



EGMONT
DIXON

232, 264, 270 and 276 SHELLY BAY ROAD, MAUPUIA

THE WELLINGTON COMPANY LIMITED

Continuation of Qualifying Development Application

May 2019

DOCUMENT CONTROL

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1. GENERAL PROPOSAL AND PROPERTY INFORMATION

TABLE 1: PROPERTY, APPLICANT AND PROPOSAL DETAILS

<p>LOCALITY DIAGRAM</p> <p><i>(Source: Greater Wellington Regional Council Web Map Viewer)</i></p>	
<p>SITE ADDRESS</p>	<p>Shelly Bay Road, Maupuia</p>
<p>LEGAL DESCRIPTION</p>	<p>Pt Lot 3 DP 3020 and Section 2 SO 339948 (CFR 223338), Pt Section 20 Watts Peninsula District (CFR WN46B/925), Lot 905 HG Scheme Plan 142175-01-RC02 (CFR not yet issued), Section 8-9 SO 339948 (CFR 205722), Section 1 SO 37849 (CFR 435658), Section 3 SO 339948 (CFR 418653), Section 4-6, 10 SO 339948 (CFR 418654). The Records of Title are attached in Appendix One.</p>
<p>PROPOSAL DESCRIPTION</p>	<p>Qualifying Housing Accords and Special Housing Areas Act 2013 (the “HASHAA”) development application to develop the subject site for residential and supporting commercial/community purposes as provided in the proposed masterplan and proposed Shelly Bay Design Guide and undertake associated earthworks, infrastructure servicing, and subdivision.</p>
<p>STATUS OF THE APPLICATION</p>	<p>Discretionary</p>
<p>APPLICANT</p>	<p>The Wellington Company Limited</p>
<p>ADDRESS FOR SERVICE</p>	<p>The Wellington Company Limited C/- Egmont Dixon Limited Level 4, 40 Taranaki Street WELLINGTON 6011 Attention: William Dorset</p>
<p>DISTRICT PLAN</p>	<p>Operative Wellington City District Plan 2000 (“the District Plan”)</p>
<p>DISTRICT PLAN ZONE</p>	<p>Business 1 Area and Open Space B</p>
<p>DISTRICT PLAN LIMITATIONS</p>	<ul style="list-style-type: none"> • Shelly Bay Business Precinct Area (subject to Rule 34.3.7 and the Shelly Bay Design Guide) • M3 Meteorological designation – located on northern point of site • Designation G2 – Wellington International Airport Limited Airspace Designation
<p>DISTRICT PLAN CHANGE/S</p>	<p>N/A</p>
<p>OTHER RELEVANT NOTATIONS</p>	<p>Shelly Bay Special Housing Area (Schedules 3 and 7).</p>

2. INTRODUCTION

2.1 CONTEXT

A Qualifying Development application to redevelop land at 232, 264, 270 and 276 Shelly Bay Road (being “the subject site”) for residential and supporting commercial/community purposes was lodged for The Wellington Company Limited (“The Wellington Company”) and prepared by The Property Group Limited (“TPG”) on 15 September 2016 under Section 25 of the Housing Accords and Special Housing Areas Act 2013 (the “HASHAA”).

In its decision of 18 April 2017, Wellington City Council (“WCC”) granted, with conditions, the resource consents that had been sought.

On 3 December 2018, the Court of Appeal, in its decision in *Enterprise Miramar Peninsula Incorporated v Wellington City Council [2018] NZCA 451*, quashed the Council’s decision to grant the resource consents on the basis of its reasons set out in paragraphs 40 to 59 of its decision. However, the resource consent application itself remained in place; the Court of Appeal ordered that “*the application for resource consents is remitted to the WCC for reconsideration*”.

Accordingly, although under Section 18 of HASHAA, the Wellington Special Housing Area was disestablished on 16 September 2016, the Court’s order for WCC to reconsider the application is such that Part 2 of HASHAA continues to apply to this application, having regard to Clause 1 of Schedule 3 of HASHAA. That clause provides that, despite the disestablishment of a special housing area, Part 2 of HASHAA continues to apply in respect of any existing application and the Council must continue to process the existing application under HASHAA.

As a result, this is a continuation of the consideration of the resource consent application lodged in September 2016, relating to the subject site – located within the Shelly Bay Special Housing Area – in accordance with the provisions of HASHAA. For this reason, this document refers to the provisions of HASHAA, the Wellington Housing Accord, and the Shelly Bay Special Housing Area as if they remain current.

This continuation of the existing application, which includes an updated Section 34 assessment as direct by the Court of Appeal, supplements the resource management assessment lodged by TPG on 15 September 2016. As this is a continuation of the existing application, the substantive information regarding the proposal has not changed and this report seeks only to update the Section 34 assessment with supplementary information based upon assessments contained in the appendices to the report. This report also seeks to reassesses the application against the relevant purposes of HASHAA in accordance with the guidance given by the Court of Appeal in its decision. The proposal details and site descriptions have been provided in this report herewith, and accordingly, it should be read in place of the TPG Qualifying Development document.

2.2 OVERVIEW OF THE APPLICATION

The Wellington Company Limited (“The Wellington Company”) seeks resource consents from WCC for the redevelopment of the subject site located at 232, 264, 270 and 276 Shelly Bay Road (being “the subject site”). The proposal seeks to redevelop the subject site for predominantly multi-unit residential activities with supporting mixed use and non-residential buildings and activities, as well as associated earthworks, infrastructure servicing and subdivision.

The subject site is proposed to be redeveloped in accordance with a proposed comprehensive Masterplan that sets out the framework for the future detailed design for the overall site redevelopment.

The proposal also includes seeking the necessary approvals for the use and development of a potentially contaminated site under Regulation 11 of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 for the soil disturbance, subdivision and change of use of potentially contaminated land (the “NES-CS”).

2.2.1 MASTERPLAN APPLICATION FRAMEWORK OVERVIEW

The proposed Shelly Bay Masterplan (“the Masterplan”) sets out building locations, footprints, maximum building envelopes and activity use as a basis for the future detailed design. Future development in accordance with the Masterplan will be approved at detailed design stage, through meeting the requirements of conditions of consent proffered in this application.

Associated with the Masterplan, is the proposed Shelly Bay Design Guide (“proposed Design Guide”). This proposed Design Guide seeks to ensure that the vision for Shelly Bay, as outlined in the Masterplan, is realised. Under the Masterplan framework, documentation will need to be provided to an independent design panel to confirm that the building / development complies with the parameters set by the Masterplan and the vision and guidelines in the proposed Design Guide. This approach enables flexibility in final building design and landscape, but in turn provides sufficient certainty of landscaping and building location, bulk, form, use and quality.

The aspects of the public realm, including the roads and public spaces, have been designed to a more detailed concept stage. The full detailed design of these spaces will also require approval through meeting detailed design to be confirmed by the design panel.

This continuation of the existing application includes the proposed Masterplan and Design Guide that will enable detailed design approvals to be obtained prior to construction. The details of the Masterplan are outlined further in Section 5 and is attached at **Appendix Two**. The proposed Shelly Bay Design Guide is attached in **Appendix Three**.

2.3 GREATER WELLINGTON REGIONAL COUNCIL MATTERS

The application seeks consent for WCC matters only. The Wellington Company acknowledges that the proposal will require resource consents and permits from Greater Wellington Regional Council (“GWRC”) that include, but may not be limited to, discharge of stormwater; construction of and works to existing sea walls and the ramp down to the South Bay beach; and refurbishment/strengthening works to the existing wharf structures. These works fall outside of the scope of this application as consent approvals will be sought separately from GWRC.

As part of the preparation of the application lodged on 15 September 2016, The Wellington Company and its consultants provided an overview of the project to GWRC who also attended pre-application meetings held with the Council prior to lodgement.

3. BACKGROUND

3.1 HOUSING ACCORDS AND SPECIAL HOUSING AREAS ACT 2013

On 16 September 2013, the HASHAA came into effect. The purpose of the HASHAA is to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts identified as having housing supply and affordability issues. The Wellington region is an area identified as experiencing housing pressure and supply issues.

The HASHAA allows the government and a territorial authority (in this case the Wellington City Council) to enter into a housing accord to address both housing supply and affordability issues. Wellington City Council approved a housing accord with government on 24 June 2014. This is known as the “Wellington Housing Accord”.

Under the Wellington Housing Accord, areas of land can be established as Special Housing Areas (“SHA’s”) that are then subject to a qualifying development consenting regime under HASHAA as opposed to a resource consent process under the Resource Management Act 1991 (the “RMA”). The subject site was identified as a SHA, being the “Shelly Bay SHA” through Gazette notices in June 2015 and then extended in area on October 2015.

Any application for development within a SHA and wishing to be considered under the HASHAA legislation must meet the requirements of a “Qualifying Development”.

3.1.1 QUALIFYING DEVELOPMENTS UNDER HASHAA

Under Section 14 of the HASHAA, “Qualifying Development” is defined as follows:

- 14 *Meaning of qualifying development*
- (1) *In this Act, a **qualifying development** in a special housing area is a development –*
- (a) *that will be predominantly residential; and*
- (b) *in which the dwellings and other buildings will not be higher than –*
- (i) *6 storeys (or any lesser number prescribed); and*
- (ii) *a maximum calculated height of 27 metres (or lower maximum calculated height prescribed); and*
- (c) *that will contain not fewer than the prescribed minimum number of dwellings to be built; and*
- (d) *that will contain not less than the prescribed percentage (if any) of affordable dwellings.*
- (2) *For the purposes of subsection (1), a development is **predominantly residential** if*
- (a) *the primary purpose of the development is to supply dwellings; and*
- (b) *any non-residential activities provided for are ancillary to quality residential development (such as recreational, mixed use, retail or town centre land uses).*

The primary purpose of the proposed development is to provide new residential dwellings with supporting hospitality, commercial, and community activities.

3.1.2 SHELLY BAY SPECIAL HOUSING AREA

The criteria for being considered a Qualifying Development in the Shelly Bay SHA are as follows:

- The maximum number of storeys that a building may have is 6;
- The maximum calculated height that buildings must not exceed is 27-metres; and,
- The minimum number of dwellings that must be built is 10.

The proposal and its alignment with these criteria are confirmed below. The Shelly Bay SHA (black dotted line – extended 2015) is shown in **Figure One** below, which also identifies the Business 1 Area and Open Space B Area of the Operative Wellington City District Plan (“the District Plan”).



FIGURE ONE: SHELLY BAY SPECIAL HOUSING AREA

4. THE SITE AND SURROUNDING ENVIRONMENT

4.1 SITE HISTORY

An earthquake in 1855 raised several beach terraces above sea level on the Watts Peninsula resulting in beaches that were considered suitable for the Submarine Mining Depot during the “Russian Scare” of 1885. Following the abandoning of the minefield concept in 1907, the Shelly Bay depot was used as a general military store and barracks until its closure in the 1920’s.

Despite the earlier use of the site for military purposes, it wasn’t until 1914 that the construction of store buildings and a tramway connecting the wharf started.

In 1942, the site underwent major redevelopment that included the reclamation of 2.7ha of land and the later construction of many of the RNZAF buildings after the site was transferred to them in 1946. While the RNZAF occupied the land until 1995, during this time the breastwork and slipway have been leased to a number of private companies. A number of facilities have been decommissioned or removed, including, fuel storage tanks, the coal fired boiler house, and parts of the steam reticulation system. The main wharf is also closed due to structural instability and disrepair.

Currently, Port Nicholson Block Settlement Trust, the Wellington City Council, and Shelly Bay Limited own different land parcels within the subject site. For the most part, the site is unoccupied with the exception of a number of artisans, film properties hire stores, and the Chocolate Fish Café.

4.2 GENERAL SITE DETAILS

The subject site comprises the following titles (refer **Appendix One**):

- Pt Lot 3 DP 3020 and Section 2 SO 339948 (CFR 223338);
- Pt Section 20 Watts Peninsula District (CFR WN46B/925);
- Lot 905 HG Scheme Plan 142175-01-RC02 (CFR not yet issued);
- Section 8-9 SO 339948 (CFR 205722);
- Section 1 SO 37849 (CFR 435658);
- Section 3 SO 339948 (CFR 418653); and,
- Section 4-6, 10 SO 339948 (CFR 418654).

The site is approximately 12.4 hectares and sits approximately 2.5-metres to 4.0-metres above sea level. The subject site, known as Shelly Bay, is located on the western side of Watts (Miramar) Peninsula.

The site is defined by two bays ('the North Bay' and 'the South Bay') with steep vegetated coastal escarpments set back from the water's edge. These coastal escarpments form the dominant landform of the area.

A relatively narrow flat area lies between the coast and the escarpment that accommodates buildings and structures associated with the former Royal New Zealand Air Force (RNZAF) Shelly Bay Base.

Between the two bays is the Shelly Bay wharf. On the landward side of the wharf are the RNZAF former workshop buildings and slipway structures. A formed carriageway runs through the site that generally follows the coastal edge. The formed road carriageway and legal road boundaries are not 100% aligned through the subject site.

Access to the site is primarily from the south via Shelly Bay Road which connects to the wider roading network via Miramar Avenue and Cobham Drive. Access to the north is via Massey Road which continues around the head of the peninsula. Within the subject site, the current road is not vested with Council as a public road; however, is contained within Council and privately-owned land.

The Preliminary Site Investigation (PSI), undertaken by AECOM, notes that due to the industrial nature of some of the site's current and former operations, Part lot 3 DP 3020 of the subject site has been identified as being on the Hazardous Activities or Industries List (HAIL) as defined by the Ministry for the Environment (MfE). Further site details regarding contamination are provided in the PSI report and should be read in conjunction with this section. This PSI is attached at **Appendix Four**.

The Preliminary Geotechnical Assessment Report was undertaken by AECOM and further site details regarding geotechnical information are provided in this report and should be read in conjunction with this section. The geotechnical report is attached at **Appendix Eighteen** of this application.

4.3 DISTRICT PLAN ZONING

The subject site is located in the Business 1 Area and the Open Space B Area of the District Plan.

The District Plan map (Map 13) identifies the site as being part of an area subject to Rule 34.3.7 (Development in Shelly Bay Business Precinct Area), as defined by Appendix 1 of Chapter 34 of the District Plan.

The northern point of the site has a meteorological designation (ref: M3) with the requiring authority being Meteorological Service of New Zealand Limited. The site is also partially within the Matakai-kai-poinga Landscape Feature Precinct.

4.4 SURROUNDING ENVIRONMENT

A detailed description of the site and its context with the wider Watts Peninsula is outlined in Section 2 of the Master Plan.

In summary, the character of the wider environment is dominated by the coastal escarpments noted earlier and the vegetated peninsula landform. The surrounding land to the subject site is owned by the New Zealand Defence Force and is unoccupied with no legal public access. There is a private access off Shelly Bay Road to this adjoining land. This Defence Force land is generally void of built structures with the exception of the occasional bunker type structures.

Approximately 500-metres above the site to the east (on the top of the Miramar Peninsula) is the former Mount Crawford Prison site. The prison is now disused and unoccupied, although the buildings and structures remain. To the south of the site, atop the escarpment is the suburb of Maupuia.

5. PROPOSAL

5.1 GENERAL PROPOSAL DETAILS

Approvals are sought from WCC for the comprehensive redevelopment of the site including residential accommodation (apartments, townhouses and stand-alone dwellings), boutique hotel, ancillary commercial/community activities, the adaptive re-use of some existing buildings on the site and the development of integrated public open spaces. The proposal also includes the option for aged care accommodation.

Consent is sought on the basis of a proposed Masterplan that allows flexibility to cater for changes in apartment size, demand and building design as the development progresses over the duration of the consent sought.

The proposal description outlined below in the following sections should be read in conjunction with the Masterplan and Design Guide accompanying this continuation of the existing application.

The proposal can be generally described as comprising:

- The construction of up to 12 multi-level residential apartment buildings containing approximately 280 apartments within building envelopes NB A1 - NB A7, SBW A1 and SB A1 - SB A4;
- The construction of approximately 58 townhouses within building envelopes NB TH1 - NB TH7 and SB TH1-SB TH5;
- Construction of up to 14 individual dwellings in the South Bay, within 14 individual building envelopes SB H1-SB H11, SBW H1 and SBW H2s, and NB H1;
- The adaptive re-use and relocation of the Submarine Mining Depot Barracks (SB B1);
- A boutique hotel incorporating the adaptive re-use of the existing Officer's Mess building (buildings SBW B1 and SBW B2);
- The adaptive re-use of Shed 8 (building SBW B7) and the Shipwrights building (building SBW B8) to accommodate commercial/community and residential activities;
- Construction of new buildings to accommodate commercial/community activities and/or facilities within building envelopes SBW B6, SBW B3, SBW B4, SBW B9, and SBW B10;
- Development of all public and private roading including privately owned and publicly accessible laneways;
- Development of a village green public open space;

- Creation of Vegetation Management Zone;
- Development of point parks to accommodate public parking and facilitate recreational opportunities;
- Contamination investigation and possible remediation of a contaminated site;
- Associated earthworks, servicing, parking and access; and,
- Fee simple subdivision to occur in stages.

At detailed design stage, the built development described above will be designed in accordance with the proposed Shelly Bay Masterplan and Shelly Bay Design Guide that accompanies this application. To ensure that the vision and aspirations of the Masterplan and Design Guide are being realised, an independent design panel will be established to review and confirm individual projects as they are advanced. Therefore, the proposal also includes seeking the necessary approvals to implement the Shelly Bay Masterplan and Shelly Bay Design Guide via the proffered consent conditions.

Artist impressions and a video depicting what the proposal may look like through the implementation of the proposed Masterplan and adherence to the proposed Shelly Bay Design Guide is provided at **Appendix Seventeen**. These impressions are provided for information purposes only and accordingly, will not form part of the application documentation, if consent is granted.

5.2 LAND-USE

5.2.1 MULTI-LEVEL APARTMENTS

The primary focus of this application is to provide housing in accordance with the SHA status of the site. A key component to meet Qualifying Development criteria for the SHA is the construction of up to 12 residential apartment buildings. As illustrated in the Masterplan, these buildings are proposed to be located toward the rear of the site adjacent to the coastal escarpment. The apartments are predominantly within the Business 1 Area with small portions of South Bay apartments SB A1, SB A2, SB A3, and SB A4 and North Bay apartments NB A1 and NB A2 being within the Open Space B Area.

The apartment building envelopes have been orientated to address the bay in which they are located (i.e. North Bay or South Bay). The raised first floor levels of each apartment building seeks to allow access to quality daylight/sunlight and an outlook either over or between the lower height townhouses in front.

The apartments will be a maximum of 6 storeys /27-metres in height with the ground level accommodating car parking. Car parking will also occur in the mews immediately in front of the apartments.

The number of units and their typologies and layout within each apartment will be determined at detailed design stage. Each apartment will provide at least one car park per household unit and so the number of units will be limited to the number of car parks that can be accommodated. Given the limited servicing demand of residential units, as evaluated by Stantec (project Traffic Engineer), these apartments will not be provided with a dedicated on-site loading area; instead, the mews which are private and publicly accessible will service this function.

All units, as a minimum, will be provided with one dedicated private carpark for private use and adequate visitor carparking; the car parking and servicing requirements for the proposed apartments are outlined further in Section 8 of the Traffic Assessment Report by Stantec attached in **Appendix Five**.

5.2.2 TOWNHOUSES

To the front of the majority of the abovementioned apartments, and with frontage to the proposed public road carriageway, are a series of townhouses. The townhouses are within the Business 1 Area of the District Plan with small portions of the South Bay townhouses SB TH4 and SB TH5 being within the Open Space B Area. The townhouses will have a maximum height of 12-metres and will be orientated toward the foreshore. Each townhouse will provide at least one on-site car park. The carparking will be accessed via the mews.

The number of townhouses and their typologies will be determined in the future detailed design, and their bulk, location, form and function dictated by the requirements of the Masterplan and Design Guide.

5.2.3 INDIVIDUAL DWELLINGS

The Masterplan provides opportunities for the construction of 14 stand-alone residential dwellings within the South Bay. These dwellings will be a maximum of four storeys in height and at a minimum provide with one covered on-site car park.

The majority of these are located on the landwards side of the carriageway at the southern end of South Bay. The majority of this area is zoned Open Space B. These dwellings will be located within the building envelopes located alongside the road carriageway and below the adjoining coastal escarpment and one stand-alone dwelling will be located at an elevated position above South Bay.

An additional two stand-alone residential dwellings will be nestled into the escarpment to the rear and alongside apartment SB A1. These dwellings are identified on the Masterplan as SBW H1 and SBW H2. These dwellings will be a maximum of 4 storeys in height with carparking provided on site. Access to these dwellings will likely be via steps or a residential cable car. These houses sit wholly within the Open Space B Area. In addition, houses identified as building envelopes SB H5 to SB H9, SB H11, and NB H1 are also wholly within the Open Space B Area.

