

Hearings Commissioner

Creating the ultimate
living environment



WHANGAREI
DISTRICT COUNCIL

Notice of Meeting

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

Friday
13 August 2010
9.15 am

Application by
McDonalds Restaurant

Commissioner
Giles Bramwell

Vision Statement

To be a vibrant, attractive and thriving District
by developing sustainable lifestyles based around
our unique environment; the envy of New Zealand
and recognised world wide.

INDEX

	Page No
Authorisation Sheet.....	1
Environmental Planner (Consents) Report	2
Recommendation.....	21
<i>Attachment 1.</i> Copy of the Application and Further Information Received	26
<i>Attachment 2.</i> Aerial Photo and Locality Map.....	116
<i>Attachment 3.</i> District Plan Maps.....	118
<i>Attachment 4.</i> Notification Assessment dated 5 May 2010	120
<i>Attachment 5.</i> Submissions Received	
A & B McGunnigle.....	129
B Campbell	132
R Matthews & ND Matthews Family Trust	134
BJ Parry.....	136
FE & AL McConnell Family Trust.....	141
B & D Bignell.....	143
MD White.....	146
<i>Attachment 6.</i> Copy of Report on Discussion and Outcomes From the Pre-Hearing Meeting held 22 June 2010	150
<i>Attachment 7.</i> Copy of the Report by Council's Senior Environmental Engineering Officer and Environmental Health Officer	154

Planner's Report and Recommendation to the Hearings Commissioner on a Resource Consent Application by:

McDonalds Restaurant Ltd to provide a second drive-thru lane and convert the land at 6 Apirana Avenue in the Living 2 Environment for use as a commercial car parking area. The car park will be open from 6am to 10pm Monday to Sunday and will result in a total of 58 parking spaces on site. The proposed drive-thru will result in a total of 23 signs on site. The proposal also involves the variation of two conditions of consent from LU0841198 relating to car parking and landscaping.

Overall, the application is considered to be a Discretionary Activity requiring consent under the rule of the Operative Whangarei District Plan relating to activities generally and signs.

This report was written and peer-reviewed by the following signatories:

Environmental Planner
(Consents):

Lucy Deverall

Date: _____

Team Leader
(Consents):

Kelly Ryan

Date: _____

Resource Consent
Manager:

Alister Hartstone

Date: _____

Resource Management Act 1991

Hearing By: The Whangarei District Council Hearings Commissioner of an application by McDonald's Restaurant Ltd to provide an additional car parking area in the Living 2 Environment which will operate between 6am and 10pm Monday to Sunday, and to provide a second drive-thru which will result in a total of 23 signs on site.

Evidence By: Lucy Deverall
BA in Sociology and Political Studies; and
MPlanPrac (Honours)
Environmental Planner (Consent)
Whangarei District Council

File Ref: LU1000047 P083014.LU

Dated: 21 July 2010

1. The Proposal

- 1.1 The proposal provides for an additional drive-thru lane with associated menu boards, 'Order Here' signs and canopies over the lanes. The two 'Order Here' signs will increase the total number of signs on site from 21 to 23 signs on site. The proposed drive-thru will require the rearrangement of the existing parking layout. As such, the proposal involves the formation and use of 6 Apirana Avenue (Living 2 Environment) for additional and replacement car parking. This will increase the current number of car parking spaces by 6, with a total of 58 parking spaces on site. It is proposed to close the new car parking area between 10pm and 6am.
- 1.2 As a result of the proposed changes, the application also involves the variation of two conditions of consent, pursuant to Section 127 of the Resource Management Act 1991, for a previous Resource Consent associated with the activity on site (LU0841198). Specifically, this relates to the removal of condition 3(i) requiring the provision of 4 additional car parking spaces adjacent to the northern boundary; and the variation of condition 2 regarding the provision of a landscaping strip between the restaurant buildings and the footpath on Bank Street.
- 1.3 The applicant requests that condition 2 be amended to read as follows (amendments shown underlined and bold):
- 1.4 *Proposed works in the landscaping plan prepared by Gaynor Revill Design, dated 28/10/08, as submitted with the application, **with the exception of the landscaping shown between the front of the building and the Bank Street footpath, which is deleted**, shall be undertaken within 6 months of the grant of consent and maintained in perpetuity thereafter and shall be completed to the satisfaction of the Senior Monitoring Officer.*

1.5 Following consultation with submitters, the application has been amended to include the following:

- Closure of the entry only vehicle crossing on Apirana Avenue. The crossing is to remain and the fence along the Apirana Avenue boundary is to be extended across the opening.

The applicant has requested that this action be undertaken on the understanding that, if there are unforeseen problems arising from the closure, the applicant would seek to re-open the crossing as a one-way entry only with a control mechanism.

The applicant has suggested that the re-opening of the crossing could be done either by way of a Section 127 application or under Section 128 as a Council instigated review of conditions. The applicant has requested that if a Section 128 review condition is adopted that a period of 18 months is allowed in order for them to assess the impacts of the closure.

- The existing fence along Apirana Avenue is to be replaced for amenity purposes. The new fence is to be similar in style to that proposed along the northern boundary of 6 Apirana Avenue.
- Amendments have been made to the design of proposed lighting for the car park. Proposed lighting now involves bollards (as depicted in the additional information provided in Attachment 1) with a maximum height of 1.1m.
- Additional landscaping is proposed along the northern boundary of 6 Apirana Avenue between the proposed acoustic fence and the car park.

1.6 A copy of the original application lodged with Council on 11 March 2010 is included at **Attachment 1**. The following further information has been provided by the applicant in support of the application:

- A report from G A Hughes and Associates (undated) with proposed car park stormwater calculations, producer statement and lighting details from IBEX dated 30 March 2010.
- An amended Assessment of Environmental Effects referring to lighting and stormwater calculations and including an assessment of proposed changes to conditions from the resource consent granted in 2008.
- An amended site layout plan Sk02 Revision 7 as a result of the proposed changes to conditions and the closure of the Apirana Avenue vehicle crossing.
- An amended landscaping plan L01 Revision 1 as a result of the pre-hearing meeting.
- A letter from Hegley Acoustic Consultants dated 14 July 2010 regarding the proposed acoustic fence.
- A letter from Jenny Hudson dated 20 July 2010 regarding issues raised in a pre-hearing meeting.
- An amended lighting spill plan SK07 Revision 1 to accommodate the proposed bollard lighting design.

1.7 The above information is also included at **Attachment 1**.

1.8 In summary the proposal is for the following:

- Increase on site signage from 21 signs to 23 signs (with the placements of the two 'Order Here' signs on the additional drive-thru);
- To establish a car park associated with a commercial activity within the Living 2 Environment which will operate between 6am and 10pm Monday to Sunday, and will not operate in conjunction with a residential activity;
- Pursuant to s127 of the Resource Management Act 1991 ('the Act'), remove condition 2 of LU0841198 requiring landscaping along the base of the building on Bank Street; and
- Pursuant to s127 of the act to remove condition 3(i) of LU0841198 requiring provision of 4 additional parking spaces on site.

