

*Amended
Application for
Subdivision Consent*

*30 Benmore Crescent,
Manor Park*

FORM 9
APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE
MANAGEMENT ACT 1991

TO: Hutt City Council
Private Bag 31-912
LOWER HUTT 5040

1. Te Karearea Limited (the Applicant) hereby applies for the following resource consent:

- **A subdivision consent:** For a leasehold subdivision over Area 1, to be subject to a 125 year lease.

2. Activity & Classification:

The leasehold subdivision has been assessed as a discretionary activity pursuant to rule 11.2.4(j) of the Operative District Plan and a controlled activity under Regulation 9(3) of the NES for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).

3. The location to which this application relates:

Street Address: 30 Benmore Crescent, Manor Park



Figure 1: Location Aerial - Extract from GRIP Maps

4. The owner of the site is: -

Section 1 SO 493901 (RT 738223) is owned by Te Runanga O Toa Rangatira Incorporated. The Applicant has entered into an agreement in principle with the owners to lease the site.

5. There are no other activities that are part of the proposal to which the application relates.

6. Are any additional resource consents are needed for the proposed activity.


While the site is not listed on the GWRC SLUR register, a detailed site investigation (DSI) has been undertaken, which identified that the site has been subject to some historical activities included on the Hazardous Activities and Industries List (HAIL). Soil sampling identified that some background levels for polycyclic aromatic hydrocarbons (PAH) and heavy metals were exceeded. Thus confirming there is soil contamination at the site. However, the contamination levels are within acceptable levels for more commercially oriented rural activities that do not involve direct land disturbance.

We note that a previous land use consent application for bulk earthworks (RM220258) included consent under the NES-CS. Nevertheless, the subdivision is not able to comply with regulation 8(4) for a permitted subdivision. Therefore, the subdivision is a controlled activity under regulation 9(3).

- 7. Attached, in accordance with Clauses 6 & 7 of the Fourth Schedule of the Resource Management Act 1991, is an assessment of environmental effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.**
- 8. Attached is an assessment of the proposal against Part 2 Resource Management Act 1991.**
- 9. Attached is an assessment of the proposal against Section 104(1)(b) Resource Management Act 1991 including any relevant objectives, policies or rules.**
- 10. Attached is relevant survey information to adequately describe the subdivision.**
- 11. Also attached is any information required to be included in this application by the District Plan, a Regional Plan, the Resource Management Act 1991, or any regulations made under that Act.**

The relevant assessment of environmental effects, proposal plans and other information required by the Hutt City District Plan are attached.

Te Karearea Limited
by their duly authorised agent



David Gibson for Spencer Holmes Limited.

Date: May 2025

Address for Service:

Spencer Holmes Limited
Surveyors, Engineers & Planners
PO Box 588
WELLINGTON 6140
Telephone: (04) 472-2261
Email:

All Invoices to:

Te Karearea Limited
Attn: Richard Burrell / James Keogh

029 244 1913 (Richard)
richard@building-solutions.co.nz
james@building-solutions.co.nz

ATTACHMENTS

1. Record of Title
2. Subdivision Lease Area Plan
3. Detailed Site Investigation (as submitted with RM220258)
4. Geotechnical Report (as submitted with RM220258)

CONTENTS

FORM 9	1
CONTENTS	4
DESCRIPTION OF PROPOSAL & ASSESSMENT OF EFFECTS ON ENVIRONMENT	6
1 THE PROPOSAL	6
1.1 BACKGROUND	6
1.2 SITE LOCALITY	6
1.3 LEGAL DESCRIPTION	8
1.4 DESCRIPTION OF SUBDIVISION	8
1.4.1 Future Uses of Proposed Lease Area	8
1.4.2 Benmore Crescent Access	9
1.4.3 Internal Access	9
1.4.4 Services	9
1.5 EARTHWORKS	9
1.6 FLOODING	9
2 PLANNING PROVISIONS	10
2.1 ZONING	10
2.1.1 Operative District Plan	10
2.1.2 Proposed District Plan	10
2.1.3 Status of District Plans	11
2.2 COMPLIANCE WITH OPERATIVE DISTRICT PLAN STANDARDS	11
2.2.1 Subdivision	11
2.2.2 Esplanades	11
2.3 NES ON SOIL CONTAMINATION	11
2.4 ACTIVITY STATUS	12
3 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT	13
3.1 INTRODUCTION	13
3.2 LANDSCAPE AND VISUAL EFFECTS	13
3.3 TRAFFIC EFFECTS	14
3.4 SERVICING EFFECTS	15
3.5 CONTAMINATION EFFECTS	15
3.6 STABILITY AND NATURAL HAZARD EFFECTS	15
3.6.1 Seismic Risks	15
3.6.2 Liquefaction risk	16
3.6.3 Flooding Risk	16
3.6.4 Summary	17
4 DISTRICT PLAN ASSESSMENT	18
4.1 WEIGHTING OF DISTRICT PLANS	18
4.2 OBJECTIVES AND POLICIES OPERATIVE DISTRICT PLAN	18
4.3 OBJECTIVES AND POLICIES PROPOSED DISTRICT PLAN	21
5 MITIGATION AND MONITORING MEASURES	23
5.1 PROPOSED CONDITIONS	23
6 ALTERNATIVES CONSIDERED	24
7 ASSESSMENT OF NOTIFICATION AND AFFECTED PERSONS	24
7.1 PUBLIC NOTIFICATION ASSESSMENT	24
7.2 LIMITED NOTIFICATION ASSESSMENT	24
7.3 NOTIFICATION CONCLUSION	25
8 CONSULTATION	25

8.1	IWI AUTHORITIES.....	25
9	REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION, 2022.....	25
10	POSITIVE EFFECTS – SECTION 104(1)(A)	26
11	ASSESSMENT OF PART 2 RMA	27
12	CONCLUSION	27

DESCRIPTION OF PROPOSAL & ASSESSMENT OF EFFECTS ON ENVIRONMENT

1 THE PROPOSAL

1.1 Background

The site was previously taken by the Crown in the 1950's for railway and motorway purposes and more recently used in association with the upgrading of State Highway Two, which adjoins the property. Upon completion of the highway works, the site was offered back to Ngati Toa Rangatira under their claims settlement. Te Runanga O Toa Rangatira Inc. acquired the land in March 2020. Subsequently, the applicant has entered into a lease agreement with Te Runanga O Toa Rangatira Inc. to use and develop the land.

The applicant has obtained resource consents to undertake bulk earthwork at the site (Hutt City Council – RM 220258) as well as from Greater Wellington Regional Council. Additionally, the applicant has obtained resource consent from Hutt City Council (RM 230018) for additional earthworks related to the construction of an internal road and civil three waters infrastructure, as well as public road upgrades and a new railway level crossing outside of the site.

1.2 Site Locality

The subject site is known as 30 Benmore Crescent, Manor Park and is located between State Highway Two (SH2) and the Wairarapa Rail Line, just to the south of the interchange with State Highway 58 and Manor Park Road. To the south of the site is the Hutt River corridor (GWRC owned), which includes cycling / walking trails.

