KELSON HEIGHTS LIMITED SUBDIVISION (64 WAIPOUNAMU DRIVE KELSON)

IN THE MATTER OF: Applications for resource consent made pursuant to Section 88 of the Resource Management Act 1991 (the Act).

THE APPLICATION: To subdivide residential-zoned land to create 142 residential allotments and 2.86 hectares of reserves and to undertake earthworks and works in streams to develop the roads, infrastructure and building platforms associated with the subdivision.

SITE: Approximately 14 hectares of land located west of Major Drive extending from the northern ends of Waipounamu Drive and Christchurch Crescent to the lower end of Kaitangata Crescent (Kelson – Lower Hutt).

APPLICANT: Kelson Heights Limited (the owner of the land).

SUBMISSIONS: Ten submissions were received within the submissions period which closed on 25th November 2008. Two submissions were received on 26th November 2008.

THE HEARING: Was held in the Council Chamber of the Hutt City Council (30 Laings Road, Lower Hutt) commencing at 9.30 am on Monday 16th and continued on Tuesday 17th and Wednesday 18th February 2009. The hearing closed at 12.20 pm on Wednesday 18th February 2009.

APPEARANCES AT THE HEARING:

For the Applicant:
- Mr Ray O’Callaghan (Consultant Civil Engineer specialising in engineering infrastructure services)
- Mr Ian Prentice (Consultant Registered Surveyor)
- Dr Ian Boothroyd (Consultant Ecologist specialising in the biodiversity and biological monitoring of freshwaters)
- Ms Jenny Grimmett (Consultant Planner)

Submitters:
- Mr Gary Stephenson on behalf of G and L R Stephenson
- Mr Peter Matcham on behalf of The Friends of Belmont Regional Park
- Ms Sally Johnston

For Wellington Regional Council:
- Ms Ange Lenz (Resource Advisor – Environmental Regulation)

For the Hutt City Council:
- Ms Rachel Helme (Resource Consents Planner)
- Mr Stuart Duncan (Project Officer and former Acting Divisional Manager, Environmental Policy at Hutt City Council)
- Ms Kelly Crandle (Reserves Asset Manager)
- Dr Paul Blaschke (Consultant Ecologist who had undertaken a peer review of Dr Boothroyd’s ecological assessment)
- Mr Bill Barclay (Consultant Traffic Engineer who had undertaken a peer review of the applicant’s traffic impact assessment)
- Mr Philip Murphy (Senior Road Asset Engineer)
DECISION
SUMMARY:

All consents are granted in part 27 of this decision subject to the conditions detailed in Attachments 1, 2 and 3.

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1 The Hearing Panel’s Delegated Authority

1.1 The proposed subdivision requires consents from both the Hutt City Council (HCC) and Wellington Regional Council (WRC). The Councils processed the applications contemporaneously and the hearing was a joint hearing by both consent authorities. On the 3rd February 2009, acting under their respective delegated authorities, the Divisional Manager, Environmental Regulation (WRC) appointed Commissioners Christine Foster (Chair), Sally Baber and Barbara Donaldson to hear and determine the applications made to WRC and the Divisional Manager Environmental Consents (HCC) appointed Commissioners Christine Foster and Ross Jamieson to hear and determine the application made to HCC.

2 Information Considered

2.1 Commissioners considered the following information that was either supplied prior to or during the hearing:

(a) The applications to HCC and WRC received by HCC and by WRC on 13th November 2007 together with a supporting description of the proposed subdivision and development works, an assessment of effects on the environment and supporting technical reports;

(b) Drawings numbered W0 5459 CS21D, CS22D, CS23B, CS24A, CS25A, CE21G, CE22F, CE23F, CE24A, CE25, C26, CX01, CR01D, CR02B, CU01D and CU02C describing the proposal;

(c) The submissions made by:

- Willy Soh (opposing the applications)
- Friends of Belmont Regional Park (opposing the applications)
- Wan Leuk Chan (opposing the applications)
- Sally Vanessa Johnston (opposing the applications)
- Jim Murtha (opposing the applications)
- Gary and Lynda Ruth Stephenson (opposing the applications)
- David and Tracey Young (opposed to and seeking amendments to the proposal)
- Transpower New Zealand Limited (requesting the imposition of conditions to assure the safety of its electricity transmission lines)
- Denise Maree Henderson (neither supporting nor opposing the proposal)
- Tania Marie Love (supporting the applications subject to conditions).

(d) The Section 42A reports prepared by Rachel Helme (for HCC) and Ange Lenz (for WRC);

(e) The peer review reports prepared by Dr Paul Blaschke and Bill Barclay;

(f) The HCC staff comments recorded in memoranda by Kelly Crandle (relating to reserves provision and design) and Philip Murphy (relating to roading and infrastructure services)
(g) All evidence presented at the hearing.

2.2 Commissioners undertook a site visit prior to the hearing (on Monday 9th February 2009) and a second visit to the locality surrounding the site at the close of the hearing on Thursday 19th February 2009. Thursday 29 January 2009 to view the places and features that were discussed in submissions and in evidence.

3 Late Submissions

3.1 Two submissions, from Tania M Love and Sally V Johnston, were received the day after the closing date for submissions. The applicant expressed no opposition to the submissions being received and considered. Commissioners are satisfied that no prejudice will be suffered by any party by allowing and considering the submissions. Commissioners understand that the Councils’ delegation of authority includes waivers and extensions of time pursuant to Section 37 of the Act. Accordingly, Commissioners record their decision, pursuant to section 37 of the Act, to retrospectively extend the closing date for submissions by one day until the 26th November 2008 to allow the submission by T M Love and S V Johnston to be received

4 Background – Development Of Kelson Residential Area

4.1 The 14.1334 hectare parcel of land that is proposed to be subdivided and developed is part of the moderately sloping hill country along the western hills of Hutt City. The land is bounded on three sides (to the north, east and southwest) by established residential properties that were subdivided by Fletchers in the 1970s. The surrounding residential development is medium density with individual section area generally approximately 500 to 600m².

4.2 Ms Rachel Helme, for the HCC, clarified that the whole area, including the land that is the subject of the current applications, would have had a residential zoning during the 1970s which enabled medium density subdivision and development. Mr Stuart Duncan, for the HCC, presented in evidence a scheme plan of subdivision by Fletchers dated 1973 which shows the land that is the subject of the current applications as Stages 10 and 11 of the 1973 proposal for medium density subdivision of a large area of the western Hutt Hills. Mr Duncan and Ms Helme explained that the subdivision of Stages 10 and 11 did not proceed and that the land was later acquired by the HCC. The HCC subsequently sold the land to a private developer who later sold it to the applicant.

4.3 It was Ms Helme’s evidence that the zoning of the applicant’s land was changed to the lower density Hill Residential in the 1994 draft District Plan and that this was carried through to the 1995 proposed District Plan and confirmed in the operative District Plan in 2003.

4.4 Neither Mr Duncan nor Ms Helme had been involved in the decision to alter the land’s zoning in the period 1994 to 2003 so neither could explain to us why that decision was made or whether it was contested at that time.

5 The Proposed Subdivision

5.1 The proposal is to develop 142 residential allotments ranging in size from 400m² to over 1,000m² in a ten-stage subdivision. Earthworks are required to form the roads and level building platforms within allotments. The applicant’s approach for this land is to lower the high parts of the site and use the material to fill the lower parts and
thereby 'smoothing' the landform. The intention is to create a cut to fill balance using approximately 224,750m³ of on-site material.

5.2 Earthworks are to affect approximately 9.3 hectares of the site and will proceed in two primary stages (being the western and eastern parts of the land). A total of 8 cuts and 6 filled areas are proposed. The highest cut will be approximately 13 metres high and the deepest fill will be approximately 15 metres deep. Earthworks and road development are to proceed in ten stages within the primary two earthworks phases over two summer earthworks seasons.

5.3 The applicant proposes to form near-level building platforms on each individual allotment. For some stages, this will mean that platforms are developed as a series of benches stepping along with the gradient of the road. The applicant intends that, long term, the fill or cut faces between benches will be retained with retaining walls. However, these fill and cut faces are not required to be retained for structural engineering reasons during development of the sites.

5.4 The site has road frontage and access to three existing roads: Waipounamu Drive, Christchurch Crescent and Kaitangata Crescent. It is proposed to extend road access only from Christchurch Crescent and Kaitangata Crescent using a pattern of cul-de-sacs. In addition to pedestrian footpaths along internal roads, it is proposed to provide pedestrian access connections from Road 3 to the existing children’s playground in Major Drive and from the cul-de-sac head of Road 2 to the boundary of Speedy’s Reserve which adjoins the site. This latter access is to provide for a future possibility of recreational walking tracks extending to this point in Speedy’s Reserve.

5.5 The site has a 2.5-metre wide strip extending to Major Drive. It is proposed to subdivide this strip out as a separate allotment (Lot 206) for transfer to one of the adjoining Major Drive properties.

5.6 Two large reserve allotments are also proposed totalling 2.86 hectares of land. They contain two gully systems with ephemeral streams that were identified by HCC’s consultant Ecologist (Dr Paul Blaschke) as being of ecological importance locally. For the most part, the earthworks proposed will remain clear of the natural areas within these reserves although some earthworks encroachment is necessary to support roads. The eastern part of proposed reserve Lot 201 is to be filled and levelled and finished to a standard suitable for use as an informal neighbourhood playing area and will have a pedestrian footpath connection between the roads along its northern and southern boundaries.

5.7 Proposed reserve Lot 201 contains a small wetland. An area upstream of the wetland was altered by unauthorised earthworks some years ago. Part of that area has been planted with native species in an attempt to restore the natural values there. The applicant proposes to supplement the planting in the vicinity of the wetland.

5.8 Much of the existing vegetation within the site is to be removed with the exception of large parts of the proposed reserves that are not to be earthworked.

5.9 The proposed filling of gullies requires the placement of subsoil drains beneath the fill. This will, in effect, reclaim portions of the upper gully sections of five ephemeral streams that are tributaries of Speedy’s Stream. A suite of erosion and silt control measures are proposed to manage sediment earthworks within the site but all surfacewater run-off from the earthworks is to discharge into the tributary streams. The proposal for long-term stormwater management from the fully developed subdivision is to collect surfacewater run-off from allotments and roads via kerb and
channel to sumps in the roads and to pipe that water to discharge points into the gully tributary streams.

5.10 All of the proposed allotments are capable of meeting the required District Plan shape factor and are expected to be capable of supporting a compliant residential dwelling and off-street parking. The applicant company intends to develop many of the allotments itself. No consents are sought or required for the development of dwellings at this stage however.

5.11 The applicant developed the 142-allotment plan in discussion with Council officers over an extended period and after considering but rejecting a number of alternatives. Recognising the potential for adverse effects arising from the proposed earthworks and development of the site, the applicant included with the applications a package of proposed mitigation which includes:

- the vesting of the two reserves and preservation of the natural areas within those reserves;
- minimising the area of earthworks exposed at any one time to reduce the potential for erosion and sedimentation;
- the implementation of erosion and sediment control measures during earthworks;
- restrictions on the hours during which earthworks construction will occur;
- grassing and restoration planting of batter faces using a mix of native species;
- supplementary planting in the vicinity of the wetland;
- weed control within areas to be planted;
- restrictions preventing future section owners planting known noxious and nuisance plant species to minimise the risk of spread of weeds;
- the creation of private covenants to protect areas of existing established vegetation within proposed allotments;
- restrictions on the materials able to be used in future house-construction so as to minimise the potential for contaminated discharges entering the reticulated stormwater system and ultimately flowing to Speedy’s Stream.

5.12 The application is accompanied by numerous requests for further information from both WRC and HCC and responses from the applicant. The final proposal, as amended by that further information is summarised in plans numbered:

- WO5459 CS 21D, CS22D, CS23B, CS24A, CS25A;
- WO5459 CX01;
- WO5459 CR01D, CR02B;
- WO5459 CU01D, CU02C.
6 The Environment Within And Surrounding The Site

6.1 The legal description of the land is Lot 1 DP 91313 held in computer freehold register WN59A/795 in the name of Kelson Heights Limited. The title is subject to one consent notice that states that future owners of land adjoining HCC land will be responsible for construction and maintenance of any fencing on all boundaries.

6.2 The site is 14.1334 hectares in area and is currently not developed. It is surrounded on three sides by established medium-density residential properties. The site’s fourth boundary, along its western edge, is with the upper part of Speedy’s Reserve. To the west of Speedy’s Reserve is the rural land within the Belmont Regional Park. Further north along Kaitangata Crescent is a neighbourhood of large rural-residential allotments on steep hills. There is a Transpower transmission line passing through Speedy’s Reserve to the immediate west of the site.

6.3 The site is not subject to any designations, heritage protections, identified natural hazards or significant natural, cultural or archaeological resources under the District Plan. The site is also not identified as contaminated under the WRC SLUR database.

6.4 The site has a mixture of steep and moderately rolling topography comprised of a series of about five west facing gullies and ridges. There are a number of streams through gullies within the site, draining to Speedy’s Stream. The upper reaches of these tributary streams are ephemeral and only the lower sections are permanently flowing. There is a small wetland at the upstream end of one of the tributary streams at the northern end of the site.

6.5 The site was once grazed pasture and is currently covered in a mix of gorse and regenerating native vegetation – predominantly mahoe with some pockets of manuka. There are some patches of good quality semi-mature native vegetation in the gullies and along some hill faces. There is also a stand of secondary broadleaf forest within the northernmost gully (in Lot 200).

6.6 There are some access tracks that have been excavated through the property in association with previous occupation of the land.

6.7 An area of vegetation within the northern end of the site was illegally cleared in 2006. The HCC investigated a complaint about vegetation clearance occurring on the site in May 2006 and found that a gully in the northern part of the site was being cleared of vegetation and some earthworks undertaken without resource consent. This resulted in the Environment Court ordering that the vegetation clearance and earthworks be ceased and that mitigation be carried out including sediment control measures and preparing and implementing a Vegetation Rehabilitation Plan for the revegetation and maintenance of the cleared area. Restoration planting of the cleared areas has now been carried out.
7 Reasons For Consents - Relevant RMA Provisions And
Plan

Rules

Hutt City Council Consents

7.1 The land is within the *Hill Residential Activity Area* of the operative Hutt City District Plan. Discretionary activity consent is required under that Plan for the proposed subdivision and earthworks because of non-compliances with Plan standards. In particular:

7.2 **Subdivision:** Rule 11.2.2.1 (a) requires a minimum allotment area of 1,000m² and minimum road frontage of 20 metres. Only five proposed allotments have the minimum area. All others fail to comply. Most of the proposed front sites have frontages less than 20 metres (typically approximately 17 to 18 metres). Rule 11.2.4 (i) provides for non-complying subdivisions to be considered as discretionary activities.

7.3 **Earthworks:** Subdivision Rule 11.2.2.1 (e) requires compliance with the earthworks standards of Rule 14I 2.1.1. Proposed Plan Change 10 introduced new standards for earthworks in November 2007 including a maximum vertical alteration in ground level of 1.2 metres and maximum earthworks volume of 50m³ (solid measure) per site. Clearly, the proposal fails to comply with those standards. Proposed Plan Change 10 has not been finally settled but, according to Ms Helme, can be considered to be operative in respect of these earthworks standards. The proposal therefore has to be considered as a restricted discretionary activity under Rule 11.2.3 (a) of proposed Plan Change 10.

7.4 **Site Area:** In addition to the minimum allotment area of Rule 11.2.2.1 (a), Rule 4D2.1.1 (a) requires a minimum net site area of 1,000m² for all permitted activities. Most of the proposed allotments are less than 1,000m² which creates non-compliance for most future activities. Consent is required as a discretionary activity under Rule 4D2.3 (a).

7.5 **Vegetation Removal:** Rule 4D2.2 states that the removal of vegetation in excess of 500m² or 35% of the site is a restricted discretionary activity under Rule 4D2.2 (b).

7.6 **Road Design:** There are two positions within the proposed roads where the minimum 90-metre forward visibility for vehicle drivers is not able to be achieved. These are at the intersection of proposed Road 2 looking east and in the vicinity of proposed Lots 14 to 19 where visibility is restricted by road curve. This aspect of the proposal requires consent as a discretionary activity under Rule 14A (i) 2.2 (a).

7.7 **Pedestrian Footpaths:** Rule 14A (i) 2.1 (h) requires footpaths on both sides of the road. The applicant proposes a single footpath along the southernmost end of proposed Road 3 and this does not comply with the standard. This non-compliance requires consent as a discretionary activity under Rule 14A (i) 2.2 (a).

7.8 **Distance From Intersections:** Rule 14A (ii) 2.1 (b) requires that driveways must be no closer to intersections than 8 metres. The proposed allotments located directly opposite intersections will not comply and require consent as a discretionary activity under Rule 14A (ii) 2.3 (a).

**Overall District Plan Consent Status**
7.9 Overall, the proposal requires consent as a discretionary activity under the District Plan and proposed Plan Change 10 although discretion is restricted in relation to earthworks and vegetation removal.

**Wellington Regional Council Consents**

7.10 **Piping And Reclaiming Streambed:** Section 13 of the Act states that:

(1) No person may, in relation to the bed of any lake or river, -

(a) Use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or

(b) Excavate, drill, tunnel, or otherwise disturb the bed; or

(c) ........

(d) Deposit any substance in, on, or under the bed; or

(e) Reclaim or drain the bed –

unless expressly allowed by a rule in a regional plan and in any relevant proposed regional plan or a resource consent.

7.11 The placing of pipes and outlet structures within stream beds is not specifically provided for by any rule of the Regional Freshwater Plan and requires consent as a discretionary activity under Rule 49 of that Plan. The reclamation of stream beds within the unnamed tributaries of Speedy’s Stream is not specifically provided for by the Regional Freshwater Plan and consent is therefore required as a discretionary activity under Rule 49 of that Plan.

7.12 **Permanent Diversion Of Stream Flow:** Section 14 of the Act states that no person may take, use, dam or divert any water unless that activity is expressly allowed by a rule in a regional plan or a resource consent. The piping of flow in parts of the tributary streams will permanently divert that flow. Rule 9 of the Regional Freshwater Plan permits permanent diversions provided specified conditions are met. The location of the streams closer than 50 metres to the site boundary means that one condition cannot be met. The diversion of parts of streams closer than 50 metres to a site boundary requires consent as a discretionary activity under Rule 16 of the Plan.

7.13 **Discharge Of Stormwater From Earthworked Areas:** Section 15 of the Act states that:

(1) No person may discharge any -

(a) Contaminant or water into water; or

(b) Contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; …..

unless the discharge is expressly allowed by a rule in a regional plan and in any relevant proposed regional plan, a resource consent, or regulations..

7.14 Rule 2 of the Regional Freshwater Plan for the Wellington Region provides for the discharge of stormwater as a permitted activity provided that specified conditions are
met including a restriction on the area of bulk earthworks. The proposed discharge will be from an area exceeding the 0.3 hectare maximum area of earthworks so will not comply. The discharge of water from the earthworked areas to water requires consent as a discretionary activity under Rule 5 of the Regional Freshwater Plan.

7.15 Rule 1 of the Regional Plan for Discharges to Land permits the discharge of any contaminant onto land provided specified standards are met. One standard prevents the contaminant entering unnamed tributaries of Speedy’s Stream. The proposed discharge therefore requires consent as a discretionary activity under Rule 2 of the Regional Plan for Discharges to Land.

**Overall Regional Plan Consent Status**

7.16 Overall, the proposal requires consent as a discretionary activity under the applicable Regional Plans.

**Matters to be Considered**

7.17 A consent authority’s power to make a decision on the application is set out in section 104B of the Act which states that:

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

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

7.18 Section 104 of the Act sets out the matters that must be given regard in considering the application and submissions received and states:

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to:

(a) any actual and potential effects on the environment of allowing the activity; and
(b) any relevant provisions of –

(i) a national policy statement [and there are no relevant national policy statements in this case];
(ii) a New Zealand coastal policy statement [which is potentially relevant in this case but no specific provisions or issues were raised to our attention];
(iii) a regional policy statement or proposed regional policy statement [in this case, both the operative Regional Policy Statement and the proposed One Plan];
(iv) a plan or proposed plan [the operative plans and the proposed One Plan in this case];

any other matter the consent authority considers relevant and reasonably necessary to determine the application.

7.19 Section 104C of the Act restricts the exercise of discretion to only certain matters specified in the plan or proposed plan where an activity is a restricted discretionary activity. This is relevant for the HCC consents required for vegetation removal and
earthworks. In relation to vegetation removal, the restricted matters are listed in Rule 4D 2.2.1 (b) as:

(i) Amenity Values:

The adverse effects upon the visual amenity values of the site and surrounding area caused by the removal of any trees or vegetation. Consideration shall be had to the visual prominence of the vegetation, and any replacement planting to be undertaken.

(ii) Site Stability:

The adverse effects upon the stability of the site caused by the removal of the trees or vegetation.

(iii) The Intrinsic Values of Ecosystems:

The extent to which the proposal will adversely affect the intrinsic value of ecosystems on the site and surrounding area.

7.20 In relation to earthworks, the restricted matters are listed in Rule 14I 2.2.1 as:

(i) Amenity Values:

The extent to which any earthworks proposal will adversely affect the visual amenity values of the area, and the extent to which the earthworks will cause unnecessary scarring and be visually prominent. Consideration must be given to adverse effects on visual amenity values, and the value of the site as a visual backdrop to the city.

The extent to which replanting or rehabilitation works are included as part of the proposal to mitigate adverse effects. Earthworks should not result in the permanent exposure of excavated areas.

(ii) Existing Natural Features and Topography:

The extent the proposed earthworks will alter the natural topography. Earthworks in these activity areas should be designed to retain the natural topography and protect natural features.

(iii) Historical or Cultural Significance:

The extent to which the proposed earthworks will affect adversely land and features which have historical and cultural significance.

(iv) Natural Hazards:

Consideration should be given to those areas prone to erosion, landslip and flooding. Excavation should not increase the vulnerability of people or their property to such natural hazards.

7.21 Section 104 is subject to Part 2. That means that, whilst regard must be given to the matters listed in Section 104, the relevant Part 2 matters must be given appropriate weight. In addition to Section 5, the following provisions of Part 2 are particularly relevant for this application:
Section 6 (a)  (preservation of the natural character of the coastal environment, wetlands, rivers and their margins and protection of them from inappropriate subdivision, use and development)

Section 6 (d)  (maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers)

Section 7 (c)  (the maintenance and enhancement of amenity values)

Section 7 (d)  (the intrinsic values of ecosystems)
7.22 The relevance of the matters referred to in section 104 is considered in discussing the principal issues in contention later in this decision.

7.23 In addition to the above matters, sections 105 and 107 of the Act are also relevant in relation to the proposed discharges to water. Section 105 states that regard must be given to:

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
(b) the applicant’s reasons for the proposed choice; and
(c) any possible alternative methods of discharge, including discharge into any other receiving environment.

7.24 Section 107 states that a consent authority shall not grant a discharge permit allowing the discharge of a contaminant or water (eg stormwater) into water if, after reasonable mixing, the contaminant or water is likely to give rise to all or any of the following effects in the receiving waters:

- The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
- Any conspicuous change in the colour or visual clarity;
- Any emission or objectionable odour;
- The rendering of fresh water unsuitable for consumption by farm animals;
- Any significant adverse effects on aquatic life.

