

Report / decision to determine notification of a resource consent application

(Sections 95A / 95B)

Application number:	RMA/2024/2460
Applicant:	Ferry Mead Properties Limited and Prestons Road Investments Limited
Site address:	390 - 408 Prestons Road
Legal description:	Lot 1 DP81666, Lot 2 DP81666, Lot 3 DP81666, Lot 3 DP18707, Lot 23 DP18707, Lot 1 DP18707, Lot 1 DP216442, Lot 3 DP13469
Zone:	
District Plan:	Local Centre Zone
Overlays and map notations:	
District Plan:	Liquefaction Management Area Outline Development Plan Local Centre – Policy 15.2.2.1 Waste Water Constraint Area
Road classification:	Minor Arterial
Activity status:	Restricted discretionary
Description of application:	Creation of commercial tenancies, carparking, landscaping, and signage

Proposed activity

The proposal is described at section 3 of the application document received on 13 December 2024. The key features are:

- A Mitre 10 Mega building with a gross floor area of 10,542m². The building would be:
 - a. 91.637m from the Prestons Road boundary;
 - b. 11.057m from the southern boundary;
 - c. 13.224m from the western internal boundary;
 - d. 6.205m from the eastern internal boundary; and
- The breakdown of areas within the Mitre 10 building is described as:

Sub-activity	Gross Floor Area	Canopy Area	Total
Retail hall	4951.5m ²		4951.5m ²
Drive-through	2479.1m ²		2479.1m ²
Garden centre (partly covered)	2037.8m ²		2037.8m ²
Inwards Goods	382.7m ²		382.7m ²
Entry vestibule	110.2m ²		110.2m ²
Sub-total trading area	9961.3m²		9961.3m²
Office block and mezzanine	323.3m ²		323.3m ²
Cafe	227.5m ²		227.5m ²
Amenities Area	30.0m ²		30.0m ²
Sub-total 'other' areas	580.8m²		580.8m²
Inwards goods canopy		192.8m ²	192.8m ²
Drive-through southern canopy		259.0m ²	259.0m ²
Drive-through northern canopies		75.0m ²	75.0m ²
Entry vestibule canopies		50.0m ²	50.0m ²
Sub-total canopy areas		576.8m²	576.8m²
Total	10,542.1m²	576.8m²	11,118.9m²

Table 2: Proposed Mitre 10 Mega Building Areas

- Five other retail / commercial buildings divided into multiple tenancies with a maximum GFLA of 150m² – buildings described as follows:

Sub-activity	Gross Floor Area
Building A (western)	969.8m ²
Building B (central)	765.3m ²
Building C (central)	343.0m ²
Building D (central)	670.2m ²
Building E (eastern)	765.3m ²
Total	3,513.6m²

Table 3: Proposed Retail / Commercial Building Areas

- Each non-Mitre 10 area is to be used for a listed permitted activity for the zone
- The floor areas of the proposed retail / commercial buildings are:

Sub-activity	Gross Floor Area
Building A (western)	969.8m ²
Building B (central)	765.3m ²
Building C (central)	343.0m ²
Building D (central)	670.2m ²
Building E (eastern)	765.3m ²
Total	3,513.6m²

Table 3: Proposed Retail / Commercial Building Areas

- Signage for the buildings is described as follows:

Mitre 10 Mega:

Sign #	Location	Description	Height Above Ground	Area
A	Northern Elevation	Proudly Locally owned	8.0m	9.48 x 3.00 = 28.4m ²
B		Mitre 10	8.0m	14.71 x 3.00 = 44.1m ²
C		Mega Home Improvement Warehouse	9.0m	14.75 x 4.46 = 66.2m ²
D		Low Price 15% Guarantee	9.7m	6.0 x 6.0 = 28.3m ²
E		Columbus Coffee	4.8m	5.38 x 1.0 = 5.38m ²
F	Western Elevation	Mitre 10	9.0m	12.25 x 2.5 = 30.6m ²
G	Eastern Elevation	Mitre 10	9.0m	12.25 x 2.5 = 30.6m ²
Total				233.6m²

Table 4: Proposed Mitre 10 Mega Signage Areas

Other commercial buildings:

Building	Location	Description	Height Above Ground	Individual Sign Area	Total Sign Area
A to E	Northern Elevation	5 x Tenancy Identification Sign	4.6m	3.40 x 0.91m = 3.09m ²	5 x 3.09m ² = 15.45m ²
A to E	Southern Elevation	5 x Tenancy Identification Sign	4.6m	3.40 x 0.91m = 3.09m ²	4 x 3.09m ² = 12.36m ²
A	Southern Elevation	Tenancy Identification Sign	<4.0m	2.01 x 2.63 = 5.31m ²	5.31m ²
A	Eastern Elevation	7 x Tenancy Identification Sign	4.6m	3.40 x 0.91m = 3.09m ²	7 x 3.09m ² = 21.63m ²
B	Western Elevation	6 x Tenancy Identification Sign	4.6m	3.40 x 0.91m = 3.09m ²	6 x 3.09m ² = 18.54m ²
D	Eastern Elevation	5 x Tenancy Identification Sign	4.6m	3.40 x 0.91m = 3.09m ²	5 x 3.09m ² = 15.45m ²
E	Western Elevation	7 x Tenancy Identification Sign	4.6m	3.40 x 0.91m = 3.09m ²	7 x 3.09m ² = 21.63m ²
Total					110.37m²

Table 5: Proposed Commercial Buildings Signage Areas

The applicant has also provided a table showing how ground levels at the boundary will differ from ground levels on the subject site at completion.

	EGL	FGL	Southern subdivision	Difference
Southwest corner of site	14.50	14.10	14.5	-0.40
	14.44	14.26	14.45	-0.19
	14.25	14.32	14.32	0.00
Site mid-point	14.26	14.43	14.49	-0.06
	14.57	14.29	14.54	-0.25
	14.47	14.12	14.56	-0.44
	14.25	14.35	14.45	-0.10
Southeast corner of site	14.07	14.33	14.19	0.14

Table 8: Estimated site levels along the southern site boundary as calculated by Babbage Consultants.

