

Before the Independent Hearing Commissioner
At Wairarapa

Under the Resource Management Act 1991 (the Act)

In the matter of an application for resource consent by Woolworths New Zealand Ltd to undertake demolition of a building, undertake new building, alterations, and additions and to establish a sign exceeding the maximum size within the Greytown Historic Heritage Precinct; establish an additional vehicle crossing to State Highway 2 (Main Street) Greytown and to undertake associated landscaping and site works.

Between **Woolworths New Zealand Limited**
Applicant

And **South Wairarapa District Council**
Consent Authority

Outline of legal submissions for Waka Kotahi New Zealand Transport Agency

Dated 27 September 2023

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MAY IT PLEASE THE COMMISSIONER

1 Introduction

- 1.1 Woolworths New Zealand Ltd (the '**Applicant**') has applied to the South Wairarapa District Council (the '**Council**') for a land use consent (the '**Application**') associated with the redevelopment and use of the land at 12 Hastwell Street, 105 West Street and 134 Main Street, Greytown (the '**site**').
- 1.2 The Applicant proposes to construct and operate a new access for customer and service vehicles to the existing FreshChoice supermarket, as well as associated landscaping, signage (one free-standing sign adjacent to new access), and site works (which includes the demolition of the dwelling at 134 Main Street).
- 1.3 The new access to the FreshChoice supermarket is proposed on Main Street, State Highway 2 ('**SH2**').
- 1.4 In short, Waka Kotahi's case is that:
- a The proposed access:
 - i Introduces significant safety concerns to all road users, especially vulnerable footpath users including children and elderly.¹ The access introduces a significant number of conflicts to through-vehicles on SH2, turning vehicles, pedestrians, and cyclists, posing a safety concern to the general public which is greater than the on-site health and safety risk which the Applicant is attempting to address.² It is designed in a way which does not provided priority to pedestrians,³ and introduces a high volume access with very poor visibility, that does not accord with the relevant guidance;⁴
 - ii Has not been properly assessed against the relevant provisions in the Wairarapa Combined District Plan ('**WCDP**').⁵ The proposal is contrary to several objectives and policies in the WCDP, lacks proposed mitigation and an assessment of alternatives, and is inconsistent with the purpose and principles in Part 2 RMA;⁶

¹ Church EIC, para 9.6.

² Church EIC, para 1.9(b).

³ Church EIC, para 9.50, St Amand EIC, paras 5.3-5.6, and Hilliard EIC, para 6.13.

⁴ Church EIC, para 9.53-9.55. The relevant guidance being RTS 6 guidance, Waka Kotahi's Planning and Policy Manual, and Austroads engineering design standards (which are discussed by **Mr Church** in his evidence).

⁵ St Amand EIC, para 5.19 and Church EIC para 8.1.

⁶ St Amand EIC, paras 1.10, 9.9, and 11.5.

- iii Does not align with the Waka Kotahi 'Activity Street' classification as per the One Network Framework ('ONF');⁷ and
- iv Is at odds with the state highway through-road functions and is not aligned with the Safe Systems and Road to Zero principles that Waka Kotahi is seeking to achieve through the Low-Cost Low-Risk ('LCLR') projects in the local environment.⁸

- b Establishing a pedestrian and cycle connection between Main Street through to the front of the supermarket would provide a beneficial connection in the transport network, as long as that the connection provides a safe continuous and direct connection between Main Street and West Street;⁹ and
- c The width and type of access proposed would set a precedent for Main Street, and coupled with the proposed built development and loading bay activity, would appear out of context with the streetscape and surrounding land uses.¹⁰

1.5 Overall, Waka Kotahi does not support the proposal and respectfully submits that the Application should be declined. Declining the consent would allow the Applicant to explore some of the alternative options suggested by Waka Kotahi witnesses. If the Commissioner is nonetheless inclined to grant consent, Waka Kotahi seeks conditions which oblige the Applicant to mitigate and remedy some of the effects of the proposal.¹¹

2 Waka Kotahi role

2.1 Waka Kotahi is a Crown entity whose purpose is to deliver transport solutions for New Zealand. This includes investing:

- (a) In public transport, local roads, pedestrian and cycle networks; and
- (b) In the construction and operation of the state highway network on behalf of the government.¹²

⁷ Hilliard EIC, para 6.12.