5.2.4 BOUTIQUE HOTEL

A boutique hotel will be located toward the southern end of North Bay identified as building envelopes SWB B1 and SWB B2 on the Masterplan (predominantly within the Business 1 Area with a small slither being in the Open Space B Area). The boutique hotel will comprise the relocated Officer's Mess that will accommodate the hotel reception, restaurant/bar along with some hotel rooms. To accommodate the additional rooms required to make the boutique hotel commercially viable, an addition will be constructed to the southeast corner to the existing building. This addition will be a maximum of 6 storeys in height and will be visually distinctive to the existing Officer's Mess. The hotel is expected to accommodate approximately 50 hotel rooms, although future feasibility investigations at detailed design stage will determine the final number of rooms.

Car parking for the boutique hotel is proposed to be provided on the southern side of the hotel. Additional parking can be provided in a two-storey car stacker identified as building envelope SBW B3 on the Masterplan. Parking demand for the hotel has been evaluated in Stantec's Transportation Assessment.

5.2.5 ADAPTIVE RE-USE OF EXISTING BUILDINGS AND STRUCTURES

In addition to the boutique hotel noted above, the proposal includes the adaptive re-use of other existing buildings within the Business 1 Area and small portions of the Open Space B Area. A description of these buildings and the particular outcomes sought for their re-use are outlined on page 41 to 50 of the Proposed Shelly Bay Design Guide. In summary, these comprise:

THE SHIPWRIGHT'S BUILDING

The Shipwright's building is identified as building envelope SBW B8 on the Masterplan. This building will remain in its current location and will be used for commercial hospitality purposes. Significant refurbishment and minor alteration works to the interior and exterior of this building will be required for its preservation and adaptive re-use. Details of these alterations will be provided through meeting the proffered condition of consent with respect to detailed design and the requirement to comply with the Design Guide (refer to Land use Condition 3 and 4 at **Appendix Six**).

SHED 8

Shed 8 is identified as building envelope SBW B7 on the Masterplan. Shed 8 will remain in its current location and accommodate commercial/community activities or residential and short-term accommodation. Significant refurbishment and minor alteration works to the interior and exterior of this building will be required for its preservation and adaptive re-use. Minor alterations may be required for the adaptive re-use of this building. Details of these alterations along with the buildings intended use will be provided through meeting the proffered condition of consents with respect to detailed design and the requirement to comply with the Design Guide (refer to Land use Condition 3 and 4 at **Appendix Six**).

THE SUBMARINE MINING BUILDING

The Submarine Mining building is identified as building envelope SWB B10 or SB B1 on the Masterplan. This building currently accommodates the Chocolate Fish café. The proposal is to relocate this building (and the Chocolate Fish café activity or similar) to either the north or south end of the Village Green in the South Bay. Significant refurbishment works will be required to this building as part of its relocation.

SLIPWAY

The existing slipway alongside the Shipwrights building will be retained. Any modifications to the existing slipway will form part of the detailed design that will be approved through a condition of consent.

WHARF

While it is intended to retain the existing wharf structures (in some form), future investigations will be required to determine their future use. The wharfs fall outside of the scope of this application and will, if works are required to be undertaken to the wharf, form part of a future application to GWRC.

5.2.6 DEMOLITION OF BUILDINGS

With the exception of the buildings and structures noted above, all other buildings and structures on the subject site will either be demolished or relocated off site. Given none of these buildings/structures are heritage listed, the demolition of buildings down to their foundations can occur as a permitted activity under the District Plan and does not require resource consent. Additionally, no rules within the District Plan prevent the relocation of any of the existing buildings on the site.

5.2.7 MIXED-USE AND NON-RESIDENTIAL BUILDINGS

In addition to the abovementioned residential buildings and the adaptive re-use of existing buildings, the proposed Masterplan includes the construction of additional mixed use, commercial/community buildings and two car stackers.

The proposed kiosks are located on the northern side of Shed 8 and identified as building envelope SBW B6 on the Masterplan and located within the Business 1 Area. The proposed kiosks will be single storey and it is envisaged that they will accommodate cafes/restaurant to provide additional public amenity and take advantage of their outlook toward the Wellington Harbour.

Three mixed use buildings are proposed. One being on the landward side of the road opposite the slipway. This building is identified as building envelope SBW B4 on the Masterplan and located within the Business 1 Area and small portions within the Open Space B Area. This building will be a maximum of 3 storeys in height and has been located, and particular guidelines have been included in the Design Guide, to accommodate a mix of residential and non-residential activities. The likely configuration of this building, as outlined in the Design Guide, will be commercial activities on the ground floor with residential accommodation above.

Another mixed-use building is adjacent to both the slipway and the retained Shipwrights building. This building is identified as building envelope SBW B9 on the Masterplan and is within the Business 1 Area. This building will have a maximum height of 4 storeys and has also been located, and particular guidelines have been included in the Design Guide, to accommodate a mix of residential and non-residential activities.

The third mixed use building is on the landward side of the road carriage in North Bay and identified as building envelope NB TH4alt (aged care option) on the Masterplan. This building will have a maximum height of 12m and has been designed to accommodate a mix of residential and non-residential activities. It is envisaged that non-residential activities will be on the ground floor with the upper levels being residential accommodation. The exact configuration of this building will be confirmed at detailed design stage.

Two car stackers are proposed and identified as building envelopes SBW B5 and SBW B3 on the Masterplan. The car stackers have a maximum height of 14m and are likely to be able to accommodate up to 30 cars in each stacker.

5.2.8 AGED CARE ACCOMMODATION OPTION

The Masterplan provides the option for an aged care facility as identified in sections 4.2 and 4.3 of the Masterplan. The feasibility of this activity has not yet been confirmed and therefore the Masterplan provides for an either/or option to provide either the aged care facility or residential accommodation in this part of the development.

It is envisaged in the Design Guide, that the aged care facility, if implemented, will provide a mix of independent living units, serviced apartments, and care suits for occupation by residents of 65 years of age or greater. Residents occupying the independent living units require few services and are generally highly mobile and participate in the surrounding community. Residents in the serviced apartments and care suites will likely be less mobile and generally require some form of living assistance. The aged care facility seeks to offer a range of services including cleaning, laundry, meals, living assistance, medical and health care. The facility may run a café and health and wellness centre with the intention that these will be open to the public.

The proposed aged care facility will generally comprise:

- Approximately 140 residents accommodated across 120 living units comprising approximately 68 independent apartments, 20 serviced apartments and 32 care suites. Operate 24 hours, 7 days a week.
- Staffing numbers are expected to be approximately 23 day staff and 7 night staff. Day staff will cover management, administration, reception, sales, cooking, cleaning, laundry, maintenance and care functions. Night staff will predominately be care-givers.
- It is expected a number of day-staff and residents will utilise public transport. Shift change times will likely be 7am and 3pm – because of this and the fact the residents are retired peak traffic will be minimally impacted by the facility.

The details of the aged care option will be outlined as part of the detailed design approval..

5.2.9 NON-RESIDENTIAL ACTIVITIES

Given consent approvals are sought on the basis of a Masterplan and Design Guide approach, the tenancies and uses of the non-residential activities have not yet been confirmed. Therefore, it is important that the Master Plan and Design Guide, while dictating building form and location, provide a degree of flexibility as to the final function of the buildings. This will ensure the development remains commercially attractive as trends and demand changes and responds to public demands.

The potential non-residential activities as outlined in the Design Guide could comprise:

- Boutique Hotel
- Microbrewery
- Café
- Community Centre
- Restaurant
- Artist Studio/Shop
- Retail/service activities
- Office
- Recreation related activities
- Toilets/changing rooms
- Gym

- Childcare
- Medical Centre

As noted, the final function of built forms will be confirmed at detailed design stage, and subject to approvals in accordance with the proffered consent conditions (refer to Land use Condition 3 and 4 at **Appendix Six**).

5.2.10 PUBLIC REALM AND PUBLIC OPEN SPACE

Although the focus of the development is predominately to provide housing to fulfil its Special Housing Area status, the Masterplan has been designed to enhance public access to the foreshore and coast. This is proposed to be achieved through the development of the point parks at the north and south entrances to the development. As noted earlier, the points parks not only provide car parking but will also retain the existing recreational opportunities, such as, fishing.

The pedestrian promenades around the bays will encourage pedestrians along the coastal edge. Public access will be retained around the buildings alongside the wharf including the existing slipway. The Village Green at the north end of South Bay is located between two buildings that will accommodate the Submariners building which is likely to be café and another commercial/community building. The large green provides both visual amenity to the wider development as well as recreational opportunities for both the residents and the public and a strong connection to the proposed commercial hub of the development containing the ancillary and supporting activities to the development.

5.2.11 NOISE INSULATION AND VENTILATION

The Masterplan provides for a comprehensive development at Shelly Bay. Whilst the development is predominately residential, as identified above it will likely include buildings that will comprise mixed use and commercial/community activities.

The residential units/apartments/townhouses/dwellings that adjoin non-residential activities will be constructed to meet the District Plan noise insulation and ventilation standards. Given the comprehensive nature of the development, and that the Masterplan provides some assurance to future land-use activities over the entire Shelly Bay Special Housing Area, it is not considered necessary that other residential buildings that do not adjoin non-residential activities are constructed to meet the noise insulation and ventilation standard despite the fact the majority of the site has a Business 1 Activity Area zoning.

A plan illustrating the buildings that will be constructed to meet the noise insulation and ventilation standards is attached at **Appendix Seven**.

5.2.12 ROAD ACCESS AND CARPARKING

In addition to the car parking that will be provided for the residential apartments, townhouses, and dwellings as noted above, the development will require car parking for visitors and the supporting commercial/community activities. Car parking for these activities will be provided as street parking along Shelly Bay Road, at the point parks at the north and south entrances to the development, and within two proposed car stackers. The car parking at the point parks will be formalised with wheel stops, although will retain their natural informal qualities while restoring the rocky coastal ecology.

Vehicle circulation around the development will be provided by a re-aligned public road carriageway and a series of laneways and parking mews.

A ferry connection to and from the city is also planned for the future. However, this ferry connection falls outside of the scope of this application and will be a matter for discussions with GWRC with respect to any consent requirements. The Traffic Assessment Report confirms that this proposal does not rely on this ferry connection with respect to traffic related matters and this provides for an added benefit and mitigation measure.

Regarding access to the site via Shelly Bay Road, the Engineering Infrastructure Report prepared by Envelope Engineering Limited (refer **Appendix Ten** notes the following:

- *To meet Council's expectation for the level of service required by Shelly Bay Road to provide access to the developed site, the proposed carriageway width is 6.0m with two traffic lanes of 3m each. The total width of the road reserve will vary providing footpath and/or parking spaces. Footpath width varies along the route between 1.0m to 3.0m. Cyclist and pedestrian may be able to share the footpath. In general, it is expected that the existing road alignment can largely accommodate a 6.0m carriageway plus a footpath without significant structural works or creating large scale environmental impacts.*
- *Envelope Engineering have carried out our own walkover inspection of Shelly Bay Road and agree with Calibre, in this respect, that a 6m carriageway with 1.5m wide footpath can be accommodated within the Shelly Bay Road alignment without significant sea wall or cliff retention works meaning that beach/ coastal areas and established bush along the route are largely unaffected.*
- *The final design and specifics of the access road will however be confirmed as a result of the overall planning and detailed engineering design processes. The final design will need to be a balance between technical requirements and guidelines and retention of the existing natural character and amenity of the coastal route.*

The Traffic Assessment Report by Stantec provides a more detailed description of the car parking, servicing provision for the development, as well as the vehicle circulation throughout the site. Refer **Appendix Five**.

5.2.13 EARTHWORKS

Earthworks are required to create building platforms, roading, and the public realm. However, given the built development outlined in the Masterplan has sought to respect the existing landform and topography, the earthworks are kept to a minimum, resulting in the existing generally flat topography of the majority of the site being retained.

The proposal will result in areas of cut and fill as demonstrated in the earthworks plans prepared by Envelope Engineering Limited attached at **Appendix Eight**. The largest earthwork cuts are at the toe of the escarpment to enable the construction of the apartments. Following construction, all cuts will be either covered by buildings, suitably retained, covered by roads/paths or suitably landscaped.

With respect to construction and earthwork staging, the development is proposed to be staged over a number of years, and therefore the entire site will not be exposed at any one time.

Given that this application seeks consent for a Masterplan, the detail of earthworks required for construction will vary depending on the detailed design of the individual buildings. For this reason, conditions of consent has been proffered that requires an Earthworks Management Plan to be submitted and approved by the Council prior to construction commencing (refer to Land use Conditions 6 to 29 at **Appendix Six**). This earthworks plan will be accompanied by an earthworks methodology and sediment and runoff control plan/s.

5.2.14 CONTAMINATION

The site is identified in Greater Wellington City Council's SLUR register as being a Hazardous Activities and Industries List ("HAIL") site. However, the PSI undertaken by AECOM attached at **Appendix Four**, concludes that it is considered highly unlikely that there is a risk to human health from contaminants in the soil and groundwater, under the proposed current or proposed residential and commercial/community land-uses in both the North Bay and South Bay.

However, AECOM were unable to investigate the seaward side of Shelly Bay Road where records indicate the presence of partially buried fuel storage tanks and industrial activities occurred. The likelihood of impact to soil and groundwater in this area is therefore currently unknown.

Therefore, the proposal includes the investigation and remediation of any contaminated land to a level suitable for the proposed land-use activities in this location.

The investigation, remediation, validation, and management process shall be carried out in accordance with the Ministry for the Environment's "Guidelines for Assessing and Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand (1999)" and "Contaminated Land Management Guidelines for Reporting on Contaminated Sites in New Zealand (November 2003)". Conditions of consent has been proffered to this effect (refer to Land use Conditions 5 to 29 at **Appendix Six**).

5.2.15 VEGETATION CLEARANCE AND PLANTING

The proposed development is supported by a site-wide vegetation strategy as outlined in the Masterplan (pages 98-100). In broad terms, the strategy defines new planting and management of existing planting (retention of significant trees and staged removal of exotic weed species).

Along the Massey Road and Shelly Bay Road promenade, the existing Pohutukawa (*Metrosideros excelsa*) street trees are planned to be retained where practicable, and augmented with additional Pohutukawa trees at regular intervals to enhance the landscape character prevalent on site and the wider Miramar Peninsula character. Additional clusters of Tī Kōuka (*Cordyline australis*) trees on the village green recall a historical landscape character prior to European settlement and provide landmarks within the development. Supplementing tree planting, an understory of low height Wellington coastal species is proposed to articulate garden spaces within the public domain, populate the site's rain gardens (storm water treatment planting) and enrich the Precinct's two rocky headland parks, North and South Points. Rain gardens, designed to accept and filter storm water runoff, will articulate the development's primary movement corridors (Shelly Bay Road and foreshore promenade spaces).

Within the proposed development's lots, out to the eastern boundaries, a Vegetation Management Zone (VMZ) is to be established for the steep escarpment landscape as outlined in the Masterplan and the Design Guide (pages 83 and 84). Within the VMZ the staged removal of exotic species, including, pine (*Pinus radiata*) and macrocarpa (*Cupressus macrocarpa*) species, will be undertaken and clearings will be planted with species indigenous to Wellington's coastal ecologies. With the staged removal of exotic species from the eastern escarpment, regenerating native bush is anticipated to emerge behind the staggered building layout, softening the 27m height of the eastern apartments (building envelopes NB A1-7 and SB A1-4) and reinforcing the 'bush-clad' hill nature of the site. Faster-growing emergent species (such as Manuka (*Leptospermum scoparium*)) will be planted along the toe slopes and gullies, and spurs and the like will be punctuated by the slower growing successional species (such as Mahoe (*Melicactus ramiflorus*), Whauwhaupaku (*Pseudopanax arboreus*) and Ngaio (*Myoporum laetum*)).

5.2.16 SIGNS

All signs associated with the names of apartment buildings and for all non-residential activities will be designed to comply with the District Plan sign standards for the Business 1 Activity Area. If compliance is not achieved, then a separate resource consent will be required. No signs are proposed within the Open Space B Zone.

5.3 SUBDIVISION

Approvals are sought to subdivide the site into development sites or 'super-lots'. Harrison Grierson has outlined the proposed subdivision, including the proposed scheme plan, that is attached at **Appendix Nine**. The allotments have been largely dictated by the location of the building envelopes and ensuring these buildings comply with necessary fire rating and yard requirements.

It is envisaged that the development lots to be created as part of this application will be subdivided further to create individual fee-simple or unit title allotments for the dwellings and commercial activities.

The individual dwelling sites on the southern end of the development do not form part of this subdivision as some of the underlying sites fall outside of the Special Housing Area boundary and cannot be subdivided under HASHAA. The subdivision of these sites requires a separate subdivision approval at a later stage under the RMA.

5.4 SERVICING AND INFRASTRUCTURE

A report prepared by Envelope Engineering titled '*Shelly Bay Infrastructure Assessment Report*', attached at **Appendix Ten** as an addendum to the original Calibre report confirms that "*there is sufficient and adequate infrastructure in place, or can reasonably be provided, to support the proposed development*". The report details the existing infrastructure services provided at the site, identifies matters that need to be addressed (upgrades and/or repairs), and proposes works to ensure that the infrastructure provision is sufficient and adequate to support the proposal.

Proposed servicing as described in more detail in the Shelly Bay Infrastructure Assessment Report is summarised as follows:

Wastewater (refer Section 5.2):

- *Upgrade the gravity wastewater network as detailed on the Envelope's consent drawings in Appendix 3.*
- *Construct a new wastewater pump station including on-site storage to manage peaks and control discharge rate to a level able to be catered for within the existing 100mm dia rising main or within a new 100mm dia rising main.*
- *Reline the existing 100mm dia rising main up to the Miramar Cutting using CIPP methods, to provide 80yr life or construct a new 100mm dia rising main replacing the existing substandard one.*

Stormwater (refer Section 6.2):

- *It is intended that a proposed new network of public stormwater lines ranging in size from 225mm dia to 900mm dia will be installed, including 3 new/ upgraded outfall structures discharging to Shelly Bay.*

Water Supply (refer Section 7.2):

- *A new 1ML concrete Shelly Bay water reservoir, located in a similar location to the existing reservoir.*
- *A new 200mm dia watermain connecting from the existing Mt Crawford reservoir to the new Shelly Bay reservoir. This would follow the alignment of the existing access road.*
- *New public water reticulation from the new reservoir and within the Shelly Bay development area to cater for potable and firefighting supply*

Power (refer Section 8.1):

- *Wellington Electricity have confirmed that reinforcement requirements to get power services to the Shelly Bay Development area will require additional Transformer(s) and Switch gear and additional reticulated cabling.*

Telecommunications (refer Section 8.2):

- *Chorus has confirmed that they will be able to provide telephone and data reticulation for the proposed development. Chorus will undertake network design, supply of telecommunications specific materials and supervising installation. Chorus did not raise any issues or concerns regarding their ability to appropriately service the development as proposed.*

EXISTING RECIPROCAL EASEMENTS

It is also acknowledged that there are existing reciprocal easements on the titles of Pt Lot 3 DP 3020 and Section 2 309948 that will drop down to proposed allotments. These easements provide reciprocal rights to drain sewage and water and rights to convey electricity, telecommunications, and to convey water over Shelly Bay Limited land, Council land, and NZDF land. These easements will ensure existing services to proposed allotments with existing land uses / occupation will be protected.

5.5 DISTRICT PLAN INFRINGEMENTS AND PERMITTED ACTIVITIES

The proposal will result in the following infringements to the relevant permitted and discretionary activity standards in the Business 1 Zone and Open Space B Zone of the District Plan. A full assessment of the relevant District Plan rules is provided at **Appendix Eleven**.

5.5.1 LAND USE – BUSINESS 1 AREA (CHAPTER 34)**Total or partial demolition or removal of buildings and structures**

Under Rule 34.1.7, the total or partial demolition or removal of buildings or structures, except heritage items, are permitted activities. Accordingly, the removal of the existing buildings as proposed is a **Permitted Activity**.

Development within the Shelly Bay Business Precinct Area:

The proposal requires **Discretionary Activity (Restricted)** consent pursuant to Rule 34.3.7 for the construction of buildings and structures, including new residential buildings, in the Shelly Bay Business Precinct Area.

Under Rule 34.3.7 the matter of Council's discretion is limited to:

- *Design, external appearance and siting*
- *Residential amenity*
- *Character and sense of place*
- *Parking and site access*
- *Site landscaping*

Construction of Buildings:

The proposal requires **Discretionary Activity (Restricted)** consent pursuant to Rule 34.3.9 for the construction of buildings that do not meet one or more of the standards outlined in Section 34.6.2. In particular the proposal fails to comply with the permitted activity standards with respect to yards and noise insulation and ventilation.

The proposal requires **Non-Complying** consent pursuant to Rule 34.5 with respect to building height. In particular, the maximum height of buildings on the site is 27-metres and therefore exceeds the permitted building height under District Plan Standard 34.6.2.1.1 (that ranges between 8-11m for this site) and fails to meet the conditions of the Discretionary Activity (Restricted) Rule 34.3.9.13, as the maximum building height assessed under Standard 34.6.2.1.1 will be exceeded by more than 50%.

