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Hearing Report on Proposed District Plan Change 68

Homebush Road, Khandallah

27 May 2009

REPORT OF THE HEARING COMMITTEE

WELLINGTON CITY COUNCIL REPORT OF THE HEARING COMMITTEE

SUBJECT:

PROPOSED DISTRICT PLAN CHANGE 68: HOMEBUSH ROAD,
KHANDALLAH

COMMITTEE MEMBERS:

CRS GILL (Chair)
McKINNON
WAIN

1. RECOMMENDATIONS

- 1. Approve private District Plan Change Request (DPC 68) from Primeproperty Developments Ltd to change the zoning of the land off Homebush Road, Khandallah, from Open Space B to Outer Residential, subject to the additional requirements as identified in appendix 1 to this report.*
- 2. That the submissions be accepted and/or rejected in whole or in part to an extent consistent with Recommendation 1.*

2. INTRODUCTION

DPC 68 is a private Plan Change lodged by the Requester, Primeproperty Developments Ltd. The Request seeks to rezone a 1.2ha area of land (the site) from Open Space B (Natural Environment) to Residential (Outer). The site is located in

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Khandallah, to the east of Homebush Road, and comprises a spur containing a mix of exotic pines, pest plants and regenerating indigenous species.

The site is bounded as follows:

- Regenerating bush and pine plantation to the north and east of the site.
- Developed residential area fronting Homebush Road to the west.
- Steep land to the south-west and south-east overlooking Jarden Mile and State Highway 1.

DPC 68 was publicly notified on 9 August 2007. Twenty eight submissions were received, twenty three being in opposition of the proposed zone change. The Summary of Submissions was publicly notified in November 2008 and no further submissions were received.

3. THE HEARING

Council Officer's Report

At hearing on 2-3 April 2009, Mr. **Peter Coop** spoke to the Council Officer's Report. In his report, Mr. Coop assessed the Open Space B and Outer Residential Zone provisions and assessed the positive effects the rezoning would have on the existing environment as well as potential adverse effects including traffic, road access across 98 Homebush Road, landscape and visual effects, land stability, community and cultural effects and the effect on essential services. His overall assessment is that the positive effects of the proposed rezoning will be significant and the adverse effects able to be appropriately controlled through the provisions of the Outer Residential provisions, but with two site specific modifications.

The first modification proposed by Mr Coop is to require that subdivision (that is not a permitted activity) should be a Discretionary Activity Unrestricted and subject to the notification provisions of the RMA 1991. This will require the unrestricted assessment of the effects of the future land subdivision of the site. It will also enable affected persons to participate in the resource consent process.

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The second site specific rule proposed by Mr Coop is to retain the existing Open Space B rule that controls the removal of indigenous vegetation until such time as an application for land subdivision has been obtained for the site. This will continue the existing safeguards over indigenous vegetation and enable an integrated assessment of the effects across the whole site at the application for land subdivision stage when the detail is known.

In response to a question from the Committee, Mr Coop advised that the purpose of the Hearing and subsequent decision-making is to determine how the site should be managed under the District Plan. His advice to the Committee was that it should focus on identifying the most appropriate “management regime” and not get drawn into detailed land subdivision matters that will be subsequently assessed through the resource consent process if the Request is approved.

Requester’s Submissions and Evidence

Following Mr. Coop was the Requester of the DPC, Primeproperty Developments Ltd, and their expert witnesses.

Counsel for the Requester, Mr. **Andrew Beatson**, outlined the main features of DPC 68 and submitted that the main issue for the Committee was whether a Residential (Outer) zoning is more appropriate for the site than its current zoning, Open Space B. He submitted that the DPC represents a logical extension to the Outer Residential Area and is consistent with the purposes and principles of the RMA that seeks to promote the sustainable management of natural and physical resources. He submitted that the DPC should be recommended for approval, subject to the modifications recommended in Mr. Coop’s Officers Report that the Requester accepts.

Evidence was given by Mr. **Brett Gawn**, a Registered Professional Surveyor, Licensed Cadastral Surveyor and the Surveying and Land Development leader for Duffill Watts Ltd. Mr. Gawn provided evidence on the location and nature of the site and outlined an indicative concept design for a possible subdivision of the site into 16 lots together with vehicle access over adjoining land at 98 Homebush Road owned by the Requester. He stated that the site is capable of subdivision and residential development to this indicative scale and extent, subject to detail investigations and design. Mr Gawn provided an infrastructure feasibility assessment and concluded that the existing

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infrastructure of the area can be easily extended to support residential development on the site.