⁸ Hilliard EIC, para 7.3.

⁹ Church EIC, para 9.72, St Amand EIC, para 8.12, and Hilliard para 6.14.

¹⁰ St Amand EIC, paras 8.16-8.32.

¹¹ St Amand EIC, section 10.

¹² Government Roadway Powers Act 1989, section 61 provides Waka Kotahi with the sole power of control for all purposes, including construction and maintenance, of all state highways and has the power to do all things necessary to construct and maintain in good repair any state highway.

- 2.2 The functions and operating principles relevant to Waka Kotahi are set out in the Land Transport Management Act 2003 ('**LTMA**') and the Government Roadway Powers Act 1989 ('**GRPA**').
- 2.3 Land use planning has a significant impact on transport policy, infrastructure, and services provision. When development is completed, it has a long-term impact on the transport network.¹³
- 2.4 Waka Kotahi is therefore interested in ensuring that land development is carried out in an effective and integrated manner which supports the objectives and statutory functions of Waka Kotahi.
- 2.5 Waka Kotahi considers that the proposal is neither safe nor integrated, and therefore undermines the Waka Kotahi objectives or functions.
- 2.6 **Ms Roxanne Hilliard** further details the role and functions of Waka Kotahi in her evidence.¹⁴

3 Waka Kotahi submission

- 3.1 Waka Kotahi made a submission on the Application on 12 September 2022. In its submission, Waka Kotahi outlined its primary concerns with the Applicant's proposal. In brief, those included:
- a The impact of large delivery vehicles on the safety of the pedestrian crossing;
 - b The safety of pedestrians on the footpath navigating the proposed accessway;
 - c Vehicles turning right into the proposed access not being able to properly see cyclists, putting cyclists safety at risk;
 - d The impact of heavy vehicle movements on the pavement;
 - e The proposed signage needing to be setback into the property and not obscure visibility;
 - f Further information as to the anticipated number of on-street parking spaces to be removed;

¹³ Hilliard EIC, section 4.

¹⁴ Hilliard EIC, para 5.4.

- g The management of stormwater effects so that peak stormwater flow to SH2 does not increase;
- 3.2 Most of the issues and concerns raised by Waka Kotahi, especially in relation to traffic safety, have not been alleviated by the Applicant.¹⁵

4 Traffic safety and the proposed access

- 4.1 The main concern for Waka Kotahi is the proposed new vehicle access to the FreshChoice supermarket on Main Street, SH2.

Existing traffic environment

- 4.2 In assessing the effects of the proposal, it is necessary to consider effects on the surrounding environment as it might be modified in the future (often called the 'existing environment').¹⁶
- 4.3 The existing environment is considered in the evidence of **Mr Church, Ms St Amand, and Ms Hilliard**.¹⁷
- 4.4 Main Street currently has a sign-posted speed limit of 40 km/h. The speed limit was recently reduced from 50 km/h in response to Waka Kotahi's Road to Zero road safety plan.¹⁸ Traffic volumes through Greytown whilst high throughout the year have seasonal peaks, with daily traffic volumes increasing substantially during the warmer months and holiday periods.¹⁹
- 4.5 Pedestrian volumes along Main Street (fronting the site), are estimated by **Mr Church** to be some 150-250 pedestrians per day during the week, and then increase to around 750-1000 pedestrians per day on the weekends.²⁰
- 4.6 Further, **Mr Church** notes that the FreshChoice Supermarket currently obtains safe and efficient access to Hastwell Street (which connects to SH2) and West Street.