Car parking:

The proposal requires **Discretionary Activity** consent pursuant to Rule 34.3.1 and 34.3.12 for activities and the construction of buildings and structures that provide more than 70 parking spaces.

Under Rule 34.3.1 and 34.3.12 the Council's discretion is limited to:

- *The movement of vehicular traffic to and from the site.*
- *The impact of roading network and the hierarchy of roads from trip patterns, travel demand or vehicle use.*
- *The provision and location of facilities for multiple modes of transport.*

Servicing:

The proposal requires **Discretionary Activity (Restricted)** consent pursuant to Rule 34.3.4 for permitted activities that do not meet one or more of the standards outlined in Section 34.6.1. In particular, the proposal fails to comply with Standard 34.6.1.6 – servicing – as the residential activities, as well as some commercial activities, will not provide an on-site loading area.

Under Rule 34.3.4 the matters of Council's discretion is limited to vehicle parking and site access.

Earthworks:

The proposal requires **Discretionary Activity (Restricted)** consent pursuant to Rule 30.2.1 for earthworks that do not comply with the permitted activity conditions under Rule 30.1.1.1 and 30.1.2. In particular, with proposal will result in earthworks that exceed the maximum permitted cut/fill and maximum earthworks area.

Contamination:

The proposal requires **Discretionary Activity (Restricted)** consent pursuant to Rule 32.2.1 for the remediation, use, development and subdivision of any potentially contaminated land.

Under Rule 32.2.1 the matters of Council discretion is limited to:

- *The level, nature and extent of contamination in relation to the proposed use, development and subdivision;*
- *The effects of contamination on built structures, ecological and amenity effects, soil quality and the wider environment.*
- *The approach to the remediation and/or on-going management of the contaminated land and the mitigation measures (including monitoring) proposed to avoid adverse effects on the environment including the provision of a Remediation Plan or a Site Management Plan.*

Note: reference to the matters of discretion relating to human health have not been noted as they are now superseded by the NES.

5.5.2 LAND-USE – OPEN SPACE B AREA (CHAPTER 17)

Total or partial demolition or removal of buildings and structures:

Under Rule 17.1.5, the total or partial demolition or removal of buildings or structures, except listed heritage items, are permitted activities. Accordingly, the removal of the existing buildings as proposed is a permitted activity.

Indigenous Vegetation:

The proposal requires **Discretionary Activity (Restricted)** consent pursuant to Rule 17.2.4 for the modification, damage, removal or destruction of indigenous vegetation not provided for as a permitted activity.

Under Rule 17.2.4 the matters of Council discretion are restricted to:

- *The area or extent of vegetation to be affected;*
- *The species, age and condition of the vegetation to be affected; and,*
- *Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.*

Residential Activities and Buildings in Open Space B:

The proposal requires **Discretionary Activity (Unrestricted)** consent pursuant to Rule 17.3.2 for residential activities and the construction of residential buildings and structures in Open Space B.

5.5.3 SUBDIVISION – BUSINESS 1 AREA (CHAPTER 34)

The proposal requires **Discretionary Activity (Restricted)** consent under Rule 34.3.14 as the proposed subdivision is not a permitted activity under Rule 34.1.8 as it fails to comply with Standard 34.6.4.1.7 (subdivision within 20-metres of the line of mean high-water springs) and is not a controlled activity under Rule 34.2.2 (cross-lease or unit titled subdivision).

Under Rule 34.3.14 the matters of Council discretion are limited to:

- *Roading, access, stormwater and water supply.*
- *Esplanades.*

5.5.4 SUBDIVISION IN THE OPEN SPACE B ZONE (CHAPTER 17)

Pursuant to Rule 17.3.4 of the District Plan, all subdivision in the Open Space B Area requires Discretionary Activity (Unrestricted) resource consent.

5.6 STAGING OF THE DEVELOPMENT AND LAPSE PERIOD

Under Section 51 of HASHAA the default lapse period of a resource consent is one year. The authorised agency (being Wellington City Council) has the discretion to extend this lapse period.

Given the large scale of the development, the fact this continuation of the existing application seeks consent for a Masterplan and the necessary and detailed design is yet to be done, the realistic timeframe to enable the necessary public infrastructure to be constructed, and the necessary statutory processes, such as, road stoppings, it would not be possible to meet the default one year lapse period to give effect to a resource consent for the overall development. Therefore, this application requests a staged lapse period. The purpose of the staged lapse period is to ensure that the applicant can deliver housing to meet the purpose of HASHAA while also being realistic about the scale of the development and the practicalities of delivery.

In addition to the reasons outlined above, given the nature of this proposed development, it is not possible to determine exactly what parts of the development will be delivered in what stages. The Applicant therefore requests a staged lapse period that refers to the number of dwellings being delivered within specified lapse timeframes.

The proposed lapse period to give effect to the residential unit components of the Masterplan is outlined below:

- Construction of 50 residential units – lapse date 4 years from the date of consent being granted;
- Construction of 150 residential units – lapse date 6 years from the date of consent being granted;
- Construction of 200 residential units – lapse date 8 years from the date of consent being granted;
- Construction of 250 residential units – lapse date 9 years from the date of consent being granted;
- Construction of 300 residential units – lapse date 11 years from the date of consent being granted; and,
- Construction of up to approximately 350 residential units – lapse date 13 years from the date of consent being granted.

The proposed lapse period to give effect to the non-residential components to the Masterplan is outlined below:

- Relocation of existing buildings on the site that will be retained - lapse date 5 years from the date of consent being granted;
- Construction of the boutique hotel – lapse date 5 years from the date of consent being granted;
- Construction of car stackers – lapse date 7 years from the date of consent being granted; and,
- Construction of aged care facility (should this option proceed) – lapse date 9 years from the date of consent being granted.

A proffered condition of consent reflects the staging approach above (refer to Land use Condition 2 at **Appendix Six**).

6. ASSESSMENT OF THE APPLICATION

The purpose of HASHAA, in Section 4, is “to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts...identified as having housing supply and affordability issues”. The regions or districts to which HASHAA applies are listed in Schedule 1; Wellington is included in this schedule.

As noted above, a separate consenting regime is available where a proposed activity involves a qualifying development in a Special Housing Area. In accordance with the HASHAA, following the promulgation of the Wellington Housing Accord, WCC recommended to the Minister that the Shelly Bay Special Housing Area be established – having been satisfied, under Section 16 of HASHAA, that there could be adequate infrastructure to service a qualifying development and that there is evidence of sufficient demand for residential housing in the proposed Special Housing Area.

Once the Special Housing Area was established, an application to development the site was able to be made under HASHAA (rather than under the RMA) provided that the specific Qualifying Development criteria for this Special Housing Area was met.

Pursuant to Section 25(1) of the HASHAA, a person may apply to the relevant authorised agency for a resource consent that relates to a Qualifying Development in a Special Housing Area, in place of applying for resource consent under the RMA, pursuant to Section 20(1)(b) of the HASHAA.

The definition of a qualifying development under Section 14 of the HASHAA is outlined in Section 3.1.1 above.

The proposal is deemed to be a ‘qualifying development’ according with these criteria for the following reasons:

- The proposal is for up to 350 residential units in total. The proposal includes a boutique hotel and café along with other yet unconfirmed commercial/community activities as outlined in section 5.2. Given the number of residential units in proportion to the other non-residential activities, the proposal can easily be considered “predominately residential” and thereby meets Section 14(1)(a) of the HASHAA.
- All of the existing and proposed buildings to be contained within the building envelopes illustrated in the Masterplan will be no more than six storeys in height. The proposal thereby meets Section 14(1)(b)(i) of the HASHAA with respect to the maximum number of storeys.
- All existing and proposed buildings to be contained within the building envelopes illustrated in the Masterplan are below the 27-metre height plane. The proposal thereby meets Section 14(1)(b)(ii) of the HASHAA with regard to maximum height.
- The Shelly Bay Special Housing Area requires no less than 10 dwellings be constructed. The proposal will accommodate up to 350 new residential units. The proposal thereby meets Section 14(1)(c) of the HASHAA with respect to containing no fewer than the prescribed number of dwellings.

In summary, the primary purpose of the development is to provide new residential dwellings. The supporting commercial/community activities that include a boutique hotel and café as well as other unconfirmed non-residential activities as outlined in Section 5.2, will all be ancillary to the quality residential development. In this regard, the proposal is considered to be ‘predominately residential’ in accordance with Section 14(2) of the Act.

As such, the proposal is considered to be a Qualifying Development for the purpose of Section 25 of the HASHAA and WCC is to consider the application under Section 34 of the HASHAA, outlined as follows:

34 Consideration of applications

(1) *An authorised agency, when considering an application for a resource consent under this Act and any submissions received on that application, must have regard to the following matters, giving weight to them (greater or lesser) in the order listed:*

(a) *the purpose of this Act:*

- (b) *the matters in Part 2 of the Resource Management Act 1991:*
 - (c) *any relevant proposed plan:*
 - (d) *the other matters that would arise for consideration under–*
 - (i) *sections 104 to 104F of the Resource Management Act 1991, were the application being assessed under that Act:*
 - (ii) *any other relevant enactment (such as the Waitakere Heritage Area Act 2008):*
 - (e) *the key urban design qualities expressed in the Ministry for the Environment’s New Zealand Urban Design Protocol (2005) and any subsequent editions of that document.*
- (2) *An authorised agency must not grant a resource consent that relates to a qualifying development unless it is satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development.*
 - (3) *For the purposes of subsection (2), in order to be satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development, the matters that the authorised agency must take into account, without limitation, are–*
 - (a) *compatibility of infrastructure proposed as part of the qualifying development with existing infrastructure; and*
 - (b) *compliance of the proposed infrastructure with relevant standards for infrastructure published by relevant local authorities and infrastructure companies; and*
 - (c) *the capacity for the infrastructure proposed as part of the qualifying development and any existing infrastructure to support that development.*
 - (4) *In considering an application for a resource consent under this section, the authorised agency–*
 - (a) *may direct an affected infrastructure provider to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application; and*
 - (b) *if the authorised agency is the chief executive, may also direct any local authority to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application.*
 - (5) *If an authorised agency makes a direction under subsection (4), the infrastructure provider or local authority must provide the information requested as soon as is reasonably practicable.*
 - (6) *The Ministry must ensure that a copy of the document referred to in subsection (1)(e), or a link to that document, is on the Ministry’s Internet site and that members of the public can easily access the document via that site, free of charge, at all reasonable times.*

The above provision outlines that the matters listed are things to which the Council “must have regard” to. In other words, it is not to “apply” the tests in Sections 104 to 104F of the RMA as it would for a resource consent application. Rather it is just to “have regard” to them as fourth tier factor (in a weighting sense).

As the Court of Appeal outlines, each of the Section 34 factors must be considered individually and without reference to any other factor and then, having done that, an assessment is to be undertaken which weighs them together in accordance with the statutory hierarchy. The Court of Appeal explained this position in its decision:

[53] Section 34(1) instructs the decision-maker to “have regard to” the listed matters “giving weight to them (greater to lesser) in the order listed”. The scheme and plain text of s 34 (1) requires individual assessment of the listed matters prior to the exercise of weighing them in accordance with the prescribed hierarchy. The

matters listed in subs (1)(b) – (e) cannot properly be weighed alongside the purpose of HASHAA under subs (1)(a) if that purpose has first been used to effectively neutralise the matters listed in subs (1)(b)-(e).

[54] *We accept that, under HASHAA, ss 104 – 104 F do not directly apply, therefore development that could not proceed under those provisions of the RMA could still be considered under s 34 of HASHAA. However, those RMA provisions are still mandatory considerations under s 34(1)(d)(i), and cannot be neutralised by reference to the purpose of HASHAA....*

[55] *Moreover, we agree with the submission for Enterprise that the purpose of HASHAA is not logically relevant to an assessment of environmental effects. Environmental effects do not become less than minor simply because of the purposes of HASHAA. **What changes under HASHAA is the weight to be placed on those more than minor effects. They may be outweighed by the purpose of enhancing affordable housing supply, or they may not.** (Emphasis added).*

On this basis, each of the matters listed in Section 34 are addressed separately in the following sections.

7. SECTION 34(1)(A) – THE PURPOSE OF THE HASHAA

Section 34(1)(a) of the HASHAA requires that an application has regard to the purpose of the HASHAA.

It determining whether the proposal is consistent with the purpose, , it is worthy to acknowledge that the policy underpinning HASHAA was founded upon the New Zealand Productivity Commission’s analysis on housing affordability.¹ One of the key issues raised by the Commission’s report is that, although there is a relatively abundant potential supply of raw land in New Zealand, policy and planning practices may be constraining the supply of residential land.²

HASHAA was enacted in 2013 in an endeavour to respond to New Zealand’s “significant housing affordability problem”.³ Accordingly, the purpose of the HASHAA, as set out in Section 4 of this Act, is to “*enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts...identified as having housing supply and affordability issues*”.

While the purpose of HASHAA is to enhance housing affordability, it aims to do so by facilitating an increase in land and housing supply in regions identified as having housing supply and affordability issues.

The Wellington City Housing Accord provides, in paragraph 8, that its purpose is to “help Wellingtonians with their current housing issues and to lay foundations for a thriving housing market to complement the City’s economic growth objectives by increasing the supply of housing and improving housing affordability”.

In paragraph 14 of the Accord, it is recorded that the Council and the Government had agreed on targets to give effect to the purpose of the Accord. The targets are set out in paragraph 16 of the Accord and are as follows:

- Year one – 1,000
- Year two – 1,500
- Year three – 1,500
- Year four – 1,500

¹ (16 May 2013) 690 NZPD 10053 (Hon Dr Nick Smith, Minister of Housing).

² New Zealand Productivity Commission “Housing Affordability” (March 2012) at 5, see also 113: “There is lengthy literature and an emerging consensus that local land use regulation has become a binding constraint on the supply of new housing units in certain markets, and that this is leading to increased prices in the most constrained markets”; available online at: https://www.productivity.govt.nz/sites/default/files/Final%20Housing%20Affordability%20Report_0_0.pdf.

³ MBIE Regulatory Impact Statement, at [8]; see also Introduction of the Bill: This Bill is a core part of the Government’s work to improve housing affordability.

- Year five – 1,500.

The special housing areas created through the Housing Accords and Special Housing Areas (Wellington – New June 2015 Areas) Order 2015 and the Housing Accords and Special Housing Areas (Wellington – New December 2015 Areas) Order 2015 will not come close to fulfilling those targets and so it is only through development such as this that the statutory purpose and the purpose in terms of the Accord can even begin to be achieved.

The granting of this consent will enable and increase in housing supply within the Wellington City district. There will be benefits associated with this development, which have been recognised through this continuation of the existing application's material. Further, the provision of high-density housing seeks to maximise housing yield.

The proposal seeks resource consent under the HASHAA for a Masterplan that will facilitate the subdivision and development of land for predominantly residential purposes. If approved, up to 350 residential units of differing typologies (apartments, townhouses, and detached houses) will provide additional housing stock to the Wellington district thereby assisting in improving Wellington's housing supply and affordability issues; in that, some of the new houses may in and of themselves be affordable, but otherwise through the release of existing, more affordable housing stock in the District to the market as buyers sell their existing homes.

Overall the proposed development is consistent with the purposes of the HASHAA and it proposes a development envisaged by the HASHAA, the Wellington Accord, and the Shelly Bay Special Housing Area.

8. SECTION 34(1)(B) – THE MATTERS IN PART 2 OF THE RMA

Section 34(1)(b) of the HASHAA requires that an application has regard to the matters in Part 2 of the RMA. These matters are outlined and assessed in the following sections.

8.1 SECTION 5 – PURPOSE

Section 5, in Part 2 of the RMA, identifies the purpose of this Act being the sustainable management of natural and physical resources. This means the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural, and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

The proposal accords with the purpose of the RMA for the following reasons:

- The proposal will not preclude access to significant natural and/or physical resources for future generations;
- The proposal will enhance people's enjoyment of the area that will allow for social, cultural and economic wellbeing to be achieved whilst ensuring adverse effects on the environment will be appropriately avoided, remedied or mitigated;
- Potential adverse effects on the amenity values of the surrounding area have been avoided via the location of building envelopes as set out in the Masterplan and mitigated to an acceptable level due to the guidelines identified in the Design Guide;
- The proposed Masterplan is considered necessary to facilitate the future development of the site in accordance with the objectives and policies of the District Plan and the aspirations and intent of the District Plan's Shelly Bay Design Guide;
- The proposed earthworks and vegetation clearance are necessary to facilitate the future development of the site but will be undertaken in a staged manner to ensure potential effects are appropriately mitigated;
- The proposal contains a number of inherent mitigation measures that will ensure any actual or potential adverse effects can be avoided or mitigated, including but not limited to: adherence to the proposed Masterplan and Shelly Bay Design Guide, creation of the Vegetation Management Zone, a landscaping plan and

associated bio-retention systems for stormwater, sediment and erosion controls, specific earthworks methodologies, and providing infrastructure with sufficient capacity to accommodate future development; and,

- The proposal will not have any significant actual or potential adverse effects on the environment as assessed under Section 104(1) of the RMA.

8.2 SECTION 6 – MATTERS OF IMPORTANCE

Section 6 of the RMA sets out a number of matters of national importance. These matters of national importance are:

- The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.*
- The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.*
- The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- The maintenance and enhancement of public access to and along the coastal marine area, lakes rivers;*
- The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga;*
- The protection of historic heritage from inappropriate subdivision, use, and development;*
- The protection of customary rights.*

Section 6(a) of the RMA seeks to preserve the natural character of the coastal environment (including the coastal marine area), wetlands and lakes and rivers and their margins and protect them from inappropriate subdivision, use and development. The landscape and visual effects assessment provided in Section 10.1 below concluded that actual and potential effects arising from the proposal would be acceptable due to the design intent of the proposed Masterplan and Design Guide and various mitigation measures proposed. In combination with the fact that the natural character values around the project site are highly modified, it is considered that the project does not constitute 'inappropriate use and development' for the purpose of Section 6(a) of the Act.

The subject site does not lie within a Greater Wellington regionally identified Outstanding Natural Feature or Landscape. However, a portion of the site falls within an area valued for its public open space, natural environment and amenity (being the Open Space B land). The effects of the proposal on these values has been addressed in this application. Notwithstanding this, the proposal remains visually insignificant to the wider landscape qualities of Watts Peninsula.

Section 6(c) of the RMA seeks to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. While the proposal does include some indigenous vegetation removal, this is limited to that required to create building platforms in the area currently zoned Open Space B and along the coastal edge to allow the other trees to reach their full growth potential. This vegetation removal is very limited and does not disrupt the vegetation on the coastal escarpments except that, some of the vegetation on the slopes immediately behind the apartments will require removal to ensure they do not pose a health and safety risk to apartment occupants. However, this will be limited (to the extent possible) to the tall pines that are not indigenous.

With respect to Section 6(d) matters, as noted in this report, the proposal has been designed to ensure public access along the coastal marine is enhanced compared to the existing situation where the public is excluded from some of this area.

Section 6(e) of the RMA refers to the relationship of Māori and their cultural and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga. The Cultural Impact Assessment prepared on behalf of Taranaki Whanui Ki Te

Upoko o Te Ika and The Port Nicolson Block Settlement Trust has raised no concerns with respect to Section 6(e) matters.

Section 6(f) of the RMA seeks to protect historic heritage from inappropriate subdivision, use and development. As noted in this report, there are no listed heritage buildings or items on the site, or identified as a site with regionally significant historic heritage values. Notwithstanding this, the history of the site and the values associated with the existing buildings on the site are protected with the adaptive re-use of some buildings (with the exception of the hospital). These are further discussed in the heritage assessment prepared by Archifact in Section 10.1 of this report.

Overall, on the basis of the above and the assessments provided in the accompanying technical reports, the proposal has regard for the matters of national importance of national importance, specifically:

- The proposal seeks to preserve and protect the natural character of the coastal environment from inappropriate subdivision, use and development;
- The proposal does not have an adverse effect on any scheduled outstanding natural feature and landscape;
- Significant indigenous vegetation and significant habitats of indigenous fauna will be protected;
- The relationship of Maori with their ancestral land, water, and sites has been recognised and provided for as part of the Cultural Impact Assessment; and,
- No significant heritage sites will be impacted by the proposal and therefore historic heritage will be protected from inappropriate subdivision, use and development.

8.3 SECTION 7 – OTHER MATTERS

Section 7 of the RMA lists other matters to be given particular regard to. These are:

(a) Kaitiakitanga

(aa) the ethic of stewardship

(b) the efficient use and development of natural and physical resources

(ba) the efficiency of the end use of energy

(c) the maintenance and enhancement of amenity values

(d) intrinsic values of the ecosystems

(e) maintenance and enhancement of the quality of the environment

(f) any finite characteristics of natural and physical resources

(g) the protection of the habitat of trout and salmon

(h) the effects of climate change

(i) the benefits to be derived from the use and development of renewable energy.

