

PLANNING AND URBAN DESIGN

NOTICE OF DECISION

Service Request No: 147832

File Reference: 1012410

HEARING DATE: Thursday 22 – Friday 23 February 2007 (adjourned)
Thursday 15 March 2007 (adjourned)
Wednesday 21 March 2007
Tuesday 3 April 2007 (deliberations)

COMMITTEE: Cr A Shaw (chair)
Cr A Foster
Cr R Ahipene-Mercer

DATE OF REPORT: 30 April 2007

<u>Site Address:</u>	330 Horokiwi Road, Horokiwi
<u>Legal Description:</u>	Pt Sec 9 Horokiwi Road District
<u>Applicant:</u>	Pritchard Group Ltd on behalf of Tracey Belinda Wood, Nicola Estelle Wood & Peter James Willis
<u>Proposal:</u>	11-lot fee simple subdivision (10 lot rural/residential and road to vest) and earthworks for building platforms
<u>Owner:</u>	Tracey Belinda Wood, Nicola Estelle Wood and Peter James Willis
<u>Plan No:</u>	Pritchard Group Ltd drawings numbered: <ul style="list-style-type: none">- HK.SP/Stage One and;- HK.SP/Stage Two, both dated 17/11/2006 and;- PW.SAP.1, dated 15/11/2006 330 Horokiwi Road, Horokiwi

THE DECISION

The Resource Consents Hearing Committee under delegated authority from the Council, pursuant to Section 104(1)(b) of the Resource Management Act 1991, and under the provisions of the Wellington City District Plan, **declines consent** for an 11-lot fee simple subdivision of land at 330 Horokiwi Road, Horokiwi (Pt Sec 9 Horokiwi Road District).

1 BACKGROUND

The Site

- 1.1 The 39.3557 hectare development site is located on the eastern site of Horokiwi Road opposite the intersection with Lincolnshire Road, and is comprised entirely in one Computer Register (WN400/89). The site is roughly rectangular in shape having approximate dimensions of 900 metres (east to west) by 400 metres (north to south); the road frontage boundary along Horokiwi Road is irregular in shape.
- 1.2 The topography of the site is best described as undulating hill country consisting of alternating gullies and ridges. The western section of the site occupies the flank of the main ridgeline on which Horokiwi Road is located. Falling towards the east, the site is otherwise dominated by a central ridgeline (secondary to the main Horokiwi Road ridgeline) which runs from the southwest corner to the north-central section of the site. The upper areas of this ridgeline are moderately sloped.
- 1.3 To the northeast, a steep-sided gully also follows the southwest-northeast alignment of the central ridgeline. On the southeast side of the ridgeline a series of three steep-sided gullies falls towards the southeast and Korokoro Stream. Overall, from Horokiwi Road to Korokoro Stream the site falls approximately 240 vertical metres.
- 1.4 The vegetation on site is a mixture of exotic and indigenous. The upper slopes of the central ridgeline, and the moderate slopes along Horokiwi Road, are covered in pasture. The two main gully systems to the northwest and southeast are covered in regenerating native vegetation. The central third of the site, along the upper slopes of the ridgeline, is covered in an exotic pine plantation. Pine trees also grow along the road frontage to the site.
- 1.5 There are few permanent structures on the site, the most notable being a dilapidated corrugated iron shed near the road frontage and two corrugated iron sheds located approximately 50 metres into the site. A benched but otherwise unformed track provides four wheel drive access to the upper slopes and forestry block. The site is bounded by a post and wire fence but this becomes less distinct through the native bush areas.

- 1.6 The character of the area in which the site is located can best be described as rural. In general terms the land to the east of Horokiwi Road consists of pasture near the road with regenerating native vegetation dominating further to the east and closer to Korokoro Stream (and Belmont Regional Park). The land to the west of Horokiwi Road can be described as classic 'pine and pasture', with fields bounded by post and wire fences or pine and macrocapa windbreaks. These areas are being actively farmed. Some of the steeper gullies have native vegetation, but these are restricted mostly to the headwaters of Belmont Stream to the north west.
- 1.7 There are several clusters of dwellings near the subject site. Immediately opposite and centred on Linconshire Road are several single storey, weatherboard, residential dwellings of various ages. To the south there is approximately 500 metres of open farmland before another cluster of three dwellings is encountered. Immediately to the north there are two dwellings located prominently near the road and one slightly obscured over a low ridge. Of the two dwellings to the east of the road one is single storey of contemporary design and the other is a single storey c.1920's bungalow relocated to the site. The dwelling to the west is a two storey, c.1900-09, weatherboard dwelling that has also been relocated to the site.
- 1.8 Beyond these dwellings there is another cluster of approximately 20 dwellings centred on Hillcroft Road. The subdivision to which these dwellings relate was created in the early 1980's. The allotments of this area are unusual in that they are all between one and two hectares in size and the result of several small subdivisions effected over a short period of time.
- 1.9 There have been two recent consent applications for the site; the first was for a Certificate of Compliance, SR154685, for the operation of the forestry block and the other, SR157508, was an earthworks consent for the upgrade of the farm track to accommodate the forestry activities. Both the Certificate of Compliance and the Earthworks Consent were granted on the 17 January 2007.

2 The Proposal

- 2.1 A detailed description of the proposal is contained within the written material and the plans submitted with the application, and should be read in conjunction with this report. In general terms, the applicant seeks consent to undertake an 11-lot fee simple rural/residential subdivision of the subject allotment. Associated with the subdivision will be earthworks to form building platforms and access to the individual allotments.
- 2.2 Proposed Lots 1 to 7 are predominantly between 2 and 3 hectares in area, Lots 8, 9 and 10 will be 3.13, 6.34 and 8.14 hectares respectively; Lot 11 is 1300m² in area and is to be dedicated as legal road. Lots 1 and 2 would gain access directly to Horokiwi Road (via Lot 11); Lots 3 to 10 gain access to Horokiwi Road from the

Right of Way areas A, B, C and D, which passes along the central ridgeline slightly below and to the north of the apex of the ridge.

- 2.3 The applicant intends to stage the subdivision to allow for the harvesting of the forestry block. Lots 5 to 10 will therefore comprise a second stage which is intended to be completed after the pines have been harvested or before 2018, whichever occurs first.
- 2.4 No residential dwellings are proposed in association with the subdivision. Individual buildings on the allotments would be subject to separate resource consent applications at a later date.
- 2.5 It was originally proposed to undertake the earthworks necessary to form building platforms and curtilage areas to accommodate accessory buildings, parking, on-site wastewater disposal etcetera as part of the proposed subdivision. A change to the earthworks component of the application was however made during the hearing. The applicant's planner, Brian Warburton submitted the following at the hearing: *"... If the Committee is of a mind to grant consent, then it does so subject to a condition deleting formation of the building platforms, and the applicant accordingly proffers this amendment to the proposal"* (Para. 12.32, page 37 Warburton evidence).
- 2.6 The applicant proposes a suite of building and conservation covenants, including future subdivision restrictions, which would limit the nature and extent of development on the individual allotments.
- 2.7 Limited services are to be provided for the proposed new allotments. Rural developments such as these are expected to be self sufficient in terms of services and utilities, except for those already available. It is understood that electricity and telecommunications are the only available utilities; the development has to cater for its own potable water supply and stormwater and sanitary sewage disposal.
- 2.8 A minor change to the subdivisional layout proposed as part of the original application was made during the hearing. The applicants' planning consultant, Brian Warburton submitted the following in relation to the proposed change: *"To avoid potential conflict about maintenance of, or remedial work to, the right of way access following forest harvesting a lot layout which has the forest block having a leg-in strip to Horokiwi Road is considered a better configuration"*.
- 2.9 The applicant proffered an additional condition at the hearing to assist in mitigating/avoiding traffic effects at the Horokiwi Rd/SH2 intersection. The proffered condition (condition 2(a) evidence prepared in right of reply, para. 1.18, page 4) requires that if the right turn into Horokiwi Road from SH2 is not prevented prior to certification of the subdivision the owners of Lots 1 to 4 shall

not develop the land for residential purposes. The restriction shall apply while the right turn from SH2 is open, and until: *“alternative linkages to Horokiwi Road roading network are provided or when the Horokiwi Road/State Highway 2 intersection is significantly upgraded”*.