2. The Site and the Surroundings

2.1 This application relates to two properties. One being located at 6 Apirana Avenue and one containing the McDonald's Restaurant and being located on the corner of Bank Street and Apirana Avenue. Bank Street is classified as an arterial road and Apirana Avenue is classified as local road. Both roads have speed environments of 50 km/h.

2.2 The McDonald's site has two vehicle crossings on Bank Street, providing entry only and exit only vehicle access. In addition, there is a vehicle crossing on Apirana Avenue providing entry only vehicle access. It is noted that this crossing is currently being utilised for both entry and exit purposes.

2.3 The McDonald's site includes the following land parcels: 4 Apirana Avenue (Lot 4 DP23509) which is utilised for car parking; 145 Bank Street (Lot 5 DP 23509) which contains a grassed park with a number of large mature trees and picnic tables; and 147 Bank Street (Lot 2 DP 41091) which contains the McDonald's Restaurant and existing drive through facility. 4 Apirana Avenue is identified in the District Plan as Living 2 Environment and the remaining sites are identified as Business 3 Environment. These properties are not legally held together.

2.4 The areas to the north-east, east and south of the subject sites (being those properties adjacent to Bank Street) are characterised by commercial and business activities. Comparatively, the areas to the north and west of the subject sites are characterised by residential development. It is noted that there is a school at the end of Apirana Avenue which is a cul-du-sac road and has intersections with Bank Street and Hall Avenue which is a no exit street.

2.5 The McDonald's site has consent to exceed the maximum 200 traffic movements in any 24 hour period in the Business 3 Environment and the maximum 30 traffic movements in any 24 hour period in the Living 2 Environment. In addition, consent has been granted for the site containing 21 signs, with a total area of signage being 71m²; for the construction of a building 0.6m from Bank Street; and for the construction of a building within 2m of the road boundary which does not have a veranda (LU0841198).

2.6 An aerial photo and map showing the locality of the sites is included at **Attachment 2**. GIS maps showing zoning and other resource area notations of properties in the area are provided at **Attachment 3**.

3. District Plan Requirements

- 3.1 The McDonald's site is predominately within the Business 3 Environment with the north-western car parking area (being 4 Apirana Avenue) being within the Living 2 Environment. The site at 6 Apirana Avenue is within the Living 2 Environment.
- 3.2 The proposed additional drive-thru and car parking area are defined as commercial activities under Chapter 4 of the District Plan. Commercial activity as defined under Chapter 4 of the District Plan means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment or services, and includes shops, markets, showrooms, restaurants, take-away food bars, professional, commercial, and administration offices, service stations, motor vehicle sales, visitor accommodation, the sale of liquor and parking areas associated with any of the above.
- 3.3 Due to being located within different Environments, the proposed drive-thru is assessed under Chapter 41 'Business 3 Environment' and the proposed car park area is assessed under Chapter 36 'Living 1, 2 and 3 Environments'.

Living 2 Environment:

- 3.4 Rule 36.3.1 Activities Generally states that commercial activities in the Living 2 Environment are permitted activities if:
- They do not operate or open for visitors, clients or deliveries before 0800 or after 1800 on any day; and
 - They are screened from view from roads and adjoining sites by fences, planting or buildings; and
 - They are carried out in conjunction with a residential activity on the site.
- 3.5 The proposed additional car parking area is within the Living 2 Environment and is to be available for use between 6am and 10pm, Monday to Sunday. Furthermore, the car park will not operate in conjunction with a residential activity. Hence the proposal does not comply with Rule 36.3.1 and is a discretionary activity.
- 3.6 Rule 36.3.1 also requires commercial activities to be screened from view from roads and adjoining sites by fences, planting or buildings. The proposed car park will be completely screened from views along the road and the adjacent property by proposed acoustic fencing and landscaping along the site boundaries.
- 3.7 Rule 36.3.11 Noise states that any activity is a permitted activity if noise generated by the activity measured within the boundary of any other site in the Environment does not exceed 45 dBA L₁₀ or 60 dBA L_{max} between 0700 and 2200, and 35 dBA L₁₀ at any other time.
- 3.8 The applicant has provided an assessment of noise effects by Hegley Acoustic Consultants titled "Proposed Car park Extension, McDonald's Restaurant, Whangarei, Assessment of Noise Effects" dated February 2010. This report recommends that due to the mixture of environments on the McDonald's site and the difficulties of monitoring the different noise requirements for each environment, that noise levels are assessed consistently across the McDonald's site. As such, the report concludes that while the proposal does not comply with noise controls for the Living 2 Environment, it does comply with controls for the Business 3 Environment.

Business 3 Environment:

- 3.9 Rule 41.3.5 Provision of Parking Spaces states that any activity is a permitted activity if parking spaces are provided in accordance with Chapter 47; and no formed parking space is constructed or provided within 2.0m of a road boundary.
- 3.10 Rule 41.3.6 Traffic Movements states that any activity is permitted if it does not generate more than 200 traffic movements in any 24 hour period, where the activity gains access to a Local Road and where the activity complies with Appendix 6I where it gains access to an arterial road.
- 3.11 The applicant advises that the proposal will comply with Rule 41.3.5 and Rule 41.3.6 as the proposed drive-thru is required to cater for current demand and is not anticipated to result in an increase in customers to the site.
- 3.12 The proposal involves the placement of two additional signs on site in association with the drive-thru. This will result in a total of 23 signs on site and therefore is a restricted discretionary activity under Rule 41.3.7 Signs.
- 3.13 The proposal complies with all other relevant rules for a commercial activity in the Living 2 Environment and the Business 3 Environment.
- 3.14 Overall, the application is considered to be a **Discretionary Activity** requiring consent under the rules of the District Plan relating to activities generally and signs.

4. Consultation, Notification and Submissions

- 4.1 Pursuant to sections 95A - 95F a consent authority may, using its discretion, make a decision whether to notify an application for resource consent. In determining the notification decision the consent authority must firstly have regard to the likely adverse effects on the environment of the proposal and secondly whether any persons are considered to be adversely affected by the proposal.
- 4.2 If the consent authority decides that the adverse effects on the environment may be more than minor it must notify the application. If the decision has been made that the effects will not be more than minor, the consent authority must then identify any persons adversely affected by the proposal to determine whether limited notification is required.
- 4.3 On 5 May 2010, it was considered and determined under authority delegated to the Team Leader (Consents) of that Whangarei District Council pursuant to Sections 95B and 95E of the Act that the application be subject to limited notification because any actual and potential effects of the proposed activity are considered minor, and the written approval from all persons considered to be adversely affected by the proposed activity has not been obtained.
- 4.4 On 10 May 2010, notice was served upon the parties considered to be adversely affected by the proposed activity i.e. the owner and occupier of the properties marked with a star as shown on the following map.



