

Assessment of Environmental Effects

Saint Kentigern Preschool

70 & 74-84 Shore Road

Remuera

Prepared for

Saint Kentigern Trust Board

October 2020

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1 Key Information

Address	70 and 74-84 Shore Road, Remuera
Legal Description	Allotment 91-92 Section 16 Suburbs of Auckland NA1561/69 Lot 1 DP 125469 NA73A/953 Lot 2 DP 36378 NA1057/194 Lot 4 DP 36378 NA1577/34 Lot 5 DP 36378 NA934/136
Site Area	7.2092 hectares
Owner	Saint Kentigern Trust Board
Occupier	Saint Kentigern Trust Board
Applicant	Saint Kentigern Trust Board
Operative Plan	Auckland Unitary Plan (Operative in Part) 2016
Zones	Special Purpose – School
Precincts	None
Overlays	Built Heritage and Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1843, Roselle House and Grounds, Category B Natural Heritage: Notable Trees Overlay - 163, Brown Pine (2), Spanish Oak Natural Heritage: Regionally Significant Volcanic Viewshafts and Height Sensitive Areas Overlay [rcp/dp] - E13, Mount Eden, Viewshafts Natural Heritage: Regionally Significant Volcanic Viewshafts and Height Sensitive Areas Overlay [rcp/dp] - H7, Mount Hobson, Viewshafts Natural Resources: Significant Ecological Areas Overlay - SEA-M2-51a, Marine 2 Natural Resources: Significant Ecological Areas Overlay - SEA-M2-51w1, Significant wading bird area, Marine 2 Natural Resources: Significant Ecological Areas Overlay - SEA_T_3230, Terrestrial

Controls	Coastal Inundation [rcp/dp] – 1% AEP plus 1m sea level rise Macroinvertebrate Community Index [rcp/dp] – Exotic, Native & Urban
Designations	None
Road Classification	Arterial road
Proposed Activity	Demolition of house. Conversion of tennis courts to carpark. Construction and operation of Preschool. Ancillary works as necessary for the above, including tree removal, earthworks, installation of infrastructure and landscaping.
Consent Triggers	<p>Auckland Unitary Plan (Operative in Part) 2016</p> <p>District Plan Rule E15.4.1 – land use consent for the removal of vegetation within a horizontal distance of 20m from the top of a “cliff” that has a slope steeper than 1 in 3 and is within 150m of MHWS – restricted discretionary activity under (A22).</p> <p>District Plan Rule E27.4.1 – land use consent for use of existing vehicle crossings where a Vehicle Access Restriction applies under standard E27.6.4.1(3) – restricted discretionary activity under (A5).</p>
Other consents/permits that may be required under legislation	<p>A building consent will be required under the Building Act 2004.</p> <p>Engineering approval may be required for some of the infrastructure proposed to be constructed.</p>

2 Introduction

This report is submitted as part of the application by the Saint Kentigern Trust Board (“**Applicant**”) for land use consent from Auckland Council (“**Council**”) to construct and operate a preschool at 70 and 74-84 Shore Road, Remuera (“**the site**”). No other resource consents are required.

The purpose of this report is to provide an assessment against the matters to which Council has restricted its discretion. The report also outlines the consultation undertaken for the application.

In preparing this assessment, I have relied on the plans and specialist advice appended to this report. I have also visited the site and reviewed the relevant planning documents.

3 Background

The Applicant currently operates three schools and a preschool as follows:

1. Saint Kentigern Preschool at 518 Remuera Road, Remuera;
2. Saint Kentigern Girls' School at 506-514 and 514A Remuera Road, Remuera;
3. Saint Kentigern Boys' School at 74-84 Shore Road, Remuera; and
4. Saint Kentigern College at 130 Pakuranga Road, Pakuranga.

The Applicant decided in 2018 to sell the campus on Remuera Road and relocate the Preschool and Girls' School to the Shore Road campus. Since then, the Applicant has been granted resource consent to:

1. Undertake "enabling works" at the Shore Road campus, including construction of temporary relocatable classrooms to allow the demolition of existing facilities to make way for redevelopment, and widening of the Gate 1 access to provide for two-way movement¹;
2. Construct a Senior Boys' and Specialist Facilities building adjacent to Gate 2, to provide capacity for more boys and specialist facilities for both boys and girls²;
3. Construct a Girls' School building between Gates 3 and 5, to allow the Girls' School to relocate from the Remuera Road campus³;
4. Widen Shore Road to provide additional bus parking space, to enable a mode shift to bus transport for students⁴; and
5. Discharge stormwater from the Shore Road campus⁵.

¹ Refer LUC60335857.

² Refer LUC60339310.

³ Refer LUC60345722.

⁴ Refer TRE60338266.

⁵ Refer DIS60345074 and LUC60345075.

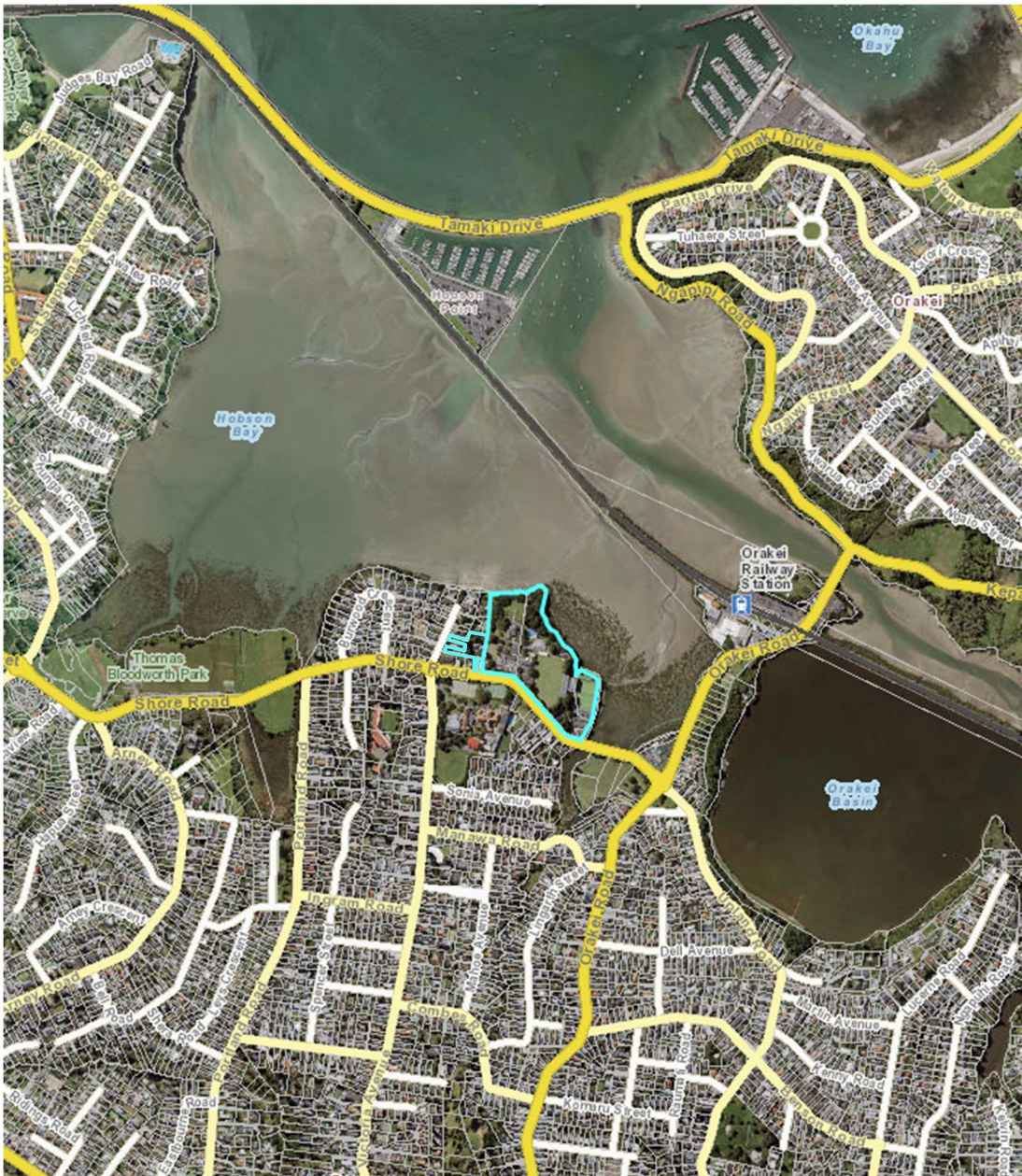
The current application will allow the Preschool to relocate from the Remuera Road campus to the Shore Road campus. This is necessary to allow the new owner of the Remuera campus to take possession.

4 Existing Environment

4.1 Location

The site is located on the north side of Shore Road, east of Victoria Avenue, as shown in Figure 1 below.

Figure 1 – Location of Site (outlined in light blue)



4.2 Existing Activities

Saint Kentigern School is an independent school established in 1959 and currently catering for 575 boys in years 0 to 8 (generally, ages 5-12).

With completion of the Senior Boys' and Specialist Facilities building currently under construction the school roll will be able to increase to 650 students.

With completion of the Girls' School building also currently under construction, the campus will accommodate both boys and girls, with a potential combined roll of 1060 students.

