

Development Planning and Compliance

NOTICE OF DECISION

Service Request No: 208695

File Reference: 1047751

HEARING DATES: 18, 21 and 22 June 2010

HEARING COMMISSIONERS: Sue Piper (Chair), Noreen Barton, Neil Penney

DATE OF REPORT: 28 July 2010

<u>Site Address:</u>	5 Lyall Parade, Lyall Bay
<u>Legal Description:</u>	Part Lot 3 Deposited Plan 2456
<u>Applicants:</u>	Lyall Bay Surf Club and Wellington City Council C/- Landlink Limited
<u>Proposal:</u>	Partial demolition of existing No. 1 building (surf club) and total demolition of existing No. 2 building. Partial demolition of existing heritage seawall. Construction of a new surf club involving associated earthworks within the Coastal Marine Area.
<u>Owner:</u>	Wellington City Council
<u>Approved Plans:</u>	Plans by Archaus Architects, Project No. 07072: <ul style="list-style-type: none">▪ Sheet No. B001, 'Site Plan', dated 8-12-2009, rev A;▪ Sheet No. B202, 'West & North Context Elevations', dated 18-12-09, rev B;▪ Sheet No. B203, 'East & South Context Elevations', dated 18-12-09, rev B;▪ Sheet No. B300, 'Lower Level Plan', dated 18-12-09, rev A;▪ Sheet No. B301, 'Upper Level Plan', dated 18-12-09, rev A;▪ Sheet No. B302, 'Section ZZ', dated 18-12-09, rev A;▪ Sheet No. B303, 'Sections AA & BB', dated 18-12-09, rev A;▪ Sheet No. B313, 'Lower Level Tracking Curve', dated 23-06-10;▪ Sheet No. B401, 'East Elevation', dated 18-12-09, rev B;▪ Sheet No. B402, 'South Elevation', dated 18-12-09, rev B;▪ Sheet No. B403, 'West Elevation', dated 18-12-09, rev B;▪ Sheet No. B404, 'North Elevation', dated 18-12-09, rev B;▪ Sheet No. B410, 'Cladding Details', dated 12-05-10; and▪ Sheet No. B411, 'Cladding Details', dated 12-05-10.
<u>In Attendance:</u>	<u>Hearing Commissioners</u> Sue Piper (Chair) Noreen Barton Neil Penney <u>Wellington City Council</u> Campbell Robinson – Senior Planner Morten Gjerde – Consultant Urban Design Advisor

Patricia Wood – Vehicle Access Engineer
Tim Wild – Hearings Advisor

Applicant

Marilyn Moffatt – Chairman Lyall Bay Surf and Life Saving Club
Christian Bertschinger – Architect
Vikki Muxlow – Projects Officer (Parks and Gardens Assets and Projects)
Paul Turner – Registered Professional Surveyor

Submitters

Carol Quirk – 139 Paerata Ridge Road, Opotiki
Sherwin Mottram – 82 Lyall Parade
Yvonne Weeber – 143 Queens Drive
Max Marshall – 27 Volga Street
R. R. Russell – 98A Kilbirnie Crescent
Katherine Smyth – 216 Queens Drive
Glenn Hunter – 54 Queens Drive
Rob McGregor – 326 Evans Bay Parade
Donna Winstanley – 12 Rodrigo Road
Matt Provost – 72 Lyall Parade
Nicole Taylor – 318 Queens Drive
Martin Robinson – 23 Apu Crescent

THE DECISION

Decision: Land-use

The Commissioners acting under delegated authority from the Wellington City Council (the Council) and pursuant to section 104B of the Resource Management Act 1991 (the Act), **GRANT** consent to partially demolish the existing No. 1 building (surf club) and totally demolish the existing No. 2 building and construct a new surf club involving the partial demolition of an existing heritage seawall and associated earthworks within the Coastal Marine Area at **5 Lyall Parade, Lyall Bay** (being Part Lot 3 Deposited Plan 2456), subject to the following conditions:

General:

- a) That the proposal must be generally in accordance with the information provided with Application Service Request No. 208695 and the following approved plans:

Plans by Archaus Architects, Project No. 07072:

- Sheet No. B001, 'Site Plan', dated 8-12-2009, revision A;
- Sheet No. B202, 'West & North Context Elevations', dated 18-12-09, revision B;
- Sheet No. B203, 'East & South Context Elevations', dated 18-12-09, revision B;
- Sheet No. B300, 'Lower Level Plan', dated 18-12-09, revision A;
- Sheet No. B301, 'Upper Level Plan', dated 18-12-09, revision A;
- Sheet No. B302, 'Section ZZ', dated 18-12-09, revision A;
- Sheet No. B303, 'Sections AA & BB', dated 18-12-09, revision A;

- Sheet No. B313, 'Lower Level Tracking Curve', dated 23-06-10;
- Sheet No. B401, 'East Elevation', dated 18-12-09, revision B;
- Sheet No. B402, 'South Elevation', dated 18-12-09, revision B;
- Sheet No. B403, 'West Elevation', dated 18-12-09, revision B;
- Sheet No. B404, 'North Elevation', dated 18-12-09, revision B;
- Sheet No. B410, 'Cladding Details', dated 12-05-10; and
- Sheet No. B411, 'Cladding Details', dated 12-05-10.

Cladding Materials:

- b) The tile cladding system colours must be in accordance with the plans approved above in terms of the graduation of colours and the proportions of colours used and only the following approved colours must be used:
- NCS 1030 R90B;
 - NCS 2040 R90B;
 - RAL 5000 Violet Blue;
 - RAL 5022 Night Blue;
 - RAL 5013 Cobalt Blue;
 - RAL 1003 Signal yellow;
 - RAL 2010 Signal orange; and
 - RAL 3001 Signal red.
- c) The tile cladding system must be specified and installed in line with the 'Moeding Alphaton Gen 06 Terracotta Rainscreen'. Installation must be to the manufacturer's recommendations and approval. Sufficient spare tiles should be supplied so as to ensure a reasonable supply of repair materials with the recommendations of the manufacturer to be followed.

Glazing:

- d) The consent holder must, prior to construction commencing, submit a sample of the proposed glazing to the Council's Compliance Monitoring Officer for approval. The Compliance Monitoring Officer shall liaise with Council's Urban Design Advisor regarding the acceptability of the sample.

Note: The proposed glazing should not be dark or mirrored.

Demolition of Existing No. 2 Building:

- e) The consent holder must ensure that the demolition of the existing No. 2 building is commenced within 3 months of the new surf club building being operational.

Ramp Access Details:

- f) The consent holder must, prior to its use, submit for approval to the Compliance Monitoring Officer details of how the use of the proposed vehicle ramp would be controlled and secured. These details must also be approved by the Council's Parks and Gardens Business Unit (contact Vikki Muxlow – Projects Officer, Parks and Gardens Assets and Projects).

Earthworks/Stability:

- g) The consent holder must engage a suitably experienced Chartered Engineer to design and supervise construction of the earthworks/building foundation systems and on completion of construction provide the Compliance Monitoring Officer with a completion statement/certification (PS4). The consent holder's Engineer is to provide to the Council's satisfaction a brief design statement, confirming how all geotechnical issues of support or stability will be remedied by design and construction. The design statement should focus on engineering methodology that would satisfy consent documentation and ensure a successful development, not specific details of the design.

General Earthworks:

- h) All contractors must keep the adjacent beach, streets and footpaths safe, clear and clean and without damage and fit for normal use at all times from trucks/vehicles tracking mud and rubble from the site during the deconstruction and building. The contractor must protect the beach, the Council's stormwater system, sumps and other stormwater inlets from silt, rubble and debris infiltration. Spillage of any kind onto the street or footpath must be cleared away immediately. Measures to ensure that these conditions will be met must be approved before works commence and implemented to the satisfaction of the Compliance Monitoring Officer.

Construction/Demolition Management Plan:

- i) The contractor must provide a "Construction/Demolition Methodology Plan" to the Compliance Monitoring Officer's satisfaction before works commence, based on the "draft Construction Methodology Plan" supplied with the application. Appropriate measures must be put in place and maintained for the entire duration of the site-works and until the site has been properly stabilised through replanting and hard surfacing of the access way has been fully completed and signed off by the Compliance Monitoring Officer. The Plan shall ensure that during the construction and demolition periods, a minimum clear pedestrian footpath width of 2 metres parallel with Lyall Parade is maintained for safe public access along the promenade.

Hours of Work:

- j) The hours of works including demolition works must be carried out in accordance with the Council's Code of Practice for Land Development, Part B - Earthworks Design and Construction. The hours of work are restricted to:
- Monday to Saturday 7:30am to 6pm;
 - Quiet setting up of site (not including running of plant or machinery) may start at 6:30am; and
 - No work is to be carried out on Sundays or public holidays.

Re-vegetation Management Plan:

- k) The consent holder must, during the first available planting season following the removal of the existing No. 2 building, carry out planting of the area between the existing 'Gallery Building' and the proposed surf club building in

accordance with the “Lyll Bay 5 Year Dune Restoration Plan dated March 2009” submitted with this application. The planting carried out must also include all associated roof top planting as shown on the approved plans to the satisfaction of the Compliance Monitoring Officer.

Roof Top Planting Plan:

- l) The consent holder must submit a Roof Top Planting Plan, prepared by a suitably qualified landscape architect to the Compliance Monitoring Officer prior to the roof top planting being carried out. This Plan must set out the species to be used and detail how the planting will be carried out and maintained. The planting will be monitored annually by the Council for a period of 5 years, with the applicant responsible for the annual replacement of any plant specimens that die and the annual replacement of any species that are found to be inappropriate with a more suitable species.

Noise:

- m) A Construction Noise Management Plan shall be prepared and implemented by the appointed contractor under the supervision of an acoustic consultant. The plan must be submitted to the Compliance Monitoring Officer for approval, before the commencement of any works on site. The plan must describe the methods by which noise associated with the work will comply in all aspects with the controls set out in NZS 6803P:1984 and how all persons undertaking day-to-day site management will adopt the best practical option at all times to ensure the emission of noise from the site does not exceed a reasonable level in accordance with section 16 of the Act. The Plan must follow the guidance contained in the Council’s fact sheet “Tips on writing a construction noise management plan” (included as an Advice Note) and in particular detail how the management of noise and vibration effects from any construction and demolition work taking place on site will occur.
- n) The construction tender specifications must be submitted to the Compliance Monitoring Officer for approval prior to being issued. These specifications will require the contractor to allow for and use the "Best Practicable Options" to reduce noise and determine the specifics by subsequently preparing a detailed Noise Management Plan. The Noise Management Plan must then identify any requirements or risk that construction may have to take place outside standard construction hours of 7:30 am to 6:00 pm.
- o) The hours of use of the club facilities for special functions are limited to 0800 – 0100, Mondays to Sundays inclusive. The period between 0000 and 0100 shall be a ‘wind down period’ with reduced noise levels. The use of the club after 2200 for special functions involving amplified or live music and more than 50 people must not occur on more than 20 occasions in any 12 month period.
- p) Noise emissions levels emanating from any fixed plant and equipment including heating, cooling and ventilation plant air handling system must be monitored at the commissioning stage by a qualified acoustician. Verification must be provided to the Compliance Monitoring Officer before the activity is first brought into use that compliance with the District Plan noise rules has been achieved for all plant, including the wind turbine. In the event of non-

compliance with the District Plan noise rules, mitigation measures must be carried out to achieve compliance.

- q) The consent holder must, before any Club activity first commences, submit a Noise Management Plan to the Compliance Monitoring Officer for approval. The Noise Management Plan shall set out the practices and procedures with respect to noise management to be adopted in order that compliance can be achieved with the conditions of the consent and will as a minimum address the following:
- Noise rules and consent conditions;
 - Control of use of the outdoor deck area;
 - Control of access and egress of people and vehicles from the site late at night;
 - Allocation of staff responsibility;
 - Education and training;
 - Recording and reporting on complaints received;
 - Noise monitoring; and
 - Adopting the best practicable option to reduce noise to a reasonable level.

Wind Turbine:

- r) The wind turbine located on the site must be designed and operated in accordance with NZS6808: 1998, The Assessment and Measurement of Sound from Wind Turbine Generators. After construction of the wind turbine, the noise from it must be measured and assessed by an acoustic consultant. The consent holder must provide to the Council a report from the acoustic consultant stating that noise emanating from the operation of the wind turbine complies with NZS6808: 1998.
- s) Noise levels resulting from noise associated with the wind turbine when measured at or within any boundary of a residential site in the residential area, shall not exceed 35dBA (L95) at all times. A penalty (adjustments) shall apply for any special audible characteristics in accordance with NZS6802: 2008 Acoustics – Environmental Noise.

Seawall Heritage:

- t) The new opening in the seawall must be formed and finished carefully. The edges of the opening must be treated in harmony with those of the existing beach access points to ensure that the new opening does not stand out inappropriately along the length of the wall. In terms of this, there must be some form of treatment of the cuts (i.e. not just a straight cut finish) to demarcate them in a consistent manner with the other openings. This does not necessarily have to be exactly the same as the existing ‘squat pilaster’ treatments but it should be similar.
- u) The existing openings that will be left in the seawall by the removal of the existing No. 1 and 2 buildings must be filled in to make good the visual continuity of the seawall and for sand control purposes (see advice notes on this matter).

Cultural Heritage and Archaeology:

- v) The consent holder must comply with the following Accidental Discovery Protocol. This must be in place for any earthmoving or ground modification that occurs during the construction and demolition on the site.

If any archaeological site(s) are uncovered during any physical works, whether it is construction or demolition activity, the Project Manager must require the contractor to:

- Cease work immediately at the place.
- The contractor must shut down all machinery, secure the site and advise the site Project Manager.
- The Project Manager shall advise the Project Archaeologist, representatives of Wellington Tenth Trust, Port Nicholson Block Settlement Trust, Wellington City Council and the New Zealand Historic Places Trust (see below for contact details).
- If skeletal remains are uncovered, the Project Manager will also advise the Police.
- Wellington Tenth Trust and Port Nicholson Block Settlement Trust or their representatives will contact other Iwi groups (where necessary) and will organise a site inspection by the appropriate tangata whenua advisors.
- If, as a result of the site inspection, it is determined by the above parties that there is a need for an appropriate ceremony, representatives of the above parties will arrange for that process. The cost of any and all ceremonies and other related arrangements are to be borne by the consent holder.
- Material discovered will be removed by the Iwi responsible for the tikanga appropriate to their removal and preservation, or re-interment.
- Works affecting the archaeological site shall not resume until the New Zealand Historic Places Trust, the Police (if skeletal remains are involved) and Iwi Authority representatives have each given the appropriate approval for work to continue.

The consent holder will allow the Iwi authority representative(s) and the archaeologist(s) access to the site to carry out the responsibilities of this protocol. The Project Manager is responsible for on site safety and may from time to time need to restrict access to ensure the safety of the Iwi Authority representative(s) and archaeologist(s).

Contact details are:

<u>Wellington Tenth Trust</u> Wellington, contact: Liz Mellish PO Box 536 Phone: (04) 473 2502 Cell: 027 4403989	<u>Te Runanga o Toa Rangatira Inc.</u> Wellington Contact: Graeme Hastilow PO Box 50355 Phone: (04) 237 6763 Cell: 027 4572001
<u>NZ Historic Places Trust</u> PO Box 19173 Wellington, contact: Emma Brooks Phone: (04) 802 0003 Cell: 027 2937163	<u>Wellington City Council</u> PO Box 2199 Wellington, Contact: Phone: (04) 801 3422 After Hours: (04) 499 4444

- w) The consent holder must have an archaeologist on call during construction work on all other parts of the project area, in the lesser likelihood of intact archaeological material being uncovered in these areas.
- x) Any artefacts and material uncovered and recorded during site clearing work must be lodged with an appropriate repository. The consent holder must pay for the cost of any conservation required for artefacts or material.

Monitoring:

- y) The consent holder must, prior to construction of the surf club commencing and subsequently prior to any part of the work as determined by the Compliance Monitoring Officer, give at least 3 weeks notice before work starts. This advice shall be given to the Council's Specialist Advice and Compliance Unit by either telephone (801 4017) or facsimile (801 3165) and must include the address of the property and the service request number.
- z) The consent holder must pay to the 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 Act. 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 officers of the Council.

Review Condition:

- aa) The Compliance Monitoring Officer may review any or all conditions of this consent by giving notice of its intention to do so pursuant to section 128 of the Act, for the purposes specified below, annually from the date of commencement of this consent until five years after the completion:
 - To review the adequacy and implementation of any recommendations of the Construction Management Plan at any time.
 - To review the noise requirements for the following reasons:
 - To deal with any adverse effects on the environment resulting from turbine sound, including sound with any special audible characteristics, which may arise from the operation of the wind turbine; and
 - Continuous monitoring requirements.
 - To deal with any issues arising from complaints, at anytime.

Advice Notes:

1. Where appropriate, the Council may agree to reduce the required monitoring charges where the consent holder will carry out appropriate monitoring and reporting back to the Council.
2. This resource consent is not a consent to build. Such a consent must be obtained under the Building Act 2004 prior to commencement of construction.

3. A vehicle access approval is required for the construction of the new kerb crossing under Part 5, Section 16 of the Wellington City Council Consolidated Bylaw 2008.
4. Special functions include wedding receptions, birthday parties and other social parties of like nature but exclude business meetings, dinner functions and events involving low levels of noise from background music. That is, when the sound level does not increase significantly above that of people's conversations.
5. The proposal must meet the following District Plan noise limits:

The applicable District Plan noise emission limits at or within any Residential Area site including for new fixed plant and equipment including heating, cooling and ventilation plant are as follows:

- Monday to Saturday 7am to 10pm: 45dBA (L10)
- At all other times: 40dBA (L10)
- All days 10pm to 7am: 65dBA (Lmax)

6. We consider that the best heritage outcome for reinstating the seawall is that the infill sections are recycled out of the seawall cut for the new building. If this cannot be achieved, we believe it would be an acceptable outcome for the new infill sections of the seawall to be made with new concrete, with plaster carefully matched to the existing finish and allowed to weather in with the rest of the seawall over time.
7. It is our view that a key consideration in the design of the Construction/Demolition Management Plan should be that safe and efficient access is provided to pedestrians of all ages and abilities along the Lyall Parade promenade. We also note that all construction/demolition waste materials should be removed as soon as practicable from the site daily.
8. The Council's document - Tips on writing a Construction Noise Management Plan:
 - What will the noisiest work be?
 - List the noisiest machines and type of work. If possible, include the sound levels where available from hirers or suppliers. Examples include hammer-driven piling, concrete breaking using rock breakers on foundations near to shared or common walls, jack hammering, saw cutting of steel, concrete pouring, heavy plant such as excavators and generators. Describe where this work will happen on site and when.
 - Who and where are all the neighbours?
 - What are the distances to the nearest residential and other noise sensitive sites? Preferably draw a diagram showing where local shops, offices, cafes, hotels, education centres and residential sites are located around the construction site. Preferably speak to these neighbours and find out if they have a problem with very noisy work at certain times of the day. Describe how this may have an impact on the work. For example, some demolition in the CBD may have to take place between 7.30am and 9am and between 5pm and 8pm.