4.5 A full assessment pursuant to Section 95 of the Act has been undertaken in order to reach the conclusion as to whether the effects of the activity will be more than minor or minor, and who may be adversely affected by the activity. Copy of the assessment report is provided at **Attachment 4**. In summary, those parties highlighted on the map were considered adversely affected because:

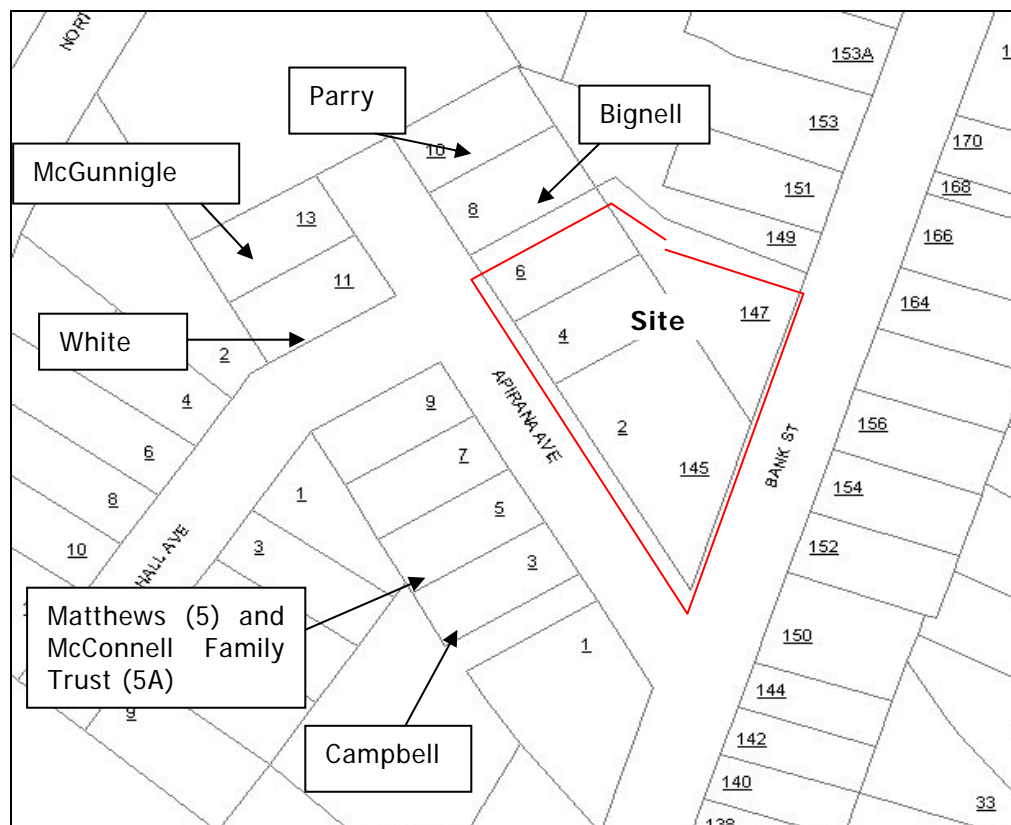
- The effects on traffic safety and efficiency have been assessed by Council's Senior Environmental Engineering Officer and are considered to be no more than minor. It is considered that the safe and efficient movement of people, vehicles and goods in the locality is unlikely to be compromised.
- With regards to the operation of 6 Apirana Avenue as a car park between 6am and 10pm Monday to Sunday and the impact on amenity, the properties located on near-by Hall Avenue and those other properties outside Apirana Avenue are not considered adversely affected because the proposed car parking area is unlikely to be prominent when viewed from these properties given the distance of separation.
- Given the two additional 'Order Here' signs will be relatively small, located within the site and set back from the site boundaries, it is considered the signs are unlikely to generate additional clutter onsite and therefore will not have more than minor adverse effects on amenity.
- The proposal to remove condition 2 of LU0841198 which relates to landscaping will have minor adverse amenity effects as it is considered the small strip of landscaping would have been insufficient to mitigate any adverse effects as a result of a 0.6m set back from Bank Street, and the small park on the corner of Bank street and Apirana Avenue is sufficient to off-set any potential adverse effects.

- 4.6 The time for lodging a submission ended on 4 June 2010. During the submission period, the application attracted 7 submissions with no late submissions received. A summary of the submissions is provided below:

Submitter	Issues and Relief Sought
<p>1. Romer and Ngarie Matthews (Matthews Family Trust)</p> <p>Opposes</p> <p>Does not state whether wish to be heard</p>	<ul style="list-style-type: none"> • The entry only vehicle crossing on Apirana Avenue is being unlawfully used for both entry and exit purposes causing traffic congestion. Some form of non-return device needs to be installed. • Noise early in the morning from delivery trucks and during the day from the children's playground. • Relief sought: Approve the application if the above issues are considered.
<p>2. Beverley June Parry</p> <p>Neutral</p> <p>Do not wish to be heard</p>	<ul style="list-style-type: none"> • The entry only vehicle crossing on Apirana Avenue is being unlawfully used for both entry and exit purposes causing traffic congestion. Some form of non-return device needs to be installed. • Concerned that the proposal to use chains to close the proposed car park will not be enforced or maintained. • Noise from delivery trucks which are arriving at 5am. • Concerned that the proposed wooden acoustic fence is not adequate and that more solid materials are required. • Large amounts of McDonald's wrappers, containers and take away bags are littering Apirana Avenue and Banks Street. • Relief sought: Not stated
<p>3. Bernard Campbell</p> <p>Opposes</p> <p>Does not state whether wish to be heard</p>	<ul style="list-style-type: none"> • The entry only vehicle crossing on Apirana Avenue is being unlawfully used for both entry and exit purposes causing traffic congestion. Some form of non-return device needs to be installed. • Concerned that the proposal to use chains to close the proposed car park will not be enforced or maintained. • Relief sought: That Council approve the application only if some non-return device is installed at the Apirana vehicle crossing or if the crossing is closed.
<p>4. Alan and Beryl McGunnigle</p> <p>Oppose</p> <p>Wish to be heard</p>	<ul style="list-style-type: none"> • The entry only vehicle crossing on Apirana Avenue is being unlawfully used for both entry and exit purposes causing traffic congestion. Since the application for McDonald's was originally granted the school roll has increase significantly and there is a lot of traffic movement along Apirana Avenue. Some form of non-return device needs to be installed. Concerned that the proposed new car parking area will encourage further miss-use of the vehicle crossing. • Relief sought: That Council to decline the application unless the application is modified to prevent exiting on to Apirana Avenue.