- Hours of operation are described as:
 - a. The Mitre 10 Mega store - between 07:00 and 22:00 on any day;
 - b. Retail activity, trade suppliers, second hand goods outlets, commercial services, offices, and health care facilities - between 07:00 and 18:00 on any day;
 - c. Entertainment activities, food, and beverage outlets - between 07:00 and 22:00 on any day;
 - d. Gymnasiums – 24 hour operation;
 - e. Education activities - between 07:00 and 18:00 Monday to Saturday;

f. Fundraising activities by community groups on part of the Mitre 10 Mega site – typically a sausage sizzle and run between 10:00 and 14:00.

- Site access via:
 - Primary access from Prestons Road 120m west of the ‘prolongation’ of Te Korari Street.
 - Secondary vehicle access from Prestons Road 58m west of the prologation of the western boundary of Te Korari Street.
- 357 car parking spaces would be provided;
- 35 visitor cycle parks plus 20 covered staff cycle parks;
- 1377m² of landscaping (including 49 trees) plus 1333m² stormwater detention basin would be provided;
- A 3.6m high acoustic fence between the Mitre 10 southern yard and the southern site boundary and a second along the southern side of the trade drive-through southern yard area. Both 3m from the southern boundary.
- A security gate beside the northeastern corner of the garden centre.
- A 2m high pool style fence coloured black on the eastern boundary transitioning to a 2m high solid fence near the southeastern corner of the garden centre through to the southern corner of the site.
- The southern boundary has an existing 1.8m high paling fence and this will be retained.
- Landscaping internal and at site boundaries.

It is noted that along the south boundary landscaping has been added to mitigate effects on residential neighbours. While the levels plan has not been updated to reflect the site layout plan the levels are generally accurate noting that they are generally lower than the residential levels to the south. The cross section for illustrating the acoustic fence does illustrate an indicative ground level that is not accurate however it has been clarified with the applicant that the actual ground level is representative of what is on the finished level plan and drainage will be provided to not drain into neighbouring land.

Description of site and existing environment

The application site and surrounding environment are described in section 2 of the AEE submitted with the application. I adopt the applicant’s description. Key features of the site include:

- Prestons Road to the north.
- A greenfield commercial site to the east (mostly undeveloped except for dwelling).
- A linear reserve to the east.
- Residential properties to the south.

Activity status

Christchurch District Plan

The site is zoned Local Centre Zone. The zone is a destination for weekly and daily retailing needs as well as for community facilities. In some cases Local Centres offer a broader range of activities comprising guest visitor accommodation, residential activities, along with small-scale comparison shopping, food and beverage outlets, entertainment and recreation activities and offices.

A local centre is anchored principally by a supermarket(s) and in some cases, has a second or different anchor store. It primarily serves the immediately surrounding suburbs.

The zone is accessible by a range of modes of transport, including one or more bus services.

The proposal requires resource consent for a restricted discretionary activity under the following rules as per the City Plan post 12 December 2024:

Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
15.5.1.3 RD6	15.5.1.1 P4 a.	The maximum permitted tenancy area is 500m ² of gross leasable floor area. The applicant proposes a tenancy area of 10,335m ² for the Mitre 10 (trade supplier) building.	15.14.2.1 15.14.2.4	Shall not be limited or publicly notified

Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
15.5.2.1c	15.5.2.1.a	A new building exceeding 1000m ² of Gross Floor Area that is not certified under rule 15.5.2.1b (regarding urban design certification) is a restricted discretionary activity. An urban design certification for the Mitre 10 building has not been supplied with the application and the building exceeds 1000m ² .	15.14.1	Shall not be limited or publicly notified
15.5.1.3 RD2	15.5.2.7 ii.	1 tree for every 5 carparking spaces between buildings and the street. 76 trees are required. The applicant proposes 49 trees.	15.14.3.6	Shall not be limited or publicly notified
6.8.4.1.3 RD2d	N/A	The proposed pylon signs each contain a digital panel. This requires a consent as a restricted discretionary activity.	6.8.5.1 6.8.5.2 6.8.5.3	No clause
6.8.4.1.3 RD1	6.8.4.1.1 P1 6.8.4.2.4 Signs attached to buildings.	The proposed amount of building signage on the site exceeds permitted area amounts: <u>Area of Mitre 10 signs:</u> 84.77m ² permitted The Mitre 10 signage area is 233.6m ² <u>Maximum height of signs above ground level.</u> The maximum permitted height of signs above ground level for signs attached to buildings is 6m. 6 of the Mitre 10 building signs (except the Columbus Coffee Sign) exceed the maximum 6m above ground level.	6.8.5.1	No clause
7.4.2.3 RD1	7.4.3.7a	The maximum formed width of an access shall be 9m. The primary ingress and left and right egress site access has a formed width of 11.5m.	7.4.4.9	Shall not be limited or publicly notified
7.4.2.3 RD1	7.4.3.8e	The site frontage length permits two vehicle crossings to Prestons Road, whereas three are proposed;	7.4.4.14	Any application arising from this rule shall not be publicly notified and be limited notified only to the New Zealand Transport Agency (NZTA) and only where there is

Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
				direct access to a state highway and the NZTA has not given its written approval.
7.4.2.3 RD1	7.4.3.10	<p>More than 50 vehicle trips per peak hour or 250 heavy vehicle trips per day (which ever is met first)</p> <p>'Peak hour' are those hours between 15:00 and 19:00 hours on a weekday is a restricted discretionary activity.</p> <p>The proposed activity is classified as a mixed use activity and will generate more than 50 trips in the weekday evening peak hour.</p>	7.4.4.18	No clause
8.9.2.3 RD1	8.9.2.1 P1	<p>3,338.50m³ of earthworks on the site is permitted in a 12 month period.</p> <p>Approximately 11,678m³ of earthworks is required, Earthworks required to create the stormwater detention basin will be up to 1.4m deep. Fill will exceed 600mm in some areas to bring the site level.</p>	<p>8.9.4.1 Nuisance</p> <p>8.9.4.2 Resources and assets</p> <p>8.9.4.3 Land stability</p> <p>8.9.4.6 Amenity</p> <p>9.1.5.2 Indigenous Biodiversity and ecosystems</p> <p>6.6.7.1 Natural Hazards</p>	Shall not be publicly notified.
8.9A.3 RD1	N/A	<p>New activities beyond those that existed prior to 17 March 2024 that discharge into the vacuum sewer are a restricted discretionary activity.</p> <p>The development will discharge into the vacuum sewer.</p>	<p>a. Capacity in the relevant vacuum sewer system</p> <p>b. Effects of the proposed development on the capacity and operation of the vacuum sewer system and adjoining wastewater systems</p>	Shall not be limited or publicly notified.

