

IN THE MATTER OF:

Sections 104, 104B, 106 and 108 of the Resource Management Act 1991

AND

IN THE MATTER OF:

A resource consent application made by Cuttriss Consultants Ltd on behalf of Kent Atkinson or Nominee for subdivision and land use consent to construct 5 three dwelling units at 131 Muritai Road, Eastbourne. The subdivision will be undertaken in stages, the 5 dwelling units will be on one lot within stage 1 (including a balance lot of the land at the rear of the property) and stage 2 will involve subdividing each dwelling onto a fee simple title.

(Legally described as Part Lot 4 DP 1243 held in computer freehold register WN124/55)

Council Reference RM140321

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1. Decision

- 1.1. In accordance with a delegation by Hutt City Council (HCC), pursuant to the provisions of section 34 of the Resource Management Act 1991 (the RMA), as there were not less than three members present, the Hearings Committee had power to act in determination of the following proceedings. The following resolution represents Council's decision on the resource consent application:

*That the Hearings Committee, acting under delegated authority from Council and pursuant to sections 10, 104B, and 108 of the Resource Management Act 1991, **GRANTS CONSENT, subject to conditions**, to the resource consent application made by Cuttriss Consultants Ltd on behalf of Kent Atkinson or Nominee for subdivision and land use consent to construct 5 three level dwelling units at 131 Muritai Road, Eastbourne. The subdivision will be undertaken in stages, the 5 dwelling units will be on one lot within stage 1 (including a balance lot of the land at the rear of the property) and stage 2 will involve subdividing each dwelling onto a fee simple title.*

- 1.2. The reasons for the decision on the application are discussed more fully below.

2. The Site and Locality



Figure 1: Aerial photo showing subject property at 131 Muritai Road and submitter's property to the north at 125 Muritai Road

- 2.1 Legally described as Part Lot 4 DP 1243, the site is located at 131 Muritai Road, Eastbourne. The site has an area of 2421m² and currently contains a single storey dwelling. The long, rectangular site is relatively flat along its frontage and around the part of the site occupied by the existing dwelling adjacent to the northern boundary. The topography rises steeply along its southern boundary with the majority of the site covered in bush.
- 2.2 The certificate of title has no interests registered on it that may affect the proposal.
- 2.3 Full details of the locality can be found in the application and the Council Planner's s42A report.

3. The Application

- 3.1 Full details of the proposal are contained in the application and in the Section 42A Council Planner's Report.
- 3.2 In summary, the applicant seeks resource consent to construct five residential townhouse units contained within two three storeyed buildings, and undertake a two staged seven lot subdivision. Stage one of the subdivision will involve subdividing the existing site into two lots: Lots 6 and 100. Lot 6 will be a rear site, and have a total area of 1522m² (1289m² net site area) and will be vacant at the time of creation. This lot will be accessed via a right-of-way 'A'.
- 3.3 Lot 100 would be the balance lot of stage one, and will have an area of 898m² with access via the right-of-way 'A'. This lot will have direct frontage to Muritai Road. Lot 100 will eventually be subdivided into 5 lots, each with one dwelling upon it.
- 3.4 Land use consent is sought to construct five townhouses on Lot 100. The townhouses will be three storeys in height and accessed via the proposed right-of-way 'A'. The footprint of each townhouse will vary between 43m² and 49m², with a gross floor area of between 135m² and 156m². The applicant proposes to undertake landscaping to denote private outdoor areas, soften the appearance of the hard surfaces and to assist with breaking up the built form of the townhouses.
- 3.5 Stage two of the subdivision proposes subdividing the townhouses into their own fee simple titles. The proposed lot boundaries reflect the car parking and access, building footprint and outdoor living area arrangements for each townhouse. The proposed lot size areas are as follows:
 - Lot 1 – 195m²
 - Lot 2 – 99m²
 - Lot 3 – 120m²
 - Lot 4 – 121m²
 - Lot 5 – 362m²

4. Previous Resource Consents for this Property

- 4.1 A number of previous subdivision consents have been granted for this site, but have not been given effect to; this includes a 4-Lot subdivision and earthworks (RM130102) and a 2-Lot subdivision, dwelling and associated earthworks (RM140094). The dwelling consented under the latter resource consent will potentially be contained within proposed Lot 6 of the current application. This new application does not revisit that approval and the previous consent may still be given effect to: i.e. the consent holder of RM140094 could still construct the dwelling on the new Lot 6. We note that the original 4-lot subdivision could also still be given effect to, if this current application is not proceeded with, which would allow for 4 dwellings on the property.

5. Consents Sought

- 5.1 Under the RMA, subdivision and land use of sites are managed under the City of Lower Hutt District Plan ('the Plan'). The site is within the Medium Density General Residential Activity Area as shown in Appendix 17 to the District Plan. The relevant rules are contained within Chapters 4A (General Residential chapter), 11 (Subdivision chapter) and 14 (General Rules).

Subdivision Consent

- 5.2 The proposed subdivision is a **Discretionary Activity** under Rule 11.2.2(a) of the Plan as it fails to comply with the minimum allotment size (excluding rights-of-way and access legs) of 300m² under the Medium Density General Residential Activity Area, as follows:

- Lot 1 would be 195m², a non-compliance of 105m².
- Lot 2 would be 99m², a non-compliance of 201m².
- Lot 3 would be 120m², a non-compliance of 180m².
- Lot 4 would be 121m², a non-compliance of 179m².
- Lot 5 would be 362m², meeting the minimum requirement.

- 5.3 In addition, there are several other non-compliances for which consent is also required:

- (a) **Width of right-of-way: the required legal width under Rule 11.2.2.1(b)(ii) is 4.0m; while the applicant is proposing a predominantly 4.0m wide right-of-way, a portion will be 3.8m in width.**
- (b) Shape Factor: the required lot shape factor under Rule 11.2.2.1 (a) is to maintain a rectangle of 9m by 14m, clear of the required setbacks; Lots 1-4 will not meet this shape factor.
- (c) Circulation and manoeuvring: Under Rule 14A(ii) 2.1, guided by the provisions of Australian Standard 2890, each site should have sufficient internal roading to allow for all necessary movement within the site without the need to use public roads, and without using the space provided for parking, servicing, loading or storage purposes; Council's consultant traffic engineer advises the proposal will not comply with this requirement, specifically the swept curves.

- (d) Earthworks: Rule 11.2.2.1(e) specifies that the natural ground level may not be altered by more than 1.2m measured vertically, and that a maximum volume of 50m³ (solid measure) of earth may be moved per site; the applicant proposes more than 50m³ of earth to be disturbed with cuts of up to 3.5m being made.

Land Use Consent

5.4 The land use consent is a **Discretionary Activity** as multi-unit development is an identified Discretionary Activity in the Medium Density General Residential Activity Area. In addition, the proposed development does not meet the following requirements:

- (a) Rule 4A 2.1.1(a)(ii) Net site areas - requirement of 300m² net site area: Once subdivision occurs, Dwellings 1-4 would not comply as per paragraph 5.2 above;
- (b) Rule 4A 2.1.1(b) Yards - requirements of 3m front yards and 1m setbacks from all other boundaries: Whilst initially the yard setback requirements would be met, once subdivision is complete, all dwellings will have yard setback infringements, including no side yard setbacks;
- (c) Rule 4A 2.1.1 (c) Recession Plane of 2.5m+ 45°: All dwellings fail the recession plane angle from the northern boundary by up to 1.4m, and dwellings 1 and 2 fail this plane from the front boundary by up to 0.6m. All dwellings will fail the recession plane angle by up to approximately 6.1m from internal boundaries once the subdivision is complete;
- (d) Rule 4A 2.1.1 (d) Maximum Height requirement of 8m: Dwellings 1, 2, 4 and 5 are up to 8.6m in height;
- (e) Rule 4A 2.1.1 (e) Site Coverage requirement of 40%: Total net site coverage is 43%. Once subdivision occurs, Dwelling 2 will cover 80%, Dwelling 3 will cover 64% and Dwelling 4 will cover 64% of their sites respectively. Dwellings 1 and 5 will comply.
- (f) Rule 4A 2.1.1(f) Building Length requirement of maximum 20m, or compliance with building length angle: The building housing dwellings 1-3 has a combined length of over 20m, and it fails the alternative building length angle by approximately 9.0m.
- (g) Rule 4A 2.1.1(g) Permeable Surface requirement of a minimum of 30% of the net site area to be of permeable surface: Whilst initially complying with this requirement, once subdivision is completed, Dwellings 1-4 will have less than 30% of their respective net site area covered with a permeable surface.
- (h) Design Guidelines recommend Outdoor Living Areas of 35m² per dwelling, with a minimum dimension of 3m: All dwellings have between 14m² and 20m² of outdoor living areas in the form of decks.