3 Notification/Submissions

3.1 The application was publicly notified on 27 July 2007 in accordance with Section 93(2) of the Resource Management Act. A public notice appeared in the Dominion Post on this date and a sign was erected on the site. All owners and occupiers of land in the Horokiwi Area were served a copy of the application.

3.2 The closing date for submissions was 24 August 2006, after which time a total of 25 submissions were received in response to the notification. A further two submissions were received after this date, one on the 25 August 2006 (Fire Service) and the other on the 29 August 2006 (Transit New Zealand). With the Fire Service submission, it was argued that the submission was late due to delays in receiving a copy of the application. With the Transit New Zealand submission it was argued that the submission had been posted in advance of the close date.

3.3 The committee consulted with the applicant on the matter of the late submissions. The applicant did not express any objection to acceptance of the late submission. The submissions made by Transit New Zealand and the New Zealand Fire Service have therefore both been considered by the committee in its assessment of the proposal.

3.4 In total 27 submissions were received, of which:

- 1 was in conditional support;
- 5 were neutral; and
- 21 were in opposition;

3.5 Issues raised within submissions are generally categorised as follows:

- Traffic (Horokiwi Road is narrow and winding, intersection with State Highway 2 dangerous, internal access issues, construction and forestry traffic).
- Precedent (encourage further development on a similar scale, ‘gateway’ for development of adjacent blocks)
- Contrary to District Plan provisions and Horokiwi Community Plan
- Treatments of the forestry block (timing of harvesting)
- Loss of rural amenity and character
- Effects on landscape
- Consideration of historic use of the site and treatment of historic features
- Treatment of runoff, control of erosion, stability

- Pressure on infrastructure (power, telecommunications)
- Inconsistent consultation
- Effects on Belmont Regional Park and Korokoro Stream
- Construction effects
- Provision of fire fighting capability
- Effect on views
- Form that bush covenants will take (Reserves Act, Queen Elizabeth II trust)
- Relation to northern Growth Management Framework
- Relation to Grenada/Petone link road

4 Statutory Criteria

Section 104D of the Act:

- 4.1 The application is for a non-complying activity under the Operative District Plan and PDPC33. In order for the Council to approve a non-complying activity, it must be tested against the provisions of section 104D of the Act. This section sets two tests, at least one of which the consent authority must be satisfied is met by the application under consideration. The first test is that the adverse effects on the environment will be minor. The second test is that the proposal is not contrary to the objectives and policies of the relevant plan.
- 4.2 Subject to at least one of the gateway tests of section 104D being satisfied, the Council may grant or refuse consent under section 104B of the Act and, if granted, may impose conditions under section 108 and section 220 of the Act.
- 4.3 Section 104 (1) of the Act sets out matters to which a consent authority must have regard when considering an application for resource consent. Subject to Part 2 of the Act (purpose and principles), the relevant matters in this case are:
1. *“Any actual and potential effects on the environment of allowing the activity.”* [section 104(1)(a)];
 2. *“Any relevant provisions of a plan or proposed plan”* [section 104(1)(b)(iv)]; and
 3. *“Any other matters the consent authority considers relevant and reasonably necessary to determine the application.”* [section 104(1)(c)].

5 **Objectives and Policies of the Wellington City District Plan**

5.1 The relevant objectives and policies of the district Plan are as follows

Objective 14.2.1 ***To promote the efficient use and development of natural and physical resources in the Rural Area.***

Policy 14.2.1.1 *Encourage new urban development to locate within the established urban area.*

Policy 14.2.1.2 *Encourage the design of any rural subdivision or housing development to optimise resource and energy use.*

Policy 14.2.1.3 *Allow work-from-home activities in Rural Areas.*

Objective 14.2.2 ***To maintain and enhance the character of the Rural Area by managing the scale, location, rate and design of new building development.***

Policy 14.2.2.1 *Control the number, location and design of new building developments and activities to avoid, remedy or mitigate their adverse effects on the rural character and landscape.*

Policy 14.2.2.2 *Control the location of new structures and earthworks on ridgelines and hilltops.*

Policy 14.2.2.2 *Control the construction and siting of new buildings, structures and earthworks on identified ridgelines and hilltops in ways that avoid, remedy or mitigate adverse visual effects on the rural character, while recognising any natural, recreational or heritage values that may exist in these identified areas.*

Policy 14.2.2.3 *Control the construction and siting of buildings, structures and earthworks on identified ridgelines and hilltops in city fringe areas where satisfactory infrastructure allows for future growth*

Policy 14.2.2.4 *Control the siting and size of new signs within the Rural Area.*

Policy 14.2.2.5 *Seek to ensure that activities located in the Rural Area do not have harmful effects on urban areas.*

- Objective 14.2.3** ***To maintain and enhance the amenity values and rural character of Rural Areas.***
- Policy 14.2.3.1* *Control non-rural activities to ensure that their potential adverse effects on the rural environment are avoided, remedied or mitigated.*
- Policy 14.2.3.2* *Control the adverse effects of noise within the Rural Area.*
- Policy 14.2.3.3* *Acknowledge the natural and cultural landscape of the Belmont Hills in recognition of their scenic and recreational values.*
- Objective 14.2.4** ***To ensure that the adverse effects of new subdivisions in the Rural Area are avoided, remedied or mitigated and that subdivision is consistent with the approach to containment of the urban area in this Plan.***
- Policy 14.2.4.1* *Control greenfield subdivision initiated in the Rural Area to ensure that adverse effects are avoided, remedied or mitigated and that if land is developed, it is developed in a way that will lead to neighbourhoods which have a high amenity standard and which are adequately integrated with existing infrastructure.*
- Policy 14.2.4.2* *Manage the rate of subdivision to minimise fragmentation of land in the Rural Area and to maintain a compact city.*
- Policy 14.2.4.3* *Ensure the sound design, development and appropriate servicing of all subdivisions.*
- Policy 14.2.4.4* *To require esplanade areas along identified streams and the coast to protect conservation values, provide public access or other recreational use.*
- Objective 14.2.5** ***To maintain and enhance natural features (including landscapes and ecosystems) that contribute to Wellington's natural environment.***
- Policy 14.2.5.1* *Protect significant escarpments and coastal cliffs from development and visual obstruction.*
- Policy 14.2.5.2* *Ensure that any approved earthworks are designed and engineered to reflect natural landforms.*

Policy 14.2.5.3 Encourage retention of existing vegetation, especially established trees and existing native vegetation.

Objective 14.2.7 *To avoid or mitigate the adverse effects of natural and technological hazards on people, property and the environment.*

Policy 14.2.7.1 Identify the hazards that pose a significant threat to Wellington, to ensure that areas of significant potential hazard are not occupied or developed for vulnerable uses or activities.

Policy 14.2.7.2 Ensure that the adverse effects of hazards on critical facilities and lifelines are avoided, remedied or mitigated.

Policy 14.2.7.3 Ensure that the adverse effects on the natural environment arising from a hazard event are avoided, remedied or mitigated.

Policy 14.2.7.4 Ensure that earthworks and structures in the Rural Area do not exacerbate natural hazards, particularly flood events.

Objective 14.2.9 *To enable efficient, convenient and safe access for people and goods within the Rural Area.*

Policy 14.2.9.1 Manage the road network to avoid, remedy or mitigate any adverse effects of road traffic on Rural Areas.

Policy 14.2.9.2 Manage the road system in accordance with a defined road hierarchy.

Policy 14.2.9.3 Provide for, and in certain circumstances require, extensions to the existing road network. In particular the actual development or potential for future development of the following connector routes is sought....

6 Assessment Criteria

6.1 The relevant assessment criteria are as follows:

Earthworks: Operative District Plan

15.3.7.5 The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, or affect existing natural features, such as waterbodies.

