
Open Meeting

To	Independent Commissioner
Prepared By	Milan Covic
Date	07 May 2021
Approved By	Jason Wright – Consents Team Leader
Application	LUC0329/20
Applicant	Gull New Zealand Limited

Experience and Qualifications of Reporting Officer

I have been engaged by Waikato District Council to provide an evaluation and recommendation on an application by Gull New Zealand Ltd to construct and operate an unmanned service station at 68 Great South Road, Pokeno. I am an Intermediate Planner at Waikato District Council. I hold a Masters in Hazard and Disaster Management and a Bachelor's in Science in Geography and Environmental Science from The University of Canterbury. I have 4 years' experience as a Resource Management Practitioner with a specific focus on resource consenting within the Local Government environment.

Executive Summary

This report has been prepared pursuant to s.42A of the Resource Management Act 1991 (RMA) and provides an assessment of the proposal in accordance with the relevant matters specified in the RMA.

Proposal

This proposal is to establish and operate a 24-hour service station. The proposed service station will comprise of three fuel pump islands, each containing a pair of 91, 98 octane, and diesel pumps to serve up to six light vehicles at any time.

Additional structures on the site include a 6 m high sign to display prices, a shed to house an emergency spill kit, and two 60,000 litre underground fuel storage tanks (one with 91 octane and one partitioned for 35,000 litre diesel and 25,000 litre 98 octane).

Two vehicle crossings (one for entry and one for exit) are also proposed to be constructed onto Great South Road. Two car parks are proposed on the site although no stores or retail elements are otherwise proposed.

The application also involves earthworks of up to 577 m³ to prepare the site for the service station and install the underground tanks.

Connection into the reticulated stormwater network is proposed although onsite stormwater detention and management shall be constructed onsite to manage spills.

The application is also supported by a landscaping plan and proposed screening around most of the property.

District Plan Provisions

The site is located in the Business Zone under the Operative District Plan (Franklin Section) (ODP) and Business Town Centre Zone under the Proposed District Plan (PDP), although there are no rules with legal effect under the PDP. The application fails to meet a number of building and development standards within the ODP (amenity planting, sign height, vehicle entrance width and separation, queueing space, distance of fuel dispensers). As the proposed service station is within the Pokeno Business Centre (defined as between Church Street and Cambridge Street), the proposal defaults to a Non-Complying Activity under the ODP.

Submissions

14 Submissions were received in relation to this proposal. Three in support, and eleven in opposition. Six submitters have indicated they wish to be heard. Two submitters (submissions #9 and #12) have identified themselves as Trade Competitors but consider themselves directly affected by the proposal. Another submitter (submission #7) has been identified as a potential Trade Competitor although they have not identified themselves as such. Submission #7 also consider themselves directly affected. In summary, the prevalent topics of concern relate to whether the service station is appropriate in the town centre; conflicts in amenity between the service station with the adjoining Market Square (town square); and traffic safety issues.

Status of the Two Plans

The Waikato District Council (Council) currently has two District Plan frameworks: The Operative Plan and the Proposed Plan. It is important that I provide initial context on the status of the plans.

Currently the Proposed Plan is at Notification/Hearings stage and the only decision made (Raglan Navigation Beacons) does not relate to this site. Only those rules that meet the criteria contained in section 86B(3) of the RMA have legal effect at this stage in the process. There are no rules with legal effect triggered by this proposal. This incomplete framework means that a full assessment cannot be carried out against the PDP. As a result of this, my report below contains only one recommendation against the ODP (which also incorporates an assessment of the PDP objectives and policies that do have legal effect).

Recommendations

The following report provides an assessment of the proposal against the requirements of section 104, 104B, and 104D of the RMA, including the actual and potential effects of the

proposed activity on the environment, an assessment of the relevant plan provisions, all other relevant matters and Part 2 matters. The report contains a recommendation to the Commissioner on whether consent should be granted, evaluating all of the evidence presented at the time of report writing.

In light of the evaluation below, it is my recommendation that the application be DECLINED under the ODP for the following reasons:

- In my conclusion on actual and potential effects under section 104(1)(a) of the RMA I have found:
 - (i) That there will be unacceptable adverse effects on Character and Amenity for which the application has not indicated can be sufficiently avoided, remedied, or mitigated. These relate to the proposal not offering a pedestrian-friendly retail activity, and the proposed sign becoming a dominant feature of the activity.
 - (ii) The proposal will result in unacceptable traffic safety effects following anticipated upgrades to the surrounding roads. This is mostly regarding vehicles potentially queueing out onto Great South Road, and insufficient space offered for heavy vehicles. The application also has insufficient information to fully assess these potential future effects.
- In my conclusion on relevant plan provisions under section 104(1)(b) of the RMA I have concluded that:
 - (i) the proposal is inconsistent with the NPS-UD.
 - (ii) there are no National Environmental Standards that are relevant.
 - (iii) the proposal is inconsistent with the Regional Policy Statement.
 - (iv) the proposal is inconsistent with the Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010.
 - (v) The provisions of the ODP have been assessed and I have concluded that the proposal is contrary with the Objectives and Policies of the ODP. Although the proposal is a commercial activity within the Business Zone, it does not contribute to the pedestrian friendly environment which is envisioned in the Pokeno Business Centre as there are no retail elements beyond refuelling a vehicle. Further, the activity does not adequately avoid, reduce, or mitigate the potential effects on traffic safety from the impending upgrades to Great South Road. The directive objectives and policies pertaining to amenity values contained in the ODP have not been met by the proposal. I have found that the development does not align with the vision for the Pokeno Business Centre set out in Part 19 and Appendix 29.2 of the ODP.
 - (vi) I have found the proposal to be inconsistent with the objectives and policies of the PDP. These objectives and policies seek to encourage pedestrian-orientated retail activities with a built-up and active frontage to public spaces and discourage activities that utilise a large open space

and cater to vehicles only. In addition, I find weighting between the two plan provisions somewhat arbitrary because the proposal is contrary to the objectives and policies of both the Operative and Proposed District Plans.

- Under section 104(c) - Other Matters I have found that:
 - (i) The proposal is contrary to the business/retail activities intended for the area as contained in the Waikato 2070 Growth Strategy.
 - (ii) The proposal does not contribute to the outcomes sought through the Market Square Design Guide 2014.
 - (iii) The proposed activity is contrary to the outcomes sought in the Pokeno Structure Plan 2008.
 - (iv) The proposal is contrary to the outcomes sought under the Waikato Blueprints 2019 for Pokeno
 - (v) The proposal will set a precedent for other applications and potentially undermine the integrity of the District Plan.
- In light of the above I consider Part 2 of the RMA would be better met through the decline of this consent application than the granting.
- Under Section 104D, I have also found that the proposal did not meet either thresholds under the 'Gateway test' to be considered for granting.

Submission Strike Out Recommendation

I have also made a recommendation to partially strike out points raised in submission #9 as the submitter is a Trade Competitor, and not all the submission relates to direct effects on the environment.

I will review my recommendations following the filing of evidence and will advise before or at the hearing whether there is any change to my recommendation as a result of the pre exchanged evidence or evidence presented at the hearing.

The conclusions reached and recommendations made in this report are not binding on the Commissioner and it should not be assumed that the Commissioner will reach the same conclusions or decision after having considered all of the evidence. If the Commissioner does not agree with my assessment under section 104(1) and considers that the proposal can be granted, I have provided a set of recommended conditions of consent for reference.

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1.0 INTRODUCTION

Pursuant to s88 of the Resource Management Act 1991 (the RMA), Gull New Zealand Ltd (the Applicant) has applied for land use resource consent to construct and operate an unmanned service station within the Pokeno Business Centre (Business Zone) at 68 Great South Road, Pokeno.

1.1 Summary of Site and Planning Information

Applicant:	Gull New Zealand Limited
Property Address:	68 Great South Road POKENO
Legal Description:	Lot 41 Part Allot 15 PSH OF Mangatawhiri DP 19787 Comprised in Record of Title NA899/187
Site Area:	910 m ²
Operative Plan	Waikato District Plan (Franklin Section) 2000 (ODP)
Proposed Plan	Proposed Waikato District Plan (Notified Version 2018) Stage 1 and 2. (PDP) Variations 1 and 2 of Stage 1 of the Proposed Waikato District Plan
Activity Status:	Operative District Plan: Non-Complying Proposed District Plan: N/A (activity status rules does not have legal effect)
Zoning:	Operative District Plan: Business Zone Proposed District Plan: Business Town Centre Zone
Policy Area:	Operative District Plan: Waikato River Catchment, Amenity Planting Requirement, Business Centre Classification, Structure Plan Boundary, Front Yard Control Line, Hunua Rural Management Area Proposed District Plan: Waikato River Catchment

The proposed service station will operate 24 hours a day and seven days a week and be self-service with no regular staff on site except for fuel deliveries. The service station is designed for use by light vehicles only and will provide diesel, 91, and 98 Petrol across three pumps and six dispensaries.

The application proposes to install two 60,000L underground tanks to store the fuel and provide an air pump for inflation of car tyres. It is also proposed that a 6 m² shed for site

maintenance, a bin with a spill kit for cleaning, and a 6 m high sign advertising the station and current fuel prices will be constructed on the site as well as the provision of two carparks.

The following information was provided in support of the application and I adopt this information to be included as a part of the proposal:

- 1) Traffic Impact Report prepared by Traffic Solutions Limited, dated 30 March 2020, referenced 979TIA.
- 2) Noise report prepared by Marshall Day Acoustics, dated 10 January 2020, referenced Rp-001-20191318.
- 3) Lighting Report prepared by Kern Consultants, dated 02 March 2020.
- 4) Infrastructure Report prepared by Arete Civil Ltd, dated 31 March 2020, referenced 2124-R01-0.
- 5) An Environmental Management Plan for unmanned service stations.
- 6) A Landscaping Plan for the site.
- 7) An urban design assessment prepared by Boffa Miskell, dated 25 May 2020.

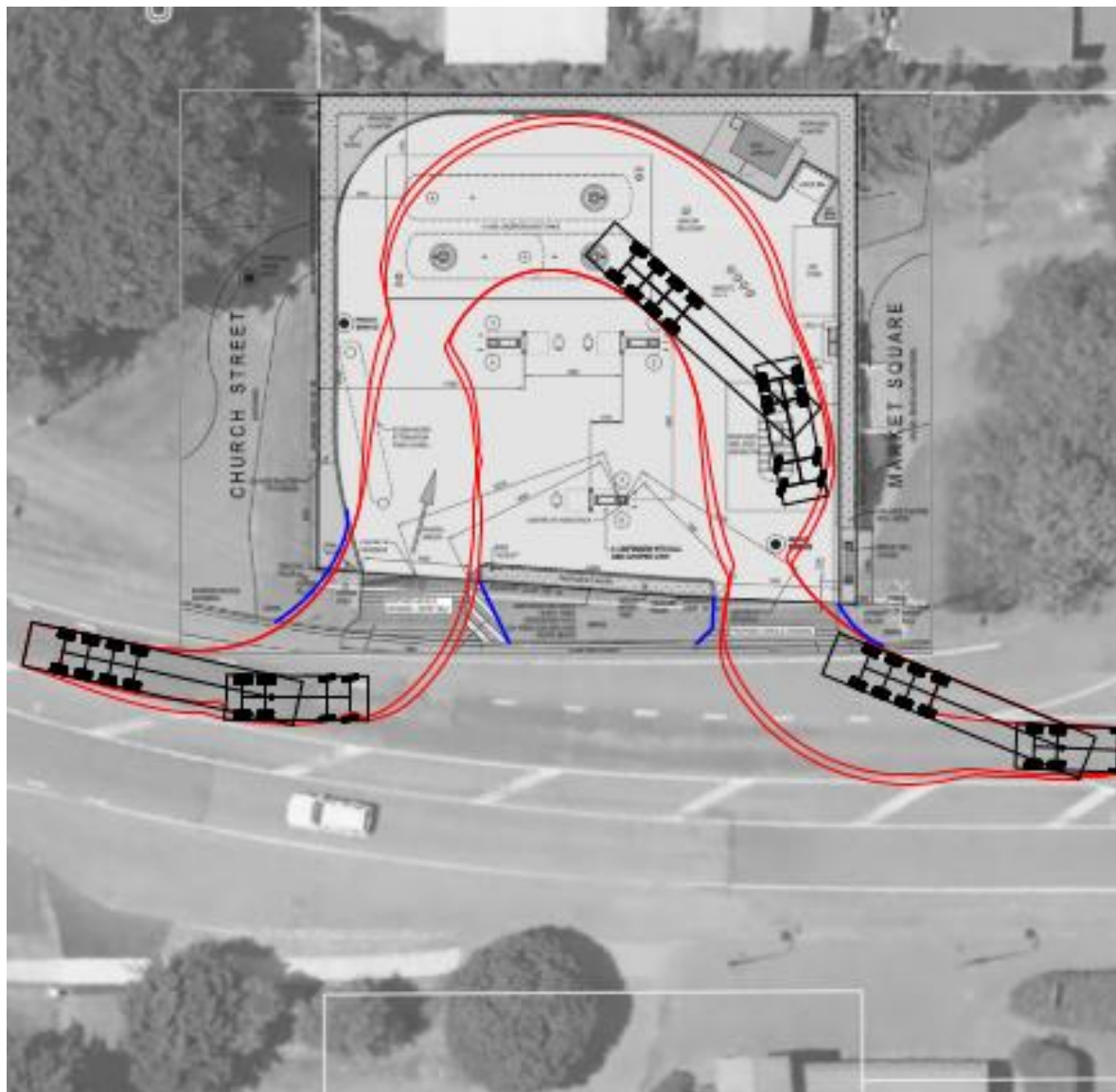


Figure I – Site plan of the proposed activity

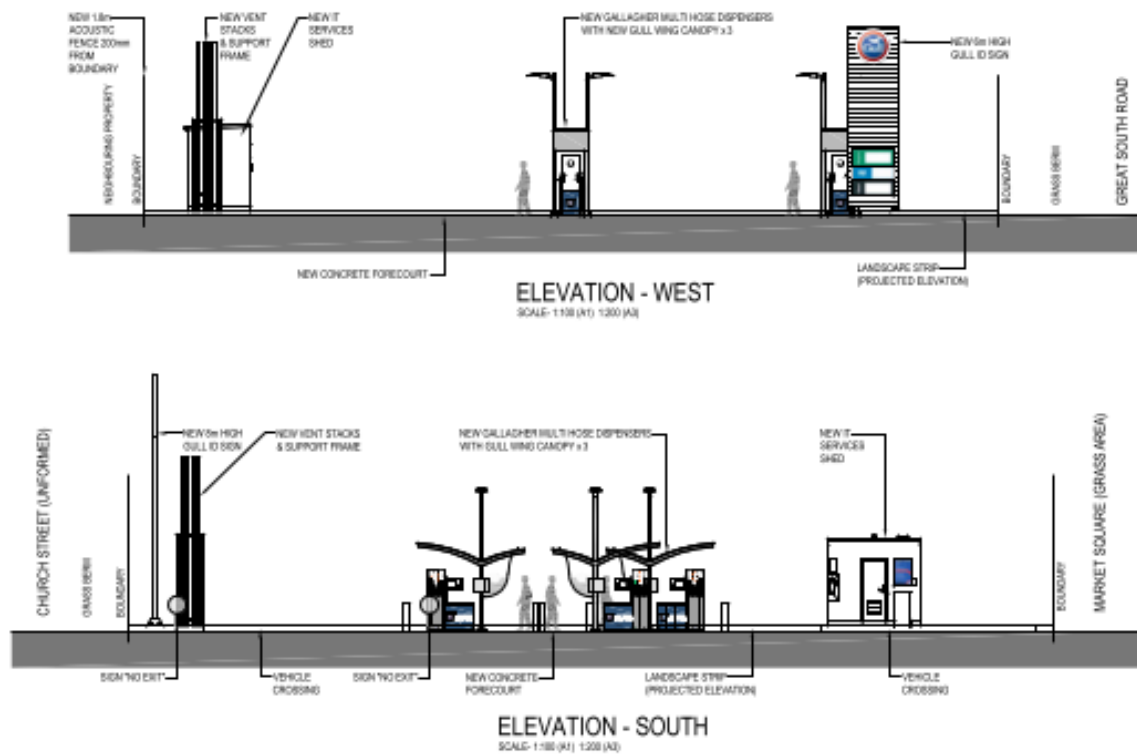


Figure 2 – Elevations of the proposed service station

Vehicle Accesses

The application proposes to construct two vehicle entrances onto Great South Road for the entry and exit of vehicles for refuelling and trucks to re-fill the underground tanks, with one being 8.5 m wide and one at 7 m. A one-way system is proposed with the western entrance as entry-only, and the eastern as exit-only. It is proposed that the entrances will be between 9.1 m and 11.3 m from the closest fuel pump and approximately 13.8 m apart. The western entrance will be 50 m from Pokeno Road, and the eastern entrance will be 42 m from Market Street.

As described in the application's traffic impact assessment, it is anticipated that there will be approximately 600 vehicle visits (a total of 1,200 vehicle movements) daily to the site from vehicles refuelling, with an expected 60 per hour during peak times. In addition to the anticipated vehicle movements, it is also expected that there will be up to two to three heavy vehicle visits every week to re-fill the underground fuel storage tanks on site. The application does not include statistics/numbers about anticipated vehicle numbers from any fuel promotions.

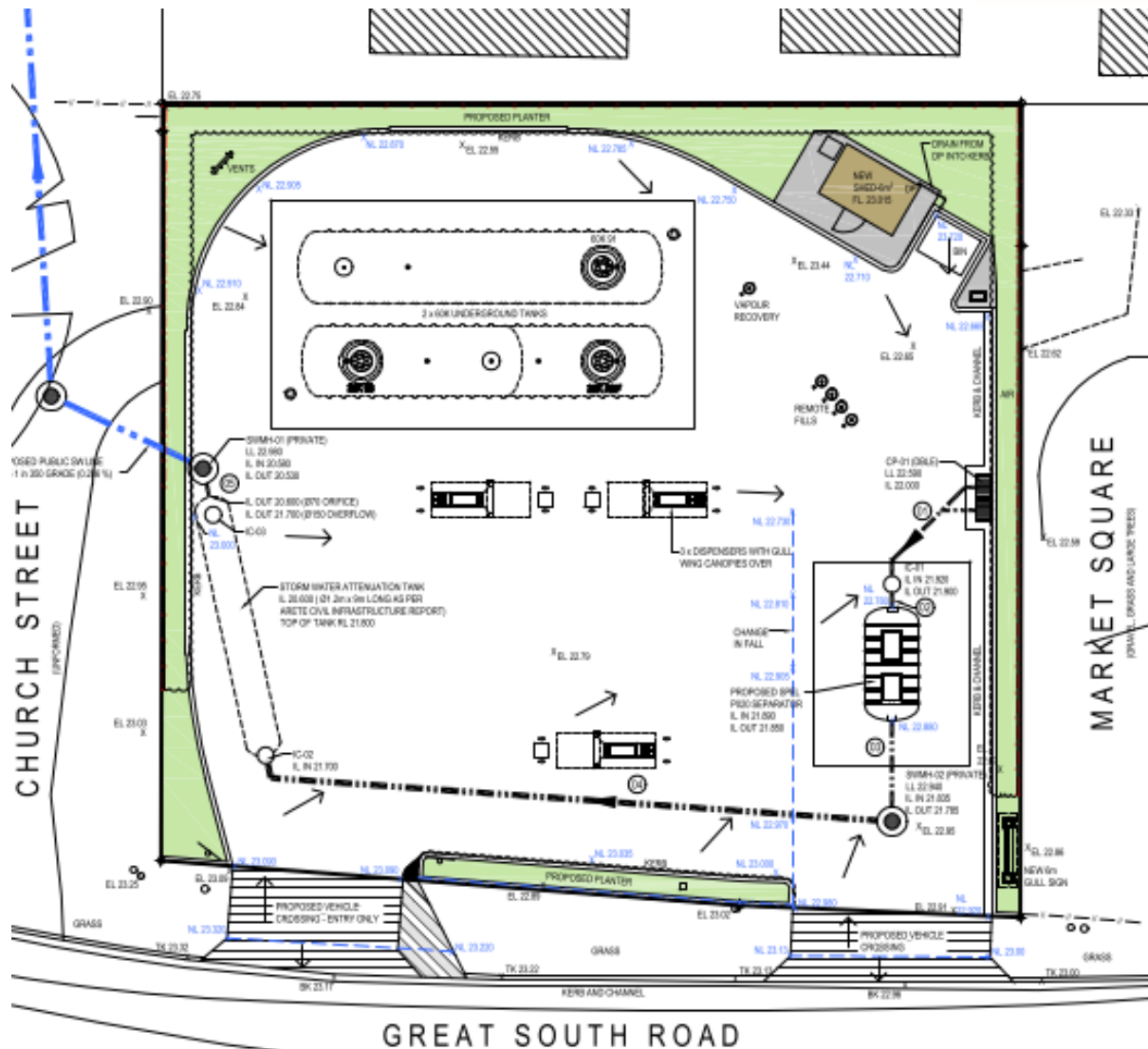


Figure 3 – Layout of proposed entrances in relation to the fuel dispensers

Stormwater Management

The infrastructure report provided with the application outlines the proposed onsite stormwater management system. The report was prepared by Arete Civil, dated 31 March 2020, referenced 2124-R01-0 and includes a plan for stormwater management.

The management system proposes to drain all stormwater from the forecourt into a SPEL separator to separate any oil products from rainwater. The water then flows into an attenuation tank to manage the rate of stormwater flows before discharging into the reticulated stormwater system.

