



Council Decision on District Plan Change 58

**Proposed additions to listed heritage
buildings, objects and areas**

July 2008

Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL **Wellington**

DECISION ON DISTRICT PLAN CHANGE 58:

PROPOSED ADDITIONS TO LISTED HERITAGE
BUILDINGS, OBJECTS AND AREAS

1. Purpose of Report

To report the recommendations of the District Plan Hearing Committee concerning District Plan Change 58 – Proposed additions to listed heritage buildings, objects and areas.

2. Recommendation

That Council:

- 1. Receive the information*
- 2. Approves the recommendations of the District Plan Hearing Committee in respect of District Plan Change 58 as set out in Appendix 1 and 2 of this report.*

3. Background

Proposed District Plan Change 58 (DPC 58) put forward the addition of 16 buildings, 1 object and 2 heritage areas for inclusion in the District Plan Heritage Inventory List.

In 2005, the Council adopted the Built Heritage Policy which, among other things, recommended greater statutory protection for the City's built heritage. The Built Heritage Policy reflects changes made to the Resource Management Act in 2003, which now requires that Council recognises and provides for the protection of historic heritage as a matter of national importance.

Implementation of the Built Heritage Policy began in two phases. The first phase was proposed District Plan Change 43, which aims to strengthen the District Plan rules (notified 4 May 2006, Council decision notified 18 October 2007, 6 appeals received). The second phase of this work proposes the addition of further buildings and objects to the list of protected heritage items. Plan Change 58 marks the second round of heritage listings in the past year. It is anticipated that there will be an on-going exercise to list items of heritage value on the District Plan.

District Plan Change 58 was publicly notified 11 August 2007. A total of 89 submissions and 12 further submissions were received.

The hearing was held over 3 days on the 4th and 9th of April with the hearing concluding on the 5th of May 2008. Twenty submitters, Peter Cullen (20), Nigel Willis (5), Phillip Jones (2), Hong Nguyen (62), John Foster (63), John Kerswell (64), Jessica Closson (36), Graham Howell (32), The Thorndon Society (58), Dean Knight (49), Kate Ford (42), Mary Macpherson (1), Ross and Vicky Hughson, Ian Leary and Brian Bennet (17), Con Anastasiou, Donald Forsyth, Sir Michael Fowler, Ian Smith (18), Murray Pillar (48), Johnathan Kennett (46), Johnty Ritchie (45), New Zealand Historic Places Trust (19), CentrePort (16), David Grant and Ian Bowman (10) and Tony Delorenzo (22) spoke to their submissions.

4. Discussion

At the hearing, Commissioner McKinnon declared that he had a conflict of interest in hearing 186 Oriental Parade, 100 Hobson Street and Crossways, corner Elizabeth and Brougham Streets. Commissioner Ritchie declared that she had a conflict of interest in hearing the proposed Salisbury Garden Court Heritage Area. Both Commissioners withdrew from any discussion or questions on the subject buildings and withdrew when deliberations were held.

The Committee gave careful consideration to all the issues raised by the submitters, including those issues elaborated on in presentations by the individuals or organisations who appeared before the Committee at the hearing.

Generally there were two types of submitters on the plan change – those that were supportive of the plan change (and particular items) and those that were opposed to the plan change (and particular items).

All of the submissions are considered in detail in the Hearing Committee's report attached as Appendix 1.

Having considered the requirements of the Resource Management Act 1991 and the issues raised in submissions, the Hearing Committee considered that 139 Featherston Street (Old Wool House), 2 Eva Street and 39 Dixon Street should not be listed.

In addition, the Hearing Committee also recommended that the rear portion and car park of 233 Willis Street should not be listed (leaving only the façade and 2 structural bays of 8 meters immediately behind the façade listed), and that the rear subdivided sections of 121 The Parade, 129 The Parade and 145 Island Bay should not be listed, together with other rear boundary adjustments to the Island Bay Village Heritage Area.

The Hearing Committee considered that, aside from these amendments, the Plan Change as a whole was generally appropriate and that the proposed heritage listings should be adopted.

Once approved by Council, the decision will be publicly notified and served on the submitters. Submitters then have the option of appealing any matter to the Environment Court within 30 working days. If no appeals are made the plan change will become operative.

Report from:

Commissioner Ian McKinnon

Chair, Hearing Committee

District Plan Change 58

Proposed additions to listed heritage buildings, objects and areas.

APPENDIX ONE REPORT OF THE HEARING COMMITTEE

SUBJECT: PROPOSED DISTRICT PLAN CHANGE 58 –
PROPOSED ADDITIONS TO LISTED HERITAGE
BUILDINGS, OBJECTS AND AREAS.

COMMITTEE MEMBERS: COMMISSIONER IAN MCKINNON (CHAIR)
COMMISSIONERS LEONIE GILL AND HELENE
RITCHIE

DATE OF HEARING: 4 APRIL, 9 APRIL & 5 MAY 2008.

1. RECOMMENDATIONS

1) *Approve Proposed District Plan Change 58 – Proposed additions to listed heritage buildings, objects and areas as shown in Appendix 2 of this report in accordance with the following:*

(i) *Approve the listing of:*

- *Harrogate, 84 Salamanca Road*
- *Emeny House, 1 Ranfurly Terrace*
- *100 Hobson Street*
- *186 Oriental Parade*
- *Former Hannah Footware Factory (East Building), 5 Eva Street*
- *Seatoun Scout Hall, 38 Ferry Street*
- *Crossways Community Centre, 46 Brougham Street*
- *Francis Holmes Building, 200 Taranaki Street*
- *Khandallah Library, 8 Ganges Road*
- *233 Willis Street (Façade and set back of 8 metres only)*
- *Braemar Building, 32 The Terrace*
- *Shed 35, Waterloo Quay*
- *Maritime House, Waterloo Quay*
- *Elsdon Best Memorial, Grassleas Reserve, Oxford Street, Tawa*
- *121-155 The Parade, Island Bay (Island Bay Village Heritage Area)*
- *1-16 Salisbury Garden Court (Salisbury Garden Court Heritage Area)*

(ii) *Amend the listing description of 1 Ranfurly Terrace from:*

Building (Emeny House) interior and grounds 1898

To:

Building (Emeny House) 1898 including all building facades and windows, soffits and eaves brackets, roof including brickwork and chimney pots (excludes down pipes), front and rear fences and plinths, front paving, tiling and path, tiled front porch and steps, front porch posts, fretwork and soffit, front entrance door frame, sill,

cover boards and glazing (excludes door), front garden gatepost and gate, front garden edging, front garden flag pole, rear porch multi-plane coloured lights and panelled door, rear garden washhouse copper and chimney stack

Listing includes all interior timber floor boards, lath and plaster ceilings and walls, ceiling roses, cornices and mouldings, decorative plaster moulding arches, doors and door hardware, skirting boards, architraves, Bedroom 1 wooden fireplace mantle and corbels, Bedroom 1 lath and plaster moulding plaster corners, Billiard Room plaster picture and dado rails, Billiard Room timber fireplace surround and mantle and tiling, Billiard Room chandelier, Bathroom 1 floor and wall tiles, Bathroom 1 bath, basin and basin brackets and toilet, Rear Porch floor tiles, match lining ceiling and weatherboard wall lining, Kitchen floor tiles, Kitchen fire surround, corbels and mantle, Kitchen coal range, Kitchen hutch dresser, Kitchen light switch on south wall, Dining Room hatch

(iii) *Amend the listing description 233 Willis Street from:*

Building 1943

To:

Building 1943 – Willis Street façade and set back of 8 meters only

(iv) *Amend Salisbury Garden Court Heritage Area on Maps 15 & 18, Appendix 14 to Chapter 21 of the District Plan to exclude identified non-heritage buildings and structures*

(v) *Amend the boundaries of the Island Bay Village Heritage Area on Map 4, Appendix 15 to Chapter 21 of the District Plan to exclude the rear sections of 121 The Parade, 129 The Parade and 145 The Parade*

(vi) *Amend boundaries of Shed 35 and Maritime House to include curtilage as appended to Chapter 21 of the District Plan*

(vii) *Delete the proposed listing of:*

- *2 Eva Street*
- *37 Dixon Street*
- *Old Wool House, 139 Featherston Street*

2) *Accept or reject all the submissions and further submissions to the extent that they accord with recommendation (1) above.*

3) *Recommends Council officers to undertake the following work as a result of issues raised through consideration of submissions:*

(i) *Council officers produce a check sheet for the residents of Salisbury Garden Court that outlines what developments are permitted and what would require resource consent.*

2. IDENTIFICATION OF BUILDINGS AND OBJECTS FOR LISTING

Proposed District Plan Change 58 was a Council initiated Plan Change with all of the buildings and objects proposed for listing assessed by specialist heritage professionals. A nationally recognised set of assessment criteria was used to ensure the historic heritage qualities in Wellington are recognised. These criteria include;

- Historic Value (age, association (events, people)
- Social Value (public esteem, symbolic, commemorative, cultural)
- Aesthetic Value (architectural form/fabric/style), Townscape or Landscape value)
- Scientific Value (technical, archaeological)
- Setting/Surrounding Value (contribution to setting, group value).

The proposed items have been inspected, researched and assessed by conservation architect Russell Murray, historian Kerry Pollock, heritage consultant Michael Kelly and art historian Ann McEwan. The consultants visited the properties, considered their histories, described their architecture and settings, and assessed the appropriateness for listing. Individual inventory entries were written for each building, object and area.

The following buildings and objects were publicly notified for listing 11 August 2008:

- Harrogate, 84 Salamanca Road
- Emeny House, 1 Ranfurly Terrace
- 100 Hobson Street
- 186 Oriental Parade
- Former Hannah Footware Factory (East Building), 5 Eva Street
- Former Church of Christ building, 37 Dixon Street
- Brick building, 2 Eva Street
- Seatoun Scout Hall, 38 Ferry Street
- Crossways Community Centre, Cnr Elizabeth and Brougham Streets
- Francis Holmes Building, 200 Taranaki Street
- Khandallah Library, 8 Ganges Road
- 233 Willis Street
- Braemar Building, 32 The Terrace
- Old Wool Building, 139-141 Featherston Street
- Shed 35, Waterloo Quay
- Maritime House, Waterloo Quay
- Elsdon Best Memorial, Grassleas Reserve, Oxford Street, Tawa
- 121-155 The Parade, Island Bay (Island Bay Village Heritage Area)
- 1-14a Salisbury Garden Court (Salisbury Garden Court Heritage Area)

Most of the commercial buildings on the proposed list were identified through the Non-Residential Inventory Review in 2001. This review was a major project started in 1998 as a result of the District Plan Hearing process. Consultants were commissioned to identify additional places that were not already included in the District Plan.

Other buildings have been identified as part of the Central Area Review (Plan Change 48) and individual nominations from community groups and members of the public.

Three buildings, namely Shed 35 and Maritime House (within CentrePort) and the Braemar Building, 32 The Terrace were proposed for listing in 1995 but were

excluded following hearings in 1996. The issue of whether these buildings (which have continued to retain their heritage value) should be listed has resurfaced.

A total of 89 submissions and 12 further submissions were received.

The Hearing for the District Plan Change was held at Council Offices over three days on the 4th and 9th of April concluding on the 5th of May 2008. The officer's report was distributed to submitters who requested to be heard prior to the hearing.

At the hearing, Sarah Nelson (Council's Planner) spoke to the officer's report on the Plan Changes. Michael Kelly (Heritage Consultant) was present for the entire duration of the hearing to provide advice on the heritage values of the items proposed for listing in the Plan Change. Russell Murray (Conservation Architect) was also present on the 4th of April to advise the Committee.

