

Hearings Commissioner

Notice of Meeting

A meeting of the Hearings Commissioner will be held in the Whangarei Library, May Bain Room, Rust Avenue, Whangarei on:

**Thursday
19 May 2016
10am**

**Application by
Forum North Childcare and Education Centre**

**Commissioner
Justine Bray**

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Report to Hearings' Commissioner Justine Bray on a Resource Consent Application

This land use consent application was lodged by McAlley Consulting Group on behalf of Forum North Child Care and was reported on by Council's Consultant Environmental Planner (Consents), Nicki Farrow (4Sight.Consulting Ltd)

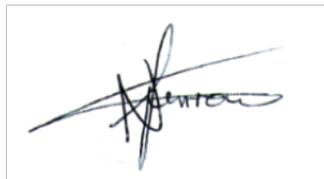
The application proposes to establish and operate a childcare centre, with associated outdoor play area and car park, for up to 50 children on a vacant site within the Living 1 Environment. The proposed building has been specifically designed to accommodate these activities, including an under 2yr old area, over 2yr old area, outdoor area, and office areas for administration and meeting purposes.

The proposed facility will cater for up to 50 children aged between 3 months and 5 years old, however the centre will operate at a maximum capacity of 35 children per day. The applicant has proposed eight staff, with a maximum of five on site at any one time during normal operating hours. The proposed hours of operation are from 7.30am to 5.30pm, Monday to Friday, and will be closed on public holidays. It is also proposed to use the building for meetings and workshops outside of the normal operating hours, with up to four meetings a month and up to three workshops per month.

Vehicle entry will be gained via Riverside Drive and the onsite carpark will accommodate nine car parking spaces and allow room for onsite manoeuvring. The proposal is expected to generate up to 151 vehicle movements per day.

The proposal is unable to comply with Rule 36.3.1 (Activities Generally); Rule 36.3.6 (Traffic Movements); Rule 36.3.11 (Noise); Rule 36.4.2 (Building Height); and Rule 47.2.11 (Engineering Standards); and as such results in a Discretionary Activity status.

This report was peer reviewed by the following signatories:



Nicki Farrow – Environmental Planner
(4Sight.Consulting)

8 April 2016

Date

This report was peer reviewed by the following signatory:



Katie Martin – Team Leader (Consents)

14 April 2016

Date

Statement of staff qualification and experience

Nicki Farrow (4Sight.Consulting) – Consultant Environmental Planner (Consents)

I hold the qualification of a Bachelor of Social Science, majoring in Resource and Environmental Planning, from the University of Waikato where I graduated in 2006. For the past 10 years I have worked in Local Government, Central Government and consultancy roles as an Environmental Planner, with my current role being a Senior Planner with 4Sight.Consulting Ltd on a part time basis since returning from maternity leave.

My work experience includes assessing and reporting on a wide range of land use and subdivision proposals; preparing District Consents and Regional Consents for parties including NZTA and ONTRACK (KiwiRail); and ensuring compliance with conditions of consents of a National scale, such as the Women's Correctional Facility at Wiri that was approved via Environment Court decision in 2011. I have presented evidence at multiple Councils Hearings on behalf of Local Government agencies and as a consultant on behalf of NZTA and ONTRACK.

Prior to working with 4Sight.Consulting (formerly Andrew.Stewart Ltd) I worked at Waikato District Council and Opus as an Environmental Planner.

Dean Murphy – Council Senior Environmental Engineering Officer

I am a civil engineer in the employ of the Whangarei District Council in the Resource Consents department. I have the title of Senior Environmental Engineering Officer. I gained a New Zealand Certificate in Engineering (Civil) in 2008 and I am a graduate member of The Institute of Professional Engineers New Zealand Inc. I have 5 years' experience in roading/earthworks/drainage/civil construction and I have worked for the Whangarei District Council as a Senior Environmental Engineering Officer since 2006.

The above staff/consultant are familiar with the Environment Court's 'Code of Conduct' for expert witnesses and agree to comply with the Code of Conduct in presenting hearing evidence to the Commissioner.

Section 42A Hearing Report

Hearing By: Hearings' Commissioner Justine Bray of a Discretionary Activity land use proposal by Forum North Child Care to establish and operate a childcare facility for up to 50 children between 3 months and 5 years old, with a maximum of eight staff, operating hours of 7.30am to 5.30pm Monday to Friday, and generating up to 151 vehicle movements per day, on a site within the Living 1 Environment. The site is located at 60 Riverside Drive being legally described as Pt Lot 4 DP 32954.

Evidence By: Nicki Farrow
Bachelor of Social Science (Major Resource and Environment Planning)

File Refs: LU1500172, P051660 and 12/70533

Dated: 8 April 2016

1.0 The Proposal & Background

1.1 The proposal

- 1.1.1 The application proposes to establish and operate a childcare centre, with associated outdoor play area and car park, for up to 50 children on a vacant site within the Living 1 Environment. The proposed building has been specifically designed to accommodate these activities, including office areas for administration purposes.
- 1.1.2 The application refers to the removal of an existing dwelling, however at the time of the site visit on 17th December, the dwelling had already been removed from site.
- 1.1.3 The proposed facility will cater for up to 50 children aged between 3 months and 5 years old, however the centre will operate at a maximum capacity of 35 children per day. The applicant has proposed eight staff, with a maximum of five on site at any one time during normal operating hours.
- 1.1.4 The proposed new building will be centrally located on the site creating two separate outdoor areas. The area to the north being redeveloped into a carpark off Riverside Drive, and the area to the south being used for the children's outdoor play area. The interior of the double storey building will be divided into sections for over 2 year olds, under 2 year olds, kitchen, sleeping area, toilets, eating area, and laundry. The upstairs will hold a large meeting room, staff room, offices and storage space, and is located on a mezzanine across half of the building, leaving a void of open space across the remainder of the downstairs area.
- 1.1.5 The proposed hours of operation are from 7.30am to 5.30pm, Monday to Friday, and will be closed on public holidays.
- 1.1.6 Between two and four meetings will be held outside of the standard hours of operation each month. The meetings will be staff and management team meetings and will consist of eight to ten adults in attendance. In addition to the staff meetings, approximately two or three community or parent based workshops are proposed each month, to be held during the evening or on weekends, and will cater for up to 20 adults.
- 1.1.7 Vehicle entry will be gained via Riverside Drive and the onsite carpark will accommodate nine car parking spaces and allow room for onsite manoeuvring. The proposal is expected to generate up to 151 vehicle movements per day. Any signage will comply with the District Plan requirements for a Permitted Activity.

1.1.8 As there was a residential dwelling existing on site until recently, all of the necessary services are in place. Stormwater management is proposed via a sump in the corner of the carpark draining underground to the Hatea River.

1.2 Background

1.2.1 Additional information was unofficially requested via email on the 20th December. The processing planner requested clarification that the 'mechanical units' were in reference to potential noise sources on the site. Mr McAlley replied via email on 21st December 2015

1.2.2 The Application was suspended on 12 February 2016 in accordance with Section 92 RMA as the following information was required:

- The site has a flood susceptible hazard designation identified on Whangarei District Council's Geographic Information Systems maps. An Engineering Report is required to address Rule 56.2.3 Flooding.
- Confirmation is required that the edge of the proposed vehicle crossing is located at least 1.0m from the existing Chorus chamber manhole lid located within the footpath.
- Confirm if a new or existing stormwater discharge pipe is proposed from the southern corner of the site to the river or river tributary.

1.2.3 The above information was provided on the 14th March 2016.

2.0 Site and Surrounds Description

2.1 Zoning, resource areas and other notations

2.1.1 The subject site is located within the Living 1 Environment and is affected by a Flood Susceptible overlay as shown below on the District Plan Maps (38E and 38R).

