

# Shelly Bay FAQ's February 2020

## **What is the Council's role in the development proposals for Shelly Bay?**

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The Council has been involved in separate ways. Firstly, as a regulatory authority, the Council's Resource Consents Team received and considered the resource consent application in 2016/17, and the application for subdivision in 2017/18. As Shelly Bay is a Special Housing Area under the Housing Accords and Special Housing Areas Act 2013 (HASHAA), the application was considered against this legislation and found to have met the requirements for consent. The resource consent was approved by the Council in April 2017, and again by independent commissioners in October 2019.

Separately, in 2017, the Council considered a proposal to sell and lease land owned by the Council in Shelly Bay to Shelly Bay Limited. A four-week public consultation was undertaken, and in September 2017, the Council approved the sale and lease.

Council also has involvement as a Road Controlling Authority.

## **Are we still selling and leasing Council land at Shelly Bay?**

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Resource Consent for the Shelly Bay development was granted by Independent Commissioners in October 2019. Officers are progressing work on the negotiation of commercial terms (as approved by Councillors in September 2017), and will report back to Councillors later this year.

## **Who is the Council selling and leasing the land to?**

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Port Nicholson Block Settlement Trust (PNBST) was established in August 2008 to administer the Treaty of Waitangi settlement of the Taranaki Whānui. In 2008, PNBST purchased a holding in Shelly Bay as part of the settlement.

PNBST established a joint venture with developers The Wellington Company, known as Shelly Bay Ltd. The developers put forward a proposal to develop land at Shelly Bay and an application for Resource Consent was submitted.

Council is confirming all entities proposing to be involved in the agreement and will report back to Councillors later this year.

## **How much of the Council's land is proposed to be sold/leased?**

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The Council owns 3.5 hectares of land at Shelly Bay – mainly along the waterfront. The Council has agreed to sell (0.3h) and lease (0.6h) a total of 0.9 hectares of land to Shelly Bay Limited.

## **When will a decision be made?**

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Councillors have been advised that with the consent granted in October 2019, work will progress as agreed to in September 2017 and will be reported back to Councillors later this year. A date has not yet been agreed and will depend on progress with the negotiation of commercial terms.

## **If we decide not to sell the land could the development still go ahead?**

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Yes, the development could still go ahead without the Council owned land, but it is unlikely to be in the current form.

### **What would the Council do with the land and deferred maintenance if the sale doesn't go through?**

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Options for this work will need to be assessed further. This is part of the work Council officers are undertaking.

### **What is the Council's involvement in the Mau Whenua court case?**

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We are not party to any proceedings relating to the sale of land by Port Nicholson Block Settlement Trust at Shelly Bay. This is a private matter which is separate to the sale and lease of Council's land.

### **What is the status of the Shelly Bay Review?**

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At this time, the proposed review of the Shelly Bay process remains tabled as per the meeting of 22 August 2019: <https://wellington.govt.nz/~media/your-council/meetings/committees/city-strategy-committee/2019/08/csc-minutes-22-aug-2019---with-attachments.pdf>

### **What is happening to the Shelly Bay Road?**

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Councillors have been advised that with the consent decision granted in October 2019, work will progress as agreed to in September 2017 and will be reported back to Councillors later this year. This includes investigating any upgrade of Shelly Bay Road beyond a level required by the developer's resource consent.

### **What is the road width specified for the proposed Shelly Bay development? How is this set?**

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The proposed road width is 6m with a 1-1.5m shared walking/cycleway. It is set based on the Transportation Assessment Report included as part of the resource consent application and considered by the independent commissioners.

### **What precautions would be in place to manage the risk of sea level rise?**

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It is a condition of the Resource Consent that any new buildings constructed on an allotment must have the following minimum floor levels:

- A. Reduced Level 3.05m (WCC New City Datum) for any new non-habitable building;
- B. Reduced Level 3.60m (WCC New City Datum) for any new habitable building.

The independent commissioners were satisfied that the design minimum floor levels provide an appropriate means of protecting the properties from inundation, with a suitable allowance for possible future sea level rise.

### **What is the plan for the wharves and sea walls?**

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This will be part of the negotiation of commercial terms with the developer. Further work in line with the 2017 Council resolutions will be undertaken to understand any upgrades required, what responsibilities the Council may have and ownership of the wharves.

### **How much money is the Council contributing?**

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The Council's contribution to the estimated \$20 million joint infrastructure fund is capped at \$10 million. This was publicly debated and agreed upon by Councillors at its meeting on 27 September 2017. If the costs escalate the risk lies with the Developer not the Council.

### **Why is the Council proposing to part fund the infrastructure and public space for the Shelly Bay development?**

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In this case, the Council contributing to the cost would help create enhanced public spaces and facilities above and beyond what would be provided from the developer's contribution alone.

In any event, the Council needs to deal with deferred maintenance of buildings and infrastructure at Shelly Bay. As at 2017, if the sale and lease agreement was not to proceed, the Council will have to spend about \$5.85 million to refurbish its buildings at Shelly Bay and maintain the public infrastructure to a minimum standard. Updated costing is being sought as part of the work that Council officers are undertaking.

### **Have you considered the cultural impact of the development?**

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A cultural impact assessment was prepared on behalf of PNBST and Taranaki Whānui, reflecting the role of mana whenua in the long term development of Shelly Bay. The cultural impact assessment identified how the Māori history and significance of the area can be recognised in the development, including storytelling through interpretive displays and art work. The design guide for the development takes these factors into account.

### **What has Council done about allegations of possible bias?**

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The Chief Executive of Wellington City Council takes any allegations of bias against officers very seriously and has full confidence in the integrity of Council officers in this process. Furthermore, both the High Court and Court of Appeal have fully considered these issues, and they have dismissed all allegations of Council bias and pre-determination.

The Court of Appeal found:

*"we consider that the Council brought an open mind to its decision making function under HASHAA".*