- What can be done about the noisiest work?
 - Look at as many options as possible for noise controls that are reasonable? For example – barriers placed near to very noisy activities, lower noise producing plant and equipment (electric rather than diesel, concrete crushers rather than breakers) and where plant could best be located on site. Describe how these options can be made to work to reduce noise as much as possible. It will be necessary to state how this will actually be done in practice to plan practical controls in advance.

- Will standard working hours be exceeded?
 - The standard working hours are from 7.30am to 6pm on Mondays to Saturdays. Is it likely that any work will take place outside these hours? For example, early morning concrete pours before 7.30am or setting up a crane on a Sunday. Describe how the Council will be contacted to agree to any exemptions and how neighbours will be notified in advance.

- How will site workers and sub-contractors be supervised?
 - Describe how measures will be put in place to monitor noise on site and to control noise from sub-contractors and their hours of working. This is a major source of complaints on construction sites, especially if sub-contractors go on site at times when there is no site manager around, though it is preferable that this never happens.

- How will site workers be trained?
 - Describe how all site workers will be made aware of the noise control requirements. For example at site induction or at regular site meetings.

- How will complaints be handled?
 - Describe the system for logging and following up complaints, who will take action and feedback to the complainant and what happens if the complainant is still not happy.

- How will neighbours be kept informed?
 - Describe which neighbours will need to be consulted about special requirements, who will need to be informed and kept up to date with work on site as it progresses and who will carry this out. For example, will there be letter drops for special works, newsletter updates, regular weekly or monthly meetings with the community and/or Council noise control staff. Will early consultation take place with a noise control officer? Their local knowledge may be beneficial to highlight any special issues to consider. This process has proved to be one of the best things site managers can do to get support from neighbours and avoid time dealing with complaints and the stoppages that can result.

- Where will contact details be posted?
 - What are the details of the person responsible on site, their mobile phone number, email address and where will people be able to see this. For example on a site board at the gate, on letters to neighbours.

BACKGROUND

Site Description

1. The subject site is 44,467m² in area and is located on the southern or seaward side of Lyall Parade, Lyall Bay. The property has the legal description Part Lot 3 Deposited Plan 2456 and is owned by the Wellington City Council. Under the District Plan, the site is zoned as 'Open Space B' and it is also situated within a Hazard (Ground Shaking) Area. Furthermore, under the District Plan, the Lyall Bay Sea Wall is listed as a Heritage Object (Symbol Reference 33).
2. The site contains four buildings; the existing No.1 and No.2 Lyall Bay Surf and Life Saving Club (LBSLSC) buildings, the 'Affordable Arts Building' and the Maranui Surf Life Saving Club building. The current No.1 building leases a footprint area of 180m² from the Council.
3. The No. 1 building is currently serviced for water supply, stormwater disposal and wastewater disposal. It has existing connections to electricity, gas and telecommunications. Access to the building is by steps inserted through the seawall, directly off Lyall Parade promenade.
4. To the south, the site is bordered by the sea. Immediately to the north and west of the No.1 and No. 2 buildings is a largely residential area. There are a range of building types, scales, densities and designs to the point where the area could be described as being somewhat eclectic. The residential area also contains a number of non-residential activities. Because of the width of Lyall Parade, the distance of the No. 1 building to the nearest dwelling is approximately 35 metres.
5. We note that much of the documentation supporting the application as well as evidence presented at the hearing describes the site in greater detail and this may be referred to by any reader to gain a greater appreciation of either the site in general or specific aspects of the site.

The Proposal

6. Resource consent is sought for the partial demolition of the existing No. 1 building and the total demolition of the existing No. 2 building located further to the west. The partially demolished No. 1 building would be rebuilt to bring it up to modern standards. The new building involves the following key features:
 - Continuation of use as a surf club facility;
 - Total floor area of 323m²; an increase of 143m² on the existing building;
 - Four public toilets;
 - A public rinse/shower facility;
 - A tap with drinking water;
 - A roof top garden;
 - Large storage area for recreational and patrol equipment;
 - Locker rooms;
 - Sauna;
 - Kitchen;
 - Bar Lounge;
 - Gym;
 - Patrol room/first aid area; and
 - Roof top wind turbine (Swift Energy Model).

7. Two existing 1.9 metre openings in the heritage seawall would be filled in and made good with the existing wall with a new 7.7 metre section being cut to allow access via a ramp to the beach for a restricted range of uses (such as towing of surf club equipment, emergency vehicle access and access for people with disabilities). Access to the beach via the ramp would be restricted through the placement of two lockable bollards adjacent to the western edge of the new opening.
8. The proposal involves earthworks on the beach to provide for suitable building platforms and foundations. Consent is required as the earthworks will be undertaken within the Coastal Marine Area, although they are relatively minor in nature.
9. The proposed construction staging would see the construction of the new surf club prior to the demolition of the existing No. 2 building. The primary reason for the staging is to ensure that there are functioning public toilets available for use at all times.

NOTIFICATION AND SUBMISSIONS

Notification

10. The application was publicly notified on 23 March 2010 in accordance with sections 95 to 95F of the Act. A public notice appeared in the Dominion Post on this date and a sign was erected on the site. Owners and occupiers of land in the immediate area were served a copy of the application.

Submissions

11. A total of 110 submissions; 86 in support, 2 neutral and 22 in opposition to the proposal were received by the close of submissions on 22 April 2010 at 4.00pm. A further 24 submissions were received after the closing date; 22 of these were in support and 2 in opposition. The final total number of submissions was 134; 104 of which were in support, 28 in opposition and 2 neutral submissions.
12. Pursuant to section 37 of the Act, the Council may waive a time period specified in the Act within which it or any other person must do something in connection with any of the authority's functions under the Act. In waiving a time period the Council, as a consent authority, shall take the following matters into account under section 37A(1) of the Act:
 - (a) *The interests of any person who, in its opinion, may be directly affected by the waiver; and*
 - (b) *The interests of the community in achieving adequate assessment of the effects of any proposal, policy statement or plan; and*
 - (c) *Its duty under section 21 to avoid unreasonable delay.*
13. We consider that there will be no person affected by granting waiver of the time period; that the submissions raise relevant issues; and that waiving the time limit would not result in any unreasonable delay. As such, we agree with the recommendation made by Campbell Robinson in his report that we waive the requirement in this case and accept the late submissions accordingly.

14. A 'summary of submissions' document was prepared for this application and was sent to all parties to the application, including all submitters, prior to the hearing in the manner prescribed by the Act. This document summarises the submissions and the issues that were raised in them. For brevity's sake, we will not list all submitters' details or the issues they raised in their submissions; instead we refer any reader to consult that document.

THE HEARING – 18, 21 and 22 June 2010

15. The hearing took place on 18, 21 and 22 June 2010 in the Cornish Suite at the West Plaza Hotel. Following introductions and opening comments, we examined the procedural matter of late submissions. We noted that all parties had agreed that it was acceptable to consider the late submissions received. As previously noted, we decided to accept Mr Robinson's recommendation that late submissions be considered and we confirmed that we had read them. We then invited the Council's officers to make their opening comments.

Council Officers

Campbell Robinson (Senior Planner)

16. Mr Robinson asked that his 'Report to Independent Commissioners' be taken as read. He identified that there had been a muting of the colour palette since the application was lodged and he said that the proposal was still considered to be within scope of the original application. He also noted that there had been information provided on the cladding material but that this was only for clarification purposes. Mr Robinson said the applicant had assured the Council that the colours they had submitted on the plans and model could be provided and he stated that the Council would have involvement in refining the final detailed design. We suggested to Mr Robinson that we may impose 'tighter' consent conditions in relation to this matter to give both us and submitters assurance on the matter.

Morten Gjerde (Consultant Urban Design Advisor)

17. Mr Gjerde stated that his most recent Urban Design Assessment had been prepared after the changes to the colour palette had been made and that his assessment had addressed this matter. He said he supported the colour scheme as being appropriate for its environment and he accepted that the cladding system would be robust enough to handle the coastal environment.

Hearing Commissioner Questions to Council Officers

18. We firstly asked Mr Robinson whether there were exact specifications of the colours to be used. He replied that the applicant had been asked to provide samples of the tiles and their colours but that they had not been able to do thus far. However, he said that colour 'formulas', to provide exact specifications for colours could be made available once samples were available.
19. We questioned Mr Gjerde about the use of the word "*details*" in the third recommendation of his assessment report and whether this was too open-ended. He responded that he was happy to provide an appropriate condition with different wording so that the matter would be unambiguous. At this stage, Mr Robinson also said that applicant would be required to build in accordance with any approved plans and information so that the final colours used would

be consistent with what was shown on the plans. He suggested that if samples were not available, there may be only a “*small leap of faith*” in terms of this matter. We reiterated our concern that there was a risk with not being able to be sure of the exact colours to be used and how they would appear in their practical setting and we said we may ask for better assurances on the matter.

20. Mr Gjerde was invited to comment on whether the surrounding built environment had an eclectic quality. He said that the wider built environment was eclectic and that there was variety in terms of architecture and character, building materials, building orientation as well as building bulk and scale. Mr Gjerde said that the built environment immediately across the road from the current buildings was relatively harmonious though. We then asked for comment on the proposal’s compatibility with the built environment immediately across the road. Mr Gjerde said that the form and design in isolation is very agreeable, but that in comparison to the immediate built environment, there was a lot of difference. However, he said this was not necessarily a problem and that differences were positive as they showed technological and design progressions as well as relativity with older buildings. Mr Gjerde said it would be inappropriate to try and use the same building materials or to match the character of the surrounding buildings. He considered the key outcome was to try and rationalise the building within the surrounding built environment and that the proposal had done this successfully.
21. We asked Mr Gjerde whether his assessment had been made on the premise of the No. 2 building being removed. He confirmed this was the case and he said that he would be concerned if the building remained in place as views to the sea would be reduced from the promenade and buildings in the area.
22. Mr Gjerde was requested to comment on views from the beach, as views from the landward side of the building had only been considered thus far. He responded that he had considered views from the beach and he said these would be acceptable. Mr Gjerde said that the use of a lighter shade of concrete to the base of the building would be positive as it would assist the building to fit appropriately with its setting.
23. Mr Robinson was questioned about the specific details of the cuts in the seawall in terms of the number of cuts, their measurements and their treatment. He requested that he be able to address the matter in his right of reply, although he did make some comment on the treatment of the cuts in that it was recommended that they be delineated by some form of treatment. He said the Council’s Principal Heritage Advisor, Vivien Rickard, was in a better position to offer advice on this matter.
24. We enquired as to whether there was a specific condition imposed on the treatment of the cuts. Mr Robinson said Ms Rickard had agreed that the recommendations made in the applicant’s Heritage Report, prepared by their Conservation Architect, Russell Murray, were appropriate. Mr Robinson said he understood that a ‘straight cut’ was more desirable than trying to replicate or mimic the original cut treatments.
25. We asked Mr Robinson about the potential for reinstatement of existing vegetation. He said he understood that no significant vegetation would be removed and that the proposed condition requiring a re-vegetation management plan would mean restorative planting would be undertaken. We

noted that vegetation would have to be removed from the site, but after discussions about this matter, we determined that the implementation of the re-vegetation management plan would result in positive overall outcomes. Mr Robinson also stated that the 'Lyall Bay 5 Year Dune Restoration Plan' was relevant and that it would assist with gaining the positive overall outcomes discussed.

26. Mr Robinson was requested to explain the standing of the South Coast Management Plan. He said that it was not a statutory document, but that it could be considered under section 104(1)(c) of the Act as an 'other matter'. He suggested it was important to give the plan consideration as it gave firm direction to the management of the area and had specific policies that were applicable. Mr Robinson said the proposal was consistent with the plan and that the guidance provided by the plan had influenced his recommendations.
27. We asked for confirmation that the demolition of the No. 2 building would not occur until the new building had been completed. Mr Robinson suggested that the applicant could discuss the programme of works in their presentation but said that he understood this was correct as the No. 2 building would continue to provide public toilet facilities until the new building was finished. He noted that the Council would have the ability to enforce the demolition of the No. 2 building once the new building was constructed.
28. Mr Robinson was also asked about the recommended noise conditions and why this matter could not be left instead to the restrictions required by the District Plan. He said that the applicant had not supplied sufficient noise information for the Council to be satisfied that the proposal would comply with the District Plan or not create unreasonable noise. He said he would take a keen interest in this matter during the hearing and come back to it in his right of reply.
29. We enquired about the ability for vehicles to manoeuvre on the proposed ramp and whether the ramp was suitable for disabled person's access and requested that clarification could be given to us on this matter. Patricia Wood, the Council's Vehicle Access Engineer, was made available for this question. She said that the gradient of the ramp was moderate, approximately 1:17 and that it was flatter than usual for an 'accessible ramp'. Ms Wood said that to meet Building Code requirements, a 'landing area' approximately halfway down the ramp would be required; however, she said that as the ramp's primary purpose was not for disabled persons access or vehicle access, this would probably not be insisted on. She said that to be considered as an 'accessible ramp', a handrail would need to be installed on each side of the ramp. Ms Wood noted that even if these were not installed, in her opinion the ramp would still provide practical accessible access. She also stated that an ambulance would not have any great difficulties manoeuvring through the turning circle for the ramp, but that a firetruck or vehicle with a trailer would have greater difficulties.

The Applicant's Case

Paul Turner – Planning Consultant

30. Mr Turner began by confirming that the demolition of the No. 2 building was definitely part of the application and that the conditions imposed would require its demolition. He then moved to a written statement he had prepared. His first point was to summarise some of the key points of his evidence, including that:

- The proposal enhances the open space nature of the immediate area by reducing the overall building footprint and façade area (when viewed from Lyall Parade) compared to the combined building footprint and façade areas of the No. 1 and No. 2 buildings;
 - The building is needed for the public's enjoyment of the site's recreational activity potential by providing a facility for surf lifesaving operations and the housing of associated equipment;
 - The proposal improves public access to the beach by providing a new gently sloping ramp to the beach and an additional set of steps without removing any existing access points;
 - The proposed building is viewed by a significant majority of the submitters to be visually unobtrusive, even before considering the recently proposed softening of the colour of the façade;
 - The proposed building is appropriately designed for its location from an urban design perspective; and
 - The proposed building is entirely consistent with the objectives and policies for the Open Space B zone as well as other relevant legislative documents.
31. Mr Turner said his evidence would demonstrate that the proposal is either an improvement or has no more than minor effects when measured against the assessment criteria, or that the effects can be addressed by conditions. He indicated his evidence would show that the proposal is consistent with the objectives and policies of the District Plan and that consent should be approved.
32. Mr Turner outlined the scope of his evidence before giving an introduction of the proposal and the LBSLSC. He then set out the legislative context surrounding the application. Mr Turner reviewed the District Plan rules that the proposal required consent against and he also examined the fact that recreational activities are a permitted activity on the site. He then discussed the New Zealand Coastal Policy Statement, the Regional Coastal Plan and the South Coast Management Plan, stating that the proposal was supported by and consistent with all of these documents. Following this, Mr Turner passed over to Marilyn Moffatt.

Marilyn Moffatt – Chairman Lyall Bay Surf and Life Saving Club

33. Ms Moffatt firstly gave a background to the LBSLSC and an overview of its history up until the present time. She then moved to discussing lifeguarding activities, describing in detail the number of volunteer patrol hours that are given and the number of rescues and preventative actions made. She outlined the training of lifeguards, the education of school children as well as the other activities that the LBSLSC were involved in, such as event safety.
34. Ms Moffatt then turned to discussing the surf sports side of the LBSLSC, including their achievements in competitions. She made the following statements of note:
- Surf sports have been an important component of surf lifesaving since its formation both in New Zealand and Australia;
 - Training for surf competition is designed to ensure lifeguards are not only fit but able to practice actual rescue skills;
 - Surf sports are vital in recruiting young members and retaining the experience of older members;

- Participating children become fit, learn sports and lifesaving skills and are contributing to the community;
 - Members aged 14 and over must be qualified lifeguards in order to compete in surf sports. Members need to complete a number of voluntary patrol hours and sit a refresher lifeguard test annually.
35. Ms Moffatt followed this by giving a comprehensive history of the No. 1 building, noting that it is the fourth building used by the LBSLSC in its 100 year history. She said that the LBSLSC owns the No. 1 building and pays a ground rental to the Council but that the demand on the building has increased because of increasing club membership, the range of activities that the building provides for and the amount of equipment storage space needed. Ms Moffatt noted that the colour of the No. 1 building had varied over the years and that the building does not have a heritage designation. She also said that the building does not have any significant heritage or cultural values.
36. Addressing the No. 2 building, Ms Moffatt said this is owned by the Council and that the LBSLSC leases the upstairs portion and one downstairs storeroom. She said the club has retained the lease on these rooms for training lifeguards, committee purposes, beach education activities and as a social area for club members. She said the lease would be relinquished once the new clubhouse is built. Ms Moffatt noted that the No. 2 building was rented out for functions and activities to help with offsetting the club's operating costs, although she mentioned that some community activities and sports clubs get free use of the facility. She noted that the building is now used mostly for storage of equipment and she was unaware of there being any complaints made about nuisance caused from previous hiring out of the building for functions. Ms Moffatt also pointed out that the building houses public toilets and changing rooms.
37. Ms Moffatt discussed at some length the limitations of the current facilities in terms of:
- The high cost of maintenance for timber buildings in the Coastal Marine Area;
 - The deterioration of the No.1 building to a point of dilapidation, tabling a letter from a director of Capital Construction certifying the poor material and structural condition of the building;
 - The lack of equipment storage spaces and the fact that storage spaces are in poor physical condition and have an inefficient layout;
 - The facilities being inadequate to provide for an effective and modern surf lifesaving service;
 - The club has to move equipment on vehicle trailers along the beach to a vehicle ramp at the western end of the beach (to which they have a key);
 - The member facilities being inadequate and badly in need of maintenance;
 - The running of two clubhouse buildings being inefficient operationally; and
 - The No. 2 building being in a poor state and having an inefficient layout for surf lifesaving purposes.
38. Ms Moffatt then examined the proposal. She acknowledged that renovating the existing building was considered and that it was found that it would be more cost effective to demolish the existing building and rebuild. She identified various problems that would contribute to the high cost of refurbishing the existing building, including rust in the reinforcing steel of the foundations, the

low height of the beams and the number of columns in the basement, the need to replace all the windows and walls and the state of the roof structure. As such, she said it was decided that the best solution was to build a new clubhouse on the site of the existing No. 1 building. She said the building brief was that all club activities could operate from the new club building, including:

- Modern lifeguarding facilities with a dedicated patrol, radio and first aid room;
- Adequate storage for a range of equipment as well as good access to storage and maintenance areas;
- Modern member facilities to cater for a large membership;
- Continued club hire for community use including, where possible, public facilities;
- Vehicle access to and from the road to the beach level/basement storage room to enable rescue and sports craft to be quickly and safely transported to other locations as required for event management and/or competitions; and
- 'Green' features where cost effective, such as solar heating, rainwater collection and insulation.