Ms **Angela Penfold**, a Traffic Planner at Traffic Concepts Ltd, gave evidence relating to likely traffic effects on the local road network, including the effects of the proposed site access and driveway. She is satisfied that the additional traffic likely to be generated by residential development of the site will be able to be accommodated by the local road network without any significant compromise to road safety or efficiency, and that site access location at 98 Homebush Road can be designed so that it is safe and convenient. Ms Penfold concluded that she is satisfied that the site is able to accommodate residential use with roads meeting the Council's Code of Practice for Land Development and Subdivision Design Guide, and that the number of lots and number of household units per lot is best assessed and if necessary limited by conditions imposed through the subdivision consent process.

Mr. **Boyden Evans**, a landscape architect and Director of Boffa Miskell Limited gave evidence on the existing landscape context and character of the site and the potential landscape and visual effects of likely residential development on the site. Mr. Evans's evidence is that the site is well suited to residential development and that the likely pattern of development on the site will be similar to what has already occurred on the adjoining residential area of Homebush Road. Mr Evans drew a distinction between broad scale and localised landscape/visual effects. In Mr Evans's opinion, the potential *broad scale* landscape and visual effects of likely residential development on the site will be minor, and he illustrated this through the use of photographs from various viewpoints. In respect to *localised* effects, Mr Evans stated that the level of visual effect on adjoining and adjacent residential properties would vary from property to property and that these could be potentially significant compared to the existing environment. However, Mr Evans considered that these effects could be sufficiently mitigated through appropriate conditions at the resource consent stage. Accordingly, Mr Evans supported the recommendations contained in the Council Officer's Report.

Evidence on the ecological value of the site was given by Mr. **Matiu Park**, a senior ecologist and planner at Boffa Miskell Ltd. Mr. Park described the ecological values of the site and locality and divided the site into three areas, namely secondary regenerating broadleaf scrub and low forest dominated by mahoe with emergent karo; exotic weedlands with scattered regenerating natives and plantings; and plantation pine forest. Mr. Park's evidence is the vegetation likely to be removed as a consequence

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of subdivision and residential development “*has low ecological values*”, that the amount of vegetation removal can be limited through conditions of consent, and that areas of “*advanced regenerating broad-leafed vegetation*” can similarly be protected. Mr Parks supported the recommendations contained in the Council Officer’s Report.

Finally, Mr. **Graham Miller**, a Planner for Duffill Watts Ltd, gave evidence concerning the structure and content of the DPC, the RMA issues, the Section 32 assessment the Requester provided, and an assessment of the matters raised by submitters. Mr Miller supported the recommendations contained in the Council Officer’s Report.

Submissions

The following submitters then gave evidence at the Hearing.

Mr. John Morrison opposes the DPC because of potential “flow on effects” and precedence for other Open Space areas adjoining the site and elsewhere. He is concerned at the potential for a steady erosion of open space areas and is particularly concerned at the potential for housing to cascade down the face of the escarpment below the site and adversely affect the gateway to Wellington.

Cashmere Avenue School Board of Trustees were represented by Mr. **Andrew Hazleton** and Mr. **Mike Forest**. Mr. Hazleton stated that the Northern Growth Management Framework, referred to by the Requester, does not include the Homebush Road area and thus cannot be relied on for support. Mr Hazleton stated that there had been little consideration given to the ability of the infrastructure in the Khandallah area to cope with extra development, including pressure on community facilities, recreation facilities, schools and open space. Mr. Forest outlined the increase in roll numbers at Cashmere Avenue School over recent years and the concern that the DPC will cause a further increase in the school roll and apply additional pressure on already stretched resources, space and money. There is also concern that there will be an increase in traffic hazards from further congestion around the school.

Homebush Road Residents Group was represented by members Dr. **Sue Jackson**, Mrs **Kathryn Fraser**, Mrs **Ann Corcoran**, Mr. **Anthony Carter**, and Mr. **Peter Henderson**.