- (i) Rule 14I Earthworks limits of 1.2m in height/50m³ in volume: It is proposed to cut up to 3.0m to provide for the dwellings and more than 50m³ of earth will be disturbed.

5.5 Accordingly, both the subdivision and land use consent are considered to be **Discretionary Activities** and have been assessed and determined as such.

6. Notification and Submissions

- 6.1 The applicant supplied the written consent of 123 and 127 Muritai Road with their application. Under 95D of the RMA, Council must therefore disregard any actual or potential effects on these properties. We were informed that Council officers, in determining which other properties may be affected in more than a minor way, determined that 137 Muritai Road was not affected because of the topography screening any effects of the proposal. They found that 125 Muritai Road was an affected party and the application was limited notified to this property on the 18 March 2015. At the close of submissions on 17 April 2015, one submission was received from Mrs Pam Cassells in opposition to the proposal indicating a wish to be heard.
- 6.2 A pre-hearing meeting was held on 30 April 2015 attended by the submitter and supporters, a representative of the applicant, and Council officers; we were supplied with the minutes of this pre-hearing meeting.
- 6.3 We record that we read the submission and the above minutes in full, prior to the Hearing and had regard to them all as part of our evaluation of the application.

7. Procedural Matters

- 7.1 For clarification purposes, at the end of the Hearing the Commissioners requested the applicant supply the commissioners with a permitted baseline example of a development which could be developed on the site. Such information was made available to the commissioners on 27 May 2015. This information was also circulated to the submitter.
- 7.2 Further clarification of the correct landscape plan to be assessed was sought from the applicant by way of a Commissioner's Minute issued on 25 May 2015. This information was also supplied and circulated to all parties.

8. The Hearing

- 8.1 The resource consent application was heard by a panel comprising Councillor Lisa Bridson (Chair), Councillor Campbell Barry and Mr Robert Schofield (Planning Consultant).
- 8.2 The Hearing was held in the Wainuiomata Chambers, at the Wainuiomata Library, Queen Street, Wainuiomata, on Thursday 21 May 2015. We closed the Hearing on Thursday 28 May after receipt of the additional information requested.

- 8.3 The following persons presented submissions and evidence to the Hearing:
- For the Applicant: Mr James Beban, Senior Planner, Cuttriss Consultants Ltd
Mr Simon Novak, Architect, Novak+Middleton Architects
- For the Submitter: Ms Karen Peace, Counsel, ARL Lawyers
Mrs Pamela Cassells, Submitter
- For the Council: Mrs Sarah Clarke, Senior Resource Consents Planner
Mr Tim Johnstone, Team Leader Resource Consents
Mr Bill Barclay, Consultant Traffic Engineer
Mr Morten Gjerde, Consultant Urban Designer
- 8.4 The section 42A officer's report was prepared by Mrs Sarah Clarke, who tabled a supplementary report to update her opinion and recommendations. We were assisted in an administrative capacity by Mrs Heather Clegg, Hearings Administrator for HCC.
- 8.5 All of the material presented by the above parties is held on file at HCC. We took our own notes of the oral presentations and the answers to our questions. For the sake of brevity, we have not produced that material verbatim in this decision. We do, however, refer to relevant matters raised in the material in subsequent parts of this decision.
- 8.6 All the Commissioners undertook a site visit before the Hearing, with two visiting on 15 May 2015 and one commissioner visiting on 18 May 2015. We record that we were not accompanied on either site visit by the applicant, submitter or officers.

9. Statutory Requirements for Assessment

Relevant Statutory Provisions

- 9.1 As a discretionary activity, the application must be assessed in accordance with the provisions of sections 104 and 104B of the Resource Management Act 1991 (the Act). The process for considering a discretionary activity is as follows:
- (i) *To identify the relevant section 104 matters;*
 - (ii) *As part of the overall discretion in section 104B, weigh the relevant matters under section 104.*
- 9.2 We consider that the relevant section 104 matters are as follows:
- *Any actual and potential effects on the environment of allowing the activity;*
 - *The relevant provisions of the District Plan, objectives, policies and rules; and*
 - *Part II of the Act.*
- 9.3 In addition, section 108 sets out the requirements for imposing conditions of consent.

9.4 Section 106 of the Act provides for a Territory Authority may refuse to grant subdivision consent if it considers that:

- *The land in respect of which a consent is sought , or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source; or*
- *Any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land or structure by erosion. Falling debris, subsidence, slippage or inundation from any source;*
- *Sufficient provision has not been made for legal and physical access to each lot created by the subdivision.*

9.5 We have undertaken an assessment of the effects of the proposal in section 10 below, focussing on the issues in contention. We then address the consistency of the proposal with the relevant objectives and policies of the District Plan, with our conclusions set out in section 11 of this decision. Finally we turn to the question of whether the proposal is consistent with the purpose and principles of the RMA, contained in Part 2 of the Act; our conclusions are set out in section 13 of this decision.

Permitted Baseline

9.6 **Section 104(2) states:**

"...when forming an opinion for the purpose of subsection 1(a) [in regard to any actual and potential effects on the environment of allowing the activity], a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect."

9.7 The permitted baseline is considered to be highly relevant to this proposal. The permitted baseline identifies what is permitted to occur on a parcel of land without needing consent, so provides a useful tool to quantify the difference in effects between what is proposed and that which is permitted to occur as of right.

9.8 We sought further clarification from the applicant to ascertain a feasible permitted baseline development for the site. Mrs Clarke was in agreement with the applicant's assessment of permitted baseline. We understand a permitted development would be 2 dwellings on the site, complying with the requirements of the Medium Density General Residential Activity Area. These requirements would be:

- Minimum net site area for each dwelling of 300m²;
- Front yard of 3.0m and all other yards of 1.0m;
- Recession Plane of 2.5m + 45°;
- Maximum height of 8m;
- Maximum site coverage of 40%;
- Maximum length of building of 20m;
- Minimum of 30% of net site area to be permeable surface;
- Up to 50m³/1.2m height of earthworks; and
- Two on-site parks per dwelling.

- 9.9 The applicant supplied drawings showing a potential two dwelling development which would meet these requirements.

Written Approvals

- 9.10 Section 104(3) of the Act states that:

A consent authority must not,—

(a) when considering an application, have regard to—

... (ii) any effect on a person who has given written approval to the application:

- 9.11 The owners and occupiers of 123 and 127 Muritai Road provided their written approval for this proposal and as a result the effects on those properties have not been considered in the assessment of this proposal.

Assessment Matters for Discretionary Activities

- 9.12 Under Rule 4A 2.4.1, the District Plan identifies the following assessment matters for discretionary activities:

- (a) The matters contained in Sections 104 and 105, and Part II of the Act shall apply.*
- (b) The degree of compliance or non-compliance with any relevant Permitted Activity Conditions.*
- (c) With respect to residential development of 3 or more dwelling houses consideration shall be given to:*
 - (i) How the proposal addresses the Design Guide for Medium Density Housing (Appendix 19).*
 - (ii) The adverse effects on the amenity values of both adjacent properties and the surrounding residential area, including:*
 - Whether the proposal will cause significant loss of sunlight, daylight or privacy of adjoining residential properties.*
 - Whether the form, scale and character of the proposal is compatible with residential development of the surrounding area.*
 - Whether the proposal maintains or enhances existing streetscape.*
 - (iii) Whether public transport facilities, high quality pedestrian networks and open space and non-residential services such as education facilities, places of assembly, medical and emergency facilities and small retail activities which provide for residents daily needs, are accessible within reasonable walking distances.*
 - (iv) Whether there is a recorded flood risk associated with the site.*
 - (v) The capacity of the City's infrastructure to service additional development on the site.*

- 9.13 In addition, section 11.2.4.1 of the Subdivision Chapter identifies the following assessment matters 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.*

9.14 The above matters have been considered in the following assessment as relevant.

Precedence vs Cumulative Effects and District Plan Integrity

9.15 The submitter, Mrs Cassells expressed concern about the many developments which were being approved without public notification in Eastbourne, and that a precedent had been or was beginning to be established for multi-unit type development to be approved.