2.1.2 A copy of the relevant district plan maps is attached within Appendix Two.



2.2 Site Description

2.2.1 The site is owned by the Whangarei District Council and is located on the southern side of Riverside Drive with the northern boundary being Riverside Drive and the southern boundary being reserve land adjacent to the Hatea River. The vacant site is 1,346m² in area and effectively flat, with a large tree at the southern end of the property.

2.2.2 An existing motel development is located adjacent to the western boundary, and residential development is located along the length of the eastern boundary. The WDC reserve land to the south of the site contains a Sea Scout Hall and carparking area.

2.2.3 The wider environment contains a number of different zonings and land uses, including marina activities and boat repairs, recreational activities including ‘the Whangarei Loop’ and skateboard park, sport facilities, a service station and other commercial activities.

2.2.4 Vehicle access to the site is from Riverside Drive, an Arterial Road under the WDC District Plan.



3.0 District Plan Assessment

3.1 Reasons for consent

3.3.1 Operative Whangarei District Plan

Rule	Activity Status and Comment
<p>Rule 36.3.1 - Activities Generally</p> <p>Subject to Rules 62.5.2 and 62.6.1, an activity is a permitted activity if:</p> <p>a) It is not a commercial or industrial activity involving intensive livestock farming, mineral extraction, animal boarding, panel beating, metal working, spray painting, motor vehicle repairs, outdoor storage of motor vehicles, motor vehicle manufacturing or dismantling, fibre glassing or laminating, meat processing; and</p> <p>b) It does not involve food irradiation; and</p> <p>c) It involves any of the following being conducted for domestic purposes and associated with household use: bone boiling or crushing; collection and storage of used glass bottles; fish cleaning, curing and processing; flax pulping; flock manufacturing or teasing of textiles; refuse accumulation; sewage collection or disposal;</p>	<p>Any activity that does not comply with the conditions (a) to (j) is a Discretionary Activity.</p> <p>Comment: The proposal is a commercial activity that will not comply with the hours of operation (8am – 6pm), there is no residential activity proposed to take place in conjunction with the childcare facility, and no screening has been proposed along the roadside or adjoining sites. As a result of these infringements, the proposal triggers a Discretionary Activity status.</p>

<p>storage, drying or preserving of bones, hides, hooves, or skins; tallow melting; tanning; wood pulping; wool scouring; and</p> <p>d) It is not an activity that is classified as an offensive trade in the Health Act 1956; and</p> <p>e) Commercial or industrial activities do not operate or open for visitors, clients or deliveries before 0800 or after 1800 on any day, provided that this rule does not apply to residential activity and</p> <p>f) Places of assembly do not operate or open for visitors, clients or deliveries before 0800 or after 2000 within the Air Noise Margin and 2200 elsewhere on any day; and</p> <p>g) Commercial or industrial activities are screened from view from roads and adjoining sites by fences, planting or buildings; and</p> <p>h) Commercial or industrial activities are carried out in conjunction with a residential activity on the site; or</p> <p>i) Religious observances outside the hours of operation permitted for a place of assembly in f) above, operate on no more than 4 days per year; or</p> <p>j) It does not incorporate a helicopter operating base or helicopter landing pad.</p>	
<p>Rule 36.3.6 - Traffic Movements</p> <p>Any activity is a permitted activity if:</p> <p>a) It does not generate more than 30 traffic movements in any 24 hour period, excluding residential or temporary activities.</p>	<p>An activity that does not comply with this rule is a Restricted Discretionary activity.</p> <p>Discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> i. Manoeuvring requirements; ii. Need for acceleration and deceleration lanes; iii. Type, frequency and timing of traffic; iv. Safety of pedestrians; v. The availability of other roads for access for proposals leading onto arterial roads or state highways; vi. Traffic safety and visibility; vii. Effects on the amenity of the locality; viii. Effects of dust; ix. Need for forming or upgrading roads in the vicinity of the site; x. Need for traffic control, including signs, signals and traffic islands.

	<p>Comment: The proposed childcare centre is estimated to generate a maximum of 151 vehicle movements per day, being more than the 30 movements permitted by the District Plan, triggering a Restricted Discretionary activity status.</p>
<p>Rule 36.3.11 – Noise Any activity is a permitted activity if:</p> <p>a) Noise generated by the activity, measured within the boundary of any other site in the Environment, does not exceed:</p> <ul style="list-style-type: none"> i) 45 dBA L10 between 0700 and 2200; and ii) 35 dBA L10 at any other time; and iii) 60 dBA Lmax on any day between 2200 and 0700, except for emergency service vehicles and the operation of emergency service call-out sirens; and <p>b) Sound levels shall be measured in accordance with NZS 6801:1991 Measurement of Sound and assessed in accordance with NZS 6802:1991 Assessment of Environmental Sound.</p>	<p>An activity that does not comply with Rule 36.3.11 is a Restricted Discretionary activity.</p> <p>Discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> i. Maximum level of noise likely to be generated; ii. The nature and frequency of the noise, including any special audible characteristics; iii. Effect on nearby residential units; iv. Compatibility within the Environment; v. Compatibility with surrounding Environments; vi. Length of time for which the specified noise level is exceeded, especially at night; vii. Likely adverse effects on-site and beyond the site; viii. Mitigation measures to reduce noise generation. <p>Comment: Noise generated by the daytime use of the centre is anticipated to be higher than the permitted activity noise limits, therefore resulting in a Restricted Discretionary activity status.</p>
<p>Rule 36.4.2 - Building Height</p>	<p>A proposal that does not comply with these rules is a Restricted Discretionary activity.</p> <p>The matters of discretion are listed below:</p> <ul style="list-style-type: none"> i. The scale and bulk of the building in relation to the site; ii. The built characteristic of the neighbourhood; iii. The extent to which the effects of the height can be mitigated by setbacks, planting, design or the topography of the site; iv. Effects on landscape values; v. Effects on availability of daylight; vi. Effects on amenity values. <p>Comment: The proposed building has a maximum height of 9m, which exceed the permitted height limit by 1m, therefore triggering a Restricted Discretionary status under this rule.</p>

3.2 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

- 3.2.1 The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES Contaminated Soils) were gazetted on 13th October 2011 and took effect on 1st January 2012. Council is required by law to implement this NES in accordance with the Resource Management Act 1991 (RMA). The standards are applicable if the land in question is, or has been, or is more likely than not to have been used for a hazardous activity or industry and the applicant proposes to subdivide or change the use of the land, or disturb the soil, or remove or replace a fuel storage system.
- 3.2.2. For the purpose of the assessment below, it is relevant to note that the site has previously been used for residential activity, with an existing dwelling being removed from site in the past few months. Whangarei District Council is the land owner of the site and as administrator of the land the WDC Property Department have undertaken an assessment of Council records and have advised that they can find no record of HAIL activities occurring on site. A geotechnical investigation has also been undertaken, and produced no evidence of likely contamination.
- 3.2.3. The NES Contaminated Soils is not considered to apply to this proposal as shown in the table below:

Question	Answer	Comment
Is an activity described on the HAIL currently being undertaken on the piece of land to which this application applies?	No	The comments above outline the history of the site and that property records and geotechnical investigations produced no evidence of likely contamination.
Has an activity described on the HAIL ever been undertaken on the piece of land to which this application applies?	No	
Is it more likely than not that an activity described on the HAIL is being or has been undertaken on the piece of land to which this application applies?	No	
Is the activity involve removing or replacing a fuel storage system or parts of it?	No	
Does the activity involve sampling soil?	No	
Does the activity involve disturbing soil?	No	A small volume of earthworks will be required during construction of a building platform, however this is not considered to be 'disturbing soil' as per the definition under the NES.
Does the activity involve the subdivision of land?	No	
Does the activity involve changing the use of the land?	No	The site has been used for residential purposes until now, and although the childcare facility is considered to be a 'commercial activity', it is one that involves 'residential like' activities, including children and adults digging, playing and sitting outside. As a result

		no change in use is proposed at this time as per the definition within the NES.
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3.2.4 Overall the proposal is regarded as a Discretionary activity

