



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF HEARING BY COMMISSIONERS

I hereby give notice that a Hearing By Commissioners will be held on:-

DATE: Thursday, 14 February 2008 **TIME:** 9.30 am

VENUE: Waitakere Central, 6 Henderson Valley Road, Henderson,
Waitakere

to consider an application for resource consent 1012 Scenic Drive, Swanson and to take any necessary action connected therewith.

5 February 2008

Sharon Simiona
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8820

MEMBERSHIP:

Commissioners:	Cr	VS	Neeson, JP (Chairman)
	Cr	DQ	Battersby, JP
	Mr	J	Childs

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD AT
WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON THURSDAY, 14 FEBRUARY 2008
COMMENCING AT 9.30 AM**

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1 PUBLICLY NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY WEDDINGS ETC LIMITED TO OPERATE A WEDDING AND FUNCTION VENUE AT 1012 SCENIC DRIVE, SWANSON

RMA: 2006 0958

Ward: Waitakere

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

APPLICATION DETAILS

Planner:	Cath Heppelthwaite Consultant Planner
Site Address:	1012 Scenic Drive North
Applicant:	Weddings Etc Limited
Date Received:	9 June 2006
Resource Consent No:	RMA20060958
Building Consent No:	N/a
Ward:	Waitakere
Legal Description:	CT NA48D/476 Lot 2 DP 92126
Address for Service:	Lenswood Limited Attention: T Ponninghaus P O Box 100155 NMSC Auckland
Site Area:	4058m ²
Unit Site Area(s):	N/a
District Plan: Human Environment:	Waitakere Ranges Environment
Natural Area(s):	General/Managed Natural Area
Landscape Elements:	Sensitive Ridge (Moderate – 65m),
Hazards:	High Noise Route (Scenic Drive)

Roading Hierarchy:	Scenic Drive – District Arterial Road
Further Information Required:	Yes
Date Requested:	18 October 2007, 8 June 2007, 15 April 2007, 21 March 2007, 29 August 2006, 28 August 2006, 14 August 2006, 13 July 2006, 28 June 2006,
Date Received:	28 November 2007, 5 and 13 June 2007, 15 February 2007, 12 September 2006, 23 August 2006, 7 August 2006, 14 July 2006
Site Visit:	26 June 2006

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent to operate a wedding and function venue (a non-residential activity). The proposal requires consent for traffic generation of more than 20 v/day and a driveway serving a non-residential activity. Retrospective consent is also sought for the construction of a building (marquee) on a sensitive ridgeline and also completion of alterations to a building on a sensitive ridgeline (changes to the roof line to accommodate acoustic attenuation). Existing impermeable surfaces of 43.5% also require retrospective consent. A sign (currently located within the road reserve) is proposed to be retained.

The applicant also seeks to provide for increased noise limits for wedding functions between the hours of 10.00pm and 12.30am, to sell liquor during this time and to play amplified music during this time. A noise limit of 40dBA L10 is proposed for the hours where 35dBA L10 is permitted.

1.2 Resource Management Issues Raised

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

The key issue associated with this application is the potential effect the wedding and function venue may have on the amenity and character of the area (including aural amenity). Potential effects (beyond those anticipated by the Plan) may result from the intensity of the operation on the site, hours of operation, functioning of the car park and infrastructure capacity.

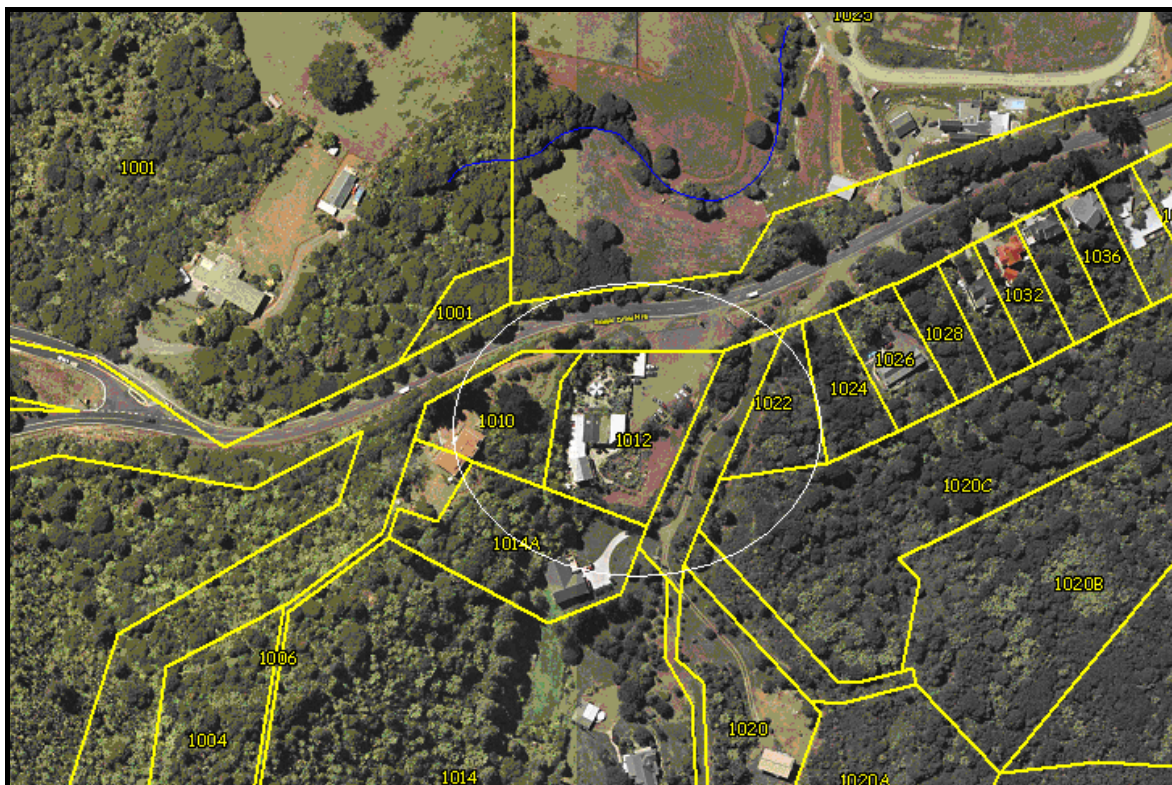
1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence being submitted, **consent be approved** for the operation of the function centre and the retrospective works associated with the proposal on a more limited basis than as sought by the current application.

The aspect of the proposal which is recommended to be limited by conditions of consent relates to the proposed increase in noise levels generated from the site from 35dBA L10 (District Plan) to 40dBA L10 (applicant's proposal). The times for which the applicant seeks an increased noise limit are 10.00pm to 12.30am. The remainder of the application is recommended for approval (including the infringements relating to the sale of liquor and playing of amplified music).

