

**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD AT WAITAKERE
CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE,
ON THURSDAY, 15 MAY 2008 AND FRIDAY, 16 MAY 2008
COMMENCING AT 9.30 AM**

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**1 PUBLICLY NOTIFIED APPLICATION FOR A NON-COMPLYING ACTIVITY
RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT
ACT 1991 BY F AND B MCCLOUGHEN TO OPERATE A CHILD CARE FACILITY
AND CONSTRUCT TEN MEDIUM DENSITY DWELLINGS AT 32 AND 34
AWARA STREET, NEW LYNN**

Ward: New Lynn 4 Ward

RMA: LUC 2007 1369

N.B. This report sets out the advice of Consent Services to the Hearings Commissioner 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 Commissioner.

Planner:	Cath Heppelthwaite Consultant Planner
Site Address:	32 Arawa Street New Lynn
Applicant:	F and B McCloughen
Date Received:	9 August 2007
Resource Consent No:	LUC20071369
Building Consent No:	N/a
Ward:	New Lynn 4
Legal Description:	32 Arawa Street: CT NA1125281 Lot 8 DP 37236 34 Arawa Street: CT NA968210 Lot 7 DP 37236
Address for Service:	Leijnen Consultants Limited PO Box 42245 Orakei Auckland
Site Area:	32 Arawa Street: 5845m ² 34 Arawa Street: 809m ² (Combined Site Area: 6654m ²)
Unit Site Area(s):	Medium Density Housing: Unit 1 Net Site Area: 175 square metres Unit 2 Net Site Area: 159 square metres Unit 3 Net Site Area: 159 square metres Unit 4 Net Site Area: 143 square metres Unit 5 Net Site Area: 155 square metres

Unit 6 Net Site Area: 153 square metres
Unit 7 Net Site Area: 153 square metres
Unit 8 Net Site Area: 153 square metres
Unit 9 Net Site Area: 153 square metres
Unit 10 Net Site Area: 174 square metres
Unit 11 – Common Access: 886 square metres
Unit 12 - Child Care Facility: 4184 square metres

District Plan:	Human	Living Environment, Medium Density Housing Area
Environment:		
Natural Area(s):		General Natural Area
Landscape		Riparian Margin
Elements:		
Hazards:		Overland flow
Roading Hierarchy:		Arawa Road – Local Road
Further Information Required:	Information	Yes
Date Requested:		3 September 2007, 1 October 2007 and 26 October 2007
Date Received:		29 November 2007 and 6 November 2007
Site Visit:		13 December 2007; 7 March 2008

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent to operate a childcare facility for 130 children plus staff. This will involve the removal of the existing childcare buildings on the site and the dwelling at 34 Arawa Street along with the construction of a new purpose-built facility with on site car parking and landscaped areas. The car park will accommodate 32 parks. Speed humps and pedestrian walkways are proposed through and around the car park.

In addition to the childcare facility, the applicant also proposes to construct ten new medium density dwellings each on sites of between 143 square metres and 175 square metres in area. The medium density dwellings will be a mixture of detached and semi-detached buildings. Units 1 to 4 will largely be freestanding with Units 5 to 10 being attached by their common single car garages.

The medium density housing will be located along the western boundary of the site. The childcare facility is proposed to be located along the eastern boundary of the site with the two activities separated by the car park and a landscaped area.

The medium density houses will be two-storey in nature and each will have a single car park contained within a single storied garage. Visitor parking and overflow parking will be available for the dwellings within the child-care car park after-hours and during weekends.

The child-care facility proposes to operate between the hours of 7 am and 6 pm with a maximum of 130 children plus staff. The child-care activity will be accommodated within a purpose built two-storey building. New outdoor play areas will also be constructed to the north of the childcare building.

A new two-way driveway will be provided to service both the medium density housing and the child-care facility. Suitable infrastructure is also proposed to be provided.

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 key issue associated with this application is the potential effect the child-care facility may have on the amenity of the existing area, particularly in regards to noise and also effects on the built environment of the immediate vicinity. Effects of medium density housing can also arise in regards to character, dominance and visual privacy. Infrastructure capacity and traffic effects may also result from both activities.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence being submitted, **consent be approved** for the operation of the child-care facility and construction of the medium density housing.

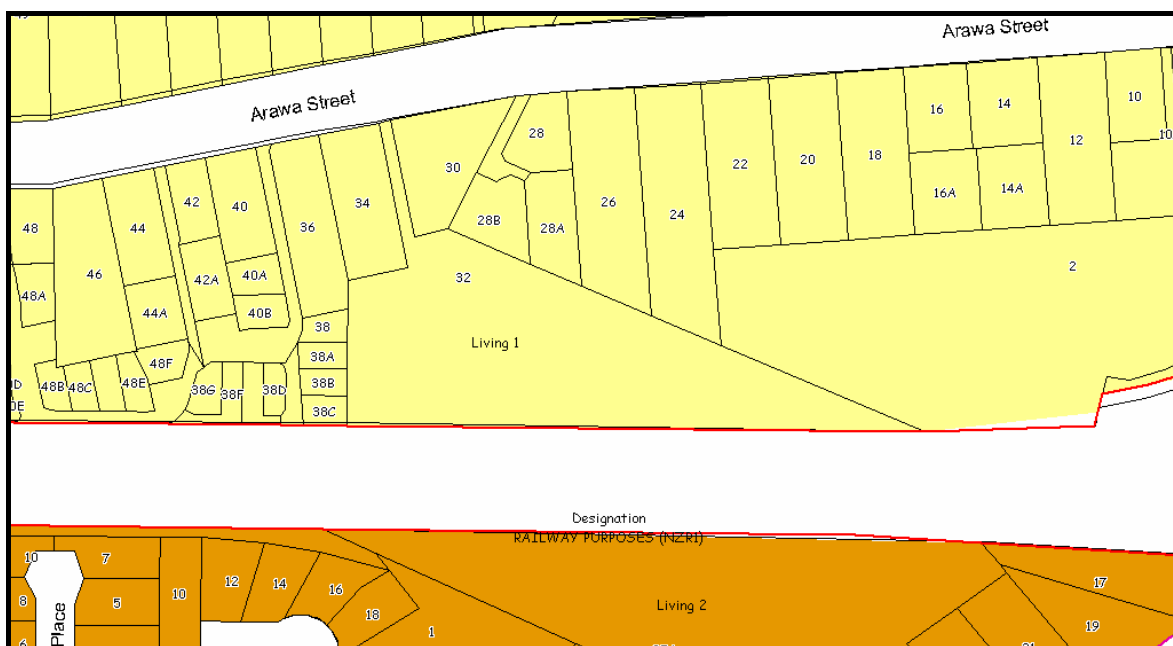
Subject to a number of conditions relating to the operation of the child-care activity, traffic management and construction activities, it is considered that the environmental effects that may be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of the District Plan will be satisfied.

2.0 LOCATION PLAN

Aerial View March 2000



Human Environment zonings



The site is legally described as CT NA1125281, Lot 8 DP 37236 (32 Arawa Street) and CT NA968210, Lot 7 DP 37236 (34 Arawa Street) and has a combined area of 6654m². It is located within the Living Environment and has a General Natural Area classification with a very small portion of the site to the east being located in a 7m Riparian Margin associated with Scroggy Stream.

The site is located within the medium density circle as it relates to the New Lynn rail station. It is not reticulated in terms of stormwater disposal.

3.0 PROPOSAL

The applicant seeks consent to provide for the operation of a child-care facility for up to 130 children plus staff. It is proposed to open the child-care facility Monday to Friday 7am until 6pm. The facility will not be open on Saturdays and Sundays or public holidays.

The child-care facility is proposed to be a single storied purpose-built building. The building is to be located within the eastern portion of the site, against the southern boundary. The floor plan of the child-care facility will comprise five classrooms and three baby rooms with ancillary storage, office, kitchen and changing areas. It will also have an exterior covered recreation area accessed from the eastern side of the building.

A 6 metre wide two-way vehicle access is proposed to provide access to the site for the medium density housing and also to 32 car parks. A number of speed calming devices and pedestrian access paths are located within the car park along with landscaping areas. The primary landscaping area extends in a north-south direction to provide screening between the medium density housing in the main parking area. The car park is structured to provide one-way circular movement for vehicles.

Additional landscaping is proposed along the northern boundary. The landscaped area is adjacent to the outdoor play areas for the child-care centre. Further landscaping is proposed for the front yards each of the medium density residential units.

The medium density housing will be two-storey in design with exterior cladding including weatherboard and some Titan board for garages. The ground floor will generally contain dining and living areas, along with the kitchen. The first floor will contain two bedrooms and a bathroom. The buildings are largely rectangular form with mono pitched roofs. Outdoor living courts are proposed to the west of the dwellings.

A sign is proposed to identify the child care activity. The sign is proposed to be free standing and located adjacent to Arawa Street within the front yard of Unit 1, set back 1 m from the front boundary. The sign will be 1.8 m high x 0.9 m wide (1.62m² in area). The top of the sign will be 1.8 m above ground level.

Vegetation removal and earthworks are required to establish both the medium density housing parking areas and the child-care centre. This will include removal of generally protected vegetation and earthworks of 1270m³ over the majority of the site. Works are also proposed within the riparian margin. The riparian margin works proposed consist of a temporary bund for the purposes of sediment control during earthworks. Planting within the riparian margin is proposed as part of the overall landscaping for the site.

The following protected vegetation is proposed for removal:

- Bottle brush (inside child's play area, protected by girth);
- Peppermint gum (protected by height and girth);
- Banksia (in play area).

Macrocarpa trees to the east of the site have already been removed. The following trees (not protected) are also proposed to be removed as part of the works:

- x2 Silver Dollar Gum (at rear of site);
- Acmena hedge (along boundary);
- Pine tree (in play area).

A 2m high noise attenuation wall is proposed along the northern and eastern boundary of the site. The purpose of the wall is to ensure noise generated by the child-care activity is able to meet District Plan noise controls. The fence will also provide some visual privacy and help mitigate traffic noise from vehicles entering and leaving the site.

Stormwater disposal will be to the existing stream via a rain garden and swale devices. An existing wastewater connection is located on the site and this will be utilised to service both the medium density dwellings and the child-care facility.

A new vehicle crossing is proposed to service the site, the crossing will be 6m in width at the property boundary.

A stormwater discharge consent has been granted by the Auckland Regional Council for the proposal.

Separate subdivision application will be required to provide individual titles for each of the proposed units, including the common access area and the child care facility.

4.0 REASONS FOR THE APPLICATION

4.1 Reasons for Consent

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

Living Environment

- (a) The proposal includes a medium density housing development on a site greater than 2000m² with 10 dwellings proposed. This is a limited discretionary activity. (Rule 2, Living Environment).

- (b) A non-residential activity is proposed on the site. The use of the site to contain a child-care facility for up to 130 children is proposed. This is a discretionary activity. (Rule 10, Living Environment).
- (c) The application involves traffic generation from a non-residential activity in excess of 20 vehicle movements per day. This is a discretionary activity. (Rule 11, Living Environment).
- (d) Car parking and driveways associated with non-residential activities and medium density housing is a limited discretionary activity. (Rule 12, Living Environment).
- (e) A sign with the dimensions of 1.8 m x 0.9 m is proposed. The sign will have an area of 1.62 m. This is a non-complying activity. (Rule 15, Living Environment).

General Natural Area

- (f) Vegetation removal is proposed. The removal of three exotic trees is proposed as part of the application. This is a limited discretionary activity. (Rule 2, General Natural Area)
- (g) Earthworks of 1270m³ are proposed to form the parking areas and building platforms. The earthworks will cover the majority of the site (6654m²). This is a discretionary activity. (Rule 3, General Natural Area)

Riparian Margin

- (h) Earthworks of 30m³ are proposed with and the riparian margin to construct a temporary bund. This is a limited discretionary activity. (Rule 3, Riparian Margin).