4.0 Notification, Submissions and Written Approvals

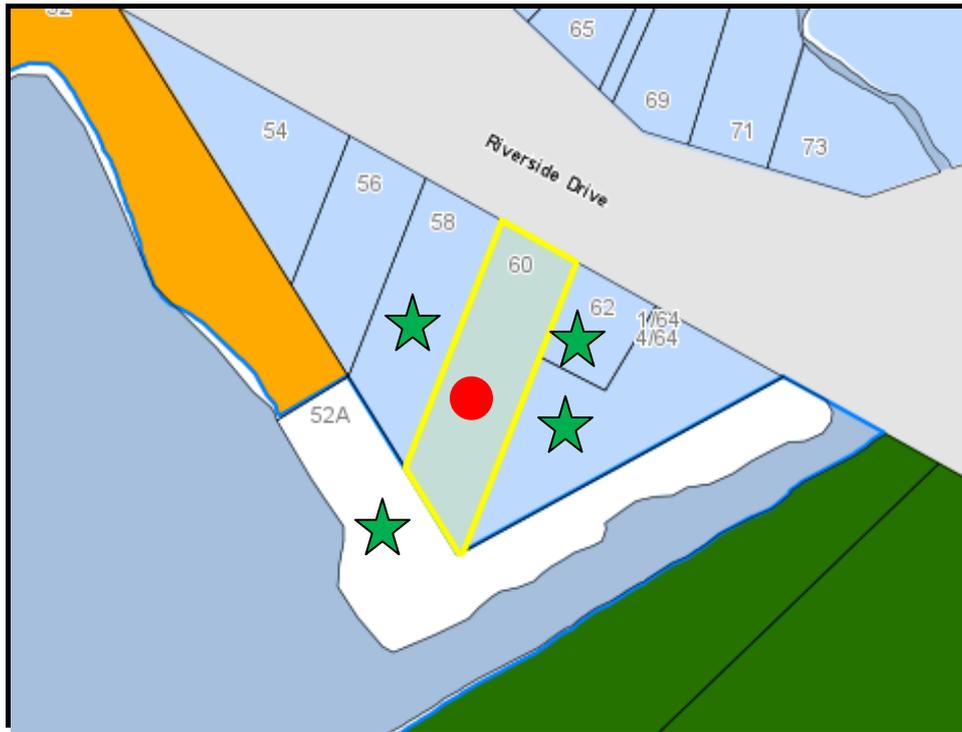
4.1 Notification

4.1.1 A notification decision was made on 10th December 2015 stating that the application required limited notification pursuant to section 95B and 95E of the Resource Management Act 1991 for the following reasons:

- The adverse effects on the wider environment will be less than minor given the existing mixed use environment in which the site is located, and the existing traffic volumes (and associated traffic noise) of the locality. Any effects associated with construction, visual appearance, amenity or traffic are localised and do not extend to the wider environment.
- Given the combined factors of a height infringement (causing potential visual and shading effects), traffic increases and predicted noise levels exceeding the District Plan limits, it is considered that the effects on amenity arising from the proposal cannot be considered less than minor without consultation with adjoining property owners and occupiers. As every person has a different expectation and perception of what amenity means, and it can be difficult to determine if the effect of an activity is more than minor, or less than minor without consultation with that party. For these reasons, notification of the application is recommended to the adjoining properties.
- The written approval of all parties considered to be adversely affected by the proposal have not been obtained and the applicant has declined the opportunity to seek such approvals, and has instead selected that Council proceed on a limited notification basis.
- There are no special circumstances that warrant public notification.
- No persons have been determined as adversely affected with regard to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) as it has been concluded that there will be no risk to human health as a result of the proposal proceeding on the subject site.

4.2 Submissions

4.2.1 The period for submissions opened on 11 January 2016 and closed on 10 February 2016. Copies of the application were specifically served upon the owners and occupiers of four surrounding properties, including Housing NZ (Flats 1 – 4), Marina Court Motel, Whangarei District Council, Whangarei Sea Scouts and Mrs G.B Lang. The notification map is shown below with the identified properties as green stars.



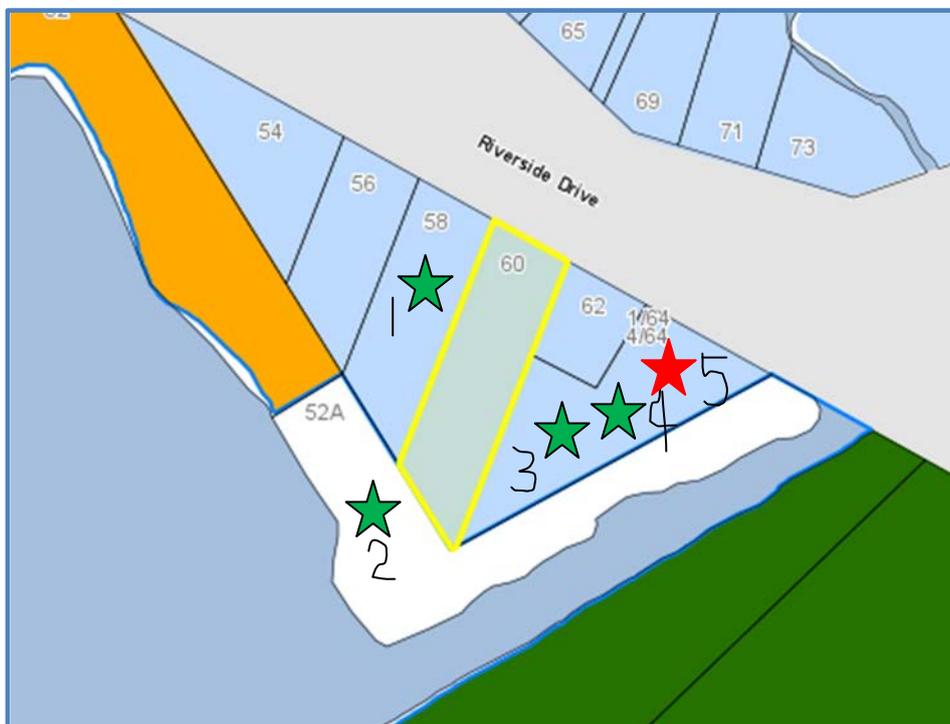
- 4.2.2 Council received four submissions within the timeframe, with two submissions in opposition requesting that the application be declined and two submissions being neutral to the proposal. Two of the submitters have requested to be heard in support of their submission.
- 4.2.3 The individual submissions are summarised as follows (a full copy of the individual submissions can be viewed in appendix three):

Submitter	Issues and Relief Sought
Housing New Zealand Corporation	<ul style="list-style-type: none"> Neutral to the application. Clarification was sought regarding the combined height of the retaining wall and acoustic fence, and also the proposed measures to manage stormwater runoff from the property. <p>Relief sought: If the application is granted then suitable conditions of consent be imposed to mitigate and/or manage the potential effects relating to noise, traffic, residential amenity and construction effects. Including, but not limited to, a non-climbable, non-transparent acoustic fence, a review condition under section 128 and a Construction Management Plan.</p>
Allan Inglis (Marina Court Motel)	<ul style="list-style-type: none"> Oppose the whole application. Concerns raised regarding the height and bulk of the building; the anticipated noise levels; the traffic and parking related effects; reduction in privacy; reduction in amenity values; whether the location is appropriate for such an activity; and the flood hazard identified onsite. <p>Relief sought: Decline the application or relocate to an industrial zone or a larger site that is not affected by a flood hazard.</p>