9.16 As a discretionary activity, the question of precedent is not strictly applicable, as each application must be judged on its merits within its own context. Making a decision on one proposal does not predetermine the outcome of a future similar proposal. However, the question of cumulative effects is relevant, as is the integrity of the District Plan.

9.17 The definition of “effects” under section 3 of the Act includes *“any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect”*. Thus, the cumulative effects on the environment of granting consent to the application must be considered.

9.18 An application may not be fully consistent with the objectives and policies relevant to it, but provided it is not contrary to those provisions (in the sense of being ‘repugnant’ or ‘antagonistic’), then it should not challenge the integrity of the District Plan.

10. Issues in Contention

10.1 Based on the material provided in the application, the submission, the s42A report and evidence presented to the Hearing, we consider that the principal issues in contention are:

- Effects on Residential Character and Amenity Values (including privacy & landscaping)
- Compliance with Design Guide for Medium Density Housing
- Engineering Effects
- Traffic Effects
- Temporary Construction Effects
- Number of and Degree of Non-Compliances

Effects on Residential Character and Amenity Values

10.2 Residential amenity values and local character can be affected where undersized sites are established, as the resulting density could be out of character with the neighbourhood. The subsequent effects of additional residential activity could have adverse effects on the surrounding amenity values. However, a well-designed development should be able to avoid or minimise such effects.

- 10.3 The local character is predominantly residential. A full description of the surrounding area is contained in paragraphs 7.21 to 7.23 of the reporting officer's s42A report, and within the applicant's Consultant Planner's report. We acknowledge the townhouses will be one of the largest scale developments in the immediate vicinity, but note they are residential in nature which is consistent with the neighbourhood's predominantly residential character. We also considered the proposal against the effects of a permitted baseline development and find the scale and volume of the two to be similar. We also take into context the existence of the hillside, which provides a sense of scale and note that the views of the development will predominantly be with the hillside as a backdrop. Our site visit showed us there were other multi-unit developments in the Eastbourne suburb, and also many two to four storeyed residential dwellings located at the base of hillsides.
- 10.4 We do agree that in the immediate neighbourhood (i.e. next door) there is a predominance of single storeyed, bungalow type dwellings, but on the whole, the area consists of a mix of residential accommodation types and styles. We find that, when judged against the hillside, and the fact that the development cannot be viewed in its totality from any public perspective, the proposed development is in keeping with the residential character of the neighbourhood.
- 10.5 Visually, the bulk of the development will be most discernible from Muritai Road when viewed from the north. The height non-compliance of only 0.6m above the permitted 8m is small in scale and will not be discernible from a complying two dwelling development (the permitted baseline) when viewed from this direction. The bulk of the building when viewed from the south will be partially screened by the hillside on the site.
- 10.6 The recession plane non-compliances occur largely to internal boundaries and those occurring to the external boundaries are small in scale. We find these non-compliances (height and recession planes) will not affect the development's ability to maintain the residential character of the neighbourhood. These non-compliances are further assessed in paragraph 10.39 below.
- 10.7 One aspect of residential amenity is privacy. Mr Gjerde considered the specific privacy guidelines of the design guide are achieved but that there may be a reduction in the privacy of the residents of the neighbouring site to the north. We note the closest neighbour to the north being the owner and occupier of 127 Muritai Road and that they gave their approval thereby the privacy effects on this property must be disregarded.
- 10.8 Mrs Cassells was concerned with the impact the proposed upper (third level) decks of proposed units 4 and 5 would have on her privacy. These upper decks extend from the master bedrooms of both these units. During the course of the Hearing, the applicant proposed a solid 1.2m high balustrade around these decks, and they further offered to construct full height screens on the eastern side of the decks, to prevent deck inhabitants from viewing directly into the neighbouring properties to the north.

- 10.9 We agree with the Council reporting planner, that bedroom spaces are more intermittently used than living areas. People would more typically be sitting on decks from bedroom areas.
- 10.10 When considering a permitted baseline development for the site, we could ascertain no difference between a fully complying 2 dwelling development and the five dwelling proposal, in terms of privacy. Indeed, we believed a fully compliant dwelling could have more extensive decking than that proposed. We find there could be a similar level of a sense of overlooking from a complying development to that proposed. We also find that the proposed balustrade and full height screening to the east of the bedroom decks would further protect the privacy of adjoining properties.
- 10.11 The proposed external boundary fencing, which would be approximately 1.8m in height, consisting of close boarded timber will ensure ground floor sight lines into neighbouring properties are inhibited. In any case, a permitted building could be sited in a similar position, with no ability to impose screening conditions.
- 10.12 Mrs Cassells also raised a passing concern about the potential for a dwelling to be built on Lot 6. As the District Plan provides for a single dwelling on an allotment in this residential activity area as a permitted activity, then, providing such a building complies with the requirements of the District Plan, it is entitled to be built as of right. Therefore, any effects from the legal development of that lot cannot be considered as part of this application.
- 10.13 Another aspect of residential amenity is landscaping. We sought clarification from the applicant by way of a Minute, concerning the proposed landscaping to be implemented. We are satisfied the David Goodyear Plans submitted with the application detail the proposed landscaping, and find the proposed landscaping to be more than sufficient to mitigate the perceived bulk of the buildings, and to add to the amenity of the area. The use of trees as well as smaller plantings will help to give a sense of scale to the development, denote the main entrance routes to the dwellings, and help to soften the appearance of the driveway areas. We note the landscaping appears to have been prepared as an integral component of the development.
- 10.14 We agree with Mrs Cassells that she will be able to see part of the proposed development from her property - primarily the higher levels. The submitted landscape plan shows two large trees to be planted on the common boundary, which we believe will help break up the view of the buildings.
- 10.15 We do not consider that this proposal will detract from the amenity of the wider environment. We are mindful of a permitted baseline development of two large dwellings on the property. We were shown that a fully complying development on this property could be as bulky as that proposed, with Council having no ability to control or condition to mitigate any potential adverse effects. We further note that this site falls within the Medium Density Residential Area, and as such, the District Plan has identified the area to be suitable for more intensive residential development than may have been the situation in the past.

- 10.16 Accordingly we find that there will not be adverse effects on the residential character of the area by permitting this multi-unit residential development. In addition we consider this proposal will not detract from the amenity of the wider area.

