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ORDINARY MEETING  
OF  
WELLINGTON CITY COUNCIL  
AGENDA

Time: 1:30pm  
Date: Wednesday, 11 November 2020  
Venue: Ngake (16.09)  
Level 16, Tahiwī  
113 The Terrace  
Wellington

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## **MEMBERSHIP**

Mayor Foster  
Councillor Calvert  
Councillor Condie  
Councillor Day  
Councillor Fitzsimons  
Councillor Foon  
Deputy Mayor Free  
Councillor Matthews  
Councillor O'Neill  
Councillor Pannett  
Councillor Paul  
Councillor Rush  
Councillor Sparrow  
Councillor Woolf  
Councillor Young

### **Have your say!**

*You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 04-803-8334, emailing [public.participation@wcc.govt.nz](mailto:public.participation@wcc.govt.nz) or writing to Democracy Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number, and the issue you would like to talk about. All Council and committee meetings are livestreamed on our YouTube page. This includes any public participation at the meeting.*

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## 1. Meeting Conduct

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### 1.1 Karakia

The Chairperson will open the meeting with a karakia.

<b>Whakataka te hau ki te uru,</b>	Cease oh winds of the west
<b>Whakataka te hau ki te tonga.</b>	and of the south
<b>Kia mākinakina ki uta,</b>	Let the bracing breezes flow,
<b>Kia mātaratara ki tai.</b>	over the land and the sea.
<b>E hī ake ana te atākura.</b>	Let the red-tipped dawn come
<b>He tio, he huka, he hauhū.</b>	with a sharpened edge, a touch of frost,
<b>Tihei Mauri Ora!</b>	a promise of a glorious day

At the appropriate time, the following karakia will be read to close the meeting.

<b>Unuhia, unuhia, unuhia ki te uru tapu nui</b>	Draw on, draw on
<b>Kia wātea, kia māmā, te ngākau, te tinana,</b>	Draw on the supreme sacredness
<b>te wairua</b>	To clear, to free the heart, the body
<b>I te ara takatū</b>	and the spirit of mankind
<b>Koia rā e Rongo, whakairia ake ki runga</b>	Oh Rongo, above (symbol of peace)
<b>Kia wātea, kia wātea</b>	Let this all be done in unity
<b>Āe rā, kua wātea!</b>	

### 1.2 Apologies

The Chairperson invites notice from members of:

1. Leave of absence for future meetings of the Wellington City Council; or
2. Apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

### 1.3 Announcements by the Mayor

### 1.4 Conflict of Interest Declarations

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

### 1.5 Confirmation of Minutes

The minutes of the meeting held on 28 October 2020 will be put to the Council for confirmation.

### 1.6 Items not on the Agenda

The Chairperson will give notice of items not on the agenda as follows:

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***Matters Requiring Urgent Attention as Determined by Resolution of the Wellington City Council***

The Chairperson shall state to the meeting.

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

The item may be allowed onto the agenda by resolution of the Wellington City Council.

***Minor Matters relating to the General Business of the Wellington City Council***

The Chairperson shall state to the meeting that the item will be discussed, but no resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Wellington City Council for further discussion.

1.7 Public Participation

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 31.2 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.

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2. General Business

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SHELLY BAY - KEY COMMERCIAL TERMS OF PROPOSED DEVELOPMENT

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Purpose

1. This report asks the Council to consider the Key Commercial Terms (KCTs) of the proposed sale and lease of Council-owned land at Shelly Bay. This follows the Council resolution in 2017 to, in principle, sell 0.36ha and lease 0.58ha of Council-owned land. This report also asks the Council to note the proposed engagement with key stakeholders on Shelly Bay Road, if the KCTs are approved.

Summary

2. In September 2017 the Council resolved (in principle) to sell and lease portions of Council land at Shelly Bay, following preparation of a commercial agreement. The Shelly Bay development on the western edge of Miramar Peninsula is a proposed development being undertaken by a partnership between The Wellington Company and Port Nicholson Block Settlement Trust (PNBST).
3. The Council-owned land that was resolved to be sold and leased is approximately 10% of the land that makes up the proposed Shelly Bay development under the resource consent (excluding the road).
4. In line with Council resolutions in 2017 and the Chief Executive's commitment in 2019, officers are now presenting the proposed Key Commercial Terms, and approach to engagement on Shelly Bay Road for the Council to consider.

Recommendation/s

That the Council:

1. Receive the information.
2. Note that in September 2017, following a public consultation process the Council made several resolutions, as per Attachment 1. The key resolutions included:
  - a) agreement in principle to the sale and lease of Council land at Shelly Bay;
  - b) instruction to officers to negotiate the terms of a development agreement;
  - c) delegation of authority to the Chief Executive Officer and Deputy Mayor to finalise and execute the relevant agreements;
  - d) instruction to officers to investigate the potential for any future upgrade to Shelly Bay Road.
3. Note that in July 2019 the (then) Chief Executive Kevin Lavery announced that the authority delegated to him by Council to finalise and execute the agreement would not be exercised and officers would report back to the Council.
4. Note that, in accordance with the Council resolutions and the commitment made by the

(then) Chief Executive, officers have negotiated the proposed Key Commercial Terms which (if approved) would form the basis of a development agreement.

5. Approve the Key Commercial Terms as set out in Column A of Table 1 of this paper.
6. Note that the land transfer payments from the sale and lease of Council land at Shelly Bay are expected to repay borrowings in accordance with the Revenue and Financing Policy.

If the Key Commercial Terms are approved in accordance with recommendation 5, that the Council:

7. Note that (as per resolution 'xii' of the September 2017 Council report) officers will proceed to prepare a development agreement outlining the principal commercial and legal terms of a sale and lease agreement.
8. Delegate to the Chief Executive Officer the authority to finalise and execute the relevant agreement(s) based on the Key Commercial Terms approved by the Council;
9. Approve the following resolutions required to give effect to the Key Commercial Terms:
  - a) Make the declarations set out in Attachment 2 – schedule of land decisions, pursuant to the Public Works Act 1981.
  - b) Alter the resolutions of 27 September 2017 as follows:
    - i. Amend the references to Shelly Bay Limited ('v', 'vi', and 'xii'.) to Shelly Bay Taikuru Limited, consistent with the KCTs.
    - ii. Amend reference to the Council's Chief Executive Officer and the Deputy Mayor ('xiii') to Council's Chief Executive Officer, in accordance with recommendation 8.
  - c) Approve the remission of Development Contributions in respect of the development.
10. Note that, except as revoked or altered by resolutions at this meeting, the resolutions set out in the September 2017 paper remain in force.
11. Note the approach to engagement on Shelly Bay Road as set out in the Shelly Bay Road section from paragraph 72 of this report.

If the Key Commercial Terms are not approved in accordance with recommendation 5 then the Council:

12. Note that the developer currently holds a resource consent relating to privately owned land and land owned by Wellington City Council. If the proposed sale and lease of Council land does not proceed the development parties may apply for a variation of the resource consent which (if approved) could allow development to proceed without Council owned land.
13. Note that officers will be required to prepare a report to the Council detailing:
  - a) Any resolutions (including those from September 2017) that need to be altered, and/or revoked.
  - b) The future commitments in respect of any proposed Council upgrades to Shelly Bay Road.
  - c) Proposals to deal with the repair, maintenance and/or future use of the existing structures and consideration of any long-term plan funding required.

## Background

5. The Shelly Bay development is a proposed \$500 million development on the western edge of Miramar peninsula being undertaken by a partnership between The Wellington Company (TWC) and Port Nicholson Block Settlement Trust (PNBST).

### *What was agreed in 2017*

6. In September 2017, following consideration of the results of public consultation, the Council agreed in principle to sell and lease portions of Council land at Shelly Bay. This was passed 7:5 with two members not voting. Since September 2017, the Council has not made any resolutions counter to that position or to revoke or alter the resolutions, and as such the resolutions remain in force.
7. The decision was made to sell and lease the land to *Shelly Bay Limited* as the entity nominated by TWC and PNBST. The proposed development is based on the developer's integrated masterplan for Shelly Bay. The decision directs the following for the 3.5 hectares of Council-owned land:
  - Retention of 2.6 hectares in Council ownership of publicly accessible land for public space, waterfront promenade and road access.
  - The 125-year lease of approximately 0.58 hectares of land and two buildings, Shed 8 and the Shipwrights Building, for commercial mixed use development which will generally be publicly accessible. This lease was valued at approximately \$5.35 million at the time of the September 2017 decision.
  - The sale of approximately 0.36 hectares for housing. The value of this land was in the order of \$2.5 million at the time of the September 2017 decision.
8. In September 2017 Council requested (resolution 'x') *officers further investigate, including key stakeholder engagement, the upgrade of Shelly Bay Road between Miramar Avenue and Shelly Bay, comprising options that more closely aligns to New Zealand Transport Agency guidance as a minimum and the Great Harbour Way plan as an aspiration, which aims to deliver a safer and more inviting environment for walkers, cyclist and other users.* Any further works contemplated under resolution 'x' would be at Council cost.
9. The proposed approach to engagement on the Shelly Bay Road is outlined in the Shelly Bay Road section from paragraph 72 of this report.
10. It was agreed that Council's contribution to the estimated \$20 million joint infrastructure fund be capped at \$10 million and that projected costs and revenue be included in the Long-term Plan.
11. The minutes for the September 2017 Council meeting and associated resolutions is included as Attachment 1.

### *Rationale for agreement in 2017*

12. The paper taken to Council for decision in 2017 was focused on the following strategic outcomes:
  - Support housing development in Wellington City, aligned to Council's Housing Strategy
  - Adaptive reuse of buildings (heritage retention)

- Mana whenua partnership – supporting PNBST to unlock value of their land-holdings
- Infrastructure renewal and upgrade and public amenity eg green spaces
- Unlocking potential value of Council land.

*2017 public consultation on sale and lease*

13. In 2017, a public consultation process was undertaken in relation to the proposed sale and lease of Council land at Shelly Bay. The consultation ran from 17 July to 14 August 2017 inclusive.
14. Council received 1103 public submissions on the proposed sale and lease of Council land at Shelly Bay. Of those submitters 60 were heard orally at hearings.
15. RMG (a consultancy group) provided an analysis of the submissions for Councillors to consider. That report is located at <https://wellington.govt.nz/-/media/your-council/meetings/committees/city-strategy-committee/2017/09/27/agenda.pdf>
16. On 27 September 2017 the Council received the analysis of the public consultation and resolved (amongst other matters) to agree to the sale and lease of Council land at Shelly Bay.

*Context since 2017 decision*

17. In 2018 an application for judicial review of the 2017 resource consent was brought by Enterprise Miramar Peninsula Incorporated (EMPI). The High Court initially dismissed the proceeding, but on appeal by EMPI the Court of Appeal quashed the decision to grant the resource consent and referred the matter back for reconsideration by Council. Three independent commissioners were appointed to a panel to consider the resource consent on behalf of the Council.
18. On 11 July 2019 then Chief Executive Officer (CEO) Kevin Lavery announced that the authority delegated to him by the Council to finalise and execute the agreement would not be exercised and officers would report back to the Council.
19. In October 2019 the panel of independent commissioners granted the developer a resource consent for the development. Regarding consent conditions, other than some refinement to improve clarity in terms of what is required of the consent holder, these were consistent with the conditions from the original resource consent.
20. That resource consent is now the subject of a Judicial Review in the High Court. A decision on this matter is not expected before early-mid 2021.
21. Following the Commissioners' decision, officers provided an update to Councillors in workshops on 12 February 2020 and on 4 August 2020.
22. Officers have been undertaking the work required by the Council resolutions and the then CEO's announcement to bring back the relevant information to the Council for a decision in November 2020. This work includes negotiation of the Key Commercial Terms (KCTs).

