

DISTRICT PLAN COMMITTEE

**HEARINGS FOR PROPOSED PLAN CHANGE 10 -
AMENDMENTS TO SUBDIVISION PROVISIONS**

Minutes of a meeting of the District Plan Committee held in The Hutt
City Council Chambers, Administration Building, 30 Laings Road,
Lower Hutt on Thursday 28 August 2008 and
Deliberations also held on Thursday 28 August 2008.

PRESENT:

Cr RW Styles (Chair)
Cr J Baird (Deputy Chair)
Mayor DK Ogden
Cr D Hislop
Cr WR Wallace

IN ATTENDANCE:

Ms B Little, Divisional Manager Environmental
Policy Hutt City Council
Mr H Wesley, Senior Planner, Boffa Miskell Ltd
Mr L Beckett, Committee Advisor, Spencer Holmes Ltd

In accordance with a delegation by Council, pursuant to the provisions of section 34 of the Resource Management Act 1991, the District Plan Committee had power to act in determination of Changes to the Operative District Plan for recommendation to Council following the hearing of submissions.

DISTRICT PLAN - CITY OF LOWER HUTT

**HEARINGS FOR PROPOSED PLAN CHANGE 10 -
AMENDMENTS TO SUBDIVISION PROVISIONS**

1. APPEARANCES

Submitter:	Represented by:
New Zealand Institute of Surveyors Inc - Wellington Branch	David Gibson
Cardno TCB	Rhys Phillips
East Harbour Environmental Association Inc.	Roger Laurence

Correspondence from Greater Wellington Regional Council, Vector and NZ Fire Service was tabled and presented by the Committee Chair during deliberations.

2. THE HEARING

The parties who appeared presented additional written and oral submissions and statements of evidence. The hearing addressed matters raised in submissions and the further submission on Proposed District Plan Change 10 - Amendments to Subdivision Provisions. Volumes containing copies of all submissions and the further submissions were available to all parties. A background report, specific comments and recommendations, individually addressing all submissions and the further submission were pre circulated to all parties to the hearing.

3. DELIBERATIONS OF THE COMMITTEE**Statutory Regime and Legal Framework**

Proposed Plan Change 10 aims to address key implementation issues arising from the current subdivision provisions in the District Plan, as well as to refine the rules to more effectively and efficiently achieve the objectives of the Plan as they relate to subdivision controlled by the District Plan.

The scope of Proposed Plan Change 10 is confined to address current implementation issues with the existing subdivision provisions. Proposed Plan Change 10 does not seek to change any objectives, policies or any associated text (including minimum lot sizes or zoning).

The proposed amendments affect the rules in Chapter 11 (Subdivision) as well as rules in Chapter 14I (Earthworks). In addition, the definition of 'allotment' in Chapter 3 (Definitions) is proposed to be changed, and some minor grammatical corrections to the text throughout Chapter 11 (Subdivision) are also proposed.

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Part II of the RMA underpins the exercise of all functions, duties and powers. Section 5 is fundamental to any assessment. The approach in section 5 is to weigh the matters in section 5(2) in order to reach a broad judgement as to whether a policy or rule would promote the sustainable management of natural and physical resources.

Section 31 outlines the functions of the Council under the Act and includes: *The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district, and the methods used to carry out any functions under subsection (1) may include the control of subdivision.*

Section 74 requires the Council to change its plan in accordance with its functions under section 31, the provisions of Part II, its duty under section 32 and any regulations.

Section 76 outlines the contents that a District Plan must contain, including objectives, policies and rules. Section 76 enables the Council to include rules in the District Plan, for the purpose of carrying out its functions under the Act, and to achieve the objectives and policies of the Plan. In making a rule the Council:

"...shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect;..."

The following passage from the Environment Court decision *Wakatipu Environmental Society v Queenstown Lakes District Council* (2000, NZRMA 59] is applicable to a District Plan in general:

"A district plan must provide for the management of the use, development and protection of land and associated natural and physical resources. It must identify and then state (inter alia) the significant resource management issues, objectives, policies and proposed implementation methods for the district. In providing for those matters the territorial authority (and on any reference to the Environment Court) shall prepare its district plan in accordance with:

- its functions under section 31;*
- the provisions of Part II;*
- section 32;*
- any regulations;*

and must have regard to various statutory instruments."

The following passage from the Planning Tribunal's decision *Nugent v Auckland City Council* (1996, NZRMA 481) summarises the requirements derived from section 32(1):

“A rule in a proposed district plan has to be necessary in achieving the purpose of the Act, being the sustainable management of natural and physical resources (as those terms are defined); it has to assist the territorial authority to carry out its functions of control of actual or potential effects of the use, development or protection of land in order to achieve the purpose of the Act; it has to be the most appropriate means of exercising that function; and it has to have a purpose of achieving the objectives and policies of the plan.”

Procedural Matters

The Committee noted that neither Cardno TCB nor the New Zealand Institute of Surveyors Inc – Wellington Branch was served notice of the further submission by the Petone Planning Action Group. The Committee had considered the experience of the group (PPAG), who have submitted on other District Plan changes, and considered this omission to be a serious oversight of their legal obligations.

The Committee noted the acknowledgement by both Cardno TCB and the NZIS that they do not consider themselves to have been unduly compromised by the omission. The Committee would, however, encourage the Petone Planning Action Group to review its procedures to ensure oversights such as had occurred do not happen again in the future.

Proposed Plan Change Provisions

The main features of this proposed Plan Change (as recommended by this decision) which include amendments to Definitions, Issues, Explanation and Reasons, Anticipated Environmental Results and Rules in the Subdivision and Earthworks chapters of the District Plan are as follows:

- (a) A revised definition of allotment is provided in Chapter 3. The amended definition makes reference to the definition as set out in the Resource Management Act 1991.
- (b) Small corrections and amendment to the wording of text in the Explanation and Reasons section of 11.1.3 and the Issues section of 11.1.4 of the District Plan.
- (b) Amendment to heading and supporting text of 11.2.2.1 removing Performance Objectives and Performance Criteria.
- (d) Introduction of Shape Factor Requirements for subdivided allotments and a requirement in the standards and terms for Controlled Activity subdivision to comply with the permitted activity conditions of the activity area.