Submitter	Issues and Relief Sought
<p>Whangarei Sea Scouts</p>	<ul style="list-style-type: none"> Neutral to the application. Safety concerns raised over the proximity of the centre to the Whangarei Harbour and the presence of gates leading from the rear of the site, and allowing direct access to the water. <p>Relief sought: If the application is granted then the gates located at the rear of the site on the boundary fence should be removed.</p>
<p>Noel Kelly</p>	<ul style="list-style-type: none"> Oppose the whole application. Concerns raised over the traffic volumes being too high for Riverside Drive; proximity of the proposal to the Whangarei Harbour; limited parking; and noise levels. <p>Relief sought: Decline the application.</p>

4.2.4 The following map identifies the location of the properties from which submissions and affected party approvals were received:

Number	Name	Submission/Approval
1	Allan Inglis (Marina Court Motel)	Submission - Oppose the application
2	Whangarei Sea Scouts	Submission – Neutral to application
3	Housing NZ (Owner)	Submission – Neutral to application
4	Noel Kelly (Occupier)	Submission – Oppose the application
5	Roimata Higgins (Occupier)	Affected party approval provided (Red star)



4.3 Written Approvals

- 4.3.1 The applicant provided the written approval of one party. Ms Roimata Higgins, the occupier of Unit 4 of the Housing New Zealand units, provided her written approval to the proposal. As such, all effects on this party have been discounted.

5.0 Resource Management Act 1991- Statutory Considerations

5.1 Section 104

- 5.1.1 Section 104 provides the matters, subject to Part 2 of the Act that Council must have regard to when considering and application for resource consent and any submissions received. These matters are:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- [[*(b) any relevant provisions of—*
 - (i) *a national environmental standard:*
 - (ii) *other regulations:*
 - (iii) *a national policy statement:*
 - (iv) *a New Zealand coastal policy statement:*
 - (v) *a regional policy statement or proposed regional policy statement:*
 - (vi) *a plan or proposed plan; and]]*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

5.2 Section 104B

- 5.2.1 Section 104B outlines Council's powers when making a determination on a discretionary or non-complying activity. Section 104B states that:

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under section 108.*

6.0 Actual and Potential Effects on the Environment (s104(1)(a))

6.1 Definition of Effect

- 6.1.1 Section 3 of the Act defines the term 'effect' as including –

- (a) *any positive or adverse effects; and*
- (b) *any temporary or permanent effect; and*
- (c) *any past, present or future effect; and*
- (d) *any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect, and also includes-*
- (e) *any potential effect of high probability; and*
- (f) *any potential effect of low probability which has a high potential impact.”*

6.2 Permitted Baseline

- 6.2.1 In terms of determining whether the adverse effects of the proposal are more than minor, section 104(2) of the Act provides that Council 'may' have regard to the permitted baseline in order for effects on the environment that are permitted under the Plan (or by way of resource consent) to be disregarded.
- 6.2.2 Under the rules of Chapter 36 of the District Plan, Living 1 Environment, it would be reasonable to expect that the following activities could occur on this site as a permitted activity:
- Commercial or industrial activities in keeping with the requirements of a home occupation, screened from view from roads and adjoining sites, in conjunction with a residential activity on the subject site, between the hours of 8am and 6pm on any day;
 - Places of assembly between the hours of 8am and 10pm on any day;
 - Activities (excluding residential or temporary activities) generating no more than 30 traffic movements in any 24 hour period;
 - A single sign relating to goods and services available on the site, no more than 2m in height and no larger than 1m² in area;
 - Boundary fences up to 2m in height;
 - One residential unit per 500m² of net site area (therefore two residential units could be constructed on this site); and
 - Buildings with a height of up to 8m with a building coverage of 35% of the site area.

6.3 Residential Amenity

Section 2 of the RMA defines amenity values as those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes. Typically, a person would view amenity to be matters such as 'privacy', 'pleasantness', 'clean air' or 'peace and quiet', with matters such as noise, density of development, traffic, odour and shading attributing to amenity. In addition, the perceptions and expectations that people hold can also influence amenity.

A childcare centre catering for 35 children at any given time, from 7.30am to 5.30pm, Monday to Friday will have some effect generated from the increased vehicle movements (151 daily predicted movements), and also from the noise of children interacting, teachers interacting with each other and with children, lunch bells, and certain playtime activities, particularly outdoor activities.

Given the close proximity of the neighbouring dwellings to the east it is unlikely that anyone staying at home during daytime hours when the centre is in operation, will not experience a change in the amenity of the location. The Motel to the west may also notice effects, however as most patrons of a Motel use the facility after 5pm or on weekends the effects may not be as noticeable.

As the site is located within a 'mixed use environment' and adjacent to an Arterial Road, the existing level of amenity is different to what is typically found within a residential area. There are wide streets, with footpaths and streetlights, and although there is 50km/h speed limit in place, the road is a four lane Arterial with heavy traffic volumes. The properties on either side of the subject site are also zoned Living 1, however the property to the west contains a motel and then adjoins the 'Town Basin Environment' that contains marina activities, boat repairs and other commercial activities. Slightly to the east is land zoned as 'Open Space Environment' that is used for recreational activities such as the Whangarei 'Loop' walk, and a skateboard park and BMX track.

The Whangarei District Plan provides a general description of the amenity that can be expected within the residential zones, which includes low intensity development, off street parking, high degree of privacy, safe environments for children, cyclists and pedestrians, low levels of vehicular traffic, a feeling of community, and non-residential support activities such as businesses and community activities.

The proposed childcare centre aligns with many of the characteristics listed above, it will promote values such as a safe environment for children, a feeling of community, and is a non-residential support activity. The presence of a childcare centre in an area where families and

young children live is a positive non-residential support activity, and the additional use of the centre for parents and community meetings is also a positive outcome.

The use of the site in the evenings or on weekends could be considered out of character for a residential environment, however the WDC rules and definitions (as shown below) enable this additional use to occur as a permitted activity. As per Rule 36.3.1(f) below, the evening meetings and workshops would operate no later than 10pm on any day.

“Place of Assembly - means any land or buildings used principally for public or private assembly of people, worship, educational, recreational, social, ceremonial and spiritual activities; for meditation and functions of a community character; and includes churches, church halls, church yards and marae complex.”

“Rule 36.3.1(f) - Places of assembly do not operate or open for visitors, clients or deliveries before 0800 or after 2000 within the Air Noise Margin and 2200 elsewhere on any day.”

In addition to being located in a ‘mixed-use’ environment, the proposal attempts to maintain a high level of amenity by the architectural design of the building, the onsite parking, retention of large mature trees on the property, providing a landscaped frontage and a building that is well set back from the road. The location of the outdoor play area at the rear of the site will ensure the majority of outdoor activities are screened from the road and from some of the adjoining sites by the building itself.

By implementing a 2 storey design, the low building coverage maintains a high proportion of open space. As the site is over 1,000m² in area it would also be a permitted activity to construct two new dwellings instead of the one proposed building, therefore the use of the site as a childcare centre may in fact increase certain aspects of the residential amenity such as open space.

Privacy and the ‘look and feel’ of a place are significant factors in identifying, maintaining, or improving the amenity of that place. The effects on privacy for the surrounding environment will not be altered by the proposal, however the ‘look and feel’ may change for users of Riverside Drive. Given that the site has previously contained a dwelling, and that two new dwellings could be constructed as a permitted activity on this site, it is proposed that childcare centre will not significantly alter what would be ‘expected’ on a site in this location. The increased height of the building can be offset by the decreased floor area and the retention of open space and vegetation.