*Development contributions*

23. Development contributions are a financial tool used by Council to fund infrastructure required as a result of growth. Development contributions may be required in relation to developments if the effect of the developments is to require new or additional assets of increased capacity and as a consequence the Council incurs capital expenditure to

provide appropriately for network infrastructure or reserves. The Council may also require development contributions to pay, in full or in part, for capital expenditure already incurred by the Council in anticipation of development.

24. The Council's Development Contribution Policy (DC policy) requires developers to fund the cost of servicing growth from developments. Development agreements can be entered into, at the Council's discretion, as an alternative to applying the formula for calculating development contributions in the DC policy, and are often suitable for large-scale bespoke arrangements such as this.
25. In accordance with the Council's DC policy, Council officers have deemed that a private agreement mechanism is appropriate for Shelly Bay.

## Discussion

### Scope of the decision

26. The Council is being asked to approve the KCTs which have been negotiated by Council officers, and note the proposed engagement on the road in accordance with the 2017 Council resolutions.

### Resource Consent

27. The decision was made by independent commissioners in October 2019 to grant a resource consent for the development. The conditions of the resource consent are set out in Attachment 3.
28. The October 2019 resource consent stands but is the subject of an application for Judicial Review relating to the assessment of transportation effects and roading infrastructure.
29. If the KCTs are approved, any agreement would be conditional upon Council being satisfied with the form and terms of the resource consent. In the event that the resource consent is quashed or otherwise materially changed by a Court, the Council is not bound to proceed under any agreement.

### Key Commercial Terms

30. The Council is now being asked to consider the KCTs which are the outcome of negotiation between the development parties.
31. The KCTs are the detailed terms which would give effect to the 2017 Council resolutions to enter into an agreement in principle to sell and lease Council land at Shelly Bay.
32. Officers have negotiated the KCTs extensively and in good faith, and the KCTs reflect the most developed position the parties have reached and on which basis the parties would be willing to finalise the transaction.
33. Council officers have sought to ensure that the KCTs reflect the most favourable outcome in light of the intent of the original proposal and Council resolutions. This has involved:
  - Confirmation that the strategic outcomes that formed the rationale for the 2017 decision are still valid in 2020 (detailed paragraph 51 and table 4).
  - An assessment of the financial implications of not approving the KCTs (detailed para 45 – 49 and tables 2 and 3).

- A review of the current challenges to determine what amendments to the original Council resolutions may be required (detailed in paragraphs 52 to 62).

34. The KCTs are presented as a high-level overview of both the negotiated position under the proposed KCTs (Column A) and the position if the terms were not acceptable (Column B).

**Table 1 – Key Commercial Terms**

<b>Key Commercial Term area</b>	<b>Column A Position under KCTs</b>	<b>Column B Position if KCTs not approved (high level overview)</b>
<b>Land and parties</b>		
Sale	<p>Sale of 0.36ha for \$2.5m</p> <ul style="list-style-type: none"> <li>- 50% payment on transfer of title</li> <li>- 50% balance paid within four years from execution of Development Agreement (DA).</li> </ul> <p>The developer pays interest of 2.5% on the balance of any deferred payments.</p>	Retain land - no sale and Council does not realise the land value.
Ground lease	<p>125-year lease of 0.58ha for \$5.38m</p> <ul style="list-style-type: none"> <li>- 50% payment on lease commencement</li> <li>- 50% balance paid within four years from execution of DA.</li> </ul> <p>The developer pays interest of 2.5% on the balance of any deferred payments</p>	Retain land and buildings – no lease granted and the Council responsible for land and building management.
Survey and disposal	The Council would be responsible for costs of survey and transfer of the freehold and leasehold land parcels.	No costs associated with survey or dealing with land parcels.
Land transfers	<p>The developer will vest a portion of their land to the Council (lot 900), which will become legal road. Lot 900 is identified in Attachment 4 – Scheme Plan.</p> <p>The Council will compensate the developer for this land by offsetting the value (~\$250,000) against the sale price of the Council-owned land as per valuation advice.</p> <p>The Council will not be at risk to the developer in terms of any adverse effects relating to sea level rise in respect of the transfers.</p>	The Council would likely need to receive Lot 900 as vested road in order to meet the conditions of the developer's consent, although compensation would need to be determined.
Land transfer payments	<p>The Council will receive a combined \$7.63m for the freehold and leasehold parcels noted above, less compensation for any land provided to the Council by the developer (once all other conditions of the transaction are satisfied).</p> <p>The payments will be staged with 50% payable on completion of the sale and lease, and the balance paid within four years of execution of the Development Agreement.</p>	<p>The Council does not receive payment of the land value.</p> <p>Future realisable land value may have a lesser value without the underlying Special Housing Area status.</p>

Key Commercial Term area	Column A Position under KCTs	Column B Position if KCTs not approved (high level overview)
Parties to the agreement	<p>The parties to the KCTs are:</p> <ul style="list-style-type: none"> <li>- Wellington City Council (as landowner)</li> <li>- Shelly Bay Taikuru Limited (as landowner, lessee and developer)</li> <li>- The Wellington Company (as resource consent holder and guarantor of the developer)</li> <li>- Shelly Bay Limited and supporting company Taranaki Whānui Limited</li> <li>- PNBST (as development partner)</li> </ul>	Not applicable – private parties will need to make their own arrangements as to development.
<b>Infrastructure</b>		
Public access to wharves	Public access will be guaranteed via easements to any wharf structures	No guarantee of public access to any developer-owned wharf structures.
Retention of buildings	<p>The developer responsible to repair and maintain Shed 8 and Shipwrights building located on leasehold land including strengthening to minimum 67% NBS and refurbishment. Council to receive buildings at the end of the lease term.</p> <p>The developer to undertake feasibility assessment of retaining other privately owned buildings with heritage value, and any buildings that are relocated to the leasehold land must be repaired and maintained throughout the term of the lease. Council to receive buildings at the end of the lease term.</p>	<p>Council will need to determine the future application and use of all its buildings.</p> <p>Council responsible for an estimated \$7.9m - \$11.65m for strengthening costs if the buildings are retained and/or estimated \$2.55m for demolition costs.</p>
Infrastructure (three waters, road and signals, seawalls and public realm)	<p>The Council owns the seawalls and roading infrastructure at Shelly Bay. It owns the three water infrastructure jointly with the developer.</p> <p>The developer is responsible for design and delivery of infrastructure works including seawalls, public realm and three waters. Upon completion all infrastructure and public realm works under the joint agreement will vest to the Council for ownership and maintenance.</p> <p>The Council is responsible for reserved works being works on and relating to Shelly Bay Road. A provision for reserved works has been provisioned if Council wish to undertake any further works (at its election) over and above the infrastructure works required of the consent. This includes any works which the Council may wish to undertake for the future upgrade of Miramar Peninsula.</p> <p>The Council and developer share 50% of the verifiable costs of design and construction of the infrastructure. The Council's share of infrastructure</p>	<p>The Council owns the seawalls and remains responsible for the costs of remediating the seawalls (estimated to cost approximately \$6.9m).</p> <p>Various sections of the seawall would need to be remediated within an estimated 3 years. It is likely to be more cost effective to complete all seawall works at one time.</p> <p>If development proceeds without the Council, all other infrastructure costs will be the responsibility of the developer.</p>

<b>Key Commercial Term area</b>	<b>Column A Position under KCTs</b>	<b>Column B Position if KCTs not approved (high level overview)</b>
	costs is capped at \$10m.	
Contracting and procurement	The developer is responsible for the procurement of infrastructure works, but the Council retains rights of approval and oversight	The Council will not need to procure any infrastructure works.
Development contributions	The Council will not collect development contributions in line with Council's policy as noted in paragraph 23 to 25.	On the assumption that a development proceeds the Council could receive up to \$1.3m in DCs.
Contamination	<p>The developer is responsible for completing at its sole cost remediation of any contamination on the freehold land.</p> <p>The parties will treat the costs of remediating any contamination on the leasehold land as part of the public realm works covered by the joint infrastructure arrangement (and Council's contribution will be subject to the \$10m cap).</p>	Contamination remediation not required unless land is developed or triggered by building or seawall repairs by the Council.
Reserved works (roading)	<p>The Council will have 12 months from the execution of any agreement to complete the engagement process and 12 months to design and make significant progress toward delivering the road, to implement resolution 'x' of the September 2017 Council resolutions.</p> <p>Should the Council not complete these processes or works within the agreed timeframes, the developer is allowed to complete the works required under the resource consent in respect of the road.</p>	The developer will be required to carry out any road works outlined in the resource consent.
<b>Conditions precedent and outstanding claims</b>		
Resource Consent	<p>The developer must obtain a resource consent on terms which are reasonably acceptable to the Council in its landowner capacity.</p> <p>In the event an application for judicial review of the resource consent is successful, and the impact was to materially alter the consent then the Council has the ability to exit the agreement.</p>	The Council in its landowner capacity would have a limited interest in any judicial review proceedings.
Conditions precedent – conditions to be met before agreement is effective	<p>Any development agreement would also be expressed to be conditional upon:</p> <ol style="list-style-type: none"> <li>1. The developer must design and deliver not less than \$5m equivalent value of infrastructure works before the Council will be required to make any financial contributions under the arrangement.</li> <li>2. The developer must obtain all consents</li> </ol>	<p>No agreement or requirement for the developer to provide a MOU</p> <p>The developer will no longer be required to re-house the penguins at Shelly Bay.</p>

Key Commercial Term area	Column A Position under KCTs	Column B Position if KCTs not approved (high level overview)
	<p>(GWRC and the Council) to the satisfaction of the Council prior to the Council making any financial contributions or completing the sale and lease of land</p> <p>3. The developer will prepare a Memorandum of Understanding (MOU) for the provision of affordable housing within Wellington City.</p> <p>4. The developer will be responsible for rehousing the little blue penguins that are located on Council land at Shelly Bay.</p>	
Outstanding claims and treatment of transaction	<p>The developer will provide an enduring indemnity to the Council in relation to any losses or damages arising from litigation relating to the acquisition of land by the developer.</p> <p>If a successful claim were to occur prior to any substantive development being completed but after the transactions were completed, then the Council may at its election require the land to be returned at the value at which it was sold.</p> <p>If a successful claim were to occur after substantive development has been completed then the Council may at its election require the land to be returned at the value in which it was sold plus the market value of the improvements in place at the time.</p>	N/A

**Update on key 2017 resolutions**

35. The full list of resolutions made at the 27 September 2017 Council meeting are included as Attachment 1, resolutions ‘viii’, and ‘xv’ requested officers encourage specific design considerations through the development agreement negotiations. These resolutions and how they have been addressed since 2017 are noted as follows.

*Resolution viii – sustainability and sea level rise*

36. Resolution ‘viii’ requested officers reinforce and encourage stronger mitigation and adaptation measures to respond to the effects of climate change, such as sea level rise, through the development agreement negotiations and through the detailed design and review process.
37. The development, as proposed, will be an accredited Green Star Community. The Green Star Communities Framework is a set of principles and aspirations to help guide and support the development of sustainable communities.
38. Development of resilient community through seismic design and all buildings will utilise low impact materials and building systems including water harvesting, solar and rain gardens.
39. It is a condition of the resource consent that any new buildings constructed on an allotment must have the following minimum floor levels:

- RL 3.05m (WCC New City Datum) for any new non-habitable building
  - RL 3.60m (WCC New City Datum) for any new habitable building.
40. 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”.

*Resolution xv – Affordable housing*

41. Resolution ‘xv’ requested officers conduct negotiations with the Shelly Bay developers for the provision of affordable housing units within the Wellington City Council boundaries representing a significant percentage of the total number of residential units proposed for Shelly Bay.
42. Officers have negotiated that the developer will agree a MOU for the provision of affordable housing. The MOU will be finalised as part of the conditions precedent for the development agreement and the position of Council officers in discussion with the developer is that this should include:
- a. The developer recognises that affordability varies significantly across different household groupings and proposes that affordability will be defined using Councils Wellington Housing Affordability Model (WHAM).
  - b. 5% of the units at Shelly Bay as affordable (18).
  - c. A further 10% of the equivalent number of units at Shelly Bay (35) elsewhere in the Wellington City area, again using WHAM to define affordability for specific groups.