4.2 Activity Status

Overall, the application is considered to be a non-complying activity. The proposal complies with all other development controls under the District Plan.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The site is a rear site and is currently occupied by a child-care facility. The child-care facility accommodates 65 children and staff. There are a number of buildings on the site. The building which accommodates a child-care premise is a 1960s weatherboard dwelling which has been modified for the purposes of containing the child-care centre. Two other prefabricated buildings are also provided to accommodate office and other support activities on the site. There is an outdoor playground to the immediate east of the existing building.

The primary activities on the site currently occur within the north western corner. This includes access and parking. The remainder of the site is largely grassed with some sparsely located vegetation. The site contour slopes gradually down to the east where it meets a tributary of the Scroggy Stream.

Access to the site is via a single vehicle crossing and the driveway of approximately 3 m in width. The driveway runs between numbers 30 and 34 Arawa Street.

The property at 34 Arawa Street contains a single level timber clad dwelling. The dwelling is typical of those in the area.

To the west of the subject site are a number of residential properties. The immediate area to the west has been subject to infill housing and contains a moderate to high density. A number of properties to the west of the subject site have views directly onto the site. These properties include numbers 38, 38A, 38B and 38C Arawa Street.

To the north of the site are a number of multiunit flats. These are estimated to have been constructed in the 1960s and 1970s. In particular, 24 and 26 Arawa Street, face directly onto the subject site. There is little screening between these two properties and the subject site.

To the south of the site is the North Island main trunk rail line. The railway is located on top of an embankment approximately 2.5m to 3m in height. It is largely gravel covered with low growing weed species but does contain some more substantial trees towards the eastern end of the site.

At the very eastern end of the site is a small development known as 2 Arawa Street. This is a medium density development which has access from Arawa Street and extends towards the subject site. The property shares a common boundary with the Scroggy Stream and the subject site. A small pedestrian stairway links the subject site and the riparian reserve on 2 Arawa Street.

There is some vegetation located near Scroggy Stream, although this is not significant. Scroggy Stream itself does not pass through the subject site, although it is in close proximity of the boundary at the eastern end of the site.

Vegetation on the subject site is limited to a small number of exotic and native trees. There are no significant garden or planted areas. A large expanse of lawn to the north and east of the site does however provide a sense of open space.

The immediately surrounding area is characterised by residential development ranging in age from the 1960s through to present. Beyond the housing development at number 2 Arawa Street and the more high density housing at number 38 to 38C Arawa Street, the majority of housing are freestanding homes of residential sites approximately 300m² to 500m² in size.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

6.1 Submissions

A1-A68

The application was lodged on 9 August 2007 and the applicant requested public notification under the provisions of Section 94C. The application was publicly notified on 13 December 2007. The period for submissions closed 31 January 2008. Twenty four submissions were received and have been attached at pages A1 to A68. The submissions are summarised as follows:

No.	Name	Address	Summarised Reasons
1	Raewyn Farrell	34 Arawa Street	Supported enlarged childcare
2	Li Zhang & Hong Li	21/2 Arawa Street	Support childcare and new building
3	Waitakere City Council, Social Infrastructure	Andrew Wood	Supports provision of childcare in the New Lynn area.
4	Dilip Kumar & Vandeeta Tailor	16/2 Arawa Street	Support larger childcare for neighbourhood. Support pruning of trees overhanging property
5	Judith Anne Lyons	1/38 Arawa Street	Support childcare redevelopment. Oppose new dwellings. Loss of privacy, peace/amenity currently available when childcare not operating

No.	Name	Address	Summarised Reasons
			(i.e. out of business hours due to provision of new dwellings Two storey dwellings loss of privacy - to bedroom Consent childcare. Conditional consent dwellings: restrict to six two storey dwellings or Six two storey dwellings and four single storey dwellings.
6	Jane Lyons	1/38 Arawa Street	Support childcare redevelopment Oppose new dwellings Loss of privacy, peace/amenity currently available when childcare not operating (i.e. out of business hours due to provision of new dwellings. Two storey dwellings loss of privacy - to bedroom. Consent childcare. Conditional consent dwellings: restrict to six two storey dwellings or Six two storey dwellings and four single storey dwellings.
7	Ivy Belich	30 Arawa St	Opposes. Density of housing, traffic impacts Arawa St, traffic noise past lounge. Reduce number of units. Reduce childcare roll.
8	Paula Balfour	6/31 Arawa St	Opposes. Traffic impacts, housing density Commercial density of childcare business. Decline.
9	Michael George & Sabrina Margaret Edwards	3/38 (The Close) Arawa St	Oppose two storey dwelling units: Loss of privacy, obstruction of sunlight, obstruction air flow/breeze. Decline or limit to single storey.
10	Beverly Smith	2/31 Arawa St	Increased traffic. Decline.
11	Sharon Osman	28B Arawa St	Opposes. Car park adjacent submitters site bedrooms and dining - impact fumes and noise from cars. Downgrades existing open outlook. Stormwater from paved area potential to runoff into submitters site. Masonry base will inhibit stormwater from submitters site out to rain garden and stream. Conditional consent: Landscaping (trees) at common boundary to absorb car fumes and improve outlook/buffer at boundary. Confirmation of stormwater arrangements to provide for submitters existing situation
12	Samantha Townsley	4/38C Arawa St	Opposes. New dwellings only: Development of two storey houses along common boundary. Loss of privacy – new dwelling looking into lounge. Loss of sunlight. Loss of amenity indoors and outdoors due to loss of sunlight. Outdoor area only available outdoor area to submitter. Decline.

No.	Name	Address	Summarised Reasons
			Or Conditional consent: Restrict dwellings to single storey Or move dwellings to east side of the site or other position after analysis of impact on submitter site.
13	Antony Lewis Anson	Owner 3/2& 7/2 Arawa St	Oppose childcare expansion Neutral on housing. Building closer to boundary of 2 Arawa. Prolonged noise at maximum permitted level. Conditional consent: Childcare to remain in same relative location and upgraded
14	Jessie Lancaster	44 Arawa St	Opposes. Excess traffic from childcare and housing on road. Decline.
15	Moe Foster	1/36 Arawa St	Opposes. Construction phase – Dust, vibration, air, pollution, noise (trucks & machinery), traffic Post construction - Traffic, noise, parking spaces, density of dwellings, privacy, delivery times, reports on dust, air pollution and vibration management Time frame for buildings. Parking for staff required. Privacy – requested relocate or redesign?
16	Pravin D'Lima	22 Arawa Street	Traffic impact on Arawa St Loss of residential character, ambience and amenity. Reduce dwellings to 5 Restrict childcare to 80. Ensure children do not go onto adjoining sites Traffic restrictions Arawa St
17	John Ramsay	28 Arawa St	Opposes. Increase in density Traffic impact particularly morning
18	Ivan & Janice Rodrigues	28A Arawa St	Opposes. Traffic, trees not car parks Precedent for further multi unit development. Reduce number of units. Max roll for childcare 80.
19	Kevin & Linda Baker	1/36 Arawa St	Opposes. Construction phase – Dust, vibration, air, pollution, noise (trucks & machinery), traffic Post construction - Traffic, noise, parking spaces, density of dwellings, privacy, delivery times, reports on dust, air pollution and vibration management Time frame for buildings Parking for staff required Privacy – requested relocate or redesign?
20	Jim Mac Donald	2/36 Arawa Street	Opposes. Dwelling unit development opposed – closest point 1.2m from common boundary – loss of privacy. Living areas orientated towards application site – new dwellings overlook from upper level - loss of amenity. Loss of privacy from over viewing from new dwellings. Two storey dwellings will erode amenity and visual appeal – enclosing submitters site – reduction amenity Loss of sunlight from new housing. Traffic noise associated with new

No.	Name	Address	Summarised Reasons
			dwellings Traffic impact morning peak from childcare centre on street network. Potential noise impact from outdoor activities of children at childcare. Traffic noise from site – increased traffic movements. Seeks decline or Conditional consent: No dwellings along common boundary Screening along common boundary. Redesign of dwellings to locate to north and south of submitters site i.e. orientated away from submitters property. Noise attenuation of new dwellings. Visitor parking for residents be limited to outside childcare hours – possibly “locking off” majority of parking area outside childcare hours Reduce number of traffic movements in morning peak. Possible reduction of student numbers to reduce potential noise
21	Vickianne Thereasa Holmes	3/31 Arawa St	Opposes. Traffic and parking increase. Trucks on drives especially with judder bars (construction). Safety of children drop off interacting with housing.
22	Bruce & Nicole McAnulty	20 Arawa St	Opposes. Traffic and parking increase / congestion in Arawa St. Noise from childcare – will be closer to common boundary Noise form additional dwellings. Reduce number of dwellings and size of childcare centre.
23	J Davidson	46/2 Arawa St	Neutral
24	A Davidson	46/2 Arawa St	Neutral

A70

A map showing the location of the submitters is attached at page A70.

6.2 Pre Hearing Meeting

No pre-hearing meeting has been held.

6.3 Written Approvals

No written approvals have been provided in support of the application.

7.0 STATUTORY REQUIREMENTS

7.1 Non-Complying Activity

The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail in Section 8.2 of 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 104D of the Act 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. Even where a proposal passes the s 104D threshold(s), the consent authority retains an overall discretion to grant or decline consent.

In terms of determining adverse effects, Council may disregard an adverse effect of an activity on the environment if the Operative Plan permits an activity with that effect (s 104(2)).

In some situations, the granting of consent to a non-complying activity may compromise the integrity of, and the public confidence in the administration of, a district plan. In such cases, there should generally be some unusual element to the proposal to avoid arguments of precedent and impacts on integrity of the plan. If such unusual circumstances do not exist, then the proposal would effectively compromise the integrity of the District Plan, and public confidence in the consistent administration of the Plan may be undermined. These are discretionary considerations for the consent authority in its assessments under s104, 104D and Part 2 of the Act.

According to the Court of Appeal decision in *Dye v Rodney District Council*, an adverse precedent effect can arise where the grant of a non-complying consent would influence the approach taken by Council to similar consent applications. Such a precedent effect does not arise here because the site is unusual in this residential zone due to its long history of commercial use.

The assessment which follows within this report demonstrates that, subject to the District Plan noise controls being met at all times, the proposal would generate no more than minor adverse effects on the environment. Jurisdiction to grant consent in part has therefore been established.

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

In order to make a decision in terms of Section 104B of the Act it is necessary to undertake an analysis and assessment to determine whether the purpose and principles of the Act are being met (Part II) having regard to the matters set out in Sections 104, 104A - 104D as relevant, the Fourth Schedule and any other statutory considerations.

Section 104(1) of the Act requires that Council have regard to any actual or potential effects on the environment, any relevant objectives, policies, rules or other provisions of a plan or proposed plan and any relevant regional policy statement and regional plan or proposed plan, and any other matters the consent authority considers relevant and reasonably necessary to determine the application.

When considering an application Council must not have regard to any effect on a person who has given their written approval to the application (section 104 (3)(b)) and may disregard an adverse effect of an activity on the environment if the Operative Plan permits and activity with that effect (section 104(2)).

8.1 Assessment of Environmental Effects (104(1)(a)): Actual and Potential Effects on the Environment.

The following assessment has been undertaken on the basis of the information provided, the further information and the reports and recommendation of appropriate specialists. These specialist reports are attached at pages A72 to A98.

A72-A83

8.1.2 Water Quality and Quantity

The effects of both the stormwater generation and wastewater disposal have been assessed by Ecowater. The applicant provided a proposal for stormwater disposal which has been reviewed by Mr Tekumalla of Ecowater. Mr Tekumalla has concluded that the capture of stormwater and disposal of stormwater via a rain garden and swale ensure effects on water quality and water quantity are mitigated. The rain gardens are 150m² and 95m² in size and are proposed to be located in the centre of the parking area and along the northern boundary. A grass swale is also proposed along the northern boundary to pre-treat run off into the rain garden.

In regards to waste water, the existing public wastewater line is to be extended to cater for the proposal. The water supply line will need to be extended and upgraded in order to provide sufficient water for fire fighting supply.

The site is known to be subject to overland flow. Mr Prasad Tekumalla has recorded that the realignment of an overland flow path is proposed and that the proposal will be able to cater for the 1% AEP flow across the site. All buildings have also been designed with a 500 mm free board to finished floor level. Subject to conditions, which are included within the recommendations of this report, there will be no significant adverse effects in relation to water quality/ quantity arising from the proposed activity as treatment and control are proposed.