Amenity can also be affected by factors such as noise, shading and traffic effects, and as these will be covered in the following sections, the conclusions should be applied to the effects on amenity as well.

In conclusion it is considered that the proposed childcare centre will have a less than minor adverse effect on the residential amenity of the area due to the mixed use environment, the presence of existing commercial activities in the area, the proximity of an Arterial Road, retention of open space, large size of the site and the compatibility of the childcare centre with the characteristics listed in the District Plan.

6.4 Visual Effects / Height

The proposed building has been architecturally designed to be aesthetically pleasing and also functional for its intended purposes. It is located on a 1,128m² allotment, therefore two dwellings could be constructed on the site as a permitted activity. Given the size of the proposed site, and the configuration of the building, being in the centre of the site, there will be large areas of grass and open space visible from the road frontage, and from the reserve land at the rear of the site which are the predominant public viewpoints.

The development may also be visible from the Hatea River or from parts of the Whangarei ‘Loop’ walk, however given the distance of these viewpoints from the site, and the proposed fencing and retention of the large tree on the southern boundary, it is not expected that visual effects will be more than minor.

The height of the proposed building is 9 metres, which is 1 metre taller than the permitted activity requirements of the District Plan. In terms of visual effects this is not considered too concerning or 'out of the ordinary' as there are other tall structures and buildings in the wider area, including the motel on the western boundary of the site. The height infringement is on the central apex of the roof, which makes it almost impossible to mitigate any effects arising from the infringement. The two storey design of the building is intended to reduce building coverage and create more open space on the site, which results in a height infringement. Screening of the building with planting will only increase any effect of shading on the neighbouring properties as the planting will be undertaken along the boundary line, and there is no restriction regarding the final height of any vegetation.

Sunlight access to neighbouring properties will be maintained as the proposed building complies with yard setbacks and height in relation to boundary requirements. In addition, a 'shading study' has been undertaken by Dawson Design (Appendix 6 of the application) comparing a complying 8m high building and the proposed 9m high building. The attached diagrams demonstrate the potential effects of shading from the proposed building are indiscernible when compared with a complying 8m high building.

Given the setback from the road, retention of the large tree on the southern boundary, and presence of other tall buildings and structures in the area, the visual effects of the proposal on the wider environment, in particular the height infringement, are considered to be less than minor.

6.5 Traffic and Parking Effects

The application includes a Traffic Impact Assessment (TIA) by Engineering Equilibrium dated November 2015. This report states that the proposed childcare centre will generate up to a maximum of 151 traffic movements in a 24 hour period. The report also provides a detailed analysis of existing and estimated traffic along Riverside Drive and has concluded that the traffic effects generated by the proposal will be well within acceptable limits, and therefore have less than minor effects on the wider roading network.

The application proposes 9 car parking spaces (including 1 accessible space), which meets the requirements of the District Plan for a permitted activity given the number of staff and children attending the centre. There is also a public carpark approximately 200m down the road that is available for use during the evenings/weekends when the community workshops and staff meetings are proposed.

The TIA states that the traffic design is based on the 'Safe System' approach to minimise the risk of crashes occurring and to minimise the injury severity should a crash occur. The carpark is designed with footpaths around the periphery to enable pedestrians to walk from the car park spaces directly to the building entrance without walking through the carpark.

The report also proposes that the assessed traffic flows are not considered to adversely affect the efficiency of Riverside Drive, as total traffic flows are well below capacity and will have a negligible impact. A double width crossing will be located centrally on the road frontage to enable vehicles entering and exiting the site to pass each other. This is particularly important for vehicles turning into the site from Riverside Drive, meaning they do not have to block the through traffic on Riverside Drive while waiting for a vehicle to exit the site.

For the reasons above it is considered that any potential effects on the existing roading network can either be mitigated by conditions of consent, or will be less than minor in this case.

6.6 Noise

The childcare centre is proposed to operate from 7.30am to 5.30pm Monday to Friday, with additional evening or weekend meetings/workshops also proposed. As such, it can be expected that noise effects will be experienced at varying levels throughout this period.

In a typical residential environment noise would be one of the most concerning aspects of the proposal for neighbouring residents and also the wider environment. Although the site is not located in a 'normal' residential neighbourhood, there is still residential development on both sides of the site, including a motel to the west.

The application includes an acoustic report by Marshall Day Acoustics (MDA), dated 19 August 2015. The report considers that the District Plan noise limit of 45dB is too restrictive for this site given the proximity to the Arterial Road (Riverside Drive) and the existing noise levels generated by the traffic on this road. The recommendation of the report is that a limit of 50dB is more appropriate, which also aligns with Proposed Plan Change 110.

Predicted noise levels for the proposed operation of a childcare catering for 35 children at any given time have been calculated, taking into account the proposed acoustic screening. The report predicts that the activity would comply with MDA's recommended noise limit of 50dB at all adjacent residential sites. By default, the proposal is also expected to comply with the existing District Plan limit of 45dB at all sites in the wider environment that extend beyond the immediately adjoining neighbours.

The main noise sources expected to be generated during the operation of the childcare centre are the children's voices when using the outdoor play area, and traffic using the carpark. The report proposes that children's voices form part of the existing sound environment given the proximity of the Sea Scout Hall to the south of the site, and the general presence of children within a residential area. During the site visit it was also noted that road traffic noise was also considered to be a large part of the existing noise character of the location.

The report concludes that the proposal is expected to have a slight effect on the noise environment, however noise emissions from the activity are considered to be appropriate for this mixed use residential area, and will not result in a significant reduction in the amenity of the area

Given that proposed noise levels will comply with the District Plan permitted activity limits (45dB) when measured anywhere outside of the adjacent properties, will comply with a level of 50dB at the adjacent property boundaries, and the existing noise environment being higher than a 'typical' residential area, it is considered that noise effects on the wider environment will be less than minor.

6.7 Natural Hazards / Flooding

The subject site is located in a Flood Susceptible Area as identified on the WDC Resource Maps. The District Plan defines a Flood Susceptible Area as:

"an area which has been assessed as being likely to experience water covering the surface of the land in a 1 in 50 year stormwater flood event. A flood susceptible area does not imply any particular duration or level of flood water but is generally part of a contiguous area of flood susceptibility. It includes areas likely to experience surface water, either ponding or flowing, from heavy rainfall and overflows from rivers, streams, and drainage channels. In areas adjacent to the coast, the flood susceptible area relates to areas which are or are likely to be, subject to permanent or temporary inundation from sea water due to sea level rise, storm tides or tsunami over a planning horizon of 100 years. In the coastal areas there is also the potential for inundation to occur as a result of the combination of stormwater and sea water flood events."

A geotechnical report has been provided by Base Group Consulting, and it is expected that any development will proceed in accordance with this report and effects will be less than minor.

6.8 Construction Effects

The effects resulting from the construction timeframe and process for the earthworks, building, carpark and associated playground equipment will be similar to the effects generated by the construction of two residential dwellings. As the site is larger than 1,000m² two dwellings are able to be constructed as a permitted activity, and it is proposed that the construction works would be similar if not less timely and disruptive than two separate dwellings on the same site.

Some earthworks are required to create a level building platform and to increase the height of existing ground level for flood mitigation purposes. It is expected that a Construction Management Plan (CMP) will be lodged for approval with Council prior to the issue of any building consent, and the CMP will cover details such as erosion and sediment control.

As a result of the size of the site and the expectation of a Construction Management Plan, it is considered that any effects on the wider environment will be less than minor.