**Implications for Council if KCTs are not approved**

43. If the KCTs are not approved there are structural and building liabilities that the Council would be responsible for addressing. There are options available to Council in relation to its assets and use of Council land at Shelly Bay. While these options could provide some sources of revenue, they would be offset by the level of investment required for outstanding deferred maintenance which presents a cost to Council.
44. To understand this, Council officers have undertaken a counterfactual analysis on the two most likely options. The analysis presents the costs and indicative revenues associated with the scenarios to demonstrate the net financial impact if the Council does not approve the KCTs.

*Financial analysis*

45. An assessment of the expected costs, and potential revenues has been undertaken to calculate a net cost or revenue to Council (presented as a net present value) using the following inputs:
- Value/revenue inputs provided by independent registered valuers
  - Condition and costing data based on analysis provided by independent engineers and quantity surveyors
  - costs and their timing modelled in line with KCTs and asset repair and maintenance requirements.
46. The two most likely options if KCTs are not approved are summarised below:
- Option 1 (“Low Cost”): Maintain existing service levels and demolish all buildings. This approach assumes:

- The seawalls will be repaired in the next five years.
  - All Council-owned buildings are demolished.
  - Council's landholdings will otherwise be maintained at current service levels (ie they will not be developed or sold by the Council).
  - Option 2 ("High Cost"): Maintain existing service levels and retain Shed 8 and Shipwrights buildings. This approach assumes:
    - The seawalls will be repaired/upgraded in the next five years.
    - Shed 8 and the Shipwrights building will be repaired, strengthened, refurbished.
    - The balance of Council's landholdings will otherwise be maintained at current service levels (ie they will not be developed or sold by the Council).
47. Additional improvements on Shelly Bay Road, over and above those which are required in the resource consent, have not been quantified in this analysis for either option.
48. Council officers have instructed consultants to prepare indicative costings associated with Options 1 and 2. which are summarised in Table 2.

**Table 2 – indicative cost summary**

Indicative Costs	Estimate (\$M)
<b>Seawalls</b>	\$7.18
<b>Demolition Costs</b>	
Demolition - Shed 8 and Shipwrights	\$1.33
Demolition - Other Buildings	\$1.22
Total Demolition Cost of Shelly Bay Buildings	\$2.55
<b>Building Upgrade Options</b>	
Strengthen and Stabilise Shed 8 and Shipwrights (34% vs 67% NBS)	\$7.90 - \$8.12
Strengthen and Refurbish Shed 8 and Shipwrights (34% vs 67% NBS)	\$11.34 - \$11.65
<b>Indicative Range of Costs:</b>	
<b>Low</b> - Demolish all Council owned buildings and repair seawall	<b>\$9.73</b>
<b>High</b> - Strengthen & refurbish Shed 8 and Shipwrights, demolish other buildings, repair seawalls	<b>\$20.05</b>

49. The range of potential costs is \$9.7m - \$20.0m which will be offset in part by increased asset values and/or revenue derived from upgraded assets. However the position presented by the KCTs results in a better financial position for the Council. The net position of the options is presented by Table 3 below.

**Table 3 – Net cost to Council of options**

Option	Included	Net cost to Council (present value)	Rates Impact LTP Period
Base case - KCTs approved	<p>Three waters, public realm, seawalls infrastructure as per cost sharing agreement.</p> <p>Minor upgrades of Shelly Bay Road including resealing and building a crushed lime path.</p> <p>Total contribution from the Council is capped at \$10m.</p> <p>Any additional improvements to Shelly Bay Road, as per 2017 Councillor resolution 'x', will be an additional cost to Council and subject to the outcome of the engagement process and subsequent Council decisions on the road.</p>	\$1.6m	\$0.05m p.a.
Option 1 – Maintain existing services levels and demolish all buildings	<p>Under this option, the Council would:</p> <ul style="list-style-type: none"> <li>not partner with the developer</li> <li>demolish all buildings including Shed 8 and Shipwrights buildings</li> <li>repair the seawall</li> <li>not develop a new public realm (current service levels retained)</li> <li>not unlock the underlying value of the Seaward and Landward blocks. It is assumed that the Council retain ownership and the land will be used as publicly accessible reserve.</li> </ul>	\$7.4m	\$0.52m p.a.
Option 2 – Maintain existing service levels and retain Shed 8 and Shipwright buildings	<p>Under this option, the Council would:</p> <ul style="list-style-type: none"> <li>not partner with the developer</li> <li>repair, strengthen, refurbish and lease the Shed 8 and Shipwrights buildings</li> <li>demolish all other structures</li> <li>repair the seawall</li> <li>not develop a new public realm (current service levels retained)</li> <li>not unlock the underlying value of</li> </ul>	\$9.2m	\$0.16m p.a.

	the landward block. It is assumed that the Council retain ownership of the land and it will be used as publicly accessible reserve.		
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50. The financial benefit of the proposal is that the proceeds from the sale and lease of the land contribute a proportion of the costs that the Council would otherwise have to outlay. In addition, the Council also benefits from a \$10m cost cap, providing certainty in relation to costs.

*Strategic outcomes*

51. Through the counterfactual analysis, officers also reviewed the five strategic outcomes that were expected to be achieved through a proposed development at the time that the 2017 Council resolutions were made. Officers reviewed the position presented by the KCTs against the position if KCTs are not approved, in relation to each of the five strategic outcomes.

**Table 4 – strategic outcomes**

<i>Strategic Outcomes</i>	<i>Expected Development Outcomes</i>	<i>Position if KCTs are approved versus not approved</i>
<b>Housing Development</b>	Proposed 350 houses based on Shelly Bay being a Special Housing Area. Development would see supply of housing enabled, in line with Council’s housing strategy.	<p><b>If recommendation to approve is supported:</b> The development would proceed in line with the proposed consent and the developer would be responsible for the delivery of the 350 units. In addition, The developer is required to prepare a MOU with the Council for the provision of affordable housing within Wellington City.</p> <p><b>If recommendation to approve is not supported:</b> The developer would be required to apply for an amendment of the consent if the Council land is not included, delivery of a significant number of Housing units may still be possible</p>
<b>Adaptive reuse of buildings – retain buildings of historic significance</b>	Shed 8 and the Shipwrights buildings to be restored and reused, where otherwise these buildings would likely need to be demolished with accompanying costs to Council and loss of historically significant buildings.	<p><b>If recommendation to approve is supported:</b> The developer will complete the strengthening and remediation of the Shed 8 and Shipwrights building.</p> <p><b>If recommendation to approve is not supported:</b> The Council would be responsible for determining the future use of these buildings which may include strengthening, refurbishment and/or Demolition (subject to heritage considerations)</p>
<b>Mana whenua partnership – supporting PNBST</b>	Delivery model via PNBST’s development partner The Wellington Company.	<p><b>If recommendation to approve is supported:</b> Consistent with principles of the MOU</p>

<i>Strategic Outcomes</i>	<i>Expected Development Outcomes</i>	<i>Position if KCTs are approved versus not approved</i>
<b>to unlock value of their land-holdings</b>	Fulfil commitment to mana whenua partners through the MOU.	<b>If recommendation to approve is not supported:</b> Council would be required to consider the impact of its decision on the MOU.
<b>Infrastructure upgrades and new public realm</b>	Delivery of infrastructure with Council contribution capped at \$10m on deteriorating three waters, roading and seawalls.  There is currently no provision to meet anticipated demand for recreational use of the Miramar Peninsula if the development does not proceed. This impact is further considered in the following financial implications section below.	<b>If recommendation to approve is supported:</b> Delivery of full infrastructure to support the development. Public access to any wharf areas is retained.  <b>If recommendation to approve is not supported:</b> Council would need to reconsider what its infrastructure and public realm requirements would be based on the form of any proposed development as required by the resource consent.
<b>Land value realisation</b>	Full improved value of land achieved.	<b>If recommendation to approve is supported:</b> The Council receive \$8m for land – which does not reflect the impairment of the existing structures.  <b>If recommendation to approve is not supported:</b> Taking into account the impairment of the existing structures, the land presents limited open market value compared to the negotiated value presented by the KCTs.

### Challenges

52. Council officers and lawyers have completed analysis of the key risks associated with Council's involvement in any transaction or development and have sought to address or mitigate these through negotiation of the KCTs.

#### *Can the development proceed without Council land?*

53. The current conditions of the resource consent are based on an approved masterplan which includes land owned by Wellington City Council. If the proposed sale and lease of Council land does not proceed the development parties may apply for a variation of the resource consent which (if approved) could allow development to proceed on the privately owned land.

#### *Legal challenges – claims against land transactions*

54. In July 2019 a claim was lodged by Mau Whenua, a separate group within PNBST, and other Taranaki Whānui members against PNBST and the developer and its associated companies, relating to sale transactions of the development land at Shelly Bay.

55. Legal proceedings brought by Mau Whenua against PNBST have yet to be heard, but Council officers understand the next Court hearing is expected to occur in March 2021.
56. In light of these potential challenges, Council officers have ensured that the KCTs include provisions to protect the Council's position in the event of future uncertainty around such claims. The Council would have certain options available to it in the event of an adverse claim being successful in relation to any litigation relating to the acquisition of land by the developer and its related parties, including the claim by Mau Whenua.
57. If the Council-owned land has already been sold and leased to the developer, then prior to any substantive development having occurred on the Council land the Council may at its election require the developer to return the land at the same value paid by the developer to the Council.
58. If substantive development has already occurred but before practical completion of the development set out in the resource consent, the Council may at its election require the developer to return the land and its improvements to the Council at the then market value

*Legal challenges – judicial review*

59. An application has been made by Enterprise Miramar Peninsula Incorporated for judicial review of the decision by independent commissioners to grant a resource consent to the developer in October 2019. The judicial review application is focussed on the assessment of transportation effects and roading infrastructure in respect of the proposed development.
60. A decision on this matter is not expected before early-mid 2021.
61. In accordance with the KCTs, it is a condition of any transaction that the developer holds a resource consent in a form and on terms reasonably acceptable to the Council.
62. If any conditions of the arrangement are not satisfied, the parties are not required to proceed with the transaction.

**Next steps if Council approves KCTs**

63. If the decision is made to approve the KCTs, the next steps are:
  - 3-6 months expected to finalise and execute a development agreement.
  - In parallel with finalisation and execution of the development agreement, the Council has 12 months to engage with key stakeholders on any further upgrades to Shelly Bay Road. Within a further 12 months, the Council must have made reasonable progress towards undertaking the reserved works and set aside appropriate funding.

*Development Contributions*

64. As part of the KCTs, the developer has requested the Council remit the development contributions which would otherwise be payable as part of the development. These amounts have been estimated by Council officers to be:
  - Citywide DCs ~\$888k
  - Catchment specific DCs ~\$415k
65. Under 2.6 of the Council's DC policy the Council may grant a remission of development contributions at its complete discretion. Any previous decisions of the Council will not be regarded as creating a precedent or expectation.

66. The DC policy provides that such remission must be granted by resolution of Council or under delegated authority to a Committee or Subcommittee (2.6.6).
67. This is supported by officers on the basis of the remission forming part of the total financial structure of the KCTs and the cap on infrastructure costs in favour of the Council.

*Land transactions*

68. Following the decision, in principle, to sell and lease the Council-owned land in September 2017, there has been subsequent negotiation and refinement of the exact land areas covered by the Council resolutions. Accordingly, it is appropriate for the Council to now explicitly reconfirm certain decisions relating to the land, including relating to subdivision and transfer of parts of the land.
69. The Scheme Plan included as Attachment 4 shows the proposed development areas which the developer has refined since the Council decision in 2017.
70. Attachment 2 – Schedule of land decisions outlines those discrete resolutions to be made by the Council relating to the land.