¹⁵ Waka Kotahi is comfortable with the sign as proposed. Waka Kotahi does not have any objections to the stormwater management plan proposed, but note Waka Kotahi seek a neutral effect from stormwater on the state highway, and clarification on how the landscaping will incorporate the water soakage and discharge. See Hilliard EIC paras 6.39 and 6.41.

¹⁶ This is in the sense of the Court of Appeal's finding in *Queenstown Lakes District Council v Hawthorn Estate Limited* [2006] NZRMA 424 (CA) at para [84], that "the word "environment" embraces the future state of the environment as it might be modified by the utilisation of rights to carry out permitted activity under a district plan. It also includes the environment as it might be modified by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented."

¹⁷ Church EIC, section 5, Ms St Amand, section 7, and Ms Hilliard paras 6.22-6.33.

¹⁸ Hilliard EIC, para 6.23.

¹⁹ Church EIC, para 5.2.

²⁰ Church EIC, para 5.7.

- 4.7 Through the LCLR programme, Waka Kotahi is implementing improvements for pedestrians and cyclists, with a new raised pedestrian crossing towards Hastwell Street and cycle lanes.²¹ The upgrade, which is currently at the detailed design phase, would relocate the crossing approximately 6m to the north of the existing crossing which would be closed. The crossing upgrade will support the safe movement of pedestrians along and across Main Street, as well as providing for the safety of cyclists at the crossing itself and will allow for the future proofing of any cycling improvements that may be planned along this corridor.²²
- 4.8 Waka Kotahi considers that the proposed new access is likely to undermine the benefit of a new crossing, due to increased traffic, and potential queuing of right turning traffic in this location.²³

Traffic safety evidence

- 4.9 The Waka Kotahi evidence is that the proposed new access on to Main Street has not been adequately assessed and will cause significant safety concerns to all road users, especially vulnerable footpath users including children and elderly. In particular:
- a As identified by **Ms St Amand**, the Transport Assessment provided with the AEE and evidence of Mr Hills has not assessed the proposed access against the assessment criteria in the WCDP, specifically that set out in Standard 22.1.16 for Roads, Intersections, Access & Loading Areas;²⁴
 - b The proposed access has not been assessed by the Applicant using traffic volumes and survey data that reflect the seasonal/summer periods of Greytown, when traffic volumes are greater. As such, **Mr Church** finds that the effects of the proposal as presented by the Applicant are underestimated, and the proposed mitigation is insufficient;²⁵
 - c As discussed by **Ms Hilliard**, SH2 is identified as:
 - i a Strategic Arterial Route under the WCDP Roding hierarchy;²⁶
 - ii a Regional road under the One Network Road Classification;²⁷ and

²¹ Hilliard EIC 6.26-6.33, and Church EIC, section 6.

²² Hilliard EIC, para 6.31.

²³ Hilliard EIC, para 6.32.

²⁴ St Amand EIC, para 5.24.

²⁵ Church EIC, para 9.22.

²⁶ Hilliard EIC, para 6.15.

²⁷ Hilliard EID, para 6.3.

iii an Activity Street²⁸ under the ONF.²⁹

The proposed access does not align with the classification of Main Street as an 'Activity Street'. The access will create a conflict between high pedestrian numbers accessing local services on Main Street, and with customer and delivery vehicles traversing the pavement to access the supermarket. The access will disrupt the footpath connectivity and pedestrian movement in this location.³⁰

- d A significant number of conflicts between vehicles and vulnerable road users (pedestrians and cyclists) on Main Street will be introduced by the Applicant's proposed access. **Mr Church** estimates that conflicts could be as high as 500 per day.³¹ This is significant compared to the conflicts that occur in this location today, which is less than 10, and that which occur on-site (around 5-7 conflicts or less per day).³²
- e Introducing a high-volume access from Main Street to the supermarket increases the exposure to crashes.³³ The proposal increases the risk of swerving and head on crashes for vehicles travelling through Greytown. The exposure to right turn vehicles being hit by northbound traffic is also increased, especially if right turning traffic has to stop suddenly for a pedestrian or misjudges a gap in traffic.³⁴ Additionally, exposure to nose-to-tail crashes will increase with the proposed high volume access.³⁵
- f The visibility of the access is poor, as a result of its location within the main street of Greytown, where buildings front the street, building awnings, street furniture, landscaping and parked cars all obscure the access location and present a safety risk to motorists (either passing through or turning), cyclists and footpath users.³⁶ **Mr Church** considers that the viability of the proposed access does not accord with RTS 6 guidance, Waka Kotahi's Planning and Policy Manual or Austroads engineering design standards.³⁷