6.9 Effects summary

6.9.1 Overall it is considered that the effects in regard to the activities and building proposed on this site and in this location are acceptable for the following reasons:

- The surrounding environment is not a typical 'residential environment' and is more accurately described as a 'mixed use environment', with commercial operations nearby, town basin activities and open space activities in the immediate vicinity, and a four lane arterial road passing by.
- The applicant has provided assessments by suitably qualified professionals in relation to traffic, shading, and noise effects that may be related to the proposed activity, and the recommendations and conclusions of these reports find the effects of the proposal to be less than minor.
- Suitable conditions of consent will be imposed to ensure ongoing monitoring of the activity and mitigation measures will be required if the effects are different to what has been detailed in the application.
- No persons have been determined as adversely affected with regard to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) as it has been concluded that there will be no risk to human health as a result of the proposal proceeding on the subject site.

7.0 Relevant Policy Statements, Plans or Proposed Plans (s104(1)(b))

7.1 Northland Regional Policy Statement

7.1.1 The Northland Regional Policy Statement (RPS) covers the management of natural and physical resources across the Northland Region. The provisions within the RPS give guidance at a higher planning level in terms of the significant regional issues. As such it does not contain specific rules that trigger the requirement for consent but rather gives guidance to consent applications on a regional level.

7.1.2 Having reviewed the relevant parts of the current operative RPS it is considered that there are no significant conflicts between the proposal and the provisions it contains. Preservation of the natural environment and the natural character of the coast is a priority, and although the proposal is located in close proximity to the Whangarei Harbour, it is also located in a highly developed area with intensive commercial and residential development in the immediate vicinity.

7.2 Operative Whangarei District Plan

7.2.1 The relevant objectives and policies in the Operative Whangarei District Plan ('the plan') for the proposed childcare centre are located in Chapter 5 (Amenity Values) and Chapter 22 (Road Transport) (a copy of these chapters is included in attachment four of this report).

7.2.2 The table below assesses the proposal against the relevant objectives and policies within these Chapters:

Assessment of Relevant Objectives and Policies within the District Plan

Chapter 5 – Amenity Values	
Objective	Comment

<p>5.3.1 The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.</p>	<p>The amenity values of the locality are not typically 'residential' as the site is located within a mixed use environment. The proposed building is quite tall and will be visually noticeable within the context of the surrounding landscape, however it is also architecturally designed to be aesthetically pleasing and the two storey design allows for a larger portion of open space on the site.</p>
<p>5.3.5 The actual or potential effects of subdivision use and development is appropriately controlled and those activities located and designed, are to be compatible with existing and identified future patterns of development and levels of amenity in the surrounding environment.</p>	<p>Childcare centres are becoming a more common sight within residential environments, as people require their services once parents return to work, and the convenience of close proximity is sought after by most people. The existing pattern of development in the area is a combination of commercial, recreational and residential activities, the effects of which are compatible with the effects associated with a childcare centre.</p>
<p>Policy</p>	<p>Comment</p>
<p>5.4.1 Effects on the Local Environment</p> <p>To ensure that activities do not produce, beyond the boundaries of the site, adverse effects that are not compatible with the amenity values characteristic of the surrounding and/or adjacent environment unless, such effects are authorised by a district plan, a designation, a resource consent or otherwise. The following effects should be given particular consideration in this respect:</p> <ul style="list-style-type: none"> • Noise and effects; • Shading; • Glare; • Light spill; • Dust; • Smoke; • Odour; • Vibration; • Spray drift; • Visual amenity. <p>Where internalisation of effects cannot be wholly achieved, the Council will consider a Best Practicable Option approach.</p>	<p>The application has addressed the potential effects associated with the proposal and has noted that some effects have the potential to extend beyond the boundary of the site.</p> <p>Noise, visual amenity and shading are the three effects most likely to extend beyond the boundary, however the application has included a shading assessment and noise assessment that identifies these effects as being less than minor, particularly in the context of the existing environment.</p> <p>The existing noise levels resulting from the commercial activities and the traffic volumes along Riverside Drive are greater than the noise levels predicted from the proposed activity. Acoustic fencing is also proposed to mitigate any noise effects.</p> <p>Shading and visual effects are deemed less than minor, and the shading assessment concludes that the 1m height exceedance on the apex of the roof will create an increase in shading that is so minor it is actually indiscernible from the shading caused by a building at the permitted height of 8m in this location.</p>
<p>5.4.2 Character and Timing of Activities</p> <p>To allow activities where their nature, timing and duration do not result in adverse effect on amenity values beyond the extent compatible with the characteristics of the surrounding and/or adjacent Environment/s.</p>	<p>It is considered that the nature, timing and duration of the activity is compatible with the surrounding activities as the childcare centre is in operation during normal daytime business hours, with the exception of some meetings after 6pm. However these meetings will only involve adults and will be undertaken indoors where effects will be less than minor.</p>
<p>5.4.3 Activities in Living Environments</p> <p>To ensure activities in Living Environments do not have adverse effects that are significantly greater than those associated with residential activities, whilst acknowledging that adverse effects of activities from outside the living Environments, e.g. the Airport, may not be avoidable altogether and may affect amenity values.</p>	<p>Although a childcare centre has different effects to that of a normal residential household, given the number of children on site at one time, the effects are not considered to be significantly greater than those found in a typical Living Environment. Primary schools, kindergartens and playgrounds are commonly found within residential settings and the presence of children is expected.</p>
<p>5.4.8 Frontage</p> <p>To encourage sites to present frontage to the street that is appropriate to the function of the site, is compatible with and enhances the overall character of the streetscape, and does not visually dominate the road.</p>	<p>The frontage of the site will be developed into a carparking area, and will be landscaped to ensure enhancement of the streetscape compared to what exists at the present time. The front of the building has designed as an attractive, modern building that is set back from the road and will not dominate the road frontage.</p>

<p>5.4.12 Traffic To encourage vehicle movements and parking demand, where it does not adversely affect the amenity values of the particular environment in which it is located, having regard to the characteristics of that environment and adjacent environments, and the range of activities for which it makes provision for.</p>	<p>The application has provided off street parking that complies with the requirements of the District Plan.</p>
Chapter 22 – Road Transport.	
Objective	Comment
<p>22.3.1 Establish and maintain a safe and efficient road transport network.</p>	<p>The subject site is located off Riverside Drive, a four lane arterial road leading from Onerahi to the town centre of Whangarei. It has high traffic volumes, particularly during peak hours.</p>
<p>22.3.3 Protect the road transport network from the adverse effects of adjacent land use, development or subdivision.</p>	
Policies	Comment
<p>22.4.5 Location of Activities To locate activities and developments in a manner that makes best use of the existing and proposed road transport infrastructure, and minimises adverse effects on traffic flows.</p>	<p>The location of the childcare centre will be desirable to those families living in Onerahi and working in the Whangarei town centre, and the proposal makes use of the well formed roading network in this area.</p> <p>A number of submitters raised concerns regarding the impact on traffic flows and the potential for traffic flows to be stopped/disrupted as vehicles turn into and exit the site during peak hours.</p> <p>A traffic assessment has been provided with the application and Council engineers have reviewed the application, and are satisfied that traffic flows will not be adversely affected and the safety of other road users will be maintained.</p>
<p>22.4.7 Parking and Manoeuvring</p> <ul style="list-style-type: none"> • To provide adequate parking, turning and manoeuvring space on every site, other than sites in the areas shown in Figures 6A.1 and 6A.2 to Appendix 6, to accommodate traffic generated by the activity, and to maintain the safe and efficient operation of the transport network. • To facilitate the provision spaces (owned by Council and/or private companies) in the areas shown in Figures 6A.1 and 6A.2 to Appendix 6, both on and off roads. 	<p>The parking and onsite manoeuvring shown on the application plans have been reviewed by Council engineers and comply with the District Plan requirements. As such they are considered to accommodate the traffic generated by the activity.</p>

7.2.3 Therefore, for these reasons it is concluded that the proposed land use is consistent with the overarching intent of the aforementioned relevant objectives and policies of the Operative District Plan.

