

Appendix PC 80  
Re 5.6.1.3 Vehicle Parking

**IN THE MATTER OF**

**the Resource Management Act 1991**

**And**

**IN THE MATTER OF**

An application lodged by Cuttriss Consultants Limited on behalf of Winara Trust No. 2 for land use consent to establish and operate a childcare centre for up to 110 children at 110-114 The Parade (Island Bay, Wellington).

WCC Service Request Number 308430  
and

File Reference 1012455

MAY 2015

**DECISION OF INDEPENDENT COMMISSIONER**

**Applicant:** Winara Trust No. 2

**Site:** The two adjoining parcels of land at numbers 110 to 114 The Parade (Island Bay) being Part Lot 129 DP 816 and Lot 1 DP 11207 held in Computer Freehold Registers WN152/214 and 17352.

**Proposal:** To expand the existing Island Bay Childcare Centre at number 112-114 The Parade and to establish on the adjoining land parcel (number 110 The Parade) outdoor play spaces, including covered area, and exterior fire egress routes including stairs from the upper level at number 112-114 The Parade. The expanded childcare centre will be able to accommodate up to 110 children and up to 20 staff. A 1.2-metre-wide easement is also proposed over a strip of land along the northern boundary of number 110 in favour of the adjoining property (number 108 The Parade).

**SUMMARY OF DECISION**

**Consent is granted, subject to the conditions contained in Attachment 1 to this decision, for the reasons summarised in Part 14 of this decision.**

**The Hearing:** The hearing was held on Thursday 11<sup>th</sup> December 2014 at 11.00 a.m. in Committee Room 1 at the Wellington City Council (**Council**) administrative offices (Wakefield Street, Wellington). The hearing was adjourned that afternoon, after hearing all evidence in chief on behalf of the applicant and Council officers and the submissions of all submitters who asked to be heard. The adjournment was to allow Council officers and the

- (g) Installation of an outdoor play area including an area of timber decking covered by a timber (or similar) pergola;
- (h) Construction of a high level roof over the rear-most part of the outdoor play area which will also serve as a landing for fire egress purposes (together with proposed new egress stairs to connect with a pedestrian path along the northern boundary connecting to The Parade<sup>2</sup>;
- (i) Construction of 2-metre-high acoustic fencing along the northern and eastern boundaries; and
- (j) Planting within the property near the north eastern corner of the site.

3.2 Within its response to my 30<sup>th</sup> January 2015 memorandum, the applicant proposed amendments to the layout of this part of the site to incorporate two on-site parking spaces and a manoeuvring space. The Council's advice<sup>3</sup> is that this amendment to the plans is within the scope of the application as lodged. I agree. The amendment is, in my view, a minor change that will give rise to no additional adverse effects on the environment. I note that the written approval of the landowners of the two properties adjoining the northern boundary have been supplied.

3.3 The proposed facilities will provide for the following childcare activities:

- (a) A maximum of 110 children and 20 teachers;
- (b) Opening hours for childcare 7.00 am to 6.00 pm Monday to Friday (with no childcare at weekends);
- (c) No outside play before 7.30 am or after 6.00 pm Monday to Friday;
- (d) Occasional staff meetings and parent meetings (including meetings after 6.00 pm); and
- (e) Maintenance and cleaning activities outside of care hours.

3.4 No on-site vehicle loading facility is proposed (although I note that the proposed parking spaces may be available, at times, for vehicle deliveries and loading).

#### 4 Relevant District Plan Rules

4.1 The operative provisions of the *Outer Residential Area* that apply to number 110 The Parade incorporate amendments made by operative Plan Change 72. The planning experts who presented evidence to the hearing<sup>4</sup> agreed that the proposed building changes and activities within the *Outer Residential Area* part of the site (number 110) are a discretionary activity (unrestricted). That is because the proposal is a non-residential activity not otherwise provided for by the rules<sup>5</sup>.

<sup>2</sup> The application originally proposed that this high-level deck would be available as a play area but that Ms Grinlinton-Hancock clarified at the hearing that this deck would serve only as an emergency fire egress route.

<sup>3</sup> Email from Angela Jones (Senior Consent Planner) dated 1<sup>st</sup> May 2015

<sup>4</sup> Ms Michelle Grinlinton-Hancock, a consultant Planner called by the applicant, and Ms Sarah Bevin, a Council Consents Planner

<sup>5</sup> Ms Bevin stated that the relevant rules are Rules 5.4.1 and 5.4.4A

- 4.2 At the time the application was lodged, the provisions of the *Suburban Centre Area* were subject to the provisions of (then) proposed Plan Change 73. Plan Change 73 has since been made operative. The planning experts agreed that the proposed building activities within the *Suburban Centre Area* part of the site (numbers 112-114) are a discretionary activity (restricted) under both the (proposed) Plan Change 73 and the now operative *Suburban Centre Area* rules. That is because the proposal fails to provide on-site loading facilities as required by Rule 7.6.1.5.5<sup>6</sup>. The childcare activity itself is a permitted activity. Discretion in relation to determination of the application and imposition of conditions is restricted to the subject matter of Rule 7.3.5 (being the provision of on-site servicing and, implicitly, the effects of non-provision of servicing).
  