Subject to the District Plan's General Noise Standards being met, 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



The site is legally described as CT NA48D/476, Lot 2, DP 92126 and has an area of 4058m². It is located within the Waitakere Ranges Human Environment and has General and Managed Natural Area classifications. It is also located on a Sensitive Ridgeline (Moderate 65m). Scenic Drive is a District Arterial Road and a High Noise Route. The site is non-reticulated.

3.0 PROPOSAL

The applicant seeks consent to provide for the continued operation of a wedding and function venue. It is proposed to accommodate up to 120 persons per event and hold weddings on the following days:

Summer Months (1 November to 31 May)

Wednesday to Sunday operation between 11.00am and 12.30am. Closure of the premises is to be 12 midnight with a ½ hour departure time for guests to leave the premises.

No weddings are proposed to be held on Public Holidays, Mondays or Tuesdays.

One wedding per day is proposed.

Winter Months (1 June to 30 October)

Friday to Sunday operation between 11.00am to 12.30am Closure of the premises is to be 12 midnight with a ½ hour departure time for guests to leave the premises.

No weddings are proposed to be held on Public Holidays, Monday, Tuesday, Wednesday or Thursdays.

One wedding per day is proposed.

The applicant is seeking consent to vary the noise controls from 35dBA L10 to 40 dBA L10 between the hours of 10.00pm and 12.30am when a wedding function is being held.

The applicant has proposed that the limitations on noise and operating hours noted above relate only to weddings; not other functions on the site.

Other functions may occur at other times on the site (although not concurrently with a wedding) between the hours of 11.00am and 10.00pm. No consent is sought to vary noise controls for "other" functions and the applicant has indicated "other" functions would cease at 10.00pm and meet District Plan noise controls. No specific details of the nature of "other" functions have been provided, although it is anticipated that social events such as birthdays, anniversaries and work related events could be hosted. Opening to the general public as a café or restaurant is not proposed.

It is proposed to provide liquor for sale and provide amplified music after the hours of 10.30pm (Sunday to Thursday) and 11.30pm (Friday and Saturday). Additionally, it is proposed to provide amplified music between the hours of 10.00pm-8.00am (Monday to Thursday, Sunday and Public Holidays) and between the hours of 11.00pm- 8.00am (Friday and Saturday).

Parking for 48 vehicles is to be provided within the existing metalled car park area and no modifications to the parking area are proposed. Two unsealed vehicle crossings service the car park and provide access onto Scenic Drive.

Other aspects of the proposal require consent, mainly for retrospective works which have occurred on the property and/or which have established over time and not been consented. These include the additions to the reception building roof and the courtyard canopy. It is noted that beyond the installation of a waste water treatment system, no physical works are proposed on the site. Additionally, the site has impermeable surfaces of 43.5% which have not previously been consented.

The main reception building on the site has been modified (in accordance with ABA20061235) in order to improve the acoustic insulation provided by the building. This has altered the roof profile of the building which is located on a sensitive ridgeline. A canopy has been erected within the courtyard immediately adjacent to the reception building. The new canopy ("building") requires consent due to its construction on a sensitive ridgeline.

A sign is located within the road reserve outside of the site. Consent is sought to retain the sign.

Stormwater disposal on the site has been reviewed as part of the application process and a retention and disposal system proposed.

A new wastewater treatment and disposal system is proposed. The main disposal field is located on the subject site with a secondary disposal (reserve) field being located on the property to the north (1001 Scenic Drive). Consent from the Auckland Regional Council ("ARC") has been sought and granted for the disposal system and a copy of the ARC consent has been provided with the application.

There are no works which affect vegetation included within the proposal and no earthworks are proposed or necessary.

Overall, the current consent has been sought to allow the operation of the functions venue and to consent a number of existing infringements.

The applicant has provided the written approval of six nearby property owners to support the application (listed in detail within Section 6.3 of this report).

3.1 Background

Council files provide the following background to the activities on the site:

1955: Tearooms in existence on the site; floor area/hours etc unknown.

1969: First District Plan is notified, tearooms are not a permitted activity within the Rural 3 zone which the applied to the site.

1981: Tearooms operational, floor area in vicinity of 95m² (excluding kitchen and storage areas).

1984-1987: Panorama Tearooms operational, hours Saturday and Sunday 10.30 to 4.00 with some limited private functions. Floor area approximately 140m². A further building consent was issued in

1985 to provide for additions to the tearooms and increase the floor area to around 155m².

1990: Liquor Licence issued for an On-Licence. Hours of licence were 12 noon to 11.30pm, Monday to Sunday inclusive.

1991: Building consent granted for canopy over deck, floor area increased to 242m².

1994-1997: Panorama Receptions: restaurant and reception venue, open 6 days per week. Certificate of Compliance issued for purposes of Liquor Licence for "tearooms and reception lounge". Hours 10am to 11.30pm, Monday to Sunday.

1997-2004: Operated as "tearooms and reception centre" and "reception lounge/restaurant". Liquor licence issued for "reception lounge/restaurant" for the hours of 10am to midnight 7 days per week. Building certificate which accompanied liquor licence provides for 120 persons maximum occupancy. A further planning certificate for a liquor licence was issued with additional hours in 1997 for the hours of 10am to 1am seven days.

2004: Resource consent granted for the continuation of a restaurant, café and function centre on the basis of existing use rights. Hours 10.00am to midnight. A second resource consent was subsequently granted to provide for minor additions to the building. Liquor licence issued for "function centre/restaurant/café" for hours of 10am to 12am Monday to Sunday.

2005: Liquor licence renewed for three year duration for "function centre/restaurant/café" for hours of 10am to 12am Monday to Sunday.

In 2005 Council received a number of complaints regarding noise. This culminated in the issue of an Abatement Notice and subsequent appeal. A stay has been granted on the Abatement Notice pending the determination of this application. The documents on the Council's file would indicate incremental changes in the hours and nature of the operation from the site since the establishment of the tearooms. This application was lodged to provide certainty as to the legality of the use and also provides clarity as to the scale of activities on the site.

4.0 REASONS FOR THE APPLICATION

4.1 Reasons for Consent

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

Waitakere Ranges Human Environment

- (a) The existing reception building has received additions and a free standing canopy has been constructed within the courtyard next to the reception building. Both aspects require consent under Rule 2.3 as they are located on a modified sensitive ridgeline.

This is a limited discretionary activity. (Rule 2, Waitakere Ranges).