- (e) Introduction of a provision allowing for the creation of allotments to contain public utilities that do not meet relevant allotment design standards.
- (f) Amendment to the heading of Rule 11.2.2.1(b) and changes to the supporting sentence.
- (g) Remove performance objectives and performance criteria and update the wording of compliance standards for subdivision.
- (h) Inclusion of a requirement to provide an esplanade reserve, strip or access strip as a Standard and Term for controlled activity subdivisions, and removal of the wording requiring that they be created "up to a maximum width" of 20m.
- (i) Inclusion of a standard that earthworks associated with a controlled activity subdivision comply with permitted activity conditions 14I 2.1.1.
- (j) The inclusion of a new section setting out the matters in which Council seeks to reserve its control for Controlled Activity subdivision. These include such matters as: design, layout, servicing, esplanade reserves, contamination, and protection of significant sites and avoidance of hazards.
- (k) The introduction of assessment criteria for controlled activity subdivision. This new criteria are based on standards previously included as Performance Objectives and Criteria in the Plan text.
- (l) The introduction of a new section and rule to provide for Restricted Discretionary Activity subdivisions, and an outline of the matters for which Council has restricted its discretion.
- (m) Changes to the wording of Rule 11.2.4 for Discretionary Activity subdivision to take account of other changes introduced through Proposed District Plan Change 10.
- (n) Amendments to earthworks Rule 14I 2 to take account of changes to the subdivision chapter adopted through DPC 10.

The proposed changes are outlined in detail in Appendix 1 attached to this decision.

The Committee heard evidence that a definition of allotment should be retained within the District Plan. The Committee accept the submissions made that as the District Plan is a public document it should be able to be easily interpreted and used.

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The Committee has considered the issue of the inclusion of a requirement to provide a 'suitable building platform' in the shape factor requirements in the Allotment Design Standards and Terms (Amendment 7). The Committee consider that the minimum lot size requirement will, in any case generally ensure that a suitable building platform will be provided for each allotment created and the inclusion of this statement should not create any significant practical difficulties.

The Committee noted that in referencing external documents in District Plan Standards, only the current version can be referred to; there is no ability to reference possible future standards. This point was noted in reference to several submissions received that requested the version of a document referred to in a standard in the District Plan should be automatically superseded when that document is amended/replaced.

The Committee accepted that any change to a District Plan standard to reflect changes to an external document, if it is amended or replaced, would require a district plan change.

Evidence was presented at the hearing requesting that rather than repeating earthworks standards in multiple locations in the District Plan, the requirements for earthworks associated with a subdivision should simply be cross-referenced to existing earthworks Rule 14I 2.2.1.

The Committee acknowledged information provided by Council's consultant Policy Planner, Mr Hamish Wesney, detailing the reason for repeating the earthworks standard in the plan change, being a response to feedback from local surveying consultants who expressed a desire to have all standards relating to subdivision outlined in one chapter in the District Plan. The Committee also noted the Consultant Planner's personal support for cross-referencing the earthworks rule, as requested by Submitter's. The Committee considered it was appropriate to cross-reference the land use rules for earthworks in the subdivision rules, rather than repeating similar rules. This approach avoids necessary doubling up of earthworks provisions in the District Plan.

Conclusion

After evaluating all matters, it was considered that the Proposed Plan Change (incorporating the amendments recommended by the Committee) offer the most appropriate way of achieving the purpose and principles of the Resource Management Act 1991 and seek to ensure that amenity values are protected.

DECISION AND REASONS**Resolved:**

That the Committee notes that, in making its decisions on submissions and further submissions lodged on Proposed District Plan Change 10 – amendments to subdivision provisions, Council is restricted to the relief sought in those submissions and further submissions.

That in exercise of the powers delegated to it by Council pursuant to the provisions of section 34 of the Resource Management Act 1991 the District Plan Committee hereby resolves, pursuant to Schedule 1 of the Resource Management Act 1991, to make the following decisions on submissions and further submissions lodged, resulting in the amendments to Plan Change 10, as shown in Appendix 1, for recommendation to Council.”

4. DECISIONS AND REASONS

Submission Number: DPC10/01 – **Byrne, Simon**

Decision:

That the submission lodged by Simon Byrne that the new rule for shape factor in rural residential zones be deleted (amend. 8) and the revised rule be amended such that the properties in Moores Valley Road and Crowther Road, and adjoining the Wainuiomata Stream are excluded from the requirement to vest any esplanade reserve (amend. 22) **be rejected**.

Reason:

The insertion of a shape factor rule is imposed as it ensures usable shaped lots are created that can readily accommodate a building.

The intention of Amendment 22 is to make esplanade reserves, strips and access strips a Standard and Term, which all Controlled Activity subdivisions shall comply with. The amendment aims to remove the uncertainty as to the status and applicability of the esplanade reserves, strips and access strip standards and assist in the plan interpretation and administration. An exemption for properties along Moores Valley Road and Crowther Road is not supported, as there are no valid planning reason for exemption of these properties and not others.

DPC10/02 – **Vector Limited**

Decision

That the submission lodged by Vector Ltd, that Amendment 10, new Rule 11.2.2.1(a), be included be **accepted**.

Reason:

Amendment 10 recognises that lots used for network utility purposes do not have the same requirements as lots used for typical residential, commercial or rural purposes. As outlined in the submission by Vector Limited, "substations normally do not require much land and therefore it is appropriate they be exempt from a specific allotment size, and it is appropriate that there be no minimum frontage or shape factor requirements as substations are usually fully enclosed by a security fence and have to accommodate all equipment."

DPC10/03 - Lyon, Graeme Lester

Further Submitter in Support: Petone Planning Action Group

Decision

That the submission lodged by Graeme Lyon, requesting that new rule for esplanade reserves to have a minimum width of 20 metres be retained, and that the words "up to a maximum width" be deleted from Rule 11.2.2.1(d) (iii) and 11.2.2.1(d) (vi) (amend. 22), be **accepted** to the extent that the matters raised by the submitter are incorporated in the plan change.

That the further submission in support lodged by Petone Planning Action Group, be **accepted** to the extent that the plan change is amended in accordance with the submission.

Reason:

The 20m width proposed under Amendment 22 is consistent with Section 230(3) of the Resource Management Act and would provide consistency and certainty across the whole City for developers, plan administrators and the general public as to the width and applicability of esplanade reserves.

DPC10/04 - New Zealand Fire Service Commission
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Further Submitter in support: Petone Planning Action Group

Decision

That the submission lodged by New Zealand Fire Service Commission, requesting that the reference requiring compliance with "Section 302 NZS 4404:1981 (Code of Practice for Urban Land Subdivision)" be amended to be replaced by compliance with "NZS 4404:2004 or any subsequent amendments (amend.13), reference requiring compliance with "New Zealand Fire Service Code of Practice for Fire Fighting Water Supplies 1992" be amended and replaced with a requirement for compliance with "New Zealand Fire Service Code of Practice for Fire Fighting Water Supplies SNZ PAS 4509:2008 or any subsequent amendments (amend. 18) and add a further assessment criteria matter stating; "In all areas, an adequate and suitable water supply should be provided for fire fighting

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provisions in accordance with SNZ PAS 4509:2003 or any subsequent amendments" (amend. 26) be **accepted in part** to the extent that matters raised in the submission are reflected in the plan change, as set out in Appendix 1.