- 4.3 Ms Sarah Bevin, Council's Consents Planner, explained in her evidence that the application has to be considered as both a discretionary activity (unrestricted) in relation to the activities proposed for number 110 The Parade (under the operative District Plan) and as a discretionary activity (restricted) in relation to the loading non-compliance for number 112-114 The Parade under the provisions of Plan Change 73 that had effect at the time the application was lodged. Mr Morgan Slyfield, the applicant's Legal Counsel, considered the position is much simpler. It was his submission that it is irrelevant that Plan Change 73 was not operative at the time of lodgement. It is operative now and, in his submission, should be treated as fully operative because it is legally invalid to continue to treat as operative provisions of a District Plan that have been repealed. Mr Slyfield clarified that the RMA contains no express requirement that the provisions of proposed Plan change 73 are to continue to apply as if they are not fully operative. Mr Slyfield acknowledged the provision in section 88A that activity status cannot be changed part way through consent processing but pointed out that, in this case, Plan Change 73 created no change of consent status. The application is a discretionary activity and discretionary activity (restricted) in each part of the site under both the Plan Change 73 regime and the operative District Plan. In Mr Slyfield's submission, the most onerous activity status should apply.
  
- 4.4 On that basis, I have considered the entire application as a discretionary activity (unrestricted).
  
- 4.5 The site is affected by a number of notations shown on the District Plan maps:
  - (a) The Parade is a *Principal Road* in the District Plan roading hierarchy;
  - (b) Number 112-114 is affected by:
    - a *Restricted Road Frontage* (Map 44);
    - a *Frontage Where Verandahs and Display Windows are Required* (Map 48);
    - a *District Centre* notation (under Plan Change 73);
    - a *Secondary Frontage* notation (Map 46 of Plan Change 73);
    - identification as a contaminated site (on account of the site's previous use as a service station)

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<sup>6</sup> Ms Bevin stated that the relevant discretionary activity default provision is Rule 7.3.6. The application states, on page 7, that the relevant rule of proposed Plan Change 73 is Rule 7.3.5. It would appear that the correct rule, at the time the application was lodged, was Rule 7.3.5 which specifically refers to non-compliance with vehicle servicing requirements (i.e. loading). The relevant discretionary activity default rule in the operative provisions is Rule 7.3.5 (which also refers, in 7.3.5.5, explicitly to non-compliance with servicing requirements).

4.6 These notations are relevant to the extent that they are mentioned in the objectives and policies that apply to the *Suburban Centre Area* (bearing in mind that the building already exists and the proposed building changes will not materially alter the overall bulk, location or visible exterior finish of the existing building).

4.7 In relation to the contaminated site identification, Ms Grinlinton-Hancock clarified in evidence that a site contamination report was undertaken by Mobil in 1995 which confirmed that the site is not contaminated. It is relevant that no earthworks are proposed for the rear of number 112-114 by the current application. There is therefore no potential for disturbance of the contaminated part of the site. Number 110 (where soil disturbance will occur in the course of constructing the outdoor play area and structures) is not identified as contaminated. I agree with the applicant that there is no apparent need for a detailed assessment of the proposal against the *National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health*.

X X X

4.8 Ms Donna Yule (a submitter) wrote to me during the adjournment querying how the District Plan's car parking requirements apply to this site. I set out, in my 17<sup>th</sup> April 2015 memorandum, my understanding of the position and invited the Council and the applicant to advise whether my understanding was correct. The Council's advice, provided in an email from Ms Angela Jones (Council's Senior Consent Planner) dated 1<sup>st</sup> May 2015, is that my understanding is correct and I record that here for completeness:

X X X

4.9 The site is within two District Plan 'zones': The *Suburban Centre Area* and the *Outer Residential Area*. Activities are permitted within each 'zone' provided they are not otherwise listed as requiring consent and provided they comply with the specified standards. The applicant's proposal is not a permitted activity. That is for two reasons:

- For the part of the site that is within the *Suburban Centre Area*, the proposal fails to provide a loading area that complies with the standards specified in Rule 7.6.1.5.5 of Plan Change 73. This aspect of the proposal has to be considered as a *restricted discretionary activity* under Rule 7.3.5;
- For the part of the site that is within the *Outer Residential Area*, early childhood education centres are listed as *restricted discretionary activities* (in Rule 5.3.3) provided they cater for up to 30 children. The applicant's proposal involves more than 30 children, therefore it falls to be considered as a *discretionary activity* under Rule 5.4.1.

X

4.10 There are no standards, and particularly no parking requirements, that apply to restricted discretionary activities under Rule 7.3.5 or to discretionary activities under Rule 5.4.1.

X X X

4.11 Ms Yule had referred to the vehicle parking standard set out in Rule 5.6.1.3. This standard applies only to residential activities permitted under Rule 5.1.1. It is explicit in Rule 5.1.1 that the applicable activity standards are set out in Rule 5.6.1. The standards in Rule 5.6.1 do not apply to any non-residential activities. Importantly, they do not apply to early childhood education centres that require consent under Rule 5.4.1. There are no standards that apply under Rule 5.4.1. Instead, what is required is an assessment of all matters (including parking), through the resource consent process.

X X X

4.12 I note that there is text within the text-box on page 5-33 of the *Suburban Centre Area* standards that states that the standards in 5.6.1 'apply to all activities in Residential Areas'. That text appears to be explanatory, being part of a table of contents rather than within the rules themselves, and it appears to be incorrect. The relevant rules make it clear that the standards in Rule 5.6.1 apply *only* to residential activities permitted under

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Rule 5.1.1. The applicant's proposal is not being advanced as a permitted activity under Rule 5.1.1 therefore the parking standards of Rule 5.6.1 do not apply.