- (b) A non-residential activity is proposed on the site. The use of the site as a functions venue as described in Section 3 and is considered to be a non-residential activity. This is a discretionary activity. (Rule 7, Waitakere Ranges).
- (c) The non-residential activity on the site will exceed 20 vehicle movements per day when functional. It will also exceed 1% of the roads daily traffic volume (1% equates to approximately 19 vehicles). This is a discretionary activity. (Rule 8, Waitakere Ranges).
- (d) Driveways associated with a non-residential activity are considered to be a controlled activity. (Rule 9, Waitakere Ranges).
- (e) The applicant is seeking consent to vary the noise controls from 35dBA L10 to 40 dBA L10 between the hours of 10.00pm and 12.30am when a wedding function is being held. Wedding functions are proposed at the following times:

Summer Months (1 November to 31 May)

Wednesday to Sunday operation with the closure of the premise being 12.30am
No weddings are proposed to be held on Public Holidays, Mondays or Tuesdays.

Winter Months (1 June to 30 October)

Friday to Sunday operation with the closure of the premise being 12.30am

No weddings are proposed to be held on Public Holidays, Monday, Tuesday, Wednesday and Thursdays.

This is a discretionary activity. (Rule 10, Waitakere Ranges)

General Natural Area

- (f) Impermeable surfaces of 43.5% (1176m²) are located on the site. This is a limited discretionary activity. (Rule 4, General Natural Area)

Transport Environment

- (g) A freestanding sign is proposed to be retained within the road reserve. The sign is 3.5m in height and located outside of the site. This is a non-complying activity. (Rule 4, Transport Environment).

City Wide Rules: General Noise Standards

- (h) It is proposed to provide liquor for sale until 12.00 midnight Wednesday to Sunday (during Summer months) and Friday to Sunday (during Winter months).

Rule 1.7 provides for the sale of liquor as a permitted activity between 11.00am and 10.30pm (Sunday to Thursday) and 11.00am and 11.30pm (Friday and Saturday). The proposal is considered to be a discretionary activity. (Rule 1.7, General Noise Standards)

Additionally, it is proposed to provide amplified music between the hours of 10.30pm-12.00midnight Friday Saturday and Sunday during Winter months and Wednesday to Sunday during summer months.

Rule 1.7 provides for amplified music as a permitted activity between 11.00am and 10.30pm (Sunday to Thursday) and 11.00am and 11.30pm (Friday and Saturday). The proposal is considered to be a discretionary activity. (Rule 1.7, General Noise Standards).

4.2 Activity Status

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

Building consents (ABA20061235 and COM20072247) and a discharge permit (ARC33246) have issued for the proposal and no other consents are required in respect of this application.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The site is located on the upper reaches of Scenic Drive North. It contains a wedding and function venue with associated parking and outdoor seating areas. A dwelling is also located on the site. The function centre pre-dates 1951 in its construction but has been the subject of numerous additions over the last 50 years and is now in the vicinity of 250m² in floor area.

The metalled parking area and café building are clearly visible from Scenic Drive. The car park is currently finished in loose lime chip (or similar). Access is via two existing vehicle crossings. The vehicle crossings appear to be chained off when the venue is not in use.

Landscaped grounds are located along the southern side of the site. The landscaping consists of grassed areas, gardens, a pond and contains dense planting adjacent to the eastern and southern boundaries.

Attached to the function venue is a two storied dwelling which was constructed in 1981. The dwelling is located to the south of the function centre and not easily visible from the road frontage. A steep vegetated bank rises to the immediate west of the dwelling and function centre.

The function centre consists of a single storied building with enclosed courtyard. A canopy is located over part of the courtyard. The courtyard is separated from the car park

The facility (known as 'Cassells') has recently been granted a Certificate of Compliance in regard to existing use rights. The Certificate confirmed hours of operation, patron numbers and the general right to operate a restaurant/café and function centre in a zone where this would otherwise not be permitted.

A double sided freestanding sign of approximately 3.5m in height is located immediately outside of the site in the road reserve. Previous resource consent (RMA20040447) required the removal of the sign. The applicant now seeks its retention. A second more significant sign is located within the property boundary approximately 4m from the road reserve sign. It has a simple form and is designed to match existing fencing and buildings on the site. The sign was consented under RMA20040447.

To the north is 1010 Scenic Drive. The property contains a two storied dwelling and is substantially higher topographically than the subject site. Access to this property is in close proximity to the western-most vehicle crossing which services the subject site. The southern boundary adjoins a property known as 1014A Scenic Drive. This property contains a two storied dwelling and is slightly lower than the subject site. Access to this site (and a number of others) is via an access lot which adjoins the east of the subject site. The access lot contains a metalled domestic driveway. On the eastern side of the access lot is a bush covered vacant (residential) site.

The immediately surrounding area is characterised by moderately dense residential settlement. There is also a predominance of native vegetation. There are no other commercial activities in the area.

6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

6.1 Submissions

The application was lodged on 9 June 2006 and the applicant requested public notification under the provisions of Section 94C. The application was publicly notified on 24 July 2006. The period for submissions closed 18 August 2006. Five submissions were received. The submissions are summarised as follows:

Number	Name/Address	Summarised Reasons
1	M Hunt 1014 Scenic Drive	Submission in support of the existing activity. Supporting approval for proposal.
2	D and N Chapman 1010 Scenic Drive	Submission in opposition. Objection to noise, traffic, intensification, out of zone use.
3	E Duffy 1001 Scenic Drive	Submission in opposition. Wish to see functions limited to 10.30pm and two per week. No functions on Sundays, no parking on road and no sale of liquor after 10pm.
4	G and L Jobis 11 Kitewaho Road	Submission in opposition. Not suitable for zone, seeks decline and relocation of the premises.
5	J Hsu 1014A Scenic Drive	Submission in opposition. Wastewater effects, loss of privacy (during ceremony), parking on road, visual impact of car park, stormwater overflow. Submitter seeks no more than two functions per week with amplified music, suitable wastewater disposal, no parking on road within 200m of site, privacy screening between sites, no amplified music for outdoor ceremony. Overall seeking decline of consent.

A16-A17

A map showing the location of the submitters and those who provided written approval at time of application lodgement (noted in 6.3 below) is attached as Annexure 2 at pages A16 to A17.

6.2 Pre Hearing Meeting

A meeting was held on 2 October 2006, to allow for parties to meet and seek a resolution. The meeting was attended by the following parties: Mr Chapman (1010 Scenic Drive), Mr Hsu (1014A Scenic Drive), Mr Littlejohn (for applicant), Mr and Mrs Humphries (applicant) Mr Ponninghaus (for applicant), Bronwyn Allerby (Consents Manager, WCC), Brigid McDonald (Counsel for WCC), Cath Heppelthwaite (Consultant Planner for WCC).