A84-A86

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

Vegetation removal is proposed as part of the application. The removal of three generally protected trees are proposed as well as the removal of species listed as 'removable species' in the District Plan appendices. The tree removals have been assessed by Council's arborist Mr Phillip Russell in conjunction with Council's Landscape Architect Mr Gordon Griffin. Mr Russell has concluded that none of the trees proposed for removal are significant specimens, and that the removal can be mitigated by suitable replacement planting as proposed in the landscaping plan.

A landscape plan has been provided for the overall site. The plan has been assessed by Mr Griffin. Mr Griffin has, subject to a number of conditions, approved the landscape plan as suitable for mitigating both visual and amenity effects associated with the development. Mr Griffin has further confirmed the suitability of the replacement planting proposed in regards to mitigating the loss of the exotic trees from the site. A number of submissions have been received regarding the amenity of the site. The landscaping proposed will assist in improving visual amenity of the site and softening the proposed paved areas.

The existing site is largely grassed and no significant effects are considered to arise in regards to loss of habitat for native flora or fauna.

A87-A91

8.1.4 Land / Soil

The applicant proposes earthworks within both the General Natural Area and also within the Riparian Margin. Works within the riparian margin are proposed to include the installation of a temporary sediment control bund.

Almost all of the site will be earthworked to enable the construction of building platforms for the medium density housing, parking areas for both the medium density housing and childcare and the building platforms and outdoor play areas for the child-care centre.

A sediment control plan has been provided to support the application. The sediment control plan has been reviewed by Ms Jasmine Gray, Councils Environmental Monitoring Officer. Ms Gray has concluded that the sediment control proposed is suitable for the works except for the proposed earthworks within the Riparian Margin. The works within the Riparian Margin are considered to pose a significant risk to the adjoining waterway and are not support for approval as part of this application.

Ms Gray has recommended a number of conditions be imposed to ensure that suitable sediment control methods are engaged for the duration of the works. The conditions also provide for the applicant to re-submit a revised sediment control plan which reflects no works being undertaken within the Riparian Margin. These conditions are proposed to be included as recommendations within this consent. The implementation of these conditions will ensure that off site effects in regard to earthworks are limited and this will assist in alleviating submitters concerns, particularly during construction.

Overall, the scale of earthworks proposed is in keeping with the development size. Earthworks have been minimised on the remainder of the site and are able to be undertaken in such a manner that limits sediment loss. The imposition of the proposed conditions, combined with no works in the Riparian Margin will ensure off site effects of the earthworks will be no more than minor in regards to adjoining sites and the Scroggy Stream tributary.

8.1.5 Air

The proposed activity does not include air emissions of any kind, there would be no adverse effects on air quality. Conditions of consent are proposed to ensure that any dust nuisance is suitably managed.

8.1.6 Ecosystem Stability

As noted previously, the site is currently covered in grass with some sporadic trees. The site does not provide any significant ecological habitat and does not contribute significantly to ecosystem stability. No discernible change in the wider ecosystem stability is anticipated as a result of the proposal. Some positive effects may arise as a result of the development in regard to ecosystem stability, due to be landscaping proposed and the improved variety of plant species which will be established on the site.

8.1.7 Outstanding Natural Features; Landforms, Geological Sites

The subject site is not identified in the District Plan as being within an area identified as containing "outstanding natural features". The proposed activity would not therefore adversely affect any identified outstanding natural features.

8.1.8 Natural Character of Coast and Margins of Lakes, Rivers and Wetlands

There would be nil adverse effects in relation to the natural character the coast or lake margins as there are none in and the immediate locality. The site is however located near a tributary to the Scroggy Stream. The existing stream edge does not have significant natural vegetation or character where it passes through the site. The applicant has proposed significant planting along the northern boundary adjacent to the stream. This will significantly improve the character and amenity of the stream edge.

8.1.9 Outstanding Landscapes

The subject site is not identified in the District Plan as being within an area of “outstanding landscape” within the City (refer Maps 3.6). The proposed activity would not therefore adversely affect any identified outstanding natural features.

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

A99-A108

Medium Density Dwellings (Medium Density Housing Criteria are attached at pages A99 to A108).

As noted previously, ten medium density dwellings are proposed to be located along the western boundary of the site. The dwellings will effectively form a line of housing running north to south.

The dwellings are divided into two groups, Units 1 to 4 are detached dwellings. Units 5 to 10 are all attached housing, each being attached to its neighbour by a single car garage. All of the dwellings face east and their main entry points are orientated towards the internal road. The internal road provides access to both the child-care and the dwellings ‘street frontage’.

Mr Joyce, Council’s Urban Designer, has reviewed the proposal and the applicant has made a number of changes in order to be to meet the Council’s urban design criteria for medium density housing. The proposal is generally in accordance with the criteria provided within the District Plan relative to medium density housing. The housing will provide good frontage onto both the internal road and Arawa Street; passive surveillance over the child-care centre and parking area; and is located within easy walking distance of the rail station at New Lynn. A number of submissions indicate that the area is not suitable for medium density housing, however the District Plan clearly signals medium density housing is anticipated within this location where design criteria are satisfied. A detailed assessment of the medium density housing criteria is located within Annexure 8 of this report.

Dominance

All of the dwellings comply with the District Plan’s height in relation to boundary control as it applies to the western boundary. Unit 1, the unit closest to Arawa Street, meets the 3m front yard setback. The District Plan rules do not require that height in relation to boundary is met on internal site boundaries between units. Effects which result on the properties to the east of the subject site in regards to dominance or shadowing are considered to be within those anticipated by the District Plan.

Submissions have been received in regards to dominance effects. It is recognised that there will be a change in dominance effects experienced by some adjoining property owners (particularly those to the west of the site).

However buildings are set back from the west residential boundary by a minimum of 4m. No dominance effects beyond those permitted by the Plan are anticipated as a result of development on the site. It is likely that should the entire site have been developed for medium density housing, (ie no child care centre), that significantly greater dominance effects would result; even if the medium density dwellings meet all District Plan bulk and location controls.

All buildings associated with the child-care activity comply with the relevant District Plan bulk and location controls. This, in combination with the location of the building against the southern boundary will assist in mitigating dominance effects.

Privacy

The most significant potential for privacy effects results from the residential development location in relation to the western boundary of the site. It is noted however, that the dwellings are set back between 4m and 6m from the common boundary. The dwellings also meet height in relation to boundary controls.

The proposal will be required to meet the District Plan screening requirements ie 1.6m screening along the western boundary and between living courts of the medium density housing. A condition of consent is proposed to ensure this is provided. Further, primary indoor living areas are proposed to be located on the ground floor of the proposed dwellings. This will assist in limiting privacy effects on adjoining sites. Upstairs areas are utilised only for bedrooms and are less likely to generate privacy effects.

In regards to privacy for the properties to the east of the proposed dwellings, Units 1 to 4 are separated from properties to the east by a 6m wide driveway. Additionally a 2m fence is proposed along the eastern boundary of the driveway in between the Arawa Street frontage and Unit 4.

Privacy between the proposed dwellings will be achieved by fencing of the rear living courts units.

Privacy effects associated with the child-care facility have also been considered. As discussed further below, a 2m high fence is proposed around the northern and eastern boundaries, ie residential zone boundaries. This fence, combined with proposed landscaping and setback of the proposed child-care building, will ensure that privacy effects generated by the child-care activity, are minimal. The majority of activities carried out within the child-care centre will occur within the designated areas or outdoors. The main entry to the child-care centre is on the southern side of the building. This will ensure that the delivery and collection of children to the site is screened from residential neighbours.

The effects which could result from a medium density development occurring over the entire site are likely to be of similar or greater significance in regards to privacy. Overall, considering the proposed fencing, building setback and planting, it is the writer's that the effects arising in relation to privacy will not be more than minor.

Overall, there will be a change to the existing premises on site, and this is reflected in the submissions made. The change proposed is however considered to be minor in regards to the submitters sites, and not beyond those effects anticipated by the District Plan.

Character and Visual Amenity

The character of the area is mixed in regards to housing style and age. A number of properties to the west are modern homes which have been developed in a style similar to medium density housing. Infill housing with older style dwellings is also evident in the area. There is not considered to be a cohesive housing character in the area.

With the medium density housing proposal, Unit 1 will be the most visible dwelling from the street frontage. Although the main entry is from the access drive, the dwelling has been designed so that a large number of windows face north onto the street frontage.

A number of submitters have raised issues regarding character and visual amenity. In particular, the compatibility of medium density housing with surrounding housing has been identified as an issue. A number of requests to reduce the density proposed have also been made. For the reasons outlined in this report, the intensity of the development proposed is considered to be within the carrying capacity of the site and within the keeping with the existing character of the area.

A 1m to 1.5m high fence is proposed along the street frontage with landscaping. A sign is also proposed approximately 1 m from the Arawa Street road frontage. The purpose of the sign is to ensure that the access point for the child-care facility is clearly identified.

The sign is not significant in size (being a 1.8 m in height and 1.6 m² in area) and is not considered to detract from the streetscape amenity. Unit 1 is considered to be within the character of the wider area and also not detract from streetscape or wider visual amenity.

The child-care centre, whilst proposed to be a significant building, will have no effects on the streetscape character. It will have a modular form and variety of roof pitch; both factors will ensure that the building is not overly dominant. It is also predominantly a single storied structure. The only exception to this is the southern elevation, which presents a long façade which is largely unmodulated. This elevation however is not visible from any residential sites as it adjoins the abutment for the railway line.

A92-A94

Transportation

The proposal has been reviewed by Council's Transportation Principal Engineer Mr Sam Shumane. Mr Shumane has considered a number of factors in relation to the functioning of the site. These include the adequacy of parking, vehicle crossings and the functioning of the site in the wider road environment. The applicant has also provided a traffic impact assessment which has been reviewed by Mr Shumane.

Submitters have raised concerns regarding the functioning of the Arawa Road and Titirangi Road intersection. Mr Shumane has made a detailed assessment and review of both the access provision ie. driveway and vehicle crossing, car parking adequacy and the wider functioning of the roading network. This assessment extended as far as consideration of the functioning of Titirangi Road and Arawa Street intersection.

Both Mr Shumane and the applicant's traffic engineer have come to the conclusion that the parking provided on the site is suitable to accommodate the demand generated by both the child-care facility and the medium density housing.

In regards to the existing roading network's capacity to cater for the activity, detailed modelling and vehicle counts have been undertaken. This modelling has extended as far as the intersection of Titirangi Road and Arawa Street. The modelling has showed that the proposed activity can be accommodated within the existing roading network without modification to the network.

In summary, Mr Shumane considers the car parking and access arrangement is suitable to cater for the proposal.

In addition, Mr Shumane has also considered whether "no parking" lines should be installed adjacent to the property. This is a matter raised by a number of submitters. It is the opinion of Mr Shumane that the sites activities and roading network do not warrant the installation of no parking lines at this time.

Overall, traffic effects are considered to be no more than minor and Mr Shumane's has recommended a number of conditions which are included within this report.

A95-A98

Noise

The applicant provided an acoustic assessment as part of the proposal. This has been assessed by Council's acoustic consultant Mr Nevil Hegley. The applicant has not sought to vary the District Plan noise controls for the zone. In addition to the noise generated by site activities, Mr Hegley has also considered the effects which may be received by the subject site in regard to the North Island railway line.

Noise Generated by the Child-Care Activity

Both the applicant noise consultant and Council's acoustic specialist are of the opinion that the activity on the site can meet District Plan noise controls subject to specific works being undertaken. Central to the applicant's ability to meet the controls will be the construction of a 2m high acoustic wall around residential boundaries of the site.

The applicant proposes to construct a 2m high acoustic wall along the residential boundary to the north and east of the site. The purpose of this is to provide acoustic privacy and enable the activity to meet District Plan noise controls. Properties to the west are considered to be screened by the proposed medium density housing, and sufficiently distant from the child-care facility as not to be adversely affected by noise.