- 15.3.7.6 *The extent to which any cut or fill can be restored or treated to resemble natural landforms. Council will seek to avoid the creation of unnatural scar faces.*
- 15.3.7.7 *The extent to which any earthworks may impact on prominent or visually sensitive situations, including the coastal marine area, ridgelines, cliffs, escarpments and waterbodies.*
- 15.3.7.8 *The necessity for carrying out the works.*
- 15.3.7.9 *Whether the earthworks proposed increase or decrease flood hazards.*
- 15.3.7.10 *Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.*
- 15.3.7.11 *The effects on any water body or the coastal marine area arising from the contaminants associated with earthworks.*

Earthworks: Ridgeline & Hilltops (PDPC33)

- 15.4.2.1 *Whether the site is located in a remote area where the construction of any buildings or structures, or associated road and earthworks, would detract from the character of the surrounding landscape.*
- 15.4.2.2 *The extent that future earthworks, buildings and structures are sited and designed in ways that avoid being visually obtrusive by:*
- *ensuring visual continuity is achieved on the upper slopes up to the apex of the ridgeline or hilltop*
 - *minimising skyline effects and visibility of buildings, structures and earthworks by construction design, in relation to district wide, community wide and neighbouring views*
 - *using local topography, and/or allowing earthworks, to create a backdrop to development with which any cut or fill can be restored or treated to resemble natural landforms without increasing the potential for soil instability.*
- 15.4.2.3 *The extent to which the siting of any earthworks, buildings or structures will remove existing vegetation where existing vegetation mitigates the visibility of earthworks, buildings or structures.*
- 15.4.2.4 *The extent to which new planting mitigates the visibility of the earthworks, buildings or structures.*

- 15.4.2.5 *The extent to which the proposal meets the relevant aspects of the Rural Design Guide.*
- 15.4.2.6 *Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.*
- 15.4.2.7 *The extent to which effects on any other natural, recreational or heritage values can be avoided, remedied or mitigated.*

Subdivision: Operative District Plan

- 15.4.5.1 *The requirements of section 106 of the Act.*
- 15.4.5.2 *Whether the subdivision is for the adjustment of boundaries where no new allotments are created. Applications will generally be supported if they are of a minor nature and will facilitate the operation of rural or other lawfully established activities.*
- 15.4.5.3 *Whether the new allotments have suitable access to a formed public road.*
- 15.4.5.4 *The extent to which allotment boundaries are located to conform with the local topography.*
- 15.4.5.5 *The extent of compliance with the relevant parts of the Code of Practice for Land Development.*
- 15.4.5.6 *Whether the result of land clearance (or the method of land clearance proposed) would adversely affect amenities.*
- 15.4.5.7 *Whether the design of the subdivision makes adequate provision for, sewage disposal for each allotment, having regard to the susceptibility of groundwater or coastal water or freshwater to contamination by sewage or sewage effluent, and having regard to the potential for cumulative effects arising from on site sewage disposal.*
- 15.4.5.8 *Whether esplanade land is required to be set aside....*
- 15.4.5.9 *Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.*
- 15.4.5.10 *Where more than one new allotment of less than 50ha is to be created, whether community treatment and disposal of sewerage should be required.*

15.4.5.11 *Where more than one new allotment of less than 50ha is to be created, whether the stormwater run off control to be provided in relation to each allotment is adequate.*

Subdivision: DPC 33

15.4.5.1 *The requirements of section 106 of the Act.*

15.4.5.2 *Whether the subdivision will facilitate the operation of rural or other lawfully established activities.*

15.4.5.3 *Whether suitable access to a formed public road is retained or is to be provided as a result of the proposed subdivision.*

15.4.5.4 *The extent of compliance with the relevant parts of the Code of Practice for Land Development.*

15.4.5.5 *The extent that the subdivision, access and building location will meet the objectives and guidelines of the Rural Area Design Guide.*

15.4.5.6 *Whether the proposal makes adequate provision for services including water supply, stormwater runoff control and sewage treatment. Where the proposal is located near an existing urban area or an existing residential subdivision, consideration should be given to the undergrounding of services.*

15.4.5.7 *Whether any special heritage, amenity or ecological features are proposed to be protected as a result of the proposed subdivision, including:*

- *Whether any areas of native vegetation or wetlands are to be protected by covenants or other mechanisms*
- *Whether any heritage feature is to be acknowledged and protected*
- *Whether public access will be facilitated to protected amenity features*

15.4.5.8 *Where any land is located within identified ridgelines and hilltops, the extent that the access and building location will meet the assessment criteria of Rule 15.4.2.*

15.4.5.9 *Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.*

REPORT OF HEARING

7 Applicant's Case

7.1 **Evidence of Mr Richard Laurensen** provided a background behind the current ownership of the land, an outline of the reasons for the proposal, a history of the consultation process and how this has contributed to the current proposal and a response to matters raised in submissions. Mr Laurensen also discussed the effects of the proposal in terms of State Highway 2 (SH2) and the rural landscape.

7.2 Mr Laurensen concluded that: *“I request the Council to consider what is practical here. I feel the proposed subdivision meets what is best for this 39.4 hectare site given its location on Horokiwi Road”*.

7.3 In answer to a question from the committee about the economic rationale of the number of lots proposed Mr Laurensen commented that the number of lots results from the number of house sites that would be saleable. When questioned on whether he considered that this site could be economically farmed Mr Laurensen responded that this would be hard to determine, but that the likely return would make farming this holding uneconomic.

7.4 **Ms Tracy Wood**, who is a member of the Wood Family Trust which owns the land, provided a background to the family's history in the area and commented on the contribution the family has made to the local community. Mrs Wood also provided an account of the reasoning behind the current development proposal from the family's perspective.

7.5 **Mr Gary Clark** provided traffic evidence for the applicant. Mr Clark's evidence was around the safety of the local road environment and the effects the proposal will have on the Horokiwi Rd/SH2 intersection. Mr Clark presented the results of a crash analysis he had undertaken and provided a synopsis of the effects of the proposed subdivision on road safety along both Horokiwi Road and the Horokiwi Rd/SH2 intersection. He concluded that:

“The mitigation measures proposed for Horokiwi Road address the issues identified by myself and raised by submitters. I note that council experts are of the same view.

The proposed development can be accommodated within the surrounding road environment with little or no effect on other road users. The very small increase in traffic volumes will have no noticeable effect on the safety or operation of Horokiwi Road”.

7.6 Mr Clark also presented supplementary evidence later in the hearing. Following a re-analysis of the Land Transport Crash Database it was found that data had been

left out of the information that led to his conclusions on the matter of traffic safety at the Horokiwi Rd/SH2 intersection. As a result of this re-analysis Mr Clark concluded that:

“I can support Stage 1 of the proposed subdivision as the potential effects are considered to be indiscernible to the existing safety and efficiency of the intersection of Horokiwi Road and SH2. I am unable to support Stage 2 of the proposed subdivision as I consider the potential effects to be unacceptable”.

- 7.7 In answer to a question from the committee about the relationship between the number of houses and the increased risk to traffic safety Mr Clark commented that there is a difficulty in assessing exactly what will happen, as an example Mr Clark suggested that as traffic volumes increase an awareness of congestion may actually lead to increased traffic safety.
- 7.8 **Mrs Joanna Todd** provided landscape evidence on the matter of the proposed subdivision. Mrs Todd’s evidence, which was presented to the hearing by Richard Laurenson, discussed the existing rural character of the Horokiwi Road area and assessed the potential change to that character that is likely to occur as a result of the proposed subdivision.
- 7.9 In her evidence Mrs Todd commented that the predominant character of Horokiwi Road is rural lifestyle, and noted that: *“the proposed development of the Wood property has been designed as a series of low density rural lifestyle allotments with a range of lot sizes and attributes which can easily co-exist with the existing land development that has occurred along Horokiwi Road given its similarity”.*
- 7.10 In answer to questions from the committee about the visual effects of the proposal resulting from the construction of houses on the undeveloped side of the ridge Mrs Todd commented that aesthetically the construction of four extra houses in this location would not be significant and the resulting environmental effects will be less than minor. When questioned on the matter of the maintenance of the sense of openness subsequent to development of the proposed allotments, Ms Wood commented that provided the proposed lots are only developed in the designated building areas, as required by proffered conditions, then a sense of openness can be maintained. Mrs Todd suggested that the houses constructed within the allotments created as part of Stage 2 would not be seen as an intrusion into the currently undeveloped hillside on the eastern side of Horokiwi Road.
- 7.11 **Mr Brian Warburton** provided planning evidence. He indicated that the proposed subdivision would make an efficient use of the site which is at present under-utilised and that there would be positive effects generated by the proposal which should be taken into consideration. He considered that due to area, location, orientation, topography and natural features no two sites are going to be exactly the same. Mr Warburton also suggested that individual applications must

be considered on their merits, and that on this basis the idea of this application creating a precedent was not justified.