**Next steps if Council does not approve KCTs**

71. If the decision is made not to approve the KCTs, officers will need to report back to the Council with recommendations on:
- Any resolutions (including those from September 2017) that need to be altered, and/or revoked.
  - The timeframe, scope and funding of any further work in respect of Shelly Bay Road.
  - Proposals to deal with the repair, maintenance and/or future use of the existing structures and consideration of any Long-term Plan funding required.

**Shelly Bay Road**

72. The existing resource consent issued for the development at Shelly Bay requires that Shelly Bay Road between Miramar Avenue Intersection and Shelly Bay Road is resealed, and a 1-1.5m shared cycle/footpath is created on the seaward side of the carriageway. These roadworks are incorporated in the joint infrastructure funding and the Council will meet 50% of the consented roadworks up to a \$10m cap on the Council's contribution.
73. In September 2017 the Council requested (resolution 'x') officers further investigate, including key stakeholder engagement, the upgrade of Shelly Bay Road between Miramar Avenue and Shelly Bay, comprising options that more closely aligns to Waka Kotahi guidance as a minimum and the Great Harbour Way Plan as an aspiration, which aims to deliver a safer and more inviting environment for walkers, cyclist and other users. Any further works contemplated under resolution 'x' would be at Council cost.
74. Following the Council resolutions in 2017 Council officers started investigating future road upgrades, this work was suspended due to judicial review applications. In October 2019 independent commissioners granted a resource consent for the development and subsequently Council officers have restarted the investigations in accordance with Council resolutions.

75. The Council consulted Tonkin+Taylor to commence investigations on the potential for upgrading the road. This work also included considering potential opportunities for the road to form part of a continuous, harbour-way route between the city and Miramar Peninsula. This approach also aligns with the wider Innovating Streets programme.
76. Following the Council's decision in 2017, officers developed a high-level stakeholder and public engagement approach which would enable feedback on the proposed options for Shelly Bay Road.
77. The implementation of engagement on Shelly Bay Road has been deferred until the Council's decision on the KCTs is determined. This is to ensure any engagement with key stakeholders is done in good faith, does not indicate any predetermination of the outcome of the Council's decision, and is done with as much clarity as possible over the future of the proposed development.
78. Additionally, there is a judicial review application relating to the transport effects and roading infrastructure at Shelly Bay. At this time the judicial review has not been heard by the Court and the proceeding is ongoing.
79. On 30 September 2020 the Peninsula Parents presented a petition to the Council. The petition details were as follows:
80. *"The petition registers our opposition to the sale or lease of any Wellington City Council land at Shelly Bay.*

*It was organized by Peninsula Parents for a Safer Community, a diverse group of voters who live all over Te Motu Kairangi.*

*One of our primary concerns is traffic congestion and the lack of planning and safety considerations being given to the impact on our roads this proposed development will have – including the very real danger of serious accidents leading to loss of life.*

*Despite derogatory claims that we're merely "fans", Peter Jackson had precisely nothing to do with this petition.*

*The vast majority of signatures are from Wellingtonians and their extended whanau who raise their voice out of genuine concern for our city's future.*

*Please listen to us"*

81. The Council received the information and noted that the issues raised would be taken into account in this paper and then through the engagement on Shelly Bay Road.

#### *Next steps for engagement on Shelly Bay road*

82. As per the resolution of 2017, Council officers have prepared an engagement approach on any potential for any future upgrade to Shelly Bay Road between Miramar Avenue and Shelly Bay.
83. The engagement will involve a collaborative approach with key stakeholders, leading with mana whenua, working in partnership to design a process for ensuring all views and aspirations of the different parties are heard and considered.
84. The Council was recently successful in achieving funding through Waka Kotahi's Innovating Streets programme. This includes a proposal for Massey Road which can be leveraged in relation to stakeholders and process. It makes sense to align this work with the engagement on Shelly Bay Road.

85. If the KCTs are approved, officers will proceed to engagement on the future of Shelly Bay Road. The proposed high-level approach and timeframes are outlined in the table below.
86. The KCTs require the Council to carry out engagement on the road within 12 months of a development agreement being executed and a further 12 months to make significant progress towards delivering any road upgrades.

<b>Proposed engagement actions if KCTs are approved</b>	<b>Proposed timing</b>
<b>Begin a roading engagement process</b> <ul style="list-style-type: none"> <li>Using the Tonkin+Taylor assessment as a scoping guide, conversations with key stakeholders to understand stakeholder views and the preferred approach for engaging stakeholder groups, officers will work with portfolio holders and ward councillors to finalise the list of key stakeholders.</li> </ul>	Conversations in November, with the engagement process underway in March – April 2021
<b>Shortlist of options</b> <ul style="list-style-type: none"> <li>Build on the Massey Road stakeholder and activation work already underway with Isthmus, stakeholders and Council Officers to feed into the Shelly Bay conversation. (Same stakeholders, learnings from experience and public feedback on how well it works).</li> <li>Shortlist of options for consultation developed alongside engagement with key stakeholders</li> </ul>	May – June 2021
<b>Develop public consultation approach</b>	June 2021
<b>Public consultation</b> Eight-week process aligned with Innovating Streets approach which will include at a minimum: <ul style="list-style-type: none"> <li>a series of face-to-face and/or online community information events</li> <li>a web page where people can find information, ask questions and make a submission</li> <li>advertising via radio, digital, social media channels (including neighbourly); polls on options on social media, and mail drop in the area.</li> </ul>	June – August 2021
<b>Share consultation feedback &amp; decision</b> <ul style="list-style-type: none"> <li>Present &amp; discuss findings with key stakeholders</li> <li>Officers report to Council or Committee with findings of consultation and options for consideration</li> <li>Decision made by Council / Committee share roading decisions and timeframes with key stakeholders and approach for telling the communities</li> </ul>	August - September 2021
<b>Final roading plans and timeframes published</b> <ul style="list-style-type: none"> <li>Hold community event to share the findings and roading plans and timeframes</li> <li>Supported by media release and web content</li> </ul>	October 2021

87. If the KCTs are not approved, officers will determine next steps and report back to the Council.

## Options

88. Option A: Approve the KCTs outlined in this report. This is the recommended option.
89. Option B: do not approve the KCTs, officers will need to report back to Council with recommendations on:
- Any resolutions (including those from September 2017) that need to be altered, and/or revoked.
  - The timeframe, scope and funding of any further work in respect of Shelly Bay Road.
  - Proposals to deal with the repair, maintenance and/or future use of the existing structures and consideration of any long-term plan funding required.
90. Council officers consider that the options proposed above are the reasonably practicable options available for consideration. It is possible that the KCTs could be further negotiated however any proposed changes to the KCTs would require the agreement of the development parties and potentially jeopardise the terms which are currently most beneficial for the Council including the \$10 million cap on infrastructure costs. Officers believe that the KCTs noted within the paper represent the best outcome for the Council following negotiation between the parties. On this basis Officers are of the view that renegotiation of the KCTs is not a reasonably practicable option.
91. These are the options officers consider are available within the scope of the decision required to be made by the Council. Officers acknowledge that other options have been proposed in relation to the Shelly Bay development in general. However, those alternative options fall outside of the scope of this decision.

## Attachments

Attachment 1.	27 September 2017 Council resolutions <a href="#">↓</a> 	Page 27
Attachment 2.	Schedule of land decisions <a href="#">↓</a> 	Page 29
Attachment 3.	Conditions of consent <a href="#">↓</a> 	Page 34
Attachment 4.	Scheme Plan <a href="#">↓</a> 	Page 66

Authors	Phil Becker, Manager Build Wellington Liam Hodgetts, Chief Planning Officer
Authoriser	Barbara McKerrow, Chief Executive Officer

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## SUPPORTING INFORMATION

### Engagement and Consultation

In 2017, a public consultation process was undertaken in relation to the proposed sale and lease of Council land at Shelly Bay. This is covered in the background section of this report.

If the KCTs are approved, officers will commence engagement on the future of Shelly Bay Road. This is discussed in the discussion section of this report.

### Treaty of Waitangi considerations

Taranaki Whānui ki Te Upoko o Te Ika (Taranaki Whānui) and the Crown completed their Treaty settlement process in 2009 with the Port Nicholson Block Settlement Trust (PNBST) mandated by iwi as the primary entity responsible for representing Taranaki Whānui in its relationships with local authorities. Subsequently the parties have entered into a Memorandum of Understanding. Under the MOU the parties recognize the importance of working together to ensure a wider strategic vision for the Miramar peninsula is achieved for all citizens. The MOU also requires Council to work with Taranaki Whānui to protect and / or grow their interest and investment where Council has a means to do so.

### Financial implications

The report covers the relevant financial implications relating to the scope of the decision.

### Policy and legislative implications

The report covers the relevant policy and legislative implications relating to the scope of the decision.

### Risks / legal

Council officers have completed analysis of the key risks associated with Council's involvement in any transaction or development and have sought to address or mitigated these through negotiation of the KCTs.

Current challenges are noted in paragraphs 52 – 58.

Both internal and external lawyers have been involved in the development and negotiation of the KCTs.

### Climate Change impact and considerations

Climate change impacts have been considered as part of the resource consent process. The parties have also included additional measures to mitigate and provide for adaptation through the KCT negotiations.

### Communications Plan

The proposed engagement approach is outlined in the report and information relating to the decisions made in this report is shared on the Council's website.

### Health and Safety Impact considered

Any works carried out following the decision will be carried out in accordance with relevant codes and best practice.

**COUNCIL**  
27 SEPTEMBER 2017

**Absolutely Positively**  
**Wellington City Council**  
Me Heke Ki Pōneke

### 1.6 Public Participation

There were no requests for public participation.

[Secretarial note: The Mayor appointed the Deputy Mayor Eagle as Chairperson (SOs 2.4.1)]  
The Mayor vacated the Chair from 12.40pm until 12.42pm .

### 3.3 Report of the City Strategy Committee Meeting of 27 September 2017

#### A. An Integrated masterplan for Shelly Bay

**Moved Councillor Eagle, seconded Councillor Day**

#### **Resolved**

1. That the Council:
  - i. Note that resource consent has been granted for the redevelopment of Shelly Bay.
  - ii. Note the findings from the public consultation process.
  - iii. Note this proposal delivers on Council's wider strategic objectives around housing supply and commitment under the MOU partnership agreement with iwi.
  - iv. Note the significant public amenity and economic benefit in both the construction phase and in the post construction period.
  - v. Agree to sell the area identified in the report, being 0.3 hectares, more or less, to Shelly Bay Limited for approximately \$2.5 million.
  - vi. Agree to lease the area identified in the report, being 0.6 hectares, more or less, and Shed 8 and the Shipwright's Building to Shelly Bay Limited for a period of 125 years for approximately \$5.5 million.
  - vii. Agree to contribute half the cost of the development of public realm and infrastructure elements necessary to bring ageing infrastructure up to standard to help deliver the Shelly Bay masterplan.
  - viii. Request officers to reinforce and encourage stronger mitigation and adaptation measures to respond to the effects of climate change, such as sea level rise, through the development agreement negotiations and through the detailed design and review process.
  - ix. Request Wellington Water Limited to optimise the Long Term Plan budget for water infrastructure to enable \$5.6 million for infrastructure costs for additional water supply and waste water capacity to support future development on the Miramar Peninsula, the cost of which would be ultimately recovered as those developments are realised.
  - x. Request officers to further investigate, including key stakeholder engagement, the upgrade of Shelly Bay Road between Miramar Avenue and Shelly Bay, comprising options that more closely aligns to New Zealand Transport Agency guidance as a minimum and the Great Harbour Way plan as an aspiration, which aims to deliver a safer and more inviting environment for walkers, cyclist and other users.

