

26 July 2000

Greg Schollum  
Chief Financial Officer  
The Wellington Regional Council  
Level 5  
The Regional Council Centre  
Wellington

Dear Greg,

Re: **Shelly** Bay

Further to our reports of 10 April and 1 July 2000, discussions with Defence (NZDF) have taken a positive step forward and we believe that it is now appropriate to update Council on the current position.

You will recall the need to change our strategy as we perceived a hidden agenda at the Wellington City Council (WCC). Each meeting seemed to bring a new WCC requirement to the table. This closed hand approach of the WCC was not at all conducive to progress or finalisation. The strategy adopted was to temporarily abandon the three way discussions in favour of WRC and NZDF negotiating an agreed position or solution. That joint position would then be placed before the WCC.

We report that an agreed position has now been reached with NZDF. Please refer to our letter of 4 July and the NZDF response of 24 July 2000. Prior to making a joint approach to WCC with the proposal, it is believed appropriate that WRC and NZDF principals should be updated and approvals to proceed obtained. NZDF is to consider the matter with Chief of Staff on Friday 28 July.

Recent discussions have focused on the issue of the land to be set aside for road in particular. To save reading across previous reports, we will repeat the appropriate portions of the earlier reports that have dealt with the road issue.

#### **Previously Reported Background**

*In 1983 NZDF and WCC agreed, by exchange of correspondence, that the formed road and footpath would be legalised and the legal road would be stopped and vested in NZDF. This agreement between NZDF and WCC was acknowledged and incorporated in the Wellington Harbour Board (now WRC) and NZDF agreement of December 1983. The WRC-NZDF agreement provides for the land, when no longer required by NZDF, to be handed back at 10 cents but the area handed back will exclude the formed road which will then be legal road.*

*The formed road and footpath is of variable width being generally 12 metres and over. The WCC has nominated the area of land it requires to be legal road, being an area 17 to 20 metres wide which encompasses considerably more land than the 1983 agreements provide for. While this additional requirement for road has impacts on both WRC and NZDF in loss of land and buildings for disposal, it is important to appreciate the context.*

*When the 1983 agreements were entered into there would have been a contemplation that NZDF would remain as the Shelly Bay occupants. The existing road would therefore be adequate. With the decision of NZDF to vacate the site and the Environment Court ruling on allowable potential future development, the existing road is viewed by WCC as being inadequate.*

*Usually, where WCC has a requirement for land for road, it is required to acquire the land at current market value. We don't see these circumstances as being any different. The extra land that WCC has nominated that it requires to be legalised as road will cause WRC to receive less by way of proceeds after sale (WRC lose some 1,200 m<sup>2</sup>). NZDF will also be impacted on.*

*At the March 2000 joint NZDF-WRC-WCC meeting, the impact of the nominated road requirement detailed to WCC. WCC appeared to not have been previously aware of the 1983 agreement. WCC undertook to understand its position relative to the 1983 agreement and to review the road alignment to a pragmatic line which will impact on additional land and buildings the least. We have pointed out to WCC that their requirement for additional land may have compensatory consequences.*

*We have suggested a solution which would see the WCC legalising the formed road as per the 1983 agreement and that the additional land, catering for the future needs, being designated on the District Plan. This would protect the future widening but leave for a future date the WCC need to acquire the extra land. If the Shelly Bay land is redeveloped in the future, WCC may be able to obtain the designated road portion by way of a trade off with the then owner, (developer).*

*WCC roading engineers are also investigating the standard and condition of the sea wall at Shelly Bay. WCC is reluctant to take as road the formed road until it is sure that the infrastructure it will inherit is sound.*

#### **WCC Road Reserve Requirement**

We have now been advised that the WCC review of the road has resulted in a minor change only and the impact of land loss falls squarely at the WRC door. The WCC has all along adopted the tactic that it has no pressure on it to achieve an agreement. It is fair to say that resolution is principally in the interests of NZDF and WRC.

WCC has sent a clear signal that it has no intention of agreeing to take any area for roading which is less than it has nominated. The land required for road reserve by the WCC does go well outside the formed road which WRC is contractually obliged to provide. WCC has also advised that it has no intention of paying for the additional land which sits outside the existing road formation. Our proposal of designation is therefore rejected by WCC as that does mean that it would eventually have to purchase the designated land.

#### **Who Should be Responsible**

We strongly recommend that the WRC support the WCC in setting aside the road reserve in excess of the formed road. This is a prudent and reasonable stance for the WCC to adopt and is based on good practice of establishing long term road planning objectives.