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## 5 Notification and Submissions

5.1 The application was publicly notified on 30<sup>th</sup> September 2014 and, according to Ms Bevin, all owners and occupiers of land in the immediate area were served with notice of the application. Twelve submissions were received by the closing date of 29<sup>th</sup> October 2014. Ten of those were in support of the application. All but one of those ten supporting submissions were from parents of children who currently attend the existing childcare centre who expressed support for the proposal to provide additional capacity and outdoor play areas. The tenth supporting submission supported the provision of additional childcare capacity in a broad sense. In addition to supporting the proposal, two of these submissions acknowledge that it may become more difficult to find car parking for drop-off and collection of children from the centre and suggest ways in which the parking demand could be met. These include:

- using the car parking area belonging to the Presbyterian Church located north of the site;
- converting the bus stops near the site into time restricted parking bays;
- better marking the parking spaces directly outside the childcare centre to ensure parking there is efficiently used;
- better enforcement of current parking time restrictions in the locality generally;
- making the parking spaces directly in front of the childcare centre time restricted to ensure there is turnover for parents dropping off children;
- re-configuring the footpath directly outside the childcare centre with a view to providing more spaces marked as angle parking in the future.

5.2 One opposing submission was a comprehensive submission lodged on behalf of 7 residents of numbers 5, 7 and 11 Avon Street and 2 residents of 113 The Parade. Ms Donna Yule and Ms Jenny Parkin spoke at the hearing in support of this submission. The submission requests that consent be refused and raises concerns about:

- (a) The scale of the proposed increase in child numbers and staff (highlighting that numbers are to be almost doubled);
- (b) The absence of on-site parking for staff or for parent drop-off and collection – in the context where nearby parking spaces are currently occupied all day<sup>7</sup> and patrons of the childcare centre are currently at times parking partly or fully over driveways in Avon Street and blocking access for residents in addition to long-stay parking by people who do not live in Avon Street;
- (c) The notion that the public kerbside parking resource is to be relied on to meet the parking demand of a private business thereby reducing parking supply available to patrons of other businesses in the Island Bay commercial centre and to local residents;

<sup>7</sup> The submitters claim that 'there is no available parking in Avon Street or The Parade' – page 10/24 of the submission

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**WCC Service Request Number 308430 and File Reference 1012455**

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**MEMORANDUM FROM COMMISSIONER TO PARTICIPANTS**

**17<sup>th</sup> April 2015**

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## 1 Purpose of This Memorandum

- 1.1 I attach to this memorandum the further information received from the applicant in response to my memorandum dated 30<sup>th</sup> January 2015. This memorandum invites all parties to comment on the further information. It also addresses a question that has been put to me relating to the District Plan requirements for vehicle parking applicable to this proposal and invites comment in relation to that question.

## 2 The Further Information Received

- 2.1 The attached further information was received from the applicant by email on Thursday 16<sup>th</sup> April 2014:

- (a) Mr Slyfield's memorandum dated 16 April 2015
- (b) A 'Preliminary Design Road Safety Audit (Island Bay Childcare)' dated 31 March 2015 prepared by MWH. I note that the Safety Audit report is a preliminary report which details a number of recommendations and that the applicant's responses to those recommendations are detailed in Mr Slyfield's 16 April 2015 memorandum;
- (c) A draft 'Travel Management Plan' dated April 2015 prepared by Statham Traffic & Transportation Solutions;
- (d) A plan detailing amendments to the ground floor of the proposed building incorporating 2 parking spaces and a reversing area; and
- (e) The written approval of the owners of number 108A Island Bay Parade to the amended ground floor layout plan.

- 2.2 **I invite the Council's reporting team and submitters to provide their comments on the attached documents (a) to (d) above.** All comments must be made in writing by post or email and must be received by Ms Leslie Almario at Wellington City Council **no later than 4 pm on Friday 1<sup>st</sup> May 2015.**

- 2.3 Submitters are not *required* to comment on the further information. They may do so if they wish to. In addition to any comments they may have, Council officers are requested to please provide advice on any consent implications arising from the proposed ground floor car parking amendment.

- 2.4 No comment is invited on the written approval from the owners of number 108A Island Bay Parade (document (e) referred to above). The written approval is a factual, and procedural, matter that is not open to comment from other parties. Mr Slyfield has signalled, in his 16 April 2015 memorandum, that he expects to be able to also forward the written approval of the owners and occupiers of number 108 Island Bay Parade in due course. Any additional written approvals received from the applicant will be held on the Council's file and will not be circulated to other parties but will be available on request.

## 3 Vehicle Parking Rule

- 3.1 Ms Donna Yule wrote me, following the hearing, the attached note dated 18<sup>th</sup> February 2015. In her note, Ms Yule sets out her understanding of how the District Plan requirements relating to car parking should apply to this proposal. Ms Yule has requested clarification of how the District Plan rules actually apply. I set out my understanding below:

3.2 The site is within two District Plan 'zones': The *Suburban Centre Area* and the *Outer Residential Area*. Activities are permitted within each 'zone' provided they are not otherwise listed as requiring consent and provided they comply with the specified standards.

3.3 The applicant's proposal is not a permitted activity. That is for two reasons:

- For the part of the site that is within the *Suburban Centre Area*, the proposal fails to provide a loading area that complies with the standards specified in Rule 7.6.1.5.5 of Plan Change 73. This aspect of the proposal has to be considered as a *restricted discretionary activity* under Rule 7.3.5;
- For the part of the site that is within the *Outer Residential Area*, early childhood education centres are listed as *restricted discretionary activities* (in Rule 5.3.3) provided they cater for up to 30 children. The applicant's proposal involves more than 30 children, therefore it falls to be considered as a *discretionary activity* under Rule 5.4.1.

3.4 There are no standards, and particularly no parking requirements, that apply to restricted discretionary activities under Rule 7.3.5 or to discretionary activities under Rule 5.4.1. X

3.5 Ms Yule refers to the vehicle parking standard set out in Rule 5.6.1.3. This standard applies only to *residential activities* permitted under Rule 5.1.1. It is explicit in Rule 5.1.1 that the applicable activity standards are set out in Rule 5.6.1. The standards in Rule 5.6.1 do not apply to any other non-residential activities. Importantly, they do not apply to early childhood education centres that require consent under Rule 5.4.1. There are no standards that apply under Rule 5.4.1. Instead, what is required is an assessment of all matters (including parking), through the resource consent process. ?