Compliance with Design Guide for Medium Density Housing

- 10.17 The application was reviewed by Council's consultant urban design expert Morten Gjerde to assess whether it meets the Design Guide for Medium Density Housing (contained within Appendix 19 in Chapter 4A of the District Plan): his assessment was appended to the s42A report.
- 10.18 Mr Gjerde considered the proposal will largely be consistent with the Integrated Buildings and Spaces, the Vehicles, the Fences and Walls and the Site Facilities aspects of the Design Guide. However, Mr Gjerde did not consider the proposal "fitted in with the neighbourhood" in that the volume of the buildings proposed would be out of context with the immediate surroundings of one to two storey dwellings with gable and hip roof shapes. He believed the contrast in scale was too great, albeit the proposal is very well designed to meet the guidelines and that the residential amenity levels on the site would be maintained.
- 10.19 In this regard, the submitter, Mrs Cassells, agreed with Mr Gjerde. She believed the volume of building to be concentrated onto the site would be a significant contrast to the immediate neighbour, as well as to patterns seen in the wider area.
- 10.20 The applicant's Consultant Planner identified a number of properties along Muritai Road and in the Eastbourne suburb in general, which contain two storey dwellings of various ages and sizes and several multi-unit developments. Whilst acknowledging the proposal will be one of the largest structures in the immediate area, Mr Beban did not consider the townhouses were incompatible with the residential character of the local area given the permitted baseline of the site and the existence of the hillside which assists in containing the appearance of the development by providing a sense of scale and context.
- 10.21 On our site visit, we also drove around the neighbourhood and found there are a number of multi-unit and also multi-level residential developments scattered throughout the entire suburb. We find that the proposal is smaller in volume than many of these existing developments, and with the mitigating factor of the hillside directly behind it, the scale and volume of the proposal is not out of character with the suburb at large. We find it is a common element of Eastbourne to have taller buildings against hillsides and that the proposal represents an anticipated element of Eastbourne residential development. We concur with Mr Beban's view.
- 10.22 We are also of the view that the architect has gone some way to minimise the perceived overall bulk of the buildings, by having a variety of setbacks, the layering of decks and the provision of roof overhangs and pergolas. These design features help to create individual character identity and variation on the site and also reinforce the residential nature of the buildings.

- 10.23 We therefore find that overall, the intention of the Design Guide for Medium Density Housing is met by this proposal.

Engineering Effects

- 10.24 Mr Gjerde raised concerns about the stability of the hillside above and beside the proposal. Mrs Cassells informed the Hearing of a slip that occurred on the subject site (the proposed Lot 6) onto her property, and the subsequent minor rock falls of rubble she has into her rear yard.
- 10.25 The applicant proposes a 3.5m high cut into the hillside which the townhouses themselves will screen. The majority of the hillside will remain unaffected by this development including the part of the hillside which was the subject of the slip described by Mrs Cassells. Vegetation on the hillside will be retained, to maintain the natural features of the site and the environment.
- 10.26 The applicant commissioned a Geotechnical report which was provided with the application and then supplemented with an additional report by another engineering firm following a further information request from Council officers, prior to notification of the application. The reports make various recommendations on the site works and usability of the site. They generally conclude that the site is suitable for development as proposed. The applicant advised (in the initial application, in evidence provided at the Hearing and in verbal assurances) that they will meet the recommendations of the reports to reduce the risk of natural hazards during site works and also for the future owners and occupiers of the townhouses.
- 10.27 The proposal has been assessed by council's subdivision engineer who considers the proposal can be accommodated within the existing capacity of the infrastructure network subject to meeting council requirements.
- 10.28 Whilst acknowledging the submitter's concerns, we have been advised by suitably qualified engineers that the stability of the slope behind the proposed townhouses can be assured, providing appropriate structural engineering works are carried out. We were reliably informed that these works will in fact make the land more stable than the current situation, which is no external support at all for any of the slope. Taking this all into account, we find that the engineering effects will be less than minor providing the applicant meets the recommendations of the geotechnical engineers. We further consider the effects of servicing to be no more than minor, subject to compliance with the servicing related conditions.

Traffic Effects

- 10.29 The District Plan requires one car park per dwelling (resulting in a total of five car parks for this proposal), as this is a development proposing more than three dwellings on the lot. We note that a permitted baseline development would need to provide two on-site carparks for each dwelling, meaning four would need to be provided.

- 10.30 Mrs Cassells explained that there is already heavy on-street parking demand in this neighbourhood, and that the addition of five more dwellings with only one on-site carpark each will exacerbate the situation and place more pressure on the existing roadside parking needs of residents. She further informed the Hearing that the eastern side of Muritai Road in this vicinity has Pohutukawa trees planted on the roadside, further restricting the number of on street parking spaces available.
- 10.31 Council's consultant traffic engineer Bill Barclay assessed the application and provided a report to council on 11 December 2014. In his report he made the following comments:

1. *Access is to be by a right-of-way off Muritai Road. Visibility is good and I have no concerns about safety.*
2. *On entering the property cars will need to turn through 90 degrees to enter the individual garages. Drawing 1340/102 shows swept curves for these manoeuvres; however the curves used are narrower than those in AS/NZS 2890.1-2004 Figure 3B for a B99 vehicle. The matter can be addressed by way of a condition.*
3. *There will also be a turning area at the rear of the site, all movements to or from Muritai Road can be in a forward direction.*
4. *No dwellings will be in place once Stage 1 is complete, and in the absence of any other activity there will be no traffic effects during the interim period.*
5. *As there are three or more dwellings only one car park per dwelling is required. At least one car park will be provided, meeting the requirement.*
6. *I support the proposal, subject to the following condition:*
 - (a) *The layout of all car parks and manoeuvring areas shall comply with the provisions of AS/NZS 2890.1-2004.*

- 10.32 Mr Barclay informed us at the Hearing that, as there were no non-residential activities in this neighbourhood, he saw no problems with on street parking demand as a result of this proposal. We are mindful that on street parking for residents in front of their homes is not guaranteed in the city.

- 10.33 We were informed the proposed right-of-way is predominantly at least 4m in width, reducing to 3.8m wide for a short distance in front of dwellings 4 and 5. We agree with the applicant that a desirable amenity effect of a proposal is to ensure the frontage of a property is not dominated by vehicles. This balancing act of maintaining amenity values with providing adequate manoeuvrability on site has led to the narrowing of the right-of-way. Providing the proposal meets the requirements of AS/NZS 2890.1-2004, onsite traffic will be able to turn on site and exit in a forwards manner, thus maintaining traffic safety. We find the layout and design of the garages ensures that they do not dominate the streetscape of Muritai Road.

- 10.34 With regards to traffic movements on site, Mr Barclay held no concerns, stating he was aware the proposal only provided for a one-way system of traffic on site (the right-of-way being too narrow for two way traffic). He informed the Hearing

that visibility is good on site, there is room for vehicles to reverse out of (or into) their garages and that there are clear sight lines onto Muritai Road, such that reversing onto the road (which has a 50km speed limit) should that prove necessary, would not incur a safety issue. He further advised that if problems do occur with traffic safety or on street parking, there are complaint channels available at the Council.

- 10.35 Taking into account the assessment of council's consultant traffic engineer and the concerns of the submitter, we consider the proposal will provide appropriate parking and access arrangements to maintain the safe and efficient operation of the roading network and that any adverse traffic effects will be no more than minor. We agree with Mr Barclay's suggestions as to conditions to be imposed.

Temporary Construction Effects

- 10.36 The applicant has proposed to develop a construction management plan prior to the commencement of site works. This will detail how traffic, dust, noise and vibration effects associated with construction activities will be managed. The plan will also identify the hours of operation of the construction activity. In addition, the applicant advised that they will undertake specific measures to ensure stability of the hillside during construction. We note the effects generated by construction of the townhouses are reasonably comparable to the construction effects of two large permitted dwellings on this site. We find the construction effects will be less than minor.

Number of and Degree of Non-Compliances

- 10.37 Mrs Cassells expressed her concern that because there are many non-compliances posed by this application and that when added together, the departure of the proposal from the requirements of the District Plan is significant. We have assessed all the non-compliances and the degree of each non-compliance.
- 10.38 When assessed overall in stage two of the subdivision, lots 1 to 4 will be less than the 300m² requirement and will not meet the shape factor for the medium density general residential area. As part of this proposal, the applicant has provided the design of the units that will be constructed on the new lots. These show that the allotments are suitable in their size and shape to accommodate a good standard of residential development. We find that the allotment design and layout effects will be less than minor.
- 10.39 The actual degrees of non-compliance with the recession planes on the external boundaries are small in scale and would not adversely affect the adjoining properties (one of which is Muritai Road). The development will be set into a hillside which provides scale and context. The architect has deliberately sited the proposed buildings as far as possible to the south of the site, so as to minimise any potential effects on the northern neighbouring properties. Having a single plane roof also helps in mitigating the extra height.