Various views were expressed at the meeting regarding noise, mitigation and the general operation of the function centre. The meeting adjourned with the resolution that the applicant and Council would visit the submitters sites and assess further noise mitigation options (in relation to 1010 Scenic Drive) and privacy and noise effects (1014A Scenic Drive). The site meeting was held however no resolution appears to have been reached between the applicant and submitters.

6.3 Written Approvals

At the time the application was lodged, written approvals from the following persons were provided:

Name/Address	Approval Provided
M and D Diel, 1026 Scenic Drive	Yes
N and R McLeod, 1025A Scenic Drive	Yes
K and K Walker, 1025 Scenic Drive	Yes
G and A Lauchlan, 1024 Scenic Drive	Yes
P Rennie, 1020 Scenic Drive	Yes
S and R Hart, 1014 Scenic Drive	Yes

As of 29 January 2008, no written request to withdraw any of the listed approvals had been received.

7.0 STATUTORY REQUIREMENTS

7.1 Non-Complying Activity

A18-A22

The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail in Section 8.2 and Annexure 3 attached at pages A18 to A22. This should be referred to as the legal framework within which the application should be addressed.

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

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

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

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

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

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

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

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

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

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

8.1.2 Water Quality and Quantity

The effects of both the stormwater generation and wastewater disposal have been assessed by Ecowater and the ARC. The applicant provided a proposal for stormwater disposal which has been reviewed by Mr Thomas of Ecowater. Mr Thomas has concluded that the capture of stormwater from existing roofed areas and disposal via a detention tank will ensure effects are mitigated. Mr Thomas noted that paved areas have been reduced on the site since 2003 which would also assist by increasing permeability.

In regards to waste water, a new on site treatment plant is proposed. Dispersal (drinker) fields including reserve areas are proposed to be located on both the subject site and 1001 Scenic Drive. ARC consent has been granted for the waste water plant as has a building consent (COM20072247).

The site is not known to be subject to flooding or overland flow. Some run off from the western vehicle crossing onto the site is however noted. The applicant has advised that the western crossing can be removed and a water table drain placed within the berm. Mr Thomas has concluded that this will alleviate any concentrated stormwater flows onto the site. However, Councils Traffic Engineer proposes to have the crossing upgraded and retained to provide for bus turning. Conditions of consent are proposed to require the vehicle crossing is to be retained and upgraded to ensure that this construction is such that it generates a sheet flow and provides adequate stormwater control.

It is noted that some submissions referred to stormwater and waste water flows off the site; it is considered that the mitigation proposed will alleviate these matters.

Overall, there will be no significant adverse effects in relation to water quality/ quantity arising from the proposed activity as treatment and control are proposed. Additionally the site is not located near a water body or stream.

8.1.3 Native Vegetation, Vegetation and Fauna Habitat

There would be nil adverse effects in relation to vegetation and fauna habitat as a result of the proposed activity as no vegetation removal is proposed.

8.1.4 Land / Soil

There would no adverse effects on soil/ existing landform as a result of the proposed activity as no physical works are proposed (beyond the installation of a waste treatment plant).

8.1.6 Air

The proposed activity does not include air emissions of any kind, there would be no adverse effects on air quality.

8.1.6 Ecosystem Stability

No physical changes are proposed on the site and therefore no effects on ecosystem stability are anticipated.

8.1.7 Outstanding Natural Features; Landforms, Geological Sites

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

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

There would be nil adverse effects in relation to the natural character of the immediate locality as no changes to the site are proposed.

8.1.9 Outstanding Landscapes

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

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

Buildings

Retrospective consent is sought for two building elements: the roof alteration for the reception building and the canopy over the courtyard. The site is located on a sensitive ridgeline and the buildings have potential to generate effects outside of those anticipated by the District Plan. Those effects generally relate to the interruption of views and effects on visual landscapes.

In this instance the two areas of building are not considered to generate any discernible effects in terms of loss of views or degradation of visual amenity. The change to the roofline of the reception room has resulted from providing improved acoustic insulation and the building will retain its single storied scale. The canopy is set back in a position which is lower than the road and when viewed from public places, is seen against a

background of vegetation. No significant visual effects are anticipated as a result of the building works. Built character and visual amenity effects are considered to be de minimis.

Character and Visual Amenity

The site history evident from Council's file indicates that a commercial use has been established on the site for in excess of 50 years. The scale and nature of that use has however altered over time from a tearooms open during weekends to a functions venue available seven days. The presence of a commercial activity is however an established part of the character.

The buildings on the site are reasonably low key and not out of scale with either the site size or the residential scale of the area. The parking area is a reasonably significant feature when viewed from the road frontage but is largely screened from adjoining residential sites. This ensures the visual amenity of the immediately adjoining residential sites is preserved.

The signage proposed to be retained within the road reserve has been assessed by Council's Transportation Principal Engineer Mr Sam Shumane. Mr Shumane is comfortable with the location of the sign. It is not a significant structure and assists in identifying whether the site is "open" or "closed" for business. This is likely to assist motorists who propose to visit the premises.

The site exceeds the permitted impervious surface control and some minor visual effects are considered to arise from this. The car park is the primary element of the impervious surfaces on the site (at approximately 1185m² in area). The car park is visible from Scenic Drive but is well screened from adjoining residential properties. This screening from residential site will ensure that the residential amenity of the adjoining properties is not compromised from a visual perspective.

The date of the car park establishment is not known but it appears to have existed, at least in part, prior to 1995 when the Operative District Plan was notified and in which controls on impervious surfaces were introduced. The applicants have not however sought to rely in existing use rights in accord with s10 of the Act.

Stormwater generation has been addressed above and it is concluded that suitable mitigation is proposed.

Privacy

The site is reasonably well screened from its residential neighbours. The western, eastern and southern boundaries are provided with significant vegetation which screen almost all views from the subject site to adjoining dwellings. The reception building and courtyard are screened from all adjoining dwellings and, due to fencing, largely also screened from the road frontage. Privacy effects are considered to be no more than minor.

The lower garden is utilised for the formal wedding ceremony. This is generally held during the day, later in the afternoon. The garden area contains a small pergola in which ceremonies are usually held. This area is will screened from adjoining properties by existing vegetation along the southern and eastern boundaries. Privacy effects are considered to be no more than minor.

Transportation

The proposal has been reviewed by Council's Transportation Principal Engineer Mr Sam Shumane. Mr Shumane has considered a number of factors in relation to the functioning

of the site. These include the adequacy of parking, vehicle crossings and the functioning of the site in the wider road environment. The applicant has also provided a traffic impact assessment which has been reviewed by Mr Shumane.

In summary, Mr Shumane considers the 48 (informal) parks are suitable to cater for the proposal. The applicant has indicated that although the parking is unmarked, a staff member supervises parking to ensure on site space is maximised. Mr Shumane has considered whether the car park should be sealed and has concluded that there would be no significant benefit and that sealing of the parking area may cause increased stormwater run off.