For both schools, the rolls are expected to increase gradually. The Girl's School is expected to open with approximately 200 students and to increase its roll to 410 students over several years while the additional capacity provided by the Senior Boys' and Specialist Facilities building is also anticipated to take some years to fill.

Construction of the Senior Boys' and Specialist Facilities building is expected to be completed in November 2021 while construction of the Girls' School building is expected to be completed in early 2022 (currently on track for early February 2022).

4.3 Description of Site

The site comprises an area of more than 7.2 hectares held in five fee simple certificates of title, copies of which are provided in Appendix 1.

The certificates of title are subject to a number of interests, also included in Appendix 1. The locations affected by the interests are identified in Appendix 11. The proposed preschool does not affect any of these interests.

The site extends from Shore Road to Hobson Bay and can be broken into three main components as identified in Figure 2 overleaf:

1. The original school land (Allotments 91 and 92), on which most of the school facilities are located;
2. Land to the east reclaimed in the 1970s (Lot 1 DP 125469) on which the turf and main carpark have been constructed; and
3. Land to the west purchased within the last 20 years (70 Shore Road and 265 and 269 Victoria Avenue) currently used for staff housing.

Figure 2 - Shore Road Campus



This application relates to the western part of the campus, particularly 70 Shore Road and the western bank of the original school land, adjacent to 70 Shore Road.

The area proposed for development is set back from and below Shore Road and bordered by residential activities to the north, west and south and the school to the east.

70 Shore Road is accessed by an entrance strip / driveway extending down from Shore Road between 68 and 72 Shore Road. The driveway opens to a large gently sloping area on which a house has been constructed.

To the north of the house, the land has a moderate slope down to the adjoining residential properties and to the north-west of the house the land has a moderate slope down to a

watercourse, which runs along approximately three quarters of the western edge of the property.

The northern and western edges of 70 Shore Road are well vegetated with a mix of indigenous and exotic vegetation which appears to have been intentionally planted. The southern edge of the site includes a number of mature exotic trees. A garage/shed has been constructed adjacent to the western boundary and the watercourse has been piped below and to the south of this structure.

An aerial photograph of the area proposed for redevelopment, with contours overlaid, is provided as Figure 3 below, with a larger version provided as Appendix 2. This photograph has been sourced from Council's Geomaps and was taken in 2017. There have been no changes to the area of works since the photograph was taken. A survey plan for the area of works is included with the Architect's plans in Appendix 3.

Figure 3 - Aerial Photograph of Area of Work



All vehicle access to the campus, except for access to the staff housing at 265 and 269 Victoria Avenue, is from Shore Road. Gates 1 and 2 have historically operated as a loop, with drivers entering Gate 1 and exiting Gate 2, however, the Applicant has recently widened the driveway north of Gate 1 to enable Gate 1 to operate as a two-way access to allow construction of the Senior Boys' and Specialist Facilities Building and to limit use of Gate 2 following completion of that building. Gate 3 provides access to the upper field; Gate 4 historically provided access

to a school residence fronting Shore Road but has now been closed; and Gate 5 provides access to the lower carpark and turf.

At present, 49 staff and visitor parking spaces are provided along the driveway from Gate 1 to Roselle House. An additional 74 spaces are provided in the carpark accessed from Gate 5. Most pick-up/drop-off activity occurs in these two locations, with some occurring on Shore Road. Parking for a further 17 vehicles will be provided in the basement of the Girls' School building currently under construction.

At present, school buses park on Shore Road between Gates 1 and 2, however, as noted above, resource consent has been granted to construct additional bus bays between Gates 2 and 4. That work is expected to be completed by mid-February 2021. This will allow the Applicant to significantly increase the number of buses servicing the campus which will in turn allow the additional capacity provided by the new Senior Boys' and Girls' School buildings to be absorbed on the road network with minimal impact.

4.4 Surrounding Area

70 Shore Road is surrounded by residential properties to the south, west and north and adjoins the main campus to the east.

The land on the south side of Shore Road, opposite the driveway to 70 Shore Road, is occupied by Baradene College.

The wider area is predominantly established residential, however, there are two other schools in the immediate area – Baradene College (as noted above) and Victoria Avenue Primary School – as well as commercial premises adjacent to the Shore Road / Orakei Road roundabout (Palmer's Garden Centre).

4.5 Unitary Plan Notations

4.5.1 Zoning

The site is zoned Special Purpose – School under the Auckland Unitary Plan (Operative in Part) 2016 (“AUP”), as shown in Figure 4 overleaf. The area surrounding the area of works is zoned Residential – Mixed Housing Suburban. Baradene College on the opposite side of Shore Road is zoned Special Purpose – School.

Figure 4 – AUP Zoning Map (site outlined in light blue)



4.5.2 Overlays and Controls

Table 1 overleaf summarises the overlays and controls applying to the site under the AUP. Refer Appendix 11 for the locations of the various overlays and controls. The site is not subject to any precincts or designations.

Table 1 – Key AUP Notations

<p>Overlays</p>	<p>Built Heritage and Character: Historic Heritage Overlay Extent of Place [rcp/dp] - 1843, Roselle House and Grounds, Category B. The proposed works are clear of the overlay area.</p> <p>Natural Heritage: Notable Trees Overlay - 163, Brown Pine (2), Spanish Oak. The Brown Pine are adjacent to Gate 1. The Spanish Oak is to the northwest of Roselle House. The proposed works are clear of the three trees.</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - E13, Mount Eden, Viewshafts. The proposed building is well clear of this viewshaft.</p> <p>Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - H7, Mount Hobson, Viewshafts. The proposed building is within this viewshaft.</p> <p>Natural Resources: Significant Ecological Areas Overlay - SEA-M2-51a, SEA-M2-51w1 and SEA_T_3230. No work is required within these SEA overlays.</p>
<p>Controls</p>	<p>Coastal Inundation [rcp/dp] – 1% AEP plus 1m sea level rise. No work is required within this area.</p> <p>Macroinvertebrate Community Index [rcp/dp] – Exotic, Native & Urban</p>
<p>Road Classification</p>	<p>Shore Road is an “arterial urban” road</p>

4.5.3 Appeals

The Council’s Geomaps indicates that the property is not affected by any appeals seeking changes to the zoning of the site, any of the management layers applying to the site, or reinstatement of any management layers.

4.6 Other Notations

Table 2 overleaf captures key information sitting outside the AUP that is potentially relevant to development of the site. Refer Appendix 11 for the locations of the various items.

Table 2 – Other Notations

<p>Heritage NZ List</p>	<p>There are two items within the site included in the NZ Heritage list, as follows:</p> <ul style="list-style-type: none"> ▪ Roselle House, Historic Place Category 2. ▪ Fernery, Historic Place Category 2. <p>The proposed works are clear of both of the above items.</p>
<p>NZ Archaeological Association</p>	<p>There are two items within the site included in the NZ Archaeological Association (“NZAA”) public site viewer, as follows:</p> <ul style="list-style-type: none"> ▪ Archaeological site, NZAA number R11_1147, midden / oven. ▪ Archaeological site, NZAA number R11_3245, remnant boat shed. <p>The proposed works are clear of both of the above items.</p>
<p>Cultural Heritage Inventory</p>	<p>There are four items within the site included in the Council’s Cultural Heritage Inventory (“CHI”), as follows:</p> <ul style="list-style-type: none"> ▪ CHI 2137, Spanish Oak tree. This is the same tree as scheduled in the AUP. ▪ CHI 2707 Martyn Wilson home and grounds (a.k.a. Roselle House). ▪ CHI 2727, fernery. This is the same item as listed by Heritage NZ. ▪ CHI 6060, archaeological site, NZAA number R11_1147. <p>The proposed works are clear of all of the above items.</p>
<p>Hazards known to Council</p>	<p>Parts of the site are identified in Council’s Geomaps as “unstable / suspected ground” although the land does not meet the AUP definition of “land which may be subject to land instability” (see discussion in Appendix 11 and email from KGA Geotechnical in Appendix 9). The proposed works are partially within the identified area.</p> <p>Parts of the site are identified in Council’s Geomaps as affected by overland flowpaths although one of the flowpaths no longer exists (see discussion in section 5.6 below and the Engineering Report in Appendix 6). The proposed works are in the general vicinity of the flowpaths.</p> <p>Parts of the site are identified as Tsunami evacuation areas. The proposed works are clear of these areas.</p>

5 Proposed Development

5.1 Overview

The Applicant proposes to relocate the existing Saint Kentigern preschool from 518 Remuera Road to the Saint Kentigern Shore Road campus. As part of this, the Applicant proposes to:

1. Demolish or remove the house at 70 Shore Road.
2. Construct a new preschool building in approximately the same location as the existing house.
3. Convert the existing tennis courts to the east of 70 Shore Road to an at-grade parking area for 28 cars.
4. Construct a new at-grade parking area for 3 vehicles at the bottom of the driveway to 70 Shore Road.

5.2 Preschool Building

The Applicant proposes to construct a single storey circular building on the flatter land within 70 Shore Road, in general accordance with the Collingridge and Smith Architects (UK) Ltd plans provided as Appendix 3. The building is intended to accommodate 75 students and 17 staff.

The building has been designed to sit into the landscape, with minor excavation along its southern edge and minor elevation along its northern edge, the use of recessive cladding materials, principally timber and glass, and a simple roof form.

As such, the design continues the “buildings in the landscape” design typology adopted for the Jubilee Sports Centre on the eastern side of the campus and the new Girls’ School building currently under construction adjacent to Shore Road.