Twenty submitters, Peter Cullen (20), Nigel Willis (5), Phillip Jones (2), Hong Nguyen (62), John Foster (63), John Kerswell (64), Jessica Closson (36), Graham Howell (32), The Thorndon Society (58), Dean Knight (49), Kate Ford (42), Mary Macpherson (1), Ross and Vicky Hughson, Ian Leary and Brian Bennet (17), Con Anastasiou, Donald Forsyth, Sir Michael Fowler, Ian Smith, Ian Leary (18), Murray Pillar (48), Johnathan Kennett (46), Johnty Ritchie (45), New Zealand Historic Places Trust (19), CentrePort (16), David Grant and Ian Bowman (10) and Tony Delorenzo (22) spoke to their submissions.

The Committee gave careful consideration to all the issues raised by the submitters, including those issues elaborated on in presentations by the submitters who appeared at the hearing.

The following discussion sets out the key issues and the Committee's reasons for making its decision.

3. SUBMISSIONS AND DISCUSSION

Plan Change 58 submissions were received from:

Submitter No.	Submitter Name
1	Mary Macpherson
2	Phillip Jones
3	Shirley Hampton
4	Robert Kirkwood Paterson
5	Nigel John Willis
6	Tony Nydam
7	Christine McCarthy
8	Jessica Khol Johnstone
9	Graham Howell
10	Angelos Argus
11	Annette Baier
12	Jane Louise Tate
13	Harrogate Properties
14	Lesley Fay Far & William Thomas Far
15	Robyn Anne Green
16	Centreport Ltd

17	Spencer Holmes
18	Con Anastasiou
19	Rakesh Mistry
20	Peter Cullen
21	Pip Oldham
22	Anthony and Debra DeLorenzo
23	Ralph and Margaret Pannett
24	James and Sarah Harper
25	Tina Muciuli
26	Toni Butcher
27	Deborah Tapper
28	Caroline Collisan
29	Anne and Peter Loveridge
30	Janine Kirsten Jameson
31	Mount Victoria Residents Association
32	Crossways Management Committee
33	Nisha Rauia & Michael Rauia
34	Karina Lagreze & Kevin Rumble
35	Anne Kelly & Karl Wipatene
36	Morgan & Jessica Closson
37	Pete Cowley
38	Onslow Historical Society Inc
39	Tom & Joanne Moyer
40	Inka Andrea Helwig
41	Stanley William Pillar
42	Kathleen Margaret Ford
43	Bronwen Wall
44	Humphrey Bruce Elton
45	Jonty Richie & Tessa Meek
46	Jonathan Kennett
47	Clair MacDonald
48	Murray Pillar & Jane Kelly
49	Dean Knight, Rhys Knight & Alan Wendt
50	Hamish Groves
51	Barbara Louise Hoskins
52	Patricia Mary Hutchinson
53	Brian & Cynthia Coomber
54	Wellington Southern Bays Historical Society Inc
55	Raj Patel
56	Maggie Edwards
57	Ross & Vicky Hughson
58	Bruce Paul Lynch
59	James A Beard
60	Greg Thomas
61	Oroya Day
62	Hong Nguyen
63	Douglas John Forster
64	John Roger Kerswill
65	Sarah Beckford
66	Graeme Welch
67	Claudia Vu
68	Ty Dallas
69	Chummy Sythong

70	Amanda Legge
71	Bounthanh Sythong
72	Mark Dunastschik
73	Nicholas Lee Olsen-Jame
74	Gerald Thomas Moore
75	Grant Williams
76	Peter Graeme Johnstone
77	Leah Bradley
78	E Aspell
79	Ruth Mallon
80	Richard Voss
81	Charlotte Emma McGrath
82	Alexis Davidson-Johnstone
83	V&R Consultants Ltd
84	Christine Roberts
85	Grant Leigh Hodgson
86	Jonathan Crawford
87	Grant Young
88	Brent Cairys Dewhuret
89	Deb Watkins

Further submissions on Plan Change 58 were received from:

Further Submitter No.	Further Submitter Name
FS1	Meteorological Service of New Zealand
FS2	Mark Gyopari
FS3	Con Anastasiou
FS4	Ross and Vicky Hughson
FS5	Ross and Vicky Hughson
FS6	Ross and Vicky Hughson
FS7	Ross and Vicky Hughson
FS8	Nigel Willis
FS9	Fay Far
FS10	Janne Marie Sawada
FS11	Faye Tohbyn
FS12	Ruth O'Grady

3.1 General submissions supporting the Plan Change and/or the proposed listing of a specific item

Submitters 7 and 19 made submissions in support of the whole of the Plan Change.

In their written submission, Submitter 7, The Architectural Centre Inc., strongly supported the proposed additions to the current heritage listings, especially the Former Church of Christ Building, the Eva Street Building, the Former Hannah Footwear Factory building and Old Wool House. The submitter suggested that a Heritage Area should also be established in the Eva/Dixon Street area, which also details urban pedestrian routes in the area. The submitter also suggested further buildings for potential listing.

The submitter also recommended that the Council:

- Adopt a stronger, more explicit set of guidelines of listing criteria for evaluating heritage to make the rationale for inclusion public and explicit
- Ensure interiors, and fixtures and fittings are explicitly listed
- Stipulate that the minimum heritage listing for the external façade be designated as “facades and building structure”, meaning front and side elevations are retained as well as spatial, scalar and proportional relationships
- Adopt education strategies or incur appropriate penalties for violation of heritage sites
- Address current lack of modernist architecture in Wellington
- Advise all owners of listed buildings of the Heritage Incentive Fund to encourage uptake
- Recognise and incorporate other organisation’s recommendations i.e. NZHPT, DOCOMOMO, NZIA and NZILA
- The unpainted state of a building should be explicitly recognised when it is an integral part of the design of the building
- Recognise contemporary heritage and site-specific sculpture
- Provide incentives for negative heritage buildings to be removed and replaced by more publicly productive architecture

Submitter 7’s recommendation that the Council include the Meteorological Office, Salamanca Road to the Heritage List was opposed by further submitter FS1, The Meteorological Service of New Zealand.

In their written submission, submitter 19, New Zealand Historic Places Trust (NZHPT), supported the Council's commitment to the Built Heritage Policy through Plan Change 58, and was particularly supportive of the inclusion of Shed 35, Maritime House and the Braemar Building to the list.

Mr David Watt spoke on behalf of NZHPT at the hearing and his particular points on the abovementioned buildings are discussed later in the report. In his general comments to the Hearing Committee, Mr Watt conveyed that NZHPT consider that the section 32 analysis of the Plan Change highlighted that a regulatory approach is the best means to protect heritage and noted that the position is not a prohibitive measure and it allows for potential development of heritage items to be assessed appropriately. Mr Watt also conveyed that, like the NZHPT registration of properties, listing properties in the District Plan is not an imposition and that it allowed for potential development of heritage items.

Consideration:

The Hearing Committee noted and considered the points raised by the submitters.

With reference to the submitter 7 who wishes to see the heritage list extended further, the Committee noted officer advice that plans are now in place for the on-going research and continued expansion of items that are listed in the District Plan.

The Committee noted that many of the items identified on the submitter's suggested list have also been identified by Council and that any additional recommendations would be passed on to the heritage team within Council.

In terms of explicit heritage criteria, the Committee noted that on December 5 2007, the Council's Strategy and Policy Committee agreed to adopt an updated set of heritage assessment criteria. The Committee is satisfied that the new criteria provide officers and the public with an appropriate assessment tool. In addition, the Committee is also satisfied that Council officers do assess all elevations when considering resource consents on listed buildings as well as spatial, scalar and proportional relationships.

Submitter 7 also stated that Council should address the lack of modernist architecture in Wellington and should also pay closer attention to unpainted parts of buildings. The Committee noted that the Built Heritage Policy emphasises the importance of protecting modernist architecture, specifically post WWII buildings and was confident that special features, such as unpainted walls are adequately addressed in the pre-application and resource consent process. The Committee encourages Council officers to continue to work actively in this area.

In terms of providing adequate protection for heritage items, including financial penalties if heritage values are compromised, the Committee noted that both the Council's Compliance and Monitoring, and Heritage teams keep a watchful eye on heritage items. The Committee also noted that heritage is not restricted to the historic and contemporary sculpture can also contribute immensely to an area. The Committee was satisfied with the current systems in place to deal with heritage assessment and 'negative heritage' and did not consider that changes need to be made in this regard. Also, in terms of noting listed interiors, the Committee noted that District Plan already explicitly notes when an interior is listed (e.g. Emeny House which forms part of Plan Change 58).

In terms of submitter 11's comments that Council should provide maps and protect important spaces in Te Aro, the Committee referred the submitter to the decision on Plan Change 48 (10 October 2007) that has identified many heritage attributes of the Te Aro Area. As part of the hearing for that plan change, the areas and spaces around Egmont, Eva and Leeds Street have also been highlighted as a potential area of value. The submitter's concerns over the scale of multi-unit developments and the speed with which they are being built in the Te Aro area is also shared by the Committee. Council is also acutely aware of the increased development pressure within the Te Aro area and takes a pragmatic approach to dealing with such development. DPC 48 provides greater scope to consider the impact of new developments and adjacent heritage items. Council aims to ensure an appropriate balance is struck that enables growth within the area whilst also ensuring it is sensitive to the special nature of Te Aro.

The support of submitter 19 relating to the entire plan change is noted.

Decision:

Accept in part submission 7 insofar that it supports the Plan Change. For the reasons outlined in the consideration, additional comments/amendments are noted, but changes are not considered to be necessary at this stage.

Accept further submission FS1 insofar that it is not proposed to list the Meteorological Office at this stage.

Accept submission 19 insofar that it supports the Plan Change.

3.2 Submissions that refer to a specific building, object or heritage area

3.2.1 Harrogate, 87 Salamanca Road

In their written submission, submitter 13, Harrogate Properties Limited, opposed the proposed listing of their property. The submitter raised concern with Council consultation regarding the proposal and did not accept that their wishes against listing would be taken into account. The submitter believed that the listing would restrict their ability to develop or alter the property, and felt that even refurbishment or renovation will be very difficult if the listing was to proceed. The submitter questions why the building had been identified for listing and the process of assessment in general. The submitter believed that as the heritage listing of the building will not make it the property of the Council, it does not have the right to dictate what the submitter can do with their property and suggested that Council should offer to buy or compensate for buildings it proposes to list.

Consideration:

The Committee recognised that the nomination for the proposed listing was received from the former owner Susan Price and were satisfied that the correct process had been taken to consult with the current owners of the building.

The Committee did not accept that the proposed listing would limit the owner's ability to develop their property and noted that the heritage listing was for the exterior of the building only and that the owners would be able to renovate the interior in anyway they see fit. Further, the Committee noted that the listing does not preclude redevelopment of the exterior of the property and that since the hearing, Council has also agreed for the reimbursement of resource consent fees for listed items for 2008-2009 financial year. The Committee considered this to be a positive step in alleviating some of the submitters concerns.

The Committee considered that the building does have significant historic, architectural and townscape values and particularly observed its prominence when viewed from Victoria University.

The Committee recommended that Harrogate, 84 Salamanca Road be retained on the proposed heritage list.

Decision:

Reject submission 13 that requests that Harrogate, 84 Salamanca Road be deleted from the District Plan Heritage List.

3.2.2 Emeny House, 1 Ranfurly Terrace, Mt Cook

The proposed listing of Emeny House, 1 Ranfurly Terrace is unique among the items in this Plan Change in that the listing also includes the interior of the building. Since the Plan Change was notified a heritage inventory has been commissioned and completed by Michael Kelly and Chris Cochran which identifies items of value in the property. In addition Resource Consent has been granted for the upgrade of the property. The consent includes permission for the:

- Installation of an ensuite and dressing room in current bedroom 4;
- Remodelling of the kitchen, making an opening between the kitchen and dining room;
- Replacement of two 1950s tiled fireplaces with Victorian timber surrounds;

- Replacement of a double hung sash window in the existing billiard room with a door to match the opening width; and
- Repiling

Submitters 4 (Robert Paterson), 11 (Annette Baier), 21 (Pip Oldham) and 22 (Anthony and Debra DeLorenzo) all made submissions in support of the proposed listing. In particular submitters 4, 11 and 21 shared fond memories of the building's former owner, Irene Emeny and the importance of protecting the building for the future.