- 7.12 Mr Warburton indicated that the lot sizes would be consistent with many of the rural residential lots that currently exist in the Horokiwi Road area and that overall the actual and potential adverse effects (including traffic and rural amenity effects) of the proposal will be minor. He stated that he had been guided to this conclusion by the relevant objectives and policies of the District Plan and that mitigation of effects could be achieved by conditions that have been volunteered by the applicant.
- 7.13 Mr Warburton commented that the applicant had submitted on Proposed District Plan Changes (PDPC) 33, 36 and 45, noting that these matters have yet to be determined.
- 7.14 In his conclusion Mr Warburton commented that: “...*I have assessed the proposal against the statutory requirements of section 104 and 104D and concluded that the actual and potential effects of allowing the activity will be no ore than minor...I have considered the relevant objectives and policies of the District Plan and am satisfied that based on a broad judgement the proposal is consistent with these provisions.*”
- 7.15 In response to a question from the committee on the matter of his assessment, Mr Warburton advised that his conclusions in respect to environmental effects resulting from the proposed subdivision would be the same if matters relating to PDPC 45 were resolved, he also commented that it is his opinion that Council’s role is not to control the release of land for development, rather that all application for subdivision should be treated on their own merits.

8 Council Officers’ Comments

- 8.1 **Mr Brett Smith** provided comment on his report and in particular in the context of comments made in the applicant’s evidence. Mr Smith advised that economic viability should not form part of Council’s assessment of the proposal. Mr Smith also advised the committee that consideration had been given to the applicants’ permitted baseline comparison but commented that advised in his opinion the use of the land for non-rural purposes which require resource consent approval could not be considered a legitimate permitted baseline comparison.
- 8.2 Mr Smith also commented on matters raised in Mr Warburton’s evidence, noting that a proposal to undertake only Stage 1 of the subdivision would require a separate resource consent application. Mr Smith also outlined his reasoning behind not recommending inclusion of some of the conditions proffered by the applicant. Mr Smith advised the Hearings Committee that it is his opinion that the precedent effects established by this proposal would be more than minor.

- 8.3 In answer to a question from the committee as to whether it is the effect of “filling in the blanks” along Horokiwi Road or the number of houses that he is most concerned about, Mr Smith commented that it is the effect of filling in the blanks that is of most concern. Mr Smith expressed his view that the topography and orientation of the subject site puts it at a disadvantage when it comes to developing the land for residential purposes, as any houses constructed would be immediately visible from Horokiwi Road. Mr Smith noted that in his opinion four houses is too many for this site.
- 8.4 **Mr Steve Spence**, Wellington City Council Chief Transportation Engineer was present at the hearing to answer questions on matters raised in his traffic assessment. In answer to a question from the committee about the current safety of Horokiwi Road Mr Spence commented that Horokiwi Road is a relatively typical rural road and its construction and design is suitable for its current low carrying capacity. Mr Spence did however note that increased usage inevitably results in increased danger. He noted that doubling the number of vehicles would more than double the number of crashes.
- 8.5 In answer to a question from the committee about the effects of the proposal on the view of the site from the Hutt Valley Mr Smith advised that the proposal would adversely affect the visual remoteness of the site, he also noted that the removal of the proposed earthworks required to form curtilage areas within each lot may lead to potential for reduced adverse impact on landscape, although individual earthworks impacts would require assessment in their own right. Mr Smith noted that site-specific works could be tailored for each house and the extent of works could potentially be reduced through the consent process.
- 8.6 When questioned on the strength of his view on declining the application Mr Smith commented that he was in full support of the vegetation protection aspects of the proposal but could not support the rest of the application. Mr Smith advised that his view would remain the same even if PDPC 45 had been resolved, as the District Plan policies do not change, noting that the use of the land for rural purposes would be lost through the proposed rural/residential subdivision.

9 Submitters

- 9.1 **Transit New Zealand** was represented at the hearing by Mr M G Conway, solicitor for Simpson Grierson, Mr G M Prince, Senior Engineer for MWH and Mr Michael Weir, Senior Planner for Transit.
- 9.2 **Mr M G Conway** presented legal submissions on behalf of Transit New Zealand. The submission described issues of concern to Transit. Mr Conway outlined the legal basis on which Transit believe the proposal should be declined, chiefly being that the proposal fails the two gateway tests under s104D of the RMA. Mr

- Conway commented on the cumulative effects of the proposal on traffic safety at the intersection of Horokiwi Road and SH2 and concluded that the effects will be more than minor. He also provided case law where proposals have been declined where they set precedents that are contrary to the objectives and policies of a District Plan.
- 9.3 Mr Conway commented on Section 3(f) of the RMA which requires the decision maker to consider potential effects of low probability but with high potential impact. He advised that information from traffic experts suggests that there is currently a: *“...high probability of crashes at the Horokiwi Rd/SH2 intersection, a probability that would be increased by the addition of new traffic from the proposed subdivision. In this context even a small increase in traffic volume, such as that expected from the current proposal, creates an unacceptable risk.”*
- 9.4 **Mr Glen Prince** presented evidence on matters relating to traffic safety on behalf of Transit New Zealand. Mr Prince provided an analysis of crash incidents at the intersection of Horokiwi Road and SH2 and a synopsis of the likely effects increased traffic flow from the proposed subdivision would have on the existing traffic hazard associated with both the SH2 intersection and traffic flows along Horokiwi Road. Mr Prince commented on Transit’s statutory obligation under the Land Transport Management Act, which is to ensure the sustainable management of the State Highway system.
- 9.5 In Summary Mr Prince concludes that: *“I consider that the proposed subdivision would adversely affect Transit’s ability to meet its statutory objective... In particular... the proposal is in direct conflict with Transit’s statutory objective... and that the adverse effects cannot be practically mitigated”.*
- The intersection of Horokiwi Road and SH2 in its current form has significant safety concerns, including the sub-standard sight distances... the number of lanes to be negotiated by turning vehicles and the speed and volume of traffic using SH2. These safety concerns can only be remedied by significantly upgrading the intersection or banning all right turning movements. Unless one of these improvements is implemented I consider the risk exposure for all new and existing users of the intersection to be significant if the application is granted.”*
- 9.6 **Mr Michael Weir** gave evidence on resource management matters of direct relevance to Transit New Zealand’s interests, being the impact of the proposed development on the Horokiwi Road and SH2 intersection, and matters relating to the integrity of the Wellington City Council District Plan.
- 9.7 In his conclusion Mr Weir expressed his opinion that: *“... it is open to the Council to accept the planner’s recommendation and conclude that the adverse effects on the environment will be more than minor. However, even if council decides that the adverse effects on the environment are only minor, the proposal is also*

contrary to the objectives and policies of the District Plan, and granting consent to this proposal would seriously undermine the integrity of the District Plan and confidence in its administration”.

- 9.8 In his discussion of the effects of the proposal in relation to the objectives and policies of the District Plan Mr Weir drew attention to DPC 33 and in particular a passage from the proposed plan change which differentiates subdivision in Horokiwi from other rural areas. Mr Weir commented that the proposed plan change removes the minimum lot size requirement from the majority of rural areas, but not Horokiwi. It is his view therefore that this indicates that: *“the provisions of the District Plan and proposed Change 33 are clear and unequivocal in signalling that intensive rural residential development is not appropriate in Horokiwi”.*
- 9.9 In answer to questions from the committee about closing the medium strip to right turning traffic off SH2 to Horokiwi Road Mr Weir concurred with Mr Prince’s evidence that Transit had wanted the medium strip closed for some time but advised that strong public opposition had prevented this from happening.
- 9.10 In response to a question from the committee about the likely effect of closing the medium strip Mr Prince confirmed that doing so would significantly increase traffic safety at the intersection.