²⁸ Under the ONF, Activity Streets 'provide access to shops, entertainment venues, community facilities and commercial, trades and industrial businesses for everyone. People spend a significant amount of time, working, shopping, eating, residing, and undertaking recreation. They support medium to high levels of people walking, cycling, using public transport, or driving through the area.'

²⁹ Hilliard EIC, paras 6.3 and 6.6.

³⁰ Hilliard EIC, para 6.12.

³¹ Church EIC, para 9.16.

³² Church EIC, para 9.17.

³³ Church EIC, para 9.31.

³⁴ Church EIC, para 9.32.

³⁵ Church EIC, para 9.58.

³⁶ Church EIC, para 9.53.

³⁷ Church EIC, paras 9.35-9.46.

- g The design of the proposed vehicle access is unlikely to give pedestrians priority, as claimed by the Applicant.³⁸ The design is not consistent with pedestrian priority guidelines in the Waka Kotahi guidance on the design of driveways and intersections (i.e. it requires a continuous footpath, rather than a full depth (kerb to boundary) driveway splay currently proposed by the Applicant, which gives vehicles priority).³⁹
 - h The proposal is not needed to address the health and safety concerns raised by the Applicant as these can be mitigated onsite.⁴⁰ **Mr Church** identifies alternative options available which could mitigate the health and safety concerns with service vehicles within the current site.⁴¹
- 4.10 Overall, Waka Kotahi submits that the proposed access unnecessarily introduces significant safety issues for all road-users, would result in adverse effects on safety and the use of SH2 and the footpath that do not current exist, and is not required to remedy the health and safety concerns on-site.
- 4.11 However, Waka Kotahi would support a pedestrian and cycle connection between Main Street through to the front of the supermarket. The connection would provide a beneficial connection in the transport network, provided that the connection provides a safe continuous and direct connection between Main Street and West Street and is reviewed against the National Guidelines for Crime Prevention through Environmental Design.⁴²

5 Visual and Heritage effects

- 5.1 While not Waka Kotahi's key concern, **Ms St Amand** further considers that the proposal will result in adverse visual effects on the streetscape.⁴³
- 5.2 The proposal is unanticipated in the location. It will deepen the setback of onsite buildings, introduce a direct view of the supermarket building, and introduce an additional building⁴⁴ (estimated 312m² area) with a surrounding 2.4m tall perimeter wall.⁴⁵
- 5.3 The proposed mitigation (retention of an existing Copper Beech tree, the low level boundary wall, additional unspecified landscaping, a 70cm reduction in the width

³⁸ Mr Hills evidence in chief, dated 15 September, at para 7.11.

³⁹ Hilliard EIC, para 6.13 and St Amand EIC, para 5.4.

⁴⁰ Church EIC, para 9.59.

⁴¹ Church EIC, para 9.60.

⁴² Church EIC, paras 6.69-9.72, and St Amand EIC, paras 8.35 and 10.1.

⁴³ St Amand EIC, para 8.32.

⁴⁴ Extensions in the cantilevered canopy and loading bay extension.