7.25 Section 107 (2) of the Act allows the granting of a discharge permit that may allow any of the above listed effects if the consent authority is satisfied that:

(a) Exceptional circumstances justify the granting of the permit; or
(b) The discharge is of a temporary nature; or
(c) The discharge is associated with necessary maintenance work; and

that it is consistent with the purpose of the Act to do so.

7.26 Section 105 (2) is also relevant to reclamations and states that:

If an application is for a resource consent for a reclamation, the consent authority must, in addition to the matters in section 104 (1), consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under section 108 (2) (g) on the resource consent.

7.27 In this case, the streambed reclamation the applicant proposes will be located largely (but not exclusively) within areas that are to vest as public reserve. Where that is the case, the future reserve could be seen to be sufficient for the purposes of section 105 (2).
8 Relevant Policy Provisions

Regional Policy Statement

8.1 Ms Helme and Ms Lenz both helpfully summarised, in their reports, the relevant provisions of the Regional Policy Statement. Notable objectives and policies are found in:

8.2 Chapter 5: Freshwater: Objective 2 and related policies (addressing water quality and protecting the potential of water to meet the reasonably foreseeable needs of future generations);

8.3 Freshwater Policy 9 to avoid, remedy or mitigate the adverse effects of modifications to the beds of water bodies on water quality, groundwater, aquatic ecosystems and amenity and cultural values;

8.4 Freshwater Policy 11 which seeks to protect the intrinsic values of ecosystems from the effects of development;

8.5 Freshwater Policy 12 which seeks to preserve the natural character of wetlands, water bodies and their margins;

8.6 Freshwater Policy 14 which seeks to protect the healthy functioning of wetlands and their biological communities from inappropriate effects of land and water use and promote the restoration of degraded wetlands;

8.7 Chapter 9: Ecosystems: which identifies 3 regionally significant issues:

   - the dramatic decline in the number and total area of indigenous ecosystems in the Region and the fact that 90% of wetlands that once existed no longer exist;
   - the deterioration in the quality of the region's ecosystems as a result of human activities; and
   - the growing list of plants and animals that are becoming rare or endangered in the Region;

8.8 Ecosystems Objectives 1, 2 and 3 and related policies which seek to increase the overall quality of ecosystems in the Region, assure the healthy function of ecosystems and increase the area and quality of indigenous ecosystems in the Region.

8.9 Built Environment: and particularly Issue 9 (the potential adverse effects of extended infrastructure on landscapes and rare habitats) and Objective 2 and related policies which seek to address those potential adverse effects.

Regional Freshwater Plan

8.10 Ms Lenz highlighted in her report the material objectives and policies relating to the protection and use of fresh water resources which include:

8.11 Objectives 4.1.4 and 4.1.5 addressing the preservation of the natural character of wetlands, rivers and their margins and safeguarding the life-supporting capacity of water and aquatic systems from the adverse effects of subdivision and land use;
8.12 Objectives 4.1.11, 4.1.12, 4.1.13 and 4.1.17 acknowledging the importance of people and communities being able to use freshwater resources and of avoiding, remedieng and mitigating adverse effects;

8.13 Policy 4.2.9 which requires decision makers to have regard to particular characteristics of wetlands, rivers and their margins when considering the protection of their natural character from adverse effects (including ecosystems, habitats, species, water quality, natural flow characteristics, natural hydraulic processes, pattern and range of water level fluctuations, topography and physical composition);

8.14 Policy 4.2.11 which requires decision makers to avoid, remedy or mitigate adverse effects having regard to:
   - the maintenance of biological processes; and
   - the maintenance of habitat for feeding, breeding and sheltering aquatic life; and
   - the maintenance of the diversity of aquatic life; and
   - the maintenance of the ability of fish to disperse and migrate; and
   - the times which will least affect feeding, spawning, dispersal or migratory patterns of fish and other aquatic species; and
   - the prevention of irreversible adverse effects.

8.15 Policy 4.2.23 acknowledging the benefits that can arise from the use and development of water bodies;

8.16 Policies 4.2.35 and 4.2.36 detailing the relevant considerations when determining the nature and extent of any conditions for resource consents (including the significance of the adverse effects, efficacy of mitigation proposed, community benefit);

8.17 Objectives 5.1.1, 5.1.2 and 5.1.3 and related policies addressing water quality;

8.18 Policy 5.2.6 which stipulates that the water in the tributaries of Speedy’s Stream are to be managed for aquatic ecosystem purposes;

8.19 Policy 5.2.11 which provides for zones of reasonable mixing of contaminants discharged to water;

8.20 Objectives 7.1.1, 7.1.2 and related policies addressing the avoidance, remediation or mitigation of structures within and the use of beds of water bodies (including Policy 7.2.1 which lists potentially appropriate uses within river beds);

8.21 Policy 7.2.2 which stipulates that certain uses that would have adverse effects on listed values (tangata whenua values, natural values, amenity values, public access, flood hazard, stability) shall not be allowed;

8.22 Policy 7.2.10 addressing the structural safety of structures within river beds;

8.23 Policy 7.2.15 which seeks to ensure that reclamations are only carried out when there are no practicable alternatives and there are community benefits.
Regional Plan For Discharges

8.24 Objective 4.1 and Policies 4.1.5 and 4.1.19 addressing the potential effects of contaminants discharged to land on soil, water quality, amenity values, and potential effects on the values of downstream receiving waterways.

District Plan

8.25 Ms Helme’s report helpfully summarised the relevant District Plan provisions. They include:

8.26 The area-wide issues 1.10.2 for amenity values, the General Residential and Hill Residential Activity Areas and associated objectives and, in particular:

8.27 4A1.1.1: residential character and amenity values generally and the objective ‘To maintain and enhance the amenity values and residential character of the General Residential Activity Area of the City’.

8.28 4A1.2.1: building height, scale, intensity and location and the objective ‘To avoid, remedy or mitigate adverse effects caused by building height, intensity and location on the amenity values of adjacent residential sites and the residential character of the surrounding area’ and related policies.

8.29 4D1.1.1: residential character and amenity values in the Hill Residential Activity Area and the objectives and policies which are discussed in detail in Section 11 of this decision.

8.30 4D1.2: site development issues including objectives and policies relating to site stability, building height, scale, intensity and location.

8.31 11.1.1: allotment standards for subdivision including the objective ‘To ensure that land which is subdivided can be used for the proposed use or development’.

8.32 11.1.2: engineering standards for infrastructure services supplied to subdivisions including the objective ‘To ensure that utilities provided to service the subdivision protect the environment and that there are no adverse effects on the health and safety of residents and occupiers’.

8.33 11.1.3: addressing natural hazards including slope instability.

8.34 14A(i) 1.1.1: addressing the potential adverse effects of traffic on local networks including the objectives ‘To accommodate a roading network that is safe, convenient and efficient, and which avoids or mitigates any adverse effects on the community and the environment’ and ‘To maintain the safety and efficiency of the roading network’ and associated policies addressing levels of service, pedestrian needs and safety.

8.35 14I1.1: addressing the potential adverse effects of earthworks on the natural character of the City’s landscape which are discussed in detail in Section 12 of this decision.
9 Issues Raised In Submissions

9.1 Most submissions opposed the proposal. The issues raised in submissions can be summarised as:

(a) The size and scale of proposed earthworks and landform change and removal of vegetation;
(b) Loss of the natural character within the site;
(c) Adverse visual effects resulting from the extent of vegetation removal and landform change;
(d) Noise, vibration, dust and increased air pollution during construction and disruption caused by the proposed hours of operation during construction earthworks;
(e) Noise from construction activities;
(f) Road conflicts caused by construction traffic on local streets;
(g) Reduced privacy and increased shading for adjoining residential sections (accompanied by requests to amend the proposal to provide building setbacks adjacent to neighbouring residential properties);
(h) Adverse effects associated with increased traffic from households in the subdivision on road safety (with requests for traffic calming measures installed along Major Drive);
(i) Concerns about the density and finished urban form of the subdivision and the hard edge created adjacent to Speedy's Reserve and Belmont Regional Park;
(j) Adverse effects on the natural character and ecological values within the site;
(k) Concerns about adverse downstream effects of sediment flows from construction earthworks;
(l) Potential instability of cut and fill batters;
(m) A site-specific concern by Transpower about potential adverse effects on the adjoining transmission line;
(n) Decrease in property values.

9.2 One submission conditionally supported the proposal but requested that the area set aside in private bush protection covenants should be expanded.

10 The Principal Issues In Contention

10.1 The principal resource management issues that were in contention at the hearing were:

(a) The density of the proposed subdivision compared with the 1,000m²-per-site density and residential amenity objectives for the Hill Residential Activity Area (noting that only 5 proposed allotments have site area greater than 1,000m²; 105 proposed allotments have between 501m² and 1,000m²; and 32 allotments proposed allotments have 500m² or less);
(b) The scale of proposed earthworks and the size of some individual cut faces and fill batters with significant changes to the natural character of the landform that would result (together with the mitigation measures the applicant proposes to address these issues);
(c) Loss of approximately 566 metres of the beds of the upper reaches of five ephemeral streams;
(d) The potential for erosion, sedimentation and increased turbidity (cloudiness) in streams draining from the proposed development site during earthworks;
(e) The potential for adverse construction effects including machinery noise, dust, construction traffic disturbance on local roads and the duration of those construction effects;
(f) The stability of the finished cut and fill batters and the risk of erosion or failure of those;
(g) Loss of existing vegetation;
(h) The impact of increased surfacewater flows from impervious surfaces in the fully developed subdivision on downstream water quality, instream values and flood risk;
(i) The finished form of the proposed subdivision from an urban design perspective including questions of connectivity, coherence, sense of place;
(j) Provision for pedestrian footpaths along roads and road geometry design;
(k) The potential for loss of privacy or shading of adjoining residential properties resulting from future residential development of the allotments created by the proposed subdivision;
(l) Potential loss of the dark night sky currently enjoyed along this Kelson edge of the Belmont Regional Park;
(m) The efficacy and adequacy of mitigation measures proposed by the applicant including proposed reserves and landscaping finish of proposed reserves.

10.2 A number of submissions raised questions about the sense or feasibility of proceeding with the proposed subdivision in the current economic climate. The Hearing Panel does not consider that is a valid resource management issue that needs to be determined in this case. The commercial success or profitability of a project is a matter for an applicant’s judgment.

10.3 The evidence that is material to each of the above resource management issues is summarised in the following sections in discussing those issues:

11 Subdivision Density & The Hill Residential Zoning

11.1 Ten of the proposed 142 allotments will have areas of 1,000m² or more (the standard minimum for the Hill Residential Activity Area). Forty nine of them will have site areas between 601m² and 900m². Eighty three of them will have site areas between 400m² and 600m².

11.2 Several submissions raised concerns about the effect the proposed 142 medium-density allotments will have on the amenity and character of the site and the locality. One submission expressed dismay at the extent of cut and fill and wholesale landform change proposed and suggested that it should be possible to develop the land using existing landform with little disturbance.

11.3 HCC commissioned Mr Morton Gjerde, an Architect and Urban Designer, to assist in reviewing the evolving schemes of subdivision for the land prior to lodgement of the current proposal and to review the design applied for. Mr Gjerde presented his urban design assessment of the proposal in a memorandum dated 20th December 2008. In that memorandum, he stated that:

“While higher densities (than those in the surrounding residential areas) can be provided for, this must be done in a manner that respects and works well with the form of the land. It would generally be more acceptable to reduce densities out toward the periphery of the site such that the built form could be seen to trickle into the surrounding bush, rather than form a distinct and visually abrupt edge between the built form and the landscape. The suggestion that densities higher than those prescribed in the District Plan for the site may be acceptable has also been couched in a requirement that these be implemented using best practices for the overall
design of the site. Higher densities could not be taken as a given for the site and the design must argue strongly for them.

The extensively reformed site topography would not be appropriate. The modified site would be seen as a blight on the landscape in distant views, including those taken from sites adjacent to the development. This is because the overall site would not be seen to have connection with the surrounding landform, notwithstanding the two gullies near the bottom of the site that would remain untouched. Another reason for the blighted appearance is the number of houses set in a uniform, man-made landscape, where large areas of landscaping are not available to mediate between the built areas and natural landscape.

Moreover, from within the site there would be a loss of sense of place, caused mainly by the proposal to uniformly terrace the whole of the development so as to create level pads for the construction of individual houses. ....

Very early on, the relationship of the proposed number of residential dwellings to the wider city, in terms of social and environmental sustainability as well as to choice and urban vitality, was called into question. Yet, the site is designated for residential development and, although the density proposed here is somewhat greater than the maximum prescribed in the District Plan, it has been acknowledged that the issues would be the same and it is a matter of degrees.”

11.4 Mr Gjerde was overseas at the time of the hearing so the Hearing Panel was unable to explore his concerns further with him. He had not had, in December, an opportunity to consider the amendments made to covenanted areas proposed by the applicant in evidence to the hearing and which the applicant hoped might address some of his concerns. Ms Helme clarified that Mr Gjerde had been sent details of those amendments. Mr Gjerde’s circumstances meant, however, that he was not able to present evidence on whether those amendments addressed his concerns.

Recent Background To The Current Proposal

11.5 Ms Helme reported that the Council had, in recent years, received a number of subdivision applications for the site previous to the current application. In 2006 the Council received an application to subdivide the site into 118 residential allotments. The Council requested further information on matters including traffic and ecological effects but the applicant did not progress that application. Later in 2006 the Council received a proposal for 16 allotments each of 1000m² area with access from Christchurch Crescent. The Council decided that the application needed to be publicly notified as the adverse effects of the vegetation clearance and earthworks associated with the development were considered to be more than minor. The applicant withdrew that application.

11.6 Ms Helme and Mr Duncan described how Council staff and the applicant’s agents attended several pre-application meetings during 2007 to discuss the issues associated with subdivision of the site. These included the ecological values of the site, roading layout and the perceived importance of a connection between Waipounamu Drive and Kaitangata Crescent, reserves to vest, the volume of cut to fill and possible alternatives to facilitate retention of more natural contour.

11.7 The supporting documents attached to the application include a letter from Mr Duncan to the applicant’s agent dated 21st February 2007 in which Mr Duncan expresses the opinion of the HCC Environmental Policy Team that a plan change is not necessary to progress the subdivision. It further states that the applicant may proceed with a resource consent application. The letter notes that that opinion is
provided on a without prejudice basis and that any resource consent application will be processed and assessed under the provisions of the District Plan and the Act.

11.8 Mr Duncan explained his view, in answer to questions from the Hearing Panel, that the applicant’s land is not significantly different in topography from the balance of Kelson. It has, in his view, no distinguishing characteristics. He stated that it is apparent to him that the land’s characteristics do not fit with the Hill Residential zoning. He was not able however to throw any further light on why the land’s zoning may have been changed to that zoning in 1994. His abbreviated summary of the purpose of the Hill Residential zoning is that it is:

- to allow development to take place in a number of places on the Hutt hills where ordinary development would be difficult because of topography or undesirable because of the presence of native vegetation;
- to provide for continuity without disruption of the predominantly green nature of the western hills;
- and therefore to restrict bulk earthworks from the highly visible green western hills;
- but to allow pockets of development linked by walkways;
- to provide for much lower density of development in a style that is environmentally sensitive and not contiguous but, rather, broken by gaps created by mature vegetation;
- to provide a visual backdrop as viewed from elsewhere in the Hutt City;
- to provide some disguising of housing built on the western skyline when viewed from the Hutt Valley floor.

11.9 It was his view that the applicant’s land distinguishes itself by not being a good fit with these Hill Residential outcomes. He agreed that the land remains zoned however as Hill Residential and not General Residential and that it is the Hill Residential objectives and policies that the Hearing Panel must consider.

**The Hill Residential Objectives And Policies**

11.10 Ms Helme, in her section 42A report, drew our attention to the relevant objectives and policies of the Hill Residential Activity Area. The section of the District Plan which discusses City-wide issues describes the difference between the General Residential and Hill Residential Activity Areas in the following terms:

**General Residential Activity Area:**

This Activity Area accounts for much of the residential development in the City. It is dominated by single dwellings on fee simple subdivisions, but also contains a variety of other housing styles including cross lease developments, semi detached housing, and a limited number of multi-unit developments. Semi detached and multi-unit developments are more common in some locations than others. Generally sites within the Activity Area have a flat topography, this being a natural feature or being a result of earthworks during the development stages. Sites in most locations have been well developed with maturing domestic scale landscaping and planting. While small scale businesses, which can be classed as
home occupations, are common there are few larger commercial or industrial activities.

**Hill Residential Activity Area:**

This Activity Area consists of significant amounts of land in the hillier parts of the City. The topography of these areas is such that individual sites have characteristics of slope, are often above or below road level, have a different relationship with neighbouring sites to those on the flat, and have views.

11.11 The objectives and policies specific to the Hill Residential Activity Area are:

4D 1.1.1 Residential Character and Amenity Values

**Issue**

There are several residential areas on the hillsides of the City, characterised by steep slopes, difficult access, low density residential development, extensive areas of vegetation and native bush. The effects of activities in such areas must be managed to ensure the character and amenity values are maintained and enhanced.

**Objective**

To maintain and enhance the distinct characteristics and amenity values associated with the hillside residential areas of the City.

**Policies**

(a) That the visual appearance and nature of earthworks be managed to minimise the adverse effects on the visual amenity values of the hillside environment.

(b) That the clearance of vegetation be managed to avoid, remedy or mitigate any adverse effect on the visual amenity values of the hillside environment or the intrinsic values of ecosystems.

(c) That where practicable significant trees which contribute to the amenity values of the hillside areas be retained.

(d) That where practicable, the natural appearance of the skyline be preserved from development to maintain its visual appearance.

(e) To ensure residential amenity values are maintained, protected and enhanced through the establishment of a net site area.

4D 1.2 Site Development Issues

4D 1.2.1 Site Stability

**Issue**

Residential sites within this activity area are subject to development constraints due to the topography of the sites. Future development must be managed to ensure the stability of the site, and reduce any adverse effects and risk associated with landslide, erosion, and surface water runoff.

**Objective**

To ensure future development does not affect adversely the stability of the site.
Policy

(a) That earthworks and the clearance of vegetation be managed to ensure the stability of the site and to avoid, remedy or mitigate any consequential adverse effects on neighbouring properties.

Explanation and Reasons

Sites within the Hill Residential Activity Area are suitable for some types of residential development.

Development of the site for residential and non-residential purposes must be managed to ensure the stability of the site is protected to reduce the risk of landslide and erosion, and to control surface water runoff.

4D 1.2.2 Building Height, Scale, Intensity and Location

Issue

The height, scale, intensity and location of buildings and structures can cause adverse effects upon amenity values of neighbouring properties, and the surrounding residential area. It is important that such adverse effects be managed.

Objective

To avoid, remedy or mitigate adverse effects caused by building height, intensity and location on the amenity values of adjacent residential sites and the residential character of the surrounding residential area.

Policies

(a) To establish a minimum net site area and maximum site coverage requirement to ensure low density development is achieved.

(b) To ensure all new development is of a height and scale which is compatible with surrounding residential development.

(c) To ensure a progressive reduction in height of buildings the closer they are located to a site boundary, to maintain adequate daylight and sunlight for adjoining properties.

(d) To manage the siting of all buildings so as to minimise detractions from the character and visual attractiveness of the surrounding residential area.

(e) To manage the siting of all buildings so as to ensure that any detraction from the amenities of adjoining properties are no more than minor.

(f) That the scale and siting of garages and carports be managed to reduce the need for extensive excavation into the hillside, and to enhance the streetscape and amenity values of adjoining sites.

11.12 Ms Helme's conclusion, stated in part 8.6 of her section 42A report, is that the proposed subdivision is not consistent with the objectives and policies for the Hill Residential Activity Area due to the medium density of the allotments, the extensive vegetation clearance and the earthworks proposed. Notwithstanding Mr Gjerde's misgivings about the design of the proposed subdivision and her own conclusion in terms of the Hill Residential Activity Area, Ms Helme recommended the proposal be
granted consent (subject to conditions). It was her conclusion that overall the proposed density is acceptable in the context of the site. She highlighted in particular the proximity to existing infrastructure services, accessibility and proximity to Major Drive and consistency with the density of the surrounding existing residential area of Kelson. Ms Helme’s view seemed to be that the land is more suited to a General Residential zoning and, in terms of the objectives and policies for that zoning, is an appropriate development. She acknowledged, however, that the land’s actual zoning is Hill Residential.

11.13 Ms Grimmett’s evidence, for the applicant, largely agreed with Ms Helme’s conclusion that the proposal is not contrary to relevant District Plan objectives and policies. Ms Grimmett also reminded us that the obligation under section 104 of the Act is to have regard to relevant objectives and policies and that an applicant is not required to demonstrate that a proposal is consistent with or not contrary to those objectives and policies.

11.14 Mr Gary Stephenson, a submitter who lives on adjoining land and who opposes the proposal, described his concerns about the size of sections proposed adjacent to his boundary. Those are proposed Lots 7 to 10 being 460m², 630m², 500m² and 520m² in area. He requested that these be combined to create two compliant 1,000m²-plus allotments. Mr Stephenson has lived at his Major Drive property for 30 years and he acknowledged that he was aware, when he first moved to the property, of plans to subdivide the adjoining land into sections of approximately 600m² size. That accords with the 1973 plan presented in evidence by Mr Duncan.

11.15 The Hearing Panel asked Mr Ian Prentice, a registered Surveyor with 34 years’ surveying experience who gave evidence for the applicant, what the likely difference in overall earthworks would be between a subdivision layout comprised of compliant 1,000m² allotments and the higher density pattern of subdivision proposed. It was Mr Prentice’s opinion that the core amount of earthworks and landform change would be similar because the extent of earthworks is largely dictated by the need to form suitable gradients for the access roads. Indeed, the 118-allotment proposal earlier submitted to the Council, which includes allotments of larger size and which overall (on an averaged basis) has a density close to the 1,000m² minimum site area per allotment, has a very similar extent of roading and earthworked area. It was Mr Prentice’s view that a different configuration of allotments with lesser allotment yield would be unlikely to be economically viable (whatever the current economic situation) because of the minimum extent of earthworks required to create reasonable road gradient.

Findings

11.16 The Hearing Panel accepts that even a subdivision layout comprising only 1,000m² allotments could result in a similar degree of road-building and associated earthworks. The minimum density prescribed for the Hill Residential Activity Area does not, of itself, guarantee a low-impact earthworks result. We note however that there is no ‘permitted baseline’ for subdivision in the Hill Residential Activity Area. All proposals for subdivision are at the least controlled activities and, because of non-compliance with earthworks standards, will generally all be discretionary activities.

