

23 November 2011

NZ Transport Agency
C/O Julie McMinn
Opus International Consultants Ltd
PO Box 1913
Dunedin 9054

Dear Julie

NOTICE OF REQUIREMENT

**DIS-2011-1: NZ TRANSPORT AGENCY
SH1 CAVERSHAM VALLEY ROAD
DUNEDIN**

The above Notice of Requirement for the State Highway 1 Caversham Valley Safety Improvements Project to be undertaken by the NZ Transport Agency (NZTA) was processed on a notified basis in accordance with sections 168 and 169 of the Resource Management Act 1991 (RMA).

The Hearings Committee (the Committee) comprising Councillors Colin Weatherall (Chairman) and Kate Wilson, and Independent Commissioner Mr David Benson-Pope, heard the application in public on 4 – 6 October 2011. The Requiring Authority subsequently provided a written right of reply on 14 October 2011.

At the end of the public part of the hearing, the Committee, in accordance with section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public. The Committee undertook a site visit on Tuesday 1 November 2011.

The Committee recommends that the Notice of Requirement be **confirmed**, subject to conditions, on 1 November 2011. The full text of the decision commences below.

The Hearing and Appearances

The NZTA was represented at the hearing by:

- Mr Kerry Smith – Counsel
- Mr Simon Underwood – Projects Team Manager, NZTA
- Ms Julie McMinn – Planning Consultant, OPUS
- Mr David Eaton – Transportation Manager, OPUS
- Mr David Dunlop – Transport Group Manager, OPUS
- Mr Vincent Dravitski – Research Manager, OPUS
- Ms Helen Preston Jones – Principal Landscape Architect, OPUS
- Ms Wendy Turvey – Principal – Environmental Services, OPUS
- Mr Roger MacGibbon – Principal Ecologist and Work Group Manager, OPUS

Submitters attending to speak to their submissions were:

- Ms Sarah Lindsay on behalf of the Short Street and Ensor Street residents
- Mr Rod Morris on behalf of Mr Henrik Moller

- Mr Rod Morris
- Mr Anthony Harris
- Mr Bruce Hill, Department of Conservation
- Professor Alan Mark for the Forest and Bird Society
- Mr David Randle

Dunedin City Council (DCC) staff in attendance were:

- Ms Lianne Darby – Processing Planner
- Mr Paul Freeland – Senior Planner, Policy
- Ms Jennifer Lapham – Governance Support Officer
- Ms Lisa Clifford – Senior Transportation Manager
- Ms Dolina Lee – Reserve Planning and Policy Officer

Procedural Matters

Late Submission

Pursuant to Section 37 of the RMA the Committee accepted the late submission from Mr John Crawford-Smith after taking into account the matters set out in Section 37A(1) of the RMA.

Summary of Evidence Heard

Introduction from Handling Officer

Ms Darby presented her report, prepared pursuant to section 42A of the RMA, to the Committee and provided a summary of her assessment. She explained that the Requiring Authority had presented three options for project works, and briefly detailed the similarities and differences between the options. The Committee was to consider the Notice of Requirement to vary two existing designations, D456 and 457, so as to allow any of the three options to proceed. It was therefore not necessary as part of the hearing process to finalise the form of the proposed works, and if the Committee was of a mind to confirm the requirement, more definite design details would be provided to Council at a later date as an 'Outline Plan'. Ms Darby recommended that the Committee confirm the Notice of Requirement, subject to conditions.

The Applicant's Case

Mr **Kerry Smith** provided legal submissions and gave a concise description of the significance of Caversham Valley Road and the need for safety improvements. He explained the background to the project, the environmental context of Caversham Valley Road, the crash records for this stretch of road, and the proposal. Mr Smith summarised the NZTA's role, statutory functions and objectives.

Mr Smith clarified that the Notice of Requirement was for alterations to existing designations, so the Committee only needed to consider the new or altered elements of the proposal. The Committee is unable to compel the Requiring Authority to choose a particular option, or recommend alternatives. Section 171(1) requires the Committee to consider, subject to Part II of the RMA, the effects on the environment of the requirement. Following the confirmation of a designation an Outline Plan would be provided to the consent authority. The designation authorises the public work, but the Outline Plan provided details of construction and mitigation, with the authority setting the level of detail.

Mr Smith briefly discussed the consultation undertaken, the issues raised in submissions, and the limitations on the matters the Committee could have regard to. He noted that the Council's power to recommend conditions is broad, but the conditions needed to be consistent with the Newbury principles. Mr Smith introduced the expert witnesses who would be appearing before the Committee on behalf of the Requiring Authority.

When questioned by the Committee, Mr Smith noted that the right for submitters to participate in the Outline Plan process had not been fully resolved. The right of parties to appeal was limited to the territorial authority.

Mr **Simon Underwood**, as the NZTA's Project Team Manager, presented his written submission, including plans, photo-montages, photographs and the results of studies undertaken on travel times for alternative routes. He also provided evidence of consultation undertaken by the NZTA with submitters. A 'modified NOR plan' (Appendix 1) tabled by Mr Underwood showed the revisions made to the proposed road layout, including provision for a left-turn from southbound traffic off the highway into Burnett Street, and a link between South Road and Caversham Valley Road.

In response to questions from the Committee, Mr Underwood explained that the designation included land bought by the NZTA which would be disposed of later if not required once the works had been completed. Long term use of such land still had to be determined. Mr Underwood also advised that the NZTA had bought 172 Caversham Valley Road ('the Walsh Property') since the lodging of the Notice of Requirement, and it was likely that this land would be utilised for the translocation of significant fauna, most notably, peripatus, prior to road works commencing. Evidence to this effect would follow.

Mr **David Eaton** tabled his written submission on the traffic assessment of the existing road layout and the proposed works. He detailed the geometric deficiencies of the existing road corridor and the applicable industry standards for road performance. Mr Eaton then detailed the proposed works, concluding that there would be a vast improvement on the quality of the road, resulting in superior road safety.

