

**AGENDA FOR A SPECIAL MEETING OF THE HEARINGS COMMITTEE TO BE HELD
IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON THURSDAY, 17 APRIL 2003, COMMENCING AT 9.30 AM.**

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1	APOLOGIES	1
2	NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY RAMESH PATEL TO ESTABLISH AND OPERATE A DIARY (NON-RESIDENTIAL ACTIVITY) AT GROUND FLOOR WITH RESIDENTIAL ACCOMMODATION ABOVE AT 96 SUNVUE ROAD, NEW LYNN	1

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1 APOLOGIES



**2 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE
RESOURCE MANAGEMENT ACT 1991 BY RAMESH PATEL TO ESTABLISH AND
OPERATE A DIARY (NON-RESIDENTIAL ACTIVITY) AT GROUND FLOOR WITH
RESIDENTIAL ACCOMMODATION ABOVE AT 96 SUNVUE ROAD, NEW LYNN**

NEW LYNN WARD

RMA 20030005

N.B. This report sets out the advice of Consent Services to the Hearings Committee on the environmental issues raised by the application for resource consent. It is not the decision of the Council. The decision will be made after consideration of the application by the Hearings Committee.

APPLICATION DETAILS

Planner: Matthew Wright

Site Address: 96 Sunvue Road

Applicant: Ramesh Patel

Date Received: 6 January 2003

Building Consent No: None received

Legal Description: Lot 34 DP 85231

Address for Service: Davis Ogilvie & Partners Limited
PO Box 21 738
Henderson
WAITAKERE

Site Area: 794m²

Unit Site Area(s): NA

District Plan:

Human Environment:	Living
Natural Area:	General
Landscape Elements:	Nil
Hazards:	None Known
Roading Hierarchy:	

Further Information Required: No

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent to establish and operate a diary (non-residential activity) at ground floor level with a residential unit above at 96 Sunvue Road, New Lynn. The proposal would generate in excess of 50 traffic movements per day and includes the formation of six parking spaces within road reserve to provide customer parking. Proposed signage, associated with the diary measures 11.8m² and consists of a fascia and four free-standing advertisements. Earthworks outside the proposed building platform measures 170m³ and is partially within 1.0m of the northern and western boundaries of the property. The proposal requires the removal of a Himalayan Cedar and works within the dripline of a Pohutakawa tree, both of which are protected under the General Natural Area rules of the Operative District Plan. The proposal is non-complying under the Operative District Plan.

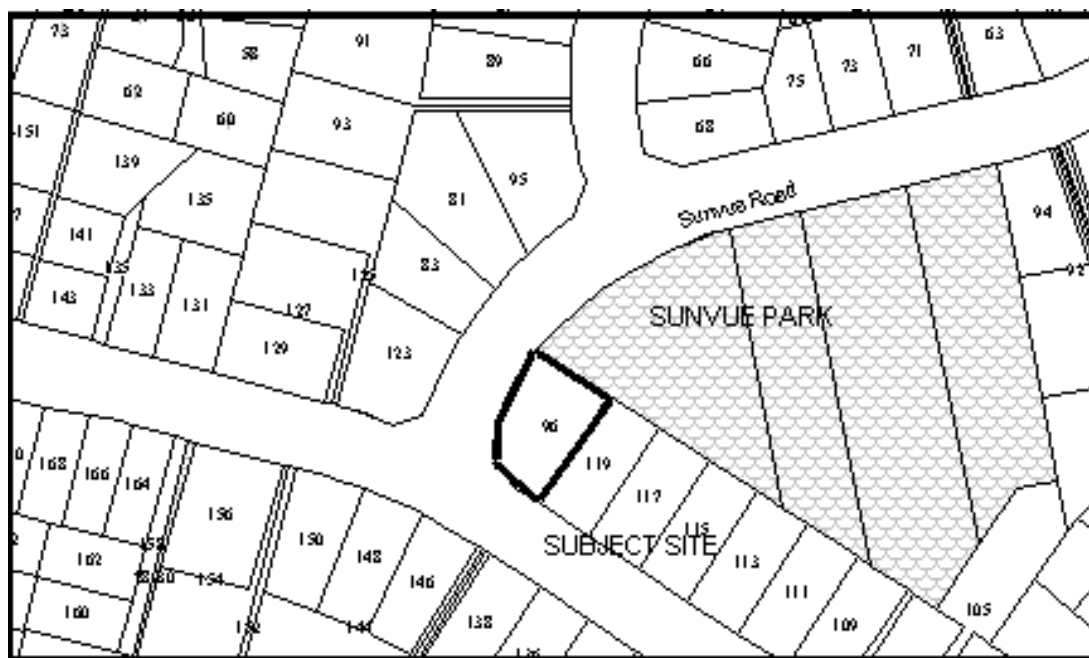
1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for a resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the District Plan. The significant resource management issues associated with this proposal are related to residential amenity, visual amenity, traffic generation, parking and road safety, and the impact of introducing a retail activity within a residential environment.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application to establish and operate a diary (non-residential activity) at ground floor level with a residential unit above. It is considered that the environmental effects that may be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of the District Plan will be satisfied.

2.0 LOCATION PLAN



Operative Plan Human Environment: Living
Operative Plan Natural Area: General
Legal Description: Lot 34 DP 85231

3.0 PROPOSAL

The applicant seeks consent to establish a non-residential activity (dairy) at ground floor with residential accommodation above. Extensions to the existing dwelling are proposed to accommodate the dairy at ground floor level and provide additional decking for the residential component.

The dwelling is currently "L" shaped. The extension squares-off the building with decking provided at first floor level related to the continuing first floor residential use.

The retail floor area of the dairy would measure 91m² and would operate between the hours of 0700 to 2000 Monday to Sunday. A service court adjacent to the northern elevation, and accessed off Sunvue Road, would serve the retail element of the site.

A Traffic Impact Assessment carried out by Tuohey Consulting Limited have indicated that the retail activity would generate 10-15 vehicle movements per hour, thereby resulting in a maximum 195 traffic movements over a 24 hour period. Six Parking Spaces are proposed to serve the dairy, these partly lie within road reserve. The existing public footpath that runs along the eastern side of Sunvue Road would wraparound the proposed parking bays.

Associated signage encompasses a fascia advertisement measuring 0.9m by 10.0m and four free-standing advertisements (sandwich boards) that measure 0.7m by 1.0m. Total signage measures 11.8m².

Residential occupancy of the building would remain at first floor level with additional decking provided above the ground floor extension. Residential parking would be provided for 2 vehicles accessed by a new vehicle crossing off Solar Road.

Earthworks are required outside of the proposed building platform and would entail 170m³ of cut that would be partially located within 1.0m of the northern and western boundaries, this would also slightly extend into the adjoining road reserve along Sunvue Road. Retaining (maximum 1.0m high) is proposed to the south of the proposed parking bay within the dripline of a Pohutukawa Tree. This retaining runs onto Sunvue Road. It is also considered likely that a Himalayan Cedar located on the northern boundary would be required to be removed due to the nature of works beneath its drip line. A 1.5m high retaining wall is proposed to the north of the building to provide for a levelled service court for the dairy and the opportunity to construct a swimming pool in the rear garden. It is considered likely.

No arcade games or other devices are proposed.

The application was supported by the written approvals of 22 of the surrounding property owners.

A1-A60

A copy of the application as notified is attached at pages A1 to A60.