That the further submission lodged by Petone Planning Action Group, in support of the submission to update all reference to Codes, Acts etc be **partially accepted** to the extent that the submission is reflected in the plan change.

Reason:

The standard NZS PAS 4509:2008 is included as a standard within Amendment 18. Criteria 11.2.2.3(b) (vi) for water supply includes reference for the provision of a water supply for fire fighting purposes. Therefore, it is considered the assessment criteria effectively provide for the relief sought by the submitter.

The submission seeks amendments to the reference used in the Standard to ensure the Standard is automatically superseded when a new Standard is adopted or amendment made. However, the rules in a District Plan must be certain as to what the minimum standards are, and they should not refer to any unknown future amendments or standards. If any future Standards are prepared or amended, at that time, Council would determine whether it is appropriate to change the District Plan so the new standards apply.

Therefore the submission is accepted in so far as it is consistent with the plan change (Amendment 13 and 18).

DPC10/05 - Greater Wellington Regional Council
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Further Submitter in support: Petone Planning Action Group

Decision:

That the submission lodged by Greater Wellington Regional Council, requesting that reference to a 1981 Standard be replaced with a requirement to comply with New Zealand Standard 4404:2004 Land Development and Subdivision Engineering (amend. 13), reference to 'silt control measures' be replaced with compliance with "Erosion and Sediment Control Guidelines for the Wellington Region 2003" and "Small Earthworks Erosion and Sediment Control for small sites" (amend. 20), "Contaminated Land Management Guidelines 1-5" be added to the list of Ministry for the Environment documents currently in the District Plan (page 11/19) (amend 21), Add a height of cut/fill performance standard for earthworks (amend. 23) and amend assessment criteria by adding reference to the principles and guidelines in Greater Wellington's Erosion and Sediment Control Guidelines for the Wellington Region 2003 and Small Earthworks Erosion and Sediment Control for small sites (amend.

26) be **partially accepted** to the extent that matters raised in the submission are reflected in the plan change.

That the further submission lodged by Petone Planning Action Group, be **partially accepted** to the extent that the matters raised are reflected in the plan change.

Reason:

The relief sought on erosion and sediment control guidelines is included as a standard within Amendment 20 (appendix 1). In addition, the proposed criteria 11.2.2.3(b) (viii) includes consideration of soil erosion and surface runoff in the design and construction methods for the subdivision. Therefore, the proposed assessment criteria effectively provide for the relief sought by the submitter.

The Committee note that there are existing maximum height of cut/fill standards within the land use earthworks rule of the District Plan. Any earthworks undertaken as part of a subdivision will be required to comply with these standards.

DPC10/06 - Moore, Reginald Charles

Decision:

That the submission lodged by Reg Moore, in relation to notification of applications for subdivision where the proposal does not comply with the District Plan rules, that stormwater provision be better addressed (amend. 16), that a requirement be introduced to increase the minimum width of esplanade strips to be able to accommodate tractor-drawn mowers (amend. 22) and that the assessment criteria be amended to better reflect issues with narrow 'private ways' such as on-site parking and safety and security concerns (amend. 2), **be partially accepted** to the extent that the matters raised in the submission are reflected in the plan change.

Reason:

The current provisions contain standards relating to "Levels of Stormwater Protection to be provided by Services in New Areas" and the existing provisions are the most efficient and effective in managing stormwater to achieve the objectives in the Plan.

The 20m minimum width requirement for lots less than 4ha (being Rural Residential subdivisions) will provide sufficient access for tractor drawn mowers.

Matters relating to access, onsite parking, safety and security are currently addressed through the District Plan standards. These matters are more appropriately addressed through these standards, as opposed to assessment criteria.

Further Submitter opposes in part: Petone Planning Action Group

Decision:

That the submission lodged by Cuttriss Consultants Ltd, that the definition of allotment be amended (amend. 1), changes be introduced to the shape factor requirements (amend. 7 & 8), references to NZS4404 be amended to reflect current standard (amend. 13), replace telephone with telecommunication (amend. 19), amend silt control requirements to reflect Regional Council standard (amend. 20), amend esplanade requirements to allow reduced width (amend. 22), amend earthworks rule (amend. 27), generic amendment to replace non-conformance with non-compliance, include additional discretionary activities for non-compliance with listed standards (amend. 27) and retain other changes as proposed be **partially accepted** to the extent that matters raised in the submission are reflected in the plan change.

Cuttriss Consultants Ltd submission included a note that the plan change does not alter or amend standards relating to allotment sizes and net site areas. They requested an investigation into subdivision trends, in particular subdivision location and lot sizes.

That the further submission lodged by Petone Planning Action Group, be **partially accepted** to the extent that matters within the submission are reflected in the plan change.

Reason:

A definition of allotment is included in the plan change (appendix 1).

Amendment 7 deletes the total area requirement for the shape factor and instead relies solely on rectangle dimensions. Deletion of the total area requirement is considered appropriate as sufficient control is provided by the rectangle dimensions. The inclusion of yard requirements in the rectangle calculation is not considered an effective method in achieving the objectives of managing the shape and design of lots.

The rules in a District Plan must be certain as to what the minimum standards are, and they should not therefore refer to any unknown future amendments or standards, such as future revision of NZ Standards.

The submission seeks that the word "Telephone" be replaced with "Telecommunications". This is a broader term that covers a wider range of possible requirements from network utility operators and is therefore considered the appropriate term to use. The requested change is included in the plan change in Appendix 1.

Following advice from Council Engineering Officers, the standard in Rule 11.2.2.1(b) (viii) has been amended to include reference to the Regional Council standard. This change is included in Appendix 1 below.

The amendment sought that new Rule 11.2.2.1(d) be amended by adding to the end of the rule the statement “unless it is determined that a lesser width is appropriate” would re-introduce a subjective component to the standard, resulting in uncertainty as to the application of the rule and in what circumstances a lesser width would be appropriate. Sufficient flexibility is provided in the assessment of any resource consent application for a discretionary activity for a narrower esplanade reserve/strip on a case by case basis.

Rule 11.2.3(a) is to be amended to include (e) earthworks (associated with subdivision) as a Restricted Discretionary Activity. Such an approach is consistent with the earthworks rules within Chapter 14I – General Rules, thereby providing consistency within the land use earthworks in the District Plan.