Notes:

- On 2 December 2024 the Council in regard to Independent Hearing Panel recommendations on Plan Change 14 where they addressed National Policy Statement – Urban Development Policy areas 3 and 4:
 - accepted some changes to District Plan recommended by the Independent Hearings Panel.
 - referred its preferred alternatives on other provisions to the Minister of Housing for the Minister’s final decision on what will apply – the Council’s preferred alternatives or the IHP’s recommendations.

The recommendations that the Council accepted were publicly notified on 12 December 2024 and became operative on that date.

The alternative recommendations that were referred to the Minister have 'legal effect' until either the Minister confirms them and they become operative or the Minister rejects them.

The set of Local Centre Zone related Objectives, Policies, Rules and Matters of Discretion that became operative on 12 December or have 'legal' effect are in Appendix I to this report.

The planning context set in the report heading table and the immediately preceding table contains the non-compliances identified and consents required as per the operative District Plan on 12 December 2024.

- I consider that the Mitre 10 Mega component of the proposed development falls within the definition of Trade supplier in the District Plan.

In reaching this conclusion I have:

- reviewed the legal advice attached in Appendix B to this report;
- read the proposal description; and
- visited a Mitre 10 Mega (not as a customer) and personally viewed through a 'planning lense' the products and services on offer.

I am satisfied that the proposed Mitre 10 Mega:

- a. will be engaged in sales to other businesses or institutional customers and that the sales will not be isolated;
- b. will only supply products that fall within the products sold by the eight listed types of supplier – recognising that Mitre 10 Mega activities can and do sell incidental products;
- c. is going to be primarily selling goods within the definitions of "building supplier" and "garden and patio supplier".

On the site visit I noted products for sale related to toys, pet supplies, storage containers, camping equipment, cleaning products, bathroom toiletry. I consider these to be incidental products. The definition of incidental in the online Oxford Dictionary is:

adjective

1.

1. 1.a.

Occurring or liable to occur in fortuitous or subordinate conjunction with something else of which it forms no essential part; casual.

I am satisfied that the products are subordinate.

That the Mitre 10 Mega activity is a Trade Supplier is an important distinction because the 12000m² maximum retail GLFA for the whole of the Local Centre Zone (Pestons) as specified in Rule 15.5.4.2.6.i. does not include the GLFA of Trade Suppliers. The maximum GLFA for retail including this proposal and as 'consented' (land use consents and / or building consents) is 5859m². Therefore the non-complying activity rule 15.5.4.1.5 NC1 which would apply if the 12000m² were exceeded does not apply to this proposal.

I also note that the applicant has accepted the following condition to acknowledge that the Mitre 10 Mega activity is to remain Trade Supplier:

The consent holder must ensure that the Mitre 10 Mega activity is operated in a manner that satisfies the definition of Trade Supplier as it was in the Christchurch District Plan at 12 December 2024 at all times.

- I note that the applicant has provided an existing retail Gross Leasable Floor Area (GLFA) for retail in the zone on the basis of an aerial photograph analysis. I have undertaken a finer grain analysis by review of land use consent and building consent records and by site visit to verify. The review of land use consent and building consent records is set out in Appendix A to this report. I have concluded that it is 5859m².

- The application states:

The potential use of Buildings C and D for food and beverage activities introduces the potential for these outlets to be licensed for the sale of alcohol. Should any of the retail tenancies located within 75m of a residential zone be used for the sale of alcohol, then separate resource consent will be applied for at that time. To this effect, the applicant volunteers a condition of consent that any sale of alcohol be located a minimum of 75m from the residential new neighbourhood zone located across Prestons Road from the application site.

I consider this to be an 'Augier' condition (ultra vires if not offered), therefore enforceable, and will be recommending its inclusion should consent be granted.

- I am aware that the named applicants are not the owners or occupiers of all of the land the subject of this application – e.g. the Little Blue Penguin Preschool. However, the applicant does not have to own or control the land to make the application. I note the application has been made as a cohesive whole and that formal staging has not been sought. Should the applicant not be able to secure development rights to the sites and need to amend the development then there are two courses of action available to the consent holder:
 1. A section 127 application to amend conditions on the land use consent to reflect the new layout; or
 2. A new land use consent application.

Both of these processes would be subject to their own section 95 RMA assessments.

Which course action applies will depend upon:

- A. the scope and nature of the changes;
- B. the planning framework at the time; and
- C. the site and surrounding context at the time.

- The applicant has provided an acoustic assessment (application Appendix F) that states that, with conditions on the operation of the tenancies and the construction of a noise fence, the application will comply with the noise standards in the District Plan. The assessment was reviewed by Ms Kirsten Rayne, Environmental Health Officer with the Christchurch City Council and Mr John Alps Principal Advisor Noise Control with the Christchurch City Council. Ms Rayne has concluded that with the conditions outlined in the Marshall Day report that ... *no one would be considered affected with respect to noise*. Ms Rayne's confirmation is in Appendix C to this report.

I have recommended the following conditions which the applicant has accepted:

- Prior to commencement of operation of the commercial activities the noise barriers along the southern boundary of the site, and the acoustic fence around the exterior yard of the building identified as 2.4m Timber Acoustic Fence on 1.2m Concrete Retaining Wall Total Height 3.6m on plan Sheet C02 Rev Date 13/12/2024 on the stamped approved plans, must be designed and installed in accordance with the details in the Marshall Day report RP001, R01 2024/1145.*
- If tonal reversing alarms are used in the loading bays and inwards goods areas of the buildings identified as Proposed Trade Drive – Thru 2,479.1m², Proposed Retail Building 4,951.5m², and Proposed Garden Centre 2,037.8m² on plan on plan Sheet C02 Rev Date 13/12/2024 they must only be "broadband noise" reversing sounders – for example the Sentinel Self / Transquip adjusting broadband reversing / back up alarm 77-97dB, 12-24V – A self adjusting alarm.*
- There must be no heavy vehicle movements in the loading bays, drive through areas, and inwards goods areas before 07:00 hours and after 22:00 on any day.*
- All roof top plant must be designed and installed to comply with the relevant noise limits at the adjacent site boundaries as specified in Chapter 6.1 of the District Plan as it was at 12 December 2024.*

- e. *In addition to conditions a. – d. all commercial activities and other listed permitted activities for the Commercial Local Zone on this site must comply with the noise limits in Chapter 6 of the District Plan as 12 December 2024.*

Condition b. was substituted into the recommended conditions as a replacement for a blanket ban on reversing alarms to avoid potential conflict with Health and Safety Policy or Regulation. The product type was recommended by the applicant’s noise consultant and noted as acceptable by the Council’s advising Environmental Health Officer, Ms Kirsten Rane. This is set out in the email discussion in Appendix C to this report.