3.6 I note that there is text within the text-box on page 5-33 of the Suburban Centre Area standards that states that the standards in 5.6.1 'apply to all activities in Residential Areas'. That text appears to be explanatory, being part of a table of contents rather than within the rules themselves, and it appears to be incorrect. The relevant rules make it clear that the standards in Rule 5.6.1 apply only to residential activities permitted under Rule 5.1.1. The applicant's proposal is not being advanced as a permitted activity under Rule 5.1.1 therefore the parking standards of Rule 5.6.1 do not apply.

3.7 If my reading of these rules is incorrect, I invite the Council officers and the applicant to clarify the position. Otherwise, it would be helpful if Council officers and the applicant could provide a clear statement confirming that the rule cascade applies as explained above. Their responses must be received by Ms Almario no later than 4 pm on Friday 1<sup>st</sup> May 2015.

### 4 Process

4.1 The process has been 'on hold' pending receipt of the applicant's further information. Processing of the application will remain 'on hold' until the opportunity for other parties to comment has concluded. All queries about this memorandum should be directed to Ms Leslie Almario at Wellington City Council who will confer with me as necessary.

Christine Foster (Independent Commissioner)

17<sup>th</sup> April 2015



To: Commissioner Foster  
From: Donna Yule on behalf of Submitters

Date: 18th February 2015

**Subject: Hearing SR 308430. Winara Trust No:2, Island Bay Childcare**

This is the only hearing we have been to and we are not aware of any protocols or rules except for what we were told at the hearing, i.e. we (submitters) or the applicant can ask questions regarding aspects or clarification of evidence at the oral hearing only via the commissioner, and this will be at the end of the proceedings. However the hearing ran out of time and there was no opportunity for questions.

Therefore we would appreciate clarification regarding the following.

The Commissioner's report "Memorandum to Participants" dated 30th January 2015 page 28 (11.71) refers to Ms Yule's statement in her presentation to the hearing "*that the District Plan requires that child care centres must provide off-street parks for all staff*", and that basically Ms Yule's statement is not correct and the District plan does not set parking standards for these discretionary activities.

We spent a long time trying to understand the District Plan with its Rules and Standards and though we are not experts we have re-read these sections regarding off-site parking and still cannot understand how we are interpreting it incorrectly.

We realise that as the number of children for this centre will be over 30, the Activity status will be assessed under **Rule 5.4.1 (Non Residential activities not specifically provided for as Permitted, Controlled or Discretionary Activities (Restricted) are Discretionary Activities (Unrestricted)**. We also note that under **Rule 5.4.1 the relevant Policy 4.2.7.6 (Manage the establishment of Early childhood centres in Residential Areas)** states "*when assessing applications for early childhood centres include: The necessity for off-street parking: parking arrangements will be assessed with regard to the number of staff to be employed on the site and visitors. Council seeks to ensure that off-street parking is available for each staff member*".

Our understanding is that the Residential Area Standards for Activities in the District Plan also applies.

**5.6.1 Activity Standards - These standards apply to all activities in Residential Areas.**

**5.6.1.3 Vehicle Parking**

*On-site parking shall be provided as follows:*

- *for early childhood education centres the parking requirement shall be 1 space for each staff member that is required to operate the centre when it is at full capacity.*

Our interpretations appears to be the same as Council's Manager for Transport Mr Soon Teck Kong in his traffic assessment attached to Council's report to the Independent Commissioner on a Notified consent dated 1 December 2014. "*In accordance with the Council's District Plan - Residential Areas Rule 5.6.1.3 Vehicle parking - for early childhood education centres, the parking requirements shall be 1 space for each staff member that is required to operate the centre when it is at full capacity. The increase in staff number will require 7 on-site parking spaces to be provided by the Applicant*".

In our original submission to Council dated 28th October we raised this Standard 5.6.1.3, there was no correction to our interpretation in Council's report to Commissioner dated 1 December. A recent

phone call this week to Council's resource consent area again confirmed our understanding of this vehicle parking rule. We were told for a resource consent Council could approve or refused an activity classed as Discretionary Unrestricted, but regardless the Activity Standards 5.6.1. still applied to all activities in the Residential Areas and 5.6.1.3 for vehicle parking applied with reference to childcare centres, our example given was for over 50 children.

It does not seem plausible the under the District Plan off-street parking for staff must be provided for if centres are for under 30 children but not if there is more than 30 children.

Those involved in our submission and others in our area are now confused as to the understanding of the off-site parking rule for childcare centres in residential areas and are rather disappointed our statement looks incorrect and unresearched.

Again as stated above we would appreciate clarification and apologise if requesting this from a commissioner is not the acceptable thing.

Regards

Donna Yule  
On behalf of 7 Submitters represented at the Oral hearing

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**WCC Service Request Number 308430 and File Reference 1012455**

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**MEMORANDUM TO PARTICIPANTS**

**30<sup>th</sup> January 2015**

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reasonable. However, the Council's current position is that it does not wish to further constrain kerbside parking in this area. The mitigation measure Mr Statham recommends, and the applicant and submitters support is, therefore not available.

11.68 I accept the applicant's evidence that it would be difficult, or potentially counter-productive, to provide any car parking within the site. However, that simply indicates that (to the extent that on-site parking may be necessary) the site's own constraints make it unsuitable for the intensity of expansion proposed.