An aerial photograph of the site circa 2021 is shown at Figure 2 below.

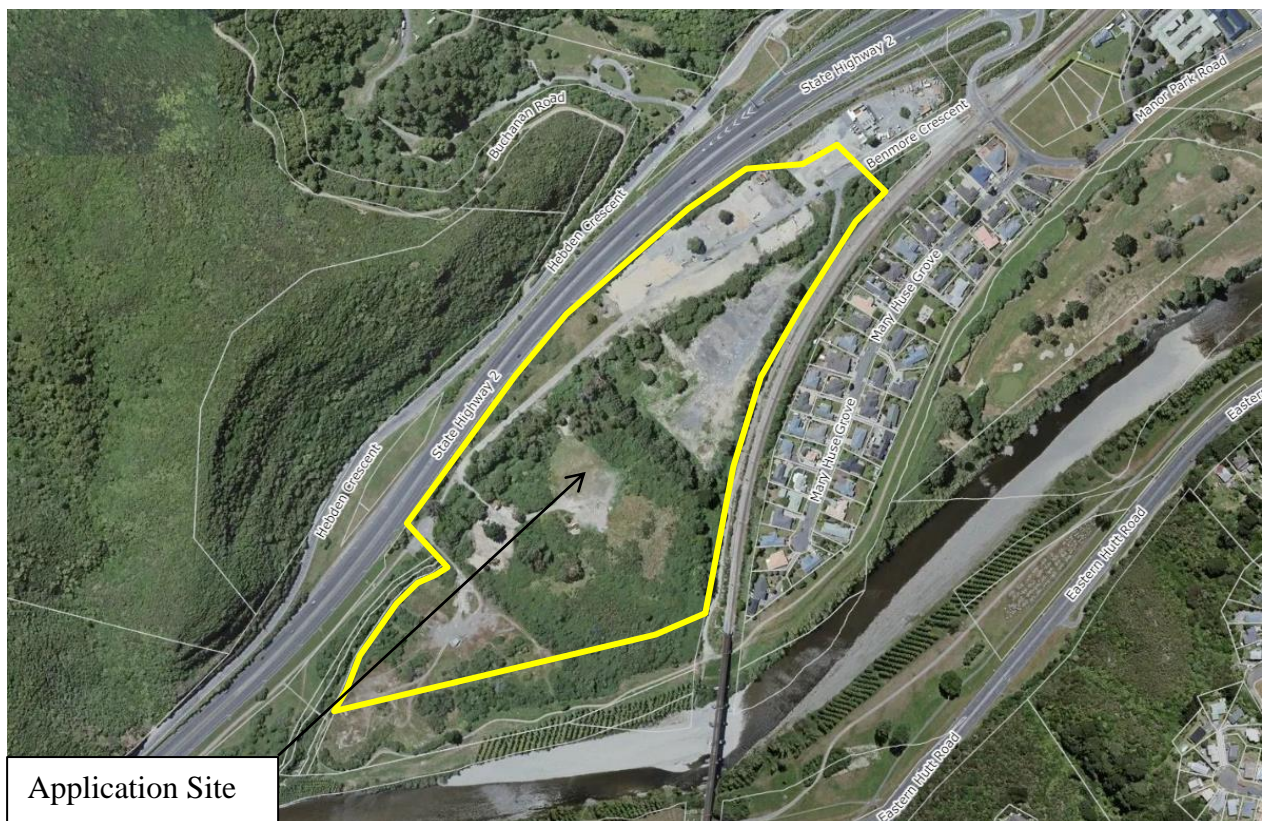


Figure 2: Aerial of Site – Extract from GRIP Maps

As the site is bounded by transport routes and the Hutt River, it does not have any adjacent private neighbours. To the east, on the other side of the railway line there is a small enclave of residential properties on Mary Huse Grove.

Dry Creek runs through the site for a distance of approx. 620m. The average width of the stream is less than 3m within the site.

A recent drone aerial photograph of the site is shown at Figure 3 below.



Figure 3: Aerial of Site – SHL Drone Image

1.3 Legal Description

Section 1 SO 493901 (RT 738223) is owned by Te Runanga O Toa Rangatira Incorporated. The property has an area of 13.2121 ha.

A copy of the title is attached (Attachment 1). Encumbrance 11676592.2 is registered on the title in favour of the New Zealand Transport Agency. This encumbrance limits or specifies requirements for the follow on the site:

- Noise sensitive activities.
- Objections against state highway activities.
- Restricting state highway activities.

There are no restrictions on the title that would prevent the proposed subdivision.

1.4 Description of Subdivision

It is proposed to subdivide the property to create an area to be leased (Area 1), as shown on Spencer Holmes plan S20-0380-LA10/A included as Attachment 2.

The lease area would be 7.4541 ha including an access leg to the Benmore Crescent frontage. The lease area would largely reflect the area that is proposed to be used by Waste Management for a resource recovery facility, which is currently the subject of a resource consent application with Hutt City Council (RM 230019). The western boundary of the lease area would align with the centreline of the Dry Creek stream. However, the lease area is not dependent on the Waste Management proposal, as the area could be used for a range of permitted rural activities such as green house horticulture or packaging / production of primary produce or rural service industries.

Subdivision standard 11.2.2.1(a) for controlled activities in the general rural zone, specifies a minimum lot size of 15ha. As the total site is less than 15ha, any subdivision of the site is a discretionary activity under rule 11.2.4(j).

1.4.1 Future Uses of Proposed Lease Area

In respect of Area 1, the applicant has entered into an agreement with the landowner to development and use the lease area. As the term of the proposed lease is 125 years, which is longer than 35 years as per section 218 RMA, a subdivision consent is required to register the lease on the fee simple title.

While the applicant has a heads of agreement with Waste Management Ltd to sub-lease part of the area, the applicant's head lease is independent from and therefore not reliant upon the success of the Waste Management proposal.

That is, the proposed lease area could be used for permitted rural activities such as greenhouse horticulture, rural ancillary activities (e.g. packing / processing of primary production goods) and rural service industries. The permitted building coverage for these types of activities is 1,000m². In addition, we note that commercial recreation, visitor accommodation, cafes/restaurants, retirement villages, cemeteries and intensive farming operations are provided for as restricted discretionary activities by the District Plan (where notification is not required). Therefore, Area 1 could be utilised by a range of permitted activities, or some activities that may need to be authorised by further resource consents.

With respect to the maximum permitted site coverage standard (i.e. 1,000m²), the definition of site (Part 4) would be the relevant definition for a leasehold site. That is, the proposed leasehold

subdivision is similar to a cross-lease, unit title or company lease as the underlying fee simple parcel still exists and the lease sits on top in terms of the LINZ system. Therefore, the creation of a new leasehold site, does not increase the permitted maximum site coverage for the property.

1.4.2 Benmore Crescent Access

Vehicle access to the lease area will be from the end of Benmore Crescent. Benmore Crescent is a short street off Manor Park Road and the Manor Park access ramp for State Highway Two.