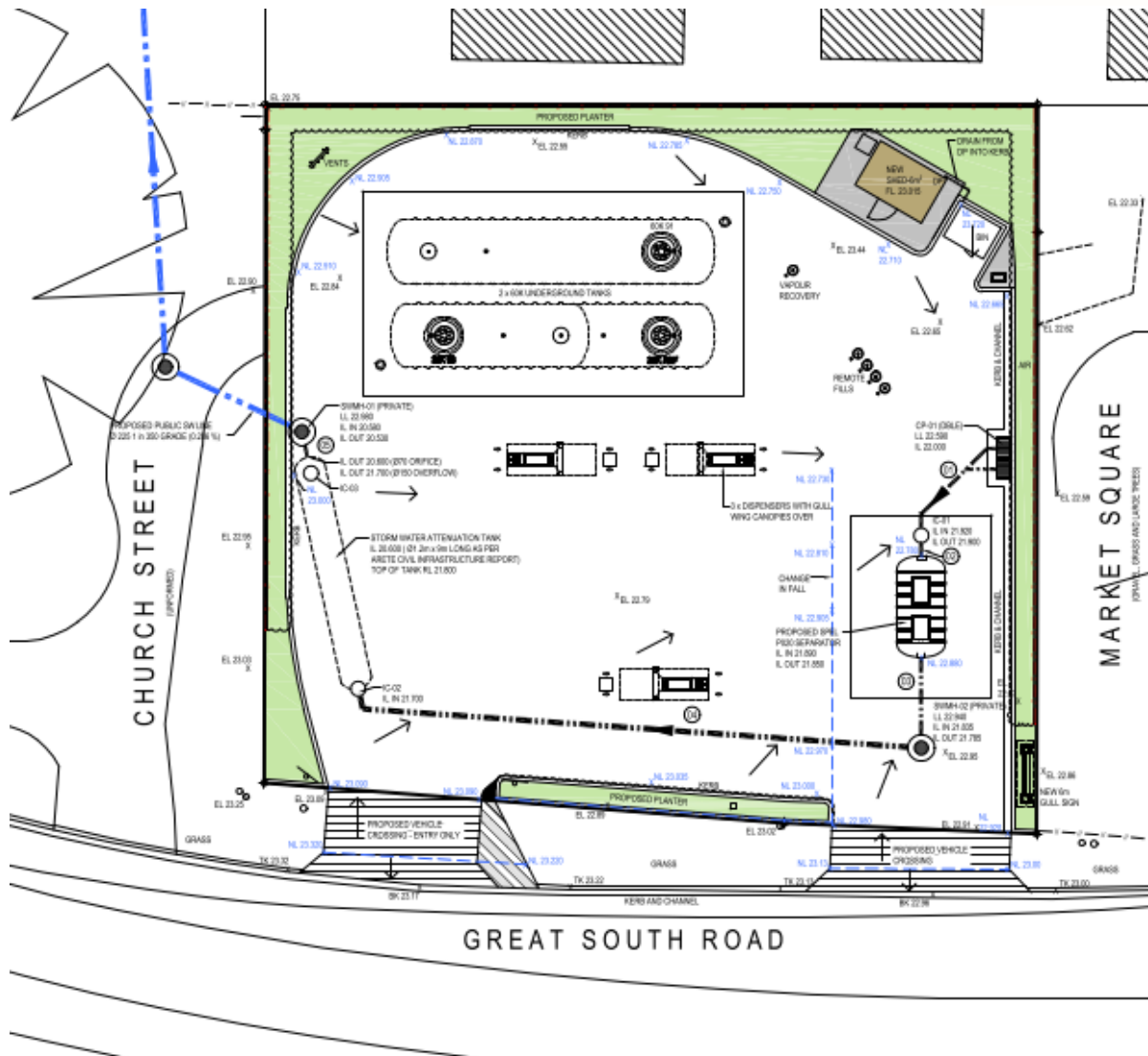


Figure 4 – Proposed onsite stormwater management system

Earthworks

The application proposes earthworks of up to 872 m³ to prepare the site for the service station, including a cut of 4.5 m for the underground fuel and stormwater tanks. Approximately 577 m³ of this material is proposed to be reused as fill with the remainder being taken to an approved dump site. The earthworks will be over the entire 910 m² of the site.

The earthworks are proposed to take place over a two-week period, between 7.00 am to 5.00 pm Monday to Friday and 7.30 am to 1.30 pm on Saturdays. No earthworks will take place on Sundays or Public Holidays. The heavy vehicle movements will be limited to the delivery and removal of heavy machinery with approximately 72 heavy vehicle movements to remove surplus material.

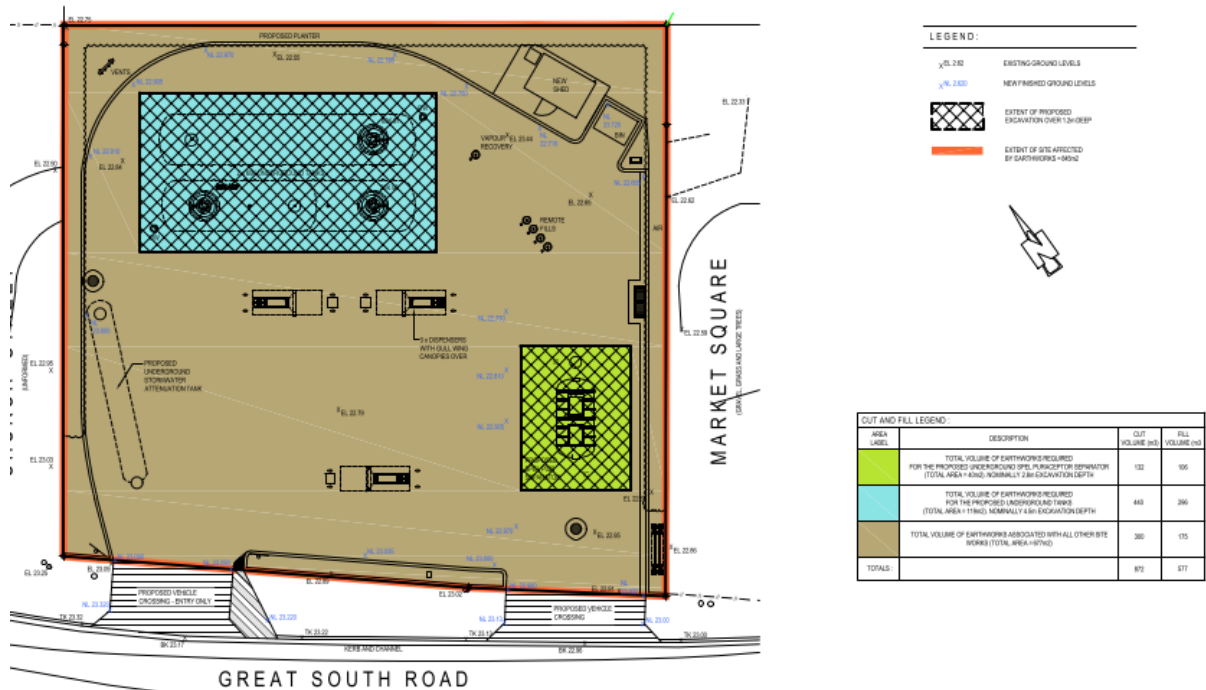


Figure 5 – Proposed Earthworks for the site

Landscaping

The application is proposing a 1 m high hedge along the perimeter of the site except for the vehicle entrances and proposed pylon sign location. An additional 0.9 m high white picket fence is proposed to be constructed in front of the hedge, with a 0.4 m high fence between the vehicle entrances.

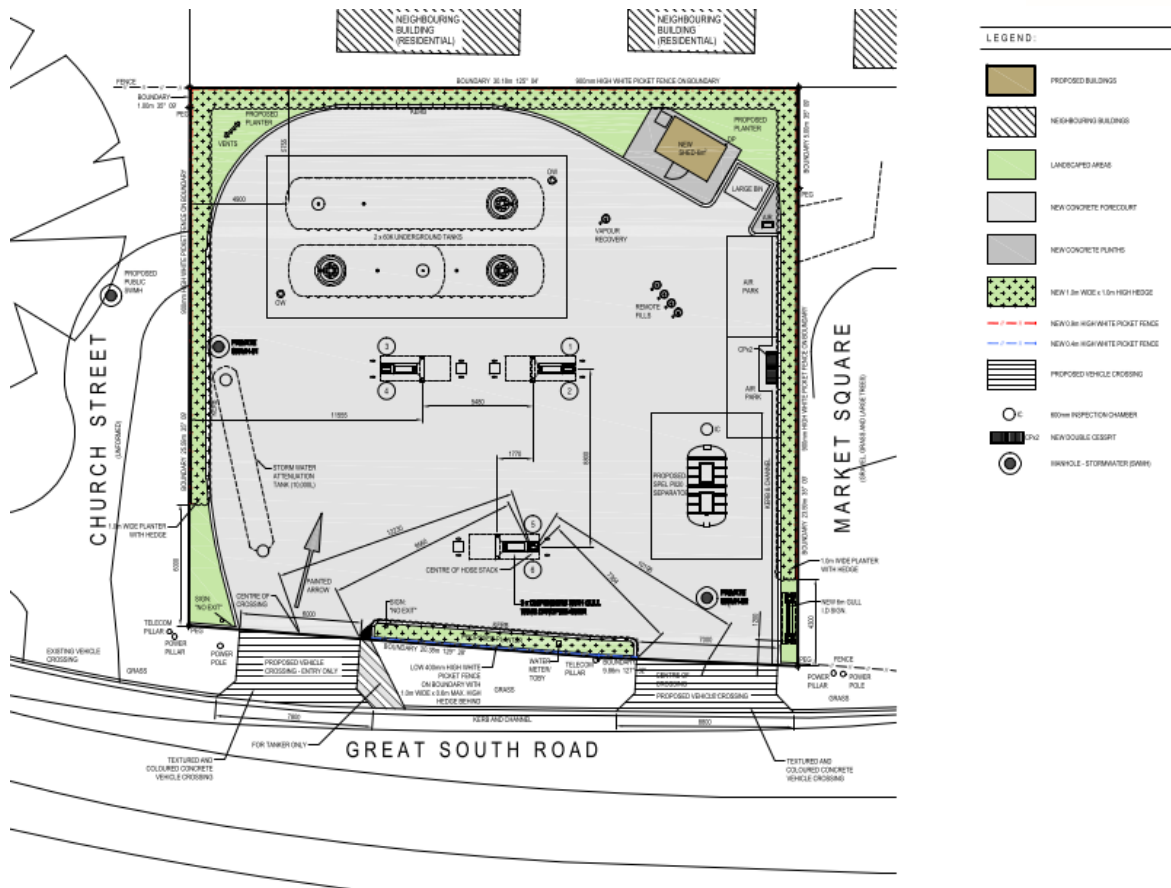


Figure 6 – Landscaping Plan for the site

1.3 Description of Site

Subject site and directly surrounding area

The 910 m² subject site is located at 68 Great South Road, Pokeno within the Business Zone.

The site is generally flat in topography, and contains two existing dwellings, with one being used as a real estate office.

The site has frontage to Great South Road and the unformed Church Street and adjoins Market Square, the Pokeno Town Centre (which contains a World War I memorial cenotaph). There is no formed access to Great South Road as the existing dwellings respectively have access onto Market Street (through Market Square), and a driveway over Church Street.

To the north is 25 Market Street which is the only private land directly adjoining the subject site. This property has a consented 8-unit retail development (reference: LUC0224/20), which is currently under construction. The access to the retail development will be via Market Street.

To the east of the site beyond Market Square and still within the Business Zone are properties which contain existing residential dwellings. Opposite Market Square lies a GAS

service station (with retail store), that also adjoins Market Street. To the south is the Pokeno Town Hall. The remainder of the Pokeno Business Centre is further southeast of the site, and Great South Road continues to the Waikato Expressway south toward Hamilton.

To the west and northwest of the site are Residential 2 Zoned properties with dwellings and residential activities. This includes an intersection between Great South Road and Pokeno Road, which connects Pokeno to Tuakau. Great South Road continues north from this intersection to Auckland via the Waikato Expressway.

Pokeno Village

Pokeno Village is a town that has undergone significant growth over the past decade, attracting new residential, commercial, and industrial developments. There is an identified Business Centre within the town between Church and Cambridge Streets, along Great South Road.

To accommodate this growth, multiple design guidelines have been prepared by the Council to illustrate the intended strategic direction of the Business Centre. These are identified and considered in this report below. The design guidelines focus particularly on a built environment with pedestrian-friendly retail activities being encouraged to provide an enjoyable business centre for residents.



Figure 7 – Site Plan and surrounding area

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2.2 Technical Comments

As part of my assessment, I have engaged various technical experts to review the application and advise me on aspects of the proposal in relation to the below matters:

- Mr Christopher Gatehouse: Land Development Engineer, Waikato District Council
- Mr Gareth Bellamy: Road Safety Engineer, Waikato District Council
- Mr Alan Parkes: Environmental Health Officer, Waikato District Council
- Mr Luke Steggles: Lighting Engineer, WSP Opus
- Ms Melanie Parsons: Traffic Engineer, Gray Matter Limited
- Mr Sam Coles: Urban Designer, Harrison Grierson Limited

2.3 Note on Terminology

The subject site is within the Business Zone and the identified Town Centre for Pokeno within the ODP. There are specific rules and policy provisions that apply to the Town Centre for Pokeno that do not apply to other Business Zone areas in the district. Because of this, I will refer to the site as being within the 'Pokeno Business Centre' to acknowledge the provisions and outcomes sought under the ODP that apply only to this Business Zone within the Pokeno Town Centre.

3.0 STATUS OF ACTIVITY

The proposal triggers the requirement for consent under the following rules:

3.1 Waikato District Plan – Franklin Section

Rule #	Rule Name	Status of Activity	Comment
9.5	Transport	Restricted Discretionary	<p>Great South Road is a Collector Road as identified in the Council planning maps. As the road has a 50 km/hr speed environment, the application is subject to Table 9.B in the District Plan.</p> <p>The western entrance fails the 150 m separation from a side road requirement by 50 m, and the 15 m separation from an existing crossing requirement by 8.5 m.</p> <p>The eastern entrance fails the separation from a side road requirement by 108 m, and the nearest crossing requirement by 9.3 m.</p> <p>The proposal is therefore a Restricted Discretionary Activity under Rule 9.5.1.</p>

15.4	Signs	Discretionary	<p>The proposed sign is 6 m high, and therefore fails the 2 m maximum sign height for the Business Zone by 4 m as described under Rule 15.4.3.4.(d).(ii).</p> <p>The proposal is Discretionary under Rule 15.4.2.2.</p>
15.5	Earthworks	Restricted Discretionary	<p>The proposal exceeds the maximum permitted volume of earthworks of 100 m³ by 772 m³ as provided for in Rule 15.5.2.3.i.(a).(ii).</p> <p>The proposal exceeds the maximum cut depth of 1.5 m by 4.5 m as contained in Rule 15.5.2.3.i.(b).</p> <p>The proposal is Restricted Discretionary under Rule 15.5.2.</p>
29.4A	Non-Complying Activities	Non-Complying	<p>The proposal fails the requirement for service stations located between Church and Selby Streets to not have frontage to Great South Road as described in Rule 29.3.4.</p> <p>The proposal is a Non-Complying Activity under Rule 29.4A.1</p>
29.5.8	Vehicle Crossings and Driveways	Controlled	<p>The proposed western crossing exceeds the maximum permitted width of 6.0 m by 2.5 m. The proposed eastern crossing exceeds the maximum permitted width of 6.0 m by 1.0 m.</p> <p>The proposal is a Controlled Activity under Rule 29.2.</p>
29.5.11	Amenity Planting	Restricted Discretionary	<p>The proposal does not involve planting along the entire edge of the relevant (western) boundary, or adjacent to the nearest buildings from the boundary, failing Rule 29.5.11.2</p> <p>The proposed planting will not achieve visual screening from the nearest non-business sites from the relevant (western) boundary, failing Rule 29.5.11.3.</p> <p>The proposal is a Restricted Discretionary Activity under Rule 29.3.1.</p>
29.5.16	Location of	Restricted	The proposed fuel dispensers at pump numbers

	Fuel Dispensers	Discretionary	<p>'5 and 6' fail the required minimum 12 m separation from the midpoint of the eastern entrance by 0.7 m, and the western entrance by 2.9 m.</p> <p>The proposal is a Restricted Discretionary Activity under Rule 29.3.1.</p>
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As outlined in the assessment above, the application is a Non-Complying Activity under the ODP.

There are no relevant rules in the PDP which have legal effect.

4.0 NOTIFICATION AND SUBMISSIONS RECEIVED

4.1 Notification Decision

On 28 January 2021, a decision was made to publicly notify the application. The decision concluded that the proposal will have or is likely to have adverse effects which would be more than minor in relation to Character and Amenity.

In addition to the public notification of the application, direct notice was served on the owners and occupiers of 8 properties within the vicinity of the site as well as those parties required to be served notice under Regulation 10 of the RMA.

The 8 properties which were served direct notice are set out below:

Site Number	Property Address	Legal Description	Name of Owner
1	80 Great South Road	Lot 1 DP 209899	Focuz Property Ltd
2	73 Great South Road	Lot 1 DP 415433	A L & M W Holroyd
3	19 Market Street	Pt Allot 15 Psh Mangatawhiri	The Franklin County Council
4	62 Great South Road	Lot 1 DP 17425	A J McIntosh
5	26 Market Street	Pt Allot 15 Psh Mangatawhiri	B T Abley, K J Norgrove, M L Coll
6	25 Market Street	Lot 1 DP 80637	Pink Lotus Holdings Limited
Market Square Authority (Waikato District Council Property and Roading Teams)			

4.2 Submissions Received

14 Submissions have been received and can be found in **Appendix H**.

Three submissions support the proposal (#1, #2, and #7), and 11 submissions are in opposition to the proposal. There are no neutral submissions. Four parties have requested to be heard at the hearing. (#3, #6, #10, and #14).

Submission Number	Name	Address	For/Against	To Be Heard
1	Ronel Jacobs	57 Mark Ball Drive Pokeno 2402	For	No
2	Pink Lotus Holdings Limited	25 Market Street Pokeno 2402	For	No
3	Ric Odom on behalf of the Pokeno Community Committee	6 McNeish Place Pokeno 2402	Against	Yes
4	Wendy & Shane Harrod	13 A Pokeno Road Pokeno 2402	Against	No
5	Kenneth & Patricia Graham	PO Box 179 Pokeno 2402	Against	No
6	Amapral Singh Khera	62 Great South Road Pokeno 2402	Against	Yes
7	Donald McIntosh	PO Box 85 Pokeno 2402	Against	No
8	Dominic Toon	1 Ulcoats Lane Pokeno 2402	For	No
9	Todd McIntosh	PO Box 6 Pokeno 2440	Against	No
10	Michael & Amanda Holroyd	73 Great South Road Pokeno 2402	Against	Yes
11	Emma Tucker	53 Markball Drive Pokeno 2402	Against	No
12	Ravinder Tiku	31 Halberg Street Papakura Auckland 2110	Against	No
13	John and Helen Clotworthy	59 A Pirrit Road Pokeno	Against	No
14	Allan Raymond Grainger	11 McIntosh Drive, Pokeno 2471	Against	Yes

Submissions can be summarised as follows:

Submission Point Summary	Submission Number	My Response
<u>Inconsistent with Growth Plans:</u> Particularly the Waikato 2070 Plan, and the 2019 Waikato Blueprints Plan	#3, #4, #5, 10, #14	To be assessed in my report below.
<u>Out of Character for Pokeno:</u> Pokeno's urban design guides anticipate pedestrian-orientated retail activities on the site	#3, #4, #5, 10, #14	To be assessed in my report below.
<u>Amenity:</u> Concerns with the hours of operation, storing hazardous substances, light spill, noise, large signage	#3, #4, #5, 10, #11, #14	To be assessed in my report below. Many of the amenity effects are compliant with ODP rules, and some submission points raised rules which are contained in the PDP and have no legal effect
<u>Traffic Safety:</u> Safety of Pedestrians, Queueing vehicles onto Great South Road, development of the Great South Road Intersection, Regular Fuel promotions, inadequate traffic data, surrounding bus stops.	#3, #4, #5, #7, #9, #10, #11, #13, #14	To be assessed in my report below.
<u>Conflicts with Market Square:</u> Concerns with the level of amenity expected in the town square, appreciation of the war memorial, and surrounding trees, concerns with removal of the cottage in the subject site	#3, #4, #5, #7, #9, #10, #11, #12 #13, #14	To be assessed in my report below. Relocation of the Pokeno War Memorial is not proposed under this application, nor is the removal or trimming of any trees in Market Square.
<u>Economic:</u> Submitters feel another fuel station is not necessary for Pokeno. Won't provide any jobs. Will remove one house from the site.	#3, #4, #5, #6, #9, #10, #11	To be assessed in my report below.

It should be noted that a peer review assessment from Gray Matter Ltd was released with the notification documentation. The assessment included a suggestion for the Pokeno war memorial to be removed. Despite this, there was no concluding recommendation within the

assessment, and neither the proposal nor effects to be assessed include removal of this war memorial.

4.3 Trade Competitors

Submission #7

Submitter #7 (D McIntosh) has not identified himself as a trade competitor. However he is an owner of a property in Pokeno which is currently leased to Z Fuel Services upon which a truck refuelling stop is located. Although this operation is catered toward heavy vehicles unlike the proposed Gull Service Station, I consider Mr D McIntosh to be a trade competitor as both operations sell fuel for vehicles. The following points are raised in Mr D McIntosh's submission:

- 1 Concerns with traffic congestion from vehicles queueing, particularly where close to the Pokeno Road intersection.
- 2 Concerns with visibility from queueing vehicles due to bends in the surrounding roads.

I consider these submission points to be directly associated with traffic safety effects for the wider environment, and outside of trade competition matters. I consider that Submission #7 be accepted in full.

Submission #9

Submitter #9 (T McIntosh) has identified himself as a trade competitor. Mr T McIntosh is one of the owners of a property in Pokeno that is leased to G.A.S Fuel Services, another service station directly opposite to the subject site on Market Street. Mr T McIntosh is also an owner of the property in Pokeno which is leased to Z Fuel Services. I agree with Mr T McIntosh that he is a trade competitor for these reasons.

Mr T McIntosh considers that there will be potential adverse effects on the wider environment, and includes the following points in the submission:

- 1 Conflicts in amenity between the large sign proposed and the lack of large buildings.
- 2 Opposes the removal of one of the dwellings on the subject site.
- 3 Concerns with vehicles queueing out onto Great South Road where a bus stop and town hall are located.
- 4 The traffic data is potentially out of date given recent developments in Pokeno (such as the Countdown).
- 5 There is already an existing service station and truck stop in Pokeno, and a second one isn't necessary.

