

**AGENDA FOR A HEARING BY COMMISSIONER TO BE HELD IN THE COUNCIL CHAMBER
AT WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE,
ON THURSDAY, 17 JUNE 2010, COMMENCING AT 9.30 AM**

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**1 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE
RESOURCE MANAGEMENT ACT 1991 BY WAITAKERE PROPERTIES LIMITED TO
DEVELOP A CHILDCARE CENTRE AT 3176-3180 GREAT NORTH ROAD, NEW
LYNN.**

**LUC 2010-245
New Lynn Ward**

APPLICATION DETAILS

Planner:	Sarah Baker
Site Address:	3176-3180 Great North Road, New Lynn
Applicant:	Waitakere Properties Limited
Date Received:	8 March 2010
Resource Consent No:	LUC 2010-245
Legal Description:	Lots 11 - 13 DP 22829 Certificates of Title NA6A/1321, 369391 and 369390
Address for Service:	C/- Cato Bolam Consultants PO Box 21355 Henderson
Site Area:	2194m ²
Operative District Plan:	
Human Environment:	Living 1
Natural Area:	General
Landscape Elements:	None Known
Hazards:	None Known
Roading Hierarchy:	Regional Arterial Road
Heritage:	Old New Lynn Hotel Site (Hotel removed 2008)
Site Visit:	10 March 2010

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.

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The application is to establish a childcare centre at 3176-3180 Great North Road, New Lynn. The childcare centre is proposed to cater for 100 children up to 5 years old. An existing dwelling onsite at 3180 Great North Road, New Lynn will be incorporated within a reduced net unit area of 446m², the balance being 2194m² will incorporate the childcare centre.

The application requires consent for:

- Density;
- Height in relation to boundary;
- Privacy/amenity;
- Non-residential activities;
- Traffic generation;
- Car parking and driveways;
- Noise;
- Signs;
- Vegetation alteration;
- Earthworks;
- Impermeable surfaces; and
- Vehicle crossings.

Overall, the application is considered to be a **Non-Complying Activity**.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for 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 primary resource management issues associated with this proposal relate to density, height in relation to boundary, privacy/amenity, non-residential activities, traffic generation, car parking and driveways, noise, signs, vegetation alteration, earthworks, impermeable surfaces and vehicle crossings.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be declined** for the development proposed at 3176-3180 Great North Road, New Lynn. It is considered that the environmental effects generated by the activity would be more than minor.

2 LOCATION PLAN



Figure 1: Site at 3176 - 3180 Great North Road, New Lynn (dated 2008)
Note - The Hotel located on the North Eastern corner of this site has been demolished.

3.0 PROPOSAL

The proposal is to undertake the development of a childcare centre spanning across three lots (LOTS 11 - 13 DP 22829). The proposed building is to be located at the rear of the sites which are proposed to be amalgamated.

The childcare centre has been designed to cater for 100 children between the hours of 7 am - 6 pm, Monday - Friday. The proposed 612m² building is to be 4.225 metres in height and set back 21.8 metres from the road frontage. Outdoor play areas have been proposed along the southern and eastern boundaries of the site.

There are two vehicle crossings proposed onsite, one for entry and one to exit the site. There are 24 car parks proposed at the front of the site, with landscaping between the road frontage and the car park.

The removal of one Upright Cypress tree and one Arizona Cypress tree has been proposed, as well as works within the dripline of a Willow Myrtle tree (located at 5/31 Arawa Road, New Lynn) and two Upright Cypress trees.

The applicant has proposed acoustic fencing along the southern and eastern site boundaries.

4.0 REASONS FOR THE APPLICATION

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

**Living Environment
Rule 2 - Density**

Pursuant to Rule 2 of the Living Environment rules, assessment is required as a Limited Discretionary Activity for sites that do not meet the minimum 450m² net site area requirement within the Living Environment.

The site at 3180 Great North Road, New Lynn containing the existing dwelling, is proposed to have a net site area of 445m², with the balance lot being 2194m².

**Living Environment
Rule 5 - Height in Relation to Boundary**

Pursuant to Rule 5 of the Living Environment rules, assessment is required as a Discretionary Activity for buildings that project beyond the recession plane requirements.

The application has a height in relation to boundary infringement adjacent to the eastern boundary. The degree of non-compliance is 238mm.

**Living Environment
Rule 8 - Privacy/Amenity**

Pursuant to Rule 8 of the Living Environment rules, assessment is required as a Discretionary Activity as the proposed childcare centre will not be sufficiently screened from adjoining sites and the road and more than one vehicle will be visible from the car park.

**Living Environment
Rule 10 - Non-residential activities**

Pursuant to Rule 10 of the Living Environment rules, assessment is required as a Discretionary Activity as the proposed childcare centre will not be located within an existing building that was originally erected as a dwelling. No retail sales are proposed.

**Living Environment
Rule 11 - Traffic Generation**

Pursuant to Rule 11 of the Living Environment rules, assessment is required as a Limited Discretionary Activity for traffic movements that will not exceed 1% of the roads total daily traffic volume. Transport Assets have estimated an approximate 320 vehicle movements per day onsite (approximately 1% of daily traffic movements).

**Living Environment
Rule 12 - Car parking and Driveways**

Pursuant to Rule 12 of the Living Environment rules, assessment is required as a Limited Discretionary Activity for car parking and driveways associated with a non-residential activity.

The applicant has proposed 24 car parking spaces onsite. There will be two vehicle crossings to allow for separate entry and exit access to the site.

**Living Environment
Rule 13 - Noise**

Pursuant to Rule 13 of the Living Environment rules, assessment is required as a Discretionary Activity for noise exceeding the permitted activity levels associated with the proposed childcare centre.

The predicted noise levels for immediately surrounding properties would range from 49dB to 63dB.

**Living Environment
Rule 15 - Signs**

Pursuant to Rule 15 of the Living Environment rules, assessment is required as a Non-Complying Activity for a sign with a total area of 3.3m², which is proposed to be located near the proposed entrance to the site. Also two small plaques with maximum areas of 300mm x 300mm and 600mm x 600mm are proposed to be constructed to reference the historical character of the site.

**Transport Environment
Rule 7 - Vehicle Crossings**

Pursuant to Rule 7 of the Transport Environment rules, assessment is required as a Limited Discretionary Activity for more than one vehicle crossing on the site.

The applicant has proposed two vehicle crossings, one for entry and one to exit the site.

**General Natural Area
Rule 2 - Vegetation Alteration**

Pursuant to Rule 2 of the General Natural Area rules, assessment is required as a Limited Discretionary Activity for the removal of two generally protected trees and works within the dripline of three trees.

**General Natural Area
Rule 3 - Earthworks**

Pursuant to Rule 3 of the General Natural Area rules, assessment is required as a Discretionary Activity for earthworks exceeding permitted activity levels.

The applicant has proposed an area of 2193m² with a volume of 1260m³. Earthworks are also required within 1.0 metres of site boundaries.

**General Natural Area
Rule 4 - Impermeable Surfaces**

Pursuant to Rule 4 of the General Natural Area rules, assessment is required as a Limited Discretionary Activity. The proposed impermeable surface coverage for the proposed non-residential activity (childcare facility) is 66%.

It is noted that the New Lynn Hotel is still listed on the Waitakere City Council Heritage Appendix within the District Plan (1578). As the New Lynn Hotel has been removed from the site this reference is no longer relevant, and will not be further assessed in this report.

4.2 Background

The site at 3176-3178 Great North Road, New Lynn was the site of the Old New Lynn Hotel that had been subject to various uses since 1906.

In 1995 an engineers report stated that the Hotel was in a dangerous condition and unsafe to live in. As a result of this, the owners at the time applied to Council to demolish the building. The processing planner suggested alternative options be investigated.

Council purchased the Hotel in 2005 under the Public Works Act 1981. A heritage feasibility study was commissioned regarding the feasibility of retaining the building. The report concluded that the extent of the demolition and excavation works required to make the building safe would compromise the surviving heritage elements of the building as a whole. As a result of this report, Council resolved to proceed with the application to demolish the building. Land Use Consent (LUC 2008-994) was approved by Council on the 28 July 2008, and the building was subsequently demolished. The land is now vacant.

4.3 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



Picture 1: View from 3178 Great North Road, New Lynn towards the existing dwelling at 3180 Great North Road, New Lynn.