The term “non-conformance” is amended to “non-compliance” within provision 11.2.3.1(b). This amendment provides consistency with terminology used throughout the District Plan.

Consequential amendments include the provision of Matters of Discretion under 11.2.3.1. The matters of discretion provide the framework for the consideration of effects associated with earthworks.

DPC10/08 – Winstone Aggregates

Decision:

That the submission lodged by Winstone Aggregates, seeking the inclusion of new rules and matters that can be considered under councils discretion for earthworks in the Quarry Protection Area adjoining Belmont Quarry (amend. 5), the inclusion of additional wording in Rule 14I 2 (amend. 31) and the withdrawal of the change and preparation of a new change which addresses reverse sensitivity effects which may arise as a result of subdivision in close proximity to quarrying and to other activities be **partially accepted** to the extent that matters raised are consistent with Amendment 31 in Appendix 1.

Reason:

The relief sought (amend. 5) is considered outside the scope of the Proposed Plan Change. While the concerns raised by Winstone Aggregates in relation to reverse sensitivity issues are noted, it is not considered the most efficient or effective method of implementing the objectives and policies to introduce a rule relating to subdivision within the Quarry Protection Area as sought by the submitter. Such “protection” is not presently provided in the subdivision provisions of the Operative Plan and therefore the status of subdivision in proximity the Quarry will

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not change as a result of the proposed plan change. It is noted that no consultation has been undertaken with landowners in the Quarry Protection Area about the relief sought in the submission.

It is not considered necessary to include a statement that 'such earthworks are a permitted activity' (Rule 14I 2) as this status is presently provided for in the Plan.

DPC10/09 - New Zealand Institute of Surveyors

Further Submitter in opposition: Petone Planning Action Group

Further Submitter in support: Petone Planning Action Group

Decision: That the submission lodged by the New Zealand Institute of Surveyors, seeking amendments to the wording of Rule 11.2.2.1(a) (amend. 6), changes to reference to NZS4404 to refer to the latest standard (amend. 13 & 18), amendments to the earthworks standard in the subdivision rule to require compliance with existing earthworks standard in chapter 14I (amend. 20), deletion of reference to general rules in rule 11.2.2.1(f) (amend. 24), amend earthworks provisions under section 11.2.2.3 and change assessment criteria under Rule 11.2.3 and renumber accordingly (amend. 26, 27, 29), include "earthworks carried out as part of a subdivision in Rule 11.2.3 and 11.2.4" in Rule 14I 2 (amend. 31), be **partially accepted** to the extent that matters raised in the submission are reflected in the plan change.

That the further submission lodged by Petone Planning Action Group, in opposition to the NZIS submission seeking changes to Rule 11.2.2.1 be rejected to the extent that the changes to the earthworks rule suggested by the NZIS are included in the plan change in Appendix 1.

That the further submission lodged by Petone Planning Action Group, in support of the NZIS submission seeking changes to the use of the word relevant (amend. 6) be **accepted** to the extent that the requested change is reflected in the plan change.

Reason:

The submission made in relation to amendment 6 is supported as it clarifies that it is the permitted activity conditions that are to be complied with, it deletes the subjective term which is not appropriate within standards and terms, and provides terminology that is consistent with that used in the rules for the various Activity Areas.

The standard in Rule 11.2.2.1 (b) (v) has been amended to refer to NZS4404 2004 as requested in the submission.

The submitters request to include a requirement that earthworks associated with a subdivision comply with the permitted activity

conditions 14I.2.1.1 is considered appropriate by the Committee as it avoids unnecessary doubling up of earthworks provisions in the District Plan.

In addition, the Committee considered it appropriate to include all earthworks requirements for subdivision in one provision, and therefore, have relocated the earthworks engineering requirements from Rule 11.2.2.1(b) (viii) to 11.2.2.1(e). It was also considered appropriate to include an exclusion for earthworks associated with trenching in the earthworks rule.

The effect of new Rule 11.2.2.1(f) (amend. 24) is to clarify that as a condition of a controlled activity subdivision, compliance is required with the General Rules within Chapter 14. Such rules include matters relating to signs, noise, hazardous facilities, natural hazards and so forth. As a subdivision may affect the status of any of the activities provided in Chapter 14, it is appropriate that these matters be considered as part of the subdivision. As such, for the avoidance of doubt, the new rule is to be retained.

DPC10/10 - Cardno TCB

Further Submitter in opposition: Petone Planning Action Group

Decision:

That the submission lodged by Cardno TCB, seeking amendments to the definition of allotment (amend. 1), changes to the wording of Rule 11.2.2.1(a) (amend. 6), the removal of reference to "suitable building platform" in Rule 11.2.2.1(a) (amend. 7), the inclusion of wording in the District Plan standard that requires compliance with the latest version of NZS (amend. 13-15, 18 & 20), the inclusion of reference to the Regional Council standard in Rule 11.2.2.1(b) (amend. 20), an ability to allow for the reduction in the width of esplanade reserve (amend. 22), delete new earthworks rule (amend. 23), amendments to earthworks rule (amend. 27) and delete changes to 14I 2(ii) (amend 31) be **partially accepted** to the extent that the plan change reflects matters raised in the submission.

That the further submission lodged by Petone Planning Action Group, in regard to reference to 'suitable building platform' (Sub. ref. 10.3) and in relation to changes to the earthworks rule (Sub. ref. 10.7) be **partially accepted** to the extent that matters raised are reflected in the plan change.

Reason:

It is considered appropriate to include a definition of allotment in the District Plan for the reasons stated by the submitter.

The request to amend Rule 11.2.2.1(a) to refer to compliance with the permitted activity conditions of the activity area is included as it clarifies

the permitted activity conditions that are to be complied with, it deletes the subjective term which is not appropriate within standards and terms, and provides terminology that is consistent with that used in the rules for the various Activity Areas.

The reference to “suitable building platform” is retained as this relates to the shape factor requirement and is an important consideration on sites with steep topography. As this phrase is used in the context of the shape factor requirement, it is not considered to be uncertain as to its meaning or application.

The submitter’s request to remove recommended Rule 11.2.2.1(e) and replace it with a requirement to comply with the permitted activity conditions for earthworks set out in Rule 14 2.1.1 is considered appropriate as it eliminates the need to repeat earthworks standards in multiple locations in the District Plan. The rule has been changed accordingly within appendix 1. A new provision is also included in Rule 11 2.2.1(e) to allow an exemption from the earthworks requirements for works undertaken for trenching as part of a subdivision.