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Dr. Sue Jackson and Mrs. Katherine Fraser presented evidence on aesthetic and environmental effects. They consider the site is of national importance for its contribution to the coastal environment and as part of the outstanding natural features of the hills, vegetation and harbour. They stated that the current operative District Plan seeks to protect Open Space B areas for their natural state, whether in public or private ownership. It was also stated that the site is important in its contribution to eco-corridors for indigenous flora and fauna to migrate from one area to another. They urged that this site remain Open Space B to preserve its ecological and landscape values – values that are increasing the longer the site remains undisturbed.

Mrs Ann Corcoran and Mr. Anthony Carter presented evidence on additional hazards and adverse effects that may arise through the rezoning of this land and potential subdivision. They consider Homebush Road is very narrow and therefore has limited turning and parking space, causing the majority of residents to reverse directly onto the street, and buses and other large vehicles to have to cross the centre line, particularly at tight corners. The concern is that if the DPC is approved, more vehicles will be using the narrow local roads increasing the risk of an accident. In addition, visibility up Homebush Road from the proposed site access is very limited with risk to road safety. It was also pointed out that there is no concern around the sustainability of buses in the area because at peak times people often have to stand on the buses because they are so full.

Mr. Peter Henderson gave evidence that the Plan Change application should be declined and provided the Committee with his views on the relevance and application of various Environment Court cases. Mr Henderson was also concerned at the potential for “flow on effects” if the land is rezoned to Outer Residential and that the citizens of Wellington could be powerless to prevent further erosion of open space areas as further applications of similar nature will need to be granted if this DPC is approved.

Mr. Nick and Mrs Alison Dixie owns the property at 96 Homebush Road that will adjoin the proposed driveway to the subdivision if the DPC is approved. They support in full the submissions and evidence of the Homebush Road Residents Group. In addition, they are concerned at the adverse effects of the proposed driveway on their amenity, including significant earthworks, removal of vegetation, unsightly retaining walls, dust, noise and loss of privacy. They consider that the adverse effects of the driveway on their property will be significantly greater than what the Requester’s evidence suggests.

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Ms Ling Phang gave evidence in support of the submission by the **Greater Wellington Regional Council**. She sought additional permitted activity conditions relating to protection of indigenous vegetation in preference to the proposed continuation of the existing Open Space B vegetation protection rule. She also proposed a new “standard and term” to specify what information an applicant will need to supply in relation to an application for subdivision for the site.

Council Officer’s Recommendation

Following the submitters, the Council’s reporting officer, Mr Coop, stated that after assessing the submissions and evidence given by the Requester and the submitters at the Hearing, he stood by the recommendations contained in his report. He advised the Committee that in his opinion the additional modifications sought by the GWRC are unnecessary because all the matters of potential concern to the GWRC will be open for unrestricted assessment under the resource consent process and can be the subject of appropriate conditions of consent. He also advised the Committee that in his opinion the proposed site specific standard and term proposed by the GWRC is unnecessary because all the matters of particular concern to the GWRC are included in the Council’s updated Subdivision Design Guide which is used by Council officers when assessing the adequacy of applications for resource consent.

Right of Reply

In the Requesters right of reply, Mr. Beatson responded to each submitter and their concerns. The main points he highlighted included:

- The Request is limited to the proposed rezoning of 1.2ha of land and that this represents the full extent of the rezoning proposed and the likely effects, both positive and adverse. Therefore, suggestions by various submitters that there will be “flow on effects” to other land that is not the subject of the DPC, is unfounded.
- The site is capable of residential subdivision and residential use with the number of houses being “at least one” and potentially 16 or more with the actual number dependent upon more detailed investigations and design.

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- The expert evidence of Mr Evans and Mr Park can be relied upon by the Committee when making an assessment of the significance of the site in terms of open space and ecological values. The GWRC gave no expert landscape and ecological evidence to support its concerns.
- The Requester accepts the recommendation of the Council's officer report which will result in the continued protection of indigenous vegetation as per the existing Open Space zoning until such time as an application for resource consent for land subdivision is obtained for the site as a whole, and that this application will allow the unrestricted assessment of effects together with the notification provisions of the RMA.

Hearing was then closed.