Picture 2: View from the rear of 3176 Great North Road, New Lynn towards the road frontage.



Picture 3: Existing dwelling at 3180 Great North Road, New Lynn.



Picture 4: View of existing vegetation along the existing boundary line of 3176 Great North Road, New Lynn.

The subject site comprises of three existing titles (LOTS 11 - 13 DP 22829) spanning over 3176-3180 Great North Road, New Lynn. 3176 and 3178 Great North Road, New Lynn are currently vacant, and 3176 Great North Road, New Lynn was the previous site of the New Lynn Hotel which was demolished in 2008. A historic well is located on this property. There is an existing single storey weatherboard dwelling at 3180 Great North Road, New Lynn.

The sites are relatively level, with a slight fall towards the rear of the site (south). 3176 and 3178 Great North Road, New Lynn are grassed, with some vegetation located around the perimeter of the sites. 3180 Great North Road, New Lynn has a dwelling located at the front of the site, and a large back yard, there is also vegetation located along the boundary between 3178 and 3180 Great North Road, New Lynn and along the rear boundary of the site.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

The application was subject to limited notification on Friday, 9 April 2010. The period for submissions closed on Thursday, 6 May 2010 and four submissions were received. All four submissions opposed the application, one of which was not from a person considered to be affected by the proposal and was therefore not considered relevant.

A153-A167

Copies of all submissions received are attached at pages A155 to A167 as Appendix Three. A map showing the location of the submitters is attached at pages A153 to A154 as Appendix Two.

6.1 Submissions

The following persons have submitted on the proposal:

Submitter	Address	Support/Oppose
T Leyland	4/31 Arawa Street, New Lynn	Oppose
R Maagdenberg	29 Arawa Street, New Lynn	Oppose
A J Sinclair C/- F I Sinclair	3182 Great North Road, New Lynn	Oppose

6.1.1 Summary of Submissions

6.1.1.1 Oppose

- **Traffic and Parking**

When children and their parents/minders come together for meetings there will be over 100 cars spilling onto neighbouring roads including Arawa and Wattle Streets, New Lynn. This already happens with the existing childcare centre in Arawa Street, New Lynn. This is an inconvenience to residents of these streets as visitor parking is utilised, as well as being an increase in rubbish in the area where it is thrown out of cars.

- **Noise**

- The effects of noise would be greater than the application suggests, would travel further and would have an echoing effect;
- The non compliant noise of 100 children will affect all 20 houses next to the application property which will result in up to 60 bedrooms becoming unusable to those who need to sleep during the day;
- Concern was raised in regards to the additional noise levels of 100 young children and the parking onsite; and
- The noise assessment does not take into consideration that traffic noise varies at different times and also the traffic has increased markedly in the last few months.

- **Security**

- As the proposed childcare centre is staffed only during the day Monday - Friday, this becomes a high risk area in terms of crime. This will require a childproof lock up perimeter fence, a silent alarm, non-bright lights and 360° camera surveillance directly linked to full time professional security; and
- This may affect the security of neighbouring properties, as some property owners are elderly and work unusual hours.

- **Landscaping**

- The application proposes to cut down trees and replace them with less landscaping which will break the existing "Green Pathway" landscaping.

- **Consultation**

- A submitter has agreed with Council that the affected parties approval forms submitted with the application were incomplete, and therefore considered to be nil and void.

- **General**

- The boundary fence between 3182 and 3180 Great North Road, New Lynn is currently a wire fence separating the two properties along the southern end of each of the houses and from there is a hedge running to the southern end of each section. The application shows a 2 metre fence erected with the proposed development along that boundary to approximately half the length of the sections and then east to enclose the childcare centre. This will leave 5-6 metres of old hedge remaining between the proposed new fence and the wire fence that will be unsightly, inappropriate and ineffective. The submitter would like all of the old hedge removed and replaced by a continuation of the new fence to a point where it meets the existing wire fence;
- This site was supposed to be a historic site preserved by Council; and
- In the current economic climate this is not conclusive to Council expenditure of large sums of money.

7.0 STATUTORY REQUIREMENTS

7.1 Non-Complying Activities

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 Resource Management Act 1991 sets a threshold test which all resource consent applications for non-complying activities must first pass before a consent authority has jurisdiction to grant consent, having regard to the matters specified in Section 104. In short, the proposal must be able to establish and operate without generating more than minor adverse effects on the environment, or must not be contrary to the relevant objectives and policies of the Operative District Plan. Council may disregard an adverse effect of an activity on the environment if the Operative Plan permits an activity with that effect.

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

However, it should be noted that for Council to grant consent to a non-complying activity application there should generally be some exceptional or unusual element to the proposal. 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.

Council also has discretion to consider any precedent issues that may arise for a non-complying activity. 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 the Council to similar consent applications. Such a precedent effect does arise here because each application is assessed in its individual merits and would be subject to constraints specific to the particular location.

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

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

In order to make a decision in terms of Section 104B of the Resource Management Act 1991 it is necessary to undertake an analysis and assessment to determine whether the purpose and principles of the Resource Management Act 1991 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 Resource Management Act 1991 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)).

To assist in the following assessment specialist advice was obtained from:

- John Carroll, Waitakere City Council, Transport Assets;
- Ravi Chand, Waitakere City Council, Drainage Engineer;
- Simon Miller, Peers Brown Miller, Arboricultural and Environment Consultants;
- Michael Riley, JPStyles Ltd, Acoustic Engineer;
- Alina Wimmer, Waitakere City Council, Heritage Advisor; and
- Robert Lipka, Waitakere City Council, Team Leader: Urban Planning and Design.

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

8.1.2 Water Quality and Quantity

There will be no adverse effects in relation to water quality / quantity arising from the proposed activity as it would be located within the urban area of the City and would not be near a water body or stream.

The application has been reviewed by Council’s Eco-Water Engineer, Mr Ravi Chand who has established that the proposed impermeable surfaces infringement (66%) is acceptable. The Council’s stormwater systems downstream are designed to cater for up to 60% of impermeable surface area per site for the 1 in 5 year storm event. The proposed development will exceed this requirement therefore the applicant is required to limit the stormwater runoff from the site back to the level permitted under the District Plan and this can be achieved by installing a stormwater detention tank. Mr Ravi Chand has proposed conditions of consent to reflect this requirement, should consent be granted.

Overall, it is considered that subject to the imposition and implementation of appropriate consent conditions, any adverse effects relating to water quantity and quality would be no more than minor.

8.1.3 Vegetation Removal and Protection

There will be no more than minor adverse effects in relation to vegetation and fauna habitat as a result of the proposed activity.

The application requires the removal of one Upright Cypress tree and one Arizona Cypress tree, both of which are located along the eastern boundary of the site. The application also requires works within the dripline of two Upright Cypress trees, located on the eastern boundary, close to the road frontage, and a Willow Myrtle tree located at 5/31 Arawa Road, New Lynn.

The two trees that are proposed to be removed are poor specimens. The removal of these trees can be adequately mitigated through some appropriate replanting. Submissions raised concerns that the removal of these trees will break the existing "Green Pathway" landscaping. As the trees are poor specimens and replanting is proposed onsite, the removal of these trees can be mitigated by appropriate conditions of consent.

The two Upright Cypress trees located on the eastern boundary of the site will require minor earthworks within their dripline. The information submitted by the applicant indicates that the area surrounding the subject trees dripline will remain permeable with up to 200mm of fill in this area. It is assessed that the subject trees will not be adversely affected provided appropriate tree protection measures are implemented.

The Willow Myrtle tree located at 5/31 Arawa Road, New Lynn will require landowners consent for works within the dripline prior to works commencing. The information submitted by the applicant indicates that a retaining wall will be constructed within its dripline. Fill ranging from a depth of 600mm to 900mm will be placed within its dripline. Fill will consist of free draining sand. The proposed retaining wall will be constructed in a manner that ensures that existing significant roots are retained and worked around. Provided the above measures are implemented it is assessed that the health and stability of this Willow Myrtle tree will not be adversely affected.

Through the submission process, an affected landowner has raised concern about a 5-6 metre long hedge to be retained between the proposed new fence and the existing wire fence onsite between 3182 and 3180 Great North Road, New Lynn. The submission contends that this hedge would be unsightly, inappropriate and ineffective. It is considered that a continuation of the new fence to the wire fence would be a better visual outcome in this instance. The removal of the hedge would not create additional infringements in terms of Vegetation Alteration within the District Plan. A condition of consent has been proposed to support this.