11.17 We agree with some of the submitters and technical witnesses who observed that the proposed subdivision design is not particularly imaginative in terms of its response to the natural topography. However, for this site, the Hearing Panel considers that the key natural elements that provide the green backdrop for the adjoining residential area, in the terms described by the relevant objectives and policies and by Mr Duncan, can be retained whilst allowing the extent of road-
building and residential density proposed. Those elements are, in our
view, the ecologically important valleys identified by Drs Blaschke and Boothroyd, the associated areas of existing regenerating vegetation which are to be retained in generously-sized public reserves and the regenerating native vegetation along the faces of the hill above Christchurch Crescent and Major Drive. We discuss later in this decision how each of those elements is to be retained or should be retained in the design. If that is achieved, the Hearing Panel is satisfied that the proposed subdivision (with some minor modifications to design and perhaps a reduction in section yield) will not be contrary to the objectives and policies for the Hill Residential Activity Area because it will:

(a) Allow development in an area that has challenging hilly topography;

(b) Incorporate fingers of green that will extend the existing regenerating vegetation within Speedy’s Reserve and the Belmont Regional Park into the built subdivision creating both visual relief and natural habitat within the built development;

(c) Retain areas of existing vegetation in both public reserves and in private covenanted areas within residential allotments that will be visible from nearby within the Kelson area and which contribute importantly to the area’s overall amenity values;

(d) Alter the natural landform of land that sits in a valley amphitheatre that is visible only from a relatively confined number of locations (acknowledging that this includes Belmont Regional Park);

(e) Minimise the finished visual appearance of the landform changes and earthworks by planting with native vegetation;

(f) Retain the intrinsic ecological and natural values of much of the upper parts of the ephemeral streams through the land;

(g) Create allotments that are able to be developed for housing relatively economically by ordinary New Zealanders in a manner that will not present extraordinary challenges in terms of future building either in terms of topography or compliance with usual bulk and location requirements;

(h) Therefore will promote the efficient use of land;

(i) Assure the stability of cut and fill batters and;

(j) Appropriately manage surfacewater run-off from the site during construction of the subdivision and in the long term.

11.18 Importantly, the proposal (as amended by conditions) will not:

(k) Create an isolated mass of urban development within the continuous green backdrop along the Western Hills that is visible from the wider Hutt City;

(l) Result in additional built development on the skyline of the western Hutt hills that is visible from the wider Hutt City;

(m) Require a significantly greater extent of earthworks than the adjoining established medium density subdivisions have historically required.

11.19 In coming to these findings, the Hearing Panel has considered only the relevant provisions of the Hill Residential Activity Area. It is not, in our view, accurate or
reasonable to discount those provisions simply because the land may appear to be a better ‘fit’ with the surrounding General Residential zone. We agree that there are some natural characteristics that distinguish this site from others in the Hill Residential Activity Area and we have discussed those where relevant in describing our findings above.

12 Scale Of Earthworks And Mitigation

12.1 Several submissions raised concerns about the extent of earthworks proposed to create the roads and the building platforms on individual allotments. Mr Gjerde’s assessment was that “the design approach taken here, to completely re-contour the site, will inherently lead to poor visual outcomes when done at such a scale.” His assessment concludes that the proposal does not fit with the surrounding developments because of the scale of the development and the modifications that are contemplated.

12.2 The supporting documentation accompanying the application included photographs of a similar development which show a series of bench cuts creating uniform building platforms of a quite monotonous and artificial type. It was Ms Grimmett’s evidence, for the applicant, that these benches and cuts can successfully be mitigated by the building of houses and the establishment of gardens that inevitably follows subdivision and residential occupation. She cited a subdivision by the applicant in Staitthes Drive North, Whitby (Porirua City) as an example of how such a pre-formed bench cut style subdivision can be moderated over time and included photographs in her evidence to illustrate her point.

12.3 The highest cut is ‘Cut 8’ which is required to form the edge of the road extension from Christchurch Crescent. It will be approximately 20 metres high. The highest fill batter will be associated with ‘Fill F’ which is to form the foundation for Stage 2 and the cul-de-sac road access there. It will be approximately 24 metres high. According to Mr Prentice, the volume of cut will equal the volume of fill within the site and the total volume of material shifted from cut to fill will be approximately 224,750m³. It is proposed to cut the tops off the existing hill landforms, reducing their height by between 12 and 14 metres, and to use the material generated by those cuts for the fills.

12.4 It was Mr Prentice’s evidence that this is a moderate degree of earthworks in the context of Wellington where most land now zoned for development is moderately sloping.

12.5 Ms Helme referred us to the relevant District Plan objectives and policies relating to earthworks. These are found in chapter 14I of the District Plan:

14I 1.1 Natural Character

Issue

Earthworks can cause unnecessary scarring of the landscape, and alterations to the natural topography. This can significantly alter the natural character of the City’s landscape. It is important that earthworks are managed to avoid, remedy or mitigate adverse effects upon the natural topography.

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1 Morton Gjerde Urban Design Assessment 20th December 2008
2 Appendix K of the application
Objective
To ensure that earthworks are designed to maintain the natural features that contribute to the City’s landscape.

Policies
(a) To ensure that earthworks are designed to be sympathetic to the natural topography.
(b) To protect significant escarpments, steep hillside areas, and the coastal area by ensuring that earthworks are designed to retain the existing topography, protect natural features, and prevent erosion and slips.

14.1.2 Amenity, Cultural and Historical Values

Issue
Unnecessary scarring of the landscape, removal of vegetation and alteration of the natural topography can affect adversely visual amenity values, historical and cultural values. Earthworks will be managed to ensure such values are maintained.

Objective
To ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site.

Policies
(a) To protect the visual amenity values of land which provides a visual backdrop to the City.
(b) That rehabilitation measures be undertaken to mitigate adverse effects of earthworks upon the visual amenity values.
(c) To protect any sites with historical significance from inappropriate earthworks.
(d) To recognise the importance of cultural and spiritual values to the mana whenua associated with any cultural material that may be disinterred through earthworks and to ensure that these values are protected from inappropriate earthworks.

12.6 It was Ms Helme’s view that the proposal is generally consistent with the earthworks objectives and policies. She acknowledged that the proposal will result in significant changes to the natural topography of the site. However, she considered that the subdivision has been designed to retain some areas of natural topography and to protect natural features identified as significant. For example, she noted the areas of natural topography along the eastern side boundary of the site, adjoining dwellings on Major Drive, which are to be retained and continue to form a visual backdrop to some extent for the visual amenity values of the existing dwellings on Major Drive.

12.7 Acknowledging that the building platforms on many allotments would be highly visible from throughout the nearby area (such as Tarras Grove, Invercargill Drive and Outram Grove), Ms Helme stated that proposed rehabilitation measures such as grassing and re-planting batter slopes would mitigate the adverse effects of the proposal on visual amenity values.

12.8 Notwithstanding that conclusion, Ms Helme recommended that the applicant set aside a wider strip of the vegetated hillside within covenanted areas to retain more of
this native vegetation. In answer to questions from the Hearing Panel, Ms
Grimmett indicated that the applicant would be open to some amendments to achieve this.

Findings

12.9 The Hearing Panel does not agree with Ms Helme that the proposal is entirely consistent with the relevant objectives and policies. The proposed earthworks do not ‘maintain the natural features’ of the site nor are they ‘sympathetic to the natural topography’. It can however be said that they do not adversely affect the visual backdrop to the City (being largely obscured from view from much of the City). The Hearing Panel is also satisfied that the mitigation measures proposed (particularly the finished slope and re-vegetation with native species) will assist to mitigate the adverse effects on visual amenity values.

12.10 The Hearing Panel notes that the proposal is to cut much of the sides of the ridgeline that extends parallel with Major Drive to form Road 3. To do so would require the removal of much of the maturing native vegetation along that hill’s sides. The applicant proposes to retain some of that existing vegetation in private covenanted areas. The Hearing Panel considers the areas proposed (even as amended in Ms Grimmett’s evidence) would not be sufficient to retain the notable maturing vegetation that contributes importantly to the backdrop to the existing residential area and the overall visual amenities of this residential neighbourhood. The Hearing Panel considers that the loss of this vegetation would have a significant detrimental effect on the amenity values of this neighbourhood.

12.11 The Hearing Panel expects that it would be possible to re-configure the earthworks and allotment boundaries to retain most of this important vegetation. In particular, we consider that for Lots 5 to 8 and Lots 11 to 29 there should be width of 5 metres within which the construction of buildings and the removal of native vegetation are prohibited. The actual line of the covenant should be determined on site having regard to the presence of native vegetation but should, in our view, be no less than 5 metres from the eastern boundary of those allotments. It should be noted that this restriction is not to apply to Lot 202 which is a narrow access strip.

12.12 For Lots 30 to 44 there should be a covenant prohibiting building and the removal of native vegetation for a width of no less than 10 metres from the rear allotment boundary. The final alignment of the covenanted area could be greater for example through Lots 37 to 40 as proposed in the amended plans presented by Ms Grimmett to the hearing. The Hearing Panel agrees that the proposed covenanted no-build and vegetation retention covenants proposed for other allotments are appropriate.

12.13 In other respects, the Hearing Panel accepts the evidence that a degree of cut-to-fill earthworks is inevitably required to enable the development of this land in a manner that will facilitate the creation of reasonably affordable residential sections that are able to be support moderately priced homes. Subject to the amendments described here, the Hearing Panel is satisfied that the proposal will be an appropriate form of earthworks on this site.

13 Loss Of Ephemeral Stream Bed

13.1 The proposed earthworks will fill parts of the upper beds of five ephemeral tributary streams that connect downstream with Speedy’s Stream. Ms Grimmett produced in evidence a plan that clarified the precise lengths of stream bed affected. They are:

- 164 metres of the upper ephemeral section of a stream (‘B’) that feeds into the wetland within proposed Reserve Lot 200 (the 100-metre-long bed of the...
second stream that feeds that wetland will be unaffected
and the wetland is approximately 550 metres
upstream of its confluence with Speedy’s Stream);

- A 23-metre length of the upper ephemeral section of a tributary (‘E’) (leaving 225 metres to the confluence with Speedy’s Stream unaffected);

- A 100-metre length of the upper ephemeral section of a tributary (‘C4’) (leaving approximately 120 metres to the confluence with Speedy’s Stream unaffected);

- A 95-metre length of the upper ephemeral section of a tributary (‘C3’) that connects to the above tributary then flows 120 metres to its confluence with Speedy’s Stream;

- A 178-metre length of the upper ephemeral section of a tributary (‘D’) that is 40 metres upstream of its confluence with Speedy’s Stream and which has a bluff near the confluence that prevents fish passage beyond that point.

13.2 Several submissions raised concerns about the adverse ecological impacts of the proposed earthworks which would reclaim these lengths of stream bed. No submitters presented any expert ecological evidence in support of their concerns. Dr Blaschke and Dr Boothroyd, who are both eminent ecologists who presented evidence for the HCC and applicant respectively, were largely in agreement that all headwater gullies, whether permanently flowing or ephemeral, retain important ecosystem functions and contribute to the wider stream network. It was Dr Boothroyd’s evidence that, although such ecosystems will be present in the gullies that are to be filled, the high level of siltation and erosion already present there means that these functions will be diminished at least in the upper reaches of these gully areas. It was Dr Boothroyd’s evidence\(^3\) that the nature of the habitat and the lack of substantial invertebrate and fish habitat in the upper reaches of the intermittent streams (ie the areas to be reclaimed and filled) remains as of moderate value compared to other headwater streams in the Wellington region and compared to the lower reaches of the tributaries.

13.3 Dr Blaschke emphasised, in evidence, that all upper headwater streams including intermittent reaches have at least moderate ecological significance within Hutt City and the Wellington region but acknowledged that they do not have as much significance as the lower flowing reaches of those streams\(^4\).

13.4 Dr Boothroyd assessed the aquatic ecological habitat values of the intermittent upper reaches of the streams as low to moderate. He assessed the loss of aquatic habitat resulting from the proposed bed reclamation and filling as minimal. Dr Blaschke stated in evidence that, although he considers the stream environment of tributary ‘D’ to be of high ecological significance, he noted that there is some evidence to suggest that this stream environment does not have quite as high values as the other lower stream portions. He stated that he therefore remains reasonably comfortable about the fill intrusion into the upper reach of this stream as proposed provided it is appropriately mitigated\(^5\).

13.5 Dr Boothroyd’s evidence, based on surveys of fauna within the tributaries, was that the upper intermittent gullies do not anyway provide optimal habitat for fish and are of low to moderate ecological value. He also noted that there are significant natural waterfalls and one bluff affecting two of the tributaries which would substantially prevent fish passage to most fish. It was his conclusion that the proposed works

\(^3\) Evidence of Dr Ian Boothroyd – paragraphs 3.9 to 3.13  
\(^4\) Supplementary Evidence of Dr Paul Blaschke – paragraphs 2.3 and 2.4  
\(^5\) Supplementary Evidence of Dr Paul Blaschke – paragraph 3.3
would not result in any significant additional physical barriers to fish migration within this catchment.

13.6 Ms Lenz acknowledged the various mitigation measures proposed by the applicant (in section 10.3 of her section 42A report). These include the restoration planting and weed control in the vicinity of the wetland and the protection of the remaining tributary reaches within the two proposed reserves. It was her evidence that none of these measures adequately mitigated or remedied the permanent loss of stream bed that would result from the proposed development. Ms Lenz suggested that, in addition to the other measures proposed, the applicant should provide some form of compensation for that stream bed loss. Ms Lenz noted that there was no accepted calculation for determining the appropriate type or quantum of compensation but presented an example based on a ‘stream ecological valuation’ and ‘environmental compensation ratio’ used in the Auckland region. In principle, the calculation places a value on the length of stream that is lost; divides that by the value of restoring a similar length of stream; and multiplies that by a factor of 1.5 to account for the time delay in achieving the restoration. Her calculation arrived at the figure of 2.4 being the ratio by which the stream loss should be compensated for with restored stream length. In the present case, where the length of stream lost is approximately 566 metres, Ms Lenz suggested the compensation should be based on the cost of restoring 2.0 x 566 metres = 1,132 metres of stream. It should be noted that Ms Lenz used a ratio of 2.0 (rather than 2.4) and estimated only the cost of supplying plants (and not the additional cost of actually planting those) to restore a 5-metre-wide strip on either side of a 1,132m length of stream. Her estimate amounted to $61,138.

13.7 Dr Boothroyd accepted that the ‘stream ecological valuation’ and ‘environmental compensation ratio’ is a rational basis for calculating compensation. He noted that such compensation for stream loss is increasingly prevalent in the Auckland region. However, he disagreed on the detailed inputs and Ms Lenz’s resulting estimated figure. It was his evidence that her estimate is an extreme sum because, in his view, the ‘stream ecological valuation’ should be less than calculated by Ms Lenz given the lesser significance of the intermittent state of the upper headwaters affected in this case which he assessed as having low to moderate values. He estimated that a sum of approximately $40,000 would be a more appropriate compensation in response to actual loss of values.

13.8 Ms Lenz reported that, coincidentally, the WRC intends to fence part of the adjoining Belmont Regional Park above Speedy’s Stream to protect the stream’s riparian margin from stock. Ms Lenz reported that the construction of approximately 3,920 metres of fence would be required between existing fenced areas. Ms Lenz understood that the estimated cost of that work is $60,000. Ms Lenz also gave in evidence the example of environmental compensation in the form of riparian planting of a 3.6-metre-wide riparian margin of a stream and advised that the cost of that work was estimated at $66,000. It was her view that the calculated environmental compensation of $61,138 for the stream loss in this Kelson Heights subdivision is reasonable when viewed in those contexts.

13.9 Ms Grimmett presented a map annotated to show the lengths of Speedy’s Stream tributaries that would be protected by the proposed Belmont Regional Park fencing. Her map was intended to illustrate her point that most of the need for the fencing lies west of Speedy’s Stream rather than within the applicant’s land. It was her opinion that therefore the applicant should not be called on to contribute disproportionately to the fencing work.

13.10 Mr Peter Matcham, who presented evidence in support of the submission by the Friends of Belmont Regional Park, commented that the ‘environmental
compensation ratio’ must be seen only as a proxy value and
emphasised that any compensation must balance with the stream bed lost
in actuality. In relation to the fencing described by Ms Lenz within Belmont
Regional Park, Mr Matcham stated that the Friends do not currently
favour the project and are currently in discussion with WRC about it. The Friends’ opposition to the project arises from the possibility that the fence would be built along a visible ridgeline. Mr Matcham clarified that the Friends are not opposed in principle to such a fence to retire land from grazing – just that they seek its location other than along a ridgeline. It was also Mr Matcham’s view, based on his knowledge of this part of the Belmont Regional Park, that the vegetation is sufficiently dense along parts of the bank of Speedy’s Stream that it would deter stock grazing anyway (he called this ‘self-managing’). He did agree, however, that there are parts of the stream’s bank that would benefit from retirement fencing.

13.11 In any event, in this case the works that Ms Lenz proposes should be funded using the environmental compensation are located beyond the applicant’s site. The fencing is not a project over which the applicant has any control. It is a project to be undertaken at some future time by a third party. Ms Lenz was not able to confirm that the fencing has achieved the status of a committed project in any annual or operating plan for the Belmont Regional Park. In these circumstances, the contribution of funds towards such an off-site project could not be required as a condition of consent. The applicant has, nonetheless, offered to make a donation of $40,000 to WRC to assist the funding of the fencing within Belmont Regional Park.

13.12 Ms Lenz drew our attention, in her section 42A report, to Section 6 (a) of the Act which requires us to recognise and provide for the preservation of the natural character of rivers and their margins and the protection of them from inappropriate subdivision, use and development. Ms Lenz also highlighted the relevant objectives and policies of the Regional Policy Statement and Regional Freshwater Plan which also seek to protect and preserve the natural character of streams (including ephemeral streams) and their margins.

Findings

13.13 The Hearing Panel notes that the upper reaches of the ephemeral streams that would be lost to filling in this proposed subdivision have moderate ecological value. They are a finite natural resource and their loss will be irreversible. The Hearing Panel acknowledges that the lower, flowing, reaches of the tributaries will remain unaltered.

13.14 The provisions of the Regional Freshwater Plan do not prohibit stream bed reclamation but require consideration of a range of matters including (from Policy 14) the maintenance of biological and physical processes, habitat for feeding and breeding aquatic life, the diversity of aquatic life and the ability of fish to disperse and migrate. In addition, the Regional Policy Statement requires consideration of:

- The degree of modification from a natural state
- The degree of significance of areas of indigenous vegetation and/or habitats of indigenous fauna
- The degree of representative importance
- The biological uniqueness of and/or diversity of species, communities or habitats
- The amenity values of wetlands and the degree to which they provide for the continued functioning of ecological and physical processes.

13.15 Policy 4.2.23 of the Regional Freshwater Plan also requires consideration of the benefits arising from any proposal. Refusal of consent for the stream bed
reclamation would substantially reduce the developable area of the proposed subdivision. The reclamation are required as part of the foundation earthworks supporting roads and building platforms. Given the slopes necessary to achieve sensible road gradient, the reduction in footprint at the base of the filled area necessarily results in material loss of finished area on the upper level.

13.16 The Hearing Panel is satisfied that the loss of stream bed will be small in absolute terms and will not materially impair the downstream physical processes or ability of the downstream reaches to provide fish habitat and provide for fish migration. The Panel is also satisfied that the loss will not significantly diminish any particularly representative or unique ecological system or community and that the degree of loss can be seen as relatively minor within the regional context. In these terms, the proposed stream bed reclamation can be seen as being not inconsistent with the relevant provisions of the Regional Policy Statement, the Regional Freshwater Plan and section 6 of the Act.

13.17 The preservation of the lower reaches of the tributaries within the two reserves is a positive feature of the proposal. The restoration planting in the vicinity of the wetland is also an appropriate form of mitigation. The Hearing Panel agrees with Ms Lenz that this, along with other mitigation, will not however fully address the loss of stream bed and associated values that result. The applicant’s offer of $40,000 cash should be accepted and used to fund retirement fencing within the Belmont Regional Park to assist long-term riparian retirement and restoration of some tributaries of Speedy’s Stream.

14 Construction Effects – Stream Sedimentation & Turbidity

14.1 Several submissions raised concerns about the impact of construction earthworks during rainfall events causing sediment run-off to streams with consequent downstream adverse effects on habitat and aquatic life.

14.2 Mr Ray O’Callaghan, a registered and Chartered Professional Engineer who has 30 years’ experience of engineering and earthworks projects in Wellington, oversaw the design of the proposed earthworks. Mr O’Callaghan gave evidence about the measures proposed to control sediment flows. He explained that, under usual circumstances, he would have recommended the use of stormwater detention dams in the lower parts of the tributaries. However, in this case, he stated that the ecological values of the lower parts of the tributaries within the site are such that he considers they outweigh the potential adverse effects that would result from use of detention dams there. This conclusion had driven the measures he therefore proposes for erosion and sediment control. Those include:

- the use of silt fences at the base of earthworked areas;
- cut-off drains discharging to sediment ponds built clear of the tributaries;
- the construction of earth bunds within each earthworked area to contain sediment flows and gradually shifted up the earthworked area as the work proceeds; and
- progressive re-grassing and re-vegetation of finished batter surfaces as quickly as practically possible following completion of work.

14.3 It was Mr O’Callaghan’s evidence that industry experience is that it is not possible to capture and treat all sediments associated with earthworks in very heavy rainfall events. He defined these as anything over a 5-year average annual return interval.
It was his evidence that best practice is therefore to achieve a reasonably
high level of treatment for low and medium intensity rainfall events and,
for high intensity rainfall events, to protect cuts and fills and spoil
There had been some debate between Mr O’Callaghan and Ms Lenz prior to the hearing about whether chemical flocculation should be used in the sediment ponds. Ms Lenz and Mr O’Callaghan agreed at the hearing that chemical flocculation is a method that can significantly reduce the proportion of suspended sediment released from ponds and that it should therefore be an option available on this site.

Mr O’Callaghan estimated that there is approximately 182 hectares within the catchment above the site. The area of potential earthworks within the site is approximately 10.2 hectares. For project management purposes, the earthworks have been divided into two primary parts – the western part in the lower part of the site and the higher eastern part closer to Major Drive. Within those two primary areas, the earthworks are to proceed in sub-catchment stages. Therefore the area of earthworks opened up at any one time will be limited. Mr O’Callaghan confirmed that the design and implementation of the erosion and sediment control measures would comply with the WRC 2002 Guidelines. Mr O’Callaghan stated that he expected that any sediment mobilisation into the tributaries and into Speedy’s Stream would therefore be likely only in rainfall events heavier than 1:5-year average return interval (ARI) and that, even then, would be temporary and have a minor adverse effect in the context of the flows present at that time in Speedy’s Stream and ultimately the Hutt River.

Dr Blaschke did not entirely agree that the adverse effects in the tributaries would be minor in these circumstances. He stated that there is plenty of experience as well as research to indicate clearly that temporary sediment discharge can have an adverse effect on stream life. The risk and magnitude of that effect depends, in his view, on the duration and the frequency of the temporary discharges. He also noted that these two factors influence the significance of cumulative effects arising from deposited sediment. Dr Blaschke noted that the application estimated the likelihood of the frequency of temporary discharges at about 20 to 25 events during a 2-year construction period for this project. He commented that the duration of those temporary discharge events is less easy to predict. It was his conclusion that there is a risk of significant adverse effects from temporary discharges. This, in his opinion, justifies a precautionary approach to mitigation conditions. He stated that he considered Ms Lenz’s recommended conditions represent a suitably precautionary approach.