#### **The Seawall**

WCC has had engineers investigate the seawall and deficiencies have been identified. Costings have been provided which indicates the need for some \$23,000 to be spent immediately, a further \$45,000 by 2005 and some \$50,000 by 2020. The overall of \$118,000 will fully upgrade the wall to a standard acceptable to WCC. WCC requires NZDF to provide the \$118,000 before it will accept responsibility for the wall. This is a matter for NZDF to consider. If a present value calculation is

applied to the 2005 and 2020 expenditure the present overall value lies at approximately \$60,000. As will be seen from the NZDF letter, NZDF proposes to offer to pay \$50,000 toward the wall work.

### **WRC Land for Roading Position**

The WRC land required for road falls into three distinct categories. First is the area of the formed road which WRC is contractually obliged to have vested in WCC as road. Second is the additional area of land the WCC requires as road to the seaward (west) side of the formed road. WRC has resolved that this land should be vested in the WCC as road at no cost. Third is the additional area of land the WCC requires as road to the **landward** (east) side of the formed road. It is this area which will see the WRC incur considerable loss on sale of its residual holding and for which the WCC should be paying compensation.

In respect of the land to the east side of the formed road only, WRC, as we see it, has several positions it could adopt, including:

- insist WCC pays full value for the extra land,
- grant the extra land to WCC at no cost,
- refuse to transfer any land beyond that required by contract,
- insist NZDF pay for the extra land lost,
- ask NZDF to share the value of the land loss 50/50 or
- ask for WCC to provide an equivalent area from the road it is to close.

For WCC to provide an equivalent area from its closed road is, we believe, the most equitable of the available options. NZDF is the major beneficiary of settling with WCC as NZDF receives, if the exchange is proceeded with, all of the legal road which is to be closed. The area of road to be closed is well in excess of the land required for road. A WRC/WCC exchange will diminish the closed road WCC has to exchange with NZDF and thereby will place a better balance in the WCC/NZDF exchange.

We now hold NZDF support to the WRC/WCC exchange proposal.

### **The Value Impact of the Road Reserve**

If the WCC agree to the proposal to exchange closed road with the extra land it requires from WRC then it is not necessary to address loss of value issues as land areas and consequently values, will remain unaltered for the WRC. No valuation report has therefore been commissioned.

### **The Balance WRC Land Holding**

Taking a wider perspective on the overall WRC land holding at Shelly Bay, we report on the proposed use of all of the balance WRC holding. The above commentary deals with all the land to the east side of the formed road. The Council also holds land to the west (seaward) side of the road.

### **Foreshore Reserve Proposal**

We have now received a formal response from the Department of Conservation (DoC). With NZDF, we had proposed to DoC that the marginal strip foreshore reserve requirement on disposition of Crown owned land be modified. It was proposed that the marginal strip be reduced from 20 down to 3 metres and that an exemption be granted to the areas fronting onto the wharf

and **slipway** structures. In exchange, it was proposed that Section 90, which as beach has no commercial use or value but which is vital as public land to retain waterfront access, be granted as reserve. In addition, a 5 metre wide strip would be vested as reserve which would run from the legal road to the wharf structures to ensure that public access to the wharfs and water front amenity was protected. The balance foreshore frontage will be road reserve and thereby protected and public access preserved.

DoC has responded positively, indicating conditional approval to the concept. DoC has advised that it would like to see the foreshore reserve created in the usual manner on disposition of Crown owned land, that is when the land is transferred from NZDF back to the ownership of WRC. DoC would then like to enter into a land exchange proposal with WRC which will see the DoC Shelly Bay land returned to WRC in exchange for the WRC lighthouse site at Matiu (Somes) Island. DoC will grant a lease to WRC for continued access to operate the lighthouse. DoC have always wished to own all of Matiu Island and this exchange will achieve that goal. Councillors will recall that WRC has already resolved to transfer its land at Matiu Island to DoC and the exchange is a mechanism to retain the Shelly Bay land in WRC hands.

DoC has also advised that it would prefer to see the Shelly Bay land, which is vested as reserve, placed in the name of the WCC. We support the DoC stance and recommend WRC approval to this proposal to protect the permanent provision of public access to the foreshore and wharf structures.