Submitter	Issues and Relief Sought
<p>5. F.E and A.L McConnell Family Trust</p> <p>Oppose</p> <p>Wish to be heard</p>	<ul style="list-style-type: none"> • The entry only vehicle crossing on Apirana Avenue is being unlawfully used for both entry and exit purposes causing traffic congestion. Since the application for McDonald's was originally granted the school roll has increase significantly and there is a lot of traffic movement along Apirana Avenue. Some form of non-return device needs to be installed. Concerned that the proposed new car parking area will encourage further miss-use of the vehicle crossing. • Noise early in the morning from delivery trucks and during the day from the children's playground. • Relief sought: Approve the application if the above issues are considered.
<p>6. Michael White</p> <p>Oppose</p> <p>Wish to be heard</p>	<ul style="list-style-type: none"> • Concerns regarding the potential increase in noise as a result of the proposed new car park area. • Concerns that the proposed acoustic fence is not adequate. • Concerns with regards to the position and direction of lighting for the new car parking area. • Concerns regarding operating hours and noise – currently delivery trucks are arriving around 5am which generates a lot of noise and is outside McDonald's operating hours. • The entry only vehicle crossing on Apirana Avenue is being unlawfully used for both entry and exit purposes causing traffic congestion. Some form of non-return device needs to be installed. • Relief sought: That Council declines the application unless the above considerations are adopted.
<p>7. Brian and Denyze Bignell</p> <p>Oppose</p> <p>Wish to be heard</p>	<ul style="list-style-type: none"> • Concerns regarding the potential increase in noise as a result of the proposed new car park area. • Concerns with regards to the position and direction of lighting for the new car parking area. • The entry only vehicle crossing on Apirana Avenue is being unlawfully used for both entry and exit purposes causing traffic congestion. Some form of non-return device needs to be installed. • Relief sought: That Council declines the application unless they provide the following: <ul style="list-style-type: none"> - A more solid fence between 6 and 8 Apirana Avenue at 2m height; - New light poles moved to the edge of the car park; - Tree planting between the car park and the new fence; - Close the car park between 9pm and 7am.

4.7 The following map shows the location of the seven submitters with respect to the subject site.



- 4.8 Copy of the submissions is provided at **Attachment 5**.
- 4.9 The key issues raised in the submissions are summarised into the following aspects:
- Traffic safety and efficiency;
 - Noise;
 - Lighting;
- 4.10 Following receipt of submissions, the applicant requested that pursuant to s99 of the Act a pre-hearing meeting be held with those submitters who wished to be heard. The applicant advised that they did not wish Council to disregard the submissions of those submitters who could not attend the meeting as provided for under s99(8)(b). A letter was sent out to those submitters who wished to be heard and a pre-hearing meeting was held on Tuesday 22 June 2010. Furthermore, some of those submitters who did not wish to be heard were permitted by the applicant to attend the meeting.
- 4.11 At the pre-hearing the main issues of the submitters were summarised and discussed and the applicant responded with clarification or action to be taken in addressing the issues. A report containing the main points of discussion, including main points of agreement, is included in **Attachment 6**.
- 4.12 Following the pre-hearing meeting the applicant has provided a formal response (dated 20 July 2010), including an amended application (**Attachment 1**). This information has been distributed to all the parties who attended the pre-hearing. None of the submitters who attended the hearing and who wished to be heard have contacted Council to withdraw their right to be heard upon receipt of this information.
- 4.13 The other issues raised in the submissions will be addressed in the following sections of this report.

5. Statutory Context

- 5.1 Section 104 of the Resource Management Act 1991 sets out those matters that, subject to Part 2, the Consent Authority must have regard to when considering an application for resource consent. These matters include any actual or potential effects on the environment of allowing the activity, any relevant provisions of a plan or proposed plan, and any other matter the Consent Authority considers relevant and reasonably necessary to determine the application.
- 5.2 Pursuant to Section 104B of the Act, after considering an application for resource consent, a Consent Authority may grant or refuse the application, and if it grants the application, may impose conditions under Section 108 of the Act.
- 5.3 The following sections of this report address those matters considered relevant to this application, including an assessment of environmental effects, an analysis of the proposal against the objective and policies of the District Plan, and consideration of any other relevant matters, in order to reach a conclusion and recommendation as to whether the application should be granted or declined pursuant to Section 104B of the Act.

6. Assessment of Environmental Effects

- 6.1 Pursuant to Section 104(1)(a) of the Act, when considering an application for a resource consent and any submissions received, the Consent Authority must, subject to Part 2, have regard to any actual and potential effects on the environment of allowing the activity.
- 6.2 Section 104(3) of the Act requires the Consent Authority to disregard any effects on a person who has given written approval to the application. The previous report identified those parties considered to be adversely affected by the application. Written approval has not been obtained from those parties.
- 6.3 Although an assessment of effects was provided in the notification report and is summarised in section 4.6 of this report, the following is an additional assessment of effects, with particular regard to the issues raised by submitters and mitigation provided by the applicant since submissions closed.

6.4 The Permitted Baseline

- 6.5 When considering any actual and potential effects of the proposed activity, Section 104(2) of the Act provides that Council may have regard to permitted baseline comparisons i.e. a comparison with the environment as it would exist if the land were used in a manner permitted as of right.
- 6.6 The permitted baseline approach to effects assessment enables Council to disregard any adverse effects on the environment if those effects are related to an activity or activities permitted by the District Plan. Existing activities and any activity which could be carried out as a permitted activity without being fanciful may be discounted as giving rise to any adverse effects.
- 6.7 In this case, the following activities are permitted as of right by the District Plan within the Living 2 Environment:
- Commercial activities which are carried out in conjunction with a residential activity on the site; provided that the activities are operating between the hours of 0800 and 1800, and screened from view from roads and adjoining sites.

- 6.8 In addition, the following activities are permitted as of right by the District Plan within the Business 3 Environment:
- The construction or placement of signs if the signs are menu boards or associated with a drive through and there are no more than 3 signs on site.
- 6.9 Moreover, in this instance the existing environment includes a commercial activity in the Business 3 and Living 2 Environments which exceeds 200 traffic movements in any 24 hour period, has 21 signs with a total area of 71m², a building setback 0.6m from the road boundary with Bank Street and does not provide a veranda although it is within 2m of the road boundary. It is appropriate to include the existing environment when considering the permitted baseline.
- 6.10 Each residential unit in the Living 2 Environment would be permitted to accommodate a commercial activity component, subject to a number of criteria designed to reduce the scale of development to levels compatible with the amenity of the locality. However, there is no restriction in terms of the gross floor area threshold of the residential and commercial components, the design or appearance of a residential or commercial development, the number of people employed, or the minimum site area associated with a commercial development. Therefore, while the proposed car parking area will not be carried out in conjunction with a residential activity on the site, it is considered appropriate to take into account the permitted baseline in this respect.
- 6.11 A commercial activity in the Living 2 Environmental would be permitted to operate between the hours of 0800 and 1800 on any day. The proposal involves a parking area associated with a commercial activity which will be available for use from 0600 until 2200 Monday to Sunday (inclusive).
- 6.12 Construction or placement of signs within the Business 3 Environment would be permitted provided that the signs are static, are no higher than 8.5m, have a total area no larger than 6m² and relates to goods and services available on site. The existing environment has consent for 21 signs on site which have a total area of 71m². The proposal involves two additional 'Order Here' signs resulting in a total of 23 signs on site but which will not increase the area of signage significantly (approximately 72m² for the total signage on site).
- 6.13 The proposal satisfies all other relevant permitted baselines under the District Plan including those for noise and provision of parking spaces. The proposal is not anticipated to exceed the traffic movements which currently have resource consent.
- 6.14 The application was distributed to Council's Senior Environmental Engineering Officer (SEEO) and Council's Environmental Health Officer (EHO) for comments. Copies of the report by Council's SEEO and Council's EHO are provided at **Attachment 7**. Their comments have been incorporated into the assessment of effects that follows.
- 6.15 The actual and potential effects arising from the proposed activity relate primarily to effects on traffic safety and efficiency, and effects on amenity and character of the locality.
- 6.16 Effects on Traffic Safety and Efficiency**
- 6.17 Proposed car park and additional drive-thru lane:
- 6.18 A traffic report by Traffic Planning Consultants (TPC) was submitted with the application. The TPC report found that the existing drive-thru has limited queuing capacity to cope with the busiest period and that this is resulting in queuing traffic overflowing onto the footpath and carriageway of Bank Street. The TPC report