Consideration has also been given to traffic noise, in particular, noise generated by vehicles crossing proposed speed humps and accessing the site. Mr Hegley has assessed the speed humps and the design is considered to be appropriate and not to generate significant noise effects. The 2m high acoustic fence will also assist with noise mitigation in regards to the properties to the immediate east and north of the access drives and parking areas.

No indication has been provided by the applicant in regards to hours of deliveries, and/or collection of rubbish. A condition of consent is proposed which requires all deliveries and/or rubbish collection to occur while the centre is open ie between 7am and 6pm weekdays.

Noise Generated by the Rail Line

Mr Hegley has recommended a number of conditions of consent which relates to minimum design required to achieve internal acoustic privacy. These design requirements will apply both to the child-care activity (building) and also dwellings on the site. Adherence to these design guidelines will result in the District Plan acoustic privacy controls being met.

Overall, it is the opinion of Mr Hegley that, with suitable mitigation (both to protect off site activities from noise and also provide acoustic privacy for activities on the site), the activity can function on the site in compliance with the District Plan noise controls. I concur with the opinion of Mr Hegley, and include the conditions of consent suggested by Mr Hegley recommended for inclusion within this report.

Construction Noise

The District Plan noise controls in regard to construction will apply to the site. All works on the site during construction will be required to meet this control. Compliance with this will ensure a reasonable degree of a aural privacy during construction.

Overall, noise has been a key issue raised by submitters during the submission process. It is noted that the applicant is not seeking to modify the existing noise controls, but to undertake specific mitigation measures in order to ensure noise generated by the site activities meets all District Plan controls. Compliance with District Plan controls will ensure that the aural amenity of the area is maintained to the degree anticipated by the Plan.

Intensity of Use

It is proposed to accommodate up to 130 children plus staff on the site. The District Plan provides no guidance as to intensity levels on the site; however non-residential activities of this type are considered to be discretionary activities. Submissions have been received which suggest a lower number of children on the site is more appropriate.

There is considered to be suitable parking, access and infrastructure (water and roading) available to accommodate both the residential units and the child-care activity. Further, a compliant building (with associated outdoor area) is able to be located on the site to accommodate the numbers of children proposed. The intensity of the proposed activity is not considered to be beyond the carrying capacity of the site and the large size of the site is considered to be suitable to accommodate the proposal without generating significant adverse effects on the surrounding environment.

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

A109-A323

The effects of the proposal relate primarily to noise, privacy, traffic and parking, dominance and infrastructure capacity. Submissions received reflect these matters. As noted above, the privacy, traffic, parking and infrastructure effects are considered to either be adequately mitigated or within those anticipated by the District Plan. Appendix 9, attached at pages A109 to A143 contains the requested further information, further application plans accompanying the information is attached at pages A144 to A156 (Appendix 10) while the application as notified is attached as Appendix 11, pages A157 to A323.

It is considered that the actual and potential adverse effects of the proposed activity are minor (assuming District Plan Noise controls are met) and can be adequately mitigated through appropriate conditions of consent. In particular, conditions requiring adherence to the District Plan General Noise provisions, provision of suitable screening and control of stormwater.

8.2 Any Relevant Provisions of the District Plan 104(1)(b)(iv):

8.2.1 District Plan Policies and Objectives

It is considered that the proposed development would be consistent with the objectives and policies of the District Plan, provided that District Plan Noise controls are met at all times. The relevant objectives and policies in relation to this proposal are listed (*italics*) below with comment relating to the proposal following.

“Policy 1.2

Activities should be located within the urban area in a way that supports the reduction of vehicle trip length and numbers, and the promotion of passenger transport, therefore minimising discharges into the stormwater system and waterways of contaminants deposited onto impermeable surfaces from motor vehicles. Particular regard should be had for the location of medium density housing within and adjacent to central locations.”

Discussion

The proposal is within an area zoned for medium density residential development. It is in close walking distance to both the New Lynn rail station and the New Lynn shops. This proximity will promote the use of passenger transport.

“Policy 3.1

Medium Density Housing should be encouraged around main town centres, railway stations and major roads to help provide for the efficient use of land within the urban area.”

Discussion

As noted, the zoning of the site reflects the activity proposed. New Lynn has been specifically identified as a town centre around which residential intensification will be promoted. The proposal is consistent with this policy.

“Policy 8.4

Any activity within the Riparian Margins/Coastal Edges Natural Areas, Coastal Natural Areas and Protected Natural Areas that involves:

- *disturbance of soils and removal of rock;*
- *alteration to the natural character of the coastal area or impeding of any natural process that forms that character;*
- *alteration to the interface between land and water;*
- *removal of vegetation;*
- *should be managed in a way that avoids remedies or mitigates adverse effects on the natural character and mauri of the coastal area.”*

Discussion

The applicant proposed to undertake earthworks within the Riparian Margin. The works related to the construction of a temporary bund. The purpose of the bund was for sediment control. This is an element of the proposal which has not been supported or recommended for approval. Mitigation of sediment effects on streams is critical during earthworks and it is considered that the construction of the temporary bund within the Riparian Margin would not assist in this goal being achieved. Alternative options are available to the applicant in order to achieve suitable sediment control.

“Objective 10

To maintain and enhance those natural and physical characteristics (amenity values) that contribute to the wellbeing of residents and workers, including maintaining:

- *an acceptable level of quiet and freedom from nuisance created by noise, odour, dust and vibration;*
- *adequate levels of daylight and sunlight in dwellings;*
- *adequate levels of darkness for sleep;*
- *a safe environment;*
- *an accessible environment, which includes enhancing public access to and along the coast and waterways and between areas of public land;*
- *adequate levels of on-site privacy;*
- *healthy air quality.*

This Objective is intended to achieve, at the very least, a minimum level of physical health and wellbeing for residents, workers and visitors. The Resource Management Act requires the District Plan to manage the effects of activities on the environment and humans. It also requires the Plan to have particular regard for the maintenance and enhancement of those natural and physical characteristics that contribute to people’s appreciation of, amongst other things, its pleasantness. Any enjoyment or sense of pleasantness derived from the environment is fundamentally dependent on whether residents, workers and visitors find it a healthy place to be.”

Discussion

Objective 10 clearly indicates the need to maintain amenity including levels of quiet. The District Plan sets a minimum level of quiet by way of maximum noise limits. The applicant is seeking to comply with all noise controls.

An acoustic fence is proposed to achieve this. It is recorded that the non residential activity proposed will generate day time noise only. Noise emanating from the residential dwellings is not anticipated to be greatly different than other dwellings located within the zone.

"Policy 10.14

Activities should be of a scale and located and managed in a way that:

- *any traffic generated by the activity, including heavy traffic, does not detract from the capacity of the road to cater safely for motor vehicles, pedestrians and cyclists, and the wellbeing of residents occupying surrounding sites;*
- *the safe and efficient functioning of the road network is not adversely affected."*

Discussion

The functioning of the roading network has been considered by Mr Shumane who has concluded that the activity is suitable for the site and that the network requires no modification to cater for the activity. Traffic noise is proposed to be managed by way of a 2m high acoustic fence and the installation of suitable speed humps. It is noted that some level of traffic and vehicle noise would be generated by the existing child-care activity on the site.

"Policy 10.17

Settlement in all parts of the City should be at a density that is within the capacity of water supply, stormwater, wastewater and solid waste infrastructure to safely absorb the effects of that settlement, and to provide for the health of all residents, visitors and workers."

Discussion

A specific design has been provided in regards to stormwater management. The design includes both the treatment and retention of stormwater on the site. A rain garden and swale are proposed to achieve this. Sufficient waste water capacity is also considered to be available.

"Policy 11.11

Signs should be designed so that they do not intrude visually on to the amenity of the surrounding area or detract from surrounding neighbourhood character, and the safety of vehicles and pedestrians on any adjacent roads and state highways. Because of their potential to offend and adversely affect the neighbourhood character and amenity value of the City's residential environments, signage associated with commercial sex activities and small brothels that are home occupations are prohibited in the residential Human Environments of the City."

Discussion

The sign proposed is reasonably small in scale and will serve an identification purpose rather than solely advertising. The small size of the sign and its location within the property boundary will ensure that it does not overly dominate or detract from the streetscape in the immediate vicinity.

"Policy 11.12

Activities should be of a scale, and located and managed in a way, that does not increase the number of vehicle trips, including heavy vehicle trips, to a level that adversely affects the amenity values of the surrounding Environment or neighbourhood, taking into account the location of the site in relation to the roading hierarchy and the characteristic levels of quiet found in these areas."

Discussion

Vehicle trips to and from the site will increase as a result of the proposal. The increases will result from both the residential housing element and also the child-care facility. Amenity (noise and visual) will however be protected by a combination of fencing and screening. It is recorded that the site is large in size and currently under developed. Any level of development, permitted or otherwise, is likely to result in an increase in vehicle movements to and from the property. The bulk of the vehicle trips will be in the morning and evening peak hours and not during quieter evening times.

“Policy 11.18

Non-residential activities (other than retail activities) may be located within residential areas of the City, provided that the individual and cumulative impacts of such a provision do not adversely affect amenity values and neighbourhood character or fragment residential activities to the point that essential residential character is lost, and the safety of residents is harmed.”

Discussion

The proposal will not result in fragmentation or cumulative effects within the residential area. The child-care activity is located on a rear site and is completely screened from the road frontage. This results in no effects on streetscape character. The building associated with the child-care facility, whilst large, still maintains a residential form. This is primarily achieved through its single storied construction and modular form.

The child-care building is also well set back from the residential boundaries and its parking areas are (in addition to being fully screened from the road) proposed to be well screened from adjacent residential sites with planting and fencing.

“Policy 11.28

Medium density housing should be comprehensively designed so that a high quality of internal amenity is provided to the overall development. Particular regard should be given to:

- *designing for visual and aural privacy, safety, sunlight and daylight access, on-site parking and outdoor space in a way that is appropriate to and consistent with the medium density settlement pattern;*
- *protecting the privacy and amenity of surrounding residential areas;*
- *integrating the development with any adjacent public open space and road system such that safe use of these areas is ensured;*
- *integrating the development with the surrounding neighbourhood, and community focal points, so that they are accessible, where possible, on foot.”*

Discussion

The medium density housing has been comprehensively designed to be part of the overall site development. As a conjoint development with the child-care centre it provides for multiple use of the car parking area, passive surveillance and a sense of activity along the internal road frontage.

District Plan controls in relation to maximum height and height in relation to boundary would be met in regards to all external boundaries of the site. Privacy and amenity have been provided to levels anticipated within the District Plan by the provision of screening between sites. On-site parking and access is considered appropriate. Individual outdoor living areas are provided for each of the dwellings.

8.2.2 Rules and Assessment Criteria

The Plan has been prepared with a clear “effects-based” emphasis. Consideration of the proposed development in relation to each of the Plan’s assessment criteria would ensure that all the relevant matters contained in Section 104 of the Act have been addressed.

Whilst the Plan’s assessment criteria are generally applied to listed activities and not of the same relevance for non-complying applications, they are considered to generally describe matters for consideration and have been assessed as part of this application for completeness. Additionally, it is noted that only the sign is considered to be a non-complying activity. The relevant assessment criteria from the District Plan, together with comments as to whether each criterion can be satisfied are summarised as follows:

Rule 2 Living Environment (Living Environment)

2(a) *The extent to which the development complements amenity values and neighbourhood character.*

2(b) *The extent to which the development is compatible with the size of the site.*

2(c) *The extent to which the development complements existing development on the site, having regard to:*

- *separation distances between dwellings;*
- *the visual impact of access to rear dwellings;*
- *the visual appearance of the development from the road;*
- *privacy between buildings and of outdoor space.*

2(d) *The extent to which the development has regard to and where possible incorporates natural features on or around the site.*

2(e) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.*

[Note: Medium Density Housing Criteria are addressed in Annexure 8)

Discussion

The development proposed is considered to be compatible with the size of the site and not detract from existing amenity within the area. Inter-site privacy and dominance and visual effects are considered to be within those anticipated by the Plan. Natural features on the site (Scroggy Stream Margin) have been retained and enhanced.