Dr Boothroyd’s evidence that elevated concentrations of suspended solids and turbidity can reduce light penetration and algal growth and thus reduce the quality of food for invertebrates. He also noted that some native fish such as banded kokopu may actively avoid areas of high turbidity but that shortfin eels can tolerate very high turbidity. Dr Boothroyd’s on-site sampling indicated that baseline levels of sedimentation within the flowing waterways downstream of the proposed earthworks area are below the levels considered to affect sensitive fish although sedimentation levels in the pools and in the intermittent gullies were higher than usually tolerated by sensitive fish. Dr Boothroyd did not consider that temporarily elevated turbidity would affect the 24-hour survival of invertebrates. He considered that the greater concern lies in the potential for smothering of instream surfaces adversely affecting macroinvertebrate communities. He noted though that invertebrate communities have been shown to be able to recover one to three months after sedimentation (depending on a number of factors including the extent of upper waterways as a source of invertebrates for recolonisation). His conclusion is that the streams would recover from temporary pulses of sediment but that the question was how long that might take.

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6 Page 38, paragraph 2 of Volume 1 of the application
14.8 Dr Boothroyd also observed that the soil material in this area is of a type
that does not settle in flowing waters and is therefore likely to remain in
suspension within the waterways for a longer period than might be expected. It is therefore, in his view, unlikely that the sediment would readily settle in stream beds during rainfall events but would settle further downstream following the rainfall.

14.9 There was some discussion at the hearing about how to define an appropriate ‘mixing zone’ for the purposes of water sampling downstream of the proposed point discharges from the sediment ponds. Mr O’Callaghan and Ms Lenz ultimately agreed that the appropriate mixing zones within each tributary should be 20 metres downstream of their confluence with Speedy’s Stream.

Findings

14.10 The Hearing Panel is satisfied that the measures proposed by the applicant, and amended by conditions recommended by Ms Lenz, represent the best practice approach to managing and mitigating potential erosion and sediment flows from construction activities. The Panel accepts that there will be occasions, following heavy rainfall events, when there will be some temporary discharge of stormwater from the earthworked areas. The Panel expects, however, that with the proposed measures successfully implemented, the construction works can proceed in a manner that is consistent with the outcomes sought by the Regional Policy Statement, Regional Freshwater Plan and the sustainable management purpose of the Act. We agree that the mixing zones are appropriately defined and that the programme of monitoring proposed for those zones is appropriate.

15 Construction Effects – Noise, Dust, Traffic, Hours

15.1 The applicant proposes to undertake the earthworks to form the subdivision in two primary phases (the western and eastern as described earlier) over two summer construction periods. It was Ms Grimmett’s evidence that each construction season would be longer than 9 months. Mr O’Callaghan stated in evidence that he expected each of the primary phases of earthworks would take about 12 weeks each. The applicant proposed (in the application) the following hours of operation:

- Monday to Friday: 6.30 am to 6.00 pm
- Saturdays: 7.30 am to 4.00 pm

15.2 No work is to be undertaken on Sundays or public holidays. Ms Grimmett amended those proposed hours in evidence to 7.00 am to 6.00 pm Monday to Friday. It was Ms Grimmett’s evidence that these hours of operation are typical of those used in earthworks projects for residential subdivisions in the Wellington region including those that are near existing established residential areas.

15.3 Ms Grimmett advised in evidence that the applicant had agreed to not undertake works during the wetter winter 3 months of the year. This, in her view, makes it more important to ensure that as much as possible can be completed during summer and makes the full hours of operation, including Saturdays, so important. Ms Helme had recommended a reduction in Saturday hours (to 8.00am to 12.00 noon). Ms Grimmett’s view of that restriction is that it would make it very difficult to complete the work within each construction season.

15.4 Several submitters raised concerns about the potential for noise, dust and disturbance by construction traffic.

15.5 Ms Grimmett clarified that the machinery required to undertake the earthworks would be transported to the site via Major Drive at the commencement of each earthworks
season and remain on site for the duration of the season. The only
other traffic likely to be experienced on local roads during each
construction season would be light vehicles (not heavy machinery).
Access to the earthworks area is not required from Waipounamu Drive. In
her view, therefore, there will be no adverse traffic effects.

15.6 Ms Grimmett and Ms Helme agreed that the only noise would be from earthmoving machinery working within the site. It was Ms Grimmett’s view that machinery noise would not be a persistent adverse effect for neighbouring residential properties over the whole period of each construction season however. That is because of the staging of work within each (western and eastern) phase and the fact that the earthworks face would gradually shift over time. In addition, the site is an amphitheatre which faces north and largely away from the nearby residential area. Ms Grimmett confirmed in evidence that all machinery would have mufflers installed and was confident that noise levels from work on the site would meet the usual New Zealand and District Plan standards for construction noise.

15.7 Ms Sally Johnston, who lives at 15B Otira Grove immediately adjacent to the southwestern corner of the site, described in full her concerns about noise and dust and the impact that would have on her enjoyment of her property in summer. She noted the 9-month duration of each construction season and the proposal to work for most of each Saturday and expected the impact to be adverse. Ms Johnston works away from her property most of the time during the week and relies on weekends for relaxation. Ms Johnston particularly requested a ban on construction work at weekends and a shut-down period over the Christmas-New Year period to provide some relief.

15.8 In response to submitters’ concerns, Ms Grimmett suggested an amendment to proposed working hours which would allow construction activities on the site between 7.30 am and 4.00 pm on a maximum of two Saturdays in any month. Ms Helme considered the 7.30 am Saturday start time to be too early particularly for noisy heavy machinery.

15.9 Ms Grimmett described the range of dust control measures that would be employed by the contractor on the site. These include the use of a water cart, cessation of work in very high winds, limiting the area of exposed earth at any one time and re-vegetating exposed areas as promptly as practicable. Mr Prentice stated that, in his experience, the construction activity that is most likely to give rise to dust is the clearing of topsoil material and clay. He advised that, once fill and batter faces have been formed and road foundations have been placed, the risk of dust emission is considerably less.

15.10 Ms Helme had suggested, in her section 42A report, a condition requiring that there be no dust emissions beyond the boundary of the site. In answer to questions from the Hearing Panel, Ms Helme agreed that this is probably an unrealistic expectation. In the alternative, Ms Helme suggested a condition that would require no dust emissions causing a ‘dust nuisance’ as defined in the District Plan. The District Plan definition is circumstances where “there is visible evidence of suspended solids in the air beyond the site boundary and/or there is visible evidence of suspended solids from a dust source settling on the ground, building or structure of a neighbouring site, or water”.

15.11 Transpower raised a particular concern in its submission about the potential adverse effect of dust resulting in the build-up of material on the nearby transmission lines. Ms Grimmett confirmed that the applicant accepted the conditions suggested by Transpower that require earthworks activities to be undertaken in accordance with a Code of Practice (NZECP 34:20010 to overcome that possibility.

Findings
15.12 The Hearing Panel does not consider that the potential adverse traffic effects arising from the delivery of construction machinery to and collection of that from the site or the movement of the contractors' vehicles on local streets will be any more than minor.

15.13 The Hearing Panel does consider that there is potential for significant adverse effects on the residential amenity values enjoyed on nearby residential properties arising from the proposed hours of operation. In particular, we agree with Ms Helme that a 7.30 am start time on a Saturday is unreasonably early for noisy machinery. We consider that residents are entitled to some respite at the weekends and that noisy machinery should not be permitted to start up before 8.00 am. It is acceptable for non-noisy activities to occur between 7.30 am and 8.00 am. We consider that Ms Grimmett's suggested restriction to two Saturdays in any month is also reasonable. We do however expect that those will coincide with fine-weather Saturdays but acknowledge that it will provide residents with some respite from noisy activities. We also agree that the Christmas-New Year shut-down period suggested by Ms Johnston is reasonable. These additional restrictions can be captured in conditions of consent.

15.14 The Hearing Panel expects that, from time to time there may be some dust emitted from the area of the construction earthworks. We are satisfied that the applicant proposes to use best practicable methods to control dust within the site but expect that a requirement that there be nil or no visible dust beyond the site to be unachievable. We are satisfied that the conditions suggested by Ms Lenz relating to erosion and sediment control and those suggested by Ms Helme relating to use of best practicable methods will assist to minimise the potential for dust emissions. We consider the adoption of ‘all practicable measures’ is all that can genuinely be expected. Acknowledging that some dust emissions may arise, it is our view that what will be important is the promptness of the contractor's response in implementing additional measures on site or ceasing work so as to prevent dust. We are satisfied that the environmental management plan suggested by Ms Grimmett, which would include 24-hour contact phone numbers of the contractor being provided to neighbours, will successfully address this response. We are therefore satisfied that the measures to control and respond to potential dust emissions can be appropriately captured in conditions of consent.

15.15 In addition, the Hearing Panel considers that the short overall duration of the earthworks proposed by the applicant will be important in limiting potential adverse effects. Reflecting that importance, we consider the maximum 2-summer construction period proposed by the applicant (and confirmed in evidence as sufficient) should be specified in conditions of consent.
16 Stability Of Cut Batters And Filled Areas

16.1 Some submissions raised concerns about the stability of the earthworked areas during construction and the long term stability of all cut batters and fill areas. Mr O’Callaghan and Mr Prentice confirmed in evidence that the earthworks would be controlled by a comprehensive management regime to address potential erosion.

16.2 Ms Helme’s report included a memorandum from Philip Murphy, HCC’s Senior Road Asset Engineer, which recommended a number of conditions of consent intended to assure the stability of the cuts and fills. The suggested conditions reference NZS 4431:1989 and Mr Murphy confirmed in evidence that this and the suggested conditions are the usual requirements considered industry-wide to be necessary to assure stability. No party brought any contrary evidence about stability and the applicant accepts the conditions suggested in Mr Murphy’s memorandum.

Finding

16.3 The Hearing Panel is satisfied that the conditions recommended by Ms Helme and by Ms Lenz (relating to the control of erosion during earthworks construction) are necessary and appropriate to assure the short term and long term stability of the cut faces and filled areas.

17 Loss Of Existing Vegetation

17.1 The proposed earthworks will necessitate the removal of vegetation from about two thirds of the site. Most of the vegetation to be cleared is either gorse-dominated scrub or mahoe-dominated native early regenerating forest and not of high current ecological value according to Dr Blaschke. Dr Blaschke’s report, attached to Ms Helme’s section 42A report, notes however that in time most of these areas of regenerating forest would grow into mature forest so the filling of them represents some loss of vegetation and habitat.

17.2 Dr Blaschke had been engaged by the HCC to participate in discussions with the applicant about alternative subdivision layout prior to lodgement of the applications. Dr Blaschke had, in the course of that work, identified the areas within the site that he considered to have the highest ecological significance. Those areas correspond with the gullies of three tributary streams (and the upper part of one other tributary through the adjacent Speedy’s Reserve). His delineation of these areas is based on detailed field observations although he noted that he had not surveyed the areas using geo-positioned points. Within those areas, Dr Blaschke identified areas of higher aquatic habitat quality in the lower stream sections and important regenerating native vegetation along the riparian margins and in the gullies surrounding the streams. Dr Blaschke acknowledged that the vegetation and habitat values of the northern gully had been diminished by the illegal clearance and earthworks activity that occurred there in 2006 (whilst noting that restoration planting has now been undertaken there).

17.3 Dr Blaschke estimated that the proposed earth filling would affect approximately 1,000m² of the upper gullies of five ephemeral streams. His assessment was that the fill intrusion close to the wetland has the potential for greater impacts because that gully is the more ecologically significant and because of the presence of the wetland. Although the wetland is small and is degraded by sedimentation, Dr Blaschke considers it contains a good cover of a number of characteristic wetland vegetation species. Dr Blaschke estimated that the fill intrusions would affect only about 1.5% of the total area of the Speedy’s Stream catchment. It was Dr
Blaschke’s opinion that, in the context of the whole catchment, this amount of vegetation clearance and gully infill is acceptable provided mitigation is offered.

17.4 Dr Blaschke made, in his January 2009 report, a number of recommendations for re-configuring boundaries to minimise the encroachment of fill areas and allotments into the ecologically important areas. Dr Blaschke confirmed in evidence that the applicant had responded appropriately to all of his recommendations. He suggested in his supplementary statement that proposed Road 4 adjacent to Lots 127 to 133 could be reduced or shifted to reduce fill intrusion into the gully there. However, he confirmed in oral evidence that he remained reasonably comfortable on ecological grounds with the fill intrusion there provided the mitigation he suggested were undertaken. Ms Grimmett stated that an amendment of the extent described by Dr Blaschke would be opposed by the applicant because it would mean the loss of approximately 10 allotments and is, in her view, not necessary to address adverse effects. The mitigation that Dr Blaschke referred to includes the weed control within the gullies that are to be retained within reserves, the re-vegetation with native species of the finished cut and fill batters and supplementary planting around the wetland.

17.5 As discussed earlier in this decision, in the context of the scale of the proposed earthworks, the cut that is proposed to form Road 3 would result in the clearance of a substantial area of vegetation from the ridge top and sides of the ridgeline west of Major Drive. It was Ms Helme’s evidence that more could and should be done to retain a buffer along those hill faces of land and vegetation protected in private covenants. The submission by Tania M Love, who did not attend the hearing, also requested that the vegetation that is along the boundary parallel with properties on the western side of Major Drive be retained and protected.

17.6 Dr Blaschke emphasised the importance of controlling weeds. As a measure to achieve that, the applicant proposes to register covenants on the titles to all allotments prohibiting the planting of known weed species. The list of proscribed species is comprehensive and, according to Ms Grimmett, is based on a list publicised by the Department of Conservation.

Findings

17.7 The Hearing Panel is satisfied that the total area of regenerating native vegetation that would be lost within the gullies is small in an absolute sense and small as a proportion of the Speedy’s Stream catchment. It is, in our view, a minor adverse effect of the proposed development. The applicant’s proposal to set aside approximately 2.86 hectares of land within public reserves is a positive feature of the proposal. The Panel agrees with Dr Blaschke that, provided the weed control proposed by the applicant is undertaken within those areas, the setting aside of that land will be an ecological and scenic asset within the catchment.

17.8 The Hearing Panel reiterates its earlier conclusion that a greater width of the existing vegetation present along the faces of the ridgeline west of Major Drive should be retained. We expect that this is possible with some minor re-configuration of boundaries and road alignment and consider it is necessary to minimise the loss of notable and highly visible semi-mature vegetation from the site. In particular, we consider that the existing semi-mature vegetation adjacent to the downhill boundary should be retained wherever practicable and protected by private covenants. The delineation of the covenants should be confirmed by survey of the vegetation on site but should be nowhere less than 5 metres wide. Similarly, the semi-mature vegetation near the rear boundaries of Lots 5 and 6 should be retained to a

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7 Dr Paul Blaschke: Report for Hutt City Council (January 2009) paragraphs 4.5 to 4.9
minimum width of 5 metres (but more if practicable). In this regard it is notable that the objective for the Hill Residential Activity Area is to maintain and enhance the distinct characteristics and amenity values associated with the area.

18 Long Term Surfacewater Disposal And Impacts

18.1 Several submissions raised concerns about the impact that the increased impervious surfaces within the subdivision (roads, driveways and house roofs) would have on the quality of water in the tributaries of Speedy’s Stream and on downstream flood risk. Dr Blaschke also raised a concern, in his January 2009 report to the HCC, about the changed stormwater regime that would result from the conversion of a large proportion of the site from pervious to impervious surfaces. In addition to increased base flows resulting from the addition of piped stormwater, Dr Blaschke noted that the installation of sub-soil drains in earthworks upstream of the wetland have the potential to decrease base flows to the wetland.

18.2 The proposal is to collect run-off from roads, driveways and roofs and pipe that discharge by conventional gravity drainage systems to existing public stormwater drains and to the streams in the gullies below the subdivision. Ms Grimmett presented, with her reply statement, a plan showing the intended points of stormwater discharge. This plan (W05459 CU01 E) confirms that all surfacewater collected from private properties and roads is to be drained via sumps in roads and pipes to discharge at points within the reserve gullies above the tributary streams. Ms Grimmett suggested in her reply statement that it may be possible to connect some of the piped stormwater outlets direct to the existing reticulated stormwater system in Christchurch Crescent. She was not able to be definitive about that however. Ms Lenz expressed a preference in her supplementary evidence for diversion of piped stormwater to the existing reticulated system wherever practicable to lessen the potential for adverse effects resulting from increased base flows. It was her evidence that, provided the stormwater outlet points were constructed with appropriate scour prevention structures, any potential adverse erosion effects could be mitigated.

18.3 Mr O’Callaghan estimated that the current surfacewater flow discharged to Speedy’s Stream from the entire catchment above the site during a 10-year ARI rainfall event is in the order of 7.86m³/second (7,860 litres/second). He estimated that the current surfacewater flow discharged from the site during a 10-year ARI rainfall event is in the order of 0.44m³/second (440 litres/second). He estimated that this would increase to 0.69m³/second (690 litres/second) once the subdivision is fully developed with roads and houses (an increase of 0.25m³/second). That would increase the flow in Speedy’s Stream, post-development, to approximately 7.86 + 0.25 = 8.11m³/second in a 10-year event. That is an increase of 3%. He did not consider that degree of increase poses any material increased risk of downstream flooding. He did however expect that the usual base flows piped from Roads 1 and 3 into the gully above the wetland would ensure that water levels in the wetland are maintained.

18.4 Dr Blaschke had suggested in his report that the road berms should be used to absorb some of the increased stormwater flows from impervious surfaces. Mr Matcham, for the Friends of Belmont Regional Park, had also suggested that the subdivision should be designed with low impact stormwater attenuation measures including the use of permeable surfaces and on-site roof water tanks to absorb peak flows.

18.5 Mr O’Callaghan, in answer to questions from the Hearing Panel, explored the potential benefits and shortcomings of on-site stormwater attenuation measures. He
stated that, although these measures could theoretically absorb some
proportion of peak flows, the use of them was fraught with difficulty. For
example, he noted there is no way of requiring future householders to keep
their tank or keep the tank system fully maintained and functional. As a
result, experience within the industry is that such measures cannot be
relied on 100%. He advised that a common problem is that, where roof tanks remain full with the water not being used or draining in between rainfall events, they are unable to accommodate roof water in storm events. It was his opinion that, from a public policy perspective, it is preferable to manage peak stormwater flows within the public drainage infrastructure than to rely on attenuation within private properties.

18.6 Mr O’Callaghan stated that the attenuation measures proposed within the stormwater design for the subdivision (through the collection and piped system) would achieve approximately 90% attenuation in a 10-year event. The degree of attenuation achieved in heavier rainfall events would be reduced because the surfacewater from the subdivision would be a diminishing proportion of higher base stream flows.

18.7 In answer to questions from the Hearing Panel, Mr O’Callaghan stated that although it is a common perception that grass berms provide important stormwater soakage and can reduce surfacewater flows, the reality is that they are of limited use in controlling stormwater flows on steeply sloping roads. It was his evidence that house roofs and building footprint account for approximately 62% of surfacewater run-off from urban areas, driveways account for approximately 12% of run-off and roads account for approximately 26% of run-off. In that context, he advised, simple grass swales or berms on sloping terrain (as here) provide limited attenuation of surfacewater run-off. He expected that, for this proposed subdivision, they might provide some degree of attenuation but could not be relied upon to manage the full volume of stormwater generated in moderate to heavy rainfall events.

18.8 Mr Murphy, HCC’s Senior Road Assets Engineer, noted in his 30th January 2009 report that grassed berms allow stormwater from footpaths to dissipate by soakage rather than feeding direct to the kerb drain and piped system. Notwithstanding Mr O’Callaghan’s reservation relating to sloping roads, the applicant supported Ms Helme’s suggested condition 61 which requires consideration of enhancing the permeability and stormwater attenuation properties of berms.

18.9 One of the measures proposed by the applicant for managing potential sedimentation during construction earthworks is the use of filter bags in sumps draining to the existing public infrastructure. Mr O’Callaghan indicated in evidence that these filter bags could also be used long term to enhance the quality of stormwater discharged to the public reticulation. Mr Murphy, for the HCC, was not persuaded that filter bags are a successful measure long term and was not prepared to commit the Council to the maintenance cost and risk of failure of filter bags. Mr O’Callaghan noted that the post-construction stormwater design is not reliant on filter bags. He accepted that the question of whether they are retained long term would be a matter for HCC’s discretion in certifying the detailed design for the stormwater drainage system.

18.10 The applicant also proposes to install signs next to stormwater sumps in the roads warning residents that these drain to natural water and to take care with what is discharged in stormwater drains. The applicant also proposes to impose covenants on the titles to all allotments restricting the use of building materials that could result in release of contaminants into stormwater that drains into Speedy’s Reserve. Materials referred to in the application are bare galvanised, zinc alum and unpainted metal.

Findings

18.11 There was no expert evidence disputing Mr O’Callaghan’s conclusion that a 3% increase in base stormwater flows should not cause any material increase in
downstream flood risk. The Hearing Panel accepts that the risk associated
with increased flows from impervious surfaces within the fully developed
subdivision will be imperceptible within the context of elevated base flows in the lower Speedy’s Stream and Hutt River in heavy rainfall events.

18.12 The Panel also accepts that, provided appropriate scour prevention structures are incorporated into the design of the stormwater outlets, no significant erosion should result for the tributary streams.

18.13 The Panel takes Mr O’Callaghan’s point about the potential frailty of private on-site measures for attenuating peak stormwater flows and the limited attenuation potential of road berms. However, it is our view that every attempt should be made to attenuate elevated stormwater peak flows in a low-impact manner. For that reason, the Panel endorses Ms Helme’s suggested condition 61 and note that the implication of it may be that some adjustment is required in the design or materials used in the road berms so as to optimise their stormwater dissipation capacity.

19 Overall Finished Form Of The Subdivision – Urban Design

19.1 Several submissions were opposed to the conversion of what they currently perceive as a green rural landscape to a built urban area. Mr Gjerde’s assessment was that “the entire site will appear distinct from the surrounding rugged landscape as a consequence of the uniform re-forming of the site and creation of flat development parcels” and that “this will in turn lead to a poor sense of place”. Mr Gjerde was also, in his written assessment report, critical of the monotony that he considers will result from the formation of benched flat building sites separated by retaining structures.

19.2 Picking up these concerns, Ms Helme recommended a condition of consent (number 65) requiring that retaining walls and fences that are visible from the street be constructed with varied materials, colouring and texture. Her suggested condition also requires low-impact design and construction of fencing and planting, where possible, to soften structural elements on the street frontage. The condition would require details of the proposed landscape treatment to be submitted to the Hutt City Council for approval prior to construction of these retaining walls and fences. Her intention is that the condition would be registered as a consent notice on allotment titles so that it could be enforced for all future owners of individual allotments.

19.3 Mr Gjerde was also critical of the lack of connectivity through the site and the use of cul-de-sacs. His view, expressed in his written assessment report, is that “connected street networks provide for better choice for residents and visitors alike, are known to be safer from crime and more robust in terms of future expansion”. It was Ms Grimmett’s evidence that the alternative of a through road connecting Kaitangata Crescent and Waipounamu Drive had been considered but discounted because of the larger footprint it would require in earthworks and the loss of ecological values that would result (from the gully in proposed reserve Lot 201) from such an alignment.

