

**AGENDA FOR A MEETING OF THE HEARINGS COMMITTEE TO BE HELD AT
WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON THURSDAY, 26 OCTOBER 2006
COMMENCING AT 9.30 AM**

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1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the Committee by resolution so decides; and
- (ii) the Chairman has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

The Committee may make a decision on a matter determined to be urgent.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFIRMATION OF MINUTES

Meeting Minutes - Thursday, 14 September 2006
Thursday, 21 September 2006

RECOMMENDATION

That the minutes of the Meetings of the Hearings Committee held on, Thursday, 14 September 2006 and Thursday, 21 September 2006, as circulated, be taken as read and now be confirmed.



4 LIMITED NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY LASQUE CONSTRUCTION TO ESTABLISH A CHILDCARE CENTRE FOR UP TO 50 CHILDREN WITHIN THE FRUITVALE ROAD PRIMARY SCHOOL GROUNDS AT 9 CROYDON ROAD, NEW LYNN

RMA 20060464

NEW LYNN WARD

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

APPLICATION DETAILS

Planner:	Kate Lawson
Site Address:	9 Croydon Road
Applicant:	Lasque Construction
Date Received:	29th March 2006
Resource Consent No:	RMA 20060464
Building Consent No:	Not yet applied for
Ward:	New Lynn
Legal Description:	Pt Allotment 150 PARO Waikomiti Pt Allotment 157 PARO Waikomiti Pt Lots 11-15 Deeds Plan S119 Pt Lot 10 Deeds Plan S119 Lot 10 Deeds Plan Whau 97
Address for Service:	MPC Planning PO Box 8960 Symonds Street Auckland
Site Area:	18714m ²
District Plan: Human Environment:	Living 2
Natural Area(s):	General
Landscape Elements:	None
Hazards:	None known
Roading Hierarchy:	District Arterial
Further Information Required:	Yes
Date Requested:	26/4/2006, 28/7/2006
Date Received:	30/6/2006, 24/8/2006
Site Visit:	13/7/2006
Any Affected Persons:	Yes
Approval Given:	No

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent to establish a childcare centre for up to 50 children in a new purpose built facility to be located within the grounds of Fruitvale Road Primary School. The childcare centre does not fit within the designated purpose of the site therefore consent is required for a non residential activity in the Living Environment that would require site works of 200m³ over an area of 1200m². Consent is also required for Traffic Generation and car parking associated with a non-residential activity on a site subject to a natural hazard.

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 environmental effects of this proposal are primarily related to amenity values and the cumulative effects of allowing the proposed activity to be located adjacent to residential sites. Such consideration included the associated vehicle movements to and from the site, parking, noise, privacy, and on-site amenity.

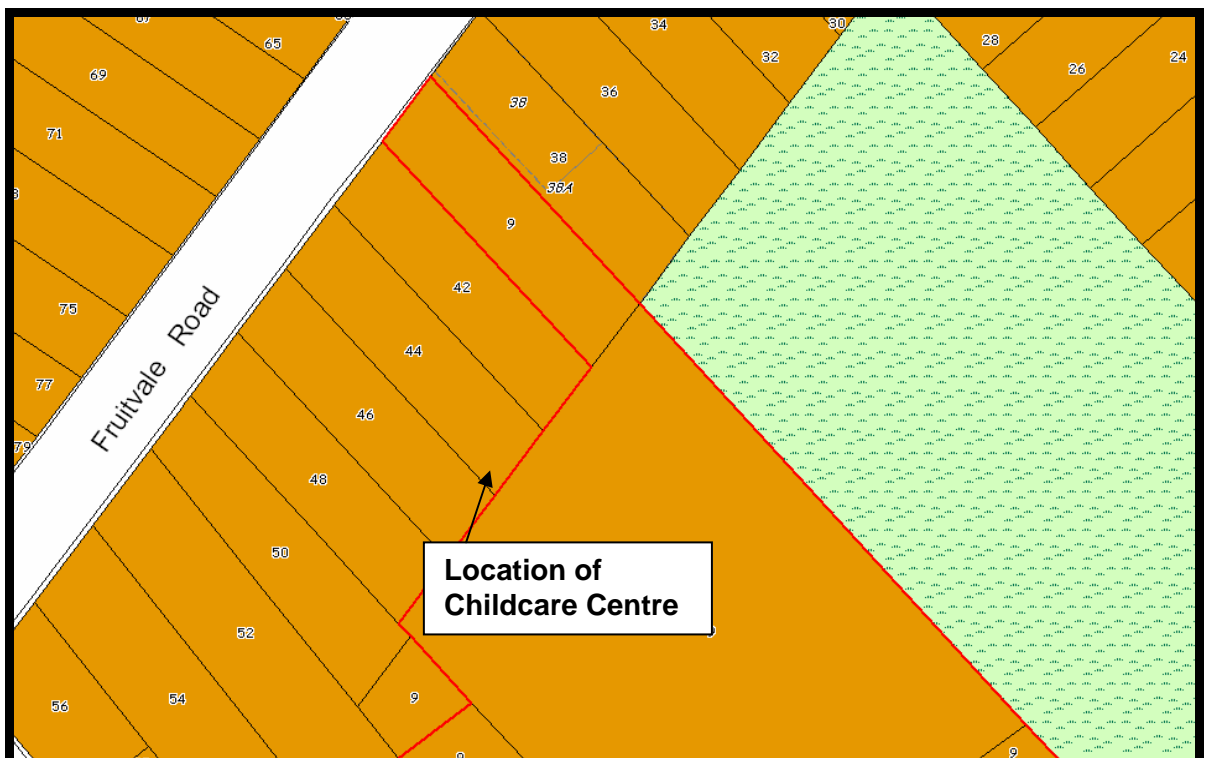
Other important aspects of the proposal for consideration related to the scale, character and intensity of the proposed development in relation to the surrounding environment and the District Plan policies and objectives.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application for the establishment of a childcare centre at 9 Croydon Road, New Lynn.

It is considered that the environmental effects that may be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of the District Plan will be satisfied.

2.0 LOCATION PLAN



Human Environment: Living 2
Natural Area: General
Legal Description: Pt Allotment 150 PARO Waikomiti
Pt Allotment 157 PARO Waikomiti
Pt Lots 11-15 Deeds Plan S119
Pt Lot 10 Deeds Plan S119
Lot 10 Deeds Plan Whau 97
Area: 18714m²

3.0 PROPOSAL

The applicant seeks consent to establish a childcare centre on the Fruitvale Road Primary School site at 9 Croydon Road, New Lynn. It is proposed to construct 3 module buildings to cater for 50 children. This would include 10 children under the age of 2 years and the remainder (up to 40 children) would be under five years old. Hours of operation would be 7.30am to 5.30pm Monday to Friday and eight staff would be employed on site at any one time. It is anticipated that the vehicles accessing the proposed childcare centre will predominantly be visiting the site between the hours of 7.30am-9am and 4.30pm-5.30pm. There is an existing wooden fence on the boundary of 42 Fruitvale Road and Landscape Planting is proposed on the northern boundary where the childcare centre adjoins 42 & 44 Fruitvale Road.

The proposed works comprise the following:

- The construction of three module buildings with a combined gross floor area of 491.4m² to serve as the childcare centre and an associated outdoor play area including decking and access ramps measuring 445m².
- Earthworks of approximately 200m³ over an area of 1200m² will be required to create the proposed building platform and car parking areas and to widen the existing driveway. Earthworks are also required to remove the existing earth mound located to the north west of module B to preserve the secondary stormwater flow path through the site.

4.0 REASONS FOR THE APPLICATION

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

Living Environment

Rule 10.4: NON-RESIDENTIAL ACTIVITY

Non-Complying Activity Consent is required for non-residential activities not meeting the performance standards for home occupations or existing non-residential activities on a site. The proposal is not a home occupation and is yet to be established on site.

Rule 11.3: TRAFFIC GENERATION

Discretionary Activity consent is required if a non-residential activity generates more than 50 vehicle movements per day or more than 1% of the roads daily traffic volume. The proposed childcare care centre would generate up to 160 daily movements.

Rule 12.3: CARPARKING AND DRIVEWAYS

Limited Discretionary Activity consent is required for all non-residential activities except home occupations where more than 3 car parking spaces would be required.

General Natural Area

Rule 3.3: EARTHWORKS

Limited Discretionary Activity consent is required where plan area of earthworks is greater than 100m² with a volume exceeding 50m³. A total of 200m³ over an area of 1200m² is required to create the proposed building platform and car parking area and to widen the existing driveway as well as remove the existing earth mound located to the west of the proposed buildings.

City Wide Rules

Rule 1.1: NATURAL HAZARDS

Limited Discretionary Activity consent is required to undertake building work on a site known by Council to be or likely to be subject to a natural hazard. Although the subject site is listed as having no known hazard it is noted that EcoWater Catchment Studies have revealed that the property is affected by overland stormwater flows in the 1 in 100 year storm event

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.

4.4 A building consent would also be required for this proposal but has not yet been applied for.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site is located at 9 Croydon Road and is designated under the Ministry of Education for Fruitvale Primary School, with an underlying residential zoning of Living 2 Human Environment. The designation is comprised of a number of lots with a total combined site area of 18,714m². The main entrance to the School is located on Croydon Road however there is an ROW from Fruitvale Road that is currently used as access for the Satellite Classes only. The majority of the school buildings are located on the southern half of the site, the site slopes down steeply for a short distance where the buildings finish and the playing fields start.

The proposed childcare centre is to be located on the existing playing field adjacent to the northern boundary and will cover an area of approximately 1200m². The proposed development will be accessed by the existing driveway from the Fruitvale Road entrance.

The subject site is largely surrounded by residential sites with the exception of Northall Park which adjoins the eastern boundary of the entire school site. The neighbourhood around Fruitvale and Croydon Roads is typical of a residential suburb of New Lynn. The area is characterised by older, single level housing stock with most sites having one or two dwellings on them. Neighbourhood character is starting to change with the advent of infill development and the appearance of more modern dwellings on smaller sites.





6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A44-A60

Notice of this application was served on all identified affected persons on 30th August 2006. The period for submissions closed on 27th September 2006 and 3 submissions were received. One submission supported the application, and two submissions opposed the application. Please refer to pages A48 to A60 for copies of the submissions that were received. A map showing the location of the submitters as attached at page A44.