Regarding Sections 7(a) and (aa) of the RMA, a Cultural Impact Assessment has been prepared on behalf of Taranaki Whanui Ki Te Upoko o Te Ika (Port Nicolson Block Settlement Trust), dated September 2016, and has raised no issues with respect to kaitiakitanga and the ethic of stewardship.

Section 7(b) of the RMA relates to whether a proposal involves the efficient use and development of natural and physical resources. The development represents an efficient use and development of an existing brownfield site while being able to adequately mitigate any potential significant adverse effects.

Section 7(c) of the RMA relates to the maintenance and enhancement of amenity values. The quality design of the Masterplan (along with the application of the proposed Design Guide in the detailed design) ensures the maintenance and enhancement of the existing amenity values of Shelly Bay. In particular, the proposal enhances public access to the coastal marine area providing a significant amenity resource for both residents and the wider public.

Sections 7(d), (f) and (g) of the RMA relate to the intrinsic values of ecosystems, the quality of the environment, and the finite characteristics of natural and physical resources. The proposal has no adverse effect of the intrinsic values of the ecosystem and particular regard has been given to the intrinsic values of ecosystems and to the maintenance of the quality of the environment. The site is not a habitat for trout or salmon.

Section 7(h) of the RMA relates to the effects of climate change. The potential effects of climate change are difficult to accurately determine. However, Section 2 of the proposed Design Guide includes design guidance in to ensure the living levels of the buildings are elevated to address climate change and sea level rise. In addition, the setback of all residential units/dwellings (with the exception the building identified as building envelope SBW B9 on the Masterplan) are located on the landward side of the road and set back from the coastal edge.

Overall, on the basis of the above and the assessments provided in the accompanying technical reports, the proposal has had particular regard to the relevant matters in Section 7 of the RMA.

8.4 SECTION 8 – TREATY OF WAITANGI

Section 8 of the RMA requires all persons exercising functions and powers under the RMA to ‘take into account’ the Principles of the Treaty of Waitangi, specifically:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

A Cultural Impact Assessment has been undertaken on behalf of Taranaki Whanui Ki Te Upoko o Te Ika (Taranaki Whanui) (Port Nicolson Block Settlement) Trust dated September 2016. No aspects of the proposal were identified as being inconsistent with the principles of the Treaty of Waitangi and will through the inclusion of specific requirements as identified within the design guide will ensure Taranaki Whanui, status as mana whenua is given precedence through the development delivery both in name, place and association.

8.5 PART 2 SUMMARY

Overall, on the basis of the above and the assessments provided in the accompanying technical reports, the proposal will enable the provision of additional housing stock to assist in meeting the housing needs of Wellington City; that being the current needs and foreseeable needs for future generations. The development makes use of an existing land resource in a highly modified, underutilised area. There is no evidence to suggest, in the technical assessments supporting this application, that the proposal would affect life-supporting capacity. While not all adverse effects may be fully avoided, remedied or mitigated, the RMA is not a ‘no-effects statute’, and therefore, the level of adverse effects are considered to be acceptable in the circumstances.

Based on the assessment of Section 104 of the RMA in Section 10 below, it is considered that the proposal will promote the sustainable management of natural and physical resources.

9. SECTION 34(1)(C) – ANY RELEVANT PROPOSED PLAN

Section 34(1)(c) of the HASHAA requires that an application has regard to any relevant proposed plan. There is no proposed plan that the proposal should have regard to.

10. SECTION 34(1)(D) – OTHER MATTERS THAT WOULD ARISE FOR CONSIDERATION UNDER SECTION 104 TO 104F OF THE RMA

Section 34(1)(d) of the HASHAA requires that an application has regard to the other matters that would arise for consideration under–

- (i) *sections 104 to 104F of the Resource Management Act 1991, were the application being assessed under that Act:*
- (ii) *any other relevant enactment (such as the Waitakere Heritage Area Act 2008):*

The relevant provisions are as follows:

- Section 104 (1) (a), which requires regard to be had to actual and potential effects on the environment of allowing the activity, together with section 104D(1)(a) which, in the case of a non-complying activity (being the overall status of this application if it was being considered under the RMA), requires an assessment of whether adverse effects will be only minor; and,
- Section 104(1)(b), which requires regard to be had to any relevant provisions of the district plan, together with national and regional planning documents, together with Section 104D(1)(b), which requires regard to be had to whether or not the application will be contrary to the objectives and policies of the relevant district plan.

The proposal is assessed against these provisions in the following sections. It is worthy to note that these provisions requires the Council to “have regard to” (rather than to “apply”) the provisions of the RMA that would have applied had this application been assessed under that Act.

10.1 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

As discussed above, the provisions of Section 104 of the RMA state that when considering an application for resource consent, regard must be given to any actual or potential effects on the environment. Having considered the nature of the proposal, consent requirements, District Plan infringements, and the matters that are required to be addressed pursuant to Schedule 4 of the Act, the following actual and potential effects warrant consideration:

- Streetscape;
- Neighbour;
- Internal amenity;
- Internal residential amenity;
- Cultural;
- Historic character;
- Landscape;
- Visual;
- Traffic, Access and Parking;
- Earthworks;
- Contamination;
- Construction;
- Subdivision; and,

- Servicing.

With respect to potential historic character effects, as the existing buildings are not listed as heritage buildings in the District Plan or Heritage New Zealand listed buildings, the demolition of these buildings is a **Permitted Activity**. Therefore, the effects associated with the demolition of the existing buildings on the site would not typically require assessment via a consenting process. However, taking a holistic view of the proposal, and given that the RMA allows the assessment of positive effects, the assessment of the proposal's effects on the historic character values of the site has been provided in this section.

Commensurate with the scale of development, an assessment of in the above effects, in accordance with those matters specified in Schedule Four of the RMA, is provided below.

10.1.1 PERMITTED BASELINE

In terms of effects on the environment, Section 104(2) of the Act has established that the correct approach to defining those effects is by way of reference to those activities permitted by a plan, in this case the Wellington City Operative District Plan. This forms part of the permitted baseline which has evolved through case law and defines the environment against which a proposed activity's degree of adverse effect is gauged. The permitted baseline comprises non-fanciful activities and their constituent effects that would be permitted as of right by the District Plan and the effects of activities enabled by an unimplemented consent.

With respect to the construction of buildings and structures on the subject site, the construction of all buildings and structures in the Shelly Bay Business Precinct Area requires Discretionary (Restricted) Activity resource consent. Accordingly, there is no permitted baseline in respect of these activities within this area. Likewise, the construction of buildings and structures within the Open Space B Area not being for the purpose of recreational activities requires resource consent and as such there is no permitted baseline in respect of these activities within this area relevant to this continuation of the original application.

Further, subdivision in the Business 1 Area within 20-metres of the line of mean high-water springs and subdivision within the Open Space B Area requires resource consent. Accordingly, there is no permitted baseline in respect of subdivision activities relevant to this continuation of the original application.

With respect to the proposed removal of buildings from the subject site, the District Plan allows for the demolition or removal of buildings as a permitted activity in both Business 1 Area and Open Space B zones, providing that the buildings are not heritage items or within identified heritage areas. No existing building within the subject site is a heritage listed item identified in within the 'Heritage List' of Chapter 21 of the District Plan, nor is the site within any defined heritage area. It is also worth noting that the existing buildings on the site are not identified as heritage buildings by Heritage New Zealand. It is therefore possible for all of the existing buildings within the site to be demolished down to their foundations or relocated within the site as a permitted activity i.e. the Applicant can do so as of right without the need to obtain resource consent approvals from WCC. Given what is being proposed, the demolition of the existing buildings is not considered fanciful or unrealistic and therefore the effects associated with any demolition of existing buildings are anticipated by the District Plan. In light of this, the demolition of all existing buildings down to their foundations forms a relevant 'permitted baseline' for the building demolition aspects of the application.

10.1.2 EXISTING ENVIRONMENT

The existing environment comprises of those activities that are lawfully established on the site and includes granted consents. The existing environment is described in Section 4 above and in the accompanying technical reports. There are no existing consents pertaining to the site that are relevant to the assessment of actual and potential effects.

10.1.3 POSITIVE EFFECTS

In addition to an assessment of potential adverse effects, the definition of "effect" in the RMA extends to positive effects. As such, positive effects can be considered in an applications s104 assessment. The positive effects associated with the proposal include:

- The development enhances public access to the coastal marine area;

- The development enhances the public realm of the area and encourages an inclusive environment for community to interact.;
- The construction of approximately 350 new residential dwellings within a currently underutilised site where existing buildings are falling into disrepair;
- The provision of a mix of housing typologies that will attract diverse residential occupants creating a vibrant community coupled with the commercial/community activities;
- A comprehensive development of the site via a Masterplan and Design Guide approach while protecting the wider landscape features of Watts Peninsula;
- the retention and adaptive reuse of buildings with historic character value as identified by Archifact, where these buildings could be demolished as of right; and,
- The integration of mana whenua in development design through place, name and other unique identifying elements within the development as set out in the Design Guide.

These positive effects should be given due consideration in the overall evaluation of the assessment of effects of the proposal.

STREETSCAPE EFFECTS

The proposal has the potential to generate adverse streetscape effects with respect to amenity and usability, particularly in relation to the proposed promenade and lanes between the urban blocks.

With respect to the streetscape effects within the development, the combination of the quality Masterplan design (that incorporates public realm, bulk and form of the built development) coupled with the implementation of the proposed Design Guide will ensure an enhancement to the existing streetscape amenities providing a positive experience to both the future residents and visitors to Shelly Bay.

To ensure a high quality streetscape is provided and to mitigate potential streetscape effects, Section 3 – Streets (Pages 65 to 72) and Section 4 – Public Realm (pages 73 to 84) of the proposed Design Guide outlines the design objectives for these aspects of the proposal, as well as providing the design guidance and technical specifications to ensure quality design outcomes are achieved. The scale of development intended in the Masterplan and Design Guide will provide variety in house and building design and typologies which in turn creates an interesting streetscape. While high density development is proposed, streetscape effects are mitigated via landscaping both in public and private areas.

It is also important to note that the comprehensive design of the overall development site through the Masterplan and Design Guide approach where the roading, landscape and buildings are designed and delivered in an integrated manner seeks to mitigate streetscape effects of the overall development as opposed to the development occurring in a piecemeal nature. Through a comprehensive design approach, a careful balance between personal privacy and streetscape legibility will be achieved. The placement of buildings will ensure an adequate level of street surveillance will occur.

On this basis, and subject to adherence to the guidelines included in the Design Guide, streetscape effects are considered to be acceptable.

NEIGHBOUR EFFECTS

The development of up to 350 residential dwellings with supporting hospitality and commercial activities has the potential to generate adverse privacy, character and amenity, on neighbouring properties that contain established activities and land uses. Amenity effects may arise from increased traffic generation to the site.

As noted in previous sections, the land that surrounds the subject site is owned by the New Zealand Defence Force and is unoccupied. Given the nature of the adjoining Defence Force land, and the location of the development being below this land, the proposal does not affect the adjoining sites in any way that will affect their use in accordance with their Open Space B zoning.

On this basis, potential effects on immediately adjacent properties are considered negligible.

INTERNAL RESIDENTIAL AMENITY EFFECTS

The development of apartments, townhouses, and stand-alone houses has the potential to generate adverse residential amenity effects in relation to sunlight access, views, outlook, privacy, and dominance. With respect to internal amenity, it is acknowledged that the site has been designed comprehensively to ensure an appropriate level of internal amenity will be created. This has been achieved through an understanding of how public and private spaces relate to each other, how each building relates to other buildings and how the whole development interfaces with the immediate context.

With respect to potential shading effects, solar studies included in section 4.5 of the Masterplan illustrate that the overall Masterplan site receives good access to the sun, particularly in the afternoon. Given the location of the site at the toe of the coastal escarpment, early morning sun is compromised; however, the layout of the buildings in the Masterplan has been designed to ensure good access to sun were possible. In general, the significant majority of the development is able to receive adequate sun in the winter.

The Masterplan design has also been developed with the taller buildings at the rear and town houses and lower height buildings closer the foreshore to ensure maximum access to sun, daylight, views, and outlook. Given the location and orientation of the open spaces along the foreshore, these areas will receive ample afternoon sun and also offer significant open space amenity providing a quality outlook as well as recreational opportunities.

With respect to other internal residential amenity effects in relation to building bulk, layout and dominance, all future developments of the site will require assessment against the proposed Shelly Bay Design Guide with an emphasis on a quality urban design outcome for both residents and visitors to the area. Section 2 – Built Form (Pages 29 to 63), Section 3 – Streets (Pages 65 to 72), and Section 4 – Public Realm (pages 73 to 84) of the proposed Shelly Bay Design Guide outlines the objectives for these aspects of the proposal, as well as providing the design guidance and technical specifications to ensure quality design outcomes are achieved and to ensure a high-level of residential amenity is generated

Given the above and that all future development will be subject to compliance with the Design Guide that includes guidelines that seek to manage internal amenity effects, it is considered that the proposal will provide for a quality urban design outcome with specific regard given to the amenity of its residential occupants. Potential adverse internal amenity effects will subsequently be mitigated to an acceptable level.

INTERNAL AMENITY NOISE EFFECTS

The development of 350 residential units with supporting hospitality and commercial/community activities has the potential to generate adverse noise effects. The Council seeks to control such effects via noise insulation and mechanical ventilation standards in the District Plan. Such standards also seek to mitigate potential reverse sensitivity effects.

Mechanical ventilation negates the need to open windows, thereby maintaining a quiet indoor noise environment. The proposed residential apartments and townhouses are located within the Business 1 Area, as are the immediately surrounding properties. It is proposed that the apartments, townhouses, and the residential units within the mixed-use buildings will be designed to comply with the District Plan noise insulation and ventilation standards where they adjoin commercial activities. However, as the other residential units will be physically separated from the commercial activities with significantly less opportunities for reverse sensitivity noise effects and compliance with the noise and ventilation standards won't be considered necessary

The site, as it is developed in accordance with the Masterplan, will therefore not be 'typical' of a Business 1 Area in that the vast majority of the activities are residential in nature and the non-residential activities are generally confined to the central wharf area. The Applicant accepts a condition requiring noise insulation and mechanical ventilation standards are adhered to for residential units within the red outline of **Appendix Seven**.

For the abovementioned reasons, it is considered that adverse noise and reverse sensitivity effects have been adequately mitigated and therefore the effects are considered to be acceptable.

CULTURAL EFFECTS

Marukaikuru / Shelly Bay holds cultural and environmental importance and connections for Taranaki Whānui. This is recognised in the District Plan through the identification of the Mataki-kai-poinga Landscape Feature Precinct overlay that is subject to a portion of the proposal site. A Cultural Impact Assessment (“CIA”) has been prepared on behalf of Taranaki Whanui Ki Te Upoko o Te Ika and The Port Nicolson Block Settlement Trust dated September 2016. This CIA is attached at **Appendix Twelve**.

The CIA states that Marukaikuru / Shelly Bay is an important land and marine resource and this Cultural Impact Assessment considers the past and present usage and values associated with this area. It also considers the possible impact that future development of the area may have on Taranaki Whanui. Furthermore, the CIA considers and assesses the possible effects of the Taikuru development, in relation to:

- Historical Taranaki Whanui connections to Marukaikuru
- Taranaki Whanui mana whenua status in Wellington and Marukaikuru
- The kaikiaki responsibilities Taranaki Whanui have in relation to the physical environment of Marukaikuru and the protection of waahi tapu.
- The current and future management of the development.

Overall, the CIA has not identified any cultural impediments to the development and has recommended a number of ways in which the cultural history and significance of the area can be recognised in the development as the detailed design processes in the future. These include:

- That with respect to landscaping indigenous species returned to the area and that the pine and Pohutukawa trees are more managed than they currently are;
- Best practice environmental methods should be used in the development;
- The design of buildings that incorporate Taranaki Whanui in meaningful ways to reflect their mana whenua and partner status;
- The advice and assistance of mana whenua is sought for planting to enhance the cultural landscape;
- Parks and play areas are included in the development; and,
- Building and street names will be based on original names from the area, in consultation with Taranki Whanui.

These recommendations can, where possible, be considered and incorporated in the design phase of the development that following the resource consent for the Masterplan. Section 1.7 of the proposed Design Guide provides direction on ensuring a cultural overlay is acknowledged and recognised within the development.

Overall, the CIA does not identify any cultural matters that would be an impediment to the development. The overall cultural effects mitigated via adherence to the Design Guide, are considered to be acceptable.

HISTORIC CHARACTER EFFECTS

As noted above under the ‘Permitted Baseline’ section, the demolition of existing buildings within the site can be undertaken as of right so, while some of the buildings that are proposed to be removed hold some historic values, the loss of these values is anticipated by the District Plan. As such, typically, no assessment would be required to determine any potential loss of historic character associated with the demolition of the existing buildings. Further, while the District Plan’s Shelly Bay Design Guide makes particular reference to five buildings that contribute to Shelly Bay’s historic character (page 5 of the District Plan Shelly Bay Design Guide – The hospital, Warehouse and Stores (shed 8), Submarine Mining Depot Barracks, Shipwrights Building, and Officer’s Mess), four of which are proposed to be retained, there are no District Plan rules or standards that restrict their removal or relocation; in fact the District Plan Shelly Bay Design Guide encourages the relocation of the Submarine Mining Depot Barracks building closer to the water’s edge.

Of the five historic character buildings, the former hospital located toward the north end of the northern bay will be the only building identified as contributing to Shelly Bay’s historic character that will be demolished. As noted, this building can be demolished as a permitted activity without requiring a resource consent. The effects of this are therefore anticipated under the provision of the District Plan. Warehouse and Stores (shed 8), Submarine Mining Depot Barracks, Shipwrights Building, and Officer’s Mess will either be retained in situ or relocated within the site.

Page 5 of the District Plan Shelly Bay Design Guide states:

“The most important historic building within Shelly Bay is the Submarine Mining Depot Barracks, located at the northern end of the southern bay. A single storey building, constructed in 1887, the Submarine Mining Depot Barracks has a strong association with the history of the place.”

With respect to heritage, Guideline Heritage G1 of this District Plan Shelly Bay Design Guide states:

“The location and design of new building development should respect the character and location of any identified heritage buildings within Shelly Bay, with specific reference to the Submarine Mining Depot Barracks, including the possibility of its relocation closer to the water’s edge so its original connection to the harbour is recognised.”

As the buildings can be removed as of right, the historic character effects associated with the proposed conservation and adaptive re-use of the existing buildings of the site are considered positive effects. In order to fully assess the scale and nature actual and potential effects of the proposal, that includes positive effects, the heritage values of the four buildings proposed to be retained have been assessed by Archifact and outlined in their assessment attached at **Appendix Thirteen**.

Archifact note the following values associated with the buildings being retained:

- The Officers’ Quarters and Mess (building 07) is recognised for its aesthetic (architectural, townscape and group), historic, social (sense of place) and authenticity values.
- The Shipwright’s Building (building 12) is recognised for its aesthetic (architectural, townscape and group), historic, social (sense of place) and authenticity values.
- The Shed 8 former Propeller Studios Building (building 15) is recognised for its aesthetic (architectural, townscape and group), historic, social (sense of place) and authenticity values.
- The Former Submarine Mining Building/Chocolate Fish Café (building 18) is recognised for its aesthetic (architectural, townscape and group), historic, social (public esteem and sense of place), scientific (archaeological), and authenticity values.

In order to reconnect this building to the harbour, the Submarine Mining Depot Barracks will be relocated to the Village Green which is closer to the water edge. This is consistent with one heritage specific guideline of the District Plan Shelly Bay Design Guide. The Officer’s Mess will also be relocated and will accommodate the boutique hotel. The Warehouse and Stores (Shed 8) will remain in its current location and accommodate a yet unconfirmed commercial activity. The Shipwrights building will also remain in its current location and will accommodate activities such as a microbrewery or cafe .

The adaptive re-use of these historic character buildings will likely require some minor exterior alterations; however, the exact nature of these works is not yet known. Future development, including any necessary alteration and retrofitting works will be required to be consistent with the guidelines in the proposed Design Guide. This process seeks to ensure that the values associated with these buildings will be respected.