Rule 10 Living Environment (Non-residential Activities)

10(a) *The extent to which the character, scale, hours of operation and intensity of Non-Residential Activities are compatible with amenity values and neighbourhood character.*

10(b) *The extent to which the effects of Non-Residential Activities on infrastructure can be accommodated without the need for public upgrading.*

10(c) *The extent to which Non-Residential Activities create adverse effects on the residential coherence and the safety of residents of the neighbourhood.*

10(d) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.*

10(e) *The extent to which regard has been given to section 15 of the Prostitution Reform Act 2003.*

Discussion

The building form and scale is considered to be compatible with the surrounding residential environment.

Noise generated by the proposed child-care activity is to meet Plan noise controls standards. The non-residential activity is restricted to day time hours. The residential character and coherence of the area is unlikely to be greatly effected given the existing child-care activity on the site and the rear site location of the proposal. Better surveillance of the site will be provided by the proposal, with the 10 residential units proposed having an overview of both the access drive and childcare facility.

Rule 10 Living Environment (Non-residential Activities Traffic)

8(a) *The effects of traffic generation on:*

- *the characteristic level of quiet in the area;*
- *the capacity of roads giving access to the site, having regard to the road's function in the Roding Hierarchy*
- *the amenity of front sites due to traffic generated by the non-residential use of any rear sites*
- *the safety of road users, including cyclists and pedestrians*
- *the extent to which trips from the urban area are generated by activities that may be more appropriately located in the urban area*
- *the landscape character.*

8(b) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.*

Discussion

The site will be accessed by a new driveway. The driveway is in a similar position to the existing driveway which provides access to the existing child-care centre. Visual and aural amenity is proposed to be protected by the provision of a 2m high acoustic wall. The most significant traffic flows will be during morning and evening peaks, with only limited night time use. The capacity of the surrounding roading network has been fully assessed by Mr Shumane, Councils Senior Traffic Engineer. Mr Shumane has concluded that the proposal is suitable in terms of its placement and location with the surrounding roading network.

Rule 12 Living Environment (Car Parking and Driveways)

12(a) *The extent to which driveways provide safe, maintenance-free, adequately drained, efficient, effective and visually attractive vehicular access from the road to buildings.*

12(b) *The extent to which car parking accommodates expected peak demand of an activity, having regard to the position of the site in relation to public transport routes and the parking capacity of adjacent roads, and the road's function in the Roding Hierarchy.*

12(c) *The extent to which driveways and car parking create adverse visual or aural effects on adjoining sites.*

12(d) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.*

Discussion

The proposed access and parking is to be formed paved and marked in an all weather surface. Stormwater from the car parking area will be collected and treated by a proposed swale drain and rain garden. Noise generated by vehicles entering and manoeuvring on the site will be attenuated by the proposed 2m high acoustic wall. The parking area will be screened from adjoining residential sites by proposed landscaping and the 2m high wall. The roading network in this area is considered to be adequate to cater for the anticipated traffic generation.

Rule 15 Living Environment (Sign)

- 15(a) *The extent to which signs are visually appropriate to amenity values and neighbourhood character.*
- 15(b) *The extent to which signs create a situation hazardous to the safe movement of traffic.*
- 15(c) *The extent to which signs are of a height which avoids the sign dominating the neighbourhood and nearby structures.*
- 15(d) *The extent to which more than minor adverse effects can be adequately remedied, mitigated or offset on-site or, if this is not possible, can be adequately remedied, mitigated or offset by a financial contribution off-site.*

Discussion

The sign proposed is considered to be visually appropriate within the streetscape. It will not create a situation which is hazardous to traffic; it is likely to assist with drivers being able to identify the site before indicating turning into the driveway. The height of the sign is not considered significant and is no greater than a m high fence which could be located on the front boundary as a Permitted Activity.

Rule 2 General Natural Area (Vegetation)

- 2(a) *The extent to which vegetation alteration adversely affects amenity values and neighbourhood character.*
- 2(b) *The extent to which vegetation alteration will threaten natural ecosystems.*
- 2(c) *The extent to which vegetation alteration creates, contributes to, or exacerbates stability problems.*
- 2(d) *The extent to which development is located or can be designed in a way that avoids the need to remove vegetation, and in particular the removal of any trees which are notable examples of their species.*
- 2(e) *{A74} The extent to which the proposed vegetation alteration is necessary:*
 - *to accommodate development otherwise permitted by the Plan;*
 - *to ensure the safety or integrity of existing development on the site;*
 - *for pruning to provide light;*
 - *for pruning to preserve public views;*
 - *to facilitate the appropriate use of land in the Open Space Environment.*
- 2(f) *The extent to which the vegetation alteration adversely affects plant health.*
- 2(g) *The extent to which vegetation alteration adversely affects the historical, cultural or spiritual significance of any site or waahi tapu of significance to iwi or archaeological site.*
- 2(h) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.*
- 2(i) *The extent to which vegetation alteration reduces the ability to create linkages between native vegetation, fauna habitats, or natural features or landforms.*
- 2(j) *The extent to which vegetation alteration can be offset by restoration or enhancement around and within the area subject to the application.*
- 2(k) *The extent to which vegetation alteration adversely affects the significance, natural character or landscape value of any natural features.*
- 2(l) *The extent to which the proposed vegetation alteration is for development proposed in a relevant Operative Reserve Management Plan, Parks Concept Plan, current Waitakere City Parks Strategy or current operative Regional Parks Management Plan.*
- 2(m) *The extent to which the proposed vegetation alteration in an Open Space Environment avoids significant vegetation and any species known to be threatened, endangered or uncommon.*

Discussion

None of the vegetation proposed for removal is considered to be significant or of great amenity value. The trees found on the site are limited to sporadic domestic scale plantings located within a vast grassed area. The removal of the trees will not result in a loss of ecosystem connectivity. Mitigation in the form of landscaping is proposed.

Rule 3 General Natural Area (Earthworks)

- 3(a) *The extent to which the scale of earthworks is consistent with the scale of development being undertaken.*
- 3(b) *The extent to which earthworks adversely affect the potential for restoration or enhancement around the area of earthworks.*
- 3(c) *The extent to which earthworks reduce the amount, range and linkages between representative vegetation, fauna habitat and natural features.*
- 3(d) *The extent to which earthworks adversely affect the significance or landscape value or natural character of natural landscape elements or other natural features.*
- 3(e) *The extent to which earthworks exacerbate or contribute to flooding, erosion or instability of land or the potential for flooding, erosion or instability of land.*
- 3(f) *The extent to which earthworks adversely affect or contribute to degradation of natural watercourses in a way that destroys or reduces their ability to support instream vegetation and fauna, their ability to be used as a healthy food source, their clarity, quality and flow and their suitability for swimmers.*
- 3(g) *The extent to which earthworks adversely affect the mauri (life force) of water.*
- 3(h) *The extent to which earthworks adversely affect the visual amenity of the site or adjoining sites.*
- 3(i) *The extent to which cut and fill activities involving earthworks are confined to the site rather than being transported off the site.*
- 3(j) *The extent to which earthworks may harm the health and safety of residents.*
- 3(k) *The extent to which heavy vehicle traffic generated to the site by earthworks activities creates:*
- *physical damage to a road;*
 - *a situation hazardous or unsafe to road users.*
- 3(l) *The extent to which earthworks are necessary to accommodate development otherwise permitted by the Plan, or to facilitate the appropriate use of land in the Open Space Environment.*
- 3(m) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.*
- 3(n) *The extent to which a driveway requiring earthworks is designed to minimise earthworks, particularly by limiting the distance of the driveway on the site.*
- 3(o) *The extent to which earthworks are avoided.*
- 3(p) *The extent to which unavoidable earthworks are minimised.*
- 3(q) *The extent to which the duration of earthworks is minimised.*
- 3(r) *The extent to which the proposed earthworks are for development proposed in a relevant Operative Reserve Management Plan, Parks Concept Plan, current Waitakere City Parks Strategy and avoids any species known to be threatened or endangered.*
- 3(s) *The extent to which the proposed earthworks in an Open Space Environment avoids significant vegetation and any species known to be threatened, endangered or uncommon.*

[Note: The General Natural Area criteria are assessed in conjunction with the Riparian Margin criteria in relation to earthworks.]

Rule 3 Riparian Margins (Earthworks)

- 3(a) *The extent to which earthworks degrade or lead to the degradation of existing water quality in the adjoining stream, river, lake, harbour or sea.*
- 3(b) *The extent to which earthworks adversely affect the overall resilience, biodiversity and integrity of the Green Network and, where possible, utilise areas of the site not within the Riparian Margins/Coastal Edges Natural Area.*
- 3(c) *The extent to which earthworks adversely affect the mauri (life-force) of land and water.*
- 3(d) *The extent to which earthworks adversely affect the water quality of taiapure or mahinga maataitai.*
- 3(e) *The extent to which earthworks adversely affect the historical, cultural or spiritual significance of any site or waahi tapu of significance to iwi.*
- 3(f) *The extent to which earthworks adversely affect the potential for restoration or enhancement around the area of earthworks.*
- 3(g) *The extent to which earthworks reduce the extent, range and linkages between vegetation, fauna habitat and natural features.*
- 3(h) *The extent to which earthworks adversely affect the significance or natural character, or landscape or heritage value of natural landscape elements and other natural features.*
- 3(i) *The extent to which earthworks exacerbate or contribute to flooding, erosion or instability of and, or the potential for flooding, erosion or instability of land.*
- 3(j) *The extent to which earthworks exacerbate or contribute to degradation of natural watercourses in a way that destroys or reduces their ability to support instream vegetation and fauna; their ability to be used as a healthy food source; their clarity, water quality and flow; and their suitability for swimmers.*
- 3(k) *The extent to which earthworks adversely affect the visual amenity of the site or adjoining sites.*
- 3(l) *The extent to which earthworks may harm the health and safety of residents.*
- 3(m) *The extent to which heavy vehicle traffic generated to the site by earthworks activities creates:*
- *adverse effects on amenity values and neighbourhood character;*
 - *a situation hazardous or unsafe to road users;*
 - *physical damage to roads.*
- 3(n) *The extent to which more than minor adverse effects can be adequately avoided, remedied, mitigated or offset through provision of works and services on or off the site and/or through payment or provision of a financial contribution.*
- 3(o) *The extent to which proposed earthworks are necessary to accommodate development otherwise permitted by the Plan, or facilitate the appropriate use of land in the Open Space Environment.*
- 3(p) *The extent to which earthworks are avoided.*
- 3(q) *The extent to which unavoidable earthworks are minimised.*
- 3(r) *The extent to which the duration of earthworks is minimised.*
- 3(s) *The extent to which earthworks adversely affect the natural, cultural and amenity values of surface water in rivers and lakes.*
- 3(t) *The extent to which the earthworks affect or may affect the water quality and aquatic ecosystem health of any part of the waterway, adjacent to, upstream of or downstream of, the earthworks.*
- 3(u) *The extent to which any earthworks associated with a subdivision can be avoided by carrying out works on parts of the site which are not in a Green Network Natural Area.*
- 3(v) *The extent to which any earthworks associated with a subdivision are designed to achieve a low impact on significant natural features.*
- 3(w) *The extent to which the proposed earthworks are for development proposed in a relevant Operative Reserve Management Plan, Parks Concept Plan, current Waitakere City Parks Strategy and avoids any species known to be threatened or endangered.*

- 3(x) *The extent to which the proposed earthworks in an Open Space Environment avoids significant vegetation and any species known to be threatened, endangered or uncommon.*

Discussion

The earthworks proposed are in keeping with the scale of the activity. The existing site is largely grassed with some buildings and sporadic trees. There are no significant natural features which will be lost as a result of the earthworks. There are no known waahi tapu or other historic or cultural features located on the site.

The applicant has provided a sediment and erosion control plan which will assist in ensuring effects on the surrounding environment (including Scroggy Stream tributary) limited. Vehicle movements required during earthworks and construction are not anticipated to unduly effect the operation of the roading network. There is sufficient room for on site manoeuvring for all vehicles, a number of access options also exist in regards to the surrounding roading network.