8.0 Other Matters

8.1 No other matters of relevance have been identified that require consideration in this instance.

9.0 Part 2 Matter

9.1 Section 5 – Purpose

9.1.1 Part 2 of the Resource Management Act 1991 details the overarching purpose and principles of the Act

9.1.2 In terms of Part 2 of the Act, the proposed activity must meet the purpose of the Act set out in section 5 which is “to promote the sustainable management of natural and physical resources.” As outlined in section 5(2), “sustainable management” means:

“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety while -

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”

9.1.3 As discussed in the assessment of effects, the proposal is intended to enable people and communities to provide for their social and economic well-being by providing a child care centre for working parents, that also provides for the health and safety of the children that attend the centre. The proposal is located in a mixed use environment that avoids adverse effects on the surrounding environment, including specific stormwater management to ensure no adverse effect on the Whangarei Harbour that lies in close proximity to the site.

9.1.4 Section 5 of the Act is supported by a number of other ancillary principles contained in sections 6, 7 and 8 in Part 2 of the Act that provide decision makers with a set of guidelines that reflect current government policies and ideologies in regards to resource management, and assist in the interpretation of sustainable management. The relevance of these sections to the proposed subdivision is assessed below.

9.2 Section 6 – Matters of National Importance

9.2.1 Section 6 of the Act highlights matters of national importance that shall be recognised and provided for in order to achieve the sustainable management purpose of the Act. No matters provided under section 6 are considered to be relevant to consideration of this application.

9.3 Section 7 – Other Matters

9.3.1 Section 7 of the Act lists other matters that particular regard shall be given to in order to achieve the purpose of the Act. No matters provided under section 7 are considered to be relevant to consideration of this application.

9.4 Section 8 – Treaty of Waitangi

9.4.1 Section 8 requires that decision makers take into account the principles of the Treaty of Waitangi in managing the use development and protection of natural and physical resources. Section 8 is considered irrelevant to this application as the proposal does not affect the principles of the Treaty of Waitangi.

10.0 Conclusion & Recommendation

10.1 Conclusion

10.1.1 The proposal is considered to be an acceptable form of development for the immediate and wider environment because:

- The surrounding environment is not a typical 'residential environment' and is more accurately described as a 'mixed use environment', with commercial operations nearby, town basin activities and open space activities in the immediate vicinity, and a four lane arterial road passing by.
- The applicant has provided assessments by suitably qualified professionals in relation to traffic, shading, and noise effects that may be related to the proposed activity, and the recommendations and conclusions of these reports find the effects of the proposal to be less than minor.
- Suitable conditions of consent will be imposed to ensure ongoing monitoring of the activity and mitigation measures will be required if the effects are different to what has been detailed in the application.
- No persons have been determined as adversely affected with regard to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) as it has been concluded that there will be no risk to human health as a result of the proposal proceeding on the subject site.

10.1.2 Having considered the application against the relevant provisions of the Act, it is therefore recommended that this application be **granted**.

1.3 Recommendation

THAT pursuant to sections 104 and 104B of the Resource Management Act 1991, it is recommended that the consent be granted to Forum North Child Care (LU1500172) to establish and operate a childcare facility for up to 50 children between 3 months and 5 years old, with a maximum of eight staff, operating hours of 7.30am to 5.30pm Monday to Friday, and generating up to 151 vehicle movements per day, on a site within the Living 1 Environment, on a site located at 60 Riverside Drive being legally described as Pt Lot 4 DP 32954.

The proposal is unable to comply with the 'activities generally' rule, traffic movements, noise and building height, which results in a Discretionary activity status.

Recommended Conditions of consent

General Accordance Conditions

1. Subject to any changes required by the conditions below, the proposed development shall proceed in accordance with the site plans, elevations and accompanying details submitted with this application by McAlley Consulting Group on behalf of Forum North Child Care, with the relevant plans and information as follows:
 - Application by McAlley Consulting Group, titled 'Forum North Child Care, Child Care Centre, 60 Riverside Drive, Whangarei District', received by Council on 10 December 2015.
 - Plans and elevations by Dawson Design, titled 'Forum North Childcare, 60 Riverside Drive, Whangarei', dated 29 September 2015, job #15027, sheets 101, 201, 202, 301, 302 (Rev 01).
 - Shading Study undertaken by Dawson Design, dated 3 November 2015, job #15027, sheets L3.14, L3.15, L3.16, L3.17 and 901, 902, 903, 904 (Rev 01).
 - Traffic Impact Assessment by Engineering Equilibrium, titled 'Forum North Childcare Centre, 60 Riverside Drive Whangarei', dated November 2015 (Rev 2).
 - Acoustic Report by Marshall Day Acoustics, titled 'Forum North ECE Assessment of Noise Effects', dated 19 August 2015, ref Rp 001 2015415A.
2. The hours of operation for the proposed childcare centre shall be 7.30am to 5.30pm, Monday to Friday, and the centre shall be closed on all public holidays.
3. The centre is able to be licensed for up to 50 children, however the maximum number of children on site at any one time must not exceed 35 children.
4. The childcare centre will have a maximum of eight staff, with five staff on site at any one time.
5. A maximum of four management team meetings may be held on site per calendar month, with a maximum of 10 adults in attendance. These meetings must conclude by 10pm.
6. A maximum of three evening workshops may be held on site per calendar month with a maximum of 20 adults in attendance. These meetings must conclude by 10pm.
7. The combined height of the retaining wall plus acoustic fence on the eastern boundary, bordering Lot 2 DP 50682 (Housing New Zealand) shall have a maximum height of 2.4 metres and shall not include climbable features on the Lot 2 DP50682 (Housing New Zealand) side of the fence. Note: climbable features shall include any fence railings or similar design features.

Pre-Site Works Conditions - to be undertaken prior to any works taking place on the site

8. That the gate at the rear of the site, that borders the Whangarei Harbour, must be removed and replaced with a continuation of the fencing as approved under condition 1. Prior to operation of the childcare facility evidence that such removal and placement has been undertaken must be provided to the satisfaction of the Team Leader Compliance.

9. The consent holder must submit a detailed set of engineering plans prepared in accordance with Whangarei District Council's Environmental Engineering Standards 2010 Edition. The engineering plans are to be submitted to the Senior Environmental Engineering Officer for approval.

It is to be noted that certain designs may only be carried out by an Independently Qualified Person (IQP) or Chartered Professional Engineer (CPEng) working within the bonds of their assessed competencies. IQP's must have been assessed by Whangarei District Council and hold a current status to submit design work.

Plans are to include but are not limited to:

- i. Design details of the construction of a new double width vehicle crossing for in accordance with Sheet 19 Commercial Crossing (Note the requirement for a 2.0m strip of hot laid AC at the mouth of the crossing) also in accordance with Sheet 22. Entrance crossings are to be designed and constructed in such a manner that will control stormwater run-off entering a property from the road, and that likewise prevent stormwater and detritus, including gravel, dirt and other materials, migrating onto the road reserve from a property. Urban accessways and private driveways sloping up from the road shall have a stormwater collection and disposal system at the boundary as detailed on sheet 18.
 - ii. Design details of the modification of the existing double width shared vehicle crossing adjacent to the western boundary of the road frontage to a single width vehicle crossing to service 58 Riverside Drive only in general accordance with Sheets 19. Details are to include the reinstatement of the kerb and grass berm in accordance with Sheet 13 (standard kerb).
 - iii. Design details of the reinstatement of the road kerb at the eastern extent of the road frontage from the existing kerb transition to the existing vehicle crossing for 62 Riverside Drive in accordance with Sheet 13 (standard kerb) & Sheet 19. Note the area behind the kerb is to be topsoiled & re-grassed.
 - iv. Design details of the construction of a marked sealed, concrete or paved car park and manoeuvring area for 9 vehicles in accordance with Section 3.4.18 including 1 disabled parking space.
 - v. Design details of a stormwater discharge pipe from the southern corner of the site to the river or river tributary in accordance with Section 4 including erosion protection at the discharge point.
10. All work on the approved engineering plans in condition 9 is to be carried out to the approval of the Senior Environmental Engineering Officer or their delegated representative.