4.0 REASONS FOR THE APPLICATION

4.1 Consent is required under those provisions of the District Plan for the following reasons:

4.2 Living Environment

4.2.1 The application is considered a Non-Complying Activity pursuant to Rule 10.4 Non-Residential Activities as the proposal introduces a non-residential activity that encompasses retail sales.

4.2.2 The application is considered a Discretionary Activity Consent pursuant to Rule 11.3 Traffic Generation (Non-Residential Activities) as the proposal would generate traffic that exceeds 50 traffic movements per day. The proposed activity would generate up to 195 traffic movements per day.

4.2.3 The application is considered a Non-Complying Activity Consent pursuant to Rule 15.3 Signs as the proposal has a maximum signage area that exceeds $0.1\text{m}^2 / 1.5\text{m}^2$. Signage proposed totals 11.8m^2 .

4.3 General Natural Area

4.3.1 The application is considered a Limited Discretionary Activity Consent pursuant to Rule 2.3 Vegetation Alteration as the proposal would undermine the long-term health of the Himalayan Cedar and its removal would be required.

4.3.2 The application is considered a Controlled Activity Consent pursuant to Rule 2.2 Vegetation Alteration as a proposed retaining wall constructed parallel to Solar Road would come within the drip line of a 'protected' Pohutukawa tree.

4.3.3 The application is considered a Limited Discretionary Activity Consent pursuant to Rule 3.3 Earthworks as the proposal exceeds 50m^3 of earthworks and involves, works within 1.0m of the boundary. Proposal results in 170m^3 of earthworks outside the proposed building platform.

4.3.4 Overall, the application is considered to be a Non-Complying Activity under the Operative District Plan.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site measures 794m^2 and lies on the eastern side of Sunvue Road at its intersection with Solar Road. The front of the site slopes down from the southern-most corner of the site towards the northern corner. The site contains an existing two-storey spilt level dwelling but does not contain any retail activity. Access to the existing dwelling is provided from Sunvue Road

Vegetation on-site includes various grass species and a mix of exotic / native species varying in size from small shrubs to trees including pohutukawa, manuka and cordyline. Protected vegetation within the site consists of a Pohutukawa (*Metrosideros Excelsa*) and Himalayan Cedar (*Cedrus deodara*) both located along the Sunvue Road frontage.

The site has road frontage on two of its boundaries (southern and western), Sunvue Park (local recreational reserve) to the north, and the residential property of No.119 Solar Road to its eastern boundary. The wider surroundings are residential in nature with a clear absence of any commercial activities within this residential neighbourhood. The nearest similar commercial activities (dairies) can be found along West Coast Road and Glengarry Road just over 1km away.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A62-A74
A87

The application was publicly notified on 18 February 2003, and the period for submissions closed on 19 March 2003. 5 submissions were received. 4 submissions supported the application, and 1 submissions opposed the application, as attached at pages A62 to A74 for copies of the submissions that were received. A map showing the location of the submitters is attached at page A87.

6.1 Submissions

6.1.1 Support

- B R Kenyon, 113 Solar Road
- Kenton Chaffey, 148 Solar Road
- Lesley Bradford, 13 Solar Road
- Saumalu Faamumi, 148 Solar Road

Reasons and Recommendations

- No dairy around, inconvenient to walk to nearest dairy.
- In emergencies would have to use motor vehicle wasting petrol.
- Adjacent to Bus Stop.
- Long overdue, convenience to residents.
- Easier Shopping.
- Enhance Surroundings.

6.2.2 Oppose

- Pes Fa'aui, 146 Solar Road

Reasons and Recommendations

- Overall, does not oppose dairy, but considers it to be detrimental to road safety through increased traffic movements.
- Intersection used frequently by pedestrians as nearby bus stop, primary school route that would increase with added attraction of a dairy. Vehicles, in excess of 70 km/hr are not uncommon along Solar Road.
- 15 reported accidents, not including Pisces Road during the five year period 1997-2002 as supplied from the LTSA. 2 accidents during 2002 at this intersection.
- Suggests speed humps along Solar Road, and broken yellow lines extend along Solar Road to prevent parked vehicles close to the intersection.
- Concerns regarding the ability to provide sufficient rubbish bins provided outside the Dairy.

6.2 Pre Hearing Meeting

No pre-hearing meeting was held.

7.0 STATUTORY REQUIREMENTS

7.1 Non-Complying Activities

The relevant policies and criteria which apply under the Operative District Plan and the Resource Management Act 1991 are set out in more detail in Section 8.2.1 attached to this report. This should be referred to as the legal framework within which the application should be addressed.

As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 105(2A) of the Resource Management Act 1991 sets a threshold test which all resource consent applications for non-complying activities must first pass before a consent authority has jurisdiction to grant consent, having regard to the matters specified in Section 104. In short, the proposal must be able to establish and operate without generating more than minor adverse effects on the environment, or must not be contrary to the relevant objectives and policies of the Operative District Plan.

Section 104 of the Resource Management Act 1991 sets out those matters to be considered when assessing an application for resource consent. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the Operative District Plan. All considerations are subject to the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

The Operative District Plan has been prepared with an “effects based” emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that all the relevant matters contained in Section 104 of the Resource Management Act 1991 would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

8.0 EVALUATION IN ACCORDANCE WITH SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991

8.1 Assessment of Environmental Effects (104(1)(a)): Actual and potential effects on the environment.

8.1.2 Water Quality and Quantity

The proposed development increases the amount of impermeable surfaces on site to 50%. The subject site is reticulated and remains below 60% being the permitted level if impermeable surfaces for this site. Given that the reticulated system is designed to cater for up to 60% impermeable surfaces, no stormwater mitigation is required.

There would be de minimis adverse effects in relation to water quality/ quantity arising from the proposed activity as it would be located within the urban area of the City and would not be near a water body or stream.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

The subject site contains a mixture of planting, including various grass species, and a range of both exotic and native species. This includes pohutukawa, himalayan cedar, manuka, cordyline and banksias. Two trees, the Pohutukawa and Himalayan Cedar are over 6.0m in height and protected under the General Natural Area provisions of the District Plan. The pohutuakawa tree, located on the Sunvue Road frontage, is visually prominent in the streetscene due to its size and location. A retaining wall (max 1.0m high) will be constructed within its drip line with the area immediately below and surrounding the Pohutukawa tree is to be landscaped with Karo and Broadleaf. The application has been reviewed by Council's Field Advisor (Vegetation) who is satisfied that through the appropriate management of works to construct the retaining wall and maintain the health and well-being of the pohutakawa tree would be protected and the effects would only be minor. Conditions of consent include any roots that are exposed in the course of excavation works shall be pruned back cleanly to the excavation face or any point of fracture or damage. This shall be done using a sharp saw or a pair of secateurs.

The Himalayan cedar situated in the northern corner of the site lies adjacent to the site's northern boundary (adjoins Sunvue Park). The forecourt area of the diary would be constructed within the tree's drip line. Although the applicant seeks to retain this tree, the nature and close proximity of the works is considered to cause detriment to the long-term health and well-being of this tree and therefore its removal has been assessed. Council's Field Advisor (Vegetation) considers that should this tree be required to be replaced it should be with appropriate plant specimens. The Customer Field Advisor also identified a manuka, which, although not of height protected under the Operative District Plan is significant enough to warrant replacement planting should it be removed. Council's Landscape Architect, has advised that a makou (Pb 28) and titoki trees (Pb 95) would be of similar size and scale and would mitigate the loss of the existing vegetation. Further landscaping is also proposed in this locality.