8.1.4 Land / Soil Effects

There will be no more than minor adverse effects on soil/ existing landform as a result of the proposed activity.

The proposed earthworks onsite will involve preparing the site for development of the building platform, retaining walls and car parking area. The total area of earthworks is 2193m², with a topsoil strip (440m³), cut to fill (150m³) and cut to waste (670m³). Works are also required within 1.0 metre of site boundaries.

The application has been supported by a Land Management Plan prepared by MSC Consulting Group Limited, which outlines specific measures for management onsite and mitigating effects that may stem from the proposed earthworks.

Provided that the application proceeds in accordance with the Land Management Plan submitted with this application and conditions of consent, the effects of the proposed earthworks onsite would be no more than minor.

8.1.5 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" within the City (refer Maps 3.5D and E). The proposed activity would not therefore adversely affect any identified outstanding natural features.

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

There will be no adverse effects in relation to the natural character of the coast and margins of lakes, rivers and wetlands arising from the proposed activity as it would be located within the urban area of the City and would not be near the coast, water body or wetland.

8.1.7 Outstanding Landscapes

The subject site is not identified in the District Plan as being within an area of "outstanding landscape" within the City (refer Map 3.6B). The site is within the urban area of the City and the environment is already extensively modified. Therefore the proposed activity would not adversely affect any identified outstanding landscapes.

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

Amenity values are defined in the Resource Management Act 1991 as:

"Those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes."

The District Plan also defines Amenity Values as follows:

"These are those natural and physical characteristics of an area that contribute to people's enjoyment of it..."

Overshadowing, loss of daylight and sunlight, scale, form, height, bulk, physical dominance, privacy

The proposed building has been orientated so that outdoor play areas are on the southern aspect of the building. While this does not take advantage of the northerly orientation of the site, this will enable a play area for children away from the road frontage.

The proposed 100 child childcare centre has been designed to blend into its surroundings, without being a dominant feature in the landscape. The parking area is located at the front of the site, with landscaping to reduce the visual impacts of this as viewed from the road frontage.

The applicant has proposed a relatively large building (612m² building and 127m² covered decks) in comparison to sites in the immediate surrounding environment. The building will be set back from the road frontage, and partly located behind the existing dwelling at 3180 Great North Road, New Lynn.

The proposed building is single storey and will not be visually obtrusive in its surrounding environment. Privacy onsite will be achieved through acoustic fencing at the rear of the site and some landscaping at the front. The privacy of sites in the immediate surrounding environment will not be compromised by the proposed development due to the bulk, location and design of the building on the subject site.

The existing dwelling is compliant with all bulk and location controls for the zone.

Visual Amenity

The effects on visual amenity in terms of the wider environment in my opinion are able to be adequately mitigated by way of appropriate landscaping. The single storey building has been designed to blend into the surrounding residential buildings so that it is not a dominant feature in its setting.

Streetscape

The Council's Urban Planning and Design adviser, Robert Lipka has outlined to the Applicant and the Processing Planner the inconsistencies with the proposed design and the Urban Design Protocol. This seeks to provide a framework for good Urban Design principles in New Zealand. Balancing this and the requirements for licensing from the Ministry of Education in respect to air quality while meeting district plan requirements it has proven difficult to come up with an acceptable solution for all parties involved.

The unobtrusive design of the building, and the location at the rear of the site, although inconsistent with the Urban Design Protocol, will ensure that the building as viewed from the street frontage is not a dominant feature of the surrounding environment, and will blend into what is predominantly a residential setting. Good Urban Design principles would look to activate the street frontage by ensuring buildings front and have a relationship with the street. It should be noted that Great North Road, New Lynn is a busy street and predominantly residential, therefore the need to front the street must be balanced with what is the best design for the operation of a childcare centre. In this instance the car parking at the front of the building was considered appropriate which also allowed more safer and private outdoor space to be provided for the use of the children.

At the street frontage, the proposed landscaping will adequately mitigate visual effects of the proposed car park, while ensuring visibility for those entering and exiting the site is not compromised.

Character of neighbourhood

The surrounding environment is a mix of residential activities and some commercial activities, located along Great North Road, New Lynn. Great North Road is identified as being one of the busiest roads in Waitakere City and functions as a key transport corridor between New Lynn, Kelston, Glendene and Henderson. The site is located close to the New Lynn Town Centre. Whilst this portion of Great North Road is predominantly residential, as mentioned above, there are a range of non-residential uses within the locality. The site is also located at the eastern end of what is predominantly a residential strip before entering the commercial and retail area of New Lynn which starts at the intersection of Great North Road, Rata Street and Titirangi Road, New Lynn approximately 300 metres to the east of the site.

The proposed childcare centre would not be out of character with the surrounding environment, as the building will be set back from the road frontage, with vegetation and car parking at the front of the site. Minimal signage has been proposed and the bulk of the building will be mitigated visually through use of vegetation and the contour of the site.

Onsite amenity

The applicant has provided a large area of outdoor space for children to play outdoors. This is located on the southern aspect of the site, which ensures that it is as far away as possible to Great North Road, New Lynn. The building has been designed to be used as a childcare centre, therefore practical options regarding entranceways, rooms and outdoor areas have been undertaken to ensure that the onsite amenity is maximised for the intended purpose of the building.

Health and Safety

Through the submission process, concern has been raised in regards to onsite security outside of the hours of operation of the childcare centre. As this could become an issue affecting the health and safety of residents in the immediate surrounding environment, security measures such as lockable gates around the building and on the car park, and alarms linked to security companies should be considered to mitigate the potential security issues on the site.

The pathway along the north western side of the building has the potential for crime, graffiti and security issues, as it is a secluded area that is not proposed to be blocked off from the public outside of operational hours. This can be prevented by either planting in this area or a locked gate. These operational matters have not been considered as part of the application but do represent valid considerations, particularly to those who adjoin this property. Should consent be granted, a condition of consent requiring a Facilities Management Plan to be submitted for the approval of the Manager - Resource Consents is recommended. This would require details of security measures to be submitted as well as a complaints management system and contact person.

With regards to the existing well onsite, a Perspex plate is proposed to be installed over the well to make a feature of it onsite, while ensuring the safety of visitors to the site is not compromised.

Signs

A proposed sign advertising the childcare centre is proposed at the front of the site, near the road frontage. While a final design for the sign has not yet been finalised, it is anticipated that it will incorporate the Kidicorp logo, opening hours and a contact phone number. Approval of the final design of the sign can be made by Councils Monitoring Officer as a condition of consent, if consent is granted.

The sign is proposed to be 2.750 metres in height and 1.2 metres wide. This is not provided for within this Living Environment, however due to the nature of the surrounding environment, it is considered that the proposed sign will not be out of character and will not have a detrimental effect to the overall streetscape, amenity and neighbourhood character of the surrounding environment.

Directional signs relating to the car park entry and exit may also be required, although this has not been discussed in the application. This is considered to be a necessary aspect of the car park area considering the circular flow of traffic that is proposed.

The applicant has also proposed two plaques identifying that the site was previously the New Lynn Hotel which was a historic site, and also that there is a historic well still located onsite. These plaques are proposed to be approximately 300mm x 300mm and 600mm x 600mm, both of which will be mounted on a brick plinth. The smaller of the plaques is proposed to be located near the well onsite, with the larger one proposed to be located to the east of the access to the site. The final wording and design of these plaques will be considered in consultation with Council's Heritage Advisor and the Historic Places Trust.

Landscape modification and landscape values

The proposal involves earthworks to prepare the site for development; retaining walls are required to level the site and to allow for a playing area at the rear of the proposed building. The proposed works will not significantly modify the surrounding landscape or affect landscape values of the wider environment.

Noise, dust, vibration and lighting

Any actual or potential effects from dust, vibration and lighting are able to be sufficiently mitigated through conditions of consent.

Noise levels associated with the proposed development exceed levels permitted within the District Plan. Due to the noise levels associated with Great North Road, New Lynn the noise effects from the proposed childcare centre will not extend beyond the immediately adjoining properties. The noise associated with vehicle movements along Great North Road, New Lynn already exceed permitted activity standards for the site.