The compliance standard in amended rule 11.2.2.1(b) refers to the relevant Regional Council erosion and sediment control guidelines and NZ standards. A standard requiring compliance with the latest NZ or other third party document cannot be included as a District Plan Standard as the new document may include new provisions that have not been considered for inclusion in the Plan.

The Committee noted the submitter’s acknowledgement at the hearing that Council’s approach with respect to retaining the words “*up to a maximum width*” (esplanade areas - 11.2.2.1 (d) (ii)) is reasonable. The Committee further noted the submitters comment that it was unlikely that an applicant would insist on the taking of land for esplanade purposes and hold Council to reimbursement for the cost of that land. Rather, it was more likely that an applicant would prefer to retain full, unencumbered ownership of the land and agree to a reduction in the width of the esplanade strip/reserve.

Removal of reference to “*up to a maximum width*” to assist in the plan interpretation and administration is therefore considered appropriate.

The Committee noted the submitter’s request with respect to the wording of 11.2.3.1(b). The Committee considered that there are instances where permanently exposed excavated surfaces will have an adverse visual effect and have retained the wording. 11.2.3.1(b) has however been amended slightly to provide better direction in terms of the nature of effects that are required to be considered when assessing the effects of earthworks.

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Sub. Ref. 10.8 of the submission (i.e amending the last line of 11.2.3 to read: "(b) engineering Design, (c) Contamination and (e) Earthworks) is adopted as requested by the submitter in appendix 1.

The changes to the wording of 11.2.3.1(c) and (e) has been made as requested by the submitter at the hearing to improve the clarity of the sentences.

DPC10/11 - Eastbourne Community Board

Further Submitter in opposition: Winstone Aggregates

Decision:

That the submission lodged by Eastbourne Community Board, seeking that land subject to natural hazards be identified in the District Plan and that the extent of the coastal environment be clarified (amend. 2), be **rejected** to the extent that the submission is outside the scope of the current district plan change.

That the further submission lodged by Winstone Aggregates, in opposition to the above be **accepted in part** to the extent that the District Plan will not be amended as requested in submission DPC10/11.

Reason:

The submission by the Eastbourne Community Board is generally outside the scope of the Proposed Plan Change in that it seeks relief beyond that provided in Amendment 2. However, hazards are identified on the existing District Plan planning maps and zonings, and these provisions are considered appropriate in terms of Section 31 of the RMA.

A review of the identification and extent of the coastal environment would form part of an ongoing review of the District Plan.

DPC10/12 - Korokoro Environmental Group Inc

Further Submitter in support: Petone Planning Action Group

Decision:

That the submission lodged by Korokoro Environmental Group Inc, seeking that the word 'identified' be deleted from amendment 3 and that amendments 6-8 and 23 be adopted unchanged, be **accepted** to the extent that matters raised in the submission are reflected in the plan change.

That the submission lodged by Petone Planning Action Group, in support of request to remove the word 'identified', be **accepted** to the extent that the wording is retained as currently exists and the submission is therefore reflected in the plan change.

Reason:

The original purpose of inserting the word “identified” was to clarify the area to which the issue relates, thereby avoiding confusion and assisting with plan interpretation. However, as noted in the submissions, adding “identified” potentially creates a different type of confusion, as this reference is not applied elsewhere in the District Plan such as in objectives or policies. Therefore, the existing wording is to be retained.

DPC10/13 D1 - Sherry Phipps

Decision:

That the submission lodged by Sherry Phipps relating to matters of minimum lot size, minimum shape factor, low cost housing, earthworks and esplanade reserves be **partially accepted** to the extent that the decision reflects matters raised by the submitter.

DPC10/14 - East Harbour Environmental Association Incorporated
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Decision:

That the submission lodged by East Harbour Environmental Association Incorporated requesting that mechanisms other than one introducing the concept of ‘identified coastal environment’ be used to manage subdivision in the areas identified in planning maps so that it is clear that the current provisions introduced to recognise and provide for managing the coastal environment continue to be a consideration in assessing applications in all areas of Hutt City which fall within the coastal environment (amend. 3) and introduce amendments so that the presently undeveloped coastal areas be directly addressed by identifying it as a matter over which the Council reserves control with reference to specific areas (amend. 3) be **partially accepted** to the extent that matters raised in the submission are reflected in the plan change.

Reason:

Retaining the current wording (by not adding “identified”) was considered the most appropriate manner to express the issue. It was the manner and extent of how the coastal environment is identified in the District Plan that was the key issue, and not how the issue statement was expressed or explicitly worded.

A review of the identification and extent of the coastal environment would form part of an ongoing review of the District Plan and is outside the scope of this Proposed Plan Change. Therefore, the existing wording was retained and the term “identified” was not added to the Plan, within the changes outlined in Appendix 1.

Cr RW Styles
CHAIR

DPC R/18

28 August 2008

Confirmed this 23rd day of September 2008

**CHANGES TO DISTRICT PLAN
PROPOSED PLAN CHANGE 10**

Changes to Chapter 3 - Definitions

1. **Delete** definition of 'allotment' and replace it with the following:

Allotment: Shall have the meaning set out in Section 218 of the Resource Management Act 1991.

Changes to Chapter 11 - Subdivision

Chapter 11 "Subdivision". Make amendment as follows:

2. **Amend** spelling of inappropriate section 11.1.3 - Natural Hazards "Explanation and Reasons" as follows.

Subdivision of land subject to natural hazards may lead to allotments which are inappropriate as the adverse effects cannot be controlled or mitigated.

3. **Remove** 'identified' from 11.1.4 "Special Areas", thus retaining the status quo, as follows:

Issue

Subdivision of land in the coastal environment and in areas of ecological value can have adverse effects that need to be controlled.

4. **Amend** heading and supporting text 11.2.2.1 "Standards and Terms" as follows:

11.2.2.1 Standards and Terms

All Controlled Activity subdivisions shall comply with the following Standards and Terms:

5. **Amend** heading and delete performance objective and performance criteria text 11.2.2.1 "Allotment Design" as follows:

(a) Allotment Design

- 6 Replace 'objectives and policies' and 'rules' with "permitted activity conditions" in the allotment design standards for all activity areas 11.2.2.1(a) "other", as follows:

Other: Compliance with the permitted activity conditions of the activity area.