The introduction of a vehicle crossing onto Solar Road would marginally come within the drip line of a monkey apple tree. This species is considered an environmentally damaging plant under the District Plan and therefore the proposed works are considered to have de minimis effects.

The internal driveway / manoeuvring area required with the formation of the vehicle crossing off Solar Road comes within the drip line of an acacia, silky oak, pohutuakawa and black wattle. None of these trees is protected under the District Plan due to their height and species with the black wattle listed as an environmentally damaging plant. The effects on these trees is considered de minimis as the area has been previously modified, the trees are young and the extent of further alteration is limited.

The environmental effects in relation to vegetation and fauna habitat as a result of the proposed activity are considered to be no more than minor, subject to appropriate conditions of consent, that would ensure the protection of trees or provide replacement/ additional planting.

A77-A89

A copy of the Council's Field Advisor's Report is attached at pages A77 to A79. Council's Landscape Architect report is attached at page A80 with a copy of the Amended Landscape Plan as attached at page A89.

8.1.4 Land / Soil

Earthworks involving 200m³ over an area of 270m² would be required to form the building platform and create the parking bays, forecourt and service court areas to serve the proposed diary. Approximately 170m³ of cut would be located outside the proposed building platform.

Retaining to the north of the building extends 8.0m with a maximum height of 1.5m to provide for a levelled service court and the opportunity to construct a swimming pool in the rear garden area. Retaining would immediately adjoin the northern boundary. Retaining is setback 6.0m from the western boundary (Sunvue Road). A Olearia hedge is proposed at the top of the retaining structure.

Retaining is also proposed to the west of the building extending up to the western boundary over a 5.0m length with a maximum height of 1.0m. The retaining wall, as noted above, comes within the drip line of a 'protected' pohutukawa tree. Landscaping is proposed within its drip line.

The proposed earthworks would generate approximately 66 traffic movements (removal of soil). The activity is scheduled to occur over a two-week period. The applicant has indicated that the works would be undertaken in accordance with sediment and erosion control measures contained within the District Plan.

The surrounding neighbourhood has been cleared and modified through residential development. However, given the area's undulating topography, there does appear to be an absence of retaining structures in the vicinity other than those contained within the subject site.

Retaining to the northern boundary is setback from the road frontage, is of a size and scale consistent within this residential environment, and would be visually screened by both existing / proposed landscaping within the subject site and the adjoining property (Sunvue Park) that contains a significant planting buffer on its southern boundary associated with the Trees for Life programme. Further visually screening is provided by the existing (and proposed amended) building. Planting is proposed to the top of the retaining, however, fencing requirements (under the Building Act) due to its height would diminish its impact. Despite this, the proposed retaining would not introduce an incongruous structure in the street scene out of character with its residential surroundings. Replacement and additional planting on the site's northern boundary as referred to in the previous section would further reduce and mitigate its visual impact.

Retaining adjacent to Sunvue Road would be more visually prominent in light of its proposed siting. The proposed retaining, with a maximum height of 1.0 m would be screened from Solar Road frontage by the existing 1.6m solid fence. Existing and proposed landscaping would further mitigate its visual prominence. The proposed structure, in light of the above, would be in keeping with the surrounding residential neighbourhood and would not detract from the visual amenities of the locality.

Appropriate measures, through conditions of consent, would be required to protect the long term health and well-being of the pohutukawa tree as a result of the proposed works. This tree, as noted above, provides both visual and landscape amenities that in turn would help mitigate the visual impact of the proposed works.

Apart from the proposed retaining, other earthworks required to form the parking bays involve only minor re-grading consistent with the scale of development being undertaken.

The proposed earthworks would result in additional traffic generation (66 movements over a 14-day period). The adjoining road network is considered of sufficient capacity to accommodate the additional traffic without detriment to highway safety.

Appropriate conditions of consent, such as sediment / erosion control measures would ensure that the environmental effects as a result of the proposed earthworks are contained within the site and are no more than minor.

The earthworks predominantly allow for the construction of parking bays / service court to serve the proposed dairy located within a residential neighbourhood. The modifications to the landform of the site are consistent with the character of the surrounding residential area.

8.1.5 Air

The earthworks undertaken may result in temporary and localised effects with respect to dust. Such effects would be adequately avoided, remedied, or mitigated by the conditions of consent, and are therefore considered to be no more than minor.

8.1.6 Amenity Values - Health and Safety, Landscapes, Local Areas and Neighbourhood Character

- **Town Centre Viability**

There is a desire for the town centres in the City to become or remain vibrant areas where people can go and carry out their shopping needs with associated land uses such as parking contained in one area. Retail Activities outside of town centres can potentially result in a fragmentation of retail activities, duplication in parking (as people are required to drive rather than walk) and potentially cause adverse social and economic effects by causing a significant decline in amenity in town centres.

The subject site lies within an residential neighbourhood with the nearest town centre being Glen Eden located some 2.3km away. Established Retail Activities outside of the town centre are located approximately 1.0km from the subject site that includes local convenience stores.

The purpose of the use is to provide a convenience shop for local residents. As a dairy it is unlikely to serve a wider purpose or generate vehicle trips outside of the immediate neighbourhood, or detract significantly from the viability or customer base of the Glen Eden Town Centre.

The proposed development would introduce a retail floor area of 91m². Given the nature, size and location of the proposed retail activity the integrity of the Town Centre would not be adversely affected.

- **Visual Amenity and Neighbourhood Character**

The subject site and its surroundings are dominated by residential dwellings and areas of public open space, e.g. Sunvue Park. Buildings/ Structures are of a size, scale and design compatible with the suburban residential character.

The existing dwelling on-site is to be extended at ground floor to accommodate the dairy with decking above that would serve the residential unit. This extends 7.0m along the western elevation that fronts onto Sunvue Road. The extension increases the total floor area by approximately 27m². Hard standing would be extended immediately to the front of the building to accommodate parking and pedestrian access. This would replace the open grassed frontage.

The extensions are of a size and scale in keeping with the original residential nature of the building and the wider residential setting.

The purpose of the development is to allow for the establishment of 91m² ground floor retail activity with retail frontage. The retail frontage introduces a non-illuminated fascia sign that extends along the length of the western elevation, hard standing to accommodate parking and pedestrian access, four freestanding (sandwich) advertisements, and litter bins. These aspects change the character and appearance of the building and the subject site.

By its nature and purpose, the proposed retail frontage would be visible when viewed from Sunvue Road.

The residential dwelling opposite (123 Solar Road) is separated by 30m, located lower than the subject site and the orientation of the building reduces its overlooking potential. No.83 Sunvue Road, also lower than the subject site retains a distance separation of 43m. Other residential dwellings in the locality would have limited, distant views of the dairy's frontage in the context of this built-up residential environment.

Views from the north are significantly restricted with the substantial vegetation buffer associated with Sunvue Park (Trees for Life) programme.

The siting of the retail frontage in combination with a 1.6m solid screen fencing and existing landscaping limits views south of the intersection of Solar Road / Sunvue Road. The clear distinction between the retail and residential uses ensures that the residential outlook is retained when viewed from No.119 Solar Road and other properties locate to the south / east of this intersection. When approaching from Glengarry Road, limited and distant views of the dairy's frontage would be available.