The main sources of noise is noise from traffic and noise from children playing outdoors. While noise levels emitted from traffic onsite is considered acceptable, the noise from children playing in the outdoor play areas onsite is only mitigated to an acceptable level at ground floor levels, and has not been proposed to be suitably mitigated at first floor level at immediately adjoining properties.

Noise from Traffic

The Golder Associates (Ltd) Acoustic Report prepared for the purposes of this application predicts noise levels at the adjacent properties will be L_{AF10} 52 to 53dB during the peak morning and afternoon periods and considers that these levels, when averaged in accordance with the provisions of Clause 4.5.2 of NZS6802:1991, will comply with the District Plan noise limit. I concur with this assessment, based on this report, and the peer review undertaken by JPStyles Ltd Ltd.

Noise from Children Playing Outdoors

JPStyles Ltd are of the opinion that children under 18 months of age do not generate a great deal of noise, most of the noise from outdoor play is generated by children over 18 months old. The proposed centre would have up to 72 children in this older age bracket.

The Golder Associates (Ltd) report used CadnaA noise modelling software to model the noise from the children playing outdoors. The model predicts noise levels of L_{AF10} 54 to 55dB at the ground floor level of all adjacent receivers. The report suggests that averaging of noise levels in accordance with the provisions of NZS 6802:1991 will result in these noise levels being compliant with the District Plan noise limit of L_{AF10} 50dB. The process by which averaging has been applied is not detailed in the report. However, to achieve a 5dBA reduction through the averaging provisions of clause 4.5.2 of the Standard would require that the children play outdoors for less than approximately 30% of the day. The Golder Associates (Ltd) letter of 26 March 2010 indicates that there is to be no restriction on the access of the children to the outdoor play areas. Because the children are likely to be playing outdoors for longer than 30% of the time, we consider it unlikely that the District Plan noise limits will be achieved through the employment of the averaging techniques outlined in clause 4.5.2 of NZS 6802:1991.

The Golder Associates (Ltd) report predicts that the noise level at the first floor level of two storey dwellings adjacent to the outdoor play areas will be up to L_{AF10} 63dB. This is 13dB above the District Plan noise limit. Clause 4.5.2 of NZS 6802:1991 precludes the use of averaging to adjust noise levels that exceed the limit by more than 5dB. The occupier of potentially one of the most adversely affected dwellings at 4/31 Arawa Street, New Lynn Mr Leyland, has presented a submission against the proposal which seeks to have the consent declined mainly because of the adverse effects of noise. The occupier of 29 Arawa Street, New Lynn Mr Maagdenberg, has also presented a submission against the proposal that cites noise as a major factor in his decision to object to the proposal. The noise producing mechanisms cited in Mr Maagdenberg's submission (the elevation of the deck, the potential for impact noise from the deck, and the reflection from the building façade) may have been taken into consideration in the CadnaA noise model. However, the applicant has offered no mitigation that might reduce the effects cited by Mr Maagdenberg.

Therefore, while it is noted that some mitigation measures have been proposed to mitigate the noise levels at ground floor receivers, the effects of noise on immediately adjoining properties at first floor level can be considered to be more than minor. While some conditions can be included to reduce noise levels at ground floor levels, reducing the levels at first floor receivers to close to District Plan permitted activity standards may not be able to be achieved.

JPStyles Ltd have proposed some conditions of consent, should consent be granted for this application. Condition 40 did refer to limiting the level of noise at upper floors of all two storey dwellings on adjoining properties to L_{AF10} 63dB, however I have removed this as it contradicts the findings that the level of 63dB at first floor level is considered to have effects that are more than minor. This condition now refers only to a noise limit of L_{AF10} 50dB at ground floor receivers on all adjacent sites, should consent be granted.

Traffic generation, on-street parking, driver safety, pedestrian safety, roading capacity and roading network, traffic noise, vehicle movements and access

Existing Dwelling

The existing dwelling at 3180 Great North Road, New Lynn will continue to use its existing vehicle access. This will not have an effect on the safety of the roading network.

Proposed Childcare Centre

The applicant has proposed two new entry/exit vehicle crossings of 3 metres width each to service a proposed parking area at the front of the site. These are both required to be constructed to the light commercial vehicle crossing standard. It is estimated that the proposed childcare centre will result in 320 vehicle movements per day. This is approximately 0.7% of the average daily traffic flow on Great North Road, New Lynn.

Council's Parking and Driveway Guidelines require one car parking space per four children. The proposed childcare centre intends to accommodate 100 children, hence a requirement for 25 parking spaces onsite. The proposal has a shortfall of one car parking space which is considered to be acceptable. In terms of loading bays, the only deliveries to the site are likely to be short term and can be accommodated within the car parking area provided.

Through the submission process concern was raised in regards to times when children and their parents/guardians come together for meetings outside of the general hours of operation. There is potential for cars to spill onto surrounding roads including Arawa and Wattle Streets, New Lynn. This has potential implications in terms of noise control also, and therefore a condition of consent has been imposed requiring the hours of operation of the childcare centre to be 0700 to 1800, Monday to Friday. No activities, other than maintenance activities, shall take place outside these hours or during weekends and public holidays.

The car park layout and dimensions generally comply with Council's Parking and Driveway Guideline. Complying pavement markings and signs where necessary shall be provided to clearly define circulation and parking layout.

The current proposed car parking and access arrangements do not adequately cater for pedestrian access to the site. The current vehicle crossing design shows the footpath on Great North Road, New Lynn stopping at these road crossings. The level, colour and material of the footpath should cross the proposed vehicle crossing to give pedestrians right of way. It would also be desirable for pedestrian access to be constructed alongside both vehicle crossings.

8.1.9 Heritage, Archaeological and Cultural Values

Heritage

There will be no more than minor adverse effects in respect of heritage items. The history of the site stems from the Old New Lynn Hotel, which was demolished in 2008. There is a historical well still remaining on the site. The applicant intends to cover the well with thick Perspex/plate glass to make a feature of the well.

Council's Heritage Advisor: Alina Wimmer has reviewed this application and is satisfied that the proposal will not compromise the remaining heritage features of the site.

The applicant has also proposed two plaques identifying that the site was previously the New Lynn Hotel which was a historic site, and also that there is a historic well still located onsite. These plaques are proposed to be approximately 300mm x 300mm and 600mm x 600mm, both of which will be mounted on a brick plinth. The smaller of the plaques is proposed to be located near the well onsite, with the larger one proposed to be located to the east of the access to the site. The final wording and design of these plaques will be considered in consultation with Council's Heritage Advisor and the Historic Places Trust.

8.1.10 Summary

In accordance with Section 104D(1) of Resource Management Act 1991, it is considered that overall and subject to the recommended conditions, any adverse effects of the proposed development on the environment would be minor.

The proposed childcare centre is to be constructed in a highly modified environment. The surrounding environment is predominantly residential, with some commercial activities and home occupations in the area. The site is located on a Regional Arterial Road with very high traffic movements. Measures have been proposed to largely reduce the potential for noise exceeding permitted activity levels in the immediate surrounding environment at ground floor receivers. However, it is my opinion that the effects of noise at first floor level are considered to be more than minor, and have not been proposed to be sufficiently mitigated.

The historic elements remaining on the site are proposed to be retained and protected. Making a feature of the well onsite is considered a more positive outcome than the present situation. The history surrounding the Old New Lynn Hotel will be preserved by a plaque proposed to be constructed commemorating the past activities on the site.

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

Part 5 of the District Plan contains the objectives, policies and methods by which the effects of activities on natural and physical resources are to be managed. The majority of the objectives and policies are concerned with managing the effects of activities on the natural environment including water, native vegetation and air. The objectives and policies that relate to the built environment focus on the effects of activities on amenity values.

Part 6 of the District Plan contains an explanation of the strategic direction of the District Plan.

Comments are provided below in relation to the relevant provisions under the headings which they appear in Part 5 of the Plan.

8.2.1 District Plan Policies and Objectives

The relevant Policies and Objectives relating to the proposal are:

Policy 0.4 requires applications to give regard to the need for a variety of development forms, provision for mixed use, provision for appropriate visual and activity connections to streets, recognition of existing community identities, the interconnection of vehicle, walking and cycling routes, manage conflict between incompatible land uses through design, traffic and noise control and that developments are managed so that they continue to be maintained to a high standard.

Comment:

The existing environment in this area of Great North Road, New Lynn has a variety of land uses, however the primary use is residential. As the road is a Regional Arterial Road, the main function is the movement of traffic through the area, there is little provision for walking and cycling routes, with the exception of footpaths on both sides of Great North Road, New Lynn. There are no cycle lanes in this area.