Archifact have reviewed the proposal, the Masterplan and the Design Guide, particularly the sections of the guideline referring to the buildings they have assessed and have made the following conclusions with respect to the heritage values of the proposal:

- *We support the overall Shelly Bay Master Plan proposal. We support the proposal to retain, conserve, and adaptively re-use the existing identified assets and the particular qualities they lend to the distinctiveness of Shelly Bay upon which the proposed development responds.*
- *We note that while none of the existing buildings within the Shelly Bay site are formally identified as historic heritage in the Wellington City Council District Plan, appropriate regard in the proposed scheme has been made for opportunities to conserve and adapt the identified historic character buildings.*
- *The Shelly Bay Masterplan is linked to a Shelly Bay Design Guide which affords a coordinated approach to the potential for conservation and adaptive reuse of these identified existing assets. Accordingly, the proposed Design Guide recognises and has been informed by the existing Wellington City Council Shelly Bay Design Guide to provide specific and particular guidance for opportunities recognised in the Masterplan for each of the existing assets proposed for retention and re-use.*
- *The proposed Shelly Bay Masterplan in hand with the proposed Shelly Bay Design Guide together ensure an appropriate regard and response to those existing values and historic character attributes that are particular to Shelly Bay and which lend future development direct references to scale, materiality, and relationship to open space and the harbour.*
- *It is noted that the current condition of the existing buildings means that no action risks the loss of building fabric and associated values of significance.*
- *Accordingly, the proposed relocations/translocations, adaptive re-use, and associated conservation works that adaptation would entail, for the identified historic buildings is considered appropriate. It will enable the heritage of Shelly Bay to be maintained and enhanced, and allow for future public use, interpretation, and appreciation of the historic character. The existing historic character of Shelly Bay is recognised, and the proposed Masterplan proposes a design response which is informed and appropriate to these assets and the wider Shelly Bay historic site.*

On the basis of the conclusions reached by Archifact, it is considered that the proposed development and measures outlined in the Masterplan and Design Guide, will generate positive effects in relation to the heritage values of the site.

Separate to the qualifying development process, it is acknowledged that archaeological authorities would need to be obtained for excavation works at the site due to the site having been occupied pre-1900. The Applicant has proffered consent conditions to this effect (refer to Land use Conditions 30 and 31 at **Appendix Six**).

LANDSCAPE CHARACTER AND OPEN SPACE EFFECTS

The proposal has the potential to generate adverse effects on the landscape character and open space values of the subject site. The subject site does not lie within a Greater Wellington regionally identified Outstanding Natural Feature or Landscape. The site is also not located within the Ridgelines and Hilltops overlay of the District Plan. However, a portion of the subject site is zoned Open Space B which is valued for its open space and amenity. In order to determine the scale of such effects, a Landscape Assessment has been prepared by Wraights + Associates that evaluates the existing landscape and open space character of Shelly Bay. This assessment is attached at **Appendix Fourteen** and should be read in conjunction with this section.

In short, the assessment identifies that the Open Space B Area generally valued for its natural character and informal open spaces (albeit, these informal open spaces are inaccessible). In essence, the Open Space B values of the area in which the subject site relates, is the landscape context of Marukaikuru / Shelly Bay and are therefore inextricably linked. The Landscape character is generally valued for natural character, specifically the coastal escarpment and associated vegetation, rocky headlands, and pebble and sandy beaches. Given the landscape context, the proposal has the potential to adversely affect these values.

In relation to the landscape effects, the Wraights + Associates assessment notes the following in relation to the proposed development's effects on the landscape:

- Certainly, the proposed density and height of the new development exceeds that which currently exists on site, however, the bulk, density, height and layout of new built form has been carefully considered to complement the site's existing character and landscape structure whilst supporting and framing the new public domain.
- The high quality, high amenity-built form follows the site's curvilinear bay forms with radial shared laneways striking perpendicular slices through the development from foreshore to escarpment, visually connecting the site's prominent landscape features.
- At the intersection of the two bays, there is a gap in the development giving visual prominence to the escarpment's existing central promontory. The stepped-height development, lower town houses at the 'front' (foreshore) taller apartments at the 'back' (against the escarpment), responds to the site's topography and optimises a sense of openness and space within the development's foreshore public domain.

In regard to open space, Wraights + Associates' assessment notes that when considered in isolation, the 2,346m² encroachment of development within the Open Space B land's 60,930m², without appropriate mitigation, could be viewed as an adverse effect (an approximate loss of 3.6% of Open Space B area). However, the potential adverse effects will be mitigated to an appropriate level via the inclusion of the following measures inherent to the proposal:

- New public open space is consolidated at the harbour foreshore where it is most accessible and useable (replacing currently privatised land and fenced off wharf areas). This consolidated area of public domain provides a higher degree of access to the water's edge both physically and visually.
- The proposal affords an additional 5,390m² of public domain space at the coastal edge within the Shelly Bay Business Precinct Area, which is considered to offset the loss of 2,346m² (4%) of the inaccessible Open Space B Area. On balance, the net gain of public space approximately 3,044m² at the coastal edge is considered to offset the loss physically inaccessible land on the escarpment.
- The proposed Escarpment Vegetation Management Zone Strategy offers ecological reparation of the site's prominent landscape feature thereby increasing coastal edge biodiversity and maintaining the site's important 'green' escarpment landscape character.

In regard to the natural character of the Open Space B Area i.e. the escarpment, the bulk and form of the proposed built structures, as defined by the building envelopes included on the Masterplan, with the exemption of the building on the coastal escarpment, nestle into the significantly higher coastal escarpment immediately behind. This vegetated escarpment will remain a backdrop to the development and will continue to be the dominant visual landscape within the context of the wider Marukaikuru / Shelly Bay landscape. The single dwelling site on the coastal escarpment will not create a visually dominant feature in the overall context of the surrounding environment i.e. in the context of Maupuia which has been developed in a largely uncontrolled manner. Therefore, whilst the construction of these apartments and dwellings will introduce change to this landscape, it is considered that they will remain visually unobtrusive in the context of the wider surrounding landscape for which this area is valued.

The topography constraints in this area also mean it is not used for recreation purposes. These apartments and dwellings therefore do not limit the recreational potential of this area. In fact, the Masterplan will enable future public access to the rear of the apartments should the current Defence Force land ever be developed in a public recreation area.

The vegetation removal is limited to that required for the construction of the apartments and dwellings and the allow the trees on the seaward side of the road to grow to their full potential. Some vegetation removal will also occur to the rear of the apartments for safety reasons. However, the majority of this vegetation removal will be the tall pines that would pose a safety risk to future apartment occupants.

Wraights + Associates conclude the while four percent of the site's (mostly inaccessible) Open Space B land will be encroached by the proposed development's buildings or private open space, this is considered to be offset by the following measures:

- An increase in area and quality of open space proposed along the foreshore;
- A more accessible coastal edge;

- Limiting vegetation clearance; and,
- The enhancement of the site's ecological character with new planting increasing the site's biodiversity and new bio-retention storm-water management improving the quality of stormwater run-off before it enters harbour waters (benefiting marine ecologies).

On the basis of the assessment provided by Wraight + Associates, and the mitigation measures inherent to the proposal that have been captured in the Masterplan and Design Guide, it is considered that the landscape and open space effects arising from the proposal can be mitigated to an acceptable level.

VISUAL EFFECTS

Potential visual effects relate to changes to specific views that may change (i.e. reduce or enhance) the visual amenity experienced by people. The proposal includes the construction of a new buildings and structures and increased activity throughout the subject site; all of which have the potential to generate adverse visual effects on the surrounding environment.

The subject site does not lie within a Greater Wellington regionally identified Outstanding Natural Feature or Landscape. The site is not located within the Ridgelines and Hilltops overlay of the District Plan. However, a portion of the subject site is zoned Open Space B which is valued for its open space and amenity. Marukaikuru / Shelly Bay, which forms the northern end of the Miramar Peninsula, is characterised by steeply graded vegetated slopes rising from a narrow band of flat reclaimed land at the coastal edge. The coastal edge is varied in character, with shifting natural rocky headlands to pebble and sandy beaches, and a constructed sea wall edge.

A Visual Effects Assessment has been prepared by Wraights + Associates that assesses the existing character of Shelly Bay. This assessment is attached at **Appendix Fourteen** and should be read in conjunction with this section.

Wraights + Associates describe the existing character of Marukaikuru / Shelly Bay and note the wider urban context within which it sits. In regard to the existing character of Marukaikuru / Shelly Bay, the report notes that it comprises two crescent shaped bays towards the northern end of the peninsula and where land meets water's edge, the bays are largely constructed, formed by various sea-wall and wharf structures. The report goes on to note that the northern and southern extremities, along with the southern portion of South Bay, present a more natural appearing coastal edge, albeit, modified by human intervention in the form of compacted gravel areas, boat ramps, and steeply graded grass embankments. The centrally located, Wharf Point, on which Shed 8's saw toothed roof structure is a prominent feature, separates the two distinctive bays.

Wraights + Associates further explain that the western portion of the site is largely flat and low lying (between 2.5 - 4.0m above sea level), and the eastern portion of the area, in contrast, is formed by a steeply graded vegetated escarpment; noting the escarpment is characterised by tracts of pine forest covered east-west orientated spurs.

Wraights + Associates also note that Marukaikuru's / Shelly Bay's flat land is a heavily modified coastal environment, primarily consisting of an asphalt coastal edge footpath and road, timber wharf structure and buildings, loose gravel parking bays and flat lawn areas. The flat coastal promenade and Shelly Bay Road and Massey Road are built upon reclaimed land with concrete and battered stone seawall jutting out into the harbours edge approximately 2.5m above sea level.

Given the potentially large viewing audience (in terms of both transient and fixed viewing), visual effects are inevitable. Whether or not visibility of the additional buildings on the site constitutes an adverse, benign or positive effect is largely related to viewer perception. In this respect, it is acknowledged that some viewing audiences may enjoy the increased activity on the site, while others may not. Related to this perception is the sensitivity of the receiving environment i.e. viewers may be more critical of increased activities of the site if viewed from a private property than public spaces, such as, roads, motorways, and parks.

Briefly, this assessment considers the visual effects of the proposed development by utilising nine key viewpoints within the wider coastal and public open space context. Six of the views are taken from the public domain of the broader Evans Bay context and three of the views are taken in closer proximity to the proposed development or from within the proposed development itself.

In summary, the visual effects assessment provides the following conclusions in relation to each view:

Viewpoint 1: From Point Jerningham (refer to Appendix A Site Views – View 1 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *The transition from the site's existing campus layout of low-lying buildings to a denser, taller and more urban character is clear, however, it is equally clear that the harbour foreground and vegetated escarpment remain the dominant elements within the view.*
- *The containment of the site's development within the two bays, the grading of building heights (rising in height toward the escarpment) and their scale in relation to the escarpment present a view of development that is not disproportionate to its surrounding context.*
- *The varied articulation of building facades in terms of detailing, colour and materiality contribute high level of diversity and visual interest with the taller buildings receding into the escarpment's dark vegetation, further reducing the visual impact of the development when viewed from this location.*
- *Given the diversity of building typologies and treatment, the use of visually recessive colours and the overall scale of the development in relation to its surrounding context, the visual effects are considered to be low.*

Viewpoint 2: From Weka Bay – Kio Bay (refer to Appendix A Site Views – View 2 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *Whilst the component elements of the view's background are moderately changed (the lower escarpment is populated with more built form), the dominant elements, the harbour, the escarpment, the ridgeline and the skyline remain unchanged.*
- *The containment of the site's development within the lower quarter of the escarpment, a horizontal datum in line with the coastal edge, does not overly dominate views to the escarpment above.*
- *The gap in development between North and South Bay gives visual prominence to the escarpment's important promontory feature located in the centre of the site.*
- *Given the diversity of building typologies, the use of visually recessive colours, the overall scale of the development in relation to its surrounding context, and the prominence given to important existing site features such as the central promontory and Shed 8, the visual effects are considered to be no more than moderate.*

Viewpoint 3: From Grafton Road (refer to Appendix A Site Views – View 3 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *The visual simulation for View 3 demonstrates the Precinct's development is larger in scale and density than the site's existing development, however the development's considered layering of building heights, ensures the tallest buildings are set against a backdrop of the site's dominant escarpment feature.*
- *In this elevated view, more of the escarpment is visible the buildings covering approximately 20% of the escarpment's overall height.*
- *The site contains more built form, but its restriction in the most part to Shelly Bay's flat land and the proposed variable façade treatments, make the development less visually dominant than the surrounding landscape context within the view.*
- *The important central promontory is visible between the development's two bays. On balance, when considering the portion of the view altered by the development, the proposed colour and treatment of façades and the concentration of development within the northern portion of the site the visual effects are considered to be low.*

Viewpoint 4: From the Centennial Lookout (refer to Appendix A Site Views – View 4 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *Given the scale of the development in relation to its surrounding landscape context and the retention of the site's important character features the visual effects are considered to be low.*

Viewpoint 5: From the Centennial Lookout (refer to Appendix A Site Views – View 5 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *The photograph illustrates the site at its most visible along Cobham Drive.*
- *It is noted that when experiencing the site from this location, the site appears as a peripheral element amongst the viewing context of the wider Wellington Harbour landscape. The topography of the surrounding landforms dominate the viewing experience.*
- *The long viewing distances, scale of surrounding landscape views, and the intervening landforms would make any adverse visual effects from the development very low along the southern coastline of Evans Bay.*

Viewpoint 6: From Shelly Bay Road, South (refer to Appendix A Site Views – View 6 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *In consideration of the scale of the development in relation to the escarpment, the development's stepped height (tall buildings adjacent the escarpment), the proposed palette of materials, façade variation and diversity along with the retention of the site's existing character features such as the mature Pohutukawas, character buildings such as Shed 8 and the site's historical wharf structures, the visual effects are perceived to be low.*

Viewpoint 7: From Main Road, Maupuia (refer to Appendix A Site Views – View 7 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *Although the visualisation indicates an intensification of built form within Shelly Bay, it is clear the coastal edge is retained along with Shelly Bay Wharf's important character features (the Finger Pier, central wharf, Shed 8 and the Shipwrights Building).*
- *When considered in relation to the existing site (its existing development and rundown condition), the proposed development which provides for carefully designed and articulated buildings, a layout that corresponds to the site's landscape structure and scale, the retention of the site's key features and is supported by a staged revegetation strategy the potential moderate visual impact of the proposal can be perceived as mitigated to low.*

Viewpoint 8: From South Point (refer to Appendix A Site Views – View 8 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *The visualisation illustrates the proposed alteration to built form within Shelly Bay this alteration forms visible and recognisable new elements in the view. It illustrates that new built form has been carefully considered to ensure the site's key existing features are retained and given prominence within an environment that is sympathetic and complementary to the site's existing character.*
- *Whilst the impact of higher density could be perceived as negative, the proposed combination of building frontage diversity, development that increases in height against the escarpment and a more accessible and useable coastal edge, the development is considered to have a positive effect on balance. The authors of the report consider therefore consider the effects to be no more than moderate and largely mitigated through design to present a low effect.*

Viewpoint 9: From North Point (refer to Appendix A Site Views – View 9 of the Visual Effects Assessment attached at **Appendix Fourteen**).

- *From this location the Development is obscuring views to the escarpment beyond, however the area that is most screened from view is the escarpment's pine covered slopes, the ecological value of which is currently low.*
- *Whilst the change in visual character could be perceived as an adverse effect, the proposal indicates new buildings will be designed to a high architectural standard affording a high degree of visual variety and diversity and thereby visual interest.*

- *The scale of the proposed buildings does not seem disproportionate to the scale of the adjacent escarpment or existing features proposed to be retained or relocated. On balance, the potentially negative effects of more visible buildings is negated by way of:*
 - *a considered layout for new buildings that reinforces the site's existing landscape structure of curved bay framed by green escarpment;*
 - *well considered architectural design and modulated street frontages;*
 - *a more generous public domain that encourages engagement with coastal edge; and*
 - *a more active street edge.*
- *It is therefore considered the effects are no more than moderate and are largely mitigated through design to have low adverse effect.*

Overall, the views toward the site from across the Harbour are at considerable distance and encompass views of the entire western side of the Watts Peninsula. In this context, the development will visually nestle into the landscape with the vegetated coastal escarpments remaining the visually dominant feature. Some of the buildings will be infringe the permitted maximum building height in the District Plan; however, they will still be dwarfed by the coastal escarpments that provide their visual backdrop, and will be designed with visually receding colours and textures consistent with the technical specifications of the proposed Design Guide. For these reasons the development does not create a visually obtrusive feature in this landscape.

Wraights + Associates conclude that the proposal's overall effects on views from the site's surrounding context are minor, the development is in keeping with the scale of its context, and the articulation of form and proposed façade treatments cause the development to visually recede into the escarpment backdrop.

On the basis of Wraights + Associates assessment, the visual effects arising from the proposal are considered to be acceptable. From no viewpoint will the new activities and buildings not be able to be viewed within a much wider context and from no viewpoint do views completely change, lead to a loss of the key attributes of the site (i.e. the coastal escarpment), and are not visually dominant.

TRAFFIC GENERATION AND ACCESS EFFECTS

The proposal has the potential to generate adverse effects in relation to an increase in traffic to and from the site. Access to and from the site is provided via Shelly Bay Road. The two existing vehicle accesses to the site are via Shelly Bay Road to the south and Massey Road to the north. Within the subject site, the current road is not vested with Council as a public road; however, is contained within Council and privately-owned land. The alignment of the road currently does not follow the alignment of an allotment intended to accommodate the road carriageway.

To facilitate both the proposed development layout and to provide for improved vehicle travel along the bay, it is proposed that the Shelly Bay Road carriageway alignment be modified within the extent of the site. Massey Road is expected to remain largely a recreational route and Shelly Bay Road is likely to be primary site access. Within the site, the proposal also includes laneways and parking mews to enable internal circulation and parking.

The proposed traffic generation and proposed access and parking arrangements and potential associated adverse effects on the surrounding road network have been assessed by Stantec in their Transportation Assessment Report dated March 2019, attached as **Appendix Five**. The assessment specifically addresses the potential traffic effects relating to the existing transport network connections, site access and internal layout design, car parking, servicing, and trip generation. Stantec's report should be read in conjunction with this section.

The traffic assessment also acknowledges that WCC has identified a series of proposed improvement works for Shelly Bay Road between the development site and Miramar Avenue, including some widening of the existing carriageway and a new shared cycle and pedestrian path. Stantec identifies that these changes will serve to improve safety and amenity for current pedestrians and cyclists as well as those additional users associated with the proposed development, including residents, staff and visitors. In addition to this, Stantec also notes that, in combination with the

forementioned roading improvement works, Council's transport team have indicated that options are being considered to improve the Shelly Bay Road intersection with Miramar Avenue.

The traffic assessment concludes that:

- The development's access strategy and internal vehicle circulation routes have been developed in accordance with industry standards, as has the site wide parking provision. Furthermore, the anticipated servicing demands generated by the site's mixed-use activity can be appropriately accommodated on-site, and clear of the public street.
- It has been assessed that with the adoption of proposed upgrade works, which achieve a more efficient layout at the Shelly Bay Road / Miramar Avenue intersection and serve to deliver capacity improvements, the increase in traffic arising from the development will not adversely affect the performance on this part of the network, and will in fact generally serve to reduce overall delay from the level currently experienced during the peak periods today.
- The proposed Shelly Bay Road upgrade, which would see the introduction of a shared pedestrian and cycleway connecting the site and the Miramar Avenue intersection to the south, will serve to benefit not only those active mode users associated with the proposal site, but also the wider recreational demands around the Miramar peninsula. In addition, potential opportunities for improving access to bus and ferry services exist in the future as the development progresses, to deliver more convenient accessibility and travel choice.
- Overall, the assessment has examined the traffic-related features and potential effects of the proposal and finds that with the adoption of the Shelly Bay Road improvement works project, and upgrades to the Miramar Avenue intersection as described, development of the site can occur in a manner that ensures an appropriate level of integration, and more particularly within a substantially improved Shelly Bay environment.

Regarding access to and from the site via Shelly Bay Road, the Engineering Infrastructure Report prepared by Envelope Engineering Limited at **Appendix Ten** notes the following:

- *The final design and specifics of the access road will however be confirmed as a result of the overall planning and detailed engineering design processes. The final design will need to be a balance between technical requirements and guidelines and retention of the existing natural character and amenity of the coastal route.*
- *The proposal will provide roading infrastructure that will adequately service the scale of the development proposed. While the finished result may not be fully compliant with standard Code of Practice requirements, it will be of a scale and standard that sufficiently and appropriately caters for the development proposal.*

To ensure the abovementioned roading works and improvement works are undertaken, The Applicant has proffered conditions of consent to this effect (refer to Land use Condition 34 to 46 at **Appendix Six**).

On the basis of the conclusions reached by Stantec and Envelope Engineering, and provided that the Shelly Bay Road / Miramar Avenue upgrades as recommended, potential traffic and access effects will be mitigated to an acceptable level.

EARTHWORKS

The proposal has the potential to generate adverse stability, erosion, dust and sedimentation effects as well as temporary visual effects though the construction period. As identified in Section 5.6 above, it is anticipated that the site will be developed on a staged basis where full development of the site in accordance with the masterplan will not occur in one effort.

Earthworks plans prepared by Envelope (**Appendix Eight**) illustrates the likely earthworks required to give effect to the development. It is acknowledged that these plans are conceptual given the exact extent of the earthworks will be determined by the detailed design. Irrespective, as the building locations are fixed, via the proposed Masterplan, it is not considered likely that final earthworks details will vary significantly from the detail provided in the concept plans.