In response to the Committee's questions, Mr Eaton discussed the provisions for access for the Lookout Point Fire Station, noting that the situation was largely an existing one but the proposed works would improve safety by reducing speeds of traffic turning into Mornington Road. The works provided an opportunity for a cycleway to be incorporated into the road layout, although there were still issues to be resolved regarding its location. He also noted that the long-term use of the former service station site at 53 Caversham Valley Road was for the NZTA to decide in the future. Access to this site was possible from Caversham Place.

Mr **David Dunlop** spoke to his written submission. He described the background to the project, and his involvement in the traffic modelling undertaken to determine the most appropriate road layout design. This included bus routes and provision of routes for pedestrians and cyclists. Mr Dunlop advised the Committee of the current traffic volumes using Caversham Valley Road, and the forecast for increased traffic flows over the next ten years.

Mr Dunlop described the proposed alterations to the designations on a section by section basis, and provided a traffic assessment of the proposed changes in light of the projected traffic volumes, as well as pedestrian and cycle use. Mr Dunlop also discussed the anticipated effects on safety, and the temporary effects resulting from the construction period. He commented on concerns raised by submitters in some detail, and on points made by the Council's planner. In conclusion, Mr Dunlop supported the construction of a bridge at Lookout Point and other proposed changes to the roading layout, stating, *'The project will provide significant transport benefits to all road users ...'*.

When questioned by the Committee, Mr Dunlop noted that any of the three options presented in the Notice of Requirement would have benefits for safer road functionality, but Alternatives A and B would provide less connectivity than the Base Option. He discussed with the Committee the implications of the Base Option on costs, speed and traffic routes.

Mr **Vincent Dravitzki** spoke to the Committee about noise in regard to Caversham Valley Road. He advised that the noise arising from the proposed realignment of the State highway should be viewed in the context of the existing situation, and noted that should the project not proceed, there would be no improvement in the noise levels for the residents in the area. The current noise levels are 'high'. Overall, the noise impacts of the new road would be small, partly because the houses that might be subject to large noise increases were being removed as part of the proposed works. The road would be moving away from the houses on the southern side of the road, and mitigation works would reduce noise levels for some properties. Mr Dravitzki described his methodology, the results of his study, and the proposed mitigation works. He responded to concerns of submitters, and concluded that the changes in

operational road-traffic noise would be small. The construction noise would be managed in accordance with the industry standards.

In response to questions from the Committee, Mr Dravitzki noted that he was not qualified to comment on vibration effects. He stated that average noise levels tend to have the greatest impact on people, but there also needed to be consideration of extreme noise levels. Unpredictable events were outside the controlled environment being managed.

Mr Dravitzki discussed the barrier along the proposed service lane on the southern side of Caversham Valley Road in terms of its length, architectural detailing, and implications for visibility of drivers. The higher the barrier, the greater the noise mitigation provided, but the overall urban design and shading effects meant a 1.8m high barrier would be most appropriate. Mr Dravitzki also discussed the mitigation provided by double glazing of house windows, but noted that vegetation did little to reduce actual noise although there could be a perceived improvement in noise levels. He advised that there would have to be a 30% change in traffic volumes for there to be a 1 dBA change in noise level.

Ms **Helen Preston Jones** spoke to her written submission in regard to the urban design strategy employed for the project. She described the present urban environment, and the historical forces that have shaped this section of road and community. Ms Preston Jones discussed the effects of the project in terms of the connectivity it would provide, and the consequences for the community of severing other current traffic routes. She commented on the possible loss of character for the area resulting from the removal of houses from Caversham Valley Road, and concluded there would be minor change in character because the works would be an extension of an existing activity.

Ms Preston Jones discussed the Landscape and Urban Design Concept Plan which had been produced to assist the integration of the highway into the surrounding landscape. Other matters which could be discussed further during the detailed design phase included the treatment of the bridge, replanting programmes, and consultation with the community on the walls. She concluded that the overall project would provide benefits for the community, and could be integrated into the landscape.

Ms Preston Jones answered questions from the Committee, noting that anecdotal evidence suggested some Caversham Valley Road residents would park on the south side of the road and cross over to their properties. The proposal would provide formal crossing places 1km apart, and informal crossing places could be provided by breaks in plantings in the proposed median strip. It was better to have a footpath on the eastern side of the proposed bridge as this provided better views of the City, and would not require pedestrians to cross intersections with on-ramps and off-ramps. However, it was difficult to know how pedestrians would behave until the bridge had been built.

When questioned about the effects of the bridge on nearby houses, Ms Preston Jones advised that the main adverse effects would be on properties which had already been bought by the NZTA, or were in vegetation. The visual effects would largely be determined by the residents own opinions, and that the bridge could be a structure worth looking at. As much existing vegetation in the area would be retained as possible, but planting and replanting would also be undertaken. Planting of smaller species would serve while larger vegetation became established. Ms Preston Jones discussed with the Committee methods for making the proposed bridge an attractive structure, and for minimising the likelihood of graffiti damage. The detail would form part of the Outline Plan. In regard to the bluestone retaining wall to be removed, Ms Preston Jones agreed that it was desirable to keep the stonework within the vicinity. She noted that the shading diagrams did not include the shading from trees.

Ms **Wendy Turvey** spoke to her written submission which discusses the social impacts of the proposed works. She noted that the Caversham Valley Road works would have both positive and negative effects on accessibility, but identified benefits for pedestrians and cyclists because of the enhanced road shoulders, footpaths, and crossing places. Pedestrians and cyclists would also be advantaged in regard to the Lookout Point bridge options. On balance, she considered the overall impact on amenity values to be, socially, an improvement. While

there would be a mixture of effects resulting from the proposed works, overall the positives would outweigh the negatives.

When questioned by the Committee on the effects of the proposal in regard to the Short Street residents, Ms Turvey advised that she was unaware of any pre-consultation. The bridge had far more positive effects for connectivity than would be the case without a bridge. There would be benefits for the Calton Hill School in that there would be safer routes across Caversham Valley Road for pupils and parents. Ms Turvey did not consider that there would be significant adverse effects on connectivity for Short Street residents; there would be a small increase in travel times, but benefits for safety.