I consider any points relating to the existing fuel station and truck stop (summary point 5) to be associated with trade competition matters, and I therefore recommend they be struck out.

I consider submission points regarding traffic concerns, and effects on town centre amenity to be relevant and would recommend they be accepted where relevant.

Submission #12

Submitter #12 (Mr R Tikū) has identified himself as the operator of the G.A.S Service Station in Pokeno. I therefore consider Mr Tikū a trade competitor.

Mr Tikū has raised the following points in his submission:

- 1 No benefits to the local community as no permanent jobs are being created due to the unmanned nature of business.
- 2 Provide a provision for alternate residential dwelling for the one being removed/demolished in the current housing crisis.

I consider these submission points to be directly associated with economic effects for the wider environment, and outside of trade competition matters. I consider that Submission #12 be accepted in full.

4.3 Late Submissions

No late submissions have been received.

5.0 SECTION 104 CONSIDERATIONS

This section of the report outlines the statutory framework of the RMA under which the assessment of the application will be undertaken.

5.1 Section 104

Matters to be considered by the Council when assessing an application for resource consent under s104 of the Act include, subject to Part 2, any actual and potential effects on the environment, any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan and any other matters considered necessary (i.e. under s104(1)(c)).

The following sections of this report will assess the proposal's effects on the environment and against any relevant objectives, policies of the ODP (Franklin Section), the Operative and Proposed Regional Policy Statement and the Regional Plan and other relevant regulations and other matters considered necessary.

5.2 Permitted Baseline

Section 104(2) contains the statutory definition of the permitted baseline. This section specifies that when forming an opinion regarding the actual and potential effects on the environment of allowing the activity, the 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.

Application of the permitted baseline is a matter of discretion for the consent authority. If it is applied, permitted effects cannot then be considered when assessing the effects of a particular resource consent application. The baseline has been defined by case law as being non-fanciful (credible) activities that could be permitted as of right by the District Plan.

I will address the permitted baseline further in Section 6.0 below.

5.3 Part 2 Matters

All of the above considerations under section 104 are subject to Part 2 of the RMA – purpose and principles (sections 5, 6, 7 and 8). The key matter when considering this application will be the RMA’s single purpose as set out in section 5, which is to promote the sustainable management of the natural and physical resources.

A full discussion and assessment of all Part 2 matters and a final overall judgement of whether the proposal promotes this part of the RMA is set out in later sections of this report.

6.0 PERMITTED BASELINE ASSESSMENT

Section 104(2) states that *“When forming an opinion for the purposes of subsection (1)(a), 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.”*

As the focus of the permitted baseline test is on the effects of permitted activities, it is necessary to first identify credible permitted activities in the Business Zone, and particularly the Pokeno Town Centre, and then assess whether any of the permitted effects are comparable to the effects of the proposal.

The following activities are permitted within the Pokeno Structure Plan Area of the Business Zone:

- The construction of a vehicle entrance within 150 m of a side road, or 15 m from an existing crossing
- The construction of a sign no greater than 2 m in height
- Earthworks exceeding no more than 100 m³ in volume or 1.5 m in depth
- The construction of any building which is limited to minor alterations such as cosmetic changes or repairs to existing buildings
- The construction of a vehicle crossing not wider than 6 m
- Amenity planting along a relevant boundary that achieves visual screening of an activity
- The construction of fuel dispensers at least 12 m from any vehicle crossings.

Permitted activities within the Business Zone in the Pokeno Town Centre are limited to the repairs or cosmetic alterations to buildings. As a result, I consider that the proposed activity is not comparable to those activities which are permitted.

I also consider the proposed earthworks to be so different from the permitted rules that they are not easily comparable. Although the ODP does anticipate the construction of new buildings, such activity is categorised as Restricted Discretionary. Excluded from this are any 'yard-based' activities or those that rely on an open space, with service stations specifically being categorised as a Non-Complying Activity in this area.

There are some commercial activities that would have similar effects to the proposed activity, including receiving vehicles and delivery vehicle on-site, or certain levels of noise. However, they are difficult to compare with the application as the current use of subject site is residential activity, and the proposed activity defaults to Non-Complying status. In that regard, it is difficult to apply the "permitted baseline" in this context, and I therefore choose not to apply it to this proposal.

7.0 EXISTING ENVIRONMENT

Case law has held that the 'environment' upon which the effects are to be assessed is the existing and the reasonably foreseeable future environment (that is, the future state of the environment as it might be modified by permitted activities under the District Plan and unimplemented resource consents, where it appears likely that these consents will be implemented).

The existing environment for Pokeno is that of an emerging town centre. Many new commercial buildings have been constructed or are currently under construction, including retail complexes at 25 Market Street immediately north of the site, and a second complex at 39 Great South Road. Further developments include the Pokeno Countdown, which completed construction in February 2021, and the 'Pokeno CBD' restaurant at 7 Selby Street. These developments have brought increased vehicle and pedestrian movement into the area. In addition, the industrial development in Pokeno's Gateway Industrial Park (particularly the Yashili and Synlait dairy factories) have increased vehicle and heavy vehicle movement in the area.

The future environment consists of the additional traffic numbers brought by the increased development in Pokeno, and the changes to infrastructure in Pokeno, particularly on Great South Road, and the intersection with Pokeno Road. These upgrades have been confirmed to take place within the next three years and have undergone consultation within the Council's relevant Long Term Plan consultation periods.

7.1 Current Environment

The current existing environment has been described in the site description analysis in section 1.3 of this report.

It should be noted that for the current existing environment, the vehicle accesses are onto Market and Church Street (partially formed). The appearance of the site is two dwellings with one used as a real estate office, and vehicle movements are only in support of one residential and one commercial activity. The vehicle movements are low in comparison to what is proposed, and I do not consider them to be easily comparable.

In assessing the current environment, I also consider the existing vehicle movements through Great South Road in Pokeno, including the additional movements from recent developments. This shall be described further below.

7.2 Unimplemented Consents

There are no unimplemented consents for this property.

8.0 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT– SI04(1)(a)

As the proposal is a Non-Complying Activity, my assessment of effects is not restricted to any particular matters.

The actual and potential effects of the land use activities on the environment are those effects relating to:

- Positive Effects
- Earthworks Effects (Including Site Suitability, Traffic Safety, Amenity and Character)
- Urban Design and Business Centre Character
- Servicing
- Traffic Safety (Including future effects from the Pokeno Road upgrades)
- Noise and Lighting
- Management of Hazardous Substances
- Economic Effects

8.1 Positive Effects

Section 3 of the RMA defines the meaning of effects to include positive effects and it is entirely appropriate to consider whether a proposal creates positive effects on the environment (which includes people and communities). Positive effects that result from a proposal can be balanced against any adverse effects that might not be able to be avoided, remedied or mitigated and may outweigh such adverse effects and enable a conclusion to be made for a proposal to be approved.

The proposed service station will contribute to commercial activities in the Pokeno Business Centre. As noted by the applicant and all submitters in support of the application, this service station will be the second one in Pokeno and will increase competition in the local market in regard to fuel prices. The service station may also attract more traffic to the Business Centre to the benefit of other commercial activities.

8.2 Earthworks Effects

8.2.1 Submissions on Earthworks

The application involves earthworks to prepare the site for the service station. Although none of the submitters have raised concerns with the proposed earthworks specifically, some have clarified that they do have concerns with respect to root damage to the notable trees in the adjoining Market Square as a result of the construction/earthworks.

8.2.2 Earthworks Assessment

Site Suitability

The proposed earthworks are to install two underground fuel tanks, and to recontour the site. No large cuts, filling or retaining walls are proposed. No habitable buildings are proposed to be constructed on site.

Council's Senior Land Development Engineer, Chris Gatehouse, has reviewed the application, and is of the opinion that the site is suitable for the proposed earthworks. In reliance on Mr Gatehouse's professional opinion in this regard, I consider the effects of the earthworks to be no more than minor and therefore acceptable as they relate to site suitability.

Traffic

Mr Gatehouse has assessed the proposed vehicle movements for the proposed earthworks. He is of the opinion that the short duration of the works coupled with the low vehicle movements associated with the earthworks would result in the earthworks having an effect on the traffic network which would be no more than minor. I agree with Mr Gatehouse's opinion and consider these traffic effects to be no more than minor and therefore acceptable. I refer to the assessment below for traffic effects created by service station activity.

Amenity and Character

The final contours of the site would be like the existing contours and difficult to notice when considering the wider environment. In addition, the result of that part of the earthworks which is to install underground fuel tanks would not be visible once the earthworks were complete.

The earthworks themselves are temporary in duration (the application indicates they will occur over a two week period). The level of noise from the earthworks is not different from typical earthworks and would remain compliant with standards for construction noise.

As the earthworks relates to the notable trees on the adjoining Market Square, Council's Arborist, Kevin Gordon, has confirmed that none of the proposed works shall be within the root zone of these trees. Mr Gordon has recommended a condition of consent for the

applicant to construct fencing around the trees to prevent construction vehicles from parking beneath their dripline. I accept this condition to be included in my recommendation.

Taking this into account, I consider that the amenity and character effects from the earthworks are no more than minor and therefore acceptable. I refer to my assessment below for amenity and character effects from the service station activity.

Conclusion

In summary, it is considered that the effects on the environment from the proposed earthworks are no more than minor and therefore acceptable.

8.3 Urban Design and Business Centre Character

8.3.1 Urban Design and Business Centre Character Submissions

Concerns with the potential effects on urban design and Business Centre character was one of the key points raised in a number of submissions. Many submitters consider the proposal conflicts with the policy provisions for the Pokeno Business Centre. The submissions have also expressed concern with the proposed service station and the future development of Market Square, which I shall discuss further below.

8.3.2 Urban Design and Business Centre Character Effects Assessment

In considering the effects on urban design and amenity, I have had regard to the objectives and policies in Part 19 of the ODP (Franklin Section), particularly part 19.4 which relates to neighbourhood centres. As the site is within the Pokeno Town Centre, I also consider the effects where the proposal conflicts with outcomes sought under the Pokeno Business Zone Design Assessment Criteria in Appendix 29.2 of the ODP. This is a statutory document and supports the relevant objectives and policies for establishing an acceptable level of character for the Pokeno Business Centre. Other documents and policy plans relating to the Pokeno Town centre are non-statutory and can therefore only be individually assessed as other matters under s104(1)(c).

Although the objectives and policies for the Business Zone generally encourage a variety of activities, the intention of business centres (in particular Pokeno) is to encourage retail activities (with a focus on local convenience services) and pedestrian use and access over vehicle trips into the business centre. This intention is specifically referenced in Policy 19.4.2.1 of the ODP and expanded on in Policies 4.5.10.(a) and 4.5.18 of the PDP, which are discussed in detail in Section 9.0 below.

The intention for the Pokeno business centre to cater for small scale retail activities and pedestrian shopper amenity is also illustrated by the Non-Complying Activity status assigned to service stations in this area. The application shall be assessed further against the proposed and operative objectives and policies as well as Appendix 29.2 of the ODP further below.

The Boffa Miskell urban design assessment supporting the application authored by Morné Hugo has been peer reviewed by Harrison Grierson's Urban Design Expert, Sam Coles. Through processing the application, and publishing the peer review, Mr Coles and Mr Hugo discussed the relevant Business Centre Character provisions. Mr Hugo provided the following comment in response to the built form of the proposed design:

The proposed service station is an un-manned self-service station. As such the provision of a shop on the street frontage is not practical or possible. In our opinion the provision of a stall or shop would be more desirable within the future Market Square. Due to the limited space on the site and nature of the proposed development, it is not possible to retain buildings on the site. The provision of a canopy structure along the road and market square edges is considered impractical and potentially unsafe from a pedestrian and traffic safety perspective.

Visual screening through hedging and picket fences were recommended by Mr Coles, and this has been incorporated into the application (see Figure 6 above). However, no other changes to the building layout or design of the service station have been proposed. It was the opinion of the applicant and their urban design expert that only the screening would be necessary to mitigate urban amenity/business centre character effects. The assessment of Mr Hugo ultimately concluded that the effects on urban design and business centre character would be no more than minor with the recommended amendments in place.

Mr Coles has provided the following comment in response to the recommendations of the Boffa Miskell assessment:

In summary, I do not agree that the proposed visual mitigation measures that Boffa Miskell recommended will achieve a sufficient degree of mitigation of the proposal relative to public amenity and the intended outcome of the town centre environment.

A fence will screen the proposal from the neighbouring square immediately to the west but will not screen the proposal from Great South Road or the western quadrant of the Market Square. Screening the activity is contrary to the intentions of the Design Guide which are that buildings 'front' and 'frame' the square. The small amount of landscaping proposed along public edges will not adequately mitigate the loss of a built edge or create a suitably-attractive environment; screen planting and fencing may actually increase some adverse effects on Market Square.

Mr Coles further notes that the proposed activity conflicts with key provisions for the design of the Pokeno Business Centre. As an unmanned service station with no retail aspects to it, it will solely attract motorists refuelling their vehicles as opposed to pedestrian-based customers. In addition, the activity has a large paved open area with the only structures being fuel pumps and a storage shed. The application proposes no buildings or storefronts along any of the frontages.

Although the proposed landscaping and planting will offer some mitigation from visual effects of the physical service station itself, Mr Coles disagrees with the Boffa Miskell assessment

that it will offset the absence of buildings on the frontages adjoining Great South Road and Market Street. In particular, Mr Coles is of the opinion that the proposed activity is so far from what is expected on the site that the proposed planting will not be sufficient to detract from the urban amenity expected for this area.

Regarding the proposed pylon sign, Mr Coles is of the opinion that the proposed pylon sign (given its size beyond the maximum permitted height) will be out of character as it would be a dominant feature of the site. Although an oversized pylon sign was approved for the Pokeno Countdown, which is near the subject site, that sign was part of a development which included a large supermarket and roadside public amenity, which were both significantly larger than the sign. As a result, the sign's prominence on the property was diminished significantly. This contrasts with the sign proposed at the subject site, where the proposed activity offers no structures on the site aside from the fuel pumps and shed which would be much lower in height making the sign the dominant feature. In that regard, a sign of that size and prominence on a property would be out of character in the Pokeno Town Centre.

Mr Coles is also of the opinion that the proposed two entrances compromise the character of the business centre as it contradicts the design elements in Appendix 29.2 which seeks to have vehicle entrances located off main roads in the town centre. In discussions with technical experts for urban design and traffic, it is accepted that the number, location, and direction of the crossings are the safest for the activity. Mr Coles has recommended that the adverse effects on urban amenity/character can be mitigated through the implementation of a design of the surface of the crossings and yard that cosmetically differentiates it from the road and rest of the footpath. This recommendation has been accepted by the applicant. It should be noted that this conclusion does not consider the effects on pedestrian safety, which is assessed under 'traffic safety' below.

Having regard to Mr Coles' peer review of the application and supporting documents and considering the effects contemplated by relevant provisions of the ODP, I agree with Mr Coles that the proposed unmanned service station will be out of character for the Pokeno Town Centre where a pedestrian-friendly retail store environment is anticipated. This is made clear through the relevant provisions of the ODP and the objectives and policies of the PDP. The receiving environment of Pokeno can be considered to be underdeveloped currently as not all sites within the Business Centre have had new buildings constructed on them since the implementation of these provisions, however there is still an expectation that any new buildings would comply with the design guidelines for the business centre. An example of a new building complying with the design guidelines and meeting the intention of the area is the recently consented development at 25 Market Street immediately north of the subject site.

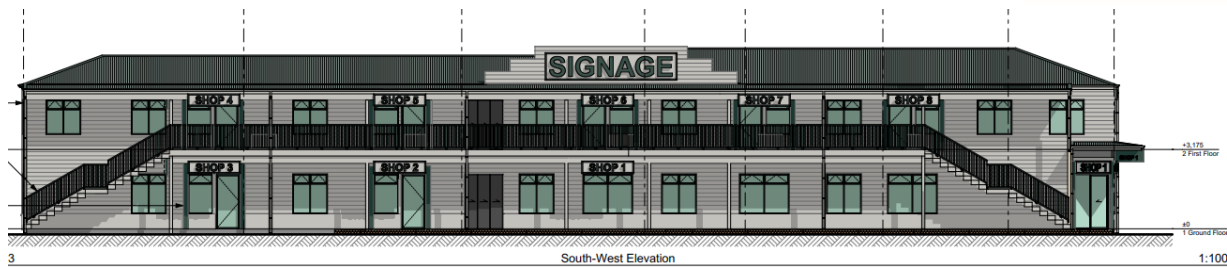


Figure 9 – Consented building design for the site at 25 Market Street

In summary, I consider that the proposal for an unmanned service station departs significantly from what is expected for the Pokeno Town Centre which is pedestrian friendly retail activities. The proposed activity does not offer any retail activities or anything that would encourage pedestrian visits to the site. The two vehicle crossings onto Great South Road and high portion of open yard space retained on the site will establish the activity as predominantly vehicle orientated.

Although screening is offered to mitigate the visual impact of the activity, it does not go far enough to completely screen the activity, and the proposed sign will remain a dominant feature on the property.

In addition, the assignment of a Non-Complying Activity status to service stations within the zone is a further indication that the proposed activity does not meet the intention for the Pokeno Town Centre.

As a result, I consider that the effects on urban design amenity and business centre character created from this proposal are unacceptable and therefore more than minor.

8.4 Servicing Effects

Servicing effects include infrastructure services provided to the subject site to support the activity. Effects on traffic safety are not included in this part of the assessment.

8.4.1 Submissions on Servicing Effects

No submissions raised concerns regarding servicing for the site, although it should be noted that during the application process, Lucie Rutherford of Ngati Tamaoho sought clarification on stormwater management for the service station. Once clarification was provided, Ngati Tamaoho were not in opposition to the proposal. There have been no changes to the proposed stormwater management since this time.

8.4.2 Assessment on Servicing Effects

Mr Gatehouse has assessed the servicing arrangements for the site regarding services available. Mr Gatehouse has reviewed the Arete Civil Infrastructure Report provided in the application and is of the opinion that stormwater can be managed onsite and discharges into the wider environment through appropriate measures. Mr Gatehouse is also of the opinion

that the reticulated water supply network shall be sufficient for providing for the activity. I agree with Mr Gatehouse's opinion on this matter and consider the effects on servicing to be no more than minor and therefore acceptable.

8.5 Traffic Safety

8.5.1 Submissions on Traffic Safety

Traffic safety was the second key point of concern from nearly all submitters in opposition to the proposal. The reasons for opposition can be summarised as the following:

- The safety of pedestrians using the footpath in front of the property.
- Vehicles queueing to use the service station.
- The effects from the anticipated upgrades to Great South Road and the Pokeno Road Intersection
- The effects from monthly fuel promotions (discount days) from Gull.
- Concerns with traffic data being inadequate for the assessment.
- The effects to surrounding bus stops.
- The use of the service station and fuel deliveries disrupting ANZAC services.

After receiving these submissions, and after discussions with the applicant, they have agreed to offer a condition of consent, should it be granted, to restrict fuel deliveries on ANZAC day to after any relevant services have taken place. I accept this condition.

8.5.2 Assessment of Traffic Safety Effects

The Traffic Impact Assessment supporting the application (TIA) was carried out by Ian Constable of Traffic Solutions Ltd and has been peer reviewed on behalf of Council by Melanie Parsons of Gray Matter Ltd. The following is a summary of Ms Parsons' peer review into the applicant's TIA.

Existing Traffic Environment

The TIA estimates up to 60 vehicle movements per hour and 600 movements daily on the site. This estimate is based on traffic surveys and takes into account the lack of ancillary services (e.g a convenience store) on the site. Ms Parsons agrees with this estimate and considers that the expected increase in traffic (5-7% from current volumes, depending on the number of additional, from the recently constructed Pokeno Countdown) can be accommodated by the existing traffic environment. As a result, Ms Parsons is of the view that the service station will not significantly increase traffic numbers beyond the existing environment. Ms Parsons also considers that sufficient queuing space can be provided onsite for the activity despite the shortfall in fuel pump-vehicle crossing separation, and particularly regarding any regular promotional offers offered by Gull.

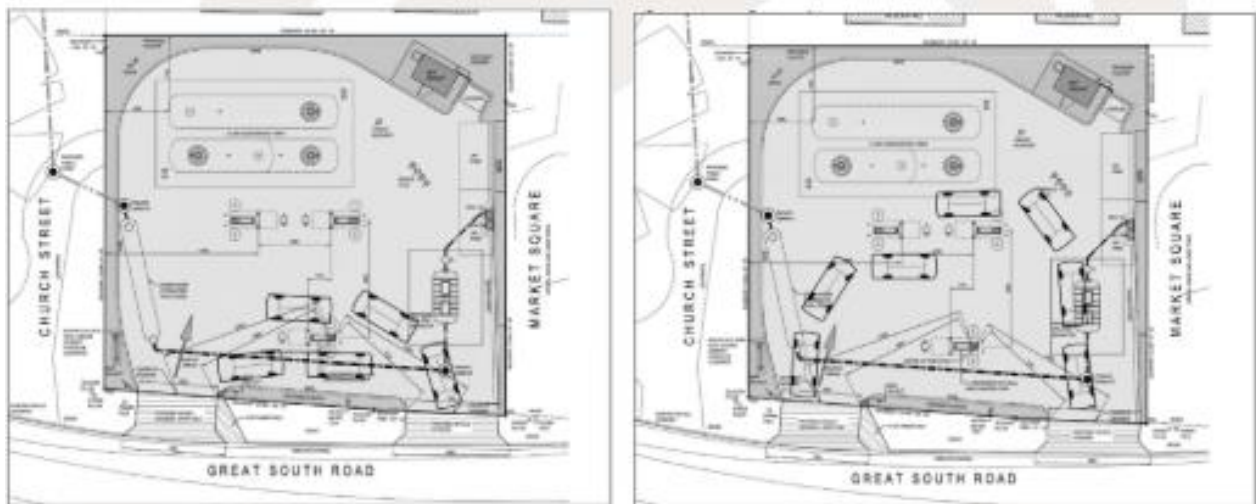


Figure 10 – Queueing diagram for cars

Fuel deliveries are expected to take place two to three times a week and the application has shown sufficient turning space for tanker trucks. Turning path diagrams for refilling tankers included in the application have shown that only one pump will be obstructed during refilling of the underground tanks. Ms Parsons' opinion is that the effects on queueing from a refilling tanker present and one pump being out of action as a result shall not be more than minor. I agree with Ms Parsons assessment in this regard.