It is noted that resource consent has been granted (RM230018) to allow the construction of an internal road within the lease area, as well as for roading improvements of the adjacent public roads.

Nevertheless, the possible future uses of the lease area are also independent from, and not reliant on the roading upgrades. That is, the lease area could be utilised and accessed via the currently constructed roads provided the high trip generator threshold (i.e. 500 vehicle movements per day) is not exceeded.

1.4.3 Internal Access

The alignment of the internal access road approved under RM230018 would be contained within the area to be leased. Thus ensuring that the lease has legal access to Benmore Crescent. While it is intended to construct an internal access road that is 8.5m wide with kerb and channels and also a 1.5m footpath (under RM230018), the possible rural uses of the area to be leased do not necessarily require a fully constructed and sealed driveway.

1.4.4 Services

The provision of three waters services to the lease area has been approved under RM230018. Again, the possible rural uses of the area to be leased do not necessarily require fully reticulated three waters services.

1.5 Earthworks

Bulk earthworks for the formation of useable areas and possible future building platforms are being constructed under land use consent RM220258.

No additional earthworks are required for the proposed leasehold subdivision.

1.6 Flooding

The District Plan indicates that the site is subject to inundation. We also note that permitted standard 8B 2.1.1(q) only allows buildings to be located on land above RL28.0 msl.

Nevertheless, the bulk earthworks being undertaken in accordance with RM220258 would elevate the majority of the area to be leased above RL28.0, so that there are large portions of the area to be leased that are not subject to flooding from the Hutt River or Dry Creek.

2 PLANNING PROVISIONS

2.1 Zoning

2.1.1 Operative District Plan

The site is located in the **General Rural Activity Area**. The Wellington Faultline Study Area passes through the site. Part of the site is shown to be within the secondary river corridor of the Hutt River. In addition, parts of the site are subject to the State Highway and Railway Corridor Buffer Overlays.

The TNZ 3 designation lies to the west covering the Hayward Interchange on State Highway 2 and which is shown to extend up to 6.5m into the site for distance of approx. 140m. The TNZ 3 designation also covers the intersection of Benmore Crescent and Manor Park Road. NZR 3 designation for the Wairarapa Rail Line adjoins to the east and covers the Manor Park level crossing.

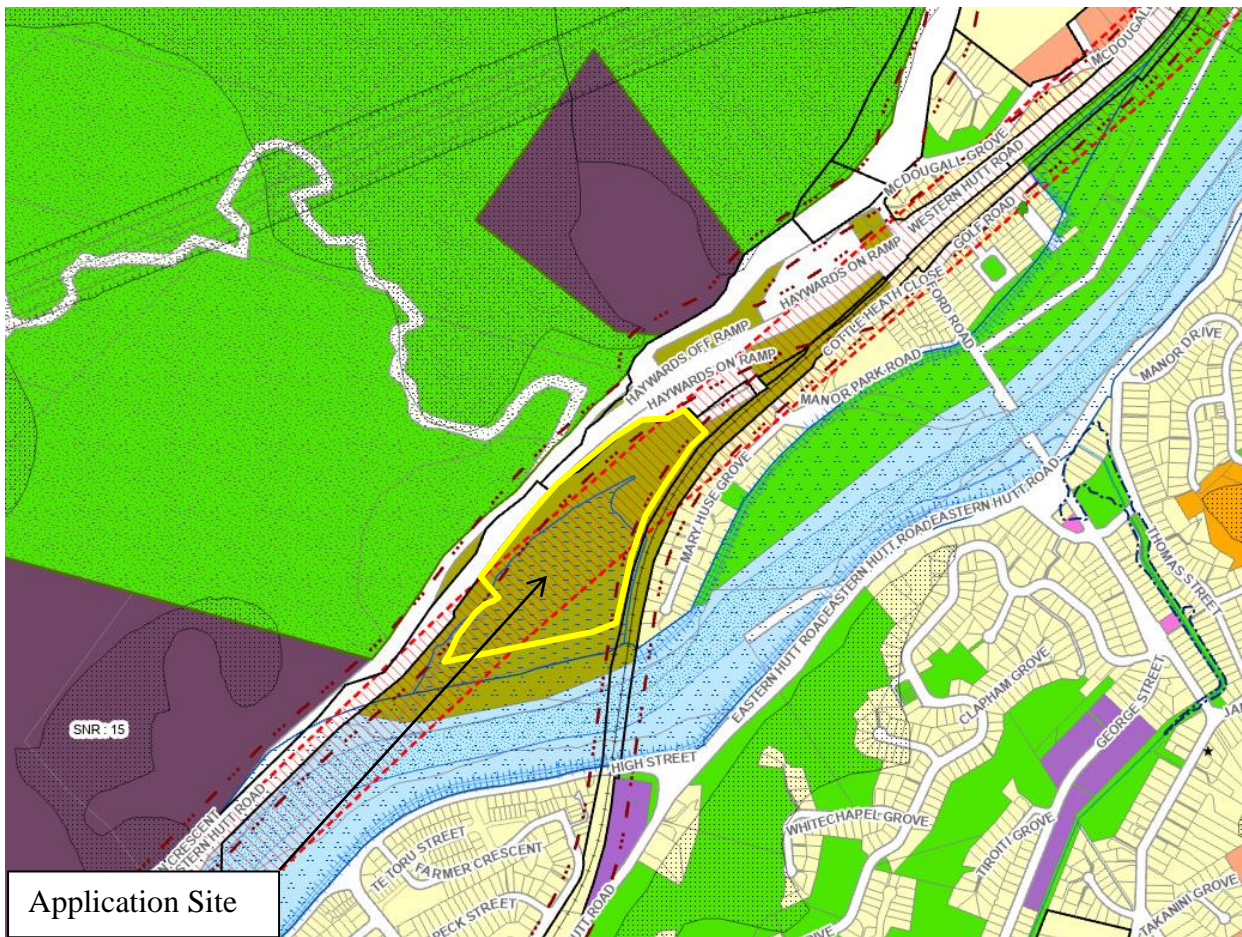


Figure 4: Site Zoning – extract from LHCC Online District Plan Maps

2.1.2 Proposed District Plan

The site is located in the **General Rural Activity Area**. The Wellington Faultline passes through the site. Parts of the site are subject to flooding. Parts of the site are subject to Liquefaction. In addition, parts of the site are subject to the High and Moderate Noise Overlay from the State Highway and Railway.

2.1.3 Status of District Plans

The Proposed District Plan (PDP) was notified on 6 February 2025. The submission period has not yet closed. Therefore, the rules of the PDP do not have legal effect, except for some rules to do with historic heritage and sites and areas of significance to Māori.

2.2 Compliance with Operative District Plan Standards

2.2.1 Subdivision

Rule 11.2.2(h) of the District Plan allows for subdivision as a controlled activity in the General Rural Activity Area except where the subdivision will result in an allotment less than 15ha or does not provide a 150m minimum frontage for a front lot. As the site is less than 15ha and doesn't have a 150m frontage, the subdivision fails the criteria for a controlled activity.