To ensure no potential stability effects arise, a condition of consent has been offered to require a detailed earthworks plan and earthworks methodology to be submitted and approved prior the commencement of these earthworks. Under this condition, the plans will be accompanied by an earthworks methodology and sediment control and runoff plans. Details included in these plans will demonstrate how potential effects associated with earthworks can be adequately mitigated and do not extend beyond the defined area of the earthworks .

Following construction all earthworks will be covered by buildings, roads, paths or suitably landscaped to ensure no exposed earthworks remain at the completion of construction. Therefore, potential visual effects associated with the proposed earthworks will be temporary in duration (refer to Land use Conditions 6 to 29 at **Appendix Six**).

For these reasons, the overall effects associated with earthworks can be appropriately managed and mitigated to ensure such effects are acceptable and temporary in duration.

CONTAMINATION EFFECTS

A PSI (refer to **Appendix Four**), undertaken by AECOM, notes that due to the industrial nature of some of the site's current and former operations,

Part lot 3 DP 3020 of the subject site has been identified as being on the Hazardous Activities or Industries List (HAIL) as defined by MfE and therefore may pose a human health risk. A PSI undertaken by AECOM considered it highly unlikely that there is a risk to human health from contaminants in the soil and groundwater, under the proposed current or proposed residential and commercial/community land-uses in both the north bay and south bay. However, AECOM were unable to investigate the seaward side of Shelly Bay Road where records indicate the presence of partially buried fuel storage tanks and industrial activities occurred. The likelihood of impact to soil and groundwater in this area is therefore currently unknown.

However, the proposal includes the remediation of any potentially contaminated land to ensure it suitable for the proposed land uses on the site (in accordance with Ministry for the Environment guidelines). Given the isolated nature of the site and in particular the area where further site investigations are required there will be no potential for properties outside of the subject site to be affected with respect to potential contamination effects.

On the basis of the assessments provided by AECOM, and imposition of consent conditions (refer to Land use Conditions 6 to 29 at **Appendix Six**), it is considered that potential adverse contamination effects will be temporary in nature and will appropriately mitigated to an acceptable level.

CONSTRUCTION EFFECTS

The proposal has the potential to generate temporary effects in relation to dust, vibration, construction noise and construction traffic. As identified in Section 5.6 above, it is anticipated that the site will be developed on a staged basis where full development of the site in accordance with the masterplan will not occur in one effort.

A condition of consent is proffered that a Construction Management Plan is submitted to and approved by the Council prior to any construction works commencing on the site. Given the staged nature of the construction, a Construction Management Plan will be submitted for approval for each stage of the development. The Construction Management Plans will outline the management of:

- Sediment and erosion control (including specific measures to mitigate effects on adjoining sensitive environment, such as, the coastal marine area);
- Discharges to water and land;
- Construction noise and hours; and,
- Construction traffic.

Construction effects by nature are also temporary and staged. This, coupled with the isolated nature of the subject site with no immediately adjoining sensitive land-use activities and occupants, further mitigates the potential for construction effects to generate significant adverse effects.

With respect to construction traffic, under proposed condition 14, the Construction Management Plan (“CMP”) that is required to be prepared for each stage of development, must include, among other things:

- *Temporary pedestrian safety measures including directional signage where applicable. A limit to the days and hours of work for heavy vehicles e.g. trucks may be restricted to operate outside commuter traffic peaks and school start and finish times.*
- *Any related occupation of the public footpath or carriageway for construction related purposes.*
- *Construction vehicle routes.*
- *Acknowledgement of sensitive sites along the routes e.g schools.*
- *Details of the staging of work.*

In addition to the CMP, in its Traffic Assessment (refer Appendix Five), in order to mitigate potential effects associated with construction traffic, Stantec recommend that a Construction Traffic Management Plan (“CTMP”) be developed and provided to Council for approval. Stantec recommend that the CTMP include, among other things:

- *The timing of specific work phases;*
- *Key activities during each work phase;*
- *Anticipated traffic levels and access arrangements for each work phase;*
- *Route restrictions;*
- *Provision for maintaining safe pedestrian and cycle access and movements in the vicinity of the site;*
- *Arrangements for contractor parking; and,*
- *Arrangements for TTM, including with regard to public transport, pedestrians, parking and servicing.*

The Applicant confirms acceptance with the imposition of another consent condition requiring the preparation and implementation of a CTMP.

On the basis of the above, it is considered that the potential adverse effects associated with the construction of the development will be temporary managed and can appropriately managed via adherence to proffered consent conditions and recommendations made in the Traffic Assessment.

SUBDIVISION EFFECTS

The proposed subdivision will enable the rationalisation of the current fragmented ownership of the subject area. It will also create an allotment to accommodate the road carriageway and will allow the provision of services. The subdivision will directly link to the land use development that is being concurrently sought and will not facilitate further development of the site beyond what the land use activities, buildings and structures proposed. The Applicant has proffered appropriate subdivision conditions of consent at Appendix Six (refer to subdivision conditions of consent 1 to 9). On this basis, the actual and potential effects associated with the subdivision will be acceptable.

SERVICING EFFECTS

The Infrastructure Assessment Report prepared by Envelope Engineering, and attached at **Appendix Ten**, confirms that there is sufficient and adequate servicing infrastructure in place, or servicing infrastructure that can be reasonably be provided, to support the proposed development. The report outlines a number of upgrade and/or repairs works in Section 5.4 of this report that would need to be undertaken to support the development.

Subject to the imposition of the proffered conditions related to servicing requirements that align with the recommendations made in the Infrastructure Assessment Report, it is considered that the potential adverse effects relating to the servicing of the proposal is acceptable (refer to Land use Conditions 47 to 58 at **Appendix Six**). The

conditions require that, among other things, engineering plans, specifications and design and construction documentation is approved by WCC and Wellington Water.

ACTUAL AND POTENTIAL EFFECTS SUMMARY

On the basis of the assessment above and the assessments provided in the accompanying technical reports, subject to imposition of the conditions including in **Appendix Six** of this report, it is considered that the overall actual and potential effects of the development are can be mitigated to an acceptable level. Overall, after mitigation, potential adverse effects are considered no more than minor. The proposal will also result in positive effects including that the proposed residential development of an underutilised site Business 1 Area site and will be developed in a manner that respects the values of the Open Space B Area, the site's unique location and historic values, and will maintain the prominence of the coastal escarpment and skyline of the Miramar Peninsula

10.2 OPERATIVE WELLINGTON CITY DISTRICT PLAN PROVISIONS

Section 104(1)(b), which requires regard to be had to any relevant provisions of the district plan.

In summary, in relation to the District Plan:

- The subject site is located in the Business 1 Area and the Open Space B Area of the Operative Wellington City District Plan ("the District Plan"). The District Plan map (Map 13) identifies the site as being part of an area subject to Rule 34.3.7 (Development in Shelly Bay Business Precinct Area). The Shelly Bay Business Precinct Area as defined by Appendix 1 of Chapter 34 of the District Plan.
- The northern point of the site has a meteorological designation (ref: M3) with the requiring authority being Meteorological Service of New Zealand Limited. The site is also partially within the Matakai-kai-poinga Landscape Feature Precinct.
- The site is not the subject of any current plan changes being progressed through Council.
- The subject site is identified on the Greater Wellington Regional Council's contaminated land register (SLUR) as being potentially contaminated. Refer to PSI by AECOM for further background information on this attached at **Appendix Four**.
- The demolition of buildings and structures within the Business 1 Area, Shelly Bay Business Precinct Area, and the Open Space B Area are permitted activities provided they are not heritage listed buildings. There are no heritage listed buildings on the site under the District Plan or listed with Heritage New Zealand. It is therefore possible for all of the existing buildings to be demolished down to their foundations as a permitted activity under Rule 34.1.7 (Business Area Rules) and Rule 17.1.5 (Open Space Rules).

An assessment of the proposal against the relevant rules and standards is provided in Tables 2 to 6 attached at **Appendix Eleven**. The sections below summarise the consents required under the District Plan.

10.2.1 DISTRICT PLAN RULES AND STANDARDS

The relevant rules and standards of the District Plan have been addressed in Section 5.5 above.

10.2.2 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

Section 104(1)(b), which requires regard to be had to any relevant provisions of the district plan, together with national and regional planning documents.

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ('the NES') applies to land where there is evidence of contamination or if a Hazardous Activities and Industries ('HAIL') activity has occurred in the past.

A PSI undertaken by AECOM considered it highly unlikely that there is a risk to human health from contaminants in the soil and groundwater, under the proposed current or proposed residential and commercial/community land-uses in

both the north bay and south bay. However, AECOM were unable to investigate the seaward side of Shelly Bay Road where records indicate the presence of partially buried fuel storage tanks and industrial activities occurred. The likelihood of impact to soil and groundwater in this area is therefore currently unknown.

Therefore, the proposal includes the investigation and, if required, the remediation of any contaminated land to a level suitable for the proposed land-use activities in this location.

Given this, the proposal requires **Discretionary Activity (Unrestricted)** consent pursuant to Regulation 11 of the NES for sampling the soil to determine whether or not the site is contaminated, disturbing the soil of a piece of land, subdividing the land and changing the use of the piece of land.

The proposal is not a permitted activity, controlled activity, or restricted discretionary activity because a Detailed Site Investigation (DSI) has not been undertaken.

10.2.3 OVERALL STATUS OF THE APPLICATION

The general approach when assessing resource consents with different activity statuses is to take a “bundling” approach, whereby the most stringent activity status is applied to cover the “bundle” of applications. In this instance, all as a Non-Complying Activity consent is required for an exceedance to maximum height, overall, consent is required as a **Non-Complying Activity** under the provisions of the District Plan.

Accordingly, pursuant to Section 104B of the Act, after considering the application, the Council –

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under section 108.*

Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either–

- (a) *the adverse effects of the activity on the environment (other than any effects to which section 104(3)(a)(ii) applies) will be minor; or*
- (b) *the application for an activity that will not be contrary to the objectives and policies of–*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity.*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

To avoid doubt, Section 104(2) applies to the determination of an application for a Non-Complying Activity.

10.3 DISTRICT PLAN ASSESSMENT CRITERIA

The Business Area rules are not subject to specific assessment criteria, rather, any development within the Shelly Bay Business Area Precinct is required to be assessed against the District Plan’s Shelly Bay Design Guide. The assessment below therefore provides an assessment against the District Plan’s Shelly Bay Design Guide and the relevant assessment criteria under the Open Space rules of the plan. The assessment criteria are in italics with the comments immediately below.

THE DISTRICT PLAN SHELLY BAY DESIGN GUIDE

McIndoe Urban have prepared an Urban Design Assessment relative to the District Plan’s Shelly Bay Design Guide. This assessment is attached at **Appendix Fifteen** and should be read in conjunction with this section.

McIndoe Urban’s assessment notes the following:

- *The detailed assessment demonstrates that the objectives of the WCC's Shelly Bay Design Guide are satisfied, and the proposal successfully meets the aspirations to enhance the important qualities of Shelly Bay. As such the proposed plan provides a positive urban design outcome in respect to the WCC Guide;*
- *The Shelly Bay Masterplan and Design Guide create a Shelly Bay-specific place in Wellington that captures and protects the natural and built characteristics of the local area. The waterfront, the escarpment, the prominent spurs, the historic character buildings, the wharf, the existing Pohutukawa trees and the rocky promontories all feature in the plan and come together to address the WCC Shelly Bay Design Guide 'in the round' while reconciling the more permissive development aspirations of the SHA; and,*
- *By including some buildings up to the maximum height anticipated by the SHA provisions, the Proposal does not meet the WCC's site-specific height guideline. However, it maintains buildings of the height similar to but slightly higher than those anticipated by the WCC Design Guide along Shelly Bay and Massey Roads, places the higher buildings provided for by the SHA behind these and against the escarpment, and further mitigates height and integrates them into their setting with a requirement for visually recessive colour treatments.*

On the basis of this assessment, it is considered that, while the proposal exceeds the height limits, the proposal is generally consistent with the intention and guidelines in District Plan's Shelly Bay Design Guide, being to enhance the important qualities of Shelly Bay.

OPEN SPACE ZONE ASSESSMENT CRITERIA

Modification, Damage, Removal or Destruction of Indigenous Vegetation:

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

17.2.4.4 The significance of the affected vegetation in terms of ecological and amenity values.

17.2.4.5 The relationship of the affected vegetation with other areas of indigenous vegetation.

17.2.4.6 Whether it is necessary to remove the vegetation to maintain or enhance the Open Space B or Open Space C Area.

The proposal meets the relevant assessment criteria above for the following reasons:

- The vegetation removal within the Open Space B zone is restricted to the proposed house sites, some tree removal on the seaward side of the road opposite these house sites and the clearance of some vegetation behind the apartment sites (the comprises mainly pines) for safety reasons. The vegetation removal in the vicinity of the individual dwellings sites does not extend to the area above these house sites, being the escarpment that forms, and remains, the dominant landform in the immediately surrounding area.
- While some pohutukawas on the seaward side of the road in the South Bay are proposed to be removed, this is being undertaken with the purpose of allowing space between the remaining trees to enable their fuller growth and establishment.
- A Vegetation Management Zone is proposed to be established for the steep escarpment landscape as per the vegetation plan in Wraights + Associates Landscape and Visual Effects Assessment. Within this management zone, the staged removal of exotic species including pine (*Pinus radiata*) and Macrocarpa (*Cupressus macrocarpa*) species will be undertaken and clearings will be planted with species indigenous to Wellington's coastal ecologies.
- In combination with the Vegetation Management Zone, the removal of vegetation and trees will not have an adverse effect on the wider ecological or amenity values of the wider surrounding environment and have been limited to only what is necessary to give effect to the Masterplan and to allow the existing trees on the seaward side of the road to reach their full growth potential.

Residential Activities, Buildings, and Structures in the Open Space B Area:

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

17.3.2.1 Whether the structure is designed and located to be visually unobtrusive;

17.3.2.2 The extent that buildings and structures within identified ridgelines and hilltops are sited and designed in ways that avoid visually obtrusive development by

- *Ensuring visual continuity if achieved on the upper slopes up to the apex of the ridgeline or hilltop;*
- *Ensuring the visibility of buildings, structures and earthworks is mitigated by appropriate siting and design, and planting and/or screening when viewed from district wide, community wide and neighbouring land;*
- *Minimising skyline effects by ensuring that buildings and structures will be seen against a landform backdrop when viewed from district wide, community wide and neighbouring land.*

17.3.2.3 Whether the structure is needed for the public enjoyment of the site's recreational potential;

17.3.2.4 Whether the site's open space character is maintained;

17.3.2.5 Any relevant provision of:

- *Reserves Act 1977 and any amendments to that Act;*
- *Queen Elizabeth II National Trust Act 1977 and any amendments to that Act;*
- *Any management plan prepared for the site e.g. Belmont Regional Park Management Plan and the Wellington Town Belt Management Plan;*
- *The Town Belt Deed 1873.*

17.3.2.6 Whether established public access or the possibility of such access is maintained;

17.3.1.7 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.

17.3.2.8 The extent to which any adverse effects of any new accessway or carparking, of change in use of any existing accessway or carparking, can be avoided, remedied or mitigated;

17.3.2.9 Where a structure or building is located within a Hazard (Fault Line) Area, the degree to which measures have been adopted to mitigate the potential adverse effects from a fault rupture hazard event.

The proposal meets the relevant assessment criteria above for the following reasons (in order of assessment criteria):

- (17.3.2.1) The built structures in this area will comprise residential apartments, dwellings and ancillary buildings. The maximum footprint and built form (including height) of these dwellings is defined in the Masterplan. The development will nestle into the significantly higher coastal escarpment immediately behind. This vegetated escarpment will remain the dominant visual landscape in the surrounding environment. Therefore, whilst the development in this area will introduce a visual change to this environment it will remain visually unobtrusive in the context of the wider surrounding landscape.
- (17.3.2.2) Not applicable as the site is not located within identified ridgelines and hilltops.
- (17.3.2.3) As noted, the location of the development within the Open Space B area is either on flat land or at the toe of the coastal escarpment. The topography constraints in this area also mean it is not used for recreation purposes. The proposed apartments and dwellings in the Open Space B Area therefore do not limit the recreational potential of this area. In fact, the Masterplan will enable future public access to the rear of the apartments should the current Defence Force land ever be developed in a public recreation area. The proposed development in this Open Space area will therefore not adversely affect any future potential recreational opportunities on this site.
- (17.3.2.4) As noted, the dwellings will introduce residential dwellings into the Open Space B zone that is currently undeveloped by any substantial built features. Given the scale and height of the dwellings in the context of the wider landscape, and the technical specifications relating to visually receding colours and textures of new buildings, the Open Space character of the surrounding environment will be maintained.
- (17.3.2.5) The site is not subject to the Reserves Act 1977 (or any amendments), Queen Elizabeth II National Trust Act 1977 or the Town Belt Deed 1873. To the best of our knowledge there is no current management plans prepared for the site.

- (17.3.2.6) Given the existing Open Space B land is currently vacant there is no current formalised public access. Notwithstanding this, the site is located immediately adjacent to the road carriageway so public access is easily obtained. The Masterplan allows for future access behind the apartments should the current Defence Force Land be developed into a public park in the future.
- (17.3.2.7) As noted, the area of Open Space B land affected by the proposal is within the Mataki-kai-poinga Landscape Feature Precinct. A CIA has been prepared for the wider development. The Cultural Impact Assessment has not identified any cultural matters that would be an impediment to development.
- (17.3.2.8) The proposed dwellings on this Open Space B land will all have a new formed access with on-site parking. A Traffic Assessment Report prepared by Stantec has not identified any adverse effects with respect to this new access and parking arrangement.
- (17.3.2.9) the subject site is not within a Hazard (Fault Line) Area.

SUBDIVISION IN OPEN SPACE B AREA:

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

17.3.4.1 Whether the proposed allotments are capable of accommodating Permitted, Controlled or other Discretionary Activities in compliance with the Open Space rules;

17.3.4.2 The extent of compliance with the Council's Code of Practice for Land Development;

17.3.4.3 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.

The proposal meets the relevant assessment criteria above for the following reasons (in order of assessment criteria):

- (17.3.4.1) The purpose of the subdivision is to rationalise the current fragmented ownership of the area, to create an allotment to vest with Council as legal road, and to create development blocks that will be further subdivided in the future. Consent for the development of this area of Open Space is being concurrently sought and compliance with the Open Space rules is outlined in this report.
- (17.3.4.2) As noted in Stantec's report, the development's access strategy and internal vehicle circulation routes have been developed in accordance with industry standards, as has the site wide parking provision. Furthermore, the anticipated servicing demands generated by the site's mixed-use activity can be appropriately accommodated on-site, and clear of the public street. Servicing infrastructure provision will accord with *Council's Code of Practice for Land Development*.
- (17.3.4.3) As noted, while the site is not located in a Maori precinct, a Cultural Impact Assessment has been prepared for the wider development. Overall, the CIA does not identify any cultural matters that would be an impediment to the development.

CONTAMINATION

Regarding contamination, assessment criteria 32.2.1.5 – 32.2.1.9 are relevant to the proposal. For the reasons outlined in Section 10.1 of this report, the proposal meets these assessment criteria.

There are no other relevant assessment criteria. On the basis of the assessment provided above, it is considered that the proposal has given appropriate regard to the relevant assessment criteria of the District Plan.

10.4 DISTRICT PLAN OBJECTIVES AND POLICIES

Section 104D(1)(b) of the RMA requires regard to be had to whether or not the application will be contrary to the objectives and policies of the relevant district plan.

An assessment of the proposal against the relevant objectives and policies of the District Plan is provided in the following section.

10.4.1 BUSINESS AREA OBJECTIVES AND POLICIES

ACTIVITIES

Objective 33.2.2 To enable an appropriate range of activities to occur in Business Areas, provided they do not undermine the City's Centres, and that adverse effects are avoided, remedied or mitigated.

Policy 33.2.2.1 Maintain a mixed use character in Business 1 Areas by allowing a range of activities to establish provided that character and amenity standards are maintained and any potential adverse effects are able to be satisfactorily avoided, remedied or mitigated.

Policy 33.2.2.9 Control the adverse effects of noise within all Business Areas.

Policy 33.2.2.10 Allow residential development in Business 1 Areas so long as it does not constrain established or permitted activities from reverse sensitivity through noise.

Policy 33.2.2.11 Ensure that appropriate on-site measures are taken to attenuate intrusive noise effects in Business 1 Areas to protect noise sensitive activities.

Policy 33.2.2.13 Ensure that activities creating effects of lighting, dust and the discharge of any contaminants are managed to avoid, remedy or mitigate adverse effects on other activities within Business Areas or in nearby Residential Areas.

While the Masterplan provides for a mix of land uses including residential and commercial/community activities, the development is predominately residential and all non-residential activities are ancillary to the residential development. With respect to the non-residential activities, all of these have not been specifically identified, but a range of activities that could occur has been outlined. This provides a flexible approach and enables the developer to respond to market demand and other economic or technological changes. The nature and scale of the non-residential activities are also such that they will not undermine the role and function of Centres – the nearest being located in Miramar.