19.4 All HCC officers except Mr Gjerde seem to accept the cul-de-sac roading pattern as an appropriate compromise between accessibility, connectivity and retaining ecological values of the gullies. In addition, Ms Grimmett noted that it is proposed to provide pedestrian connections between Roads 1 and 4 (through the proposed reserve Lot 201), from the cul-de-sac head of proposed Road 2 into Speedy’s Reserve and between proposed Road 3 and Major Drive between Lots 27 and 28 emerging at the existing Major Drive playground.

19.5 In her reply statement, Ms Grimmett reminded the hearing that the combination of vested reserves and private covenants means that nearly 30% of the site will be
retained as vegetated green or open space. It was her contention that that is a level of open space not otherwise required by any District Plan rules and would have a positive effect in terms of the residential amenity values of this neighbourhood and sense of place. Ms Grimmett noted that none of the objectives and policies for the Hill Residential Activity Area specifically discusses ‘urban design’ outcomes. The provisions are concerned with maintaining and enhancing amenity values, existing vegetation and visual character and it was her contention that the proposal as amended at the hearing would achieve the District Plan objectives.

19.6 The application proposes that the bare faces between benched building platforms on individual residential sections will be left without retaining walls for up to 2 years. In answer to a question from the Hearing Panel, Mr Prentice confirmed that the faces do not require retaining walls for structural reasons in the short term. It was his opinion however that, over the longer term, these faces will need to be secured by retaining structures to prevent erosion. Mr Murphy did not consider the construction of these retaining walls should be a condition of subdivision consent (on the basis that they are not required for structural reasons). It was his understanding that the applicant is however prepared to build the retaining walls as part of the process for certification of the subdivision under section 224 of the Act (that is, within 2 years).

Findings

19.7 It is notable that the District Plan prescribes no specific requirements addressing ‘urban design’. They could be seen as inherently provided for in the standards prescribed for roading layout, pedestrian access, reserve contribution, building density and on-site building bulk and location. The Hearing Panel finds no particular basis in the District Plan for rejecting the proposed subdivision layout on the grounds of poor urban design. The Panel is satisfied that the proposed layout will create neighbourhoods of residential sections that are relatively close, by road, to each other and which have some (although limited) alternative short cut pedestrian connections.

19.8 We agree with critics of the proposed benching of individual sections that the result is likely to be uniform and potentially monotonous and uninteresting. That is however, according to Ms Grimmett and Mr Prentice, what the market for residential sections seeks. We agree with Mr Gjerde that much more interesting neighbourhoods would be created by weaving roads or rights of way along the natural topography and reducing the extent of bulk (smoothing) earthworks. We accept the applicant’s team’s evidence that this could only be achieved if substantially fewer allotments were created at significantly greater cost and that this is not the market the applicant is seeking to meet with this subdivision.

19.9 Our overall conclusion about the design of the proposed subdivision is that, although it will be functional and somewhat basic, it will provide adequately for basic services and access and will not be out of keeping with the character of the surrounding Kelson residential development. HCC officers have endeavoured over some months to improve the features and quality of the design and have achieved some improvements. We do not consider that the desirability of achieving further ‘urban design’ enhancements can be grounds, in this case, for a refusal of consent. There is no support in the District Plan objectives and policies for such an approach. Neither do we consider it would be appropriate to seek to impose conditions which seek to materially alter the ‘urban design’ configuration (save for the few minor amendments we discuss earlier in this decision).

19.10 The applicant accepts Ms Helme’s suggested condition requiring plans of all intended retaining walls, fences and landscaping to be approved by the HCC. The Hearing Panel notes that the condition introduces restrictions on the design and
finished appearance of the frontages of sections that do not otherwise exist under the District Plan. The Panel accepts that, in this situation, such restrictions may be appropriate and important in achieving the outcomes the applicant intended. We note the applicant’s intention to construct retaining walls between the benched building platforms on individual sections within 2 years of any subdivision consent. Given that is the case, the applicant will be responsible for the design and construction materials of that component of the works captured by the suggested condition.

20 Provision For Pedestrian Footpaths And Road Design

20.1 There was some discussion in evidence about the detail of road cross-section relating to the provision of footpaths and road berms along Road 3. All other roads are designed with appropriate cross-section and footpath provision. Mr Bill Barclay, HCC’s consultant Traffic Engineer, stated that no further flexibility is required beyond that provided for in Ms Helme’s suggested conditions 34, 35 and 36. These require a footpath on both sides of Road 3. The applicant’s preference is to have a footpath on one side for the southernmost part of Road 3. Mr Barclay stated in evidence that it is acceptable to have a footpath on one side only of a cul-de-sac road where that road serves no more than 20 households. On that basis there could be a single footpath south of Lot 42.

20.2 Both Mr Barclay and Mr Murphy (HCC’s Senior Road Asset Engineer) commented however that, in their experience, residents want footpaths on both sides of any road. Mr Murphy explained that requests for second footpaths is one of the most common requests to his Department and that it is difficult to provide for other than when first designing and constructing a road. It was Mr Murphy’s and Mr Barclay’s clear recommendation that footpaths on both sides of Road 3 should be included.

20.3 Mr Murphy’s comments on the proposed road design, contained in his memorandum dated 30th January 2009 attached to Ms Helme’s report, describes the benefits of grass berms between the road carriageway and footpaths. These are in terms of safety (separating pedestrians from traffic and preventing illegal parking across footpaths), practical road maintenance, the ability to smooth gradient between vehicle crossings, stormwater soakage and the potential for enhancing the character of the streetscape with planting. It was his view that it is important to have a minimum 900mm berm between the footpath and the kerb to provide for pedestrian safety. However he recommended a wider berm wherever practicable and presented a typical cross-section and alternative design parameters that would achieve that. He questioned whether there would be sufficient road width within Road 3 for full berms plus footpaths and road carriageway.

20.4 Mr Prentice, for the applicant, described the positive streetscape benefits that can result from the use of planted berms. Ms Helme suggested in her report a condition (61) requiring the preparation and implementation of a berm planting plan which Mr Prentice supported.

20.5 There are two locations where the sight distances for vehicles do not comply with District Plan standards. The first is at the intersection of Road 1 with Road 2 (a short cul-de-sac) where there is 55 metres visibility rather than the usual minimum 90-metre visibility. The second is adjacent to Lots 14 to 19 where visibility is restricted by a curve in the road. Again, 55 metres visibility is achieved there. Mr Bill Barclay stated in evidence that the 90-metre visibility usually required can safely be reduced in the context of the low speed and low flow road environment proposed for this subdivision. He did however recommend that a minimum of 55 metres visibility should be achieved at all proposed intersections. It was his view that this
was achievable in this case with perhaps some minor adjustment of allotment and road boundaries.

Findings

20.6 The Hearing Panel is satisfied that the road cross-section proposed by the applicant is appropriate with the following exceptions:

20.7 The Panel agrees with Mr Barclay and Mr Murphy that it is sensible to incorporate pedestrian footpaths along both sides of the full length of Road 3. That is because that road is a relatively long road and residents will benefit from having dual footpaths. We also expect that, were dual footpaths not provided, the HCC may at some future time be requested by residents to provide a second footpath. The Panel considers that, if space is limited because of other changes required by other conditions in the vicinity of Road 3, a single wide berm between the footpath and residential allotments is reasonable along Road 3.

20.8 There should be a minimum 900mm berm separating the footpath from the kerb to provide for smoothing of driveway crossings and pedestrian safety.

20.9 Where a wider berm is proposed, it should be grassed and planted in accordance with a berm management plan. The Hearing Panel also supports any initiatives achievable through Ms Helme’s suggested condition 61 to apply best practice contemporary design to reduce impervious surfaces and enhance the permeability and stormwater attenuation within road berms.

21 Potential Shading Or Loss Of Privacy On Adjoining Sites

21.1 Some residents of properties adjoining the site raised in their submissions concerns about the potential for future development on the subdivided allotments to overlook or shade their properties or to cause a loss of privacy. Ms Grimmett’s response to those concerns was to say that, in the main, the finished ground level of the subdivided allotments would be either at the same level or reduced compared to current ground level. It was her contention therefore that many properties would enjoy more afternoon sun. It was also her opinion that the proposed covenanted areas along the rear of allotments fronting proposed Road 3 would mean that future buildings are set back further from the common boundary than the permitted activity standards would usually require. It was her opinion that nothing additional to the usual bulk and location standards is required.

21.2 Mr Stephenson (a submitter who lives at number 235 Major Drive) described how his house has living areas at the rear facing west towards the boundary with the applicant’s land. The property enjoys sun until quite late on winter afternoons. He considered that he would be adversely affected by any future dwelling on proposed Lot 7. He requested the amalgamation into two larger allotments of Lots 7 and 9 and Lots 8 and 10. He also requested that the allotment immediately adjoining his property be restricted so that no buildings could be built within 12 metres of his boundary. The Hearing Panel visited Mr Stephenson’s property and the part of the site immediately adjoining it during the site visit.

21.3 Ms Helme clarified in evidence that the usual rear yard setback for those allotments would be 1.5 metres. There is also a control on height in relation to boundaries that would ensure that no building could be built as a permitted activity higher than 3.5 metres within 1.5 metres of the boundary. Mr Stephenson highlighted the difference in level between his property and the proposed new allotments at his rear boundary in emphasising his concern about the potential for loss of privacy and shading.
Responding to Mr Stephenson’s particular concerns, Ms Grimmett advised in her reply statement that the applicant would be prepared to impose a 3-metre-wide private covenant at the rear of proposed Lots 5, 6, 7, 8 and 11.

Findings

21.4 The Hearing Panel is satisfied that no new or unacceptable loss of privacy or worsened shading will result from future building on the proposed allotments. In general, the usual bulk and location standards for the Hill Residential Activity Area (which are the same as for the General Residential Activity Area according to Ms Helme) will be sufficient to protect amenity values between properties. The Panel has commented separately on the need to widen and extend the strip of land that is included in private covenants on Lots 12 to 44. The Panel notes that the applicant is prepared to similarly covenant a 3-metre width along the rear of Lots 5, 6, 7, 8 and 11.

21.5 We discuss earlier in this decision our conclusion that the existing semi-mature vegetation along the eastern boundary of the allotments that adjoin Major Drive properties should be a minimum of 5 metres wide and should include Lots 5 and 6. The 3-metre width of covenant across the rear of Lots 7, 8 and 9 may appear at odds with the 5-metre-wide covenant to the north and south. The Panel considers that the covenanted area on Lots 7, 8 and 9 should be expanded to 5 metres width to be consistent with the width of covenanted area to the south of Lot 11 and to the north of Lot 7. We expect that some reconfiguration of allotment boundaries will be necessary to achieve this whilst retaining usable allotment sizes and shapes. Given the 2% margin of error that Mr Prentice explained is inherent in the pre-survey layout, we expect that there will be space available to achieve that.

22 Potential Loss Of Dark Night Sky

22.1 Mr Matcham, for the Friends of Belmont Regional Park, explained the Friends’ concern that the installation of street lighting and general glow from future houses in the subdivision will diminish the natural dark night sky that is a feature of this edge of the Belmont Regional Park.

22.2 Mr Murphy advised in evidence that the usual standard for street lighting requires that all street lighting must be ‘down’ lighting although he accepted that this would not eliminate glow from such lighting.

Finding

22.3 Although the proposed subdivision will result in an additional area of built development and night lighting, the Hearing Panel does not consider that will be a material addition in the context of the entire boundary of the Park with urban development along the Western Hutt hills. To an extent, the proposed development of the land will simply ‘fill in’ an area of zoned residential land that is already surrounded by built residential development. We accept that the future development of the land will bring some night lighting glow marginally closer to the Park but do not consider that to be anything more than a minor adverse effect of the proposal.

23 Mitigation

23.1 There was some discussion in evidence about the detail of some of the mitigation proposed by the applicant. In broad terms, Ms Helme, Ms Lenz and Dr Blaschke all agree that the type of mitigation proposed is appropriate to address the actual and
potential adverse effects on ecological values and instream values. Mr Gjerde was not present to comment on the minor amendments made to plans from the point of view of whether they did or did not address his key urban design concerns. Ms Helme’s concern that more of the faces of the ridgeline west of Major Drive should be retained in private covenants and she suggested some additional conditions to achieve that.

23.2 The applicant has been in discussion with HCC’s Reserves Department about the vesting of the two gullies as public reserve. Ms Kelly Crandle, HCC’s Reserves Asset Manager, explained in evidence that these areas would have useful scenic and ecological values as vested reserves. However the land there is not the type of reserve that the Council is currently seeking to acquire to meet known recreational needs. Ms Crandle explained that current needs for reserves in the Kelson area are for flat or nearly-flat areas suitable for children to use for informal play. The land within Lots 200 and 201 that is to vest as reserve is not currently of that type but, after earthworks, part of Lot 201 will have a nearly-flat area between proposed Roads 1 and 4 that could be suitable as an informal play area. Ms Crandle explained that, with that outcome in mind, she has been in discussion with the applicant about the finished area and gradient of that part of Lot 201. Ms Crandle clarified that HCC does not seek to have a children’s playground provided for within that area – only that it have sufficient space for a meaningful informal flat ball-kicking area, some seating, footpaths and landscape planting. Ms Crandle suggested some parameters that could be helpful in a condition of consent in defining the finished state of such a reserve.

23.3 Ms Crandle referred to the entire areas of Lots 200 and 201 as ‘reserve contribution’. Her answer to questions from the Hearing Panel confirmed that it is only the portion suitable for informal play between Roads 1 and 4 that is strictly required to vest as reserve contribution. The balance is land that Ms Helme and Ms Crandle confirmed HCC is prepared to accept as public reserve as mitigation for the adverse effects of the proposed development in vegetation loss and gully filling. Ms Crandle had no fixed view of what type of reserve Lots 200 and 201 should be (either ‘scenic’ or ‘recreation’). She considered that this should be determined once it was clearer how the reserves were to integrate with the adjoining Speedy’s Reserve and Belmont Regional Park. There is no suggestion in Ms Helme’s or Ms Crandle’s evidence that there would be any residual requirement for a reserve contribution after vesting of Lots 200 and 201. Lots 200 and 201 are considered by them to meet the requirement for reserve contribution in this case.

23.4 It is not clear at what stage Lots 200 and 201 would vest as proposed. Given that they provide important mitigation and reserve contribution, Ms Crandle agreed that their vesting should be assured at an early stage of the subdivision. Ms Grimmett agreed that this requirement could be captured in a condition of subdivision consent.

23.5 Ms Helme suggested the wording of a condition that would require the preparation and implementation of a landscape planting management plan embracing all of the re-planting and weed control proposed by the applicant. Her suggested wording details comprehensively the location, extent and type of planting and weed control required to be undertaken. Her suggested condition would require approval by the HCC Team Leader Consents before implementation – but only to the extent of certifying that the proposed planting management plan fulfils the requirements of the condition.

Findings

23.6 The Hearing Panel is satisfied that the mitigation, proposed by the applicant in the application and as suggested in draft conditions at the hearing, is appropriate and
sufficient to address anticipated adverse effects except in the following respects that can however be addressed through additional conditions:

(a) A greater area of the existing semi-mature vegetation along the faces of the ridgeline west of Major Drive should be retained;

(b) There should be a building setback from rear boundaries wider than the 1.5-metre District Plan requirement recognising the potential for intensified building and privacy effects that would result from the higher density of allotments along that boundary with adjoining allotments and the difference in level between the existing and proposed sections;

(c) A pedestrian footpath should be provided on both sides of Road 3 together with a minimum 900mm road berm;

(d) The condition requiring the preparation and implementation of a landscape planting management plan should require the certification (not approval) of a named HCC officer;

(e) The construction of each of the two primary construction earthworks stages should be completed within one year of commencement of that stage (to keep faith with the applicant’s stated intention to complete the work over only two summer earthworks seasons);

(f) Hours of construction work on Saturday mornings should be later and there should be a half-hour wind-down period at the start and end of each day during which noisy machinery should not be permitted to operate but to allow for activity to be tidied up;

(g) There should be a shut-down period over the Christmas and New Year period to give neighbours some further respite from construction noise and dust at a time of the year when people can be expected to be at home and wanting to enjoy the outdoors of their properties;

(h) Lots 200 and 201 should vest as reserves at an early stage of the subdivision process to ensure the mitigation they represent becomes an early reality.

24 Other Issues

24.1 The alignment of a Transpower transmission line passes clear of, but quite close to, the western boundary of the site. The nearest proposed allotments are Lots 88 (a residential section) and 200 (proposed reserve). Transpower lodged a submission highlighting the potential risks to security of the transmission line and requesting the imposition of conditions to assure line safety. Ms Grimmett confirmed in evidence that the applicant is happy to accept the conditions requested by Transpower.

24.2 The Hearing Panel notes that, although the transmission lines are near, they do not cross the site and the risk of damage to the lines must be seen as marginal. The Panel also notes that Transpower has powers available to manage activities near the transmission line under the Code of Practice for Electrical Safe Distances (NZECP 34:2001) referred to in the submission. Transpower’s submission notes however that the purpose of the requested conditions is as much to ensure that future landowners are alerted to the requirements (through land information
memorandum or property information memorandum) as to manage the potential effects of activities on adjoining land.

24.3 Recognising the national importance of the transmission line, the Panel agrees that the requested conditions are appropriate and notes that the applicant accepts those.

Construction Vehicle Wheel Wash

24.4 Ms Helme had included in her suggested condition 19 a requirement for a ‘wheel wash facility’ on the site during earthworks construction. Ms Grimmett signalled in evidence the applicant’s concern that this might be construed as requiring a mechanical water spraying device to clean vehicles. It was her evidence that a drive-through wheel bath or other surface treatment to dislodge earth from wheels and tyres would be sufficient. Ms Helme agreed that was the intention and the expression ‘provide for wheel washing on site’ was settled on as more accurately capturing that concept.

Demand For Residential Sections

24.5 Ms Grimmett’s evidence described the applicant’s proposed subdivision as providing a residential housing resource to create an ‘affordable housing’ resource. Ms Grimmett and Ms Helme referred to there being known demand for such housing in Hutt City and a ‘shortage’ of suitable land for such housing. In answer to the Hearing Panel’s questions, neither was able to present any data that supported or quantified that contention. Ms Grimmett stated in her evidence that the applicant’s potential clients are seeking smaller-sized sections which are easier and less costly to maintain. She stated that it is her client’s experience (and her own) that people wanting larger houses on bush-clad hillside locations do not generally seek to live in Kelson. It was her contention that the proposed subdivision therefore meets a segment of market demand for housing.

Fencing Of Covenanted Bush Areas

24.6 Ms Grimmett noted the requirement in Ms Helme’s suggested condition 57 a requirement to fence off areas that are not to be earthworked for the duration of the earthworks project. Ms Grimmett sought clarification that the purpose of this fencing is purely to delineate covenanted bush areas and other parts of the site that are not to be disturbed. She sought confirmation that it did not mean permanent fencing with, for example, a timber board or post and batten fence. Ms Helme agreed that the intention is purely temporary delineation which could be achieved using tape or other warratah and wire fencing.

Concerns About Property Values

24.7 Although a number of submitters raised this as a concern, no specific evidence was presented in support of submitters’ concerns. The Hearing Panel has carefully considered the evidence relating to amenity values of surrounding residential properties. The Panel does not consider it is necessary or appropriate to give additional consideration to alleged impacts on property value because this is, to some degree, a proxy for the amenity value of properties.

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8 Jenny Grimmett - Evidence in chief paragraph 293 (b) and oral comments in evidence to the hearing.
Increased Traffic

24.8 No evidence was presented disputing Mr Barclay’s assessment and the supporting information in the application that the increased traffic from future households in the subdivision can be safely and conveniently accommodated on local roads including Major Drive.

25 Conclusion

25.1 The Hearing Panel is satisfied that the subdivision of this residential-zoned land in the form proposed is (subject to detailed modifications specified in conditions) an appropriate form of development and is consistent with the sustainable management purpose of the Act. It represents an efficient use of land and will meet a segment of demand for residential housing in Hutt City. The open space, reserves, roading and infrastructure services proposed are appropriate to meet the needs of future residents. Granting consent to the proposed subdivision will enable people to provide for their social and economic wellbeing and for their health and safety.

25.2 The Hearing Panel considers that the package of mitigation measures proposed by the applicant will address most but not all of the reasonably foreseeable adverse effects of the proposal. Some additional measures are required to ensure that all foreseeable adverse effects of the proposed development of the site are appropriately managed. Most of these additional measures were expressed as draft conditions of consent and were the subject of extensive evidence at the hearing. They have been, with only some exceptions or variations, agreed to by the applicant.

25.3 Modified by the implementation of the mitigation conditions, the Hearing Panel is satisfied that the proposal will properly give effect to section 5 of the Act and to the objectives and policies of the relevant objectives and policies of the Regional Policy Statement, Regional Freshwater Plan and the District Plan.

26 Consent Term

26.1 The application requested the standard 5-year lapsing period for the land use and subdivision consents required from HCC. Ms Grimmett suggested in evidence however that, to provide sufficient time for preparation of all of the management plans suggested by officers and for water quality monitoring, the start date for works may well be delayed. In her view, the consent duration should accordingly be extended. She requested a 10-year lapsing period.

26.2 The Hearing Panel noted at the hearing that an extended lapsing period has the potential to conflict with the applicant’s stated intention to complete the works within two consecutive summer earthworks seasons. That is, the earthworks construction could occur over an extended time frame. That has implications for adverse construction effects such as noise, dust and erosion control. Ms Grimmett stated that the applicant would be agreeable to a restriction that required completion of the earthworks within a two-year period. The Hearing Panel agrees that an extended (10-year) lapsing period may however be necessary to account for delays with commencement (due to design amendments, preparation of management plans or even market conditions). In addition, the Hearing Panel considers that, once earthworks have commenced, they should be completed within 2 years in order to confine potential adverse effects.
26.3 The duration of the land use and subdivision consents required from
HCC have unlimited duration unless otherwise restricted by the consent.
The Hearing Panel sees no reason to restrict those.

26.4 Ms Lenz considered that a term of 5 years is sufficient for the discharges associated with the construction earthworks (WGN080187 [26513]) given the two-year earthworks season proposed. Noting Ms Grimmett’s concern about a delayed start, the Hearing Panel is prepared to allow a lapsing period for that and other consents of 10 years and agrees that the duration of the consents for earthworks should match that.

26.5 Ms Lenz considered that it would be appropriate to grant the water permits authorising the stream diversions (WGN080187 [26514]) for the maximum 35 year term available under Section 123 because those diversions will be permanent. The Hearing Panel agrees that is reasonable.

26.6 Ms Lenz recommended that the duration for the consent for streambed reclamation and piping (WGN080187 [26515]) be limited to 35 years. As that accords with the time frame for the consent for the discharges from the pipes in the streambeds, the Hearing Panel agrees that is a reasonable approach.