Mr **Roger MacGibbon** tabled his written submission on the ecological effects of the proposal. He discussed the various sites of ecological interest within the project area, and the characteristics of the fauna of interest, in particular, the peripatus. Mr MacGibbon described the mitigation measures the NZTA was prepared to undertake in order to preserve and enhance the peripatus population. The NZTA had purchased 172 Caversham Valley Road ('the Walsh property') as a suitable site for the translocation of peripatus.

Mr MacGibbon discussed the behaviour of the peripatus and their preferences for habitat with the Committee. He noted that Mr David Randle (owner of 146 Caversham Valley Road) had a great deal of knowledge on the subject, but the level of collective knowledge was low. He did not recommend that the reserves should be 'recreation reserves' as better protection was provided by other statuses. Covenants, such as a QE II covenant, could provide protection for peripatus on private properties. Mr MacGibbon suggested that peripatus habitat site-improvement works should start this summer, but the NZTA needed to conclude the land purchase first. Even then, it was not known how successful the translocation of the peripatus would be because of the lack of knowledge and experience.

The Committee clarified with Ms Dolina Lee, Council's Reserves Planning and Policy Officer, the benefits given by the different reserve statuses. A 'recreation reserve' allowed public access, and it was Ms Lee's opinion that a 'nature reserve' would give the best protection to the peripatus.

Mr Paul Freeland, Senior Planner – Policy, advised the Committee that the possible 'international significance' of this peripatus population was an effect to be considered alongside the other effects of the proposal. When questioned by Mr Freeland about the possibility the new site was already 'full' of peripatus, Mr MacGibbon replied that space would not be a problem; it was the suitability of the habitat which would likely need to be improved.

Ms **Julie McMinn** spoke to her written submission on the planning aspects of the proposed alteration to the designations. She advised the Committee that the Notice of Requirement would enable the proposed Caversham Valley Safety Improvement project to be established, operated and maintained in a manner consistent with the existing State highway network through the City. An Outline Plan would allow the Council to assess the details of the project in more detail at a later stage.

Ms McMinn described the consultation undertaken by the NZTA with key stakeholders and the general public. She advised that the community would continue to be informed during the construction period. Ms McMinn briefly summarised the effects on residential amenity, transportation, indigenous fauna and flora, public transport and construction resulting from the proposed works. She also discussed the planner's report and the recommended conditions therein, and provided an updated version of the conditions which would address the NZTA's concerns and preferences.

Ms McMinn responded to questions from the Committee regarding the level of consultation undertaken with the Short Street residents. The Committee asked if it was possible for Short Street to be severed from State Highway 1 under the authority given by the present designation. Ms McMinn believed that this was the case, but had not tested the process as that was not the method the NZTA wished to take. The Committee clarified a number of points arising from the revised conditions recommended by Ms McMinn. Ms McMinn noted that the NZTA did not want open-ended conditions requiring approval from third parties, but

the conditions did not preclude discussion between parties and, in any case, a deficient document would not meet the standards of the Council.

Evidence from Submitters

Ms **Sarah Lindsay** spoke on behalf of herself and the residents of Short and Ensor Streets. She tabled her written submission, noting that she was not there to oppose the proposed Caversham Valley Safety Improvements project as long as the effects on the Short Street and Ensor Street residents could be avoided or mitigated. Ms Lindsay considered the effects of the proposed severance of Short Street from the State highway to be significant as residents would be forced to travel additional distance to the motorway, with consequential effects in terms of unnecessary carbon dioxide vehicle emissions.

Ms Lindsay disagreed with the view of NZTA that the adverse effects of closing Short Street were outweighed by the safety improvements as she had never experienced any issues with safe access in seven years. The Kaikorai Valley Road route, however, was 'extremely dangerous'. Ms Lindsay supported a connection to Morningson Road, and believed this to be readily achievable. The concerns of the Short Street and Ensor Street residents could only be resolved through the provision of direct access to the motorway or Morningson Road.

The Committee advised Ms Lindsay that her points about effects on property values could not be considered under this process. The Committee discussed with her the level of consultation on the proposal, and was told that the notification by Council was the first contact. When queried whether the reduction in through-traffic on Short Street would be a benefit to the residents, Ms Lindsay noted that the volume of traffic was not an issue, speed was, and that the traffic link to State highway 1 was more beneficial than any reduction in traffic volumes.

[The Committee recalled Mr Simon Underwood and Mr Kerry Smith to discuss the subject of Short Street. Mr Smith advised that an earlier plan showing Short Street to be linked to the State highway was no longer relevant. Mr Underwood noted that there had been a letter sent to the Short Street residents in February 2011, and that there had been a community information evening held where the plans clearly showed no link. All the Short Street residents were notified by the Council at the time of the Notice of Requirement. There were also newspaper articles, and posters placed in shops. There was no statutory obligation for the NZTA to directly consult with the residents. While the plans were not necessarily clear about the NZTA intentions for the road, discussions with residents indicated that there was a level of understanding among the public about the severance of the link. Messrs Smith and Underwood discussed the reasons for the proposed changes to Short Street, and the situation with the intersection of Short Street and Kaikorai Valley Road. Mr Freeland noted that Council's Senior Transportation Planner supported the proposal to close the Short Street link to the State highway.]

Mr Rod Morris presented a power point presentation on behalf of Professor **Henrik Moller** on the '*Mitigation of potential impacts of road works on the Caversham Peripatus population*'. In the presentation, Mr Moller discussed the past and future situation for the management of the peripatus in Caversham Valley, with additional comments in the written version tabled at the hearing.

The Committee advised Mr Morris that Mr Moller's final statement regarding the intention to appeal any decision to proceed with the road works should funding, research, and proper management of peripatus not be secured first had legal implications which the Committee could not have regard to. Furthermore, he had not been present for the NZTA's presentation, and did not have all the available information that had been placed before the Committee. The submission went beyond the scope of the Notice of Requirement, and the Committee noted there was an element of conflict within the submission itself. It discussed the management of the entire habitat of the peripatus whereas the notice was concerned with a sliver of land beside the present road. Mr Morris was not able to comment or answer questions on Professor Moller's behalf.