confirmed that the provision of an additional drive-thru lane would improve the operation of the drive-thru lane and reduce the potential for over-flow during peak periods. Although the TPC report states that the additional drive-thru would increase the queuing capacity from 6 or 7 vehicles to 10 or 11 vehicles, the report also states that no changes are expected in the pattern or volume of traffic movements to and from the site.

- 6.19 The TPC report found that existing on-site parking spaces would need to be removed in order to accommodate the proposed additional drive-thru lane. With regards to the proposed parking layout, the TPC report found that overall the change in parking layout would not generate adverse effects to traffic safety.
- 6.20 The application and the TPC report were reviewed by Council's Senior Environmental Engineering Officer (SEEO) who did not raise any concerns with regards to traffic safety in his assessment of the application.
- 6.21 Proposed Signage:
- 6.22 Given the proposed signs are relatively small in scale, are located within the site, are associated with the drive through and are setback from any site boundaries, it is considered that there will be no adverse effects on traffic safety as a result of the proposed signage.
- 6.23 With regards to the s127 change of conditions:
- 6.24 This application also includes a proposal to remove condition 4 of the previous consent LU0841198 in its entirety. Condition 3(i) related to the provision of parking spaces and reads as follows:
- 6.25 *Prior to the issue of a building code of compliance certificate the consent holder must:*
- i. Carry out works for additional car parking for 4 cars as shown on the application plan as per a prior approved typical cross section in accordance with council's Environmental Engineering Standards to the approval of the Senior Environmental Engineering Officer, or their delegated representative.*
- 6.26 This condition has not been met by the applicant however the current proposal will provide an additional six parking spaces and as such the condition will become redundant. As such, it is considered that there will be no adverse effects on parking or traffic safety as a result of this application.
- 6.27 Taking into account the factors discussed above, the effects on traffic safety and efficiency are considered to be no more than minor.
- 6.28 With regards to Apirana Avenue Vehicle Crossing:

A key concern raised by submitters was the use of the Apirana Avenue vehicle crossing for both entry and exit purposes. The submitters concerns related to traffic congestion and safety issues along Apirana Avenue as a result of this miss-use and were concerned that the proposed conversion of 6 Apirana Avenue for car parking would further encourage the miss-use of this crossing.

Following the receipt of submissions and a pre-hearing meeting with submitters, the applicant has proposed to fence off the Apirana Avenue vehicle crossing. This would be done on the understanding that if unforeseen problems arose as a result they would remove the fence and place some form of mechanism across the vehicle crossing to ensure the crossing was utilised as entry only.

The TPC report which was lodge with the original application did not comment on the miss-use of the Apirana Avenue crossing, although the report does observe that this entrance was not used by many customers.

No traffic assessment has been provided on the closure of the Apirana Avenue vehicle crossing. However, it is considered that it would be appropriate to fence off the vehicle crossing and include a review condition under s128 of the Act enabling Council to initiate a review of the situation and the effects being generated on the surrounding road network. Alternatively, a condition of consent could be included requiring the crossing to be fenced off and the applicant could then apply under s127 of the Act to change the condition.

6.29 Effects of Noise

- 6.30 An assessment of noise effects by Hegley Acoustic Consultants dated February 2010 has been provided in support of the application; in particular, consideration is given to how the proposed new parking area at 6 Apirana Avenue should be developed and operated to control noise effects. It is noted that the subject site is a mixture of Business 3 and Living 2 Environments both of which have different noise requirements under the District Plan.
- 6.31 The report outlines the different options for measuring noise levels across the site and concludes that the most logical approach is to apply the noise levels associated with the Business 3 Environment to the entire site. The reports reasoning is that using a combination of environments would be impractical to monitor as the vehicles on site would move between the two environments and it would be difficult to measure the noise of an individual property within the McDonald's site, without contamination from the noise levels of other properties within the McDonald's site.
- 6.32 Based on the requirements for the Business 3 Environment, the Hegley report found that subject to the construction of an acoustic fence along the northern boundary of 6 Apirana Avenue (being a minimum of 1.8m in height and having a surface density of no less than 9kg/m²), the proposal would comply with the noise requirements. It is noted that the applicant has adopted this recommendation as part of their proposal with the acoustic fence shown on the site plans.
- 6.33 Council's EHO has assessed the report along with the application and concurred with the report by Hegley Acoustic Consultants dated February 2010. Council's EHO did not raise concerns regarding the chosen method to measure noise on the site and overall concurred with the findings of the Hegley report.
- 6.34 Given that the noise controls for the Business 3 Environment are provided to protect residential amenity this method of using these noise controls to measure noise levels on 6 Apirana Avenue is concurred with.
- 6.35 Overall, the effects of noise from the proposed activity are deemed to comply with the controls in the Business 3 Environment and any adverse effects would be minor.

6.36 Effects on Amenity and Character of the Locality

- 6.37 With regards to the proposed car parking area at 6 Apirana Avenue:
- 6.38 Apirana Avenue is largely characterised by residential activity and is predominately identified as Living 2 Environment, however the southern end of the road, which intersects with Bank Street is identified as Business 3 Environment and contains commercial activities. On the western side of Apirana Avenue at this end of the road the commercial activities are contained within buildings converted from residential use, or buildings which are in keeping with residential development.