The traffic movement associated with the proposed childcare centre will be approximately 1% of the daily traffic flow along this stretch of road, and onsite parking has been provided for. For these reasons it is anticipated that traffic effects from the proposal will be no more than minor.

While the design of the building is not ideal from an Urban Design perspective, the building will be set back from the road frontage and will not be intrusive in the primarily residential setting.

In terms of noise control, acoustic fencing has been proposed to mitigate noise levels to ground floor receivers of properties immediately adjoining the subject site. It should be noted that this will not mitigate noise at first floor level. Conditions of consent, if approved, will ensure that noise levels are effectively managed by the land owner, and monitored by Council's Monitoring Officers.

Policy 1.2 supports the requirement that activities be located within the urban area in a way that supports the reduction of vehicle trip length and numbers, and the promotion of passenger public transport, therefore minimising discharges into the stormwater system and waterways of contaminants deposited onto impermeable surfaces from motor vehicles.

Comment:

The site is located in a position where there are bus stops located on both sides of Great North Road, New Lynn allowing easy access to this form of public transport as a viable alternative to private vehicle.

Policy 1.7 states that activities should be managed in a way that avoids the creation or exacerbation of stormwater flooding problems off-site and minimises the runoff of surface water into stream catchments and waterways.

Comment:

The impermeable surfaces infringement that is proposed with this application will be mitigated by the use of a stormwater detention tank onsite. This will ensure that the creation or exacerbation of stormwater flooding problems off-site will be adequately mitigated.

Policy 10.5 states that structures shall be placed to ensure that adequate levels of daylight reach any habitable rooms on-site, and allow adequate levels of sunlight and daylight to reach adjacent properties throughout the year.

Comment:

There is a minor height in relation to boundary infringement, as mentioned in Section 8.1.8 of this report, it is not anticipated that this will reduce levels of daylight and sunlight to the neighbouring property at 3174 Great North Road, New Lynn. The outdoor space on the subject site has been designed to be located on the southern aspect of the site, and while this is not ideal in terms of sunlight and daylight access, it is clearly a better option than the outdoor space being on the northern aspect, adjoining the Regional Arterial Road.

Policy 10.6 requires buildings, storage and parking areas to be designed and placed onsite, or screened in a way that maintains the privacy and onsite amenity of adjacent residential properties, including the privacy of outdoor space.

Comment:

Some vegetative planting and acoustic fencing has been proposed onsite to mitigate the visual and acoustic effects of the proposed childcare centre onsite. The outdoor play area for the childcare centre will be located directly adjacent to the outdoor living areas of some neighbouring properties, which may effectively reduce the perceived privacy of these outdoor spaces, even with the proposed mitigation measures in place.

Policy 10.11 requires that activities provide for the onsite parking and loading of motor vehicles, and the location of these areas to ensure that the safe and efficient functioning of adjacent roads are not adversely affected by the activity on the site.

Comment:

Onsite car parking for 24 vehicles has been proposed onsite. The car parking area onsite will have two vehicle crossings, one for entry and one for exit, ensuring the safe and efficient movement of vehicles to and from the site in a semi-circular motion. The additional traffic movement onsite is not anticipated to adversely affect the safe and efficient functioning of the road network.

Policy 10.14 states that activities should be of a scale and located and managed so that any traffic generated by the activity 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, and the safe and efficient function of the roading network.

Comment:

The increase in daily traffic along Great North Road, New Lynn is anticipated to be approximately 1%. This will not affect the safety of the road or the capacity of the road to cater for motor vehicles, pedestrians and cyclists. The safe and efficient function of the roading network will not be compromised by the proposed childcare centre.

Policy 10.16 states that driveways and car parking areas should provide for the safe circulation of vehicles and pedestrians, ensure the safe passage of motor vehicles, cyclists and pedestrians and discharge of stormwater and allow safe, ready access to adjoining sites.

Comment:

The separate entry and exit vehicle crossings onsite will ensure the safe circulation of vehicles. The design of the entry to the site should be altered to be more pedestrian friendly, to allow for an extension of footpaths from Great North Road, New Lynn to the building onsite, without having to walk partially through the car park. There has been no link provided between the central point of the car park to the building, so in this case also, pedestrians will be required to walk through the car park, which has the potential to create safety issues, especially with young children.

Policy 11.3 requires that buildings and structures be located so that they maintain the neighbourhood character, visual amenity of the surrounding area and the characteristic streetscape of the area. This includes providing for the overlooking of streets by buildings; the setback of buildings from the road boundary where appropriate; the planting of section frontages in a way that gives particular regard to variations in amenity values, and neighbourhood character.

Comment:

The proposed building will be set back from the road frontage, and the car parking area will be mitigated from sight by proposed planting along the road boundary. As the neighbourhood character is a mixed use environment, the proposed childcare centre will not directly affect the overall character of the immediately surrounding environment.

Policy 11.8 states that structures should shall be of a form, height and scale which avoids physical domination of surrounding sites and buildings, which does not adversely affect the landscape character and other amenity values of these areas, and which minimises encroachment on views.

Comment:

The proposed building is single storey and will not be of a form, height or scale that will dominate surrounding sites and buildings. The building has been designed to be unobtrusive in a residential dominated environment and will not encroach views or affect the character of the surrounding landscape.

Policy 11.10 refers to non-residential activities being designed and managed in a way that: maintains the visual amenity values of the Environment they are in by maintaining the amenity of the site and surrounding area when viewed from the street, and adequately screening any associated car parking vehicle access and storage areas from view of residential sites.

Comment:

The proposed childcare centre, as viewed from the street, will be unobtrusive, as the building will be set below the level of the proposed car park and will be single storey. Adequate screening has been proposed along the road frontage, and along the boundaries of adjoining residential properties.

Policy 11.11 requires that signs are designed 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 adjacent roads.

Comment:

The proposed sign onsite is to be located near the entry point vehicle crossing. The sign will incorporate the childcare centre logo, hours of operation and a contact phone number. The proposed sign will not intrude visually on the amenity of the surrounding environment and will not affect the safety of vehicles, pedestrians, or the integrity of the roading network. As mentioned previously, there will also be a requirement for small directional signs onsite.

The applicant has also proposed two plaques identifying that the site was previously the New Lynn Hotel which was a historic site, and also that there is a historic well still located onsite. These plaques are proposed to be approximately 300mm x 300mm and 600mm x 600mm, both of which will be mounted on a brick plinth. The smaller of the plaques is proposed to be located near the well onsite, with the larger one proposed to be located to the east of the access to the site. These plaques will acknowledge the history of the site and will not detract from the surrounding neighbourhood character.

Policy 11.18 states that non-residential 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.

Comment:

The site is located within a primarily residential area of the city. However it is located on a Regional Arterial Road and the amenity values and neighbourhood character are somewhat compromised by the large levels of traffic movement, which will not be increased noticeably by the proposed childcare centre. I am of the opinion that generally the overall residential character of the surrounding environment will not be lost by the childcare centre, and the safety of residents will not be harmed, with the exception of the noise effects that have not been mitigated in terms of properties at first floor level.

Summary:

The proposed childcare centre is generally consistent with the Objectives and Policies of the District Plan, however is not consistent with policies 0.4 and 11.18, in terms of amenity values relating to noise effects on neighbouring properties.

8.2.2 Rules and Assessment Criteria

The District Plan Assessment Criteria have been developed to address the issues covered in the objectives and policies and are a useful guide in assessing the effect of an activity. The proposed activity is assessed in relation to each of the relevant criteria as follows:

Living Environment Rule 2 - Density

Pursuant to Rule 2 of the Living Environment rules, assessment is required as a Limited Discretionary activity for sites that do not meet the minimum 450m² net site area requirement within the Living Environment.

Assessment of this rule is limited to matters of density, design, scale, location, outdoor space, screening, landscape treatment and provision for vehicles and pedestrians, and height will be considered in accordance with the relevant Assessment Criteria 2(a)-2(g)

The site at 3180 Great North Road, New Lynn with the existing dwelling on it is proposed to have a net site area of 445m².

The proposed subdivision will maintain onsite amenity of the residential site while enhancing usability of the larger lot, which is proposed to be used as the childcare centre. The amenity values and neighbourhood character of the wider environment would remain unchanged.