4. Hearing Committee Assessment

Introduction

In undertaking this assessment, the Committee has considered the notified DPC 68 and associated documents, the report of the Council's reporting officer, the submissions and evidence given at the Hearing by the Requester, the submissions and evidence given at the Hearing by submitters, and all the written submissions, including those from submitters who did not wish to be heard.

Capability of Site for Residential Use

The Committee is satisfied that the site is capable of being subdivided and used for residential purposes with the exact number of lots being finally determined through the resource consent process and associated detailed site investigations and design work. In this respect, the Committee observes that the topography of the site is not dissimilar from the topography of the existing residential area of Homebush Road (and other areas of Khandallah and Wadestown) that have over the years been successfully subdivided and attractively developed for residential purposes. The site has expansive views over the harbour to the east and has good sunshine due to its northerly aspect.

Mr Gawn's evidence referred to a specialist geotechnical assessment by Mr Graeme Walker of Samcon Ltd. This assessment confirms that there are no significant geotechnical issues preventing the implementation of land subdivision and residential development on the site that cannot be addressed by normal engineering practices.

The Committee is therefore convinced that the site is capable of being subdivided and used for residential purposes and will be very attractive for residential occupancy.

Open Space or Residential Zoning?

The site is currently zoned "Open Space" which seeks to protect the site for open space/reserve purposes. This zoning prevents residential subdivision and development. The submitters in opposition to the DPC, mainly existing local

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residents in the Homebush Road area, wish this preclusion to continue so their amenity is maintained. However, the site is capable of being subdivided, developed and used for residential purposes and the owner of the land wishes to realise this potential.

The Council has previously been faced with this type of situation, notably in relation to land occupied by the ex “Chest Hospital” on Town Belt land in Newtown. In that case (*Capital Coast Health Ltd v WCC*) the Environment Court in its decision gave the following guidance to decision makers when land is zoned “Open Space” but capable of alternative use:

If the Council wishes to protect land for reserve purposes, then that purpose should be achieved by designation or acquisition.

However, this general principle is always subject to the provisions in Part II of the Act. Where particular land has such significance in terms of any of the factors listed in s6 and s7 of the Resource Management Act 1991 that its use or development ought to be substantially limited or precluded, then land use controls which may have that effect may be appropriate regardless of the ownership of that land (but subject to s32 and s85).

The Committee is satisfied that it must apply the above assessment approach to determine whether the zoning for the site should remain Open Space B or be changed to Residential as sought by the DPC.

In this present case, the Council has no proposal to designate the site for open space/reserve purposes. Nor is there any proposal or likelihood that the Council will acquire the site for open space/reserve purposes. The Committee was advised that when the site was recently available for sale, acquisition was considered by the Council’s parks officers but it was decided not to proceed with attempted acquisition.

Under these circumstances, and following the Environment Court’s assessment approach, if residential subdivision is to continue to be *precluded* (as sought by the submitters in opposition) the Committee needs to be satisfied that the site has “*such significance*” in terms of any of the factors listed in s6 and s7 of the Resource Management Act 1991 that continued preclusion (by declining the DPC Request) is appropriate. If, after undertaking this assessment, the Committee is satisfied that

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residential development should not be precluded, then the Committee must assess whether residential development should be *limited* by site specific land use controls, and if so, the extent of such controls.

In the above respects, the Committee's assessment is as follows:

- The Committee is satisfied that the existing areas of regenerating indigenous vegetation on the site are not of national importance under s6 of the RMA, nor are they of regional or city wide significance, assessed giving particular regard to s7 matters under the RMA. In reaching this conclusion, the Committee accepts in particular the expert landscape evidence of Mr Evans and the expert ecological evidence of Mr Park. The Committee accepts, however, that the site has local significance, primarily as an attractive visual amenity for the existing residents of Homebush Road.
- The Committee is satisfied that subdivision and residential development of the site will have little adverse effects on broad scale views, including views from the harbour, views from motorists using State Highways 1 and 2, and views from along the railway line and foreshore. This is primarily because the site adjoins the existing residential area of Homebush Road, is relatively small in area, and is not on a ridge line or hill top that the Council has identified for protection or special management. Housing on the site will appear as a minor extension to the existing residential area of Homebush Road and be able to be managed through appropriate resource consent conditions so that it is entirely in character with existing housing along Homebush Road and harbour facing hillsides of Khandallah and elsewhere.
- The Committee accepts that subdivision and use of the site for residential purposes, whether it is for one house or 16 or more houses, will have a range of positive and adverse effects. The Committee is satisfied that the positive effects (mainly associated with meeting the needs of the community for housing) will be enabled by an Outer Residential zoning of the site, and that adverse effects can and will be effectively managed by the Outer Residential rules, modified by the following site specific land use controls:
 - (a) *Any application for subdivision of land shall be a Discretionary Activity and subject to the notification provisions of the RMA 1991.*