- 7 **Delete** the requirement for a 150m² rectangle for the shape factor in the General Residential Activity Area - Higher Density 11.2.2.1(a), as follows:

Shape factor: All allotments must be able to contain a rectangle measuring 9m by 14m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

- 8 **Add** a shape factor to the Other Rural Residential Activity Area Rule 11.2.2.1(a) "other" as follows:

Shape factor: All allotments must be able to contain a rectangle measuring 30m by 20m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

- 9 **Add** a shape factor to the General Rural Activity Area rule 11.2.2.1(a) "shape", as follows:

Shape factor: All allotments must be able to contain a rectangle measuring 30m by 20m. Such a rectangle must be clear of any yard or right of way and have a suitable building platform.

- 10 **Add** new clause to exclude lots containing network utilities from needing to comply with allotment design standards and terms, rule 11.2.2.1(a) "All Activity Areas", as follows:

All Activity Areas

Notwithstanding the subdivision standards for each respective activity area there shall be no specific allotment size in any activity area for allotments created solely for utilities. Where those allotments created for such purposes have a net site area of less than 200m² there shall be no minimum frontage or shape factor requirements.

- 11 **Amend** wording of shape factor heading for the Landscape Protection Activity Area, Rule 11.2.2.1(a) "Shape Factor" as follows:

Shape factor: As for General Residential Activity Area.

- 12 **Amend** heading and delete supporting text for heading, 11.2.2.1(b) "Engineering Design", as follows:

(b) Engineering Design

- 13 **Delete** performance objectives and performance criteria for Engineering Design – Access, and amend wording of compliance standard accordingly and update one of the standards, rule 11.2.2.1(b) (i) "Engineering Design", as follows:

(i) Access

Compliance with Chapter 14A - Transport in this Plan and Part 3 NZS 4404 2004 (Land Development and Subdivision Engineering)

In the General Rural Activity Area, compliance with "Guide to Geometric Standards for Rural Roads" (National Roads Board 1985).

- 14 **Delete** performance objectives and performance criteria for "Engineering Design – Service Lanes", "Privateways", "Pedestrian" "Accessways" and "Walkways" and **update** the wording of compliance standard accordingly, Rule 11.2.2.1(b) (ii), as follows:

(ii) Service Lanes, Privateways, Pedestrian Accessways and Walkways

Compliance with Chapter 14A - Transport in this Plan and Part 3 NZS 4404 2004 (Land Development and Subdivision Engineering).

- 15 **Delete** performance objectives and performance criteria for Engineering Design and **update** the wording of compliance standard accordingly, Rule 11.2.2.1(b) (iii), as follows:

(iii) Streetlighting

Compliance with AS/NZS 1158:2005 Code of Practice for Road Lighting

- 16 **Delete** performance objectives and performance criteria for "Engineering Design – Stormwater" and **amend** wording of compliance standard heading accordingly, Rule 11.2.2.1(b) (iv), as follows:

(iv) Stormwater

Compliance with the following standards:

- 17 **Delete** performance objectives and performance criteria for 'Engineering Design – Wastewater', and amend wording of

compliance standard heading accordingly, Rule 11.2.2.1(b) (v), as follows:

(v) Wastewater

Compliance with the following standards:

- 18 **Delete** performance objectives and performance criteria for 'Engineering Design - Water Supply', and **amend** wording of compliance standard heading accordingly, Rule 11.2.2.1(b) (vi), as follows:

(vi) Water Supply

Compliance with the following standards:

- NZS PAS 4509:2008 NZ Fire Service Code of Practice for Fire Fighting Water Supplies
- Hutt City Council Bylaw 1997 Part 17 Water Supply.
- Part 6 NZS 4404:2004 (Land Development and Subdivision Engineering).

- 19 **Remove** the requirement for Gas to be provided to allotments. Replace the word; Telephone with "Telecommunications" and **Amend** heading accordingly, Rule 11.2.2.1(b)(vii) and; **delete** performance objectives and performance criteria for Engineering Design - Gas, Telephone and Electricity; and **amend** wording of compliance standard also Rule 11.2.2.1(b)(vii), as follows:

(vii) Telecommunications and Electricity

Compliance with the requirements of the relevant network utility operator.

- 20 **Delete** performance objectives and performance criteria for Engineering Design - Earthworks.

- 21 **Delete** performance objectives and performance criteria for Contamination and **amend** wording of headings accordingly, and insert a further standard, Rule 11.2.2.1(c), as follows:

(c) Contamination

Compliance with the following:

- Ministry for the Environment, Contaminated Land Management Guidelines 1 - 5

- 22 **Insert** section 11.2.4 into a new rule within 11.2.2.1(d) (amending headings and numbering accordingly), and **amend** existing provision [11.2.4(b) (c) and (d)] to remove reference to a minimum

or maximum width for esplanade reserves for lots less than and greater than 4ha, Rules 11.2.2.1(d), as follows:

(d) Esplanade Reserves, Strips and Access Strips

Compliance with the following:

- (i) In all activity areas esplanade reserves or strips are not required for the following subdivision activities:
 - Boundary adjustments in all activity areas.
 - A minor adjustment to an existing cross lease or unit title due to the increase in the size of allotment by alterations to the building outline or the addition of an accessory building.
 - A subdivision where the allotment was created solely for utilities and that allotment has a net site area of less than 200m² and was not within 20m of any river or lake.
- (ii) In all activity areas, in respect of lots less than 4 hectares, an esplanade reserve of 20m width shall be set aside for such lots along the bank of any river whose bed has an average width of 3m or more where the river flows through or adjoins the lot concerned.
- (iii) In respect of lots with areas of 4 hectares or greater, an esplanade reserve or strip of 20m width shall be set aside for such lots along the banks of the following rivers and lakes:
 - Hutt River,
 - Wainuiomata River,
 - Orongorongo River,
 - Waiwhetu Stream,
 - Lake Kohangatera,
 - Lake Kohangapiripiri.
- (iv) In respect of lots with areas 4 hectares or greater, an esplanade reserve or strip of 20m width shall be set aside for lots adjoining the mean high water springs of the sea.

For the avoidance of doubt, non-compliance with the provisions (b) to (d) shall be considered as a Discretionary Activity and assessed in terms of sections 104 and 105, and Part II of the Act.

- 23 **Insert** new standard for earthworks associated with subdivisions within Rule 11.2.2.1(e), as follows:

(e) Earthworks

Compliance with permitted activity conditions 14I.2.1.1.

Compliance with NZS 4431 1989 (Code of Practice for Earth Fill for Residential Development) and Part 2 NZS 4404:2004 (Land Development and Subdivision Engineering).

Erosion and Sediment Control Guidelines for the Wellington Regional 2003 and Small Earthworks Erosion and Sediment Control for small sites. Greater Wellington Regional Council.