Mr **Rod Morris** then presented a submission on his own behalf. He briefly detailed his experience in the wildlife and photography fields, and showed a slide show of photographs he

had taken of the peripatus. He commented that, having heard the NZTA ecologist speak, he was confident that they appreciated the significance of the peripatus in this location. The Committee thanked Mr Morris for his quality presentation.

Mr **Anthony Harris** spoke to the Committee regarding the Caversham Valley peripatus and NZTA's proposed mitigation measures. He was impressed by its intentions, and supported any move to increase the size of the habitat for the peripatus.

Mr **Bruce Hill, Department of Conservation**, accompanied by Mr **David Agnew** and Ms **Pene Williams**, (DOC legal advisor), tabled his written submission. He discussed an agreement which had been reached between the Director-General of Conservation and the NZTA regarding the management of the peripatus of Caversham Valley. He attached draft conditions to his submission in respect to the translocation of peripatus and funding to be paid to the Department of Conservation by NZTA for the preparation of a Peripatus Management Plan. Mr Hill concluded that, if these conditions were attached to the designation, the concerns of the Department of Conservation as expressed in the original submission were resolved.

Mr Hill responded to questions from the Committee on what he considered to be the most appropriate status for a reserve. He considered that there needed to be more research into the significance of the peripatus, and then the reserve status could be more appropriately determined. Mr Hill explained that the Department of Conservation had not listed the peripatus as a nationally significant animal because the research on the peripatus was relatively recent. It needed to be formally written up, reviewed and critiqued before the department would review its list.

The Committee noted that the Caversham Bush Reserve had been purchased by the Council 20 years earlier, yet the Department of Conservation had not progressed any studies on the peripatus. Mr Hill noted that the department had a long list of animals and priorities, and work was only possible through sponsorship.

Ms Williams advised the Committee that the 'recreation reserve' status provided the peripatus with some protection as they could not be lawfully removed from the reserve. Reclassification could occur. Not all reserves had to be available for public access. It was also possible to place covenants over privately-owned land.

Professor **Alan Mark** spoke on his own behalf and that of the **Royal Forest and Bird Protection Society of New Zealand**. The society accepted the taxonomic assessment of the peripatus, and considered the animal to be a, '*...unique, very localised and ... threatened organism which justifies special consideration ...*'. Until a suitable area for translocation of peripatus is identified, the proposal remained unacceptable to the Forest and Bird Protection Society. The society commented on the proposed conditions as attached to the planner's report, and endorsed the relevant conditions.

When questioned by the Committee, Professor Mark said he considered a 'scenic reserve' to be the obvious choice as this recognised it was for the City; it should not be a 'scientific' or 'recreation' reserve as it was not purely for scientists or recreation.

Mr **David Randle** spoke to his written submission, tabling a number of relevant handouts and journal references. He advised the Committee about the peripatus population and significance on his own property at 146 Caversham Valley Road, and identified himself as a 'practical ecologist'. He understood some of the peripatus's requirements, and had experience in enhancing their habitat and numbers. He supported a land management plan rather than a species plan as single species management was outdated.

The Committee thanked Mr Randle for his material and efforts in making the submission. As the peripatus was partially located on his land, the Committee asked if he were prepared to place a covenant over his property to protect the peripatus. Mr Randle responded that he needed to keep his options as a landowner open, but wanted to see the area protected. He thought the NZTA's translocation plan was ambitious, but considered that it had every chance

of success. The area was known to be suitable for peripatus, there was at least two years for implementation, and Mr Randle had access to pre-rotted logs suitable for habitat.

Mr Randle also had many concerns about the social impact of the project and the State highway. He acknowledged that the works on the road had been on-going since the 1960s, and that there was a long-term strategy in planning for transport routes. Mr Randle had owned his property since 1982. There was no longer any social network around this road, and Mr Randle felt disconnected from his community. He noted that it was very difficult to turn into his driveway because of the volume of traffic on Caversham Valley Road. The proposed works would make the noise worse, and he had a right to outdoor amenity.

Also tabled at the hearing were written submissions from **Linda Harrax, Glenn McDougall**, and the **Otago Regional Council**, although these parties did not appear before the Committee. The concerns of Ms Harrax and the Otago Regional Council had been addressed already by the NZTA prior to the hearing. Mr McDougall's concerns were largely in regard to loss of property values, which cannot be addressed by the Committee in its consideration of the Notice of Requirement.

Reporting Officer's Additional Comments

Ms **Lisa Clifford**, Senior Transportation Planner, made herself available for questioning by the Committee. She supported the closing of the Short Street link, and noted that most vehicles using this road were through-traffic rather than residents. The Council would look at the intersection of Short Street with Kaikorai Valley Road if and when necessary if the change in road linkages meant there needed to be improvements. The situation would be similar to the present Ensor Street functionality.

Ms **Lianne Darby** provided a summary for the Committee of the planning process in considering an alteration to a designation. Although three options for works had been presented to the Committee, the NZTA had indicated that the Base Option was the preferred option. The Committee did not need to finalise the option, however, at this stage, although a certain amount of confidence in what works would eventuate was desirable. The Council would have further opportunity to comment on the specifics of any option at the Outline Plan stage.

Applicant's Right of Reply

Mr **Kerry Smith** provided a written right of reply on behalf of the NZTA, submitted to the Council on 14 October 2011. He advised that the Base Option was the option being proposed, with the alternatives given to show that adequate attention had been given to alternatives. The Outline Plan was the appropriate place to address the details of the desired mitigation, including bridge design and landscaping. The NZTA would undertake a substantial body of design-related work for referral to the Council.

Mr Smith addressed the submission of Ms Lindsay regarding the closure of Short Street, and concluded that the convenience of the link to the State highway for the residents was not enough to displace the NZTA's objectives or to justify any adverse recommendation by the Council. He also discussed the findings of Mr Dravitzki in regard to several questions about noise effects asked during the hearing, concluding that three properties in particular could benefit from specific noise mitigation measures.