The subdivision is therefore considered as a discretionary activity under rule 11.2.4(j).

2.2.2 Esplanades

Dry Creek runs through the site. The average bed width of Dry Creek within the site is less than 3m. The area to be leased is greater than 4ha. Therefore, the esplanade provisions of standard 11.2.2.1(d) do not apply.

2.3 NES on Soil Contamination

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (the NES-CS) came into force on 1 January 2012. Regulation 5(7) outlines the land to which the NES applies. That is, the NES applies to land where a HAIL activity is, has or is more likely to have been undertaken on the piece of land.

Consequently, there are two issues that need to be considered for the proposed subdivision. Firstly, has there been a HAIL activity undertaken on the site? If not, the NES does not apply. Secondly, even if there has been a HAIL activity on the site, the NES only applies to that part of the site where the Hail activity was/is undertaken (i.e. "the piece of land").

With respect to the first matter, the site is not listed on the GWRC's Selected Land Use Register (SLUR). The SLUR lists sites where a HAIL activity is known to have been undertaken.

The activities to which the NES applies are outlined at Regulations 5(2) – 5(6). These activities include removing a fuel storage system (Subclause 2), soil sampling (Subclause 3), disturbing the soil (Subclause 4), subdivision (Subclause 5) and changing the use of a site to a use where the site may cause harm to human health (Subclause 6).

The site is zoned General Rural. Residential activities are only permitted on sites over 15ha. The site is less than 15ha and the proposal is to subdivide the site to create an area to be leased. Thus it is highly unlikely that the lease area will be used for residential activities. Therefore, the risk to human health from any potential soil contamination is minimal, if any.

The applicant has previously commissioned Engeo Ltd to undertake a Detailed Site Investigation (DSI). The DSI report has been submitted for the prior earthworks application (RM220258). A copy of the DSI report is included as Attachment 3.

The DSI report confirmed some historical HAIL activities at the site, and soil testing identified some elevated levels of some heavy metals and polycyclic aromatic hydrocarbons (PAH). The

DSI noted that the levels of these contaminants are at acceptable levels for the use of the site for commercial / industrial activities. We consider this is also applicable to those more commercially oriented rural activities (such as greenhouse production) that do not involve direct land disturbance and therefore no exposure to any potential contaminants in soil.

The DSI recommends the use of management plans for mitigation of any contamination risks associated with the current earthworks that are being undertaken as approved under RM220258. Thus the earthworks would be undertaken and completed in accordance with the relevant conditions prior to any future activities commencing on the lease area.

Regulation 9(3) provides for subdivision of a contaminated site as a controlled activity where:

- a detailed site investigation of the piece of land must exist;
- the report on the detailed site investigation must state that the soil contamination does not exceed the applicable standard in regulation 7;
- the consent authority must have the report;
- conditions arising from the application of subclause (4), if there are any, must be complied with.

Therefore, we consider that the subdivision consent is a controlled activity under regulation 9(3) of the NES.

2.4 Activity Status

The assessment of the provisions of the Operative District Plan in the preceding sections shows that the leasehold subdivision proposal must be assessed as the following:

- Subdivision Consent to create an area to be leased for a term of 125 years. As the lease area would not meet the controlled standards for lots the subdivision is a discretionary activity under rule 11.2.4(j).
- Subdivision Consent to subdivide (by leasehold subdivision) a potentially contaminated site, which is a controlled activity under the NES-CS regulation 9(3).

3 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

3.1 Introduction

This assessment of environmental effects on neighbouring properties and the wider community has been prepared in such detail as corresponds with the scale and significance of the effects that the proposal may have on the environment.

The effects arising out of this application that we consider would potentially impact on the amenity of neighbours and the wider community, including physical effects are listed below:

- Landscape / Visual effects;
- Traffic effects;
- Servicing effects;
- Contamination effects.
- Stability & natural hazard effects;

3.2 Landscape and Visual Effects

The subdivision proposal will simply allow part of the site to be leased from the owners for future use and development. Area 1 covers the main land area on the south-eastern side of Dry Creek. This area is potentially to be used by Waste Management Ltd for the purpose of operating a resource recovery park and processing facility. However, the leasehold subdivision is not dependent on the Waste Management proposal, as the area to be leased can be used for other permitted activities, or other activities that might be consented in the future. As the lease area is over 7ha, there is scope for many permitted activities to occur on the lease area.

Resource consent for bulk earthworks to raise the site above flooding levels and to shape the surface for future uses has been approved by Council (RM220258). The effects on the landscape and visual amenity values from the bulk earthworks have been considered and taken into account as part of the approval of RM220258 and the conditions of consent. Therefore, the landscape and visual effects of the bulk earthworks do not need to be considered further as part of this subdivision application, as no particular activities or buildings are associated with the leasehold subdivision.

While the site is zoned rural, it is an isolated land parcel separated from other private property by State Highway 2, the Hutt River and the Wairarapa Railway Line. Additionally, there are no other rural properties nearby. The closest rural property is associated with the Belmont Quarry on Hebden Crescent, which is a kilometre away on the opposite side of SH2. More importantly, the site has not been used for any rural activity since the 1950's after which it was used in association with the realignment of the Wairarapa Railway Line. Subsequently it has been used in association with the construction and upgrading of SH2. During this time the site has been subject to the disposal of surplus material from these transport infrastructure projects and other developments over the last few decades.

As a result the site exhibits very little rural character, particularly in terms of landscape and visual values associated with the site. This is confirmed by the Assessment of Landscape Effects report undertaken by Boffa Miskell and submitted with RM230018.

Currently the rural land use provisions of the District Plan anticipate a single building or group of buildings covering up to 1,000m² on the site up to 8m high – with no specific controls on the design and appearance of the building(s). The subdivision to create an area to be leased would not

create any additional development potential and remains consistent with the current rural land use provisions of the District Plan.

Consequently, we consider that the landscape and visual related effects by the leasehold subdivision proposal are less than minor.

3.3 Traffic effects

The site is located close to the Manor Park / SH58 interchange on State Highway 2. The Manor Park train station is also less than a kilometre away. As well, the Hutt River Trail for walking / cycling is close by. Thus the site is well positioned for easy access to transport networks for all modes of transport.

Other than construction traffic related to the current earthworks being undertaken at the site in accordance with RM220258, the site generates no traffic as it has not been actively used in many years, previously it had been used for construction related works for the SH2 upgrades, filling operations and a paintball recreational activity. The permitted uses of the site include any rural activity and rural ancillary activities which include greenhouse production, packaging / processing of primary production goods, piggeries, forestry and prospecting. We also consider that some commercial activities would be permitted provided they are not industrial in nature (as defined in the District Plan), do not involve retailing or is not a service station.

Therefore, the site could be used for many permitted activities where the baseline for traffic related effects is set by the High Trip Generator limits of 500 vehicle trips per day for the activity.

Nevertheless, upgrades at the intersection of Benmore Crescent and Manor Park Road (which is essentially at the bottom of the access ramp to the SH2 interchange) to create a right turn lane on Manor Park Road and to allow a wider swept path for trucks turning left out of Benmore Crescent have recently been approved under RM230018. When completed, these upgrades works would facilitate higher traffic usage of the site.

