

8 November, 2007

Spencer Holmes Ltd
PO Box 588
Wellington 6140

Service Request No: 155314
Property ID: 1002676

Attention: Laurence Beckett

Dear Laurence,

APPLICATION FOR RESOURCE CONSENT: 13 PLUNKET STREET

Further to the Resource Consent Hearing held on 16 October, you are advised that the Council grants consent to construct a car deck on a partially on a legal road to 13 Plunket Street, Kelburn, Lot 39 DP 1632 & the adjacent Legal Road. A copy of the Hearings Committee's report and decision, which was made under delegated authority from the Council, is enclosed.

If you are dissatisfied with the whole or part of the Council's decision, under section 120 and 121 of the Resource Management Act 1991 (the Act), you have the right to appeal to the Environment Court within 15 working days of the decision being received. A copy of this decision has also been provided to all submitters. Please note that all submitters have the same appeal rights.

A filing fee of \$55.00 (including GST) is payable on every appeal application and noticed lodged with the Registrar of the Environment Court (c/- Department of Courts, Tribunals Division, P O Box 5027, Wellington).

Additional charges may be payable under section 36(3) of the Act for the actual and reasonable costs incurred in processing your application. Council will endeavour to forward any invoice to you as soon as possible. In the meanwhile if you have any queries about additional charges or any other matters please call <Planner> on 801-<ext.>.

Yours sincerely,

Erin Eydt
Urban Development and Transport
Wellington City Council
Telephone 801 3679
Fax: 801 3165

WELLINGTON CITY COUNCIL
DECISION ON A RESOURCE CONSENT APPLICATION

SR 155314

IN THE MATTER OF Sections 88, 104, 104C and 108 of the Resource Management Act 1991

AND

IN THE MATTER OF a resource consent application lodged by Spencer Holmes Ltd on behalf of Colin & Nicolette Percy to construct a new single vehicle car deck at 13 Plunket Street Kelburn (SR 155314)

HEARING COMMISSIONER Robert Schofield

PLACE OF HEARING Committee Room 2, Wellington City Council

DATE OF HEARING Tuesday 16 October 2007 at 9.15am

DATE OF DECISION 24 January 2008

APPEARANCES
City Council -
Rebecca Scannell, Reporting Planner
Amy Spurdle - Committee Secretary (on secondment from the Resource Consents Team)

Applicant -
Colin Percy, Applicant
Lawrence Beckett, Planning Consultant for applicant

The Decision

That the Hearing Commissioner, acting under delegated authority from Council and pursuant to sections 104, 104B, and 108 of the Resource Management Act 1991, **grants consent** to the resource consent application by Spencer Homes on behalf of Colin and Nicolette Percy to construct a car deck partially on legal road at 13 Plunket Street, Kelburn (Lot 39 DP1632 and the adjacent legal road), subject to the following conditions:

1. The proposed activity must comply with the Building Act 2004 and all relevant Council bylaws.
2. That the development be substantially in accordance with the information submitted with the application including the drawings by Spencer Holmes numbered E06-1071-10 to 12 Revision A.
3. A copy of this resource consent decision shall be available on site at all times and made available upon request.
4. If any archaeological items are uncovered during works on the site, all work on the site shall cease and the Wellington City Council and the Historic Places Trust shall be contacted immediately. Evidence of archaeological sites can include oven stones, charcoal, shell middens, ditches, banks, pits, old building foundations, artefacts of Maori and European origin or human burials.
5. The consent holder must advise (either by telephone (801-4017) or facsimile (801-3165)) the Compliance Monitoring Officer, of the date upon which this consent will be exercised. The advice must be given at least 48 hours before the consent is to be exercised, and must include the address of the property and the service request number.
6. That the consent holder shall pay to the Wellington City Council the actual and reasonable costs associated with the monitoring of conditions (or review of consent conditions), or supervision of the resource consent as set in accordance with section 36 of the Resource Management Act 1991. These costs* may include site visits, correspondence and other activities, the actual costs of materials or services, including the costs of consultants or other reports or investigations which may have to be obtained.