The retail frontage set back 4.8m from the boundary is not considered to be visually prominent in the street scene and would not introduce an incongruous structure out of character with its residential surroundings. Additional hard standing associated with the retail activity would be softened by the retention of existing and proposed landscaping that encloses the Sunvue Road elevation. This would further reduce the visual impact of development and helps integrate the development into this residential environment.

With particular regard to the proposed non-illuminated signage, the enclosure provided by existing / proposed vegetation would reduce the visual prominence of the signage. It is considered that the signage is consistent with the scale and character of the proposed mixed use of the site.

The proposed development by its nature, scale, size and location is not considered to adversely affect the visual and landscape amenities or the character and appearance of this residential neighbourhood.

- **Residential Amenity**

The surrounding neighbourhood is dominated by residential dwellings. This provides the predominant characteristic in the locality.

The introduction of a commercial activity would potentially change the nature of the surrounding residential area by providing a neighbourhood of more mixed character. Retail development has the potential to conflict with the adjoining residential character.

The proposed development would increase the level of activity on-site over and above that normally associated with a residential dwelling. These would include increased traffic noise and litter. Noise associated with the proposal primarily relates to traffic noise, this would include both customer and service vehicles, and pedestrian traffic. Noise can also occur through anti-social behaviour in and around the proposed dairy.

Traffic generated by the retail element of the proposal would over a 24 hour period (when taken from the proposed opening hours of 07:00 to 20:00) be between 110-195 traffic movements. This equates to 10-15 traffic movements per hour. The majority of custom would be based on short visits to the site and would generate noise through opening / closing doors, engines starting and car stereos.

Off-street parking is available only in front off the Sunvue Road frontage.

The subject site is bordered on its western and southern boundaries by road (Sunvue & Solar Roads), public open space to the north with the only physically adjoining residential property located at No.119 Solar Road. Despite being located within a suburban residential neighbourhood, the subject site is physically separated from residential properties that provides a buffer between the retail and residential uses. No.119 Solar Road, while adjoining the subject site, is separated from the retail element of the site by the continuing residential presence further strengthened by the erection of a car port and swimming pool.

Council's Environmental Health Officer has reviewed the application and is satisfied that the proposal can meet the noise standards contained within the District Plan given the nature and setting of the activity. A condition of consent, that requires accordance with the noise standards to protect nearby residential amenity would be required.

Given its mixed-use status, residential occupancy would be retained over a 24 hour period that would allow an on-site presence between 20:00 and 07:00. It is considered that the proposal can meet the required noise standards as would be required by condition.

Two Litter bins have been shown on-site, this is considered sufficient to avoid increased litter both on and off site in the residential locality.

The expected increase in traffic between the hours of 07:00 and 20:00 associated with this small-scale retail operation in conjunction with the separation of the site from residential sites is considered to be of a scale compatible with the character of the surrounding neighbourhood and would not detract from nearby residential amenity. The hours of operation, as recommended by the applicant, are considered appropriate in order to protect residential amenity and would form a condition of consent.

- **Construction Effects**

As discussed earlier, sediment and erosion control measures would be required to ensure earthworks are contained within the site. This includes a stabilised entranceway and a wheel wash facility to prevent soil being deposited on the surrounding streets. Should any soil / spoil be spilled or deposited on the street, the applicant would be required to remove it at their expense.

Construction Noise, as indicated by the applicant would be in accordance with NZS 6803P: 1984 'The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work'.

Effects would be temporary and localised. Such effects would be adequately avoided, remedied, or mitigated by the conditions of consent, and are therefore considered to be no more than minor.

- **On-site Parking**

The proposal involves the construction of an additional vehicle crossing to Solar Road located some 20m from the intersection with Sunvue Road that provides on-site parking to serve the residential property. Two spaces are proposed. Residential parking would be kept separate from parking associated with the retail activity.

The proposed dairy would be served by six car parking bays that would be partially formed within road reserve immediately to the front of the dairy along Sunvue Road. These spaces would be located away from any area currently used as carriageway.

There are no parking standards contained within the District Plan with respect to the proposed activity. Council's Parking and Driveway Guidelines (October 1997) specifies a minimum 1 space per 30m² for dairies. No disabled space is required. On this basis, a minimum of 3 spaces would be required.

The angled parking bays would not enable vehicles to leave the site in a forward gear, therefore, vehicles would be reversing onto Sunvue Road. Sight distances at the intersection exceed 100 metres in all directions. This exceeds the approach sight distance for urban conditions where the 85th percentile speed is 60km/h. The Traffic Impact Assessment produced by Tuohey Consulting Limited considers that these sight distances would enable traffic to move in and out of the angled parking on Sunvue Road without causing a traffic hazard.

The application has been reviewed by Council's Roding Engineer who is satisfied with the contents of the Traffic Impact Assessment produced by Tuohey Consulting Limited. The proposed parking arrangement for both the retail and residential uses of the property is considered to meet the needs of both without resulting in a proliferation of off-street parking, and sufficient sight distances are available to allow customer and service vehicles to reverse onto Sunvue Road without detriment to matters of road safety or the free flow of traffic.

Eight spaces have been provided in total, this is considered appropriate to accommodate expected peak demands for the on-site activities within the site and would not adversely affect the functioning of Sunvue Road and adjoining roads.

- **Traffic Generation (Road Safety)**

The introduction of a retail activity, in combination with an existing residential use would result in increased traffic generation. The Traffic Impact Assessment refers to the Roads and Traffic Authority of New South Wales "Guide to Traffic Generating Developments" and the ITE's "Trip Generation Manual". These studies indicate that small local shops have peak vehicle generation rates of between 10-15 vehicle movements per 100m² gross floor area per hour. This is the expected traffic generation for the proposed dairy. Taking into account their proposed hours of operation (0700 - 2000), additional traffic generation over and above a residential activity would be between 110-195 traffic movements over a 24 hour period.

The Assessment by Tuohey Consulting Limited refers to traffic flows on these roads as relatively light and consistent with those that might reasonably be expected for both Sunvue and Solar Roads. In the five-year period, 1997-2001, two reported accidents have occurred in the vicinity. One occurred at the intersection of Sunvue / Solar Roads. Neither incident resulted in a personal injury to the vehicle occupants. The report concludes that the potential vehicle trip generation would be low and the additional trips could be easily accommodated by the existing road infrastructure without adversely affecting its function, capacity and safety.

The submission by Pes Fa'au (146 Solar Road) states that the proposal would significantly generate increased traffic given the diary's catchment area being on a primary school route and being adjacent to a bus stop. The submitter states that traffic currently uses Solar Road as a shortcut from Glengarry to Rosier Road with speeds in excess of 70km/hr. Further that three accidents, between 1997-2000 have occurred at the intersection of Sunvue and Solar Roads. The submitter is concerned in particular with young children crossing the road, and states that speed humps need to be installed along Solar Road to reduce traffic speeds and broken yellow lines painted along the northern kerb outside the diary (Solar Road) to its vehicle entrance so as to prevent cars parking in this location.

It is acknowledged that the proposal would generate additional traffic over and above that normally associated with a residential property. The application has been reviewed by Council's Roding Engineer who is satisfied with the contents of the Traffic Impact Assessment produced by Tuohy Consulting Limited and considers that the additional vehicular traffic generation can be easily accommodated by the existing road infrastructure without adversely affecting its function, capacity and safety.