I have also added 22:00 hours as an upper limit for clarity and certainty to reflect the District Plan standards.

Subsequently it was noted that some of the ground levels at the southern boundary were higher than finished levels on the subject site (these are shown in a table in the proposal description). To account for this difference the applicant, myself and Ms Rayne agreed the following condition would be appropriate to address this.

The top of the noise fence must be at RL 18.2.

I have conclude the proposal complies with the noise standards in the District Plan.

The applicant has supplied lighting plans. The applicant has accepted certifier conditions to ensure that the lighting provided on the site will comply with the lighting standards in Chapter 6.3 of the District Plan.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES)

The NES controls soil disturbance on land where an activity on the Hazardous Activities and Industries List (HAIL) is being carried out, has been carried out, or is more likely than not to have been carried out.

The application site has been identified as HAIL land therefore the NES applies. The proposal requires consent as a + activity under the following regulations:

Activity status regulation	Regulation not met	Reason	Matters of control or discretion	Notification clause
<i>As below</i>	Regulation 8(3) Disturbing soil	The volume of soil disturbed will exceed 25m ³ per 500m ² .	<i>As below</i>	<i>As below</i>
Regulation 10(2) Restricted discretionary activities	<i>As above</i>	A Detailed Site Investigation exists and the report states that soil contamination exceeds the applicable standard in Regulation 7.	The matters over which discretion is restricted are as follows: (a)the adequacy of the detailed site investigation, including— (i) site sampling: (ii)laboratory analysis: (iii)risk assessment: (b)the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination: (c)the approach to the remediation or ongoing management of the piece of land, including— (i)the remediation or management methods to address the risk posed by the contaminants to human health: (ii)the timing of the remediation:	No clause

Activity status regulation	Regulation not met	Reason	Matters of control or discretion	Notification clause
			(iii)the standard of the remediation on completion: (iv)the mitigation methods to address the risk posed by the contaminants to human health: (v)the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants: (d)the adequacy of the site management plan or the site validation report or both, as applicable: (e)the transport, disposal, and tracking of soil and other materials taken away in the course of the activity: (f)the requirement for and conditions of a financial bond: (g)the timing and nature of the review of the conditions in the resource consent: (h)the duration of the resource consent.	

Overall activity status

Overall, the application must be assessed as a restricted discretionary activity (being the most restrictive activity status).

Proposed Plan Change 13 Heritage

There are no Plan Change 13 matters relevant to this site.

Written approvals [Sections 95D, 95E(3)(a)]

No written approvals have been provided with the application.

PUBLIC NOTIFICATION TESTS [Section 95A]

Section 95A sets out the steps that must be followed to determine whether public notification is required:

Step 1: Mandatory notification – section 95A(3)	
Has the applicant requested that the application be publicly notified?	No
Is public notification required under s95C (following a request for further information or commissioning of report)?	No
Is the application made jointly with an application to exchange reserve land?	No

Public notification is not mandatory under this section.

Step 2: If not required by Step 1, notification is precluded if any of the following apply – section 95A(5)	
A rule or NES precludes public notification for all aspects of the application	No
The application is a controlled activity	No
The application is a boundary activity	No

Public notification is not precluded under this section as the application is a +

Step 3: Notification required in certain circumstances if not precluded by Step 2 – section 95A(8)	
Does a rule or NES require public notification?	No
Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor? (discussed below)	No

Assessment of effects on the environment

Conditions referred to in his assessment

All of the conditions referred to in this assessment have either been offered or accepted by the applicant. They are set out in Appendix J to this report. I consider that they form a part of the application and can therefore be considered in the environmental effects assessment to follow.

Scope of Assessment

When assessing whether the adverse effects on the environment will be, or are likely to be, more than minor, any effects on the owners and occupiers of the application site and adjacent properties must be disregarded pursuant to section 95D(a). Accordingly, this part of my assessment focuses on the wider environment beyond the application site and adjacent properties.

When assessing whether the adverse effects on the environment will be, or are likely to be, more than minor, any effects on the owners and occupiers of the application site and adjacent properties must be disregarded pursuant to section 95D(a). Accordingly, this part of my assessment focuses on the wider environment beyond the application site and adjacent properties.

As a restricted discretionary activity the Council's assessment of the effects of this proposal is limited to matters relating to the matters that I have set out in Appendix D to this report.

In the context of this planning framework, I consider that the potential adverse effects of the activity relate to the following matters:

Contaminated soil

The detailed site investigation was provided to Ms Kirsten Rayne who confirmed that the application was for a restricted discretionary activity and requested that following conditions be in any grant of consent.

I understand that some ACM (asbestos containing material) was identified during sub-surface investigations, with the corresponding soil test results confirming above guideline concentrations. As a result, this is likely to make the proposed soil disturbance and off-site disposal a restricted discretionary activity pursuant to Regulation 10 of the NES-CS.

At this stage we do not know whether these above guideline soils will be removed off-site or remain in situ.

To ensure effects on human health are appropriately managed, I recommend the following:

- a. A Site Management Plan or Remedial Action Plan must be provided to Christchurch City Council for certification by way of e-mail to rcmon@ccc.govt.nz no later than 10 working days prior to the commencement of works.
- b. Works on site must be carried out in accordance with the certified Site Management Plan or Remedial Action Plan.
- c. All soils removed from site must be disposed of to a facility consented/licensed to receive such material. Evidence of disposal such as weighbridge receipts must be provided to the Christchurch City Council by way of e-mail to rcmon@ccc.govt.nz within three months of the completion of earthworks.
- d. A Final Site Report must be prepared and provided to Christchurch City Council by way of e-mail to rcmon@ccc.govt.nz within three months of the completion of earthworks.
- e. A Long Term Site Management Plan must be prepared and provided to Christchurch City Council by way of e-mail to rcmon@ccc.govt.nz within three months of the completion of earthworks, if required.
- f. In the event that soils are unexpectedly found to have visible staining, odours and/or other conditions that indicate soil contamination then work must cease until a suitably qualified and experienced professional in land contamination has assessed the matter and advised of the appropriate remediation and/or disposal options for these soils.