39. Ms Moffatt described the consultation that was undertaken with immediate neighbours and the community and provided a table outlining the exact practices that were completed by the LBSLSC. She also discussed the feedback that was received in consultation, noting that some neighbours had concerns about loss of views and the size of the basement but that others were in support. She also said that the colour of the tiles had been muted to mitigate concerns about their brightness. Ms Moffatt observed that there used to be many more buildings on the beach and that the proposal would again lessen the number by one which was a positive outcome. She said that the LBSLSC could not afford to maintain a weatherboard building as they paid for all maintenance of the No. 1 building.

Christian Bertschinger – Architect

40. Mr Bertschinger gave a written statement of evidence. He firstly summarised the key points of his evidence as follows:
- The existing No. 1 building has well exceeded its lifespan and the LBSLSC requires a new purpose-built facility to enable it to continue its important roles;
 - The No. 1 building is the easternmost building in a group of four buildings on the beach. The site is part of a wide open beach which is frequently used by a large number of people for various recreational activities.
 - The heritage seawall is a significant built structure highlighting the transition from built city to the beach. The adjacent residential area consists of a heterogenic mixture of various types and styles of buildings, some of which have suffered noticeably from harsh weather conditions;
 - Several different design concepts have been developed and presented to both the LBSLSC and the Council. Extensive consultation with the Council had been undertaken at all stages of the project and will continue right through to building consent and construction;
 - The proposal is composed of three differently articulated volumes that reflect their specific internal use and purpose. The contemporary design together with the selection of highly durable materials creates a vibrant and lively building which reflects the active nature of the LBSLSC. The

efficient layout of spaces ensures that the building footprint is kept to an absolute minimum;

- The eastern limit of the proposal is situated in the same location as the existing No. 1 building. To accommodate additional area it was proposed to extend the footprint of the proposed building further to the west. The redevelopment involves the demolition of the current No. 2 building which will compensate for the additional area of the new building. The footprint of the proposed new building is smaller than the combined footprint of the existing No. 1 and No. 2 buildings. The proposed street façade is smaller than the combined façades of the No. 1 and No. 2 buildings;
- Various parts of the building will be clad in different long-lasting materials such as concrete, glazed terracotta tiles and glass to articulate the different purposes of these parts. All materials have a high-quality finish to ensure that they will withstand the harsh conditions and require a minimum of maintenance;
- Public showers and toilets are proposed and the ramp for moving equipment would have a secondary outcome of increasing accessibility to the beach for emergency vehicles and disabled persons; and
- The building was designed according to environmentally sustainable design principles and will have a lower impact on its environment than a comparable 'non-green' building of its size.

41. Mr Bertschinger moved to discussing the brief for the proposal as well as the site and the surrounding context in some detail. He also outlined the design process up to the point where the current proposal was reached. Mr Bertschinger said the current design was established through ongoing consultation with both the LBSLSC and the Council and through rationalising the building layout to minimise costs and building volume and footprint. He stated that the two main purposes of the LBSLSC, patrolling and lifesaving as well as providing training and storage facilities, are evident in the proposed design. He then described aspects of the building's design and composition, with a focus on how the building has been specifically designed for its two main purposes.
42. Examining the building's massing and scale, Mr Bertschinger said the proposal replaces the existing No. 1 building and sits roughly in the same location. He noted that the footprint of the new building is bigger than the existing No. 1 building to accommodate additional space needed for the current and future needs of the LBSLSC. He explained that the additional floor area is added to the west, which would mean that the built up area on the beach is not extended further to the east. Mr Bertschinger said that the demolition of the existing No. 2 building would compensate for the additional footprint of the new clubhouse. He asserted that the overall footprint of the new building is smaller than the combined total footprint of the No. 1 and No. 2 buildings and that, in the same way, the length of the north façade of the new building is shorter than the combined length of the façades of the No. 1 and No. 2 buildings. Mr Bertschinger also discussed elements of how specific design meant that the new building's façades and volume were broken down into smaller elements.
43. Mr Bertschinger then outlined the building's materials and colours. He said the building would be clad in glazed terracotta tiles of various colours which would positively enhance the surrounding areas and create a new focal point on Lyall Bay beach. Following this, he described the proposed 'Moeding Alphonse Gen 06 Terracotta Rainscreen' cladding system in detail, as well as the other

building materials to be used and the building's structural system. He specifically noted that timber was not a suitable building material for a beach environment. He also said that the manufacturer could provide reasonably exact colours as to what was shown on the plans and the model and that samples could be provided to show this.

44. Next, Mr Bertschinger discussed the landscaping and amenities relating to the proposal. He said the lobby of the clubhouse would be connected to the public streetscape and that the public toilets would be located directly adjacent to the main entrance, encouraging positive interaction and promoting the club's activity to the wider community. He said that a public rinse shower and a water tap would be integrated into the north face of the storage area. Mr Bertschinger examined the ramp, stating that it would provide access for emergency vehicles and enhance accessibility for disabled persons. He also said the ramp could have a handrail mounted along the side of the building as well as a slightly rough surface to provide grip. He noted that the seawall is a heritage listed item which would need to be cut to provide suitable access to the new LBSLSC. He also said that other sections of the seawall could be infilled re-using as much of the cut portion as possible and that a conservation architect had been engaged to supervise and consult on this work. He also discussed the beach seating attached to the building as well as the roof garden, which would mostly be planted in native species.
45. Mr Bertschinger said that the new building has been designed according to environmentally sustainable design principles and that the LBSLSC is currently investigating the possibility of applying for a 'Green Star' rating. He also discussed other elements of environmentally sustainable design including; reuse of part of the foundations and materials of the No. 1 and No. 2 buildings, the ventilation and insulation qualities, the wind turbine, the use of solar collectors and the choice of specifically selected building materials.
46. Mr Bertschinger then described the extensive consultation that had been undertaken with the Council. He concluded by saying that the proposal will make a positive contribution to the neighbourhood and the wider community of Lyall Bay and that it would guarantee that the LBSLSC can continue its important role of surf lifesaving. He said that the building is a well considered design and that it is consistent with the aims and intentions of the District Plan. He asserted that the building is a contemporary design on a significant site and that the application should be approved.

Vikki Muxlow – Projects Officer (Wellington City Council Parks and Gardens Assets and Projects)

47. Ms Muxlow gave a written statement of evidence and she began by summarising the key points of her evidence as follows:
 - The Council supports the building of a new surf club for the LBSLSC which incorporates new public toilets and the subsequent removal of the No. 2 building;
 - The removal of the No. 1 and No. 2 buildings is consistent with the South Coast Management Plan. While this Plan supports the continued presence of surf lifesaving buildings on the coast, it states that if the groups using these facilities no longer require the use of the buildings, then the Council will determine whether the structures should be removed or whether another use can be found which reflects their location; and

- The Council supports not only the work to enhance dune formation and new planting in areas around the buildings but the fact that this work will be incorporated into the existing programme currently managed by the Council's Parks and Gardens unit in conjunction with the Lyall Bay Dune Care Group.
48. Ms Muxlow then discussed the Council's involvement in the project stating that, where practicable, the Council is always looking at opportunities to rationalise buildings on open space land and to ensure that existing facilities are fully utilised and maintained for maximum use. She said the proposal had given the Council an opportunity to take stock of the buildings it owns and maintains at Lyall Bay. She also said the proposal provided an opportunity to make better use of the proposed new building by incorporating public toilets into it instead of having a separate facility. Ms Muxlow said this had made it possible for the Council to remove the No. 2 building, which is over 50 years old, in average condition and starting to reach the end of its useful life.
49. Ms Muxlow said that, in line with the South Coast Management Plan, the Council's officers had assessed the merit of retaining the No. 2 building. She stated that when considering that the public toilets will be able to be incorporated into the new building, that the new building will continue to provide a useable space for community groups use, the current age and configuration of the No. 2 building; and the funding required over the next 10 plus years to continue maintenance and renewals, the option to permanently remove the No. 2 building is the most appropriate. She went on to say that the demolition did not require resource consent as it is a Permitted Activity and that the removal would take approximately five days but only once the new Lyall Bay Surf Club building is operational to ensure that toilet facilities are available at all times for the public.
50. Ms Muxlow then addressed the seawall, which she identified is a heritage object under the District Plan. She said the new building requires a section of the seawall to be removed to allow the club to gain access to the building and beach for its activities. She also noted that it is proposed that the existing gaps in the seawall which currently provide access points into the No. 2 building be filled in. Ms Muxlow pointed to the heritage report prepared by Mr Murray for the applicant, which had the overarching principle "*to do as little as possible but as much as necessary*". She said this report considers that the proposed new opening is acceptable but should be treated carefully to minimise any adverse effects. She identified that any openings should be formed and finished carefully to match those already on existing beach access points and she said that the Council would continue to use the services of Mr Murray to ensure that these desired outcomes can be met. Ms Muxlow asserted that access to the beach would be greatly improved with the new access points and that the ramp would have bollards in place so that vehicle access would be controlled.
51. She then turned to dune planting, saying that the Council, in conjunction with the Greater Wellington Regional Council, has had a dune restoration plan developed for the Lyall Bay area by specialists 'Coastline Consultants & Environmental Restoration Ltd'. She said that the 'Lyall Bay Five Year Dune Restoration Plan' (June 2009) proposes a number of different initiatives along the beach over the next five years with options for dune formation and restorative planting. Ms Muxlow went on to discuss the planting recommended by the plan and the procedures and processes that would be employed to implement the plan.

52. Ms Muxlow confirmed that:
- The No. 2 building will be demolished once the new building is completed. As the new building will incorporate public toilets which are accessible to the public, the removal of the No. 2 building does not result in any loss to public amenity;
 - The Council's Parks and Gardens unit will undertake dune planting in the area where the No. 2 building is removed from to coincide with the winter planting season. The establishment of new dunes in this area with appropriate sand-binding planting will help to reduce windblown sand and improve amenity and biodiversity values as well as the natural character of the area; and
 - The Parks and Gardens unit will continue to work with Mr Murray to ensure the identified heritage outcomes for the seawall are achieved. Access to the beach will be improved by the proposal with two additional access points for the public.

Paul Turner – Registered Professional Surveyor

53. Mr Turner resumed midway through his written statement by discussing heritage protection, change areas and local character. He noted that a recurring theme in the submissions was visual obtrusiveness and that those submitters saw the proposed building as not fitting in with the existing character of Lyall Bay. Mr Turner said there are two aspects to the character of a place; built character and open space character. He asserted that built character does not feature in any of the assessment criteria for a building in the Open Space A zone and that the Council's strategy on Urban Development focused on the following three main aspects:
- Managing growth;
 - Defining a sense of place; and
 - Urban design.
54. With regard to managing growth, Mr Turner referred to the Council's 'infill urban character assessment of Wellington' which said of Lyall Bay that "*much of the recent infill has continued to erode the original streetscape of single story bungalows*" and that "*the diversity of building styles is most obvious along the beachfront*". He then pointed to a Council document called 'How and where will Wellington grow? – Proposals for change and character protection'. In this document, he noted that there were two proposals for the Lyall Bay beachfront, a heritage protection area and a change area. He said that the proposal sits in the area for change and that, although the idea of change for Lyall Bay was ultimately rejected, it is clear that the clubhouse site is within a zone at the other end of the spectrum when compared to the heritage protection area.
55. Mr Turner then explored the idea of 'defining a sense of place'. He said that Wellingtonians define their city as being diverse, innovative and having a wild character. He suggested that the area surrounding Lyall Bay has "*a vibrant mixture of colours, textures, scale and architectural style*" and stated that even some of the submitters in opposition label the area as being 'quirky' and 'organic'. Mr Turner concluded that this part of Lyall Bay is well recognised as not having any distinct character of its own and that a vibrant, modern building such as the proposal is well suited to its surroundings. He also noted that Mr Gjerde's assessment has stated that there is not a "*strongly coherent architectural character*" in this area.

56. Mr Turner then looked at open space character and specifically assessment criteria 17.3.2.4 which requires that a place's open space be maintained. He said that combining two buildings into one would open up a range of new view shafts and longer views, which he illustrated with a number of diagrams. He said this would add to the sense of openness and to the open space character, as well as making the building less obtrusive because of these enhanced views.
57. Mr Turner's opinion was that Lyall Parade and in particular the stretch of the promenade where the building would be located is characterised by a wild open character, by a quirky mix of buildings, houses and shops and a vibrant community. He noted that a large majority of submitters had said that they like the design of the building.
58. Mr Turner said that the character of the building could also be considered in terms of the general amenity of the area. He suggested that amenity has many components to it, but that it is generally defined by what people enjoy about a place. He reiterated that a large majority of those consulted had said that they are happy with the design. Mr Turner acknowledged that all design aspects can be considered because of the proposal's activity status, but suggested that it is not appropriate in this case to try to match the building to an existing style when there is no coherent style. He also said that the assessment around character should be focused on the open space character of the area and not the character of the building.
59. Mr Turner addressed the building itself, starting with its design. He referenced a document (Responsive Environments – A Manual for Designers, Bentley et al., 1985), stating that good urban design seeks to create buildings in an environment which demonstrate, amongst others, the following attributes:
 - Legibility and visual appropriateness (context);
 - Variety (choice);
 - Robustness (custodianship); and
 - Richness (creativity).
60. Mr Turner explained the building's consistency with these principles and he said that the New Zealand Urban Design Protocol applies the same principles, but uses the terminology stated in the brackets.
61. Following this, Mr Turner moved to a discussion of a number of environmental effects and issues, beginning with design and location. Under Rule 17.3.2.1 of the District Plan, he suggested we were required to consider whether the building is designed and located so as to be visually unobtrusive. He said the building is located in an area where there have been buildings for nearly 100 years and where views are interrupted. He said the rationalisation of buildings would limit the obstruction of views. He also said obtrusiveness is defined as being 'undesirably prominent' and that the experts had agreed that the building is not undesirably prominent, a view supported by the majority of submitters.
62. Following this, Mr Turner examined:
 - Ecology and the proposed landscaping, noting the proposed dune restoration plan;
 - Sea level rise, climate change and natural hazards, noting that Mr Lumsden, the applicant's consulting engineer, had assessed the proposal and was satisfied with its robustness having made a number of recommendations;

- Amenity and views, saying that the overall impact on views is less than the current situation and would in fact be slightly positive;
- Shading, in that the proposed building caused no more shading of the beach than is currently experienced and that shading is of benefit to the community on sunny days;
- Traffic and parking effects, which would be minimal and where the placement of access outside the building had not been objected to by submitters and was supported by the Council's traffic engineers;
- Public access and the ramp, which the LBSLSC believes is an essential element of the design as it will reduce the impact of vehicles on the beach, improve public and surf club member access and increase the efficiency of emergency access;
- Earthworks and construction effects, which would be temporary and controllable by conditions;
- Heritage and the seawall, where effects would be minimised through incorporating recommendations about the works and the treatments;
- Cultural effects, where iwi authorities have been consulted and appropriate consent conditions had been recommended to avoid or mitigate possible effects;
- Effects on recreational activities, which would be positively affected through better patrolling, improved access to the beach and the new public facilities;
- Other positive effects such as better visual beach surveillance and the fact that the LBSLSC would have a purpose-built facility;
- The demolition of the No. 2 building would improve open space qualities and retain the community's opportunities for room hire as well as make public facilities more easily accessible. Mr Turner noted that the No. 2 building is in need of a new roof and continuous ongoing maintenance and the costs of this can be diverted into the new facilities, as well as that the demolition does not require resource consent; and
- Social effects, where the benefits to the community include that the building will be able to fit appropriately within its setting, where a sense of pride in the building could be created and where a new asset will enhance the enjoyment of the beach and allow for greater levels of safety.

63. Mr Turner then addressed the issue of noise in some detail. He described the current use of the building, noting that only one submitter was concerned with noise and this was only because the area is quiet at night and they did not want this to change. He said the club had policies around its use to limit noise. Mr Turner outlined several mitigating characteristics which would limit noise from the site, including that:

- The deck would be most often used when the prevailing wind is blowing from the north and therefore causing noise to be cast onto the beach;
- The adjacent residential area was 35 metres to the north of the building;
- The southerly wind might cause sound to drift over Lyall Parade, but this is a less desirable time to be on the deck;
- Strong wind, which might cause sound to drift further, causes greater ambient noise which would cancel this effect; and
- Other ambient noise comes from the surf, vehicle traffic and the airport.

64. Mr Turner said the use of the building would be severely limited by the proposed noise conditions and that they would limit not only the club's use of the facility but the community's use also. He discussed the fact that the deck's layout and design was specifically to mitigate the potential effects of noise. Mr Turner also said that recreation and temporary activities are permitted

activities in Open Space areas and that the rights of the public should not be removed or limited unless there is clear reason for doing so. He said that the draft noise conditions (conditions 11 to 19) are onerous.

65. Mr Turner said that the LBSLSC were generally happy with the draft conditions but he suggested modifications to two conditions as follows:
 - Condition 7 –that the beach should be part of this condition to protect this environment from rubbish and damage; and
 - Condition 10 – add “*following the removal of the existing No. 2 building*” after the word “*season*” to properly allow for the implementation of the re-vegetation management plan;

66. Turning to conditions 11 to 19, Mr Turner said the LBSLSC are concerned that the conditions are ambiguous, not suited to the scale of the building and remove existing rights for recreational and temporary activities. He said the LBSLSC had sought advice from an acoustic consultant to achieve a balance of limiting the possible effects of noise with the practical operation of the building. As a result of this, he proposed further modifications to a number of the proposed conditions. Mr Turner summarised the major changes as follows:
 - The beach had been added as an area which needs vigilant control over waste and damage during the construction phase;
 - The need for the acoustic screen as a separate condition had been removed and had instead been included with the possible acoustic solutions as may be required;
 - The need for control over the use of the deck had been removed because this infringes on the rights of the public to undertake recreational activities in this area;
 - The noise levels had been amended to 40 dBA, in line with the District Plan;
 - A one hour ‘wind down period’ had been proposed to allow for late clean ups after functions;
 - Changes to the number of temporary events which can occur in any 12 month period;
 - The need for delimited acoustic equipment had been removed because the costs would far outweigh any benefits; and
 - The noise emission level from the wind turbine meets the District Plan requirements.