Although there are no Residential Areas in close proximity to the development, the Masterplan provides a predominately residential development. To ensure residential amenity is maintained with respect to noise effects, all non-residential activities are required to comply with the District Plan noise standards. In addition, all residential buildings that immediately adjoin non-residential activities will be required to demonstrate that they comply with District Plan noise insulation and ventilation standards designed mitigate reverse sensitivity effects with respect to noise.

All lighting will be designed to comply with District Plan lighting standards.

Dust will be managed via adherence to a finalised Construction Management Plan that will be provided to Council as a condition of consent.

BUSINESS PRECINCTS

Objective 33.2.3 To recognise where unique development opportunity areas exist within Business Areas and encourage redevelopment of those areas in a manner that is compatible with, and enhances amenity values and contribute to the City's distinctive physical character, sense of place and contained urban form.

Policy 33.2.3.1 Ensure that any new development at Shelly Bay generally reflects the heritage and landscape character of the area and has regard to the site's special coastal location.

Policy 33.2.3.2 Provide for the comprehensive development and redevelopment of those Business Areas which display unique development opportunities through a concept, master or structure plan process

The explanation of Policy 33.2.3.1 states that Shelly Bay is a highly visible area and that it is Council's intention that any redevelopment of Shelly Bay should reflect the character of the area and provide a pedestrian promenade along the water's edge. It also notes that the Council will work with future landowners to ensure that any redevelopment recognises the heritage values of the site and will seek to ensure that harbour views are not compromised and respects its coastal location.

In this regard, the proposal has been assessed against the Shelly Bay Design Guide by McIndoe Urban. This assessment is attached in **Appendix Fifteen**. Furthermore, the development recognises the heritage values of the site as assessed by Adam Wild of Archifact with this Heritage Assessment. These assessments conclude that overall the development respects the coastal character of Shelly Bay, recognises the heritage values of the area with the adaptive re-use of buildings identified in the Design Guide (where it is reasonably feasible to do so) and with the pedestrian promenade along the water's edge.

Overall, the development respects the characteristics of the site and maintains visually subservient to the landscape qualities of the wider Watts Peninsula. It is acknowledged that while the building intensity and heights are greater than those anticipated by the Shelly Bay Design Guide, these can be achieved without compromising the wider environmental qualities.

Consent is sought to adopt a Masterplan approach that ensures the comprehensive redevelopment of the site that, through identification of building envelopes and development of site specific design guides provides sufficient certainty of building form but also allows flexibility in order for the development to cater for changes in apartment size demand and building design as the development progresses over the duration of the consent, if granted.

BUILT DEVELOPMENT, URBAN DESIGN AND PUBLIC SPACE

Objective 33.2.4 To ensure that activities and developments at least maintain the amenity values and public safety within Business Areas and those of any nearby Residential Areas.

Policy 33.2.4.1 Ensure that buildings, structures and spaces in Business 1 Areas are designed to:

- *Acknowledge and respect the form and scale of the surrounding environment in which they are located; and*
- *Respect the context, setting and streetscape values of adjacent listed heritage items, and Heritage Areas; and*
- *Establish positive visual effects; and*
- *Provide good quality living and working environments; and*
- *Provide conditions of safety and accessibility, including for people with restricted mobility.*

Policy 33.2.4.3 Encourage developments in Business 1 Areas to create an attractive, comfortable and clear street environment through:

- *Managing the location and design of land dedicated to outdoor storage and car parking; and*
- *Controlling the siting and design of structures on or over roads; and*
- *Appropriate siting of buildings and building design.*

Policy 33.2.4.4 Allow residential development in Business 1 Areas where it utilises upper floors of buildings and provides a secure and pleasant environment for the occupiers.

Policy 33.2.4.5 Enhance the quality and amenity of residential buildings in Business 1 Areas by guiding their design to ensure current and future occupants have an adequate standard of amenity and appropriate access to daylight and awareness of the outside environment.

Policy 33.2.4.7 Manage the height, bulk and location of buildings and developments in Business Areas so they avoid, remedy or mitigate the adverse effects of shading, loss of daylight, privacy, scale and dominance and any other adverse effects on amenity values within Business Areas and on adjoining Residential Areas.

Policy 33.2.4.8 Ensure that all spaces are accesses by the public area safe and are designed to minimise the opportunities for crime.

As has been discussed earlier, the development is a comprehensive integrated development that concentrates development in the two bays and allows the wider landscape qualities of the peninsula to remain the dominant landform respecting the form and scale of the surrounding environment.

The detailed design of the development that will need to ensure consistency with the proposed Design Guide will ensure good quality living and working environments.

A comprehensive landscape design concept has been developed that will ensure an attractive, comfortable and clear street environment will be developed creating a sense of place with a quality public environment.

As per design guidance for buildings in Section 2 of the proposed Design Guide, the residential apartments toward the rear of the site have been designed with large floor to floor ground floor heights that will accommodate parking and storage. This allows the first living floor level to be elevated to a height to ensure good access to daylight and awareness of the outside environment. The majority of units within these apartments will have panoramic views over the townhouses in front providing significant amenity for its occupants. In addition, the requirement for the detailed design of the apartments to meet the proposed Design Guide will further ensure quality residential environments.

The Village Green, as well as the other elements of the public realm, are in open lit spaces inviting passive surveillance designed to minimise opportunities for crime.

BUILDING EFFICIENCY AND SUSTAINABILITY

Objective 33.2.5 To promote energy efficiency and environmental sustainability in new building design.

Policy 33.2.5.2 Ensure all new buildings provide appropriate levels of natural light to occupied spaces within the building.

As discussed above, the building bulk and form placement is dictated by the building envelopes illustrated on the Masterplan, as well as the detailed design required to meet the proposed Design Guide, will ensure that all new buildings will provide appropriate levels of light to occupied spaces.

ACCESS AND TRANSPORT

Objective 33.2.6 To maintain an efficient and sustainable transport network that enables the provision of convenient and safe access for people and goods to and within Business Areas.

Policy 33.2.6.1 Ensure that activities and developments are designed to be accessible by multiple transport nodes.

Policy 33.2.6.2 Ensure that the location and design of activities and developments that generate significant levels of traffic or increase demand for parking are accessible by multiple transport modes and do not result in:

- *A significant increase in traffic that would be incompatible with the capacity of adjoining roads and their function in the road hierarchy, or would lead to unacceptable parking arrangements; or*
- *An on-street parking demand that extends into Residential Areas and/or leads to unsatisfactory parking arrangements; or*
- *The creation of an unacceptable road safety risk.*

Policy 33.2.6.4 Maintain or enhance safe, convenient and easily legible pedestrian access to buildings

Policy 33.2.6.5 Encourage buildings and spaces to have a high level of accessibility, particularly for people with restricted mobility.

Policy 33.2.6.6 Require the provision of appropriate servicing and site access for activities in Business Areas.

As noted earlier, the proposal has been assessed by Stantec who support the proposal on traffic generation, access and parking related grounds. It has been assessed that, with the adoption of proposed upgrade works, which will achieve a more efficient layout at the Shelly Bay Road / Miramar Avenue intersection and serve to deliver capacity improvements, the increase in traffic arising from the development will not adversely affect the performance on this part of the network, and will in fact serve to reduce overall delay from the level currently experienced during the peak periods today.

The requirement to undertake the upgrade works has been included in the proffered consent conditions.

For the reasons outlined in their Transportation Assessment Report the proposal can be accommodated with on the surrounding transport network.

SUBDIVISION

Objective 33.2.8 To ensure that the adverse effects of new subdivisions are avoided, remedied or mitigated.

Policy 33.2.8.1 Ensure the sound design, development and appropriate servicing of all subdivisions.

The subdivision simply subdivides the existing land parcels to enable development to occur to give effect to the Masterplan. The subdivision will be serviced to meet WCC Code of Practice requirements. The subdivision will not increase the ability for the individual sites to be developed as of right.

COASTAL ENVIRONMENT

Objective 33.2.10 To maintain and enhance access to, and the quality of the coastal environment within and adjoining Business Areas.

Policy 33.2.10.1 Maintain the public's ability to use and enjoy the coastal environment by requiring that, except in the Operational Port Areas, public access to and along the coastal marine areas is maintained, and enhanced where appropriate and practicable.

Policy 33.2.10.2 Ensure that any developments near the coastal marine area are designed to maintain and enhance the character of the coastal environment and waterbodies.

One of the primary focuses of the proposed development is to enhance access to the coastal environment at a site that has large areas of restricted coastal access. This is evident by the development of the pedestrian promenades and the Village Green on the seaward side of the new road alignment. The pedestrian promenades, road and pedestrian walkway will be vested in Council to ensure public access will be provided in perpetuity.

TANGATA WHENUA

Objective 33.2.13 To facilitate and enable the exercise of tino rangatiratanga and kaitiakitanga by Wellington's tangata whenua and other Maori.

Policy 32.2.13.1 Identify, define and protect sites and precincts of significance to tangata whenua and other Maori using methods acceptable to tangata whenua and other Maori.

Policy 32.2.13.2 Enable a wide range of activities that fulfil the needs and wishes of tangata whenua and other Maori, provided that the physical and environmental conditions specified in the Plan are met.

Policy 32.2.13.3 In considering resource consents, Council will take into account the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.

As noted earlier, a CIA has been prepared on behalf of Taranaki Whanui Ki Te Upoko o Te Ika and The Port Nicolson Block Settlement Trust dated September 2016. This CIA is attached in **Appendix Twelve**.

Overall, the CIA does not identify any cultural matters that would be an impediment to the development. There are no areas of the development that are not consistent with the principles of the Treaty of Waitangi.

10.4.2 OPEN SPACE OBJECTIVES AND POLICIES

Objective 16.5.1 To maintain, protect and enhance the open spaces of Wellington City.

Policy 16.5.1.1 Identify a range of open spaces and maintain their character, purpose and function, while enhancing their accessibility and usability.

While the character of the site will undoubtedly change, as assessed by Wraights + Associates, through the mitigation measures inherent to the proposal, it is considered that the landscape and open space effects arising from the proposal can be mitigated to an acceptable level. Overall, the proposal will maintain the character, purpose and function of the open space as well as enhance accessibility and usability.

Objective 16.5.2 To maintain and enhance natural features (including, landscapes and ecosystems) that contribute to Wellington's natural environment.

Policy 16.5.2.1 Identify and protect from development and visual obstruction landforms and landscape elements that are significant in the context of the Wellington landscape, and in particular significant escarpments and coastal cliffs.

Policy 16.5.2.3 Encourage retention of existing native vegetation and where appropriate re-introduce native cover.

As concluded in Wraights + Associates Landscape and Visual Effects Assessment, the residential development within Open Space is limited to the land adjacent to the road carriageway below the coastal escarpment. The natural coastal escarpment will remain the visually dominant landscape feature protecting the wider Open Space values. The residential dwellings will not result in a significant visual obstruction to these wider landscape values.

While the proposal does include some vegetation removal in the Open Space B area, this vegetation removal is limited to that required to construct the dwellings and the thinning out of the Pohutukawa on the seaward side of the road to allow the remaining trees to grow to their full potential. This limited tree removal in the Open Space area will not detract from the wide landscape values of the local environment.

Furthermore, a Vegetation Management Zone will be established for the steep escarpment landscape as per the vegetation plan in Wraights + Associates Landscape and Visual Effects Assessment. Within this management zone, the staged removal of exotic species including pine (*Pinus radiata*) and Macrocarpa (*Cupressus macrocarpa*) species will be undertaken and clearings will be planted with species indigenous to Wellington's coastal ecologies.

10.4.3 EARTHWORKS OBJECTIVES AND POLICIES

Objective 29.2.1 To provide for the use, development and protection of land and physical resources while avoiding, remedying or mitigating any adverse effects or earthworks and associated structures on the environment.

Policy 29.2.1.1 Ensure that the design and assessment of earthworks and associated structures is coordinated with future land development and subdivision.

Policy 29.2.1.3 Ensure that earthworks are designed to minimise the risk of instability.

Policy 29.2.1.4 Require earthworks to be designed and managed to minimise erosion, and the movement of dust and sediment beyond the area of the work, particularly to streams, rivers, wetlands and the coastal marine area.

Policy 29.2.1.7 Ensure that earthworks and associated structures are designed and landscaped (where appropriate) to reflect natural landforms and to reduce and soften their visual impact having regard to the character and visual amenity of the local area.

Policy 29.2.1.9 Control earthworks in the Urban Coastal Edge, areas within the Ridgelines and Hilltops Overlay, Open Space B Areas, Conservation Sites, Heritage Areas and on sites containing listed Heritage Items to protect the character, visual amenity or heritage values these areas provide to their surrounds and the City.

Earthworks are required to provide building platforms and access. All earthworks have and will continue to be engineered to minimise risk of instability. A condition of consent has been offered requiring the submission of a Construction Management Plan for approval prior to the commencement of construction that outlines the mitigation measures with respect to erosion, dust and sediment with regard given to the coastal environment.

Following construction, all earth worked areas will be covered by buildings roads, paths or suitably landscaped.

The site does not contain listed heritage buildings nor is it located within a listed heritage area. Notwithstanding this, the heritage values of the site have been recognised in the heritage assessment prepared by Adam Wild. The proposed earthworks are only that which is necessary to undertake the development and the recognition of these heritage values has been one of the primary considerations to the overall design.

10.4.4 CONTAMINATION OBJECTIVES AND POLICIES

Objective 32.2.1 To manage the remediation, use, development and subdivision of contaminated and potentially contaminated land so as to avoid or mitigate the risk of adverse effects on human health and the environment.

Policy 31.2.1.2 Minimise and control the adverse effects that may arise from the use, development and subdivision of any contaminated or potentially contaminated land.

Policy 31.2.1.3 Encourage the remediation and/or ongoing management of contaminated or potentially contaminated land as it appropriate for any likely future use of the land.

Policy 32.2.1.4 Ensure that the exposure from the ongoing use of land affected by soil contaminants is managed in a manner that avoids or mitigates the risk of adverse effects on human health and the environment.

The proposal is to remediate any possible contamination on the site (that may exist following further site investigations) to a level suitable for the proposed land-use activities thereby avoiding any risks of adverse effects on human health and the environment.

10.4.5 OBJECTIVES AND POLICIES CONCLUSION

For the reasons outlined above, it is considered that the proposal will not be contrary to the relevant objectives and policies of the District Plan.

10.5 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

The only relevant National Environmental Standard that is relevant to the proposal is the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. Consent is required under Regulation 11 of this NES. The assessment in relation to contamination outlined earlier in this report concludes that the proposal will adequately remedy any potential soil contamination to ensure it is suitable for the proposed land-use activities.

10.6 NATIONAL AND REGIONAL POLICY STATEMENTS

Section 34(1)(d)(i) of the HASHAA requires that an application has regard to the matters of Sections 104F, the provisions of any National or Regional Policy Statement are relevant. It is considered that the New Zealand Coastal Policy Statement and Regional Policy Statement are relevant to this application.

The following assessment comments on the consistency with the abovementioned documents.

10.6.1 NEW ZEALAND COASTAL POLICY STATEMENT

The following objectives of the NZCPS are relevant:

Objective 2

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- *Recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;*
- *Identify those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities, and*
- *Encouraging restoration of the coastal environment.*

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- *Recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- *Promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *Incorporating matauranga Maori into sustainable management practices; and*
- *Recognising and protecting characteristics of the coastal environment that are of special value to tanga whenua.*

Objective 4

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- *Recognising the coastal marine area is an extensive area of public open space for the public use and enjoy;*
- *Maintaining and enhancing public walking access to and along the coastal marine area; and*
- *Recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.*

Objective 5

To ensure that coastal hazard risks taking account of climate change, are managed by:

- *Locating new developments away from areas prone to such risks;*
- *Considering response, including managed retreat, for existing development in this situation; and*
- *Protecting or restoring natural defences to coastal hazards.*

Objective 6

To enable people and communities to protect for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- *The protection of the values of the coastal environment does not preclude use and development of inappropriate places and forms, and within appropriate limits;*
- *Some uses and developments which depend upon the use of natural physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*
- *Functionally some uses and development can only be located on the coast or in the coastal marine area;*
- *The coastal environment contains renewable energy resources of significant value;*
- *The protection of habitats of living marine resources contribute to the social, economic and cultural wellbeing of people and communities;*
- *The potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;*
- *The proportion of the coastal marine area under formal protection is small and therefore management under this Act is an important means by which the natural resources of the coastal marine area can be protected; and*
- *Historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use and development.*

The following policies are also relevant to this development:

- *Policy 1 Extent and characteristics of the coastal environment*
- *Policy 2 The Treaty of Waitangi, tanagata whenua and Maori heritage*
- *Policy 3 Precautionary approach*
- *Policy 4 Integration*
- *Policy 6 Activities in the coastal environment*
- *Policy 11 Indigenous biological diversity (biodiversity) Policy 13 Preservation of natural character*
- *Policy 15 Natural features and natural landscapes Policy 17 Historic heritage identification and protection Policy 18 Public open space*
- *Policy 19 Walking access*
- *Policy 24 Identification of coastal hazards*

The proposal is consistent with the objectives and policies of the NZCPS for the following reasons:

- The development is confined to an area of the coastal environment that is already modified by built development;
- A Cultural Impact Assessment has been prepared on behalf of Taranaki Whanui Ki Te Upoko o Te Ika and The Port Nicolson Block Settlement Trust dated September 2016. This CIA is attached in Appendix 13. Overall, the CIA does not identify any cultural matters that would be an impediment to the development;
- The effects of the development can be defined and will unlikely result in yet unknown effects on the coastal environment or that will not be assessed through a future resource consent application to GWRC;
- The proposal is for a high-quality consolidated development in an area of historic occupation and built form. This consolidation ensures the rest of the immediate coastal environment remains free of development (other than the roading network);
- The wider character of the coastal environment is protected with development confined to below the existing coastal escarpments;
- Vegetation removal is limited to that required to construct the development and its safe occupation or to enhance the visual qualities of the environment;
- Public accessibility of the coastal environment will be enhanced;
- The design of the development has been designed to enable the future pedestrian access behind the development to the possible future public reserve on the wider peninsula;
- The proposal has been designed to enhance walking access both along the coast as well as through the integrated development; and,
- As per the design guidance of the proposed Design Guide, first floors of buildings will be elevated to a height that will allow contingency for sea level rise. This coupled with future seawall upgrades (as part of a future GWRC application) will ensure, as far as reasonably practicable the potential for coastal hazards has been taken into consideration.

10.6.2 REGIONAL POLICY STATEMENT

The following objectives and policies of the operative Regional Policy Statement are relevant to the proposal:

Policy 31: Identifying and promoting higher density and mixed use development – district plans District Plans shall:

- (a) Identify key centres for higher density and/or mixed use development;*
- (b) Identify locations, with good access to strategic public transport network, suitable for higher density and/or mixed use development; and*
- (c) Include policies, rules and/or methods that encourage higher density and/or mixed use development in and around these centres and locations.*

So as to maintain and enhance a compact, well-designed and sustainable regional form.

The majority of the development is zoned Business 1 Area that anticipates residential and mixed-use development.

Policy 35: Preserving the natural character of the coastal environment – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district plan, particular regard shall be given to preserving the natural character of the coastal environment by:

- (a) Minimising any adverse effects from point source and non-point source discharges so that aquatic ecosystem health is safeguarded;*
- (b) Protecting the values associated with estuaries and bays, beaches and dune systems, including the unique physical processes that occur within and between them from inappropriate subdivision, use and development, so that healthy ecosystems are maintained;*
- (c) Maintaining or enhancing amenity – such as, open space and scenic values – and opportunities for recreation and the enjoyment of the coast by the public;*
- (d) Minimising any significant adverse effects from use and enjoyment of the coast by the public;*
- (e) Safeguarding the life supporting capacity of coastal and marine ecosystems;*
- (f) Maintaining or enhancing biodiversity and functioning of ecosystems; and,*
- (g) Protecting scientific and geological features from inappropriate subdivision, use and development.*

The coastal environment subject to this application is largely a modified environment. The exception is the beach in the south bay and the landform of the two-point parks at either end to the development. The proposal respects the unmodified areas of the existing coastal environment with limited disruption other than that required to enhance public access. These aspects to the overall proposal are however subject to a future consent from GWRC so will be further assessed at that time. Overall the development enhances the open space amenity and creates additional opportunities for recreation and enjoyment of the coast by the public.