Ms Raynes assessment includes an assessment of land contamination effects. I am satisfied that human health effects are being appropriately managed. The applicant has accepted these conditions and I conclude that with the accepted conditions the adverse effects on people and the environment will be less than minor.

Urban design

The application was forwarded to Ms Ekin Sakin, Principal Advisor Urban Design, with Christchurch City Council. I asked Ms Sakin to review the application against the adverse effects matters that I identified in Appendix C to this report. Ms Sakin's report to me is in Appendix E. I

Ms Sakin has spent a good amount of time reviewing the plans and discussing changes with the applicant to address adverse effects. The applicant has taken up these changes as detailed in Ms Sakin's report.

With the changes that have been included in the plans I have concluded that any urban design related adverse effects on people and the environment are less than minor.

In respect to the effects along the south boundary and neighbouring residential properties there are limited considerations relating to residential amenity and built form. The key matters of discretion require that the following matters are considered:

The extent to which the development:

- *Takes account of nearby buildings in respect of the exterior design, architectural form, scale and detailing of the building (15.14.1(iii)).*
- *Provides a human scale and minimises building bulk while having regard to the functional requirements of the activity (15.14.1 (iv)).*
- *Incorporates landscaping or other means to provide for increased amenity... (15.14.1 (iv)).*

The extent to which the proposed landscaping and tree planting:

- *achieves a high level of on-site amenity while minimising the visual effects of activities and buildings on the surroundings 15.14.3.6 (b)(i).*

These matters do not address the full range of residential amenity matters such as overshadowing and overlooking and generally focus on mitigating the effects of the commercial development (as opposed to eliminating visual effects). Based on the assessment by Ms Sakin and supported by the landscape assessment by Mr Field, I consider that the built form and landscaping is appropriate to the context of the commercial zone and area and function of the building. It includes the following features to help mitigate the relevant effects:

- additional landscaping – particularly at the southern end;
- specific low reflective paint colour at the southern end;
- reduction in the size of signage at the eastern end;
- swapping the orientation of the Mitre 10 so that the garden centre is on the eastern side of the development.

Effects on the commercial hierarchy

The applicant has provided an economic assessment from an experienced retail economist, Mr Tim Heath of Property Economics Limited. I note that Mr Heath has extensive experience in defining and assessing the commercial environment in Christchurch including modelling growth and defining parameters for the spatial extent of zones within the hierarchy. Mr Heath has concluded that the proposal will not have adverse distributional and access to goods and services effects on those matters of concern in planning framework. Nevertheless, I requested that Mr Fraser Colgrave¹ of Insight Economics Ltd peer review Mr Heath’s report. Mr Colgrave’s peer review is in Appendix F to this report.

Mr Heath summarised and concluded:

In summary, Property Economics considers the proposed M10M is an appropriate activity for the site and will not undermine the potential for the Prestons Commercial Core Zone to accommodate the projected convenience demands of the community it serves.

The 10ha Commercial Core Zone is considerably large compared to other “Large Neighbourhood Centre” but most of the zone remains either vacant or underdeveloped (i.e. retains current rural land uses). The commercial network analysis shows considerable commercial zone land vacancy in the surrounding area also that would dampen demand for the Prestons Road Centre in the future.

Projections of population growth over the next 15 years suggest that total land demand for convenience activities will reach 3.6ha under the High Projection. Furthermore, the Prestons Core Zone has a provision in the Operative Plan that limits the total retail to 12,000sqm. A centre of this size would take up less than half of the zoned area (circa 4.6ha).

Hardware stores such as the proposed M10M compete more with trade and construction businesses than direct convenience retail competitors. M10M relies heavily on the trade market, including builders, contractors, and construction companies – separate from local community convenience retail demand. Consequently, Property Economics does not consider there is any consequential potential for adverse retail impacts on either the Prestons Centre or other commercial centres to occur as a result of the proposal.

The proposed M10M is well-positioned to complement the Prestons Road Centre offer and has the potential to catalyse development and growth of the centre overall. The proposal also generates significant local employment opportunities in the centre that would not be easily replicated elsewhere in the zone and improve the centre’s land use efficiency.

The proposed retail buildings, with a couple of tenancies exceeding the 150sqm GLFA threshold, cause no meaningful economic effects concern. This is unlikely to undermine the centre or affect the role and function of other commercial centres in the wider network.

As such, Property Economics supports the proposed M10M development and the proposed retail buildings from an economic perspective in the context of the RMA and Christchurch District Plan.

Mr Colgrave’s peer review concluded:

The PE report is broadly commensurate with what we would expect from an assessment of this nature and provides an appropriate analytical framework for assessing the proposal. We are satisfied with their overall approach; however, our analysis suggests PE’s retail expenditure estimates may be unreliably low, even accounting for minor differences in catchment size/definition. This means that the land requirements projected by PE for future convenience retail needs may also be too low. While this does not invalidate PE’s broader conclusion that this Local Centre Zone may be oversized for its intended function, it does raise questions about the sufficiency of remaining land capacity for future convenience retail needs across the catchment. That said, it is likely that there would still be sufficient capacity under both Medium and High scenarios to accommodate both the M10M and future convenience retail needs.

¹ Mr Colgrave’s CV is attached to his peer review which is in Appendix xxs to this report.

I have also found this passage from a report to the Council on the public notification of Private Plan Change 30² that introduced the wider greenfield area and the commercial area:

85. *The second issue of significance was the potential retail distribution effects on other district centres of the commercial development permitted in the plan change. The assessment initially provided was of concern because it was based on a retail floor area of 8,000 square metres (plus the existing service station and produce store). However, the land area, particularly the main block that fronts Marshlands Road, was of a similar size to that which could, and does, accommodate much larger retail developments. The plan change has been amended a number of times, and the current version now limits retailing to a total floor area of 12,000 square metres. Although the only amended assessment of effects received assesses a slightly different option (10,000 square metres plus the existing service station and produce store), staff have now been advised that the difference is unlikely to result in significant effects on other district centres. As such the amended assessment provided is accepted as adequate in respect of this issue.*

[Report of the Regulatory and Planning Committee to the Council meeting of 27 August 2009](#)

It is understood that this analysis was provided by Mr Heath.