Exception: The standards in Rules 141.2.1.1 (a) and (b) shall not apply to trenching carried out as part of the subdivision.

- 24 **Insert** existing section 11.2.5 into a new rule within 11.2.2.1(f) and **amend** headings accordingly, Rule 11.2.2.1(f), as follows:

(f) Other Provisions

Compliance with the following:

- (i) Financial Contributions in Chapter 12 of this Plan.
- (ii) General Rules in Chapter 14 of this Plan.

- 25 Add matters in which Council Seeks to Control, section 11.2.2.2, as follows:

11.2.2.2 Matters in which Council Seeks to Control

The matters over which control was reserved are:

- (a) The design and layout of the subdivision, including the size, shape and position of any lot, any roads or the diversion or alteration to any existing roads, access, passing bays, parking and manoeuvring standards, and any necessary easements;
- (b) The provision of servicing, including water supply, waste water systems, stormwater control and disposal, roads, access, streetlighting, telephone and electricity;
- (c) Management of construction effects, including traffic movements, hours of operation and sediment control;
- (d) Provision of esplanade reserves, esplanade strips and access strips;
- (e) Site contamination remediation measures and works;
- (f) Protection of significant sites, including natural, cultural and archaeological sites;
- (g) Avoidance or mitigation of natural hazards; and
- (h) Those matters described in Section 108 and 220 of the Resource Management Act 1991.

- 26 **Add** new section (11.2.2.3) of assessment criteria for controlled activities using the performance standards from existing section 11.2.2.1, except in relation to providing gas as this has been deleted in accordance with Proposed Rule 11.2.2.1(b)(vii) (amendment 19); and

in relation to Esplanade Reserves and Strips, which are new assessment matters, 11.2.2.3, as follows:

11.2.2.3 Assessment Criteria

The following assessment criteria will be used:

(a) Allotment Design:

- Allotments to have the appropriate net site area and dimensions to enable activities, buildings or structures to be sited to comply with the specified activity area requirements.
- Subdivisions should be designed so as to give areas a strong and positive identity by taking into account characteristics of the area and ensuring that roading patterns, public open space/reserves and community facilities are well integrated.
- Account must be taken of the future development potential of adjoining or adjacent land.
- The roading pattern must take into account the future development pattern of adjacent land.

- Subdivisions should be designed in a manner which recognises and gives due regard to the natural and physical characteristics of the land and adverse effects are avoided, remedied or mitigated.

(b) Engineering Design

(i) Access

- The legal road must be of sufficient width to cater for all functions the road was expected to fulfil, including the safe and efficient movement of all users, provision for parked vehicles, the provision of public utilities, landscaping and public transport facilities.
- The carriageway width should allow vehicles to proceed safely at the operating speed intended for that type of road in the network, with acceptable minor delays in the peak period.
- The carriageway should be designed to discourage motorists from travelling above the intended speed by reflecting the functions of the road in the network. In particular, the width, the horizontal and vertical alignments and super elevation should not be conducive to excessive speed.
- Intersections or junctions should be designed to allow all desired movements to occur safely without undue delay. Projected traffic volumes should be used in designing all intersections or junctions on traffic routes.
- Footpaths shall be provided on both sides of roads and shall be designed and located taking into account pedestrian amenity and likely use patterns. Footpaths may be reduced to only one side where:
 - there was no development fronting that part or side of the road,
 - topography or vegetation precludes provision, or
 - vehicle volumes and speeds are low and use of the carriageway was considered to be safe and comfortable for pedestrian use, and
 - pedestrian use will not be deterred by the lack of a footpath.
- Materials used in the construction of roads must be durable, maintainable, cost effective and compatible with Council's engineering standards.
- Allotments must have drive on access. In cases where it can be shown that it was physically not possible to provide drive on access, alternative arrangement for off-street parking must be provided.

- Where appropriate, when designing the roading network, account must be given to the provision of public transport facilities and the provision for safe, convenient and efficient access for cyclists and pedestrians.

(ii) Service Lanes, Private Ways, Pedestrian Accessways and Walkways

- Service lanes must be of sufficient width and of appropriate design to cater for vehicular traffic which services the allotments.
- All private ways and pedestrian accessways must be of sufficient width and of appropriate design for the use of land they serve.
- Walkways must be taken into account the existing topography, link open space network with community facilities and public services.

(iii) Street Lighting

- Public lighting to be provided to roads, footpaths, pedestrian accessways and to major pedestrian and bicycle links likely to be used at night to provide safe passage for pedestrians, cyclists and vehicles.

(iv) Stormwater

- The stormwater system to provide a level of protection defined in terms of Average Recurrence Interval (ARI) based on the type and intensity of development.
- The environment downstream of the proposed subdivision was not degraded by drainage flows or floodwaters.
- The roading system retains access to allotments and minimises the occurrence of traffic accidents during and after storm events.
- The stormwater system was designed to ensure that the land form of watercourses was stabilised and that erosion was minimised.
- Floodways and ponding areas to be restricted to areas where there was no damage to property, and to discharge or contain all gap flow (gap flow being the difference between the pipe flow and the total flow, i.e. the amount flowing on the surface for any given ARI).
- Materials used in stormwater systems to be durable, maintainable, cost-effective and compatible with Council's engineering performance standards.

(v) Wastewater

- The wastewater system was adequate for the maintenance of public health and the disposal of effluent in an environmentally appropriate manner.
- All wastewater systems shall be designed so that they have sufficient capacity for the ultimate design flow.
- All wastewater systems shall be designed so that they are self cleansing with the current or expected peak dry weather flow.
- Materials used in the wastewater system must be durable, maintainable, cost efficient and compatible with Council's engineering performance standards.
- Connection to a community sewerage system where one was available, and has the capacity to accept the additional sewerage load that the occupancy of the subdivision will create; or the installation of a sewerage system and community treatment plant when there was no community sewerage system available and the number of residential allotments and the soil/groundwater conditions indicate that the cumulative effects of the sewerage effluents have the potential to adversely affect public health.

(vi) Water Supply

- In urban areas reticulated water supply must be provided to each allotment for domestic, commercial or industrial consumption and provision for fire fighting purposes.
- Materials used in the water supply system must be durable, maintainable, cost-effective and compatible with Council's engineering performance standards.
- Reservoir storage, pumping and pipeflow capacity shall meet required volume, flow and pressure criteria according to Council's engineering performance standards.
- The provision and protection of access for maintenance of components of water supply system.
- All water supply mains shall be designed so they have sufficient capacity for the ultimate design flow.
- Adequate and suitable water supply shall be provided in the General Rural and Rural Residential Activity Areas.
- In all areas, the provision of a reticulated drinking water supply to all residential allotments if it was practicable to do so.