Mr Shumane does however consider sealing of both vehicle accesses and an additional seal within the site to enable vehicles to “take off” from a sealed area when exiting the site to be beneficial. Whilst Mr Shumane considers retention of the western access to be appropriate (particularly to facilitate bus manoeuvring), he recommends that the access remains closed except for bus turning. Conditions of consent reflecting Mr Shumane’s recommendations are proposed. I concur with Mr Shumane’s views in regards to the traffic effects of the proposal.

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

Traffic effects are considered to be no more than minor.

Noise

The applicant has sought consent to generate noise at a level beyond that provided for by the District Plan at the following times:

Summer Months: Wednesday to Sunday: 40dBA L10 between the hours of 10.00pm and 12.30am (where 35dBA L10 is permitted).

Winter Months: Friday to Sunday: 40dBA L10 between the hours of 10.00pm and 12.30am (where 35dBA L10 is permitted).

Additionally, it is proposed to provide amplified music between the hours of 10.00pm-12 midnight (Monday to Thursday and Sunday) and between the hours of 11.00pm-12midnight (Friday and Saturday).

The noise generation at issue relates to evening activities. Noise generated during the day for outdoor ceremonies is compliant with the District Plan.

This is likely to result in effects beyond those anticipated by the Plan in regards to noise generation. The generation of noise from site activities has been the subject of repeated complaints from a number of submitters and has been the subject of enforcement action. The applicant has provided a number of acoustic reports which detail measurement methodologies and concluded that the 35dBA L10 is not currently being achieved by the activity.

A28-A33

Council has engaged Mr Nevil Hegley (Hegley Acoustic Consultants) to review the applicant’s acoustic assessment, refer to attachments at pages A28 to A33. It is the view of Mr Hegley that, based on current information, there is insufficient grounds to support a variation from the District Plans noise controls and that the effects of such a variation may result in more than minor effects on some adjoining sites. Mr Hegley also considers that the matter of traffic noise (vehicles departing the site after functions) has not been adequately addressed. Notwithstanding additional information which may be presented at the hearing, I concur with Mr Hegley. It is proposed to recommend conditions of consent which require compliance with the District Plan General Noise Standards at all

times. A condition of consent is proposed which seeks confirmation that the traffic noise generated is able to comply with the General Noise Standards or that suitable mitigation will be provided to achieve compliance.

It is considered reasonable to impose such conditions (under ss 104B and 108) having regard to the actual and potential adverse effects of noise on the surrounding residential environment. The proposed conditions provide greater certainty for adjoining sites, are consistent with the relevant objectives and policies of the Plan and are considered necessary to avoid or mitigate the actual and potential adverse effects of noise.

Intensity of Use

It is proposed to accommodate up to 120 persons per event at the venue. The District Plan provides no guidance as to intensity levels on the site; however non-residential activities of this type are considered to be discretionary activities. Given there is adequate parking, access, infrastructure (discussed above) and internal building space to accommodate 120 persons, the occupancy numbers are considered not to generate more than minor effects. This assumes that noise can be controlled to meet the District Plan General Noise Standards at all times.

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 effects of the proposal relate primarily to noise generation during evenings, privacy, traffic and parking and infrastructure capacity. As noted above, the privacy, traffic, parking and infrastructure effects are considered to be adequately mitigated. Noise effects can be adequately controlled by compliance with the District Plan's provisions.

It is considered that the actual and potential adverse effects of the proposed activity are minor (assuming District Plan Noise controls are met) and can be adequately mitigated through appropriate conditions of consent. In particular, conditions requiring adherence to the District Plans General Noise provisions and installation of the waste water system (as permitted by the ARC) are recommended.

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

8.2.1 District Plan Policies and Objectives

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

"Policy 1.7

Activities should be managed in a way that encourages the absorption of rainfall and surface water runoff on-site, avoids the creation or exacerbation of stormwater flooding problems off-site and minimises the runoff of surface water into stream catchments and waterways."

Discussion

The existing site generates an infringement of the impervious surface control. The majority of the impervious surface relates to the car parking area. It is proposed to retain

this in metal and will provide some degree of permeability. A specific stormwater design has also been proposed to minimise run off.

“Policy 4.7

That a wide range of opportunities for Non-Residential Activities be provided within the urban area to help reduce the need for travel, and as a consequence reduce the discharge of contaminants from motor vehicles into the air.”

Discussion

The venue is located on the periphery of the Urban Area which will reduce the need to travel for those who wish to utilise the venue.

“Policy 9.5

Structures should be of a height, scale and form that is compatible with the scale of buildings located within the City’s outstanding landscapes.”

Discussion

The building additions and new canopy are within the residential scale anticipated within the area. The canopy is set against a backdrop of vegetation and neither aspect of the proposal will cause significant visual effects. The building additions will see the retention of a single storied building form.

“Objective 10

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

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

Discussion

Objective 10 clearly indicates the need to maintain amenity including levels of quiet. The District Plan sets a minimum level of quiet by way of maximum noise limits. The applicant is seeking consent to exceed those limits within an environment which is sensitive to noise.

No significant grounds have been provided to support the proposed infringement to the General Noise Standard and additional mitigation (beyond that already completed within the reception building) has not been proposed. Pending further evidence, the applicants proposed alteration to the noise control between 10.00pm and 12.30am is unlikely to be consistent with this objective.

“Policy 10.2

Activities should not emit noise such that it causes a nuisance to occupants of surrounding properties.”

Discussion

As noted within the discussion on Policy 10, the current proposal is not inconsistent with this policy. The Council's complaints register indicates ongoing dissatisfaction with the noise levels emitted by the venue. The Waitakere Ranges is an area of anticipated quiet and adherence to the noise limitations will ensure this quality is retained. As noted above, the applicants proposed alteration to the noise control between 10.00pm and 12.30am is considered to be inconsistent with this policy.

"Policy 10.11

Activities should provide for:

- *the on-site parking and loading of motor vehicles;*
- *the location and design of access to car parking and loading areas, including areas for reverse manoeuvring to ensure that the safe and efficient functioning of adjacent roads, according to the positioning of that road in the Rooding Hierarchy, is not adversely affected."*

Discussion

Sufficient on site parking is provided for the activity and vehicle crossing points (once sealed) provide reasonable access. On site turning is provided. The Council's Traffic Engineer has considered the functioning of Scenic Drive in this location and considered that it is suitable for the proposed activity.

"Policy 10.14

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

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

Discussion

The functioning of the roading network has been considered by Mr Shumane who has concluded that the activity is suitable for the site and that the network requires no modification to cater for the activity. The commentary on Objective 10 includes consideration of traffic noise generated by vehicles accessing the car park.