- 6.39 Comparatively, on the eastern side of Apirana Avenue at the southern end of the road, commercial activity involves car parking areas associated with the McDonald's Restaurant. Although this end of Apirana Avenue has been compromised by the car parking associated with McDonald's, it is considered that the northern end of Apirana Avenue incorporates a high degree of residential amenity and character.
- 6.40 It is considered that there is the potential for the proposal to generate adverse effects on amenity and character as a result of the conversion of residential land for additional commercial car parking. As detailed in the notification report (**Attachment 4**) the effects will be restricted to those properties on Apirana Avenue. Submitters identified noise and light spill (in particular onto the adjacent property) as key concerns relating to the granting of consent. Issues such as noise and lighting are fundamental components of amenity.
- 6.41 Following the receipt of submissions and the pre-hearing meeting the applicant has provided further information and amended the application to address these concerns.
- 6.42 With regards to lighting effects the applicant has amended the lighting design to use bollards as opposed to lighting poles (see the further information provided in Attachment 1 for visual representations of the lighting to be used). These bollards will have a maximum height of 1.1m. As such, light spill onto the adjacent property will be adequately screened from adjacent properties by the proposed 2m high fence along the boundaries of 6 Apirana Avenue. Furthermore, it is noted that the proposal complies with artificial lighting controls provided in the District Plan.
- 6.43 In addition, the submitters raised concerns that the proposed acoustic fence was not adequate to mitigate potential noise effects from the car park. In response the applicant has provided further clarification in support of the acoustic fence from Hegley Acoustic Consultants (Attachment 1). Mr Hegley found that the proposed design of the acoustic fence was appropriate to mitigate adverse noise effects such that the proposal complies with noise controls in the Business 3 Environment and that the noise levels in the receiving environment would not alter if using a different material than timber.
- 6.44 Given that no evidence has been provided by a qualified professional to counter Mr Hegley's assessment Council considers that the proposed acoustic fence is appropriate in this instance.
- 6.45 Further to the additional noise assessment, the applicant has provided an amended landscaping plan showing denser landscaping along the northern boundary of 6 Apirana Avenue. In the letter submitted with the amended landscaping plan the planting is identified as *"a variety of shrubs and ground covers, including a Pittosporum hedge underplanted with dwarf mountain flax and edge-plantings of gazanias"*. This was done at the suggestion of the submitters as a means to assist in mitigating potential effects of noise and lighting.
- 6.46 Issues regarding noise of children on the McDonald's playground, noise generated by early delivery trucks and rubbish were also raised in submissions. These concerns are mainly as a result of the current operation of the existing activity as opposed to being related to this application. However, the matter relating to delivery trucks' arriving at 5am has been referred to Council's monitoring division for further investigation given that the existing McDonald's operation only has consent to operate between 6am and 10pm, which includes deliveries.

- 6.47 Relief sought by the submitters involved Council declining the application unless the submitters listed concerns were addressed, or Council granting the application on the basis that listed concerns were addressed.
- 6.48 Given the above assessment, it is considered that the applicant has sufficiently and adequately addressed the concerns relating to amenity effects which were raised by the submitters.
- 6.49 With regards to the proposed signage:
- 6.50 The proposal involves the placement of two additional signs on the site which result in a total of 23 signs on site and over 71m² of signage on site. The proposed signs are two 'Order Here' signs to be located on the edges of the two canopies over the drive through speaker boxes. Given that the signs are relatively small in scale and will be located within the site, set back from any boundary, it is considered that the signs are not likely to generate additional clutter onsite and that overall there will be no more than minor adverse effects on the amenity and character of the surrounding area as a result of the proposed signs.
- 6.51 With regards to the s127 change of conditions:
- 6.52 Under the previous consent LU0841198, the applicant was required to provide a landscaping strip in front of the restaurant between the 0.6m setback from Bank Street. This was included as a condition of consent being granted and was to be undertaken within 6months of works being completed. The applicant failed to give effect to this condition and concreted the setback area from Bank Street. This current proposal includes a request to remove condition 2 of LU0841198 which relates to landscaping. The applicant advises that the reasons for the removal of this condition are that *"it was impractical to establish the landscape strip because there was insufficient space between the concrete footing for the building and the boundary"*.
- 6.53 It is considered that there will be no more than minor adverse effects as a result of the proposed alteration to condition 2 of LU0841198 as the small strip of landscaping would have been insufficient to adequately mitigate any adverse effects, and it is considered that the small park on the corner of Bank Street and Apirana Avenue is sufficient to off-set any potential adverse effects as a result of the setback infringement along Bank Street.

7. Objectives and Policies of the District Plan

- 7.1 Pursuant to Section 104(1)(b) of the Act, when considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to any relevant provisions of the District Plan. The following objectives and policies of the District Plan are considered to be relevant in the consideration of this application:

7.2 Chapter 5 Amenity Values

Objective

5.3.1 The characteristic amenity values of each Environment are maintained and where appropriate enhanced.

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.

Policy

5.4.1 Effects on the Local Environment – To ensure that activities do not produce, beyond the boundaries of the site, adverse effects those 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:

- *Noise and effects;*
- *Shading;*
- *Glare;*
- *Light spill;*
- *Dust;*
- *Smoke;*
- *Odour;*
- *Vibration;*
- *Spray drift;*
- *Visual amenity.*

Where internalisation of effects cannot be wholly achieved, the Council will consider a Best Practicable Option approach.

5.4.2 Character and Timing of Activities – 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.

5.4.3 Activities in Living Environments – 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.

5.4.7 Intensity and Design of Subdivision and Development – To encourage that subdivision and development do not unduly compromise the outlook and privacy of adjoining properties, and to be appropriate to the Environment in which it is located. Particular regard should be had to:

- *The layout and intensity of subdivision;*
- *The location, design and sitting of buildings and structures except where such buildings and structures provide a specific service for the surrounding environment. In the latter case any building or structure shall be designed, laid out and located, so as to avoid, remedy or mitigate any adverse effects on the environment.*

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.

- 7.3 **Comment:** The proposed activity is not considered contrary to the above provisions given the location of the site, the separation and screening provided by the new fence and proposed vegetation, and the compliance with the noise requirements in the Business 3 Environment and lighting requirements of the District Plan. The proposed activity is therefore considered appropriate to the locality and will be of a scale not out of character with the existing development.
- 7.4 In addition, given the sufficient parking and manoeuvring space provided onsite, and the proposal to fence off the Apirana Avenue vehicle crossing (or in the future if the fence is removed to put in place a no-return mechanism), it is considered that the amenity effects associated with traffic will not be significantly greater than those associated with the existing activities or the permitted activities within the surrounding area.
- 7.5 Overall, given the scale and design of the proposed parking area and additional drive-thru, along with the mitigation measures and the recommended conditions of consent, it is considered that the amenity values of the local environment can be maintained at an acceptable level.

Chapter 2 Urban Form and Development

Objectives:

- 6.4.1 *Accommodate future urban growth with an emphasis on urban consolidation of the central business district (CBD) and in and around existing suburban nodes.*
- 6.4.6 *Provide accessible and convenient suburban centres, and focus future residential growth in and around those centres.*
- 6.4.7 *Maintain and enhance characteristic amenity values and the identity of suburban centres.*
- 6.4.8 *Maintain and enhance accessibility for communities and integrate land use and transport planning.*
- 6.4.9 *Recognise and maximise agglomeration opportunities for industrial and economic activity, enabling people and communities to provide for their social, economic and cultural well being.*
- 6.4.12 *Avoid conflict between incompatible land use activities as a result of subdivision and urban development.*

Policies:

- 6.5.2(iv) *Consolidated Development:*
To promote clustered, mixed use activity that focus on existing urban and coastal centres.
- 6.5.5 *Suburban Centres:*
To provide accessible, well-designed and convenient suburban centres, in a manner that minimise adverse effects on the transport network and the amenities of living environments.
- 6.5.8(i) *Reverse Sensitivity and Incompatible Land Use:*
To design and locate land use activities, subdivision and development so as to avoid and reduce, as far as practicable, conflicts between incompatible land uses.