The works proposed within the Riparian Margin are not recommended for approval as part of this application. Whilst there is no significant vegetation located within the Riparian Margin, the earthworks are not considered necessary in order for the development to proceed and alternative methods are available. The Riparian Margin area is identified within the Plan as an area which is sensitive to earthworks and as such earthworks in this location should only be proposed where there are no feasible alternatives. Supporting the proposed earthworks would in my opinion be contrary to the relevant assessment criteria, particularly those which seek to minimise or avoid unnecessary earthworks, and may result in adverse effects on the Scroggy Stream tributary.

8.3 Auckland Regional Policy Statement, Plan or Proposed Regional Plan (104(1)(b)(iii) and (iv))

Auckland Regional Growth Strategy

The Auckland Regional Growth Strategy was first released in 1999. It identified the New Lynn area as the sub regional growth centre. In 2007 the Auckland Regional Council undertook a review of the Growth Strategy. This review has been supported by a number of technical publications relating to, among other things, residential and business intensification and transportation corridors. The review, entitled "Growing Smarter", has identified New Lynn as a priority in regards to sub regional development. One of the methods Waitakere City has used to implement the 1999 strategy and the 2007 review are series of Plan Changes which will increase intensification both for business and residential uses within the New Lynn area.

The District Plan seeks to implement the Regional Growth Strategy by providing for 'medium density housing' opportunities within 500m – 1000m of rail stations. A significant rationale for location of these areas is the ability of residents to access good public transport on foot.

As the proposal is located within a medium density circle, it is considered to be consistent with the Auckland Regional Growth Strategy.

Regional Plans

The applicant has advised that all necessary consents have been obtained in regards to the Proposed Regional Plan: Air, Land and Water.

8.4 National Policy Statement (104(1)(b)(i)(ii))

The proposal raises no matters in regard to the National Coastal Policy Statement.

8.5 Any Other Matters the Consent Authority considers relevant and reasonably necessary to determine the Application (104(1))(c)).

8.5.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

Airflow/Breeze

A submission has been received which raises concerns about loss of airflow or breeze around the submitters site. It is noted that the District Plan has no specific rules regarding these matters. However, the proposed buildings (medium intensity housing) are set back from the common boundary by between 4m and 6m. Whilst Units 5-10 are conjointly constructed, they are a mixture of one and two stories which should allow sufficient breeze to circulate over and around the buildings. No more than minor effects on airflow and/or breeze are anticipated.

8.5.2 Other Matters

Plan Change 18: City Wide Rule 2

Plan Change 18 proposes to introduce a new rule, which requires a site context analysis to be provided with each application for, among other things, medium density housing. The Plan Change has been heard and decisions released. A number of appeals have been lodged and weighting given to the Plan Change is limited.

The applicant has however provided a basic site context analysis which has been considered as part of this application.

Long Term Council Community Plan

Under the Local Government Act 2002, Councils were permitted to take development contributions towards the costs that capital growth imposes on the community. The financial contribution policy of the Waitakere City Council's Long Term Council Community Plan incorporates a development contribution based on the City's capital expenditure for infrastructure and community facilities for that ten year period. The development contribution has been estimated for this proposal based on 10 household units and the gross floor area of the child care centre plus the total impermeable surfaces generated through buildings, car parking spaces and access. This development contribution (estimated at \$139,569.47 including GST) would be eligible for a credit for one household unit and for the existing impermeable area generated by the existing child care centre.

A final estimate would be provided when a building consent for the development is uplifted. It is anticipated that the existing impermeable surface area would be provided to Council at the time that building consent application is made for demolition of the existing buildings.

Reserves Contribution

The reserves contribution would be considered in accordance with the Resource Management Act 1991, pursuant to Section 407, under a future subdivision. The sum to be paid in lieu of reserves would be computed from the gross realisation of 6% (plus GST) for Units 1 – 10 less any credits for the underlying titles. Council will obtain the valuation at the time an application is made for approval under section 224(c) of the Resource Management Act if subdivision is undertaken.

There are no other matters in relation to this proposal.

8.5.3 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 sediment and erosion controls, landscaping and parking layout.

8.5.4 Any Other Relevant Non-Statutory Documents

There are no other relevant non-statutory documents which require consideration in regards to the proposal.

8.6 Lapsing of Consent

Under section 125 of the Resource Management Act 1991, unless it is given effect to, a consent lapses either on the date that is specified in the consent or if no date is specified, 5 years after the date of commencement of the consent.

A standard five year period in which to give effect to this consent is considered appropriate given the scale of the activity proposed which will require the complete redevelopment of the site.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

It is considered that the proposal would be generally 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.

The proposal does not raise any issues in regard to the Treaty of Waitangi.

10.0 CONCLUSION

The site is located at 32 and 34 Arawa Street, New Lynn and is located within the Living Human Environment and the General and Riparian Natural Areas. The site contains an operational childcare facility. There is a long history of commercial use of the property which extends back ~50 years.

The applicant seeks consent to construct and operate a child care facility for 130 children. This will require the construction of a new purpose built building, associated outdoor play areas and a car park for 32 vehicles. In addition, the applicant also proposes to construct 10 medium density housing units. The dwellings will be two storied in construction and located at the western end of the site. Both the child-care facility and the medium density housing will share a common driveway from Arawa Street.

The application has progressed on a publicly notified basis at the request of the applicant. Twenty four submissions were received: two submissions in support; two neutral; three submissions, which proposed support in part and opposition in part; and the remaining submissions in opposition.

It is considered that the proposal largely meets the statutory criteria of Section 104D 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 proposal will not lead to a significant decline in the amenity values of the area in which it seeks to locate as long as District Plan General Noise Standards are maintained.

Subject to any additional and/or contrary evidence being presented, it is concluded that the application merits approval in accordance with Section 104 of the Resource Management Act 1991.

11.0

RECOMMENDATION

That pursuant to Sections 104,104B, 104D, 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 F and B McCloughen to construct and operate a child care facility for 130 children plus staff and construct 10 medium density housing units at 32 Arawa Street (CT NA112528 1Lot 8 DP 37236) and 34 Arawa Street (CT NA968210 Lot 7 DP 37236) for the following reasons:

- (i) The proposed activity provides a sustainable use of the site.
- (ii) The scale of earthworks proposed is in keeping with the activity. Suitable sediment and erosion control methodology has been proposed.
- (iii) The vegetation to be removed is not significance and replacement planting is proposed to mitigate its loss.
- (iv) The visual amenity of the area will be altered, however, the effects of this change are not considered to be more than minor.
- (v) Privacy effects are considered to be mitigated by the provision of screen fencing.
- (vi) The location of medium density housing within this area is anticipated and consistent with the District Plan.
- (vii) The proposed buildings (child-care and medium density housing) are not out of character with the area.
- (viii) The proposed parking area, vehicle access points and roading environment are able to cater for the anticipated parking demand and vehicle movements.
- (ix) The parking area will be screened from adjoining residential sites.
- (x) Infrastructure is to be installed to cater for wastewater and stormwater generated by the site.
- (xi) Adherence to the District Plans noise controls at all times will protect the amenity of the surrounding residential area.
- (xii) Privacy is provided by proposed vegetation along the northern and eastern boundaries.
- (xiii) The effects of the proposal overall are considered to be minor.
- (xiv) The proposal is considered to be consistent with the relevant assessment criteria.
- (xv) The proposal is considered to be consistent with the relevant objectives and polices of the Plan.

- (xvi) The proposal is considered to meet Section 104D.
- (xvii) The proposal is not contrary to part II of the Resource management Act 1991.

Consent shall be subject to the following conditions:

General

(GN1) The development shall proceed in accordance with the following plans and documents:

Plans prepared by W.J. Ward Architectural Design Limited and titled “Proposed Child-Care and Residential Development at 32 Arawa Street for Angels Kelston Park”, sheets 1-9:

- Site Plan Revision A dated October 2006
- Sections Revision A dated November 2007
- Floor Plans (Houses 1 to 4 and 5 to 10) dated June 2006
- House Profiles and Elevations dated March 2007
- Site and Drainage Plan (including rain garden) dated October 2006
- Site and Coverage Plan dated October 2006
- Child-Care Plan (part floor plan) dated October 2006
- Child-Care Plan (part floor plan) dated October 2006
- Elevations Child-Care Building dated October 2006 and including the following plans (in relation to landscaping) prepared by The Aesthetic Landscape Co Limited titled “Angels Child-care 32 Arawa St, Kelston Park Auckland” being sheets 1-3:
- Planting Plan Units 1 to 10 Frontages dated 1 May 2007
- Rain and Play Gardens Planting Plan dated 1 May 2007
- Boundary and Rain Garden Planting Plan dated 1 May 2007

Application documents prepared by Leijnen Consultants Limited (assessment of effects), acoustic assessment prepared by JP Styles Limited (environmental acoustics), stormwater and engineering report prepared by Forbes consultants (stormwater, wastewater and earthworks) and all referenced by Council as **LUC20071369** and the information, including further information, submitted with the application.

(GN2) The number of children accommodated by the child care facility shall not exceed 130.

(GN3) Days and Hours of operation for the child-care facility shall be as follows:
Monday to Friday..... 7 a.m. to 6 p.m.
The facility shall remain closed on weekends and public holidays.

Acoustic

(NE1) The site shall be designed and operated to ensure the noise level as measured at any part of any other Living Environment site shall not exceed the following limits:

7:00am – 7:00pm Monday – Saturday		7:00pm – 10:00pm Monday to Saturday 7:00am – 10:00pm Sundays & Public Holidays		10:00pm – 7:00am	
L ₁₀ 50dBA	L _{max} N/A	L ₁₀ 45dBA	L _{max} N/A	L ₁₀ 40dBA	L _{max} 70dBA

(NE2) The applicant shall provide a report at time of application for the associated building consent prepared by an acoustical engineer experienced in building

design, demonstrating how the development will be constructed to achieve an internal level of 35dBA 1 hour L_{eq} in all sleeping areas and 40dBA 1 hour L_{eq} in all other habitable rooms from train noise. The design shall be based on the forecast train movements in 10 years' time. Where windows must be kept closed to achieve the above design limits, an alternative ventilation system shall be installed. The cumulative effects of train noise and ventilation noise shall not exceed the above limits.

- (NE3) The noise levels shall be measured in accordance with the requirements of NZS 6801: 1991 Measurement of Sound and assessed in accordance with the requirements of NZS 6802:1991 - Assessment of Environmental Sound.
- (NE4) If requested by the owners' of the adjacent two storey houses, the noise level shall be checked at the second storey within six months of the centre opening. The results of the measurements shall be made available to the Council within two weeks of the monitoring.
- (NE5) Speed humps on site shall not exceed a height of 50mm.
- (NE6) A 2m high screen fence shall be constructed on the northern and eastern sides of the site. The design of this fence shall be undertaken by an experienced acoustic engineer and provided to Council prior to issuing a building permit for the development.

Earthworks

- (EW1) There shall be no earthworks within the Riparian Margin Natural Area to the satisfaction of Council's Environmental Monitoring Consent.
- (EW2) Prior to the commencement of any works on site a prestart meeting shall be held with the applicant, the earthworks contractor and Council's Environmental Monitoring Officer to discuss the conditions on consent and the sediment and erosion control conditions.

Please call the Council's Call Centre on 09 – 839 – 0400 to arrange this meeting.
Please allow five working days for this meeting to take place.

- (EW3) A revised sediment and erosion control plan shall be submitted to Council's Environmental Monitoring Officer with the following changes:
- The decant earth bund located solely within the General Natural Area;
 - A stabilised entranceway and wheel wash facility.

This plan shall be approved prior to a pre-start meeting being held and works on the site commencing.

- (EW4) Prior to the commencement of works the applicant shall provide Council's Environmental Monitoring Officer with a Traffic Management Plan. This shall be approved prior to works commencing on site.
- (EW5) All sediment and erosion controls shall be constructed and maintained in accordance with the Auckland Regional Council Technical Publication Number 90. to the satisfaction of Council's Environmental Monitoring Officer.