The applicant has demonstrated that the existing dwelling on Lot 1 will comply with bulk and location controls for the zone, while the balance lot of 2194m² is of a size capable of catering for a development within the bulk and location controls.

The proposed site sizes will not be out of character in the wider environment. This environment is predominantly mixed use, which ranges from single dwellings to multi unit development and non-residential activities, all in close proximity to each other.

Lot 1 will utilise the existing access to the site. Lot 2 proposes two vehicle crossings, one entry and one exit point for the proposed childcare centre. These vehicle crossings will be constructed to Code of Practice standards which will be appropriate in width, grade and alignment and will provide practical and legal access to the road.

Lot 2 was previously the location of the Old New Lynn Hotel, which was demolished in 2008. The site currently has a historical well onsite that will be retained as a feature of the site. A plaque is proposed to be erected with the development of Lot 2 to detail the history of the site.

Living Environment Rule 5 - Height in Relation to Boundary

Pursuant to Rule 5 of the Living Environment rules, assessment is required as a Discretionary Activity for buildings that project beyond the recession plane requirements.

Assessment of this rule will be assessed having regard to Assessment Criteria 5(a), 5(b), and 5(d) and 5(e) and any other matters that are relevant under section 104 of the Resource Management Act 1991.

The application has a height in relation to boundary infringement adjacent to the eastern boundary. The degree of non-compliance is 238mm. This is associated with a proposed covered deck to be located at ground level, adjacent to the property at 3174 Great North Road, New Lynn.

The proposed infringement is minor in scale and will not restrict reasonable sunlight or daylight to the adjoining property. This structure will be partially screened by the acoustic fence on the boundary. The proposed replanting along this boundary will also mitigate any adverse effects that may occur from the height in relation to boundary infringement.

Privacy for the adjoining property owner and the subject site will be retained by way of the proposed fencing and vegetation, while not compromising the degree of daylight and sunlight currently achieved at the adjoining property.

It is considered that the proposed height in relation to boundary infringement will have a negligible effect on the adjoining property and the wider neighbourhood character.

Living Environment Rule 8 - Privacy/Amenity

Pursuant to Rule 8 of the Living Environment rules, assessment is required as a Discretionary Activity as the proposed childcare centre will not be sufficiently screened from adjoining sites and the road and more than one vehicle will be visible from the car park.

Assessment of this rule will be made having regard to the relevant Assessment Criteria 8(a)-8(c) and any other matters that are relevant under section 104 of Resource Management Act 1991.

Screening of the main indoor and outdoor living areas of adjoining sites will be substantially mitigated by the proposed acoustic fencing and replanting proposed onsite.

The close proximity of the outdoor play area of the childcare to the properties at the rear (south) of the site may affect the amenity in terms of noise controls. However, this will be discussed in detail under Rule 13.

Great North Road, New Lynn is classified as a Regional Arterial Road in Council's Rooding Hierarchy. The road has a large traffic flow daily, and is currently four laned. There is a range of activities in the immediate environment including commercial, residential and home occupations. The site is close to the New Lynn Town Centre. It is not anticipated that the proposed activity would have adverse effects on the functionality of Great North Road, New Lynn.

The adverse visual effects on neighbouring properties have been attempted to be mitigated through the use of acoustic fencing and vegetation planting around property boundaries. However, the close proximity of these properties to the subject site may have adverse effects in terms of amenity values that are more than minor. It is my opinion that these effects can be mitigated by way of consent conditions relating to planting, acoustic fencing and hours of operation.

Living Environment Rule 10 - Non-Residential Activities

Pursuant to Rule 10 of the Living Environment rules, assessment is required as a Discretionary Activity as the proposed childcare centre will not be located within an existing building that was originally erected as a dwelling. No retail sales are proposed.

Assessment of this rule will be made having regard to the relevant Assessment Criteria 10(a)-10(e) and any other matters that are relevant under section 104 of Resource Management Act 1991.

The character and scale of the proposed childcare centre will differ from the primarily residential environment that the site is currently located within. It is anticipated that this can be suitably controlled through conditions of consent relating to hours of operation, onsite security, landscaping and acoustics to ensure that the amenity values and neighbourhood character are adequately maintained.

The proposed childcare centre will infringe impermeable surface coverage and will require stormwater detention tanks to avoid exceeding the capacity of the public stormwater system.

The potential effects on safety of residents of the surrounding neighbourhood can be mitigated through onsite security outside of the hours of operation. Altering the design of the pathway along the north eastern side of the building would also eliminate the potential for people loitering in this area outside of the hours of operation of the childcare centre.

Living Environment **Rule 11 - Traffic Generation**

Pursuant to Rule 11 of the Living Environment rules, assessment is required as a Limited Discretionary Activity for traffic movements that will not exceed 1% of the roads total daily traffic volume. Transport Assets have estimated an approximate 320 vehicle movements per day associated with the site.

Assessment of this rule will be limited to matters of screening, landscape treatment, retention of vegetation, road capacity, safety, duration, hours of operation and scale and will be considered in accordance with the relevant Assessment Criteria 11(a) and 11(b).

The site is located on Great North Road, New Lynn which is classified as a Regional Arterial Road in Councils Roading Hierarchy. Access to and exit from the site will be via separate vehicle crossings directly accessing Great North Road, New Lynn. Council's Roading Engineer has anticipated that the proposed childcare centre will create an additional 320 vehicle movements a day, 1% of the average daily traffic total for the road.

As a Regional Arterial Road, the primary use of the road is the movement of traffic, secondary to this is providing access to the front of properties. The speed limit along this stretch of road is 50kph and there is a painted flush median strip which allows for right turn movements too and from properties. No parking is permitted on the road. Bus stops are located on both sides of the road. There is a regular occurrence of slow moving or stationary queues during busy periods.

While it is anticipated that the majority of parents are likely to drop their children off at a childcare facility by private vehicle, there are alternative options such as walking and buses. There are no specific facilities available for cyclists along Great North Road, and volumes of cyclists appear to be low. For those needing to cross Great North Road, there are pedestrian refuge islands to assist during high traffic periods.

It should be noted that the proposed childcare centre will be non-sessional, meaning there are no fixed times where parents must drop off and collect children, therefore vehicle movements to and from the site will be spread out over the morning and afternoon.

Living Environment Rule 12 - Car Parking and Driveways

Pursuant to Rule 12 of the Living Environment rules, assessment is required as a Limited Discretionary Activity for car parking and driveways associated with a non-residential activity.

Assessment of this rule will be limited to the matters of design, location, safety, efficiency, driveway capacity, number of car parks, screening and planting and will be considered in accordance with the relevant Assessment Criteria 12(a)-12(d).

The applicant has proposed 24 car parking spaces onsite. There will be two vehicle crossings to allow for separate entry and exit crossings onsite. Based on the District Plan guidelines, parking is required to be provided at one park per four children. No additional staff parking is required. This application requires 25 parking spaces onsite, and as 24 have been proposed there is a shortfall of one space. This has been assessed by Councils Roading Engineer who considers this shortfall to be acceptable. No loading bays have been provided, and considering the proposed activity onsite this is acceptable, as any deliveries are likely to be short term and can be accommodated within the proposed car park. As the proposed childcare centre will be non-sessional, there would be no set drop off or pick up time, therefore vehicle movements to and from the site will be spread out over the morning and afternoon.

The existing dwelling onsite at 3180 Great North Road, New Lynn will retain the existing vehicle crossing and parking situation onsite.

The car park layout and dimensions generally comply with Council's Parking and Driveway Guideline. Complying pavement markings and signs where necessary shall be required to be provided to clearly define circulation and parking layout.

The proposed vehicle crossings onsite will be required to be constructed and maintained to Council's code of practice standards to ensure they are safe, maintenance free, adequately drained, efficient and visually attractive.

Visually, the location of the proposed car park is not ideal, as it fronts directly on to Great North Road, New Lynn and is clearly not in accordance with general Urban Design guidelines, where ideally buildings front onto roads, with parking facilities at the rear. The applicant has proposed some planting at the front of the site that will partially obscure the visual effects of the car park as viewed from the front of the site. Adjoining properties will also be obscured from view by vegetation planting and acoustic fencing along property boundaries. For security reasons, the car park should be locked by a gate outside of operational hours.