In their written submission (22), the owners of the property, Anthony and Debra DeLorenzo, expressed their support for the proposal but sought clarification as to exactly what parts of the house (item specific) will have heritage status. Their submission notes that there are many historic features that need to be preserved or maintained, but that many other parts of the building, including its interior, as well as parts of its grounds, are not historical or of heritage significance. The submitter noted that such a specific listing would prevent them from upgrading, decorating and enhancing the house internally and seeks clarification as to what specific features will be listed.

At the hearing Mr DeLorenzo expressed his frustration with the resource consent process and the lack of protocol and procedures in dealing with the interior of a listed building. He outlined his disappointment at conflicting advice and lack of advice received from Council, and that this had led to delays and additional costs. Mr DeLorenzo explained that the financial cost of restoring and maintaining a listed item falls on owners and although the DeLorenzos accept their role in this, they feel that it is unfair that they have to pay for items they do not necessarily want listed. Mr DeLorenzo also touched on public interest in the property and insurance issues. He also reiterated that the notified listing was not clear as to exactly what was listed. Mr DeLorenzo noted the refined listing suggested in the officer's report but was of the opinion that it should detail all items to be included in the listing. He also highlighted small inaccuracies in the inventory report produced by Michael Kelly and Chris Cochran.

At the Hearing, questions were asked of officers concerning the implications of listing and the specifics of the inventory report. The Chair directed staff to look at options for clarifying the detail of the listing.

Consideration:

The Committee recognised that Emeny house captured the attention of Wellingtonians. It seems that the public have developed a deep affection for the building as well as the story of the Emeny family (former owners). The Committee did note however, that ultimately the building is a residential home and consideration must be given to the owners of the property.

The Committee empathised with the owners of the property and expressed disappointment with the experience the owners had had with the issuing of their resource consent, subsequent heritage advice and funding. As identified by the submitter, listing interiors to this extent is an area that is new to Council but the Committee considered that the case could have been better managed. The Committee urged officers to ensure better procedures are put in place to deal with such matters in the future.

With regards to Mr DeLorenzo's comments on insurance, the Committee understands that gaining insurance for listed buildings is generally not a problem and

noted the officer's discussion with the Insurance Council of New Zealand and major insurance providers. Mr. DeLorenzo's suggestion that the Council arrange insurance for listed buildings was not discussed by the Committee as it was beyond the scope of the plan change.

The Committee recognised the importance of the building and its impressive interior. The Committee were particularly impressed with the billiard room and its ceiling. They heard that the ceiling may very well be a fresco: a technique that consists of painting in pigment mixed with water on a thin layer of wet, fresh, lime mortar or plaster. The pigment is absorbed by the wet plaster and as the plaster dries and reacts with the air and it is this chemical reaction which fixes the pigment particles in the plaster. Fresco ceilings are very rare in New Zealand and for this reason the Committee were of the strong opinion that it should be appropriately protected. However, it was noted that cleaning the ceiling (which the submitter believes needs to be undertaken) is difficult and potentially costly because of the specialised nature of the work involved. The Committee encouraged officers to work with the submitter and to assist with heritage advice or financially, through the Built Heritage Fund.

The Committee read the inventory report produced by Michael Kelly and Chris Cochran and agreed with the submitter and that the listing description should be revised to specify those elements that are to be protected. In particular, discussion covered the relevance of listing unusual items such as the milk bottle holder on the front gate (made from old tins). It was agreed that the listing should not be so exhaustive as to cover every aspect of the building, but rather focus on the main areas of value in the building.

Discussion also centred around the chimney stacks and modern day standards for flue ventilation and building code requirements. The Committee heard that the chimney stacks had been disassembled during the re-piling and were satisfied that the stacks would appropriately be reassembled using the same bricks of half width. In this regard, the Committee felt that the chimneys were integral to the overall appearance of the house and that an appropriate balance had been struck between the heritage of the building and safety requirements.

The Committee recommended that the listing description amended from:

Building (Emeny House) interior and grounds 1898

To:

Building (Emeny House) 1898 including all building facades and windows, soffits and eaves brackets, roof including brickwork and chimney pots (excludes down pipes), front and rear fences and plinths, front paving, tiling and path, tiled front porch and steps, front porch posts, fretwork and soffit, front entrance door frame, sill, cover boards and glazing (excludes door), front garden gatepost and gate, front garden edging, front garden flag pole, rear porch multi-plane coloured lights and panelled door, rear garden washhouse copper and chimney stack

Listing includes all interior timber floor boards, lath and plaster ceilings and walls, ceiling roses, cornices and mouldings, decorative plaster moulding arches, doors and door hardware, skirting boards, architraves, Bedroom 1 wooden fireplace mantle and corbels, Bedroom 1 lath and plaster moulding plaster corners, Billiard Room plaster picture and dado rails, Billiard Room timber fireplace surround and mantle and tiling, Billiard Room chandelier, Bathroom 1 floor and wall tiles, Bathroom 1 bath, basin and basin brackets and toilet, Rear Porch floor tiles, match

lining ceiling and weatherboard wall lining, Kitchen floor tiles, Kitchen fire surround, corbels and mantle, Kitchen coal range, Kitchen hutch dresser, Kitchen light switch on south wall, Dining Room hatch

The Committee considered that the refined listing addressed submitter 22's concerns and provides clarity as to what is listed on the property.

Decision:

Accept submissions 4, 11 and 21 in that they support of the proposed listing of Emeny House, 1 Ranfurly Terrace.

Accept submission 22 in that they support of the proposed listing of Emeny House, 1 Ranfurly Terrace but seek clarification as to what exactly (item specific) will have heritage status.

3.2.3 100 Hobson Street, Thorndon

At the hearing, Commissioner McKinnon declared that he had a conflict of interest in hearing this particular item and withdrew from any discussion on the subject building.

As the owners of this building, submitter 57, Ross and Vicky Hughson, opposed the proposed listing of their house. In their written submission, the Hughsons felt that not only did the proposed listing mean a financial penalty for their family but that it would also have a detrimental emotional impact. The Hughson's believe that their rights to a family home have been severely diminished and that listing is prejudicial to their rights as homeowners. Submitter 57 seeks that 100 Hobson Street is not listed on the District Plan and that Council undertakes a review of its processes in advising owners of potential heritage listing of properties.

In contrast, the proposed listing was supported by submitters 58 (The Thorndon Society Incorporated) 59 (Wellington Heritage and Conservation Trust), 60 (Katherine Mansfield Birthplace Society Inc.) and 61 (Oroya Day). The submitters discussed the architect, townscape value and community value of the building as well as other values of interest.

The submissions are opposed by further submitters FS4-FS7 (Ross and Vicky Hughson) who feel that the submissions are uni-dimensional and that they have not taken into account the rights of the private owners nor considered any balancing of competing aims and interests. The further submission questioned the nomination of their building for proposed listing as well as generalities, assumptions and irrelevant information put forward by the submitters.

The Hughsons spoke in person at the hearing in support of their written submission. The Hughsons outlined the background to their purchase and involvement in the property and their clear objections to the proposed listing. Mr and Mrs Hughson conveyed to the Committee that the listing would remove significant rights, restrict the use of the property, add cost, stress and lengthy delays to their lives. In this regard they feel that Council has put public policy first over their rights as owners. They also expressed their frustration with the delays in the assessment of their resource consent as well as the financial and emotional impact the delays were having. They outlined their frustration at the subjectivity of advice received from Council. It was also stated that the Built Heritage fund was minimal and restrictive. They reiterated their concerns regarding the selection process of their property. Photographs were also provided of the Hughson's property as well as other properties in the area that are equally as important but do not have heritage listing.

Dinah Priestly on behalf of the Thorndon Society (submitter 58) also spoke in person at the hearing. Ms Priestly outlined that the Society believe that the house is a reminder of what Thorndon would have been like in 1880's and has important social value for this. She discussed its architectural, streetscape and historical importance as well as some of the wider history surrounding Thorndon. From a personal account, she also conveyed her experiences of living in a listed building.

Consideration:

During deliberations of the proposed listing of the property, Commissioner McKinnon declared that he had a conflict of interest in hearing this particular item and withdrew from any discussion on the subject building.

The Committee expressed disappointment with the experience the owners had had with the issuing of their resource consent and the subjective nature of advice received from Council. The Committee questioned staff about the delays that the Hughsons had experienced. They considered that the proposal could have been better managed and urged officers to ensure better procedures are put in place to deal with such matters in the future. It is their belief that officers should try to be more pragmatic in such situations and offer clear guidance about what is expected of owners of listed buildings but also compromise when necessary.

However, the Committee did not accept that the building had been singled out for listing, and noted that it is quite common for nominations for listing to come from community groups such as a historical society or other members of the community. Like any item that is proposed for listing, the nomination is then assessed by Council's heritage consultants who advise as to whether an item is worthy of listing. Items are only put forward if they have sufficient heritage value to warrant listing in the District Plan. The Committee were entirely comfortable with this position in relation to 100 Hobson Street.

The Committee noted that the pre-1930's demolition rule in the District Plan already applies in this part of Thorndon, so the building was already subject to planning controls.

The Committee referred to the building assessment by heritage consultant Michael Kelly and art historian Ann McEwan which identified that the building has high townscape value for its visual appeal and for the retention of a reasonable level of authenticity. The Committee noted the considerable historic significance of the house and its association with prominent Wellingtonians.

On balance the Committee were of the opinion that although the listing may create a more onerous renovation process in the short term, the building has significant streetscape and heritage values that should be protected via listing in the District Plan.

Decision:

Reject submission 57 and Further Submitter FS4-FS7 in that they request that 100 Hobson Street, Thorndon is deleted from the District Plan Heritage List.
Accept submissions 58 – 61 insofar that they support of the proposed listing of 100 Hobson Street, Thorndon in the District Plan.

3.2.4 186 Oriental Parade

At the hearing, Commissioner McKinnon declared that he had a conflict of interest in hearing this particular item. Commissioner McKinnon withdrew from any discussion or questions on the subject building.

In his written submission, submitter 20 (Peter Cullen) opposed the inclusion of 186 Oriental Parade on the District Plan Heritage List on the following grounds:

- The proposal effectively renders the submitter's land and property incapable of reasonable use and places unreasonable burden on the submitter (under section 85 of the RMA)
- The Council has failed to comply with, and take into account section 32 of the RMA
- The proposal does not accord with the purposes and principles of the RMA
- The building does not have sufficient heritage or other merit to justify listing in the District Plan
- The submitter has a legitimate expectation that he would be able to redevelop his property in accordance with the District Plan
- The Council has failed to consult adequately with the submitter and failed to give adequate notice of a Council meeting to enable the submitter to attend.

Mr Cullen spoke in support of his submission at the hearing. In his evidence Mr Cullen reiterated his written submission and emphasised that the listing would effectively stop construction to the maximum heights set out in the District Plan which he was entitled to rely upon. Mr Cullen conveyed to the Committee that he specifically purchased the property in reliance that he could sell the property to a developer and recover sufficient money to care for his retirement. Mr Cullen was of the opinion that the listing would deprive him of his ability to develop the property and referred to case law. Mr Cullen also supplied confidential valuation reports indicating that the proposal is likely to result in significant loss of value.

Mr Cullen expressed the view that the Council had failed to comply with section 32 of the Act in that it did not adequately take into account the economic loss to him as land owner. He also further referred to case law regarding sections 6(f) and 85 of the Act.

Mr Cullen expressed his dissatisfaction with the consultation undertaken by Council and felt that the proposal was a breach of natural justice. Mr Cullen identified an inaccuracy in the officer's report referring to the planning status of the neighbouring property of 182 Oriental Parade.