Both Sunvue and Solar Roads are on a list of roads in the City that are being considered for 'slow street' treatments. However, the parking area for this activity is at the end of Sunvue Road where traffic speeds are already low, especially as it's in close proximity to the intersection. It is considered that speed humps along Sunvue Road would have no effect on traffic speeds outside this site.

As referred to above, sight distances exceed 100m in all directions. The proposed siting of the diary along the Sunvue Road frontage where traffic speeds are already slow would not compromise pedestrian safety.

The nature of the activity in the context of its residential surroundings would generate pedestrian traffic. This would be in addition to the reasons already highlighted by the submission referred to above, ie. school route, adjacent to a bus stop.

To retain appropriate pedestrian and roading access along Sunvue Road, Council's Roding Engineer recommends that the parking / pedestrian areas are vested as road to ensure that any maintenance work on the parking area and footpath would be carried out as necessary. This would be required as condition of consent.

The proposed fascia signage is not considered to detract from matters of road safety given its size, scale and location. With the parking / pedestrian area to be vested, regard needs to be given to the placement of free-standing advertisements (within a public place). Council's Bylaws (Public Places), and the placement of signs within the Transport Environment under the Operative District Plan refers to the consideration of the placement of signs avoiding creating a situation hazardous to traffic. Council's Roding Engineer considers that to avoid obstruction of public footpaths only two of the freestanding (sandwich) advertisements are considered to be appropriate in the vicinity of the footpath in the interest of pedestrian safety. This would be made a condition of consent and with the location to be approved by the Manager, Resource Consents.

The additional vehicular and pedestrian traffic generation can be easily accommodated by the existing road infrastructure without adversely affecting its function, capacity and safety.

A75-A76

A copy of the Council's Roding Engineer's Assessment is attached at page A75 to A76.

8.1.11 Heritage

There would be no adverse effects in respect of heritage items as the proposed activity would not be located near, or impact on any identified heritage item.

8.1.12 Summary

It is the report writer's opinion, that the potential adverse effects of the proposed activity are no more than minor, and can be adequately mitigated through appropriate conditions of consent. Further, having regard to the meaning of the word 'effect', the potential adverse effects are such that this activity can meet the requirements of Section 104(1)(a).

8.2 District Plan Considerations (104(1)(d)): Relevant Objectives, Policies, Rules and Other Provisions of a Plan

8.2.1 Operative District Plan

The applicant proposes to establish a non-residential activity (dairy) at ground floor with residential above following extensions and alterations to the existing dwelling.

A81-A83

The District Plan provides a range of objectives, policies, rules and assessment criteria to be considered in relation to non-residential activities, signs and traffic generation in the Living Environment and earthworks and vegetation alteration in the General Natural Area. These are being used as a guide in considering the proposal and are discussed below under the headings of on-site amenity, visual amenity and neighbourhood character, parking and traffic generation, and residential amenity. Reference numbers for the relevant assessment criteria, objectives and policies are set out at the beginning of each section and cited where relevant within the body of the discussion. The full assessment criteria and relevant objectives and policies are attached at pages A81 to A83.

8.2.1.1 Rules and Assessment Criteria

Earthworks

Objective 1, 11

Policy 3.2, 11.3, 11.8

Earthworks involving 200m³ over an area of 270m² would be required to form the building platform and create the parking bays, forecourt and service court areas to serve the proposed dairy. Approximately 170m³ of cut would be located outside the proposed building platform.

As discussed, the earthworks result in the creation of two retaining structures. One to the north of the building with the second to the west. The second retaining wall, as noted above, comes within the drip line of a 'protected' pohutukawa tree.

Both retaining structures are of a size, scale and location that would not adversely affect the visual amenities of the site that is set well within this modified residential environment. Landscaping would help to integrate the development, including the introduction of additional hard standing, (ie. service courts established by the earthworks within its residential context) and protects the visual amenities of the locality.

Retaining adjacent to the western boundary would be more visually prominent in the street scene in light of its location. The pohutukawa tree is prominent in the street scene and would help to integrate the 'retail' development into this residential environment. Council's Field Advisor (Vegetation) considers that through appropriate works, the health and well-being of this tree would be maintained. Additional landscaping beneath the drip line of the pohutukawa tree would further soften the visual impact of development generated by the earthworks, and retaining structures.

The earthworks predominantly allow for the construction of parking bays and a service court to serve the proposed dairy. However, it is considered that the modifications to the landform of the site are consistent with the character of the surrounding residential area.

Appropriate conditions of consent, including sediment and erosion control measures would be required to ensure earthworks are contained within the site thereby ensuring that there would be no sediment runoff to the waterways.

For these reasons, it is considered this aspect of the proposal is consistent with the aforementioned **Objectives** and **Policies** and meets **Assessment Criteria (3a - 3q)**.

Vegetation Clearance

Objective 2

Policy 1.6, 2.4, 11.2, 12.1

The city's native vegetation and fauna habitat is highly valuable and vulnerable to adverse effects arising from a range of activities.

The subject site contains a mixture of planting, including various grass species, and a range of both exotic and native species. This includes pohutukawa, himalayan cedar, manuka, cordyline and banksias. Two trees, the Pohutukawa and Himalayan Cedar are over 6.0m in height and protected under the General Natural Area provisions of the District Plan.

The pohutuakawa tree, located on the Sunvue Road frontage, is visually prominent in the street scene due to its size and location. As discussed, a retaining wall (max height 1.0m) would be constructed within its drip line with the area immediately below and surroundings to be landscaped with Karo and Broadleaf. The application has been reviewed by Council's Field Advisor (Vegetation) who is satisfied that through the appropriate management of works (as required by condition of consent) to construct the retaining wall would protect the health and well-being of the pohutakawa tree would be protected and the effects would only be minor.

The Himalayan cedar situated in the northern corner of the site lies adjacent to the site's northern boundary (adjoins Sunvue Park). The forecourt area of the dairy would be constructed within the tree's drip line. Council's Field Advisor (Vegetation) considers that both this tree, and a flowering manuka (3.5m high) located adjacent to the Himalayan cedar should be replaced with appropriate plant specimens (if removed, or if the retention of these trees is not possible. Further landscaping is also proposed in this locality.

Notable vegetation is both protected through conditions of consent or their loss mitigated by suitable replacements that would prove more resilient in the context of the site's frontage. The retention of existing landscaping, and the introduction of further landscaping is appropriate in this cleared and modified residential environment and softens the visual impact of development and mitigates additional hard standing that diminishes opportunities for vegetation along the western elevation.

For the aforementioned reasons, it is considered the proposal meets Assessment Criteria 2(a) - 2(h) (General Natural Area) and consistent with the above Objectives and Policies.

Visual Amenity and Neighbourhood Character
Objective 11
Policy 11.3, 11.8, 11.11

The policies and objectives are concerned with protecting those aspects of the environment that are particularly valued by the community and recognising the varying character of each part of the City. However, objective 11 is not concerned with maintaining the total landscape as it currently exists. That is, while those elements and characteristics might be protected, there is also considerable opportunity for change and flexibility that allows an area to evolve and respond to changing circumstances, albeit within a framework of what people value.

Policies and objectives are concerned about the quality and nature of change, within a framework of commonly accepted values about what contributes to the amenity of an area.

The immediate surroundings are characterised by residential development on lots in excess of 450m² with buildings of a size, scale and design consistent with its suburban residential character.

Extensions to the western and northern elevations are proposed to the existing dwelling to accommodate the ground floor retail activity.

