

28 February 2020

Craig Stevens  
Barrister  
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Dear Mr Stevens,

**Shelly Bay**

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1. I act for the Wellington City Council. I refer to your letter addressed to the Chief Executive (Acting) of the Council dated 22 February 2020.
2. Your letter seeks confirmation of the following, which I summarise thus:
  - 2.1. That the 27 September 2017 proposal will be promptly referred back to Council;
  - 2.2. That Council will not progress certain work “until that re-vote has taken place” and that in the absence of those confirmations, urgent High Court intervention is recommended.
3. I regret to advise that those confirmations will not be given. Indeed, in one aspect the requests may be something of a misfire.
4. First of all, there is some factual detail that needs to be corrected:
  - 4.1. The Chief Executive Officer was not given delegation from Council to sell and lease the relevant land. Rather, the delegation from Council was to “finalise and execute the relevant agreements” following the preparation of a development agreement in accordance with the Council resolutions;
  - 4.2. There was no decision by Council “not to act on the September 2017 resolution”. Kevin Lavery, the then Chief Executive Officer, stated in his 11 July 2019 response to Councillor Foster (as he then was) that he did not “intend to carry out any action in accordance with the delegation given to [him] on 27 September 2017” but would instead bring a paper back to Council making certain recommendations which included the key commercial terms.
5. Secondly, it follows that no confirmation of “prompt referral back to Council” is either apt or necessary. It is purely a matter of scheduling. In other words, once all the relevant material and reports are completed and assembled, it will be referred back to Council. It is not a matter of ‘promptness’, but a matter of readiness.
6. And that leads me to the third aspect. To achieve that assembly of the relevant material and reports requires Council Officers to do some work on those topics, including exploration of the possible commercial terms. Suspending that work would appear to sabotage the very object of your clients’ first requested confirmation.

7. In any event, I very much doubt that how a local authority Chief Executive Officer manages and directs his/her officers' work or work streams would ever be a justiciable matter that would interest the High Court.
8. I hope this assists in clarifying the Council's position.

Yours sincerely



**Richard Fowler QC**