Consideration:

During deliberations of the proposed listing of the property, Commissioner McKinnon declared that he had a conflict of interest in hearing this particular item and withdrew from any discussion on the subject building.

The Committee noted that 186 Oriental Parade was recognised in part for the fact that it is one of the few remaining older Oriental Bay timber houses in an area that has been subject to enormous development pressure that has altered the streetscape of the bay. The Committee felt that the building had a strong connection with its neighbours – a row of similarly dignified and formally proportioned houses often referred to as the 'seven sisters'. The Committee were particularly interested in the fact that there were originally nine buildings along this stretch of road, all designed

by the same well known Edwardian architect Joshua Charlesworth, including a similarly designed house that bookended the other end of the row, demolished some time ago. They felt that the subject house, together with the other houses are hugely iconic and have become a defining image of Oriental Bay at the foot of the bluff to St. Gerard's monastery.

In this regard, the Committee did not agree with Mr Cullen's claims that the building does not have sufficient heritage or other merit to justify listing in the District Plan. The Committee referred to the building assessment by conservation architect Russell Murray which identified that the building has high architectural value for its visual appeal and retention of a reasonable level of authenticity. The building has townscape value for the key role it plays as part of a distinctive, Edwardian row of houses in a high profile, well-visited area. It adds historical continuity and authenticity to the group of houses. The submitter's claim that the proposal does not accord with the purpose and principles of the RMA and that the building does not have sufficient heritage or other merit to justify listing in the District Plan was not supported by the Committee.

In their consideration, the Committee referred to the 'spot zones' attached to the properties along Oriental Parade which indicate specific height restrictions. 186 Oriental Parade is subject to a 25 metre height restriction. The neighbouring property to the west of the site (No. 182) is subject to a 28m height restriction. The neighbouring property to the east of the site (No. 188) is subject to a 19m height restriction, with the remaining "seven sisters" limited to 16m in height. The Committee noted that these spot zones were drafted with outlook and sun access to the rear properties above Oriental Parade in mind, rather than the scale and heritage value of the existing buildings located on each site. As is the case of 186 Oriental Parade, these spot zones can create conflict between perceived development potential and streetscape character and heritage issues. The Committee read the valuation information supplied by Mr Cullen and acknowledged that the proposed listing would have an impact on future development potential of the site, particularly for the addition of another storey or the construction of a totally new building. In this regard the Committee discussed whether the proposed listing would render the building incapable of reasonable use under section 85 of the RMA. Further the Committee discussed the section 32 analysis. On balance the Committee were of the strong opinion that the building has significant streetscape and heritage values (especially under section 6 of the RMA); and considered the heritage listing would not render the building incapable of reasonable use under section 85 of the RMA. The Committee also noted that the listing would not restrict use of the property as a home, so did not accept that the property would be rendered incapable of reasonable use.

The Committee was comfortable that the correct process of consultation had been undertaken and did not accept that that Council had had a "breach in promise". The Committee noted that under the RMA the Council is not required to pre-consult on proposed Plan Changes, but does so because of its own policies. It is understood that in the past there has been an explicit policy not to pre-consult on heritage listing to mitigate the risk of owners demolishing and changing buildings. That approach is no longer necessary as most heritage buildings have substantially increased in value and there appears to be more sympathy for their retention. This position is supported by the Committee and it is maintained that there has been appropriate opportunity for consultation with Mr Cullen.

To conclude, the Committee considered that the face of Oriental Parade has altered considerably over time. It is for this very reason that the protection of this building,

as a survivor of Edwardian times, is paramount. The building has high heritage value and public appeal, and accordingly the Committee recommended that 186 Oriental Parade be listed in the District Plan.

Decision:

Reject submission 20 that requests that 186 Oriental Parade is deleted from the District Plan Heritage List.

3.2.5 Crossways Community House, 46 Brougham Street, Mt Victoria

At the hearing, Commissioner McKinnon declared that he had a conflict of interest in hearing this particular item and withdrew from any discussion on the subject building.

In total 16 written submissions of support were received in relation to the proposed listing of this property. The majority of the submissions were from local Mt Victoria residents made up of the following:

Submitter's 9 (Graham Howell), 23 (Ralph and Margaret Pannett), 24 (James and Sarah Harper), 25 (Tina Muciuli), 26 (Toni Butcher), 27 (Deborah Tapper), 28 (Caroline Collisan), 29 (Anne and Peter Loveridge), 30 (Janine Jameson), 31 (Mt Victoria Residents Association), 32 (Crossways Management Committee), 33 (Nisha and Michael Rauia), 34 (Karina Lagreze and Kevin Rumble), 35 (Anne Kelly and Karl Wipatene), 36 (Morgan and Jessica Closson) and 36 (Pete Cowley).

In general, the submitters commented on the history of the building, its setting and appearance and its location on a prominent intersection in the Mt Victoria townscape. The submitters also commented on its importance to local residents in Mt Victoria.

At the hearing, submitter 36, Jessica Closson and Graham Howell of the Mt Victoria Residents Association spoke in support of the proposed listing.

Consideration:

During deliberations of the proposed listing of the property, Commissioner McKinnon declared that he had a conflict of interest in hearing this particular item and withdrew from any discussion on the subject building.

Crossways, 46 Brougham Street, Mt Victoria, has historic, social, architectural and townscape significance that warrants formal recognition and protection under the District Plan. Accordingly it is recommended by the Committee that the building is listed on the District Plan.

Decision:

Accept submissions 9, 23-37 in that they support of the proposed listing Crossways Community Centre, 46 Brougham Street, Mt Victoria.

3.2.6 Khandallah Public Library, 8 Ganges Road, Khandallah

The proposed listing of the Khandallah Library was supported by submitter 38 (the Onslow Historical Society Inc).

Consideration:

The Committee noted that the inclusion of the Khandallah Library demonstrated Council's commitment to recognising different types of heritage in the community and that the building also falls in line with the Built Heritage Policy 2005 which

promotes the protection of post World War II architecture in Wellington.

The Committee noted that that the design of the library, originating in the City Engineer's office, is an important early example of modern architecture in a New Zealand public building, with the building still functioning today in its original role with no significant alterations.

Decision:

Accept submission 38 in that they support the proposed listing of the Khandallah Public Library, 8 Ganges Road, Khandallah, Wellington.

3.2.7 233 Willis Street

In his written submission, submitter 17, opposed the inclusion of the building on the District Plan Heritage List, stating, that while the building is not unattractive, the aesthetic value is not considered to be high and is not of such significance as to warrant heritage listing. The submitter detailed various alterations in the 1990s which he felt undermined the original architectural integrity of the building. The submitter believes that only 2 architectural features remain on the front façade, namely the small horizontal projecting hoods and the vertical triangular oriel window at first and second storey. He also questioned the historical value identified by Council.

The submitter also stated that the listing could cause a burden terms of maintenance, limitations on how the site could be redeveloped and costs associated with the resource consent process. He also believes that the proposed listing could impact on the value of the three titles located to the rear of the building, all of which are under the same common ownership.

In support of the submission, Mr Brian Bennett (owner) and Mr Ian Leary (consultant planner) spoke at the hearing. Mr Bennett outlined the correspondence between himself and Council that he believed was inadequate. He also discussed the costs involving in bringing the building up to earthquake standards which would be in excess of 100% of the capital value of the property. Mr Bennett believes that the building cannot be economically brought into compliance with the building code without substantial modification to the building. Mr Bennett was of the view that redevelopment of the site would be more economically sustainable.

Mr Bennett questioned the heritage merits of the building and also produced comments from architects Studio Pacific who outlined "that only part of the Willis Street frontage has architectural merit". Mr Bennett conveyed that he did not think that the Council's Heritage Incentive Fund will be of practical benefit to him.

In his oral submission, Mr Leary described the site (accompanied by photographs) and outlined that in his view, the building is not one which makes people stop and appreciate the architecture. He stated that the rear and sides did not make a significant or valuable contribution to the townscape and questioned the heritage values of these elevations and the building's association with an early mayor of Wellington. Mr Leary also discussed the implications of the listing under Plan Changes 48 and 43 and discussed the interpretation of Heritage Rule 21A.2. Mr Leary was also of the opinion that the section 32 report failed to address the economic impacts of the listing (and earthquake strengthening) adequately and also questioned the consultation undertaken on the proposal. My Leary concluded that given the lack of persuasive reasons the building should not be listed.

The Committee asked several questions of Mr Bennett and Mr Leary. Questions were also asked of officers surrounding the consultation undertaken and as to why the building was deferred from Plan Change 53. Issues surrounding the economics involved in earthquake strengthening and ways in which to recoup money spent on the property were discussed. The Committee also asked several questions of officers and Mr Kelly on the heritage values involved with listing and the extent to which the section 32 cost/benefit analysis addresses economic versus intangible values. Questions were also asked of officers about the interpretation of Rule 21A.2 in the District Plan.

Consideration:

The Hearing Committee discussed the listing of this property.

The Committee were of the opinion that the front elevation of the building had a reasonably attractive street presence and were especially interested in the triangular oriel window detailing running most of the height of the building on the front facade.

Consideration was given to the rear and side elevations of the building (including the original window detailing) but it was the Committee's view that these elevations were of lesser importance and value. The Committee also considered the rear car park abutting Victoria Street and felt that this area and the rear and side elevations of the building were not worthy of protection. In making this conclusion, it was considered that the relationship between the rear of the building, the car parking space and Victoria Street was not sufficiently noteworthy or attractive to warrant full listing of the site.

However, the Committee did feel that the front of the building had sufficient value to merit some form of recognition and protection in the District Plan. In making this decision the Committee was conscious of façadism and the sometimes detrimental impact new additions can have on the look and feel of a streetscape, not to mention the impact on the heritage values of the original building. On this basis, the Committee agreed that the listing should be limited to the Willis Street façade but including two structural bays back from the facade to allow for the appropriate set back of any future building. The following wording for the listing description is recommended by the Committee:

Building 1943 – Willis Street Façade and set back of 8 meters only

It was the view of the committee that the partial listing of the property is an appropriate balance to acknowledge the heritage and streetscape values of the building whilst also allowing for appropriate redevelopment of the site if necessary in the future. The Committee noted that all new building developments in the Central Area would be subject to policies and rules that control the siting, height, bulk, massing and external design of buildings and were confident that appropriate consideration would be given to design coherence, context relationship, materials and detailing of any new development on the site.

In light of this position, the Committee recommended that only the front façade accompanied by a set back of 8 meters of 233 Willis Street is listed in the District Plan.

Decision:

Accept submission 17 in part insofar the rear car park and rear and side elevations of 233 Willis Street are deleted from the District Plan Heritage List, limiting the listing to the Willis Street façade and 8 metre setback only.

3.2.8 The Braemar Building, 32 The Terrace

In their written submission, submitter 18, Braemar Holdings Limited, opposed the inclusion of the Braemar building on the District Plan Heritage List. The submitter believes that the heritage assessment contains inaccuracies and the building does not have the heritage values attributed to it by the Council's heritage assessment. As a result, the submitter felt that the proposal was not warranted by the provisions of the RMA nor by the heritage policies and objectives in the District Plan. The submitter believes that listing would potentially render the land and building incapable of reasonable use in terms of section 85 of the RMA. Further to this, it was submitted that the Plan Change 58 section 32 report was inadequate and does not meet the requirements of the RMA

The submitter stated that the listing would "freeze frame" the building with its current exterior appearance which would prevent any redevelopment of a valuable inner city site which would be totally inequitable to the submitter. The submission stated that the heritage provisions of Plan Change 43 would impose severe limitations on the development or redevelopment of the building and the efficient use of the land. The building may be earthquake prone. The listing would result in severe and unjustifiable financial and practical difficulties.

The submitter also pointed out that Council has already attempted to list the building in 1995. At that time a full and exhaustive case was put forward with the Council accepting the submitter's case in opposition. Nothing has changed since that time and the listing now proposed is similarly unwarranted.