Living Environment Rule 13 - Noise

Pursuant to Rule 13 of the Living Environment rules, assessment is required as a Discretionary Activity for noise exceeding the permitted activity levels associated with the proposed childcare centre.

Assessment of this rule will be made in accordance with Assessment Criteria 13(a)-13(d) and any other matters that are relevant under Section 104 of Resource Management Act 1991.

The predicted noise levels for immediately surrounding properties range from 49dB to 63dB.

The site currently exceeds permitted activity standards for noise, relating to the noise from Great North Road, New Lynn. The proposed additional noise will differ from the existing situation, as noise will change from general background noise and traffic movement to noise created by children playing onsite.

The principle noise generators from the proposed childcare centre would be from traffic onsite and the noise from children playing outdoors. This will exceed the current existing background noise.

Noise from Traffic

The Golder Associates (Ltd) Acoustic Report prepared for the purposes of this application predicts noise levels at the adjacent properties will be L_{AF10} 52 to 53dB during the peak morning and afternoon periods and considers that these levels, when averaged in accordance with the provisions of Clause 4.5.2 of NZS6802:1991, will comply with the District Plan noise limit. I concur with this assessment, based on this report, and the peer review undertaken by JPStyles Ltd.

Noise from Children Playing Outdoors

JPStyles Ltd are of the opinion that the children under 18 months of age do not generate a great deal of noise, most of the noise from outdoor play is generated by children over 18 months old. The proposed centre would have up to 72 children in this older age bracket.

The Golder Associates (Ltd) report used CadnaA noise modelling software to model the noise from the children playing outdoors. The model predicts noise levels of L_{AF10} 54 to 55dB at the ground floor level of all adjacent receivers. The report suggests that averaging of noise levels in accordance with the provisions of NZS 6802:1991 will result in these noise levels being compliant with the District Plan noise limit of L_{AF10} 50dB. The process by which averaging has been applied is not detailed in the report. However, to achieve a 5dBA reduction through the averaging provisions of clause 4.5.2 of the Standard would require that the children play outdoors for less than approximately 30% of the day. The Golder Associates (Ltd) letter of 26 March 2010 indicates that there is to be no restriction on the access of the children to the outdoor play areas. Because the children are likely to be playing outdoors for longer than 30% of the time, we consider it unlikely that the District Plan noise limits will be achieved through the employment of the averaging techniques outlined in clause 4.5.2 of NZS 6802:1991.

The Golder Associates (Ltd) report predicts that the noise level at the first floor level of two story dwellings adjacent to the outdoor play areas will be up to L_{AF10} 63dB. This is 13dB above the District Plan noise limit. Clause 4.5.2 of NZS 6802:1991 precludes the use of averaging to adjust noise levels that exceed the limit by more than 5dB. The occupier of potentially one of the most adversely affected dwellings at 4/31 Arawa Street, New Lynn Mr Leyland, has presented a submission against the proposal which seeks to have the consent declined mainly because of the adverse effects of noise. The occupier of 29 Arawa Street, New Lynn Mr Maagdenberg, has also presented a submission against the proposal that cites noise as a major factor in his decision to object to the proposal. The noise producing mechanisms cited in Mr Maagdenberg's submission (the elevation of the deck, the potential for impact noise from the deck, and the reflection from the building façade) may have been taken into consideration in the CadnaA noise model. However the applicant has offered no mitigation that might reduce the effects cited by Mr Maagdenberg.

Therefore, while it is noted that some mitigation measures have been proposed to mitigate the noise levels at ground floor receivers, the effects of noise on immediately adjoining properties at first floor level can be considered to be more than minor. While some conditions can be included to reduce noise levels at ground floor levels, reducing the levels at first floor receivers to an acceptable level has not been proposed.

Living Environment Rule 15 - Signs

Pursuant to Rule 15 of the Living Environment rules, assessment is required as a Non-Complying Activity for signs with a total area of 3.3m², which is proposed to be located near the proposed entrance to the site.

The proposed sign is to be located at the front of the site, adjacent to the road and entry point to the site. The sign is considered to be of an appropriate size, and will not be dominant or obtrusive in the surrounding environment. The 2.750 metre high sign is proposed to include the childcare centre logo, hours of operation and a contact phone number. Directional signs associated with the car parking onsite may also be required, although these have not been included in the consent application.

The character and amenity values of the surrounding environment will not be significantly altered as a result of the proposed sign, as there are a number of signs along Great North Road, New Lynn. The sign is of a scale and character appropriate to the scale of the proposed activity and would not be dominant or out of character in the surrounding environment. The proposed sign would not create a situation hazardous to the safe movement of traffic along Great North Road, New Lynn.

The applicant has also proposed two plaques identifying that the site was previously the New Lynn Hotel which was a historic site, and also that there is a historic well still located onsite. The smaller of the plaques is proposed to be located near the well onsite, with the larger one proposed to be located to the east of the access to the site. These plaques will acknowledge the history of the site, and will not adversely affect the character and amenity of the surrounding environment.

Transport Environment Rule 7 - Vehicle Crossings

Pursuant to Rule 7.3 of the Transport Environment rules, assessment is required as a Limited Discretionary Activity for more than one vehicle crossing on the site.

Assessment of this rule will be limited to the matters of location, design and drainage and be considered in accordance with the relevant Assessment Criteria 7(a)-7(d).

The applicant has proposed two vehicle crossings, separate access for entry and exit to allow safe and efficient entry to and from the site. The vehicle crossings will be required to be constructed to Code of Practice standards for light commercial vehicle crossings.

The separate entry and exit design will ensure that traffic can flow smoothly onto and from Great North Road, New Lynn. It is anticipated that there will be approximately 320 vehicle movements per day associated with the proposed childcare centre. This would result in around 0.7% of the average daily traffic flow along Great North Road, New Lynn. The proposed traffic increase will have a less than minor effect on the roading network.

The vehicle crossing on the site at 3180 Great North Road, New Lynn will be retained in its current form.

The proposed vehicle crossings will not be out of character with the surrounding environment.

General Natural Area Rule 2 - Vegetation Alteration

Pursuant to Rule 2 of the General Natural Area rules, assessment is required as a Limited Discretionary Activity for the removal of two generally protected trees and works within the dripline of three trees.

Assessment of this rule will be limited to the matters of landscape treatment, scale, method and location and will be considered in accordance with the relevant Assessment Criteria 2(a) - 2(m).

Councils Arborist, Simon Miller has reviewed the proposed vegetation alteration onsite and had the following comments to make in respect to the application.

The application seeks to remove a Cypress tree (tree 3) and an Arizona Cypress tree (tree 4), while also undertaking works within the dripline of two Cypress trees (trees 1 and 2) and one Willow Myrtle (tree 5). The trees to be removed are poor specimens. It is assessed that removal of the subject trees can be adequately mitigated through appropriate mitigation planting.

It is noted that tree 3 stands outside the boundaries of the subject site. Owner's approval should be obtained before removal of the subject tree is undertaken.

Trees 1 and 2 will have minor earthworks undertaken within their dripline. The information submitted by the applicant indicates that the area within the site that incurs the subject trees dripline will remain permeable with up to 200mm of fill in this area. It is assessed that the subject trees will not be adversely affected provided appropriate tree protection measures are implemented.

Tree 5 is located on a neighbouring property (5/31 Arawa Street, New Lynn). The information submitted by the applicant indicates that a retaining wall will be constructed within its dripline. Fill, consisting of free draining sand, ranging from a depth of 600mm to 900mm will be placed within its dripline (where it incurs the subject site). The proposed retaining wall will be constructed in a manner that ensures that existing significant roots are retained and worked around. Subject to conditions, it is considered that tree 5 would not be adversely affected by the proposed works.

The amenity and neighbourhood character of the surrounding environment will not be adversely affected by the proposed vegetation alteration as the loss of the two generally protected trees can be adequately mitigated through replanting following completion of works onsite. Appropriate tree protection measures will ensure that the retained vegetation is maintained in a healthy and thriving state.

As with amenity and neighbourhood character as described above, the existing neighbourhood treescape (in terms of the General Natural Area), mitigation planting and tree protection measures will ensure existing ecosystems and natural habitats are maintained.

There are no known stability issues onsite.

Adverse effects arising from the proposal will be no more than minor provided landscape planting, as proposed, is undertaken and appropriate tree protection measures are implemented.