67. Summarising, Mr Turner said the LBSLSC have operated from the location for nearly 100 years and had provided an essential community service. He stated that the existing buildings are dilapidated and unable to be reused or renovated to suit a modern club. Instead, he said the proposed building had been specifically designed to fit within the physical constraints and with the desire to have a vibrant, practical building. Mr Turner asserted that the resource consent application demonstrates that the proposal has been prepared with considerable thought and wide-ranging consultation and that the building will allow the LBSLSC to continue to contribute positively to the community for some time. He said that the attributes of the proposal are distinctly positive in many areas and where the effects are not positive or are minor in nature, they can be controlled by conditions. He concluded that the proposal fits positively with the District Plan’s assessment criteria and objectives and policies, that it is consistent with other relevant planning instruments and that resource consent should be granted.

Hearing Commissioner Questions to Applicant

68. We asked Ms Moffatt about the fact that water would wash into its lower levels where equipment was stored. She said that this was not a problem as a lot of equipment was stored off the ground and water would drain out. However, she said that sand being washed up against the door could mean that the doors had to be dug out to be opened and that proposed design features in the new building would reduce the likelihood of this happening.
69. Ms Moffatt was questioned about the need for emergency vehicles on the beach. She said they were sometimes needed but not very often. She said on the infrequent occasions they were, the ramp would provide better access.
70. We asked Ms Moffatt whether there would be a bollard or other design feature to prevent general public vehicle access. She said there would be at least one bollard in place and that the LBSLSC would manage this as part of their operations. We suggested that the LBSLSC robustly set out how this would be managed as part of their operations if we were of a mind to grant consent as there could be wider issues if it were ineffectively managed. We also made some general enquiries about the treatment of the ramp surface and the design of the ramp for disabled access.
71. We questioned Ms Moffatt on the storage of hazardous substances. She said this had been specifically designed for as the current situation was very undesirable.
72. Mr Bertschinger was asked to elaborate on his comments that the buildings in the neighbourhood were heterogenic. He said that there were various building types, that the size of buildings was very varied and that there was a mix of old and new buildings.
73. Mr Bertschinger was invited to make further comments on why the location for the building was chosen. He said the area was where all buildings on the beach are located and it was desirable to contain buildings to this area. He explained that this was where a lot of beach activity and swimming occurred, so it was a good location to keep watch. He also said that the location would open up views for a number of houses and that it was a good location to facilitate dune restoration and re-vegetation.
74. We questioned Mr Bertschinger's statement that the South Coast Management Plan states that suitable building materials for the environment were materials relevant to the coastal environment such as rock and timber, and how the proposal was consistent with this. He replied that the concrete element reflected this, but that the tiles were used to emphasise that the building was a new building and that it was built to be resilient to the specific environment. He explained that the applicant had guarantees from the manufacturer that they could produce colours to a specific formula that was exact. Mr Bertschinger said other materials had been considered in the design process but these had been excluded as they would not be as durable. He advised that at one stage it had been considered to use concrete for the whole building, but that this would be too 'brutal'. He advised that the mechanical fixing of the tiles was a very robust and durable cladding system.
75. We then enquired about why predominantly blue tones were chosen. Mr Bertschinger said blue was contextual to the sea, beach and sky and that it was

the best and most appropriate colour for the environment. He had a list of colours and colour formulas but said the applicant was reluctant to specify their choices until they had seen the samples. We explained that we may adjourn the hearing until we could see the samples and we may place a consent condition on this matter.

76. We also asked Mr Bertschinger about the colour of the concrete. He said it would probably be a very light grey as it would be a standard mix of aggregates. However, he noted it could be made lighter or to a sandier colour by using a different mix of aggregates or by incorporating shells. At this stage, Mr Gjerde said it would be beneficial to have a lighter shade of concrete or a colour that was sandier. He said the Council's officers could consult with the applicant on this to come up with a list of approved colours for both the tiles and the concrete.
77. Mr Bertschinger was requested to give some insight into how the building would appear at night. He said the building would use 'baguettes' to disperse and spread out light that was coming out of the windows, which would enhance the appearance of the building at night.
78. We next questioned him about the location of the public toilets. He said including them in the building would make it easy for the public to use them. He also said the location, in conjunction with the use of the screens, would enhance safety by reducing the amount of concealed spaces whilst still providing a measure of privacy.
79. We asked Mr Bertschinger about the noise of the proposed wind turbine and whether there was any specific information on this. He understood it would meet the District Plan rules or any noise conditions imposed, and noted that the Council's Environmental Noise Officer had raised no objections to the turbine in his assessment.
80. Mr Bertschinger was then requested to make some comments on the 'Coastal Assessment' of the proposal, which was made by John Lumsden, the applicant's consulting engineer. This was in terms of the proposed beach seating, the windows' strength and sea level. On the beach seating, Mr Bertschinger said the wood would be slatted with the gaps allowing wave pressure to be absorbed between them and then released and drained back through them. He said the timber would be a native, sustainable, untreated Vitex timber that would be easy to replace if it were damaged. Addressing the windows' strength, Mr Bertschinger said this had been considered and the building will incorporate high quality glazing and laminated safety glass where appropriate. In response to sea level, he said the basement level had been raised and that the ground floor level was above the road so that sea water would drain onto the promenade if it made its way up that far.
81. We questioned Mr Bertschinger about whether the applicant had kept the recommendations about the treatments of the seawall cuts strongly in mind. He said the plans had been drawn before the recommendations were made, but that the applicant was amenable to amending the design to incorporate treatments. He noted that they did not want to try and replicate the original treatments as this would be inappropriate and he also said that the treatments had to take account of vehicle turning circles.

82. Ms Muxlow was asked whether there would be any planting around the new building. She responded that there would be some between the new building and the existing play area to the east, but that new planting would not be able to be placed between the building and the seawall. In terms of existing vegetation on the site of the new building, she said if this was Marram grass, it would be removed, but that if it was Pīngao, it would be transplanted elsewhere on the beach. Ms Muxlow also said it was acceptable to put a consent condition on replanting the area of the No. 2 building, as this was within the area of the application site.
83. We asked Mr Turner about ways to limit noise from the roof garden and deck and whether a glass screen may be required. He said he did not think this would be necessary as it was 35 metres to the nearest residential property and environmental and ambient factors would cancel out any noise. He suggested this could be addressed later if noise was found to be a problem.

Submitters

Carol Quirk – 139 Paerata Ridge Road, Opotiki

84. Ms Quirk reiterated her written submission and presented a series of historic photographs. As with her written submission, she began by giving an introduction to the LBSLSC and to the proposal. She then gave an overview of what she considered were the relevant planning instruments as well as requirements under the Act. Ms Quirk then repeated her written comments on the following environmental effects:
- Safety;
 - Natural character;
 - Amenity;
 - Social/recreational benefits;
 - Cultural effects;
 - Parking and traffic;
 - Public access;
 - Heritage;
 - Economic effects;
 - Coastal processes;
 - Construction; and
 - Cumulative effects.
85. In many instances, she noted that these effects were either minor, were able to be controlled by appropriate consent conditions or were positive.
86. Ms Quirk then assessed the proposal against the New Zealand Coastal Policy Statement, the Regional Coastal Policy Statement, the Regional Coastal Plan, the District Plan, and South Coast Management Plan and Part 2 of the Act. She asserted that the proposal was consistent with all of these documents and that resource consent should be granted.

Sherwin Mottram – 82 Lyall Parade

87. Mr Mottram said he owned and lived in the property directly across Lyall Parade from the site of the new building. He said he did not object to a surf club in principle, but had issues with the proposal.

88. Mr Mottram's first concern was with the loss of public space as the club would essentially be a private building. He noted that the No. 2 building would be demolished, but said that the bigger footprint of the new building than the existing No. 1 building and the length of its façade would restrict views. He also said the new building would be used more and that there should only be one surf lifesaving club on the beach. Mr Mottram said that management of the building at night needed to be closely monitored as he had had some issues with drunken youths late at night. He also said he did not like the aesthetic of the building and he questioned whether the club needed the amount of storage space that was provided. He suggested that the club was more concerned with its competitive side than its actual patrolling and lifesaving functions and he said the building did not need to be extended if it was more for competitive purposes. He questioned whether it was sensible to construct a building where seawater would easily breach it and he wondered if the club may have maintenance problems with the new building. Mr Mottram lastly raised concerns with the potential loss of carparking and with there being potential safety issues from people driving across the footpath down the ramp. He concluded by saying that the proposal should be declined and that the building should instead be renovated inside its existing footprint.

Yvonne Weeber – 143 Queens Drive

89. Ms Weeber explained that she had been practicing in landscape architecture and urban design for over 22 years and described her qualifications in both fields. She stated that she had lived in the Lyall Bay area for the majority of her life and cared deeply about the area. She reiterated that the comments in her written submission remained unchanged, but said that her oral submission at the hearing would relate purely to building design (although she did note that the proposed 1 metre footpath width along Lyall Parade which would be kept open to the public during the construction period needed to be widened).
90. Ms Weeber said she supported the demolition of the No. 2 building but was concerned that its demolition would only take five days in a coastal environment. She suggested that demolition would need to take longer for it to be done safely, ensuring that building materials and glass would not be left behind. She also proposed that the Council consider recycling a large portion of the building and she supplied a draft consent condition relating to demolition.
91. Ms Weeber went on to the building footprint and surrounds noting that the total built area, including the ramp and concrete pads, had a footprint of 426m², as opposed to the building footprint only of 323m². She said this information was not freely available and that it was important to consider the total footprint. She stated that the evidence for the ramp was robust and she supported the use of a bollard system. However, she noted the concrete pad was of concern to her as it may not be constructed strongly enough to withstand high tide events. Ms Weeber was also concerned that it reduced the amount of sandy, public beach available and that it was effectively private space for the LBSLSC. She asked instead that we decline the concrete pad and propose that 'sand ladders' are installed in its place. She provided documentation on sand ladders.
92. Following this, Ms Weeber discussed the roof garden saying that there were fundamental problems with it. She said that it was a great idea but that it requires expertise which the applicant had not considered. She considered that the roof garden was on its way to being a failure unless its implementation and

monitoring was examined more closely. Ms Weeber cited the substrate design, species choice, and maintenance in particular as issues but said that if further information was supplied, she could consider changing her view. She also suggested that removing it altogether would give the building's northern façade a more acceptable height and bulk.

93. Ms Weeber then questioned whether a flat roof structure and tiles was appropriate in an extreme environment. She said a flat roof had more chance of leaking and needing maintenance and that the tiles may be problematic and prone to corrosion and sand build up. However, she wished the applicant luck with the tiles as she supported their use in breaking up the bulk of the building. Ms Weeber supported the colours used in the 'muted' form rather than those in the notified proposal. She also asked that we impose stringent consent conditions on the use of colours, having not seen the final colour palette.
94. Ms Weeber said the screening of the toilet block was inappropriate as it would create safety issues and would be an area for sand to build up. She considered that the building should be extended out to the location of the proposed screens and that this area should accommodate more toilet and changing facilities.
95. Ms Weeber said the western storage area of the building is excessive in size and creates an industrial scaled building on the foreshore. She said this is predominately due to the building's length and that this could be reduced by 7 metres (in combination with reducing the parapet height) so that it would not dominate views from the road and so that it would be consistent with built character in the area. She also suggested that storage of some equipment could be done off-site as it was not needed to be immediately available at the facility.
96. Ms Weeber stated that re-vegetation planting is problematic in the area due to high use of the beach by people in summer and high tide events in winter. She suggested that plantings often had only a 10% success rate and that the consent conditions needed to be modified so planting was monitored to a higher success rate over a longer time period. She supplied a consent condition to this end.
97. Ms Weeber recommended that consent be declined to the proposal. However, she said that modifications to it could make it acceptable, including reducing its parapet height as well as its length, and by imposing consent conditions around the demolition of the No. 2 building, the re-vegetation management plan, and the roof garden planting.

Max Marshall – 27 Volga Street

98. Mr Marshall reiterated the points made in his written submission. He firstly said that the existing No. 1 building is dilapidated and that the new building will increase the public's enjoyment of the beach, satisfy the open space character of the site, and maintain public access to beach. He also said that the proposed building is less visually obtrusive as the colour had been muted from the original proposal and that the removal of the No. 2 building will mean less buildings on the beach and less overall building footprint. Mr Marshall asked that we grant resource consent.

R. R. Russell – 98A Kilbirnie Crescent

99. Ms Russell said that the existing No. 2 building is a great building and a great training and community centre for people of all ages. She stated that the LBSLSC does not own both buildings but that the application gave the impression that they did. She identified that the Council owns the No. 2 building and that this was not notified properly. Ms Russell said the No. 2 building is a community facility and that money should be spent to fix and maintain it, rather than just knocking it down. She expressed a concern that if the No. 2 building was demolished, there would be less community space available and that the new building would only be used for private club uses. She said that the community should not be paying for a private facility and that the only extra space needed was for storage, so this was all that should have been applied for. Ms Russell concluded by saying that she preferred weatherboards, and that ceramic tiles that had a weatherboard appearance would be better.

Katherine Smyth – 216 Queens Drive

100. Ms Smyth said she recognised that the LBSLSC needed a new facility but said that she did not like the proposal. She stated that there were very few buildings on the beach so a new building should be special and not just acceptable as it had been described. She asserted that the community agreed that historic buildings and heritage features should be maintained and that bulldozing them and replacing them with ugly buildings is not what they desired. She said that the new building will stand out inappropriately and that it provided functional amenity but not aesthetic amenity.
101. In terms of cutting the seawall for vehicle access, Ms Smyth said there were already two access points with good provision for access at both ends of the beach. She considered it would be better to have stairs rather than a ramp, as a ramp would be dangerous for disabled persons and the Lyall Bay promenade is frequently visited by disabled persons. She suggested that the ramp access would be abused and that restrictions would not be followed as well as that it was effectively a private access to a public space.
102. Lastly, Ms Smyth said that historic buildings should be recycled instead of there being a lot of money spent on demolishing them and building new ones. She advised that a lot of the community were unaware of the proposal despite its notification and she said there would be a lot of ill-feeling when public money was used to fund its construction.

Glenn Hunter – 54 Queens Drive

103. Mr Hunter said that he had no new points to make in addition to his original written submission but that he wished to amplify the points he had made. He considered that the proposal would be an excellent practical addition to the community and he said that the proposal needed to go ahead. He pointed to the Kilbirnie Town Centre Plan, saying that the area was in a 'growth spine' and that the building will be needed to support increased population in the area who would be using the beach. Mr Hunter said that the building would revitalise the area, complementing the Town Centre Plan.
104. He went on to say that the public facilities in the No. 2 building are unsafe and unhygienic. He said the proposal would be much safer and cleaner than the

existing public toilets in the No. 2 building and those on Lyall Parade at the end of Queens Drive. Mr Hunter considered that the building would be able to withstand the effects of climate change. He asserted that if the proposal could not be built because of the presence of the No. 2 building, then the No. 2 building must go as the new building would provide much more practical services and support to the community and the LBSLSC.

105. Mr Hunter concluded by making the following points:
- There would be much safer and better storage of equipment and petrol as well as better access to storage facilities;
 - Better access to the beach in emergencies is a hugely positive outcome and the new access would be managed appropriately;
 - The access would provide for the elderly and disabled;
 - The new facility would attract new members to the club and help to retain existing ones;
 - Drinking fountains and outdoor showers should be installed as part of the proposal; and
 - There would be no problems with screening the public toilets but that there could perhaps be better signage.

Rob McGregor – 326 Evans Bay Parade

106. Mr McGregor said he was supportive of the LBSLSC and its activities. He suggested that the proposal had broad support in the community as it was also a facility for the community and not just a private use and because the community recognised the services that club members provide. He noted that the new facility is desperately needed and that renovation of the existing building is not economically or physically viable. Mr McGregor acknowledged that the current buildings have utility value, but that they were not otherwise special and that their aesthetic quality was diminishing. He said he liked the proposed design and he noted that this had been carried out by leading architects. It was his view that the building would be fit for its purpose and that this would be the case for some time. Lastly, he stated that he did not want to see any onerous consent conditions imposed and that the proposal should be able to proceed easily throughout all stages of the approvals process.

Donna Winstanley – 12 Rodrigo Road

107. Ms Winstanley said she had lived locally for 20 years and had been a club member for four of those years. She stated that she totally supported the proposal as club members save lives, but that they needed a better facility to help them carry on doing this. She also identified that club members provide service in other activities such as sports events. Ms Winstanley described the proposal as a 'gem' and said that it would be shared with the community. She asserted that the LBSLSC encourages the community to use their facilities and that the new building would be no different as it provided easy access and was inviting to the public. Lastly, she stated that the existing buildings were beyond repair and that a new facility was desperately needed.

Matt Provost – 72 Lyall Parade

108. Mr Provost said he had just bought his house, which was directly opposite the proposed building, so he was directly affected by it. However, he said he was most definitely in support of the proposal. He stated that people are still interested in buying property in the area and he suggested that the new facility

would make the area a more desirable place to live in. Mr Provost said lastly that he was prepared to put up with some temporary inconveniences in terms of construction for what he saw as a long term gain.