A further submission has been made by Braemar Holdings Limited (FS3) who oppose Submission 7 (The Architecture Centre Ltd) and Submission 19 (The New Zealand Historic Places Trust) insofar that they both support the entire Plan Change.

In support of the submission, Mr Con Anastasiou (legal representative); Donald Forsyth (Director of Braemar Holdings Ltd), Sir Michael Fowler (Architect), Ian Smith (Consulting Engineer), Ian Leary (consultant planner) all spoke in person at the hearing.

Mr Anastasiou detailed the background of the site including his dissatisfaction with the consultation process that had been undertaken and previous litigation for proposed listing in 1995. Mr Anastasiou discussed in detail the current planning regime including Plan Changes 43 and 48 and their implications for the site. He outlined that Plan Change 58 proposed listing would add another layer of protection which would effectively "freeze frame" the site. Mr Anastasiou questioned the heritage values of the property and touched on the economic costs involved with earthquake strengthening the building. Specific reference was made to Section 5 and 6 of the Act as well as Section 85 which deals with whether a proposed listing would render the building incapable of reasonable use.

In support of the submission, the Committee also heard from Donald Forsyth. Mr Forsyth outlined his involvement with the property since 1975 as well as the use of the property. Mr Forsyth touched on the previous litigation regarding the building and described how he considered the building to be an under-utilisation of the site. Mr Forsyth discussed building maintenance and his concerns regarding the strengthening of the building. Mr Forsyth's evidence was accompanied by photographs and a floor plan.

Sir Michael Fowler outlined his concern that the issue of heritage listing was being revisited again after 13 years. Sir Michael conveyed that the building has

maintenance issues and that it offers limited cultural, use or contextual heritage values. Sir Michael stated that he did not agree that the building has townscape and contextual values or other conclusions drawn in Mr Murray's assessment report. Sir Michael concluded his evidence by stating that the proposal to list the Braemar building should be abandoned.

The Committee heard engineering advice from Mr Ian Smith. Mr Smith discussed the historical context for structural design of existing buildings, the earthquake safety provisions in the building Act 2004, the structure of the Braemar building, the relevance of earthquake safety to heritage listing and the strengthening options for the Braemar which would potentially be at odds with heritage objectives. Mr Smith touched on future site development and concluded his evidence by stating that the only realistic option for the site would be the demolition of the subject building to allow for the efficient design for a new building. Mr Smith's evidence was accompanied by photographs and a floor plans showing bracing and existing crack formation.

With regards to planning advice, the Committee heard from consultant planner, Ian Leary. Mr Leary described the subject site and also discussed in further detail the heritage protection layers and their implications for the site, namely Plan Changes 43 and 48. Mr Leary also discussed the interpretation of the heritage rules in Plan Change 43. Mr Leary was also of the opinion that the section 32 report failed to address the economic impacts of the listing (and structural strengthening) and impact of the listing on land values adequately. Mr Leary considers that the building is substandard and unsafe and will involve significant costs to bring it up to a modern standard - contrary to the sustainability objectives of Part II of the RMA and that the listing would significantly reduce the development potential of the site. Mr Leary also concluded his evidence by stating that the proposal to list the Braemar building should be abandoned.

During question time, the Committee asked questions of Sir Michael about the site coverage of potential redevelopment of the site and architectural elements of the building. The Committee also asked Mr Smith about structural strengthening and its potential damage to heritage fabric. Planning questions were also asked of Mr Leary with Mr Anastasiou emphasising that buildings that are proposed for listing should be more extensively researched and assessed.

Also at the hearing, Mr David Watt spoke in support of the New Zealand Historic Places Trust submission (Submitter 19). Mr Watt explained historical background of the Braemar property and the status of the building's deficient registration with NZHPT (project X). He outlined that the building is currently in the process of being formally registered with NZHPT and expressed the Trust's support for the listing of the property.

Under questioning by the Committee, Mr Watt explained that listed buildings can be sympathetically redeveloped and that he was a firm believer in "minimum intrusion for maximum benefit". He was also of the view that there was no evidence to suggest that land values would fall as a result of the listing.

Consideration:

The Committee gave careful consideration to the submission made and the evidence presented by the experts at the hearing.

The Committee considered that the Braemar Building is a very distinctive building on The Terrace that stands out as much for its form, type and situation as its present

paint colour. The Committee was of the mind that the building is highly distinctive and has significant townscape value in context with St. Andrews church. The committee considered that it has a striking architectural form and scale in the context of the predominant high-rise buildings along The Terrace and was of the opinion that it had rarity value for this.

The Committee considered the previous litigation on the building and the 1995 Hearing Committee decision not to proceed with the proposed listing (largely on economic grounds). The Plan Change 58 Committee were particularly mindful of the maintenance and economic issues faced by the owner. The Committee considered the perceived development potential and utilisation of the site but on balance, considered that the heritage values were significant and the risk of losing the building was too great and it should therefore be listed.

In making this decision the committee acknowledged the 2003 an amendment to the Resource Management Act 1991 (RMA) which provided stronger recognition for the protection of heritage as well as Council's own Built Heritage Policy and the strengthening of its heritage provisions through Plan Change 43. Given that this building was first recognised as worthy of NZHPT registration over 23 years ago and has also been identified by Council for many years, the Committee could not refute that this building has heritage merit. The Committee considered the building met the criteria required for listing in the District Plan and did not accept that the proposal is not warranted by the provisions of the RMA, nor by the heritage policies and objectives in the District Plan.

The Committee did not accept that the listing would “freeze frame” the building's current exterior appearance and prevent any redevelopment. The Committee noted that nothing is prohibited in the District Plan and were confident that the site could be sensitively redeveloped in a manner that respects the building and the neighbouring St Andrews Presbyterian Church.

Likewise, the Committee considered that earthquake strengthening could be undertaken in a way that was sensitive to the heritage fabric of the building e.g. composites and discretely located strengthening elements. The Committee noted that earthquake strengthening is a requirement of the Building Act, and regardless of whether the building is listed or not it will eventually need upgrading to meet the code. For these reasons the Committee did not accept the submitters' claim that the listing would potentially render the land and building incapable of reasonable use in terms of section 85 of the RMA.

In light of this, the Committee agreed that the proposed listing of the Braemar building is wholly justified and accordingly should be recognised under the District Plan.

Decision:

Accept submission 7 insofar that it supports the Plan Change.

Reject submission 18 that requests that The Braemar Building, 32 The Terrace is deleted from the District Plan Heritage List.

Accept submission 19 insofar that it supports the Plan Change.

Reject surther submission FS3 that requests that The Braemar Building, 32 The Terrace is deleted from the District Plan Heritage List.

3.2.9 Shed 35 and Maritime House, Waterloo Quay

In their written submission, submitter 16, CentrePort Limited, stated that they were opposed to the proposed listing of the buildings as they felt that the listing will place a significant restriction on the development of the wider Port Redevelopment Precinct area which holds the same certificate of title as the subject buildings (covering 10.5 hectares).

The submitter noted that the definition of the word 'site' under the District Plan means any area of land comprised wholly in one certificate of title. The submitter remarked that the proposed listings would effectively change the planning status of development from controlled to discretionary, with the heritage rules over riding the Central Area rules.

The submitter also pointed out that alterations to the buildings would be adequately protected under the Masterplan for the Port Redevelopment Precinct and the Memorandum of Understanding (MOU) with Wellington City Council.

At the hearing Mr Neville Hyde spoke to CentrePort's submission and reiterated the company's position that statutory protection of the buildings was unnecessary and unwarranted as they are adequately provided for in the District Plan (under the Masterplan for the Port Redevelopment Precinct) and the MOU. He also stated that the listing would affect the wider operation of the port as the entire site is under the same certificate of title.

Under questioning from the Committee, Mr Hyde was asked about the legal status of the MOU and he acknowledged that the MOU allowed for Council involvement in respect of building design and siting, the placement of building mass, and public space and structure design, but that it has no legal standing under the RMA.

Submitter 19, The New Zealand Historic Places Trust, supported the proposed listing of Shed 35 and Maritime House in their written submission and also spoke at the hearing in favour of this. At the hearing, Mr Watt, speaking on behalf of NZHPT, noted that the buildings had been saved from the growth and modernisation of the commercial port and that the building's survival gave it rarity value. Mr Watt noted that the challenge would now lie in the adaptive reuse of the buildings. Mr Watt also mentioned a number of other important heritage buildings that had been lost in the area over time.

Consideration:

Concerning the submitter's point that if the buildings were listed it would mean that the entire 'site' (i.e. the wider Port Redevelopment Precinct area) would also be affected under the heritage provisions (specifically Rule 21A.2.2), the Hearing Committee was advised by the officer that a report on the curtilage of heritage places on large sites had been commissioned that defined the curtilage 'boundaries' of Shed 35 and Maritime House. The Committee were entirely satisfied with the curtilage 'boundaries' around the 2 buildings and considered that they would be an appropriate mechanism to ensure that development and/or subdivision beyond those boundaries will not be subject to the heritage provisions in the District Plan. Accordingly the Committee recommended that these are included in the District Plan to help clarify the extent of the listing curtilage.

With regard to the role of the Master Plan and the Memorandum of Understanding (MOU), the Committee observed that the submitter acknowledged that the MOU is not a replacement for regulatory controls, but rather a working platform for addressing issues between CentrePort and the Council regarding development in the

Port Redevelopment Precinct. The Committee also observed the guiding role of MasterPlan. The Committee were of the opinion that, while these guiding documents are useful, they are not legally binding and do not provide an absolute assurance that the buildings will not be demolished. In this regard the Council would have little ability to prevent the loss of these buildings in the future, a situation which the Committee considered to be unsatisfactory.

The Committee was very mindful that the port is a 'living area' and that CentrePort must have the ability to use their land functionally for port operations. This also would include the potential redevelopment of the buildings or adaptation for new uses. However, the Committee felt that the buildings provide an excellent link with the port's, and indeed Wellington's, past and that listing them in the District Plan was an entirely appropriate tool for to ensure their protection. The Committee noted that the heritage listing would not preclude redevelopment and considered that clever and innovative reuse could ensure their sensitive adaptation.

Decision:

Reject submission 16 that requests that Shed 35 and Maritime House, Waterloo Quay are deleted from the District Plan Heritage List.

Accept submission 19 in that it supports the proposed listing of Shed 35 and Maritime House, Waterloo Quay.

3.2.10 37 Dixon Street and 2 Eva Street

The proposed listing of 37 Dixon Street and 2 Eva Street was strongly supported by submitter 7, The Architecture Centre Inc. in their written submission on the Plan Change.

In his written submission, submitter 10, Angleos Argus, sought that 37 Dixon Street and 2 Eva Street be removed from the proposed heritage list as the listing will, among other things, arbitrarily change the submitter's rights and will adversely and unfairly affect him. The submitter outlined that the properties were purchased in 1980 as an investment for eventual redevelopment. Since that time the submitter has purchased 39 Dixon Street, with the intention of developing all the properties. The submitter noted that a Resource Consent was granted 26 July 2005 (together with authority to modify an archaeological site from the Historic Places Trust) for the development of a mixed use, 32.5m high (nine storey) building. The submitter believes the proposed listing would lessen the ability to economically develop the properties. The submitter also questions the heritage value of the buildings and also points out the crime problems the buildings currently attract.

Mr Argus was represented at the hearing by Resource Management Consultant David Grant and Architectural Conservator Ian Bowman.

Mr Grant reiterated that Mr Argus had purchased the properties with the sole intention of redevelopment and that the proposed listing would have economic implications. Mr Grant highlighted that Mr Kelly's assessment of 2 Eva Street did not recommend listing of the building and questioned the relevance of retaining a building that does not warrant an individual listing so that it can add character to a potential future heritage area. Mr Grant also conveyed that the owner did believe that the area had a 'Melbourne like' feel suitable for protection and his frustration at the unsavoury activities that were happening around the building. Mr Grant also questioned whether the buildings constituted significant heritage under the Built Heritage Policy.