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(b) Rule 17.1.15 of the Open Space Activity Area (that controls the modification, damage, removal or destruction of indigenous vegetation) shall apply until subdivision consent for the whole site has been obtained.

- The Committee accepts that subdivision and use of the site for residential purposes is likely to involve the removal of existing exotic pine trees from the site and the removal of some selected areas of existing regenerating vegetation. In this respect, the Committee accepts the expert evidence of Mr Park that vegetation removal and associated adverse ecological effects will be able to be effectively managed through the resource consent process so that ecological values are sufficiently protected. On this specific matter, Mr Parks' evidence included the following:

I consider that it is important to ensure that any future subdivision of the site takes into account the ecological values of the advanced regenerating broadleaved vegetation of the coastal escarpment. Below are examples of possible future subdivision consent conditions that would sufficiently protect these values:

- a) In conjunction with a suitably qualified ecologist, define a nominated area of vegetation clearance for each house site and associated works located in the area of regenerating broadleaved vegetation (including access driveway, parking and outdoor areas) so as to minimise vegetation clearance.*
- b) Covenanteeing of the remainder of each lot located within the regenerating broadleaved vegetation (outside of this maximum area of vegetation clearance) to restrict future vegetation modification or earthworks. This should include some allowances for maintenance and pruning to retain views and sunlight and any communal access tracks.*
- c) Appropriate mechanisms to restrict future development or subdivision.*

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- d) *Invasive weeds should be removed from the site prior to any earthworks.*
 - e) *Prior to construction, each house site should be cleared and any earthworks required carried out in a manner that causes minimal disturbance to surrounding vegetation within each lot. Excess earth should be removed from the site and all vegetation should be removed from site.*
 - f) *Typical earthworks and erosion control guidelines should be implemented to reduce the potential for erosion on downstream environments.*
 - g) *Prohibitions on disposal of vegetation or garden waste.*
- Conditions of consent along the above lines will be able to be imposed at the land subdivision resource consent stage when the detail is known and when specificity can be achieved.
 - The application for resource consent for subdivision of the site will be subject to the notification provisions of s93 and s94 of the RMA which will ensure that affected parties such as nearby residents will have the opportunity to be involved in the subdivision consent assessment process. The Committee notes that the Council's updated Subdivision Design Guide, against which applications for subdivision will be assessed (amongst other criteria), includes a wide range of assessment criteria, including protection of significant areas of indigenous vegetation, consideration of visual amenity of adjacent residential areas, placement of house sites etc.

In view of the above conclusions, the Committee is satisfied that the subdivision and development of the site for residential purposes should not be *precluded*, that the zoning of the site should be change as requested to *enable* residential subdivision and development of the site, and that land subdivision of the site should be *controlled* as a Discretionary Activity so that any adverse effects can be avoided, remedied or mitigated.

Vehicle Access to the Site

A consequence of a rezoning to Residential is likely to be the eventual construction and use of vehicle access from Homebush Road to the site using 98 Homebush Road which is an existing Outer Residential zoned property owned by the Requester.

The Committee is satisfied by the evidence of Mr and Mrs Dixie that the construction and use of this vehicle access will potentially have significant adverse effects in relation to their adjoining property at 96 Homebush Road which will be on a lower ground level to the likely driveway. The adverse effects will include removal of existing vegetation, the effects of high retaining walls close to the boundary, loss of privacy, and noise. The expert evidence of Mr Evans was also that the effects will potentially be significant unless there is careful assessment, design and mitigation.