10 Submitters: Partial Support

- 10.1 **Mr John Tannahill** advised that he was presenting at the hearing on behalf of Mr B E Johnson and Mr Graeme Houston, and for himself.
- 10.2 Mr Tannahill indicated his support to Stage 1 of the proposed subdivision, creating four allotments. Mr Tannahill commented on matters relating to closure of the medium strip, which would prevent vehicles turning right into Horokiwi Road from SH2. Mr Tannahill noted the additional time and distance (9km) it would take for emergency vehicles to get up Horokiwi Road.
- 10.3 Mr Tannahill indicated that Mr Houston had advised that he would support Stage 1 (four-lot subdivision) provided the subdivision does not facilitate direct vehicular access to the neighbouring D’Arcy-Smith property.

11 Submitters in Opposition

- 11.1 **Mr Stone** raised concerns about the loss of rural lifestyle that would result from the proposed subdivision, and the effect that development of the subdivided lots would have on the rural landscape/character. Mr Stone provided a slide-show taken from a vehicle travelling across the SH2 intersection and up Horokiwi

- Road. Mr Stone commented on the traffic safety issues that currently exist on the road, noting that the additional use of the road would exacerbate these risks.
- 11.2 Mr Stone commented on his experience of road safety along Horokiwi Road, and advised that he was aware of a number of minor crashes/near misses that the traffic experts were not aware of, they thanked him for this advice.
- 11.3 In response to a question from the committee about existing traffic safety issues Mr Stone commented that larger vehicles have difficulty negotiating corners in the road and noted that the mitigation measured proposed by the applicant (placement of signage) would do little to alleviate this problem, citing the fact that signs already in place make little difference to driver speeds/caution.
- 11.4 **Mr Neil Tonkin** owns 232 Horokiwi Road. Mr Tonkin raised concerns about the number of houses that are being proposed and the negative effects these houses will have on rural character, traffic, and existing infrastructure. Mr Tonkin was also concerned about the precedent for future development this proposal would set. Mr Tonkin cited existing problems with power supply and advised that it is his opinion that these problems would only get worse if the subdivision were to be approved, and the number of houses using existing infrastructure were to increase.
- 11.5 **The Horokiwi Community Association** and a number of individual residents were represented at the hearing by Mr Greg Lee, a planner for Harrison Grierson Consultants Ltd. Following questions from Mr Brian Warburton a list was provided to the Committee confirming exactly which submitters were being represented by Mr Lee. A total of 25 people signed the document to indicate that they were a party to the instruction to Mr Lee to provide professional planning evidence at the hearing.
- 11.6 Mr Lee supported the conclusions of the recommendation report prepared by Mr Brett Smith but had a differing view on matters relating to: traffic, the stability of the land and servicing of the proposed allotments. Mr Lee commented that the proposal would have more than minor effects in relation to all three matters.
- 11.7 In response to a question from the committee about removing the proposal to undertake earthworks for the building platforms, Mr Lee commented that he did not consider that this would necessarily lead to a reduction in environmental effects. He suggested that in his opinion the earthworks shown in the application were obviously intended to meet the requirements of the type of development envisaged by the developer.
- 11.8 When asked by the committee about his conclusions and how they should be considered where they contradict those of experts, Mr Lee suggested that his opinions are based on the provisions of the District Plan but acknowledged that

ultimately the choice as to which conclusion to consider in the final decision is up to the committee.

- 11.9 Horokiwi Community Association** - Dr Sydney Shep presented a submission on behalf of the Horokiwi Community Association. Dr Shep identified the members key concerns about the proposal, these include: issues about the proposals inconsistency with planning provisions; the adverse effects the proposed development will have on rural character; uncertainty about the timeframe for Stage 2; traffic and infrastructures related effects and matters around the proposed method of bush protection. Dr Shep expressed the Community Association's view that the proposal should be declined on the basis that it does not satisfy the gateway tests under S104(D) of the RMA.
- 11.10 In response to a question from Commissioners about the rate of development in Horokiwi over the last 20 years, Dr Shep commented that as far as she is aware there have only been three houses built on allotments created by a subdivision approved in the 1980's.
- 11.11 **Mr Steve Simons** owns 361 Horokiwi Road. Dr Sydney Shep presented a written submission from Mr Simons, which was tabled at the hearing. Mr Simon's submission raised concerns about the number of houses that are being proposed and the effects the construction and occupation of these houses will have on the rural character of the area. The issues of most concern relate to visual and noise effects (during construction).
- 11.12 **Mrs Lynette and Mr Greg Eustace** own 5 Van der Velden Way. Dr Shep presented a written submission from the Eustace's. Their submission was tabled at the hearing. The Eustace's submission raised their concern about the precedent that would be set by this proposal, and put forward their view that the proposal would set an undesirable precedent for development along Horokiwi Road that would degrade the existing rural landscape. The Eustace's also raised concerns about the occupation of extra houses, and the pressure this will place on existing utilities and the adverse effect it will have on traffic safety.
- 11.13 **Mrs Barbara Hamilton** owns 10 Hillcroft Grove. Dr Sydney Shep presented a written submission from the Hamilton's. The submission was tabled at the hearing. The Hamilton's have concerns about the proposal and its effects on the existing rural lifestyle in Horokiwi, they questioned whether the integrity of the District Plan and other planning documents could be relied on by the community if the proposal is allowed to proceed.
- 11.14 **Mr Paul McInnes** owns 339 Horokiwi Road and had his submission presented to the hearing by Dr Shep. His written submission was tabled at the hearing. Mr McInnes has concerns about the loss of rural character resulting from development of the subdivided lots and the undesirable precedent that approving

the subdivision would create. He had a concern that approving the subdivision would place pressure on Council to approve other similar subdivisions in the future. Mr McInnes also contends the conclusion by the applicant that the development site is close to, and therefore not visually discernable from Lincolnshire farm. Mr McInnes notes that the Woollaston Way area is unusual in the context of Horokiwi Road and contests the applicant's conclusions to the contrary.

- 11.15 **Mrs Sue Dempsey** lives at 339 Horokiwi Road. Dr Sydney Shep presented a written submission from Mrs Dempsey. The submission was tabled at the hearing. Mrs Dempsey's concerns primarily relate to the number/density and size of houses being proposed and the effect that this will have on the rural character of the area and on traffic safety. Mrs Dempsey's written submission was tabled at the hearing.
- 11.16 **Mr Stephen Keef** owns 325 Horokiwi Road. Mr Keef has concerns about the proposal and seeks that it be declined. Mr Keef has concerns about the traffic effects of the proposal and noted inaccuracy and inconsistency in the application, and in evidence provided at the hearing by the applicant's experts. Mr Keef presented a risk model at the hearing to demonstrate the relationship between the increased use of Horokiwi Road and the increased crash risk at the Horokiwi Road/SH2 intersection.
- 11.17 **Mr Timothy Hurd** owns 440 Horokiwi Road. Mr Hurd commented on his objection to the proposal and noted that he believed the proposal had been so significantly amended that it should not be allowed to proceed. Mr Hurd cited a number of inconsistencies in the application and data provided to the Committee.
- 11.18 **Jim Graham** owns 255 Horokiwi Road. Mr Graham expressed his concern that the proposal would result in increased demand for the use of Horokiwi Road, which would lead to increased traffic movements creating safety issues on an already dangerous road.
- 11.19 In response to a question from the committee about whether his view on development in the Horokiwi area would be the same if a smaller-scale application to construct a second house on a site were being proposed Mr Graham commented that in such a situation the proposal may only be to enable the housing of an elderly or sick family member and therefore has much less effect on the environment. In answer to a question from the committee Mr Graham acknowledged that this house could however be on-sold away from the family at a later date. Mr Graham commented that he did not believe the community wanted an absolute prohibition of development but felt the motivation (such as profit) behind the development must be, in his opinion an issue for consideration.

12 Submission in Support

- 12.1 **Mr D’Arcy-Smith** owns 379 Horokiwi Road. Mr D’Arcy-Smith indicated that while he initially opposed the application he was now in full support. Mr D’Arcy-Smith commented that the existing road network is suitable for use by additional housing and that the existing traffic safety issues have been over-stated. He commented that traffic safety issues on Horokiwi Road and at the Horokiwi Rd/SH2 intersection are more about the driving practices of existing resident than they are about the condition of the road. Mr D’Arcy-Smith expressed his view that the impeding development of Lincolnshire Farm for residential purposes means the subject site must also be considered an appropriate place for residential development.