- 10.40 The building containing dwellings 1-3 is over 20m in length due to the decks. It also fails the alternative length angle control, from the southern boundary, which is the hillside. It meets this angle from the northern boundary shared with 125 Muritai Road. The building has a number of setbacks and deck areas and the elevations show a variety of building materials. We find that these measures work together to satisfactorily alleviate any perceived bulk of the building.
- 10.41 The proposal does not comply with the Council's permeable surface requirements for each net site area. In order to mitigate against any potential stormwater issues, the applicant offered to install stormwater retention tanks designed to slow the stormwater runoff from the site into the Council stormwater main. We find that with the installation of stormwater retention tanks, any potential extra stormwater runoff effects generated by the proposal will be mitigated.
- 10.42 While there are a number of bulk and location non-compliances that will occur as a result of the new boundaries for the residential lots, these are internal to the development and are not considered to generate wider effects. We are cognisant of the fact that the overall bulk of the proposal is very similar to a permitted baseline development
- 10.43 The amount of outdoor living area provided for each dwelling is less than the minimum requirements recommended in the Design Guide. The decks directly accessible from the living areas of each dwelling are still of sufficient size and shape to accommodate a barbeque and associated furniture and are north or west facing. Mr Gjerde raised no concerns over the reduction in outdoor living areas provided for each dwelling.
- 10.44 We find that the cumulative effect of all breaches is not significant. Many of the breaches are internal to the site and arise as a result of the position of the proposed internal lot boundaries. We find that any effects arising from these non-compliances are internal to the site and as such, any wider environmental effects will be less than minor.

Summary of Findings - Effects

- 10.45 Overall, we find that the adverse effects of the proposal will be minor or less than minor. We consider the applicant has gone some way to adequately mitigate the amenity effects of the proposed development through the layout and design of the dwellings and associated outdoor areas, accessway and parking. We also find that all other effects can be mitigated by way of imposing appropriate conditions.
- 10.46 We find that the cumulative effects of granting consent to be less than minor, as there is a distinct mix of dwelling types throughout Eastbourne, including multi-level and multi-unit developments, and given that the medium density residential zoning of the area also anticipated this form of development.
- 10.46 We have also considered the positive effects of the proposal, which we consider to be the provision of additional dwellings in Eastbourne located close to main transport links and a suburban centre.

11. Assessment against the Relevant Plan Provisions

11.1 We now turn to assessing the proposal against the relevant objectives and policies of the District Plan. The key objectives and policies are those for the General Residential Activity Area, as well as those relating to subdivision and the general rules relating to minimum net site area, building bulk, engineering matters and transport.

Residential Objectives and Policies

11.2 *Objective 4A 1.1.1 - Residential Character and Amenity Values*
To maintain and enhance the amenity values and residential character of the General Residential Activity Area of the City.

Policies

- (a) *That opportunity be provided for a diversity of residential activities.*
- (c) *To ensure residential amenity values are retained, protected and enhanced through the establishment of a net site area per dwelling house.*
- (d) *That adverse effects arising from noise, dust, glare, light spill and odour be managed.*
- (e) *That vegetation and trees which add to the particular amenity values of the area be retained where practicable.*
- (f) *That the clearance of vegetation be managed to avoid, remedy or mitigate any adverse effects on the intrinsic values of ecosystems.*

11.3 We find that this proposal is offering another style of residential accommodation, and one that is anticipated by the Design Guide. The proposal is largely consistent with the Design Guide. Despite the net site area not being met, we consider each allotment is of sufficient size to accommodate the proposed dwelling and provide a suitable living environment for their inhabitants. Conditions of consent can be imposed to cover any potential construction effects, and the District Plan has controls in place for other potential affects listed in (d) above. A comprehensive and detailed landscape plan shows as much as possible of the existing vegetation on the hillsides will be retained, whilst the proposed planting has been designed to help alleviate any perceived bulk of the buildings. We note the overall bulk and form of the proposal is consistent with what could be established on the site as a permitted activity. We therefore find that the proposal is consistent with this Objective and associated Policies.

11.4 *Objective 4A 1.1.2 - Medium Density Residential Development*
To ensure opportunity is made for medium density residential development around some commercial centres, along major transport routes, and where amenity values will not be affected adversely and where there is appropriate servicing of development.

Policies

- (a) *That opportunity for higher dwelling densities be made along major transport routes, around some commercial centres, in the residential area between Jackson Street and The Esplanade, Petone, where existing dwelling densities are higher, and where amenity values will not be affected adversely and where there is appropriate servicing of development.*
- (b) *To avoid, remedy or mitigate the adverse effects of higher dwelling densities on the surrounding area, caused by height of buildings, intensity, scale and location.*

- (c) *That medium density development be encouraged where it is in general accordance with the direction provided by the Design Guide for Medium Density Housing (Appendix 19) and maintains and enhances on site amenities and consistency with the surrounding residential character and minimises impact on the natural environment.*

11.5 This proposal is located within the specified Medium Density Residential Area of Eastbourne. Due to its siting at the base of a hillside, the adverse effects of scale and height have been largely avoided. The proposal is generally in accordance with the directions of the Design Guide, maintaining the residential amenity values with minimal impact on the natural environment. The footprint and bulk of the proposal are similar to that which could be established on the site as a permitted activity. We therefore find that the proposal is consistent with this Objective and associated Policies.

11.6 *Objective 4A 1.2.1 – Building Height, Scale, Intensity and Location*

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

Policies

- (a) *To establish a minimum net site area and maximum site coverage requirement to ensure medium density development is achieved.*
- (b) *To establish a minimum net site area and maximum site coverage to ensure opportunity is provided for higher density residential development where appropriate, without affecting adversely the amenity values.*
- (c) *To ensure all new development is of a height and scale, which is compatible with surrounding residential development.*
- (d) *To ensure a progressive reduction in height of buildings the closer they are located to a site boundary, to maintain adequate daylight and sunlight to adjoining properties.*
- (e) *To manage the siting of all buildings so as to minimise detracting from the character and visual attractiveness of the surrounding residential activity area.*
- (f) *To manage the siting of all buildings so as to minimise detracting from the amenities of adjoining properties.*
- (g) *To establish a minimum permeable surface area to assist with the sustainable management of stormwater.*
- (h) *That where practicable, the siting of accessory buildings be managed to maintain safety and visibility during manoeuvres.*

11.7 The proposed dwelling units include various non-compliances with the permitted activity conditions. On assessing the effects of these non-compliances in section 10 above, we concluded that the effects will be minor overall and therefore they will not be to a degree where the residential character will be adversely impacted upon. The proposal achieves the outcomes in general, sought by the Design Guide. On this basis we consider the proposal is consistent with the above Objective and Policies.

Subdivision Objectives and Policies

- 11.8 *Objective 11.1.1 - Allotment Standards*
To ensure that land which is subdivided can be used for the proposed use or development.
Policy
 (a) *To ensure that allotments have minimum design standards such as minimum size, shape and frontage, which are suitable for the proposed use or development.*
- 11.9 Once final subdivision is complete, proposed Lots 1-4 will not comply with the net site area or shape factor requirements of the District Plan. The boundaries of these proposed lots reflect the layout of the proposed dwellings. We have found these dwellings to be generally consistent with the outcomes sought by the Design Guide for multi-unit developments. We therefore find that the proposed lots are of a suitable size and shape to accommodate their proposed use for residential activities and on this basis we consider the proposal is consistent with the above Objective and Policy.
- 11.10 *Objective 11.1.2 - Engineering Standards*
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.
Policy
 (a) *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.*
- 11.11 The applicant informed the Hearing all dwellings will be serviced in terms of sewer, water, stormwater, power and telecommunications. We have conditioned accordingly, and have further imposed a specific stormwater condition.
- 11.12 The proposed right-of-way does not comply with the minimum access width requirements of the District Plan. However, we find that the extent of non-compliance is short and that provided vehicles can enter and exit the site in a forwards manner, traffic safety will be assured. We therefore find that the proposal is consistent with this Objective and Policy.
- Transport Objective and Policy**
- 11.13 *Objective 14A(iii) 1.2.1 – On-Site Parking and Provision for All Activities*
To provide adequate on site car parking in a safe and visually attractive manner, to maintain the safety and efficiency of the roading system, and the amenity values of the areas.
Policy
 (a) *That adequate on-site parking space is provided for each type of activity in a safe and visually attractive manner.*

- 11.14 The District Plan requirement is one park per dwelling. This proposal complies. We find that the vehicle manoeuvring areas have been incorporated into the landscaping design of the site thereby helping to reduce any effect of dominance of vehicles that may exist in a five dwelling development. All parking and manoeuvring areas are sealed in an attractive manner, resulting in a visually attractive development. Therefore, we find the proposal meets the above Objective and Policy.