11.69 Ms Bevin's reasoning was not persuasive: the proposal to develop outdoor play areas at number 110 is integral to (not ancillary to) the proposal to accommodate significantly more children in compliance with Ministry of Education design standards. The expansion cannot occur without those outdoor areas. It is not correct to suggest that the majority of the child care activity will continue to occur within the building (i.e. within the *Suburban Centre* part of the site) overlooking the essential role of the outdoor play areas and avoiding the planning experts' agreed approach that the *whole* proposal requires consideration as a discretionary activity. The consequences of additional parking demand are potential effects of the whole proposal that must be considered. Ms Bevin's reasoning came perilously close to suggesting that the whole site should be assessed as being within the *Suburban Centre Area*, which was precisely the concern of Ms Yule and other submitters, and is simply not the correct approach.

11.70 Mr Slyfield's submissions in relation to the future cycleway are reasonable. A landowner is entitled to rely on an existing roading configuration until such time as the Council resolves, by proper process, to alter that configuration. I accept Mr Kong's evidence was that there are no further procedural hurdles in the way of implementing the cycleway but also note that the precise design has not been determined. There remains uncertainty as to the actual timing, number and location of kerbside parking spaces that might be removed. That is an insufficiently certain basis for including the impacts of the mooted cycleway design in my assessment of the foreseeable environment for the purposes of evaluating the current proposal. However, the potential implications of the future cycleway may be a relevant consideration if a traffic safety audit were undertaken (depending on the timing).

11.71 For completeness, I record that I have reviewed the decisions from other jurisdictions supplied by Ms Yule but did not find them at all relevant to the particular circumstances of this site, this principal road, or this district plan jurisdiction. I also note Ms Yule's statements, in her presentation to the hearing, that the District Plan requires that child care centres must provide off-street parks for all staff. The actual position is that the District Plan provides for non-residential activities including child care centres in residential areas (including on this site) as discretionary activities but does not set parking standards for those. Instead, it requires a site-specific assessment of the merits and effects of the application.

*[Handwritten marks]*

*[Handwritten mark]*

## 12 Traffic Congestion and Traffic Safety

12.1 Ms Yule and Ms Parkin considered that traffic on The Parade, and particularly in the vicinity of the Avon Street intersection, is currently congested and are concerned that additional traffic movements generated by the expanded child care centre will compound this congestion.

12.2 Mr Statham's evidence was that The Parade, as a principal road, has ample capacity to safely and conveniently accommodate all trips generated by the proposed expansion of the child care centre. Mr Kong agreed and had no concerns about trip

**Before an Independent Commissioner  
For Wellington City Council**

**SR 308430**

**Under** the Resource Management Act 1991

**In the matter of** an application by Winara Trust No. 2 for  
land use consent to extend an existing  
childcare facility at 112-114 The Parade,  
Island Bay to accommodate up to 110  
children and 20 teachers

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**Applicant's closing submissions**

**19 December 2014**

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**M J Slyfield**  
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Wellington

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parking appears to be the least available during the drop-off and pick up periods. Even applying this worst-case approach, and compounding it with worst-case assumptions about loss of parking spaces on account of the future cycleway (which the applicant does not endorse), Mr Statham is able to conclude that there is sufficient parking to satisfy the demands of the proposal.

*The demand/supply conclusions on parking*

- 29. Mr Statham confirms that his views would be unchanged if some "arbitrary reduction" were made to his 'availability' numbers to account for inefficient parking behaviour.<sup>5</sup> This is the 'middle ground' notion, referred to above at paragraph 19.
- 30. The applicant recognises that coming up with an "arbitrary reduction" may appear difficult. However, the applicant submits no real difficulty arises. The scale of the issue makes it unnecessary to settle upon some justifiable number between Mr Statham's estimates, and Mr Kong's observations of "low" availability. Rather, what Mr Statham's analysis discloses is that at the worst times (when parking is most constrained) there are an average of 16 and 13 spaces available (in the morning and afternoon respectively). Even if that number were halved, to take account of inefficient parking behaviour, there would still be ample space to meet the anticipated peak demand for 5 spaces.
- 31. Further, even if an additional reduction were made, to try to anticipate the cycleway (which the applicant does not endorse), that would reduce Mr Statham's averages to 12 and 9 available spaces at the *most* constrained morning and afternoon times. Those numbers could reduce by 58% in the morning and 33% in the afternoon, and still leave spaces.

*Why should the applicant not provide 1 space per staff member?*



- 32. The question was asked during the hearing, why the applicant should not provide one space per staff member, given that is the District Plan standard.
- 33. With respect, that question misconstrues the meaning of the standard. Compliance with the standard would enable any applicant to assert that it was producing no effect other than an effect anticipated by the Plan. But non-compliance with the standard is not evidence of an effect. It merely triggers the need for an assessment of effect. If such assessment



<sup>5</sup> Email from Mr Statham, 17 December 2014.

X discloses that there is no adverse effect, then that is the appropriate basis for assessment, not whether or not the Plan standard has been met. X

X 34. Here, the applicant relies upon Mr Statham's assessment, which essentially concludes that there is no adverse effect in relation to off-site parking. The applicant says it should not provide 1 space per staff member, because there is no proper basis for a condition of that sort to be imposed. It would be a condition not for the purpose of avoiding, remedying or mitigating an adverse effect. X

*What if Mr Statham's assessment is not accepted?*

35. The question was also asked, what if Mr Statham's assessment is not accepted, i.e. it is not accepted that it is unnecessary to provide on-site parking?

36. An important initial response is to confirm that the applicant does not rely on the Commissioner accepting Mr Statham's assessment in all respects. As addressed above - see paragraphs 29 to 31 - the applicant submits that even if Mr Statham's assessment of *availability* is not accepted, and some adjustment is made to reflect Mr Kong's view (or behavioural factors), the number of parking spaces needed is sufficiently low that you can have confidence that it will be met.

37. While the applicant does resile from any of the foregoing, it has re-examined the possibilities for providing on-site parking, to confirm what is and what is not feasible.