Policy 10.16

Driveways, carriageways and carparking areas should:

- *be laid out in a way that provides for the safe circulation of vehicles and pedestrians;*
- *be of sufficient design quality to ensure the safe passage of motor vehicles, cyclists and pedestrians and discharge of stormwater;*
- *be designed to avoid edge fretting;*
- *allow safe, ready access to adjoining sites."*

Discussion

The carparking circulation will be managed on site by staff from the venue to ensure that the vehicles are parked and able to depart the site in a suitable manner. The car park will not obstruct cyclist or pedestrian movements along the road reserve. Stormwater discharges have been minimised by retaining the metal finish and a specific design will be required for the western vehicle crossing when it is sealed to minimise stormwater concentration. No access is provided to adjoining sites. Limited use of the western

most access is proposed and this will minimise conflict with the access to 1010 Scenic Drive which is in close proximity.

"Policy 11.4

Structures (including infrastructure) within the Transport Environment should be of a scale (height, form and bulk), and designed, located and managed in a way that the adverse effects on the amenity values and neighbourhood character of any surrounding Environments and which enhances the amenity of the Transport Environment itself. In particular, structures should:

- *be compatible with the existing streetscape, including the links between streetscape and the neighbourhood character and amenity of the surrounding Environments;*
- *minimise impact on views from adjacent sites;*
- *minimise the removal or damage to existing native and exotic vegetation;*
- *minimise physical domination and intrusion into the privacy of adjoining sites;*
- *located so that planting of road berms can be provided for."*

Discussion

The sign is an existing structure and not a significant feature of the existing roading environment. Views and vegetation will not be obstructed or damaged as a result of the proposal. Planting within the berm could still be provided should it be desired.

"Policy 11.10

Non-residential activities should be designed and managed in a way that:

- *maintains the visual amenity values of the Environment they are in;*
- *maintains the amenity of the site and surrounding area when viewed from the street;*
- *adequately screens any associated carparking, vehicle access and storage areas from view, from residential sites."*

Discussion

The visual amenity of the area (streetscape) will remain unaltered as the car park is existing. It is however well screened from adjoining residential properties which will ensure that a high degree of inter-site amenity is maintained.

"Policy 11.13

Activities should be carried out in a way that maintains the characteristic levels of quiet of each Human Environment."

Discussion

Subject to the proposed conditions of consent, the proposal will not have a significant effect on noise generated within the vicinity. The Waitakere Ranges is an area of anticipated quiet and adherence to the noise limitations will ensure this quality is retained.

"Policy 11.18

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

Discussion

The residential character of the site has been altered over time with the largest modification being the advent of the car parking area. The buildings themselves are reasonably residential in scale. There are no other commercial ventures in the vicinity and cumulative fragmentation is unlikely.

8.2.2 Rules and Assessment Criteria

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

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

Rule 2 Waitakere Ranges (Building Location)

2(a) The extent to which buildings are obtrusively visible on or above sensitive ridgelines from a public place.

2(b) The extent to which buildings and development compromise the visual landscape qualities of sensitive ridgelines, and other natural landscape elements.

3(c) The extent to which development adversely affects the visual, historical, cultural and spiritual significance for iwi of sensitive ridges.

2(d) The extent to which landscape treatment is used to mitigate the visual impact of buildings and development.

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

2(f) The extent to which the height of the building or development will interrupt identified Public Views, as listed in Appendix K of the Policy Section of the Plan.

Discussion

The building additions and canopy will not detract from the visual amenity and character of the area. Views will not be lost as a result of the proposal, particularly as the canopy is set down below road level and the building additions retain a single storey building form. Additional landscape treatment is not considered necessary, the site is already attractively landscaped and well maintained.

Rule 7 Waitakere Ranges (Non-residential Activities)

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

7(b) The extent to which Non-Residential Activities compromise the rural character.

7(c) The extent to which purpose built buildings are compatible with the scale and appearance of other buildings in the neighbourhood.

7(d) The extent to which Non-Residential Activities create adverse effects on water quality, native vegetation and fauna habitat.

7(e) The extent to which the activity would lead, on an individual or cumulative basis, to pressure for urban expansion and the fragmentation of rural character and amenity.

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

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

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

Discussion

As noted, the buildings form and scale is considered to be compatible with the surrounding residential environment. It is noted that noise generated during the day time elements of wedding functions meets the District Plan controls and is therefore permitted by the Plan. The hours and days of operation are considered to be suitable provided that the District Plan noise controls are met. No adverse effects are anticipated on vegetation, flora or fauna as a result of the proposal. The residential character and co-herece of the area is unlikely to be greatly effected given the length of time a commercial activity has been in place. The proposal will not encourage urban expansion or jeopardise rural character.

Rule 8 Waitakere Ranges (Non-residential Activities Traffic)

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

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

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

Rule 9 Waitakere Ranges (Car Parking and Driveways)

9(a) *The extent to which driveways are positioned in a way which recognises the need to integrate development with amenity values and the natural landscape.*

9(b) *The extent to which driveways provide safe and efficient vehicular access from the road to buildings.*

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

9(d) *The extent to which driveways and carparking create adverse visual or aural effects on adjoining sites.*

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

Assessment criteria for Rules 8 and 9 are addressed concurrently below.

Discussion

Traffic generation may have an adverse effect on the levels of quiet, particularly when vehicles leave the site after 10.00pm. The applicant has sought a relaxation of the noise controls between 10.00pm and 12.30am and this is not supported based on current information. Noise may result from vehicles exiting the site during late evenings; to reduce this effect, compliance with District Plan noise controls will be required.

Sufficient roading capacity is however available and access to the site is suitable. The parking area is not paved and is landscaped along its southern edge. Parking supply is considered to be suitable to match demand.

Rule 10 Waitakere Ranges (Noise)

10(a) The extent to which the background noise level (L95) in the vicinity of the subject site affects the relevance of noise standards for permitted activities.

10(b) The extent to which noise generated will exceed the existing background level.

10(c) The extent to which the noise generated will meet the provisions of New Zealand Standard NZS 6802: 1991 "Assessment of Environmental Sound" clauses 4.2.1 and 4.2.2.

10(d) The extent to which adequate noise buffers are provided between the activity and residential and other noise sensitive activities on other sites.

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

Discussion

Mr Hegley has considered the matter of background noise levels and their effects on the relevance of the noise standards for permitted activities and has concluded that there is currently insufficient grounds to indicate that the background noise level creates circumstances where the permitted activity noise level is inappropriate to apply.

The acoustic assessment provided by the applicant has indicated that noise generation will exceed the permitted standard in some circumstances (eg after 10.00pm). The applicant has completed acoustic insulation of the reception building on the site and has a policy of limiting people's activities within the external courtyard. No other mitigation methods have been proposed.