⁴⁵ St Amand EIC, para 8.17.

of the vehicle access and removal of carparks) insufficiently mitigates the effects on historic heritage values of the wider locality and street context amongst existing shop frontages and verandas, and the character and amenity of the Greytown town centre.⁴⁶

- 5.4 Waka Kotahi would support the alternative approach to site development as proposed by **Ms St Amand**, which would provide a built frontage to the site and pedestrian and cyclist access only.⁴⁷

6 Alternative options

- 6.1 Waka Kotahi has suggested a number of alternative options, in an effort to achieve the aims expressed by the Applicant, but with fewer transport safety effects.
- 6.2 In its submission, Waka Kotahi notes that it put forward preliminary advice on 11 February 2022 which included the option to restrict access to left-in only. This option would need a full assessment by the Applicant. However, Waka Kotahi no longer supports this option as it would not appropriately mitigate the traffic safety concerns.
- 6.3 As mentioned above, **Ms St Amand** has proposed an option for the Applicant to develop a shopfront store for the supermarket, instead of a vehicle access, which Waka Kotahi would support.
- 6.4 **Mr Church** has also put forward an alternative option which could address the Applicant's health and safety concerns with service vehicles within the current site, and would not require vehicle access on to Main Street.⁴⁸ Waka Kotahi would support this option.
- 6.5 Further, in pre-hearing consultation, Waka Kotahi approached the Applicant with another alternative option for discussion. **Mr Church** discusses this alternative option in detail in his evidence. In summary, the alternative option includes:⁴⁹
- a a truck-only exit onto SH2 Main Street;
 - b a Management Plan which restricts truck operating times to avoid high pedestrian numbers on Main Street;

⁴⁶ St Amand EIC, para 1.9.

⁴⁷ St Amand EIC, para 8.35.

⁴⁸ Church EIC, para 9.60.

⁴⁹ Church EIC, paras 9.61-9.72.

- c large trucks restricted from turning left onto Main Street;
- d proposed access width of the vehicle crossing reduced to 6m;
- e revised markings in the carpark to provide a clear passage for trucks to enter the loading area and for customers to give-way;
- f a service vehicle EXIT Only sign and direction to customer parking on Hastwell Street; and
- g the opportunity to integrate wider active mode and green space to connect customers between Main Street and the store frontage.

- 6.6 **Mr Church** considers that, in comparison with the Applicant's proposal, this alternative option is safer, improves safety on-site, protects the safe, effective, and efficient operation of the state highway, and the function of this section of state highway being an activity street with high pedestrian presence.⁵⁰ This option also removes customer vehicles from using the Main Street access, which therefore removes the exposure and safety risk and the significant number of conflicts that would be introduced by a substandard high volume access in an area where there are high pedestrian numbers, parked vehicles, and high through traffic volumes, as proposed by the Applicant.⁵¹
- 6.7 Ms Harriet Fraser in her Traffic Assessment further noted that the alternative option would reduce traffic volumes such that the access would be 'low-volume', with only professional truck drivers using the driveway, with further controls able to be implemented through the management plan.⁵²
- 6.8 However, the Applicant did not pursue the alternative option presented, continuing to favour the option as set out in the Application.
- 6.9 Ms Fraser did identify that there was still a safety concern with truck-only use of the proposed access.⁵³ Ms Fraser considered that this would need to be addressed both in terms of the trucks turning to or from SH2 Main Street and the circulation of trucks through the local streets.
- 6.10 In his evidence, **Mr Church** agrees that there is a remaining safety concern with the alternative option with regard to trucks needing to cross the pedestrian footpath and approach the carriageway to obtain suitable sight distance. Despite

⁵⁰ Church EIC, para 9.62.

⁵¹ Church EIC, para 9.67.

⁵² Statement of evidence of Harriet Fraser, Section 42A report – Transportation appendix 2, at section 7.

⁵³ Statement of evidence of Harriet Fraser, Section 42A report – Transportation appendix 2, at section 7.

this, **Mr Church** notes that this is similar to what is experienced today at other low volume accesses.

- 6.11 Waka Kotahi agrees with **Mr Church** that this alternative option should be considered by the Applicant, though notes that its preferred option continues to be that no vehicle entry or exit should be provided from the Main Street, SH2 frontage.