**COUNCIL**  
27 SEPTEMBER 2017



- xi. Agree to include the projected costs and revenues in the Long Term Plan (LTP).
- xii. Agree that Council officers prepare a development agreement outlining the principal commercial and legal terms of a sale and lease agreement with Shelly Bay Limited.
- xiii. Delegate authority to the Council's Chief Executive Officer and the Deputy Mayor to finalise and execute the relevant agreements.
- xiv. Agree to a full review of the Shelly Bay project including decision making processes, legal risks, financial implications and consistency with the Resource Management Act 1991.
- xv. Requests officers to conduct negotiations with the Shelly Bay developers for the provision of affordable housing units within the Wellington City Council boundaries representing a significant percentage of the total number of residential units proposed for Shelly Bay.
- xvi. That the Council's contribution to the estimated \$20 million joint infrastructure fund be capped at \$10 million.

A division was called for, voting on which was as follows:

**For:**

Councillor Calvert  
Councillor Dawson  
Councillor Day  
Councillor Eagle  
Councillor Free  
Councillor Gilbert  
Councillor Marsh

**Against:**

Councillor Foster  
Councillor Lee  
Councillor Pannett  
Councillor Sparrow  
Councillor Woolf

Majority Vote: 7:5

**Carried**

## **2. General Business**

### **2.1 Proposal for a Regional Climate Change Working Group**

**Moved Councillor Pannett, seconded Councillor Foster**

**Resolved**

That the Council:

1. Receive the information.
2. **Notes** the Council's progress towards achieving our goals in the Low Carbon Capital Plan and Wellington Resilience Strategy around climate change mitigation and adaptation as outlined in Attachment 1.
3. **Notes** that the proposed Wellington Region Climate Change Working Group is proposing to address mitigation (reducing emissions) and adaptation (preparing for impacts such as sea level rise) issues, and is the group to which work relating to adaptation progressed via the Regional Natural Hazards Management Strategy is reported.

**Appendix 2 – Schedule of Land Decisions**

If the KCTs are approved, Council needs to make a series of discrete decisions relating to the Council land to give effect to the arrangement under the Public Works Act 1981 and otherwise. Accordingly Council:

1. **Sets apart** pursuant to s52 PWA one of its two titles (Record of Title 418653, being 7002m2 comprising Section 3 SO Plan 339948) for use convenience and enjoyment of a road.
2. **Grants** a right of way for public access over those parts of Lots 902 and 904 shown in the attached plan being the current legal road.
3. **Declares** that in relation to discrete areas of Council land the following actions are resolved:

**Record of Title 418653 (7002m2 being Section 3 SO 339948)**

- Upon the development agreement becoming unconditional, the whole title is set apart for the use, convenience and enjoyment of a road
- Upon the development agreement becoming unconditional, a right of way for public access is granted over those parts shown hatched red on the attached plan

In respect of those numbered parcels on the attached plan, Council:

**1**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 905);
- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit; and
- C. **Notes** that as the land is not surplus, no decision is required in respect of section 40 PWA.

**2.7.14**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 901);
- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit;
- C. **Agrees** to declare as road or have vested as road when requested by the Developer conditional upon construction of the realigned road over this lot; and
- D. **Notes** that as the land is not surplus, no decision is required in respect of section 40 PWA.

**3.13**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 903 and transfer to the Developer);
- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit; and
- C. **Declares** the land is surplus, and **determines** that no offer is required under section 40 PWA on the basis that it is impracticable to do so.

**9**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 904);
- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit;
- C. **Agrees** to declare the land surplus to be held for commercial investment purposes (conditional upon construction of the realigned road on Lot 901 and otherwise performance of required works by the Developer on the future reserve land);
- D. **Determines** that no offer is required under section 40 PWA on the basis that it is impracticable to do so;
- E. **Agrees** to lease the land to the Developer.

**Record of Title 418654 (9827m2 being Sections 4-6, 10 SO 339948))**

- Upon the development agreement becoming unconditional, a right of way for public access is granted over those parts shown hatched **yellow** on the attached plan

**4, 11**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 901);
- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit;
- C. **Agrees** to declare as road or have vested as road when requested by the Developer conditional upon construction of the realigned road over this lot; and
- D. **Notes** that as the land is not surplus, no decision is required in respect of section 40 PWA.

**5**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 902);
- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit;
- C. **Agrees** to set apart as reserve (conditional upon construction of the realigned road on Lot 901 and otherwise performance of required works by the Developer on the future reserve land); and
- D. **Notes** that as the land is not surplus, no decision is required in respect of section 40 PWA.

**6, 12**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 903 and transfer to the Developer);
- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit;
- C. **Declares** the land is surplus, and **determines** that no offer is required under section 40 PWA on the basis that it is impracticable to do so.

**8, 10, 15, 16**

- A. **Agrees** to complete the transfers and otherwise execute all necessary legal title documentation required to allow the scheme plan to deposit (specifically to create Lot 904);

- B. **Notes** the decision is conditional upon the Developer completing all necessary works and actions under the development agreement and conditions of resource consent (and otherwise) to ensure the scheme plan is able to deposit;
- C. **Agrees** to declare the land surplus to be held for commercial investment purposes (conditional upon construction of the realigned road on Lot 901 and otherwise performance of required works by SBTL on the future reserve land); and
- D. **Determines** that no offer is required under section 40 PWA on the basis that it is impracticable to do so.
- E. **Agrees** to lease the land to the Developer.





**DECISION ONE – Subdivision Consent:**

That independent commissioners, acting under delegated authority, under sections 36 to 38 of the Housing Accords and Special Housing Areas Act 2013 (HASHAA), **grant resource consent** to the proposal for an 11 lot subdivision of land, with road to vest, at **232, 264, 270, 276, 277, 294, 296, 307 and 311 Shelly Bay Road, Maupuia** (Sec 8-9 SO 339948, Sec 1 SO 37849, Sec 3 SO 339948, Sec 4-6, 10 SO 339948). Consent is granted with a lapse period of 1 year from the date of this decision, or within such an extended period of time pursuant to section 125 of the RMA, and is subject to the following conditions:

**Conditions of Consent:**

**Survey Plan:**

1. That the survey plan must conform to the subdivision consent proposal shown on the scheme plans by Harrison Grierson Consultants Limited:
  - a. "Scheme Plan of Proposed Subdivision - Stage 1 Overall Layout & Stage Boundaries"
  - b. "Scheme Plan of Proposed Subdivision Stage 1A to 1C – Sheet 1"
  - c. "Scheme Plan of Proposed Subdivision Stage 1A to 1C – Sheet 2"

All dated 10 June 2019 and submitted with Service Request No. **368659**.

***Note:** This condition addresses an essential administrative matter.*

2. Prior to certification under Section 223 the Consent Holder shall ensure that proposed Lots 900 and 901 are shown as Road to Vest on the survey plan/s approved under **Condition [1] above**.

**Staging subdivision:**

3. Individual certifications pursuant to sections 223 and 224(c) of the Resource Management Act 1991 can be issued for this proposal in stages that differ from those specified on the plan entitled "Scheme Plan of Proposed Subdivision - Stage 1 Overall Layout & Stage Boundaries" provided that the following criteria are met:
  - a. each individual allotment must be consistent with the proposal as approved and must have frontage, or legal access, to a legal road;
  - b. each allotment shown on any survey plan, including any balance allotment must be adequately serviced as required by and in terms of the relevant conditions set out in this notice of decision;
  - c. all engineering conditions and any development contribution payable pertaining to the allotments shown on the survey plan must be satisfied/paid prior to the execution of a certificate pursuant to section 224(c) of the Act.

**Service Connection to Lots:**

4. The Consent Holder shall provide certification from a suitably qualified chartered engineer or registered professional surveyor with experience in civil engineering/ land development that all allotments are serviced with telecommunication, power, water, stormwater and wastewater connections.

**Note:** For the avoidance of doubt, the certification must confirm that services are adequate for the current occupation of each allotment.

**Future Buildings:**

5. Future development of the allotment will require full utility servicing which meets the requirements of the WCC Code of Practice for Land Development or as otherwise specified in Conditions [55 – 74] of the Land Use Consent granted under Application no. SR.368659.

**Note:** Upon the issue of the certificate pursuant to section 224 or at such earlier time as may be required, a Consent Notice pursuant to section 221 will be issued. The Consent Notice will specify **Condition [5] above** and is to be registered against the Record of Title to issue in respect of Lots 1-11, 902, 904 and 905 of the subdivision.

**Minimum floor levels:**

6. Any new buildings constructed on an allotment must have the following minimum floor levels:
  - a. Minimum floor level of RL 2.64m (New Zealand Vertical Datum 2016) or RL 3.05m (WCC New City Datum) for any new non-habitable building;
  - b. Minimum floor level of RL 3.19m (New Zealand Vertical Datum 2016) or RL 3.60m (WCC New City Datum) for any new habitable building.

**Note 1: condition [6] above** does not include existing buildings that are to be retained in their original location or existing buildings to be relocated.

**Note 2:** Upon the issue of the certificate pursuant to section 224 or at such earlier time as may be required, a Consent Notice pursuant to section 221 will be issued. The Consent Notice will specify **Condition [6] above** and is to be registered against the Record of Title to issue in respect of Lots 1-11 of the subdivision.

**Easements:**

7. Any utility services serving an allotment within the subdivision, where contained within another allotment of this subdivision, must have appropriate easements duly granted or reserved.

**Note 1:** The easements, as necessary and subject to other conditions of this consent, are to ensure that the lots can be serviced for water supply,

*drainage, domestic energy supply, and telecommunications (including broadband).*

**Note 2:** *This may be covered by a blanket easement over the entire site area of each lot, as preferred by the Consent Holder, without having to specifically locate the services.*

**Note 3:** *Provision for future public riser main sewer services as Easements in Gross may be covered by easements within Lots 4 and 5 or Lots 9 and 10 of the subdivision.*

8. Rights of Way easement areas A-G as shown in the Memorandum of Easements on the subdivision plans approved under **Condition [1] above** are to be duly granted or reserved. Easement A shall be shown as an Easement in Gross in favour of Wellington City Council.
9. A temporary easement must be created over the existing road that extends through proposed Lots 901, 902 and 904 to ensure public access is retained.

**Note 1:** *This condition will ensure that public access is retained.*

**Note 2:** *Upon the construction of road (900 and 901) required by land use condition [42], the temporary easement can be extinguished.*

**Amalgamation Condition:**

10. The following amalgamation conditions are to be endorsed on the Digital Title Plan:

Stage 1A

Proposed lots 2, 3, 4, 5 and 900 must be held in one Record of Title. Refer to LINZ reference no. 1592249.

Stage 1C

Proposed lots 9, 10, 11 and 903 must be held in one Record of Title. Refer to LINZ reference no. 1592249.