In this respect, the advice of the Council's reporting officer, Mr Coop, is that:

The location, design and landscaping of the driveway and retaining walls will need to be the subject of an application for resource consent for subdivision - a Discretionary Activity Unrestricted and subject to s93 and s94 of the Act that require the involvement of owners and occupiers who may be adversely affected. This will include the owners and occupiers of 96 Homebush Road. The Council at that stage will have the benefit of the detailed design and mitigation associated with the road access and be better placed to make a decision on the acceptability or otherwise of the road access design and associated mitigation proposed. If the design and mitigation proposed is not acceptable, the application can be declined.

The Committee accepts that there are various design and mitigation options available, including further property/rights of way acquisition by an applicant, careful design, appropriate landscaping and fencing. Accordingly, there is reasonable potential for an acceptable driveway outcome to be achieved and the Committee is satisfied that this can be effectively managed by the Council through the resource consent process. As Mr Coop points out, if the design and mitigation proposed for the driveway is not acceptable, the application can and should be declined.

Because of the potential significant adverse effects on the amenity of 96 Homebush Road and the acknowledged need for there to be careful assessment, design and mitigation of the driveway, the Committee strongly recommends that there is

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appropriate consultation with the owners of 96 Homebush Road prior to an applicant lodging an application for subdivision consent.

Site Access and Traffic Effects

Various submitters sought to persuade the Committee that it should recommend declining the Request because of adverse traffic effects on the local road network, in particular because Homebush Road is narrow and windy. On the other hand, the Committee heard evidence from Ms Penfold and from Mr Stone who is the Council's traffic adviser, that in their opinion the local road network will be able to cope with the likely additional traffic that will be generated, and that the proposed site access at 98 Homebush Road will have acceptable visibility to ensure road safety.

The Committee is not persuaded that the existing traffic environment is such that the Request should be declined. Traffic effects on the road network, as well as site access effects, will be matters for unrestricted assessment at the subdivision consent stage when the scale of subdivision and associated effects can be more specifically assessed in the detail. If necessary, conditions can be imposed to control the scale of subdivision.

Community Effects

The Committee considers that added pressure on Cashmere School as a consequence of the proposed rezoning will be some years away and dependent upon the scale of subdivision which is at this stage not certain. The Committee accepts there are difficulties associated with forecasting school rolls, in particular when the scale, extent and timing of new housing (whether infill or on rezoned land) is uncertain. However, the Committee considers that added pressure as a consequence of this DPC should be able to be accommodated with prudent forward planning by the Board. In addition, community effects (both positive and negative) will be matters for unrestricted assessment at the subdivision consent stage when the scale of the subdivision and associated effects can be more specifically assessed in the detail.

The Committee notes that the only adverse effect on community services specifically raised (apart from public transportation which is dealt with in the next paragraph) is in relation to Cashmere School and that this is insufficient reason to recommend declining the Request.

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The Committee accepts evidence that there is already a high occupancy of public transport along Homebush Road at peak times and that therefore the positive effects of having additional people in the Homebush Road area to support the sustainability of existing public transport will be minor. The high occupancy of buses at peak times is a matter that can be addressed by the GWRC through scheduling and other potential initiatives.

Wider Potential Adverse Effects

The Committee notes the evidence of Mr Gawn that the 1.2ha site incorporates in his opinion all the land owned by the Requester that is reasonably capable of residential development. Mr Gawn's evidence is that adjoining land below the site is only suitable for "*protection against significant development*" because of its very steep slope. In other words, the potential for the further future rezoning of these steep lower slopes as a consequence of approval of this DPC is considered to be remote.

As far as other potential areas of open space zoned land is concerned, the RMA enables private Plan Change Requests to be made and the Environment Court has already identified in the Chest Hospital case the appropriate assessment approach to be applied in such circumstances. There has since been private DPC's lodged and processed by the Council.

The Committee therefore believes that approval to the Request will not in itself "open the floodgates" to further DPC's for residential subdivision and development on other Open Space zoned land.

Other Objections

Some submitters object to the Request on the basis that they see it as "opportunistic" and/or ethically and morally wrong because the Requester knew when purchasing the site that it was zoned Open Space.

The Committee has sympathy for those existing residents who have purchased their properties in this locality in reliance on the Open Space zoning of the site and in reliance that this zoning will be upheld in perpetuity. However, as noted above, the RMA provides for a process for the District Plan to be changed by either the Council

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or private Requesters so that the Plan does not remain a static document. The Requester is legally entitled to lodge the Request to change the zoning of the site and the Committee's assessment and recommendation must be based on the consideration of the matters specified in the RMA.