13 General Conduct

- 13.1 The Committee noted the general conduct of some submitters, and the tone in which submissions and evidence was presented. The Committee were particularly concerned about the manner in which the backgrounds of submitters/applicant were brought into question and the way in which unnecessary comments were directed at others present at the hearing. The Committee found some of the comments made to be unreasonable and offensive. The Committee drew this matter to the attention of participants during the hearing.
- 13.2 The Committee advise that the presentation of submission/evidence in an offensive manner had no bearing on its assessment of the proposal. The Committee are only required to assess information before them, not to consider individuals motivations for making submissions or their reasons for applying for consent. The personal attacks on others at the hearing were deemed irrelevant in terms of the assessment made and were ignored in respect to the final decision. The Committee advised participants that the manner of presentation did not affect consideration of the arguments in that presentation.
- 13.3 Committee also noted that some submitters questioned the role of Council in allowing the proposal to proceed to a hearing. The Committee noted that applicant’s decide for themselves whether they wish to apply for consent. Council’s role is to ensure that the provisions of the resource management act are applied in determining whether to grant or decline that consent. Similarly, other submitters were critical of the role of the reporting officer and imputed “bad motives” lay behind the officers advise to the committee. Suggestions such as these are offensive, unhelpful and irrelevant.

14 Questions to Wellington City Council Officers

- 14.1 **Ms Angela McArthur** responded to questions from the committee in relation to her landscape assessment of the proposal. In response to a question about the value of removing the proposal to undertake earthworks to form building platforms, Mrs McArthur noted that any earthworks would be inconsistent with the existing character of the area, noting that some earthworks are still required to form accesses and that earthworks would have to eventually be carried out to form building platforms for development within the proposed allotments.
- 14.2 In answer to questions from the committee Mrs McArthur advised that in her opinion the proposed development would noticeably intrude into an undeveloped landscape.
- 14.3 In addressing a question from the committee relating to her assessment of the proposal on land/properties that are beyond Wellington City boundaries, Ms McArthur commented that an assessment of visual effects is not limited to just land within the territorial authorities jurisdiction, but rather it must be of all effects resulting from the proposed development.
- 14.4 When asked by the committee about how widely the proposal was advertised Mr Brett Smith advised that the proposal was advertised in the regional paper (Dominion Post) and that a sign was placed at the site.
- 14.5 When questioned by the committee on the likely precedent effect of approving this subdivision, and the pressures it would put on Council to approve similar proposals in the future, Mr Smith advised that it would make future proposals difficult to decline. Mr Smith advised that in future Council Planners would consider this decision when assessing other similar applications.
- 14.6 In responding to questions around cumulative effects and the “tipping point” for residential development in Horokiwi Valley Mr Smith advised that council’s current policy is to adopt a conservative approach and encourage only small incremental development in rural areas.
- 14.7 In response to a question raised by the committee about his recommendation for this proposal if Lincolnshire Farm were already developed, Mr Smith commented that he may not necessarily recommend declining the application but would take advice from Transit on the matter of safety at the Horokiwi Rd/SH2 intersection. Mr Smith advised that in his opinion the effects on rural amenity created by 1-2 houses might be treated differently. He did however note that he had only assessed this application on the basis of the full 10 (residential) allotments.

15 Applicant's Right of Reply

- 15.1 **Mr Gary Clark** commented on the submissions made by Transit, noting that they had acknowledged that they are not currently achieving their statutory functions in relation to the Horokiwi Road/SH2 intersection, and indicated his surprise at this situation. Mr Clark surmised that the level of danger at the intersection cannot be that great if Transit had not closed the medium strip, even though they acknowledge that this is the greatest contributing factor to the crash risk. He also questioned the resident's level of conviction on the matter of road safety at the intersection when they had previously objected to closing the medium strip.
- 15.2 In his summary Mr Clark advised that: "... *I can support Stage 1 of the proposed subdivision as the potential effects are considered to be indiscernible to the existing safety and efficiency of the intersection of Horokiwi Road and SH2*".
- 15.3 **Mr Brian Warburton** presented an amendment to the applicant's proffered condition, as discussed in Paragraph 2.9 above. Mr Warburton advised that the amendment had been made to avoid road safety issues at the Horokiwi Rd/SH2 intersection.
- 15.4 On the matter of rural character and amenity Mr Warburton reiterated Mrs Todd's conclusion that the proposed development can be absorbed into the landscape and provided photographic evidence to support this.
- 15.5 On the matter of the legal submission by Mr Conway, and his conclusion regarding fanciful or non-fanciful permitted comparisons Mr Warburton advised that: "*that amendment (2003 Amendments to RMA) codified permitted baseline concept into the Act and allowed decision makers to apply the concept at their discretion...*"
- 15.6 Mr Warburton considered that there were errors in the planning officer's report and in the submissions by Transit on the matter of allotment size and ownership. He also questioned the opinions expressed in Mr Lee's evidence.
- 15.7 Mr Warburton commented that he did not share Mr Smith's confidence regarding the boundary for the Northern Growth Management Framework to be created through Proposed District Plan Change 45. He reiterated his view that: "...*Council had indicated a preference for rural-residential subdivision in land currently located in the Horokiwi Area and... the subdivision proposal should be afforded the same favourable consideration as Council has given the NGMF concept*".
- 15.8 **Mr Richard Laurensen** questioned the submitters' motives in opposing to the proposal on the basis that it increases the danger at the Horokiwi Rd/SH2 intersection when they obstructed closure of the medium strip through their

- opposition. He reiterated that the amendment to the proffered condition (Condition 2) would address the traffic safety issues by preventing development of the second stage allotments until safety issues at the intersection has been resolved.
- 15.9 Mr Laurensen reiterated the mechanisms for bush protection proposed through proffered conditions and the positive ecological outcomes this will achieve. He also noted that the actual effects of the proposal on rural outlook are minimal as the majority of the proposed houses will not be immediately visible.
- 15.10 Mr Laurensen commented on submissions, noting that less than a quarter of the residents on Horokiwi Road had made a submission and that no private submissions from outside the area had been received. He also commented that granting the consent would result in the applicants' withdrawing their objection/appeals against to PDPC 45, Variation 2 and PDPC 33 and 36. In summary Mr Laurensen commented on what he believed to be the potential benefits of the proposal.

REASONS FOR THE DECISION

16 Section 104D 'Gateway' Tests

- 16.1 The proposed subdivision is a Non-Complying Activity so there is no limit to the scope of effects that can be considered in making this decision. As a Non-Complying Activity the application is subject to the 'Gateway' Tests set out in Section 104D of the Act. The Committee may grant consent only if it is satisfied that either:
- the adverse effects of the activity on the environment will be minor; or
 - the application is for an activity that will not be contrary to the objectives and policies of the plan
- 16.2 As a result of the hearing of the application and a site visit prior to the hearing, the Committee have gained a full appreciation of all relevant issues that arise from the proposed subdivision and consider that the proposal does not meet either of the gateway tests set out under section 104D of the RMA.

Adverse Effects

- 16.3 In consideration of the gateway tests outlined in Section 104D of the RMA the Committee has determined that there were two aspects that were crucial to its conclusion that environmental effects of this proposal will be more than minor. These aspects were traffic safety, both within Horokiwi Rd and at the Horokiwi Rd/SH2 intersection, and effects relating to landscape and rural character.

- 16.4 The Committee acknowledged that there are other factors and effects associated with this proposal. Other effects raised by submitters include effects on utilities/infrastructure (power and telephone), the stability and suitability of the land for development and effects associated with changing the use of the land from rural to residential. This report however focuses on the issues of traffic safety and landscape/rural character effects, as these were the central issues around which the proposal fails to meet the gateway test under Section 104D.