The proposed circular shape has a number of significant benefits. In particular, it:

1. Allows the building to sit within an area largely clear of significant vegetation while also allowing occupants of the building to have views into the surrounding vegetation.
2. Allows the outdoor play area to be contained within the centre of the building thereby reducing the potential for noise transmission from the outdoor play space.

3. Provides a more secure and safe environment for children with good lines of sight for staff to see and supervise the children’s activities.

Images of the building are provided as Figures 5 to 8 below. These images have been snipped from the CASA plans in Appendix 3.

Figure 5 - North Elevation



Figure 6 - East Elevation



Figure 7 - West Elevation



Figure 8 - South Elevation



5.3 Access and Parking

The primary vehicle and pedestrian access to the preschool will be via the existing Gate 1 access to the rest of the school campus.

The existing driveway to 70 Shore Road will be retained as is and used for occasional service and maintenance vehicles.

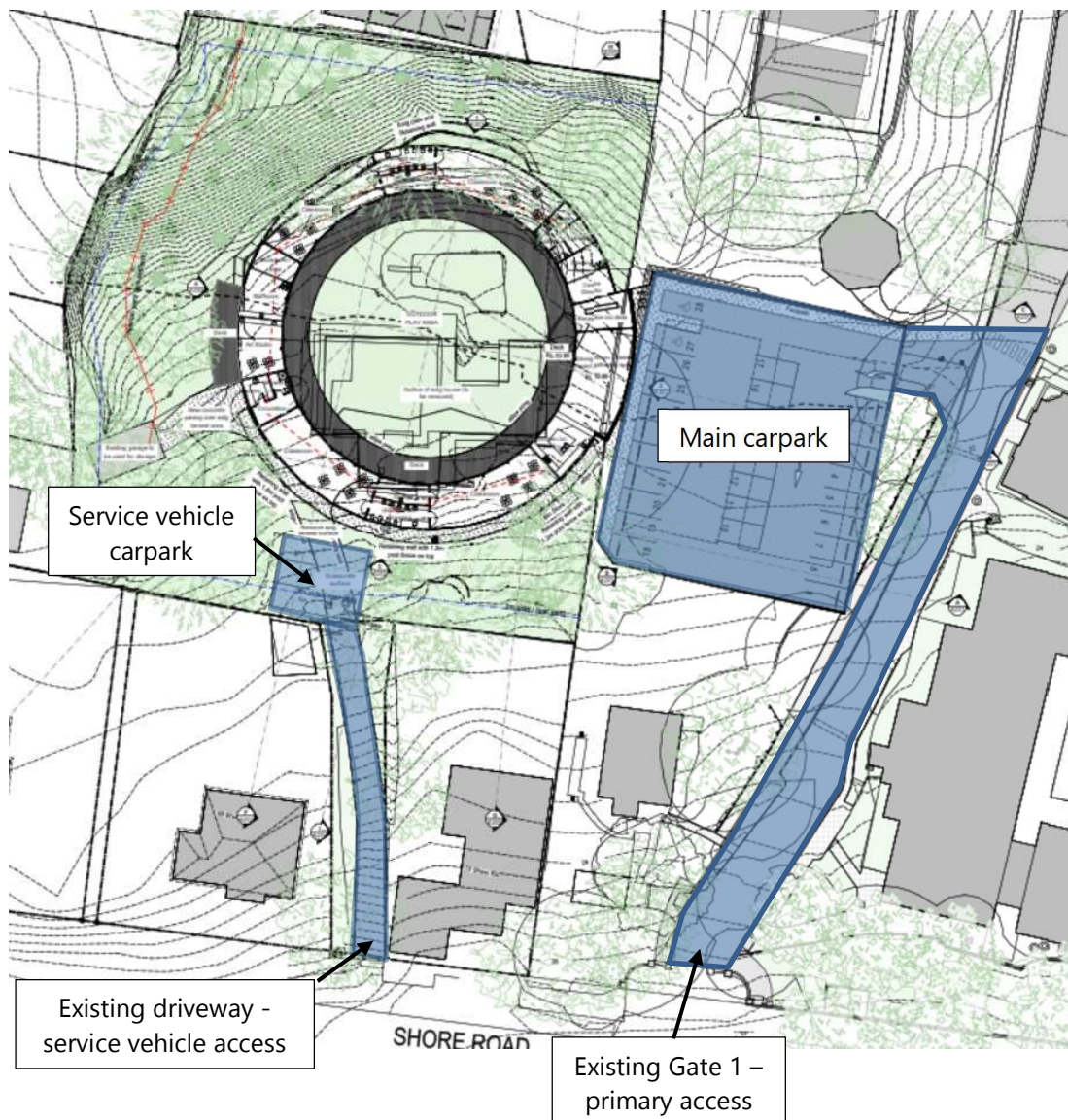
Emergency vehicle access will be via Gate 1 unless emergency access via the driveway to 70 Shore Road is required for any reason.

The existing tennis court to the east of 70 Shore Road is proposed to be lowered slightly and resealed to provide staff and parent parking for the preschool. The court area will provide parking for 28 vehicles in a fully complying parking layout.

In addition, a small at-grade carpark is proposed at the bottom of the driveway to 70 Shore Road to provide parking for service and maintenance vehicles. The Applicant proposes to install a gate at the bottom of the drive to control access to this parking.

The parking and access arrangements are described in more detail in the Flow Transportation Specialists Transport Assessment in Appendix 4.

Figure 9 - Access and Parking Arrangements



5.4 Tree Removal and Landscaping

The project requires the removal of six trees, being four indigenous trees (two nikau palms, a cabbage tree and a Lancewood standing at the top edge of the existing bush line) and two exotic trees (a Norfolk Pine at the edge of the bush line and a Magnolia within the south-eastern part of the site). All of the trees are within or immediately adjacent to the proposed building footprint. Resource consent is required for the removal of the four indigenous trees. The removal of the two exotic trees is a permitted activity. The affected trees are identified on the CASA plans in Appendix 3 and described in the Peers Brown Miller Arboricultural Assessment in Appendix 5.

The removal of the four indigenous trees is proposed to be offset by the planting of an approximately 40m² area within the north-eastern corner of 70 Shore Road. This area has been chosen because it is relatively open and able to receive planting and because it is relatively weed-infested so provides a good opportunity for enhancement. This area is proposed to be weeded and planted in accordance with the planting plan and specification appended to the arborist’s report.

The project also requires work within the root zone of approximately ten indigenous trees, also standing at the top edge of the existing bush line. This work will be undertaken in accordance with the recommendations in the arborist’s report.

5.5 Earthworks and Sediment Control

The proposal requires cut and fill over three discrete areas as set out in Table 3 below:

Table 3 - Earthworks

	Earthworks Area	Earthworks Volumes
Building platform	1,170m ³	Cut – 539m ³ Fill – 403m ³
Main carpark ⁶	Nil	Cut – Nil Fill – Nil

⁶ The engineering report notes that the tennis courts/carpark will require the removal of approximately 366m³ of aggregate to lower the court level and placement of approximately 11m³

	Earthworks Area	Earthworks Volumes
3-bay carpark ⁷	92m ²	Cut – 28m ³ Fill – Nil
Total	1,262m ²	970m ³

The Applicant intends to re-use material cut from the building platform and tennis courts that is considered by the geotechnical engineer to be suitable for re-use within the building platform. All other material will be removed from the site.

If there is not enough suitable material from excavation of the building platform and tennis courts to fulfil the requirements for fill for the building platform, engineered fill (either aggregate or clay) will be imported.

Erosion, sediment and dust control measures are proposed to be put in place in accordance with the Markplan Engineering Report in Appendix 6 and the Erosion and Sediment Control Plan appended to the report.

The earthworks are expected to be undertaken during the 2021/2022 earthworks season and completed within 3 months.

5.6 Overland Flowpaths

The Council's Geomaps identifies three overland flowpaths within the general area of the proposed work.

The westernmost flowpath follows the watercourse along the western boundary of the site and is not affected by the proposal.

The central overland flowpath commences to the immediate north of Gate 1 as a minor overland flowpath (catchment less than 4,000m²) before becoming an overland flowpath (catchment greater than 4,000m²) to the north of the existing house at 70 Shore Road. The

of aggregate fill to create the new subgrade for the carpark, however, this work does not meet the AUP definition of earthworks as no soil, earth or substrate land surfaces will be disturbed.

⁷ The engineering report notes that the 3-bay carpark will require the placement of 28m³ of aggregate, however, the placement of aggregate does not fall within the AUP definition of earthworks.

proposal will divert this flowpath around the preschool building as shown on the engineering plans in Appendix 6.

The eastern overland flowpath is shown in Council's Geomaps commencing from the Gate 1 access and crossing the tennis courts as a minor overland flowpath (catchment less than 4,000m²) before becoming an overland flowpath (catchment greater than 4,000m²) at the northern edge of the courts and heading north. Markplan advise that this overland flowpath does not exist anymore, as the driveway has been reconstructed with kerb and channel under LUC60335857 with the result that overland flow is now directed into a catchpit and stormwater system installed as part of those works.

5.7 Infrastructure

The preschool and carpark are proposed to be connected to the existing water and wastewater systems as set out in the Engineering Report in Appendix 6.