Nicole Taylor – 318 Queens Drive

109. Ms Taylor firstly gave a background to herself, noting that she had been a member of the LBSLSC for seventeen years and a resident of Lyall Bay for thirteen years. She stated that as a chartered professional engineer and project manager, she had a good understanding of the problems the current building had as well as the robust design process the LBSLSC had been through. Ms Taylor said she liked the proposed design and considered that the storage space provided was appropriate. She stated that she was in full support of the proposal.
110. Ms Taylor then outlined a real-life example highlighting the problems the club currently faces. This included problems with access and with sand build up against the doors to the storage areas. She went on to outline the club's storage requirements which she described in detail as being significant and necessary to the operation of the LBSLSC.
111. Turning to the building's cladding system; Ms Taylor noted that a building using an almost exact cladding system had recently won an award for its urban design quality. She also said it was her understanding that the building environment is not static and there is a need to show progress, which is done by having deliberate differences between old and new.
112. Ms Taylor said she was concerned with the proposed noise conditions being too onerous and restrictive. She said the LBSLSC had no issues with noise, and she suggested that the District Plan be used as the mechanism to control noise through the standards it sets. She also noted that the LBSLSC intended to continue to allow the community to use the facility on an ongoing basis.
113. Ms Taylor then made some general comments about the proposal's consistency with the relevant assessment criteria including that;
 - The building is visually unobtrusive but at the same time will be a positive element of the environment and a new and successful focal point of the beach;
 - The building is most definitely essential for the public's enjoyment of the site's recreational potential for a variety of reasons and particularly safety;
 - The site's open space character is improved by the removal of the No. 2 building;
 - Public access to the beach will be enhanced by the proposal;
 - The effects on the heritage seawall are minimal; and
 - The current buildings are well past their used by date and are unable to be renovated.

Martin Robinson – 23 Apu Crescent

114. Martin Robinson said he had been a member of the LBSLSC since 1989 and was the previous Chairman and the current President. He said a new building was desperately needed; he pointed to a history of the surf club which had said 25 years ago that a new building was needed then and the situation had remained unchanged since that time. He said the current building was

completely inadequate and dilapidated and that the new building, which would incorporate the community's activities, in place of the two existing buildings was the only logical outcome. Mr Robinson said he had previously lived across the road from the No. 1 building and had never experienced problems with noise. He considered the noise conditions should be removed as they were far too onerous.

115. He said the lifesaving functions of the club were numerous and a lot of storage space was required for training purposes. Mr Robinson explained that the current facility provided antiquated storage for modern equipment and that the club needed more appropriate spaces because its membership had grown to more than 300 over recent years. He also said the club wanted to be able to facilitate the needs and activities of the community, so the extra space would help to provide for this purpose. He said that community use made a valuable financial contribution to the club's operation and he said facilities available for the community would be enhanced by the proposal.
116. On the issue of the building's colour, Mr Robinson said that this was in fact a non-issue and was purely subjective. He said the colours had been muted from what was originally proposed and that they were a great choice. He said other buildings in the area had far brighter colours and he explained there was logic in the choice of colours in that blue and white are the colours of the LBSLSC, and that red and yellow are surf lifesaving colours.
117. Mr Robinson said the ramp would reduce vehicle traffic along the beach as the only vehicle access at present is via a ramp at the western end of the beach and that the seawall cuts and fills would be dealt with appropriately. Lastly, he said that loss of views was not a reason for objecting under the District Plan and that views would be enhanced by the proposal for all properties by removing a building from the beach and creating more open space.

Hearing Committee Questions to Submitters

118. We firstly asked Mr Mottram whether he had had any conversation with the LBSLSC about safety issues. He said he had not and that the LBSLSC should manage these issues of their own accord.
119. Mr Mottram was asked whether he would elaborate on there being social problems. He responded that a larger building footprint would encourage more social events and that there were problems with this. He believed that the proposed consent conditions may go some way to managing this.
120. We enquired of him about the proposal's effects on the views from his house. He said that the demolition of the No. 2 building would enhance views from his bedroom but that the extension of the No. 1 building would destroy views through his house towards the sea from the kitchen and lounge. He said buildings should be removed from the beach or renovated within their existing footprint, rather than be increased in bulk and scale.
121. Mr Mottram was invited to comment on the aesthetic aspects he did not like. He said he did not like the building's brightness and 'in-your-face' nature, although he accepted that weatherboards were an inappropriate building material in a beach environment.

122. Ms Weeber was asked what substrate depth was needed for the roof garden. She said a 150mm substrate is the minimum to be able to support small plants, but this would not support big, bushy plants as was proposed in the applicant's drawings. Ms Weeber said an ongoing weed management and maintenance plan needed to be employed and she also mentioned that Pīngao grass could require a 10 or 20 metre substrate. We further questioned her whether a roof garden was a good idea for the proposal. She said it was but that the applicant needed to gain a greater appreciation of what it was they were doing. Ms Weeber suggested that the applicant had made mistaken assumptions as to the roof garden's success under the current design.
123. Ms Weeber was asked for comment on the narrowness of the footpath during construction in the summer months. She suggested the current width of 1 metre needed to be increased to a minimum of 2 metres.
124. We questioned Ms Weeber further about her views on demolition activities taking place on the beach. She said she was concerned that if demolition only took five days it would be a quick and blunt demolition, which may mean that building materials and broken glass were strewn across the beach environment. She said great care had to be taken with the demolition.
125. Ms Weeber was then asked for her views on the building's aesthetics. She said the building now had a much better tone to its colouring and that the pattern effect was great. Ms Weeber said the design was overall a positive one and that it would be a tourist attraction; however, she did raise some concerns with potential shading effects on the beach.
126. We invited Mr Marshall to make comments about how he saw the interaction of the lifesaving and patrolling functions with the competitive side of the LBSLSC. He responded that these were quite separate and that the club's motto was to put service first before competition.
127. Ms Smyth was asked about the site being a public space with a private use. She said she had no problems with this as long as the LBSLSC were not funded by public money.
128. We explained to Ms Smyth that the applicant had presented evidence that it would be more cost-effective to construct a new building, although the current building could be renovated at substantial cost. She considered that an alternative expert view could be found asserting the opposite. She stated that the No. 1 and No. 2 buildings had fantastic, historic aesthetics that would be lost and she pointed to how superb she believed the Maranui building looks after refurbishment. Ms Smyth suggested that the majority of the public would prefer the current building remain in place and that the new building would be an ugly, dominating, modernist statement. In response to questions, Ms Smyth advised that the proposed bright blue colour was the main reason for her opposition. She said the colour should be toned down or changed to something more like the colour of tussock grass.
129. We questioned Ms Smyth about the ramp and whether the positioning of bollards in it would allay her concerns. She said that rules are often stretched and that the bollard system would probably be abused. She said that she was very concerned about vehicles crossing the footpath of Lyall Parade.

130. Mr McGregor was asked for his views on the building's aesthetics. He said he had no love for the current buildings and that the proposal was designed by leading architects to be able to fit into the environment appropriately. He suggested that the beach was a large environment and that it would likely be able to sustain the building.
131. We requested Ms Winstanley's comments on the relationship between the lifesaving and patrolling functions of the LBSLSC and its competitive side. She said that skills learnt during competition could be applied to lifesaving practices and she said that lifesaving is the primary focus of the club. She noted that you could not compete unless you had up-to-date lifesaving qualifications and did a minimum number of patrol hours.
132. Mr Provost was asked whether he had any problems with the social aspect of the LBSLSC. He said he had no concerns and that it added to the vibrancy and activity of the area.
133. We questioned Mr Provost about his thoughts on the building's aesthetics. He said he was happy with it and had no problems. He suggested that it was a purely subjective matter and the club should be able to proceed with what they wanted to do and that this was a minor issue compared to other more important matters.
134. Ms Taylor was asked whether the concrete pad in front of the storage area roller doors would be well used. She said that it would be a huge help to wash down gear on the pad as well as for loading and unloading of gear. She said the 'wing wall' was designed to prevent sand building up around the roller doors.
135. Ms Taylor was asked whether increasing the footpath width from 1 metre to 2 metres during the construction period was a better idea. She said that 2 metres would obviously be better, but that it would need to be understood whether this would have any impact on the contractors being able to work effectively in the construction zone.
136. We asked Martin Robinson generally about the storage space issue. He said the proposed storage was sufficient to meet the club's needs now, and there was some spare capacity because it was a more efficient storage space with a high ceiling and no pillars. However, he said that the future growth of the LBSLSC would be limited by spatial pressures and he suggested that what was proposed was the most realistic proposal. He disagreed that reducing the façade and storage space should be considered; rather, he said that increased storage was a better consideration.

Council Officers' Right of Reply

Campbell Robinson (Senior Planner)

137. Mr Robinson firstly clarified the notification of the application. He stated that the application was publicly notified in accordance with sections 95 to 95F of the Act on 23 March 2010 and that the public notice included the demolition of the No. 2 building. He noted that as the demolition of the No. 2 building is included within the scope of the application, it forms a fundamental part of the assessment of environmental effects. Mr Robinson said that if consent was granted, the applicant must carry out the development in accordance with the information submitted including the demolition of the No. 2 building.

138. He then provided some clarification on the seawall issue. He said that the development involves the reinstatement of three existing cuts and that a further 7.7 metre cut would be made to allow for building and ramp access. He said that the effects of the cut have been considered as acceptable by the Council's Heritage Advisor and that further discussion would be undertaken regarding the final conditions of consent relating to the finish of the cuts.
139. Turning to noise, Mr Robinson said ongoing discussions were being had regarding the specifics of the noise conditions and he was confident consensus would be reached. He noted that the Council's Environmental Noise Officer believed that the effects of the development were acceptable within the proposed conditions.
140. Mr Robinson said he had listened to the information presented by the applicant and submitters and whilst they had examined the proposal's effects in more detail, overall his conclusion that the proposal will have no more than minor effects had remained unchanged. He asserted that the proposed consent conditions would ensure that adverse effects are avoided, remedied or mitigated.
141. Mr Robinson said there had been no substantial challenge to the matters considered in his report under section 104(1)(b) of the Act and, as such, there were no changes to his conclusions on these matters from his report.
142. Turning to section 104(1)(c) of the Act, Mr Robinson addressed the 2010 Draft Community Facilities Policy, noting that a submitter had regarded the demolition of the No. 2 building as being inconsistent with the document. He noted that this document has little weight in law but must be considered under the Act. Mr Robinson said the policy affords no specific protection of the No. 2 building but that it does provide some comment on the Council's facilities. In terms of the proposal's consistency with the policy, he said that whilst the proposal results in the loss of an existing Council facility which could be redeveloped, this must be weighted against the South Coast Management Plan which seeks to reduce the number of buildings in the area if they are redundant. Further to this, he asserted that the demolition of buildings within the Open Space B zone is a permitted activity which shows a clear desire to reduce overall development within this zone.
143. Mr Robinson said there had been no substantive challenges made to his assessment under Part 2 of the Act by either the applicant or submitters.
144. Mr Robinson said that having considered the application and submissions received together with the expert advice of the Council's advisors; he judged that the adverse effects of the proposal will be no more than minor and that the proposal is consistent with the relevant assessment criteria and objectives and policies of the District Plan. He stated that he had also concluded that the proposal achieves the intent of Part 2 of the Act. As such, his opinion was that consent can be granted subject to appropriate conditions. Mr Robinson said that after the hearing was adjourned further discussions could be held with the Council's advisors regarding noise and heritage matters and a further set of draft conditions could be submitted to us. As addressed subsequently in this report, we did not receive any further information on noise or heritage matters.

Hearing Commissioner Questions to Council Officers

145. We asked Mr Robinson about the possibility of imposing a consent condition around the colours of the tiles. He replied this was an option but that it would not be able to be done until the tile samples and swatches were available. He suggested that the hearing would not need to be reopened on account of this matter.
146. Mr Robinson was also asked for comment on how the Lyall Bay Five Year Dune Restoration Plan would be incorporated. He explained that this was included in his proposed draft condition 10.

The Applicants Right of Reply

Marilyn Moffatt – Chairman Lyall Bay Surf Club

147. Ms Moffatt said she had listened to all submitters and that the LBSLSC wanted to be a good neighbour and respected their views. She stated that the proposal was the result of a very long and well-considered design process and that the experts the club had engaged had covered all bases. She said the LBSLSC could not renovate the existing building and needed extra storage space, and that they had made a thorough choice of the building materials and colours palettes. She also noted that this information had been made available in an extended consultation period.
148. Ms Moffatt said the environment, especially the built environment, had never been static and that the current buildings were only a snapshot in time. She acknowledged that some members of the community are fond of the existing building, while others supported the new design. She said the new building was fit for its purpose and that it was especially designed for its use as a surf club and to withstand the coastal environment. Ms Moffatt also identified that the club could paint the building whatever colour it wanted to and that it had put in place a range of public facilities.
149. She went on to addressing the ramp, stating that it would have a number of benefits and she asserted that the bollard system would not be abused.
150. With respect to using sand-ladders instead of installing a concrete apron in front of the basement doors to the storage area, Ms Moffatt said she had discussed this option with the Whangamata Surf Lifesaving Club which uses sand ladders. Her conclusion was that sand ladders would not be satisfactory in the Lyall Bay environment as the area can be inundated by the sea. She also said that the concrete pad provides a practical and effective washdown area for equipment.
151. Turning to storage, Ms Moffatt said the building would meet the needs of the club at the present and in the immediately foreseeable future. She noted that in many instances the design was specifically to cater for the equipment stored and used on site.
152. Ms Moffatt asserted that the roof garden would discourage members from using the northern side of the deck, as was intended, and she believed that the proposed design would function successfully with plant growth able to be maintained.

153. Ms Moffatt said that the LBSLSC had undertaken huge consultation with many attempts made to disseminate information. She suggested that notification was done correctly and noted that more submitters were in support than opposed. She clarified that the club's buildings were not community halls but that the LBSLSC subleased them and that the new building would continue to be made available to the public.
154. Ms Moffatt said the design was a realistic one and that views were in many cases opened up or protected by the proposal. She asserted that noise had never been a problem and that it would not be a problem in the future. She said the noise conditions were too harsh and that they should be modified appropriately.
155. Ms Moffatt said that the community service and competitive aspects of surf lifesaving complemented each other well. She concluded that the proposal was fit for its purpose, is financially viable and has a superior design that would make it a positive focal point of the beach.

Christian Bertschinger – Architect

156. Mr Bertschinger said the new building was arranged so that it made efficient use of space, especially in the storage of equipment. He asserted that the new storage area was in fact smaller than the combined existing storage spaces. He added that the design would mean there would be much less sand build-up around the external access to the storage areas and that there was also more internal access to the storage areas so that it was safer as well as possible to move some equipment through the building.
157. Mr Bertschinger also made the following points:
 - The proposal meets earthquake strengthening requirements and climate change considerations;
 - The layout of the internal spaces allows for both the club and the community to have usable space available at the same time;
 - The ramp was designed to allow for people to push or pull trailers with equipment on them and that treatments of the seawall cuts may alter turning circles;
 - Revised plans tabled at the hearing showed updated information including two bollards, a handrail along the ramp and an external public shower and a drinking water tap; and
 - Green star rating considerations would also be applied in the construction and demolition processes for the proposal.

Vikki Muxlow – Projects Officer (Wellington City Council Parks and Gardens Assets and Projects)

158. Ms Muxlow said that restoration planting would be done in conjunction with the dune restoration plan and this would include the area between the existing No. 2 building and the beach access. She said the seawall could be appropriately filled in by the material removed in the new cut to be made, but that this was dependent on engineering advice that it would be structurally safe and suitable. She said final comments on the design on the cut treatments were still being awaited.
159. Ms Muxlow clarified that there was only one vehicle access available to the beach presently at the western end of the beach via a lockable gate and that the

access at the eastern end had permanent bollards and was suitable only for kayaks or surfboards. She asserted that the ramp would have a bollard system in place that would not be abused and that would be managed appropriately by the Council and the LBSLSC.

160. Ms Muxlow said the Council had no discretion over the sublease of the No. 2 building to the community but had never had problems with it. She also said that the No. 2 building was no longer needed with public toilets to be located in the new building. She said the Council maintained the building at considerable cost and that it was desirable to remove it as it was no longer necessary as well as that this was consistent with the intention of both the South Coast Management Plan and District Plan to remove buildings from open space. Ms Muxlow suggested that the Council was knowledgeable at removing buildings from open space areas and that they had strong practices around health and safety so there would be no danger of glass or other building materials being left at the beach.

Paul Turner – Registered Professional Surveyor

161. Mr Turner said he agreed with all of Ms Moffatt's comments and stated further that the decision not to use sand ladders was a practical one as they were inappropriate to the specific environment.
162. He said that both he and Mr Robinson had undertaken a great deal of assessment against the relevant District Plan rules, assessment criteria and objectives and policies, as well as against matters under the Act, including section 104 and Part 2. He did not raise any concerns with the proposal's consistency with any of these matters.
163. Mr Turner said he had focused on the site's context and concluded it was surrounded by a mixed style of buildings that were constantly changing. He considered the proposal was not inconsistent with this character and he said that the building contributed to a positive open space character. He stated there were no rules about a building's colour and that the proposal had a quality external appearance and design. Mr Turner said there was reasonable certainty on the final colours and he anticipated that these would be clarified after the hearing but before a decision was made on the application. He asserted that the proposal had good urban design outcomes and in terms of its visual obtrusiveness, he said that the community had come to expect buildings to be located in the area. He suggested that the building will become part of Lyall Bay and that the building will not be unduly prominent as the tiles will break up the building's bulk.
164. Turning to noise, Mr Turner anticipated that an agreement could be found on this matter with the Council's officers and reiterated that no submitters had raised the matter as a concern. He said the District Plan could be used to set noise limits and that the Council was trying to solve a problem that does not exist. He also said that the use of the building should not be limited as recreational and temporary activities were permitted under the District Plan.
165. Mr Turner observed that the majority of submitters had expressed a passion for the club, for the community and for the local environment and that the new building would provide for these values.

166. He suggested that the building was desirable, was suitable for its purpose and that it met all of its resource management requirements. Mr Turner concluded by saying that the proposal should be granted consent.

Final Hearing Committee Questions and Comments

167. We asked Ms Bertschinger firstly about the deck parapet and whether this could be reduced if the roof garden was removed. He said the deck parapet was raised 300mm to incorporate the roof garden substrate and that the parapet could be lowered by this amount if the roof garden was removed. Mr Bertschinger explained that the applicant had engaged relevant experts to design all aspects of the roof garden and that they were confident that it would be successful. He further said that he did not believe that the roof garden would have a large visual impact as it would not be a significant visual feature from the road. Mr Gjerde said he agreed with this and that the roof garden would slightly enhance the proposal's design but that it was not a major feature.
168. We questioned Mr Bertschinger whether appropriate treatment and putting caps on the seawall cuts would have any impact on the transportation of equipment up and down the ramp. He said the modelling of vehicle and equipment turning had been done with straight cuts to the seawall rather than any type of treatment. He said remodelling would need to be done to see whether this would have any effect.
169. Mr Bertschinger was asked for the dimensions for a public toilet to be able to be classified as having disabled access. He gave the dimensions and said that the disabled toilets met these standards.
170. We enquired as to how the concrete apron would be structurally supported. Mr Bertschinger explained that the concrete apron was supported on a structural beam that was cantilevered out from the western end of the foundations and also linked to the overall building's structure so it was robust and would not collapse.
171. Mr Bertschinger was questioned about whether the water tap would have water that was suitable for drinking. He said it definitely would along with the shower. He explained that grey-water would only be used for the toilets and for washing down equipment.
172. Lastly, we asked Mr Robinson why the draft noise conditions were so onerous when no submitters had objected to noise and when the District Plan controlled the effects of noise. He suggested that this issue would be explored when trying to reach consensus on an agreed set of noise conditions to be submitted to us.