6.1 Submissions

PERSON (owner/occupier)	ADDRESS	SUPPORT OPPOSE	REASONS
1. Pingfei Mao and Liqing Huang	1/42 Fruitvale Road	Oppose	<ol style="list-style-type: none"> 1. Noise generated 2. Traffic generation and child sa 3. Size and location of the childcare centre 4. Will effect Overland flow path
2. Deborah Keating	4/46 Fruitvale Road	Oppose	<ol style="list-style-type: none"> 1. Location of the childcare centre to the boundary 2. Access to the site 3. Noise generated 4. Traffic generation and child safety
3. Osmundo Magyawi Malaluan & Corazon Rabano Malaluan	1/44 Fruitvale Road	Support	<ol style="list-style-type: none"> 1. Supports the proposal provided the wire fence on the rear boundary of his property is replaced with a 1.8m high timber fence. (This has been required by condition of consent)

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 pages attached within the appendices supplement attached to this report. This should be referred to as the legal framework within which the application should be addressed.

"As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 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 (Section 104(2) Resource Management Act 1991)."

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. It is considered that the proposal would be unique because although the childcare centre is considered to be a non-residential activity it is proposed to be located on a site designated for Education purposes. The childcare centre is considered to be of a similar character to primary school activities and would be in keeping with the current use of the site.

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 Council to similar consent applications. Such a precedent effect does not arise because childcare centres are not unusual activities within the City and non-compliance in this case arises because the proposal activity would be a non-residential activity. It is considered that the effects generated by the proposed childcare centre would be little different from those school activities already established on the site.

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.

7.2 LIMITED NOTIFICATION – SECTION 94(1)

Section 94(1) provides for “*limited notification*” if the adverse effects of a proposal would be no more than minor but not all adversely affected persons have given their written approval, whereby all affected persons will be notified (but not the public at large) and have the opportunity to make a submission and be heard. This application was the subject of limited notification under section 94(1). A Section 93, 94 and 94A - 94D Determination Assessment was carried out. This report is attached in Appendix 11 of this report and identified that eighteen persons would be adversely affected by the proposal. However, not all persons identified as being affected gave their written approval. As required by section 94(1) notice of the application was therefore served on all persons who were identified as being adversely affected.”

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

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

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

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

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

8.1.2 Water Quality and Quantity

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

EcoWater Catchment Studies have revealed that the property is affected by overland stormwater flows in the 1 in 100 year storm event. Council's Water & Drainage Engineer, Richard Yearsley of EcoWater Solutions, has reviewed the engineering design provided by the applicant and has approved this design subject to conditions. These conditions would be included in any conditions of consent and provided they are adhered to any potential effects from the proposal would remain de minimis and no greater than those existing on the site prior to development.

In addition conditions would be imposed to ensure that all soil surfaces temporarily exposed during siteworks are protected by means of silt and erosion control measures. Installation of such measures would ensure that any effects are contained within the site and would be no more than minor.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

There would be de minimis adverse effects in relation to vegetation and fauna habitat as a result of the proposed activity as the site is within the urban area/ is already modified and it is not proposed to remove any protected vegetation or work within the dripline of any protected vegetation. It is proposed to remove four small trees less than 1m high. These are not protected under the Waitakere City Council District Plan.

8.1.4 Land / Soil

There would be de minimis adverse effects on soil/ existing landform as a result of the proposed activity as the site is within the urban area, is already modified and the proposed earthworks are keeping with the scale of development being proposed. The area of earthworks would be for the formation of the carpark, extension to the width of the driveway and the building platform, and would entail mainly surface scraping. Conditions would be imposed such as installation of silt and erosion control measures, wheel wash facilities and clean up of the street to ensure protection of adjoining properties and protection of the stormwater system from silt laden run-off. Such conditions would ensure that potential effects from the development would be de minimis.

8.1.5 Air

As the site is within the urban area and the proposed activity does not include air emissions of any kind, there would be de minimis adverse effects on air quality.

8.1.6 Ecosystem Stability

As the site is within the urban area and the existing environment is already modified there would be de minimis adverse effects on the stability of ecosystems as a result of the proposal.

8.1.7 Outstanding Natural Features; Landforms, Geological Sites

The subject site is not identified in the District Plan as being within an area identified as containing "outstanding natural features" within the City (refer Maps 3.5D & E). The proposed activity would not therefore adversely affect any identified outstanding natural features.

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

There would be de minimis 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.

8.1.9 Outstanding Landscapes

The subject site is not identified in the District Plan as being within an area of "outstanding landscape" within the City (refer 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.

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

- *Building bulk, overshadowing, physical dominance, privacy, noise;*

The proposed child care centre is to be located in the northern corner of the playing field adjacent to the northern boundary and along side the existing driveway. The building would be constructed in 3 attached modules that will form an L shape and open out on to decking and a grassed outdoor play area.

The end elevation of Module B and the outdoor play area would face the northern boundary and have a separation distance of 16.5m. The carpark is located between the childcare centre and the adjoining boundary and contains a 3m wide landscaping strip adjacent to the northern boundary which adjoins residential sites.

Council's Field Services Adviser (Health), Andrew Chalton, has expressed no concerns with the proposed activity and is satisfied with the proposed design and acoustic fencing proposed to mitigate noise effects beyond the site. Any activity on the site would in any case be expected to comply with the noise controls detailed in the District Plan.

The building itself would be single storey, would not be seen from the road and would comply with all bulk and location requirements.

- *Visual amenity, streetscape, sense of place, neighbourhood character, on site amenity, open space;*

The proposed childcare centre building will be located a minimum of 70m from the road frontage and would not be visible from the road. The neighbouring properties will be separated from the proposed activity by existing and proposed fencing and vegetation.

Fruitvale Primary School is an established part of the community and neighbourhood character. The proposed use of the site as a childcare centre will be similar in character, intensity and scale to the current or potential use of the site. Mr Charlton has also commented that the noise from the childcare centre would be similar in nature and of a similar noise level (or less) to that of primary aged children playing in the area.

Despite the loss in area of playing field there is still a significant outdoor play area remaining to the west of the childcare centre and on the existing hard surface court area in the centre of the school grounds. The loss of playing field area is also compensated by the location of Northall Park adjacent to the eastern boundary, which provides formal sports fields for general use.

- *Traffic generation, on-street parking, driver safety, pedestrian safety, roading capacity & roading network, traffic noise, vehicle movements, access and driveway manoeuvring, driveway width and gradient;*

The application is supported by a Traffic Engineering Assessment report prepared by G. E. Brown, Consultant Traffic Engineer of G & H Transportation Consultants Limited, dated 22 June 2006. This report has been peer reviewed by Council's Transport Engineer, John Carroll. Mr Carroll agrees with the assessment and conclusions of the G&H Transport Consultants report that states:

"The overall traffic impacts of the proposal will be minor. The additional traffic flows that will occur as a result of the proposed childcare centre will be easily accommodated by the adjacent roading network. Sufficient parking will be provided on the site to be able to accommodate all of the parking needs of the proposal. The two-way driveway proposed will allow efficient movement of traffic to and from the site. The impact on the properties of the adjoining sites to the northwest of the site (42, 44, 46, 48 Fruitvale Road) and the property to the north east of the existing access (38 Fruitvale Road) will not be significant."

A number of conditions have been recommended relating to car park standards, signage, and design of vehicle crossings and these would be incorporated into any conditions of consent. It is anticipated that main use for drop off and pick up of children would occur at times of the day that would be equivalent to normal residential use. Thus surrounding residents are not likely to experience any greater degree of inconvenience than is currently experienced within this part of the road network at the start and end of each working and/or school day.

Overall it is considered that the proposal would generate no more than minor adverse effects on amenity values in terms of health and safety, local area and neighbourhood character and any effects would be avoided, mitigated or remedied by means of consent conditions.

8.1.11 Heritage

There would be de minimis adverse effects in respect of heritage items as the proposed activity would not be located near, or impact on any identified heritage item.

8.1.7 Summary

Non residential uses have the potential to impact adversely on neighbouring properties because they may generate noise or traffic effects in particular that are not typical of normal residential use. In this case the loss of residential use can be balanced against the following:

- The proposed use of acoustic fencing would ensure that noise would be limited to the levels required by the District Plan;
- Although there would be an increase in traffic movement to the site it is anticipated that main use for drop off and pick up of children would occur at times of the day that would be equivalent to normal residential use. Thus surrounding residents are not likely to experience any greater degree of inconvenience than is currently experienced within this part of the road network at the start and end of each working and/or school day;
- The design would utilise the existing road crossing and driveway so the point of entry to the site is as existing;
- The development layout provides a separation distance from adjoining boundaries of approximately 16.5m and the buildings are located in the southern corner of the area of the site designated of the childcare centre to reduce the length of buildings adjoining the boundary;
- No adverse effects would be generated at night or weekends because the proposed hours of operation are from 7.30am to 5.30pm weekdays.

It is considered that the actual and potential adverse effects of the proposed activity are *no more than minor* and can be adequately mitigated through appropriate conditions of consent because:

- effects from earthworks would be of short duration and controlled by means of consent conditions;
- stormwater disposal from increased impermeable surfaces would be avoided, remedied or mitigated by means of appropriate design approved by EcoWater and by conditions of consent;
- effects from traffic would not compromise the safe operation of the road network;
- design of carparking would allow for safe on-site manoeuvring and safe egress/ingress from the site;
- Noise would be controlled by means of acoustic fencing and would be required to meet District Plan standards.

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

8.2.1 District Plan Policies and Objectives

It is considered that the proposed development would be consistent with the objectives and policies of the District Plan. Although the proposed activity would be a non-residential activity it presents relatively unusual circumstances because, although childcare centres are not unusual activities within residential areas of the City, it is rare to find a suitable site in such close proximity to a primary school. As the childcare centre is located within the school grounds it would allow a relatively seamless transition for users of the childcare facility from pre-school into primary education. There are no 'bulk and location' infringements and it is considered that residential/home occupation or school activities that could be established as of right on the site would result in effects that would be little different from those generated by a childcare centre.

The relevant objectives and policies in relation to this proposal are:

Objective 1; Policies 1.2, 1.5, 1.6 and 1.10 that seek to protect water quality and quantity by reducing vehicle use (and thus discharge from roads); by avoiding modification of landform; and by using appropriate design to manage stormwater disposal. Proposed stormwater design has been accepted by EcoWater Solutions and the locality of the proposal would encourage single drop-off/pick-up journeys.