I accept the conclusions of Mr Heath (as peer reviewed by Mr Colgrave):

The proposed retail buildings, with a couple of tenancies exceeding the 150sqm GLFA threshold, cause no meaningful economic effects concern. This is unlikely to undermine the centre or affect the role and function of other commercial centres in the wider network.

As such I conclude that the adverse effects on people and the environment relating to economic and distribution effects are less than minor.

Landscaping

The proposed landscaping was reviewed by Mr William Field, Urban Designer and Landscape Architect with the Christchurch City Council, in conjunction with Ms Sakin. Mr Field provided the advice in Appendix K. :

The applicant has amended the landscape plans to amend most matters raised by Mr Field. Mr Field notes that there are some matters that need to be attended to in terms of detail on the landscape plans. I have agreed with the applicant a certifier condition in relation to these changes.

In regard to planting on the Council reserve I have received the following comments from Mr Peter Barnes, Senior Parks and Policy Planner with the Christchurch City Council.

The Parks Unit is not opposed to the landscaping plan proposed by the applicant.

The Parks Unit seek the following conditions or advice notes (that I trust you can provide suitable wording for) –

- *the landscape plan (species. Location etc) is reviewed and approved by a Council landscape architect or similar suitably qualified staff member.*
- *The landscaping will be planted/installed to IDS standards, at the cost of the applicant, to match the accepted landscape plan*
- *the landscaping is maintained for the standard period of 24 months.*

I have included these matters as conditions. The applicant has accepted these conditions.

I consider that in the period as landscaping matures that the adverse effects including visual amenity will be less than minor because they will be of limited duration and following that 'maturing period' they will be negligible.

Sufficient capacity in the waste-water system

² This plan change went through the first schedule of the RMA process. There were references on the Council's decision but these were resolved under powers delegated to the Minister of Earthquake recovery under the CERA Act 2011.

The applicant provided specifications for the proposed sanitary sewer system in Appendix L in the application. Mr Ian Johnson Subdivisions Engineer with the Christchurch City Council. The analysis and the response to questions of Mr Johnson is set out in Appendix G to this report.

The conclusion from Mr Johnson is that there is capacity in the vacuum sewer system and that there will be no adverse effects relating the sewer or adjacent networks.

I conclude that any adverse effects of the proposal on the vacuum sewer system are less than minor.

Signage Effects

The adverse effects of the signage were analysed and commented on by Mr David Hattam, an Urban Designer with the Christchurch City Council. Mr Hattam's comments are set out in Appendix H to this report. He has recommended changes to the signage as follows:

- The Mitre 10 sign on the eastern façade be reduced to 20m²m in area; and
- The support structures for the pylon signs be grey or black.

I have recommended certifier conditions in relation to this which the applicant has accepted.

With the acceptance of the conditions I consider that any adverse effects on people and the environment relating to the signage are less than minor.

Transport Effects

The application has been commented on by Mr Liqi Chen, Transport Network Planner with the Christchurch City Council. Mr Chen provided the following comments:

The following [is an] ITA assessment summary for RMA/2024/2460:

1. Access Design:

The slight over of the maximum permitted vehicle access width can be accepted, given the nature of trip generation and the proposed separate footpath accesses from Preston Road. A slightly wider access would contribute to improved sightlines, enhancing crossing safety and vehicle manoeuvrings. However, I recommend incorporating additional pedestrian safety measures at the access points, such as yellow line markings or speed bumps to reduce approaching speed and increase awareness for both drivers and pedestrians.

2. Number of vehicle crossings:

The proposed additional vehicle crossing for service vehicles, arranged as a one-way exit, can be accepted to meet the service vehicle demands of the business. This separation is necessary to prevent servicing trucks from manoeuvre within the internal car park.

3. Heavy Vehicle Manoeuvrings

However, as noted in the draft plan, service vehicles will still need to access the loading area through the public vehicle access. I have concerns regarding heavy truck manoeuvring within the car park during the operating hours. The Mitre 10 is located at the rear site, where heavy loading trucks must follow a long route through multiple parking aisles to access the service gate. This may be manageable for smaller service vehicles, but it could be difficult for bi-train trucks to navigate the internal parking lot during operating hours.

I recommend that the applicant develop an internal service vehicle operation and management procedure that manages the conflicts between heavy trucks and other users of the site and having a s128 condition in place to monitor any adverse effects within the car park.

4. High Trip Generator:

- Trip Generation:

This development is classified as a high trip generator. The provided SIDRA analysis for the Marshland and Prestons intersection highlights a worst-case LOS of E. I have completed a SIDRA modelling analysis for the intersection of Te Korari and Preston Road. Based on the traffic counts Ray provided between 16:15 and 17:15, the model indicates that the current operational

performance is at Level of Service B. With the estimated additional trip generation from Mitre 10, the intersection slightly degrades the service level, particularly at the Te Korari approach, I consider the intersection can accommodate both the current and proposed additional traffic volumes.

- **Pedestrian Accessibility**

Regarding pedestrian accessibility, the existing signalised intersection at Prestons and Te Korari includes a cyclist crossing phase on the western approach. This crossing is designed with a short cycle time to accommodate cyclists only crossing Prestons Road. Preston area has been growing rapidly, the proposed Mitre 10, as a high trip generator, and its retail nature, including a garden centre and café, the pedestrian demand is expected to be high. Since the site is located at the southwest corner and potentially generate high pedestrian demand cross the road, I recommend adding a direct pedestrian signal phasing in the same location. This would likely involve new road markings, an update to the signal operations, and other related adjustments.

- **Prestons Road:**

The following comments regarding Prestons Road improvement:

- a. Attachment is the scheme developed from our discussion and other elements that will form Transport's condition should consent be granted..
- b. Note the central island required restricted traffic movement for entry and a 3m painted median for vehicular turning movements to main entrance way. Modification to existing pedestrian refuge to restrict truck movements to left only. Change to Bus Stop location
- c. I have also indicated the approx. street tree locations and they are required to mitigate the 2% tree canopy requirement outlined in the Council's Tree Policy on public space
- d. Following any granting of a Resource Consent staff will need to brief the Community Board on the changes to Mairehau Road
- e. Note Design details would need to be accepted by CCC prior to construction including Road Marking plan

5. Safety Audit

Should consent be granted, please include a condition for the safety audit, regarding the reconfiguration and construction on Prestons Road, new vehicle crossings, and associated changes to bus stop location, new crossing points, and road markings and signage.