The proposed extension is considered to be of a size, scale and design in keeping with the original residential nature of the building and the wider residential setting.

The purpose of the extension to accommodate a retail activity at ground floor, would change the external appearance of the western elevation (adjoining Sunvue Road) by introducing retail frontage within this residential environment. Retail frontage, in this instance, includes signage, litter bins and on / off-site facilities to serve customer and service vehicles.

The proposed signage includes a non-illuminated fascia advertisement that extends across the western elevation of the property. The fascia advertisement would not protrude beyond the outline of the building. Four freestanding (sandwich boards) advertisements are also proposed to be placed within the property's frontage. (As noted above, this would be restricted to two freestanding signs to allow for ease of pedestrian movements and a non-cluttered visual appearance.

The retail frontage would be enclosed within its Sunvue Road frontage through a combination of the orientation of the existing building, solid screening on the Solar Road frontage by a 1.6m high fence, physical separation from both Sunvue and Solar Roads, substantial planting adjoining its northern boundary located within Sunvue Park, and existing and proposed landscaping along the Sunvue Road frontage.

The retail frontage (set back 4.8m from the boundary) is not considered to be visually prominent in the street scene and would not introduce an incongruous structure out of character with its residential surroundings. Additional hard standing associated with the retail activity would be softened by the retention of existing and proposed landscaping that encloses the Sunvue Road elevation. This would further reduce the visual impact of development and help to integrate the development into this residential environment.

With particular regard to the proposed non-illuminated signage, the enclosure provided by existing / proposed vegetation reduces the visual prominence of the signage. It is considered that the signage is consistent with the scale and character of the proposed mixed use of the site.

It is the report writers opinion that the proposed development is of a form, height and scale which avoids physical domination of surroundings sites and buildings and would not adversely affect the landscape character and visual amenities of the residential environment. The residential coherence of the neighbourhood would be not be adversely affected, the open streetscape remains, greenness is protected, and the dominant residential character is retained.

For the aforementioned reasons, it is considered the proposal meets **Assessment Criteria 10(a) & 10(c)** (Living Environment) and consistent with the above **Objectives and Policies**.

Residential Amenity
Objective 10
Policy 10.2, 10.3, 10.17, 11.12, 11.13, 11.18

Human communities, and individuals that make up these communities, are defined under the Resource Management Act as being an integral part of the environment. As such, the effects of activities on those elements, and characteristics of the environment that contribute to human enjoyment of it, are a concern under the Act.

The Ministry of the Environment considers amenity as a resource management issue compromising of two components - attributes and perceptions and expectations. Attribute factors are able to be measured and are tangible and the effects are able to be seen such as dust and noise whereas perceptions and expectations are based on the individual and what they consider to be residential amenity. Management of those two components is essential in order to protect the environment as well as allowing development to occur.

The separation of activities has occurred largely because of past planning controls and because the resulting amenity of these areas is the result of regulation. Allowing a greater mix of activities at local level would contribute to a reduction of vehicle trips and associated adverse affects on amenity. However, such a change must be carefully managed so that the mix of activities contributes to the enhancement of local neighbourhoods, and does not undermine their amenities.

The surrounding neighbourhood is dominated by residential dwellings. This provides the predominant characteristic in the locality.

The proposed development would increase the level of activity on-site over and above that normally associated with a residential dwelling. These would include increased traffic, noise and litter. Noise associated with the proposal primarily relates to traffic noise, this would include both customer and service vehicles, and pedestrian traffic. Noise can also occur through anti-social behaviour in and around the proposed dairy.

The traffic impact assessment produced by Tuohey Consulting Limited, and concurred with by Council' s Roding Engineer identifies that between 110-195 additional traffic movements would be created by the retail activity over a 24 hour period. This equates to 10-15 traffic movements per hour between the hours of 07:00 and 20:00.

Despite being located within a suburban residential neighbourhood, the subject site is physically separated from residential properties. The subject site is bordered on its western and southern boundaries by road (Sunvue & Solar Roads), public open space to the north with the only physically adjoining residential property located at No.119 Solar Road. While adjoining the subject site, No.119 Sunvue Road is separated from the retail element of the site by the continuing residential presence on site which is further strengthened by the erection of a car port and swimming pool, to the side of the dwelling.

The setting, intensity and nature of the activity is not considered to introduce an activity out-of-character with its residential surroundings, or cause detriment to nearby residential amenities. The increase in both pedestrian and vehicular traffic between the hours of 07:00 and 20:00 is of a scale and frequency that would not unduly harm nearby residential amenity.

Council's Environmental Health Officer has reviewed the application and is satisfied that the proposal can meet the noise standards contained within the District Plan given the nature and setting of the activity. A condition of consent, that requires accordance with the noise standards to protect nearby residential amenity would be imposed.

Given its mixed-use status, residential occupancy would be retained over a 24 hour period that would allow an on-site presence between 20:00 and 07:00. Noise Controls only apply to the site itself, however, given the size, and scale of the activity, the proposal is not considered to result in significant pedestrian traffic that would cause detriment to nearby residential amenity.

Two Litter bins have been shown on-site, this is considered sufficient to avoid increased litter both on and off site in the residential locality.

The proposal is considered to retain the characteristic levels of quiet associated with the Living Environment and its residential character. While introducing an activity that introduces potential effects over and above that associated with the existing residential activity, the nature of the proposed activity and the imposition of conditions such as compliance with noise controls, and hours of operation would avoid, mitigate and reduce such effects in order to protect nearby residential amenities and to integrate the development into the residential environment whilst retaining its predominant residential character.

For the aforementioned reasons it is considered the proposal meets the **Assessment Criteria 10(a)-10(c), 11(a), 15(a), 15(c) Living Environment** and consistent with **Objectives and Policies**.

Parking / Traffic Generation / Road Safety Policy 4.3, 10.11, 10.14

Street parking has the potential to cause hazards for pedestrians and cars through the reduction of room for manoeuvring, and the impeding of sight lines. Safe access on and off-site can also be compromised. Sufficient on-site parking and manoeuvring would be required to relieve pressures on the surrounding roads and to ensure safe access on / off-site.

On-site parking for both residential and retail purposes have been separated with vehicle access to the residential property provided by a vehicle crossing on Solar Road to serve a minimum 2 motor vehicles (one uncovered). Customer and service vehicles associated with the retail activity would be accessed off Sunvue Road with six parking spaces located away from the carriageway (Sunvue Road). Parking would be partially created within road reserve.

The angled parking bays would not enable vehicles to leave the site in a forward gear, therefore, vehicles would be reversing onto Sunvue Road. Sight distances at the intersection exceed 100 metres in all directions. This exceeds the approach sight distance for urban conditions where the 85th percentile speed is 60km/h. The Traffic Impact Assessment produced by Tuohey Consulting Limited considers that these sight distances would enable traffic to move in and out of the angled parking on Sunvue Road without causing a traffic hazard.

The application has been reviewed by Council's Roding Engineer who is satisfied with the contents of the Traffic Impact Assessment produced by Tuohey Consulting Limited. The proposed parking arrangement for both the retail and residential uses of the property are considered to meet the needs of both without resulting in proliferation of off-street parking, and sufficient sight distances are available to allow customer and service vehicles to reverse onto Sunvue Road without detriment to matters of road safety or the free flow of traffic.

The introduction of a retail activity, in combination with an existing residential use will result in increased traffic generation. Taking to account their proposed hours of operation (0700 - 2000), additional traffic generation over and above a residential activity would be between 110-195 traffic movements.