Mr Smith advised that the Fire Service supported a bridge proposal at Lookout Point, and would not be adversely affected by the closure of Short Street. The issue of 'boy-racers' taking advantage of the proposed bridge was not a reason to compromise improvement works for the safe and efficient use of the State highway. There was no evidence that the proposed works would cause or exacerbate illegal motor vehicle usage.

The issue which had received the most attention was the peripatus. Mr Smith noted that most of the submissions on this subject were in regard to the animal itself, with no submitters giving evidence that the road works would threaten the future of the peripatus. Most submissions did not find fault with the State Highway 1 proposal, and were instead concentrated on the management of the species. Mr Smith noted that this gave the

impression of there being two hearings in progress; the first, relatively minor, hearing addressed the road proposal, and the second was due to the re-established interest in the peripatus. The majority of the submitters on peripatus were concerned about the management of the animals over the balance of the Caversham Valley land rather than the land of the proposed designation.

While the NZTA plans had sparked an interest in the peripatus, there was no evidence that the plans would threaten the population or change its classification as a species. Most submissions emphasised investigation of the peripatus, and its future management. Mr Smith considered that these submissions might more appropriately be directed at the Dunedin City Council or the Department of Conservation. Ms McMinn had recommended conditions designed to ensure that the NZTA's work would not unduly interfere with the peripatus.

Statutory and Other Provisions

In accordance with Section 171(1) of the RMA, the Planner's Report detailed in full the relevant statutory provisions and other provisions the Committee considered. These statutory provisions included the relevant matters in sections 5, 6 and 7 of Part II of the RMA. Regard was given to the New Zealand Coastal Policy Statement, the Regional Policy Statement for Otago, and the Regional Plan: Coast for Otago. Regard was also given to the relevant provisions of the following chapters of the Dunedin City District Plan: 4 Sustainability, 11 Ports, 20 Transportation, 21 Environmental Issues and 26 Harbourside.

The Planner's Report also considered the requirements of Sections 171(b), (c) and (d).

Main Findings of Fact

The Committee considered the evidence heard, the relevant statutory and plan provisions, the principal issues in contention and the main findings of fact. The main findings of fact have been incorporated within the reasons discussed below.

Recommendation

The final consideration of the application, which took into account all information presented at the hearing, was held during the public excluded portion of the hearing on 1 November 2011.

The Committee reached the following decision after considering the application and the submitters' concerns under the statutory framework of the RMA:

*That, pursuant to section 171 of the Resource Management Act 1991, the Committee recommends that Notice of Requirement DIS-2011-1 to alter Designations D456 and D457 as shown on the attached plans (Appendix 2) is **confirmed with conditions**.*

It is recommended that the following conditions should be imposed on the designation:

1. *That, as part of the procedure of translocating peripatus from the land that will be affected by the proposed road extension, a suitably qualified ecologist will record the number and location of peripatus observed and captured. The results of the survey will be written up, with particular reference being made to the location of peripatus on the affected land and the determination of a coarse estimate of density. The documented survey results will be made available as soon as possible to both Department of Conservation and the Dunedin City Council.*
2. *That a suitably qualified ecologist surveys (technique to be devised in consultation with Department of Conservation) Section 145 Block VI Town Survey District (CFR OT11A/1178) (172 Caversham Valley Road - the "Walsh Property") excluding land required for State Highway purposes prior to any translocation for the purpose of:*
 - i) *gaining a coarse indication of peripatus extent and density; and*

- ii) *locating areas not occupied by peripatus that may be suitable for the release of translocated animals.*
- 3. *That a suitably qualified ecologist undertakes a walk-through survey (technique to be devised in consultation with Department of Conservation) of Lookout Point Reserve (the portion that is not affected land) prior to any translocation for the purpose of:*
 - i) *identifying and recording where peripatus are present (if they are present at all);*
 - ii) *locating potential peripatus release sites.*
- 4. *That the Requiring Authority, in consultation with Department of Conservation, the Dunedin City Council and David Randle (if available to assist), no later than 1 month before any of the affected land is disturbed by the Requiring Authority and/or its contractors, will engage a suitably qualified ecologist to supervise the enhancement of the vested land by the creation of peripatus release and occupation sites in accordance with the Peripatus Translocation Plan (which will be prepared in consultation with Department of Conservation and Dunedin City Council and appropriate community representatives).*
- 5. *That translocation of peripatus from the affected land to suitable areas of the vested land) is undertaken by a date determined by the Requiring Authority, in consultation with Department of Conservation, the Dunedin City Council and David Randle (if available to assist), no later than 1 month before any of the affected land is disturbed by the Requiring Authority and/or its contractors. A representative sample of peripatus will be marked to enable post translocation monitoring to occur if a suitable and ethical marking technique can be identified by the Department of Conservation. The translocation will be undertaken under the direct control of a suitably qualified ecologist or wildlife manager.*
- 6. *Between 12 and 24 months of the actions described in paragraphs 4 and 5 being completed, the presence of peripatus at both the release sites and spare occupation sites will be assessed, using a method determined in consultation with Department of Conservation, by a suitably qualified ecologist. The results of this assessment and those actions detailed in 1, 2, 3 & 5 will be reported to Department of Conservation and the Dunedin City Council and that report will be made available to other persons on request.*
- 7. *The Requiring Authority will make available to the Department of Conservation \$15,000 to fund the preparation of a Peripatus Management Plan for peripatus in the Caversham Valley. This funding will be available for 18 months following the designation becoming operative. This will be subject to the Requiring Authority receiving evidence of the completed work and an invoice from the Department of Conservation for the said works.*
- 8. *That 172 Caversham Valley Road (the former "Walsh land"), Section 145 Block VI Town Survey District (CFR OT11A/1178) (excluding land required for the State Highway Purposes) be used for the purposes of peripatus habitat protection in accordance with condition 5 above.*
- 9. *That, as part of the road works, the fringes of the highway on the northern side between Sidey Park and Lookout Point shall be planted where practicable with a natural assemblage of native trees and shrubs appropriate for the south facing Caversham Valley slopes. At least 50% of the trees shall be 1m-2m in height at the time of planting. The purpose of this planting is to provide a planted native buffer between the highway and Caversham Valley hill slopes in support of the ecological habitat in the area.*