Mr Bowman outlined the architectural history of 37 Dixon Street which was originally built as a high pitched 'Wren style' building in 1883 and later redeveloped and extended to the street boundary in 1908 to include an additional storey and new roof. Mr Bowman discussed the interior of the building and was of the opinion that only limited interior fabric actually relates to the 1883 or 1908 building. Externally, Mr Bowman conveyed that amongst other things, the windows and shop front had been replaced, as has had the Eva Street elevations. He noted that the rear of the building has had little change and presumably is from the 1883 building. Mr Bowman was of the opinion that the building has little authenticity. Photographs of the both the interior and exterior were also presented at the hearing.

With regards to 2 Eva Street, Mr Bowman found that the heritage values were less easy to establish. He described the building and noted that the report stated it has been constructed out of convict bricks. Mr Bowman conveyed that intact industrial bricks are uncommon, but without a comprehensive survey, it would be difficult to make a definitive statement on the building's rarity or heritage value.

Consideration:

In response to submitter 10, the Committee recognised that the site of 37 Dixon Street had accommodated a building for a very long time. However, given the extensive level of alteration and modification to 37 Dixon Street, particularly the exterior fabric, the Committee was of the mind that the building had lost much of its historical architectural integrity. The Committee considered that the various transitions and changes over time had diminished the quality of the building and as a result did not support the listing of the building.

In addition, the Committee recognised the possible rarity value of the use of convict bricks in the construction of the 2 Eva Street building. However, the Committee noted the absence of definitive information on the rarity of the use of prison bricks on private buildings and therefore could not support the individual listing of this building.

In making this decision, the Committee recognised the potential for gentrification of the area. The Committee noted that the Hearing Committee for Plan Change 48 had recommended to investigation of the appropriateness of a heritage area to cover the Eva Street, Leeds Street and Egmont Street area. The Hearing Committee for Plan Change 58 supported this recommendation and encourages work to be undertaken in this regard.

In light of this position, the Committee recommended that 37 Dixon Street and 2 Eva Street are not listed in the District Plan.

Decision:

Reject submission 7 insofar it supports the proposed listing of 37 Dixon Street and 2 Eva Street.

Accept submission 10 that requests the deletion of the proposed listing of 37 Dixon Street and 2 Eva Street.

3.2.11 Old Wool House, 139-141 Featherston Street

In total, there were 30 submissions relating to the proposed listing of this building. Of those 30, 29 submissions were in opposition to the proposed listing. The submitters are as follows:

Submitter 6 (Tony Nydam), 8 (Jessica Khol Johnson), 62 (Hong Nguyen), 63 (Douglas John Forster), 64 (John Roger Kerswell), 65 (Sarah Beckford), 66 (Graeme Welch), 67 (Claudia Vu), 68 (Ty Dallas), 69 (Chummy Sythong), 70 (Amanda Legge), 71 (Bounthanh Sythong), 72 (Mark Dunastschik), 73 (Nicholas Lee Olsen-Jame), 74 (Gerald Thomas Moore), 75 (Grant Williams), 76 (Peter Graeme Johnstone), 77 (Leah Bradley), 78 (E Aspell), 79 (Ruth Mallon), 80 (Richard Voss), 81 (Charlotte Emma McGrath), 82 (Alexis Davidson-Johnstone), 83 (V&R Consultants Ltd), 84 (Christine Roberts), 85 (Grant Leigh Hodgson), 86 (Jonathan Crawford), 87 (Grant Young), 88 (Brent Cairys Dewhurct) and 89 (Deb Watkins).

Submitter 62 (Hong Nguyen) is the owner of the building and her submission argued that the building has no architectural value and is simply a plain box with holes in the concrete walls. According to Ms Nguyen, the building is old, tired and desperately in need of money to be spent on it to bring it up to modern day standards. The submitter stated that the listing would have serious financial impacts on the economic on the value of the land. The financial burdens the listing would impose would be unfair to the owner, whose family live in Vietnam and rely heavily on the building's income to survive.

Submitter 7, The Architecture Centre Inc. supported the proposed listing of the building.

At the hearing, the owner of the building, Ms Nquyen was supported by submitters 63, Douglas John Forster and 64, John Roger Kerswell.

In his submission Mr Foster noted that the Architecture Centre was not present at the hearing. In his opinion the building appeared to be on the lower end of the spectrum in terms of quality to warrant listing. He believes that the CBD needs to be attractive to development and that the proposal would restrict this.

Likewise, Mr Kerswell conveyed to the Committee that he believed that the building was not of any great architectural value. He believed that the assessors can elevate a building but "have none of their money in it". He believed that the listing would be restrictive and that overall cities would be weakened without the opportunity for future development.

The owner, Ms Nguyen spoke in support of her submission and detailed 4 main points:

- 1) Wellington already has many worthwhile heritage buildings
- 2) 139 Featherston Street does not have any obvious visual architectural significance
- 3) More recently a lot of money has been invested in the property to comply with the building code
- 4) The listing would have social and economic implications on people who depend on the buildings income

During question time by the Committee, the officer outlined why the building had been put forward for listing. Advice was received from both Mr Murray and Mr Kelly regarding its architectural importance and association with the New Zealand Wool Board. The Committee also asked questions of Ms Nguyen regarding the upgrade and maintenance of the building.

Consideration:

The Committee noted that the proposed listing of this building falls in line with the Council's Built Heritage Policy 2005 which promotes the protection of post World War II architecture in Wellington. The Committee acknowledged the importance of recognising modern architecture as the heritage of tomorrow but did not agree that this particular building was a significant example of modern architecture and that it was worthy of protection at this stage. In making this decision, comparisons were made to Shell House and Massey House and it was felt that this particular building did not fall into the same category as these examples.

There were several reasons why the Committee took this view. Firstly the Committee noted that side views of the building would be lost if development was to occur on the neighbouring site. The Committee recognised that the side elevations of the building had been plainly designed with smaller windows to cater for future development. They felt that if the neighbouring site was developed, the front façade of the building did not have significant value to warrant listing of the entire building.

The Committee also considered that Featherston Street was a “pepper pot” of different architectural styles and that the building did not create a great impact on the streetscape. The Committee noted that, as is often the case, the integrity of the ground floor had been compromised to such an extent that it has lost almost all relationship with its upper stories.

The Committee also felt that the story and history of the place had been preserved in economic history and were of the view that the story was being preserved elsewhere. On this basis they felt that the period of its association with the New Zealand Wool Board was not reason enough to warrant listing the building. Further, the Committee questioned whether the Wool Board's project management had perhaps compromised the original architect's overall vision and design for the building.

For these reasons, the Committee recommends that Old Wool House, 139-141 Featherston Street is removed from the heritage list.

Decision:

Accept submissions 6, 8, 62-89 in that they request that Old Wool House, 139-141 Featherston Street is deleted from the District Plan Heritage List.

Reject submission 7 insofar that it supports the proposed listing of Old Wool House, 139-141 Featherston Street.

3.3 Submissions that refer to the creation of a Heritage Area

3.3.1 Salisbury Garden Court Heritage Area

In total 13 main written submissions and 1 further written submission were received on the proposed creation of a Heritage Area in Salisbury Garden Court. Of those 13 main submissions, 9 submissions supported the proposal and 4 submissions were in opposition. The one further submission was in support of those submissions that opposed the proposed Heritage Area.

Submissions in support

Specifically submissions 1 (Mary Macpherson), 38 (Onslow Historical Society Inc.), 40 (Inka Helwig), 41 (Stanley Pillar), 42 (Kathleen Ford), 43 (Bronwen Wall), 46 (Jonathan Kennett), 47 (Clair MacDonald) and 48 (Murray Pillar and Jane Kelly) all supported the proposed Heritage Area.

In general, the main points these submissions raised is as follows:

- The housing group is an early example of a private initiative to provide affordable housing in a garden court setting. The property had difficult access, as it still does.
- This listing would be an excellent way to preserve the attractive 20's architecture of the cottages, recognise the original impetus for the development and the interesting social history that has evolved since then.
- The listing will enhance protection of the heritage values of the area, enhance the community atmosphere of the area and limit any developments that would destroy the unique character of the community.
- The heritage values of the area will increase with time. Effective protection requires a regulatory approach from Council

However, many of the submissions of support have raised the following points:

- The buildings are homes which need to be adapted, improved or repaired to meet expectations of change over time. Assurances need to be given that owners will still be able to make changes
- Council should waive cost implications for any resident wishing to make renovations to their homes that do not affect the footprint of the home, such as adding windows, French doors etc.
- Council should work with the house owners to clarify and document the restrictions and incentives as there is currently no common understanding of the consequences of the listing among the residents. Council should provide a list of things that do not require consent.
- Council should waive resource consent fees, at least for projects costing less than \$10,000. Rates relief should also be considered.
- Council should make a firm commitment to contribute to architectural advice, fee waiver and construction costs
- The path which all of the householders use is integral and vital to the Salisbury Garden Court set up. Assurance is needed that the path is included as part of the listing and will be eligible for funding for maintenance

Submission 41 in particular suggested that Salisbury Garden Court Heritage Area should be extended to include 133-139 Cecil Road as these buildings were built at the same time by the same builder and have similar floor plans (drawings provided).

Submission 47 also suggested that the surrounding bush should also be protected.

Submissions in opposition

Submitters 39 (Tom and Joanne Moyer), 44 (Humphrey Elton), 45 (Jonty Richie and Tessa Meek), 49 (Dean Knight, Rhys Knight and Alan Wendt) and further submitter FS2 (Mark Gyopari) are all opposed the proposed Heritage Area.

In general, the main points these submissions raise are as follows:

- The Council has not investigated the insurance risks for owners of heritage listed residential properties. At least one major insurance company (AA Insurance) has clearly stated that it will not insure heritage listed houses. Residents will be unfairly disadvantaged by the proposal or at worst left in a potentially catastrophic situation if they are unable to raise insurance against these properties.
- The communal use of the whole area cannot be protected through regulation.

- Once an area is listed the rules may be changed without consent of the affected properties, apart from the mechanism of general public consultation. Once a property is locked into a system where the owners have no more rights than anyone else is dangerous and unfair.
- The current structure where every proposed change to the dwelling incurs an additional fee is both grossly unfair and punitive. The current fee structure is tuned towards grand re-vamps which is not applicable to the way the houses on Salisbury Garden Court have been changed over the years.
- The proposed listing maybe a drawback for re-sale.
- No carrot has been offered for example, rates rebates.
- Heritage listing will add no more protection than the access has done for the last 75 years. If adopted the listing will actually ruin this slightly special cluster of houses by destroying the circumstances that allowed its character to become what it is.
- The listing will not benefit the majority of owners who would like to change their houses (i.e. for growing households). The listing will only be suitable for people whose personal circumstances are not changing and unlikely to change.
- The houses themselves are not of particular historical significance. There are very many of this style of house echoed throughout New Zealand. The houses are under sized and the wait and costs involved in the consent process could force owners to move.
- The additional financial and bureaucratic stress that the listing would bring, coupled with the difficulties of maintaining and improving these dwellings and persuading builders to work on the houses due to poor access, appears onerous to many residents.
- The uncertainty of DPC 43 makes it difficult to form a view on the merits of heritage listing and the proposed controls.
- The section 32 report does not recognise increased development costs, resource consent fees and potential loss in value.
- The heritage report overstates the values of the area
- The usefulness of the Heritage Incentive Fund is overstated and potentially over-allocated. It may not be feasible to apply for funding for all incremental changes
- The listing would potentially remove owner's ability to regularise cross lease properties as of right and minimise the amount of permissible earthworks.
- The proposed area goes beyond what is necessary to protect the values of the area (i.e. includes the lower gully and path). The uncertainty of the proposed control make it difficult to form a view on the merits of listing, e.g. the difference between the significance of Salisbury Garden Court v Cuba Street

Submitter 49 drafted specific controls for Salisbury Garden Court that they believed could be introduced i.e. specific permitted, controlled and discretionary activities tailored for the Court. The proposed Heritage Area includes a derelict shed on submitter's property that the submitter believes should not be included and suggests amending the boundary lines.