(vii) Telecommunication and Electricity

- Electricity supply must be provided to each allotment. The Council may exempt subdivisions or particular allotments from this requirement in appropriate circumstances but may require that provision, such as the registration of easements, be made for the provision of electricity supply in the future. In urban areas where practicable this should be by means of an underground system.
- Provision should be made to ensure that telecommunication connections can be made to each allotment. In urban areas where practicable, such provision should be made by means of an underground system.

(viii) Earthworks

- Before any earthworks are carried out a thorough investigation be undertaken to determine the suitability of the land. Particular attention must be given to drainage, slope and foundation stability matters, topography, significant existing natural, cultural and archaeological resources, post construction settlement, shrinkage and expansion of material plus compaction.
- Appropriate design and construction methods must be used to control and manage soil erosion, surface runoff and siltation.

(c) Contamination

- Where a site for subdivision has been identified as a potential or confirmed contaminated site the applicant shall undertake an assessment of the site, which shall include:
 - The nature of contamination and the extent to which the occupants of the site, the immediate neighbours, the wider community and the surrounding environment will be exposed to the contaminants.
 - Any potential long-term or cumulative effects of discharges from the site.
 - Any remedial action planned or required in relation to the site, and the potential adverse effects of any remedial action on the matters listed in the two matters above, whether at the site or at another location.

- Proposed validation to demonstrate that remediation has been carried out to an acceptable standard.
- The management of the decontamination risk and any risk due to residual contamination remaining on the site (eg. risks involved are maintenance of underground services, risks associated with earth working and soil disturbance, and compliance with management regimes).

The site assessment, proposed remediation, validation and future site management shall be to the satisfaction of the Hutt City Council, Greater Wellington Regional Council, and the Medical Officer of Health.

(d) Esplanade Reserves, Strips and Access Strips

Whether provision has been made for esplanade reserves and/or strips along the margins of any waterbody.

If a reduction in the width or waiver of an esplanade reserve was sought, Council would have regard to the following:

- The purpose for the creation of the esplanade reserve set out in Section 229 of the Resource Management Act 1991;
- Whether the reduction in size or width of an esplanade reserve would adversely effect:
 - o Natural character, amenity values, and ecological values of the adjacent waterbody;
 - o Access to an existing or potential future reserve or feature of public significance;
 - o The public's ability to gain access to and along the edge of the waterbody; and
 - o The protection of significant sites, including natural, cultural and archaeological sites.
- Whether a waiver or reduction of the width of an esplanade reserve would ensure the security of private property or the safety of people; and
- Whether the land was within a natural hazard area or in an identified risk from one or more natural hazards.

27 **Add** new section and rule to create restricted discretionary activities and outline the matters in which Council has restricted its discretion, Rule 11.2.3, as follows:

11.2.3 Restricted Discretionary Activities

- (a) Any subdivision that does not comply with the standards and terms for controlled activity under Rule 11.2.2.1 in respect of:
(b) Engineering Design (c) Contamination and (e) Earthworks.

11.2.3.1 Matters in which Council has restricted its discretion

- (a) Any actual or potential adverse effects arising from the proposed non-compliance, and measures to avoid, remedy or mitigate such effects.

- (b) Amenity Values:

The extent to which any earthworks proposal will affect adversely the visual amenity values of the area, and the extent to which the earthworks will result in unnecessary scarring and be visually prominent.

The effects on the amenity values of neighbouring properties including dust and noise.

The extent to which replanting, rehabilitation works or retaining structures are included as part of the proposal to mitigate adverse effects. Earthworks should not result in the permanent exposure of excavated areas or visually dominant retaining structures when viewed from adjoining properties or public areas, including roads.

- (c) Existing Natural Features and Topography:

The extent to which the proposed earthworks reflect natural landforms, and are sympathetic to the natural topography.

- (d) Historical or Cultural Significance:

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

- (e) Natural Hazards:

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

Corridors of the Hutt River, consideration should be given to the effects on the flood protection structures.

- (f) Construction Effects:

The extent to which the proposed earthworks have adverse short term and temporary effects on the local environment.

- (g) Engineering Requirements

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The extent of compliance with NZS 4431 1989 (Code of Practice for Earth Fill for Residential Development)

The extent of compliance with Part 2 NZS 4404:2004 (Land Development and Subdivision Engineering).

- (h) Erosion and Sediment Management
The extent of compliance with the “Erosion and Sediment Control Guidelines for the Wellington Regional 2003” and “Small Earthworks - Erosion and Sediment Control for small sites” by Greater Wellington Regional Council.
- (h) Contaminated Land:
The extent to which works are consistent with the Ministry for the Environment, Contaminated Land Management Guidelines 1 5.

- 28 **Amend** numbering of rule to 11.2.4; and **Amend** sub clause (i) to give effect to the proposed restricted discretionary activities and insert Clause (k), in Rule 11.2.4, as follows:

11.2.4 Discretionary Activities

- (i) Any subdivision which is not a Permitted, Controlled or Restricted Discretionary Activity.
- (k) On 2/76 Normandale Road, Pt Lot 1 DP 7984, any earthworks undertaken as part of a subdivision, in that part of the site identified to the north and east of the stream, as shown on Appendix Earthworks 3.

- 29 **Add** a new sub-clause to give effect to the proposed assessment criteria; amend numbering accordingly and **amend** heading and sub-clause (c), section 11.2.3.1, as follows:

11.2.4.1 Assessment Criteria for Discretionary Activities

- (a) The matters contained in sections 104 and 105, and in Part II of the Act shall apply.
- (b) Compliance with the engineering design standards.
- (c) The degree of compliance or non-compliance with any relevant Permitted and Controlled Activity Standards and Terms.
- (d) Those matters listed in the Assessment Criteria for Controlled Activities.

- 30 **Delete** Esplanade Reserves, Strips and Access Strips, section 11.2.4.

- 31 **Correct** spelling of ‘activities’ Rule 14I 2(iv) and **amend** wording in relation to earthworks as part of a subdivision, Rule 14I 2(ii), as follows:

14I 2 Rules

These provisions shall not apply to the following:

- (i) Earthworks associated with the establishment of utilities in accordance with Chapter 13 - Utilities.
- (ii) Earthworks carried out as part of a subdivision under Chapter 11.
- (iii) Earthworks in the River Recreation Activity Area for the purposes of the management of any river or stream in accordance with Chapter 7C - River Recreation Activity Area
- (iv) Earthworks associated with extraction activities in Chapter 6D - Extraction Activity Area.