Now that DoC approval is held, if approval of the WRC to the concept is obtained, the remaining WRC land holding will be part of a significant commercial site to the seaward side of the road which will be a joint asset of NZDF and WRC. This site will be zoned for and will lend itself to commercial use. Part of the site is occupied by the **slipway** which is presently the focus of ministerial representation through the Deputy Prime Ministers office. The **slipway** presently falls within the land owned by the WRC but, if the road reserve is granted, ownership will be severed and part will fall into WCC ownership as road reserve.

#### **The Slipway and Adjoining Structure Facility**

During April 2000, a proposal was submitted to the Deputy Prime Minister, as Minister for Industry and Regional Development, seeking assistance which would see the Shelly Bay wharfs, **slipway** and adjoining building retained for the benefit of the region. The WCC has recently served notice to vacate on a number of occupants at Greta Point. The occupants undertook marine engineering, chandlery, rigging, sailmaking, boat building and boat repair businesses. Shelly Bay is seen as an ideal alternative location. Wellington's fishing boat and larger pleasure boats travel to Nelson or Picton to be slipped for maintenance work. Smaller boats can use the Chaffers and **Seaview** facilities but these are limited in their lifting capacities to some 35 tonnes. Shelly Bay was designed for 150 tonnes.

A proposal has been submitted which would see the facility retained for the region and a plan produced which will see employment provided and the facility leased to a variety of maritime users.

The Deputy Prime Minister supports the proposal which has been put forward. The Deputy Prime Minister has been briefed on the Background and issues prevailing at Shelly Bay and has offered the weight of his office to assist resolve outstanding issues. The stance and proposals of the WRC have been fully endorsed by the Deputy Prime Minister. In our opinion, the ideal long term owner of the facility would be a consortium run by the occupiers and users of the facility. If it were thought that public ownership was the ideal then the most relevant owner would be the WCC.

## Resolution

We see Shelly Bay issues being resolved by placing them into clear sectors.

FIRST is to address the road issue. We seek Council endorsement to the proposed resolution by way of exchange between WRC and WCC.

SECOND is to place the joint WRC and NZDF proposition before the WCC to seek its approval. A joint proposition should be hard for the WCC to resist, particularly if political support for the proposition is expressed to the WCC. If sign off by the WCC can be achieved, the exchange of formed road for road reserve can take place and at long last the formed road can be legalised as road. This will unlock Shelly Bay and progress can begin to be made.

THIRD is to manage the process with DoC for the foreshore reserve contributions and the subsequent exchange with WRC land at Matiu Island.

FOURTH, and last, is a strategy to dispose of the remainder land which sits between the road and the wharfs. Because this involves commercial land, the wharf structures, the slipway and potentially valuable buildings, further time will need to be invested to obtain the best outcome from all perspectives. This fourth action need not delay implementation of the first three.

We confirm that all negotiations with NZDF have been on a without prejudice basis.

## Recommendations

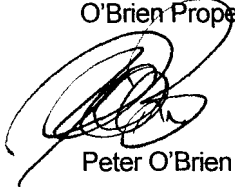
### ***We recommend that***

- 1. The WRC agree to vary its contract with NZDF to facilitate transfer from NZDF to WCC, for road reserve purposes, those parts of Section 89 Watts peninsula District shown coloured yellow and orange on the attached plan, subject to WCC transferring to WRC ownership an area equivalent to the orange areas to the east of the formed road, which is presently legal road to be closed and which immediately adjoins the WRC residual holding.*
- 2. The WRC agree, at the request of DoC, to NZDF vesting as reserve in the WCC Section 90 and Watts Peninsula District shown coloured green on the attached plan together with the vesting in WCC as reserve for the purpose of public access part Section 89 Waifs Peninsula District shown coloured blue on the attached plan.*
- 3. The WRC agree to the disposal of its eventual residual landward side land holding in conjunction with the NZDF land.*
- 4. The WRC agree, at the request of DoC, to enter into an exchange of land being the transfer from WRC of its land holding at Matiu Island to DoC, subject to a lease back to protect the continued presence of the lighthouse structure, in exchange for the transfer from DoC of the land taken as foreshore reserve at Shelly Bay to WRC.*
- 5. The WRC agree to work with NZDF to devise a strategy to dispose of the remainder WRC seaward side land, shown red on the attached plan, with such strategy to have regard to the wider public interest, a commercial balance and to be subject to further report back as options evolve.*

26 July, 2000

We trust that this report provides sufficient detail to enable the Council to consider the recommendations made. Please phone if you wish to discuss the proposal or to have the information presented in an altered format.

Yours sincerely  
O'Brien Property Consultancy Limited.



Peter O'Brien