38. The only on-site options that are notionally compatible with an expansion of the childcare, would be to use the residual ground floor tenancy at the southern end of the building as a parking area, or use some part of 110 The Parade as a parking area. Those options are both depicted on the concept drawing by Design Networks, labelled "Alternative Parking Layouts", submitted yesterday; though it should be noted, this drawing was prepared purely to enable further evaluation: it is not itself indicative of feasibility.

39. Those two concepts have been addressed in the further assessments of Mr Statham and Ms Grinlinton-Hancock.

40. In essence, they discount the feasibility of both options due a range of factors. Mr Statham observes that the 'southern' option is non-compliant. Making it compliant, or even close to compliant, would reduce the number of parks; and implementing it would remove two kerbside spaces; such

13/16/23

Report to the Independent Commissioner on a Notified Resource Consent

1 December 2014

Service Request No: 308430  
File Reference: 1012455

**Notified Application**

<b><u>Site Address:</u></b>	110 & 112-114 The Parade, Island Bay
<b><u>Legal Description:</u></b>	Part Lot 129 DP 816, Lot 1 DP 11207
<b><u>Applicant:</u></b>	Winara Trust No 2; c/- Cuttriss Consultants Ltd
<b><u>Proposal:</u></b>	To extend an existing childcare centre facility to accommodate up to 110 children and 20 teachers
<b><u>Owner:</u></b>	CMS Trustees Ltd
<b><u>Plan No:</u></b>	Plans by Design Network Architecture Limited titled "Resource Consent Application: Proposed Alterations and Additions, 110-112 The Parade, Island Bay", reference 7357 (Issue C), drawings, all dated 25/06/14: <ul style="list-style-type: none"><li>- Cover: Index, Photograph of Existing Location</li><li>- Sheet 1: Zoning Plan, Location Plan</li><li>- Sheet 2: Existing and Proposed Site Plans</li><li>- Sheet 3: Proposed Lower Level Floor Plan, Front Elevation, Indicative Verandah Perspective</li><li>- Sheet 4: Proposed Upper Level Floor Plan, Indicative Roof Perspective</li><li>- Sheet 5: Indicative Perspectives, Indicative Cross Sections, Typical Timber Fence Detail</li><li>- Sheet 6: Site Noise Lines Plan</li><li>- Sheet 7: Site Noise Line Sections</li><li>- Sheet 8: Indicative Sections Through Rear Deck</li></ul>

**THE SITE AND PROPOSAL**

**Site Description:**

1. The site at 112-114 The Parade contains an existing two storey building, constructed as part of the development of the site consented under SR 207140. The site was previously been used as a petrol station and is listed in the Greater Wellington Regional Council's Selected Land Use Register (SLUR). The contaminated land was remediated as part of the works to construct the building on the site.
2. The site at 110 The Parade currently contains a single storey residential dwelling, car parking areas and landscaping.
3. The site rises westwards from the road, with the western neighbours elevated above the subject site.



- 63. Submission 12, a group submission, provided a comprehensive analysis of the existing situation and the perceived effects of the proposal. Overall, the submitter considers that the existing parking issues in this area will worsen as a result of the Centre expansion. The submitters note that the road is busy and it is not safe to park to drop-off and collect children, and to merge into the traffic flow at an intersection. These submitters reside in Avon Street and consider that on-street parking in this street is limited, with both staff and parents parking here, sometimes for the entire day. A number of residential properties in the area do not have off-street parking, which further increases demand for the on-street parking spaces. Avon Street has free unrestricted parking and is utilised by shoppers visiting the nearby shopping centre. Others use the area for parking, then using public transport to travel into the city. These cars are parked all day, with no turn-over.
- 64. There are a number of P60 time restricted parks within the Shopping Centre Area, although I am unclear as to the extent of turn-over of these parks. During my on-site observations, some vehicles appeared to be parked in these parks for an extended period of time, possibly even all day. I note that in general there was at least one parking space available for parents during the morning drop-offs, and the afternoon pick-up period (which took place over a longer period of time) was slightly busier, with shoppers also using the parks at this time. As the parks are all located on the public roadway, they are available for anyone to use, and cannot be assigned to any person (or any company) in particular.
- 65. While I note there is an existing high demand for parking in this area, this demand is not solely as a result of the Childcare Centre. The on-street parks in the surrounding area are also used by local residents, shoppers, and people who 'park and ride' into the city using public transport. The applicants have offered a condition which would require them to draw up a Travel Plan for the Centre, including various educational and directional processes for staff and parents. This document will include requirements for staff to park further away from the Centre, or to walk or take public transport to work. The Travel Plan will also include recommendations for parents to further mitigate effects.
- 66. The Council is currently working through a proposal for a new section of cycleway from Island Bay to Berhampore. This cycleway would follow The Parade, located between the kerb and parked cars. The current plan for the cycleway shows the loss of a number of parks in the area surrounding the Centre. Submitter 12 expressed concern at the loss of these parks on The Parade, and the potential effects on Avon Street.
- 67. It is the portion of the application within 110 The Parade that triggers the assessment of traffic and parking. Therefore, Mr Kong's assessment refers solely to the effects of the activity undertaken within the Outer Residential Area. Overall, Mr Kong expects that trip generation and parking demand will increase as a result of the proposal. Mr Kong considers that the required number of parks (seven) could be provided within the site at 110 The Parade. Mr Kong also notes that the on-street parking demand would migrate and spread further into the adjacent streets. Mr Kong notes that Avon Street is at capacity for most of the day, and he observed a small number of vacant spaces during his visits to The Parade. Any proposal to reduce the restricted parking outside the Centre from P60 to P15 is not supported by the Traffic Team. The construction of angle parks in this location is also not supported due to the cycleway proposed.
- 68. Overall, Mr Kong recommends that a total of 14 on-site parks be provided - seven for staff and seven for parents, as mitigation for the increase in activity.