Objective 10; Policies 10.2, 10.4, 10.6, 10.11 and 10.14 that seek to maintain and enhance the natural characteristics that contribute to human well being by managing activities so as to avoid nuisance effects (such as noise) to occupants of surrounding properties; locating buildings in a manner that ensures appropriate access to sunlight and daylight, outdoor space and privacy within sites and between sites; screening and designing car parking to ensure privacy and on site amenity for adjoining sites; and managing traffic effects in a manner that does not compromise the safety of all road users or surrounding residents and does not compromise the safe operation of the road network.

Objective 11; Policies 11.3 and 11.10 that seek to achieve a quality of activity that would make a positive contribution to local amenity value and neighbourhood character by locating buildings and associated car parking so that neighbourhood character, visual amenity and streetscape are maintained and privacy of adjoining property owners is assured.

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 - Non-Residential Activities

The proposed childcare centre would not:

- impact adversely on infrastructure, provided there is compliance with the conditions of consent;
- compromise either traffic safety or the safe operation of the road network;
- compromise pedestrian safety, residential safety or the residential coherence of the neighbourhood; and would be compatible with existing amenity values and neighbourhood character. The proposal is therefore deemed to be in accordance with (Non Residential Activity) Assessment Criteria 10(a) – 10(c) and (Traffic) Assessment Criterion 11 (a).

The proposed car parking area meets the required performance standards for car parking, would provide sufficient spaces to meet anticipated demand, would be provided with border planting and acoustic fencing so as to ensure the proposed activity would be screened and would not create adverse visual or aural effects on adjoining sites. The parking would therefore be in accordance with (Parking) Assessment Criteria 12(a – 12(c)).

General Natural Area – Earthworks

Assessed in terms of scale, method, design landscape treatment and location and in accordance with Assessment Criteria 3(a) to 3(q).

The proposal would require earthworks of 200m³ over an area of 1200m², the majority of this would be a scraping for the carpark and driveway area and for the building platform. This would be consistent with the scale of activity proposed. The car park would not be out of character in this highly modified residential environment and there would be provision of screen planting on the boundary adjoining residential sites. Silt and erosion control measures would be required for the duration of earthworks, as would measures to protect the road network and footpaths from damage. Other conditions would include controls on hours of operation and prevention of dust nuisance. The proposal is therefore considered to be in accordance with the relevant assessment criteria.

Natural Hazards

Assessment is limited to matters of design, location and monitoring and considered in accordance with Assessment Criteria 1(b) and 1(c).

EcoWater Catchment Studies have revealed that the property is affected by overland stormwater flows in the 1 in 100 year storm event. Council's Water & Drainage Engineer, Richard Yearsley of EcoWater Solutions, has reviewed the engineering design provided by the applicant and has approved this design subject to conditions. These conditions would be included in any conditions of consent and provided they are adhered to any potential effects from the proposal would remain de minimis and no greater than those existing on the site prior to development. It is therefore considered that with appropriate conditions of consent the proposal would satisfy Criteria 1(b) and 1(c).

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

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

Policies within the Regional Policy Statement reflect the need to avoid where practical, or remedy or mitigate adverse effects from development on the natural character of areas [contributing to run-off into coastal waters] and to avoid, remedy or mitigate adverse effects from sediment discharge to waterways. To be consistent with the ARPS it would be necessary to ensure that elevated levels of sediment do not enter the watercourse as a result of any works. It is noted that measures to control sediment during construction are contained in the Erosion and Sediment Control Measures Appendix in the Waitakere City District Plan. With conditions in place requiring the implementation of the recommendations of this Sediment and Erosion Control Measures Appendix, it is considered that the proposal would mitigate adverse effects from development on the natural character and would avoid adverse effects from the sediment discharge to waterways.

ARPS is also concerned that expansion of activities beyond the Metropolitan Urban Limits (MUL) does not threaten environmental qualities and thresholds (Urban Growth Management) and is not exploiting cheaper land costs. In this case the application is clearly an intensification of land use for a childcare facility in response to community demand and close to other educational establishments that would be consistent with objectives of promoting less use of private vehicles by reducing numbers of vehicle trips.

Therefore the proposal is considered to be consistent with the policies of the Auckland Regional Policy Statement.

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

8.4.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

TRAFFIC ISSUES

All the submitters have expressed concerns with respect to traffic in terms of safety, congestion, safe operation of the exit/entry to the site and street parking. Whilst it is recognised that local residents will always experience some level of inconvenience on any busy road, this would be the case on every road servicing a school throughout the city. Roads are public thoroughfares that are very difficult to regulate but it is expected that road users will (for the most part) 'drive to the conditions'.

All the aspects of particular concern, namely parking, vehicle access and traffic, have been assessed by a qualified traffic engineer (independent of the applicant's traffic engineer), who has concurred that "there are no traffic reasons why the proposed childcare centre should not be granted resource consent".

NOISE

There is no particular evidence to indicate that childcare centres generate excessive noise. I have reviewed Council's database for a number of childcare centres located within residential settings and have found no evidence of complaints about noise. The District Plan sets limits on allowable noise levels and activities are required to comply with these limits. There is therefore a mechanism already in place that would ensure that noise levels are maintained at suitable levels.

8.4.2 Bonds/Reserve Contributions/Development Levy/Financial Contributions

Development Contribution

The Local Government Act 2002 includes a provision for councils to use development contributions as a funding tool if they wish. This proposal is considered to be a development in terms of the Local Government Act 2002 and will therefore be subject to a development levy. These levies are identified by the Waitakere City Council's Long Term Council Community Plan 2003 (LTCCP) as capital expenditure and a calculation of the charge, based on the increase in units and impermeable surfaces, has been calculated as part of this application.

A Development Contribution of **\$13,273.65 (not including GST)** has been estimated, based on 42 units (credit is given for existing site) and 4575m² impermeable surfaces. As agreed with Council, this sum shall be payable upon uplift of the building consent.

8.4.3 Monitoring

The performance of the activities under this consent will be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis. In particular, attention is likely to be directed toward the implementation of conditions relating to silt and erosion controls, construction of the vehicle crossings and construction of acoustic fencing.

8.4.5 Any Other Relevant Non-Statutory Documents

There are no District Plan decision notices, Regional Growth Strategy matters, non-statutory documents such as reserve management plans and Council policy/strategy documents or heritage orders that apply to this site or the immediate surrounds.

The site is designated by the Minister of Education for the purposes of Fruitvale Primary School. The proposed childcare centre will be operated by a private organisation and does not fit within the purposes of this designation. The activity will therefore require consent under the Living 2 zoning for a non-residential activity.

8.5 Lapsing of Consent

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

A standard five year period in which to give effect to this consent is considered appropriate because such proposals are often dependent on obtaining 'start-up' funding and obtaining approvals from other bodies such as the Minister of Education and it would be reasonable to provide an appropriate time frame for this to occur. There are no other foreseeable circumstances within the next five years that would affect the implementation of this proposal.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

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

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

It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal will enable people and communities to provide for their economic, social and cultural well-being and their health and safety without significantly compromising the needs of future generations or the life supporting capacity of natural resources such as air, water and soils.

The proposal would allow for the establishment of a childcare centre with associated car parking that would be appropriate within the environment and would be able to establish and operate in such a way that the amenities of the neighbourhood would not be adversely affected. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment.

10.0 EVALUATION IN ACCORDANCE WITH SECTION 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)).

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies section 104D, in that subject to appropriate conditions of consent requiring mitigation the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the District Plan. Jurisdiction to grant consent has therefore been established.

10.0 CONCLUSION

The applicant seeks consent to make additions and alterations to an existing dwelling and establish a childcare centre for up to 50 children as a non residential activity. The subject site is located at 9 Croydon Road, New Lynn and is designated under the Ministry of Education for Fruitvale Primary School. The site is within the Living 2 Human Environment and the General Natural area. Site works of 200m³ over an area of 1200m² would occur for the construction of the carpark and driveway and to establish the building. Infringements generated by the proposal require consent for earthworks of 200m² over an area 1200m², provision of carparking and traffic generation associated with the establishment of a non residential activity that is not a home occupation. Consent is also required for natural hazards as the site was found to be located within an overland flow path.

It is considered that the proposal meets the criteria for granting consent as the potential adverse environmental effects are no more than minor and can adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment and operation of a childcare centre on the school site will not lead to a decline in the amenity values of the area in which it seeks to locate.

The proposal is considered to be consistent with the objectives and policies of the District Plan which seek to achieve a quality of activity that would make a positive contribution to local amenity value and neighbourhood character by managing activities and associated car parking so that neighbourhood character, visual amenity and streetscape are maintained and privacy of adjoining property owners is assured.

It is considered that the issues raised by the submitters **can** be adequately addressed through the imposition of appropriate conditions or by compliance with performance standards of the District Plan.

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

11.0 RECOMMENDATION

That pursuant to Sections 104,104B, 104D, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, **consent be granted** to the application by Lasque Construction to establish a childcare centre for up to 50 children as a non-residential activity with traffic generation and carparking and Driveway infringements, requiring earthworks of 200m³ over an area of 1200m² at 9 Croydon Road, being Lot 157 Parish of Waikomiti for the following reasons:

- (i) Any adverse effects on the environment would be no more than minor because:
- effects from earthworks would be of short duration and controlled by means of consent conditions;
 - stormwater disposal from increased impermeable surfaces would be avoided, remedied or mitigated by means of appropriate and approved design and by conditions of consent;
 - effects from traffic would not compromise the safe operation of the road network
 - design of carparking would allow for safe on-site manoeuvring and safe egress/ingress from the site
 - noise would be controlled by means of acoustic fencing and would be required to meet District Plan standards.
- (ii) The proposal satisfies the relevant assessment criteria and is consistent with the relevant objectives and policies of the Waitakere City Operative District Plan.
- (iii) The proposal is not contrary to Part II of the Resource Management Act 1991

Consent shall be subject to the following conditions:

(GEN1) The development shall proceed in accordance with the plans titled Proposed Childcare Centre for Fruitvale School, 9 Croydon Road, New Lynn prepared by Lifestyle Architects and dated 15th February 2006 & 21 August 2006 and all referenced by Council as RMA 20060464 and the information, including further information, submitted with the application.