- 7.6 **Comment:** The proposed activity is not considered contrary to the above provisions given it is part of an existing commercial activity and the location of the site in close proximity to the business environment and CBD. In addition, compliance with noise requirements in the Business 3 Environment and lighting provisions combined with the proposal to provide new fencing and additional planting assists in minimising conflict between land uses.

7.7 Chapter 8 Subdivision and Development

Objective 8.3.1 Subdivision and development that achieves the sustainable management of natural and physical resources whilst avoiding, remedying or mitigating adverse effects on the environment.

Objective 8.3.2 Subdivision and development that does not detract from the character of the locality and avoids conflicts between incompatible land use activities.

Policy 8.4.1 Incompatible Land use Activities – To design and locate subdivision and development so as to avoid, as far as practicable, conflicts between incompatible land use activities.

Policy 8.4.7 Design and Location – To ensure subdivision and development is designed and located so as to avoid, remedy or mitigate adverse effects on, and where appropriate, enhance:

- *Natural character of the coastal environment, indigenous wetlands, lakes and rivers and their margins;*
- *Landscape values;*
- *Ecological values;*
- *Amenity values and sense of place;*
- *Archaeological, cultural (including tangata whenua) and heritage features;*
- *Sites of Significance to Maori;*
- *Heritage areas of significance to Maori;*
- *The relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;*
- *Infrastructure, particularly roads and the Airport;*
- *Water and soil quality;*
- *Versatile soils;*
- *Mineral resources;*
- *Business growth and development opportunities within defined Business Environments;*
- *Cross boundary coordination;*
- *Human health and safety.*

- 7.8 **Comment:** The proposed activity is not considered contrary to the above provisions. Given the scale, design and location of the proposed activity, the proposal is not considered to detract from the character of the locality where commercial activities are permitted subject to compliance with requirements such as hours of operation, noise and traffic movements. While the proposed car park will not be carried out in conjunction with a residential activity on the site and does not comply with the permitted operating hours, these non-compliances have been assessed in Section 7 of this report and are considered to be no more than minor subject to the mitigation measures and the recommended conditions of consent.
- 7.9 Overall, the proposal is not considered contrary to the objectives and policies of the District Plan, primarily those that relate to sustainable management of natural and physical resources, amenity values and road transport.

8. Other Matters

- 8.1 There are no other matters considered relevant to making an appropriate consideration of this application.

9. Part 2 of the Resource Management Act 1991

- 9.1 The purpose of the Resource Management Act 1991, as outlined in Section 5, is to promote the sustainable management of natural and physical resources. The proposal is considered to represent sustainable management of land resources by enabling improvements in the operation and efficiency of an existing commercial activity. Although the proposal will remove a residential property and has the potential to generate gaps in the local community, the submitters identified recommendations on which they would support the granting of the application and it is noted that the applicant has taken adequate steps to address submitters' issues and adopt those recommendations. It is considered that the proposed activity is of a scale, design and location that adequately mitigates adverse effects and is not out of character with the existing development or the anticipated patterns of development within the surrounding area. Therefore, the proposal is considered consistent with the purpose of the Act.
- 9.2 The site is identified as containing three protected trees (three Southern Magnolia's) which are listed in Appendix 2 'Heritage Trees' of the District Plan (number 392). The application does not include any works involving the trees or in proximity of the trees. Therefore, it is considered that the proposal is consistent with the relevant matters as outlined in Section 6 of the Act.
- 9.3 The proposal is considered to maintain the amenity values and quality of the local environment as discussed in Sections 7 and 8 of this report. Therefore, it is considered that the proposal is consistent with the relevant matters as outlined in Section 7 of the Act.
- 9.4 The site is not identified as containing any other archaeological features or features listed in the District Plan as being of significance to iwi. There is no knowledge or evidence of previous habitation or reference to cultural or environmental issues on this site. It is not considered that the activity would impact upon the relationship of Maori and their culture and traditions with their ancestral lands, water, sites of waahi tapu and other taonga. Therefore, no matters pertaining to the Treaty of Waitangi, as outlined in Section 8 of the Act, are considered relevant to this application.

10. Conclusion

- 10.1 Section 104B of the Act requires 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.*
- 10.2 In considering the matters discussed in Section 7 of this report, it is concluded that the proposal will have minor adverse effects on the environment subject to measures outlined in the application and the recommended conditions. This includes the effects on traffic safety and efficiency, noise, amenity and character of the locality.
- 10.3 In terms of matters discussed in Section 8 of this report, it is concluded that the proposal is not considered contrary to the objectives and policies of the District Plan, primarily those that relate to sustainable management of natural and physical resources, amenity values and urban form and development.
- 10.4 In terms of the matters discussed in Section 9 of this report, it is concluded that the proposal is consistent with Part 2 of the Act and the granting of the proposal will not undermine the integrity and consistent administration of the District Plan.
- 10.5 As the proposal will have minor adverse effects on the environment and is not contrary to the objectives and policies of the District Plan, it is recommended that this application be granted.

Recommendation

Having considered the application against the relevant provisions of the Act and having taken into account matters raised in the submissions received, the reporting planner recommends that the Whangarei District Council **GRANTS** the application by McDonald's Restaurant (New Zealand) Limited to establish an additional drive-thru lane at the existing restaurant, place an additional two signs on the site and establish a car parking area at 6 Apirana Avenue in the Living 2 Environment. The car park will operate 6am – 10pm, Monday to Sunday.

Pursuant to Section 104, 104C and 108 of the Resource Management Act 1991, Council grants consent subject to the following conditions:

1. That the proposal shall be undertaken in accordance with the details included within the application prepared by McDonald's Restaurant (New Zealand) Limited including the approved site plan and elevations entitled "McDonald's Whangarei Carpark Extension" dated as follows:
 - L01 Revision 1, dated 1 July 2010;
 - SK02 Revision 7, dated 19 July 2010;
 - SK03 dated 26 January 2010;
 - SK04 dated 26 January 2010;
 - SK05 dated 26 January 2010;
 - SK06 Revision 2, dated 12 January 2010; and
 - SK07, Revision 1, dated 1 July 2010.