The turning path diagrams indicate that refilling tanker trucks are unable to execute a left turn entering or exiting the site without crossing the median on Great South Road. As a result, Ms Parsons has recommended that these trucks be limited to right turn only which will provide a larger turning circle. The applicant has agreed to this recommendation as a condition of consent (should it be granted). I also agree with this recommendation and note that the roads through the Pokeno Industrial Park provide suitable alternative routes through the town to accommodate right-turning as shown in Figure 12 below. This shall be limited to two to three refilling tankers a week. As part of the Industrial Zones, the roads along this alternate route through the Pokeno Industrial Park (shown in Figure 12 below) have been designed to accommodate such vehicles. The additional movements from refilling tankers shall be low in comparison to the existing heavy vehicle movements in this area, and not offer a significant increase in that regard. Using the alternative route, I consider that the effects associated with the fuel refilling tanker trucks are acceptable.

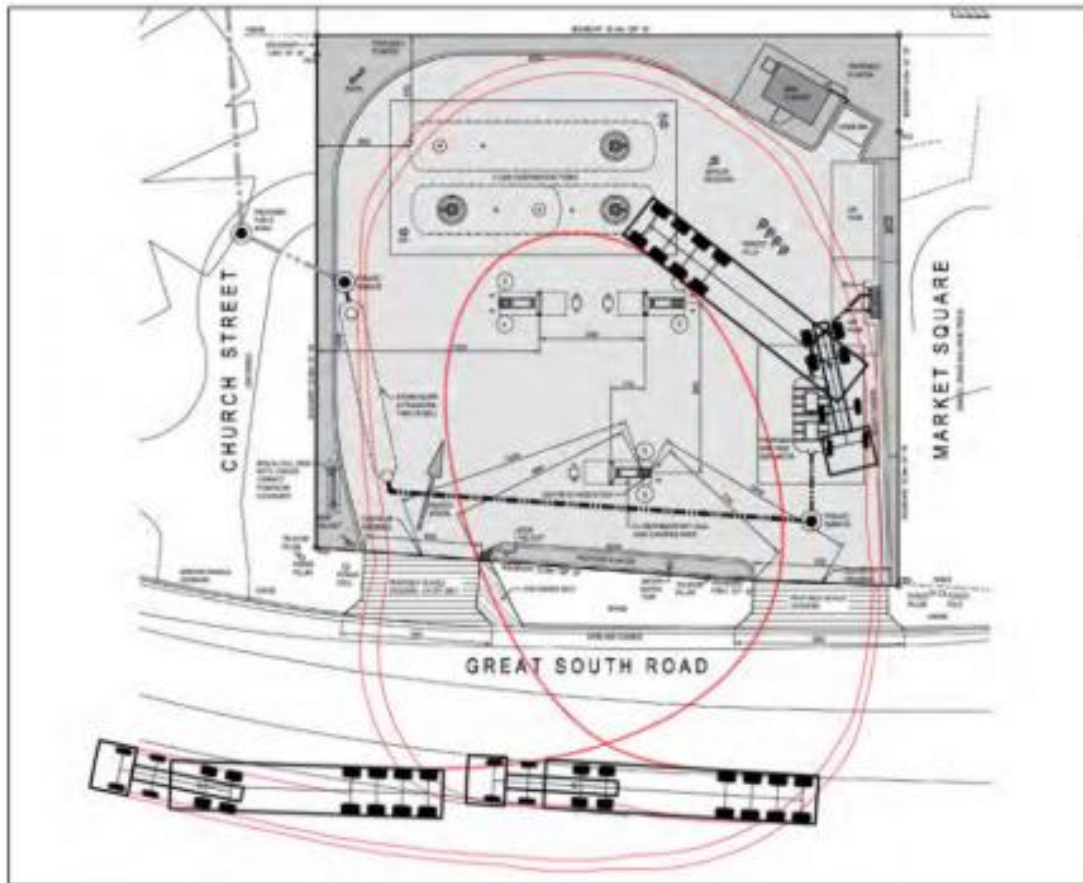


Figure 11 – Truck Swept Path Diagram of a truck entering and leaving the site with right turns

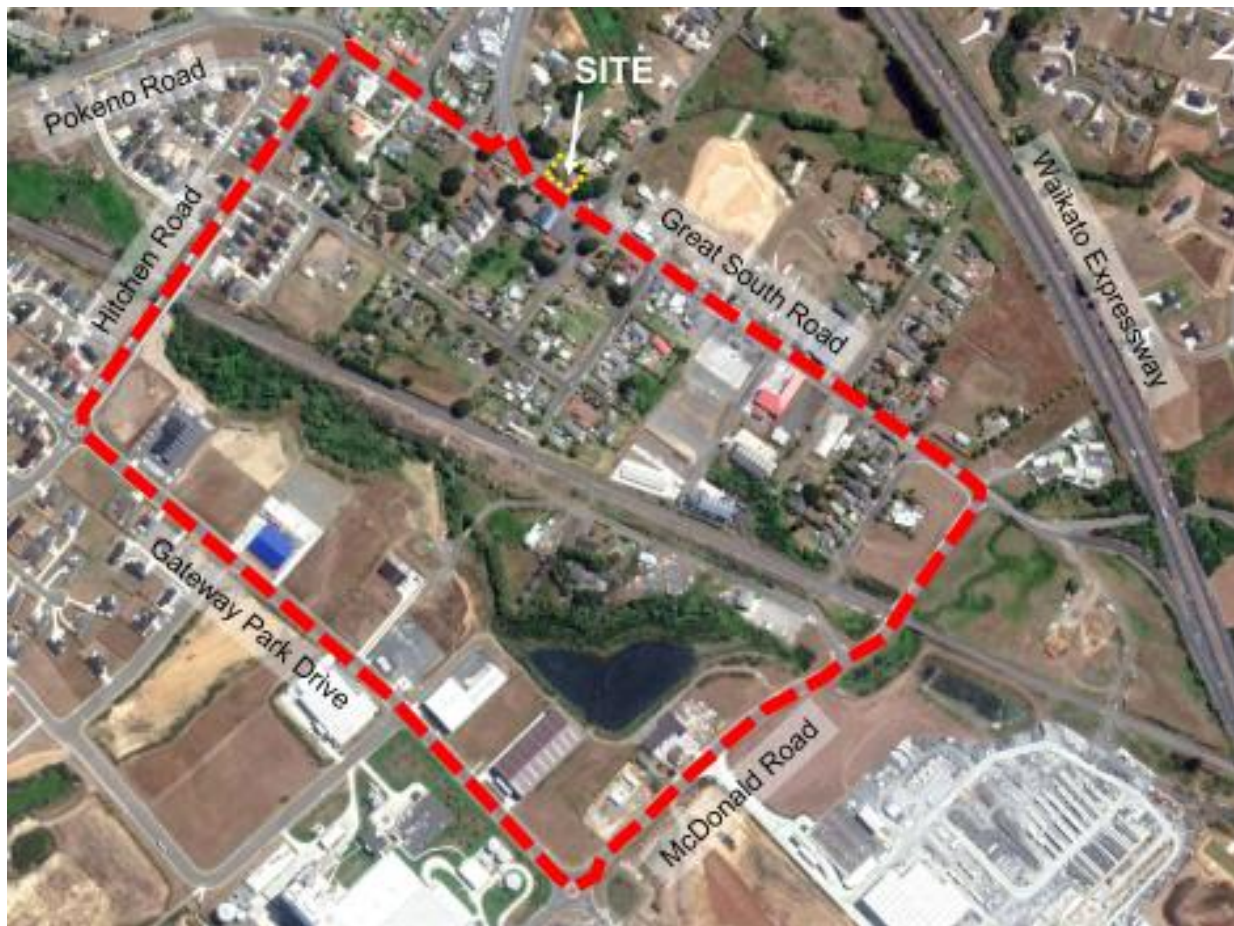


Figure 12 – Alternative travel routes through Pokeno to accommodate right turning trucks

The application proposes two vehicle entrances for the site, with one being entry only, and one being exit only. Delineation treatment is proposed on these crossings by raising the inner surfaces of the crossings to further encourage one-way use while providing a wide entrance for delivery vehicles. This also provides a narrower functional entrance for pedestrians to cross. Ms Parsons has reviewed these proposed entrances and is of the opinion that the design is suitable for the activity. Ms Parsons has also recommended signage at each crossing to further clarify their respective functions as entry or exit-only. The applicant has agreed for these to be conditions of consent, should consent be granted.

As mentioned above, the anticipated increase in vehicle movements from the proposed activity is acceptable for the site. Although a higher number of light vehicles is expected compared to typical retail activities, this is offset by less heavy vehicles. As an unmanned service station with no retail component, customers would not necessarily require carparks as they are only refuelling. The TIA and peer review from Ms Parsons have affirmed that sufficient queueing space is retained on site to avoid queueing vehicles spilling onto the road.

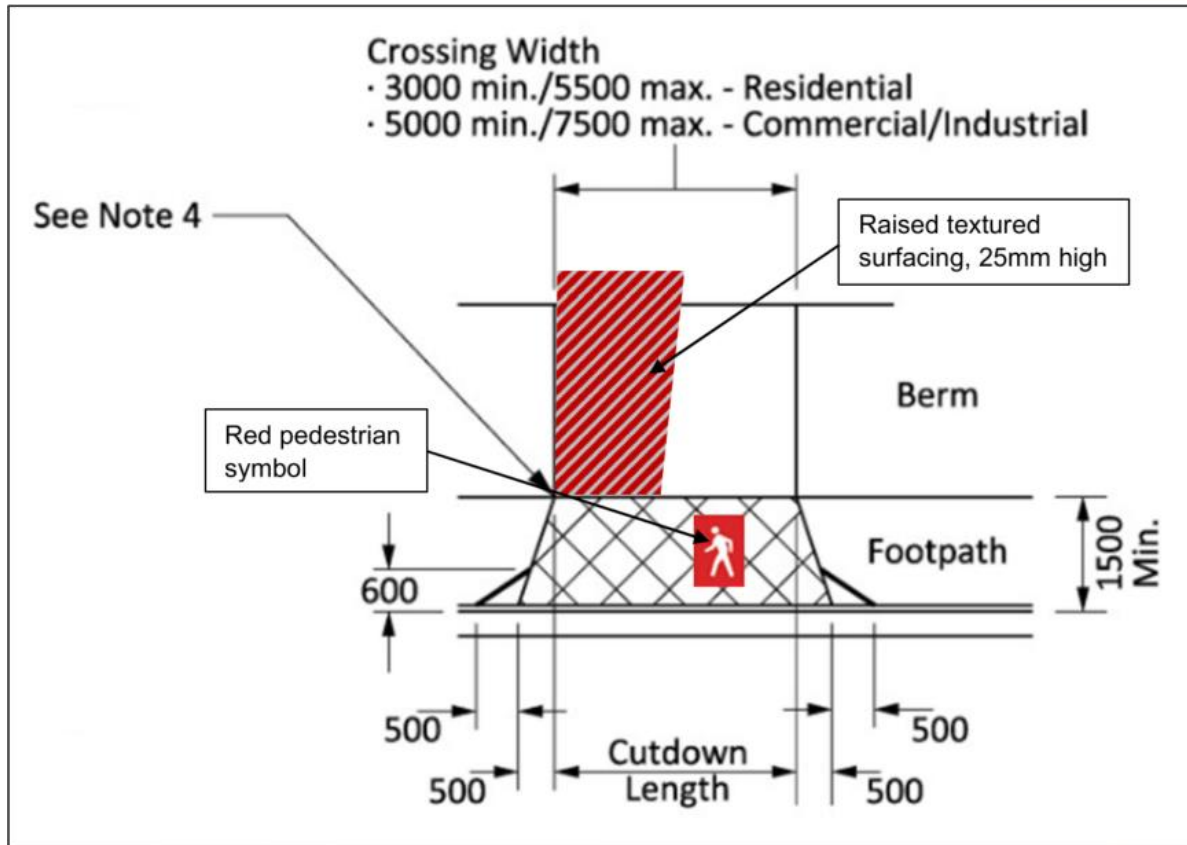


Figure 13a – Western crossing (entrance) design for the service station

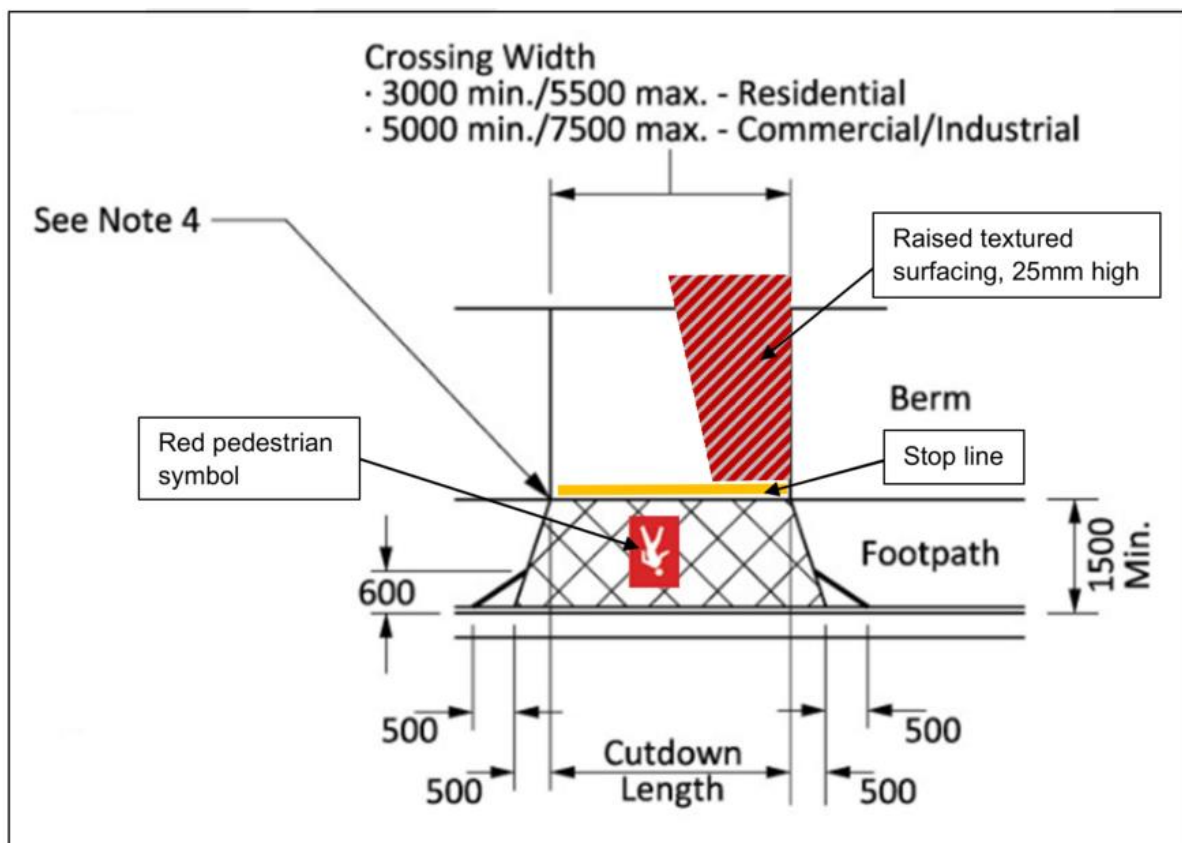


Figure 13b – Eastern crossing (exit) design for the service station

Regarding visibility from the proposed crossings, Ms Parsons is of the opinion that having at least 6 m of clear space on the western (Church Street) side of the site between the proposed hedge and the Great South Road frontage, and 1 m on the eastern side between the proposed sign and Great South Road offers suitable sight distance in both directions for all vehicles entering or exiting the site. This would limit any screen planting or fencing to no more than 600 mm high. Ms Parsons has also noted that the proposed hedge planting along the front boundary between the entrances can remain without compromising traffic sight lines although this would also need to be no more than 600 mm.

In summary, crossing 'A' is suitable for an entry-only crossing despite a separation shortfall. Crossing 'B' will have sufficient visibility due to the open space maintained on the site in front of the proposed hedging on the western side, and in front of the sign on the eastern side. The applicant has also proposed to remove the vegetation and fencing within Church Street, and Council's Property Team have given approval for this to take place. Although some submitters oppose the removal of the trees in Church Street, these trees are not identified as 'Notable', and in this instance I consider it appropriate to remove them to preserve traffic safety as they are located on a legal road.

Fuel Discount Days

Gull service stations regularly run discount promotions involving discounts of between 10 to 20 cents per litre. These typically occur from 7am Thursday to midday Friday at the end of every month. It is expected that the proposed Pokeno Gull will take part in this promotion.

Regarding the effects on the site, and concerns raised by submitters on this matter, Ms Parsons has provided the following comment:

Submitters are concerned that at peak times vehicles could queue on the road during Gull's fuel "Discount Day" promotions. We understand that there is generally one discount day per month. The potential for queueing is a concern given that there is no available shoulder space for vehicles to safely wait to enter the site. On-road queueing could restrict visibility for vehicles exiting the site and increase the likelihood of crashes for vehicles approaching the site from the north. At a collision speed of 50km/h there is some minor injuries and damage to vehicles and property.

Based on the information presented in the TIA, the likelihood of queueing is low and likely to be of short duration (during morning and evening peak periods, 1 day per month). We consider the transport effects (low frequency of queueing and low risk of fatality) to be no more than minor.

We acknowledge the submitter's concerns and in order to better understand the extent of effects and address those concerns, we request the Applicant provide records from a similar size and type of Gull site to confirm the average vehicles per day and peak vehicles per hour for both a standard trading day and a "Discount Day". This could be collated from existing pump transaction data.

I agree with Ms Parsons assessments and consider that the effects from these fuel discount days to be no more than minor and therefore acceptable. Further information was

requested from the applicant in regard to these effects, however the applicant refused to provide this prior to this report being published, but has acknowledged that it shall be provided in their evidence to the hearing.

Summary of Traffic Effects

Ms Parsons has provided the following conclusions and recommendations from the effects of the service station activity:

- The anticipated increase in traffic movements will be 7% of the existing traffic movements, which can be accommodated into the existing traffic environment.
- There is sufficient space within the site to accommodate queueing vehicles.
- It is recommended that the western crossing (A) be entry-only, and the eastern crossing (B) be exit-only, with delineation to encourage this through raising parts of the surfaces.
- Raising the surface will also narrow the functional part of the entrance, providing a suitable narrow crossing for pedestrians.
- Delivery trucks to the site will not be disruptive as they are infrequent and will likely arrive in off-peak times.
- Truck movements should be limited to right turn entry and exit only as left turns will not have a suitable turning circle.
- Crossing 'A' is a suitable entry for traffic (excluding trucks?) from both directions.
- A suitable exit at crossing 'B' can be established provided the height of any vegetation or fencing within the first 6 m of the site on the western boundary and the first 1 m on the eastern side (from Great South Road) is no more than 600 mm high (with the exception of hedge planting between the entrances along the frontage), and also that the existing vegetation and structures on the unformed Church Street are removed (to which the applicant has agreed as conditions of consent).

I agree with Ms Parsons's assessments on the effects on traffic safety. The applicant can avoid, reduce, or mitigate potential adverse traffic effects related to the current receiving traffic environment. For this reason, I consider these effects on traffic safety in the existing environment to be no more than minor and therefore acceptable.

Future Effects on the Receiving Environment

The 2015 to 2025 Waikato District Long Term Plan has identified upgrades to the Pokeno Roding environment. This includes upgrades to the intersection between Great South Road and Pokeno Road, which is approximately 50 m from the subject site. I refer to the memorandum prepared by Council's Road Safety Engineer, Gareth Bellamy, confirming certainty for these roading upgrades. It has been confirmed that these upgrades shall include traffic lights at the intersection, four lanes along Great South Road with a median barrier in front of the subject site, and a merge taper in front of the subject site. Figure 14 below is the most recent design plan.

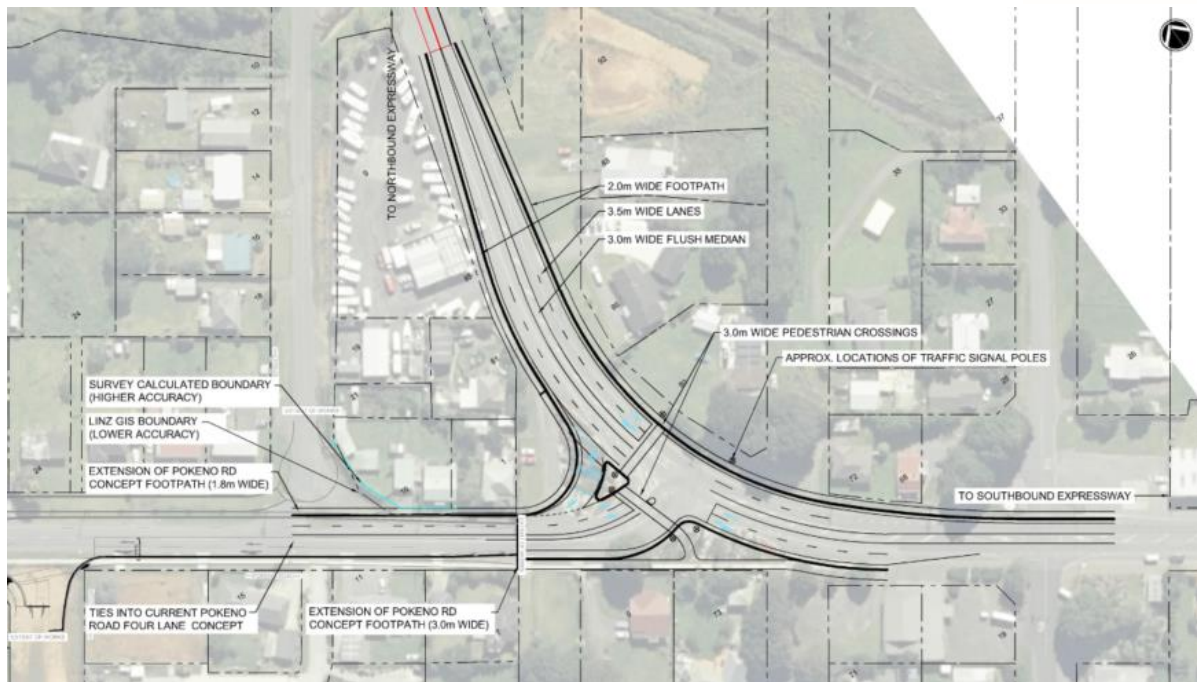


Figure 14 – Plan for upgrades to the northern roads in Pokeno

Taking into account these expected changes to Great South Road, Ms Parsons has indicated that the centre-median barrier could potentially introduce additional adverse effects on traffic safety through the following ways:

- Heavy vehicles shall no longer be able to achieve a right turn. As they otherwise cannot achieve a left turn within the left side of the road, they would now be unable to safely enter or leave the subject site.
- With a centre-median barrier in place, vehicles will only be able to enter the site from one side, and the number of vehicles queueing would likely spill out onto the road and compromise traffic safety that way.