And also

Transport and planning policy in Christchurch City has for some time pointed towards a more holistic view of transport that considers access by a range of modes.

As a high trip generator, the accompanying ITA is required to cover all transport modes and consider whether a proposed development will be accessible by all modes and, if not, what needs to change to ensure that accessibility. As part of the assessment of effects, the District Plan and as guided by the regional policy statement requires Transport Assessments to outline how the design of the proposed development will encourage walking and cycling to nearby destinations. ITAs should also outline any safety implications in the immediate vicinity that may detract from walking or cycling to/from the development; both in terms of actual and perceived safety.

The opportunity to integrate new land uses with the transport network come through the management and assessment of development proposals and through their requirement to demonstrate that they integrate with the transport network. Importantly as a high trip generator, the proposed development needs to demonstrate that it is consistent with District Plan Policies and Objectives by demonstrating that development is safe and efficient for all transport modes and that it promotes the use of public and active transport.

The district plan's objective of achieving an integrated transport system is considered to have elevated importance when the objectives of the Canterbury Regional Policy Statement are considered which direct Territorial Authorities to:

- Include provisions requiring consideration as to how new land use will be appropriately serviced by transport and other infrastructure;
- Include objectives and policies, to ensure that, where possible, development provides for and supports increased uptake of active and public transport; and provides opportunities for modal choice, including walking and cycling.
- Promote land use changes that will move towards improved accessibility for the communities it serves.
- Include trigger thresholds in District Plans for development where an integrated transport assessment is required.

The aims of the Regional Policy Statement also seek to achieve transport effectiveness through:

- support and implement policies that encourage the use of active forms of transport
- encouraging high quality development that provides attractive environments in which to live, work and play including the opportunities for walking and cycling
- integration to enable greater travel mode choice
- improve road user safety
- Achieve opportunities for walking and cycling.
- Use of development conditions to enable:
 - the efficient and effective provision, maintenance, or upgrade of infrastructure; and
 - transport networks, connections, and modes so as to provide for the sustainable and efficient movement of people, goods and services, and a logical, permeable and safe transport system.

The use of planning conditions particularly relating to the aim of creating an improved network that achieves opportunities for walking is wholly consistent with assessing the application from a District Plan as well as a broader planning perspective.

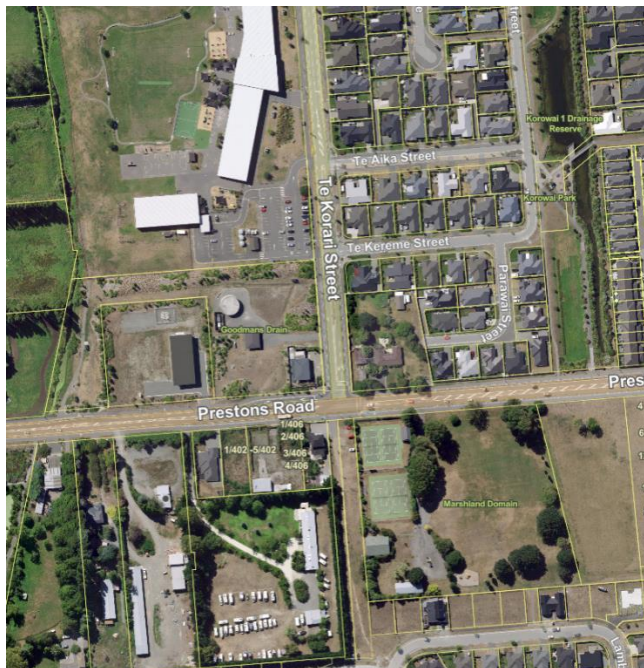
Mr Chen and the applicant’s agent, himself a traffic engineering consultant, do not agree in relation to:

- the effects of HGV manoeuvring on pedestrians within the site’ and
- the provision of a pedestrian crossing with lights across Prestons Road at its intersection with Te korari Street.

To resolve this matter I suggested, if consent is granted that a section 128 condition be imposed whereby the Council has the option of reviewing the conditions of consent between the 12th and 18th month of operation of the development with a view to requiring changes if it is needed to manage the effects of HGV manoeuvring on pedestrians within the site. A contributing factor is that the potential development to the west is unknown, noting that I do not consider that there is any immediate adverse effect. , I consider that in the 12 – 18 month interim safety risk to be minor but that in the longer term that risk could increase. This risk is to the general public and not specifically to any adjoining properties.

Further I note that there is a school nearby and students will use the pedestrian crossings at the Prestons Te Korari Street intersection. I sent this additional question to Mr Chen:

Please review [the above] comments in regard to the school nearby and pedestrian movements across Prestons. I would have thought though that the existing Ped crossings account for this.



Mr Chen replied:

Yes, the pedestrian phases at the intersection of Te Korari and Prestons Road are designed to accommodate the current demand from the residential catchment to the east, which largely covers the existing Marshlands School Zone. The absence of a

pedestrian crossing on the western approach of Prestons Road was primarily due to the minimal demand from the southwest of the intersection.

I consider that as there is an existing set of traffic lights recently installed on an arterial route adjacent to the commercial that will provide functional pedestrian access that the adverse effects under discussion are less than minor. I do not think an additional crossing is the responsibility of the applicant as it relates to an existing wider community need, and is not directly attributable to this development – noting that there is already supermarket serving the local community.

I also note that the Outline Development Plan 8.10.25 has a notation for a cycle link through the site to Prestons Road. I also that the notation says location may vary. I consider that the adjoining reserve provides this.

Overall I consider that with the accepted conditions the adverse effects on people and the environment will be less than minor.

Earthworks Effects

The earthworks component of the application was reviewed by Ms Yvonne McDonald, subdivision engineer with the Christchurch City Council. Ms McDonald commented as follows;

390-408 Prestons Rd includes the old TreeTech site, a removed creche, residential lots and a large property used as vehicle storage. The combined site area is approximately 3.3ha. the eastern boundary is a utility reserve and the southern boundary abuts a recent residential subdivision, which is retained on the north side in part. The land falls gently southeast away from the road and is zoned Local Centre.

I have looked at the PlanCreative land use application for earthworks associated with a commercial development dated 29 August 2024 and plans presented under RFI up to 13 December 2024.