7 Permitted baseline

- 7.1 Section 104(2) RMA provides that when determining the extent of the adverse effects of an activity, 'a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect'.
- 7.2 When applying the permitted baseline test, the effects of activities permitted by a plan or NES (not being fanciful activities) cannot then be taken into account when assessing the effects of the particular resource consent application.⁵⁴ The permitted baseline provides the consent authority with an optional means of measuring, or more appropriately excluding, adverse effects of that activity which would otherwise be inherent in the proposal.⁵⁵
- 7.3 Accordingly, it is at the Commissioner's discretion whether to use the permitted baseline as the basis for assessing effects.
- 7.4 **Ms St Amand** disagrees with Ms Knight's application of the permitted baseline,⁵⁶ finding that there are no permitted baseline effects to be considered aside from the removal of the Copper Beech tree.
- 7.5 Relevantly, **Ms St Amand** in her assessment of the WCDP provisions found that:
- a The proposed access would be the third access for the 'site' and as such, does not meet the standards for roads, access, parking and loading standards in Appendix 5, and is accordingly not a permitted activity under Rule 6.5.5(b);⁵⁷

⁵⁴ This is in the sense of *Arrigato Investments Ltd v Auckland Regional Council* [2002] 1 NZLR 323 where the Court of Appeal stated at [29] "...The permitted baseline ... is the existing environment overlaid with such relevant activity (not being a fanciful activity) as is permitted by the plan. Thus, if the activity permitted by the plan will create some adverse effect on the environment, that adverse effect does not count ... It is part of the permitted baseline in the sense that it is deemed to be already affecting the environment ... it is not a relevant adverse effect. The consequence is that only other or further adverse effects emanating from the proposal under consideration are brought into account."

⁵⁵ As per *Far North District Council v Te Runanga-A-Iwi O Ngati Kahu* [2013] NZCA 221 at [91].

⁵⁶ Ms Kay Knight, evidence in chief, dated 15 September 2023, at paras 7.2-7.4.

⁵⁷ St Amand EIC, para 5.23(b).

- b A portion of the loading bay area sits across the residential zone, which requires consent under Rule 5.5.5(a) as a commercial activity within a residential area;⁵⁸
 - c The proposed loading bay design and layout (while achieving the district wide permitted activity standard 21.1.25(c)(i)(2) and the screening of the loading bay area meets with commercial zone standard 6.5.2(h)) requires resource consent as a discretionary activity due to the reliance on other activities which require consent, such as the proposed access.
 - d The proposed building additions and alterations for the loading bay require discretionary activity consent under Rule 26.6(g)(ii) within the Historic Heritage Precinct;⁵⁹
 - e The proposed signs require restricted discretionary activity consent under Rule 6.5.5(b) as there will be more than one free standing sign on the 'site'.⁶⁰
- 7.6 Therefore, Waka Kotahi does not consider the application of the permitted baseline to be a useful approach in these circumstances, as the activities identified by Ms Knight (aside from the removal of the Beech tree, which the Applicant is proposing to retain nonetheless) are not permitted under the WCDP.
- 7.7 As a consequence of applying the permitted baseline, the Applicant has not correctly assessed all of the effects of the proposal on the environment, nor adequately considered alternatives.⁶¹

8 Planning and legal framework

- 8.1 Section 9 of **Ms St Amand's** evidence thoroughly considers the relevant planning documents. She concludes that:
- a the proposal is contrary to several objectives and policies in the WCDP,⁶² including Policy 6.3.17 Com6 (c) which seeks to avoid development that is out of character with the historic heritage values of the Town centres, including Greytown;⁶³

⁵⁸ St Amand EIC, para 5.23(c).

⁵⁹ St Amand EIC, para 5.23(d).

⁶⁰ St Amand EIC, para 5.23(a).

⁶¹ St Amand EIC, para 6.3.

⁶² 6.3.1 Objective Com1 and 6.3.2 Com1 policies (a) and (b); 6.3.4 Objective Com2 and 6.3.5 Com2 policies (a), (c); 6.3.16 Objective Com6 and 6.3.17 Com4 policies (b), (c) and (d); 10.3.1 HH1 Objective and 10.3.2 HH1 policy (b); 17.3.1 Objective TT1 and 17.3.2 TT1 policies (a), (b) and (c).