Heavy Vehicles Turning

In response to these concerns, the applicant has provided an updated turning diagram, to demonstrate successful left-turn and entry from the site for heavy vehicles. This is shown in Figure 15 below. To accommodate these changes, the applicant has amended their proposal to seek an 8.5 m wide vehicle entrance on the western end and retain the 7.0 m wide crossing on the eastern end. This is an additional non-compliance with the District Plan rules.

Ms Parsons has assessed the further information provided by the applicant and has the following comments:

We note the splay for Crossing A would cross into the Church Street (north) road reserve and the likely alignment of the intersection if a connection were formed.

We note that the left-turn exit is constrained between the raised median island and the kerb and channel where the merge taper is narrowing to a single lane width. This requires the eastern crossing to have a long splay area across the proposed footpath.

The signalisation of the Pokeno Road intersection or formation of Church Street (north) would disrupt access to the subject site, and it is uncertain if the additional widening can be provided at the vehicle crossings. The safety effects of wide vehicle crossings, vehicles turning at the merge taper, vehicles u-turning at the intersection and heavy vehicles tracking across multiple lanes have not been addressed by the Applicant.

In addition to the safety effects described above, the proximity of the western entrance to Church Street (North) and the merge taper of the Pokeno Road signalised intersection increases the risk of adverse safety effects. The effects of reduced separation distance with the likely network changes are:

- Increased likelihood of crossing-turning crashes due to increased turning movements in close proximity;*
- Increased likelihood of rear-end crashes on Great South Road due to confusion with vehicles slowing to turn into Church Street or the western crossing*
- Increased likelihood of crashes related to sudden lane changes for vehicles merging and turning into the western crossing.*

It appears unlikely that safe access to Church Street could be achieved if the Gull Service Station is consented.

Mr Bellamy has confirmed that Council would also oppose the widening of the proposed western crossing into the legal boundary of Church Street as it could compromise any future formation of this road.

I agree with Ms Parson's assessments in this regard. I also agree with Ms Parsons' recommendation that should consent be granted, a condition of consent require a raised surface platform on the approach to the subject site from the north to reduce approach speeds and the likelihood of vehicle crashes.

Vehicles Queueing

In regard to potential effects from vehicles queueing, Ms Parsons has expressed concerns that the centre-barrier would restrict vehicles to approaching from one direction only (the north) and increase the number of queueing vehicles from this direction. Further information on traffic data from Gull's "Discount Days" is sought to assess these effects, however Ms Parsons is otherwise of the opinion that these effects would be more than minor.

Ms Parsons has also expressed concern that the additional queueing would block access for Church Street, and that traffic safety effect would also be more than minor in this regard. I agree with Ms Parson's assessment.

Sight Visibility

In terms of the effects on sight visibility, the Ms Parsons has made the following comments:

If the Pokeno Road intersection is upgraded and the berm width outside the subject site reduced... the sight distance from the proposed vehicle crossings is likely to be negatively affected due to the driver being positioned further back into the site when checking for approaching vehicles. To maximise sight distance, the following increased mitigation would be required:

- Increased setback of 14-15 m from Great South Road along the Church Street boundary for any signage for the proposed development and vegetation in this zone to not exceed 600 mm in height
- Increased setback of 3-4m from Great South Road along the Market Square boundary for any signage for the proposed development and vegetation in this zone to not exceed 600 mm in height

I agree with Ms Parsons' assessment and recommendations in this regard.

Pedestrian safety

Ms Parsons has noted that the amended application and particularly wider vehicle crossings would require additional treatment on these crossings to preserve pedestrian safety for the site. Ms Parsons has added that raising parts of the crossing and adjoining forecourt could offer reduced speeds for vehicles on entry, and a detailed design on vehicle crossings should be provided to as part of conditions of consent, should it be granted, prior to construction. I agree with Ms Parson's assessments and recommendations and consider the potential adverse effects in this regard to be no more than minor and therefore acceptable. I refer to Figures 13a and 13b above as indicative vehicles crossing design plans to be taken into account for any detailed crossing designs.

Summary of future traffic effects

Ms Parsons has provided the following conclusions and recommendations from assessing the proposal against the Pokeno Roding upgrades:

- The wider vehicle entrance will encroach into the legal boundary for Church Street.
- A wide splay area is also required for the exit, to accommodate delivery tankers.
- There are additional safety concerns from vehicles turning, u-turning, or crossing lanes at the merge taper in front of the site and how this will interact with the proposed vehicle entrance.
- There are concerns that these activities will offer increased crashes.
- A raised surface platform on the approach to the subject site from Pokeno Road is recommended to control speed in this location.
- It is likely that there will be significant vehicle queueing numbers, particularly during fuel promotions, due to only one direction available for vehicles to turn into the site.
- Additional open space will be required to preserve sightlines as the roading upgrades and footpath will mean vehicles will depart from further into the subject site.
- Detailed design plans for the vehicles crossings will need to be provided prior to any construction to ensure that they preserve the safety of pedestrians crossing the vehicles crossings and offer the a 'right-of-way' in this regard.

In addition, Ms Parsons has identified that there is insufficient information provided from the applicant to properly assess some of the potential adverse effects from the proposal. In that regard, I encourage the applicant to provide the following information:

- Data for Gull Fuel Discount Days from a similarly sized Gull service station that can be applied to this site.

- An assessment of the safety effects of the proposed wide vehicle crossings, taking into account the effects of vehicles turning at the merge taper, vehicles u-turning at the intersection, and heavy vehicles tracking across multiple lanes.

Conclusion

Taking the above assessments into account, it is considered that the effects on traffic safety of the proposed service station in conjunction with the anticipated roading upgrades to Pokeno Road are not able to be sufficiently avoided, remedied, or mitigated. Although further information could address some of these effects, these wouldn't address concerns with the proposed vehicle entrance encroaching into a road intersection and likely vehicle queueing concerns. It is therefore my opinion that these effects are more than minor.

Conclusion – All traffic safety effects

In summary, it is considered that the effects on traffic safety in the current receiving environment are no more than minor and therefore acceptable. However, regarding the effects on traffic safety of the proposed service station in conjunction with the anticipated roading upgrades to Pokeno Road, these effects are not able to be sufficiently avoided, remedied, or mitigated. It is therefore my opinion that these effects are more than minor and therefore unacceptable. I also encourage the applicant to provide further information prior to the hearing in relation to the potential adverse effects discussed above in relation to these roading upgrades.

8.6 Noise, Lighting, and Hours of Operation

8.6.1 Noise and Lighting Submissions

Concerns with potential noise and lighting effect have been raised by multiple submitters. I note that although submissions refer to the PDP, any rules in that document referring to lighting, hours of operation, or noise currently have no legal effect and therefore cannot form part of my assessment.

8.6.2 Assessment of Noise and Lighting Effects

Noise

As a 24-hour service station facility, the proposed activity will have different noise effects compared to a typical retail activity. There are no specific rules within the ODP which regulate a business' hours of operation or receipt of deliveries. Council's Environmental Health Officer, Alan Parkes, has reviewed the noise assessment supporting the application and is of the opinion that it is adequate in demonstrating suitable noise levels from the activity for the receiving environment. The proposed noise levels also remain within the requirements of the permitted activity rules in the ODP. In that regard, I consider that the proposed noise, though different to what would be typically expected, will not create a nuisance for the receiving environment. I agree with Mr Parkes' opinion on these matters and consider these effects to be no more than minor and therefore acceptable.

Lighting

In my notification assessment, it was concluded that the lighting effects are likely to be no more than minor as the lighting plan was able to demonstrate compliance with relevant rules within the ODP. However, due to the number of submissions expressing concern with light spill and the fact that the effects of the proposed lighting arrangement (forecourt lights, and a tall pylon sign displaying prices) differs from an activity which is more reasonably expected in the Pokeno Business Centre of the Business Zone, I have engaged Mr Luke Steggles, a lighting engineer from WSP Opus Ltd to review the lighting report supporting the application.

Mr Steggles has provided the following comments in summary of the assessment. The full report can be found in Appendix D of this report:

Kern Consultants have followed the appropriate methodology for assessing lighting effects, however, the accuracy of the figures presented cannot be fully confirmed and WSP have some concerns regarding the way that certain criteria has been applied.

However, addressing our concerns is unlikely to have a meaningful influence on the calculated results at the residential boundary of #25 Market Street West where WSP's concern around spill lighting is held. The design philosophy and use of forecourt luminaires with no horizontal tilt will limit spill lighting onto adjacent properties but this is subject to the correct installation and specification of the design. However, the proposal appears to comply with the criteria of the WDC District Plan in relation to lighting but the results could likely be improved upon.

It is recommended that post construction checks are included within consent conditions in order to ensure that the installation meets the expectations of the design. In addition, the equipment can include dynamic dimming control through DALI, which would be of benefit to alleviate any post install issues without major modification or delay.

In addition, Mr Steggles has recommended the following conditions of consent, should it be granted:

- An onsite measurement of all lighting following construction of the service station (to take place within the first two weeks and again six months later) to confirm that light spill is compliant with relevant district plan provisions.
- All exterior lighting to have dimmable controls to allow for adjustment of light intensity to provide for guaranteed compliance.

Although I agree with Mr Steggles' assessments for the lighting effects, I do not agree that it is appropriate for a condition requiring dimmable controls as it does not ultimately mitigate any effects from light spill/glare, and simply only makes it easier to adjust brightness. Following further discussions with Mr Steggles, we are both of the opinion that an advice note on this would be acceptable in this regard. I also note that the owners/occupiers of 25 Market Street also made a submission (Submission 2) in support of the proposal. In

summary, I consider the effects of lighting to be no more than minor and therefore acceptable.

Conclusion

In summary, I consider the effects from noise and lighting to be no more than minor and therefore acceptable.

8.7 Management of Hazardous Substances

8.7.1 Submissions relating to Hazardous Substances

Concerns regarding the storage of hazardous substances have been raised by some of the submitters.

8.7.2 Hazardous Substances Assessment

Service stations have a risk of damaging surrounding waterways and other natural features in the event of a spill. Council's Environmental Health Officer and Contaminated Land Specialist, Alan Parkes, has reviewed the proposed Environmental Management Plan (EMP) supporting the application, and is of the opinion that the recommendations for managing hazardous substances and responding to spills is sufficient to mitigate/control/manage the potential adverse effects. I agree with Mr Parkes' assessments on this management plan and consider that hazardous substances can be managed on the site. Should consent be granted, I have proposed the conditions of consent to require the EMP to be implemented on site. On that basis, I therefore consider the effects in this regard to be no more than minor and therefore acceptable.

8.8 Economic Effects

Section 5 of the RMA provides that the purpose of the legislation is to promote sustainable management of natural and physical resources and stipulates that sustainable management means managing the use of natural and physical resources in a way which enables people and communities to provide for their "economic... well-being". The Environment Court has established that only economic effects at a 'macro' level (i.e. effects on the economic well-being of district or regional communities) are relevant. The Court will only consider 'primary' effects on the environment (e.g. noise, dust, traffic), not 'derivative' effects such as the diminution of value and saleability of land.

8.8.1 Submissions on Economic Effects

All submissions in support of the application have cited economic reasons such as additional competition to existing service stations. Nearly all submissions against the proposal mentioned that they oppose an additional service station in an area where the existing service station plus a truck stop are already enough. Other reasons for opposition also

include the effect of the dwellings on the site being removed, and no jobs being offered as the service station will be self-service.

8.8.2 Assessment of Economic Effects

I have acknowledged in my assessment of the positive effects' that the proposed service station could increase competition for fuel prices in the local environment, but I do not have any economic evidence to assess/quantify the degree of this positive effect. As such, I encourage the applicant to provide further evidence on these positive effects.

Adverse economic effects have been raised by the submitters regarding employment, and I also note that there are objectives and policies in both operative and proposed plans that relate to increasing employment in Business Zones. As this service station is intended to be unmanned, any likely employment will be related to construction, and the ongoing fuel delivery to the site and servicing of machinery on the site. I acknowledge that the construction jobs will be temporary and cease once the service station is up and running, and the delivery/servicing jobs will not be regular or time-consuming enough to be full-time jobs dependent on this one Gull site.

The only commercial activity on the site currently is a real-estate office with nine employees according to their website, however I acknowledge that these jobs could be relocated within Pokeno should the service station go ahead. The ODP does not prescribe any minimum employment requirements within the Business Zone, which makes it difficult to compare the employment effects of the proposed activity to what would be expected, although I acknowledge that any activity would likely have at least one full time regular employee particularly given the size of this site.

Taking this into consideration, it is my opinion that the proposed activity will undermine the potential for employment in the Pokeno Business Centre. As it is not possible to predict employment numbers for an activity which would be more appropriate within the Pokeno Business Centre. It is also possible that a small retail activity with only one full-time employee would otherwise take place on the site. I therefore only consider these effects to be minor but not more than minor and therefore acceptable.

8.9 Conclusion on Assessment of Environmental Effects

My assessment above identifies that there are adverse effects on the character of the Pokeno Business Centre. The proposal is for a self-service service station, which is not provided for in the ODP and contradicts the outcome sought of a pedestrian-friendly retail environment for the Pokeno Business Centre.

In addition, the anticipated upgrades to Great South Road shall compromise traffic safety for the future receiving environment, particularly in regard to pedestrian safety. The applicant has not been able to avoid, remedy, or mitigate these effects.

I conclude based on the matters raised above that overall, the adverse character and traffic safety effects are more than minor, and cannot be avoided, remedied or mitigated against in this case and are therefore unacceptable.

9.0 RELEVANT PLAN PROVISIONS – SI04(I)(b)

In accordance with section 104(I)(b) of the RMA, the following assessment considers the proposed activity in terms of relevant provisions of policy statements and plans. The focus is to establish whether the proposal is consistent with the objectives and policies of relevant plans in addition to consideration of issues, environmental outcomes, rules, explanations and reasons.

9.1 National Policy Statements

9.1.1 National Policy Statement on Urban Development 2020

The National Policy Statement on Urban Development 2020 (NPS-UD) came into effect on the 20 August 2020.

The NPS-UD recognises the national significance of:

- Having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
- Providing sufficient development capacity to meet the different needs of people and communities.

The NPS-UD requires councils to plan well for growth and ensure a well-functioning urban environment for all people, communities, and future generations.

This includes:

- Ensuring urban development occurs in a way that takes into account the principles of the Treaty of Waitangi (te Tiriti o Waitangi)
- Ensuring that plans make room for growth ‘up’ and ‘out’, and that rules are not unnecessarily constraining growth.
- Developing, monitoring and maintaining an evidence base about demand, supply and prices for housing and land to inform planning decisions.
- Aligning and coordinating planning across urban areas.

The NPS-UD contains objectives and policies that councils must give effect to in their resource management decisions.

Section 1.3 dictates that the NPS-UD applies to:

- All local authorities that have all or part of an urban environment within their district or region (ie tier 1, 2, and 3 local authorities); and
- Planning decisions by any local authority that affect an urban environment.

Urban Environment is defined in the NPS-UD as:

Means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- a) Is, or is intended to be, predominantly urban in character; and*
- b) Is, or is intended to be, part of a housing or labour market of at least 10,000 people.*

In this case, the village of Pokeno meets the definition of urban environment. It is expected to grow to a population of 16,000 in the next 50 years as set out in Waikato 2070.

The following objectives and policies of the NPS-UD are relevant to this proposal:

Objective 4:

New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

Policy 1:

Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- (a) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- (b) have good accessibility for all people between housing, jobs, community services, natural space

Comment:

Pokeno has traditionally been, and continues to develop from, a small rural village to a larger residential town. The Business Centre has transformed from a few small stores catering to passers-by to an inclusive variety of stores providing for the needs of the surrounding residential development. To accommodate for the social wellbeing of Pokeno, comprehensive planning documents have been prepared to ensure that future developments maintain and enhance amenity values in the town, provide for a variety of activities, and provide suitable accessibility for social, cultural, and economic wellbeing.

The activity is commercial in nature, and although not anticipated for in the Pokeno Business Centre it does still fall under the broader definition as part of this policy statement. In that regard, I consider that the proposed service station is able to accommodate the social and economic wellbeing of Pokeno. Taking the above into account I consider that the proposal aligns with the relevant provisions of the NPS-UD.

9.2 National Environmental Standards

9.2.1 National Environmental Standard for Managing Contaminants in Soil to Protect Human Health

Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) describes a change in land use as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred.

Regulation 6 of the NES specifies that an applicant must establish if any HAIL activities have occurred on the subject site. The applicant can do this by adopting one of two methodologies:

1. Review of all relevant council records including dangerous goods files, property files, registers, databases, resource consent databases, records available from Regional Council;
2. Preliminary Site Investigation undertaken by a suitably qualified and experienced practitioner in accordance with the current Ministry for the Environment's Contaminated Land Management Guidelines No. 1 Reporting on Contaminated Sites in New Zealand.

Council's Contaminated Land Specialist, Alan Parkes, has reviewed the application against Council records, and considers there to be no evidence of any HAIL Activity on the property. I agree with Mr Parkes' assessment and consider the NES does not apply to the proposal.

9.2.2 Other NES

The NES for Freshwater and the NES for Air Quality have not been assessed as both of these are relevant to the Regional Authority rather than the Territorial Authority. The proposed activity also does not involve the use of any wetlands. I do not consider assessments against these standards would be of use to the Commissioners decision making process.

9.3 Waikato Regional Policy Statements

The Waikato Regional Policy Statement (RPS) provides an overview of the significant resource management issues of the region and puts in place objectives, policies and methods to achieve integrated management of the natural and physical resources of the region.

9.3.1 Operative Waikato Regional Policy Statement 2016

The RPS became operative on 20 May 2016. It provides an overview of the significant resource management issues of the region and puts in place objectives, policies and methods to achieve integrated management of the natural and physical resources of the region.

Set out below are the relevant objectives and policies from the Waikato Regional Policy Statement and assessments of this proposal in relation to them.

The relevant Objectives and Policies are set below:

Objective 3.12 Built Environment

Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:

- k) Providing for a range of commercial development to support the social and economic wellbeing of the region.

The proposal is for a service station within the Pokeno Town Centre. As the service station is self-served, it will offer little in the way of employment however it will still support the economic wellbeing of the town to a limited extent. In that regard, I consider the proposal to consistent to Objective 3.12.

Chapter 6 – Built Environment – Policy 6.1

Subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which:

- a) *has regard to the principles in section 6A;*
- ...
- c) *is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and*
- d) *has regard to the existing built environment.*

The following relevant Development Principles are identified in Part 6A:

New development should:

- a) *support existing urban areas in preference to creating new ones;*
- ...
- d) *not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future infrastructure needs, including maintenance and upgrading, where these can be anticipated;*
- e) *connect well with existing and planned development and infrastructure;*
- f) *identify water requirements necessary to support development and ensure the availability of the volumes required;*

Comment

The proposed activity is within an existing built environment. Although service stations are not anticipated in the Pokeno Business Centre, it does meet the definition of a commercial service under the RPS. With the exception of traffic infrastructure anticipated from the

upgrades to Great South Road, the application is able to provide suitable connections to the reticulated infrastructure network. However, the application is unable to provide a suitable connection to the future Great South Road traffic network, and therefore does not address the long-term effects of the proposal. I consider the proposal to be partially inconsistent with the objectives and policies of this section.

Policy 6.12 – Implementing the Franklin District Growth Strategy

The Franklin District Growth Strategy 2007 has been superseded by the Waikato 2070 Growth Plan, which is assessed in Section 10.0 below. Policy 6.12 places an emphasis on the Growth Plan's strategy for providing sufficient industrial land, which I do not consider applicable to this proposal.

9.3.2 Conclusion on the Operative RPS

Conclusion

Taking into account all of the above, overall it is my opinion that the proposal is compatible with the relevant provisions of the Operative Waikato Regional Policy Statement.

9.4 Waikato Regional Plan

The Waikato Regional Plan contains policies and methods to manage the natural and physical resources of the Waikato region. The plan implements the Regional Policy Statement.

The applicant has stated that the proposal complies with the Regional Plan and no further analysis has been undertaken by myself in this regard.

9.5 Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010

9.5.1 Vision and strategy

The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 was endorsed with the purpose of implementing co-management of the Waikato River. The overarching purpose of the Act is to restore and protect the health and wellbeing of the Waikato River for future generations. This Act has the same statutory standing as a Regional Policy Statement.

The subject site is located within the Waikato River Catchment. The applicant is proposing appropriate sediment and erosion control measures be implemented to ensure sediment does not enter the waterways. The applicant is also proposing suitable measures to prevent the spill from hazardous substances and the containment of any runoff on the site from entering the waterways. The proposal is therefore considered to be consistent with the relevant provisions of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

9.6 Operative Waikato District Plan (Franklin Section): February 2000

Assessments of this proposal against the relevant Operative Waikato District Plan - Franklin Section relevant objectives and policies are provided below.

9.6.1 Operative Objectives and Policies – Franklin Section

The following Objectives and Policies of the ODP are considered relevant to the proposal:

9.6.1.1 Part 9 – Transportation

Part 9 of the ODP contains objectives and policies relating to transportation within the district, including traffic safety on the district's roads and access to and from properties in the district. The relevant objectives and policies in this part are provided below:

9.3.1: Objective – Minimise Conflict

To minimise conflict between the movement and access functions of roads and ensure, as far as practicable, that activities are compatible with the predominant function of the roads they front.