* Please refer to the current schedule of Resource Management Fees for guidance on the current administration charge and hourly rate chargeable for Council officers.
7. All construction works on the site shall be undertaken in such manner as to comply with the provisions of NZS 6803:1999 "Acoustics-Construction Noise" and must be limited to between 7.00am and 6.00pm Monday to Saturday, with no work on Sundays or public holidays.

8. The existing trees near the boundary of 15 Plunket St are to be retained insofar as practicable, or any removed with be replaced with the same type of tree.

Advice Notes

- This consent is subject to section 125 of the Resource Management Act 1991 which states that a resource consent lapses on the expiry of 5 years after the commencement of the consent, unless an extension on time is granted by the Council prior to lapsing of the consent.
- 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 Resource Management Act 1991: any building work associated with the proposed activity should not commence until a building consent has been obtained under the Building Act 2004.
- 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 \$200,000.
- 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.
- A vehicle access approval is required for the construction of new sections of kerb crossing and parking facilities under part 17 of the WCC Consolidated Bylaw 1991.
- An earthworks bylaw consent is required if the volume of cut or fill exceeds 10 cubic metres or ground level is changed by more than 600mm under Part 8 of the Wellington City Council Consolidated Bylaw 1991.

Reasons for the Decision

1 THE SITE AND ITS ENVIRONMENT

The Site

- 1.1 The site in question is at 13 Plunkett Street, Kelburn, on the southern side of the road, to the west of the corner of Plunket Street and Upland Road. The site is legally described as Part Lot 38-39 Block XI DP 1632.
- 1.2 For the purpose of this application the site also includes part of the legal road on which the proposed car deck is to be partly located.
- 1.3 The site is a long narrow site, 506m² in area, and with only an 8.26m long frontage onto Plunket Street, but widening out further within the site to over 16m. From the road frontage, the site drops steeply down towards the south into the small valley that has Norway Street along its base.
- 1.4 The dwellinghouse on the property is located well down below the level of Plunket Street, some 24m from the road frontage, and some 16m below the level of the road carriageway. The bank below the footpath down to the gate to No.13 Plunket Street is largely contained within an existing crib wall.
- 1.5 The house is currently only accessible via a pedestrian path that also serves 3 to 11 Plunket Street to the east of the subject site; this pathway comes off Plunket Street behind the rear of the commercial building on the corner of Upland Road, and then descends down towards the entry into No.13 Plunket Street. This entrance is some 5m below the level of the road carriageway. The pathway itself is contained within legal road.
- 1.6 The site contains a variety of vegetation, including semi-mature pohutukawa located near the front, immediately east of the building at No.15 Plunket Street.

The Locality

- 1.7 The other dwellings served by the pathway to No.13 Plunket Street are also located well below the road level, particularly No.s 9 and 11 Plunket Street. However, the dwellinghouse to the west of the subject site, at No.15 Plunket Street, is only slightly below road level and is therefore at a much higher elevation than the subject site's dwellinghouse. This neighbouring building is a three-storeyed weatherboard villa, and has a double car deck in front of it, on its western side.

- 1.8 The site is located within a well-established residential neighbourhood, with only a relatively few containing onsite parking/garaging, or with car decks located on legal road. Thus, many of the residences in the vicinity rely on onstreet parking.

2 THE PROPOSED ACTIVITY

- 2.1 The applicant proposes to construct a single vehicle wooden parking deck that would be located partly within legal road and partly within the applicant's property: approximately 2m by 3.25m of the proposed deck would be within the applicant's property. The majority of the structure would be contained within road reserve.
- 2.2 The proposed car deck would drop slightly down off Plunket Street. However, due to the local topography, the deck itself would be elevated well above the dwellings at 3 to 13 Plunket Street, and would be level with the middle storey of the building at 15 Plunket Street.
- 2.3 The structure would be constructed of tanalised timber, and would be in the form of a standard car deck design, with wooden decking on top of a frame based on wooden poles, with a timber wheel stop and wooden fencing. Cross-bracing would be used on the poles.