⁶³ St Amand EIC, para 9.2.

b the proposal does accord with 17.3.1 Objective TT1 and 17.3.2 policy (e) in the WCDP.

8.2 Ultimately, the proposal is not supported by the planning and legal framework.⁶⁴

9 Part 2 RMA

9.1 The Commissioners' determination under Section 104 is expressed as being 'subject to Part 2'. The caselaw in relation to Part 2 of the RMA is of course somewhat complicated, following the higher court decisions in *King Salmon*⁶⁵ and *RJ Davidson*,⁶⁶ among others.

9.2 The case law indicates that it is generally unnecessary to refer back to Part 2 of the RMA, because the relevant provisions of the planning documents have already 'given substance' to the principles in Part 2.⁶⁷ However, recourse to Part 2 is not prevented, and should be considered where the decision maker is in doubt as to whether the planning documents appropriately reflect the provisions of Part 2.⁶⁸

9.3 **Ms St Amand** has assessed the Application against the provisions of Part 2, and concludes that the WCDP adequately reflects the provisions of Part 2, considering all resource management issues.⁶⁹ The relevant matters to the Application identified by **Ms St Amand** are health and safety, historic heritage and amenity.

9.4 Overall, **Ms St Amand** concludes the following:⁷⁰

a Section 5: the proposal does not satisfactorily avoid, remedy, or mitigate the adverse effects of the proposed activities on the environment and over estimates the health and safety issues on site compared to those created by the proposal on the street.

b Section 6: relying on the evidence of Mr Bowman, **Ms St Amand** considers that the proposal does not protect the impacted historic heritage in Greytown.

⁶⁴ St Amand EIC, para 1.10.

⁶⁵ *Environmental Defence Society v The New Zealand King Salmon Co Ltd* [2014] 1 NZLR 593.

⁶⁶ *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316.

⁶⁷ Following the approach of *R J Davidson v Family Trust v Marlborough District Council*, above n 65.

⁶⁸ *R J Davidson v Family Trust v Marlborough District Council*, above n 65, at [70]-[77]. See also the discussion in *Tauranga Environmental Protection Society Incorporated v Tauranga City Council* [2021] NZHC 1201 at [70] - [90].

⁶⁹ St Amand EIC, para 11.1.

⁷⁰ St Amand EIC, paras 11.1-11.4.

- c Section 7: The proposal does not adequately assess the amenity values of Greytown associated with the commercial street experience and sense of place established on the streetscape. Further, the proposal would not maintain or enhance the quality of the surrounding environment and would affect the setting of the neighbouring protected heritage buildings. No remedy or mitigation has been offered to sufficiently mitigate these effects.

9.5 As such, **Ms St Amand** agrees with the conclusion of Ms Honor Clark, 'that the proposal, is inconsistent with the purposes and principles of Part 2 of the RMA'.⁷¹

10 Relief sought

10.1 For the reasons outlined in its submission, evidence, and above, Waka Kotahi opposes the Application and respectfully seeks that it be declined.

10.2 Should the Commissioner be inclined to grant consent, Waka Kotahi would support the alternative options and inclusion of the conditions as proposed by **Mr Church** and **Ms St Amand**. However, as the road control authority, Waka Kotahi seeks the opportunity and time to review and comment on any additional changes proposed to the state highway as a result of new mitigation arising through the course of the hearing.

11 Waka Kotahi witnesses

11.1 Waka Kotahi has lodged evidence of three witnesses in support of its submission:

- a **Roxanne Hilliard** – Corporate;
- b **Terry Church** – Traffic; and
- c **Kathryn St Amand** – Planning.

Dated 27 September 2023



Nicky McIndoe / Hermione Kemp

Counsel for Waka Kotahi NZ Transport Agency

⁷¹ Section 42A Report for the South Wairarapa District Council, dated 1 September 2023, at [118].