**DECISION TWO – Land Use Consent:**

That independent commissioners, acting under delegated authority, under sections 36 to 37 of the Housing Accords and Special Housing Areas Act 2013 (HASHAA) AND pursuant to section 104B of the Resource Management Act 1991 (the Act), **grant resource consent** to the proposal for a site redevelopment including multi-unit residential housing, mixed use and non-residential buildings and activities, and with associated earthworks on a contaminated or potentially contaminated site, at **232, 264, 270, 276, 277, 294, 296, 307 and 311 Shelly Bay Road, Maupuia** (Pt Sec 20 Watts Peninsula District, Sec 8-9 SO 339948, Sec 1 SO 37849, Sec 3 SO 339948, Sec 4-6, 10 SO 339948, Sec 2 SO 339948 and Pt Lot 3 DP 3020). Consent is granted with a lapse period of 13 years from the date of this decision, or within such an extended period of time pursuant to section 125 of the RMA, and is subject to the following conditions:

**Conditions of Consent:**

**General:**

1. Except where amended by the conditions of this consent, the development shall be in general accordance with the Assessment of Environmental Effects and plans submitted with the Application, any additional information and Approved Plans for Resource Consent Service Request No. 368659, as referenced as follows: 232, 264, 270 and 276 Shelly Bay Road, Maupuia, Continuation of Qualifying Development Application, prepared by William Dorset and supporting Appendices:
  - (i) Appendix Two – Shelly Bay Masterplan, March 2019, Revision 10, prepared by Architecture+, McIndoe Urban, and Wraight + Associates.
  - (ii) Appendix Three – Shelly Bay Design Guide, March 2019, Revision 23, prepared by Architecture+, McIndoe Urban, and Wraight + Associates.
  - (iii) Appendix Four – Preliminary Site Investigation titled 'Former Shelly Bay RNZAF Base, Shelly Bay Road, Wellington', 15 February 2016, Prepared by AECOM.
  - (iv) Appendix Five – Transportation Assessment Report, 18 April 2019, prepared by Stantec.
  - (v) Appendix Seven – Noise and Ventilation Mitigation Plan.
  - (vi) Appendix Eight – Engineering Drawings, 14 September 2016, 1098-01-R1, prepared by Envelope Engineering.
  - (vii) Appendix Nine – Scheme Plan, 142175-01-RC02-R2, 10 June 2019; 142175-01- RC03-R1, 15 August 2017; and 142175-01-RC04-R1, 15 August 2017, prepared by Harrison Grierson.
  - (viii) Appendix Ten – Shelly Bay Infrastructure Assessment Report, 8 May 2019, prepared by Envelope Engineering.
  - (ix) Appendix Twelve – Heritage Assessment and Assessment of Environmental Effects, May 2019, prepared by Archifact.
  - (x) Appendix Thirteen – Cultural Impact Assessment, September 2016, Prepared by Kura Moeahu, Peter Addis, and Lee Rauhina-August on behalf of Taranaki Whānui Ki Te Upoko o Te Ika and The Port Nicholson Block Settlement Trust.

- (xi) Appendix Fourteen – Shelly Bay Landscape & Visual Assessment, 30 April 2019, Prepared by Wraight + Associates.
- (xii) Appendix Fifteen – Shelly Bay Masterplan Urban Design Assessment Relative to the WCC Shelly Bay Design Guide, 8 March 2019, prepared by McIndoe Urban.
- (xiii) Appendix Sixteen – Shelly Bay Masterplan Urban Design Assessment Relative to the New Zealand Urban Design Protocol, 8 March 2019, prepared by McIndoe Urban.
- (xiv) Appendix Seventeen – Shelly Bay Development Preliminary Geotechnical Assessment Report, 19 January 2016, Prepared by AECOM.

**Construction Timeframe:**

2. That the development of the site must meet the following construction timeframe:
  - a) Construction of 50 residential units must be completed within 4 years of date of issue of this consent.
  - b) Construction of 150 residential units must be completed within 6 years of date of issue of this consent.
  - c) Construction of 200 residential units must be completed within 8 years of date of issue of this consent.
  - d) Construction of 250 residential units must be completed within 9 years of date of issue of this consent.
  - e) Construction of 300 residential units must be completed within 11 years of date of issue of this consent.
  - f) Construction of the remaining units must be completed within 13 years of date of issue of this consent.

**Urban Design:**

3. Prior to the commencement of construction of any buildings, structures, open spaces, car parking and/or the relocation and alterations to existing buildings, the consent holder shall establish a Shelly Bay Design Panel. The function of this panel shall be to ensure that the proposal meets the intent of the Shelly Bay Design Guide (version 3, dated 08.03.2019). The Shelly Bay Design Panel is a panel made up of three suitably qualified experts in the field of architecture and/or urban design/ landscape design. The consent holder shall invite Council's Team Leader Design Review to nominate one panel member and to jointly appoint a second panel member with the Consent Holder. The third panel member shall be nominated by the consent holder.
4. At least 10 working days prior to the first panel meeting, the consent holder shall provide Council's CMO, the name, contact details and accreditations / qualifications of the Shelly Bay Design Panel Members.
5. Prior to submitting detailed design plans for the development to Council for certification as required under **Condition [6] below**, at least ten working days prior to a Shelly Bay Design Panel meeting, the consent holder must submit design drawings to the Shelly Bay Design Panel for recommendation. The design plans and supporting information must illustrate how the design

is generally consistent with the masterplan, and include the following details:

- a) Connections
- b) Built Form
- c) Streets
- d) Public Realm and
- e) Planting and Retaining Strategy

**Note 1:** *The detailed design of new buildings, structures, open spaces, car parking and/or the relocation and alterations to existing buildings required under **Condition [5] above** can occur in stages.*

**Note 2:** *All costs associated with the assessment by the Design Panel shall be borne by the consent holder.*

6. Prior to the commencement of construction of any buildings, structures, open spaces, car parking and/or the relocation and alterations to existing buildings, the consent holder shall submit detailed design drawings of all proposed buildings, structures, open spaces, car parking and/or building alteration works to the Council's Compliance Officer (CMO) for certification. The plans must be accompanied with details regarding how the recommendations of the Shelly Bay Design Panel have been incorporated into the detailed design.

**Note:** *The certification of the detailed design of new buildings, structures, open spaces, car parking and/or the relocation and alterations to existing buildings required under **Condition [8] above** can occur in stages.*

7. All construction works and activities must be carried out in accordance with the certified detailed design drawings. Any proposed amendments to the detailed design drawings must be submitted to the CMO for certification and may not be implemented until certified by the CMO. The CMO will liaise with the Design Panel for their recommendation prior to implementation.

**Note:** *It is acknowledged that other Council approvals for the works included in the detailed design drawings may require additional Council CMO certification under separate conditions of this land use consent.*

8. Except where amended to ensure compliance with the consent conditions below and any applicable building standards and any applicable standards referenced in the below conditions or by any other regulatory or delegated authority, the detailed design must be implemented in accordance with the plans certified under **Condition [6] above**.

**Note:** *Any proposed amendments to the detailed design drawings that do not directly relate to conditions of this consent that have been separately certified, such as changes to meet applicable building standards, should be submitted to the CMO who will decide after liaison with the Design Panel*

*whether further certification is necessary as required by **Condition [7] above.***

9. In addition to the requirements set out in **conditions [3 to 8] above**, prior to the commencement of construction of any proposed public open spaces, the consent holder shall provide detailed design drawings of the public toilets (male/ female/ accessible) to be constructed to service the development to Council's CMO for certification in conjunction with Council's Urban Design advisors. The design plans shall illustrate that the toilets are located generally in the vicinity of the proposed location identified on Shelly Bay Masterplan dated 8 March 2019 (Shelly Bay Master Plan Revision 10), 4.4 Site – Bulk and Form Shelly Bay Wharf Building 6, pg. 45 and Shelly Bay Wharf Building 10, pg. 49.

**Note:** *The hours of operation are to match public facilities in similar locations (e.g. Oriental Bay and Scorching Bay).*

10. The public toilets must be constructed in accordance with the certified detailed design drawings and be in operation prior to completion of the full development.

**Note:** *It is anticipated that the Consent Holder will provide toilet facilities for public use at the commencement of the development. These facilities may be temporary or relocatable as the development progresses.*

#### **Earthworks:**

##### General:

11. The consent holder shall advise Council's CMO at least ten working days before any work starts on site. This advice of commencement shall include the name, phone number and address of the main contractor and, if applicable, the same details for the earthworks company.
12. All construction noise shall comply with NZS6803:1999 Acoustics – Construction Noise.
13. Earthworks and construction, including the transport of excavated material from (or to) the site, must only occur within the following hours:
- a) Monday to Saturday 7:30 am to 6 pm.
  - b) Monday to Friday quiet setting up of site (not including running of plant or machinery) may start at 6.30 am.
  - c) No work is to be carried out on Sundays or public holidays

**Note:** *These hours have been selected from Table 2, NZS 6803: 1999 "Acoustics – Construction Noise". The Standard applies in all other respects, including the permitted noise levels in Table 2 and all persons undertaking*

*earthworks and management of the site must adopt the best practical option to control noise to a reasonable level.*

Geotechnical Assessment:

14. At least 10 days prior to the commencement of any earthworks on the site, the consent holder shall provide evidence to Council's CMO that a Geotechnical Professional has been appointed to carry out the design, monitoring and certification of the earthworks. The consent holder is to follow the recommendations of the report prepared by AECOM Ltd dated the 19 January, 2016 or as varied by the Consent Holders Geotechnical Professional (Reference 60480847).
15. The name and the contact details of the Geotechnical Professional must be provided to the Council's Compliance Monitoring Officer, at the time the person is appointed.

**Note 1:** A 'Geotechnical Professional' is defined as a Chartered Professional Engineer (CPEng) with specialist geotechnical skills and experience in the design and construction of excavation and retaining works in similar to those proposed and in similar ground conditions.

**Note 2:** The evidence required under **Condition 14 above** can be provided for the entire site or on a per lot or stage basis.

Construction Supervisor:

16. The consent holder shall engage a suitably experienced Construction Supervisor during the detailed construction phase of the project.

**Note 1:** A 'Construction Supervisor' is defined as a person with skills and experience in the construction of excavation and retaining works on steep slopes similar to those proposed and in similar ground conditions.

**Note 2:** There may be more than one 'Construction Supervisor' engaged on the development by stage.

17. The name and the contact details of the Construction Supervisor/s must be provided to the Council's Compliance Monitoring Officer, at the time the person/s is appointed or ten (10) working days prior to the commencement of site works, whichever is the first.

Earthworks and Construction Management Plan:

18. At least 10 working days prior to the commencement of earthworks for each stage of development, the Consent Holder shall submit an Earthworks Construction Management Plan (ECMP) to the Council's CMO for review and certification. The ECMP must be prepared by a suitably qualified and experienced practitioner relating to the proposed earthworks activity and must be prepared in conjunction with the Geotechnical Professional appointed under **Condition [14] above**. The purpose of the ECMP is to set out the practices and procedures to be adopted to ensure compliance with

consent conditions and to demonstrate how the following particular objectives will be met:

- i) Construction activities shall be managed to reduce discharges of sediment from the site into adjoining waterways from areas of exposed soil, excavated soil or stockpiled soil or from soil that is deposited on the site as part the construction;
- ii) Construction activities shall be managed so that noise dust nuisance does not arise beyond the boundaries of site; and
- iii) The consent holder shall ensure that sediment/debris is not carried onto Shelly Bay Road by construction vehicle movement.

The ECMP shall include specific information relating to the construction and management of all works relating to the development, including:

- a. Purpose and scope of the plan
- b. Relationship with other management plans
- c. Assign roles and responsibilities, including the appointment of a representative to be the primary contact person in regard to earthworks management
- d. A contact (mobile) telephone number(s) for the on-site manager, where contact can be made 24 hours a day / 7 days a week.
- e. A communication and complaints procedure for adjoining property owners/occupiers, or the general public.
- f. Details for appropriate local signage/information of the proposed work including the location of a large sign (greater than 1m<sup>2</sup> noticeboard on the site at each main entrance that identifies the name, telephone number and address for service of the site manager, including cell-phone and after-hours contact details
- g. Construction hours;
- h. Measures to ensure earthworks and construction will be managed to avoid and mitigate effects from dust, noise and vibration;
- i. Final Erosion and Sediment Control Plans to ensure sediment is prevented from discharging to the road and from entering any stream of waterway or sea. Erosion and sediment controls shall be undertaken in accordance with Greater Wellington Regional Council's erosion and sediment guidelines.
- j. The methods for managing and monitoring the ECMP controls.
- k. Measures for ensuring that sediment/debris are not carried by construction vehicles onto Shelly Bay Road and in any events where there is such an occurrence, details on the measures to clean and repair the Road;
- l. A finalised earthworks methodology including provisions for the reinstatement of the site at the completion of the construction works;
- m. Measures to be adopted to maintain the site in a tidy condition, including as to the disposal/storage of rubbish and unloading and storage of building materials.
- n. The location of workers' convenience (e.g., portaloos).
- o. Measures to ensure excavation and retaining structures are constructed incrementally to maintain stability of all the slopes.