Rule 4: General Natural Area (Impermeable Surfaces)

*4(a) The extent to which impermeable surfaces adversely affect potential **for restoration or enhancement** around and within the area subject to the application, and adjoining sites.*

4(b) The extent to which impermeable surfaces reduce the extent, range and linkages between vegetation, fauna habitat and natural features.

4(c) The extent to which impermeable surfaces adversely affect the significance and the landscape value of natural features.

4(d) The extent to which impermeable surfaces contribute to the creation, or exacerbate stormwater flooding problems on-site or in any other part of the stream catchment, with particular regard to impacts in known flood-prone areas and any impact on an existing stormwater system.

4(e) The extent to which impermeable surfaces adversely affect the quality of receiving natural water, including the life-supporting quality of natural water.

4(f) The extent to which impermeable surfaces destroy or harm surrounding native vegetation.

4(g) The extent to which impermeable surfaces result in adverse effects arising from soil loss from the site.

4(h) The extent to which impermeable surfaces result in adverse effects on water quality, including their use as a food sources.

4(i) The extent to which impermeable surfaces result in adverse effects on the mauri (life force) of water.

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

The impermeable surfaces are existing and there is no additional vegetation removal or earthworks proposed. In regards to planting, it is recorded that there is significant landscaping on the site. The car park is unlikely to affect the natural landscape features of the area in a more than minor. Stormwater control has been addressed by the application and a proposal which is acceptable to Ecowater has been provided. Adverse effects on water quality are not anticipated.

Rule 4 Transportation (Sign)

4(a) The extent to which Parks Signs and signs are visually appropriate to amenity values and neighbourhood character.

4(b) The extent to which Parks Signs and signs create a situation hazardous to the safe movement of traffic.

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

Discussion

The signage proposed is a non-complying activity and the assessment criteria provided relate to Parks signage. The effect of the sign is considered to be minor, it is reasonably small in the wider scale of the area and is not located directly opposite a residential dwelling. The sign does not obscure sight lines or generate road user safety issues.

Rule 1.7 General Noise Standards (Sale of Liquor)

1.7(a) The extent to which the character, scale and intensity of the proposed activity is compatible with amenity values and neighbourhood character.

1.7(b) The extent to which fencing and/or planting provide an adequate noise buffer between the activity and Residential Activities on other sites.

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

Discussion

The sale of liquor and playing of amplified music can have adverse noise effects (people noise and music noise). It is proposed however to set conditions of consent which ensure the noise controls within the District Plan for the zone are met. The premise is a functions venue and this is considered a suitable use for the site and facilities which have established there during the previous ~50 years. The hours of operation and more restricted days of operation (particularly during the 'Winter' months) will assist also in protecting amenity.

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

The proposal raises no matters in regard to the Regional Policy Statement. All necessary consents have been obtained in regards to the Proposed Regional Air Land and Water Plan.

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

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

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

8.5.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

Exterior Music

A submission has been received which raises concerns about music played outdoors during wedding ceremonies. The noise generated by the ceremony meets the District Plan controls. The ceremony is usually held in the lower gardens of the site during the later afternoon. A condition of consent is proposed which requires all noise from the site to meet the District Plan noise control and this will ensure effects are within those anticipated by the Plan.

8.5.2 Other Matters

There are no other matters in relation to this proposal.

8.5.3 Monitoring

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

8.5.5 Any Other Relevant Non-Statutory Documents

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

8.6 Lapsing of Consent

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

A standard five year period in which to give effect to this consent is not considered appropriate given that the activity is already established and functioning on the site and the retrospective nature of part of the proposal. A one year time frame is considered to be appropriate. As the activity is already established on the site, the one year time frame relates to ensuring conditions of consent are implemented (where individual conditions do not specify an alternative time frame)

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

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

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

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

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

10.0 CONCLUSION

The site is located at 1012 Scenic Drive, Swanson and is located within the Waitakere Ranges Human Environment and the General and Managed Natural Areas. Scenic Drive is a High Noise Route and a District Arterial Road.

The site contains an operational wedding and functions venue. There is a long history of commercial use of the property which extends back ~50 years.

The applicant seeks consent for both continued operation of the venue and some retrospective elements of building works (being the roof alteration and canopy) and an impermeable surface infringement.

The application has progressed on a publicly notified basis at the request of the applicant. Five submissions were received, four in opposition and one in support. Additionally, the applicant provided with written approval of six property owners in the vicinity.

It is considered that the proposal largely meets the statutory criteria of Section 104D for granting consent as the potential adverse environmental effects are no more than minor and can adequately be mitigated through the imposition of appropriate conditions of consent. This is with the exception of the infringement of the District Plan noise controls which are considered to generate potentially adverse effects and not be consistent with the Objectives and Policies of the Plan.

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

Subject to any additional and/or contrary evidence being presented, it is concluded that the application merits consent in part 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 **approved** to the application by Weddings Etc Limited to operate a functions venue at 1012 Scenic Drive being NA48D/476 Lot 2 DP 92126 for the following reasons:

- (i) The proposed activity provides a sustainable use of the existing resources on the site.
- (ii) There will be no loss of vegetation or earthworks resulting from the proposal.
- (iii) The visual amenity of the area will largely be unaltered.
- (iv) The existing parking area, vehicle access points and roading environment are able to cater for the anticipated parking demand and vehicle movements.
- (v) The parking area is well screened from adjoining residential sites.
- (vi) Infrastructure is to be installed to cater for wastewater and stormwater generated by the site.
- (vii) Adherence to the District Plans noise controls at all times will protect the amenity of the surrounding residential area.
- (viii) Privacy is provided by existing vegetation along the eastern, southern and western site boundaries.
- (ix) The effects of the proposal overall are considered to be minor.
- (x) The proposal is considered to be consistent with the relevant assessment criteria.
- (xi) The proposal is considered to be consistent with the relevant objectives and policies of the Plan.
- (xii) The proposal is considered to meet Section 104D.

Consent shall be subject to the following conditions:

General

1. The development shall proceed in accordance with the plans titled "1012 Scenic Drive" numbered Sheet 1A (dated 10/7/06), Sheets 2-6 (dated 10/05/06), Parking Plan dated Aug 2006 and all referenced by Council as LUC20060958 and the information, including further information, submitted with the application.
2. Functions (other than weddings) may be held on the site (although not concurrently with a wedding) between the hours of 11.00am and 10.00pm on any day.
3. The maximum number of persons on the site per event is 120.
4. Weddings and wedding receptions are limited to the following hours and days:
 - (a) Summer Months (1 November to 31 May)
Wednesday to Sunday operation between 11.00am and 12.30am. Closure of the premises is to be 12 midnight with a ½ hour departure time for guests to leave the premises. Only one wedding per day is permitted

No weddings are to be held on Public Holidays, Mondays or Tuesdays.