Policies:

1. That the district's roads are classified in terms of the relative importance of their movement and access functions and that a road hierarchy be established based on that classification.
2. That the effects of the subdivision, use and development of land are assessed in terms of the road hierarchy to determine and ensure the compatibility of activities with the roads they front or rely upon for access.
- ...
4. That activities that generate high volumes of traffic or frequent trips be prevented from establishing in locations where direct access from state highways and district arterial roads is necessary unless the characteristics of, and provision made for, the traffic generated (including crossing and intersection design) are such as to ensure the avoidance of any adverse effects; in the case of state highways and 'arterials', the ingress/egress should be designed in accordance with the New Zealand Transport Agency standards or guidelines.
- ...
6. That all activities be required to provide off road parking and loading facilities and to have access points (vehicle crossings) which comply with the Council's minimum standards for same.

Comment

Access to the site is proposed to occur from Great South Road, which is identified as a National Arterial Route within the ODP. Although two crossings are proposed, Great South Road is currently the only formed road that the subject site has frontage to. The arrangement for one crossing to function as entry-only, and one as exit-only has been

assessed by Council's traffic expert, Ms Parsons as being suitable to avoid adverse traffic safety effects with suitable visibility also provided for vehicles entering and leaving the site as it relates to the existing traffic environment.

Regarding the upgraded traffic environment, Ms Parsons has identified potential conflict between vehicles queueing to use the service station, and those otherwise using Great South Road. Ms Parsons has also identified potential conflict between road users and delivery vehicles turning into the site. There is also insufficient information provided by the applicant to properly assess the likelihood of conflict and traffic safety effects in regard to roading upgrades.

As the proposal is not able to ultimately address the concerns from the potential upgrades to Pokeno, and the traffic conflicts between road users and users of the service station I consider that the proposal is not consistent with, and therefore contrary to Objective 9.3.1 and relevant policies.

9.3.2: Objective: Safety

Objective 9.3.2 seeks to ensure a safe roading network and is supported by the policies below:

Policies:

1. That all activities be assessed in terms of the roading hierarchy to determine the appropriate standards of vehicle access, driveways and parking and loading areas, and manoeuvring space.
2. That minimum standards be required to be satisfied for the location, design and construction of vehicle access points and road intersections.
3. That all persons and agencies ensure, as far as practicable, that road furniture, signage and vegetation is located, designed and maintained so as not to cause road safety problems, including visual obstruction or distraction.
4. That no activity be permitted to create a situation where glare or light overspill from exterior lighting associated with that activity dazzles, distracts or otherwise impairs driver vision on roads adjacent to the activity.

Comment

The application has provided sufficient parking/loading space for the activity and has taken suitable measures to preserve sight visibility for the roading environment. Although the application has demonstrated that under the current road layout, a safe roading network can be ensured, this cannot be provided for under the proposed road layout for Great South Road. As the proposed centre median will make it difficult for delivery tankers to enter and exit the site safely and cause queueing onto the road. Taking this into account, I consider that the application is ultimately not able to ensure a safe roading network in the face of the anticipated upgrades to the Pokeno roading environment. I therefore consider that the proposal is contrary to, and therefore not consistent with Objective 9.3.2 and relevant policies.

9.3.3: Objective – Other Adverse Effects

To ensure that the construction, modification and use of roads do not cause adverse effects.

Policies:

3. That for activities requiring land use consents and involving frequent trips and/or significant types or quantities of hazardous substances, consideration be given to the routes intended to be used and the alternative routes available; where a route is not considered to be appropriate in terms of the potential adverse effects on the environment of any road crash or other possible mishap, consideration will be given to alternative sites for the proposed land use, and to the greater suitability and appropriateness of such sites; any assessment will in particular consider:
 - routes containing sensitive land uses such as schools and hospitals;
 - ease of access for emergency vehicles both to the site of the activity and any parts of the alternative routes being considered;
 - susceptibility of natural resources along the alternative routes to damage or contamination from the particular hazardous substances; and
 - the policies of adjoining territorial authorities on these issues.

Comment

The application has offered a suitable route for all vehicles and particularly fuel delivery tankers for the site within Pokeno based on the existing roading environment. It should be noted, however, that the application has not been able to offer a suitable route when taking into account the proposed upgrades to the Great South Road roading environment. For this reason, I consider the proposal to be contrary to, and therefore not consistent with Objective 9.3.3 and relevant policies.

9.6.1.2 Part 15.4 - Signs

Part 15.4 has objectives and policies that relate to the use of signs in the district. Because the proposed pylon sign for the service station fails the sign height rule contained in the ODP which relate to signs, these objectives and policies are relevant.

15.4.1.2: Objectives

1. To enable permanent and temporary signs to be erected, maintained and removed within the district in a manner that avoids, remedies or mitigates adverse environmental effects.
2. To avoid, remedy or mitigate the adverse visual effects of a sign or signs on amenity values of the surrounding environment.
3. To ensure that signs do not pose a threat to community health and safety, and the safe and effective functioning of the road network.

15.4.1.3: Policies:

1. Provide opportunities for permanent signs in all areas of the Franklin District.

3. Require that the visual and physical attributes of a sign, such as its size, height, colour and illumination, be in keeping with the character and amenity values of the surrounding environment.
5. Require that all signs are constructed and maintained to a high standard of structural quality and can be clearly read.
6. Ensure that signs do not create an obstruction to road-users or pedestrian traffic.
7. Avoid the potential for visual distraction of a sign or signs adjacent to any road.
8. Ensure that the location of a sign does not obscure a road-user's visibility of any road sign, intersection, private entrance, road marking, traffic signal, pedestrian crossing or other road-user.
9. Encourage sign design and construction that is simple, legible and communicates clear information.

Comment

The proposed pylon sign complies with the relevant ODP rules except for the sign height. The objectives and policies place emphasis on any signs keeping in character with the receiving environment and preserving traffic safety by their location and not serving as a distraction. Regarding the safety and distraction matters, it is considered that the location of the sign avoids adverse effects to traffic safety and preserve visibility for vehicles. The design is also not likely to offer a distraction to persons viewing it. However, in assessing the amenity and character effects of the proposed sign, it is considered that it is out of character, and would adversely affect the amenity of the receiving environment because it will be a dominant feature of the activity and would therefore dominate the streetscape.

The proposed activity meets Objective 3, but not Objectives 1 and 2. The policies are met where relevant, with the exception of Policy 4. As the proposal is overall inconsistent with two of the key objectives, I consider that the proposal is overall contrary to, and therefore not consistent with the relevant objectives and policies in Part 15.4.1.

9.6.1.3 Part 15.5 – Earthworks

The objectives and policies under Part 15.5.1 are relevant as the application proposes earthworks to prepare the site for the service station.

15.5.1: Objective

To achieve development which avoids, remedies or mitigates adverse effects from earthworks on historic heritage, water quality, significant infrastructure, and adjoining properties.

15.5.1: Policies

1. Subdivision and development should avoid, remedy or mitigate siltation and sedimentation of waterbodies and adjoining properties arising from earthworks.
2. Subdivision and development should utilise appropriate site management practices to manage earthworks activities.

4. Earthworks required for subdivision and development should avoid, remedy or mitigate adverse effects on historic heritage, including (but not limited) archaeological sites and sites of significance to Maaori.
5. Earthworks should be undertaken in a manner that does not affect the integrity and operation of significant infrastructure located within Franklin.

Comment:

The proposed earthworks can avoid, remedy, and mitigate any associated adverse effects. Suitable erosion and sediment controls are to be installed for the construction of the service station. The earthworks are away from any waterbodies and sites of Maaori Significance and will not compromise any significant infrastructure. I consider the proposal to be consistent with, and therefore not contrary to the relevant objectives and policies under Part 15.5.1.

9.6.1.4 Part 19 – Objective, Policies and Methods: Urban

The Business Zone is a part of the urban environment, and the objectives and policies under Part 19.4 is relevant in that regard.

19.4.2: Objective – Business Centres

To support the defined business ‘centres’ of Tuakau and Pokeno as the foci of pedestrian-oriented retailing and allied business activities for the district.

19.4.2 Policies

1. That the business centre of Tuakau and Pokeno be defined for the purpose of applying development Rules which are intended to:
 - maintain and improve pedestrian shopper amenity and convenience;
 - ensure adequate on-site parking and loading provision; and
 - safeguard the character of the built environment.
2. That a lesser parking standard apply within the centre of the zone in recognition of:
 - the public parking and service lane ‘resources’ in these areas;
 - the greater difficulty of accommodating vehicles on the smaller sites which are common in these areas;
 - the likelihood that vehicle movements will actually detract from the pleasantness of shopping for pedestrians;
 - the need to encourage a greater intensity of development in the centres for the sake of diversity and efficient land consumption; and that applications to reduce or waive the parking requirement be considered in terms of these reasons.
3. That the defined business centres be used by the Council, when appropriate, for the application of other, non-regulatory methods of achieving this Objective.
4. That the amenities and the infrastructural resources of the various parts of the Business Zone be improved or upgraded in consultation with affected communities; that Council

encourages and facilitates the preparation of comprehensive centre plans which form the basis of annual decision making on capital allocations.

5. That the full range of business, community and recreational activities be provided for in central areas subject to the potential they have for generating adverse effects.
6. That the movement function and the visual appeal of the key roads serving the Business Zone be protected and enhanced.
7. That Council monitors the rate of development in the business centres, the numbers of private parking spaces, the occupancy of public parking areas, and the traffic counts on key roads.

Comment

As the proposed service station is for refuelling vehicles, it does not offer pedestrian-friendly retail, and will not contribute to a pedestrian-orientated business centre. For this reason, I consider the proposal to be contrary to Objective 19.4.2. I also consider the proposal to be contrary to Policies 19.4.2.1.1 and 3 for this reason, and due to the adverse effects on the business centre character.

I also consider that the proposal is contrary to Policy 6, as the proposal does not protect the visual appeal of key roads, due to the lack of a built form.

As sufficient onsite parking is offered for the activity on the site, I consider that the proposal is otherwise consistent with and therefore not contrary to other policies in this section.

In assessing this objective and policies, I consider it appropriate to apply more weight to Objective 19.4.2 and Policy 19.4.2.1 as they describe the key intended outcome for the Pokeno Business Centre. In that regard, I consider the proposal to be overall contrary to, and therefore inconsistent with the objectives and policies under Part 19.4.2.

19.4.3: Objective - Adverse Effects

To protect the Residential Zone and other sensitive areas or resources from the adverse effects of business activities.

19.4.3 Policies

1. That the development and performance standards of the Business Zone, Tuakau Industrial Zone and the Tuakau Industrial Services Zone take particular account of the amenities of non-business zoned properties which are on the fringe of the zone.
2. Business activities, wherever located, must respect the rights of other land users and activities to clean air, and must ensure that the best practicable options are used to avoid or mitigate for any air-borne waste emissions which might detract from or be injurious to people or activities on other sites nearby or in the surrounding locality; this includes 'fugitive' emissions or discharges that come from the ground (such as dust), or stored materials, machinery or other ancillary activities or site areas. Activities that have difficulty in maintaining acceptable standards may have to consider relocating so as to achieve appropriate separation distances from sensitive land uses.

3. To monitor the effects of business activities on residential areas, particularly traffic and noise, and to:
 - revise the provisions of the zone if residential amenities are not adequately protected, and
 - investigate roading design changes for individual stretches of road where through-traffic associated with business activities is having an adverse impact.
4. Due consideration be given to environmental and health impacts, sustainability and long-term planning.
5. Business activities have the potential to impact negatively on people's health and on the environment.
6. All business activities must comply with relevant standards and guidelines.

Comment

The proposed service station does not directly adjoin any residential properties although there are several residential properties to the north of the subject site opposite Church Street. The application has demonstrated that the potential adverse effects regarding noise, dust, lighting, and hazardous substances can be adequately managed for this activity. However, as traffic safety and business centre character effects have not been appropriately avoided, remedied, or mitigated, I consider the proposal to be only partially consistent with and therefore partially contrary to the objectives and policies under Part 19.4.3.

9.6.1.5 Conclusion on Objectives and Policies Assessment

The proposed activity is consistent with the objectives and policies that relate to earthworks, and some that relate to the Business environment and transportation. The proposal is however, contrary to those key objectives relating to signs, outcomes for the Business Zone, (particularly those seeking a pedestrian-focused environment), and managing traffic safety following the expected upgrades to Great South Road.

Key outcomes for the Pokeno Business Centre are to create pedestrian-focused retail environment, with signage that is not a dominant feature of properties, and for a traffic environment that is safe for all modes of transport. In that regard, I consider it appropriate to place more weight on the objectives and policies that are associated with this policy direction. The assessment provided in section 9.6 of this report finds the proposal is not contrary to roughly three fifths (24/40) of the relevant objectives and policies but is contrary to roughly two fifths (16/40). However, section 104D requires a fair appraisal of the objectives and policies as a whole. It is not a "numbers game".

Despite more objectives and policies (in terms of numbers) being found to not be contrary with the proposal, I acknowledge that the relevant objectives of the district plan offer more direction for outcomes of activities in the Pokeno Business Centre than the policies under the plan, and consider it appropriate to apply more weight to them. The proposal is considered to be not contrary to three of the relevant objective, but contrary to six of

them. These six being associated with guiding a direction for future development in this area.

In the circumstances, overall, I find the proposal to be contrary to the objectives and policies of the ODP when read as a whole.

9.6.2 Appendix 29.2: Business Zone (Pokeno Design Assessment Criteria)

The ODP also includes additional assessment criteria for activities within the Pokeno Business Centre. This is relevant to the proposal and so forms part of my assessment. I am relying on the comments contained in the urban design report prepared by Sam Coles for my assessment of the proposal against this criteria.

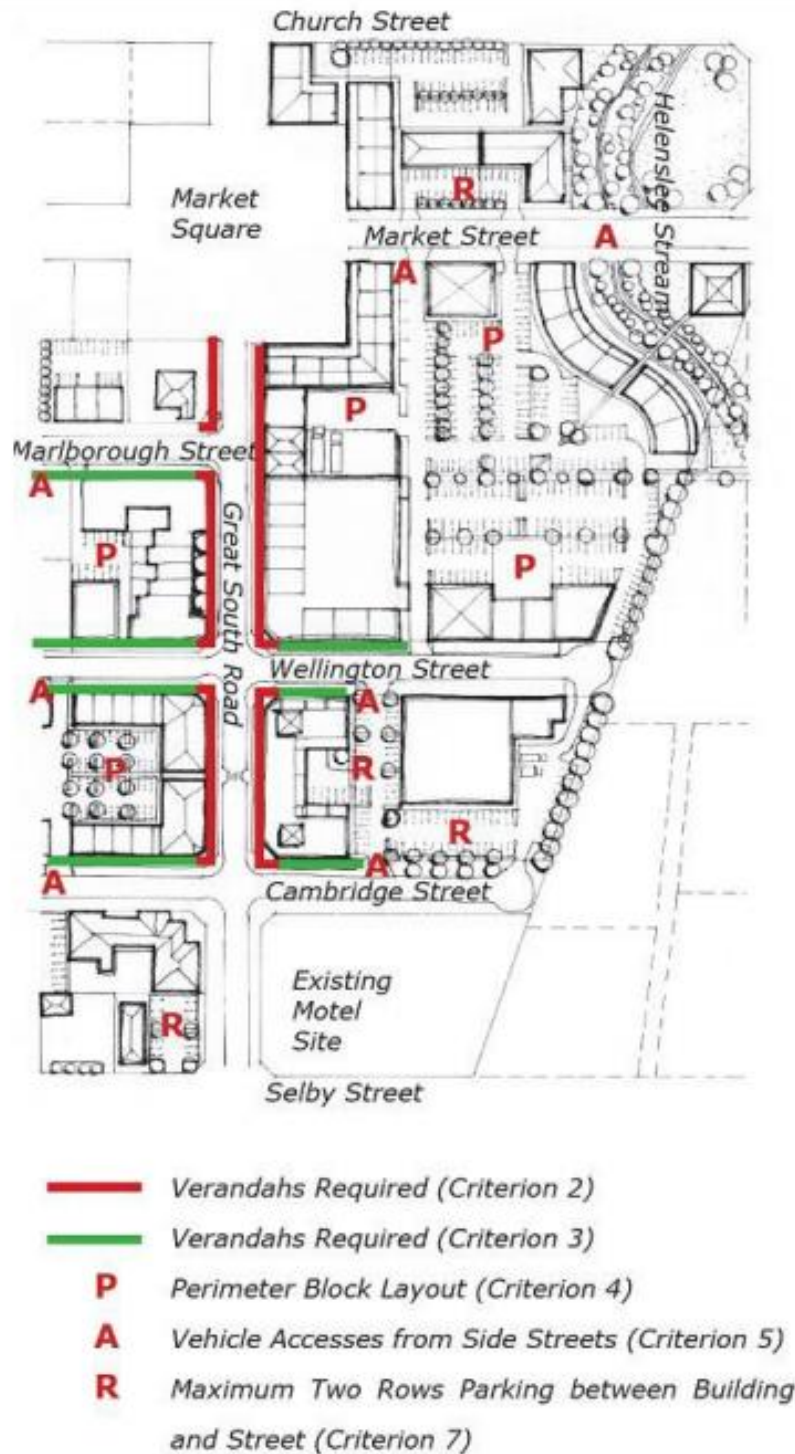


Figure 15 – Map of the development anticipated under Appendix 29.2

Design Element I: Site Planning

The following matters in Design Element I are relevant to the proposal:

- I. The Great South Road boundary of any site between Market Square and Cambridge Street should be lined by continuous building frontage to provide pedestrian amenity adjoining the road.

5. If possible, two vehicle access points on different roads (other than Great South Road between Market Square and Cambridge Street) should be provided for car parking areas.
7. If buildings cannot be built to all road boundaries (other than identified parts of Great South Road, where this is expected), attractively landscaped areas should be provided between the building and the open road frontage. If possible, the use of such areas for parking should be limited to not more than two rows of car parking to avoid adverse effects on the streetscape and pedestrian amenity.
8. Outdoor storage should be avoided or concealed from view from public roads by internalisation within or by the configuration of the building, (preferred), or by screen fencing.

Comment:

Mr Coles has provided the following comments regarding the application's assessment of Design Element 1:

The proposal is not consistent with this criterion (1), because no building frontage is proposed facing Market Square. The intent of the rule is for a continuous frontage and the proposal provides no frontage at all, so there is a significant gap between the expectation of criterion 1 versus the proposal.

Development of Business-Zoned land along Church Street and Market Street, including the eight retail units consented for 25 Market Street, would be expected to occur and attract greater numbers of pedestrians to Market Street, so the frontage is of some concern to pedestrian amenity. A veranda and attractive building façade (frontage) on the subject land would frame Market Square. Without buildings fronting it, Market Square would be difficult to recognise as a square (form) and would not be perceived as a significant destination. It is correct to say that the service station is not a pedestrian destination, and that makes it inappropriate for a location that is intended to be a pedestrian destination.

The statement that the subject land is disconnected from the pedestrian environment of the town centre is partially correct. The lack of a footpath and the under-development of Market Square at present do not encourage people to walk along Great South Rd along the frontage of the subject site. Effects arising from the vehicle crossings are not only aesthetic (visual effects) but would include consideration of pedestrian safety and convenience. Residential land to the west of the town centre has grown significantly, and Pokeno School is located to the west as well. Pedestrian connections between those places and the town centre should be supported; at the very least, further barriers to pedestrian movement shouldn't be proposed.

Criterion 7 appears to address the setback of buildings from the street (noting the phrase "between the building"), and does not suggest that a site without buildings is a reasonable response. The proposed forecourt would introduce a very wide space (28m) between Great South Road and the nearest(propose) building, at 25 Market St; this is a much larger and less-open space than would result even from the uppermost threshold of two rows of car parking (approx 18m). Utilising the

site as a means to “visually-integrate” Market Square with Church Street does not seem like a useful outcome in the town centre and the proposed landscaping solution would not achieve that anyway (since Market St and Church St are characterised by lawn and tall trees).

Some outdoor storage items (bins, carwashing equipment, spill response kit) will be present on the site. Screening landscaping and fencing would be effective in obscuring these items from public view, though fencing and landscaping heights should be carefully balanced to achieve a screening effect (groundcover planting for example would not be useful).

I agree with Mr Coles’ review of the urban design assessment supporting the application and his own review against Design Element 1. I consider that the proposal does not meet the outcomes sought under Design Element 1.

Design Element 2: Building Form, Public Interface and External Appearance

The following matters in Design Element 1 are relevant to the proposal:

1. When viewed from the road or any public space, buildings should create visual interest through articulation, openings, and variation, and should be in accordance with any design theme that has been developed for the area.
2. Solid blank walls on or facing a road frontage should be avoided.
4. Buildings should front directly onto or face onto roads and concentrate main entries and windows along roads or roadfacing frontages.
6. Buildings on corners should utilise design features which emphasise and address the corner.
8. Signage should be designed to fit with the building, be located on the buildings rather than on freestanding signs, and should not extend above the eaves or parapets. (Refer to Part 15.4 of the Plan)

Comment:

Mr Coles has provided the following comments regarding the application’s assessment of Design Element 2:

The Pokeno Town Centre Character statement provides a design theme for the area but it does not appear to have been considered in the design of the Gull sign which is a typical Gull design used in other service stations. The location of the site at the edge of the Town Centre places it in a relatively prominent position; The subject land fronts Great South Road and Market Street so has a high degree of visual profile within the public realm. There is some visual dynamism provided in the layout of the forecourt and through activity generation on the site, though it does not reflect any design theme and therefore would not offer any visual interest to the public realm surrounding the site. The statement by Hayson Knell that the site would not detract from visual amenity because it is at the end of the town centre does acknowledge that the proposal would detract from the intended character or visual amenity of the town centre if it were located on a different site (perhaps across the street). With respect to pedestrian amenity the lack of a footpath on the north-eastern side of Great South Road outside of the subject site makes this issue less significant at

present, but pedestrians walking along great South Road (using the footpath adjacent to the town Hall) or crossing the street would still have their visual amenity affected by the service station development). In future it should be anticipated that a footpath along the site frontage would be provided.