While permitted use of the area to be leased does not require these roading upgrades works to be completed, when these upgrade works are in place, we consider that the traffic from the possible future users of the subdivision would not impact on the capacity of the local road network, including the state highway 2 interchange, subject to any high traffic generating activities obtaining the necessary resource consent(s).

The leasehold subdivision does not of itself create any additional permitted traffic generation potential nor would it lead to cumulative traffic effects. This is because rule 14A.5.1(a) is an activity-based rule. That is, an activity that exceeds the high trip generator thresholds will always require a resource consent, regardless of how (or into how many lots) a site is subdivided.

As no construction works are required for the subdivision, there would be no construction related traffic effects generated by the subdivision proposal.

Therefore, we consider that the traffic and transportation related effects by the leasehold subdivision proposal are less than minor.

3.4 Servicing Effects

The subject site is generally remote from Council services. Though a trunk sewer main runs through the site. However, as the site is zoned general rural, permitted rural activities can be undertaken on the property without the need for three waters services to the site.

As previously noted, water supply, sewage and stormwater services for the area to be leased have recently been approved under RM230018. Installation of these services would facilitate future uses of the site that may require such three waters services.

Therefore, we consider that the provision of specific three waters services for the leasehold subdivision are not required, and that the infrastructure servicing effects by the leasehold subdivision proposal are less than minor.

3.5 Contamination Effects

The previously submitted Detailed Site Investigation by Engeo notes that there may be contaminants in the soil (heavy metals and PAH) at the site. However, the level of contamination is sufficiently low so as not to be a health risk to workers and occupants of the site while the site is used for commercial and/or industrial type activities. As a result, Engeo have prepared various Site Management Plans (SMPs) for the site relating to soil disturbance, as required under the bulk earthworks approved under RM220258.

Provided the current earthworks are undertaken in accordance with SMPs, the subsequent Site Validation Report may include a Long Term Site Management Plan outlining any restrictions that may need to be adhered to in the future. The future users of the area to be leased would be subject to the Long Term Site Management Plan, which can mitigate the potential effects of soil contamination at the site.

Therefore, we consider that any potential effects from the leasehold subdivision of the site that may contain soil contaminants are less than minor.

3.6 Stability and Natural Hazard Effects

Section 106 of the Act places a duty on consent authorities to consider the risks of natural hazards affecting the land as well as legal access as part of the subdivision consent process. The risk assessment of natural hazards requires consideration of the following matters:

- The likelihood of natural hazards (individually or in combination);
- The potential for damage to the land, other land and related structures;
- The future use of the land and if this is likely to accelerate or worsen the potential for damage.

Council may impose conditions on a subdivision consent to avoid, remedy or mitigate the effects of natural hazards associated with the land.

The natural hazards that may need to be considered relate to seismic stability, liquefaction, land settlement, landslips, flooding, tsunami and/or storm surge, fire and erosion. The natural hazards that are relevant to the subject site are seismic stability, liquefaction and flooding.

3.6.1 Seismic Risks

The Wellington Faultline runs through the site parallel with State Highway Two. The geotechnical report by Tonkin & Taylor submitted with RM220258 identifies an approximately 25m-35m wide

Faultline band through the site parallel with the Dry Creek. A copy of the geotechnical report is included as Attachment 4.

The risk of ground disturbance from a fault rupture presents a significant hazard at the site. Similarly, there is a seismic shaking risk associated with the Faultline. There is a 10-15% likelihood of a fault rupture in the next 100 years. Consequently, avoidance and mitigation measures are proposed to manage the risks and to reduce any consequences of fault rupture. To this end, an additional 20m setback on either side of the identified Faultline band has been adopted. This provides a setback from the Faultline, which is consistent with rule 14H 2.1 that requires that no buildings are located within 20m of the Faultline. Thus a no build zone of approx. 75m wide has been applied to the site and any future buildings.

The proposed no build setback zone would minimise the risk of damage to future buildings by avoiding the area where the greatest ground displacement is anticipated. In addition, the design of the future buildings and their foundations would require specific engineering design to take into consideration the expected ground shaking movements associated with an earthquake.

Therefore, we consider that the combination of an avoidance area, plus the requirement for specific building design would appropriately mitigate the seismic hazards at the site for future buildings such that the risk to buildings is no different to other areas of the Hutt Valley and is acceptable.

3.6.2 Liquefaction risk

A further risk associated with seismic movement is the potential for the ground to liquefy. The potential for soils to liquefy is contingent on the type of soils and the presence of a water table.

The geotechnical report by Tonkin & Taylor (submitted with RM220258) assesses the site as having a medium liquefaction vulnerability. This means that minor to moderate ground damage would be expected in a 1 in 500 year earthquake. Whereas, none to minor ground damage would be expected in a 100 year earthquake.

Consequently, mitigation is proposed via design solutions for the foundations of the building. That is, the structural resilience of the building foundation is significantly increased to accommodate lateral and differential settlement of the ground during liquefaction.

Therefore, the design of the future buildings and their foundations would require specific engineering design to take into consideration the expected ground movements associated with an earthquake inducing liquefaction.

Consequently, we consider that the requirement for specific building foundation design would appropriately mitigate the liquefaction hazard at the site for future buildings such that the risk to buildings is low and therefore is acceptable.

3.6.3 Flooding Risk

The site is identified on the District Plan maps as being within the secondary river corridor of the Hutt River. Permitted activity condition 8B 2.1.1(q) specifies that any building or structures within the secondary river corridor must be located on land that is above RL28.0 (msl).

The earthworks currently underway have (or will have) resulted in large areas of the site being raised to RL30, which is higher than RL28.0 (msl).

The previously submitted flood modelling report, by River Edge Consulting, carried out a flooding hazard analysis of the site based on the earthworks as approved by RM220258. The flooding analysis has considered the Hutt River flooding in a 440 year event, as well as a 100 year event in the Dry Creek stream that runs through the site.

The flood modelling work and assessment by River Edge Consulting confirms that once the site is filled via the earthworks under RM 220258 the site would be substantially flood free.

Therefore, the potential flooding hazard at the site is avoided by the proposed earthworks such that the risk of flooding is minimal.

3.6.4 Summary

We consider that the leasehold subdivision is appropriate as the earthworks approved under RM220258 are substantially completed for the lease area. The preceding assessment has taken into consideration the relevant natural hazards at the site and their risks. Most of these hazards are related to earthquakes and the proximity of the site to the Wellington Faultline.

Mitigation measures are proposed to manage the natural hazards via the use of design solutions to mitigate the adverse effects of the hazards on the future buildings and occupiers of the subdivision.

Consequently, we consider that the subdivision does not lead to unacceptable risks in regard to the natural hazard issues identified under section 106 of the Act. Therefore, section 106 of the Act does not present a barrier to approval of the subdivision proposal.