(b) Winter Months (1 June to 30 October)

Friday to Sunday between 11.00am to 12.30am Closure of the premises is to be 12 midnight with a ½ hour departure time for guests to leave the premises.

No weddings are to be held on Public Holidays, Monday, Tuesday, Wednesday or Thursdays. Only one wedding per day is permitted.

5. Pursuant to section 125 of the Resource Management Act 1991, this consent shall lapse after a period of one (1) years after the commencement of the consent.

Acoustic

6. At all times the activity shall comply with the noise controls of the Operative District Plan as applicable to the site.
7. Within two months of the consent becoming operative, a report prepared by a person specialising in acoustic engineering shall be provided by the consent holder to the Council demonstrating that the District Plan General Noise Standards are able to be complied with.

In the event that the General Noise Standards are not able to be met, the consent holder will be required to provide mitigation measures to ensure that the General Noise Standard is achieved.

Transportation

8. Form and construct / upgrade the two existing (east and west) vehicle crossings on Scenic Drive North, to an anti-skid all weather surface standard extended 8.0 metres from the existing southern edge of seal and partly inside the property, in accordance with standard details SD 3.13 Light Commercial Vehicle Crossing in the Code of Practice for City Infrastructure and Land Development; and for which vehicle crossing detail forms shall be completed and returned to Council; the maximum vehicle crossing width at the boundary is 6.0 metres; if necessary minor additional width may be approved if a specific design using a bus tracking curve dictates the need for this additional width.
9. The consent holder is to ensure that the westernmost crossing remains closed at all time with the exception of an emergency situation or as a bus exit point.
10. The design of the proposed access points should incorporate localised vegetation trimming along the property frontage only as specified in TEAM's report dated 6 June 2006 and be reviewed and approved by the Manager, Transport Assets, Design and Planning at the building consent stage.

Ecowater

11. Install the wastewater reticulation system proposed by Hugh Fendall Consultants and consented by Waitakere City Council (COM20072247) and Auckland Regional Council (Permit 33246), to serve the facility. Specific requirements:
 - a. Provide a copy of the private drainage As-Built plan for the properties affected.

- b. Provide a surveyed As-Built plan prepared by a Licensed Cadastral Surveyor, showing the rising main crossing Scenic Drive to enable this information to be recorded on Councils GIS drainage records.
12. Design, provide and install on-site stormwater management devices proposed in the report prepared by Hugh Fendall Consultants Ltd dated 24 August 2006 "*Cassel Function Centre, 1012 Scenic Drive, Swanson, Stormwater Mitigation Report*" to mitigate against adverse effects on the environment, increased downstream flooding or increased stream channel erosion. Specific Requirements:
 - a. Maintain stormwater runoff flows from additional impermeable areas to pre-development levels for the 2 year storm event(s).
 - b. Rainwater runoff from the buildings must be collected and reused for toilet, laundry and garden use. Tanks of suitable capacity are to be provided for stormwater detention and to enable reuse.
 - c. The discharge is to mimic natural runoff patterns, and not to discharge directly to a watercourse, open drain or piped system. The stormwater dispersal device must be located in such a way that it will minimise effects on downstream properties. The dispersion device is to be below ground and generally in accordance with Councils *Countryside and Foothills Stormwater Code of Practice*.
 - d. Construction of private drainage requires a building consent. Provide a private drainage As-Built plan for the property, prepared by a Chartered Professional Engineer or Registered Drainlayer, showing the stormwater management device(s) to the point of discharge.
 - e. Any amendments to the above engineering details are to be to the approval of Councils Principal Subdivision and Consents Engineer.
 - f. Obtain Building Consent as required.
13. Pursuant to Section 108(2)(d) a covenant is to be entered into, in favour of Council, to record that to mitigate against adverse effects on the environment, increased downstream flooding, increased stream channel erosion, or adverse effects on public infrastructure systems, on-site stormwater management systems are required on a on-going basis to comply with EcoWater's Countryside and Foothills Stormwater Management Code of Practice / Stormwater Solutions for Residential Sites, and meet the following specific requirements:
 - a. Maintain stormwater runoff flows, volumes, and timing to pre-development levels for the 2 year storm event(s).
 - b. Rainwater runoff from the buildings must be collected and reused for toilet, laundry and garden use. Tanks of suitable capacity are to be provided for stormwater detention and to enable reuse.
 - c. The discharge is to mimic natural runoff patterns, and not to discharge directly to a watercourse, open drain or piped system. The stormwater dispersal device must be located in such a way that it will minimise effects on downstream properties. The dispersion device is to be below ground and generally in accordance with Councils *Countryside and Foothills Stormwater Code of Practice*.
 - d. On the second anniversary of the date of this consent, and at two yearly intervals thereafter, the owner (at the owner's expense) must provide to the Council a report from a Chartered Professional Engineer or Registered Drainlayer demonstrating that the stormwater management system, including mitigation measures and devices installed as the condition of this consent or as a condition of any future building consent for the proposed buildings, are functioning in accordance with their intended purpose.

Note: Council's Hazards and Special Features Register will be advised of the above requirements.

Monitoring

13. A consent compliance monitoring fee of \$1035.00 (inclusive of G.S.T.) shall be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection all conditions have not been satisfactorily met, a reinspection shall be required at the relevant hourly rate applicable at the time the reinspection is carried out.

The \$1035.00 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.

14. The Council may, at any time during the operation of the activity on the site, serve notice on the consent holder (under section 129 of the Act) of its intention to undertake a review of the conditions of the consent in accordance with section 128 of the Act. The purpose of this review will be to deal with any adverse noise effect on the environment which may arise from the exercise of the consent.

Advice Notes:

1. Where indicated in the conditions it is the consent holder's responsibility to inform the Environmental Monitoring Officer when inspection is required. Inspections can be requested through the Call Centre on 839 0400.
2. The application documents show drainage works are proposed through the neighbouring property. The granting of this resource consent does not in any way allow the applicant to enter and construct drainage within neighbouring property, without first obtaining the agreement of all owners and occupiers of said land to undertake the proposed works. Any negotiation or agreement is the full responsibility of the applicant, and is a private agreement that does not involve Council. Should any disputes arise between the private parties, these are civil matters which can be taken to independent mediation or disputes tribunal for resolution. It is recommended that the private agreement be legally documented to avoid disputes arising. To obtain sign-off for the resource consent, the services described by the conditions below are required to be in place to the satisfaction of Council.

Report prepared by: Cath Heppelthwaite, Consultant Planner.