(GEN2) All infrastructure relating to stormwater treatment and disposal, wastewater disposal, and water supply shall be designed and completed to the satisfaction of Council's Drainage Assets Engineer. (Compliance with the Waitakere City Council Code of Practice for City Infrastructure and Land Development is deemed to be in accordance with the above condition).

(GEN3) Pursuant to section 125 of the Resource Management Act 1991, this consent shall lapse after a period of five years after the commencement of the consent.

(GEN4) A consent compliance monitoring fee of \$1,308.00 (inclusive of G.S.T.) shall be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection all conditions have not been satisfactorily met, a reinspection shall be required at the relevant hourly rate applicable at the time the reinspection is carried out.

The \$1,308.00 fee shall be paid as part of the resource consent and the resource consent holder shall be advised of any further monitoring fees if they are required.

Earthworks

(EW1) **Before commencement of any works and until completion of exposed earth siteworks**, adequate sediment and erosion control measures shall be constructed and maintained by the consent holder. The control measures must be maintained until the site has been adequately stabilised against erosion. The construction and maintenance shall be in accordance with Appendix 3, Erosion and Sediment Control Measures Appendix to the Natural Area Rules of the Waitakere City Council District Plan (attached as appendix A to this consent).

Please **advise Council's Environmental Monitoring Officer when the controls are in place and await the approval of the monitoring officer** before commencing work.

- (EW2) The consent holder shall implement suitable measures, such as wheel wash facilities or the construction of a stabilised entrance way, to prevent the deposition of earth on the surrounding streets from trucks entering or leaving the site, to the satisfaction of the Manager Resource Consents. These measures shall remain in place until the completion of the development. Should any material be deposited on the street, it shall be removed immediately at the expense of the consent holder.
- (EW3) Footpaths, berms and kerbs shall be protected from damage by crossing or parking vehicles to the satisfaction of the Manager Resource Consents. Any damage which is attributed to the earthworks operation shall be rectified at the cost of the consent holder.
- (EW4) The development works are to be carried out in accordance with NZS 6803P:1984 'The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work' with the exception of the hours of work, which are to be limited as follows:
- | | |
|-----------------------------|--------------------|
| Monday to Friday: | 7.30 am to 7.00 pm |
| Saturday | 8.00 am to 5.30 pm |
| Sunday and Public Holidays: | No work |
- (EW5) All necessary action shall be taken to prevent a dust nuisance to neighbouring properties to the satisfaction of the Manager Resource Consents.

Acoustic

- (AC1) Noise from the childcare centre shall not exceed the following levels as measured at or near any residential boundary
- | | |
|------------------------------|-------------------------------------|
| Monday to Saturday | 7am - 7pm 50dBA L10 |
| Monday to Saturday | 7pm - 10pm 45dBA L10 |
| Sundays and public holidays | 7am - 10pm 45dBA L10 |
| Monday to Sunday (inclusive) | 10pm - 7am 40dBA L10 and 70dBA Lmax |
- Noise shall be measured and assessed in accordance with NZS6801:1991 and NZS6802:1991
- (AC2) No service vehicles (including rubbish trucks) or delivery vehicles are permitted to visit the site between the following hours:
- Monday to Sunday (inclusive) 10pm - 7am.
- (AC3) The childcare centre shall not operate outside of the following hours:
Monday - Friday 7am - 7pm.
- (AC4) A new wooden fence shall be constructed along the rear boundary of 44 Fruitvale Rd. The palings of the fence shall be a minimum thickness of 25mm, the edges of the palings firmly abutting and with battens covering the joints. The fence shall be a minimum height of 1.8m.

Transport

- (TA1) Form and constructs a vehicle crossing at 40 Fruitvale Road using standard detail SD 3.13 Light Commercial Vehicle Crossing, from Council's Code of Practice for City Infrastructure and Land Development; and for which a vehicle crossing detail form shall to be completed and returned to Council.

- (TA2) Inspection of the vehicle crossing boxing prior to concrete pouring is required. Contact Phone 836 8000 Ext. 8725, at least 48-hours prior to the inspection being required.
- (TA3) Form and constructs a two-way driveway 5.0m wide with a 1.4m wide concrete footpath immediately behind a vertical-kerb (refer to standard detail SD 3.04 Kerbs and Channel) dedicated to the safe pedestrian access of the primary school children.
- (TA4) On completion of hard surfacing of the proposed driveway and car park areas, the car park spaces are to be pavement marked, with signs erected where necessary, to clearly define staff / visitor parking, vehicle circulation and pedestrian access etc. All to comply with The Manual of Traffic Signs and Markings, (MOTSAM) published by Transit NZ. Also refer to NZS 4125 (1885), "Code of Practice for Design for Access and Use of Buildings and Facilities by Disabled Persons".

EcoWater

- (ECO 1) Design, provide and install a complete wastewater reticulation system to serve all Units in compliance with Councils Code of Practice for City Infrastructure and Land Development (Refer Section 5.0). Specific requirements:
 - (i) Obtain a Minor Drainage Works Permit for any proposed private drainage works to serve Unit(s) if not covered by a building consent.
- (ECO 2) Design, provide and install a complete stormwater drainage system to serve all Units in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 4.0). Specific requirements:
 - (i) Collect all existing discharge points. The system shall include connection to down pipes or drainage from any existing buildings and paved areas.
 - (ii) Obtain a Minor Drainage Works Permit for any proposed private drainage works to serve Unit(s) if not covered by a building consent.
 - (iii) To minimise the number of connections to the principal lines provide **one** Stormwater connection to the 750mm line and provide private lines from the proposed Unit and proposed catch pit to the new connection.
- (ECO 3) Provide a catchment analysis, define and form the 1 in 100 year overland flowpath, and take note that a drainage easement in gross in favour of Council will be required to be issued and registered on the new titles to be issued for affected Lots precluding placement of fill or the erection of solid walls or fences or other impediments within that flowpath, and providing for a minimum freeboard of one-half metre above the 1 in 100 year overland flowpath for the floor levels of commercial buildings. If necessary, a consent notice pursuant to Section 221 of the Act will also be required to be issued and registered on any adjacent affected Lots requiring a minimum freeboard of one-half metre above the 1 in 100 year overland flowpath for the floor levels of residential buildings. Provide an As Built plan of the overland flowpath showing a long section and cross section for inclusion in Council's Hazards and Special Features Register.
- (ECO 4) Design, provide and install a complete water supply reticulation system to serve all Units in compliance with Council's Code of Practice for City Infrastructure and Land Development (Refer section 6). Specific requirements:
 - (i) Provide and install a private water service pipe to the body Unit as specified in WCC COP.
- (ECO 5) Provide an As-Built drainage plan for the property, prepared by a registered drainlayer, showing the separate private drains from the new Units to the point of connection to the public drains.

FEES, BONDS & CONTRIBUTIONS

- (FC 1) Pay any EcoWater engineering, works supervision and administrative fees as incurred. These fees will be charged at Councils advertised schedule of fees.
- (FC 2) Pay to the Council pursuant to Section 407/409 of the Act the sum of \$723.00 (incl. GST at 12.5%), or the advertised cost at the time the connection is required, to provide a wastewater connection for Unit Note:
- i) All excavation and backfilling to be carried out by the owner.
 - ii) Installation of the connection and provision of an As-Built plan is required prior to the consent being finalised.
- (FC 3) Pay to the Council pursuant to Section 407/409 of the Act the sum of \$723.00 (incl. GST at 12.5%), or the advertised cost at the time the connection is required, to provide a stormwater connection for Units Note:
- i) All excavation and backfilling to be carried out by the owner.
 - ii) Installation of the connection and provision of an As-Built plan is required prior to the consent being finalised.

Advice Notes:

1. Where indicated in the conditions it is the consent holders responsibility to inform the Environmental Monitoring Officer when inspection is required. Inspections can be requested through the Call Centre on 839 0400.
2. A development contribution of **\$13,273.65 (not incl GST)** has been estimated based on 42 units (credit is given for existing site) and 4575m² impermeable surfaces. As agreed with Council, this sum shall be payable upon uplift of the building consent.

EcoWater

3. Pay to the Council the cost of providing a new connection to the sanitary sewer pipeline. Note:
 - i) All excavation and backfilling to be carried out by the owner.
 - ii) Installation of the connection and provision of an As-Built plan is required prior to the consent being finalised.
4. EcoWater policy requires any wastewater manholes that are constructed over existing lines or line connections on existing pipelines to be constructed by EcoWater Solutions maintenance contractor. Wastewater manhole connections may be constructed by the applicant's contractor with Engineering Approval and under EcoWater's Quality Assurance supervision or by EcoWater's maintenance contractor.
5. The existing public sanitary sewer passing through Lot PT ALLOT 157 DEEDS WHAU 97 WAIKOMITI may need to be re-laid at the owners expense (for that length below and one metre either side of the new dwelling) at the time application is made for building consent on this Lot. The building consent application shall include a CCTV video inspection of the wastewater line and foundation bridging details.
6. Consent to build over wastewater drains greater than 150mm diameter, or stormwater drains greater than 375mm diameter, requires the consent of the Drainage Assets Engineer. This consent may be withheld.
7. Under a Building Consent provide specific foundation design for bridging foundations over all stormwater and wastewater lines that lie under or within 1m any house platform, retaining wall or structure.

8. The applicant is required to pay to the Council the cost of providing a single new stormwater connection to the 750mm pipeline. Note:
 - i) All excavation and backfilling to be carried out by the owner.
 - ii) Installation of the connection and provision of an As-Built plan is required prior to the consent being finalised.
9. EcoWater policy requires any public stormwater line connections to be constructed by EcoWater's maintenance contractor. Stormwater manholes or manhole connections may be constructed by the applicant's contractor with Engineering Approval and under EcoWaters Quality Assurance supervision or by EcoWater's maintenance contractor.
10. It is the applicant's responsibility to, if applicable, obtain from the Auckland Regional Council a discharge permit, and all other consents, on terms acceptable to the Council, pay all costs attributable to such application and comply with any conditions imposed by the Council. Provide copies of subdivision consent conditions and hydraulic or geotechnical reports to the Regional Council.
11. Water meters are to be installed in the services berm in the ROW adjacent to the road reserve boundary under the future building consents for Lots affected. Specific requirements:
 - (i) Provide an As-Built plan of the water supply service lines to EcoWater.
 - (ii) Where the required public system is on private property, easements over the course of such system in favour of Council will be necessary.
 - (iii) Liase with the Water Assets Engineer regarding the location of the existing water meter and arrange for its relocation or substitution and pay all fees applicable. Note: Council require that an existing water meter serving an existing house remain the meter serving that house.
 - (iv) Locate all water connections at the same position as the power and telephone connection to each Unit **not** in the centre of the Lot.
 - (v) All Units are to be individually metered at the road reserve boundary.
12. Ducting of private service lines is recommended.