Stormwater360 Littatrap are proposed to be installed in the carpark stormwater catchpits to capture litter "at source". Runoff will then be piped to a formalised outfall with erosion protection to the north of the carpark which will in turn discharge to an existing grassed swale, both within the site. Runoff from the building is proposed to be piped to the same outfall and swale. The existing swale extends along the western boundary of the site for approximately 115m before discharging to the coastal marine area via an existing outfall. No changes are proposed to the swale or outfall.

5.8 Fencing

The Applicant proposes to replace the fencing along the northern boundary of 72 Shore Road with a 1.8m high close boarded timber fence. The exact details of the fencing will be decided in consultation with the neighbour.

The Applicant also proposes to install a gate across the driveway to 70 Shore Road, at the bottom of the driveway, to control access to the site.

The Applicant does not propose any changes to any other boundary fencing.

5.9 Lighting

Outdoor lighting will be provided to allow for the safe use of the preschool building and parking area at night (e.g. for parent meetings) as set out in the eCubed lighting compliance letter provided in Appendix 7.

The outdoor lighting will be designed to comply with the relevant standards in E24.6.1 of the AUP and a condition of consent to this effect is included as part of the proposal (refer section 10 below).

5.10 Signage

The Applicant anticipates installing a single backlit sign on the eastern elevation of the building, facing the preschool carpark, to identify the facility.

No details of the sign are available at this stage, however, the sign will not be visible from beyond the site so does not require assessment under either the Signage Bylaw 2015 or the AUP (see discussion of signage in Appendix 11).

5.11 Construction Timing

The Applicant proposes to commence construction in October 2021 and to complete construction in December 2022.

As such, there is expected to be a one month overlap with construction of the Senior Boys' and Specialist Facilities building and a four month overlap with construction of the Girls' School building, although both of these buildings will be in the fitout and finishing stage by the time construction of the preschool commences.

6 Matters Requiring Consent

6.1 Auckland Unitary Plan

The Applicant seeks resource consent for all matters requiring consent associated with the construction and operation of the preschool and ancillary parking and access arrangements in general accordance with the plans in Appendix 3.

I have provided a detailed assessment of compliance with the relevant national environmental standards and rules of the AUP in Appendix 11. It is my assessment that the proposal requires resource consent under the AUP for the following:

1. Rule E15.4.1(A22) – district plan land use consent for removal of four indigenous trees greater than 3m high and work within the root zone of approximately ten indigenous trees greater than 3m high within a horizontal distance of 20m from the top of a “cliff” that has a slope steeper than 1 in 3 and is within 150m of MHWS – restricted discretionary activity.
2. Rule E27.4.1(A2) – district plan land use consent for an infringement of standard E27.6.4.1, specifically, for a new activity utilising existing vehicle crossings to an arterial road – restricted discretionary activity.

As all matters requiring consent are a restricted discretionary activity, bundling does not apply and each matter should be assessed according to its individual classification.

6.2 Scope of Application

As noted above, this application is for all matters requiring resource consent rather than for the specific list of non-compliances identified by the author. As such, if the Council is of the opinion that resource consent is required for additional or alternative matters to those identified in this AEE, it has the discretion to grant consent to those matters as well as or in lieu of those identified in this AEE.

I also note that, if the Council is of the opinion that the activity status of any of the matters requiring consent is different to that described in this AEE the Council has the ability under Section 104(5) of the Resource Management Act 1991 (“**RMA**”) to process the application regardless of the type of activity that the application was expressed to be for.

7 Statutory Considerations

7.1 Resource Management Act

7.1.1 Limitations to the Council's Discretion

Sections 87A(3) and 104C of the Act place limitations on the Council's discretion in respect of restricted discretionary activities. These sections state that:

1. When considering whether to grant or refuse consent, the Council may consider only those matters specified in the plan to which it has restricted its discretion.
2. Where consent is granted, Council may only impose conditions over the matters specified in the plan.

In this case, the matters to which the Council has restricted its discretion are as follows:

1. The relevant objectives and policies for the School zone, transportation and vegetation management.
2. The effects that the proposed vegetation removal and alteration will have on ecological values, hazard mitigation, soil conservation, water quality, hydrology, landscape values, natural features and natural character values and amenity values.
3. The extent to which the proposed vegetation removal and alteration is necessary to enable reasonable use of the site and considering the need for or purpose of the proposed building.
4. The availability of alternative locations and methods for undertaking the works and the extent to which the adverse effects of the vegetation works can be remedied or mitigated.
5. The effects of the location and design of the access on the safe and efficient operation of the adjacent transport network having regard to visibility, traffic conditions etc.
6. The practicability and adequacy of the access arrangements considering site limitations, arrangement of buildings and activities, user and operational requirements etc.

The matters to which Council has restricted its discretion are discussed in section 8 below.

7.1.2 Permitted Baseline

Section 104(2) of the RMA states that, in considering the potential effects of allowing an activity, a consent authority may disregard an adverse effect if the plan permits an activity with that effect.

There is no guidance in the Act as to when it would be appropriate for a Council to adopt the permitted baseline approach. However, in my opinion, it would be appropriate to do so in this case, as:

1. The application of the permitted baseline approach would promote the objectives and policies of the AUP to enable the appropriate redevelopment, intensification and expansion of existing school sites.
2. Application of the permitted baseline approach would give appropriate authority to the Council's decisions as part of the AUP preparation process regarding which activities to permit and which to control.
3. All of the matters requiring consent are a restricted discretionary, so there is a clear acceptance under the AUP that it is appropriate to restrict the Council's discretion in assessing this proposal.
4. Application of the permitted baseline would permit Council to more appropriately focus on the effects of the proposal which are not permitted as of right, instead of re-litigating effects which the Council has, as a matter of policy, determined to be acceptable and not to require assessment and mitigation through a resource consent process.
5. A ready comparison can be made between the effects of what is proposed and the effects of the permitted activities provided for in the AUP.
6. There are only two matters requiring consent.

Application of the permitted baseline in this case means that the following adverse effects should be disregarded:

1. Any adverse effects arising from the proposed earthworks as the earthworks are a permitted activity under E11.4 and E12.4 of the AUP.
2. Any adverse effects arising from the removal of vegetation, other than the vegetation identified in the reasons for consent, as this work can be undertaken as a permitted activity under E15.4 of the AUP.

3. Any adverse effects arising from the (minimal) outdoor lighting proposed as part of the development as the lighting will comply with Standard E24.6.1 of the AUP (refer lighting compliance confirmation in Appendix 7).
4. Any adverse effects arising from noise generated by preschool activities as this noise will be within the limits prescribed in Standard E25.6.24 of the AUP (refer Noise and Vibration Assessment in Appendix 8).
5. Any adverse effects arising from noise generated during construction as this noise will be within the limits prescribed in Standard E25.6.27 of the AUP (refer Noise and Vibration Assessment).
6. Any adverse effects arising from vibration generated during construction as this vibration will be within the limits prescribed in Standard E25.6.30 of the AUP (refer Noise and Vibration Assessment).
7. Any adverse effects on the road network, beyond the immediate environment of the two existing vehicle crossings, as the preschool trip generation is permitted under Standard E27.6.1 of the AUP.
8. Any adverse effects arising from the demolition of the existing structures within the site as the demolition of these structures is a permitted activity under H29.4 of the AUP.
9. Any adverse effects arising from the location and scale of the proposed building as the building fully complies with the “bulk and location” standards in H29.6 of the AUP.
10. Any adverse effects arising from temporary structures (if any) accessory to the construction of the proposal as these are permitted under E40.4 of the AUP.
11. Any adverse effects arising from stormwater runoff as runoff will be managed in accordance with the conditions of the Applicant’s stormwater discharge permit.

7.1.3 Trade Competition and Written Approvals

Section 104(3) of the Act states that a consent authority must not have regard to trade competition or the effects of trade competition, or any effect on a person who has given written approval to the application.

In this case, trade competition is not likely to be applicable, and the Applicant has not obtained the written approval of any affected persons, as no one is considered to be adversely affected by the proposal.

7.2 Hauraki Gulf Marine Park Act

Section 9 of the Hauraki Gulf Marine Park Act 2000 (“**HGMPA**”) states that a consent authority must, when considering an application for resource consent within the Hauraki Gulf, its islands and catchments, have regard to sections 7 and 8 of the HGMPA in addition to the matters contained in the RMA.

Section 7 of the HGMPA states that the interrelationship between the Hauraki Gulf, its islands, and catchments, and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Gulf and its islands, are matters of national significance; while Section 8 identifies a number of objectives for the management of the Gulf, its islands and its catchments.

It is my opinion that the proposal does not conflict with these sections. In particular, it is my opinion that the proposal will have no discernible effect on the life-supporting capacity of the Gulf; will have no effect on the natural, historic or physical resources of the Gulf (such as kaimoana); will have no effect on the cultural and historic associations between people and communities and the natural, historic and physical resources of the Gulf; will have no effect on the social and economic wellbeing of the people and communities of the Gulf; and no effect on peoples recreation within or enjoyment of the Gulf.

In reaching these conclusions I note that the discharge of stormwater from the development is permitted under the Applicant’s stormwater discharge permit. As such, the discharge is in line with what Council has determined to be acceptable and complying with the GD01 and any adverse effects arising from the discharge are therefore de minimus.