The Committee accepts that the site lies outside the Northern Growth Management Framework and has therefore not placed weight on this policy document in reaching its decision. However, the committee in its responsibilities to this proposed Plan Change has recognised some of the general principles of the NGMF, including making use of land that is capable of being developed for residential purposes.

Other Land Use Limitations/Rules

The Committee considers that the additional site specific modifications proposed by Ms Phang of the Greater Wellington Regional Council are unnecessary because the matters of concern to the Regional Council can be assessed and made the subject of conditions of resource consent if appropriate at the resource consent stage. As stated earlier, the activity status of the subdivision of the site is Discretionary, thus enabling the unrestricted assessment of effects, including (but not restricted to) all the matters contained in the Council's updated Subdivision Design Guide that covers all the matters of concern to the Regional Council.

5. STATUTORY CONSIDERATIONS

The Committee has given consideration to all the matters under s74 of the RMA and concludes as follows:

- Approval to DPC 68 with the additional two site specific modifications to the Outer Residential Activity Area provisions is consistent with the Council's function to achieve the purpose of the RMA and is consistent with relevant Environment Court case law.
- There was no direct challenge to the Requester's s32 assessment of DPC 68. The Requester's s32 assessment has been further evaluated by the Committee in the light of the submissions lodged, Council officer's report, and evidence given at the hearing. The Committee adopts the Requester's s32 assessment.

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- The site is capable of residential subdivision and development. DPC 68 will enable the housing needs of the community to be met by a small extension to the existing residential area of Homebush Road, with potential adverse effects being managed through the resource consent process and involving the notification of parties who may be adversely affected by such an application.

- The Committee accepts the submission of the GWRC that “*the plan change will result in positive environmental quality outcomes with greater efficiency in the use of resources*”. The matters of concern to the Regional Council (open space and ecological values) can be adequately assessed and if necessary made the subject of conditions of resource consent at the resource consent stage.

- The Committee considers that there will be no material conflict with any other plans and strategies, including with the District Plans of adjoining local authorities.

- The Committee notes that the submission of the Wellington Tenths Trust indicates support for DPC 68 and does not raise any specific management plan issues. The Requester indicated at the Hearing its preparedness to consult with the Tenths Trust during the preparation of resource consents.

- The Committee considers that DPC 68 with the modifications recommended, is consistent with and will promote Part 2 of the RMA primarily because:
 - a) DPC 68 will promote the sustainable management of the site by enabling appropriate residential subdivision, development and activity that will assist to meet the housing needs of the community.

 - b) DPC 68, with the modifications recommended, will provide an effective resource management regime for enabling appropriate activities and avoiding, remedying or mitigating any adverse effects.

 - c) DPC 68 provides for the unrestricted assessment of land subdivision and the participation of persons who may be adversely affected.

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- d) Retention of the Open Space Activity Area control on the removal of indigenous vegetation until such time as subdivision consent for the site has been obtained provides an appropriate level of protection for this resource and an appropriate process for assessing in detail the extent to which the resource should continue to be protected and/or permitted to be removed.
- e) DPC 68 does not require modification to take into account the principles of the Treaty of Waitangi.

6. CONCLUSION

Having regard to all of the foregoing, the Hearing Committee recommends to the Council that DPC 68 be approved, subject to the following modifications:

- (a) All subdivision that is not a permitted activity shall be a Discretionary Activity and subject to the notification provisions of the RMA 1991.*
- (b) Rule 17.1.15 of the Open Space Activity Area (that controls the modification, damage, removal or destruction of indigenous vegetation) shall apply until subdivision consent for the whole site has been obtained.*

Cr Leonie Gill – Chairperson

Appendix 27: Additional Rules Applying to Land at Homebush Road, Khandallah

The following additional rules apply to land at Homebush Road shown on the plan below.

1. **All subdivision which is not a Permitted Activity shall be a Discretionary (Unrestricted) Activity.**

Note: The effect of the above rule is that rule 5.2.5 of the District Plan (relating to controlled subdivision) shall not apply.

2. **Rule 17.1.15 of the Open Space Rules shall apply until resource consent has been obtained for subdivision of the land.**