4 **DISTRICT PLAN ASSESSMENT**

4.1 **Weighting of District Plans**

Section 104(1)(b)(vi) of the Resource Management Act requires the Council to consider the relevant provisions of the District Plan when assessing applications for resource consent. The objectives and policies of the Operative District Plan (ODP) must be considered.

As the Proposed District Plan (PDP) is still open for submissions, Council has not yet made decisions on the PDP. Nevertheless, the objectives and policies of the PDP can be taken into consideration for the assessment of applications. Therefore, it is relevant to determine the weighting to be given to the objectives and policies under each plan.

To this end, the objectives and policies of the PDP are ‘new’ and not tested by the community through the submission process. While they may generally represent the current direction from Government under National Policy Statements and under the Regional Policy Statement, given the very early stage of the PDP review process, the ODP objectives and policies should retain greater weighting.

4.2 **Objectives and Policies Operative District Plan**

The relevant objectives and policies of the Operative District Plan in this case are considered to be:

General Rural Activity Area

Objective 8B 1.1.1 To maintain and enhance the open character and amenity values which are prevalent in rural areas.

Policy 8B 1.1.1(a) To allow for those activities which are appropriate in rural areas and which maintain and enhance the open character and amenity values of rural areas together with the intrinsic values of ecosystems.

Policy 8B 1.1.1(b) To ensure that sites are of a size that the open space character and amenity values of rural areas are maintained and enhanced.

Policy 8B 1.1.1(c) The preservation of the natural character of wetlands, lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.

The site does not display any rural character. It has been used in association with earthworks and infrastructure projects over the decades. Future activities are likely to require resource consents before they can be established. Hence, the future activities are expected to have to include additional planting of the existing boundaries and riparian areas in order to maintain and enhance the public views to the site with vegetation screening. Given the lack of open rural character of the site, the size of the proposed lease area does not influence the character and amenity values of the area. The site is adjacent to the Hutt River Corridor and maintains the natural character of the Hutt River and the river trail environment. Therefore, the leasehold subdivision does not represent inappropriate subdivision and is consistent with this objective and its policies.

Objective 8B 1.1.5 To allow rural areas to be used for recreation and leisure activities where amenity values and character are not adversely affected.

Policy 8B 1.1.5(a) To allow for activities which provide recreational opportunities or ancillary facilities that support recreational activities.

While the site has occasionally been used for recreational activities in the past, recreational uses are not likely in the future. The leasehold subdivision is not tied to a particular activity and therefore is not inconsistent with this objective and its policy.

Objective 8B 1.1.6 To maintain and enhance the visual amenity values of rural areas by ensuring that the adverse effects generated by the clearing of commercial forestry are appropriately mitigated.

Policy 8B 1.1.6(a) To require appropriate amenity planting, where planting extends to the road boundary, to mitigate the adverse visual effects resulting from the harvesting of commercial forestry.

Policy 8B 1.1.6(b) To require commercial forestry to be planted a minimum distance from site boundaries to mitigate the adverse effects of shading.

While the site could be used for forestry, this is not likely in the future. The leasehold subdivision is not tied to a particular activity and therefore is not inconsistent with this objective and its policy.

Objective 8B 1.2.1 To recognise those elements within the site that determine the character, amenity values and adverse effects of flood hazards of rural areas and manage them appropriately.

Policy 8B 1.2.1(a) To ensure the character and amenity values of rural areas are retained and enhanced through specific minimum site area conditions for dwellings.

Policy 8B 1.2.1(b) To require minimum setback requirements and maximum site coverage for all buildings.

Policy 8B 1.2.1(c) To establish appropriate minimum conditions for the size and shape of sites.

Policy 8B 1.2.1(d) To manage the siting of all buildings and structures to mitigate the effects of a flood hazard on development.

Policy 8B 1.2.1(e) To discourage the siting of buildings and structures in the Primary and Secondary River Corridors.

Policy 8B 1.2.1(f) To ensure that buildings and structures in the Primary or Secondary River Corridor of the Hutt River have no more than minor adverse effects on flood protection structures.

Policy 8B 1.2.1(g) To mitigate the effects of flood hazards on buildings and structures in the Primary and Secondary River Corridors by managing their location, size and scale.

The Dry Creek corridor runs through the site, it is intended that the riparian environment of the creek is not disturbed and would be supplemented in the future with additional planting as envisaged by this policy. The flooding effects from the Hutt River and Dry Creek have been

analysed previously and the site would not be subject to flooding (except for the Dry Creek corridor) upon completion of the earthworks as per RM220258. Therefore, the secondary river corridor notation in the District Plan is not particularly relevant for the subdivision development. The leasehold subdivision is not tied to a particular activity and therefore is not inconsistent with this objective and its policy.

Subdivision

- | | |
|-------------------------|--|
| <i>Objective 11.1.1</i> | <i>To ensure that land which is subdivided can be used for the proposed use or development.</i> |
| <i>Policy 11.1.1(a)</i> | <i>To ensure that allotments in lower density residential areas and rural zones have minimum design standards such as, minimum size, shape and frontage, which are suitable for the proposed use or development.</i> |
| <i>Objective 11.1.2</i> | <i>To ensure that utilities provided to service the subdivision protect the environment and that there are no adverse effects on the health and safety of residents and occupiers.</i> |
| <i>Policy 11.1.2(a)</i> | <i>To ensure that utilities provided comply with specified performance standards relating to such matters as access, street lighting, stormwater, water supply, wastewater, gas, telephone, electricity and earthworks.</i> |
| <i>Objective 11.1.3</i> | <i>To ensure that land subject to natural hazards is subdivided in a manner that the adverse effects are avoided, remedied or mitigated.</i> |
| <i>Policy 11.1.3(a)</i> | <i>Subdivision of land within the Wellington Fault Special Study Area should be managed to ensure that the allotments are of sufficient size and shape so that buildings and structures are not sited within twenty metres of a faultline.</i> |
| <i>Policy 11.1.3(b)</i> | <i>Subdivision of land subject to flooding is discouraged as this can lead to greater intensity of use and development and have adverse effects on the environment.</i> |
| <i>Policy 11.1.3(c)</i> | <i>Subdivision of land should be managed to ensure that within each allotment there is a suitable building platform so that buildings and associated structures will not be adversely affected by slope instability, including the deposition of debris.</i> |
| <i>Objective 11.1.4</i> | <i>To ensure that land in the coastal environment, areas adjoining lakes and rivers and other environmentally sensitive areas are protected from inappropriate subdivision.</i> |
| <i>Policy 11.1.4(a)</i> | <i>To ensure that land in the coastal environment, areas adjoining rivers and lakes and other environmentally sensitive areas are not subdivided to an extent or manner where amenity values, ecological, social, cultural and recreational conditions are adversely affected.</i> |
| <i>Objective 11.1.5</i> | <i>To ensure that the amenity values and the efficient use of land in General Rural and Rural Residential Activity Areas are maintained by restricting subdivision of lands which could lead to greater intensity of use and development for urban related purposes, such as more intense residential development.</i> |
| <i>Policy 11.1.5(a)</i> | <i>The minimum size of allotments should be large so as to ensure that rural amenity values and an efficient land use pattern are maintained.</i> |

As a leasehold subdivision, the site is not being permanently divided and fragmented. That is, the lease is for a defined period (125 years in this case) and the current fee simple land parcel will remain. The intention of the lease is to allow the applicant to secure use of part of the site for future activities. The subdivision objectives and policies are aimed at fee simple subdivisions that involve the permanent division of land. Therefore, these objectives and policies are not fully relevant to the leasehold subdivision.