The Assessment by Tuohey Consulting Limited refers to traffic flows on these roads as relatively light and consistent with those that might reasonably be expected for both Sunvue and Solar Roads. The report concludes that the potential vehicle trip generation would be low and the additional trips can be easily accommodated by the existing road infrastructure without adversely affecting its function, capacity and safety.

The submission by Pes Fa'aui (146 Solar Road) states that the proposal would significantly generate increased traffic given the diary's catchment area, primary school route and adjacent to a bus stop.

It is acknowledged that the proposal would generate additional traffic over and above that normally associated with a residential property. The application has been reviewed by Council's Roding Engineer who is satisfied with the contents of the Traffic Impact Assessment produced by Tuohey Consulting Limited and considers that the additional vehicular traffic generation can be easily accommodated by the existing road infrastructure without adversely affecting its function, capacity and safety.

As referred to above, sight distances exceed 100m. The proposed siting of the diary along the Sunvue Road frontage where traffic speeds are already slow would not compromise pedestrian safety.

The proposed signage is not considered to detract from matters of road safety given its size, scale and location. With the parking /pedestrian area to be vested, regard needs to be given to the placement of free-standing advertisements (within a public place). Council's Bylaws (Public Places), and the placement of signs within the Transport Environment under the Operative District Plan refers to the consideration of the placement of signs avoiding creating a situation hazardous to traffic. Council's Roding Engineer considers that to avoid obstruction of public footpaths only two of the freestanding (sandwich) advertisements are considered to be appropriate in the vicinity of the footpath in the interest of pedestrian safety. This would be made a condition of consent and with the location to be approved by the Manager, Resource Consents.

For the aforementioned reasons, it is considered that the proposal meets the **Assessment Criteria 10(a) - 10(c), 11(a), 15(b) Living Environment** and consistent with **Policies and Objectives**.

**Town Centres / Retail Impact
Policy 1.2, 1.18, 1.3, 4.1, 10.17**

The City's major centres play a key role in contributing to the quality of life in the City. They are the focus of many retail activities and other community, service and residential activities resulting in a mix of often independent land uses which contribute to a sense of place and identity.

Retail activities have been identified as having a major influence on the number and pattern of vehicle trips within the City. The wide dispersal of retail activities increases vehicle trips across the City. The consolidation of retail activities contributes to the reduction of trips by encouraging people to carry out multiple shopping tasks. The dispersal of retailing away from town centres could undermine the strategic direction and transportation objectives of the Auckland Regional Policy Statement.

While there is an emphasis to encourage retail activities into town centres, there are situations where certain types of retail activities would be appropriate in alternative locations. This includes local shops serving the convenience needs of residential neighbourhoods.

Four submitters support a dairy in the proposed location due to their being no dairy around, it being inconvenient to walk to nearest dairy, the location adjacent to a bus stop, that it is convenient to residents, and that it enhances the surroundings.

The subject site lies within a residential neighbourhood with the nearest town centre being Glen Eden located some 2.3km away.

Given the nature, size and location of the proposed retail activity that would serve the local community would not undermine the integrity of any of the town centres.

Discussion above has centred on traffic generated by the proposed activity, by their nature, dairies of the size proposed primarily serve the local community and given the absence of similar facilities in the locality, local residents are likely to walk to the premises rather than driving to the nearest facility. Therefore, while traffic may be generated by this activity, it would reduce vehicle trips that currently occur whilst also providing a community facility. Of further note, is that the site lies adjacent to a public transport route and a bus stop lies opposite.

For the aforementioned reasons, it is considered that the proposal meets the **Assessment Criteria 10(a)-10(c)** and consistent with **Policies** and **Objectives**.

8.3 Auckland Regional Policy Statement (104(1)(c))

The Auckland Regional Policy Statement sets out the "Strategic Direction" for the Auckland Region. It seeks to ensure the Region has the capacity to accommodate growth and development, and at the same time to protect the quality and efficient use of the natural and physical resources. The Strategic Direction seeks to protect the Region's natural resources from significant adverse effects of urban development. The Strategic Direction is intended to improve the efficiency of urban Auckland by encouraging development at locations that will promote cost-effective servicing by transportation systems, utility network systems and other works and services of regional significance.

The proposal introduces a retail activity outside of a town centre and transport nodes. However, given the nature and size of the proposed retail activity that would primarily serve the local community, it would not undermine the integrity of the Town Centre or result in increased traffic generation.

8.4. Regional Plan or Proposed Regional Plan (104(1)(f))

The Auckland Regional Council sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the Region, under which the Waitakere City Operative District Plan has been prepared.

For the reasons highlighted in section 8.2.1. 1 of this report, it is considered that the proposal is consistent with these documents.

8.5 Any Other Matters the Consent Authority Considers Relevant (104(1)(i)).

8.5.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

All issues raised in submissions have been discussed earlier in the report.

8.6 Monitoring

The performance of the activities under this consent will be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis. In particular, attention is likely to be directed toward the implementation of conditions relating to compliance with noise controls, protection of existing and proposed landscaping, hours of opening, and earthworks sediment and erosion control.

8.7 Any Other Relevant Non-Statutory Documents

No other non-statutory documents are considered relevant in the processing of this application.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

It is considered that the proposal would be consistent with Sections 5, 6, 7 and 8 of the Resource Management Act 1991.

The purpose and principles of the Resource Management Act 1991 have primacy over all other considerations that are set out in section 104 of the legislation. In summary, sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Resource Management Act 1991 requires that amenity values and the quality of the environment are to be maintained and enhanced.

It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal will enable people and communities to provide for their economic, social and cultural well-being and their health and safety without significantly compromising the needs of future generations or the life supporting capacity of natural resources such as air, water and soils. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment.

10.0 EVALUATION IN ACCORDANCE WITH SECTION 105 OF THE RESOURCE MANAGEMENT ACT 1991

The threshold test in Section 105(2A) of the Resource Management Act 1991 states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (105(2A)(a)) or the activity will not be contrary to the objectives and policies of a plan or proposed plan (105(2A)(b)).

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies Section 105(2A) in that subject to appropriate conditions of consent requiring mitigation the adverse effects on the environment of the proposal will be no more than minor and the proposal is contrary to the relevant objectives and policies of the District Plan. Jurisdiction to grant consent has therefore been established.

CONCLUSION

The applicant seeks consent to operate and establish a non-residential activity (dairy). The subject site is located at 96 Sunvue Road and is zoned Living Human Environment and General Natural Area under the Operative District Plan.

It is considered that the proposal **meets** the criteria for granting consent as the potential adverse environmental effects are **no more than minor** and **can** adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment and operation of a non-residential activity (dairy) measuring 91m² will not lead to a decline in the amenity values of the area in which it seeks to locate.

The proposal is considered to be consistent with the objectives and policies of the District Plan which seek to:

- Maintain and enhance those natural and physical characteristics (amenity values) that contribute to the well-being of residents and workers.
- Achieve a quality of settlement and associated activities within each of the City 's Human Environments which is sympathetic to, and protects and enhances, the dominant natural and physical (including building) features which contribute to the amenity value and the neighbourhood character of an area.
- Manage the effects of land use on the environment and, in particular, avoid, remedy or mitigate effects on the quantity and quality of the City's water resource.
- Protects and Mitigates the City's native vegetation and fauna habitat.
- Protect and enhance the amenity of the urban area through the provision of a range of activities but also maintaining the residential coherence of the neighbourhood.
- Protect the functioning of roads within the Roding Hierarchy, without detriment to road safety or the free flow of traffic.