8 Substantive Assessment

8.1 Scope of Council's Discretion

The following rules define the scope of the Council's discretion over the matters requiring consent under the AUP:

1. Rule C1.8.(1), which states that, when considering an application for resource consent for an activity that is classed as a restricted discretionary activity, the Council will consider all relevant zone, precinct, overlay and Auckland-wide objectives and policies.
2. Rule C1.8.(3), which states that any positive effects of allowing an activity may be considered despite the absence of any specific reference to positive effects in the objectives, policies, matters of discretion or assessment criteria.
3. Rule C1.9.(3), which states that, when considering an application for an infringement of a standard (in this case, one of the vehicle access standards), the Council will restrict its discretion to:
 - a. any objective or policy (of the AUP) which is relevant to the standard;
 - b. the purpose (if stated) of the standard and whether that purpose will still be achieved if consent is granted⁸;
 - c. any specific matter identified in the relevant rule or any relevant matter of discretion or assessment criterion associated with that rule;
 - d. any special or unusual characteristic of the site which is relevant to the standard;
 - e. the effects of the infringement of the standard; and
 - f. where more than one standard will be infringed, the effects of all infringements considered together.

The assessment below addresses the matters to which Council has restricted its discretion.

⁸ In this case, I note that the purpose of the vehicle access restrictions standard is not stated in the standard.

8.2 Receiving Environment

When assessing the effects of an activity or an infringement of a standard, those effects must be assessed within the context of the receiving environment as defined in case law.

The receiving environment comprises:

1. The existing environment and associated effects from lawfully established existing activities;
2. The existing environment as modified by any resource consents granted and likely to be implemented;
3. Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented; and
4. The environment as likely to be modified by activities permitted in the AUP.

In this case, the receiving environment includes:

1. Effects from the operation of the existing and long-established school, including noise and traffic associated with the operation of the school;
2. Effects from implementation of the Girls' School and Senior Boys and Specialist Facilities consents, including effects of the additional students and associated traffic;
3. Effects from implementation of the stormwater discharge permit held by the Applicant, which includes effects from the discharge of additional stormwater provided it is managed in accordance with the conditions of that permit;
4. Effects from the activities permitted in the School zone applying to the site. In this regard I note that pre-schools and education facilities are a permitted activity;
5. Effects from the temporary construction activities taking place on the site at 273 Victoria Avenue and from its eventual occupation as a residence;
6. Effects from the presence of two other schools in the surrounding area; and
7. Effects from Shore Road, being a busy arterial road.

8.3 Objectives and Policies for the School Zone

The objectives and policies for the School zone are set out at H29.2 and H29.3 respectively and are relevant under Rule C1.8(1). Table 4 provides an assessment of the proposal against these.

Table 4 - School Zone Objectives and Policies

Objective/Policy	Comment
H29.2. Objectives	
<p>(1) The educational needs of school students are met and the well-being of students, staff and visitors is provided for.</p>	<p>The construction of the proposed preschool will enable the existing preschool to be relocated from its existing site and thereby enable the Applicant to continue to meet the educational needs of the preschool’s students as well as the wellbeing of staff, students and the parents of students.</p> <p>Furthermore, the construction of the preschool will enable the preschool roll to be expanded from 50 to 75 thereby enabling the Applicant to meet the educational and wellbeing needs of more students.</p> <p>Accordingly, it is my opinion that granting consent to the proposal will help to give effect to this objective.</p>
<p>(2) School activities, including the development of new schools and appropriate redevelopment, intensification and expansion of existing schools, are enabled.</p>	<p>Although this objective does not specifically mention preschools, both schools and preschools are permitted in the School zone, so the objective should be read as applying to both.</p> <p>This objective recognises that the intensification of Auckland’s urban area can only be successfully achieved in concert with appropriate development and intensification of Auckland’s social facilities.</p> <p>It is my opinion that the proposed preschool, as an activity permitted in the School zone and complying with the standards for the School zone, represents an “appropriate”</p>

Objective/Policy	Comment
	<p>redevelopment and intensification of the site and should therefore be enabled.</p> <p>As such, it is my opinion that granting consent to the proposal will give effect to this objective.</p>
<p>(3) Opportunities for communities to use school facilities, and for the co-location of school and community facilities are provided.</p>	<p>N/a</p>
<p>(4) Adverse effects of schools, community facilities and associated activities and their use on adjacent areas are avoided, remedied or mitigated.</p>	<p>The adverse effects of the proposal, to the extent that these are within the scope of Council's discretion, are addressed in the sections below, relating to each of the matters requiring consent.</p> <p>It is my opinion that any adverse effects on adjacent areas will be less than minor.</p>
<p>H29.3. Policies</p>	
<p>(1) Enable the efficient utilisation of school land, buildings and infrastructure.</p>	<p>This policy supports objectives 1 and 2 above and provides part of the policy basis for the standards for the zone, which provide for more intensity than most schools currently achieve and significantly more intensity than the St Kentigern School campus has been developed to, to date.</p> <p>It is my opinion that the proposal is supported by, and gives effect to, this policy. The proposal will enable the Applicant to make more efficient use of the valuable school land and existing infrastructure.</p>
<p>(2) Enable a range of activities including education, recreation, early childhood learning services, worship and residential accommodation, and appropriate accessory activities.</p>	<p>This policy supports objectives 1 and 3 and provides the policy basis for the range of activities permitted in the zone, which includes preschool facilities.</p> <p>Given that the proposal is for the construction of a preschool, the proposal is supported by, and gives effect to, this policy.</p>

Objective/Policy	Comment
(3) Enable community use of the existing and future school land, buildings and infrastructure and the co-location of school and community facilities....	N/a.
(4) Minimise adverse effects on adjacent properties from development that causes overshadowing, visual domination, loss of visual privacy and loss of other amenity values by the use of building setbacks, screening, graduated building heights and by locating higher buildings away from the zone boundary.	<p>This policy supports objective 4 and provides the policy basis for the height, yard, height in relation to boundary and screening standards specified in the School zone standards.</p> <p>The proposal gives effect to this policy by complying with all of those standards (as well as all of the other standards for the zone).</p>
(5) Provide for additional building height in identified locations ...	<p>This policy supports objectives 1 and 2 and provides the policy basis for the height variation standard specified in the School zone standards.</p> <p>That standard is not applicable to the site. Hence, the policy is also not applicable.</p>
(6) Encourage new buildings to be designed to provide a high standard of amenity and safety.	<p>This policy possibly links (somewhat tenuously) to objectives 1 and 4 but is not supported by any rules, except to the extent that resource consent is required for new buildings within 10m of a road or open space zone.</p> <p>This is presumably why the policy seeks to “encourage” rather than “require” new buildings to provide a high standard of amenity and safety.</p> <p>In this case, it is my opinion that the proposal does provide a high standard of amenity and safety and that this is evident in the resulting design.</p>
(7) Require new buildings and significant additions to buildings that adjoin streets and public open spaces to be designed to contribute to the maintenance and enhancement of amenity values while enabling the efficient use of the site.	<p>This policy needs to be read in the context of the requirement for resource consent for new buildings and additions to buildings visible from and located within 10m of a public road or open space zone.</p> <p>In other words, the intent of this policy is to guide the assessment of applications to construct new buildings and additions to</p>

Objective/Policy	Comment
	<p>buildings within 10m of a public road or open space zone.</p> <p>As the proposed building is more than 10m from the nearest public road and open space zones, this policy does not apply to this application.</p>

Based on the assessment above, it is my opinion that the proposal can (and should) be assessed as strongly and positively contributing to the achievement of the objectives and policies of the School zone.

The objectives and policies for vegetation and transportation are also relevant to the application, however, to avoid duplication of assessment, are addressed under the matters requiring consent below.

8.4 Vegetation Removal and Alteration

As noted in section 6.1 above, the proposal requires resource consent for the removal of four indigenous trees over 3m height and work within the root zone of ten indigenous trees over 3m height within a horizontal distance of 20m from the top of a "cliff" that has a slope steeper than 1 in 3 and is within 150m of MHWS.

The objectives and policies for vegetation management are set out in E15.2 and E15.3 respectively while the relevant matters of discretion and assessment criteria are set out at E15.8.1(1) and E15.8.2(1) respectively. These have been comprehensively addressed in the arborist's report in Appendix 5. I accept the arborist's assessment. I note by way of summary that:

1. The four trees proposed for removal appear to be planted rather than naturally occurring, do not include any threatened species, are not part of a threatened ecosystem, and are not part of a significant ecological area, outstanding natural landscape, outstanding natural feature, outstanding natural character area or high natural character area.
2. The trees proposed for removal are well removed from the nearest public spaces including the coast and their removal is unlikely to be discernible from, let alone have adverse effects on the amenity of, the nearest public spaces.

3. The proposed tree removal will have a negligible adverse effect on ecological and indigenous biodiversity values and these negligible adverse effects will be more than mitigated by the proposed replacement planting.
4. The trees proposed for removal do not serve a significant function in terms of ground stabilisation or soil conservation and their removal from the outer edge of the existing bush line will not cause or exacerbate any natural hazard.
5. The removal of the trees is necessary to enable the development of the site in accordance with its zoned purpose by way of a building that complies with all of the standards for the School zone.
6. The work proposed within the root zone of the other protected trees can be managed as set out in the arborist's report to avoid any significant adverse effects on those trees.

On the basis of the above, it is my opinion that the proposal does not conflict with the objectives and policies for vegetation management, and it would be appropriate having regard to the relevant assessment criteria to grant consent to the removal of the identified vegetation, subject to the proposed replacement planting, and work within the root zone of the other vegetation.