Procedural

173. We then adjourned the hearing for clarifying information about the tiles colour and appearance, the noise conditions and the seawall treatments. During the adjournment period we had initial deliberations which included conducting a visit to the site and the surrounding environment on 22 June 2010. The adjournment of the hearing was extended on 5 July 2010 beyond the maximum 10 day adjournment period set under section 103A of the Act, as the applicant agreed to waive this time limit under sections 37 and 37A of the Act to allow the required clarifying information to be obtained.

174. We received clarifying information on 9 July 2010. This did not include proposed revisions to the noise conditions and the seawall treatments as it was proposed that these matters should now be left to our discretion. While this information might have assisted us in our deliberations we were satisfied that we had enough information to be able to make informed decisions on these matters.
175. We received information on the colour and appearance of the tiles in the form of tile samples and swatches and additionally we received a list of eight colours that the applicant sought to use. We considered that the tile samples and swatches, which included samples and swatches of the eight colours the applicant sought to use, were accurate when compared to the colours shown on the updated set of plans submitted with the application. As such, we decided that the hearing would not need to be reopened as the tile samples and swatches did not introduce any new information and that submitters would not be at a disadvantage. The information was for clarification purposes and did not alter the character, intensity or scale of any effects or the scope of the application. We requested the applicant to submit a revised set of plans including a 'key' to highlight which colours on the plans would be matched against the final set of eight colours that had been submitted to us, which we had subsequently approved. These plans also included changes to the proposal that were made and presented during the hearing, such as the addition of two bollards at the upper entrance to the ramp, the handrail along the ramp and on both sides of the new stairs, and the water tap and public shower¹. These plans were received by us on 16 July 2010. On 19 July 2010 we made our final deliberations and declared the hearing closed.

STATUTORY DOCUMENTS

Resource Management Act 1991

176. We have considered the following provisions of the Act in arriving at our decision on the application. We note that the resource consent application was received by the Council after the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31) came into force on 1 October 2009. As such, the relevant provisions are those of the amended version of the Act.

Part 2: Purpose and Principles

177. The consideration of all resource consent applications is subject to Part 2 of the Act, which sets out the purpose and principles of the Act. Under section 5, the purpose of the Act is to promote the sustainable management of natural and physical resources. "Sustainable management" means:

"...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-

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

¹ We note that a copy of all of the updated plans, i.e. those with the 'key' and those showing changes made to the proposal during the hearing, have been sent to all submitters who appeared at the hearing along with a copy of this Notice of Decision report.

- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

178. In achieving the purpose of the Act, all persons exercising functions and powers under it in relation to managing the use, development and protection of natural and physical resources are required to:
- Recognise and provide for the matters of national importance listed in section 6; and
 - Have particular regard to the other matters listed in section 7; and
 - Take into account the principles of the Treaty of Waitangi in section 8.

Part 3: Duties and Restrictions under this Act

179. Under section 9(1) of the Act:

“No person may use any land in a manner that contravenes a rule in a district plan or proposed district plan unless the activity is-

- (a) Expressly allowed by a resource consent granted by the territorial authority responsible for the plan; or*
- (b) An existing use allowed by section 10 or section 10A.”*

Part 6: Resource Consents

180. The application is for a **Discretionary (Unrestricted) Activity** under the District Plan and Plan Change 43. The Council may grant or refuse consent under section 104B of the Act and, if granted, may impose conditions under section 108 of the Act.

181. Section 104(1) of the Act sets out matters that a consent authority is to have regard to in considering an application for resource consent and any submissions received. Subject to Part 2 of the Act, these include:

“Section 104(1)(a) any actual and potential effects on the environment of allowing the activity;

Section 104(1)(b) 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*

Section 104(1)(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.”

182. Section 104(2) of the Act provides that:

“When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect”.

183. Section 104B of the Act, in regard to the determination of applications for Discretionary or Non-Complying Activities, requires that:

“After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority-

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under section 108.”

184. Section 108 of the Act outlines the nature of conditions that can be placed on land use consents.

RELEVANT PLANNING INSTRUMENTS

185. We consider the Operative District Plan and District Plan Change 43 to be the principal relevant planning instruments in deciding this application. We also believe that the Regional Policy Statement, the Proposed Regional Policy Statement, the Regional Coastal Plan and the New Zealand Coastal Policy Statement also have relevance.

Planning Maps

186. We accept Mr Robinson’s conclusions on this matter. He states that *“the District Plan zones the site as Open Space B on Maps 4 and 5 of the Operative Plan. There is a listed heritage object (sea wall) running along the northern boundary of the site. The site is also within a Hazard (Ground Shaking) Area. A Maori Site (M78 -Hue-te-para Beach) covers the entire Lyall Bay beach area. Areas directly north of the application site opposite Lyall Parade are zoned Outer Residential Area”*.

187. Mr Robinson also noted that *“neither the No. 1 nor No. 2 buildings implicated within this development area are listed heritage structures. Maranui Surf Club which is a listed heritage building (ref 437 c1930/1956) is located approximately 110m to the west of the existing building”*.

Relevant Plan Change

District Plan Change 43 (Heritage Provisions)

188. On 4 May 2006, District Plan Change 43 was notified. Plan Change 43 takes effect from the date of notification and assessment under the provisions of both the Operative Plan and Plan Change 43 has been undertaken as required. The key components of the plan change are:
- To place a greater emphasise on the protection of historic heritage;
 - Removal of Controlled Activity provisions, requiring consent applications to be assessed at the higher status’ of Discretionary Activity (Restricted) or (Unrestricted); and
 - Enhanced heritage area provisions including control of the demolition or relocation of identified contributing buildings or structures within a heritage area, subdivision and earthworks.
189. The decision on Plan Change 43 was notified by Council on 18th October 2007 and the appeal period has now closed with 7 appeals. The plan change will not become operative until such time as these appeals are resolved.

ACTIVITY STATUS

Land use consent – Operative District Plan

190. We accept Mr Robinson’s assessment that the proposal is a **Discretionary (Unrestricted) Activity** for the following reasons.
191. The proposal does not comply with Rule 17.1.10 as the proposed altered surf club building would be greater than 30m² in area. It therefore requires consent under Rule 17.3.2.
192. The proposal does not comply with Rule 17.1.6 as the proposal involves earthworks within the Coastal Marine Area. It therefore requires consent under Rule 17.3.3.
193. The proposal also involves the partial demolition of the existing heritage seawall and requires consent under Rule 21.3.1.

Land use consent – Plan Change 43

194. The proposal is a **Discretionary (Restricted) Activity** under Rule 21A.2.2 as it involves the partial demolition of the existing heritage seawall.

Overall Activity Status

195. Overall, under both the Operative District Plan and Plan Change 43, we agree with Mr Robinson that the proposal to partially demolish the existing No. 1 building (surf club) and totally demolish the existing No. 2 building and construct a new surf club involving the partial demolition of an existing heritage seawall and associated earthworks within the Coastal Marine Area is a **Discretionary (Unrestricted) Activity**.

SECTION 104(1)(a) ASSESSMENT: EFFECTS

196. As a first point of note, we consider it appropriate to mention the permitted baseline for the proposal. Under section 104(1)(a) of the Act, a consent authority may disregard an adverse effect of the activity on the environment if the District Plan permits an activity with that effect, in accordance with section 104(2) of the Act. We agree with Mr Robinson that this consideration is not particularly relevant as resource consent is required under the District Plan for any new building or additions and alterations to a building which are 30m² or more in area. We will therefore not apply a permitted baseline to the proposal as there is no ‘baseline’ which can be established as of right which compares to the effects of the proposal.
197. We have considered the anticipated effects of the proposal on the existing environment and in particular the extent of any adverse effects on neighbouring properties. In particular, we have considered effects relating to:
 - Design;
 - Amenity Values;
 - Noise;
 - Heritage;
 - Traffic/Parking;
 - Construction/Demolition/Earthworks;
 - Private Use of Public Space;

- Access and Parking;
- Beach Shading;
- Ecology;
- The Roof Garden;
- Natural Hazards;
- Cultural Effects;
- Effects on Recreational Activities;
- Property Values; and
- Positive Effects.

198. Having undertaken two site visits and taking all available evidence into consideration in deliberations, we consider the effects as follows.

Effects

Design

199. Our observation is that the proposal's design has been the key effect or issue to be debated and considered as part of this consent process. The majority of submitters who were in opposition to the proposal raised concerns with specific aspects of the proposal's design or of the design in general. Mr Robinson's report notes that *"in particular, submissions have expressed concern that the building fails to relate to the naturalness of the setting due to its size, form, materials and colour"*. Conversely, we note that submitters in support of the proposal frequently commented that the design was a positive feature of the proposal. The applicant provided further details on the proposed cladding system and revised the exterior colour palette of the building since the submission period closed. Several submitters who raised the colour palette as a concern in their written submission expressed at the hearing that they were pleased that the colour palette had been muted or toned down, although this was not always sufficient to resolve their issues with the design.
200. We note that the design-related effects of the proposal have been assessed by Morten Gjerde, the Council's Consultant Urban Design Advisor. Mr Robinson's report asserts that *"Mr Gjerde has undertaken a thorough assessment of the application including design statements submitted by applicant's architects and has been cognisant of submissions which have raised design concerns"*. We observe that Mr Gjerde's final assessment, dated 2 June 2010, was completed after the submission period closed. We have taken into account Mr Gjerde's assessment and evidence, the applicant's assessments and evidence, as well as the submissions and the further evidence from submitters who appeared before us in arriving at our conclusions below.

Bulk and Dominance

201. Submitters stated that the building's bulk and dominance is excessive and that the building has an inappropriate size. Submissions were especially concerned with the height and length of the building when viewed from Lyall Parade. We note that Mr Mottram questioned whether there was a need for so much storage space. Although he acknowledged the importance of surf lifesaving activities for public safety, he contended that these activities were separate from the social and recreational activities of the club. Mr Mottram considered that much of the equipment stored in the building is essentially recreational gear which could and should be stored offsite, just as other sports codes based at the beach do.

202. We heard evidence from Ms Moffatt for the applicant as well as from submitters Martin Robinson and Nicole Taylor (who are both longstanding club members) that the competitive activities the club takes part in are an integral part of the club's overall surf lifesaving activities. They explained that the competitive activities assist with surf lifesaving training and maintaining the fitness of club members as well as with attracting new members and retaining current members. Mr Bertschinger explained that the floor area of the storage area in the proposed building is slightly smaller than the floor area of the current combined storage areas in the No. 1 and No. 2 buildings. He said that the proposed storage area has a higher ceiling and no pillars, which means that it is a more efficient storage space as equipment is more easily accessible. He also noted that there is some capacity to provide for the future needs of the club. Furthermore, we have heard evidence that the area of the new façade facing Lyall Parade is smaller in area than the combined corresponding façades of the No. 1 and No. 2 buildings. We also accept that the design and colour scheme used will help to break down the bulk of the proposed building.
203. Mr Gjerde makes a number of comments which we are in agreement with and we defer to his expertise on this matter. These include that:
- *“While the volume of the new building is greater than the existing building it will not lead to perceptions of bulk and can be accommodated in the setting”;*
 - *“The overall volume is broken into smaller sub volumes, which helps reduce overall perceptions of bulk”;*
 - *“[Observing] it in its wider landscape, it can be concluded that a building of this volume can easily be accommodated in the setting”;* and
 - *“Primarily it is the precedent of existing buildings that enables one to appreciate that the volume of building proposed in this application can be accommodated in the setting”.*
204. We therefore conclude that the building's bulk is not excessive but that it is appropriate for its function and that it can be accommodated in its setting without undue dominance.

Form

205. Form was raised as an issue in submissions in terms of whether the proposed building fits with the built character of the surrounding environment. Ms Smyth expressed a view that the four existing weatherboard buildings on the site make an important contribution to both the amenity and character of the area and that the proposal would have significantly adverse effects on both of these elements. However, both the applicant and Mr Gjerde agree that there is an eclectic mix of built form in the surrounding environment. Mr Gjerde also makes a number of comments on the building's form:
- *“The form is expressive of the functional areas contained within”;*
 - *“The two main volumes are each expressed in different materials and represent storage [long, low concrete form] and club spaces [bright blue form on top of concrete form]. The club space form is broken down further with the insertion of a lower volume that contains the entry to the building, vertical circulation the patrol room to the south...[which] helps successfully articulate the form”;*
 - *“The design incorporates a variety of materials and surface patterns that provide visual interest and help break up the form”;* and
 - *“The smaller sub-volumes hang together as forms and the overall formal arrangement is visually pleasing”.*

206. We agree with Mr Gjerde that the appropriate context against which the effects of the building's form should be assessed is the backdrop of the Lyall Bay built environment as well as the cluster of buildings on the beach when viewed against the sea. In terms of this, we find that the building's form is not inconsistent with the surrounding built character. We also note that with respect to building height and roofline, the proposed building has similarities in form to that of the Maranui building. On this basis, we conclude that overall the building's form is acceptable.

Materials

207. The assessment undertaken by Mr Gjerde has considered the building's material selections. We note that Mr Gjerde's initial assessment, dated May 5 2010, raised concerns with the tile cladding system; however, the applicant provided further justification on the robustness of the system. The further information provided was accepted by Mr Gjerde and he was comfortable with the appropriateness and durability of the cladding system. We defer to his expertise on this matter and consider that the cladding system will be sufficiently robust for the environment. There have been no concerns raised with regards to the appropriateness or durability of the concrete. The resilience of the windows and glazing to the coastal environment has been considered and we are satisfied that they will have sufficient strength and glazing to ensure they are sturdy and secure. We note that the use of materials will be assessed more thoroughly at the building consent stage. We have imposed a consent condition relating to the specification and installation of the tile cladding system.
208. The use of a range of other materials, including weatherboards, has been considered by the applicant but these have been rejected for various reasons including lack of durability, aesthetics and high maintenance costs. Concrete, tiles and glass have been settled on because they are robust enough for the coastal environment, whilst also providing positive design elements and relevance to the coastal environment. We conclude that the building materials will add to the eclectic mix of buildings in the surrounding environment and we find that the different materials will require minimal maintenance, which we believe is desirable from a cost perspective and also for sustainability over time.

Colour

209. We reflect that within the issue of the proposal's design, colour has been one of the most heavily debated matters in the consent process. Many submitters in opposition to the proposal raised concerns with the colour of the tiles. Mr Gjerde's has considered the colour scheme and palette of the building. We note that Mr Gjerde's initial assessment, dated 5 May 2010, raised a concern that *"the colours would be seen in stark contrast with the surrounding context, to the extent that the impact would be obtrusive"*. In response to this, the applicant provided a revised colour scheme that Mr Gjerde considers *"is toned down; the blues are muted in comparison with the original proposal"*. Mr Gjerde states further that *"I was invited to view the other options and agree that they were inferior to the pattern that has [now] been adopted. The muted colour scheme will be of lower contrast with the setting and in my view now falls below the threshold of visual obtrusiveness. However, it is also recognised that there is a need for certainty in relation to colour standards"*.

210. Mr Gjerde concluded that *“on the basis of the amended design the building can be seen to fit appropriately with its setting, recognising the generally eclectic nature of the surrounding built environment and the power of the natural environment. The amended design, in relation to its setting will not be perceived as visually obtrusive. Having considered the design in relation to the setting, I find that the visual outcomes will be acceptable”*. Submitters were concerned with Mr Gjerde’s wording that the building’s colour and design was only *“acceptable”* and said instead that it should be positive. We find that the colour is not only acceptable, but that it is a positive aspect of the proposal. Many other submitters were favourably impressed with the choice of colour and we consider that the muted colour scheme, submitted after the submission period closed, will assist with mitigating other submitters’ concerns with the original colour scheme. We consider that the colours will help to mitigate the building’s bulk and that the colours are appropriate to the coastal setting. We also note that, whilst we have discretion at this stage over the building’s design, the District Plan does not have any discretion over the colour of the existing No. 1 and No. 2 buildings and these buildings could be painted any colour.
211. Mr Gjerde’s comment above was that *“it is also recognised that there is a need for certainty in relation to colour standards”*. We have noted this concern and having viewed tile samples and swatches in our deliberations, we have imposed a consent condition that the colour of the tiles used in construction of the building must be in strict accordance with a set of approved colours.
212. Based on the above, we feel that the issue of colour has been substantially dealt with. We conclude that the colours to be used on the tile cladding system are not only appropriate, but that they would result in positive design outcomes.

Beach Access

213. We note that in Mr Robinson’s report, he deals with ‘Beach Access’ as a design issue. We have dealt with beach access largely as a separate issue as follows. We note that the primary use of the ramp is to move equipment to Lyall Parade and that the club will stop its practice of using vehicles to tow equipment along the beach to an accessway at the western end of the beach. The proposal has significant secondary benefits and it is appropriate to reference Mr Gjerde’s comments on beach access at this point, as they are consistent with our own findings. Mr Gjerde states that *“access to the beach through the sea wall would be changed as a consequence of this project and in my view would be enhanced, particularly for people with limited physical ability. The ramp providing access to the beach for emergency vehicles would also function as a gentle walking ramp for many people for whom the steps present difficulty. The existing stairs around the site would also be retained for beach access and the overall number of access points available to visitors would therefore increase. In my view, the overall provision for access to the open space is enhanced over the existing conditions”*.

Conclusion

214. On the basis of our comments above and the consent conditions we have imposed, we find that any design-related effects would be no more than minor.

Amenity Values

Character

215. We consider that, although the site is in an Open Space area and is therefore predominantly exemplified by open space character, that the site is also influenced by elements of the adjacent residential character. Although there is an aspect of commercial/industrial character, this is not significant and has had little bearing on our assessment of character. In terms of open space character, we find that the proposal will enhance this sense of character as it will open up views and will create a safer and more enjoyable beach environment. The proposal replaces two buildings with one meaning that there will be fewer buildings as well as less built area on the beach. We therefore conclude that the proposal will enhance the open space character of the site and its surrounds.
216. As we have noted, there is also an element of residential character typifying the site. This has been described at various intervals as an 'eclectic', 'heterogenic' or 'diverse mixture'. We consider that the proposal will not be inconsistent with this residential character and that the proposal's contribution to this character will in fact be positive.