- (EW6) Additional sediment and erosion control measures shall be implemented on site if deemed necessary by Council's Environmental Monitoring Officer.
- (EW7) All cesspits within 50 meters of the Arawa Street vehicle crossing shall be protected by cesspit protection in accordance the Auckland Regional Council Technical Publication Number 90. These controls shall be maintained for the duration of the works, to the satisfaction of Council's Environmental Monitoring Officer.
- (EW8) All 'cleanwater' runoff from stabilised surfaces including catchment areas above the site shall be diverted away from the earthworks area via a stabilised system, so as to prevent surface erosion and sediment laden runoff.
- (EW9) A stabilised entranceway to the site shall be provided prior to the commencement of works and maintained for the duration of works. Additional measures such as wheel wash facilities shall be implemented (as) if deemed necessary by Council's Environmental Monitoring Officer to prevent the deposition of earth or other debris on the surrounding street network by vehicles entering and exiting the site. Any material deposited on the street shall be immediately removed by sweeping and any damage caused shall be immediately repaired at the expense of the consent holder. The consent holder shall notify Council's Monitoring Officer when entranceway controls are in place. Work shall not commence until approval has been gained in writing from the Manager Resource Consents.
- (EW10) All dirt tracked onto the surrounding roads as a result of the development covered by this consent shall be cleared by sweeping on a daily basis at the expense of the applicant. In case of repeated non-compliance with this condition, Council may engage the road cleaning contractor nominated by the applicant to carry out the road cleaning. Council's Environmental Monitoring Officer may engage the road sweeping contractor to carry out road cleaning if it is the Council's Environmental Monitoring Officer's opinion that the dirt on roads and/or footpath is creating an adverse effect on the environment. The road cleaning contractor shall be engaged at the cost of the applicant.
- (EW11) 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 and at the direction of Council.
- (EW12) All sediment and erosion controls shall remain in place until the completion of the earthworks. Express permission of Council's Environmental Monitoring Officer shall be gained before any controls can be removed.
- (EW13) The site shall be re-grassed or otherwise stabilised, to the satisfaction of Council's Environmental Monitoring Officer, within one week of the completion of the earthworks.
- (EW14) A wheel wash facility shall be provided at the site entrance on to Arawa Street and this shall be used by all heavy vehicles exiting the site to the satisfaction of Council's Environmental Monitoring Officer.
- (EW15) There shall be no stockpiling of excavated materials on site with the exception of topsoil to be re-used on the site. This shall be located away from residential boundaries and either grassed or covered in polythene to the satisfaction of Council's Environmental Monitoring Officer.

- (EW16) All development works on the site including earthworks and the use of associated heavy machinery shall be undertaken between the following hours only:

Monday - Friday: 8.00am - 6.00pm
Saturday 9.00am - 5.00pm
Sunday and Public Holidays: No Works

- (EW17) Any works generating dust shall cease until weather conditions are suitable to the satisfaction of Council's Environmental Monitoring Officer.
- (EW18) Additional dust control measures shall be provided if deemed necessary by the Council's Environmental Monitoring Officer.
- (EW19) Council's Environmental Monitoring Officer shall require works to cease on the site if dust is deemed to be a nuisance and no measures imposed reduce the dust to a satisfactory level.

Transportation

- (TA1) No fences or hedges higher than 1.0 metre be installed along the access driveway within 3m of the Arawa Street road boundary.
- (TA2) The design of the proposed access within the road reserve shall be reviewed and approved by the Manager, Transport Assets, Design and Planning at the building consent.

Ecowater

- (EC1) Divert and form the 1 in 100 year overland flow path as detailed in the report submitted by Forbes Consultants entitled 'The Engineering submission to the Stormwater Diversion and Discharge consent' [Reference Project 1447, dated 02nd August 2007]. The overland flow path is required to exit the property in the same location as it currently does prior to development. Provide an As-Built plan, long section and cross sections, prepared by a Licensed Cadastral Surveyor to demonstrate that the completed overland flow path meets the design requirements. Under future Unit Title subdivision consent, provide an easement over the area required to maintain unobstructed overland flow. This information will be recorded on Council's Hazards and Special Features Register.
- (EC2) All buildings are required to be located entirely outside the 1 in 100 year overland flow path area, and with finished floor level [in terms of LINZ datum] being not less than 500mm above the 1 in 100 year overland flow path level for catchments over 2 hectares. To ensure the unobstructed flow of the overland flow path during the 1 in 100 year storm event, the owner(s) of the property are required to comply with the following restrictions on an ongoing basis:
- (i) Open boarded fencing on the eastern end of the southern boundary, to a height of 200mm off the ground to allow the overland flowpath to pass through unobstructed.
 - (ii) Do not change the ground levels within the overland flowpath area as shown on the plan by Forbes Consultants Ltd. Do not obstruct the free flow of flood water through the property with any object, landscaping, building, or structure.

The above will be monitored by Council to assess the ongoing compliance with this condition. Pursuant to Section 108(2)(d) a covenant is required to be entered into, in favour of Council, to record and advise any future owners of the need to comply with this condition on an ongoing basis.

- (EC3) Design, provide and install a complete public wastewater reticulation system to serve all Units in compliance with Councils Code of Practice for City Infrastructure and Land Development (Refer Section 5.0). Provide engineering plans and calculations to Council for approval prior to commencing works. Specific requirements:
- (i) Extend a public wastewater line from the existing public wastewater manhole located in 2 Arawa street and provide each Unit with a separate public connection at the lowest point within the boundary.
 - (ii) Reroute public drains outside building platforms, particularly medium density, apartments and large commercial buildings.
- (EC4) Provide separate private wastewater drainage systems to each Unit, with connection to the public system as specified below:
- (i) Provide each unit with a separate connection to the public system. To minimise the number of connections to the principal lines provide a dry chamber at the end of a connection and serve 2 Units from one chamber. This is required to reduce infiltration to public drainage lines. Provide easements as appropriate.
 - (ii) Locate and relay the existing private drainage serving the existing dwelling to a position clear of the building platform for Units. Either grout fill, or remove, the abandoned private drainage under Council's supervision.
 - (iii) Construction of private drainage requires a building consent. Provide a copy of the private drainage As-Built plan for the property, prepared by a Registered Drainlayer, showing the separate private drains from each Unit to the point of connection to the public drains / chamber.
- Note: Connections to the public system can only be carried out by Council's contractor. Apply for new connections at the Council, by completing the application form. Pay all costs associated with providing the new connections.
- (iii) Provide a surveyed As-Built plan prepared by a Licensed Cadastral Surveyor, showing lid and invert levels in terms of LINZ datum, and two boundary offsets to each dry chamber.
- (EC5) Ensure that the public wastewater connection is provided at the lowest point on the Unit, so as to achieve gravity drainage by maintaining floor level to be a minimum of 1 metre above the invert of the public drain at the connection point.
- (EC6) The building which spans the public wastewater drain is required to be built with a minimum finished floor level that provides an absolute minimum clearance of 750mm from the top of the pipe to the bottom of any part of the foundation above the drain to ensure adequate clearance and protection of public drainage assets during excavations and construction. Any earthworks cut over public drains must leave a minimum of 750mm ground cover above the pipe. Any earthworks fill over public drains must be a maximum of 2.0m deep unless the pipe is upgraded to carry the additional loading. The applicant is required to pay Council the cost of raising or lowering manhole lids to the new finished ground level.
- (EC7) Design, provide and install a complete public stormwater drainage system to serve all Units in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 4.0). Provide engineering plans and calculations to Council for approval prior to commencing works. Specific requirements:
- (i) Extend a public line from the existing public stormwater outlet located in 24 Arawa Street and provide each Unit with a separate public connection at the lowest point within the boundary. Upgrade the existing outlet structure to the public standard in accordance with WCC Code of Practice for City Infrastructure and Land Development (refer Section 4).

- (ii) Reroute public drains outside building platforms, specifically locate the public drains on the rear side of the buildings than on the driveway as shown in the drawings. The detailed layout shall be assessed in detail at the stage of engineering approval.
 - (iii) Provide in the design of services for the reticulation of the upstream catchment [specifically to 30 Arawa Street] and install such reticulation to the boundary of the upstream properties.
- (EC8) Design, provide and install a complete stormwater quality treatment system for the site in accordance with the Auckland Regional Council's TP10 '*Stormwater Management Devices Design Guideline Manual*', and WCC Code of Practice for City Infrastructure and Land Development (refer Section 4). Provide a copy of the ARC consent conditions, engineering plans and calculations to Council for approval prior to commencing works. Specific requirements:
- (i) Construct rain gardens as per the design details and plans shown detailed in the report submitted by Forbes Consultants entitled 'The Engineering submission to the Stormwater Diversion and Discharge consent' [Reference Project 1447, dated 02nd August 2007].
 - (ii) Provide a surveyed as-built plan of the device showing all lid and invert levels, permanent water level, and contours at 200mm intervals below water level.
 - (iii) Provide a maintenance manual for the treatment device.
 - (iv) The complete private drainage system including the rain gardens and proposed stormwater management devices shall be owned and maintained by a Body Corporate Consisting of the Childcare centre and the owners of the dwellings.
 - (v) Provide a drainage easement over the entire area occupied by the treatment device, associated maximum flood water levels, and all areas necessary to access and maintain the treatment device.
- (EC9) Provide separate private stormwater drainage systems to each Unit, with connection to the public system as specified below:
- (i) Provide each unit with a separate connection to the public system. To minimise the number of connections to the principal lines provide an inspection chamber at the end of a connection and serve 2 Units from one chamber. This is required to reduce infiltration to public drainage lines. Provide easements as appropriate.
 - (ii) Locate and relay the existing private drainage serving the existing dwelling to a position clear of the building platform for Units Either grout fill, or remove, the abandoned private drainage under Council's supervision.
 - (iii) Construction of private drainage requires a building consent. Provide a private drainage As-Built plan for the property, prepared by a Registered Drainlayer, showing the separate private drains from each Unit to the point of connection to the public drains / chamber.
 - (iv) Connections to the public system can only be carried out by Council's contractor. Apply for new connections at the Council, by completing the application form. Pay all costs associated with providing the new connections.
 - (v) Provide a surveyed As-Built plan prepared by a Licensed Cadastral Surveyor, showing lid and invert levels in terms of LINZ datum, and two boundary offsets to each chamber.
- (EC10) Design, provide and install on-site stormwater management devices to mitigate against adverse effects on the environment, increased downstream flooding, increased stream channel erosion. Specific Requirements:
- (i) Limit stormwater runoff flows, volumes, and timing to pre-development levels for the 2 & 10 /100 year storm event(s). Store the first 34.5mm of rainfall and discharge over 24 hours.

- (ii) Rainwater runoff from the proposed roof of childcare centre must be collected and reused for toilet, laundry and garden use. Tanks of suitable capacity are to be provided for stormwater detention and to enable reuse.
- (iii) The discharge point is to mimic natural runoff patterns, and not to discharge directly to a watercourse, open drain or piped system.
- (iv) Construction of private drainage requires a building consent. Provide a private drainage As-Built plan for the property, prepared by a Chartered Professional Engineer / Registered Drainlayer, showing the stormwater management device(s) for each Unit to the point of discharge.
- (v) The complete private drainage system including the rain gardens and proposed stormwater management devices shall be owned and maintained by a Body Corporate Consisting of the Childcare centre and the owners of the dwellings.
- (vi) On the second anniversary of the date of this consent, and at two yearly intervals thereafter, the owner (at the owner's expense) must provide to the Council a report from a Chartered Professional Engineer or Registered Drainlayer demonstrating that the stormwater management system, including mitigation measures and devices installed as the condition of this consent or as a condition of any future building consent for the proposed buildings, are functioning in accordance with their intended purpose.
- (vii) Note: Council's Hazards and Special Features Register will be advised of the above requirements.

Pursuant to Section 108(2)(d) a covenant is to be entered into, in favour of Council, to record that to mitigate against adverse effects on the environment, increased downstream flooding, increased stream channel erosion, or adverse effects on public infrastructure systems, on-site stormwater management systems are required on an on-going basis to comply with EcoWater's Stormwater Solutions for Residential Sites.