3 CONSENTS REQUIRED

- 3.1 The site is located within the Outer Residential area of the operative Wellington City District Plan, and is not subject to any special character rules or designations.
- 3.2 The proposal requires resource consent under the District Plan for two reasons:
- (a) The proposed car deck penetrates through the sunlight access plane on the eastern boundary by a maximum of 1.7m, and therefore fails to comply with Rule 5.1.3.5. The proposal is therefore a discretionary activity (restricted) under Rule 5.3.3 of the District Plan.
 - (b) The proposal to construct a car deck that is partly on legal road requires resource consent as a discretionary activity (restricted) under Rule 5.3.5.
- 3.3 The proposed structure complies with the standards and terms under Rule 5.3.3, and there are no standards and terms under Rule 5.3.5.
- 3.4 Under Rules 5.3.3 and 5.3.5, Council's discretion has been restricted to sunlight access, siting, design, and external appearance, amenity protection and safety.
- 3.5 A car deck is considered to be an accessory building under the District Plan, and is therefore permitted to be sited within the front yard of a property.

3.6 In overall terms, therefore, the proposed car deck requires consent as a discretionary activity (restricted).

4 NOTIFICATION AND SUBMISSIONS

Notification

4.1 The application was limited notified under the provisions of section 94(1) of the Resource Management Act 1991. On 10 August 2007, notice of the application was served on the owners/occupiers of the neighbouring property to the west, No.15 Plunket Street, Tony Yip and Margriet Philipsen.

4.2 The written approval of the neighbours to the east of the subject site, at No.11 Plunket Street, had already been obtained by the applicant.

Submissions

4.3 One submission was received in opposition to the proposal from the owners of 15 Plunket Street.

4.4 The submission from T Yip and M Philipsen opposed the resource consent application for the reasons summarised below:

- Loss of Direct Sunlight - the reduction of light received by their lower level courtyard and rooms on the lower and middle storeys, which is already affected by the existing trees on No.13 Plunket Street;
- Effects on Outlook - the reduction of outlook onto the neighbouring trees and shrubs, and the resultant outlook into the underside of the proposed car deck, with their courtyard feeling 'boxed in' and the loss of pleasant views down Plunket Street;
- Impact on Property Values - the potential to lower their property's value;
- Effects on Privacy - arising from the use of the car deck to look down into their property;
- Non-resident Benefits - the applicants do not currently reside on the property, and thus the car deck will not be for their own use, but may be to increase the value of the property before selling it.

5 THE HEARING

The Applicant

5.1 **Lawrence Beckett**, a planning consultant with Spencer Holmes, appeared on behalf of the applicants, and presented a written statement of evidence. He was preceded

by Colin Percy, one of the applicants, who presented a written statement of evidence.

- 5.2 Mr Percy provided some background to the proposal, noting that he and his wife bought the property in 1961. Upon questioning, Mr Percy explained that he and his wife do not reside at the property, but that he is in the process of renovating the house. Mr Percy explained that he would use the deck to park his trailer for offloading materials.
- 5.3 Mr Percy provided some history as to access to his property, explaining that originally pedestrian access from 13 Plunket Street to the road was via steps in the front of 15 Plunket Street, which was lost when the current owners redeveloped the property, including constructing a double car deck where the steps had been.
- 5.4 He then explained that, in 2004, the owner of the commercial building at 99 Upland Road proposed extensions to that building, including a new vehicle access ramp to 1 Plunket Street. The existing pathway would go under the proposed ramp.
- 5.5 Mr Percy explained that, in approving the vehicle ramp, one of the conditions the Council imposed was for the developer to construct a set of access stairs at the south end of the pathway (in front of 13 Plunket Street). The proposed staircase, as yet not built, would occupy some 3 to 4 metres of the frontage to 13 Plunket Street, or between a third and a half of the 8.25m frontage.
- 5.6 Mr Percy stated that the proposed car deck would compensate for the loss of the use of his frontage by providing direct access from the street onto the front of his section. He further explained that the proposed stair case would require resource consent and encroachment licence, to which he may object if he cannot construct his car deck.
- 5.7 He explained that the deck would provide unrestricted access to the front of his site, improving the delivery and removal of materials. He noted that it is currently difficult to park his trailer anywhere near the access to 13 Plunket Street, often requiring trips of 300-400m between the car and the section.
- 5.8 Mr Percy noted that students are far more likely to use the car deck at 15 Plunket Street, which is sheltered by a trellis. He also stated that a trellis could be used to obstruct views of the underside of the car deck, possibly supplemented with plants.
- 5.9 Mr Beckett also provided a written statement of evidence, the key points of which can be summarised as follows:
 - (a) The proposed structure has been designed to comply with the permitted activity standards as far as possible, and complies with those standards relating to No.15 Plunket Street.
 - (b) The off-street parking will be provided in an area where the demand for parking space is high.