At the hearing, Commissioner Ritchie declared that she had a conflict of interest in hearing this particular item and withdrew from any discussion on the proposed heritage area.

Submitter 49, Dean Knight, spoke in support of his submission at the hearing. He outlined that he supported the initiatives in principle but felt that the provisions were flawed and they were overly restrictive and the rules too blunt. He believed that the heritage values were overstated in the report. Mr Knight expressed that the listing imposed a disproportionate cost (vs. benefit) and that it hinders the ability to make reasonable improvements to the area. He questioned the “intrinsic townscape values” identified and provided the Committee with photographs showing the visibility of the Court. He queried the strength of the Heritage Incentive Fund and requested that resource consent fees be waived. He concluded that the boundary of the proposed area should be moved closer to the houses and noted that the chicken coop on his property had not been identified as a non heritage item in the officer’s report.

The Committee asked particular questions of Mr Knight, mainly focused on waiving resource consent fees and the ability for residents to make evolutionary changes over time. Officers were asked to clarify boundaries and resource consent implications.

Submitter 42, Kate Ford, also spoke at the hearing. She emphasised that family needs had changed since the 1930’s and the buildings have been altered over time. She believed that people should continue to be able to make small evolutionary changes over time. She conveyed to the Committee that the area had been protected over time because of the geographical constraints of the area. She concluded by declaring her support for the area and requested inclusion of the neighbouring Cecil Road houses in the proposed heritage area.

Mary Macpherson (Submitter 1) spoke in support of her submission and expressed her support of the proposal. She believed that the listing would benefit the wider suburb and Wellington as a whole. She supported the “official recognition” the listing would bring. She also felt that a resource consent waiver would be beneficial.

Jonathan Kennett (Submitter 46) spoke in support of his submission at the hearing. He believed that Salisbury Garden Court was a unique and intriguing part of Wellington and worthy of heritage listing. He outlined four essential elements of Salisbury Garden Court, namely the tennis court, the houses, the regenerating bush and the steep access path. Mr Kennett believed the tennis court was extremely important and the placement of the houses around it also of value. Mr Kennett emphasised that the boundaries for the proposed area should be left as proposed as they capture a vegetation buffer that protects the Court. He also felt that the zig zag path provides social interaction and should be recognised in the heritage area. He also supported the inclusion of the neighbouring Cecil Road houses in the proposed heritage area.

Submitter 45, Jonty Ritchie spoke to his submission at the hearing. Mr Ritchie owns one of the houses in the court and explained that it was purchased because it was affordable and an enjoyable place to live. He pointed out that, unlike others in the Court, his house had not been extended and was fearful that the listing could jeopardise plans to enlarge the house. Mr Ritchie believes that the listing will place an unfair and unreasonable burden on him and his family and they would be caught up in bureaucratic and resource consent processes. He also drew the Committee’s attention to section 85 of the RMA regarding reasonable use. Mr Ritchie believes that compensation should be made available if listing were to proceed.

Murray Pillar (submitter 48) also spoke at the hearing in favour of extending Salisbury Garden Court Heritage Area to include 133-139 Cecil Road as these buildings were built at the same time by the same builder and have similar floor plans.

Consideration:

During deliberations, Commissioner Ritchie declared that she had a conflict of interest this particular item and withdrew from any discussion on the proposed heritage area.

The Committee agreed with the officer's report that Salisbury Garden Court is a rare snapshot of a privately planned housing development that has remained largely untouched from growth pressures and changes over the years. The Committee were in no doubt that the somewhat difficult topography and access to the houses has been a key factor in its strong sense of identity and setting. The Committee were particularly interested in the old tennis court and its central position within the Court.

With regard to the suggestion that 133-139 Cecil Road should be included in the proposed area, the Committee observed that, although these houses share many characteristics with their neighbours, they were left out of the area because Salisbury Garden Court is a specifically defined area and has been since it was conceived. In this regard, the Committee did not support the submissions that suggested these houses should be included in the proposed heritage area.

Submission 47 has suggested that the surrounding bush should also be protected. The Committee noted that since Plan Change 58 was notified, Council has successfully purchased this land. Given the land is secured in Council ownership, it was not considered necessary to extend the Heritage Area over this bush area.

The Committee also considered suggestions that the path should be included in the proposed area. They acknowledged that the path provided connection to the houses but also recognised that the land adjoined the main road access to the Court. It was their view that this land may need to be adapted in the future for access purposes and therefore did not recommend that it be included in the proposed heritage area.

With regard to the submitters that felt that the listing will limit their ability to alter their property incrementally over time, the Committee did not consider that the proposed Heritage Area would mean that the building is set in time and that owners wouldn't be able to modify their buildings in the future. The Committee noted that nothing is prohibited in the District Plan and the introduction of a heritage area would mean that building owners would need to work with Council so that a balance is struck in allowing adaptations to properties that are sensitive and appropriate to the heritage values. This principle would also apply to formalising cross leases and earthworks. In such cases Council would look at any intended future development and whether that development would adversely affect the heritage values of the area.

To help residents of the Court understand the provisions that would apply, it is recommended that Council officers produce a check sheet for the owners that could help in the understanding of what type of development would require resource consent.

Many submitters raised concern with potential costs involved with resource consent fees, especially for smaller incremental changes to buildings over time. The

Committee noted that Built Heritage Incentive Fund provides fee reimbursement for such changes and since the hearing Council has also agreed the reimbursement of resource consent fees for 2008-2009 (where additions and alterations are supported by Council officers). Funding will continue to be sought via the Annual Plan funding allocation.

The Committee accepted that appropriate investigation had been undertaken by the officer to explore the insurance implications of listing buildings. Council officers contacted underwriters in five major insurance companies namely; AMP, AA Insurance Ltd, State Insurance Limited, Tower Insurance and Lumley General Insurance and also met with the Insurance Council of New Zealand Inc. All five insurance companies have conveyed that they will generally insure buildings that have been recognised by a local authority for their heritage value and the Committee were satisfied with these findings.

The Committee gave particular consideration to submitter 49 who had drafted specific controls for Salisbury Garden Court. Whilst it is acknowledged it is possible in the District Plan to have specific rules for certain areas, it is understood that such cases are the exception and such tools are not generally encouraged. Often such mechanisms can create confusion to users of the Plan and sub-zones that can be difficult to administer. The Committee agreed that significant resource had been invested in up-dating the heritage provisions via Plan Change 43 and it would be impractical to add additional rules at this stage. For these reasons the submitter could not be supported in this suggestion.

Submitter 49 also drew the Committee's attention to a derelict chicken coop on his property (No. 4 Salisbury Garden Court). The submitter believes that it should not be included in the proposed heritage area and suggests amending the boundary lines. Since notifying the proposed heritage area, officers have drafted a map that identifies the 'non-heritage structures' within the vicinity that would be exempt from the heritage provisions in the District Plan. At the hearing the submitter pointed out that his chicken coop had been left off the map and this omission has subsequently been amended. Rather than adjusting the heritage area boundaries, it is considered that this is the most appropriate tool for dealing with such items and it is recommended that the map is included in the District Plan. A map showing these non-contributing structures is contained in Appendix 2 of this report.

In conclusion, the group of houses at Salisbury Garden Court has historic, social, architectural and townscape value and it is recommended that it should be listed on the District Plan as a Heritage Area.

Decision:

Reject submissions 39, 44, 45, 49 and further submission FS2 insofar that they request that the Salisbury Garden Court Heritage Area is deleted from the District Plan Heritage List.

Accept submissions 1, 38, 40, 41, 42, 43, 46, 47, 48 insofar that they support the proposed Salisbury Garden Court Heritage Area.

3.3.2 Island Bay Village Heritage Area

In total 12 main written submissions and 5 further written submissions were received on the proposed creation of a Heritage Area in Island Bay (121-155 The Parade). Of those 12 main submissions, 8 submissions were in support and 4 submissions were in opposition to the proposal. Five further submissions were in support of those submissions that opposed the proposed Heritage Area.

Submissions in support

Specifically submitters 2 (Phillip Jones), 3 (Shirley Hampton), 15 (Robyn Green), 51 (Barbara Hoskins), 52 (Patricia Hutchinson), 53 (Brain and Cynthia Coomber), 54 (Wellington Southern bays Historical Society Inc.), 56 (Maggie Edwards) all supported the proposed Heritage Area.

In general, the main points these submissions raised are as follows:

- Suburban centres are just as important as central city buildings when it comes to recording or architectural heritage and the history of the area.
- The shops from 121 to 155 The Parade, Island Bay (mostly) are integral to Island Bay Village. They give it character and the history that comes with them is invaluable. Once lost: gone forever.
- The buildings remaining in the village are fine examples of early commercial architecture and provide vivid memories of the owners and suppliers to this community for many older residents. It is important these buildings are protected for future generations.
- Heritage or historic buildings are recognised under the RMA 1991.
- The proposal will preserve the village atmosphere that exists in the Bay.
- There is strong community interest in recording and preserving what is left of the early days of Island Bay.
- Cutting resource fees or giving rates concessions to owners of heritage buildings is an excellent idea and a wonderful sweetener to owners

Specifically, submitter 2 supported the creation of a Heritage Area but seeks that the rear sections of 121-123 The Parade are excluded from the area and that the boundary lines are amended to reflect this. The submitter noted that 121-123 The Parade has been granted resource consent to subdivide into 2 lots (one being the historic building and the second being the vacant land behind) and observes that other neighbouring rear sections that have been developed have not been included in the proposed Heritage Area.

Submitter 15 also sought clarifications on the rules and future use of 127 The Parade and also commented on the proposed development at 121-123 and feels that that development is at odds with the proposed Heritage Area. Officers have since clarified these queries for the submitter.

Submissions in opposition

Submitters 5 (Nigel Willis), 14 (Lesley and William Far), 50 (Hamish Groves), 55 (Raj Patel) and further submitters FS8 (Nigel Willis), FS9 (Fay Far), FS10 (Jane Sawada), FS11 (Faye Tohbyn) and FS12 (Ruth O'Grady) are all opposed the proposed Heritage Area.

In general, the main points these submissions raised are as follows:

- The proposal uses private funding to achieve Council's own means. If Council is so enthusiastic about the heritage appeal of the city, it should be purchasing buildings outright.

- The proposal undermines the strategic investment of owners. Purchases have been made unencumbered by any restriction and to enforce such a significant alteration on the terms of conduct of properties is untenable.
- 151 The Parade it is not of heritage value as the more modern aluminium windows detract from this value.
- 147 and 155 The Parade are of no particular architectural merit and no longer reflect the original appearance of the buildings at the time they were constructed.
- The value of the land is the location rather than the buildings.
- The proposed Heritage Area removes the option of redevelopment or reconstruction.
- The proposal will add significant additional time and costs to the consent process unnecessarily restrict the ability for the property to be enhanced; and cause financial detriment by destroying some of the potential capital value of property.
- The proposal may result in practical difficulties for further earthquake strengthening.
- The section 32 report is inadequate and does not meet the requirements of the RMA. There is insufficient justification given for the costs and benefits of the proposed alteration.
- Those who support the proposal have no financial interest in the area and are willing to see private individuals fund the advancement of their own social agenda. The situation would be quite different if those owners were affected.

At the hearing, submitter 5, Nigel Willis, spoke in support of his submission that opposed the proposed heritage area. Specifically, Mr Willis felt that the listing would have significant negative impact on the use and value on his property at 155 The Parade. He reiterated that he had made a strategic investment in the property based on the provisions of the time and that the proposal would cause serious hardship. He questioned the heritage assessments. He stressed that if Council was so interested in the heritage of these buildings it would purchase the properties itself. He also raised concern with the physical addresses of the property (i.e. 155 or 157)

The Committee asked Mr Willis whether he considered that the value of the properties may go up because of the heritage area. He was of the firm opinion that this would not be the case.