General Natural Area

Rule 3 - Earthworks

Pursuant to Rule 3 of the General Natural Area rules, assessment is required as a Discretionary Activity for earthworks exceeding permitted activity levels.

Assessment of this rule will be made having regard to Assessment Criteria 3(a)-3(s) and any other matters which are relevant under section 104 of Resource Management Act 1991.

The applicant has proposed an area of 2193m² with a volume of 1260m³. Earthworks are also required within 1.0 metre of site boundaries.

The earthworks required are directly associated with preparing the site for development. The scale of these works are considered to be consistent with the scale of the proposed development.

The applicant has proposed some additional planting onsite, and the proposed earthworks will not compromise these areas of vegetative planting. The proposed earthworks will not affect or reduce linkages between areas of vegetation onsite. There are a row of trees running along the eastern boundary of the site in a south west direction, two of these are proposed to be removed, and will be replaced with more practical specimens for the site.

The proposed earthworks will not adversely affect the landscape values, natural character or natural features of the surrounding environment. The site is not known to Council to be subject to flooding, erosion or instability, and the proposed earthworks, if undertaken in accordance with suitable conditions, will not exacerbate or contribute to flooding, erosion or instability onsite.

The visual amenity of the site and adjoining sites will not be directly affected by the proposed earthworks onsite as the proposed childcare centre and car park will cover the majority of the site, and the earthworks proposed will not dominate the landscape.

Earthworks will be managed onsite through the recommendations in the Land Management Plan submitted with the application. Any unsuitable fill will be removed from the site to an approved fill site for disposal.

Provided that the proposed earthworks are undertaken in accordance with the Land Management Plan submitted with the application, it is not anticipated that the earthworks will harm the health and safety of residents in the immediate surrounding environment.

Any damage generated by earthworks activities onsite that creates physical damage to a road or a situation hazardous or unsafe to road users will be required to be rectified to the cost of the consent holder, and to the satisfaction of The Manager, Resource Consents.

There will effectively be no driveway requiring earthworks, as the vehicle crossing will lead directly onto the car parking area onsite. The earthworks required for the car parking area will be scraping of the ground to level it for the purposes of constructing the car park.

The proposed earthworks will be required to be undertaken in as timely manner as possible, during daylight hours and during the earthworks season.

General Natural Area Rule 4 - Impermeable Surfaces

Pursuant to Rule 4 of the General Natural Area rules, assessment is required as a Limited Discretionary Activity as the proposed impermeable surface coverage for the proposed non-residential activity (childcare facility) is 66%.

Assessment of this rule will be limited to the matters of scale, location, method, clearance, landscape treatment and method of stormwater disposal and will be considered in accordance with the relevant Assessment Criteria 4(a)-4(k).

The applicant has proposed 66% impermeable surface coverage for the proposed childcare centre. As Council's Stormwater Systems are designed to cater for up to 60% of impermeable surface coverage per site in the 1 in 5 year storm event, the applicant is required to install a stormwater detention tank to limit the stormwater runoff from the site to the level permitted under the District Plan.

The proposed impermeable surface infringement will not adversely affect the potential for restoration or enhancement in the immediate surrounding environment, nor would it reduce the extent, range and linkages between vegetation, fauna habitat and natural features. The increase in impermeable surface coverage will not destroy or harm surrounding native vegetation.

The site is not known to be subject to stormwater flooding issues. It is not anticipated that the development will create or exacerbate stormwater flooding issues onsite.

Sediment and erosion control measures will be installed at construction stage to ensure that the potential for soil loss from the site is eliminated.

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

Auckland Regional Policy Statement

The Auckland Regional Policy Statement (ARPS) sets out the broad resource management issues, objectives, policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the region under which the Waitakere District Plan has been prepared. The focus is on major natural and physical resources and regionally significant activities. The ARPS became operative in 1999.

The Operative ARPS has been amended by Proposed Plan Change 6 which seeks to give effect to the growth concept set out in the Auckland Regional Growth Strategy as required by Section 40 of the Local Government (Auckland) Amendment Act 2004 (LGAAA) and Plan Change 7 (made operative in March 2010), which related to the shifting of the Metropolitan Urban Limits in the area of the proposed development so as to include the land associated with this application. Proposed Plan Change 7 is still under appeal at the time of writing this report.

The Resource Management Act 1991 requires that District Plans and Regional Plans shall not be inconsistent with the relevant Regional Policy Statements.

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

New Zealand Coastal Policy Statement (NZCPS)

In light of the site's location, this is not considered applicable

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.

8.6 Lapsing of Consent

Under Section 125 of the Resource Management Act 1991, unless given effect to earlier, a consent lapses either on the date that is specified within the consent or, if no date is specified, five years after the date of commencement of the consent.

There is no known reason to either decrease or increase the timeframe in this instance.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

Section 5 in Part II of the Resource Management Act 1991 identifies the purpose of Resource Management Act 1991 as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Whilst a childcare centre on this site is acceptable in principle, the noise levels to the first floor of the adjoining property at 4/31 Arawa Street, New Lynn have not been proposed to be mitigated to a level considered to be acceptable.

The proposal is not considered to adversely affect any matters of national importance. It is considered that the adverse effects arising from the proposal and the proposed mitigation are limited in significance to the surrounding urban neighbourhood.

The proposal is not considered to impact upon the Treaty of Waitangi.

Section 7 identifies a number of "other matters" to be given particular regard by Council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

The potential effects of the proposal on the amenity and character of the area have been discussed in detail in the effects assessment contained in Section 13 of this report. It is considered that noise associated with outdoor play would have an adverse effect on adjoining properties.

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

The threshold test in Section 104D of the Resource Management Act 1991 states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (104D (a)) or the activity will not be contrary to the objectives and policies of a plan or proposed plan (104D(b)).

The threshold test for a non-complying activity has not been met as the proposal fails to satisfy section 104D, in that the adverse effects on the environment of the proposal will be more than minor and the proposal is contrary to the relevant objectives and policies of the District Plan. Jurisdiction to grant consent has therefore not been established.

11.0 CONCLUSION

The applicant seeks consent to establish a childcare Centre onsite at 3176-3180 Great North Road, New Lynn.

While in principle the application is able to be supported in terms of establishing a childcare centre on the site, the effects in terms of noise to the adjoining property at 4/31 Arawa Street, New Lynn are considered to be more than minor.

It is considered that the proposal does not meet the criteria for granting consent as noise at first floor receivers is at a level that is considered to have a more than minor adverse effect on neighbouring properties. All other environmental effects discussed in this report are considered to be minor and can adequately be mitigated through the imposition of appropriate conditions of consent.

The noise levels generated by children playing outdoors for first floor receivers needs to be mitigated to a greater degree than what has been proposed in the application to date, to ensure that the effects on two storey properties immediately adjoining the subject site are no more than minor. It is considered that the other issues raised by the submitters can be adequately addressed through the imposition of appropriate conditions.

Subject to any additional or contrary evidence being presented at the hearing, it is concluded that the application **should be declined** in accordance with Section 104 of the Resource Management Act 1991.

12.0 RECOMMENDATION

That pursuant to Sections 104,104B, 104D, and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, consent be **declined** to the application by Waitakere Properties Limited to undertake the establishment of a childcare centre at 3167-3180 Great North Road, New Lynn being Lots 11-13 DP 22829 for the following reasons:

- i The introduction of a non-residential activity will not undermine the residential character of the surrounding neighbourhood. The size and scale of the activity, however, with particular reference to the noise generated from the outdoor play areas has not been adequately avoided, remedied or mitigated to a level appropriate within the environment. The proposal will detract from the amenity values expected to be enjoyed by adjacent residential properties, specifically 4/31 Arawa Street, New Lynn. Such adverse effects are considered to be more than minor in nature.
- ii The proposal would be contrary to the Objectives and Policies (Policy 0.4 and 11.18) of the Operative District Plan
- iii The threshold test for a non-complying activity has not been met as the proposal fails to satisfy section 104D, in that the adverse effects on the environment of the proposal will be more than minor and the proposal is contrary to the relevant objectives and policies of the District Plan.
- iv In terms of Part 2 of Resource Management Act 1991 the community benefits that would arise from the proposal do not outweigh the adverse effects that will not maintain and enhance the amenity values and quality of the environment. The development would be inconsistent with the sustainable management principles of Sections 5 and 7 of the Resource Management Act 1991.

Report prepared by: Sarah Baker - Resource Planner.