27 Grant of Consent

27.1 Pursuant to Sections 104B, 107 and 108 of the Act and the authority delegated by the Wellington Regional Council and the Hutt City Council, consents are granted to the applications by Kelson Heights Limited for subdivision consent, land use consents and water permits (Wellington Regional Council file references WGN080187 [26513], [26514] and [26515] and Hutt City Council file reference RM20-W11-64/6) to enable the development of a 142-allotment subdivision of Lot 1 DP91313 and associated earthworks works shown in plans WO5459 CS21D, CS22D, CS23B, CS24A, CS25A, CE21G, CE22F, CE23F, CE24A, CE25, C26, CX01, CR01D, CR02B, CU01D and CU02C for the durations specified in paragraph 27.2 below and subject to the conditions contained in Attachments 1, 2 and 3. The reasons for granting these consents are given in the body of this decision and are summarised in paragraph 27.3 below.

27.2 Pursuant to section 125 of the Resource Management Act 1991, the lapsing date for all consents granted in paragraph 27.1 shall be 10 years from the date of commencement of the consent. Pursuant to section 123 of the Resource Management Act 1991, the duration of the consents granted by the Wellington Regional Council in paragraph 27.1 are limited to the following extent:

Consent WGN080187 [26513] authorising discharges associated with construction earthworks works shall expire 10 years after the commencement of consent.

Consent WGN080187 [26514] authorising stream diversion works shall expire 35 years after the commencement of consent.

Consent WGN080187 [26515] authorising the reclamation and piping of parts of streams shall expire 35 years after the commencement of consent.

27.3 The reasons for this decision are that:

a. The subdivision of this residential-zoned land in the form proposed is (subject to detailed modifications specified in conditions) an appropriate form of urban development in this location;
b. The proposal represents an efficient use of land and will meet a segment of demand for residential housing in Hutt City;

c. The open space, reserves, roading and infrastructure services proposed are appropriate to meet the needs of future residents;

d. Granting consent to the proposed subdivision is consistent with the sustainable management purpose of the Act and will enable people to provide for their social and economic wellbeing and for their health and safety;

e. The package of mitigation measures proposed by the applicant and required by conditions in Attachments 1, 2 and 3 is necessary and appropriate to ensure that all foreseeable adverse effects of the proposed development of the site are appropriately avoided, remedied or mitigated;

f. Modified by the implementation of the mitigation conditions, the proposal will give effect to section 5 of the Act and to the objectives and policies of the relevant objectives and policies of the Regional Policy Statement, Regional Freshwater Plan and the District Plan.

For the Hutt City Council:

Commissioner Christine Foster (Chair) on behalf of Commissioner Ross Jamieson

For the Wellington Regional Council:

Commissioner Christine Foster (Chair) on behalf of Commissioners Sally Baber and Barbara Donaldson

Dated: 19th March 2009
ATTACHMENT 1

Schedule 1: Conditions Applying To Consent WGN080187 [26513]

Schedule 2: Conditions Applying To Consent WGN080187 [26514]

Schedule 3: Conditions Applying To Consent WGN080187 [26515]
ATTACHMENT 2

Conditions Applying To HCC Subdivision & Land Use Consent No. RM20-W11-64/6 (Kelson Heights Limited)
ATTACHMENT 3

List of Excluded Plant Species Referred to In Condition No. 72 of HCC Consent Number RM20-W11-64/6
Schedule 1: Conditions Applying To Consent WGN080187 [26513]

[Discharge permit WGN080187 [26513] to discharge sediment laden water and chemical flocculant directly to unnamed tributaries of Speedy’s Stream, and to land where it may enter unnamed tributaries of Speedy’s Stream, in association with bulk earthworks for a residential subdivision]

Adaptive Management (includes pre-works requirements)

1. The permit holder shall engage a suitably qualified, experienced and independent ecologist to prepare and submit a Stream Quality Monitoring Plan (SQMP) for approval to the Manager, Environmental Regulation, Wellington Regional Council for approval at least 20 working days prior to baseline monitoring being initiated (in accordance with this condition). The ecologist that the permit holder engages shall be to the approval of the Manager, Environmental Regulation, Wellington Regional Council.

The purpose of the SQMP is to establish and implement scientifically robust monitoring methods at representative locations to monitor the health of the streams receiving discharges.

The SQMP shall include the following:

- Monitoring locations:
  - Monitoring shall be undertaken within all tributaries receiving a discharge authorised by this discharge permit;
  - For each tributary, monitoring shall be undertaken at two appropriate locations, one at a maximum distance of 30m from the point of discharge and one at a maximum distance of 100m from the point of discharge;
  - Each of the monitoring locations shall be numbered and shown on a scaled aerial map. GPS locations shall be given for each of the monitoring locations.

- Monitoring methodology for invertebrate sampling including, but not limited to:
  - The technique(s) that will be used to carry out the samples;
  - The area that sampling will be undertaken over;
  - Analysis methods that will be used to record and present the data, i.e. MCI and QMCI;
  - Any other assessments that will be undertaken i.e. physical habitat assessments.
  - How often sampling will be undertaken for the following periods at each of the monitoring locations:
Baseline monitoring (including the date when monitoring will be first initiated). Sampling shall be undertaken on a minimum of three occasions with each occasion being at least one month apart. All baseline monitoring sampling shall be completed prior to stream works authorised under land use consent WGN080187 [26515] being undertaken;

- Monitoring during bulk earthworks; and
- Monitoring once the site is stabilised.

- Monitoring methodology for deposited sediment including, but not limited to:
  - The techniques(s) that will be used to carry out the samples i.e. quorer method, Molman particle size method.
  - The area that sampling will be undertaken over;
  - The number of samples that will be undertaken at each sample site;
  - Analysis methods that will be used to present the data;
  - Any other assessments that will be undertaken. This shall include photographs of the stream bed at each sample site, prior to the sampling being undertaken, and of any potential influence (i.e. landslip, failed erosion and sediment control measure) that may have had an affect on the results;
  - How often monitoring will be undertaken for the following periods at each of the monitoring locations:
    - Baseline monitoring (including the date when monitoring will be first initiated). Sampling shall be undertaken on a minimum of three occasions with each occasion being at least one month apart. All baseline monitoring sampling shall be completed prior to stream works authorised under land use consent WGN080187 [26515] is undertaken;
    - Monitoring during bulk earthworks;
    - Monitoring once the site is stabilised.

- Identification of any additional monitoring that will be undertaken at any time that the results of the invertebrate sampling and deposition monitoring indicate significant adverse effects have or could potentially occur i.e. conducting additional sampling points to show the significance and extent of adverse effects.

- Monitoring methodology for rainfall monitoring including, but not limited to:
  - The design of the rainfall gauge that will be used; and
  - How often rainfall is going to be recorded during the following periods:
    - Baseline monitoring;
- Monitoring during bulk earthworks;
- Monitoring once the site is stabilised.

**Note:** Sampling shall not be undertaken within two weeks of a large rainfall event whereby the flow of the tributary is greater than three times the median flow.

**Note:** For the purposes of Conditions 1, 3, 13, 15, 25, 27, 32 and 33 "stabilised" in relation to any site or area means inherently resistant to erosion or rendered resistant, such as by using indurated rock or by the application of basecourse, colluvium, grassing, mulch, or another method to the reasonable satisfaction of the Manager, Environmental Regulation, Wellington Regional Council and as specified in Wellington Regional Council's Erosion and Sediment Control Guidelines for the Wellington Region, September 2002. Where seeding or grassing is used on a surface that is not otherwise resistant to erosion, the surface is considered stabilised once, on reasonable visual inspection by the Manager, Environmental Regulation, Wellington Regional Council, an 80% vegetative cover has been established.

2. The **Stream Quality Monitoring Plan (SQMP)**, prepared and submitted under Condition 1 of this permit, shall be implemented in accordance with the approved plan (under Condition 1 of this permit). Changes to the SQMP shall not be made without the prior approval of the Manager, Environmental Regulation, Wellington Regional Council.

3. The permit holder shall provide a **Stream Quality Monitoring Report (SQMR)** to the Manager, Environmental Regulation, Wellington Regional Council within the timeframes listed below. The SQMR shall be prepared and submitted by a suitably qualified, experienced and independent ecologist and shall detail the findings of the Stream Quality Monitoring Plan (SQMP) (implemented under Condition 2). The ecologist that the permit holder engages shall be to the approval of the Manager, Environmental Regulation, Wellington Regional Council.

- Baseline monitoring – within one month of the last sampling occasion;
- Monitoring during bulk earthworks – within one month of each sampling occasion;
- Monitoring once the site is stabilised – within one month of the last sampling occasion.

The SQMR shall include, but not be limited to:

- The results of the monitoring undertaken under the SQMP;
- An analysis of the results and what this indicates in regards to the effects that discharges are having on the aquatic ecosystems in each particular monitoring location and tributary as a whole;
- Recommendations for approval to the Manager, Environmental Regulation, Wellington Regional Council, to remedy or mitigate any significant adverse effects that have occurred or to avoid foreseen significant adverse effects. This may include, but not be limited to:
Changes in the management or implementation of erosion and sediment control measures;

Methods to remedy the significant adverse effects; and

Mitigation measures to offset the significant adverse effects.

**Note:** For the purposes of this condition “significant adverse effects” are those effects which are determined to be significant in the professional opinion of the engaged ecologist.

**Note:** For the purposes of this condition “stabilised” has the same definition as that set out in Condition 1 of this permit.

4. Those recommendations approved from the **Stream Quality Monitoring Report (SQMR)** under Condition 3 of this permit shall be undertaken by the permit holder to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council and within the timeframe specified by the Manager, Environmental Regulation, Wellington Regional Council.

**Note:** A resource consent may be required to undertake the works recommended within the **Stream Quality Monitoring Report (SQMR)**.

### Chemical flocculation (pre-works requirement)

5. The permit holder shall prepare and submit a **Flocculation Management Plan (FMP)** to the Manager, Environmental Regulation, Wellington Regional Council, at least 20 working days prior to any flocculation works commencing. The FMP shall include, but not be limited to:

- Details that specify that the flocculation will be triggered following a 10mm rain event;
- Details of optimum dosage rate calculated from the soils in the ponds catchment including details of the calculation (e.g. bench testing);
- Procedures for the storage of flocculation chemical(s) onsite;
- A flocculation chemical spill contingency plan; and
- Methods and responsibilities for monitoring and maintenance of the system; and
- Identification of a suitably qualified and experienced person and their specific responsibilities for ensuring the operation, monitoring and maintenance of the chemical flocculation system to ensure that each sediment retention pond is operated as outlined in the FMP.

No work authorised by this consent shall commence on site until the Manager, Environmental Regulation, Wellington Regional Council has certified in writing that the FMP lodged by the permit holder fulfils the requirements of this condition.
Updated erosion and sediment control plan (pre-works requirement)

6. The permit holder shall update and submit the Erosion and Sediment Control Plan (ESCP) Drawing No CE22 Rev F to the Manager, Environmental Regulation, Wellington Regional Council, at least 20 working days prior to works commencing.

The updated ESCP shall show the following:

- Super silt fences spaced at 15 metre intervals down the batter slope of Fill A;
- A super silt fence around the head of the wetland, prior to the toe of Fill A;
- The location, extent, volume and fill height of any unsuitable fill stockpile and any additional erosion and sediment control measures needed to minimise and treat runoff from these areas;
- Erosion and sediment control measures to be implemented along the extent of Catchments 10 and 11 to protect the properties along the boundaries of Major Drive and Kaitangata Crescent; and
- The discharge paths for all proposed sediment retention ponds (including the paths for discharges that are to be directed to land and those directly to water from the use of a splitter manhole).

No work authorised by this consent shall commence on site until the Manager, Environmental Regulation, Wellington Regional Council has certified in writing that the ESCP lodged by the permit holder fulfils the requirements of this condition.

Note: It is preferable that discharges are directed into the existing stormwater network where possible (eg from detention ponds 1 and 4).

General conditions

7. The location, design, implementation and operation of the works shall be in general accordance with the:

a) consent application and its associated plans and documents, lodged with the Wellington Regional Council on 8 October 2008; and

b) further information and amendments received by the Wellington Regional Council on 23 January 2009 and 28 January 2009.

c) further information and amendments provided at the hearing on 16th 17th and 18th February 2009;

d) Wellington Regional Council's Erosion and Sediment Control Guidelines for the Wellington Region dated September 2002; and

e) any additional plans or information to be prepared and submitted and approved by the Wellington Regional Council in accordance with various conditions of this consent.
Note: Any change from the location, design concepts and parameters implemented and/or operation may require a change in consent conditions pursuant to Section 127 of the Resource Management Act 1991.

Note: Where there may be contradiction or inconsistencies between the application and further information provided by the applicant, the most recent information applies. In addition, where there may be inconsistencies between information provided by the applicant and conditions of the consent, the conditions apply.

8. The Manager, Environmental Regulation, Wellington Regional Council, shall be given a minimum of 48 hours notice prior to the works commencing.

9. The consent holder shall provide a copy of this consent and any documents referred to in this consent to each operator or contractor undertaking works authorised by this consent and verbally brief each operator and contractor, before that operator or contractor starts any works.

10. The consent holder shall ensure that a copy of this consent is kept in the office on site at all times and presented to any Wellington Regional Council officer on request.

11. If koiwi, taonga or other artefact material is discovered in any area during the works, the consent holder shall contact Te Rununganui o Taranaki Whanui Ki te Upoko o Te Ika a Maui Inc, Wellington Tenth Trust, Te Runanga o Toa Rangatira, New Zealand Historic Places Trust and Wellington Regional Council immediately, and construction work in that area shall be stopped immediately to allow a site inspection by these groups and their advisors. The consent holder shall then consult with the above parties and their advisors on appropriate steps to recover the artefacts in order that work can resume. The finding of any human remains should be reported to the police in the first instance.

Erosion and sediment control

12. All sediment retention ponds on site shall have the following measures in accordance with consent application and its associated plans and documents, lodged with the Wellington Regional Council on 8 October 2008:
   - Baffles;
   - A splitter manhole; and
   - Perforated Nova Flow pipe to disperse the discharge over land for all ponds that are to discharge to land. The pipe shall be at least 10 metres in length.

13. The land which the discharge from sediment control ponds will be dispersed over shall be stabilised.

Note: For the purposes of this condition “stabilised” has the same definition as that set out in Condition 1 of this permit.

14. The permit holder shall repair any erosion or scour of the stream bed or banks that is attributable to any discharge from the site.
15. This permit shall be exercised in accordance with the updated Erosion and Sediment Control Plan (‘ESCP’) certified under Condition 6 of this permit. This obligation shall cease to apply in respect of any particular site or area of any site once that site is stabilised.

**Note:** For the purposes of this condition “stabilised” has the same definition as that set out in Condition 1 of this permit.

16. The Erosion and Sediment Control Plan certified under Condition 6 of this permit shall be implemented prior to the commencement of bulk earthworks.

**Note:** Bulk earthworks is defined as: cut to fill, excavation, and blading required to regrade an area.

17. Prior to bulk earthworks commencing, the permit holder shall provide to the Manager, Environmental Regulation, Wellington Regional Council a certificate signed by an appropriately qualified and experienced engineer to certify that the erosion and sediment controls have been constructed in accordance with the Erosion and Sediment Control Plan certified under Condition 6 of this permit.

18. No amendments may be made to the Erosion and Sediment Control Plan certified under Condition 6 of this permit without prior approval which is to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council.

19. The permit holder shall ensure that all sediment-laden runoff from the site is treated by sediment control measures certified under Condition 6 of this permit.

20. All erosion and sediment control measures shall remain the responsibility of the permit holder, and be installed, operated and maintained efficiently and in accordance with Wellington Regional Council’s Erosion and Sediment Control Guidelines for the Wellington Region (dated September 2002), and to the reasonable satisfaction of the Manager, Environmental Regulation, Wellington Regional Council.

21. The permit holder shall ensure that all weather machinery and 4WD vehicle access is provided to all sediment retention ponds on site to allow:

- Maintenance to be undertaken within sediment retention ponds, in particular to remove accumulated sediment; and

- The implementation and maintenance of chemical flocculant systems.

22. The permit holder shall ensure that the site is audited by an appropriately qualified person at least on a monthly basis to ensure that the erosion and sediment control methods are being maintained in accordance with the Erosion and Sediment Control Plan.

23. The monthly audits of site with respect to the Erosion and Sediment Control Plan as required by Condition 22 shall include, but not be limited to, the following information:
- Date;
- Name of auditor;
- Site condition;
- Weather conditions;
- Sediment management (identification of areas of potential sediment generation and review of sediment control measures in accordance with Condition 18 of this permit);
- Runoff control (check of diversion channels and check sediment retention ponds);
- Condition of sediment control measures, including silt fences, contour drains and sediment retention ponds;
- Maintenance required and the date this will be completed by; and
- General comments.

24. The results of the monthly audits as required by Conditions 22 and 23 shall be forwarded to the Manager, Environmental Regulation, Wellington Regional Council no later than five working days after the last day of the calendar month for which the audit was undertaken.

25. No erosion or sediment control measures shall be removed without prior approval which is to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council and the relevant site area is stabilised.

Note: For the purposes of this condition “stabilised” has the same definition as that set out in condition 1 of this permit.

Note: Refer to condition 30 of this permit when decommissioning chemically flocculated sediment ponds.

Chemical flocculation

26. The permit holder shall ensure that all chemically-treated sediment retention ponds are implemented, operated and maintained in accordance with the Flocculation Management Plan certified under Condition 5 of this permit.

27. The permit holder shall monitor and record the following parameters for all chemically-treated sediment retention ponds once every 7 (seven) days and during at least 5 separate rain events while each pond is discharging:

- pH (Inflow/Pond/Outflow)
- Temperature (°C) (Pond)
- Turbidity (NTU) (Inflow/Pond/Outflow)
- Dissolved aluminium (g/m³) (Inflow/Pond/Outflow)
- Suspended solids (g/m³) (Inflow/Pond/Outflow)

Monitoring shall start when earthworks commence in the catchment of each of the sediment retention ponds. Monitoring shall cease on any sediment retention pond when its catchment has been completely stabilised. ‘Stabilised’ shall have the same meaning as described in Condition 1 of this permit.

All monitoring results shall be recorded and maintained in a log on site and shall be forwarded to the Manager, Environmental Regulation, Wellington Regional Council no later than five working days after the last day of the
calendar month. Records shall be kept to show where monitoring is not possible due to dry conditions.

28. Should the monitoring results recorded in accordance with Condition 27 of this permit indicate that the pH of the pond outflow is at or below 5.5, the dosing of the pond with Polyaluminium Chloride shall cease immediately. In this event the Manager, Environmental Regulation, Wellington Regional Council shall be notified as soon as practicable, and within 5 (five) working days. The permit holder shall then liaise with the Manager, Environmental Regulation, Wellington Regional Council on an appropriate course of action to take.

29. Any changes to the Flocculation Management Plan, certified under Condition 5 of this permit, are not to be made without prior approval which is to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council.

30. In association with Condition 25 of this permit, the permit holder shall submit a plan for the decommissioning of chemically flocculated sediment ponds which states how material removed from the pond will be disposed of in an appropriate manner.

**Mixing zones and limits**

31. The permit holder shall take all practicable steps to ensure that the discharges from the site do not give rise to any of the following effects after reasonable mixing:

- The production of any conspicuous oil or grease films, scums or foams or floatable or suspended materials;
- Any conspicuous change in colour or visual clarity;
- Any emission of objectionable odour;
- The rendering of fresh water unsuitable for consumption by farm animals;
- Any significant adverse effects on aquatic life; or
- A change of more than 3°C Celsius in the natural temperature of the water.

Referring to Drawing No's W05459 CE 22 Rev F and CE 23 Rev F provided with the application (as amended by Condition 6 of this permit, for the purposes of this consent, the discharges shall be reasonably mixed:

- 20 metres downstream of the confluence of Tributary A with Speedy’s Stream (for Pond 3);
- 20 metres downstream of the confluence of Tributary D with Speedy’s Stream (for Pond 4); and
- 20 metres downstream of the confluence of Tributary E with Speedy’s Stream (for Pond 2).

**Note:** For the purposes of this permit, ‘all practicable steps’ shall include but not be limited to:

- Installing, operating and maintaining the control and treatment measures in the Erosion and Sediment Control Plan approved to the satisfaction of the Manager, Environmental Regulation, Wellington
Regional Council under Condition 6, or any subsequent approved amendment to this plan;

- Installing, operating and maintaining the control and treatment measures stipulated in Conditions 12 and 13 and any other conditions of this permit;

- Maintaining all erosion control and sediment treatment measures to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council; and

- Adding any additional erosion control and sediment treatment measures that will ensure this condition is complied with.

**Note:** In determining compliance with this condition, the Manager, Environmental Regulation, Wellington Regional Council will consider the design specification of any and all sediment treatment measures as specified in the Wellington Regional Council’s Erosion and Sediment Control Guidelines for the Wellington Region (September 2002).

**Staging of bulk earthworks**

32. Stage 1 of the development shall be stabilised prior to the bulk earthworks for Stage 2 commencing.

**Note:** For the purposes of this condition “stabilised” has the same definition as that set out in Condition 1 of this permit.

33. The site shall be stabilised between 1 June to 30 August. The permit holder shall continue works or commence works during this specified period only if weather conditions are suitable to do so and approval to do so is granted in writing by the Manager, Environmental Regulation, Wellington Regional Council.

If approval is given under this condition and weather conditions become unsuitable during this time, the Manager, Environmental Regulation, Wellington Regional Council may direct the permit holder to stabilise the site within two working days.

**Note:** A decision shall be made by Wellington Regional Council within two working days of the request being made.

**Note:** For the purposes of this condition “stabilised” has the same definition as that set out in Condition 1 of this permit.

**Contingency measures**

34. The permit holder shall immediately notify the Manager, Environmental Regulation, Wellington Regional Council if any contaminants (including sediment) are released from the site and enter Speedy’s Stream or its tributaries due to any of the following:

a) Discharges from unstabilised areas that are not treated by sediment control measures required under discharge permit WGN080187 [26513];
b) Failure of any silt fence or any other erosion and sediment control measures; or

c) Any other incident which either directly or indirectly causes or is likely to cause adverse ecological effects on Speedy’s Stream or its tributaries.

35. The permit holder shall ensure that:

a) All on-site storage areas for fuels and lubricants are bunded or contained in such a manner so as to prevent the discharge or spillages of such contaminants;

b) All machinery and plant is regularly maintained in such a manner so as to minimise the potential for leakage of fuels and lubricants; and

c) No equipment or machinery is cleaned, stored or refuelled within 10 metres of Speedy’s Stream or its tributaries.

**Fill conditions**

36. All fill material used on site shall:

a) Be restricted to natural material, such as clay, soil and rock and other inert materials as detailed in the definition of cleanfill material in section 2.2 of the Ministry for the Environment publication ‘A guide to the Management of Cleanfills, 2002’; and

b) Be restricted to those materials listed as acceptable in table 4.1 of the Ministry for the Environment publication ‘A guide to the Management of Cleanfills, 2002’.