**Section 7 – Other Matters:**

106. Section 7 includes matters that the consent authority shall have particular regard to. In this case the relevant section 7 matters are as follows:

- Section 7(b) – The efficient use and development of natural and physical resources;*
- Section 7(c) – The maintenance and enhancement of amenity values;*
- Section 7(f) – Maintenance and enhancement of the quality of the environment.*

107. It is noted that ‘amenity value’ is defined under section 2 of the Act as:

*“those natural or physical qualities or characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”.*

108. With regard to amenity, the surrounding area contains a variety of built development, both residential and commercial. The site’s location at a zone boundary results in a wider variety of activities and buildings than perhaps would otherwise be present. In the ‘Assessment of Effects’ section of this report above, I conclude that the effects of the proposal are acceptable. There are no areas of particular amenity (such as public parks) that would be affected by the proposal.

**Section 8 – Treaty of Waitangi:**

109. There are no relevant section 8 matters.

**Summary:**

110. Overall, the development is considered to meet the stated intention of Part 2 of the Act in that it represents the sustainable management of a physical resource.

**CONCLUSION**

111. Development is unavoidable in a growing economy and environment, although consideration must be given as to whether the proposed development constitutes acceptable change in terms of its environment, scale, bulk, density and amenity. As discussed above, I consider the overall effects resulting from the proposed childcare centre expansion are acceptable. Having weighed up all the resulting actual and potential effects against the objectives and policies of both the Operative District Plan and Plan Change 73, it is my view that the proposal will be an acceptable development in this environment and is recommended for approval, with appropriate mitigation measures that can be dealt with through conditions of consent.

**RECOMMENDATION**

112. That the Independent Commissioner acting under delegated authority from the Council and pursuant to section 104B of the Resource Management Act 1991, **grant consent** for the proposal to extend an existing childcare centre facility to accommodate up to 110 children and 20 teachers on the site at **110-114 The Parade, Island Bay** (being Part Lot 129 DP 816, Lot 1 DP 11207), subject to the recommended conditions listed below.

Notes:

- 1 The land use consent must be given effect to within 5 years of the granting of this consent, or within such extended period of time pursuant to section 125 as the Council may allow.
- 2 Where appropriate, the Council may agree to reduce the required monitoring charges where the consent holder will carry out appropriate monitoring and reporting back to Council.
- 3 This resource consent is not a consent to build. Such a consent must be obtained under the Building Act 2004 prior to commencement of construction.
- 6 No buildings, vehicles, materials or debris associated with construction should be kept on the road without prior approval from the Council. This does not include vehicles parked at the kerb in the usual manner.
- 8 The consent holder should not assume that existing kerbside parking restrictions (including designated resident or coupon parking) for use currently by owners/occupiers of the development will continue to be available. The Council retains the right to remove or amend the existing arrangements for traffic safety, traffic congestion or other reasons.
- 9 The approved noise insulation specification contained in the application must also be incorporated in the Building Consent specifications when the application for Building Consent is submitted to the Council.
- 11 This development will be assessed for development contributions under the Councils Development Contributions Policy when an application for building consent is made. If a development contribution is required it will be imposed under section 198 LGA 2002. If you want to obtain an indication of the amount of the development contribution payable you can:
  - access the development contributions policy and calculator online at [www.Wellington.govt.nz](http://www.Wellington.govt.nz); or
  - contact Councils Development Contribution Officer.
- 12 Rights of objection to the conditions specified above may be exercised by the consent holder pursuant to section 357A of the Act. Any objection shall be made in writing, setting out the reasons for the objection within 15 working days of this notification or within such extended period as the Council in any special case may allow.

Reporting Officer:

Reviewed by:

**Sarah Bevin**  
Consents Planner  
Resource Consents Team  
Wellington City Council

**Angela Jones**  
Senior Consents Planner  
Resource Consents Team  
Wellington City Council

## **Appendix 2: Traffic Assessment**

TRANSPORT PLANNING  
WELLINGTON CITY COUNCIL  
Resource Consent Service Request – Transport Issues

SR Number: 308430  
Location: 110-114 The Parade  
Assessment by: Soon Teck Kong

Date: 14/11/2014

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### **Proposal**

This application is to increase the total number of children from 65 to a maximum of 110 at the childcare centre. This equates to approx. 70% increase in the number of children enrolled. The centre expansion will require the removal of the residential building at 110 The Parade and the site converted into an outdoor play area. One ground floor shop will also be included as part of the childcare centre expansion.

There is also an increase in staff number from 13 to a maximum of 20 which equates to approx. 50% increase of the existing staff roll.

The current transport mode for staff as outlined in the Applicant's letter dated 4 July 2014 is 8 staff drive to work, 2 walk and 3 take public transport. No quantitative information is provided on the transport mode for parents. However the Applicant has stated that the majority of parents drive to the centre and many take the bus from there to work in town and a small minority walk/bike to the centre. It is also stated that staff currently park on The Parade and on Avon St. It is anticipated in the Applicant's letter that each of the modes of transport used would be proportionally increased on this basis as a result of the change in the numbers of children and staff at the centre.

The operating hours will remain the same, starting at 7am and closing at 6pm, Monday to Friday. No weekend childcare activity is proposed.

The existing childcare centre is within the Suburban Centre zone whereas the site at 110 The Parade for the expansion is zoned Outer Residential.

Based on the Council Planner's advice, my assessment is focussed on the effects of the proposed increase in the number of children and staff in relation to the proposed centre expansion at 110 The Parade.