- p. Other measures to ensure excavations and retaining structures remain stable, including measures to limit the exposure of unretained earthworks at any one time. Measures to be confirmed by a Geotechnical Professional.
- q. Measures to deal with any collateral damage to vehicles and property
- r. Any related occupation of the public footpath or carriageway for construction related purposes
- s. Details of the staging of work
- t. Any restrictions to public access to the site that may be required during the construction period, including the location and duration of any restrictions, and how the restrictions will be advised or advertised;
- u. Confirmation that the CMP has been peer reviewed by the Geotechnical Professional, to ensure that the methodology is in accordance with both the geotechnical assessment undertaken by AECOM Ltd dated 19 January, 2016 (Reference 60480847) and any additional geotechnical investigation undertaken as part of this condition;
- v. Measures for ensuring the security of any fuel storage and the provision of emergency spill kits at all times during construction;
- w. A complaints procedure that specifies actions to be taken following receipt of a complaint, including records to be kept and responses to any complaints including remedial action taken;
- x. A complaints procedure that specifies actions to be taken following the receipt of a complaint, including records to be kept and responses to any complaints including the remedial action taken;
- y. A monitoring regime for evaluating compliance with the objectives of the Earthworks and Construction Management Plan; and
- z. Procedures for the review and updating of the Earthworks and Construction Management Plan to address any issues.

**Note:** The ECMP prepared as part of **Condition [18] above** can be prepared for the entire site or on a per lot or per stage basis. Separate ECMPs for the separate stages of the development can be submitted and approved, or stages can be bundled into one ECMP.

19. All construction works shall be undertaken in accordance with the ECMP certified under **Condition [18] above**. The controls and measures outlined in the ECMP must be implemented for the duration of the works. Any proposed amendments to the ECMP once work starts must be authorised by the Construction Supervisor and the Geotechnical Professional, submitted to the CMO for certification, and may not be implemented until the CMO certifies the amendments.

#### Earthworks and Construction Traffic Management Plan

20. At least 10 working days prior to the commencement of construction works, the consent holder shall submit a Construction Traffic Management Plan (CTMP) prepared by a suitably qualified and experienced practitioner for

certification by Council's CMO. The purpose of the CTMP is to set out how the effects of construction traffic on the surrounding environment are to be avoided, remedied or mitigated and the methods to be used to achieve this. The CTMP shall include, but not be limited to, the following information, methods, measures and techniques to the achieve the purpose:

- a) Purpose and scope of the plan
- b) Relationship with other management plans
- c) Hours of construction traffic activity;
- d) A road cleaning plan for removal of spoil or debris from the public road and footpath.
- e) Temporary vehicular and pedestrian safety measures including directional signage where applicable.
- f) A limit on 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.
- g) Estimated numbers and sizes of construction vehicles;
- h) Controlled internal and external access routes;
- i) General interactions with general traffic accessing the Shelly Bay area;
- j) Provision or closure of access to existing walking and bike trails;
- k) Parking locations for construction staff;
- l) Access and delivery locations, including swept path analysis for largest vehicles;
- m) Likely construction access routes to and from the site;
- n) Management of oversize loads;
- o) Liaison with Council and NZTA with regards to other local construction activities;
- p) Wheel cleaning and covering of loads; and
- q) Management of any complaints.

**Note:** The CTMP prepared as part of **Condition [20] above** can be prepared for the entire site or on a per lot or per stage basis. Separate CTMPs for the separate stages of the development can be submitted and approved, or stages can be bundled into one CTMP.

21. All earthworks and construction works shall be undertaken in accordance with the CTMP certified under **Condition [20] above**. Any proposed amendments to the CTMP shall be submitted to the Manager Resource Consents for certification, at least 10 working days prior to those amendments being implemented.

#### Sedimentation, Dust and Spillage

22. The Consent Holder must ensure that control measures are put in place to prevent muddy water flowing, or earth slipping, onto neighbouring properties or the legal road. Sediment, earth or debris must not collect on land beyond the site or enter the Council's storm water system, or Wellington Harbour.
23. The Consent Holder must ensure that dust created by earthworks, transport and construction activities is controlled to minimise nuisance and hazard.

The controls must be implemented for the duration of the site works and continue until the site stops producing dust.

24. The Consent Holder must ensure that any earth, rock, vegetation or demolition material that falls on the road, footpath, berm or neighbouring property during work or transport be cleaned up immediately. The material must not be swept or washed into street channels or storm water inlets, or dumped on the side of the road.

#### Completion of Earthworks

25. Within one calendar month of the completion of the earthworks stage/s, the Consent Holder must provide the Council's Compliance Monitoring Officer with an As-built Plan/s of the completed earthworks for the particular stage/s. The plan must meet the requirements of A.7 and B.18 of the Code of Practice for Land Development 2012 and, as minimum, include the following:
- a) Extent cut and fill and depth of fill in the form of lines joining all points of equal depth of fill at appropriate vertical intervals of 1 metre or as appropriate
  - b) Plans shall also show the type of fill material and any areas where buildings or foundations will require specific design together with any fill areas of low density not complying with this Code
  - c) The position, type and size of all subsoil drains and their outlets shall also be shown
  - d) Full sized As-Built drawings are to be supplied in AutoCAD (\*.dxf or \*.dwg), Microstation (\*.dgn) or other agreed electronic format of all earthworks.
  - e) All co-ordinates shall be in terms of the New Zealand map grid, NZTM (New Zealand Transverse Mercator), to  $\pm 0.1\text{m}$  for all earthworked areas.
  - f) All levels to be in terms of New Zealand Vertical Datum 2016 or WCC New City Datum.
26. Within 6 months of the completion of the earthworks stage/s, the Consent Holder must provide a Geotechnical Completion Report (GCR) prepared by a suitably experienced Geotechnical Professional, to the Council's Compliance Monitoring Officer. The document must include the following:
- a) State the earthworks have been completed in accordance with the earthworks scheme plans, approved under the resource consent;
  - b) Provide evidence that the works have been completed in accordance with the Council's Code of Practice for land development for earthworks (Part B)
  - c) Provide evidence that the land is suitable for the intended use including its ability to support services infrastructure such as roading, drainage, water supply and energy supply;
  - d) A statement of professional opinion that any unretained cuts and/or

slopes are considered stable with respect to the future use, and provide details of how these unretained cuts and/or slopes will be treated to ensure the risk of instability is low as reasonable practicable. These details should include remedial action should any of these unretained cuts and/or slopes fail in the future.

- e) A Statement of Professional opinion on suitability of land for building construction, Schedule 2A of NZS4404:2010
- f) A tabulated list of all test data and results that corresponds with test sites shown on the As-built plan in **condition [25] above;**

**Note:** *It is expected that this data will form the basis for certification of each allotment for foundation requirements.*

27. The Consent Holder must provide a copy of the producer statement 'PS4 – Construction Review' and its accompanying documents for structures/buildings, prepared for the associated Building Consent process, must be provided to the CMO within one calendar month of the structures/buildings being completed.

#### Vegetation Protection

28. At least 10 working days prior to the commencement of earthworks and construction for each stage of development, the Consent Holder shall submit a Tree Protection and Construction Methodology (TPCM) to the Council's CMO for review and certification in liaison with a Council Arborist. The TPCM must be prepared by a suitably qualified and experienced Arborist and shall be generally consistent with the Planting Strategy described on pages 97-100 of the Shelly Bay Masterplan, March 2019, Revision 10, and shall include specific information relating to the arborist works relating to each stage of the development, including:

- a) Suitable trees for transplanting
- b) Tree protection fencing for remaining trees
- c) Low impact excavation processes within the dripline of trees; and,
- d) Onsite arborist monitoring for any work within the fenced area of the trees.

29. At least 10 working days prior to the commencement of any tree removal works in the Escarpment Vegetation Management Zone (shown on page 98 of the Shelly Bay Masterplan, March 2019, Revision 10), the Consent Holder shall submit a Vegetation Protection Methodology (VPM) to the Council's CMO for review and certification in liaison with the Council's ecologist. The VPM must be prepared by a suitably qualified ecologist and shall detail the pine and other exotic species being removed and the species being protected within the Escarpment Vegetation Management Zone (EVMZ).

**Note:** *Earthworks should be limited in the EVMZ to only that necessary to provide foundations or in mitigating any health and safety risk or loss of property for NBA 1 page 21 and NBH 1 page 19 on the Masterplan.*

30. All vegetation protection works shall be undertaken in accordance with the methodologies certified under **Condition [28 and 29] above**. Any proposed amendments to these methodologies must be carried out by a qualified Arborist.

Contamination:

31. Prior to the commencement of earthworks on the site, the consent holder shall submit a Contaminated Soil Management Plan (CSMP) to the Council's Compliance Monitoring Officer for review and certification. The CSMP must be submitted and certified prior to the commencement of works on the site. The CSMP must include the following matters:

- a) Roles and responsibilities and contact details for the parties involved in implementing the Plan, including the identification of a suitably qualified and experienced practitioner (SQEP) to advise on contamination aspects, as required.
- b) A process for identifying the presence of contamination during earthworks.
- c) Onsite soil management procedures in the event that contaminated soil is encountered including procedures for consulting with the SQEP, and for the protection of workers, the environment, and future users.
- d) Requirement for soil testing of gardens and public spaces.
- e) Soil disposal locations for contaminated soil.

The CSMP must include provisions that would allow the SQEP to stop work on the site if contaminants are found that could affect public health, safety and the environment, and must include that the SQEP inform the CMO in writing of the stop work notice. The CSMP must include a requirement for the SQEP to prepare a report on remediation/containment measures and to have the report peer reviewed, and for the SQEP to implement the remediation/containment measures upon which the stop work notice can be uplifted.

32. The consent holder must undertake all earthworks and construction works in accordance with the CSMP certified under **Condition [31] above**.
33. In the unlikely event that any contamination materials need to be disposed of off-site, they shall be disposed of at a facility which can accept potentially contaminated materials. Advice in writing of the disposal, including its quantity, evidence of acceptance and copies of the tip tickets, shall be submitted to Council's CMO.
34. A Soil Validation Report (SVR) documenting the implementation of the CSMP shall be provided to the CMO within 2 calendar months of completion of each stage of the earthworks. The Validation Report shall:
- (a) Be prepared in general accordance with Contaminated Land

Management Guidelines No. 1: Guidelines for Reporting on Contaminated Sites in New Zealand (Revised 2011), Ministry for the Environment.

- (b) Include, but not be limited to:
- i) Summary of land disturbance works completed including figure illustrating area of disturbance.
  - ii) Results of the soil sampling including a summary of field methodologies, figure detailing sample locations and results compared against applicable human health and environmental guidelines.
  - iii) Summary of unexpected materials discoveries and actions taken. This includes alternatives to remediation where there are appropriate mitigation techniques to remediation.
  - iv) Copies of soil importation and disposal receipts (if relevant)
  - v) Commentary confirming that the site is suitable for the intended end use. This includes the standard of any remediation on completion.

#### Construction Noise Management Plan

35. Prior to the commencement of construction works, the Consent Holder must submit a Construction Noise Management Plan (CNMP) to the Council's Compliance Monitoring Officer. The CNMP must be prepared by a suitably qualified acoustic specialist and include the following:
- a) Specify hours of operation, a description of the main stages of work proposed, the equipment to be used and the predicted noise levels for receivers at sensitive nearby boundaries.
  - b) Include specific details relating to methods for control of noise associated with construction works. Demonstrate these controls adopt the best practical option to reduce noise to a reasonable level in accordance with section 16 of the Resource Management Act 1991 and at all times be formulated to so as far as practicable, comply with the recommended upper limits for construction noise specified in NZS 6803:1999, Acoustics - Construction Noise when assessed in accordance with this standard.
  - c) Specify details of complaint handling, communication procedures including notification and any necessary monitoring.

