on the amenity values of 136 Main Street in particular.

11. Statutory Instruments – s104(1)(b) and Other Matters – s104(1)(c)

(119) Ms Clark, Ms Panther Knight and to a more limited extent Ms St. Amand, provided an analysis of the relevant statutory instruments, particularly the Objectives and Policies of the Operative Wairarapa Combined District Plan which the proposal is required to be assessed against. The Wellington Regional Policy Statement is also broadly applicable although not determinative in my view. There are no other national policy statements or standards, other instruments or regulations that are applicable to the application.

11.1 The Wellington Regional Policy Statement (RPS)

(120) Ms Clark stated the following in respect of the RPS:

The current operative RPS is the Regional Policy Statement for the Wellington Region (updated version 2022). Considered of particular relevance are Objectives 15 and 22 and Policies 21-22, 46 relating to heritage and Policies 30-31 relating to well designed and sustainable regional form and managing central vibrancy and mixed-use development, transportation, and infrastructure. These matters are all addressed in the effects assessment section of the report below.

(121) I would also add that Proposed Change 1 to the Regional Policy Statement (RPS) is currently in its hearing stage This relates to a wide range of matters including the environmental components of wellbeing and the articulation of the qualities and characteristics of well-functioning urban environments. Ms Panther Knight referenced this in her evidence and concluded that the proposal was consistent with the direction of RPS Change 1.

(122) My position on the Wellington Regional Policy Statement (RPS), is that the proposal can broadly accord with the general strategic direction of the RPS. However, these are not determinative whereas the objectives and policies of the District Plan are.

11.2 Operative District Plan Objectives and Policies

(123) The objectives and policies of the Operative District Plan require particular consideration, as they express the intentions of the Council and community in relation to Greytown and the outcomes that the community seeks to achieve through the District Plan.

(124) Ms Clark and Ms Panther Knight both carried out a comprehensive review of the Operative District Plan objectives and policies. Ms Clark identified the following as relevant objectives:

- a. Residential Zone Objective Res1 -Residential Amenity Values and Character
- b. Commercial Zone Objective Com1 - Character and Amenity Values
- c. Commercial Zone Objective Com2 - Efficient Vehicle & Pedestrian Movement; and
- d. Commercial Zone Objective Com3 – Interzone Management
- e. Commercial Zone- Objective Com6 – South Wairarapa Town Centres
- f. Industrial Zone Objective Ind1 – Provision for Industrial Activities
- g. Heritage Objective HH1 – Historic Heritage Values
- h. Traffic and Transport Objective TT1 – Managing the Road Network
- i. Subdivision and Land development Objective SLD1 – Effects of Subdivision & Land Development

(125) Ms Panther Knight also carried out a thorough analysis relying to some extent on the views of Mr Hills and Mr Knotts’ assessment of effects.

(126) I do not intend to replicate that assessment here as there was little discussion about plan provisions at the hearing. I have also traversed these matters in as much as they relate to effects, in the preceding sections of this decision.

(127) I therefore consider that as there are adverse effects that cannot be mitigated, that it follows that the proposal is also not consistent with the intent of the relevant Objectives and Policies of the Operative District Plan particularly in relation to traffic, historic heritage and amenity matters.

11.3 Other Matters - s104(1)(c)

(128) The only other matter is if consent was granted an Archaeological Authority would be required. I consider that this matter could be included in either conditions or in an advice note if I was minded to grant consent.

11.4 Conditions

(129) As my decision is to decline resource consent the conditions proposed are somewhat academic. If consent was to be granted, I accept that the condition set agreed between Ms Clark and Ms Panther Knight would be appropriate but would not be sufficient to avoid, remedy or mitigate adverse effects.

12. S104 Assessment

(130) Based on the above I consider that the actual and potential effects on the environment of allowing the proposed activity to be more than minor under s104(1)(a) and these effects are not capable of being adequately mitigated.

(131) On this basis I also consider that the application is not consistent with the relevant policy statements and plans particularly the operative plan as required under s104(1)(b).

(132) I have also taken account of other matters as required under s104(1)(c).

13. Part 2 Considerations

(133) In terms of whether the proposal represents the sustainable management purpose of the Act I have outlined above the principal matters and constituent parts of s104.

(134) In terms of Part 2, in accordance with caselaw³¹, decision makers can no longer refer to matters under Part 2 of the RMA when considering resource consent applications, unless there is a 'gap' in the lower order planning document provisions. This includes section 5 purpose, section 6 matters of national importance, section 7 other matters and section 8 Treaty of Waitangi under the RMA. The reliance on specific sections under Part 2, for example section 7(c) the maintenance and enhancement of amenity values, is no longer be able to be considered unless the relevant district plan is invalid, has incomplete coverage or is uncertain.

(135) I have not been provided any evidence which states that the Operative District Plan does not have complete coverage of the relevant Part 2 matters noting that the proposed Wairarapa Combined District Plan was notified after the completion of the formal part of the hearing.

(136) As such, I consider that the Operative District Plan is a valid planning document, has complete coverage over the proposed activities and anticipated effects, and is of sufficient certainty to not require an assessment of the activity against Part 2 matters. If I had to have assessed Part 2 matters, I would conclude that the proposal does not meet the sustainable management purpose of the Act.

14. Decision

(137) In accordance with the authority delegated to me by the South Wairarapa District Council, and pursuant to section 104B of the Resource Management Act 1991, I **decline** resource consent to the application made by Woolworths NZ Ltd (Council reference 22081).

³¹ R J Davidson Family Trust v Marlborough District Council [2017] NZHC 5



Lindsay Daysh

Independent Commissioner

Decision dated 27 November 2023

For the South Wairarapa District Council