Views

217. We note that some submitters have raised concerns regarding the loss of public and/or private views as a result of the extended length of the surf club building. Mr Robinson's notes that *"the effects of the existing environment which sees both the No. 1 and No. 2 buildings impinge on views of [Lyll] Bay are an important consideration when assessing the effects associated with the proposed building"*. We agree with this consideration. We observe that the combined length of the No. 1 and No. 2 buildings is longer than the length of the proposed building. Mr Robinson concludes that *"whilst some views of the eastern end of the beach would be affected for properties on the northern side of the Lyall Parade, the demolition of the No. 2 building would open up viewing aspects of the western end of the beach for these same properties. The removal of the No. 2 building would also open eastward views of the beach from Rua Street"*. We agree with this finding. At the hearing, Mr Turner presented visual evidence showing the viewshafts that would be affected as well as those that would be opened up. Judging from this evidence, we find that effects on views would in fact be positive notwithstanding the fact that residential view protection is not a requirement under the District Plan.
218. We acknowledge that it is important to consider views from the public realm. Having undertaken a site visit and taking all available information into account, we find that views from the public realm would generally be enhanced as a result of the proposal. On the basis of the comments above, we find that the effects on views from both private residences and the public realm would be overall positive.

Shading

219. We do not consider that the proposal will result in any shading of residential properties on the northern side of Lyall Parade. We deal with beach shading separately below.

Privacy

220. We acknowledge that the surf club includes an outdoor decking area on its western and southern elevations. Mr Robinson's report states that *"the deck's main area is on the western elevation and would have views out over both the beach area to the south but also to the west and north overlooking the public footpath and the residential dwellings. The deck is set back from the northern and western elevations"*.
221. Lyall Parade is some 25 metres in width and separates the proposed building from the adjacent residential area. We consider that this provides ample separation distance from the deck to the residential properties to the north and furthermore we observe that the use of the deck would be intermittent given its exposed location. We note too that submissions did not raise concerns with privacy and concerns with the deck were primarily related to the proposed roof garden. We conclude that privacy effects from the proposal would be no more than minor.

Conclusion

222. Overall, we consider that any effects on amenity values would be no more than minor.

Noise

223. As detailed in Mr Robinson's report, the Council's Environmental Noise Officer, Glynn Jones, made an assessment of the proposal's potential noise effects. However, we note that very few submissions raised noise as a concern and those submitters who appeared at the hearing, even those in opposition to the proposal, were largely agreed that noise effects were not an issue.
224. Mr Robinson states that Mr Jones' assessment reached the conclusion that *"the activity can comply with the District Plan noise requirements subject to mitigation and controls recommended as conditions. With these controls the overall effects will not be significant and the Council can therefore support the application on noise grounds. However, without controls, there is a potential for noise levels from people and music to be unreasonable, particularly late at night after 10.00 pm from special events held at the club"*.
225. We have considered this comment but have found that the proposed noise conditions are too restrictive and onerous on the LBSLSC, especially in light of submitters' comments that noise was not an issue. Therefore, we have imposed modified consent conditions. We believe that our set of conditions are more appropriate and will ensure that any noise effects will be mitigated and controlled to a level where they will be no more than minor. Our reasoning for this, in no particular order, is summarised in the following points:
- There is a lack of evidence from any parties to the application that there will be adverse noise effects as a result of the proposal and indeed the opposite has been argued;
 - The building is located some distance from residential properties and in an Open Space zone where temporary and recreational activities are permitted and it has also been suggested that ambient and environmental factors (such as noise from the sea and the airport as well as wind) may lessen noise effects;

- The building will be designed appropriately to insulate for noise and it is excessive and unwarranted to require the applicant to undertake expensive certification procedures;
 - Consent conditions have been imposed relating to hours of operation and the number of special events that can be held. At the same time, we believe the District Plan should be the key method for setting noise limits. We do not believe that it is necessary to impose more restrictive noise limits than those that are set by the District Plan; and
 - The applicant explained their management procedures already in place to deal with noise effects from special events and we have confidence in their ability to self-monitor themselves. We have imposed a consent condition that the applicant must submit a noise management plan to the Council for approval before the new building commences activity as a surf club. We do not believe that this requirement will be onerous in light of the fact that the club currently has many of these processes in place.
226. Furthermore, we have imposed consent conditions relating to the design and operation of the wind turbine as well as to the management and mitigation of noise effects during construction/demolition. These are consistent with the District Plan and with other requirements. In summary, we consider that any noise effects will be no more than minor and can be managed by the District Plan.

Heritage

227. The proposal involves making an approximately 7.7 metre opening in the existing seawall to allow access to the building, public toilets and the ramp. We note that this aspect of the proposal requires resource consent as the seawall is listed as a heritage object under the District Plan. We have considered the Heritage Report prepared by Russell Murray, a Conservation Architect. Mr Robinson's report states that Mr Murray's report was not available at the time of notification. However, we do not consider this to be problematic as submissions were generally supportive or not opposed to the works.
228. Mr Robinson considers that the Heritage Report *"includes an assessment of the values associated with the existing wall and details the effects on heritage values associated with the partial demolition and making good of other sections of the wall"*. He identifies that *"the report has been reviewed by the Council's Principal Heritage Advisor, Vivien Rickard. Ms Rickard has accepted that the effects of the development [are] acceptable"*. We note that Ms Rickard has recommended some conditions of consent based on recommendations made by Mr Murray. We believe that the new openings should be similar to the treatment of current beach access points.
229. We find that the wording used in the proposed conditions does not provide certainty in terms of the final works to be done or the treatments to be given to the opening. As such, we have imposed new consent conditions on this matter. These conditions are based on Mr Murray's recommendations but we have changed the wording to use terms such as 'must' instead of 'should'. We consider that this will guarantee the certainty we desire in terms of the treatment given to the seawall. We have also inserted two advice notes which we also feel will help to maintain the integrity of the seawall. As an aside, we do not consider that the new seawall opening will have significantly adverse effects in terms of the transfer of sand from the beach to Lyall Parade as the building will screen the new opening. We acknowledge that consideration must be given

to vehicle access and manoeuvring requirements when designing the treatments made to the seawall openings.

230. On the basis of the above, including the relevant conditions of consent and advice notes, we conclude that the proposal would have no more than minor effects on heritage.

Traffic/Parking

231. We acknowledge that concerns were raised by some submitters with regards to potential traffic and parking effects. As Mr Robinson has done in his report, we have split these effects up into operational effects and effects relating to construction/demolition periods.

Operational Traffic/Parking Effects

232. Mr Robinson's report states that the development has been assessed by the Council's Principal Planner (Transport), Brendon Stone. We accept Mr Stone's position of expertise and in many instances we will defer, as has Mr Robinson, to his proficiency on traffic and parking matters. There was no expert traffic evidence to the contrary presented by the applicant or the submitters.
233. Mr Stone states: *"Having visited the site and taken photographs, I am of the view that in this case, the plentiful parking available on-street in the vicinity of the replacement clubrooms are easily expected to cope with the parking demand generated by what is very much a replacement building. Certainly, [the] Council would not in any event seek any ancillary off-street parking given the 'promenade' nature of the footpath"*.
234. Mr Stone also provides comment on the likely effects on parking demand of social events at the LBSLSC that *"the occasional use of the premises by social and community groups is proposed to continue, when the premises are otherwise unused and hence under-utilised. At such times there is even greater access to the numerous kerb-side car parks along Lyall Parade for those who choose to drive to such activities"*.
235. Based on the above and on the premise of the consent conditions we have imposed being suitably met by the applicant, we consider that the operational traffic and parking effects will be no more than minor.

Construction/Demolition Effects

236. Mr Robinson notes that *"construction effects have the potential to cause disruption on the roading network and as such a detailed Construction/Demolition Management Plan which builds on the draft plan provided [with] the application is recommended as a consent condition"*. Mr Stone has also recommended a construction management plan consent condition to ensure that the traffic and parking effects associated with construction are avoided, remedied or mitigated. Mr Stone states *"subject to the suggested condition, I am of the view that the anticipated effect(s) of the proposal on the immediate traffic network would be minimal"*. We accept these points and have imposed a suitable consent condition to this end. Subject to the implementation of this condition we find that construction effects, which are essentially temporary, will be no more than minor.

237. On the basis of above, we consider that any traffic or parking effects would be no more than minor. We note that traffic matters relating to the new ramp are dealt with separately below.

Construction/Demolition/Earthworks

238. We note that the proposal involves construction, demolition and earthworks activities in the Coastal Marine Area. We will firstly deal with the effects relating to the construction and demolition activities. Effects relating to these activities are inherently temporary and we have imposed a series of consent conditions that we believe will suitably avoid, remedy or mitigate the effects related to these activities. We feel that the consent conditions are robust in terms of the scale and nature of the works proposed and that, in any case, the construction and demolition activities will also be dealt with at the building consent stage. The applicant has advised us that they are reasonably experienced with handling demolition activities in Open Space areas. Furthermore, we have inserted an advice note that a key consideration in the design of the construction/demolition management plan should be that safe and efficient access is provided to pedestrians of all ages and abilities along the Lyall Parade promenade. We consider that effects relating to construction and demolition activities will be no more than minor.
239. We will now examine the earthworks that are required to create a suitable building platform as well as foundations for the new building. Mr Robinson's report states that *"the specifics of the earthworks, including geotechnical matters, have been assessed by the Council's Earthworks Engineer, Rod Drumm and Planning Engineer, Nicci Wood"*. His report also states that *"the works are of a minor scale overall and [do not] involve any significant alterations in the existing ground levels"*. Mr Robinson has proposed that we impose several conditions of consent that were recommended to him by Mr Drumm. On the basis of these proposed conditions and with his assessment that the earthworks are relatively minor, Mr Robinson considers that any earthworks effects are less than minor. We have adopted Mr Robinson's assessment that the effects relating to earthworks activities will be less than minor, as there are requirements set through the consent conditions.

Private Use of Public Space

240. In both the written submissions and the oral submissions at the hearing we heard submitters' concerns that the proposal would result in a loss of public open space or a private use of public open space. We have deliberated on the matter and do not believe that it presents any obstacle to consent being granted. Despite the LBSLSC having private membership, the new building will include toilets, changing areas, a tap and an external shower that will be available to the public. The new building will have areas that will be available for use by the community. Furthermore, the facility provides a lifesaving service that is a public good. In terms of the issue raised that the LBSLSC places its competitive aspects above its lifesaving service aspects, we are satisfied that the two activities complement each other and that competition is in fact secondary to lifesaving services. No submitter challenged the need for a surf lifesaving service to be located in the area and many stated that it is actually a necessity.
241. We note that the building footprint of the new building will be less than the combined footprint of the existing No. 1 and No. 2 buildings, so the proposal

will open up a greater amount of public open space. Lastly, we conclude that the South Coast Management Plan anticipates buildings being located in the beach environment to support recreational activities. As such, we find no issue with the building being located in an Open Space area.

242. Ms Russell, a submitter, opposed the demolition of the No. 2 building, which currently requires maintenance and has been described as being in an average condition. Ms Muxlow, for the applicant, told us that the No. 2 building is considered to be surplus to requirements as the public toilets that it currently houses will be contained in the new building. The new building will also be available for use by the community, a use that the No. 2 building previously accommodated. We note that the District Plan encourages the removal of buildings in Open Space areas, as does the South Coast Management Plan and the removal of the No. 2 building is consistent with this objective. The No. 2 building is not a listed heritage item and its demolition is permitted under the District Plan. Its demolition will also open up views to a number of properties. Lastly, we note that we have imposed a consent condition that the demolition of the No. 2 building must be commenced 3 months after the new building begins to operate as a surf club.

Access and Parking

243. We acknowledge that submitters have raised concerns with both the new vehicle crossing and access ramp. Mr Robinson's report notes that the proposal has been assessed by the Council's Vehicle Access Engineer, Patricia Wood. Ms Wood has not raised any concerns regarding the vehicle crossing or ramp and she has not recommended any conditions of consent. On this basis, Mr Robinson concludes that access effects will be less than minor. In terms of concerns that the new vehicle crossing would cause a loss of on-street carparking spaces, Mr Stone judges that there is sufficient on-street carparking already present. We adopt Mr Stone's conclusion that any loss of carparking caused by the new vehicle crossing will not be a significant effect.
244. At the hearing it was proposed that there is already sufficient access to the beach for vehicles and that the ramp is unnecessary. However, on our site visit we found that the ramp at the eastern end of the beach is blocked to vehicles by permanent bollards. Evidence at the hearing was that the new ramp would mean that the existing vehicle access point at the western edge of the beach could become redundant. Another point made in favour of the new ramp was that it would mean fewer vehicles on the beach which can only improve safety on the beach. We accept these points and find that the new ramp would be an improvement on the existing situation.
245. Submitters were concerned that the ramp had no system to prevent members of the public using it for general vehicle access to the beach. The applicant has proposed to put in place lockable bollards with access controlled via the Council's Parks and Gardens management system (i.e. keys held only by suitable parties). We find this to be an appropriate method to limit the use of the ramp and we have no reason to believe that the bollard system would be abused by any person, including members of the LBSLSC. We insist that the bollard system must be implemented as it forms part of the approved plans and it will help to avoid, remedy or mitigate potential effects associated with access. We have also included a condition of consent that the applicant must submit details of how the use of the ramp would be controlled and secured to the Council.

246. We find that the ramp would provide better access to the beach for emergency vehicles. This is considered to be a major safety benefit. The ramp would be fitted with a handrail in accordance with the approved plans and would provide pedestrian access for people of all abilities. We find it a significant benefit that access to the beach is improved for pedestrians of all abilities.
247. We wish to make a final point that vehicles will rarely use the ramp as it is envisaged that surf lifesaving equipment will be manually moved up and down the ramp. As such, the ramp will have the effect of lessening the number of vehicles accessing the beach. Based on the above discussions, we conclude that any access effects will be no more than minor.

Beach Shading

248. We accept that the new building would shade more of the beach when compared to the existing No. 1 building because of its larger footprint and because it is positioned further towards the sea. However, we note that the existing environment includes the No. 2 building, which would be totally demolished as part of the overall proposal. The combined building footprint of the No. 1 and No. 2 buildings is approximately 360m², which is 37m² more than the footprint of the new building. Additionally, it has been demonstrated that the new building will have a lower roof height than that of the No. 1 and No. 2 buildings. Therefore, we believe that the beach shading effects arising from the proposal would be similar to, or possibly reduced from, those effects associated with the existing environment.
249. Mr Robinson states that *“the shading effects of the development must be considered in the context of the expansive open space beach area of which the building would be part. Demonstrating this is the fact that the total area of the building would occupy just 0.8% of the total beach area. When considering this more holistic view of the wider receiving environment, the shading that is attributed to the building is minimal and less than minor”*.
250. The application’s assessment of effects and Mr Robinson’s report both comment that the beach shading caused by the new building may provide sheltering benefits to those wishing to gain cover from the sun or wind.
251. Mr Robinson mentions in his report that the new building would be erected prior to the No. 2 building being demolished in order to ensure that public toilets are available at all times and he commented that there would be a greater level of beach shading during this overlap period. However, he noted that this is *“inherently temporary and can be controlled through an appropriate condition ensuring the demolition of the No. 2 building”*. We agree that this effect would only be temporary and find it to be less than minor. We have imposed a consent condition requiring the demolition of the No. 2 building to be commenced within 3 months of the new building being operational.
252. Given the above, we find that any beach shading effects are less than minor and can be managed and mitigated by suitable consent conditions.

Ecology

253. We accept that the proposal will involve the removal of a minor amount of existing vegetation as part of the ground clearance involved in the construction

and demolition activities. However, these activities will be localised and from our site visit we consider it unlikely that any of the vegetation to be removed is significant. If significant vegetation species or specimens are uncovered, we are confident that the applicant (Parks and Gardens Assets and Projects, which is responsible for managing the site) will transplant these of their own accord as they have proposed.

254. The submission from the Greater Wellington Regional Council recommended a re-vegetation management plan be imposed as a condition of consent as it would assist in re-vegetating the area between the new building and the existing 'Affordable Arts Building'. Mr Robinson states in his report that *"subject to its implementation, the [plan] may provide an opportunity to further the restoration of vegetation along the beach in general"*. We have imposed the consent condition, but have slightly modified it based on recommendations made by Ms Weeber at the hearing that the condition should refer to *"the first available planting season following the removal of the existing No. 2 building"*. We believe that the re-vegetation management plan, being carried out in accordance with the Lyall Bay 5 Year Dune Restoration Plan, will result in positive outcomes for the ecology of the beach environment. We expect that consent conditions relating to construction, demolition and earthworks activities will also ensure that effects on beach ecology are suitably avoided, remedied or mitigated.
255. Given the above, we find that effects on ecology would be no more than minor given that the beach environment is already heavily modified and the consent conditions we have imposed being implemented appropriately by the applicant.
256. Concerns were also raised at the hearing that the roof garden would not work as expected and that the applicant had not received suitable expert advice on its design and implementation. The applicant refuted this, saying they had received advice on the design of the roof garden and that they expected it would be successful. We consider it prudent to impose a consent condition that the applicant must submit a roof top planting plan to the Council to be prepared by a suitably qualified landscape architect. This plan will specify appropriate plant species and set out how the planting will be carried out and maintained over the first of five years of the roof garden's life.

Natural Hazards

257. The proposal is located in a dynamic coastal environment and submitters are concerned that this location is inappropriate given the threat of natural hazards. In this regard, we note that the applicant has taken advice from a Coastal Engineer, John Lumsden. Mr Lumsden has assessed the proposal against effects related to wave climate, coastal processes, sea level variability, climate change and extreme water levels. He concludes that the proposal would be subject to risks from natural hazards, including continuous tidal forces, storm surge events and the effects of sea level rise. In light of this, Mr Lumsden has submitted a series of recommendations related to the construction and design of the building.
258. We note that the building has been designed to accommodate the recommendations included in Mr Lumsden's report. Some examples of this include the following:
 - That the building will be constructed on piles;

- That the beach seating on the south side of the building will be slatted to help relieve wave uplift pressure;
 - The incorporation of wave energy absorption measures;
 - That the key facilities of the building will be located on the first floor and that the ground floor storage area is designed to withstand flooding; and
 - That the finished floor level of the first floor is slightly above road level so that seawater will drain onto the promenade before flooding the building.
259. From evidence heard and presented we believe that the applicant has received appropriate specialist advice relating to natural hazards and that they have taken reasonable steps to avoid, remedy or mitigate any effects relating to this matter. Our consideration is that the building has been designed robustly to deal with natural hazards and we deem that it is best left to the building consent process to ensure that the final construction of the building is also completed in a robust manner. In this regard, Mr Robinson's report states that *"the development would be the subject of the building consent process, which in itself would require detailed assessment of the proposed construction methodologies and materials to be used"*. We accept that there are inherent risks with constructing a building in a coastal environment but that with sound design and construction, the effects of natural hazards can be made to be no more than minor.