17 Environmental Effects

Ecology

- 17.1 The Committee acknowledges the applicant's effort to develop the site in manner that preserves the ecological values of the land. The nature and design of the proposed subdivision and the proffered conditions demonstrate a genuine effort to undertake the development in way that minimises adverse ecological impacts. The Committee acknowledges the applicant's proposal to apply bush protection covenants and other mechanisms to reduce the effects of the proposal on the natural environment. The Committee notes however that the proposal must be considered against other factors; not least of all the effect it will have of reducing the availability of rural land and landscape impacts through a more intensive use of the site.

Traffic Safety: Horokiwi Road

- 17.2 On the matter of traffic safety the Committee notes the expert evidence presented by Council Officers, the applicant and submitters (Transit NZ) that the effects of the proposal on traffic safety along Horokiwi Road may be minor. The evidence given suggests that the design and formation of the road is sufficient for the existing, relatively low usage and that traffic generated by the subdivision might not significantly alter this situation.
- 17.3 Submissions made by local residents contradict this conclusion. Mr Stone provided photographic evidence of existing hazards which make this a difficult and at times dangerous road to negotiate. The Committee's own experience supported this submission. Other residents provided anecdotal evidence of recent crashes and indicated that the actual rate of crash instances is much higher than is shown on official records. The experts thanked the resident's for their local knowledge on unreported crashes.
- 17.4 The Committee acknowledges the evidence put forward by both the traffic experts and residents. The Committee agrees with residents on the matter of road safety along Horokiwi Road and concludes that the "tipping point" in terms of the safe and efficient use of the road has already been reached.
- 17.5 It is the Committees view that "as of right" development of existing allotments will compound existing road safety issues. The Committee therefore concludes

that the adverse environmental effects of the proposed subdivision on vehicular safety on Horokiwi Road cannot be considered to be less than minor. The Committee believe that the safety of Horokiwi Road will become an increasingly significant issue, irrespective of whether the proposed subdivision proceeds.

Traffic Safety: Horokiwi Road/SH2 Intersection

- 17.6 The Committee notes that there was general agreement from the applicant, submitters and Transit NZ that there are issues of traffic safety at the Horokiwi Road/SH2 intersection. The evidence from Transit and other experts was that the increase in traffic flows resulting from the proposed subdivision would result in a disproportionate increase in the safety risk. Anecdotal evidence from submitters indicates an existing risk at the intersection; a risk that the majority of submitters believe will be significantly compounded by the proposed subdivision.
- 17.7 The Committee acknowledges Mr Graham’s submission where he expressed his concern that increased traffic would compound the existing traffic safety risk at the intersection. Mr Graham believes an increase in the number of vehicles queued behind a motorist turning right off SH2 would place more pressure on that person to undertake a risky manoeuvre to enter Horokiwi Road.
- 17.8 Transit acknowledges that closing the gap in the median barrier along SH2 to right turning traffic into Horokiwi Road will improve safety at the intersection. The Committee believes that while closing this gap may mitigate some of the adverse traffic safety issues at the Horokiwi Rd/SH2 intersection, it would not necessarily be sufficient to mitigate all risks created by both the proposed subdivision and existing users. Indeed expert witnesses appearing for both the applicant and transit, responded to questions acknowledging the overall view of impact on traffic safety will be quite different if the median gap did not exist. The Committee cannot impose any conditions on Transit to close the gap in the median barrier.
- 17.9 Overall therefore the Committee considers that the “camels back” has already been broken in respect to traffic safety at the Horokiwi Road and SH2 intersection and conclude that additional effects resulting from increased traffic flow from the proposed subdivision cannot be considered to be minor.
- 17.10 The Committee acknowledges the permitted baseline comparison around traffic generation and associated roading effects put forward by the applicant. The consideration of baseline effects may have been relevant if the “Gateway” provisions of 104D have been met. The applicant did not pass through the “Gateway” and the baseline considerations were not considered by the Committee. Having said that, the Committee acknowledges that permitted rural uses of the land, could well result in significant effects. However, it should be remembered that the baseline comparison would not necessarily have been considered by the Committee as its considerations is not mandatory.

Landscape Character Effects

- 17.11 The Committee have considered the effects of the proposal on landscape character and have concluded that the resulting environmental effects are more than minor. The effects of particular concern to the hearings Committee were the localised effects along Horokiwi Road and the visual effects of development intruding into an un-built landscape.
- 17.12 The Committee note that the submissions received from residents on the matter of rural character indicate that the community generally considers the proposal to be an over-development of the site.
- 17.13 In his report the Council Planner (Brett Smith) notes that rural character is many things to many people and concludes that while Council does not seek to preserve Horokiwi in its current state in perpetuity the proposal is creating a rural/residential character at a rate faster than is envisaged by the District Plan. In his report Mr Smith concludes that: *“the proposed location of the building sites on Lots 1 to 4, and to a lesser extent on Lots 5 to 7, would create a strip of continuous residential development that would seriously erode the character of this part of the rural area”*.
- 17.4 The Committee agrees with the conclusion reached in the recommendation report but consider that the affects of development of Lots 5-10 would also be significant. The Committee concludes that the proposed subdivision creates potential adverse effects by facilitating development that would both intrude into an undeveloped hillside and that reduces the feeling of an open rural countryside along Horokiwi Road.
- 17.14 The Committee acknowledges the assessment provided by the applicant during the hearing about vegetation shielding the houses from the road. The Committee considers however that it is the proposal to create uninterrupted housing along the eastern side of Horokiwi Road that makes the subdivision inconsistent with the established pattern of development.
- 17.15 The Committee note that submissions were received on the erosion of the sense of open space that is likely to occur as a result of the proposed development. The Committee agrees with the submitters and notes that the applicant’s proposal to target the higher end of the market when selling the proposed allotments may exacerbate conflict with existing rural character
- 17.16 The Committee considers that the proposal constitutes a deviation from the rate of development anticipated for the rural area by the District Plan’s objectives, policies and rules. This will have a noticeable effect on the nature of development in Horokiwi, as the new houses constructed on the subdivided lots

- will be inconsistent with the nature and pattern of existing development in the area.
- 17.17 While submissions were generally only received from residents in the immediate vicinity the Committee believes that the visual effects of the proposal will be more than minor when viewed from further a field.
- 17.18 The Committee note that the site forms part of an extensive undeveloped hillside east of Horokiwi Road (Western side of Korokoro Stream valley), especially when viewed from Maungaraki. The proposal will create a noticeable intrusion into this undeveloped landscape, particularly those houses constructed within the allotments created as part of Stage 2, which extend to within an un-built area. The Committee agrees with the conclusions of Mrs McArthur that the proposal will have significant effect in terms of an intrusion into an undeveloped landscape, and does not agree with Mrs Todd that the resultants effects will be minor.
- 17.19 The Committee have considered the landscape aspects of the proposal in terms of both the provisions of the operative District Plan and Proposed District Plan Change 33. The majority of the proposed lots are within the ridgelines and hilltops overlay (DPC 33), as discussed above. The Committee notes that the proposed District Plan Change introduces Objectives and Policies to control the siting of structures and undertaking of earthworks in identified ridgeline and hilltop areas and seeks to require the management of the rate of subdivision to minimise fragmentation. New assessment criteria for consideration of earthworks (15.4.2.1 to 15.4.2.7) and subdivision (15.4.5.1 to 15.4.5.9) are proposed in DPC 33. These are paraphrased in Section 5.0 and 6.0 above.
- 17.20 The Committee notes that many of the subdivision criteria (DPC 33) are replicated from the operative District Plan. However, the proposed District Plan introduces criteria relating to compliance with the Rural Area Design Guide and controlling the location of buildings and accesses to be in accordance with the rule relating to the constructions of buildings and structures within identified ridgelines and hilltops.
- 17.21 Having considered the intent of the provisions proposed through DPC 33 it is the Committee's view that the proposed development does not achieve compliance with the relevant objectives, policies and rules of DPC 33.
- 17.22 The Committee acknowledges the photographs and other information provided by the applicant to support their argument that the proposed houses will blend in with the existing landscape and will not be visually prominent. The Committee also acknowledges the applicant's variation to the application, which removes the proposal to undertake the earthworks to form building platforms within each lot. The Committee agrees that while removing the application for earthworks from the subdivision is likely to lead to a lesser extent of earthworks and therefore

reduced adverse effects from this consent, the environmental effects of the proposal, which will result in earthworks and construction of buildings in the identified ridgeline and hilltops area, will be more than minor.