Report prepared by: Kate Lawson, Resource Planner.



5 **NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY G AND A BURROWS TO CONSTRUCT A MINOR HOUSEHOLD UNIT AT 5 ANZAC VALLEY ROAD**

RMA 20060263 Waitakere Ward

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

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent to construct a minor household unit within the foothills environment. Consent is required for density as the proposed minor household unit would be located more than 6m from the main dwelling, would be located within the side yard setback and would result in an infringement of building coverage on the site. Construction of the minor household unit would require earthworks to be done outside the building platform exceeding 100m², some of which will be within a non riparian margin, and the removal of an exotic tree which is over 6m in height.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for a resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the District Plan.

The environmental effects of this proposal primarily related to amenity values, and the cumulative effects of allowing a spread of residential buildings within the foothills landscape to occur.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that **consent be declined** to the application for the construction of a minor household unit that would be located more than 6m from the main dwelling, would be located within the side yard setback and would result in an infringement of building coverage on the site, requiring earthworks to be done outside the building platform exceeding 100m², some of which will be within a non riparian margin, and the removal of an exotic tree which is over 6m in height.

It is considered that the adverse environmental effects that would be generated by the activity would be more than minor and will not be adequately avoided, remedied or mitigated by conditions. In addition, the proposed activity is not consistent with the relevant objectives and policies of the District Plan.

2.0 LOCATION PLAN

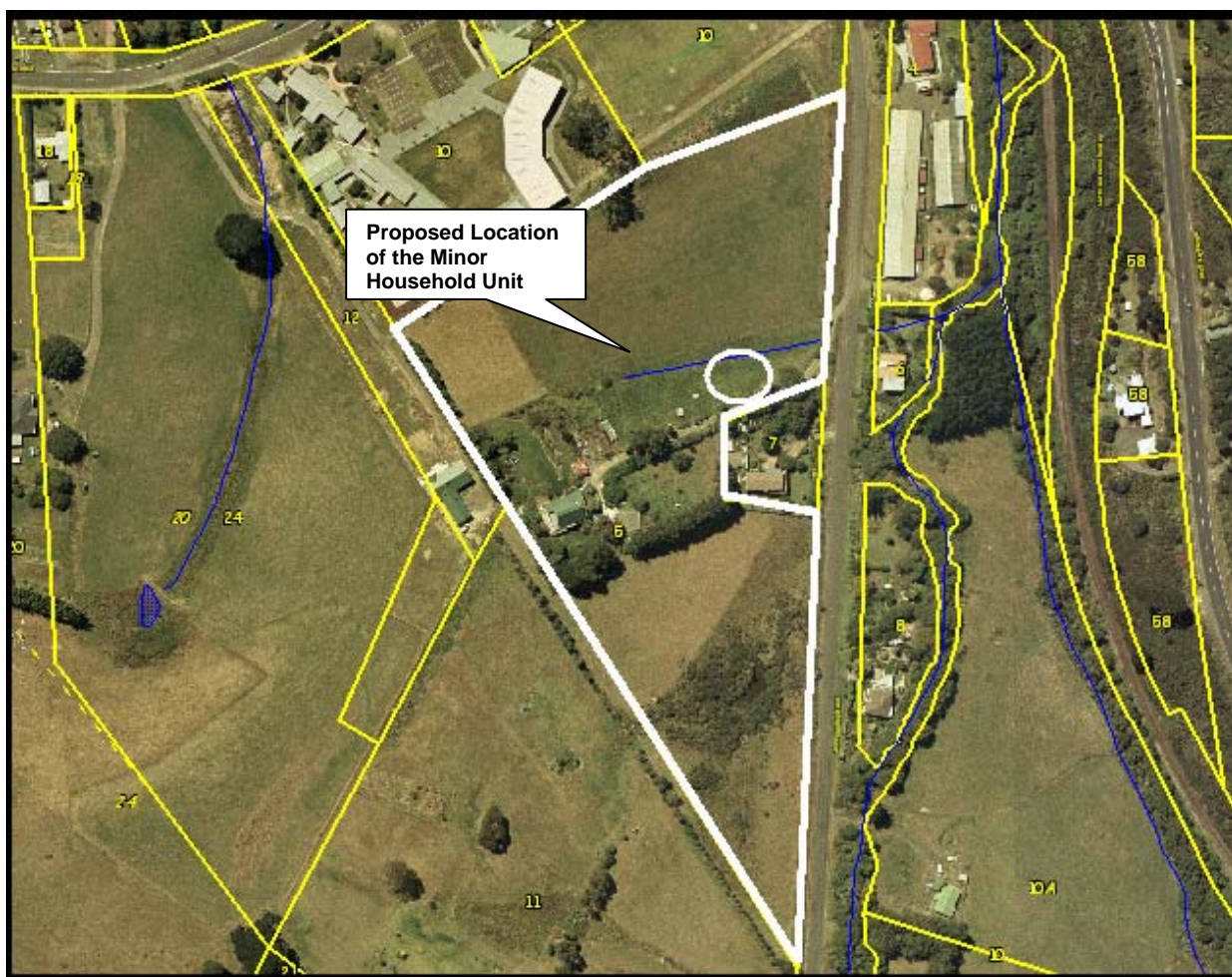


Figure 1: Site Plan

3.0 PROPOSAL

The applicant seeks consent to construct a minor household unit within the Foothills Environment and locate it 73m from the main dwelling. The proposed minor unit would have a gross floor area of 64.98m² and as present rules do not restrict the size of a garage for a minor unit the applicant proposes a 49.59m² garage and workshop adjoined to the unit bringing the total building footprint to 114.58m².

The proposed minor unit would be located within the 10m side yard setback being 8.7m from the indented southern boundary of the site. The minor unit would increase building coverage on the site by 114.58m² resulting in a total building coverage of 413.96m² or 1.02% of the net site area. Construction of the proposed minor unit would require the removal of 1 exotic tree over 6m in height and would require earthworks to be undertaken outside the building platform. The proposed excavations would be undertaken over an area of 195.78m². The proposal would require some works to be undertaken within a non-riparian margin on the site.

The applicant consulted with all neighbouring properties prior to notifying the application, and have obtained the written approval of all occupiers and owners at the following addresses:

- 2 Anzac Valley Road;
- 4 Anzac Valley Road;
- 6 Anzac Valley Road;

- 7 Anzac Valley Road;
- 8 Anzac Valley Road;
- 10 and 10A Anzac Valley Road;
- 11 Anzac Valley Road;
- 12 Bethells Road.

4.0 REASONS FOR THE APPLICATION

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

FOOTHILLS ENVIRONMENT

Rule 2: RESIDENTIAL ACTIVITIES/ DENSITY

Discretionary Activity consent for constructing a Minor Household Unit more than 6m from the main dwelling on a site that does not form part of a structure plan area and has a minimum site area of 2.5ha.

Rule 4: Yards

Controlled Activity consent for constructing a minor household unit within the 10m side yard setback.

Rule 7: Building Coverage

Limited Discretionary Activity consent for constructing a building that will result in total building coverage on the site exceeding 1% of the net site area, for residential purposes and provided that non- reflective materials are used.

GENERAL NATURAL AREA

Rule 2: Vegetation Alteration

Limited Discretionary Activity consent for removing an exotic tree measuring over 6m in height.

Rule 3: Earthworks

Limited Discretionary Activity consent for carrying out earthworks outside of the building platform exceeding 100m².

RIPARIAN MARGIN/ COASTAL EDGES NATURAL AREA

Rule 7: Buildings

Discretionary Activity consent for constructing a deck associated with a minor household unit within a non riparian margin.

4.3 The proposal complies with all other development controls under the District Plan.

4.4 No other consents are required in respect of this application.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site is located at 5 Anzac Valley Road, Waitakere, and is legally defined as Part Allotment 27 DP: Parish of Waipareira. The site measures 4.0521ha and has a sloping topography which falls down 1m from the western boundary towards the road and the north eastern boundary of the site. The site is occupied by a dwelling and associated garaging, a barn, and several assorted farm buildings in reasonable condition. The site is serviced by a single access way which is lined by vegetation. The land use history of the site includes grazing and horticultural purposes. Council records indicate that the site has been in family ownership for at least 35 years and was once an 8.5ha family farm from which parts have been subdivided for family members.

The site sits on the fringe of the Waitakere Rural Villages zone is predominantly rural in nature with some grazing animals and is set within the foothills with the surrounding environment made up of large sites which are predominantly pastoral in nature.



Figure 2: Site as viewed from Waitakere Road



Figure 3: site as viewed from Anzac valley Road

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A13-A15

Notice of the application was served on all identified affected persons and the period for submissions closed on 31st August 2006, one submission was received which supported the application. As attached at pages A13 to A15 for copies of the submissions that were received. A map showing the location of the submitters is attached at pages.

6.1 Submissions

Submitter 1 John Charles Mackie and Carolyn Wendy Mackie (11 Anzac valley Road) support the application as they consider the proposed location to be the most suitable for the proposed minor unit.

There were no other submissions made in respect to the application.

7.0 STATUTORY REQUIREMENTS

7.1 Discretionary Activities

A19-A24

The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail as attached at pages A19 to A24 attached to this report. This should be referred to as the legal framework within which the application should be addressed.

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

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

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

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

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

8.1.2 Water Quality and Quantity

There would be minor adverse effects in relation to water quality/ quantity arising from the proposed activity. The subject site has a non-riparian margin running through it and is located in an area with several riparian and non riparian margins and open stormwater drains in close proximity. The development requires earthworks to provide a suitable building platform, and a driveway for vehicle access to the minor household unit. The proposed earthworks have the potential to create adverse environmental effects from contributing sediment into receiving waters.