Policy 36: Managing effects on natural character in the coastal environment – consideration

When considering an application for a resource consent, notice of requirement or a change, variation or review of a district plan or regional plan, a determination shall be made as to whether an activity may affect natural character in the coastal environment, and in determining whether an activity is inappropriate particular regard shall be given to:

- (a) The nature and intensity of the proposed activity including:*
 - (i) the functional need or operational requirement to locate within the coastal environment*
 - (ii) the opportunity to mitigate anticipated adverse effects of the activity*
- (b) The degree to which the natural character will be modified, damaged or destroyed including:*
 - (i) the duration and frequency of any effect, and/or*
 - (ii) the magnitude or scale of any effect;*
 - (iii) the irreversibility of adverse effects on the natural character values;*
 - (iv) whether the activity will lead to cumulative adverse effects on the natural character of the site/area.*

- (c) *The resilience of the site or area to change;*
- (d) *The opportunities to remedy or mitigate previous damage to the natural character;*
- (e) *The existing land uses on the site.*

As noted earlier, the majority of the coastal environment that forms part of this application is already a modified landform and the areas that are not modified will largely remain unmodified. The proposed new built development to the most extent falls outside the defined coastal environment with the exception of existing buildings within this area and some new buildings/structures for public benefit and enjoyment. The proposal respects the existing coastal environment and encourages enhanced public access.

Policy 46: Managing effects on historic heritage values – consideration

When considering an application for a resource consent, notice of requirement or a change, variation or review of a district plan or regional plan, a determination shall be made as to whether an activity may affect a place, site or area with historic heritage value, and in determining whether an activity is inappropriate particular regard shall be given to:

- (a) *The degree to which historic heritage values will be lost, damaged or destroyed;*
- (b) *The irreversibility of adverse effects on heritage values;*
- (c) *The opportunities to remedy or mitigate any previous damage to heritage values;*
- (d) *The degree to which previous changes that have heritage value in their own right are respected and retained;*
- (e) *The probability of damage to immediate or adjacent heritage values;*
- (f) *The magnitude or scale of any effect on heritage values;*
- (g) *The degree to which unique or special material and/or craftsmanship are retained;*
- (h) *Whether the activity will lead to cumulative adverse effects on historic heritage; and,*
- (i) *Whether the relationship between distinct elements of an historic place, site or area will be maintained.*

As noted earlier there are no heritage listed buildings/structures or items within the development site under the District or Regional Plans or by Heritage New Zealand. Notwithstanding this, the Shelly Bay Design Guide and the objectives and policies of the District Plan recognise the historic values associated with the site. A heritage assessment has been undertaken by Adam Wild of Archifact that supports the Masterplan from a heritage perspective.

Policy 54: Achieving the region’s urban design principles – consideration

When considering an application for a notice of requirement, or a change, variation or review of a District Plan or regional plan, for development, particular regard shall be given to achieving the region’s urban design principles in Appendix 2.

The proposal represents a high-quality development with positive urban design outcomes that will further be ensured by the proposed Shelly Bay Design Guide.

Policy 53: Public access to and along the coastal marine area, lakes and rivers – consideration

When considering an application for a subdivision consent, or a coastal or land use consent on public land, or a change, variation or review of a district plan to address subdivision or rezoning, particular regard shall be given to enhancing public access to, and along:

- (a) *Areas of the coastal marine area, lakes and rivers with:.....*
- (b) *Wellington Harbour and Porirua (Onepoto Arm and Pauatahanui Inlet) Harbour;...*

One of the key design focuses of the Masterplan is to enhance access to the coastal marine area and shoreline for the wider public enjoyment. The land around the foreshore will be vested in the Council to ensure continued public access.

10.7 SECTION 104D

Resource consent is required for the proposal as a Non-Complying Activity. Section 104D specifies considerations for Non-Complying Activities:

- (1) *Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
- (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

Having had regard to Section 104D, on the basis of the mitigation measures that are proposed and inherent to the proposal (that include the guidelines included in the proposed Design Guide), the potential adverse effects can be mitigated to an acceptable level to ensure they are no more than minor. In addition, the proposal results in a number of positive benefits including the retention for historic character buildings that have been assessed as having historic values.

10.8 SECTION 104 ASSESSMENT SUMMARY

This application does require consideration under s104D as a non-complying activity. Based on the assessments provided in Section 10.1, there will be both adverse and positive effects arising from the proposed development. In all, the potential effects of the proposal will be acceptable. As outlined in Section 10.6 above, it is considered that the proposal is consistent with the relevant objectives and policies of the District Plan, the RPS and the New Zealand Coastal Policy Statement. Overall, in this context and taking into account the proffered consent conditions (provided at **Appendix Six**) that seek to mitigate potential adverse effects to an acceptable level, it is concluded that the effects on the environment of allowing the proposal are appropriate, taking into account the objectives of the District Plan, the RPS, and the New Zealand Coastal Policy Statement.

10.9 SECTION 106

There appears to be no section 106 matters that would prevent WCC from granting a subdivision consent. In particular, there is no evidence of material damage by erosion, falling debris, subsidence, slippage or inundation. All proposed freehold allotments will have physical and legal access onto legal road.

11. SECTION 34(1)(E) – NEW ZEALAND URBAN DESIGN PROTOCOL

Section 34(1)(e) of the HASHAA requires that the application be assessed in terms of the key urban design qualities expressed in the Ministry for the Environment's 'New Zealand Urban Design Protocol (2005)', or any subsequent editions of that document.

McIndoe Urban prepared an Urban Design Assessment relative to the New Zealand Urban Design Protocol and is attached at **Appendix Sixteen**. This assessment should be read in conjunction with this section.

In respect of the ‘Seven C’s’, this assessment concludes:

- *This systematic review of the Masterplan and Design Guide for the Proposal against the New Zealand Urban Design Protocol demonstrates that the Proposal comprehensively addresses the aspirations of, and matters raised by, the Protocol;*
- *The most fundamental response to the qualities identified by the Protocol are the overall plan configuration of space, building bulk and form and urban landscape identified graphically in the Masterplan that is part of the Proposal’s Design Guide;*
- *The Proposal’s Shelly Bay Design Guide [Proposal’s Design Guide] then addresses all matters of detail identified by the Protocol, in many instances in depth. Where it is informative to illustrate the extent to which various matters are addressed, content from the Proposal’s Design Guide is described in full into the assessment; and,*
- *The Proposal also addresses matters of high-quality public realm (and public spaces) that are not described in detail in the Protocol but which are nevertheless fundamental to high quality urban design.*

Overall, it is considered that the Masterplan and the proposed Shelly Bay Design Guide addresses the key urban design qualities expressed in the New Zealand Urban Design Protocol.

12. SECTION 34(2) AND (3) – SUFFICIENT AND APPROPRIATE

INFRASTRUCTURE

Section 34(2) of the HASHAA states that “an authorised agency must not grant a resource consent that relates to a qualifying development unless it is satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development”.

Section 34(3) further states:

For the purposes of subsection (2), in order to be satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development, the matters the authorised agency must take into account, without limitation, are –

- (a) *compatibility of infrastructure proposed as part of the qualifying development with existing infrastructure; and*
- (b) *compliance of the proposed infrastructure with relevant standards for infrastructure published by relevant local authorities and infrastructure companies; and*
- (c) *the capacity for the infrastructure proposed as part of the qualifying development and any existing infrastructure to support the development.*

The Infrastructure Assessment Report prepared by Envelope Engineering, and attached at **Appendix Ten**, confirms that there is sufficient and adequate infrastructure in place, or infrastructure that can be reasonably be provided, to support the proposed development. The report outlines a number of upgrade and/or repairs works in Section 5.4 of this report that would need to be undertaken to support the development. These works are not fanciful, untested or cost prohibitive solutions required to appropriately service the development.

Section 34 (3) provides that the infrastructure “will be provided”. In order to be satisfied that sufficient and appropriate infrastructure will be provided, the Council is able to impose conditions of consent to achieve that sufficient and appropriate infrastructure. In that way, the consent holder must comply with those conditions if it wishes to exercise the consent and the Council can be satisfied, accordingly, that the infrastructure will be in place. Both the High Court and the Court of Appeal in the Enterprise Miramar proceedings agreed that this approach, having regard to the conditions put in place in the resource consent decision that was quashed (for other reasons) was in order – see paragraph [60] to [67] of the Court of Appeal decision.

On the basis of details included in the Infrastructure Assessment Report and the imposition of conditions requiring appropriate services as outlined in **Appendix Six**, it can be concluded that sections 34(3) and 34(4) of HASHAA is satisfied and should pose no impediment to the Council from granting resource consent.

13. WEIGHING THE PRESCRIBED MATTERS IN ACCORDANCE WITH THE

SECTION 34 HIERARCHY

As the Court of Appeal directed in paragraph 53, “*Section 34(1) instructs the decision-maker to “have regard to” the listed matters “giving weight to them (greater to lesser) in the order listed”. The scheme and plain text of s 34 (1) requires individual assessment of the listed matters prior to the exercise of weighing them in accordance with the prescribed hierarchy.*”

Accordingly, Section 34(1) of HASHAA requires an evaluation of the proposal by having regard to the five matters identified, giving weight to them (greater to lesser) in the order listed, as set out earlier in this continuation of the existing application. Section 34 of HASHAA sets up a framework whereby the purpose of HASHAA is not one to be achieved at any cost, but rather requires a weighting exercise.

In respect of clauses 34(1)(a)-34(1)(e), the proposal has demonstrated the following:

- In having regard to the purpose of HASHAA, the proposal will facilitate the subdivision and development of land for predominantly residential purposes. The proposal seeks to create up to 350 residential units of differing typologies (apartments, townhouses, and detached houses) which will provide additional housing stock to the Wellington district thereby assisting in improving Wellington’s housing supply and affordability issues; in that, some of the new houses may in and of themselves be affordable, but otherwise through the release of existing, more affordable housing stock in the District to the market as buyers sell their existing homes. Overall the proposed development is consistent with the purposes of the HASHAA and it proposes a development envisaged by the HASHAA, the Wellington Accord, and the Shelly Bay Special Housing Area. It is only through a development such as this that the targets agreed between the Council and the Government in the Wellington City Housing Accord (designed to meet the statutory purpose of HASHAA) can begin to be achieved.
- In having regard to Part 2 of the RMA, for reasons outlined in Section 10.1 of this report, overall, the proposed activity is considered to be consistent with the matters in Part 2 of the RMA. The proposal will result in a high-quality development located in an appropriate location for residential development. Substantial expert analysis has been provided in support of the application. The proposed development will provide housing stock in Wellington while managing external and internal effects. The outcome will be a high-quality urban design outcome.
- In having regard to the matters that would arise to consideration of Sections 104-104F of the RMA:
 - For the reasons discussed in Section 8 of this report, the overall actual and potential effects of the development are, subject to the imposition of the conditions included in **Appendix Six** of this application, considered to be acceptable. The proposal will also result in positive effects including that the proposed residential development of an underutilised site Business 1 Area site and will be developed in a manner that respects the Open Space B Area, the site’s unique location and historic values, and will maintain the prominence of the coastal escarpment and skyline of the Miramar Peninsula.
 - The proposal has given regard to the objectives and policies of the District Plan. For the reasons discussed in Section 10.6, it is considered that the proposal is appropriate in respect of the District Plan objectives and policies.
 - Having had regard to 104D, on the basis of the mitigation measures that are proposed and inherent to the proposal, the potential adverse effects can be mitigated to an acceptable level to ensure they are no more than minor. In addition, the proposal results in a number of tangible positive benefits related to the retention for historic character buildings that have been considered to have historic values.

- The appears that no section 106 matters that would prevent Council from granting a subdivision consent. In particular, there is no evidence of material damage by erosion, falling debris, subsidence, slippage or inundation. All proposed freehold allotments will have physical and legal access onto legal road.
- Having had regard to 104(b)(v), for reasons outlined in Section 9.4, overall, the proposal is not contrary to the Regional Policy Statement and the New Zealand Coastal Policy Statement.
- Having had regard to the key urban design qualities expressed in the New Zealand Urban Design Protocol, as provided under Section 11, it is considered that the proposed Masterplan and the proposed Shelly Bay Design Guide addresses the key urban design qualities expressed in the New Zealand Urban Design Protocol (i.e. the Seven C's).
- In order to make a determination, WCC must be satisfied that a qualifying development will have sufficient and appropriate infrastructure provided to support the qualifying development. As noted in Section 12 above, it is confirmed that adequate infrastructure can be provided to the site.

To summarise, it is considered that:

- The proposal meets the purpose of the HASHAA;
- The proposal meets the purpose and principles contained in Part 2 of the RMA;
- The proposal will result in potential adverse effects that can be mitigated to an acceptable level. The conditions proposed will provide mitigation or a reduction of adverse effects that may be generated;
- The proposed is generally consistent with the objectives and policies contained in the District Plan, RPS and the NZCPS;
- The proposal is consistent with the Urban Design Protocol; and,
- In respect of s34(2), the infrastructure assessments undertaken have confirmed that site can be serviced.

On the basis of the above, while Section 34 of the HASHAA requires the five matters identified in subsection (1) to be given weight to (greater to lesser) in the order listed, as the proposal has given appropriate regard to all matters and as it has been determined that the proposal aligns with all of the matters, particular weighting of one matter over any other higher order matter is not considered warranted.

14. NOTIFICATION ASSESSMENT

14.1 NOTIFICATION UNDER HASHAA

This application requires consideration against the relevant notification provisions of the HASHAA.

Section 29(1) of the HASHAA states “*an authorised agency must not notify, or hold a hearing in relation to, an application for a resource consent made under Section 25, except as provided in sub-sections (3) to (5)..*”

(3) The authorised agency may notify the application to the following persons if, in each case, the person has not given prior written approval to the activity:

(a) the owners of the land adjacent to the land subject to the application; and

(b) the local authorities in whose district or region the land subject to the application falls; and

(c) any infrastructure providers who have assets on, under, or over the land subject to the application or the land adjacent to that land; and

(d) if the land subject to the application or land adjacent to that land is subject to a designation, the requiring authority that required the designation.

(4) The authorised agency must, within 10 working days after the date that the application is first lodged,—

(a) decide whether to notify the application to any of the persons referred to in subsection (3); and

(b) notify the application to those persons if it decides to do so.

(5) Despite subsection (3), an authorised agency must not notify, or hold a hearing in relation to, an application for a resource consent made under this Act if, were that application to be made under the Resource Management Act 1991, that Act, or regulations made under that Act, would direct that the activity that is the subject of the application not be notified.

It is acknowledged that this section of HASHAA does not have the same form and type of assessment as that of Section 95 of the RMA, which requires public or limited notification to occur in certain circumstances.

With respect to section 29(3) the authorised agency need not notify any parties the application for the following reasons with particular reference to (a) – (d) noted below:

- (a) The authorised agency will determine whom they deem to be adjacent land owners. However, it is considered this should be limited to landowners directly adjoining the subject site (i.e. those that share a common boundary). In this case the only adjacent land owner is the New Zealand Defence Force. For the reasons outlined in section 10, this adjacent land owner should not be considered to be affected.
- (b) The authorised agency, that the land subject to this application falls, is the Wellington City Council. Pre-application meetings and engagement has been undertaken with Wellington City Council prior to the lodgement of this application. Therefore, notice need not be served on Wellington City Council. It is acknowledged that GWRC consents will be required with respect to discharge and structures in the coastal marine area. However, these are outside of the scope of this application and will be applied for separately. GWRC have been involved in pre- application meeting discussions so are informed of this application. The GWRC therefore need not be notified of the application.
- (c) The infrastructure assessment report prepared by Envelope Engineering outlines all of the infrastructure providers that have been consulted as part of the proposal. These include Wellington Water, Wellington Electricity, Chorus and Powerco. It is therefore not considered necessary to notify any infrastructure providers of this application.
- (d) The northern point of the site has a meteorological designation (ref: M3) with the requiring authority being Meteorological Service of New Zealand Limited. Given the requiring authority's approval will be required prior to works within this designation area, there is no need to serve notice on them.
- (e) The overall activity status of the application is Non-Complying under the District Plan. As a Non- Complying Activity, the District Plan does not direct that the activity that is the subject of this application need not be notified. Therefore, section 29(5) of HASHAA, as noted above, is not applicable to this application.
- (f) It is noted that the Council has discretion under this section and that limited notification is not mandatory. The proposal has been carefully and sensitively designed to warrant the Council's discretion not to notify this application.

15. CONCLUSION

The Applicant seeks Qualifying Development resource consent under HASHAA for a Masterplan that will facilitate the development of the Shelly Bay SHA.

On the 15th of September 2016, under Section 25 of the Housing Accords and Special Housing Areas Act 2013 (the "HASHAA"), a Qualifying Development application was lodged to redevelop land at 232, 264, 270 and 276 Shelly Bay Road (being "the subject site") for residential and supporting commercial/community purposes. In its decision on 18 April 2017, Wellington City Council ("WCC") granted, with conditions, the resource consents that had been sought.

On 3 December 2018, the Court of Appeal, in its decision in *Enterprise Miramar Peninsula Incorporated v Wellington City Council [2018] NZCA 451*, quashed the Council's decision to grant the resource consents on the basis of its reasons set out in paragraphs 40 to 59 of its decision. However, the resource consent application itself remained in place; the Court of Appeal ordered that "the application for resource consents is remitted to the WCC for reconsideration".

Accordingly, this report has been provided to Wellington City Council as a continuation of the existing resource consent application lodged in September 2016. As this is a continuation of the existing application, it uses substantive information contained in that report but also seeks to update the assessment of environmental effects with supplementary information based upon assessments contained in the appendices to the report. This report also seeks to reassess the application against the relevant purposes of HASHAA in accordance with the guidance given by the Court of Appeal in its decision. Accordingly, it should be read in place of the TPG document.

Land use and subdivision resource consents are sought for the comprehensive redevelopment of the site including residential accommodation (apartments, townhouses and stand-alone dwellings), boutique hotel, ancillary commercial/community activities, the adaptive re-use of some existing buildings on the site, and the development of integrated public open spaces. The proposal also includes the option for aged care accommodation. Consent is sought on the basis of a proposed Masterplan that allows flexibility to cater for changes in apartment size, demand, and building design as the development progresses over the duration of the consent sought.

As the Court of Appeal directed in paragraph 53, "*Section 34(1) instructs the decision-maker to "have regard to" the listed matters "giving weight to them (greater to lesser) in the order listed". The scheme and plain text of s 34 (1) requires individual assessment of the listed matters prior to the exercise of weighing them in accordance with the prescribed hierarchy.*"

To summarise, it is considered that:

- The proposal meets the purpose of the HASHAA;
- The proposal meets the purpose and principles contained in Part 2 of the RMA;
- The proposal will result in potential adverse effects that can be mitigated to an acceptable level. The conditions proposed will provide mitigation or a reduction of adverse effects that may be generated;
- The proposed is generally consistent with the objectives and policies contained in the District Plan, RPS and the NZCPS;
- The proposal is consistent with the Urban Design Protocol; and,
- In respect of s34(2), the infrastructure assessments undertaken have confirmed that site can be adequately serviced.

On the basis of the above, while Section 34(1) of the HASHAA requires the matters listed in paragraphs (a) to (e) of that subsection to be had regard to and to be given weight (greater to lesser) in the order listed, as the proposal has given appropriate regard to all matters and as it has been determined that the proposal aligns with all of the matters, particular weighting of one matter over any other higher order matters is not considered warranted.

With respect to notification, it has been concluded that notification is not required to any parties. It is acknowledged that this section of the HASHAA does not have the same form and type of assessment as that of Section 95 of the RMA, which requires public or limited notification to occur in certain circumstances.

On the basis of the assessments provided in this report and accompanying technical reports, it is appropriate for the qualifying development application be granted, subject to the imposition of the conditions proffered in this report. Pursuant to Section 49 of HASHAA, a resource consent granted under HASHAA has full force and effect for its duration and according to its terms and conditions as if it were granted under the RMA and, any provision of an enactment that refers to a resource consent granted under the RMA must be read, with all necessary modifications, as including a resource consent granted under HASHAA.

16. LIMITATIONS

16.1 GENERAL

This report:

- h) Is for the use by The Wellington Company Limited and Wellington City Council only and should not be used or relied upon by any other person or entity or for any other project; and,
- i) Has been prepared for a specific project described to use and its extent is limited to the scope of work agreed between the client and Egmont Dixon.

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APPENDIX ONE: Certificate of Titles



APPENDIX TWO: Proposed Shelly Bay Master Plan





APPENDIX THREE: Proposed Shelly Bay Design Guide





APPENDIX FOUR: Preliminary Site Investigation



APPENDIX FIVE: Traffic Assessment





APPENDIX SIX: Noise Insulation and Ventilation Overlay Map



APPENDIX EIGHT: Engineering Infrastructure and Earthworks Drawings





APPENDIX NINE: Subdivision Scheme Plan





APPENDIX TEN: Engineering Infrastructure Assessment





APPENDIX ELEVEN: Engineering Infrastructure Assessment



APPENDIX TWELVE: Heritage Assessment



APPENDIX THIRTEEN: Cultural Impact Assessment





APPENDIX FOURTEEN: Landscape and Visual Effects Assessment





APPENDIX FIFTEEN: Urban Design Assessment – WCC Design Guide



APPENDIX SIXTEEN: Urban Design Assessment – NZ Urban Design Protocol





APPENDIX SEVENTEEN: Artist Impression and Video (for information purposes only)



APPENDIX EIGHTEEN: Preliminary Geotechnical Assessment