- 17.23 The Committee consider that the construction of houses within the proposed allotments, together with the bush clearance and earthworks necessary to form building platforms will be visually obtrusive, when viewed from a distance. The Committee notes that the existing view of the site from Maungaraki and other areas is of an undeveloped hillside. The proposal would introduce houses that are out of character with this existing un-built landscape.
- 17.24 The Committee note comments made that the effects of the proposal on the landscape character when viewed from beyond Wellington City boundaries cannot be considered as these effects are beyond the jurisdiction of the decision maker. The Committee's conclusion is that these comments are incorrect and are irrelevant as far as the assessment of environmental effects is concerned. It is the Committee's view that the RMA directs the decision maker to consider all environmental effects, irrespective of territorial boundaries. The Committee considers that while the jurisdiction of local authorities may be defined by boundaries environmental effects are not similarly constrained.
- 17.25 The Committee considers that the proposed works will detract from the visual isolation of this rural site, will intrude into an un-built landscape and will be inconsistent with the ridgelines and hilltops provisions introduced through DPC 33. The Committee therefore consider that the adverse landscape effects and effects on rural character will be more than minor.

18 Objectives and Policies

- 18.1 The Committee has reviewed the objectives and policies relevant to the proposed subdivision. Firstly, it notes that this activity is Non-Complying under the provisions of both the Operative Plan and Proposed Plan Change 33. It is the view of the Committee that this proposal is contrary to the objectives and policies.
- 18.2 The applicant commented that they have made submissions in objection and appeals on District Plan Changes which seek to have the subject site included in the Urban Development Area in the Northern Growth Management Framework. It was argued by the applicant that some of the provisions proposed through PDPC 45 should therefore be applied to this application, as the submissions relating to the plan changes have not yet been resolved and the site could become part of the Northern Growth Framework Area.
- 18.3 The Committee does not agree with the applicant's conclusion in this regard, noting that the site is not currently shown as being within the Urban Development Area and notes that there has been no notification of an alteration to the Plan Change to formally change this situation. The Committee also considers that

PDPC 45 cannot be given a great deal of weight at this stage as it still has some way to go to get through the plan change process. It is the Committee's view that DPC 33 should be given more weight, given its relative position within the plan change process. The Committee has assessed the proposal accordingly.

- 18.4 The Committee has considered the proposal in terms of the Objectives and Policies of both the operative District Plan and the relevant Objectives and Policies of DPC 33. The Committee notes that the proposed allotments are within the ridgelines and hilltops overlay proposed through DPC 33. The plan change includes special provision for consideration of effects of subdivision and earthworks that encroach into this identified ridgeline and hilltop area.
- 18.5 The objectives and policies proposed through DPC 33 place an emphasis on mitigating the visual effect of earthworks by: "...allowing earthworks, to create a backdrop to development with which any cut or fill can be restored or treated to resemble natural landforms... DPC 33 also seeks to reduce the removal of existing vegetation and promote landscape planting where the vegetation will mitigate the visibility of proposed earthworks, buildings or structures. It is the Committee's view that the proposal will create a significant deviation from the natural landform which is not adequately mitigated by the proposal. The Committee conclude that the proposal is not therefore consistent with the objectives and policies of DPC 33.
- 18.6 The Committees view is that the objectives and policies of both the operative and proposed District Plan are clear in respect to subdivision of land in the Horokiwi area in that "strict" adherence to the 50ha minimum lot size standard is required. The Committee notes that while it is proposed to remove the 50ha requirement (DPC 33) for subdivision of other rural land, the minimum lot size requirement will remain in place for Horokiwi. The Committee considers that this gives a clear message that fragmentation of rural land through the creation of smaller allotments in Horokiwi must generally be considered to be contrary to the Objectives and Policies of the District Plan.

Precedent

- 18.7 The Committee has carefully considered the issue of precedence. Submissions were received from a number of residents on the matter of precedence, and the negative effects allowing this and future subdivisions would have on the rural character of the area.
- 18.8 The applicant has argued that a precedent will not be established, noting that: "...in reality no two applications relating to two different sites are ever going to be the same. Given the variation between properties in Horokiwi... I consider this to be particularly so for subdivision in this area" (Warburton Para. 9.5). The Committee does not agree with the applicant's conclusion. The cumulative granting of consents for new houses may mean a tipping point is reached when

- rural character is so severely compromised that the provisions of the district plan become unworkable.
- 18.9 The Committee acknowledges the conclusions of the Wellington City Council Planner on the matter of precedence. Mr Smith (Planner) considers that there are three main areas of concern, these being: “...*the precedent effect of approving subdivisions of this scale in the Horokiwi area, where there has been a conscious effort to limit such development, and maintaining the integrity of the District Plan in the remaining rural area...* (and) *pressure to apply the Plan consistently for other applications*”.
- 18.10 The Committee note that in order for this non-complying activity to avoid setting a precedent it must be shown that the situation is unusual or exceptional. The Committee is not satisfied that the proposal is unusual or exceptional.
- 18.11 The Committee note that approving the proposed subdivision would change the rate and intensity of land ownership in Horokiwi. The environment would be irreversibly changed through the density and number of houses that would occur as the result of development of the subdivided allotments, over what could be a relatively short period of time.
- 18.12 The Committee consider that it would be hard to justify sustaining the objectives and policies of the District Plan if subdivisions such as this one continue to be approved. The Committee believe that by approving this subdivision an undesirable precedent may be set leading to further fragmentation of rural land through subdivisions of a similar scale and intensity, which could potentially be undertaken on the basis of the precedent set if this subdivision is approved.
- 18.13 The Committee believes that allowing a higher intensity of development will lead to public expectation that such development is acceptable, and that council would look favourably upon other future proposals of a similar scale. The Committee therefore concurs with the Council planner’s assessment that approving the subdivision would threaten the public’s confidence in the consistent administration of the District Plan, and that it would undermine the objectives and policies of the Plan.
- 18.14 The Committee also note that by approving this proposal, and allowing the intensity of residential development to increase the environment in which future proposals in the Horokiwi area are assessed will change. The development would change the context in which future proposals are assessed by creating a more intensive built environment.
- 18.5 The Committee are aware that there is an expectation that Council must administer the District Plan consistently for all applicants. It is the Committee’s view therefore that approving the subdivision, and allowing the land to be more

intensively developed, would lead to a situation where Council are pressured into a situation of having to administer subdivisions in a manner that is inconsistent with the objectives and policies of the District Plan.

- 18.15 It is therefore the Committee's view that the proposal is contrary to the relevant Objectives and Policies of the District Plan.

19 Matters Raised by Submitters

- 19.1 The Committee note the high number of residents involved in the hearing and the submissions made on various aspects of the proposal. The Committee acknowledge all matters raised by submitters and advise that they found much of the information provided to be of assistance, particularly information provided by non-experts on the matter of traffic safety, which the Committee found illuminating and helpful in its assessment of the proposal.
- 19.2 The submissions made by residents in regard to the effects of the proposal on existing utilities is acknowledged by the Committee. While this information provided of background in regard the existing situation it was not generally considered in the decision, as matters of consideration were largely restricted to those matters that contributed toward assessment of compliance with the s104D gateway tests.
- 19.3 The Committee acknowledges consultation undertaken by the applicant and the changes they have made to the proposal to address concerns raised by the community.

SUMMARY

Having considered the application, together with the evidence presented during the hearing, the Committee determined that that the proposal does not meet either of the gateway tests set out under section 104D of the RMA, as the potential adverse effects arising from this proposal would be more than minor and the proposal is contrary to the objectives and policies of the District Plan.

Consequently, having regard to the evidence presented, and the relevant statutory criteria under section 104(1)(b), section 106, section 104 and Part II of the Resource Management Act 1991, the Resource Consents Hearings Committee **declines** consent to or a 10 lot fee simple subdivision of land at 330 Horokiwi Road, Horokiwi (Part Section 9 Horokiwi District), subject to the conditions outlined at the beginning of the report.

Alick Shaw
Chair