37. All fill material shall be placed and compacted so as to avoid erosion and instability. Any erosion of soil including failure of cut and fill batters that is attributable to the works shall be contained, remedied and mitigated by the permit holder to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council.
Schedule 2: Conditions Applying To Consent WGN080187 [26514]

[Water permit WGN080187 [26514] to permanently divert the full flow within sections of unnamed tributaries of Speedy’s Stream through subsoil pipes]

General

1. The location, design, implementation and operation of the works shall be in general accordance with the:
   a) consent application and its associated plans and documents, lodged with the Wellington Regional Council on 8 October 2008; and
   b) further information and amendments received by the Wellington Regional Council on 23 January 2009 and 28 January 2009; and
   c) further information and amendments provided at the hearing on 16th 17th and 18th February 2009.

   Note 1: Any change from the location, design concepts and parameters implemented and/or operation may require a change in consent conditions pursuant to Section 127 of the Resource Management Act 1991.

   Note 2: Where there may be contradiction or inconsistencies between the application and further information provided by the applicant, the most recent information applies. In addition, where there may be inconsistencies between information provided by the applicant and conditions of the consent, the conditions apply.

2. The permit holder shall provide a copy of this consent and any documents referred to in this consent to each operator or contractor undertaking works authorised by this consent and verbally brief each operator and contractor, before that operator or contractor starts any works.

3. The works shall remain the responsibility of the permit holder and shall be maintained to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council. This shall include the repair of any erosion of the bed and/or banks of the stream that is attributable to the works.
Schedule 3: Conditions Applying To Consent WGN080187 [26515]

[Land use consent WGN080187 [26515] to place subsoil pipes, stormwater outlets and energy dissipation and/or attenuation structures within sections of unnamed tributaries of Speedy's Stream including the associated:

- Disturbance of the beds of those tributaries;
- Reclamation and deposition of material in the beds of those tributaries; and
- Temporary diversion of flow of those tributaries].

Pre-works requirements

1. The consent holder shall prepare and submit an Outlet Structures Plan (OSP) to the Manager, Environmental Regulation, Wellington Regional Council, at least 20 working days before commencing works. Referring to Drawing No CE23 Rev F, the OSP shall include, but not be limited to, the following:

   - Design details of the dissipation/attenuation structure for the subsoil and stormwater outlets within Tributary B, including:
     - A scaled plan showing the design details including the location, extent and dimensions of the structure and the depth that it will be embedded to.
     - Details of how the structure will protect the wetland from the following adverse effects:
       - Erosion and scour;
       - Increased peak flows and a reduction in baseflows; and
       - Flows not being dispersed across the wetland (resulting from flows being concentrated in a pipe).
     - Flow design calculations to support the appropriateness of the design.

   - Design details of the dissipation/attenuation structure for the stormwater outlet within Tributary A, including:
     - A scaled plan showing the design details including the location, extent and dimensions of the structure and the depth that it will be embedded to.
     - Details of how the structure will protect the wetland from the following adverse effects:
       - Erosion and scour; and
       - Increased peak flows and a reduction in baseflows.
     - Flow design calculations to support the appropriateness of the design.
Design details of erosion/scour protection structures for each of the following (all shown on plan W05459 CU 01 Revision E):

- Subsoil outlet within Tributary CA;
- Stormwater outlet within Tributary C;
- Subsoil outlet within Tributary CB;
- Subsoil and stormwater outlet within Tributary D; and
- Subsoil and stormwater outlet within Tributary E.

The design details shall include:

- A scaled plan showing the design details including the location, extent and dimensions of the structure and the depth that it will be embedded to.

- Flow design calculations to support the appropriateness of the design.

2. No work authorised by this consent shall commence on site until the Manager, Environmental Regulation, Wellington Regional Council has certified in writing that the OSP lodged by the consent holder fulfils the requirements of this condition. The consent holder shall prepare and submit a Wetland Restoration Plan (WRP) to the Manager, Environmental Regulation, Wellington Regional Council, at least 20 working days prior to commencing works. The WRP shall include, but not be limited to, the following:

- A scaled aerial plan showing the location and extent of areas to be planted including details of the proposed plant species, planting densities and on-going maintenance and replacement of plants that do not survive;

- A scaled aerial plan showing the existing vegetation (including species and approximate densities) within a 20 metre buffer zone of the edge of the wetland that will be retained and the details of any additional planting within this buffer zone that the consent holder proposes;

  **Note:** Details on existing vegetation within the 20m buffer is for information purposes so as to assess the appropriateness of the proposed planting within the wetland i.e. shade, shelter effects from this buffer.

- Details of weed control including areas that are to be weeded within the wetland, and the frequency and duration of on-going weeding proposed by the consent holder;

- A timeline for completing all works.

No work authorised by this consent shall commence on site until the Manager, Environmental Regulation, Wellington Regional Council has certified in writing that the WRP lodged by the consent holder fulfils the requirements of this condition.

3. No work shall commence on works authorised by this consent until the consent holder has paid to the Wellington Regional Council Parks Department (Belmont Regional Park Sector) an environmental compensation payment of $40,032.
Note: The purpose of the $40,032 payment is to provide a contribution towards fencing and retiring from grazing an area adjacent to Speedy's Stream and its tributaries within the Belmont Regional Park as a form of environmental compensation addressing the potential adverse effects of the proposed subdivision and earthworks including adverse effects associated with reclaiming and piping sections of other tributaries of Speedy’s Stream.

Standard conditions

4. The location, design, implementation and operation of the works shall be in general accordance with the:
   a) Consent application and its associated plans and documents, lodged with the Wellington Regional Council on 8 October 2008; and
   b) Further information and amendments received by the Wellington Regional Council on 23 January 2009 and 28 January 2009.
   c) Further information and amendments provided at the hearing on 16\textsuperscript{th} and 17\textsuperscript{th} February 2009;
   d) Wellington Regional Council's \textit{Erosion and Sediment Control Guidelines for the Wellington Region} dated September 2002; and
   e) Any additional plans or information to be prepared and submitted and approved by the Wellington Regional Council in accordance with various conditions of this consent.

Note 1: Any change from the location, design concepts and parameters implemented and/or operation may require a change in consent conditions pursuant to Section 127 of the Resource Management Act 1991.

Note 2: Where there may be contradiction or inconsistencies between the application and further information provided by the applicant, the most recent information applies. In addition, where there may be inconsistencies between information provided by the applicant and conditions of the consent, the conditions apply.

5. The Manager, Environmental Regulation, Wellington Regional Council, shall be given a minimum of 48 hours notice prior to the works commencing.

6. The consent holder shall provide a copy of this consent and any documents referred to in this consent to each operator or contractor undertaking works authorised by this consent and verbally brief each operator and contractor, before that operator or contractor starts any works.

7. The consent holder shall ensure that a copy of this consent is kept in the office on site at all times and presented to any Wellington Regional Council officer on request.

8. If koiwi, taonga or other artefact material is discovered in any area during the works, the consent holder shall contact Te Rununganui o Taranaki Whanui Ki te Upoko o Te Ika a Maui Inc, Wellington Tenths Trust, Te Runanga o Toa
Rangatira, New Zealand Historic Places Trust and Wellington Regional Council immediately, and construction work in that area shall be stopped immediately to allow a site inspection by these groups and their advisors. The consent holder shall then consult with the above parties and their advisors on appropriate steps to recover the artefacts in order that work can resume. The finding of any human remains should be reported to the police in the first instance.

Works/design standard conditions

9. The consent holder shall construct each of the structures approved under Condition 1 of this consent at the time that the corresponding pipe is laid.

10. If any fish are stranded due to the works, the consent holder shall ensure that these are placed back in the actively flowing part of the channel as soon as practicable.

11. The consent holder shall take all practicable steps to minimise sedimentation and increased turbidity of Speedy’s Stream and its tributaries during the construction, implementation and maintenance of the works, including:
   a) Undertaking works during times of no or minimal flow and installing super silt fences downstream of all works areas;
   b) Installing and maintaining further appropriate erosion and sediment control measures during times of flow i.e. diverting the flow around the area of works;
   c) Completing all works in the minimum time practicable;
   d) Avoiding placement of excavated material in the flowing channel; and
   e) Keeping machinery out of the actively flowing channel, as far as practicable.

12. All fill material used on site shall:
   a) Be restricted to natural material, such as clay, soil and rock and other inert materials as detailed in the definition of cleanfill material in section 2.2 of the Ministry for the Environment publication ‘A guide to the Management of Cleanfills, 2002’; and
   b) Be restricted to those materials listed as acceptable in table 4.1 of the Ministry for the Environment publication ‘A guide to the Management of Cleanfills, 2002’.

13. All fill material shall be placed and compacted so as to minimise any erosion and/or instability of the fill material.

14. Any erosion or scour that is attributable to the works carried out under this consent shall be repaired by the consent holder and to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council.

15. All works affecting the beds of the streams, including tidy up on completion of the works shall be completed to the satisfaction of the Manager, Environmental Regulation, Wellington Regional Council.
16. The pipes and outlet structures shall remain the responsibility of the consent holder and shall be inspected and maintained so that:

a) The structures remain substantively clear of debris; and

b) The structural integrity of all the structures authorised by this consent remain sound.

Maintenance does not include any works outside of the scope of the application. Any additional works (including structures, reshaping or disturbance to the bed of the watercourse) following completion of the construction works as proposed in the application, may require further resource consents.
1. This consent shall lapse 10 years from the date of commencement of the consent.

2. All of the following conditions shall apply as relevant to each stage of development where the consent holder chooses to proceed with the consent in stages.

3. The development shall be substantially in accordance with the information submitted with the application and held on Council File RM20-W11-64/6 and the amended plans by Cardno TCB, labelled 'Kelson Heights, project W05459, drawing CS21D, CS22D, CS23B, CS24A, CS25A, CE21F, CX01, CE22F, CE23F, CE24A, CE25, CE26, CR01D, CR02B, CU01D, CU02C, labelled 'issued for 16th February 2009 hearing'.

4. The consent holder shall demonstrate compliance with conditions 30, 51, 52 and 63 of this consent at the time the consent holder applies for certification under Section 223 of the Resource Management Act 1991.

5. The consent holder shall demonstrate compliance with all other relevant conditions of this consent at the time the consent holder applies for certification under Section 224 of the Resource Management Act 1991. All consent notices relevant to the stage being undertaken shall be prepared by the consent holder and submitted for certification at the time the consent holder applies for certification under Section 224 of the Resource Management Act 1991.

6. The consent holder shall contact the Council’s Environmental Enforcement Officers on telephone (04) 570-6966 or email enforcement@huttcity.govt.nz at least 48 hours prior to any physical work commencing on the site and advise the Officer the following:
   
   i. The date the work shall commence;

   ii. The name of the contractor and their contact details including phone number and postal address;

   iii. The contact details of the person who will be responsible for carrying out the earthworks.

7. Once construction work commences a copy of this resource consent decision shall be available on site at all times and made available upon request.

8. The costs associated with the registration of the Consent Notices are to be met by the consent holder.

9. Prior to works commencing on the site, the consent holder shall update the Mitigation Plan included in Appendix H of the application to incorporate the relevant conditions of this resource consent and shall submit the revised Mitigation Plan to the Council prior to works commencing on the site. No work authorised by this consent shall commence until the Team Leader Resource Consents has certified in writing that the updated Mitigation Plan fulfils the requirements of this condition. The works on the site shall be carried out in accordance with the approved Mitigation Plan.
Noise

10. Mufflers shall be used on all earthworking machinery to reduce the noise emanating from these machines.

11. The hours of operation for construction works on the site shall be limited to:

- 7.00 a.m. to 6.00 p.m. on Mondays to Friday; and
- 7.30 a.m. to 4.00 p.m. on a maximum of two Saturdays in any calendar month; and

The only activities permitted during the half-hour immediately following the morning start time and immediately preceding the afternoon end time (ie 7.00 – 7.30 a.m. and 5.30 – 6.00 p.m. Monday to Friday and 7.30 – 8.00 a.m. and 3.30 – 4.00 p.m. Saturdays) shall be the warming up of machinery, re-fuelling, loading and unloading of trucks and shall exclude the use of heavy machinery engaged actively in earthworks; and

No construction works shall be permitted outside these times or on Sundays or Public Holidays or between 24th December and 7th January of the following year except works required to remediate any slips or other emergencies on site.

12. The consent holder shall at all times during the works uphold the duty to avoid unreasonable noise specified in section 16 of the Resource Management Act 1991.

13. The consent holder shall, prior to the commencement of works on site, submit to the Team Leader Resource Consents a Construction Management Plan. The Construction Management Plan shall detail the measure proposed to manage construction traffic, parking dust and noise and shall include, but not be limited to:

- i. the name and contact landline and cell phone numbers and postal address of the site manager;
- ii. The location of appropriate local signage or visible information on the site that will clearly identify the name, telephone number and address for service of the on-site project manager including cell phone and after-hours details;
- iii. Intended days and hours of construction work and deliveries;
- iv. Anticipated traffic management issues such as lane closures or on-street construction loading and measures intended to manage those situations;
- v. Fencing for the construction site;
- vi. Location of parking for all contractor vehicles and construction machinery during the entire period of site works;
- vii. Measures to ensure safe pedestrian and vehicle access past the site maintained at all times;
- viii. Details of how vegetation that is required to be retained on site is to be protected during construction;
ix. Measures to ensure that dirt is not tracked onto or left on any road;

x. The best practicable option for construction noise management;

xi. Measures intended to control dust emissions during construction.

Note: The Construction Management Plan must be consistent with all other conditions of consent.

14. No work authorised by this consent shall commence until the Team Leader Resource Consents has certified in writing that the Construction Management Plan fulfils the requirements of condition 13.

15. All works on site shall be undertaken in accordance with the Construction Management Plan certified under condition 14 of this consent.

16. All development and construction shall be undertaken in such manner as to comply with the provisions of NZS 6803:1999 "Acoustics-Construction Noise".

Earthworks

17. All areas exposed by earthworks, or trenching shown on the application plans W05459-CE21-F and CE22-F are to be re-grassed/hydro-seeded at the earliest possible opportunity following excavation or at the latest within 1 month after completion of the earthworks to the satisfaction of the Senior Road Asset Engineer. Following this any seeding or planting which fails to become fully established shall be re-seeded/replanted no later than 12 months after completion of the earthworks.

18. The consent holder shall ensure that the operation is managed in a manner to ensure that no dust emissions from the site shall be permitted that will cause a nuisance or objectionable effects beyond the boundary of the site. Measures for control include use of a water cart, limiting vehicle speeds to 10km/hour on site, application of water to surfaces that are exposed or excessively dry, limiting the area of earthworks exposed at any one time and covering the area with a coating of geotextile, grass, mulch, etc.

19. Prior to works commencing on the site, an appropriate flow attenuation/dissipation device shall be installed and maintained at the stormwater outflow at the base of Fill A, to calm stormwater before it enters the wetland.

Note: If possible, construction of a few metres of channel between the flow attenuation structure and the wetland, or an extension of the wetland up the stream, would be desirable to add to the security and significance of the wetland.

20. Sediment control measures must be installed and maintained on site in compliance with the Wellington Regional Council Erosion and Sediment Control Guidelines for the Wellington Region, April 2002 and also in accordance with the details/methods submitted with the application (Erosion and Sediment Control Plan dated October 2008, Appendix I of the Resource Consent Application).

21. Prior to the commencement of any works on the site the consent holder shall provide evidence to the Team Leader Resource Consents, that a suitably
qualified Chartered Professional Engineer has been appointed to carry out the
design, supervision and certification of earthworks.

22. During construction, the consent holder shall take all practicable steps to ensure
the stability of the cut batters, and shall implement sound engineering solutions
where poor ground conditions are exposed in those batters.

23. Prior to the completion of works on the site, any unwanted spoil from the
excavation works must be deposited off-site in a Council approved landfill.

24. All earthworks shall be undertaken to ensure the stability of the adjoining
properties are not adversely affected by the proposal.

25. Prior to commencement of the activity on the site, the consent holder shall
provide for vehicle wheel washing on the site and take all necessary measures
so that all vehicles and earthmoving machinery exiting the site do not carry
earthworked materials onto the surrounding road network. In the event that
some earth or other material is tracked on to the road, the consent holder shall
be responsible for cleaning and repairing the road back to its original condition
without discharging the material into an ephemeral stream or the stormwater
system. The road includes footpaths and berms.

26. All earthwork areas are to be undertaken in accordance with the Code of
Practice for Earth Fill for Residential Development, NZS4431:1989 (including
the final documentation/certification required by that standard, stating the
suitability of the earthworks for residential development) and also in accordance
with the earthwork details/methods as submitted with the application.

27. Within one month of completion of the earthworks within any individual
construction stage (or, if deemed necessary by Council, during the earthworks
period) the consent holder shall provide a report from a suitably qualified and
experienced Geotechnical engineer addressing the stability of the constructed
cut or fill batters. Where the report recommends that any cut or fill batter
requires a retaining wall, that wall shall be constructed prior to certification of the
relevant stage of works pursuant to Section 224 of the Resource Management
Act 1991. Where the report identifies development limitations (such as building
‘set-back’ distances) these details may be protected by a Consent Notice
pursuant to Section 221 of the Resource Management Act 1991 on any affected
lots.

28. All construction earthworks in any construction stage shall be completed within
two years of commencement of work on that stage.

Protocol for the Discovery of Taonga and Archaeological sites

29. If Taonga (treasure or prized possession, including a natural resource, having
tangible or intangible value), human remains or other archaeological site is
discovered in any part of the site, the consent holder is to contact the Wellington
Tenths Trust, the New Zealand Historic Places Trust and Hutt City Council
within 24 hours. The consent holder is to cease all work in that area until a site
inspection is carried out by Wellington Tenths Trust iwi representatives and
Council staff and approval to continue is given by the Team Leader, Resource
Consents. Any humans remains found on the site shall be reported to the police
in the first instance.
Covenants

30. Prior to s223 approval, the areas shown on Cardno TCB Earthworks Covenant Area Revision Plan W05459-CE26 as ‘no build covenants’ and ‘bush protection/no build covenant’ areas shall be amended so that they are all ‘bush protection and no build covenant’ areas so that existing vegetation and vegetation to be planted within these areas is protected in perpetuity. The covenant strip shall be extended and increased in width as follows:

i. Within proposed Lots 5 to 7 and 12 to 29 the covenant areas shall have a minimum width of 5 metres from the rear (eastern) boundary of the allotments. This is required to mitigate the effects of the proposal on the amenity values of adjoining residents, to mitigate the effects of the proposal on the character of the area and to enhance the sense of place within the subdivision.

ii. Within proposed Lots 30 to 44 the covenant areas shall have a minimum width of 10 metres from the rear boundary of the proposed lots. This is required to mitigate the effects of the proposal on the amenity values of adjoining residents, to mitigate the effects of the proposal on the character of the area and to enhance the sense of place within the subdivision.

iii. The consent holder shall ensure that the resulting amended allotment configuration provides sufficient space within each allotment for a building platform for a future dwelling and for vehicle access (both able to comply with all relevant District Plan building setback and access design requirements) clear of the covenanted area.

iv. The areas to be protected by covenants shall be defined on the survey plan having regard to the actual location of existing vegetation on site but shall nowhere be less than the widths specified above.

31. On Lots 8 and 11 no building shall be permitted to be constructed within 5 metres of the rear (eastern) boundary of those allotments.

32. The covenants and building restrictions imposed by conditions 30 and 31 above shall be registered as consent notices on the Computer Freehold Registers of the allotments pursuant to Section 221 of the Resource Management Act 1991.

33. The consent holder shall pay Hutt City Council an engineering fee based on the Hutt City Council Scale of Engineering Fees being a percentage of the construction costs (including GST) of providing Council services or access or any other work approved, inspected or tested by the Senior Road Asset Engineer or his representative, (as separate from work that is covered under any Building Consent) for each stage as listed below. The minimum fee is set at $132.30 (GST inclusive) irrespective of whether any construction work is necessary. Payment is required prior to issue of the section 224(c) certificate.

- Stage 1 (13 lots) – 2.59%
- Stage 2 (19 lots) – 2.17%
- Stage 3 (21 lots) – 2.03%
- Stage 4 (14 lots) – 2.52%
- Stage 5 (14 lots) - 2.52%
- Stage 6 (16 lots) – 2.38%
- Stage 7 (14 lots) - 2.52%
- Stage 8 (13 lots) - 2.59%
- Stage 9 (9 lots) – 2.87%
- Stage 10 (10 lots) - 2.87%

Engineering

34. The formation of the roads and private ways, including a heavy-duty vehicle crossing at the entrance to each private way and necessary stormwater control, shall comply with Council’s Codes and Standards except that a minimum forward visibility of 55 metres shall be permitted at intersections and within the proposed roads.

35. An engineering design by a Chartered Professional Engineer is to be submitted to the Council with the Building Consent application and a Producer Statement is to be provided on completion of the retaining walls. The consent holder is reminded that a separate Building Consent is required for retaining walls subject to traffic loading (or other surcharge) or over 1.5m in height.

36. The installation of reticulation and connection of separate sewer and stormwater service leads to the public mains (or to the road kerb or other approved disposal point in the case of stormwater) for each residential lot in accordance with Council’s Codes and Standards.

37. The installation of water reticulation as necessary and separate connections to service each residential lot that meets:
   i. the Council’s code for domestic supply; and
   ii. the fire fighting capability as required under the Fire Service Code of Practice (NZS PAS 4509: 2003).

38. When considered necessary (upon application of the new water connection or otherwise), the details of any limitations of providing water reticulation to meet the above codes are to be supplied in a report prepared by a suitably qualified engineer. This will include investigation of the available water supply including pressure and flow tests, provision of calculations and analysis and recommendations. Any limits in regard to height or distance from the existing or proposed reticulation for any lot are to be indicated on the submitted engineering drawings.

39. A Consent Notice pursuant to Section 221 of the Resource Management Act 1991 will be registered against the Computer Freehold Registers of any affected lots to inform future owners of the limitations of water supply or of special facilities required to achieve the code standards or where conditions cannot be met.

40. A copy of the approved water connection application form (signed by the consent holder) is to be submitted at time of section 224(c) application.

41. Where the position is known or obvious (eg to a rear lot) a new standard concrete vehicle crossing is to be constructed in accordance with Council’s Codes and Standards. Similarly a heavy-duty concrete vehicle crossing is to be constructed to each private-way.

42. Engineering plans (2 copies) in regard to the above mentioned construction work (earthworks, services, roading/access) shall be submitted to the Senior Road Asset Engineer for approval. The plans are to provide information on:
i. The materials to be used, including the size, type and class of pipes.

ii. Pipe gradients are also to be indicated.

iii. All works shall be carried out in accordance with the approved plans.

43. For all roads, gradients, legal widths and roadway widths shall comply with the requirements of the District Plan Chapter 14A Table 2 (except where varied by these conditions).

44. Road 3 shall have footpaths on both sides of the road.

45. Wherever footpaths are provided, a grass berm 0.9 metres wide shall be provided between the road kerb and footpath. Where an additional wider berm is provided along Road 3 between the footpath and residential allotment boundaries (for example, a 2-metre-wide or 2.5-metre-wide grassed berm between the footpath and residential allotment boundary as shown on plan WO5459 CR02B), that wider berm may be provided on one side of the road only.