- (c) The proposed structure would have negligible adverse effects on the residential amenity of residential properties to the northeast and south of the site, and would not create any vehicle or pedestrian safety issues.
- (d) The effects on 15 Plunket Street are limited to sunlight and outlook, with –
- the shading analysis demonstrating that the shading effects are no more than minor; and
 - the effects on outlook no more than minor and consistent with what would otherwise been anticipated in a residential environment.
- 5.10 In regard to the loss of sunlight, Mr Beckett stated that the analysis indicated that, in early midwinter mornings, there would be a maximum of 30 minutes of sunlight loss to the upper storey window, a maximum of 1 hour 25 minutes to the upper level window at the front of the house, and a maximum of 1.5 hours to the lower level deck.
- 5.11 He provided further analysis of the shading effect cause by a vehicle parked on the deck, a concern of the submitters, and stated that there would be no additional shading on the lower level deck, a very small amount of additional shading to the upper level window at the back, and about 20-30 minutes additional shading to the east-facing window at the front of the house.
- 5.12 Mr Beckett submitted that the shading effect of the existing overhanging trees would be greater than the likely effect of the proposed structure. Mr Beckett also submitted that changing a view is not an aspect of amenity protected by the District Plan and is not in itself an adverse effect. He also noted that the compliance of the structure with the sunlight recession requirements in respect to 15 Plunket Street indicates that the shading effects are consistent with the level of effect that is considered acceptable in the Residential Area.
- 5.13 Mr Beckett concluded that he agreed with the Planner's report in that the proposal would not adversely effect residential character, traffic and streetscape amenity, but disagreed with her in regard to shading and outlook effects on the residential amenity of 15 Plunket Street.

Submitter

- 5.14 The submitters to the application stated they did not wish to be heard, and did not attend the hearing. However, I read their submission, and took into account their concerns, which were also fully addressed by both the reporting Planner and by the applicants and their planning consultant.

Response by Council Reporting Planner

- 5.15 The Council's reporting planner, Rebecca Scannell, provided a number of comments in response to the applicant's submissions.

- 5.16 Ms Scannell was of the opinion that as, without the sunlight access plane breach, no similar structure could be built in the site, and therefore there is no permitted baseline that can be applied to compare the effects of the proposed car deck.
- 5.17 Ms Scannell reiterated that the shading effects of the existing trees could not be taken into account as they could be cut down at any time. She also noted that there is a low level of sunlight in the area and, in her opinion, the percentage of sunlight lost would be relatively high.
- 5.18 Ms Scannell stated that, while neither the structure nor its look would be unusual, the outlook from 15 Plunket Street to the underside of the proposed deck outlook would not be expected in a residential area. She also believes that boxing-in the structure will not help the outlook as it will make the structure look more solid and bulky.
- 5.19 In regard to accessibility, Ms Scannell noted that the District Plan does seek to promote accessibility to sites, but that policy is not confined to vehicle access, noting that this site already has pedestrian access if the deck is not constructed. She further noted that the proposed steps that have been discussed cannot be considered as the consent had not been approved or lodged for these stairs.
- 5.20 In relation to parking, Ms Scannell commented that the creation of the vehicle crossing will remove one car park from the road. She considers that the benefit of the car park and the improved accessibility to the site should not override the more than minor effect on the neighbour.