The proposed subdivision has been designed around the access and infrastructure approved under RM230018. Thus appropriate servicing of the lease area can be achieved. Nevertheless, as the site is rurally zoned, traditional urban three waters services are not required for permitted rural uses of the site.

The natural hazards affecting the site (i.e. flooding and seismic risks) have been assessed and solutions are possible that would avoid the hazard or minimise the risks from the relevant natural hazards. The flooding hazard would predominantly be avoided as a result of the earthworks being undertaken at the site in accordance with RM220258 to elevate the useable areas of the site above the flood levels. The seismic risk can be mitigated by nominating building exclusion zones and ensuring buildings have appropriate engineering design for their foundations and building structures.

Due to the history of the site, it is not noted for its rural character and does not display rural amenity. The Dry Creek corridor will be maintained as a riparian corridor and will be subject to planting in the future as the future land uses are approved and established. Therefore, the amenity of the site will be improved over time and the subdivision does not represent inappropriate development of the site.

The layout of the lease area includes access to Benmore Crescent so as to allow for both legal and physical access to the lease area. Therefore, we consider that the proposal accords with the District Plan objectives and policies for subdivision.

4.3 Objectives and Policies Proposed District Plan

The relevant objectives and policies of the Operative District Plan in this case are considered to be:

General Rural Zone

GRUZ 01 The General Rural Zone consists of areas with a prevalence of open space areas over built development that provide opportunities for:

- a. Rural activities, and*
- b. Other activities that either support or are compatible with rural development and retain the rural, open space character of the zone.*

GRUZ 02 The General Rural Zone:

- a. Predominantly provides for:*
 - i. Rural activities, and*
 - ii. Low-density residential development that maintains the rural and open space character of the zone.*
- b. Provides for other activities that:*
 - i. Maintain and enhance the rural and open space character of the zone,*

- ii. *Are compatible with the rural activities and residential activities within the zone and adjoining areas in the Rural Lifestyle Zone and Residential Zones,*
- iii. *Are compatible with the residential activities within adjoining areas in Residential Zones, and*
- iv. *Either support the community within the zone and surrounding area or have and operational need or functional need to be in a rural, low-density location*

GRUZ O3 *Built development within the General Rural Zone:*

- a. *Either provides for rural activities and low-density residential development or is compatible with the provision of rural activities and residential activities within the zone, and*
- b. *Retains open space areas suitable for rural activities, and other activities that have an operational need or functional need for a location with a rural or open space character.*

GRUZ O4 *Adverse effects of activities and development are effectively managed within the zone and at interfaces with Residential Zones and the Rural Lifestyle Zone.*

GRUZ O5 *Development in the General Rural Zone is either adequately serviced and supported by infrastructure or is serviced and supported by on-site facilities, such as on-site wastewater disposal and water collection.*

GRUZ P1 *Enable rural activities and low-density residential development in the General Rural Zone as the predominant activities for the zone.*

GRUZ P2 *Compatible activities*

- 1. *Provide for activities in the General Rural Zone that:*
 - a. *Are compatible with the rural activities and residential activities within the zone and adjoining rural and residential zones, and*
 - b. *Either:*
 - i. *Support the rural activities and wellbeing of the community within the zone and surrounding area, or*
 - ii. *Have an operational or functional need to be in a rural area or an area with a low level of development.*
- 2. *Potentially compatible activities include:*
 - a. *Commercial activities, Child care services, Health care activities, and Community facilities that support the community within the zone and surrounding area,*
 - b. *Retail of goods grown and produced on the site or in the surrounding area,*
 - c. *Visitor accommodation,*
 - d. *Educational facilities, recreation activities, and commercial activities that require access to open spaces, a rural location, or the natural features and landscapes within the zone and adjoining areas,*
 - e. *Cleanfill and quarrying activities that support rural development, and*
 - f. *Boarding of domestic pets*

GRUZ P3 *Potentially incompatible activities*

- 1. *Only allow potentially incompatible activities in the General Rural Zone where they:*
 - a. *Maintain or enhance the character and amenity values of the surrounding area,*
 - b. *Are compatible with the character of adjoining residential zones, including through managing the effects of new built development and noise-generating activities, and*
 - c. *Have a functional or operational need to be in that location.*

- GRUZ P4** *Built development in the General Rural Zone is managed to:*
- a. Maintain the rural character and open space character of the zone, including through managing the scale and location of buildings and allotment sizes,*
 - b. Ensure rural activities, low-density residential development, and compatible activities are provided for, and*
 - c. Ensure adequate privacy and access to daylight for residential activities and other sensitive activities on adjacent sites.*
- GRUZ P5** *Recognise that infrastructure in rural areas, including in the General Rural Zone, may only be able to support a low level of land use and intensification without significant investment and upgrades, and new development may need to be serviced through on-site facilities such as on-site wastewater disposal and water collection.*

As discussed previously, due to the history of the site, it does not display any rural character. Therefore, the site can be considered as an anomaly and unique in the general rural zone. Given the lack of rural character of the site, the proposed subdivision to create a lease area does not affect the character and amenity values of the area.

The intention of the lease is to allow the applicant to secure use of part of the site for future activities. The leasehold subdivision is not tied to a particular activity and could be utilised for a range of permitted rural activities. Therefore, the leasehold subdivision is not inconsistent with these objectives and policies. The Dry Creek corridor will be maintained as a riparian corridor and will be subject to planting in the future as the future land uses are established. Therefore, the amenity of the site will be improved over time and the leasehold subdivision does not represent inappropriate development of the site.

5 MITIGATION AND MONITORING MEASURES

We propose the following conditions for the leasehold subdivision.

5.1 Proposed Conditions

1. That the final lease survey plan or e-survey dataset is consistent with Spencer Holmes plan S20-0380-LA10/A submitted with the application.
2. The faultline exclusion zone shall be identified on the survey plan.
3. No buildings may be constructed within the faultline exclusion zone unless agreed by Lower Hutt City Council.
4. The foundations of all future buildings on Area 1 shall be specifically designed to take into account the ground conditions and proximity of the faultline.

We consider that these proposed conditions will ensure that the leasehold subdivision proposal is carried out in a manner that is consistent with Council's expectations for subdivisions in the district.

6 ALTERNATIVES CONSIDERED

An assessment of possible alternatives is only required when the proposal would result in significant adverse effects. From the preceding analysis the proposed leasehold subdivision will not result in significant adverse effects.

The current subdivision proposal represents the most practical option for the applicant to utilise part of the site for a range of future activities, while minimising the faultline and flooding related hazards.