Cultural Effects

260. We accept the follow comments in Mr Robinson's report, *"the development is located within a known site of Maori significance being M78 (Hue-te-para beach). The applicant has been proactive and carried out consultation with the two iwi authorities with recognised mandate over the Lyall Bay area being The Wellington Tenths Trust and Te Runanga o Toa Rangatira. The development would involve excavations which have the potential to unearth any Toanga. Both the iwi groups consulted raised no fundamental concerns with the development and no submissions were received from either authority"*.
261. Mr Robinson considers that a consent condition can effectively avoid or mitigate potential effects that may result from unearthing any site of significance. As such, he has recommended the inclusion of an Accidental Discovery Protocol consent condition that recognises the importance of the area to Maori and protects any sites of importance should they be found during site works. We agree with this conclusion and as such we have imposed the recommended consent condition. We also note that the applicant is amenable to the condition being imposed. Our view is that with the requirement to act in accordance with the Accidental Discovery Protocol, any cultural effects will be less than minor.

Effects on Recreational Activities

262. Mr Robinson's report states that *"the development occupies a very small fraction of the beach area (approximately 0.8%)". It is not considered that the existing recreational opportunities afforded to beach goers would be affected in any way by the operation of the club and in fact they would be enhanced through the provision of better patrolling, access and toilet facilities"*. We agree with this comment. Many written submissions pointed to the fact that the presence of the LBSLSC makes the beach a much safer environment and those who spoke at the hearing were largely agreed that the surf club provides a

benefit to the community and that its continued presence should be supported. We note that many submitters in opposition to the proposal were not opposed to the surf club in principal but rather to aspects of the proposal's design.

263. We are aware that there are concerns with the club's activities conflicting with the public's use of the beach but we are satisfied that the LBSLSC has appropriate measures in place to manage these concerns. We consider that the proposal will enhance the public's enjoyment of the beach environment and will make the beach a safer place to be. Mr Robinson notes that the mission statement of the LBSLSC is "*to prevent drowning and injury at Lyall Bay while providing opportunities for members to develop and participate in a range of Surf Lifesaving Activities*". He considers that the new facility would assist the club to meet this mission statement and in doing so, would provide a benefit to the community. We agree that the proposal will promote a more effective lifesaving service and we also find that the quality and range of facilities available to the public will be enhanced and increased. Specifically this includes toilets/changing areas, a water tap and an external shower. We also reiterate our view that the club's lifesaving service aspect is in no way secondary to the club's competitive aspects. As such, we conclude that effects on recreational activities will be less than minor and in many instances these effects are potentially very positive.
264. Mr Robinson's report notes that there is potential for some minor impacts on recreational activities during the construction and demolition periods. He asserts that consent conditions would assist in avoiding and mitigating these effects, which are inherently temporary. We agree with this conclusion and have incorporated these concerns within the consent conditions imposed. This includes the requirement for the demolition of the No. 2 building to be commenced within 3 months of the new surf club being operational and for a construction/demolition management plan to ensure that Lyall Parade has a minimum pedestrian footpath of 2 metres maintained during the demolition and construction stages.

Property Values

265. We acknowledge submitters' concerns that the proposal may result in a loss of property values. However, we note that property values is not a matter addressed in the District Plan or under the Act as they are an economic consequence of environmental effects. The case law that exists on this matter is clear that we are not able to take property values into account as an 'effect' in our decision. As such, we have assessed only the environmental effects associated with the proposal and have not given consideration to the notion that the proposal may affect property values.

Positive Effects

266. An important part in considering the effects of any application for resource consent is contemplation of any positive effects. Many of the positive effects that the proposal would provide have already been touched on in other sections of this report. We do not wish to reiterate any new points, but we confirm that the proposal would provide a range of significant benefits, particularly relating to access and recreational activities. These positive effects have had bearing on our conclusion as to the overall environmental effects of the proposal.

Conclusion as to Effects

267. Overall, with regard to section 104(1)(a) of the Act, on balance we consider the effects associated with the proposal to be no more than minor and that any potentially adverse effects can be suitably mitigated or managed by consent conditions.

SECTION 104(1)(b) ASSESSMENT: RELEVANT PROVISIONS

268. For the reasons outlined above in our assessment of the proposal under section 104(1)(a) of the Act, we consider that the proposal is consistent with the following relevant provisions under section 104(1)(b) of the Act:

- Assessment Criteria of the Operative District Plan;
- Objectives and Policies of the Operative District Plan;
- Objectives and Policies of Plan Change 43;
- Objectives and Policies of both the Regional Policy Statement and the Proposed Regional Policy Statement;
- Objectives and Rules of the Regional Coastal Plan; and
- The New Zealand Coastal Policy Statement.

269. We note that the provisions detailed above have been comprehensively analysed by Mr Robinson in his section 42A report and by Mr Turner in the resource consent application. Mr Robinson and Mr Turner are generally in agreement that the proposal is consistent with the provisions outlined above, particularly so the objectives and policies of the Operative District Plan and Plan Change 43. Their assessments on these matters were not challenged by submitters. We find no inconsistencies with their assessments under section 104(1)(b) of the Act and we therefore adopt them.

SECTION 104(1)(c) ASSESSMENT: OTHER MATTERS

270. Submitters raised a concern that the application was not notified properly or in accordance with the Act and that the consultation undertaken by the applicant was inadequate. As has been outlined earlier in the report, the application was publicly notified on 23 March 2010 in accordance with sections 95 to 95F of the Act. A public notice appeared in the Dominion Post on 23 March 2010 and a sign was erected on the site during the submission period. Owners and occupiers of land in the immediate area were also served a copy of the application. We find the notification of the application to be entirely proper and in accordance with the requirements of the Act.

271. In terms of consultation we note that under section 36A of the Act, an applicant for a resource consent has no duty to consult any person under the Act; however, they may consult any person about the application. At the hearing, Ms Moffatt presented evidence outlining the club's consultation with a range of properties in the immediate area as well as the wider community. We find the consultation undertaken by the applicant to be meritorious, especially given there is no duty for them to consult any person under the Act. Furthermore, we have no reason to believe the consultation to be anything other than genuine.

272. We note that the Lyall Bay beach area falls under the South Coast Management Plan, a non-statutory document. The primary objective of the Plan is "*to protect and enhance the coastal character of Wellington's South Coast*". Mr Robinson has reviewed the document and finds the proposal to be consistent with the sections of particular relevance to this application, namely sections 5,

6.5 and 6.8. Having reviewed the Plan, we accept Mr Robinson's conclusions on the proposal's consistency with these specific sections and with the Plan in general.

273. At the hearing, Ms Russell raised an objection that the proposal is inconsistent with the Council's 2010 Draft Community Facilities Policy, a document which provides comment on the Council's community facilities. We note that, as with the South Coast Management Plan, this document is not a statutory document but can be considered under section 104(1)(c) of the Act. Mr Robinson addressed the draft policy document in his right of reply at the hearing. We accept his conclusions that "*whilst the proposal results in a loss of an existing Council facility which could plausibly be redeveloped and used for community recreation, this must be [weighed] against the South Coast Management Plan which seeks to reduce the number of buildings in the area if they are redundant. Further to this, demolition of existing buildings within the Open Space B zone is a permitted activity which clearly shows a desire to reduce overall development within this zone*". Having weighed the draft policy document and considered its substantive content we do not feel that it presents any fundamental reason for us to not grant resource consent.
274. We note that Mr Robinson considers that the applicant has provided sufficient evidence that the development does require consent under Plan Change 70 (Earthworks) and we have no reason not to accept this conclusion.
275. We observe that the existing No. 1 and No. 2 buildings are not listed heritage buildings and as such their demolition is a Permitted Activity under the District Plan.
276. We feel it is appropriate to remark on the fact that no resource consents are required from the Greater Wellington Regional Council as the development site is not located within the Mean High Water Springs mark.

PART 2 CONSIDERATIONS

277. In considering this application, we have had regard to the matters identified in Part 2 of the Act. Part 2 (sections 5, 6 and 7) of the Act sets out the purposes and principles of the legislation,

Section 5: Purpose

278. Section 5(1) states the purpose of the Act is "*to promote the sustainable management of natural and physical resources.*" Section 5(2) goes on to state that sustainable management means "*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 well-being and for health and safety while - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying or mitigating any adverse effects of activities on the environment*". We consider that the proposal is consistent with this purpose. The proposal is not in conflict with either the first part of section 5(2) or with sections 5(2)(a) or 5(2)(b) and the effects have been appropriately avoided, remedied or mitigated to a point where, on balance, they are considered to be no more than minor and acceptable.

Section 6: Matters of National Importance

279. Section 6 sets out the matters of national importance which are to be recognised and provided for in relation to all decisions under the Act, including this resource consent application. We consider that the following provisions of section 6 are relevant and we provide our views and reasoning on each of these provisions accordingly.

(a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development

280. Mr Robinson's report asserts that "*the existing Lyall Bay beach landscape, although having coastal, open space characteristics is heavily modified and includes a number of buildings at the western end of the beach as well as the existing seawall, drainage outfalls and the Wellington airport runway extension. The environment immediately northwards of the seawall and sand dunes is heavily urbanised*". Given what he calls "*the modified nature of the existing landscape*", he does not consider that section 6(a) is overly relevant. We agree with this finding.

(d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers

281. We find the proposal to be consistent with this provision as it will increase the overall number of access points to the beach area as well as because the ramp will provide access for emergency vehicles and for disabled persons, amongst other uses.

(e) The relationship of Maori and their culture and traditions with ancestral lands, water, sites, waahi tapu, and other taonga

282. We have imposed a consent condition to require the applicant to comply with an Accidental Discovery Protocol and we note that appropriate consultation has been undertaken with iwi groups. It is our view that the proposal is consistent with section 6(e) of the Act.

(f) The protection of historic heritage from inappropriate subdivision, use, and development

283. We have assessed the effects of the demolition of a section of the seawall and we have received expert advice that this is acceptable given the scale of demolition and the mitigation and treatments proposed. We have also imposed various conditions of consent on this matter. We therefore consider that the proposal is consistent with this provision.

Section 7: Other Matters

284. Section 7 includes matters that the consent authority shall have particular regard to in relation to all decisions under the Act, including this resource consent application. We consider that the following provisions of section 7 are relevant and we provide our views and reasoning on each of these provisions accordingly.

- (a) *Kaitiakitanga*
- (aa) *The ethic of stewardship*

285. We acknowledge that both the Wellington Tenths Trust and Te Runanga o Toa Rangatira wish to maintain their kaitiaki relationship to the site. As such, we have imposed an Accidental Discovery Protocol consent condition which requires ongoing contact with tangata whenua during the construction and demolition period. We consider that this condition provides for iwi to be involved as kaitiaki. Furthermore, we do not believe the proposal to be inconsistent with the ethic of stewardship.

- (b) *The efficient use and development of natural and physical resources*

286. Mr Robinson has assessed the proposal against this provision. We agree with his assessment that *“the proposal is considered to be an efficient use of natural and physical resources, in that it provides for the upgrade of an existing facility which has a long established presence in the area. The development would enhance the safety of the beach for the general public through better patrolling, first aid, access and toilet and shower facilities. The development also allows for the effects of natural hazards through its design”*.

- (c) *The maintenance and enhancement of amenity values*

287. ‘Amenity values’ is defined under section 2 of the Act as *“those natural or physical qualities or characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”*. We have assessed effects on amenity values and find any effects to be no more than minor. It is our view that amenity values for the users of the building will be enhanced. However, our primary consideration has been directed towards those living in and using the surrounding environment. We find that amenity values of these parties would in all cases be maintained and in many cases would be enhanced. Examples of this are that the proposal will open up views to many residential properties, provide better public facilities and enhance public health and safety for those using the beach environment. As such the development maintains and enhances amenity values.

- (d) *The intrinsic values of ecosystems*

288. We consider that the proposal will have no more than minor effects on any ecosystems and that it will not affect their ‘intrinsic value’. We observe that a very small amount of vegetation will be removed; however, this is offset by planting opportunities elsewhere. As Mr Robinson notes, the proposal *“represents an opportunity to actually expand the level of dune regeneration which is being undertaken in other parts of the beach”*. Furthermore, we note that the earthworks required are minimal. In any case, we have imposed appropriate consent conditions addressing re-vegetation and the management of earthworks. It is our overall opinion that the proposal is consistent with section 7(d) of the Act.

- (f) *The maintenance and enhancement of the quality of the environment*

289. We note that under the Act, ‘environment’ is broadly defined to include (a) ecosystems and their constituent parts (including people and communities), (b) all natural and physical resources and (c) amenity values. ‘Environment’ also

includes the social, economic, aesthetic and cultural conditions which affect matters (a) to (c) or which are affected by those matters. We have previously addressed ecosystems and their intrinsic values, concluding that any effects will be no more than minor and that appropriate consent conditions have been imposed. We have stated our opinion that the proposal is an efficient use of natural and physical resources. Consideration has been given at length to the effects on a range of amenity values and we find that the proposal has no more than minor effects on amenity values and that amenity values would in all cases be maintained and, in many cases, would be enhanced. We have also assessed social, economic, aesthetic and cultural conditions of the proposal in our assessment of environmental effects and find that any adverse effects will be no more than minor and that in many cases there will in fact be positive outcomes with regards to these conditions.

290. Given our views on the above matters, we conclude that the proposal will maintain and enhance the quality of the environment.

(i) The effects of climate change

291. The effects of climate change were a matter we had particular regard to as the new building will be located within the Coastal Marine Area. We heard evidence that the proposal has been specifically designed to take into account potential sea level rise and storm surge flooding. We also heard that the building's structural design will be robust as extreme weather events could occur in both greater magnitude and greater frequency. We acknowledge that there is an inherent risk locating a building in the Coastal Marine Area in light of these effects; however, we accept that the proposal has put in place appropriate measures to account for these effects and we do not consider that climate change is a matter that is necessarily fatal to the application being granted resource consent. Buildings located in the Coastal Marine Area continue to be used and it is likely that new buildings supporting activities that are functionally related to the Coastal Marine Area will continue to be built in the Area. We find that the proposal is consistent with taking into account the effects of climate change.

Section 8: Treaty of Waitangi

292. Section 8 states that all persons exercising functions and powers under the Act shall take into account the principles of the Treaty of Waitangi. The Treaty and its principles are an important part of the cultural and constitutional identity of New Zealand. Treaty principles interpret the Treaty as a whole, its underlying meaning, intention and spirit to provide further understanding of the expectations of the signatories.
293. We have previously examined the fact that issues relating to Maori have been taken into account during the resource consent process by the applicant and the Council. Iwi were consulted by the applicant and the development was fully publicly notified by the Council in accordance with the principles of the Treaty. The site was identified as being of significance to tangata whenua in the immediate area and accordingly we have imposed a recommended Accidental Discovery Protocol consent condition to ensure on-going participation by the relevant iwi groups as the proposal progresses through both construction and demolition. We believe adequate assessment has been given to cultural effects and we consider that the proposal is not inconsistent with the principles of the Treaty of Waitangi.

CONCLUSION

294. Wellington City is a dynamic city which is constantly evolving and giving rise to new opportunities, activities and developments. The Wellington City District Plan supports this by encouraging development in Wellington, subject to appropriate checks and controls. As a part of this, some areas, including the subject site, are designated as being for 'Open Space' purposes. Specifically in this case, the site is zoned as Open Space B. Open Space B is described in the District Plan as being the 'natural environment' and the Plan states that:

“Open Space B land is valued for its natural character and informal open spaces. It involves areas that are used for types of recreation that, in the broadest sense, do not involve buildings or structures. The intention is to keep such areas in an unbuilt or natural state. This type of open space encompasses both formal and informal open space elements. It includes walkways, scenic areas and open grassed areas where buildings are inappropriate. Its characteristics are minimal structures, largely undeveloped areas and open expanses of land. Most Open Space B areas are vegetated and often have ecological values or may buffer Conservation Sites”.

295. We acknowledge the District Plan's statement that the *“intention is to keep such areas in an unbuilt or natural state”*. However, as has been discussed at length, the proposal will result in one less building on Lyall Bay beach and will reduce the overall level of development on the beach with more open space provided, as well as better facilities to promote safety on the beach. The proposal involves construction, demolition, earthworks and recreational activities; the Open Space B Rules of the District Plan place restrictions on all of these activities as they may result in potentially adverse environmental effects. The District Plan anticipates that all of these activities can be provided for if they do not have more than minor effects and are consistent with the objectives and policies of the Plan. We have assessed the relevant effects associated with the proposal at length and, taking all evidence and information into account, we have judged that these effects will be no more than minor and acceptable.
296. Furthermore, we have considered the relevant objectives, policies and assessment criteria of the Operative District Plan and Plan Change 43 and we find that the proposal is consistent with these. We also find that the proposal is in line with other statutory and non-statutory documents. The District Plan supports the appropriate development of Open Space areas but it sets out a vision for how these developments should occur; the objectives and policies are the guides to this vision. The key objective is to maintain the character, purpose and function of an open space and enhance its accessibility and usability. We feel that the proposal is in line with this objective.
297. We have assessed the proposal against all sections of Part 2 of the Act. We consider that the proposal is consistent with promoting the sustainable management of natural and physical resources, which is the purpose of the Act under section 5. Our opinion is that the proposal is in line with the relevant provisions of sections 6 and 7 of the Act, being matters of national importance that must be recognised and provided for and other matters which particular regard should be had to. We also find that the proposal is not inconsistent with the principles of the Treaty of Waitangi under section 8 of the Act. Accordingly, for the reasons set out in this report, as Commissioners acting under delegated authority from the Council and pursuant to section 104B of the Resource

Management Act 1991, we **GRANT** consent to the proposal to partially demolish the existing No. 1 building (surf club) and totally demolish the existing No. 2 building and construct a new surf club involving the partial demolition of an existing heritage seawall and associated earthworks within the Coastal Marine Area at **5 Lyall Parade, Lyall Bay** (being Part Lot 3 Deposited Plan 2456), subject to conditions.

Sue Piper
Hearing Committee (Chair)