Applicant's Right of Reply

- 5.21 In reply, Mr Beckett acknowledged that there will be some shading as a result of the proposed deck, that the amenity provided by the deck would not be great, and that the trees will be pruned as part of the proposal. However, he reiterated his opinion that the loss of sunlight and the effects on amenity values will be minor or no more than minor.
- 5.22 He also acknowledged that the stairs cannot be considered as part of this decision.
- 5.23 Mr Beckett agreed with the Council Planner that there is no structure that could be constructed as a permitted activity to compare with the proposed car deck. He stated, however, that the current proposal has been lowered as low as possible to mitigate the effect of the deck on adjoining properties.
- 5.24 Mr Percy commented on the benefits of being able to park his trailer on the car deck and unload materials from the car deck. He also said that he will not support the application for the stairs when the adjoining property owner applies for consent as the stairs will take up part of his frontages and he will be unable to leave things close to the stairs. Mr Percy further believes the stairs will create a loss of value to his property.

6 EVALUATION UNDER THE RESOURCE MANAGEMENT ACT 1991

6.1 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). Under section 104 of the Act:

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to -*
 - (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (b) *any relevant provisions of*
 - (i) *a national policy statement; ...*
 - (iii) *a regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application...*
- (3) *A consent authority must not –*
 - ... (b) *when considering an application, have regard to any effect on a person who has given written approval to the application...*

6.2 No provision of any national or regional policy statement was identified as being relevant to this application.

6.3 Section 104C of the Resource Management Act provides that:

When considering an application for resource consent for a restricted discretionary activity, a consent authority –

- (a) *must consider only those matters specified in the plan or proposed plan to which it has restricted the exercise of its discretion; and*
- (b) *may grant or refuse the application; and*
- (c) *if it grants the application, may impose conditions under section 108 only for those matters specified in the plan or proposed plan over which it has restricted the exercise of its discretion.*

6.4 Under Rule 5.3.3 (in regard to the breach of the sunlight access standard) the District Plan requires that –

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

5.3.3.5 *Whether a better standard of development can be achieved by varying the specified conditions.*

5.3.3.6 *Whether the topography of the site or the location of any built feature(s) on the site or other requirements such as easements or rights-of-way impose constraints that make compliance impracticable.*

5.3.3.7 *Whether the form, scale and character of the new building or structure is compatible with that of buildings and structures in the immediate vicinity of the site, and streetscape amenities can be maintained....*

5.3.3.8 *Whether new building work will cause significant loss of sunlight, daylight or privacy to adjoining sites....*

5.3.3.9 [not relevant]

6.5 Under Rule 5.3.5 (in regard to siting of a structure within legal road) the District Plan requires that –

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

5.3.5.6 *The extent to which the scale, design and appearance of the building or structure reflects the style of the dwelling and structures to which it is associated on a private site or the general style of buildings or structures in the immediate locality.*

5.3.5.7 [Not relevant]

5.3.5.8 *The extent to which streetscape amenities will be affected from buildings or structures protruding into open berms or being erected in situations requiring the removal of existing vegetation or street trees.*

5.3.5.9 *The effects of buildings or structures on adjoining sites. The distance from adjoining buildings, possible shading and any loss of views and whether adjacent owners would be prevented from developing off-street parking will be considered.*

5.3.5.10 *Whether the siting of buildings or structures will maintain safety for road users, including pedestrians. Particular consideration is given to providing safe access, the maintenance of sight distances and the avoidance of doors which may open over a public footpath. In all cases the site access requirements for residential activities should be met.*

6.6 In assessing the actual or potential adverse effects on the environment, my discretion is limited to those matters listed above, as relevant. However, I would note that the Council's reporting Planner and the applicant's planning consultant both agreed that the proposed structure would have no more than minor effects on the safety of roads, including pedestrians, and on streetscape amenities, and that the form, scale and character of the new building or structure is compatible with that of buildings and structures in the immediate vicinity of the site.

6.7 There was also common agreement that the topography of the site would make compliance with the sunlight access requirement impracticable, and that there is no conservation site or listed harbour view potentially affected by the proposal.