It is considered that the issues raised by the submitters **can** be adequately addressed through the imposition of appropriate conditions.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **merits consent** in accordance with Sections 104 and 105 of the Resource Management Act 1991.

RECOMMENDATIONS

That pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, **consent be granted** to the application by Ramesh Patel to establish and operate a dairy (non-residential activity) at ground floor with residential accommodation above. The proposal would generate in excess of 50 traffic movements per day and involves the formation of six parking spaces within road reserve to provide customer parking. Proposed signage, associated with the dairy measures 11.8m² and consists of a fascia and four free-standing advertisements. Earthworks outside the proposed building platform of 170m³ and partially within 1.0m of the northern and western boundaries of the property, retaining up to 1.5m in height, with the retaining also partially extending into road reserve. The proposal also requires the removal of a Himalayan Cedar and works within the drip line of a Pohutakawa tree at 96 Sunvue Road being Lot 34 DP 85231 for the following reasons:

- (i) The proposed development is considered to be of an appropriate design and layout that provides appropriate residential character and detailing consistent with the surrounding residential neighbourhood. Whilst introducing a non-residential activity, the development would not detract from the visual and residential amenities of the locality or the character and appearance of the surrounding residential area. The proposal would be integrated into residential neighbourhood.

- (ii) Adequate on-site parking and manoeuvring is provided and access to the site would not detract from matters of road safety. The existing road network would be of sufficient capacity to accommodate the additional traffic movements without detriment to the road's function or safety in the road hierarchy.
- (iii) The proposed development would not detract from the visual or landscape amenities of the site or cause detriment to nearby residential amenity in terms of loss of privacy, daylight access, traffic noise, or increased visual intrusion.
- (iv) The earthworks result in the re-contouring of the land and would not significantly alter the existing landform. The topography of the site would remain consistent with the surrounding area. The earthworks are considered to be of a scale consistent with the development being undertaken.
- (v) Any actual or potential effects on the environment by the proposal are considered to be no more than minor and would be adequately avoided, remedied or mitigated by the conditions of consent.
- (vi) The proposal satisfies the relevant objectives, policies, rules and other provisions of the Waitakere City District Plan.

Conditions imposed on the consent are as follows:

1. The development shall proceed in accordance with the plans titled Proposed Diary at 96 Sunvue Road (Elevations, Site Plan, Proposed Landscape Development) prepared by Davis Ogilvie and dated August 2002 & December 2003 and all referenced by Council as RMA 20023305 and the information, including further information, submitted with the application.

Earthworks

2. Before commencement of any works, adequate sediment and erosion control measures shall be constructed and maintained in accordance with Appendix 3, Erosion and Sediment Control Measures Appendix to the Natural Area Rules of the Waitakere City Council Proposed District Plan.
3. The consent holder shall implement suitable measures, such as wheel wash facilities or the construction of a stabilised entrance way, to prevent the deposition of earth on the surrounding streets from trucks entering or leaving the site, to the satisfaction of the Manager Resource Consents. These measures shall remain in place until the completion of the development. Should any material be deposited on the street, it shall be removed immediately at the expense of the consent holder.
4. Footpaths, berms and kerbs shall be protected from damage by crossing or parking vehicles to the satisfaction of the Manager Resource Consents. Any damage which is attributed to the earthworks operation shall be rectified at the cost of the consent holder.
5. All development works on the site including earthworks and the use of associated heavy machinery shall be undertaken between the following hours only:

Monday to Friday:	7.30 am - 7.00 pm
Saturday:	8.00 am - 5.30 pm
Sunday and Public Holidays:	NO WORK
6. All excess excavated material shall be removed from the site immediately following the completion of earthworks and disposed of to the satisfaction of the Manager Resource Consents.

7. All necessary action shall be taken to prevent a dust nuisance to neighbouring properties to the satisfaction of the Manager Resource Consents.
8. Construction of the proposed retaining walls shall take place within two weeks of any cut or fill to ensure the stability of the site.

Vegetation

9. Where excavation work is required within the drip line of protected vegetation, such as the Pohutukawa (*Metrosideros excelsa*) growing alongside the western boundary, the works shall be undertaken in the best interest of the physiological and structural welfare of the protected vegetation. Any roots that are exposed in the course of excavation works shall be pruned back cleanly to the excavation face or any point of fracture or damage. This shall be done using a sharp saw or a pair of secateurs.
10. All roots exposed in the course of any excavations and the area within the drip line beyond the cut roots should not be allowed to dry out. This can be avoided by covering exposed roots and area beyond them with damp hessian or similar and back filling the excavations as soon as is practical.

Landscaping

11. The existing boundary planting areas shall be retained and developed in accordance with the Council-approved planting and landscape treatment plan attached as Appendix 10, to the satisfaction of the Manager, Resource Consents. This planting shall be instated by the first planting season (May until 7 September), following completion of the proposed diary hereby approved, and with replacement planting instated in following seasons as necessary, until the planting is established.

A88-A90

12. Retain the Himalayan Cedar and flowering manuka on the northern boundary OR provide two replacement trees (as referred to on the Landscape Plan attached at pages A88 to A90) the replacement trees shall be of good quality nursery stock and maintained to the satisfaction of Council for a period of 2 years from the date of planting. If any of the replacement trees die within this period, they shall be replaced and maintained as per the stated conditions.

Infrastructure

13. All infrastructure relating to stormwater treatment and disposal, wastewater disposal and water supply shall be to the satisfaction of EcoWater. Compliance with the Waitakere City Council Code of Practice for City Infrastructure and Land Development is deemed to be in accordance with this condition.
14. All reticulated services, including power and telephone, shall be provided underground.

Parking

15. That the consent holder shall, prior to the commencement of retail activities, construct and clearly mark out six parking spaces in accordance with Waitakere City Council Code of Practice for City Infrastructure and Land Development, and ensure that the markings are maintained regularly to ensure that they can be easily identified, and provide separate residential parking as shown on the approved drawings to the satisfaction of the Manager: Resource Consents.
16. Only two freestanding (sandwich board) advertisements are to be located within the area of road to vest in the interest of pedestrian safety. The positioning of the signs needs to be submitted for the approval of the Manager: Resource Consents.

17. That the area of the site formed for public parking and pedestrian access (being the six spaces and footpath located adjacent to Sunvue Road) be vested in Council as Local Road.

Advice Note: Provide a survey plan showing the road to vest in Council and advise Council when that plan has been deposited.

Noise

18. At all times the activity shall comply with the noise controls of the relevant Human Environment of the Proposed District Plan.

General

19. In the interests of residential amenity, the proposed retail activity shall not open for customers before 0700 or after 2000 on any day.
20. No storage associated with the activity hereby approved shall be located outside of the existing dwelling to the satisfaction of the Manager, Resource Consents
21. The retail activity shall be confined within the area shown on the approved drawings (91m²).
22. A consent compliance monitoring fee of \$500.00 (inclusive of GST) shall be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection all conditions have not been satisfactorily met, a re-inspection shall be required at a further cost of \$89.00 per hour (inclusive of GST).
23. The \$500.00 fee shall be paid as part of the resource consent and the resource consent holder shall be advised of any further monitoring fees if they are required.

Report prepared by: Matthew Wright, Resource Planner.