The proposal is not consistent with this guideline (2) - a solid fence (1.8m high) with screening hedge (3.0m high) is proposed as the frontage to Market Street. The explanation of this guideline states: "As a guide in respect of Criterion 2, "blank" areas of facade (i.e. without windows, doors, or other penetrations) facing a road should not exceed 4m in any direction. If it is not feasible or practical to include windows and doors, architectural modulation through recesses, rebates, expressed columns etc should be used in preference to "flat" treatments such as applied colour". The combination of fencing and landscaping proposed for the Market Street boundary will provide little to no modulation; combinations of fencing and landscaping could be used more effectively to achieve some consistency with this guideline. Solid walls and high fences are undesirable in town centres because they offer poor surveillance and activation and are visually uninteresting.

Relevant due to the statement "Buildings should front or directly face onto roads..."; The proposal is that no building will front onto roads. The intent of this criterion is to improve activation and passive surveillance of the street, to make it more attractive, functional and safe as a town centre environment. The proposal does not align well with the criterion (4) in this respect.

The pylon sign located on the corner of the site (Market Street / Great South Road) would provide some height definition to that corner. The corner of the site at Great South Road/Church Street will not be provided with any height definition and as a result would not create a strong degree of legibility to the corner of the block.

The proposal for a pylon sign is not consistent with this objective. It is noted that there are no options for attaching signs to buildings as part of this proposal, but a sign could be proposed that aligns to the eave/parapet height of nearby buildings; the Town Hall for example. The existing pylon sign associated with the Real Estate office is of a more sympathetic form and scale to the built form of Pokeno. The service station at 62 Great South Road also has a smaller pylon sign.

I agree with Mr Coles' review of the urban design assessment supporting the application and his own review against Design Element 2. I consider that the proposal does not meet the outcomes sought under Design Element 2.

Design Element 3: Open Spaces, Parking Areas and Landscaping

The following matters in Design Element 1 are relevant to the proposal:

2. Open spaces should have active edges, should be overlooked by windows from buildings on the same site or other sites in the Business Zone, and should be visible from roads.
6. Parking and movement layouts should be designed for safe and effective movement of vehicles through an easily understood layout with appropriate surface markings and signs.

Mr Coles has provided the following comments regarding the application's assessment of Design Element 3:

The proposal is not consistent with this guideline (2); active edge to Market Square (open space) is not being provided; a solid boundary fence and screening hedge is proposed instead. The amenity and vitality of Market Square would be compromised as a result of this boundary treatment.

The proposal is consistent with guideline 6.

I agree with Mr Coles' review of the urban design assessment supporting the application and his own review against Design Element 3. I consider that the proposal only partially meets the outcomes sought under Design Element 3.

Conclusion

The proposal is only able to meet the relevant design elements that relate to the parking layout. The design assessment criteria seek continuous built frontage of the site along Great South and Market Square, which the proposed service station is fundamentally unable to achieve, being a yard-based activity. The proposed pylon sign is also unable to meet these design elements due to it being a large, detached sign and not integrated into any buildings on the site. For these reasons, it is my opinion that the proposal overall is contrary to the relevant provisions of the Business Zone (Pokeno) Design Assessment Criteria.

9.7 Proposed District Plan (Notified July 2018)

9.7.1 Proposed Objectives and Policies

The Objectives and Policies of the PDP have legal effect so are relevant to the assessment under section 104(1)(b). The following Objectives and Policies are considered relevant to the proposal:

9.7.1.1 Chapter 4: The Urban Environment

The subject site is within the Business Town Centre Zone of the PDP and the following objectives and policies are relevant:

4.1.7 Objective – Character of towns

Development in the Residential, Village, Industrial and Business zones is attractive, connected and reflects the existing character of towns.

4.1.8 Policy – Integration and connectivity

- (a) Ensure effective integration within and between new developments and existing areas, including in relation to public open space networks and infrastructure by:
 - (i) Providing good access to facilities and services by a range of transport modes through the provision of integrated networks of roads, public transport, cycle, and pedestrian routes;

- (ii) Providing a range of supporting local community facilities and services for residents' daily needs;
- (iii) Setting aside land for neighbourhood centres and parks identified in town-specific Master Plans or Structure Plans, to enable their future development;
- (iv) Applying the following design guidelines and town centre character statements to influence the manner in which development occurs:
 - A. Residential Subdivision Guidelines (Appendix 3.1);
 - B. Multi Unit Development Guide (Appendix 3.4);
 - C. Town Centre Guidelines (Appendix 3.3).

Comment

In considering these objectives and policies, I rely on the comments made by Mr Coles, the urban design expert for Council:

The existing character of Pokeno is diverse and does include truck stops and industrial uses that could be considered unattractive, however they do contribute to a countryside "service town" character. However, as stated in multiple planning documents (including the Pokeno Town Centre Character Statement) that a character of 'countryside heritage' and 'traditional styles' is valued by the community. The application documents provide no indication of how the proposal would reflect this character or embody any design aspects that reflect Pokeno's character (the Gull design proposal appears to be a generic design utilised across many Gull sites nationwide). Despite a minimal amount of landscaping along public edges, the proposal is considered to result in a reduction in overall character and is therefore contrary to this Objective.

(i) The integration of the site with Market Square will not be achieved; an inaccessible boundary is proposed. No integration of the site with adjacent land has been proposed (noting that there is a service lane being proposed along the northern boundary of the site, within the 25 Market Street development). (iv) The Town Centre Design Guidelines apply to the frontage / interface between the subject site and Market Square.

Taking the above into account, I consider the proposal to be contrary to, and therefore inconsistent with Objective 4.1.7 and Policy 4.1.8.

4.5.1 Objective – Commercial function and purpose

Commercial activity is focused within a differentiation of commercial zones and development (comprising the Business Town Centre Zone, the Business Zone, the Business Zone Tamahere and neighbourhood centres).

4.5.2 Policy – Commercial function and purpose

(a) Commercial activity develops in a way that:

- (i) Ensures the business town centre within each town is maintained as the primary focal point for retail, administration, commercial services and civic functions;

4.5.3 Policy – Commercial purpose: Business Town Centre Zone

- (a) The role of the business town centres in Raglan, Huntly, Ngaruawahia, Te Kauwhata, Pokeno and Tuakau is strengthened by ensuring that:
 - (i) They are recognised and maintained as the primary retail, administration, commercial service and civic centre for each town; and
 - (ii) The scale of commercial activities supports their continued viability as the primary retail, administration and commercial service centre for each town; and
 - (iii) Enhances their vitality and amenity while providing for a range of commercial and community activities and facilities.

4.5.9 Policy – Employment opportunities: Business Town Centre Zone and Business Zone

- (a) Commercial development within the Business Town Centre Zone and Business Zone increases employment opportunities within the district.

4.5.10 Policy – Retail: Business Town Centre Zone and Business Zone

- (a) Locate small scale retail activities within the Business Town Centre Zone and discourage large scale activities from establishing within the Business Town Centre Zone.
- (b) Locate large scale retail and commercial activities to within the Business Zone.

Comment

In considering Policies 4.5.2 and 3, I rely on the comments made by Mr Coles, the urban design expert for Council:

The proposal is consistent with Policy 4.5.2, though as an unmanned service station offering only one item for sale (fuel), the “commercial function” is limited when compared with a retail, commercial or administrative use.

(Policy 4.5.3): A service station does not improve the range of commercial activities in the town centre, given there is already a service station approx 90m away on the same side of Great South Road, plus a truckstop nearby. The proposed service station only offers one item for sale and being unmanned would not contribute to town centre vitality through community engagement.

I agree with the above assessment by Mr Coles and consider the proposal to be consistent with, and therefore not contrary to Policy 4.5.2, but inconsistent with and contrary to Policy 4.5.3.

Regarding Policy 4.5.9, the service station will offer limited employment opportunities as it is a self-service station, with regular work being limited to servicing of fuel pumps and infrastructure and fuel tanker delivery trips. The level employment from workers constructing the site is acknowledged, however this shall be temporary. As the site is small, it is difficult to contemplate the potential number of employees from an otherwise permitted or Restricted Discretionary Activity under either plan. The current real estate agent’s office on the site lists nine employees, although it is uncertain whether these jobs would necessarily be “lost” if the service station was constructed or merely relocated to

another location. As there would be an overall long-term reduction in employment, I consider the proposal to be contrary, and therefore inconsistent with Policy 4.5.9. As it is not easy to compare the proposed service station to other likely permitted commercial activities, it also is not easy to understand what employment numbers could reasonably be for an otherwise permitted activity on this site. In that regard, I do not consider it appropriate to apply much weight to this Policy.

Regarding Policy 4.5.10, the proposed plan has no criteria for 'scale' however the s23 Report supporting this policy considers the Business Town Centre Zone intends for development to be limited to catering to the day to day needs of towns in the district. I consider that a service station meets this criteria. In addition, because the entire service station operation is within the subject site, I consider that the proposal is not contrary to, and therefore consistent with Policy 4.5.10.

In summary, the policies under this objective have a mixed degree of consistency, and differing degrees of appropriate weight applied to them. Objective 4.5.1 only seeks commercial activities in this zone, which I consider the proposal to be, so I therefore consider the proposal to be overall consistent with, and therefore not contrary to Objective 4.5.1 and relevant policies.

4.5.12 Objective – Business Town Centre - Character

- (a) The commercial and mixed use character of Raglan, Huntly, Ngaruawahia, Te Kauwhata, Pokeno and Tuakau town centres is maintained and enhanced.
- (b) The Business Town Centre Zone is promoted as a community focal point.
- (c) Development of town centres is designed in a functional and attractive manner serving the needs of the community.

4.5.13 Policy – Town centre built form

- (a) The scale and form of new development in the Business Town Centre Zone is to:
 - (i) provide for a safe, accessible, compact and attractive town centre environment;
 - (ii) facilitate the integration of retail shopping, administration and commercial services, residential, civic and community activities;
 - (iii) reflect the role and character of the business town centre;
 - (iv) increase the prominence of buildings on street corners;
 - (v) maintain a low rise built form and small scale, pedestrian focussed retail activities; and
 - (vi) manage adverse effects on the surrounding environment, particularly at the interface with residential areas.

4.5.18 Policy - Pokeno Town Centre

- (a) Development maintains and enhances the role of the Pokeno Town Centre by:
 - (i) Maintaining wide footpaths, prioritising and providing for pedestrian movement and safety;
 - (ii) Maintaining a pedestrian focus by discouraging vehicle access across footpaths;
 - (iii) Providing for an appropriate building scale with narrow frontages; and

- (iv) Protecting and enhancing the character of existing buildings through new built form being consistent with the outcomes of the Town Centre Character Statement for Pokeno Town Centre (Appendix 10.4), in particular by:
 - A. Providing transparent façades and window displays at ground level;
 - B. Providing continuous suspended verandahs sheltering footpaths;
 - C. Providing parking, loading and storage where rear access to buildings exists;
 - D. Encouraging the preservation and promotion of cultural features.
 - E. Promoting active street frontages by developing up to the street boundary; and
 - F. Ensuring built form is consistent with Waikato District Council Pokeno Town Centre Architectural Form, Materials and Signage Design Guide, and in particular section 6 (Architectural Style, Materials and Appearance).

4.5.20 Policy – Pedestrian frontages: active street frontages – Business Town Centre Zone

- (a) Provide for active street frontages in the design or redesign of buildings, and avoid car parking and accessways on sites within the pedestrian frontage area of the Business Town Centre zones to enable the maintenance of:
 - (i) Passive surveillance;
 - (ii) Continuous verandahs;
 - (iii) Display windows and building façades;
 - (iv) Pedestrian safety; and
 - (vi) Buildings located up to the street boundary.

4.5.21 Policy - Corner buildings – Business Town Centre Zone

- (a) Ensure buildings within Business Town Centre Zones positively reinforce corner locations through:
 - (i) Building design;
 - (iv) The position of the building on the site;
 - (v) Architectural details; and
 - (vi) Having prominent building entrances.

4.5.22 Policy – Landscaping - Business Town Centre Zone

- (a) Within the Business Town Centre Zone and outside of the pedestrian frontage areas, ensure that landscaping contributes to the adjacent streetscape.

4.5.24 Policy – New buildings: Business Town Centre Zone

- (a) New buildings within the Business Town Centre Zone are consistent with the Waikato District Council Urban Design Guidelines Town Centres (Appendix 3.3), and in particular:
 - (i) Responds to the specific site characteristics and wider street and town context;
 - (ii) Promotes architectural form, building features and placement;
 - (iii) The design of buildings contributes to vibrancy, character and commercial viability of the town centre;
 - (iv) Provides landscape and open space design that responds to the characteristics and qualities of the area;

- (vii) Minimises visual and amenity impacts of accessways and parking facilities; and
- (viii) Maximises pedestrian access and safety.

Comment

In considering these objectives and policies, I rely on the comments made by Mr Coles, the urban design expert for the Council:

The proposal is consistent with objective 4.5.12.(a) in that is a commercial use. In relation to matter (b), the area adjacent to Market Square includes the only public civic spaces within Pokeno Town Centre; development of a "non pedestrian activity" which primarily services motorists passing through Pokeno does not contribute to the Town Centre as a community focal point. In relation to matter (c) the proposal is arguably unattractive (the applicant's urban designer has deemed that a high, solid screening fence and hedge are necessary to mitigate the visual effects of the proposal). The proposal is largely functional with a very minimal amount of landscaping proposed to mitigate visual effects, and apparent effort to respond to the local character of the site through aesthetic treatments that reflect the site and its heritage and landscape context.

The proposal is contrary to elements of Policy 4.5.12, specifically items (a)(i) and (iv) and (v). (iv) The site is on a street corner, and on the corner of Market Square (a pedestrian-focussed public space) and there are no buildings proposed to increase the prominence of this street corner or provide a marker as an entry-point (or 'book end') to the town centre. (v) A low rise building form/scale is not being maintained. A "no rise" building form is proposed.

The proposal is contrary to this elements of this Policy 4.5.18, specifically: a(i) and (ii); proposal has vehicle crossings that may introduce safety issues with foot traffic using the site; it is considered that development of site within the Town Centre Zone should be compatible with wide footpaths that have pedestrian priority. (iii) appropriate building scale is not maintained; frontage is not narrow (is becoming wider than existing). (iv)A-F: Protection of character of existing buildings is not being maintained - character building is being removed. None of these aspects A-F have been incorporated to the proposal. No recognition has been given to this policy through the design outcomes embedded in the proposal. In particular, D (loss of heritage features) represents a lost opportunity to provide a suitable design response.

The proposal is contrary to Policy 4.5.21 as no buildings are proposed. The wording of the policy is important: Ensure buildings within Business Town Centre Zones positively reinforce corner locations. Even without a building it would be possible to reinforce the corner position/s by use of hard landscaping, tall elements, trees, etc to achieve more prominence.

Regarding policy 4.5.22, the proposal includes a minimal amount of soft landscaping along Great South Road (low height species) and hard landscaping is limited to vehicle crossings and hardstand areas only plus one paling fence. Along Church Street and Market Street, more substantial landscaping is proposed, but overall the proposal falls short of being considered a "contribution" to either of its three adjacent streetscapes.

Mr Coles has provided an assessment of Appendix 3.3 where relevant under Policy 4.5.24 (as this appendix currently has no legal effect otherwise), and for this policy in general. A detailed assessment is provided in the Harrison Grierson Urban Design Assessment in Appendix B below.

In summary, Mr Coles has commented that the proposal does not meet the outcomes sought under Appendix 3.3 overall, although it is noted that it partially meets the outcomes sought in Parts 4 and 7.2 as it relates to open space. Regarding Policy 4.5.24, Mr Coles has commented that the proposed service station does not respond to the site-specific characteristics of the street/town context, as evident with the relationship with Market Square and the rest of the built environment. The open yard/forecourt does not promote architectural form or contribute to character of the Pokeno Business Centre. Mr Coles is also of the opinion that the crossing arrangement does not minimise visual, and amenity impacts of the access to the site, however the proposed landscaping does provide landscaping and open space design to a limited degree.

I agree with Mr Coles' comments and assessment, and consider the proposal to be contrary to, and therefore inconsistent with Objective 4.5.12 and the relevant policies.

4.5.30 Objective – Business Zone and Business Town Centre Zones – Amenity

The amenity values of residential activities within, and activities in, adjoining zones are protected from the adverse effects of developments and activities in the Business and Business Town Centres Zones.

4.5.35 Policy – Noise

- (a) Adverse effects of noise generated within the Business Town Centre and Business Zone on sensitive land uses are minimised by:
- (i) Ensuring that the maximum sound levels are compatible with the amenity values of adjacent Residential Zone or Village Zone;
 - (ii) Limiting the timing and duration of noise-generating activities, including construction and demolition activities;
 - (iii) Maintaining appropriate setback distances between high noise environments and sensitive land uses; and
 - (iv) Limiting the timing and duration of servicing and operation of commercial activities;
 - (v) Requiring acoustic insulation for dwellings within the Business Zone and Business Town Centre Zone.

4.5.36 Policy – Signage

- (a) In the Business Town Centre and Business Zone provide for:
- (i) The establishment of signs where they are associated with the activity carried out on the site on which they are located;
 - (ii) Public information signs that are of benefit to community well-being; and

- (iii) Establishment of signage to support the commercial function and vibrancy of the zones with controls on the size, location, appearance and number of signs to ensure they do not detract from the visual amenity of the surrounding environment.

4.5.37 Policy – Managing the adverse effects of signs

(a) In the Business Town Centre and Business Zone ensure that:

- (i) The location, colour, content, and appearance of signs directed at traffic are controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other road users;
- (ii) Signs that generate adverse effects from illumination, light spill, flashing or reflection are avoided;
- (iii) The placement of signs do not obstruct the free movement of:
 - A. Pedestrians along the footpath;
 - B. Vehicle use of the road carriageway.

4.5.38 Policy – Artificial outdoor lighting

(a) In the Business Town Centre and Business Zone ensure that:

- (i) Artificial outdoor lighting enables night time work, recreation activities, outdoor living, transport and security;
- (ii) The intensity and direction of artificial lighting avoids significant glare and light spill to adjacent sites; and
- (iii) Artificial outdoor lighting is installed and operated so that light spill does not compromise the safe operation of the transport network.

4.5.39 Policy – Outdoor storage

(a) The adverse visual effects of outdoor storage in the Business Town Centre and Business Zone are mitigated through appropriate location, screening or landscaping.

4.5.40 Policy – Objectionable odour

(a) Within the Business Town Centre Zone and Business Zone ensure that the adverse effects of objectionable odour from activities do not detract from the amenity of other sites.

4.5.41 Policy - Earthworks

(a) Ensure that the adverse effects of earthworks in the Business Town Centre Zone and Business Zone on adjoining properties and water bodies, are managed to minimise the adverse effects and sediment of dust and stormwater runoff.

4.5.42 Policy – Adjoining site amenity

(a) Maintain amenity of adjoining properties by:

- (i) In the Business Zone:
 - A. Requiring buildings to be setback from boundaries adjoining all zones except Industrial and Heavy Industrial Zoned land; and
- (ii) In the Business Town Centre Zones:

- A. Requiring the progressive reduction in the height of buildings the closer they are located to boundaries adjoining all zones except Industrial and Heavy Industrial zoned land.

Comment

In assessing these objectives and policies, I refer to the relevant comments made in my environmental effects assessments. The assessment on amenity and character concluded that the effects were unacceptable, and I therefore consider the proposal contrary to Objective 4.5.30.

The applicant has demonstrated that the effects related to noise, odour, and the proposed earthworks can be avoided, remedied, or mitigated. Council's lighting expert, Mr Steggles, has commented that the lighting effects could be avoided, and I agree with his assessments.

Although some outdoor storage is proposed, much of this will be screened by the proposed shed, with the remainder being the emergency spill kit, which is necessary for hazard response, and will likely be partially screened by other structures on the site.

The effects assessment above has assessed the effects from the proposed sign however Mr Coles has provided the following comment in relation to Policies 4.5.36 and 37:

The proposed signage is consistent with matters (a)(i) to (ii). In relation to matter (iii), the location and appearance of the sign will make it very prominent when viewed from Great South Road and when approaching the intersection of Pokeno Road / Great South Road. The scale and design of the sign will not complement the landscape (trees) or the nearby buildings (including the Town Hall). It is considered that the sign will detract from the visual amenity of the surrounding environment, though this effect is not very significant when compared to other signs and built form within the Pokeno Town Centre. It is noted that lower and smaller signs are provided for other activities in this location; including the existing real estate pylon sign on the site and the pylon sign for the G.a.s. service station.

The proposal is consistent with Policy 4.5.37. I do not consider the proposed Pylon sign to be a distraction or confusing - it is related to the purpose of the service station.

I agree with Mr Coles' comments, and consider the proposal to be inconsistent with Policy 4.5.36, but not 4.5.37.

Overall, I consider that the proposal is inconsistent with, and therefore contrary to Objective 4.5.30 and the relevant policies.

9.7.2 Chapter 6.5: Transport

Chapter 6.5 of the PDP has objectives and policies relating to transportation within the district, including traffic safety on the district's roads and access to and from properties in the district. The below objectives and policies in this part are relevant here:

6.5.1 Objective – Land transport network

- (a) An integrated land transport network where:
- (i) All transport modes are accessible, safe and efficient; and
 - (ii) Adverse effects from the construction, maintenance and operation of the transport network are managed.

6.5.2 *Policy – Construction and operation of the land transport network*

- (a) Promote the construction and operation of an efficient, effective, integrated, safe, resilient and sustainable land transport network through:
- (ii) The appropriate design and location of sites accesses;

6.5.5 *Policy - Road safety*

- (a) Ensure that structures, lighting, signage and vegetation are located and designed so as to not compromise the safe and efficient operation of the land transport network, or obscure RAPID numbers.

6.5.7 *Policy – Vehicle access*

- (a) Control the location of new vehicle accesses to sites adjacent to other accesses and rail level crossings to improve the safety and efficiency of the land transport network.

Comment

The proposed vehicle entrance layout and structures within the site have been arranged to preserve sight visibility on the subject site. Although the proposed activity will preserve traffic safety under the existing roading layout, it has also been assessed against the anticipated layout for Great South Road, where traffic safety issues are likely to arise, in particular fuel delivery tankers will not be able to enter and exit the site following construction of median barriers. In that regard, I consider that traffic safety is not able to be preserved, and also consider policies surrounding this to be more relevant for this assessment. As such, I consider that the proposal will be contrary to, and therefore not consistent with the relevant objectives and policies in Chapter 6.5.