As there are nearby waterways downstream effects from erosion and sedimentation have been addressed as they can affect aquatic life in a number of ways. Organisms living at the bottom of water can be smothered by sediment which can also deprive them of habitat by filling up riffle pool areas. In addition, sediment reduces light penetration, clogs gills and causes a number of other adverse side effects. The effects of erosion and sedimentation do not just affect aquatic life but can result in a range of adverse effects including:

- loss of fertile top soil;
- clogged ditches, culverts, and storm sewers that increase flooding;
- muddy or turbid streams;
- damaged plant and animal life;
- filled-in ponds, lakes, and reservoirs;
- damaged aquatic habitats and reduced recreational value and use;
- structural damage to buildings, roads, and other structures.

Conditions of the consent will ensure that the earthworks undertaken on site are carried out with the appropriate erosion and sediment controls in place in accordance with Auckland Regional Council Technical Publication No.90 to protect the life supporting capacity, quality and Mauri of receiving waters and natural waterways. A condition will be included on this consent requiring that the applicant arranges a pre-construction meeting with Council's Environmental Monitoring Officers to ensure that the erosion and sediment control measures are adequate.

In addition conditions of consent will ensure that no concrete is deposited into the stormwater, by direct application, by washing of any equipment associated with concreting or by rinsing or wetting freshly laid concrete. Lime is a major component of cement and as such is found in all concrete products. It easily dissolves in water to produce a very strongly alkaline solution that quickly burns and kills any fish, insects and plants that come in contact with it, in much the same way as acid does. Any water that comes in contact with unset concrete products or concrete dust quickly increases in alkalinity so as to become very dangerous if it is allowed to enter the environment.

Due to the proposed location of the associated decks of the minor unit within the non riparian/ overland flow path the application has been assessed by Council's Water and Drainage Engineer, Daniel Thomas. A report to establish the extent of the overland flow path was undertaken by Dainty Alderton, Ref J778, dated 6th June 2006 and was subsequently reviewed by Mr Thomas. It was shown that the catchment contributing to any overland flow path in the 1 in 100 year storm event was relatively small (approximately 0.8 of a hectare) and that there is ample area for a flow of this magnitude to pass the proposed minor dwelling without any risk of flooding. Ecowater are satisfied the effects on the environment will be minor and any issues can be resolved at Building Consent stage.

The proposal will also require onsite waste disposal, the design of which will require Ecowater approval.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

The proposal would result in the removal of 1 exotic tree measuring more than 6m from the site. It is considered that the loss of this exotic tree would be de minimis as the applicant has proposed the planting of pohutukawa and bottlebrush to screen the proposed minor unit. Overall it is considered the loss of the tree would be de minimis.

8.1.4 Land / Soil

There would be minor adverse effects on soil of the existing landform as a result of the activity. The site is not known to be affected by hazards and is already modified. The earthworks proposed are for the construction of the building platform and associated driveway area and will be confined to these areas. The amounts of earthworks are consistent with the level of development being undertaken and conditions of consent relating to erosion and sediment control there will ensure that there will be less than minor adverse effects.

8.1.6 Air

As the site is within the foothills environment and the proposed activity does not include air emissions of any kind, there would be no adverse effects on air quality.

8.1.7 Ecosystem Stability

There would be de minimis adverse effects on the stability of ecosystems as a result of the proposal as conditions of consent will ensure that the proposed earthworks will not impact upon the nearby riparian and non-riparian margins within the area.

8.1.8 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 & E). The proposed activity would not therefore adversely affect any identified outstanding natural features.

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

There would be 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. Drainage design would be required to avoid impact on the existing overland flowpath.

8.1.9 Outstanding Landscapes

The subject site is not identified in the District Plan as being within an area of “outstanding landscape” within the City (refer Map 3.6B). However the site is within the Foothills Environment the city which occupies a key position between the urban areas to the east and the Waitakere Ranges to the west. In a district wide sense the foothills landscapes form the foreground to the Waitakere Ranges which are identified as an outstanding landscape.

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

Landscape, Visual, Natural and Neighbourhood Character

The Resource Management Act defines the term “amenity value” to mean *“those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, cultural and recreational attributes”*.

It should be recognised that any residential development will diminish natural values. These values include rural and natural qualities associated with undeveloped and unoccupied land and this is particularly evident in rural landscapes when there is more intensive development of existing lots. Settlement density and character, with its associated roading, human activities, noise, exotic plants, weeds and animals will modify the qualities of a site. This modification increases its effects with increasing intensity of development. In the case of Jill Corson and Claran Keogh v Taupo District Council (A061/2002) Judge Whiting comments that *“rural properties require a level of curtilage greater than that required by serviced town dwellings. Accessways, garages, implement sheds, waste disposal and water collecting services contribute to a larger amenity footprint. Inevitably this has a cumulative effect which may undermine the aesthetic coherence of a rural landscape”*.

The Foothills Environment is a rural zone which occupies a key area and plays a pivotal role in forming a visual and landscape buffer between the more built up areas of the city and the Waitakere Ranges, which are an outstanding landscape feature viewed by people all over Waitakere city.

Council’s District Plan recognises that in the Foothills Environment it is anticipated that there should be a dominance in the landscape of natural vegetation and primary production regimes and a subservience of man made and residential structures to these established qualities. The District Plan’s bulk and location requirements for the Foothills Environment reflect this intent.

It is widely recognised that the elements that are beginning to adversely affect the rural character of the foothills are the obviously urban style dwellings, unrelated to rural activities, appearing in the landscape. It is considered that the open pastoral nature of the Foothills Environment especially on sites such as the subject site which are visually prominent and relatively clear of vegetation are more sensitive to development in a visual sense.

In regards to the visual prominence of the subject site Council's Landscape Architect has stated that:

"Being on the east facing lower slopes of a valley floor the topography, together with existing tree cover, define viewing in the locality. The site, existing dwelling and associated complex of buildings are visible from public locations north-east and south-east of the site on Anzac Valley Road and from Waitakere Road near the railway line and intersection with Township Road north-east of the site. The sub-urban sized frontage site, 7 Anzac Valley Road appears to divide the site into two parts and screens some of it from certain locations to the east. Being set well back from the road, the existing dwelling is a mid ground element in the view, with associated planting giving it integration. From adjacent rural properties and from some residential properties on Waitakere Road or McEntee Road to the east the site is visible within the wider rural landscape."

The proposed minor unit would have a building footprint excluding proposed extensive decks, of 114.58m². The gross floor area of the proposed unit would be 64.98m² with an associated 49.59m² garage and workshop adjoined to the unit with internal access. It is proposed to have the laundry located in the workshop and this has been included in the gross floor area for the Minor Household unit. The applicant has proposed to construct the Minor household unit so that it would be located 73m from the main dwelling. The unit would be accessed via the existing driveway which currently services the main dwelling and associated ancillary buildings and would be sited generally within the existing developed area of the 4.015ha site. It should be noted that the topography of the site is such that the existing dwelling and associated complex of buildings sit higher within the landscape than the proposed location of the unit and are visually prominent on the site, therefore even the permitted location for a minor household unit as depicted in the District Plan would result in the Minor unit still being visible within the general landscape of the surrounding locality. In his visual assessment of the proposal Council's landscape architect addresses this finely balanced issue and notes that:

"As proposed, the minor unit would be placed in the road frontage part of the site, within a planted rectangular area taken from a field. The planted area and minor unit would define a residential scale area, shape and use, comparable to that for any dwelling. This complex would partly screen views further into the site and to the main dwelling, reducing the depth of the view. The minor household unit would be comparable in its impacts to the adjacent residential site, 7 Anzac Valley Road, and would be associated with further residential development of the rural landscape, with an effect comparable to that of a new dwelling. Rural values associated with the Foothills Environment would be reduced. The minor unit and associated planted area would be located in the foreground relative to Anzac Valley Road, and over an overland flowpath/non-riparian stream, within an at present open rural area of landscape. "

In his report Council's Landscape Architect noted that the use of the existing access drive for the proposed unit would have merit in reducing the potential visual effects. In addition the proposed planting plan submitted in the application is addressed by Council's Landscape Architect who notes that:

"The application proposes a framework of tree planting that would include pohutukawas and bottlebrush, with planting to give some screening and integration relative to the road, and to define a rectangular space associated with the dwelling/minor household unit. Although this would have some amenity and would give some integration to the dwelling into the landscape, and screening, it would essentially divide off a suburban sized frontage area of land within the site at present entirely pastoral and which has a natural watercourse flowing through it. As shown, the planting would not relate to the natural watercourse or landform, and would essentially define a suburban rectangular site, superimposed on to the landscape that would reduce the depth and extent of rural view into the area and further urbanise the landscape. Amenity and protection of rural and natural values would be better served by placement of the minor household unit close to the main dwelling, with associated planting as appropriate."

Council's Landscape Architect does not support the proposal noting that the proposed planting while providing some integration of the proposal into the landscape will not adequately mitigate the proposed location for the minor household unit further noting that it would be visually independent and separate from the main dwelling. It is concluded in his assessment that the proposed minor unit would be inappropriately located (and unnecessary), and counter to preserving rural character in the Foothills Environment.

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

The proposed development would not create overshadowing and loss of day light or sunlight to adjoining sites.

The proposed Minor Unit would be located within the 10m side yard set back and would result in a total building coverage over the permitted 1% of the net site area. The proposed unit would be orientated so that only the eastern corner of the unit would be within the side yard setback. This area of the proposed unit would be the garage so would not be a main living area of the proposed unit and the façade would only have 1 small window and 1 single door facing out toward that boundary. The Minor unit would be separated from the boundary by the existing driveway and as the boundary is already heavily vegetated it is considered there would be no loss to privacy between the sites. There would be potential for greater noise and activity in that portion of the site however which had previously been an open paddock with grazing animals. While most traffic generated noise has previously been associated close to the main dwelling this will now mean there is greater potential for this to occur towards the lower half of the site. A further potential noise source would be the activities associated with the workshop.

The additional building coverage would not result in any domination effects on to the adjoining residential site or school site adjoining the subject site to the north because of the topographical features and the separation distance of the proposed unit is considered enough to off set any domination effects on these adjoining sites.