- (EC11) Design, provide and install a complete public and private water supply reticulation system and fire fighting services to serve all Units in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 6). Provide engineering plans and calculations to Council for approval prior to commencing works. Specific requirements:
- (i) Pay Council to remove the water meter and cap the connection for any dwellings to be removed.
 - (i) Pay Council to relocate the water meter to within the road reserve boundary since any existing water meter serving an existing house must remain the meter serving that house.
 - (ii) Extend a water supply main into the site under engineering approval and provide connections to the 10 dwellings through a manifold along with fire fighting coverage in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 6).
 - (iii) Locate all water connections at the same position as the power and telephone connection to each Unit. Ducting of private lines is recommended where they cross driveways.
 - (iv) Pay to the Council the cost of supervising the shut down of Council's water supply mains. This service includes Council providing written advice to all affected property owners and tenants.
 - (v) Provide fire hydrants within 135m of the furthest point on any property.
 - (vi) Where the required public system is on private property, easements over the course of such system in favour of Council will be necessary.
 - (vii) Upgrade the existing public water main to extend and serve the proposed development. Liaise with the Water Assets Engineer regarding the pressure requirements to serve this development.

- (EC12) Pursuant to s108 (2)(d) the applicant must enter into a covenant in favour of the Council in respect of conditions above, which must be registered against the certificate of title to the property. Registration of the covenant must be effected before any proposed dwelling on the property is occupied. The covenant will be prepared and registered by the Council's solicitors at the applicant's expense.
- (EC13) **Engineering Approval and Quality Assurance Process:** Public infrastructure works, as conditioned above, require Council's approval of engineering plans and specifications prepared by the applicant's engineer in accordance with Council's Code of Practice for City Infrastructure and Land Development.
- (i) Submit full engineering plans, long sections and calculations, prepared in accordance with Council's Code of Practice, to Council for approval.
 - (i) Advise the name of the appointed developer's representative fulfilling engineering responsibilities as detailed in section 1.4.1 of the Code of Practice.
 - (ii) After engineering approval has been given and prior to commencing construction, contact Council's Call Centre on 839 0400 to arrange a QA Pre-Start Meeting. Allow 3 working days for the QA Pre-Start Meeting to be booked.
 - (iii) The applicant is required to ensure that the contracted drainlayer and developer's representative attend the QA Pre-Start Meeting, and that construction materials are on-site for inspection.
 - (iv) EcoWater's QA Supervisor will then undertake random site inspections throughout the construction process.
 - (v) Upon completion of construction the applicant's surveyor is required to prepare As-Built plans in accordance with the Code of Practice, and CCTV inspection of the drains are to be carried out.
 - (vi) The developer's representative is required to fully inspect the drainage including overseeing the drainage tests, view the cctv's and check against the as-builts, and ensure that any remedial works are completed.
 - (vii) When the developer's representative is satisfied that all works meet Council standards, they are required to complete the 'QA Final Inspection Request Form' and lodge this at Council together with As-Builts, CCTV (all footage on one DVD), log sheets, chlorination certificate for watermains, and inspection reports.
 - (viii) EcoWater's QA Supervisor will check all information against the approved design and Code of Practice, then undertake a field check and testing of the new drainage systems in conjunction with Council's approved maintenance contractor.
 - (ix) When all public works and documentation are completed to Council's satisfaction the QA Completion Certificate will be issued to the applicant.
 - (x) Submit a copy of the QA Completion Certificate with the application for s224c Certificate as evidence of compliance with the conditions of consent requiring construction of infrastructure to public standards.
 - (xi) Pay all of Council's engineering fees and costs associated with engineering approvals, quality assurance site inspections, as-built & cctv approvals, final inspections, testing and bond management.

Landscaping

Medium Density Housing

- (LN1) Within six months of granting of this consent provide a comprehensive Landscape Treatment Plan to the Planning Manager, Resource Consents for his approval, for the medium density component of the proposal that shows the following
- fences and gates, (note a 1.6m height fence is needed for privacy the 1.5m height shown to the Living Court for Unit 1 would not meet the Plan's definitions for privacy);

- any proposed paved area outside the lounge doors for each living court.;
 - details in regard to paving treatments;
 - the location for linear clotheslines;
 - letter boxes;
 - outside tap, (one per unit).
- (LN2) Landscape development shall be set in place for the medium density component following any ground forming required as per the Council approved Landscape Treatment Plan required above, as per the approved planting plans and as far as possible prior to occupation of the associated dwelling and shall be to the satisfaction of Council's Environmental Monitoring Officer Resource Consents. If the development is staged landscape development shall be staged accordingly.
- (LN3) Garden areas shall be good quality topsoil or garden mix (50:50 topsoil and compost) weed and debris free, to 250mm minimum depth and with a wood chip mulch to 60mm depth, all to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.
- (LN4) Grass areas shall be 150mm minimum depth good quality topsoil free of weeds, rubbish and debris, shall be firmed and graded to flush with adjacent hard surface areas or undisturbed ground, with the ground raked at the final stages and with grass seed sown or 'readilawn' laid down at the time of final grading and shall be prepared prior to construction of fencing and gates and shall be to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.
- (LN5) Fences and gates shall be constructed as per the approved Landscape Treatment Plan (required by condition LN4 above) following preparation of grass areas, and shall be to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.
- (LN6) Planting: In the first planting season (May till 7th September) following preparation of grass areas and construction of fences and gates, and as far as possible prior to occupation of the associated unit, planting shall be carried out into prepared garden areas as per the approved planting plans listed following and shall be to the satisfaction of Council's Environmental Monitoring Officer Resource Consents:
- Boundary and Rain Gardens Planting Plan Sheet 3 of 3 by TALC Landscapes dated 1.5.07 (for rear south boundary area of Medium Density Housing and for Road frontage planting)
 - Planting Plan Units 1 to 10, Frontages by TALC Landscapes dated 01.05.07. Note, as an alternative option to Syagrus, Queen palm, Howea fosteriana, kentia palm is recommended and approved. The option of Hebe diosmifolia 'blue' to Hebe diosmifolia minor has been included, or Corokia buddleioides.
- Any tree planted in a grass area shall be planted within a 600mm diameter weed free and debris free garden area with a wood chip mulch to 60mm depth.
- (LN7) The planting required by condition (LN6) shall be maintained, with plants watered as necessary to facilitate their establishment in the first two summers following initial planting. Garden areas are to be kept weed and rubbish free for the first three years following initial planting. Any plant that is removed, dies or otherwise fails to prosper shall be replaced the following planting season and maintained for a further two years, all to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.

Child Care Centre Landscape Treatment and Planting

- (LN8) Any earthworks required shall be completed with the ground manually graded (raked) at the final stages to an even surface that melds with adjacent undisturbed ground or to flush with adjacent hard surfaces as appropriate and with grass seed sown or 'readilawn' laid down for grass areas and with planting areas prepared as necessary, and shall be to the satisfaction of Council's Environmental Monitoring Officer Resource Consents. Any garden areas shall be good quality topsoil or garden mix, weed free, debris free and rubbish free and with a wood chip or bark chip mulch to 60mm depth (or as per EcoWater requirements if a rain garden). Any tree or shrub planted into a grass area shall be within a 600mm diameter weed free garden with a wood chip mulch to 60mm depth, all to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.
- (LN9) Children's safety fencing shall be set in place as per the Rain and Play Gardens Planting Plan, Sheet 2 of 3 by TALC Landscapes dated 01.05.07 following any final grading and sowing of grass and other construction work that may be required and shall be to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.
- (LN10) Planting shall be set in place in the first planting season (May till 7th September) following any required final grading and preparation associated with earthworks and following instatement of fences, as per the Rain and Play Gardens Planting Plan, Sheet 2 of 3 by TALC Landscapes dated 01.05.07 and shall be to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.
- (LN11) The planting shall be maintained with plants watered as necessary to facilitate their establishment in the first two summers following initial planting and with garden areas kept weed and rubbish free for the first three years following initial planting. Any plant that is removed, dies or otherwise fails to prosper shall be replaced the following planting season and maintained for a further two years, all to the satisfaction of Council's Environmental Monitoring Officer Resource Consents.

Rain Gardens

- (LN12) Rain gardens shall be prepared and established as per EcoWater requirements and subject to any changes required by EcoWater prior to final engineering approval.
Planting of rain gardens shall be carried out as per the information provided on the following plans (and as per any requirements of EcoWater associated with final engineering approval):
- Rain and Play Gardens Planting Plan Sheet 2 of 3 dated 01.05.08 by TALC landscapes
 - Boundary & Rain Gardens Planting Plan Sheet 3 of 3, and shall be carried out in the first planting season (May till 7th September) following establishment of the rain gardens to the satisfaction of Council.
- (LN13) The rain gardens shall be regularly maintained to keep rubbish and environmentally damaging plants (weeds) out and as per any EcoWater requirements, to the satisfaction of Council.

Legal Documentation

- (LD 1) The covenants required by Condition(s) EC2, EC10 and EC12 above will be prepared by the City Solicitor at the applicants cost when the following information has been received:
- (i) All necessary technical information.
 - (ii) A copy of the Land Transfer plan showing the Deposited Plan and Certificate(s) of Title numbers allocated by Land Information New Zealand, and
 - (iii) The name and address of the solicitor acting for the owner.
- (LD 2) Where any condition imposed upon this consent to subdivision is to be complied with on an ongoing basis by the subdividing owner and subsequent owners after the deposit of a survey plan (not being a condition in respect of which a Bond is required to be entered into by the subdividing owner of a completion certificate is capable of being or has been issued) the subdividing owner shall pay the Council's Solicitors legal costs and disbursements relating to the preparation and registration of a Consent Notice pursuant to Section 221 of the Resource Management Act 1991, and shall do all acts and things necessary to enable registration of such Notice to be completed.

Fees, Bonds and Contributions

- (FC 1) Pursuant to Section 108(2)(b) and Section 108A, and in accordance with Council's Code of Practice for City Infrastructure and Land Development, the applicant is required to provide a maintenance bond to Council, equivalent to 2½% (minimum \$500.00) of the value of works being taken over by Council. This maintenance bond will be held for six months from the date of 224c issue, or until 31 October, whichever is longer. Maintenance of these assets are the responsibility of the developer during the maintenance period. At the end of the maintenance period the QA Supervisor will undertake a maintenance inspection to ascertain whether the assets are still in satisfactory condition and if so, will instruct the bond to be released, and Council will take over maintenance responsibilities from that time forward. Where defects occur during the developer's maintenance liability period, the costs of repairing such defects are the full responsibility of the developer. Where the developer does not repair the defects, Council will retain the bond monies for use in repairing the defects, and refund any residual monies held to the developer. The developer's liability is not limited to the amount of the maintenance bond, and any additional costs will be invoiced to the developer and will become a debt due to the Council.
- (FC 2) A consent compliance monitoring fee of \$1035.00 (inclusive of G.S.T.) 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 reinspection shall be required at the relevant hourly rate applicable at the time the reinspection is carried out.

The 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.

Advice Notes:

1. Where indicated in the conditions it is the consent holder's responsibility to inform the Environmental Monitoring Officer when inspection is required. Inspections can be requested through the Call Centre on 839 0400.
2. A Development Contribution is payable for this proposal. This Development Contribution must be paid prior to the grant of the building consent. The Development Contribution will be assessed at the time of payment. The estimate of the amount payable at the date of this consent is \$139,569.47 incl GST less any credits applicable.
3. The application documents show drainage works are proposed through the neighbouring property. The granting of this resource consent does not in any way allow the applicant to enter and construct drainage within neighbouring property, without first obtaining the agreement of all owners and occupiers of said land to undertake the proposed works. Any negotiation or agreement is the full responsibility of the applicant, and is a private agreement that does not involve Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes arising. To obtain sign-off for the resource consent, the services described by the conditions below are required to be in place to the satisfaction of Council.
4. A financial contribution equal to 6% (plus GST at 12½%) of the market values to be obtained for Units 1 - 10 is payable for reserve purposes pursuant to Section 407 of the Act under any future subdivision. Council will obtain the valuation from a registered valuer at the time an application is made for 224(c). Pay also the costs for obtaining the valuation, which will be invoiced by Council.

Report prepared by: Cath Heppelthwaite, Consultant Planner.