8.5 Vehicle Access to Shore Road

As noted in section 6.1 above, the proposal requires resource consent for use of two existing vehicle crossings where a vehicle access restriction applies under standards E27.6.4.1(2) and/or E27.6.4.1(3). In this case, a vehicle access restriction applies because Shore Road is an arterial road.

The objectives and policies for transport are set out in E27.2 and E27.3 respectively while the matters of discretion and assessment criteria for use of a vehicle crossing subject to a vehicle access restriction are set out at E27.8.1(12) and E27.8.2(11) respectively.

The assessment criteria noted above have been comprehensively addressed in the traffic engineer's report in Appendix 4. I accept the traffic engineer's assessment.

With regard to the objectives and policies and the traffic engineer's assessment, I note that:

1. The preschool has no reasonable alternative to access from an arterial road.

2. The application does not propose any changes to the existing vehicle crossings.
3. The Transport Assessment in Appendix 4 confirms that Gate 1 provides safe and efficient access to and from the campus and will continue to do so with the additional traffic expected to eventuate following construction of the preschool.
4. The Transport Assessment also confirms that use of the access to 70 Shore Road for service and maintenance vehicles will be less intensive than the present use of the access for residential purposes, and that the access and crossing will provide safe and efficient access and egress for those service and maintenance vehicles.
5. The Transport Assessment confirms that the draft Construction Traffic and Management Plan (“**CTMP**”) appended to the application provides a good basis for managing the potential adverse effects of construction traffic on Shore Road and that, subject to the submission of a final CTMP, there are no traffic management reasons to preclude the granting of resource consent.

On the basis of the above, it is my opinion that the proposal is appropriate having regard to the relevant objectives and policies for transport, the matters of discretion for the infringement of standards and the matters of discretion and assessment criteria for the use of existing vehicle crossings subject to a vehicle access restriction.

8.6 Positive Effects

As noted in section 8.1 above, Rule C1.8.(3) of the AUP states that any positive effects of allowing an activity may be considered by Council despite the absence of any specific reference to positive effects in the objectives, policies, matters of discretion or assessment criteria.

In this case, it is my opinion that the proposal will have a number of significant positive effects. In particular, the proposal will:

1. Enable the Applicant to continue providing preschool services following the sale of the existing preschool site on Remuera Road.
2. Enable children to continue attending the St Kentigern preschool following the sale of the existing preschool site on Remuera Road.
3. Reduce travel distances for parents who have children at both the preschool and primary school (as they will only need to visit one campus once the two facilities are co-located).

4. Improve the amenity of the site, by replacing a tired and unremarkable old house with an architecturally designed and visually appealing pre-school building that will sit unobtrusively within the existing landscape.
5. Maintain the views over the site from the adjoining properties to the south – views that would be lost if the Applicant proposed a building constructed to the height permitted on the site.

8.7 Other Matters

8.7.1 Purpose and Principles of the RMA

As noted above, the Council's discretion is restricted to the matters identified in the AUP for the matters requiring consent.

As the AUP does not refer to Part 2 of the Act under the relevant matters of discretion, Part 2 of the Act cannot support the grant or refusal of consent.

In addition to, and irrespective of the above, case law has established that, where a plan has been competently prepared having regard to Part 2, and has a coherent set of policies designed to achieve clear environmental outcomes, reference to Part 2 is unlikely to add anything and could not justify an outcome contrary to the clear thrust of the policies.⁹

It is my opinion that the AUP includes a coherent set of policies relevant to this application, designed to achieve clear environmental outcomes, and that the proposal gives effect to those policies (refer assessment in sections 8.2 to 8.5 above). As such, it is not necessary to refer to Part 2 of the RMA to justify an outcome, let alone an outcome contrary to the clear thrust of the policies in the AUP.

8.7.2 National Policy Statements

As noted above, the Council's discretion is restricted to the matters identified in the AUP for the matters requiring consent.

It is my assessment that the AUP does not require or provide scope for an assessment of the application against any national policy statement.

⁹ RJ Davidson Family Trust v Marlborough District Council [2018] NZCA 316.

8.7.3 Regional Policy Statement

It is my opinion that the proposal is not of regional significance¹⁰ and that an appropriate assessment, commensurate with the scale and significance of the proposal, can be undertaken by reference to the relevant lower-order objectives and policies of the plan (as per the assessment above).

8.7.4 Any Other Matter

As the application is exclusively for restricted discretionary activities, the Council does not have the ability in this case to exercise the broad discretion under section 104(1)(c) of the RMA to consider *“any other matter the consent authority considers relevant and reasonably necessary to determine the application.”*

¹⁰ The proposal does not require consent for any regional plan matters.

9 Consultation

9.1 Council

Representatives of the Applicant and project consultants held an online pre-application meeting with Council officers on 25 September 2020 to brief the Council on the project and obtain preliminary feedback. The Council’s minutes from that meeting are provided at Appendix 12.

Table 5 below summarises the feedback from Council and the Applicant’s response to that feedback.

Table 5 – Council Feedback

Council Feedback/Recommendations	Applicant’s Response
A detailed noise assessment should be provided to support the application (to confirm compliance with the relevant AUP noise standards).	An acoustic report is provided as Appendix 8. The report confirms that construction and operational noise will comply with the relevant AUP noise standards.
Noting the sensitivities of the activity to flooding hazards, it is recommended to confirm whether the space for the piles are left empty, fenced, or gated.	The parties agreed post-meeting that this was not a matter over which Council has scope as the proposed building is well away from and above the stream and the engineering report shows that the closest overland flowpath will be diverted around the building and not flow under the building. Nevertheless, the plans have been updated to show that the underfloor area will be enclosed with a steel mesh or similar which will prevent human entry while allowing any water that might somehow enter the space to also exit the space.
The assessment of the resource consent will focus solely on the compliance with the consent conditions of the stormwater discharge consent currently held by the Trust Board.	The engineering report in Appendix 6 confirms that the proposal will comply with the conditions of the stormwater discharge permit held by the Trust Board.
Show all parking space dimensions, manoeuvring dimensions and associated gradients on the architectural plans.	These were originally shown on the engineering plans but have now been added to the architectural plans as well. Refer Appendix 3 for the architectural plans.

Council Feedback/Recommendations	Applicant's Response
Provide 85th percentile car tracking curves for end parking spaces and parking spaces with non-compliant manoeuvring dimensions.	The Transport Assessment in Appendix 4 includes car tracking curves for the end parking spaces (all parking spaces have compliant dimensions).
Provide comments on width and gradients of the existing vehicle access at 70 Shore Road and whether it can accommodate servicing vehicles and emergency vehicles safely.	Refer Transport Assessment in Appendix 4. The intention is for emergency vehicles to access the preschool via Gate 1 rather than the driveway to 70 Shore Rd.
Provide an assessment on lighting.	Lighting will be provided as set out in Appendix 7. The proposed lighting will provide for safe use of the facilities at night (for the limited times it will be used at night) and will comply with the relevant AUP lighting standards.
The construction traffic assessment should take into account the overlap in the construction traffic with construction traffic generated by existing developments underway. The traffic report should provide the parameters that would be required to be included in the construction traffic management plan.	The draft Transport Assessment submitted for the pre-application meeting has been updated to include the requested details. In addition, a draft Construction Traffic and Management Plan has now been prepared. Refer appendices 4 and 10 respectively.
The traffic assessment must take into account the level of traffic that would be introduced into the network as a result of the Specialist Facilities Building and the Girls School Building. The assessment must demonstrate that the proposed pre-school and its associated traffic movement can be accommodated in this network.	The draft Transport Assessment has been updated to include SIDRA modelling of the Gate 1 access operation, taking account of predicted traffic movements from the Specialist Facilities and Girls School buildings. Refer Transport Assessment in Appendix 4.
The application should demonstrate that the proposal meets the earthworks general standards of the plan. The erosion sediment control plan should take into account the presence of the watercourse.	Refer the Planning Rules Assessment in Appendix 11, the Engineering Report in Appendix 6 and the conditions of consent offered as part of the application.
The fire fighting capabilities will need to be confirmed, and testing should be undertaken to confirm the availability of water pressure. The proposal will also increase the wastewater	Noted (these matters are beyond the scope of the Council's discretion on the application but will be assessed at building consent stage).

Council Feedback/Recommendations	Applicant’s Response
generated from the site, which would be required to be assessed.	
The applicant is advised of the responsibility of obtaining the necessary approvals from the relevant asset owners, particularly Watercare Services Limited, for the connection into the public wastewater lines.	Noted (approval from infrastructure asset owners is beyond the scope of the Council’s discretion on the application but will be addressed at the appropriate point).

The Council concluded the pre-application minutes by noting the following:

The proposal is likely to meet permitted standards as it relates to a number of matters, and technical reporting will be reviewed to confirm whether these standards are met, by Council officers.

On the basis that the adverse traffic effects are managed and mitigated, and that the noise levels meet the permitted standards of the Plan, the Council sees no reasons why the consent would not be granted.

9.2 Local Board

I am advised that the Boys’ School Principal (on behalf of the Trust Board) met with three representatives of the Orakei Local Board on 17 September 2020 to discuss a range of projects at and around the school including the proposed preschool. I am advised that the Local Board was provided with the preschool plans available at that time and that the proposal was well-received by the Local Board representatives.

I am advised that the Boys’ School Principal sent updated plans to the Local Board on 23 October 2020 with an offer of ongoing dialogue if the Board has any questions or concerns. As at the time of writing, no feedback has been received.