Landscape Values and Rural Character

It is recognised that the construction of a minor unit anywhere on the subject site, even in the location of that which is permitted by the plan, would be highly visible within the surrounding landscape. It is also recognised that as a Limited Discretionary Activity the applicant could propose to construct an ancillary building at any location on the subject site which could have a potential visual impact of the built form over the natural landscape. In all cases careful consideration must be made to piece-meal development in the foothills environment to ensure that cumulative visual effects on the landscape are considered where inappropriate placement of buildings, whether they are ancillary or residential in nature, can gradually lead to an erosion of the rural character of the area.

It is recognised that the effects generated by a self contained Minor Unit, especially those not physically located close to the main dwelling are the same as those generated by a standard dwelling. The only difference which does arise is that which is stipulated by the District Plan which restricts the permitted floor space to 65m² (excluding any garaging). This has been taken into consideration in the assessment of this application as the proposed minor unit will have an integrated workshop and garage which will result in a total building footprint of 114.58m² and the minor unit visually appearing to be the same size as a standard residential dwelling as defined by the District Plan.

In the context of this proposal the effects of the residential activity in relation to those effects likely to be generated by ancillary buildings used for rural purposes must be considered.

There are key differences between rural buildings and residential dwellings and their associated effects on the environment. While rural buildings are usually utilitarian and simple in design dwellings can be of any design and can have associated visual effects which are characteristic of residential living such as driveways, gardens, garages, and formal outdoor living areas. The culmination of all these residential features can lead to a greater visual impact on the landscape than a barn or shed.

Where Minor units are attached to the house or in close proximity the effects are much less. In such a case the main dwelling and minor unit share associated residential features, buildings, associated noise and traffic effects, and are “read” as one building in the landscape, and therefore the cumulative effects are reduced. Where Minor units are separate from the main dwelling, they create a similar landscape and visual effects to a separate dwelling and residential lot. It is for these reasons that the District Plan stipulates that a Minor unit shall be no more than 6m from the main dwelling but puts no restrictions on the location of ancillary buildings associated with rural use.

Overall it is considered that the location of the proposed minor household unit being 73m from the main dwelling will have more than minor adverse effects on amenity values and the local landscape features and would have a cumulative effect by encouraging the spread of buildings and residential activities in the landscape.

Further the adverse effects on the natural, visual and neighbourhood character would be magnified if this scenario were repeated throughout the catchment. The potential long term effects of allowing Minor units to be located more than 6m from the main dwelling would be significant in terms of the adverse effects on the rural character.

8.1.11 Heritage

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

8.1.7 Summary

The proposed location of the Minor Household Unit being 73m from the main dwelling would represent further intensification of the area adjacent to Anzac Valley Road, as well as further intensification of the surrounding area and Foothills Environment.

It is considered that the effects of the proposed additional building coverage on the character of the site and general landscape would be minor had the proposed building been ancillary to the rural nature of the site and not residential in character.

The over-proliferation of buildings would adversely affect the natural and visual character of the site, and would adversely impact upon the neighbourhood character.

The adverse effects on the natural, visual and neighbourhood character would be magnified if this scenario were repeated throughout the catchment.

The potential long terms effects of allowing Minor units to be located more than 6m from the main dwelling would be significant in terms of the adverse effects on the rural character.

It is considered that the actual and potential adverse effects of the proposed activity are more than minor, and cannot be adequately mitigated through appropriate conditions of consent.

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

8.2.1 District Plan Policies and Objectives

It is considered that the proposed development would/would not be consistent with the objectives and policies of the District Plan.

The relevant objectives and policies in relation to this proposal are:

DENSITY

Policy 1.1

Settlement should be of a type and density that avoids, remedies or mitigates adverse impacts on water quality. In particular settlement should be: Located away from coastal edges, riparian margins and areas prone to flooding, and these flood hazards areas within the Oratia, Opanuku and Swanson Stream catchments: In the Foothills Environment minor household units should be located within 6 metres of the main dwelling to ensure there is only one area of residential activity on the site and to ensure subdivision of the minor household dwelling from the main dwelling does not occur. This will help minimise the area of impermeable surface, particularly if driveways are not to be duplicate outside structure plan areas, minor household units 6.0 metres or more from the main dwelling are to be allowed only on sites exceeding 2.5 hectares in area, and these must be assessed in accordance with possibilities and constraints which may apply in later structure plan processes.

Policy 10.17

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

Objective 11

To achieve a quality of settlement and associated activities within each of the City's Human Environments which is sympathetic to, and protects and enhances, the dominant natural and physical features which contribute to amenity value and the neighbourhood character of an area, including maintaining and enhancing:

- The complex, mixed landscape of the foothills.

Policy 11.1

Settlement should be of a type and a density that protects amenity values, including neighbourhood character of different parts of the City, by:

- Providing for a pattern of settlement in the Foothills Environment that is in keeping with (the) complex, varied and overall natural character of the area.

Discussion

The above policies and objectives seek to manage the effects that residential development has on the environment and landscape qualities of the foothills. It is recognised that Minor household units generate the same adverse effects as a standard dwelling. While Ecowater are satisfied that the adverse effects on water quantity and quality as a result of the proposal will be less than minor it is considered that the proposal would represent further intensification of the subject site and the area adjacent to Anzac Valley Road, as well as further intensification of the surrounding area and Foothills Environment. It is considered that the proposed minor unit being 73m from the main dwelling would be detrimental to the amenity values and the local landscape features and would result in cumulative visual effects associated with the spread of residential buildings in the landscape. Further it is considered that as the Minor Unit would visually appear to be separate from the main dwelling it would appear to be a separate residential lot and could potentially lead to pressure for future subdivision as has happened at 7 Anzac Valley Road and because the minor unit could function entirely independently of the main dwelling.

BULK AND LOCATION

Policy 10.5

Structures should 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.

Policy 10.6

Buildings, storage and parking areas should be designed and placed on-site, or screened in a way that maintains the privacy and onsite amenity of adjacent residential properties, including the privacy of outdoor space.

Policy 11.3

Buildings and structures should be located so that they maintain the neighbourhood character, visual amenity of the surrounding area and the characteristic streetscape of the area.

Policy 11.8

Structures, (except within the Working and Community Environments), should 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.

Discussion

The above policies seek to manage on site amenity and relationships between developments and adjoining properties and the wider character of an area and landscape. While it is considered that the proposed development would not result in any loss of privacy, daylight, create any overshadowing effects between sites or dominate the adjoining properties, it is considered that the intensification of the site through the spread of residential activities would alter the landscape character of the foothills, would further urbanise the landscape and would be a development that would be counter to preserving the rural character in the Foothills Environment.

Receiving Environment and Earthworks

OBJECTIVE 1

To manage the effects of landuse on the environment and, in particular, avoid, remedy or mitigate effects on the quality and quantity of the City's water resource, including maintaining:

- the life-supporting capacity of water;
- the ability to use aquatic ecosystems as a food source;
- the availability of water as a healthy place of recreation.

Policy 1.9

Activities should be carried out in a way that avoids modification to the structure and form of watercourses, riparian margins and coastal edges. Particular regard should be had for avoiding the piping and culverting of streams, and the effects of any earthworks.

Policy 3.2

Activities involving the disturbance of soil or rock and exposure of soils should be carried out in a way that avoids, or where unavoidable, remedies or mitigates any adverse effects on the surrounding topsoil and soil structure.

Policy 8.4

Any activity within the Riparian Margins that involves:

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

Discussion

The site is already modified by way of the existing driveway however the area proposed for the Minor Unit is an open field with a non riparian Margin running through it. The imposition of conditions would ensure that the proposal meets sediment and erosion control standards set out by the ARC in TP90. This would ensure that any sediment runoff would be contained within the site thereby protecting water quality. The modifications to the landform of the site are consistent and in keeping with the character of the surrounding residential area and allows for the construction of a Minor Unit. The proposed works involving earthworks, works within the riparian margin, in itself would not undermine the character of the area or the amenity values of the surrounding locality.

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:

Foothills Environment

Rule 2: RESIDENTIAL ACTIVITIES/DENSITY

ASSESSMENT CRITERIA

- 2(a) *The extent to which the minor household unit and associated development (including driveways) would contribute to adverse cumulative effects by the spread of buildings and residential activities in the landscape.*
- 2(b) *The extent to which the minor household unit and associated development (including driveways) detract from amenity values and the local landscape elements.*
- 2(c) *The extent to which the location and design of the minor household unit avoids the potential for future subdivision of that minor household unit from the main dwelling, unless otherwise provided for in the subdivision rules.*
- 2(d) *The extent to which the minor household unit and associated development (including driveways) requires the clearance of native vegetation and habitat of native fauna, or results in adverse effects on ecosystems.*
- 2(e) *The extent to which the minor household unit and associated development (including driveways) requires development in any Riparian Margin/Coastal Edge Natural Area or on any natural landscape element.*
- 2(f) *The extent to which adequate wastewater treatment and disposal systems are provided for the minor household unit and associated development.*

It is proposed to construct a minor household unit and locate it 73m from the main dwelling. The proposed minor unit would measure 64.98m² and including the conjoined garage and workshop would have a total footprint of 114.59m². It is considered that the proposed unit with its larger appearance and its proposed location within a prominent, at present pastoral area of the site, and near to the road would appear to be a second dwelling on the site and would further urbanise the landscape. The proposal would require the removal of an exotic tree over 6m in height and would require works within the non riparian margin. It is considered that while it is a Non- Complying Activity to carry out further subdivision of this site in the Foothills Environment there is still potential that the proposed location could lead to pressure for future subdivision because the minor unit could function entirely independently of the main dwelling and the driveway could become a shared driveway or have independent access from the road.

Although the proposed development would have reasonable urban/suburban amenity, it would be inappropriately located (and unnecessary), and counter to preserving rural character in the Foothills Environment and would have more than minor adverse effects.

Rule 4: YARDS

ASSESSMENT CRITERIA

- 4(a) *The extent to which buildings dominate the landscape character.*

While the minor household unit would not be a particularly dominant feature within the local landscape it will be highly visible within the wider landscape catchment. It is considered that the minor unit would appear to be associated with further residential development of the rural landscape, with an effect comparable to that of a new dwelling, set on a large urban site rather than a rural site.

Rule 7: BUILDING COVERAGE ASSESSMENT CRITERIA

7(a) The extent to which buildings create adverse effects on amenity values or dominate the rural landscape;

7(b) The extent to which the proposal creates demands for public upgrading of infrastructure to accommodate increased building coverage.