10. *That any modification of Dunedin City Council's services necessary as part of the road works will be determined in consultation with the Water and Waste Services Business Unit. Any changes to the services shall be approved by the Water and Waste Services Business Unit prior to works commencing. The Requiring Authority shall meet all costs of retaining services affected by the road at a similar level of service to that provided prior to the road works being undertaken. The Requiring Authority shall not pay for the upgrading or betterment of services.*
11. *Access to all Council services must be available to the Water and Waste Services Business Unit at all times during road works.*
12. *That three weeks prior to the commencement of any work on the site, a construction management plan shall be prepared and submitted for approval by Dunedin City Council's City Development Manager. That plan shall include, as a minimum, the following:*
 - i) *Mitigation measures to reduce adverse effects on traffic management in relation to any nearby intersections or arterial roads;*
 - ii) *Mitigation measures to reduce adverse effects on adjoining properties, including, dust, noise and safety of people visiting the sites;*
 - iii) *Outline the process to occur should condition 13 below be invoked; and*
 - iv) *Methods by which the public will access and understand the plan.*
13. *That if koiwi tangata (human skeletal remains), taonga or archaeological artefacts are discovered during site construction, the Requiring Authority shall, without delay:*
 - i) *Cease all work within a 50m radius of the discovery and secure the area;*
 - ii) *Notify their nominated archaeologist, the consent authority, Kai Tahu ki Otago, the New Zealand Historic Places Trust, and in the case of koiwi tangata (skeletal remains), the New Zealand Police;*
 - iii) *Enable a site inspection by the New Zealand Historic Places Trust and the appropriate runanga, and their advisors, who shall determine the nature of the discovery and the further action required, including whether an Archaeological Authority is required under the Historic Places Act 1993;*
 - iv) *Any koiwi tangata or taonga shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal and preservation;*
 - v) *Ensure that the further action identified in accordance in part (iii) of this condition is undertaken; and*
 - vi) *Upon completions of tasks (i) to (v) above, and provided all statutory permissions have been obtained, the Requiring Authority may recommence site construction following consultation with the consent authority, Kai Tahu ki Otago, the New Zealand Places Trust, and in the case of koiwi tangata (skeletal remains), the New Zealand Police.;*

Advice Notices:

1. *The NZTA will need to apply for an archaeological authority from the New Zealand Historic Places Trust, under the Historic Places Act 1993, prior to commencing work, and will need to comply with the conditions of that authority;*
2. *That the Outline Plan to be submitted in accordance with section 176A of the Act shall include the following matters:*

- i) *Space within the designation that is not required for the roadway, cycleways or footpaths shall be landscaped, generally in accordance with the Landscape plans, or utilised for community benefit;*
 - ii) *Footpaths and cycle-ways shall be identified that will allow for access for pedestrians and cyclists;*
 - iii) *Footpaths and cycle-ways shall be designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED);*
 - iv) *Identification of existing vegetation to be retained or transplanted;*
 - v) *Landscaping shall be used to minimise the visual intrusion of road structures;*
 - vi) *Details of how the stonework from the existing retaining wall on Caversham Valley Road (to be removed) shall be reused as an architectural or sculptural feature in the same general locality;*
 - vii) *A programme for on-going and relevant communication with the local community to keep the public and residents advised of works; and*
 - viii) *The Outline Plan should contain a detailed design of the bridge (vehicle or pedestrian) across the State highway at Lookout Point (aesthetic as well as functional matters will be considered by the Council when assessing this design).*
 - ix) *That full design drawings of the new road infrastructure shall be provided to the Dunedin City Council for comment prior to works commencing. This shall include details of:*
 - i. *any bridge to be constructed at Lookout Point;*
 - ii. *changes to Council-owned roads;*
 - iii. *the service lane to serve the remaining Caversham Valley Road residences;*
 - iv. *a road design which allows motorists to turn left into Burnett Street;*
 - v. *access arrangements for the residential properties remaining on the northern side of the road*
3. *Easements in gross should be created for any modified services wherever these services pass through private property.*

Reasons for this Recommendation

1. The Committee was mindful of the assessment required by section 171(1) of the Act, which is set out below for convenience:
 - (1) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to –*
 - (a) *any relevant provisions of –*
 - (i) *a national policy statement;*
 - (ii) *a New Zealand coastal policy statement;*
 - (iii) *a regional policy statement or proposed regional policy statement;*
 - (iv) *a plan or proposed plan; and*
 - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*
 - (i) *the Requiring Authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*

- (c) whether the work and designation are reasonably necessary for achieving the objectives of the Requiring Authority for which the designation is sought; and*
- (d) any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