All work needing design/certification by a Whangarei District Council approved IQP/CPEng will require completion of a producer statement (construction).

In the case of works to remain in private ownership, these may be inspected and approved by a Whangarei District Council approved IQP who has been certified to design/construct such works. (The works that fall into this category will be advised by the Senior Environmental Engineering Officer as part of Engineering plan approval) A producer statement (construction) is to be provided by the Whangarei District Council approved IQP, along with copies of all test results/photographs etc. The Senior Environmental Engineering Officer is to be advised of any necessary inspections/testing of private works a minimum of 24 hours before they take place in order that the Senior Environmental Engineering Officer may observe the inspection/testing if so desired.

All works within the road reserve including the vehicle crossing works and kerb reinstatement require a pre-pour inspection from the Senior Environmental Engineering Officer and notification of all inspections is to be a minimum of 24 hours prior the requested inspection time.

Failure to comply with these requirements may result in the work not being accepted as

complying with the RC conditions/Environmental Engineering Standards 2010 Edition

No construction works are to commence onsite until the engineering plans required in condition 9 have been approved and all associated plan inspection fees have been paid.

11. The consent holder shall notify council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Senior Environmental Engineering Officer and include the following details:
 - i Name and telephone number of the project manager.
 - ii Site address to which the consent relates.
 - iii Activities to which the consent relates.
 - iv Expected duration of works.

Works to be Completed Prior to Commissioning of the Childcare Facility

12. Prior to the installation of any reticulation through the WDC Esplanade Reserve the applicant is to obtain an easement for this reticulation.
13. A copy of the approved engineering plans and a copy of the resource consent conditions and the above letter are to be held onsite at all times during construction.
14. No occupation or use of the childcare centre will be permitted until all works approved in condition 9 have been constructed and as-built plans have been provided in accordance with the Whangarei District Council's Environmental Engineering Standards 2010 Edition and approved by the Senior Environmental Engineering Officer.
15. The applicant shall ensure that spoil from the site must not be tracked out onto Council or Road formations to the approval of the Senior Environmental Engineering Officer.
16. The consent holder must create easements over services (stormwater discharge pipe) to the approval of the Senior Environmental Engineering Officer (SEEO).
17. The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services (stormwater discharge pipe) are located within the appropriate easement boundaries.
18. That all damage to the street footpath, stormwater kerb and channel, road carriageway formation, street berm and urban services by the demolition and construction works associated with the land use activities shall be reinstated at the expense of the consent holder.
19. The consent holder must submit a certified and dated "as built" plan of completed works (stormwater discharge pipe) in accordance with Whangarei District Council's Environmental Engineering Standards to the approval of the Senior Environmental Engineering Officer.
20. Upon completion of the development works, the consent holder must submit for approval a "Certificate of Completion of Development Works" (Form EES PS4) to the Senior Environmental Engineering Officer or their delegated representative.
21. Following completion of construction, the consent holder shall provide a works producer statement from the suitably qualified contractors who completed the works, certifying that the works have been completed in accordance with the approved engineering plans, Council's Environmental Engineering Standards 2010 Edition and best trade practise, to the satisfaction of Whangarei District Council's Senior Environmental Engineering Officer.
22. The consent holder is to submit a Road Opening Notice or Corridor Access Request application and receive written approval for all works to be carried out within Council's Road Reserve in accordance with Council's Environmental Engineering Standards 2010 to the approval of the Senior Environmental Engineering Officer. (Refer advisory clauses below).

General Conditions – Ongoing Compliance Required

23. The noise level from activities associated with the childcare centre shall not exceed the following noise performance standards when measured within the boundary of any adjacent property in the Living 1 Environment from which written approval has not been obtained:
- 50dB L_{Aeq} between 0700 and 2200 hours
 - 40dB L_{Aeq} between 2200 and 0700 hours
 - 70dB L_{AFmax} between 2200 hours and 0700 hours
24. Noise levels shall be measured in accordance with New Zealand Standard NZS 6801:2008 “Acoustics – Measurement of Environmental Sound” and assessed in accordance with New Zealand standard NZS6802:2008 “Acoustics – Environmental Noise”.
25. Noise from demolition and construction shall comply with the guidelines and recommendations of NZS 6803:1999 “Acoustics – Construction Noise”. Noise levels shall be measured and assessed in accordance with New Zealand Standard NZS 6803:1999 “Acoustics – Construction Noise”.
26. Any mechanical units should meet a noise limit of 40dB L_{Aeq} at the boundaries in order to avoid cumulative impacts.

Review Condition

27. In accordance with section 128 of the Resource Management Act 1991, the Council may serve notice on the consent holder of its intention to review the above conditions of consent six months following the commencement of the activity, and in one year intervals thereafter. The review will be for the purposes of dealing with adverse visual, noise or traffic effects on the surrounding environment that may be different to what has been described and expected through the assessment of the proposal. This condition will allow the Council to have particular regard to the ongoing management of the activity to ensure that it is carried out in the manner described in the application and in a manner that does not result in any concerns in this locality.

Reasons for the Recommendation:

That pursuant to section 113 of the Resource Management Act 1991 the reasons for this decision are as follows:

- The surrounding environment is not a typical ‘residential environment’ and is more accurately described as a ‘mixed use environment’, with commercial operations nearby, town basin activities and open space activities in the immediate vicinity, and a four lane arterial road passing by. The effects generated by the proposal are considered to be compatible with the existing amenity of the locality.
- The applicant has provided assessments by suitably qualified professionals in relation to traffic, shading, and noise effects that may be related to the proposed activity, and the recommendations and conclusions of these reports find the effects of the proposal to be less than minor.
- Suitable conditions of consent will be imposed to ensure ongoing monitoring of the activity and mitigation measures will be required if the effects are different to what has been detailed in the application.
- No persons have been determined as adversely affected with regard to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) as it has been concluded that there will be no risk to human health as a result of the proposal proceeding on the subject site.
- The application is in accordance with the directives of the Regional Policy Statement and will not raise any issues of regional significance.
- The proposed land use is consistent with the overarching intent of the aforementioned objectives and policies of the Operative District Plan.

Advice Notes

- 1 The applicant shall pay all charges set by Council under Section 36 of the Resource Management Act 1991. The applicant will be advised of the charges as they fall.
- 2 Section 357B of the Resource Management Act 1991 provides a right of appeal to this decision. Appeals must be in writing, setting out the reasons for the appeal, and lodged with the Environment Court within 15 working days after the decision has been notified to you. Appellants are also required to ensure that a copy of the notice of appeal is served on all other relevant parties
- 3 A Corridor Access Request (CAR) is defined in the new “National Code of Practice (CoP) for Utilities access to the Transport Corridors“. This CoP has been adopted by Council and will be phased in. It provides a single application for Traffic Management Plans/ Road Opening Notice applications. Enquiries as to its use may be directed to Council’s Traffic Management Co-ordinator on 430-4230 ext 8258.
- 4 The applicant is advised that a further site inspection of completed works will be required if a period greater than 3 months has passed since the last Council inspection prior to Council issuing the 224(c) certificate.

11.0 Attachments

1. **The application (as lodged)**
2. **District Plan Maps**
3. **Submissions Received**
4. **District Plan Objectives and Policies**