9.3 Neighbours

I am advised that the Boys' School Principal (on behalf of the Trust Board) has contacted all but one of the neighbours adjoining 70 Shore Road on multiple occasions since July 2020 to advise them of the project and seek feedback.¹¹

I am advised that the neighbours were initially contacted by email on 29 July to advise that the Trust Board was commencing design work on a preschool at 70 Shore Road and that further information would follow. I am advised that the neighbours were provided with the contact details for the School Principal and invited to make contact if they had any early questions about the project.

I am advised that the Boys' School and Preschool Principals subsequently met with the neighbours from 68 and 72 Shore Road on 5 August and 279 Victoria Avenue on 6 August. I am advised that the neighbours had questions relating to the locations of the building and parking; use of the driveway to 70 Shore Road; the number of parking spaces; tree removal and trimming; and fencing; and that the proposal was well-received.

I am advised that further contact was made in early September (half on 7 September and the rest on 8 September) when a letter (dated 25 August), list of FAQs and set of preliminary plans were hand delivered to each of the adjoining properties. A copy of that documentation is provided as Appendix 13. I am advised that this contact elicited three responses from neighbours as follows:

1. An email from the neighbour at 279 Victoria Ave querying whether the architect's sections were accurate and the potential impact on the health and safety of the Oak tree located to the north of the proposed preschool building.
2. An email from the neighbour at 68 Shore Road advising that she would be sorry to see the Norfolk Pine go but thought the plans were very impressive. The neighbour queried whether the pedestrian access would be for the preschool only.
3. An email from the neighbour at 72 Shore Road commending the School on such a modern and innovative design, seeking assurance that the driveway to 70 Shore Road

¹¹ The School has not been able to contact the owners of 273 Victoria Avenue, as this site was initially vacant and is now a construction site.

would only be used for service vehicles, querying whether the said driveway would be gated and querying the extent of pedestrian use of the said driveway.

With regard to the above queries I note that:

1. The architect's sections are accurate. The neighbour's query arose from a misreading of the sections.
2. The Oak tree to the north of the preschool building is not protected under the AUP but Peers Brown Miller are confident that it is practicable to retain the tree. The health of the tree will be monitored by PBM and appropriate steps taken if any risk to the safety of the preschool or neighbours becomes evident.
3. The driveway to 70 Shore Road is proposed to be used for service and maintenance vehicles only – all other vehicles and all pedestrian activity will be directed to Gate 1. A gate is proposed to be installed at the bottom of the driveway to control access to the site. This should deter use other than pre-arranged use by service and maintenance personnel.

Finally, I am advised that a letter and updated set of plans were hand delivered to each of the adjoining properties in mid-October (most on 19 October and two on 20 October). This documentation is provided as Appendix 14. I am advised that this update elicited two further responses being:

1. A question at the time of delivery from the neighbour at 64 Shore Road who was concerned about the safety of a tree adjacent to her boundary.
2. An email from the neighbour at 72 Shore Road who advised he was happy with the proposal but thought Council might be interested in the work adjacent to the Oak tree north of the building.

With regard to the above queries I note that:

1. The tree by the boundary with 64 Shore Road is well away from the area of works and not affected by the application. The Applicant has undertaken to have the tree checked by Peers Brown Miller.
2. As noted above, the Oak tree to the north of the preschool building is not protected under the AUP but Peers Brown Miller are confident that it is practicable to retain the tree.

9.4 Wider Public Consultation

Wider consultation has not been undertaken for this application, nor should it be necessary in my opinion given the statutory direction that consultation is not a duty per se¹²; the limited matters requiring consent; the fact that the proposed building easily complies with the “bulk and location” standards for the zone; and the nature and scale of the effects of the proposal on the environment.

¹² Refer Section 36A and Schedule 4 of the Act.

10 Conditions of Consent

10.1 Scope for Conditions

Section 108 of the RMA sets out the kinds of conditions that may be imposed on a resource consent, however, the power to impose these conditions is limited by sections 104A, 104C and 108AA of the Act.

In particular, under section 104C, the Council may only impose conditions on a restricted discretionary activity for those matters to which Council has restricted its discretion in its plan or proposed plan.

In addition, under Section 108AA of the RMA, the Council may only include a condition if:

1. The applicant agrees to the condition;
2. The condition is directly connected to an applicable district or regional rule or NES;
3. The condition is directly connected to an adverse effect of the activity on the environment; or
4. The condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.

A district or regional rule is **applicable** if the application of that rule to the activity is the reason, or one of the reasons, that a resource consent is required for the activity.

10.2 Proposed Conditions

Based on the Council's scope for imposing conditions, and the assessments provided in section 7 above and Appendix 11 (for permitted activities), conditions of consent to the effect of those below would be appropriate and form part of the application.

10.2.1 General Conditions

Development in Accordance with Approved Plans and Reports

1. Subject to the conditions below, the proposed development shall be constructed in general accordance with the following plans and reports submitted as part of the application:

Plans prepared by Collingridge and Smith Architects (UK) Ltd under the project title “Shore Road Preschool”:

Drawing Title	Drawing No.	Revision No.	Date
Site Location Plan	A101	02	14/10/20
Site Survey	A102	02	14/10/20
Vegetation Management	A103	02	14/10/20
Proposed Site Plan	A104	02	14/10/20
Ground Floor Plan	A105	02	14/10/20
Roof Plan	A112	02	14/10/20
Site Sections	A201	02	14/10/20
Site Sections	A202	02	14/10/20
Section 1:20	A203	02	14/10/20
Site Elevations	A301	02	14/10/20
Site Elevations	A302	02	14/10/20
Elevations	A303	02	14/10/20
Elevations	A304	02	14/10/20

Reports:

Civitas Ltd, Assessment of Environmental Effects titled “Saint Kentigern Preschool, Remuera”, 30 October 2020.

Markplan Consulting Ltd, Engineering Report titled “Engineering Report to Support Land Use Consent Application for the Proposed Preschool located at 70 & 74-84 Shore Road, Remuera, Auckland”, October 2020.

Peers Brown Miller Ltd, Arboricultural Assessment titled “Resource Consent Report – Works for Proposed New Preschool Affecting Protected Trees at 70 Shore Rd, Remuera (St Kentigern School)”, 31 August 2020.

Marshall Day Acoustics Ltd, Noise and Vibration Assessment titled "St Kentigern Preschool Assessment of Noise and Vibration for Resource Consent", revision 1, 19 October 2020.

Flow Transportation Specialists Ltd, Transport Assessment titled "Saint Kentigern Shore Road Campus Preschool Development", 28 October 2020.

eCubed Building Workshop Ltd, Lighting Assessment (letter) titled "Saint Kentigern Pre School External Lighting Compliance", 21 October 2020.

Aspec Construction Ltd, Draft Construction Traffic and Management Plan titled "Saint Kentigern School, Shore Rd, Preschool", revision 2, 22 October 2020.

10.2.2 Pre-development Conditions

Start of Works

2. The consent holder shall advise the Team Leader, Central Compliance and Monitoring, Licensing & Regulatory Compliance, Auckland Council of the intended start date for the works authorised by this consent at least 10 working days prior to the commencement of work.

Finalised Construction Traffic and Management Plan

3. Prior to commencement of any works on the site, the consent holder shall submit a final Construction Traffic and Management Plan (CTMP), in general accordance with the draft CTMP referenced in condition 1, to the satisfaction of the Team Leader, Central Compliance and Monitoring. The CTMP shall include specific details to avoid, remedy or mitigate adverse effects on the environment as a result of demolition and construction activities, and traffic associated with these demolition and construction activities, including:
 - a. Details of the site manager, including their contact details (phone, email and postal address).
 - b. The location of a notice board adjacent to Shore Road that clearly identifies the name, telephone number and address for service of the site manager.
 - c. The management of contractor parking during the demolition and construction activities on-site to minimise use of on-street parking.

- d. The management of heavy vehicle access and routes to minimise disruption to the road network and nearby residential areas.
- e. The proposed days and hours of construction, which shall be limited as necessary to comply with the conditions of this consent relating to construction noise.
- f. Measures to be adopted to maintain the site in a tidy condition in terms of storage and disposal of rubbish, storage and unloading of construction materials and similar construction activities.
- g. A complaints management system. This must specify the responsible persons for maintaining the complaints register, procedures to be followed in investigating and resolving complaints and procedures for reporting complaints to Council.
- h. Cross-references to other documents required under the conditions of consent and relevant to construction management including the erosion and sediment control plan proposed to be implemented.

Vegetation Management

4. Prior to commencement of any works on the site, the consent holder shall appoint a supervisory arborist (works arborist) to advise upon and supervise the tree protection measures required to ensure that the works have no more than a minor adverse effect on the protected vegetation being retained on the site. The name and contact details for the works arborist shall be provided to the Council's Specialist Unit Arborist prior to the commencement of work.
5. Prior to commencement of any works on the site, the consent holder shall hold a meeting on site to discuss all issues pertaining to the protection of the protected vegetation being retained on the site to gain a common understanding of the proposed tree protection measures and conditions of consent in that regard. The following shall be present at the meeting:
 - The site foreman or project manager
 - A Council arborist and/or monitoring officer
 - The appointed works arborist
 - The appointed arboricultural contractor

- Any other relevant personnel
6. During the pre-commencement meeting, the appropriate methods of protecting the retained trees and vegetation shall be agreed upon and, before any works commence in the vicinity of the trees, the agreed protective fencing or ground protection shall be put in place. If any of the required silt fencing can double as vegetation protection fencing, this issue should be discussed and agreed upon at the pre-commencement meeting.