Other Matters

- 11.15 *Objective 14I 1.1 - Natural Character*
To ensure that earthworks are designed to maintain the natural features that contribute to the City's landscape.

Policies

- (a) *To ensure that earthworks are designed to be sympathetic to the natural topography.*
- (b) *To protect significant escarpments, steep hillside areas, and the coastal area by ensuring that earthworks are designed to retain the existing topography, protect natural features, and prevent erosion and slips.*
- 11.16 We were informed by the applicant and graphically shown in the plans, that the proposed earthworks on site will predominantly be screened by the buildings themselves, as well as by retaining walls and effective landscaping. The geotechnical reports commissioned specifically for this site identified that the site is suitable for this proposed residential development, providing certain controls and measures are in place. We have taken the advice of these engineers and have conditioned accordingly to ensure the stability of the site. We note that the earthworks involved will provide more slope stability than currently exists and consider that any potential natural hazard effects to be less than minor. We therefore find that the proposal is consistent with this Objective and associated Policies.
- 11.17 *Objective - 14I 1.2 Amenity, Cultural and Historical Values*
To ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site.
- Policies
- (a) *To protect the visual amenity values of land which provides a visual backdrop to the City.*
- (b) *That rehabilitation measures be undertaken to mitigate adverse effects of earthworks upon the visual amenity values.*
- 11.18 As most earthworks will be predominantly hidden from view by the proposed buildings, and will occur on the lower slopes of the hill escarpment, they will not be visually prominent when viewed from the local areas. The submitted landscape plan clearly shows proposed plantings designed to enhance the amenity values of the site. We were informed the application site is not situated in a Significant Natural Resource as identified in the District Plan, and contains no ecologically significant stands of vegetation. The site is also not located in an identified Significant Cultural or Archaeological Resource as identified in the District Plan. We therefore find the proposal is consistent with this Objective and associated Policies.

Section 106 of the Act

- 11.19 When assessing this section of the Act, we were informed by the applicant the site is not within the 1:100 year flood extent as depicted on the maps prepared by the Greater Wellington Regional Council. It is also not identified in the District Plan as being within an identified hazard area.
- 11.20 We received detailed reports from geotechnical engineers outlining the site is suitable for the proposed development. These reports make several recommendations to ensure the on-going stability of the site and we have conditioned accordingly.
- 11.21 We have found that legal and physical access can be provide to the proposed lots via the proposed right-of-way.
- 11.22 We therefore find that none of the matters under s106 of the Act should lead to a refusal of subdivision consent.

Other Plans

- 11.23 We find there are no other plans relevant to this application, including relevant national environmental standards; other regulations; national policy statements; New Zealand Coastal Policy Statement 2010; regional policy statement/proposed regional policy statement; or plan/proposed plan.

Non-Statutory Plans

- 11.24 The applicant's Consultant Planner drew our attention to the 2013 Hutt City Council Urban Growth Strategy that encourages 6000 houses to be constructed over the next 20 years, with a significant number constructed through more intense residential development. We find the proposal is in line with this growth strategy, being located in an identified medium density residential development area.

12. Part 2 of the Act

- 12.1 When considering an application for a resource consent and any submissions received, our assessment is subject to Part 2 of the Act, which includes:
- a) The purpose of the Act (section 5);
 - b) Matters of national importance that the consent authority must recognise and provide for when determining a resource consent (section 6);
 - c) Other matters the consent authority must have particular regard to (section 7); an
 - d) The principles of the Treaty of Waitangi that must be taken into account (section 8).
- 12.2 The purpose of the Act as set out in section 5 is to promote "the sustainable management of natural and physical resources while managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while... avoiding, remedying, or mitigating any adverse effects of activities on the environment."

- 12.3 Section 6 of the RMA sets out the matters of national importance. The scale and location of the proposal is such that there are no matters of national importance.
- 12.4 Section 7 of the Act lists a number of other matters that Council shall have particular regard to when considering the application, with the following matters considered applicable:
- (b) *The efficient use and development of natural and physical resources*
 - (c) *The maintenance and enhancement of amenity values ...*
 - (f) *Maintenance and enhancement of the quality of the environment*
- 12.5 We find the proposal is consistent with s7(b) as it makes better use of an existing developed site, which is an efficient use and development of existing resources and infrastructure.
- 12.6 We also find that the proposal is consistent with sections 7(c) and (f) as the subdivision and development would maintain the amenity values of the surrounding area and the quality of the local environment.
- 12.7 In relation to section 8 of the Act, the site is not identified in the District Plan as containing any wāhi tapu or sites of significance to Māori.
- 12.8 In overall terms, we find the subdivision and development to be consistent with the purpose of promoting the sustainable management of the City's natural and physical resources in accordance with section 5. It involves creating multiple medium density dwelling units within an established urban area zoned for such an activity. The units will be compact in form, well designed and on balance will meet the aims of the design guide for medium density housing providing for the development potential of the site to be achieved.

13. Conclusion and Decision

- 13.1 That the Hearings Committee, acting under delegated authority from Council and pursuant to sections 10, 104B, 106 and 108 of the Resource Management Act 1991, **GRANTS CONSENT subject to conditions** to the discretionary activity resource consent application made by Cuttriss Consultants Ltd on behalf of Kent Atkinson or Nominee for subdivision and land use consent to construct 5 three level dwelling units at 131 Muritai Road, Eastbourne. The subdivision will be undertaken in stages, the 5 dwelling units will be on one lot within stage 1 (including a balance of the land at the rear of the property) and stage 2 will involve subdividing each dwelling onto a fee simple title.
- 13.2 This decision is made for the reasons discussed above and, in summary, because:
- (a) The activity that is granted is unlikely to have any significant adverse effects on the environment provided the conditions imposed are fully implemented;

- (b) Subject to the imposition of appropriate conditions, the activity is consistent with the provisions of the operative City of Lower Hutt District Plan; and
- (c) The activity is consistent with the purpose and principles of the Resource Management Act 1991.

Mrs Lisa Bridson (Chair)

Dated this 19th day of June 2015

APPENDIX I - CONDITIONS OF CONSENT

Land use (conditions apply to both stages of associated subdivision);

1. That the proposal is carried out substantially in accordance with the information and approved plans (ref: Drawing number 28499SCH Sheets 1-8 prepared by Cuttriss Consultants Ltd dated November/December 2014; and Project No.1340 Drawing 101-103, 106-107, 109-110, 112-116, 120-121 dated 28.11.14, Project No. 1340 Drawing 104-105 (Rev D), 108 (Rev D), 111 (Rev D), 117-119 dated 29.04.2015 prepared by Novak+Middleton; and Project No.2591 Drawing 01-03 prepared by David Goodyear dated 24/11/14 & 1/12/14 submitted with the application and held on file at the council.)
2. That the consent holder keeps a copy of this decision on site when work starts and makes it available on request to council staff.
3. That the consent holder advises the council (enforcement@huttcity.govt.nz or (04) 560 1044) at least two working days before any work starts on site; and that the consent holder also supplies the name, phone number and address of the main contractor and, if applicable, the same details for the earthworks company.

Important note: When giving notice of a start date, a compliance officer will suggest an on-site meeting to run through a checklist of things to make sure the project runs as smoothly as possible. This service is included in the resource consent application fee. Using it could avoid difficulties later on.