2. That the car parking area at 6 Apirana Avenue shall not operate outside the hours stipulated being 0600 to 2200pm Monday to Sunday. The consent holder shall ensure that the entrance and exit of the car parking area are locked outside of these operating hours.
3. Fencing and lighting shall be undertaken in accordance with Plan SK02 Revision 7, dated 19 July 2010 and landscaping shall be undertaken in accordance with Plan L01 Revision 1, dated 12 July 2010. The consent holder shall provide evidence from a suitably qualified professional that the fencing and landscaping has been completed in accordance with these plans. This evidence shall be provided for the approval of the Senior Monitoring Officer, prior to the use of the car park.
4. The consent holder shall provide to Council, within 3 weeks of the completion of the acoustic fence, certification from a suitably qualified professional that the completed acoustic fence is adequate to ensure compliance with the noise limits specified in Rule 41.3.10 of the Business 3 Environment. Namely that noise does not exceed 50 dBA L¹⁰ between 0700 and 2200; and 40dBA L¹⁰, and 65 dBA L_{max}, between 2200 and 0700.
5. Prior to the commencement of building works on the site:
 - (a) The consent holder must submit a detailed set of engineering plans for all proposed engineering works, prepared in accordance with WDC Environmental Engineering Standards to the approval of the Senior Environmental Engineering Officer or their delegated representative:

Plans are to include, but are not limited to:

 - i. Provide engineering design details for the car park and manoeuvring, including marking of parking spaces and directional signage in accordance with the plans submitted by ASC Architects Ltd, job number 10312 dated July 2010.
 - ii. Provide engineering design details for stormwater treatment and attenuation in accordance with the design submitted by G A Huges and Associates Limited.
 - (b) Once the engineering plans have been approved, the consent holder shall provide a produce statement (construction) for car parking and stormwater design.
 - (c) No construction works are to commence on site until engineering plans required by condition 5(a) have been approved and all associated plan inspection fees have been paid.
 - (d) All work on the approved engineering plans in condition 5(a) is to be carried out to the approval of the Senior Environmental Engineering Officer. Compliance with this condition shall be determined by way of a site inspection by the Senior Environmental Engineering Officer or their delegated representative.
6. 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 Compliance 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.

7. That pursuant to section 128 of the Resource Management Act 1991, Council may serve notice on the consent holder of its intention to review conditions 3 and 4 of this consent within 18 months of following the commencement of this activity.

Such a review is in order to deal with any adverse effect on the environment which may arise from the exercise of the consent and which is appropriate to deal with at a later stage or for the other purposes described below in relation to potential traffic and noise effects. It will deal with any inadequacies or inconsistencies that may in the future be found in the information provided in support of the application. Any review will have particular regard by the Council to:

- i. The extent to which the closure of the Apirana Avenue vehicle crossing impacts traffic safety and efficiency along Bank Street.
- ii. Noise.

All costs associated with any review shall be met by the consent holder.

Council further resolves pursuant to Section 127 of the Resource Management Act 1991, that consent be granted to vary condition 2 and remove condition 3(i) of consent LU0841198 so that the conditions read as follows:

1. That the proposed development shall conform with the site plan, elevations and accompanying details submitted with this application by Barker and Associates, including the site plan, reference: 1356, dated 11/11/2008, floor plan dated 5/9/08, and the elevations dated 08/10/2008.
2. Proposed works in the landscaping plan drawn by Gaynor Revill Design, dated 28/10/08, as submitted with the application, with the exception of the landscaping shown between the front of the building and the Bank Street footpath, which is deleted, shall be undertaken within 6 months of the grant of consent and maintained in perpetuity thereafter and shall be completed to the satisfaction of the Senior Monitoring Officer.
3. Prior to the issue of a building code of compliance certificate the consent holder must:
 - i. Repair the damaged concrete strip causing pedestrian inconvenience in the northern vehicle entrance crossing onto Bank Street in accordance with council's Environmental Engineering Officer, or their delegated representative.
 - ii. That entry and exit signage painted on the site inlets and outlets remains clear and easy to read at all times.
 - iii. Erect a complying "no entry" sign on the eastern side of the existing no right turn sign for the northern vehicle crossing onto Bank Street to the approval of the Senior Environmental Engineering Officer, or their delegated representative.
 - iv. No signage shall extend over the legal road boundary, or be flashing, moving, or specular reflective.
 - v. No part of any building construction work shall extend closer to the legal boundary of Bank Street than the existing structure that will remain.
 - vi. Ensure that all fees have been paid.

Reasons for the Recommendation:

1. The adverse effects of the proposal on the environment in terms of traffic safety and efficiency, noise, amenity and character of the locality will be minor given the matters discussed in Section 7 of this report.

2. The proposal is not considered contrary to the objectives and policies of the District Plan, primarily those that relate to sustainable management of natural and physical resources and amenity values given the matter discussed in Section 7 and 8 of this report.
3. The proposal is consistent with Part 2 of the Act and the granting of the proposal will not undermine the integrity and consistent administration of the District Plan.

Advice Notes

1. This resource consent will expire five years after the date of commencement of consent unless:
 - i. It is given effect to before the end of that period; or
 - ii. Upon an application made prior to the expiry of that period (or such longer period as is fixed under Section 37 of the Resource Management Act 1991), the council fixes a longer period. The statutory considerations which apply to extensions are set out in Section 125 of the Resource Management Act 1991.
2. Pursuant to Section 102 of the Local Government Act 2002, the Whangarei District Council has prepared and adopted a Development Contributions Policy. Under this Policy, the activity to which this consent relates is subject to Development Contributions. You will be advised of the assessment of the Development Contributions payable under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which this consent relates. Further information regarding Councils Development Contributions Policy may be obtained from the Long Term Community Consultation Plan (LTCCP) or Councils web page at www.wdc.govt.nz
3. The consent holder shall obtain all necessary building consents with associated code of compliance and completion certificates.
4. The consent holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
5. Compliance with Council's specific practices shall be obtained prior to the commencement of any work to Council's roads and/or infrastructure in exercising the conditions of consent.
6. A copy of this consent and approved engineering plans shall be held on site at all times during the establishment and construction phase of the activity.
7. All archaeological sites are protected under the provisions of the Historic Places Act 1993. It is an offence under that Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the New Zealand Historic Places Trust for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
8. Section 120 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.
9. Section 357B of the Resource Management Act 1991 provides a right of objection in relation to the imposition of additional charges or recovery of costs.

Attachments:

1. A copy of the original application lodged with Council on 11 March 2010 is included at **Attachment 1**. The following further information has been provided by the applicant in support of the application:
 - A report from G A Hughes and Associates (undated) with proposed car park stormwater calculations, producer statement and lighting details from IBEX dated 30 March 2010.
 - An amended Assessment of Environmental Effects referring to lighting and stormwater calculations and including an assessment of proposed changes to conditions from the resource consent granted in 2008.
 - An amended site layout plan Sk02 Revision 7 as a result of the proposed changes to conditions and the closure of the Apirana Avenue vehicle crossing.
 - An amended landscaping plan L01 Revision 1 as a result of the pre-hearing meeting.
 - A letter from Hegley Acoustic Consultants dated 14 July 2010 regarding the proposed acoustic fence.
 - A letter from Jenny Hudson dated 20 July 2010 regarding issues raised in a pre-hearing meeting.
 - An amended lighting spill plan SK07 Revision 1 to accommodate the proposed bollard lighting design.
2. Aerial photo and locality map.
3. District Plan maps.
4. Notification assessment pursuant to Section 95 of the Resource Management Act 1991 dated 5 May 2010.
5. Copy of the submissions.
6. Copy of the report on the discussion and outcomes from the pre-hearing meeting held 22 June 2010.
7. Copy of the report by Council's SEEO and Council's EHO.