2. In assessing the effects of the activity, the Committee considers that the evidence of Mr Smith, drawing on the expert advice provided for the Requiring Authority, demonstrated that any actual or potential effects of the proposal will be minor. The Committee understands that the proposals are for the alteration of existing designations, and it is appropriate to take the existing environment as the starting point for any assessment of effects. Accordingly, many of the effects of the operation of the new road are already established in Caversham Valley, and it is only the additional and varied effects that the Committee has taken into consideration. The Committee commends the Requiring Authority for its thorough and professional presentation of the Notice of Requirement.
3. The Committee recognises that the existing State highway, Caversham Valley Road, has deficiencies in its design, layout, and functionality. These have been well documented by the Requiring Authority in its presentation, and have also been observed by the Committee during its site visit. The crash history records presented as part of the Notice of Requirement indicate that there are issues with the operation of this road, and it is clear that the purpose of the proposed works is to improve safety for road users and residents. The Requiring Authority has presented three options of works, but has specified that the Base Option, involving the greatest changes to the roading layout, is the alternative being promoted. The Committee accepts that the Base Option will provide the community with the greatest benefits in terms of improvements for safety, and therefore also consider this to be the best option in order to achieve the purposes of the Notice of Requirement. The Committee has assessed the positive and negative effects on the environment arising from this option. There was little evidence presented on effects of the alternative options and as such this Notice of Requirement can only be approved in relation to the Base Option.
4. The Base Option will involve the construction of an over-bridge at Lookout Point, to join Mornington Road with Riselaw Road. This will be a major structure, and will bring about many of the greater changes to the environment and the community. The Committee considers that the bridge will have positive effects for the linking of the Mornington and Calton Hill suburbs which are geographically close but currently separated physically by a busy road. It is notable that, at present, the two communities have limited interaction, and because many of the public have already adapted their lifestyles so as to avoid difficult manoeuvres on Caversham Valley Road, it is difficult to ascertain how beneficial the bridge link will prove to be in the long term. The Committee do not foresee any significant adverse effects on the communities, however, arising from the linking of these two suburbs, and the proposed bridge will improve connectivity.
5. Submitters have opposed the construction of a bridge because of the possibility the bridge will increase traffic speeds along Mornington and Riselaw Roads. The Committee agrees with Mr Smith's assessment that improvement works for the State highway should not be compromised because some drivers might behave in an illegal or irresponsible way.
6. The bridge at Lookout Point will separate the State highway traffic from crossing local traffic, and is expected to result in significant improvements for safety. As such, the Committee considers the bridge will have positive effects on road safety, with only some adverse effects on connectivity resulting. The bridge will allow full interaction between the State highway and the side streets, Mornington Road and Riselaw Road. Alternative routes, however, are not considered to be onerous, and are most likely to utilise the new bridge to cross Caversham Valley Road, thereby taking a slightly longer, but safer, course. The bridge is supported by the Fire Service, located at Lookout Point, and a number of residents in the immediate area.

7. The Committee has considered the evidence of the Requiring Authority on the visual impact and appearance of the bridge. The Committee accepts that any adverse visual impacts created by the bulk and location of the bridge will be tempered by the majority of housing in the area either facing away from the bridge, or being at a higher level so as to overlook the structure. The Committee are desirous of having an attractive bridge in this location, and seek to have the design addressed more thoroughly at the Outline Plan stage. It is expected that the design will incorporate methods and materials that will discourage or prevent vandalism, and new and existing landscaping will, in time, soften the appearance of the structure. While there will be quite significant changes occurring to the locality because of the physicality of the new bridge, such infrastructure is common along the State highway routes and the bridge is not considered to be inappropriate for this environment.
8. The Committee accepts the evidence that the widened and realigned Caversham Valley Road carriageway will have adverse effects not significantly different from the present road. Most properties directly impacted upon have already been purchased by the NZTA, and the scarcity of submissions on this subject show the pro-activeness of the Requiring Authority in progressing the works and addressing the concerns of many of the residents. The new four-lane carriageway will have wider lanes, and a median separating conflicting traffic. It will be shifted north by approximately 10m, and will therefore be further from the majority of remaining residential properties on Caversham Valley Road than the present road. This will allow the construction of a service lane for those Caversham Valley Road residential properties on the southern side of the road, and will enhance the access to these properties by making ingress, egress and on-street manoeuvring much safer. The Committee considers that the altered layout of the State highway up Caversham Valley Road is an improvement on the present road.
9. The Committee is aware that the Requiring Authority has considered the comments and concerns of submitters, and has, in most cases, sought to provide a solution. In doing so, the Requiring Authority has altered the design of the proposed road layout in several ways between the notification of the Notice of Requirement and the hearing. The Requiring Authority has indicated that it is prepared to reinstate the left-turn manoeuvre into Burnett Street, although further discussion with the Burnett Street residents is required before the Requiring Authority can be certain this is the preferred action for most households. The layout has also been varied so as to retain a left-turn vehicle link between South Road and Caversham Valley Road, therefore allowing current bus routes to continue, albeit in the opposite direction, and general access onto the State highway from this road.
10. The Committee accepts the Requiring Authority's decision to sever the link of Short Street with the State highway although this could have negative effects on community connectivity. The Committee notes that the top end of Short Street falls within the current motorway designation, and the NZTA could close this road independently of this Notice of Requirement. The Requiring Authority has assessed the options for linking Short Street with Mornington Road, but this would compromise the standards of safety sought by the proposed works. The Committee considers that there will be some inconvenience arising from all traffic travelling down Short Street to exit onto Kaikorai Valley Road, but the extra distance and/or time taken to complete a detour is not considered to be onerous. The Committee notes that the majority of users of the present link onto the motorway are not residents of Short Street, but through-traffic. The Committee is of the view that the removal of such traffic from Short Street will be an improvement in terms of the otherwise residential nature of the road.
11. The Committee has considered the evidence of the Requiring Authority's expert on noise effects, and understands that the relevant noise levels of which to take account are the additional or variations to the existing situation. The future operation of the present road is also pertinent to the discussion, as the Notice of Requirement is for an alteration to existing designations, with existing infrastructure, operations, and

effects. Projected figures indicated that traffic volumes will increase significantly on this existing road, regardless of whether the proposed works proceed or not. The Committee notes that the Requiring Authority has identified those properties which will be adversely impacted upon by increased noise levels, although these are relatively few in number. Mitigation measures include the construction of a barrier fence between the service lane and new carriageway on Caversham Valley Road, fencing along the boundaries of some houses, and planting programmes. The Committee supports these proposals, and recommends that the Requiring Authority also engage with those residents adversely affected to the point where the above mitigation measures are ineffective, with a view of perhaps utilising more specific mitigation on a case by case basis for these properties.