6.8 In regard to these matters there was no evidence presented that would contradict these conclusions and I therefore find that the proposal is largely consistent with these assessment criteria. I therefore confine my assessment to:

- (a) Whether a better standard of development can be achieved by varying the specified conditions [in regard to sunlight access plane]; and
- (b) The effects of the proposed structure on the adjoining site at 15 Plunkett Street (recognising that, pursuant to s104(3), no consideration can be given to the effects on 11 Plunket Street, in that the property owners provided their written approval for this adjoining site), particularly whether new building work will cause significant loss of sunlight, daylight privacy or views.

6.9 I would also note that there was common agreement that there is no permitted baseline that would be of assistance in determining the comparative scale and level of effects against that which is considered acceptable. In particular, all structures within the legal road require resource consent under the District Plan.

7 ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

Better Standard of Development

7.1 The reporting Planner, Ms Scannell, considered that a better standard of development could be achieved by varying the standard relating to sunlight access in that such a variance would lead to increased shading on the neighbouring property that would be more than minor.

7.2 However, the applicant's Planner, Mr Beckett, considered that the proposal to construct alternate offstreet parking would have minimal adverse effects and would have a positive effect on parking congestion in the street. He therefore submitted that a better standard of occupation would be achieved by allowing the variation sought by this application. Upon questioning, however, Mr Beckett conceded that the proposal would have a neutral effect on parking congestion, in that the addition of one offstreet parking space would be balanced by the removal of one onstreet space.

7.3 In assessing the proposal against this criterion, I refer to the explanation to Rule 5.3.3 which includes the following statement:

The conditions for permitted dwellinghouse activities and accessory buildings, including fences and walls, are designed to ensure that the visual amenities of both the Inner and Outer Residential Areas are generally maintained. However, because residential building development in the City is very diverse and Wellington's topography is rugged, conditions will need to be varied on occasion. Variations to the extent specified are flexible enough to allow the establishment of new residential development while maintaining general amenity standards.

7.4 The topography of the site provides significant constraints on the ability of structures to fully comply with the development standards of the Outer Residential Area. In this case, it would be difficult for any car deck structure to be built in a fully complying manner, particularly where the site it is intended to service has a

narrow frontage like that which is the subject of this application. Effectively, therefore, there is no real alternative other than accepting some form of non-compliance with the development standards would have to be accepted if offstreet car parking were to be constructed on this site.

- 7.5 This was confirmed when the applicant was questioned about what alternatives were considered, from which it was elicited that placing the car deck further east would create difficulties in providing pedestrian access to 13 Plunket Street (and its neighbours to the east), with any accessway having to go under the car deck structure. The applicant also noted that the deck could not be lowered anymore than has been designed.
- 7.6 Therefore the matter pivots on whether “general amenity standards” could be maintained if the District Plan standard relating to sunlight access were not met. I therefore turn to address this matter.

Adverse Effects on 15 Plunket Street

- 7.7 As outlined above, the Planners disagreed about whether the potential adverse effects of the proposed structure on the amenity values of 15 Plunket Street would be more than minor.
- 7.8 In regard to the effects on sunlight, the evidence adduced concludes that the proposed structure would have some effects on sunlight access to parts of the building and its outdoor areas during the winter period. Determining how much of a relative loss that such shading would incur was difficult to ascertain from the evidence, given that the effects of the topography and other existing properties was not factored into the analysis. However, the sunlight that would be lost would be in the early morning, and only parts of the adjoining residence would be affected by such a loss.
- 7.9 While I accept that the existing trees on the boundary with 15 Plunket Street cannot be taken into account in regard to the effects of shading, I would note that the existing trees would, without management, continue to grow and further shade the adjoining property. I would also concur with Mr Becket that that part of the proposed deck within the front yard of 13 Plunket Street fully complies with the sunlight access requirement to 15 Plunket Street, and therefore that the resultant shading is anticipated by the District Plan.
- 7.10 I therefore find that I was not convinced that the effects of the proposed structure would be more than minor, and specifically that the building would “cause significant loss of sunlight, daylight or privacy to adjoining sites”.
- 7.11 Turning to the matter of outlook, I accept that the current views would be modified by the proposed structure. However, I concur with Mr Beckett that the change of outlook would not be out of character with that found elsewhere in the area or in many of the City’s hillier suburbs. Furthermore, there was no evidence that the spaces from which the outlook would be changed were those of the residence’s

principal living areas, and the majority of the buildings outlook would remain unchanged. I would also note that construction of the proposed structure would only necessitate the removal of some of the existing trees, and the retention of the remaining trees would mitigate the effects on the proposed car deck on the property's outlook. A condition to this effect would therefore be appropriate.