4. That the consent holder submits a Construction Management Plan to the Team Leader Resource Consents for approval prior to commencing any site works. This Construction Management Plan shall demonstrate how any effects arising from traffic, dust, noise and vibration associated with the construction activities will be managed/mitigated. The construction management plan shall also identify a liaison person available to take feedback/complaints to/from the public as well as the process for informing neighbouring properties of upcoming construction

works. All construction works (and associated activities) shall be undertaken in accordance with the approved Construction Management Plan.

5. The consent holder shall ensure that the balustrade height for the decks on the upper level for each unit will be a minimum of 1.2m and shall not be made of transparent materials.
6. That the consent holder implements the approved landscaping plan:
 - (a) Prior to the occupation of the proposed townhouses the consent holder shall complete the hard landscaping as detailed on the David Goodyear Landscaping Plan dated 24/11/14 and 1/12/14, Drawing number 01-03, Project number 2591.
 - (b) The consent holder shall implement the soft landscaping (vegetation) detailed on the David Goodyear Landscaping Plans dated 24/11/14 and 1/12/14, Drawing number 01-03, Project number 2591, in the next available planting season following completion of construction of each respective townhouse, but must be completed within six months of the completion of each townhouse.

Important Note: *When implemented, the soft landscaping shall include substitute species for Cordyline 'Red Star' and Hebe 'Red hedge' as these species are not appropriate for the local environment.*

7. As soon as seasonally practicable, the consent holder shall plant native vegetation in any areas that are exposed by the earthworks that will not otherwise be covered by either the proposed townhouses, retaining walls, or hard and soft landscaping. If it is impractical to plant native vegetation in these areas, then the consent holder shall either grass or hydro-seed the exposed surfaces. These works shall be completed to the satisfaction of the Team Leader Resource Consents. The consent holder shall replace/repeat any planting or seeding that fails to become fully established within 12 months of the completion of the earthworks.
8. That the consent holder replaces any dead or dying plants for a period of four years from the date of planting.
9. That the consent holder shall ensure that the layout of all car parks and manoeuvring areas shall comply with the provision of AS/NZS 2890.1-2004.
10. That the consent holder undertakes all earthworks (including for trenching purposes) in such a way that no sediment leaves the site or enters streams or the stormwater system; and that the consent holder installs and maintains sediment control measures in compliance with Greater Wellington regional council's erosion and sediment control guidelines (issued in April 2003).
11. That the consent holder re-grasses, hydro-seeds, plants or metals as necessary all areas exposed by earthworks, trenching or construction work as soon as possible

after excavation or, at the latest, within a month of completing earthworks to the satisfaction of the council subdivision engineer; and that the consent holder repeats any seeding or planting that fails to become fully established within 12 months of the completion of earthworks.

12. That the consent holder ensures all earthworks are carried out in a way that prevents dust blowing beyond site boundaries. Control measures may include use of a water cart, limiting the vehicle speed to 10 kilometres an hour, applying water to exposed or excessively dry surfaces, or applying a coating of geotextile, grass, mulch or the like.
13. That the consent holder ensures vehicles and machinery leaving the site do not drop dirt or other material on roads or otherwise damage road surfaces; and that if such spills or damage happen, the consent holder cleans or repairs roads to their original condition, being careful not to discharge the material into any stream, stormwater system or open drainage channel in the process. (The term "road" includes footpaths, vehicle crossings and berms.)
14. That the consent holder ensures all development and construction work complies with the provisions of NZS 6803:1999 Acoustics - Construction noise; and that notwithstanding this standard, machinery operating hours, including machinery start-up times, are limited to between 7am and 6pm Monday to Saturday, with no work on Sundays or public holidays.
15. That the consent holder takes into account the Abuild Consulting Engineers Limited report titled "Geotechnical Assessment, Proposed 4-Lot Subdivision, 131 Muritai Road, Eastbourne, Lower Hutt", dated June 2013 and Coffey Geotechnics dated 13 February 2015 and follows any recommendations it contains in regard to earthworks and including temporary cut support, cut batters, retaining walls, foundation design, cut-off drains, debris fences, etc.
16. That the consent holder raises the floor level of dwelling unit 1 by 0.2m to ensure that this floor level is above that at the crown of the road and the design shall be amended to ensure that the recession plane non-compliance is consistent with that shown on the plans.

Subdivision

The following conditions will apply to stage 1 (Lots 6 and 100);

17. That the proposal is carried out substantially in accordance with the information and approved plans (ref: Drawing number 28499SCH Sheets 1-8 prepared by Cuttriss Consultants Ltd dated November/December 2014; and Project No.1340 Drawing 101-103, 106-107, 109-110, 112-116, 120-121 dated 28.11.14, Project No. 1340 Drawing 104-105 (Rev D), 108 (Rev D), 111 (Rev D), 117-119 dated 29.04.2015 prepared by Novak+Middleton; and Project No.2591 Drawing 01-03 prepared by David Goodyear dated 24/11/14 & 1/12/14 submitted with the application and held on file at the council.)

18. The consent holder shall pay a contribution to Council's Reserves Purchases and Development Account at Council's standard rate of 6.5% of the value of the additional residential allotments or capped at \$10,000 per allotment whichever is the lesser. The amounts required will be determined on the basis of a market value assessment from a registered valuer. It is the consent holder's responsibility to instruct the valuer and supply Council with this assessment. The amount to be paid will be determined when the consent holder submits the qualified valuer's assessment.
19. That the consent holder pays the council an engineering fee to meet the cost of work carried out by the council subdivision engineer in assessing, inspecting, testing and approving water, sewer and stormwater services, access or any other aspect of the proposal so assessed by the engineer or any representatives of the engineer (as distinct from work which must be monitored as a result of any building consent). That fee is **3.43** per cent of the consent holder's construction costs (including GST) and is calculated using a scale of engineering fees based on the number of new lots created. The minimum fee is **\$150.00**, irrespective of whether any construction work is necessary. Payment is necessary before or at the time of applying for a section 224(c) certificate.
20. That the consent holder compacts all earthwork fill areas in accordance with the Code of Practice for Earth Fill for Residential Development (NZS4431:1989) and meets the code's obligations on final documentation and certification, which state the suitability of earthworks for residential development.
21. That the consent holder takes into account the Abuild Consulting Engineers Limited report titled "Geotechnical Assessment, Proposed 4-Lot Subdivision, 131 Muritai Road, Eastbourne, Lower Hutt", dated June 2013 and Coffey Geotechnics dated 13 February 2015 and follows any recommendations it contains in regard to earthworks and including temporary cut support, cut batters, retaining walls, foundation design, cut-off drains, debris fences, etc. If appropriate, the council will register a consent notice on certificates of title, as allowed for under section 221 of the Resource Management Act 1991, to ensure any future earthworks satisfy this condition.
22. That the consent holder constructs the private way, including a heavy-duty vehicle crossing and necessary stormwater control in accordance with the council's codes and standards. Before building any retaining walls subject to traffic loading (or other surcharge) or are more than 1.5 metres high, the consent holder must obtain a building consent. The consent holder must submit a design prepared by a chartered professional engineer with the building consent application, followed by a producer statement on completion of the walls.
23. That the consent holder removes the existing concrete vehicle crossing, reinstates the kerb and footpath and constructs a concrete vehicle crossing to each lot in the position indicated on the submitted scheme plan and in accordance with the council's codes and standards.

24. That the consent holder installs the necessary reticulation and connects separate sewer and stormwater service leads to the public mains for each lot or separate residence in the case of lot 100 (and adjusts or seals off existing services where necessary) in accordance with the council's codes and standards.
25. That the consent holder installs the necessary reticulation and supplies separate water connections for each lot, **or separate residence in the case of lot 100**, that meets the council's code for domestic supply and the firefighting capability required under the New Zealand Fire Service code of practice (SNZ PAS 4509:2008). Please note that it is now council policy that only existing laterals of polyethylene material can be re-used for a new lot or dwelling. All existing non-polyethylene laterals, including the tobies, are to be renewed or sealed off at the main.