10.2.3 During Development Conditions

Construction Management

7. The consent holder shall ensure that all demolition and construction activities are managed in accordance with the CTMP approved under condition 3.
8. All storage of materials and loading or unloading of equipment and plant associated with construction shall take place within the site boundaries unless otherwise approved by the Team Leader Central Compliance & Monitoring.

Construction Vibration

9. Construction vibration relating to the risk of cosmetic building damage shall comply with Standard E25.6.30(1)(a) of the Auckland Unitary Plan (Operative in Part) 2016.
10. Construction vibration relating to amenity effects shall comply with Standard E25.6.30(1)(b) of the Auckland Unitary Plan (Operative in Part) 2016.

Construction Noise

11. Noise from all construction works excluding tree works shall comply with Standard E25.6.27 of the Auckland Unitary Plan (Operative in Part) 2016.
12. Noise from tree works (cutting down, removal and chipping of trees) shall comply with the 'short term duration' construction noise limits in Standard E25.6.27(4) of the Auckland Unitary Plan (Operative in Part) 2016.
13. Noise from construction activities shall be measured and assessed in accordance with New Zealand Standard NZS 6803: 1999 "Acoustics - Construction Noise".

Earthworks Management

14. Subject to any amendments approved by Council, erosion and sediment control measures shall be put in place in accordance with the erosion and sediment control plan appended to the engineering report referenced in condition 1. Any amendments to the specified measures must be approved in writing by the Team Leader Central Compliance & Monitoring prior to being implemented on site.
15. The erosion and sediment control measures referred to above shall be put in place prior to any earthworks commencing and shall be maintained in good working order until all earthworks have been completed and stabilised to prevent further erosion or sediment runoff.
16. All areas of exposed earth shall be stabilised against erosion as soon as practicable and in a progressive manner as works are completed. All earthworks and areas of bare earth not being worked for 3 months or more shall be hydro-seeded or otherwise stabilised against erosion.
17. In the event that any sediment and/or soil is deposited onto the road network, the consent holder shall take immediate action to clean the street. Cleaning shall be to the satisfaction of the Council's monitoring officer or delegated representative.
18. In order to minimise the potential for dust nuisance, the consent holder shall ensure that the earthworks area is kept damp during dry windy periods (e.g. through the use of a hose or water cart).
19. Any dewatering of trenches and other excavations shall be undertaken in accordance with best practice to avoid the discharge of untreated sediment laden water to any stormwater system or water body.
20. Trenching shall be progressively closed and stabilised so that no more than 120m of continuous trench is exposed to erosion at any one time.
21. The consent holder shall comply with Standard E12.6.1 of the Auckland Unitary Plan 2016 in the event that any "sensitive material" (as defined in that standard) is discovered during excavation of the site.

Tree Protection Measures

22. Prior to any vegetation clearance commencing, the trees proposed for removal shall be clearly marked by the works arborist.
23. The removal of trees and vegetation shall be undertaken by a qualified arboricultural contractor who shall ensure that no trees are felled into protected areas and that no collateral damage occurs to retained protected vegetation.
24. The areas of open ground enclosed by protective fencing shall be deemed a total exclusion zone during the demolition and construction phases and shall not have any materials, spoil, equipment, fuels, oils or any toxic liquids deposited within them.
25. Where any silt fencing is to be erected through the root zone of a protected tree proposed to be retained, there should be no trench excavations for the purpose of toeing in the base of the fence. Mulch-filled socks should be used in such scenarios.
26. The works arborist shall be consulted on the erection of any scaffolding needed at the perimeter of the building where passing through the 20m offset zone. The arborist shall assist with the placement of scaffolding close to any protected vegetation with the objective of avoiding the removal of any such vegetation. Any pruning required shall be undertaken by, or under the direction of, the works arborist in accordance with correct arboricultural practice, and within the scope of what is permitted under the standards for pruning in such a zone.
27. The works arborist shall supervise the excavation of the pile holes for the deck on the western perimeter of the preschool building that are within the root zone of the adjacent Totara tree. The initial cut to define the outside edges of holes for the piles shall be made by hand (spade), by the works arborist, to a depth of 400mm prior to the further deeper excavation. Any root which may be encountered in the depth of the excavation shall be severed cleanly at the excavation face.
28. Washings derived from the production of concrete shall not be flushed onto the open ground within the root zone of any tree or area of retained bush.

Outdoor Lighting

29. Outdoor lighting shall be installed to provide for safe night-time use of the main preschool carpark and designed to comply with the standards specified in Standard E24.6.1 of the Auckland Unitary Plan (Operative in Part) 2016.

Bike Parking

- 30. Bicycle racks shall be provided for a total of at least two staff bicycles and three visitor bicycles in close proximity to the preschool building.

10.2.4 Post-development Conditions

Repair of Public Assets

- 31. The consent holder shall repair, reinstate or reconstruct any footpaths, berms, kerbs or vehicle crossings damaged as a result of construction works on the site, to the satisfaction of the Team Leader Central Compliance & Monitoring.

Arboricultural Compliance

- 32. Compliance with the conditions of consent for vegetation protection shall be monitored and logged by the appointed works arborist. The completed log shall be submitted to the Team Leader Central Compliance & Monitoring within one month of completion of the project to serve as a compliance report.

Replacement Planting

- 33. The consent holder shall undertake replacement / mitigation planting in accordance with the replacement planting plan and specifications prepared by Peers Brown Miller Ltd and appended to the Peers Brown Miller Arboricultural Assessment referenced in Condition 1. The planting shall be implemented within the first planting season following completion of the works and maintained for a minimum of three years following completion.

Operational Noise

- 34. The noise rating level from all activities associated with the operation of the preschool shall not exceed the following noise performance standards when measured within the boundary of any site zoned Residential and not owned by the consent holder:

Monday to Saturday 7:00 am to 10:00 pm Sunday 9:00 am to 6:00 pm	At All Other Times
55 dB LAeq	45 dB LAeq, 75 dB LAFmax

35. Noise levels shall be measured in accordance with the provisions of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of environmental sound" and assessed in accordance with the provisions of New Zealand Standard NZS 6802:2008 "Acoustics - Environmental Noise".

10.3 Advice Notes

It may also be appropriate for the following advice notes to be recorded:

1. This resource consent will expire five years after the date of commencement of consent unless it is given effect to before the end of that period or the Council grants an extension of the lapsing period.
2. A copy of this consent should be held on site at all times during the establishment and construction phase of the activity.
3. The consent holder should note that all archaeological sites are protected under the Heritage New Zealand Pouhere Taonga Act 2014 whether previously recorded or not. In the event of contractors uncovering archaeological remains (e.g. shell, middens, hangi or ovens, pit depressions, defensive ditches, artifactual material or human bones) work needs to cease in the vicinity of the discovery and Heritage New Zealand must be contacted so that appropriate action can be taken before any work recommences in that location.

11 Conclusion

The Applicant proposes to establish a preschool within the Special Purpose – School zone at 70 and 74-84 Shore Road, Remuera.

Preschools are a permitted activity within the zone and the proposed preschool has been designed to comply with all of the standards for the zone.

As consequence, resource consent is required for just two matters relating to the Auckland-wide vegetation and transport rules and Council's discretion in assessing the application is restricted to the matters identified in the AUP for those two consent matters.

Furthermore, the Council can only impose conditions if the Applicant agrees to the conditions, the conditions are directly connected to one of the matters requiring consent, the conditions are directly connected to an adverse effect on the environment or the conditions relate to administrative matters that are essential for the efficient implementation of the resource consent.

It is my assessment that the proposal is appropriate having regard to the matters to which the Council has restricted its discretion. In particular, it is my assessment that:

1. The proposal will give effect to the objectives and policies for the School zone.
2. Granting consent to the proposal would be consistent with the objectives and policies for vegetation management and appropriate having regard to the assessment criteria for vegetation removal and alteration.
3. Granting consent to the proposal would be consistent with the objectives and policies for transport and appropriate having regard to the matters of discretion for the infringement of standards and the matters of discretion and assessment criteria for the use of existing vehicle crossings to an arterial road.

In addition, it is my assessment that the proposal will have a number of positive effects relevant to the Council's decision on the application. In particular, the proposal will:

1. Enable the Applicant to continue providing preschool services following the sale of the existing preschool site on Remuera Road.
2. Enable children to continue attending the St Kentigern preschool following the sale of the existing preschool site on Remuera Road.

3. Reduce travel distances for parents who have children at both the preschool and primary school (as they will only need to visit one campus once the two facilities are co-located).
4. Improve the amenity of the site, by replacing a tired and unremarkable old house with an architecturally designed and visually appealing preschool building that will sit unobtrusively within the existing landscape.
5. Maintain the views over the site from the adjoining properties to the south – views that would be lost if the Applicant proposed a building constructed to the height permitted on the site.

Overall, it is my opinion that the proposal is entirely consistent with what a reasonable person could expect to be developed on the site given its Special Purpose – School zoning. Indeed, if anything, the proposal is an underdevelopment of the site, and any adverse effects will be less than could be expected given the intensity of development provided for in the School zone.

Based on the above, it is my opinion that it would be appropriate to grant consent to this application.

Prepared by:



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