9.7.3 Conclusion on Proposed Objectives and Policies Assessment

The proposed service station is contrary to a number of objectives and policies in the PDP that relate to town centre character, preserving amenity, and integration with the receiving environment. However, the proposal is consistent with those policies that relate to the function of the Business Town Centre Zone and can mitigate effects where required with the exceptions of transport objectives and policies as well as amenity, particularly with signage.

In summary, I consider the more relevant objectives and policies to be those related to Business Town Centre character and traffic safety as they relate directly to rule failures and reasons for consent. As such, I consider the proposal to be overall contrary to, and

therefore inconsistent with, the objectives and policies of the PDP.

9.8 Pokeno Urban Design Guide 2015

The Pokeno Urban Design Guide, published in September 2015, is intended to give effect to both the Appendix 29.2 Pokeno Business Centre Assessment Criteria and the Market Square Design Guide 2014. The Pokeno Urban Design Guide sets out guidelines for new buildings constructed within the Business Centre, including the recommended materials used, roof designs, and location of signage on buildings.

The Pokeno Urban Design Guide is included in the Waikato District Council Character Statement 2018 for the Pokeno Town Centre, which was included in the assessment of the proposal against Policy 4.5.18 of the PDP. This is referred to in Section 9.7.1.1 of this report and shall not be repeated here.

In summary, it is considered that the proposal is contrary to the principles of the Pokeno Urban Design Guide 2015.

9.9 Conclusion on Relevant Plan Provisions under Section 104(1)(b)

The proposal is demonstrated to be inconsistent with the Regional Policy Statement. In terms of the ODP, I have found in my analysis that the proposal is contrary to, and therefore inconsistent with Objectives and Policies associated with amenity, character, social wellbeing, and traffic safety (considering the anticipated changes to the traffic environment of Pokeno). The proposal is also inconsistent with the outcomes and vision for the Pokeno Business Centre as described in Appendix 29.2 of the ODP.

Under the PDP, I have found that the proposal is contrary to, and therefore inconsistent with both the Strategic and the specific Objectives and Policies of the Business Zone. The proposal is also contrary to the Town Centre Design Guide and Pokeno Character Statement that is referred to in these objectives and policies.

In summary, it is considered that the proposal is contrary to, and therefore inconsistent with the relevant provisions under both the ODP and the PDP.

10.0 SECTION 104(1)(c) – OTHER MATTERS

When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to any other matter the consent authority considers relevant and reasonably necessary to determine the application. These matters are discussed below.

10.1 Waikato Tainui Environmental Plan

The Waikato Tainui Environmental Plan (Plan) is to provide a map or pathway that will return the Waikato-Tainui rohe to the modern-day equivalent of the environmental state

that it was in when Kiingi Taawhiao composed his maimai aroha. To do this, the Plan seeks to:

- 1 provide the overarching position of Waikato-Tainui on the environment (s1.3.1);
- 2 consolidate and describe Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment (s1.3.2);
- 3 underpin the development of a consistent and integrated approach to environmental management within the Waikato-Tainui rohe (s1.3.2);
- 4 describe Waikato-Tainui environmental issues (s1.3.4);
- 5 provide tools to enhance Waikato-Tainui mana whakahaere and kaitiakitanga, particularly when participating in resource and environmental management through (s1.3.5):
 - (i) influencing the development of all environmental policies and plans that affect Waikato-Tainui;
 - (ii) establishing a framework for resource and environmental management to support tribal members, whether as whaanau, marae, hapuu, or whatever grouping Waikato-Tainui, from time to time, choose to adopt;
 - (iii) providing mechanisms to restore and protect the natural environment of Waikato-Tainui, whilst recognising the reasonable needs of local communities;
 - (iv) actively contributing to the co-management of the Waikato river;
 - (v) influencing local and national decision makers;
 - (vi) providing a guide for resource users or developers in the Waikato-Tainui rohe;
 - (vii) affecting how and where development may occur; and
 - (viii) providing clear and consistent issues statements, policies, and methods to manage natural resources.
- 6 provide guidance to external agencies regarding Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment (s1.3.6).

Section 25 of the Plan sets out matters relating specifically to Land Use Planning. The Objectives and Policies generally seek to achieve urban development that is well planned, and the environmental, cultural, spiritual and social outcomes are positive. Stormwater from the development will remain onsite through onsite treatment and soakage, wastewater is proposed to be managed onsite and construction management plans can ensure that sediment is controlled appropriately. The overall engineering design of the proposal are all measures that cumulatively ensure the proposal meets the Objectives and Policies set out in Chapter 25 of the Plan. No submissions have been received from Mana Whenua in relation to this application. I am of the view that the proposal is consistent with the Plan.

10.2 Waikato 2070 – May 2020

Waikato 2070 Growth and Economic Development Strategy (Strategy) was adopted by Council in May 2020 and supersedes the 2007 Franklin District Growth Strategy. The Strategy identifies areas set out for intensification over the next 50 years. The objectives

and policies of the PDP are intended to give effect to this document. The Strategy's development plan for Pokeno is shown below.

The Strategy identifies the Pokeno Business Centre as a place for a mixed use of business and residential activities. It is envisaged that there will be ground-level retail, with higher levels being dedicated to offices or residential spaces. The proposal involves no built environment with potential for upward development, and I therefore consider the proposal to be inconsistent with the outcomes sought in the Strategy.

10.3 Pokeno Village Market Square Design Guide 2014

The Market Square Options document prepared by Richard Knott Limited in 2014 outlined several options regarding development of Market Square and the surrounding environment. Due to the increase in population growth for Pokeno, the document outlines two options for the future environment; a Village Green, or a multi-use Town Square. Following public consultation, Option I was identified as the preferable option by both the Council and the public.

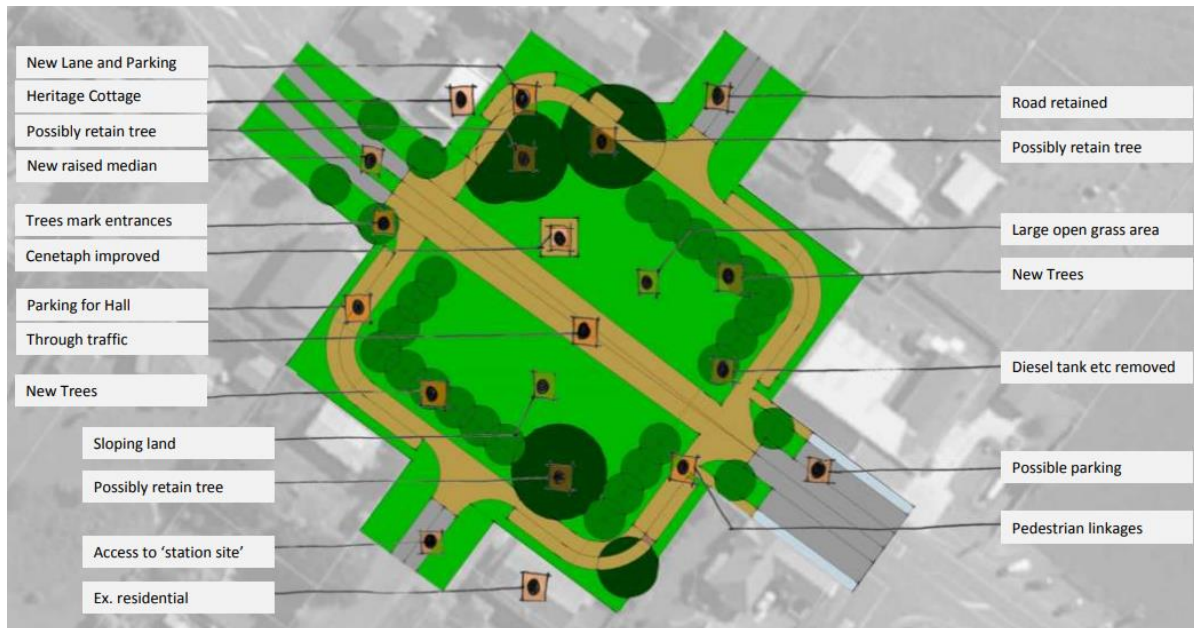


Figure 17 – Preferred development for Market Square

The urban design assessment supporting the application recommends high fencing and planting to screen the service station activity from this public space to mitigate the adverse effects of the development. Mr Coles disagrees with the assessment, as noted in the environmental effects' assessment above, as the fencing could not offer an attractive frontage for Market Square in comparison to a built-up retail frontage. Mr Coles is also concerned that the use of the two vehicle entrances directly onto to Great South Road would further disrupt the amenity of Market Square. Mr Coles has recommended the existing cottage on the subject site be retained, however there are no restrictions requiring this because it is not a protected building in either district plan, and I do not consider it appropriate to consider this a relevant provision in that regard.

In summary, I consider the proposal to be inconsistent with the provisions that are relevant of the Pokeno Village Market Square Design Guide 2014.

10.4 Pokeno Structure Plan – October 2008

The Pokeno Structure Plan (Structure Plan) was adopted in October 2008 and incorporated into the ODP. This Structure Plan identified the need for a Business Centre in the town with built-up and active frontages. Notable outcomes sought under this Structure Plan

include maintaining the amenity of existing heritage elements and Market Square, locating parking and loading accesses away from Great South Road, and otherwise enhancing pedestrian amenity.

Many of the outcomes sought under the Structure Plan correspond to the objectives and policies of the ODP, including the Pokeno Business Centre Assessment Criteria in Appendix 29.2. The effects on amenity and character relating to pedestrian amenity in particular were included in my effects assessment above. Taking the conclusions of those assessments into account, I consider that the proposal is contrary to the outcomes sought under the Structure Plan.

10.5 Waikato District Council Blueprints 2019

The Waikato District Council Blueprints 2019 (Blueprints) provide a guide for development within urban areas for the district, with Pokeno being identified as one of these areas. Several submitters noted that the proposal was not consistent with the outcomes sought under the Blueprints documents for Pokeno.

The Blueprints identified many priority development initiatives for Pokeno. Related to the Business Centre was the need for a town centre that reconciled current and future employment and retail needs of the surrounding environment. Although the service station could be considered a retail activity, it offers limited opportunities for employment and I therefore consider it to be overall contrary to the outcomes sought under the Blueprints.

10.6 District Plan Integrity and Precedent Effect

There is no statutory provision for precedent effect or adverse effects on the integrity of the ODP to be considered. These are formulated by the Courts and commonly used to reinforce principles and aid in assessments.

Precedent effect

A precedent reflects the concern that the granting of an application may have on the fate of future applications for consent. In other words, how a decision may influence the way in which future applications are dealt with.

In *Manos v Waitakere CC*, the High Court held “the consent authority is in terms of s104 required to have regard to the rules, policies and objectives of a district plan and is fully entitled to consider the precedent effect of granting an application for a Discretionary activity when doing so.”

That view was subsequently stated to be correct by the Court of Appeal when refusing leave to appeal to that court. The Court of Appeal acknowledged this may not be as important as in the case of a Non-Complying activity however it said each application must be assessed on a case-by-case basis. The case law sets out that, precedent can be relevant matter for Non-Complying Activities, and I therefore consider an assessment against precedent effects to be relevant to this proposal.

The proposed activity is a service station which is categorised as a Non-Complying Activity. The ODP offers a strong policy directive toward allowing only pedestrian-friendly retail for the Pokeno Business Centre, and both the ODP and the PDP provide direction for town centres to support an active and build-up frontage. While the application has offered fencing and landscaping to mitigate some of these effects, it does not avoid the fundamental conflict where no part of the activity proposed would encourage pedestrian traffic to the site. Although there is another service station in the Pokeno Business Centre as well as a truck stop, these were established prior to the plan change (PC24) which introduced the Non-Complying Activity status.

The application also proposes a 6 m high pylon sign where 2 m is the maximum height permitted. I acknowledge that the nearby Pokeno Countdown had a 15 m high sign approved for it, however this development was a large supermarket building and a public amenity facing Great South Road, both having a similar height to the sign. In contrast, the proposed service station offers no buildings or structures of a similar height to the pylon sign, resulting in the sign becoming a dominant feature of the site. Both district plans have strong directives against dominant signs in business zones.

The proposed access arrangement for the site has been assessed as having unacceptable effects when considering the anticipated upgrades to Great South Road. The access arrangement does not allow for heavy vehicles to safely left-turn in and out of the site, and does not avoid or mitigate the effects of vehicles queueing up from one side. There is also insufficient information from the applicant on the overall traffic effects associated with these roading upgrades. This contradicts provisions of both plans that relate to traffic safety.

In summary, I consider that if the application was granted, three precedents could be potentially established. Those precedents being the provision of an unmanned service station offering no pedestrian amenity for the Pokeno Business Centre, tall signage becoming a dominant feature on a property, and a vehicle access arrangement that is incompatible with existing/future traffic environment.

Administration of the District Plan (District Plan integrity)

District plan integrity reflects the public confidence in the plan. The Environment Court (EC) in the case *Berry v Gisborne District Council* (2010) considered precedent and plan integrity and cautioned the use of such factors. The EC advised an application will only be declined on the basis of plan integrity where:

- The proposal clearly clashes with important plan provisions; and
- It is likely that further applications will follow which are equally incompatible with the District plan and materially indistinguishable.

The application has been assessed above as contrary to the provisions of the ODP that seek a pedestrian-friendly retail environment in the Pokeno Business Centre. It is difficult to ascertain whether further materially indistinguishable applications could follow as a result of this consent being approved without understanding the demand for such activities. A third service station would be unlikely in the Pokeno Business Centre. However, I do acknowledge that a Non-Complying Activity status is also given to 'Yard-Based Activities' which includes activities such as storage facilities which would be unlikely to be a pedestrian-friendly retail activity.

In regard to the proposed sign, I consider that as a dominant feature to the site and activity, it does conflict with plan provisions, and it could likely lead to similar signage in the Pokeno Business Centre for future activities.

Although there is a strong emphasis on a safe traffic environment, it is difficult to determine whether future applications will be equally incompatible. Traffic environments are often unique to each property and are also based on the particular activity proposed. The left-turn only on a busy street with two crossings facing a main road of a town centre may not be replicated on any other property in the district, even for a service station. Town Centre properties are typically too narrow to accommodate multiple entrances, and often use side-streets that are more appropriate for vehicle crossings. In that regard, I consider that the proposed arrangement is so unique that it is unlikely to be replicated enough to undermine the integrity of either district plan.

In summary, I consider that the proposed activity would not integrate well with the envisioned Pokeno Town Centre. The application will undermine the integrity of the ODP, with regard to the proposed activity and the proposed sign, but not as it relates to the vehicle crossing arrangement.

10.7 Conclusions on section 104(1)(c) Other Matters

The conclusions reached under s104(1)(c) in regards to other are as follows:

- The proposal is consistent with the Waikato Tainui Environmental Plan
- The proposal is inconsistent with the Waikato 2070 Growth Strategy
- The proposal is contrary to the outcomes sought under the Market Square Design Guide 2014
- The proposal is contrary to the outcomes sought under the Pokeno Structure Plan
- The proposal is contrary to the outcomes sought under the Waikato Blueprints 2019 for Pokeno
- The proposal will set a precedent for other applications and potentially undermine the integrity of the District Plan.

11.0 SECTION 104D – GATEWAY TEST

As mentioned in section 5 of this report above, Council has no jurisdiction to consider the merits of a non-complying activity unless it can first pass one of the two gateway tests under section 104D of the RMA – either that the adverse effects of the activity on the environment will be minor; or the application will not be contrary to the objectives and policies of the relevant plan. In this case, the relevant plan is the Waikato District Plan.

Section 8 in my report assessed the adverse effects of the proposal under section 104(1)(a) of the RMA. In section 8.9 above, I concluded that the adverse effects of the proposal on the landscape, amenity and urban design are more than minor on the environment. Accordingly, the proposal is unable to pass the first threshold test set out in section 104D(1)(a).

Section 9 of my report assessed the proposal against the objectives and policies of the Operative District Plan in section 9.6, and the Proposed District Plan in section 9.7 above. I concluded that the proposal is overall contrary to the objectives and policies of the Waikato District Plan.

Therefore, if the Commissioner agrees with my assessment that the proposal is unable to pass either of the gateway tests in section 104D(1)(a) or (b) of the RMA, Council has no jurisdiction to proceed to consider the merits of the application under section 104. This means the application must be declined in accordance with section 104D.

If however, the Commissioner disagrees with my assessments under 104D(1)(a) or (b) of the RMA, I will proceed with my assessment under s106 and Part 2 matters.

12.0 ASSESSMENT OF PART 2 MATTERS

I now turn to the assessment under Part 2. The Court of Appeal in *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA determined that, in the context of resource consents, RMA decision makers should usually consider Part 2 when making decisions on resource consents (this is the implication of the words “subject to Part 2” in s 104). However, it stated doing so is unlikely to advance matters where the relevant plan provisions have clearly given effect to Part 2 or where it is clear that the plan is “competently prepared” with a “coherent set of policies” such that there is no need to refer to Part 2.

In the present application, I consider it is appropriate to apply Part 2 as it cannot be said that the ODP contains a coherent set of policies or gives effect to the Operative Waikato Regional Policy Statement due to the timing of the two plans. There is therefore potential for incomplete coverage in the ODP. As this is one of the three caveats where the Supreme Court in *King Salmon* said recourse should be had to Part 2, I provide an assessment of the application against Part 2 below. Furthermore, given the ODP was

prepared before the *King Salmon* decision, it cannot be said with certainty that the plan was “competently prepared”.

The following assessment has been made in regard to Part 2 matters:

Section 8

Section 8 of the RMA concerns the principles of the Treaty of Waitangi. The application was fully notified with notice also being served directly on Tangata Whenua. No submissions were received from Tangata Whenua. There are no known sites of interest to Maori on the land of the subject site. The onsite servicing has been designed to ensure that wastewater treatment and stormwater disposal meet engineering standards, this includes matters relating to water quality. Accordingly, it is considered that the proposal will not offend the provisions of section 8.

12.2 Section 7 – Other Matters

Section 7 requires that Council *shall have particular regard to:*

- (b) *The efficient use and development of natural and physical resources*
- (c) *The maintenance and enhancement of amenity values*

It is my view based on the assessments above that the proposal will undermine the spatial planning for the village of Pokeno. Service Stations and other yard-based activities are encouraged in the nearby industrial areas of the village while the typical retail activities, particularly those that encourage pedestrian activity, are preferred in the Business Centre. I consider the location of the service station, particularly as an unmanned one, to be an inefficient use of this land, and my assessments conclude that amenity values will not be maintained and enhanced.

12.3 Section 6 – Matters of National Importance

In achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance: -

- (h) *The management of significant risks from natural hazards.*

The infrastructure report and review of the site by the Land Development Engineer leads me to conclude that this matter of natural importance has been recognised and provided for.

12.4 Section 5 – Purpose

As stated above, sections 6, 7 and 8 all serve to inform the analysis and consideration of whether the purpose of the RMA under section 5 will be achieved by the proposal. Section 5 is set out as follows and the matters within it are considered below:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while -*
 - (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Part 2 allows for an overall broad judgement to be made on whether to grant or decline consent, having regard to competing considerations under s104. It is important to note that s104 does not give primary to any one section (s104(1)(a)-(c) over the others.

- In my conclusion on actual and potential effects under section 104(1)(a) I have found:
 - (i) There will be effects on character and amenity that have not been sufficiently mitigated. In particular, the pylon sign and the fact that the proposal is for an unmanned yard-based service station that offers no retail directed at pedestrians.
 - (ii) I am concerned with the traffic safety effects from the proposal. A centre median barrier is anticipated to be constructed on Great South Road, and the service station won't allow for left-turning heavy vehicles. In addition, the left-only entry is likely to create large queueing numbers.
- In my conclusion on relevant plan provisions under section 104(1)(b) I have concluded that:
 - (i) The proposal aligns with the social well-being sought under the NPS-UD
 - (ii) The proposal is consistent with the Waikato Regional Policy Statement
 - (iii) The provisions of the ODP have been assessed where it is concluded that the proposal is contrary to the objectives and policies of the plan. Although the proposal is a commercial activity in the Business Zone, the activity does not contribute to the pedestrian-friendly focus for the Pokeno Business Centre. The directive for town-centre amenity has not been met in this regard as well as to avoid, remedy, and mitigate all traffic effects. The development does not align with the principles in parts 9, 15.4, and 19 of the ODP.
 - (iv) I have found the proposal to be contrary to Appendix 29.2 of the ODP which outlines design criteria for the Pokeno Business Centre. The activity is not a typical built-up retail that provides an active frontage to Great South Road and Market Square.
 - (v) I have found the proposal to be contrary to the PDP objectives and policies. These seek to preserve traffic safety, provide for signage consistent with a

business environment, and offer pedestrian-friendly retail environments in town centres with built-up store fronts.

- (vi) The proposal is also contrary to the outcomes sought under the Pokeno Urban Design Guide and character statements.
- Under Section 104(1)(c) Other Matters I have found that:
 - (i) The proposal is contrary to the business/retail activities planned for the area in the Waikato 2070 Growth Strategy.
 - (ii) The proposal does not contribute to the outcomes sought under the Market Square Design Guide 2014.
 - (iii) The proposed activity is contrary to the outcomes sought in the Pokeno Structure Plan.
 - (iv) The proposal is contrary to the outcomes sought under the Waikato Blueprints 2019 for Pokeno
 - (v) The proposal will set a precedent for other applications and potentially undermine the integrity of the District Plan.

13.0 RECOMMENDATION

In the wider sense, the proposal is located within a defined commercial area within Pokeno. However, the activity conflicts with section 104(1)(a) and (b) and with (c). Although the applicant has offered some measures under 104(1)(a) to offset or compensate the adverse effects of allowing the activity, these have not been considered insufficient to mitigate all relevant adverse effects. Overall, it is my opinion based on the assessments above that Part 2 would be better met through the decline of this application than the granting of it.

Nevertheless, despite my recommendation, if the Commissioner is of the mind to grant consent, I have formulated a set of Draft Conditions for consideration and to assist the Commissioner. These have been reviewed and considered by the applicants' agent and are attached in **Appendix I**.