46. The consent holder shall appoint a representative to carry out the design and supervision of construction works and certification upon completion, as provided by clause 1.4.1 of NZS 4404:2004. The name, experience and contact details of the representative shall be submitted to the Senior Road Asset Engineer for approval prior to submission of engineering plans. The experience of the representative is to be documented in a resume detailing relevance to the works and services required under this consent. The certification is to include confirmation that the materials, installation and testing meet Council's Codes and Standards.

47. The consent holder shall appoint an approved contractor/s to complete the works as per the approved design. The name, experience and contact details of the contractor/s are to be submitted to and approved by the Senior Road Asset Engineer at the time of submission of engineering plans for approval. The subsequent appointed contractor/s is required to give a minimum of 24 hours notice to the Senior Road Asset Engineer before commencing work.

48. Electrical services must be provided and provision made to ensure that natural gas (where available or likely to become available) and telephone services can be made to each residential lot.

49. Written confirmation shall be supplied to the General Manager, City Infrastructure that Telecom Corporation of New Zealand (or the network supply authority) and United Networks Ltd conditions have been satisfied in regard to the supply of their respective utilities to each residential lot.

50. A written certificate shall be supplied to the General Manager, City Infrastructure by the consent holder’s surveyor that all existing services have been adjusted so that they are contained within the lot serviced (or are protected by an appropriate easement, all in accordance with Council requirements, or written confirmation that no such adjustments/sealing are necessary.

51. Appropriate easements shall be provided for public and private services where necessary. Easements shall be shown as a Memorandum of Easements on the land transfer title plan and the easement documents shall be prepared by the consent holder’s solicitors and at their cost. Easements for public services are to be shown on a plan with a minimum of 3.0m width centred over the service, or
twice the depth of the trench, whichever is the greater, and shall be shown in gross with Hutt City Council as grantee.

52. Granting of the easements of right of way in terms of the scheme plan. Easements shall be shown as a Memorandum of Easements on the land transfer title plan and the easement documents shall be prepared by the consent holder’s solicitors at the consent holder’s cost.

53. Lots 203 and 204 (or parts thereof with staging) shall be vested as road.

54. The new roads are to be given new names. The consent holder is to contact Council’s Road and Traffic Division Administration Co-ordinator in regard to the procedures required to formalise the suggested names. Full costs of the sign manufacture and installation are to be borne by the consent holder.

55. Street lighting shall be provided to meet Council’s current code and shall be not less than required by AS/NZS 1158:2005. The consent holder is to consult with Council’s Traffic Supervisor, Road and Traffic Division in this regard. A Certificate of Compliance is to be provided to Council’s Streetlight Maintenance Contractor (currently RLA Maintenance Ltd), and a copy forwarded to the Senior Road Asset Engineer prior to or at time of section 224(c) application. Council’s Streetlight Maintenance Contractor will then arrange for Vector to “liven” the installation.

56. At the time of requesting certification under section 224(c) of the Resource Management Act 1991, the consent holder shall provide a schedule of assets detailing each item to be transferred to Council ownership as part of the subdivision process. A full description of the item, material type, size, length, area, volume, etc, is to be supplied and shall be in accordance with Council form 664S - “Schedule of Assets in Subdivision”.

57. In addition to the above, the consent holder shall provide the value of services to be taken over by Hutt City Council to enable the creation of a buyer created invoice. An invoice for the right to subdivide will be raised by Hutt City Council. The details to be provided shall be accordance with Council form 585S - “Buyer Created Tax Invoice”.

58. A Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Register of any lots Council may deem necessary to ensure that any dwellings constructed on these allotments have the foundations designed by a Chartered Professional Structural or Geotechnical Engineer. The design and details of these foundations shall be submitted as part of any building consent applied for on these allotments.

59. Three copies of “As Built” plans, certified by the Surveyor or Consulting Engineer, shall be provided to the General Manager, City Infrastructure. These shall show, where applicable, the levels and alignment of all the mains and roading work, and the location of all service connections (and, if applicable, new work within private property) relative to the allotment boundaries.

Reserves

60. A Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Registers of all those lots that share a property boundary with Council Reserve land in order to exclude the Council from the costs of shared fencing under the Fencing Act 1978 or equivalent legislation.
61. The proposed reserves shall not be used for site access, construction activities, storage, storage or stockpile of fill, dumping, parking etc unless authorised by the Reserves Asset Manager, Hutt City Council.

62. Fires shall not be lit within the site during the vegetation removal, earthworks and construction phases of the subdivision development.

63. The consent holder shall, prior to vesting Lot 201, submit to the Reserves Asset Manager – Hutt City Council a plan demonstrating that there is within Lot 201 a minimum area of 1,700m² suitable for use as a neighbourhood park. The plan shall detail the area of the proposed park, its finished gradient, subsoil and topsoil, finished surface including grass type, other amenity planting, footpaths and seating. No work shall commence on Stages 1, 2, 8 or 9 (shown on Cardno TCB plan W05459 CS 25A) until the Reserves Asset Manager – Hutt City Council has certified that the plan of the proposed park fulfils the requirements of this condition. The proposed park within reserve lot 201 shall be formed levelled, constructed and planted in accordance with the plan certified under this condition as soon as seasonally practicable following earthworks. The grass area shall be maintained and monitored for six months to the satisfaction of the Reserves Asset Manager, Hutt City Council.

64. Reserves Lots 200 and 201 shall be vested as reserve in only 2 separate land parcels. Lot 200 shall vest no later than 2 years after the issue of a certificate under Section 223 of the Resource Management Act 1991 for Stage 3 shown on Cardno TCB plan W05459 CS 25A. Lot 201 shall vest no later than 2 years after the issue of a certificate under Section 223 of the Resource Management Act 1991 for Stage 2 shown on Cardno TCB plan W05459 CS 25A.

Vegetation protection, replanting and landscaping

65. Prior to works commencing on the site, all of the non-earthworked areas on the site shall be delineated on site by tape fences and shall not be cleared or otherwise disturbed for the duration of works on the site to the satisfaction of the Team Leader Resource Consents. No building materials, earth or machinery shall be stored within these areas. This tape fencing delineation shall remain in place until the earthworks have been completed.

66. Removal of native vegetation shall be limited to that required to clear the area to be earthworked, as approved on plan number W05459 CE26 amended as necessary by condition 30 of this consent.

67. The consent holder shall submit to the Team Leader Resource Consents a Planting Management Plan prepared by a suitably qualified landscape architect. The Planting Management Plan should be based on the material in the draft Mitigation Plan and Golders report attached to the application and shall contain the following information:
   a) A plan showing the location and size of the areas to be planted; the fill surfaces and the areas discussed in the draft Mitigation Plan and Golders report are to be replanted. In addition, a small batter at the base of Fill C which abuts onto an area of high ecological significance on the western edge of the application site in Gully E is to be replanted.
   b) A narrow band (approximately five metres wide) of dense native vegetation is to be planted on the edge between the batters on Cuts 4, 7 and 8 and any native vegetation that is retained.
   c) The areas intended for direct planting and areas for hydro seeding.
d) The species to be planted including size of plants and where they will be planted and density of planting and sourcing of plants; it is noted that Carex virgata should be added to the list of species suitable for planting into the wetland area.

e) The time and method of planting, site preparation for planting, and methods of post-planting maintenance and weed control. Weed control, especially of gorse is recommended over the entire site not held in private residential lots. Special attention shall be given to the methods of weed control proposed in and around the wetland and in the upper part of Lot 201 in the area running up to the end of Road 1, which will all be earthworked. Weed control shall be carried out on the site for three years from the date of replanting and shall include the on-going replacement of plants which do not survive. Council will monitor compliance with this condition every twelve months for a period of three years from the date the planting is first implemented on site.

68. No work shall commence on the site until the Team Leader Resource Consents has certified in writing that the Planting Management Plan fulfils the requirements of condition 67.

69. The consent holder shall implement the planting and works detailed in the Planting Management Plan referred to in conditions 67 and 68 within one planting season of completion of earthworks in the relevant stage.

70. At the time of submitting engineering plans for Council approval, the consent holder shall also submit to the Team Leader Resource Consents and the Reserves Asset Manager and Senior Road Asset Engineer, a Berm Planting and Surfacing Layout Plan. This plan shall detail the measures proposed for increasing permeability and stormwater retention within the road reserves within the site. Subject to traffic design considerations, the design of road berms should reduce the proportion of impervious surfaces and include measures to increase permeability and stormwater retention. Where possible, berms should be made wider than standard and revegetated to a high standard.

Consent Notices

71. The consent holder shall register a consent notice pursuant to Section 221 of the Resource Management Act 1991 on the Computer Freehold Register for all residential allotments to ensure that retaining walls and fences visible from the street shall be constructed with varied materials, colouring and textures and, where used, fencing is of low impact design and construction (preferably with lighter style slats and/or trellis features). Planting should be used where possible to soften and break up the structural elements on the street frontage. The consent notice shall require that a plan of detailing the intended retaining walls, fences and landscape treatment shall be submitted to the Hutt City Council for approval prior to the construction of these retaining walls and fences. The retaining walls, fencing and landscaping shall be undertaken in accordance with the approved plan. The owner may apply for the removal of the consent notice once the approved retaining walls, fencing and landscaping have been completed.

72. A Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Registers of all those lots that contain areas of bush protection/no build covenant as identified on the survey plan required by condition 30 of this consent, in order to protect existing vegetation and vegetation to be replanted in perpetuity. The consent notice shall state the following:
- No destruction or removal of vegetation or building within the protected areas is permitted.
- No building is permitted within the protected area.
- No disposal of garden waste is permitted within this area.
- The control of weeds shall be allowed.
- The consent notice shall also state that planting on the residential lots is permitted, provided that no species planted is specified on the list of excluded plants included in Attachment 3 or is a species which has been classified as a weed by the Greater Wellington Regional Council.

73. All of the proposed lots shall be subject to a consent notice pursuant to section 221 of the Resource Management Act to ensure that there is no grazing of deer, pigs, goats or mustelids on these allotments to ensure bush protection. This consent notice shall be registered against the Computer Freehold Registers at the expense of the consent holder.

74. A Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Registers of all residential lots to ensure that bare galvanised, zinc alum or unpainted metal that would lead to contamination of stormwater run off upon corrosion is excluded from roofing and construction materials used in the construction of any residential buildings, garages, outbuildings, fences or walls.

Transpower’s transmission assets

75. Consent Notices pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Registers of Lots 88, 89, 200 and 205 as appropriate advising the following information:

   i. All new buildings and structures on Lots 88, 89 and 200 shall be set back by a horizontal distance of at least 12 metres either side (ie a total of 24 metres) from the centre line of the Haywards-Melling A transmission line;

   ii. Buildings or any part of a building on Lot 200 must not be located within 12 metres of the closest visible edge of any high voltage transmission line support structure foundation;

   iii. All land use activities, including the construction of new buildings, structures, earthworks, the operation of mobile plant and/or the construction of fences on Lots 88, 89, 200 and 205 must comply with the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:20010.

Notes:

1. It is Transpower’s preference that all mobile plant operated on a site maintain an horizontal distance of at least 12 metres from the centre line of the transmission line and support structures.

2. To ensure compliance with the building setbacks in Transpower’s Corridor Management Policy, no new buildings or structures on Lots 88 and 89 shall be located within a horizontal distance of between 12 and 32 metres from the centre line of the Haywards-Melling A transmission line without prior written approval of Transpower. The purpose of this advice note is to ensure that no
new buildings or structures are erected within this area without having regard to
Transpower’s Corridor Management Policy setback distances. A copy of written
approval from Transpower shall be submitted with any application to the Hutt
City Council for building consent.

3. Prior to construction, the consent holder must submit to Transpower a report
from a suitably qualified electrical engineer confirming that any new building or
structure on Lots 88 and 89 complies with the minimum safe distances from the
Haywards-Melling A transmission line as specified in Table 3 of NZECP
34:2001. A copy of this documentation and (if applicable) written approval from
Transpower shall be submitted with any application to the Hutt City Council for
building consent.

4. All new trees and vegetation planted in the vicinity of any transmission line shall
be limited to those which at a mature height will not encroach upon the relevant
growth limit zone (or noticed zone) for the lines, as defined in the Electricity
(Hazards from Trees Regulations 2003.

5. The consent holder shall pay Hutt City Council a Development Contribution of
$2,853.00 (including GST) in respect of each lot in each stage. This payment is
required prior to certification under Section 224(c) of the Resource Management

6. Council’s Subdivision Engineer advises that there are some minor details to be
looked at with the submitted service plans, namely:

- The sewer main at the end of Christchurch Crescent extension should be
taken into the Reserve rather than through Lot 121.
- The sewer is to be clear of the frontages of Lots 100 to 102.
- There is no indication how Lots 94 to 96 will be serviced by sewer.
- It is not clear whether Lots 29 to 32 can be serviced by the sewer.
- Stormwater is to be clear of the Lot 58 frontage.
- There is no manhole indicated on the change of direction of the
stormwater main outside Lot 75.
- A manhole is needed on the intersection of main and sump lead at end of
Road 4.

7. These matters can be dealt with at time of Engineering Approval for each stage,
as can water reticulation and street-lighting. Some stages, (eg. stages 3 and 5)
will require considerable sewer reticulation outside of the particular stage area.
The same would apply for stormwater (eg. stages 4-6) and earthworks.

8. Please note that an application for the new water connection/s is to be made at
the Customer Services counter on the ground floor of the Administration
Building, Laings Road, Lower Hutt. These applications are processed by GHD
Limited on behalf of Capacity (which is the trading name of Wellington Water
Management Limited, being a Council Controlled Trading Organisation in
charge of Council’s water and drainage assets). The contact person at GHD
Limited is Craig Brown (telephone 570 0416). GHD Limited may impose special
requirements or conditions for the new connection/s dependant on the existing
reticulation layout, flow rates, pressure zones, proposed future work, etc., so it is
important that the application is sought early in the design or construction phase
of the development. In the larger developments the water connection application should be sought prior to submitting the engineering plans to the Senior Road Asset Engineer.

9. This resource consent is specific to the application received by Council. Any changes to the proposal may require a new resource consent and additional application fee.

10. Plans submitted with the application have only been checked for compliance with the Resource Management Act 1991.

11. Any building work associated with the proposed activity should not commence until a building consent has been obtained under the Building Act 2004.

12. The consent holder is reminded that this resource consent is not a licence to create adverse effects. The consent holder has a duty under the Act to avoid, remedy or mitigate adverse effects. Notwithstanding any resource consents held, section 17 of the Act continues to apply and will take enforcement action where necessary.

13. Council may issue an abatement notice if the conditions of this resource consent are not complied with. Contravention of an abatement notice may incur a fine up to $200,000.

14. The applicant for resource consent, consent holder or any person who made a submission on the application may also appeal this decision to the Environment Court within 15 working days of notice of the decision being received.

15. The fee associated with the processing of any certificates as to compliance with subdivision conditions under the provisions of section 224 of the Resource Management Act is $200.00.
Appendix 3:

List of Excluded Plant Species Referred To In Condition 72 of Hutt City Council Consent No. RM20-W11-64/6 (Kelson Heights Limited)

Condition 72 states:

72. A Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Registers of all those lots that contain areas of bush protection/no build covenant as identified on the survey plan required by condition 30 of this consent, in order to protect existing vegetation and vegetation to be replanted in perpetuity. The consent notice shall state the following:

- No destruction or removal of vegetation or building within the protected areas is permitted.
- No building is permitted within the protected area.
- No disposal of garden waste is permitted within this area.
- The control of weeds shall be allowed.
- The consent notice shall also state that planting on the residential lots is permitted, provided that no species planted is specified on the list of excluded plants included in Attachment 3 (ie the table below) or is a species which has been classified as a weed by the Greater Wellington Regional Council.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Latin Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tasmanian blackwood</td>
<td>Acacia melanoxylon</td>
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<tr>
<td>golden acacia</td>
<td>Acacia sophorae</td>
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<td>sycamore</td>
<td>Acer pseudoplatanus</td>
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<td>agapanthus</td>
<td>Agapanthus sp.</td>
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<td>alder</td>
<td>Alnus glutinosa</td>
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<td>mignonette vine</td>
<td>Anredera cordifolia</td>
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<tr>
<td>moth plant</td>
<td>Araujia sericifera</td>
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<tr>
<td>Italian arum</td>
<td>Arum italicum</td>
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<tr>
<td>bomarea</td>
<td>Bomarea caldasii</td>
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<tr>
<td>buddleia</td>
<td>Buddleja davidii</td>
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<tr>
<td>climbing spindleberry</td>
<td>Celastrus orbiculatus</td>
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<tr>
<td>cathedral bells</td>
<td>Cobaea scandens</td>
</tr>
<tr>
<td>Common Name</td>
<td>Latin Name</td>
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<tr>
<td>-----------------------------------</td>
<td>-----------------------------------</td>
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<tr>
<td>pampas</td>
<td>Cortaderia jubata</td>
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<td>pampas</td>
<td>Cortaderia selloana</td>
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<td>cotoneaster</td>
<td>Cotoneaster franchetii</td>
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<tr>
<td>cotoneaster</td>
<td>Cotoneaster glaucophyllum</td>
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<td>hawthorn</td>
<td>Crataegus monogyna</td>
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<td>montbretia</td>
<td>Crocosmia x crocosmiifolia</td>
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<td>macrocarpa</td>
<td>Cupressus macrocarpa</td>
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<td>eleagnus</td>
<td>Eleagnus x reflexa</td>
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<td>Spanish heath</td>
<td>Erica lusitanica</td>
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<td>Mexican daisy</td>
<td>Erigeron karvinskianus</td>
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<td>horsetail</td>
<td>Equisetum arvense</td>
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<td>Japanese spindle tree</td>
<td>Euonymous japonicus</td>
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<tr>
<td>European spindle tree</td>
<td>Euonymous europeus</td>
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<td>artillary plant, aluminium plant</td>
<td>Galeobdolon luteum</td>
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<tr>
<td>Chilean rhubarb</td>
<td>Gunnera tinctoria</td>
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<tr>
<td>yellow ginger</td>
<td>Hedychium flavescens</td>
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<tr>
<td>Kahili ginger</td>
<td>Hedychium gardnerianum</td>
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<tr>
<td>ivy</td>
<td>Hedera helix</td>
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<td>tutsan, St John’s wort family</td>
<td>Hypericaum androsaemum</td>
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<tr>
<td>holly</td>
<td>Ilex aquifolium</td>
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<td>morning glory</td>
<td>Ipomoea indica</td>
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<td>yellow flag iris</td>
<td>Iris pseudoacorus</td>
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<tr>
<td>stinking iris</td>
<td>Iris foetidissima</td>
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<tr>
<td>jasmine</td>
<td>Jasminum polyanthum</td>
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<tr>
<td>yellow archangel</td>
<td>Lamiastrum galeobdolon</td>
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<tr>
<td>Himalayan honeysuckle</td>
<td>Leycestaria formosus</td>
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<td>tree privet</td>
<td>Ligustrum lucidum</td>
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<td>Chinese privet</td>
<td>Ligustrum sinense</td>
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<td>Japanese honeysuckle</td>
<td>Lonicera japonica</td>
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<td>lotus, birdsfoot trefoil</td>
<td>Lotus pedunculatus</td>
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<td>Paraserianthus lophantha</td>
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<td>banana passionfruit</td>
<td>Passiflora mollissima</td>
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<tr>
<td>radiata pine, Monterey pine</td>
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<tr>
<td>karo</td>
<td>Pittosporum crassidolium</td>
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<tr>
<td>plectranthus</td>
<td>Plectranthus ciliorus</td>
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<tr>
<td>sweet pea shrub</td>
<td>Polygarla myrtiflora</td>
</tr>
<tr>
<td>Common Name</td>
<td>Latin Name</td>
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<tr>
<td>-------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>white poplar, silver poplar</td>
<td><em>Populus alba</em></td>
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<tr>
<td>sweet cherry</td>
<td><em>Prunus avium</em></td>
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<tr>
<td>mazzard</td>
<td><em>Prunus campanulata</em></td>
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<tr>
<td>Taiwan cherry</td>
<td><em>Prunus serrulata</em></td>
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<td>Japanese hill cherry</td>
<td><em>Prunus lauroseracus</em></td>
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<td>cherry laurel</td>
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<tr>
<td>bamboo</td>
<td><em>Pseudosasa japonica</em></td>
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<tr>
<td>Pseudopanax laetus</td>
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</tr>
<tr>
<td>houpara</td>
<td><em>Pseudopanax lessonii</em></td>
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<td>Asiatic knotweed</td>
<td><em>Reynoutria japonica</em></td>
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<td>evergreen buckthorn</td>
<td><em>Rhanus alarernus</em></td>
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<td>climbing dock</td>
<td><em>Rumex sagittatus</em></td>
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<td>grey willow, pussy willow</td>
<td><em>Salix cineria</em></td>
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<tr>
<td>crack willow</td>
<td><em>Salix fragilis</em></td>
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<tr>
<td>elder, elderberry</td>
<td><em>Sambucus nigra</em></td>
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<td>velvet groundsel</td>
<td><em>Senecio petasitis</em></td>
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<td>palm grass</td>
<td><em>Sectaria palmifolia</em></td>
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<td>Jerusalem cherry</td>
<td><em>Solanum pseudocapsicum</em></td>
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<tr>
<td>swamp cyperus</td>
<td><em>Taxodium distichum</em></td>
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<td>Montpellier broom</td>
<td><em>Teline monspessulana</em></td>
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<td>periwinkle</td>
<td><em>Vinca major</em></td>
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<td>arum lily</td>
<td><em>Zantedeschia aethiopica</em></td>
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<tr>
<td>Manchurian wild grass</td>
<td><em>Zizania lasifolia</em></td>
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</tbody>
</table>
**Document Transmittal**

**Project Name:** Kelson Heights Limited  
**Project No.:** 05459  
**To:** Hutt City Council  
**Address:** P.O. Box Private Bag 31912, Lower Hutt 5040  
**Attention:** Rachel Heame  
**Date:**

**Prepared by:** Jenny Grimmett

<table>
<thead>
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<th>Item</th>
<th>Rev</th>
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<th>Copies</th>
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<tr>
<td>1</td>
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<td>Photographs of plans submitted in evidence for Kelson Application as requested.</td>
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</tr>
<tr>
<td>2</td>
<td></td>
<td>Preliminary streamline layout (revised from 16 Feb 2009 hearing to show streams on same plan) W05459-CS01 - Revision E</td>
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<tr>
<td>3</td>
<td></td>
<td>Plan W05459-CS01 - RWA (no change from set dated 16/2/09 hearing)</td>
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<td>4</td>
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<td>W05459-CE26 - New plan submitted in evidence by J. Grimmett to show revised extended roadway crossover to meet Paul Blachke report requirements. (NB: we offered alternative access only to this in our reply)</td>
<td>1</td>
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</tbody>
</table>

**Reason for Issue:**

- **W05459-CS28** - Plan B, discussion returner 19/10
- **W05459-CE25** - Estimated distance from pond to speedy's stream

**Options for Delivery:**

- [x] Mail  
- [ ] Courier  
- [ ] By Hand  
- [ ] For Collection  
- [ ] Email