12. The Committee commends the Requiring Authority for its approach to the issue of the Caversham Valley peripatus, and for its willingness to assist in the future management of the animal. It has not been determined that any peripatus will be adversely affected by the realignment of the new carriageway, or that any are within the altered designation, but the NZTA has purchased additional land specifically for the translocation of peripatus, and is prepared to contribute funding to research and future management of the animal. The Committee recognises that these actions are largely beyond the Requiring Authority's responsibilities as it involves reserve and future reserve land outside of the designation. Furthermore, there is no formal District Plan or Department of Conservation protection for any peripatus outside of the reserve areas. While Part II of the Resource Management Act 1991 (section 6(c)) does require all persons to recognise and provide for, '*... the protection of areas of ... significant habitats of indigenous fauna,*' the habitat in this case is only 'significant' because of the significance of the 'fauna'. No formal recognition of the significance of the peripatus, however, currently exists.
13. The Committee thanks the submitters on the subject of the peripatus for their thoughtful and often excellent presentations. In particular, the Committee appreciates the willingness of Mr Randle to allow the Committee to visit his property, and for the time given in acquainting the Committee more fully with the habitat and behaviour of the peripatus. The submitters all assisted in the Committee's understanding the animal. It should be acknowledged that much of the material presented was largely incidental to the purposes of the Notice of Requirement, and the Committee advises that it is more than satisfied with the response of the Requiring Authority. The on-going management of the peripatus is a wider, long-term issue that will not involve the NZTA, and will be largely dependent on public support.
14. The Committee has considered the Notice of Requirement in light of the provisions of the relevant statutory documents, most notably the Land Transport Management Act 2003, the New Zealand Transport Strategy (2002), the Council's Community Plan (LTCCP), the Dunedin City District Plan, and the Council's Transportation Strategy July 2006. The proposed works are considered to be consistent with the objectives and policies, and the desired outcomes, and will address the relevant key issues identified in these documents. These matters are mainly concerned with the creation and maintenance of strong transportation links through the City, the provision of routes to support economic development, and the safe operation of these routes.
15. The proposed works also contribute to the undertaking of specific goals of the Otago Regional Council's Otago Regional Land Transport Strategy 2005. This document recognises Caversham Valley Road as being a key route within Dunedin, and seeks to have a continuous 100km/hr route from Andersons Bay Road to the Dunedin airport turnoff on State Highway 1. The upgrading of Caversham Valley Road will not provide for a 100km/hr speed zone, but does recognise the importance of the road for the City. The Committee is aware that this document will be updated by the Regional Land Transport Strategy 2011 which has a different focus, concentrating more on integrated travel. The 2011 document post-dates the preparation of the Notice of Requirement, and is therefore not entirely relevant to this process. Even though the proposed works do not sit as successfully within the framework of the 2011 document

compared to the 2005 document, the proposed works are not considered to be incompatible with the 'outcomes' specified.

16. The Committee has considered the proposal in accordance with the objectives and policies of the Dunedin City District Plan. The proposal is considered to be consistent with the majority of the objectives and policies for the Sustainability, Manawhenua, Residential, Townscape, Transportation, and Environmental Issues Sections of the Plan. The proposal is also considered to be inconsistent or contrary, however, to some objectives and policies of the sections Indigenous Vegetation and Fauna, and Townscape.
17. The Committee is satisfied that the Requiring Authority have considered several options for road works, and notes that the NZTA has presented two of these, Alternative A and B, as part of the documentation. Caversham Valley Road is an existing State highway, and as such, there is no capacity to change the general location or significance of this road. The alternatives are purely concerned with obtaining the best and most effective upgrade of this road to achieve a safer route for road users. The Committee is satisfied that the Base Option will accomplish these objectives the most successfully of the three options for works as presented in the Notice of Requirement documentation. There was little evidence presented on effects of the alternative options and as such this Notice of Requirement can only be approved in relation to the Base Option.
18. The Requiring Authority has satisfied the Committee that the proposed works are needed. The volume of traffic on Caversham Valley Road continues to increase, and any deficiencies in the layout or operation of this road will be compounded over time as the vehicle numbers continue to rise. Not only does the road not meet current industry standards for road layout, but the crash record for Caversham Valley Road is concerning. These issues will not be addressed satisfactorily without significant works being undertaken on the road. While all three alternatives for works presented to the Committee are expected to improve the safety record for this road, not all will resolve the inadequacies of the road layout. The Base Option is accepted as being the best alternative.
19. The Committee has given regard to the Part II matters of the Resource Management Act 1991 in assessing the Notice of Requirement. Sections 5(2)(c), 6(c), 6(e), 6(f), 7(b), 7(c), 7(d), 7(f) and 7(g) were considered relevant to the proposal. The Committee notes that most adverse effects on the environment will be temporary in nature during the construction period, and the final result is not expected to have more than minor adverse effects. The Committee has considered the relevance of the peripatus to the project, and the mitigation measures promoted by the Requiring Authority for its preservation and future management. The Committee is satisfied that due regard has been given to the indigenous fauna and its habitat. The Requiring Authority has consulted with key stakeholders, including the New Zealand Historic Places Trust and Kai Tahu ki Otago, and has considered the historic heritage and cultural significance of sites that might be affected by the proposal. The proposed road works are also considered to enhance the physical resource of the State highway. Overall, the proposal is considered to be in accordance with the Part II matters.

Lapsing of Designation

This designation shall lapse after a period of ten years from the date on which it is included in the District Plan. This period may be extended on application to the DCC pursuant to section 184 of the RMA.

Decision of Requiring Authority

Section 172(1) of the Act requires that within 30 working days of the day on which it receives a territorial authority's recommendation under section 171, the Requiring Authority (the ORC)

shall advise the territorial authority whether the Requiring Authority accepts or rejects the recommendation in whole or in part.

Upon receipt of the Requiring Authority's decision, the DCC will provide a copy of the decision to all submitters, and landowners and occupiers directly affected by the decision, advising them of the statutory appeal period.

Please direct any enquiries you may have regarding this recommendation to Paul Freeland at 474-3325 or by e-mail to pfreelan@dcc.govt.nz .

Yours faithfully



Colin Weatherall
CHAIR of the HEARINGS COMMITTEE



Kate Wilson
COUNCILLOR



David Benson-Pope
INDEPENDENT COMMISSIONER

APPENDIX 1



APPENDIX 2