Submitter 2, Phillip Jones, also spoke in person at the hearing. Mr Jones is the owner of the rear sections at 121 The Parade. These sections have been granted resource consent for subdivision from the front building. Mr Jones presented the Committee with photographs of the sections and the area in general and sought that these sections were removed from the proposed heritage area. He pointed out to the Committee that the initial heritage report did not highlight the importance of these sections and therefore it was unreasonable that they should be included in the area. Mr Jones also pointed out other rear sections in the commercial strip that had been developed and were not included in the proposed heritage area. He also went through a scenario of permitted activities under the suburban centre rules of the District Plan on the site.

Consideration:

It was the Committees view that the proposed Island Bay Village Heritage Area should be retained as it covers a key suburban retail strip that contributes strongly to the heritage values and unique sense of place of Wellington City. Substantial research was undertaken into the heritage values of the area and the properties that share core values and characteristics of an urban village. It is considered that the proposed Heritage Area is appropriate and necessary to allow the Council to meet its obligations for managing historic heritage under Part II of the Resource Management Act.

Under the provisions of the Resource Management Act, the Council is not required to provide financial compensation for rules included in the District Plan. However, no provision in the plan may be so onerous as to make a property incapable of reasonable use. If this occurs then the Council is obliged to either take financial responsibility for the property or amend the plan provision. As with any Plan Change, the goal is to achieve public policy objectives while recognising the rights of private owners. This requires the balancing of competing aims and interests. It is considered that the buildings along the Parade could be sensitively redeveloped through innovative design that respects the heritage values of the area and it is for this reason the committee did not accept that the proposal would potentially render the land and buildings incapable of reasonable use in terms of section 85 of the Act.

121-155 The Parade is a continuous environment in many ways. It is a linear stretch of street that can be viewed from one end to the other. It has a continuous history of predominantly retail activity within the local Island Bay community and also boasts near continuous verandah cover contributing to the uniformity of this part of The Parade. In managing the character and heritage value of 121-155 The Parade it is considered vital that the street's 'continuous nature' is appropriately recognised. For this reason, it is considered very important by the Committee that the Heritage Area include all properties with heritage value that front this part of the street.

It is for these reasons that submissions suggesting that certain buildings do not have heritage merit can not be supported. Accordingly it is recommended that all properties that front this part of the Parade are retained within the Heritage Area, because this will ensure that the unique character and heritage value of the street can be managed as whole.

The Committee did consider however, that submitter 2 raised a valid point and agreed that the rear sections of 121 The Parade should be excluded from the proposed area. The Committee felt that the main values of the area lay with the buildings fronting The Parade and that it was unfair to include legally subdivided vacant sections that clearly did not have the equivalent heritage value. Accordingly it is recommended that the boundary map is amended to exclude this property, together with numbers 129 and 145 The Parade which are in a similar situation or currently being developed. Appendix 2 contains the recommended amended map.

In summary, it is considered that the proposed Island Bay Village Heritage Area is an appropriate mechanism to ensure effective management of the heritage values and character of the Island Bay neighbourhood. It is recommended that all identified properties that front onto the street be retained in the Heritage Area to allow the overall character and heritage values of The Parade to be appropriately managed.

Decision:

Reject submissions 5, 14, 50, 55 and further submissions FS8, FS9, FS10, FS11 and FS12 insofar that they request that the Island Bay Village Heritage Area is deleted from the District Plan Heritage List.

Accept submissions 1, 3, 15, 51, 52, 53, 54 and 56 insofar that they support the proposed Island Bay Village Heritage Area.

Accept submission 1 insofar that it requests that the rear sections of 121 The Parade are deleted from the proposed Island Bay Village Heritage Area.

3.4 Other buildings not specifically submitted on but noted by the Committee

In addition to the items specifically submitted on, the Committee also considered all of the other buildings put forward for listing. The Committee were in agreement with the assessments made and were comfortable with the proposed listings. In particular, the Committee were particularly interested in the utilitarian use of the Francis Holmes Building at 200 Taranaki Street and noted that the heritage provisions would allow for adaptation of uses if necessary in the future.

Accordingly, the Committee supported the listing of this building, together with the listing of Former Hannah Footware Factory (East Building), 5 Eva Street, the Seatoun Scout Hall, 38 Ferry Street and the Elsdon Best Memorial, Grassleas Reserve, Oxford Street, Tawa.

4 SUMMARY

With any plan change, the goal is to achieve public policy objectives while recognising the rights of private owners, and this requires the balancing of competing aims and interests.

In a day to day sense, the implications of listing would mean very little would change for owners of the building. General maintenance and repair of a building and interior alterations and additions (unless specifically listed) continue to be permitted as of right. When consent is needed, for example for an extension, the Council provides free conservation advice and technical assistance to ensure development is consistent with the heritage values of the building. In some cases, if certain criteria are met, building owners are also entitled to financial assistance under the Built Heritage Incentive Fund. Since the hearing, Council has also agreed the reimbursement of resource consent fees for 2008-2009 (where additions and alterations are supported by Council officers). Funding will continue to be sought via the Annual Plan funding allocation.

In terms of the added responsibility and restriction put in place when a building becomes a heritage item, considerable care has been taken to achieve an appropriate balance in the package of heritage policies and rules in place. It is believed that the rules act sensitively to facilitate the reasonable use of land affected by heritage listings. The rules contain no prohibited or non-complying activities and the opportunity exists through the resource consent processes to seek consent for any work. Nothing is foreclosed.

The buildings, objects and areas proposed for listing are hugely important for the contribution that they make to Wellington's built heritage. They represent physical and cultural legacies that are a significant asset to Wellington City. The

recommendation to put these items forward for listing is well-considered based on the expert advice of heritage professionals.

In this light, it is considered that the proposed listings are reasonable and will not render land incapable of reasonable use, consistent with sound resource management practice and in keeping with Part II of the Resource Management Act.

5 CONCLUSION

This report has addressed all of the submissions to proposed District Plan Change 58 either generally, in respect of particular issues, or specifically.

Overall, it is concluded that the Plan Change be adopted with the amendments that have been recommended to address omissions or otherwise improve the content or operation of the provisions in response to submissions.

Commissioner Ian McKinnon
Chair, Hearing Committee
District Plan Change 58
Proposed additions to listed heritage buildings, objects and areas.

APPENDIX TWO

Proposed District Plan Change 58 Additions to Current Heritage Listings

- Note – Corresponding Symbol References will be added once the Plan Change becomes operative. Text added by Hearing Committee is UNDERLINED. Buildings deleted by the Hearing Committee are ~~STRUCK OUT~~.*

HERITAGE LIST: BUILDINGS				
Street	Number	Building and Date of Construction (if known)	Map Ref	Symbol Ref
Brougham Street	46 (Lots 9, 10 and 12, DP 9809)	Crossways Community Centre Building Pre-1890	12,16	*
Dixon Street	37 (Lot 2 DP 7692)	Former Church of Christ Building 1883/1907	12,16	
Eva Street	2 (Lot 3 DP 7962)	Building 1903	12,16	
Eva Street	5 (Lot 2 DP 86538)	Former Hannah Footware Factory (East Building) 1940	12,16	
Featherson Street	139-141 (Lot 2 DP 40768)	Old Wool House 1955-1958	12,17	
Ferry Street	38 (Road Reserve)	Former Seatoun Scout Hall Building 1932	7	
Ganges Road	8 (Pt Lot 62 DP 1828)	Khandallah Library 1953	21	
Hobson Street	100 (Sec 1373 & 1375 Town of Wellington & Pt. Lot 1, DP 1362)	Building 1883	15,18	
Oriental Parade	186 (Lot 2 DP 5221)	Building 1910-1911	12	
Ranfurlly Terrace	1 (Lot 4 DP 855)	<p><u>Building (Emeny House) interior and grounds 1898 including all building facades and windows, soffits and eaves brackets, roof including brickwork and chimney pots (excludes down pipes), front and rear fences and plinths, front paving, tiling and path, tiled front porch and steps, front porch posts, fretwork and soffit, front entrance door frame, sill, cover boards and glazing (excludes door), front garden gatepost and gate, front garden edging, front garden flag pole, rear porch multi-plane coloured lights and panelled door, rear garden washhouse copper and chimney stack</u></p> <p><u>Listing includes all interior timber floor boards, lath and plaster ceilings and walls, ceiling roses, cornices and mouldings, decorative plaster moulding arches, doors and door hardware, skirting boards, architraves, Bedroom 1 wooden fireplace mantle and corbels, Bedroom 1 lath and plaster moulding plaster corners, Billiard Room plaster picture and dado rails, Billiard Room timber fireplace surround and mantle and tiling, Billiard Room chandelier, Bathroom 1 floor and wall tiles, Bathroom 1</u></p>	12,16	

		<u>bath, basin and basin brackets and toilet, Rear Porch floor tiles, match lining ceiling and weatherboard wall lining, Kitchen floor tiles, Kitchen fire surround, corbels and mantle, Kitchen coal range, Kitchen hutch dresser, Kitchen light switch on south wall, Dining Room hatch</u>		
Salamanca Road	84 (Lot 2 DP 7646)	Building (Harrogate) 1926	12,17	
Taranaki Street	208 (Lot 1 DP 9560)	Former Francis Holmes Building 1929	12,16	
The Terrace	32 (Pt Lot 1 DP 6645)	Braemar Building 1924	12,17	
Waterloo Quay	(Part Lot 1 DP 7469)	Shed 35, 1915 and curtilage as appended to Chapter 21 of the District Plan	12,17	
Waterloo Quay	(Part Lot 1 DP 769)	Maritime House, 1928 and curtilage as appended to Chapter 21 of the District Plan	12,17	
Willis Street	233 (Lot 7 DP 557)	Building 1943 – Willis Street facade and set back of 8 meters only	12,16	

HERITAGE LIST: Objects


Location	Number	Object and Date of Construction (if known)	Map Ref	Symbol Ref
Main Road Tawa, Grasslees Reserve	Sec. 195, Porirua District	<u>Elsdon Best Memorial and 3m radius curtilage 1960</u>	31	

HERITAGE LIST: Heritage Areas

Location	Number	Object and Date of Construction (if known)	Map Ref	Symbol Ref
Island Bay Village Heritage Area	121 (Lot 157, Deeds 127) 127 (Lot 1, DP 86178) 129 (Lot 1, DP 5961) 131 (Lot 1, DP 26825) 135 (Lot 1, DP 26825) 139a (Lot 1, DP 88893) 141 (Lot 4, DP 26825) 145/145a (Lot 1, DP 5837) 147 (Lot 2, DP 5837) 151 (Lot 3, DP 5837) 155 (Lot 1, DP 315482)	Shops and verandas 1905-1928	4	

Heritage Curtilage - Maritime House



 Maritime House Heritage Curtilage

0 5 10 20 Meters

1:300



Heritage Curtilage - Shed 35



 Shed 35 Heritage Curtilage

0 10 20 40
Meters

1:750



Salisbury Garden Court Heritage Area Boundaries



Salisbury Garden Court Heritage Area – Non Heritage Structures

The following buildings or structures are identified as non-heritage buildings for the purpose of Rule 21B.2.2.

Name of Building / feature	Number (Refer to Map 2)
Garden shed, rear of 5&6 Salisbury Garden Court	1
Garden shed, rear of 5&6 Salisbury Garden Court	2
Garden shed, rear of 5&6 Salisbury Garden Court	3
Chicken coop, rear of 5&6 Salisbury Garden Court	4
Garden shed, rear of 11&12 Salisbury Garden Court	5
Chicken coop, rear of 4 Salisbury Garden Court	6



Island Bay Village Heritage Area – Amended Boundaries