7 ASSESSMENT OF NOTIFICATION AND AFFECTED PERSONS

The provisions of sections 95A to 95E RMA are considered in this section.

7.1 Public Notification Assessment

With reference to Public Notification Step One under s.95A(3), the applicant does not request public notification, s.95C does not apply, and the application does not include the exchange of reserve land.

In terms of Public Notification Step Two under s.95A(5), the application is for a discretionary activity where there is no expressed provision that public notification is precluded. Therefore, Public Notification Step Three must be considered.

For Public Notification Step Three under s.95A(8), the assessment of effects at Section 3 concluded that the adverse effects of the proposed subdivision are not more than minor, after taking into consideration the criteria under s.95D. In addition, for Public Notification Step Four, we consider that there are no special circumstances relating to the application. Therefore, public notification of the application is not required.

7.2 Limited Notification Assessment

Regarding Limited Notification Step One under s.95B(2), the application does not involve customary rights groups or customary marine title groups, nor does it involve land subject to a statutory acknowledgement.

In assessing Limited Notification Step Two under s.95B(6), the application is for a discretionary activity where there is no expressed provision that limited notification is precluded. Therefore, Limited Notification Step Three must be considered.

To assess the application in terms of section 95E (for Limited Notification Step Three), the proposed subdivision has been assessed in terms of the neighbouring properties. We note that the earthworks being undertaken for the site are assessed under a separate land use consent (RM220258). The landscape and visual effects of the subdivision have been assessed and found to be less than minor. Similarly, the servicing and natural hazard risk associated with the site have been assessed and mitigation measures incorporated to ensure that any related adverse effects are avoided or mitigated such that these effects would be minimal.

Therefore, in terms of sections 95A to 95E, there would be no affected persons by the proposal.

To assess the application in terms of section 95B(10) (for Limited Notification Step Four), we consider that there are no special circumstances relating to the application that apply to other parties. Therefore, limited notification of the application is not required.

7.3 Notification Conclusion

From our assessment it is clear that the proposed subdivision can meet the requirements of the Act for Council to determine that public or limited notification is not required.

8 CONSULTATION

8.1 Iwi Authorities

While the leasehold subdivision does not directly affect the Hutt River (Te Awakairangi) a tributary of the Hutt River, referred to as Dry Creek, runs through the site. The Hutt River is subject to statutory acknowledgements with Taranaki Whānui ki Te Upoko o Te Ika and also Ngati Toa Rangatira.

Consequently, a copy of the application has been supplied to both Iwi Authorities and their feedback invited. Te Rūnanga o Toa Rangatira (Ngati Toa Rangatira) have confirmed (to Hutt City Council) that they have no concerns with the application. To date we have not received any response from Taranaki Whānui ki Te Upoko o Te Ika.

9 REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION, 2022

Objectives and policies of the Regional Policy Statement for the Wellington Region relevant to this development proposal include:

Objective 22

Compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:

- (a) a viable and vibrant regional central business district in Wellington city;*
- (b) an increased range and diversity of activities in and around the regionally significant centres to maintain vibrancy and vitality;*
- (c) sufficient industrial-based employment locations or capacity to meet the region's needs;*
- (d) development and/or management of the Regional Focus Areas identified in the Wellington Regional Strategy;*
- (e) urban development in existing urban areas, or when beyond urban areas, development that reinforces the region's existing urban form;*
- (f) strategically planned rural development;*
- (g) a range of housing (including affordable housing);*
- (h) integrated public open spaces;*
- (i) integrated land use and transportation;*
- (j) improved east-west transport linkages;*
- (k) efficiently use existing infrastructure (including transport network infrastructure); and*
- (l) essential social services to meet the region's needs.*

Policy 15

Minimising the effects of earthworks and vegetation disturbance – district and regional plans

<i>Policy 33</i>	<i>Supporting a compact, well designed and sustainable regional form – Regional Land Transport Strategy</i>
<i>Policy 54</i>	<i>Achieving the region’s urban design principles</i>
<i>Policy 55</i>	<i>Maintaining a compact, well designed and sustainable regional form</i>
<i>Policy 57</i>	<i>Integrating land use and transportation</i>
<i>Policy 58</i>	<i>Co-ordinating land use with development and operation of infrastructure</i>
<i>Policy 67</i>	<i>Maintaining and enhancing a compact, well designed and sustainable regional form</i>

Although the various territorial and district councils have been tasked with the implementation of the Regional Policy Statement through their District Plans, applicants should also be cognisant of the relevant matters on land development.

While the site is zoned General Rural, its location and proximity to urban areas suggests that it is part of the urban environment.

The Regional Policy Statement (RPS) identifies the resource management issues of significance to the region and provides broad direction and a framework for resource management within the region. Section 3.9 of the RPS discusses the regional form and promotes a compact and well-designed regional layout. Policies 55, 57 & 58 encourage Council’s to identify and promote land use that is integrated with transport and that maintains a compact regional form.

Our conclusion is that the leasehold subdivision proposal is consistent with the objectives and policies of the Regional Policy Statement.

10 POSITIVE EFFECTS – SECTION 104(1)(a)

The proposed subdivision will have the following positive effects:

- The proposal meets the intention of the RMA in terms of sustainable management of what is a unique rurally zoned site located in an urban environment.
- The lease area can be used for a range of permitted rural activities and ancillary services that rely on export of goods, as the site is in an established urban area and in close proximity to transport networks.
- The proposed lease area can accommodate a range of rural and related activities that will enhance the economic and social wellbeing of both current and future owners and occupiers.
- The proposal will result in the efficient use of resources as it is not reliant on three waters infrastructure to establish rural activities. Though infrastructure can be provided as needed.

11 ASSESSMENT OF PART 2 RMA

We consider that the proposed leasehold subdivision is entirely consistent with the main purpose of the Act, which is the sustainable management of resources. In particular, the subdivision development can be incorporated into the local environment with appropriate mitigation which provides for the future wellbeing of the applicant and community in terms of their social and economic needs. In doing so any adverse effects are less than minor.

We have considered the matters of national importance and do not believe that any of the particular matters are applicable to the subject site. There are no other matters under Part II of the Act that are relevant to the proposal that have not already been addressed in this application. Overall, it is considered that the proposed activity would be consistent with Part II of the Act.

12 CONCLUSION

The proposal for a leasehold subdivision for Area 1 (7.4541 ha) has been assessed as a discretionary activity pursuant to rule 11.2.4(j) of the District Plan and a controlled activity under regulation 9(3) of the NES-SC.

We have assessed the adverse effects of the proposal and included mitigation measures in respect of effects from natural hazards. Therefore, we are of the view that the proposal will have less than minor adverse effects on the environment with the mitigation measures proposed.

Our conclusion is that the proposal is not inconsistent with the objectives and policies of the District Plans. The proposal will be a sustainable use of resources and consistent with section 5 outcomes. There are no matters of national importance relevant to the proposal. The proposal is also not inconsistent with any section 7 matters.

Therefore in our view, consent can be granted to the proposal pursuant to s104B of the Act on a non-notified basis with appropriate conditions as suggested.