Please also note: The consent holder must apply for new water connections at the customer services counter of the Council Building, 30 Laings Road, Lower Hutt. GHD Ltd processes applications on behalf of Wellington Water, which is a council-controlled company in charge of council water and drainage assets. The GHD Ltd contact person is Hayden Pipe (570 0416). GHD Ltd may impose special requirements or conditions for new connections depending on, among other things, the existing reticulation system's condition and layout, flow rates, pressure zones and proposed future work. It is important the consent holder makes an application early in the design or construction phase. The council recommends that the consent holder makes this application before submitting engineering plans to the council subdivision engineer.

26. That the consent holder submits a copy of the approved water connection application form (signed by GHD Ltd) when applying for the section 224(c) certificate.
27. That the consent holder submits two copies of engineering plans for the above construction work to the council subdivision engineer for approval; that the plans provide information on the materials to be used, including the size, type and class of pipes, as well as indicate pipe gradients; and that all this work is carried out in accordance with the approved plan.
28. That the consent holder appoints a representative to carry out the design and supervision of construction work, as well as certification upon completion, as provided for by clause 1.4.1 of NZS 4404:2004; and that the consent holder submits the name, contact details and experience of the representative to the council subdivision engineer for approval before submitting engineering plans. The consent holder must document the representative's experience in a resume and show the relevance of that experience to the works and services required under this consent. The certification must include confirmation that the materials, installation and testing meet the council's codes and standards.
29. That the consent holder appoints an approved contractor or contractors to complete the works to the approved design; and that the consent holder submits

to the council subdivision engineer for approval the name, contact details and experience of the contractor(s) at the time of submitting engineering plans for approval. The approved contractor(s) must give a minimum of 24 hours' notice to the council subdivision engineer before starting work.

30. That the consent holder provides underground electrical and telephone services to each lot or separate residence in the case of lot 100.
31. That the consent holder provides the council with written confirmation from Telecom (or the equivalent network supplier) and Wellington Electricity Lines Ltd that they are satisfied with the supply of their utilities to each lot or separate residence.
32. That the consent holder provides the council with written confirmation from a surveyor that all existing services have been adjusted so they are contained within the lot (or are protected by an appropriate easement) and that the ends of all abandoned lines have been sealed in accordance with council requirements, or alternatively that the consent holder provides the council with written confirmation from a surveyor that no such adjustments and sealing are necessary.
33. That the consent holder provides appropriate easements for public and private services where necessary, with the easements shown as a memorandum of easement on the land transfer title plan. The consent holder must show easements for public services on a plan with a minimum three-metre width centred over the service, or twice the depth of the trench, whichever is greater; show the council as the grantee in gross; and engage a lawyer at the consent holder's expense to prepare easement documents.
34. That the consent holder provides appropriate easements of rights of way, shown as a memorandum of easements on the land transfer title plan; and that the consent holder engages a lawyer at the consent holder's expense to prepare easement documents.
35. That the consent holder moves all buildings clear of the new boundaries before applying for a section 224(c) certificate.
36. That, at the time of requesting a section 224(c) certificate, the consent holder provides a schedule of assets detailing each item to be transferred to council ownership as part of the subdivision process; and that the consent holder supplies a full description of the item, material type, size, length, area, volume, et cetera, following the format set out in council form RAS-FORM-014.
37. That the consent holder sets out the value of services to be taken over by the council to enable the creation of a buyer-created tax invoice, with the details provided to be in accordance with council buyer-created tax invoice form RAS-FORM-015.

38. That, in accordance with section 221 of the Resource Management Act 1991, the council registers a consent notice on the certificate of title of lots 6 and 100 to ensure any dwellings built on these lots have the foundations, and any batter slopes, temporary or permanent support of excavations and any necessary cut-off drains or debris-fence designed by a chartered professional structural or geotechnical engineer; and that the design and details of these are submitted as part of any building consent applied for on these lots.
39. That, in accordance with section 221 of the Resource Management Act 1991, the council registers a consent notice on the certificate of title of lots 6 and 100, which share a boundary with council reserve land, in order to exclude the council from the cost of shared fencing under the Fencing Act 1978 or equivalent legislation.
40. That the consent holder meets the cost of registering consent notices.
41. That the consent holder provides the council with three copies of the as-built plan, certified by a surveyor or engineer, showing, where applicable, the levels and alignment of all the mains and the location of all service connections (and, if applicable, new work within private property) relative to the lot boundaries.
42. Prior to the completion of the dwellings the consent holder shall install stormwater detention tanks for each dwelling unit with a capacity of 500 litres or sufficient to accommodate additional flows as determined by calculations to be presented the Team Leader Resource Consents for consideration and approval. These tanks shall be permanently retained and maintained to the satisfaction of the Team Leader Resource Consents.
43. The owners of Lots 1 to 5 inclusive are to note that they are responsible for the installation, maintenance and correct operation of a suitable stormwater retention tanks. This requirement is to ensure that as far as possible, post-development stormwater flows are no more than pre-development flows. This shall be the subject of a consent notice pursuant to section 221 of the resource management act 1991, the consent holder shall meet the costs of registering this consent notice.
44. That the consent holder raises the floor level of dwelling unit 1 by 0.2m to ensure that this floor level is above that at the crown of the road and the design shall be amended to ensure that the recession plane non-compliance is consistent with that shown on the plans.

In addition to the subdivision conditions for Stage 1, the following conditions will also apply to Stage 2 of the subdivision (Lots 1 - 5);

45. That the consent holder provides the council with written confirmation from a surveyor that all services have been installed or adjusted so they are contained within the lot (or are protected by an appropriate easement) and that the ends of all abandoned lines have been sealed in accordance with council requirements,

or alternatively that the consent holder provides the council with written confirmation from a surveyor that no such adjustments and sealing are necessary.

46. That the consent holder provides appropriate easements for private services where necessary, with the easements shown as a memorandum of easement on the land transfer title plan; and engage a lawyer at the consent holder's expense to prepare easement documents.
47. That the consent holder provides appropriate easements of rights-of-way, shown as a memorandum of easements on the land transfer title plan; and that the consent holder engages a lawyer at the consent holder's expense to prepare easement documents.
48. That, in accordance with section 221 of the Resource Management Act 1991, the council registers a consent notice on the certificate of title of lots 1-5 to ensure any dwellings built on these lots have the foundations, and any batter slopes, temporary or permanent support of excavations and any necessary cut-off drains or debris-fence designed by a chartered professional structural or geotechnical engineer; and that the design and details of these are submitted as part of any building consent applied for on these lots.
49. That, in accordance with section 221 of the Resource Management Act 1991, the council registers a consent notice on the certificate of title of lot 5, which shares a boundary with council reserve land, in order to exclude the council from the cost of shared fencing under the Fencing Act 1978 or equivalent legislation.
50. That the consent holder meets the cost of registering consent notices.
51. That the consent holder provides the council with three copies of the as-built plan, certified by a surveyor or engineer, showing the location of **all previously laid service connections under stage 1** (and, if applicable, new work within private property) relative to the **new** lot boundaries.

Notes

- The applicant for resource consent, consent holder or any person who made a submission on the application may also appeal this decision to the Environment Court within 15 working days of notice of the decision being received.
- This resource consent is subject to payment of a Development Contribution Fee under the Council's Development and Financial Contributions Policy.
- In accordance with section 125 of the Resource Management Act 1991, the consent lapses if not given effect to within five years from the date of the application being granted.
- This resource consent is specific to the application received by Council. Any changes to the proposal may require a new resource consent and additional application fee.

- Plans submitted with the application have only been checked for compliance with the City of Lower Hutt District Plan.
- Any building work associated with the proposed activity should not commence until a building consent has been obtained under the Building Act 2004.
- The consent holder is reminded that this resource consent is not a licence to create adverse effects. You still have a duty under the Act to avoid, remedy or mitigate adverse effects. Notwithstanding any resource consents held, section 17 of the Act continues to apply and will take enforcement action where necessary.
- Council may issue an abatement notice if the conditions of this resource consent are not complied with. Contravention of an abatement notice may incur a fine up to \$300,000 or two years imprisonment for a natural person and a fine of up to \$600,000 to a person other than a natural person.