The additional building coverage would not result in direct domination effects on to the adjoining residential site at 7 Anzac Valley Road or the school site adjoining the subject site to the north because of the vegetative screening present between the property to the south east, the topographical features and the distance of the proposed unit to the boundaries is considered enough to off set any domination effects on these adjoining sites. However it is considered that the distance of the minor unit from the main dwelling would have more than minor adverse effects on amenity values and the local landscape features and would have a cumulative effect by encouraging the spread of buildings and residential activities in the landscape. It is considered that the residential nature of the additional building coverage would have more than minor adverse effects on the amenity of the Foothills Environment, more so than any additional building coverage created by ancillary buildings such as farm shed and or barns.

General Natural Area

Rule 2: VEGETATION CLEARANCE

ASSESSMENT CRITERIA

2(a) The extent to which vegetation alteration adversely affects amenity values and neighbourhood character;

2(b) The extent to which vegetation alteration will threaten natural ecosystems;

2(c) The extent to which vegetation alteration creates, contributes to, or exacerbates stability problems;

2(d) The extent to which development is located or can be designed in a way that avoids the need to remove vegetation, and in particular the removal of any trees which are notable examples of their species.

The proposal would result in the removal of 1 exotic tree *Myrsine australis*. It is considered that the loss of this exotic tree would be de minimis as it is not a notable example of its species and as the applicant has proposed the planting of pohutukawas and bottlebrush to screen the proposed minor unit the loss of this tree will be more than adequately mitigated. Overall it is considered the loss of the tree would be de minimis.

Rule 3: EARTHWORKS

ASSESSMENT CRITERIA

3(a) The extent to which the scale of earthworks is consistent with the scale of development being undertaken.

3(b) The extent to which earthworks adversely affect the potential for restoration or enhancement around the area of earthworks.

3(c) The extent to which earthworks reduce the amount, range and linkages between representative vegetation, fauna habitat and natural features.

- 3(d) *The extent to which earthworks adversely affect the significance or landscape value or natural character of natural landscape elements or other natural features.*
- 3(e) *The extent to which earthworks exacerbate or contribute to flooding, erosion or instability of land or the potential for flooding, erosion or instability of land.*
- 3(f) *The extent to which earthworks adversely affect or contribute to degradation of natural watercourses in a way that destroys or reduces their ability to support instream vegetation and fauna, their ability to be used as a healthy food source, their clarity, quality and flow and their suitability for swimmers.*
- 3(h) *The extent to which earthworks adversely affect the visual amenity of the site or adjoining sites.*
- 3(i) *The extent to which cut and fill activities involving earthworks are confined to the site rather than being transported off the site.*
- 3(n) *The extent to which a driveway requiring earthworks is designed to minimise earthworks, particularly by limiting the distance of the driveway on the site.*

As previously outlined there would be minor adverse effects on soil of the existing landform as a result of the activity. The site is not known to be affected by hazards and is already modified. The earthworks are being undertaken to construct the building platform and associated driveway area and will be confined to these areas. Subject to conditions of consent relating to erosion and sediment control there will be less than minor adverse effects.

Riparian Margin/ Coastal Edges Natural Area

Rule 7: BUILDINGS

ASSESSMENT CRITERIA

- 7(a) *The extent to which the building will adversely affect the overall resilience, biodiversity and integrity of the Green Network.*
- 7(b) *The extent to which the building will reduce the extent, range and linkages between vegetation, fauna habitat, and natural features.*
- 7(c) *The extent to which the building will adversely affect the mauri (life-force) of native vegetation.*
- 7(d) *The extent to which the building adversely affects the water quality of taiapure or mahinga maataitai.*
- 7(f) *The extent to which the building will adversely affect the significance or landscape value or natural character of any natural features.*
- 7(g) *The extent to which the building will adversely affect amenity.*
- 7(i) *The extent to which the building creates, contributes to, or exacerbates flooding, erosion stability problems or the potential for flooding, erosion or stability problems.*

- 7(j) *The extent to which the building will exacerbate or contribute to degradation of natural watercourses in a way that destroys or reduces their ability to support instream vegetation and fauna; their ability to be used as a healthy food source; their clarity; water quality and flow and their suitability for swimmers.*

The proposed minor unit would have a deck around its western and northern facades. The poles associated with this deck would be located within the non- riparian margin. Council's Drainage engineer has reviewed the application and supporting information and has noted that the proposed deck and poles would not impede the natural flow of water nor will they contribute to or exacerbate flooding.

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

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

Policies within the Regional Policy Statement reflect the need to avoid where practical, or remedy or mitigate adverse effects from development on the natural character of areas [contributing to run-off into coastal waters] and to avoid, remedy or mitigate adverse effects from sediment discharge to waterways.

It is considered that Section 8 (Water Quality) is of relevance. In particular Policy 8.4.7.3 which states:

"All land disturbance activities which may result in elevated levels of sediment discharge shall be carried out so that the adverse effects of such discharges are avoided, remedied, or mitigated".

To be consistent with the ARPS it would be necessary to ensure that elevated levels of sediment do not enter the watercourse as a result of any works. It is noted that measures to control sediment entering the stormwater reticulation and receiving waters during construction are contained in the Erosion and Sediment Control Measures Appendix in the Waitakere City District Plan and in line with ARC technical Publication 90. With conditions in place requiring the implementation of the recommendations of this Sediment and Erosion Control Measures Appendix, it is considered that the proposal would mitigate adverse effects from development on the natural character and would avoid adverse effects from the sediment discharge to waterways.

ARPS is also concerned that expansion of activities beyond the Metropolitan Urban Limits (MUL) does not threaten environmental qualities and thresholds (Urban Growth Management) and is not exploiting cheaper land costs.

The subject site is located in an area that is recognised for its rural/residential environment and forms an important buffer between the urban part of the city and the Waitakere Ranges. Low density residential development in rural areas such as this is encouraged, provided it is sensitively undertaken and the landscape qualities of the area are not compromised. As already noted the development would compromise the amenity values and would not enhance or preserve the natural landscape values of the Foothills Environment. The proposal would result in the spread of buildings and residential activities in the landscape and would lead to a cumulative visual impact on the area.

Therefore the proposal is not considered to be consistent with the policies of the Auckland Regional Policy Statement.

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

Precedent effect and District Plan Integrity

According to the Court of Appeal decision in Dye a 'precedent effect' is concerned with the influence that granting approval to this application may have on future applicants, and on Council, as consent authority, to grant approval to similar applications. Precedent effect is a relevant consideration under both s104B and s104(1)(c) of this Act. It is considered that the adverse effects on the natural, visual and neighbourhood character would be magnified if this scenario were repeated throughout the catchment and if surrounding properties in the locality made similar applications. The potential long term effects of allowing Minor units to be located more than 6m from the main dwelling would be significant in terms of the spread of residential living and the adverse effects on the rural character.

Plan integrity is a relevant consideration under Section 104B and 104(1) and involves consideration as to whether the proposal would challenge public confidence in the integrity of the plan and consistent implementation of its rules. In this case, having regard to the assessment contained in this report, that the proposal would be contrary to relevant objectives and policies, it is considered that such a challenge could arise.

8.5.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

There were no issues raised by the submitter to this application.

8.5.2 Bonds/Reserve Contributions/Development Levy/Financial Contributions

The Local Government Act 2002 includes a provision for councils to use development contributions as a funding tool if they wish. This proposal is considered to be a development in terms of the Local Government Act 2002 and will therefore be subject to a development levy. These levies are identified by the Waitakere City Council's Long Term Council Community Plan 2003 (LTCCP) as capital expenditure and a calculation of the charge, based on the increase in units and impermeable surfaces, has been calculated as part of this application.

A Development Contribution of **\$ 2607.28 (not incl GST)** has been estimated, based on 1 additional household unit.

8.5.3 Monitoring

Should the consent be granted the performance of the activities under this consent would 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. Such conditions would be in relation to earthworks, tree removal, drainage design, and building materials.

8.5.5 Any Other Relevant Non-Statutory Documents

12.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

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

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

13.0 CONCLUSION

It is considered that the proposal **does not meet** the criteria for granting consent as the potential adverse environmental effects are **more than minor** and **cannot** adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment of a Minor Household Unit more than 6m from the main dwelling **will** lead to a decline in the amenity values of the area in which it seeks to locate. The proposed location of the Minor Household Unit being 73m from the main dwelling would represent further intensification of the area adjacent to Anzac Valley Road, and would result in the spread of residential activities on the site. It is considered that the effects of the proposed additional building coverage on the character of the site and general landscape would be minor had the proposed building been ancillary to the rural nature of the site and not residential in character. The proliferation of residential buildings on the site would adversely affect the natural and visual character of the site and would adversely impact upon neighbourhood character, which is recognised as one of the most important and most valued features of the Foothills Environment. Further the adverse effects on the natural, visual and neighbourhood character would be magnified if this scenario were repeated throughout the catchment and the potential long term effects of allowing Minor units to be located more than 6m from the main dwelling would be significant in terms of the adverse effects on the wider rural character of the Foothills Environment.

It is considered that the actual and potential adverse effects of the proposed activity are more than minor, and cannot be adequately mitigated through appropriate conditions of consent.

The proposal is also considered to be contrary to the objectives and policies of the District Plan which seek to maintain and enhance those landscape values characteristic of the Foothills Environment that provide a buffer between the urban parts of the city and the Waitakere Ranges.

*Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **does not merit consent** in accordance with Section 104 of the Resource Management Act 1991.*

RECOMMENDATIONS

That pursuant to Sections 104, 104B, 108 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 G and A Burrows to construct a minor household unit and located it 73m from the main dwelling and within a non riparian margin resulting in infringements of density, building coverage, yards, earthworks and vegetation alteration at 5 Anzac Valley Road, being Part Allotment 27 Parish of Waipareira for the following reasons:

- (i) The proposal would have more than minor adverse effects on amenity values, neighbourhood character and local landscape features and would have a cumulative effect by encouraging the spread of buildings and residential activities in the landscape.
- (ii) The proposal is not consistent with the relevant Objectives and Policies of the District Plan.
- (iii) The proposal is not consistent with the Auckland Regional Policy Statement and would be contrary to Part II of the Act.

Report prepared by: Caisey Marter, Strategic Planner.