Earthworks are 11387m³ cut to 1.8m depth and 9066m³ fill to 1.2m depth, to form the site ready for development and excavations to construct the stormwater detention basin/swale. These volumes include within the building footprint.

The applicant states the works will utilise best practice erosion and sediment control measures. The applicant has provided an erosion and sediment control plan which appears appropriate at this time, although their outfall from the SRP is unclear and likely to be Prestons Rd. Dust could be an issue but again normal conditions apply.

Minimal assessment but normal flat site conditions are appropriate working to the existing built levels on the south and draining the site to its internal stormwater system, rather than over the boundary. Include the condition about not affecting the stability of neighbouring land, to ensure there are no cross boundary effects from the stormwater swale.

It has since become evident that there are battered earthworks between the noise fence and the southern boundary fence.

Ms McDonald reviewed this and noted that earthworks would need to be designed with material adjacent to the noise fence retaining wall so that drainage was provided. The applicant accepted a certifier condition to this effect.

Ms McDonald, has also recommended a condition to ensure that a secondary flow path is secured to Council's waterway network which has also been accepted by the applicant.

I have recommended normal conditions including silt and sediment control. The applicant has accepted these conditions.

I conclude that with the acceptance of the conditions the adverse effects on people and the environment relating to earthworks will be less than minor.

Changes to ground levels enabling construction of buildings adversely affecting the amenity of adjoining sites

With reference to the urban design and landscape advice I conclude that the change in ground levels will not lead to the creation of buildings that will adversely affect the amenity of adjoining sites.

Construction effects – noise and vibration/dust

There is the potential for noise and vibration to adversely affect the amenity of adjoining sites while earthworks and construction are underway. I have drafted a comprehensive set of management plan conditions requiring the plans be developed by specialists and certified by the Council (based on conditions that would apply construction of commercial buildings in intensively developed areas). The applicant has accepted these conditions.

With the acceptance of the conditions I conclude that the adverse effects on people and the environment will be managed and less than minor.

Construction effects - transport

There is the potential for construction transport to adversely affect the transport network I have recommended conditions in relation to a traffic management plan. The applicant has accepted these conditions.

With the acceptance of the conditions I conclude that the adverse effects from construction on the road network will be less than minor.

Overall conclusion adverse effects

Overall I conclude that the adverse effects on people and the environment are less than minor.

Step 4: Relevant to all applications that don't already require notification – section 95A(9)	
Do special circumstances exist that warrant the application being publicly notified?	No

For completeness and clarity I note that there has been a high level of interest and comment on the application by email to the Council's Resource Consents Unit expressing concern in regard to potential adverse effects on the surrounding residential development

In regard to a high level of interest from the public I note the following comment from *Urban Auckland v Auckland City Council* 19 June 2015:

Concern on the part of an interested party could not of itself be said to give rise to special circumstances because if that were so every application would have to be advertised where there was any concern expressed by the people claiming to be affected.

I also note that the High Court in *Murray v Whakatane District Council (1997)3 ELRNZ 308* indicated that large public interest in an application could be a contributing factor in the decision making. I do not think that level of interest shown needs to be considered as a contributing factor in the decision making.

. The concerns raised include issues relating to not meeting rules in the District Plan, reduction of property values, the need for the activity, the bulk/design/colour of the building, general amenity and character effects, transport, construction effects and noise.

The breach of a rule in itself or a change in the environment (i.e. a redevelopment of a site) does not necessarily mean that there is an adverse effect. The application should be assessed in the context of this site being commercially zoned site and intended for new development.

Property values themselves are typically not a relevant planning matter under the Act and in this instance are not a relevant consideration under the matters of discretion as a restricted discretionary activity.

The extent to which the remaining issues are relevant are limited to the matters of discretion set out later in this report and which are assessed accordingly. The decision maker is unable to consider anything outside the matters of discretion. I also note that under the matters of discretion that I am limited to considering there limited scope for considering amenity matters raised in concerns.

Conclusion on public notification

Having evaluated the application against the provisions of section 95A, my conclusion is that the application **must not be publicly notified**.

LIMITED NOTIFICATION TESTS [Section 95B]

Where an application does not need to be publicly notified, section 95B sets out the steps that must be followed to determine whether limited notification is required.

Step 1: Certain affected groups/persons must be notified – sections 95B(2) and (3)

Are there any affected protected customary rights groups or customary marine title groups?	No
If the activity will be on, adjacent to, or might affect land subject to a statutory acknowledgement , is there an affected person in this regard?	No

Step 2: Preclusions to limited notification – section 95B(6)

Does a rule or NES preclude limited notification for all aspects of the application?	No
Is the application for a land use consent for a controlled activity under the District Plan?	No

There are no preclusions to limited notification under this section.

Step 3: Notification of other persons if not precluded by Step 2 – sections 95B(7) and (8)

For a boundary activity, are there any affected owners of an allotment with an infringed boundary under s95E?	N/A
For other activities, are there any affected persons under s95E, i.e. persons on whom the adverse effects are minor or more than minor, and who have not given written approval?	No

Assessment of affected persons

The statutory context for assessing the adverse effects of this application on the environment is outlined earlier. It is equally relevant to the assessment of affected persons, which extends to include the owners and occupiers of adjacent properties.

Pursuant to Section 95E(1) of the Act a person is not deemed affected by an activity where the adverse effects are less than minor.

With reference to the preceding assessment I conclude that the adverse effects on the owners and occupiers of adjacent properties are less than minor

I reiterate that under the matters of discretion that I am limited to considering there limited scope for considering amenity matters raised in concerns.

Step 4: Relevant to all applications – section 95B(10)

Do special circumstances exist that warrant notification to any other persons not already identified above (excluding persons assessed under s95E as not being affected)?	No
---	----

I refer to the special circumstances discussion in the preceding section.

Conclusion on limited notification

Having evaluated the application against the provisions of section 95B, my conclusion is that the application **must not be limited notified**.

RECOMMENDATION

That, for the reasons outlined above, the application **be processed on a non-notified basis** in accordance with sections 95A and 95B of the Resource Management Act 1991.

Reported and recommended by: Scott Blair, Senior Planner

Date: 20 December 2024

Decision

That the above recommendation be accepted for the reasons outlined in the report.

- I have viewed the application and plans.
- I have read the report and accept the conclusions and recommendation.

Commissioner:

Name: P G Rogers

Signature: 

Date: 20/12/24