### **Trip generation**

For the purpose of assessing the effects from the proposed increases in children and staff, I have utilised the NZTA Research Report 453 – Trips and Parking related to Land Use Nov 2011. A preschool activity is expected to generate 1.4 vehicle trips per child. With an increase of 45 children, it is expected that there will be an additional 63 vehicle trips generated (to and from) the centre during the peak hour. The vehicle trips generated will be accommodated by the adjoining transport network capacity.

However, during each peak hour, these vehicle trips will also generate the parking demands in the vicinity of this centre as pre-school children have to be dropped off in the morning and picked up in the evening.

**Parking demand**

The Applicant has not provided any on-site parking for the existing childcare centre (within the suburban centre). No on-site parking is proposed for the centre expansion (within outer residential zone) as part of this proposal.



In accordance with the Council District Plan - Residential Areas Rule 5.6.1.3 Vehicle Parking – for early childhood education centres, the parking requirement shall be 1 space for each staff member that is required to operate the centre when it is at full capacity. The increase in staff number will require 7 on-site parking spaces to be provided by the Applicant. As there is no parking provided on-site, the additional staff parking demand will have to utilise on-street kerbside parking spaces. Based on the ratio of the existing transport mode for staff driving to work at the centre, there will be 4 to 5 spaces required for the additional 7 new staff.



For comparison, according to the NZTA Research Report 453, the average parking provision for a preschool activity is 0.2 per child (0.3 per child for 85 percentile) based on 25 site surveys. It is expected that the centre expansion will require between 9 to 14 parking spaces to meet this increased activity which is the design parking demand.

**Parents' Parking and Travel Pattern**

During the drop-off and pick-up sessions, parents are currently utilising any available kerbside parking spaces in the vicinity of the childcare centre. The drop-off session is more concentrated time-wise whereas the pick-up session is spread out.

My own observations confirmed that parents parked wherever parking spaces were available - outside the centre, in the shopping area, along The Parade and Avon St.

As highlighted in the Applicant's letter, some parents would park their vehicles in the adjacent streets during the morning to drop-off their children at the centre, then take public transport to the city and return to pick up their children in the evening.

Parents who parked on the opposite side of the centre, had to cross a busy Principal Road with their children. Some will utilise the pedestrian crossing south of the childcare centre to cross The Parade and others will not.

The existing parking practice by parents during the drop-off and pick-up sessions due to the lack of parking at the centre, are haphazard and unsafe as parents have to park where parking is available and in particular for those parked opposite the centre.

The previous proposal to reduce the time limit from P60 to P30/P15 were not supported by Council officers. The main reason for not supporting any time limit reduction is to ensure that all kerbside parking spaces within the Island Bay Shopping Centre are available for shoppers at all times.

Other parents walked to the centre with their children and travel to the city by bus. The reverse order of travel during the evening was observed. Some parents who arrive by bus in the evening to pick up their children, would cross The Parade near the bus stop or near Avon St which are unsafe.

The current travel patterns by parents to the centre are expected to continue and increase when the centre is expanded with more children as anticipated by the Applicant's letter dated 4 July 2014.

**Staff Parking**

Staff from the centre were observed parking along The Parade and Avon St in kerbside spaces with no time limit restrictions mainly within the residential sections of The Parade and Avon St. Staff were also observed parking in front of the centre with a P60 time limit.

With the expected increase in staff numbers, the parking demand will increase and will continue to occupy the few vacant kerbside spaces along the residential sections of Avon St and The Parade (within 100m from the centre).

**Parking Effects**

The additional parking demand from staff, parents who park in the morning and travel by bus to the city and also parents who are dropping off and picking up their children, will increase the occurrence of unsafe and inconsiderate parking issues raised by the submitters such as parking too close to vehicle entrances and blocking sightlines for exiting vehicles. This will remove the limited parking availability for the current local residents including their visitors, friends and family to park.

As the Applicant has not proposed any on-site parking, the effect of the combined parking demand from the centre expansion will increase in the future along these streets adjacent to this childcare activity.

**Discussion**

The trip generated and parking demand are expected to increase with the centre expansion and the range of travel modes and patterns for staff and parents to the centre are expected to continue with increased intensity.



The Council District Plan rule requires the provision of 7 staff parking spaces on-site which the Applicant is not proposing. The site at 110 The Parade can accommodate these spaces within the boundary and access via a single driveway onto The Parade.



With the proposed increase in staff employed and children enrolment, the on-street parking demand will spread and migrate further into the residential sections of the adjacent streets. Parking along Avon St is at capacity most of the time and The Parade has only a few observed vacant parking spaces during my site visits.

With the increase use of kerbside parking spaces, the local residents' safety concerns will be exacerbated and the residents' amenity such as availability of kerbside parking in these streets will be reduced.

The lack of short-stay parking provision at the centre will also increase the intensity for parking during the drop-off and pick up sessions. Parents will continue to park on the opposite side of the centre when parking is available and having to cross a busy principal road with their children.

A proposal by the Applicant to reduce the time limit from P60 to P15 for the parking spaces outside the Centre is again not supported by Council officers.

Another proposal to provide angle parking spaces in front of the centre was considered but was not supported by the Council's Cycle Project team as the parking arrangement will increase the risks to cyclists.

**Recommendation**

To mitigate the expected parking demand for short stay (parents dropping off and picking up their children) and long stay (staff parking requirements), the Applicant is to provide on-site parking spaces to cater for the centre expansion.



It is my recommendation that the Applicant is required to provide on-site parking spaces (7 spaces for staff parking - District Plan requirement and 7 spaces for parents' drop off and pick up) to address the expected parking demand and reduce public safety risks due to the centre expansion, as these effects are more than minor.



**Kind Regards,**

***Soon Teck Kong***