- 7.12 Turning to the matter of privacy, I accept that on occasion, persons may access the proposed car deck, but that such occasions would be infrequent, and there are many other opportunities in the vicinity for overlooking downhill properties, including along the edge of the footpath on the southern side of Plunket Street.
- 7.13 In conclusion, I find that the adverse effects of the proposal on the environment would be no more than minor.

8 OBJECTIVES AND POLICIES OF THE DISTRICT PLAN

- 8.1 The relevant objectives and policies of the Outer Residential Area are discussed below:

Objective 4.2.1 - To promote the efficient use and development of natural and physical resources in Residential Areas

- 8.2 The proposed car deck would be consistent with this objective, in that it would promote the more efficient use of 13 Plunket Street through improved access.

Objective 4.2.2 - To maintain and enhance the amenity values of Residential Areas

Policy 4.2.2.1 - Control the potential adverse effects of residential activities

Objective 4.2.3 - To maintain and enhance the physical character of Residential Areas and identified areas of special streetscape or townscape character

- 8.3 The proposed car deck would have no more than minor effects on streetscape character on the general amenity values of the neighbourhood. Car decks are a common feature and are generally an accepted part of Wellington's residential environment.

Objective 4.2.9 - To enable efficient, convenient and safe access for people and goods within Residential Areas

Policy 4.2.9.1 - Seek to improve access for all people, particularly people travelling by public transport, cycle or foot, and for people with mobility restrictions.

Policy 4.2.9.3 – Require appropriate parking, loading and site access for activities in Residential Areas.

8.4 I consider that the car deck provides improved vehicular access to 13 Plunket Street, and does not inhibit other forms of transportation in the vicinity.

8.5 Overall, I find that the proposed structure would be consistent with the relevant objectives and policies of the Wellington City District Plan.

9 PART II OF THE RESOURCE MANAGEMENT ACT 1991

9.1 A final consideration is whether there are any relevant matters under Part II of the Resource Management Act.

9.2 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.

9.3 There are no matters of national importance under section 6 that are relevant to the consideration of this application.

9.4 Section 7 of the Act lists a number of other matters that Council shall have particular regard to when considering such an application. Under section 7 the following matters are 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.

9.5 The proposal would not be contrary to Section 7 of the Act as the proposal would promote the more efficient use of the property, in a manner that would not detract from the residential amenity values of the area and that would maintain the quality of the environment.

9.6 In sum, therefore, I find that the proposal to construct the proposed car deck is not contrary to the purpose and principles of Part II of the Resource Management Act.

10 CONCLUSION

10.1 The application is to construct a single vehicle parking deck at 13 Plunket Street, Kelburn, and on the legal road in front of that property, that would, in part, exceed the sunlight access plane requirement for the Outer Residential Area. The proposal

requires resource consent as a restricted discretionary activity for the proposed matter of non-compliance and for occupying part of the legal road.

10.2 Having considered the evidence presented at the Hearing, the submission received, the relevant assessment criteria, and Part 2 of the Act, I find that the application should be granted because:

- (a) The proposal is consistent with the purpose and principles of the Resource Management Act 1991;
- (b) The proposal would not conflict with the objectives and policies of the Wellington City District Plan;
- (c) The proposed structure would have no more than minor effects on the streetscape character and the local residential amenity values; and
- (d) The proposed structure would create no significant loss of amenity on the adjoining property in terms of sunlight, privacy and views.



Robert Schofield
HEARING COMMISSIONER
24 January 2008