**Note:** The CNMP prepared as part of **Condition [35] above** can be prepared for the entire site or on a per lot or per stage basis. Separate CNMPs for the separate stages of the development can be submitted and approved, or stages can be bundled into one CNMP.

36. All site works shall be undertaken in accordance with the CNMP certified under **Condition [35] above**. Any proposed amendments to the CNMP once work starts must be submitted to the CMO for certification and may not be implemented until the CMO certifies the amendments. The CNMP

must be amended, where directed by the CMO, to address proven deficiencies in its operation.

Accidental Discovery Protocol:

37. If during any site works involving excavation any kōiwi (human skeletal remains), ovenstones, worked stones, middens, charcoal, other Māori cultural material, or any evidence of early European occupation are unearthed, work must cease immediately to enable the project archaeologists to carry out a detailed examination of the area.

**Note:** *The subject property is a known place of historic habitation pre-1900. In addition, this proposal will affect a recorded archaeological site, being R27/593 (Torpedo boat shed and slipway), and one pending site (R27/592: Shelly Bay Depot). Work affecting archaeological sites is subject to a consent process under the Heritage New Zealand Pouhere Taonga Act 2014. An archaeological authority (consent) from Heritage New Zealand Pouhere Taonga (HNZPT) must be obtained for works to proceed if the archaeological site has the potential to be modified or destroyed. It is illegal to modify or destroy an archaeological site without obtaining an archaeological authority. The applicant is advised to contact HNZPT for further information prior to works commencing.*

**Heritage recording:**

38. The Consent Holder shall engage a suitably qualified heritage professional to undertake detailed recording on structures as identified in Councils Shelly Bay Design Guide as historic buildings of reference. Upon the completion of the demolition, removal and relocation works, all recordings shall be provided to the Council's Compliance Monitoring Officer for Council record. The recording structure will be as follows:
- a) Title page – name of place, SR number, full site address, key author, date of submission and where the record has been lodged
  - b) Contents page
  - c) Narration – including short explanation of purpose of record, short description of the site and significance, description of methodology used (i.e. sequence of photos) and any limitations e.g. rooms not able to be accessed/cleared.
  - d) Selected images printed in hard copy
  - e) Index sheet - with number or file name of each photo, description of subject, site name, time and date, photographers name
  - f) Key plans with appropriate title blocks showing the camera position and direction photos were taken from, noting that as of 16 April 2018, no further key plans are required.

**Note 1:** *Condition [38] above was offered by the Applicant.*

**Note 2:** *Historic buildings as identified within the WCC Shelly Bay Design Guide include The Hospital, Warehouse and Stores (Shed 8), Shipwrights Building, Submarine Mining Depot Barracks and Officers' Mess.*

**Transportation and access:**

39. Prior to the commencement of construction works being carried out on the public road between the Shelly Bay Road / Miramar Avenue intersection and the development, and the Miramar Avenue / Shelly Bay Road intersection, and within the development site, the consent holder shall provide the following plans and information for certification by Council's CMO in conjunction with Council's Chief Advisor Transport & Infrastructure. The detailed design plans shall demonstrate compliance with Council's Code of Practice for Land Development 2012 except where alternative solutions may be certified for those aspects where the standards of the Code of Practice are unable to be met.
- a) Detailed design plans of the road improvement works to be undertaken between the Shelly Bay Road/Miramar Avenue intersection and the development. The improvements must be designed to meet the minimum standard defined in the Transport Assessment Report, dated 18 April 2019, prepared by Stantec, being, a 6m carriageway plus a 1-1.5m width for use by pedestrians and cyclists and intersection upgrades as proposed unless otherwise mutually agreed to between the Applicant and CMO. The plans shall be accompanied with confirmation that, where the pedestrian, cycleway is between 1-1.5m in width, one or more of the following exemptions applies, noting that the width to be provided for use by pedestrians and cyclists shall wherever practical be 1.5m:
- i. Any structural works are required, including reclamation and/or seawall construction in the Coastal Marine Area and/or earthworks and retaining structures landward side of the road;
  - ii. Environmental impacts will be generated in the Coastal Marine Area, including indigenous ecosystems;
  - iii. The works would be impact on the natural character of the Coastal Marine Area.
  - iv. The works would impact on the current recreational activities undertaken on the road route.
- b) Detailed design plans of the upgrade to the Shelly Bay and Miramar Ave intersection accompanied with confirmation from an appropriately qualified traffic engineer that the intersection will, achieve typical weekday PM level of service of no worse than the existing levels of service detailed in the Stantec Transportation Assessment Report (Table 7.1, Page 21). An independent SIDRA calculation must be carried out and must accompany the detailed design plans to certify the resulting level of service and delay results for the intersection of Shelly Bay Road and Miramar Avenue.

**Note:** *The Council is proposing to make changes this year, to the existing intersection to enhance cycling facilities, and the consent holder will need to take account of this new intersection layout in its design of the improvements required to accommodate the additional traffic loading resulting from the completed Shelly Bay development.*

- c) Detailed design plans of all proposed additions and alterations to the public roads including footpaths, kerb and channel, carriageway alterations including stormwater controls, levels and materials.
- d) Detailed design plans of all traffic calming measures including speed limit signs, give-ways signs, stops signs, textural surface changes and visibility splays on the shared lanes. These traffic calming measures are to control the internal traffic flow and ensure public safety when exiting the shared lanes onto Shelly Bay Road.
- e) Detailed design plans of all street lighting, utility services alteration, signage and road markings.
- f) Detailed design plans of bus turning and manoeuvring areas.
- g) Design, location and formation of pedestrian crossings.
- h) Detailed design plans of all signage proposed within the road corridor, road markings and details of any traffic/parking restrictions required to ensure the safe and efficient operation of public roads and for the management of parking.

**Note:** Consideration may be given to the temporary use of existing transport infrastructure if capacity is available and its condition is sufficient for the construction of residential and commercial buildings/ uses until such time as full transport infrastructure works are undertaken. Detailed plans, calculations, and specifications of existing transport infrastructure capacity or proposed interim measures must be provided to the CMO in conjunction with Council's Chief Advisor Transport & Infrastructure if the use of existing transport infrastructure is to be considered.

- 40. All works and activities must be carried out in accordance with the design drawings certified under **Condition [39] above**. Any proposed amendments to the design drawings must be submitted to the CMO for certification and may not be implemented until certified by the CMO.
- 41. The improvement works certified under **Condition [39] above** must be carried out; as follows:
  - (i) Miramar Intersection upgrade works, prior to the first new building consent being issued by WCC
  - (ii) The Shelly Bay road upgrade, prior to receiving code of compliance of any new building within the development.
- 42. The new road to vest (Lots 900 and 901 shown on "Scheme Plan of Proposed Subdivision - Stage 1 Overall Layout & Stage Boundaries" drawing 142175-01-RC02 Rev1) as required by **Subdivision Condition [2] above** must be constructed prior to receiving code of compliance for any new building onsite. All construction shall be completed generally in accordance with the certified design plans except for final surfacing works which may be completed under bond or cash deposit.

43. The Right of Way areas A to G within both the legal road and the private property must be constructed prior to receiving code of compliance for any building within that stage. All construction shall be completed generally in accordance with the approved construction plans except for the final surfacing works which may be completed under bond or cash deposit. Right of Way area A is to include a formed pedestrian footpath that links with the Village Green. This footpath must extend from Shelly Bay Road up to the site boundary with Part Section 3 Watts Peninsula District.
44. The traffic calming measures certified under **Condition [39(d)] above** must be implemented prior to the use of any internal road upon which it relates.
45. Within six calendar months of completion of the certified works, the consent holder must prepare and submit to Council's CMO As-built plans that meet the requirements of the Code of Practice (A.7 As-built Details and A.8 Certification) for roading and vehicle access and street lighting.

**Note 1:** *These plans may be submitted to Council's CMO in stages upon the completion of each stage.*

**Note 2:** *The depth of the AC (Asphaltic Concrete) should be 40mm, water proofing layer (chip seal) should be added between AC and basecourse.*

46. The Consent Holder must make good any damage to the public road from Miramar Ave and Shelly Bay intersection to the site which is directly attributed to their site works activities. A survey of the road's condition must be undertaken prior the commencement of any site works and the results of the survey provided to the CMO.

**Note 1:** *'Site works' relates to all redevelopment activities and includes demolition, earthworks and construction.*

**Note 2:** *This condition does not alleviate Councils obligation to complete and undertake routine and planned road maintenance activities through the course of the development works.*

#### **Vehicle Parking:**

47. Prior to the construction of the aged care facility, the consent holder shall engage a suitably qualified traffic engineer to prepare a carparking assessment and plan/s to demonstrate that the provision of parking for this facility complies with AS/NZS.1:2890 Part 4. The Carparking assessment and plan/s must be provided to Council's CMO for certification.

**Note:** *In certifying the assessment and plan/s the CMO will liaise with Council's Transport Engineer.*

48. Vehicle parking must be implemented in accordance with the assessment and plan/s certified under **Condition [47] above** prior to receiving code of compliance for any new building related to the aged care facility.

**Servicing:**

49. Prior to receiving code of compliance for any new commercial building or residential building containing more than one household unit, the Consent Holder shall prepare a Servicing Management Plan/s (SMP) for the development. The SMP/s must be certified by Council's CMO in consultation with the Council's Transport Engineer. The Plan shall detail how the delivery of goods, collection of refuse and other routine operational needs of the development will be managed.

***Note:** Separate SMPs for each stage of development can be prepared and certified in stages. The SMP may be based on the individual needs of each commercial or residential building rather than on the development as a whole.*

50. The Consent Holder must implement the measures in the SMP certified under **Condition [49] above**.

**Reticulated services:**

51. The Consent Holder shall comply with the design, construction and as-built requirements of the Wellington City Council Code of Practice for Land Development. These are the land development engineering standards for mitigating adverse effects on the environment from earthworks, traffic (roading and vehicle access), wastewater and stormwater drainage, water supply and utility structures.

Other alternative solutions may be certified for those aspects where the standards of the Code of Practice are unable to be met or can be achieved in a different way.

***Note 1.** This Application has been assessed to ensure that three waters services infrastructure will be able to be provided. Final detailed design plans will be provided and certified in accordance with **Conditions [55-74] set out below**.*

***Note 2.** Council advises that a number of the items of infrastructure (including a potential combined reservoir and wastewater pump station) may be provided for as part of growth-related upgrades for the Miramar Peninsula. To minimise delays please engage early with Wellington Water to agree cost share and design requirements for these works. In the event that a new pump station and associated rising main is required (from the Miramar Cutting to Shelly Bay), this pump station and rising main will be vested to Wellington City Council. Sizing and design of this pump station and rising main will require input and approval at all stages from Wellington Water. The preferred alternative from Wellington Water is to find a route for a future wastewater rising main to serve the Shelly Bay Development and the Mount Crawford Development area. The reason for this alternative is to provide a longer design life and link with the Mount Crawford Development.*

***Note 3.** Council advises that consideration may be given to the temporary use of existing infrastructure if capacity is available and the condition is*

*sufficient for the construction of residential buildings until such time as full infrastructure works are undertaken. Detailed plans, calculations, and specifications of existing infrastructure capacity must be provided to and certified by Wellington Water if the use of existing infrastructure is to be considered in accordance with **Conditions [55-74] set out below.***

52. Design and Construction documentation of wastewater and stormwater drainage and water supply certified under **Conditions [55-74] below**, must be submitted to the Council, prior to any works relating to of wastewater and stormwater drainage and water supply starting, and its certification obtained.
53. All wastewater and stormwater drainage and water supply construction plans required to be provided under **Conditions [55-74] below** must be certified by Wellington Water prior to commencement of any construction on the site.
- Note:** Wastewater and stormwater drainage and water supply construction plans prepared as part of **Conditions [55-74] below** can be prepared for the entire site or on a per lot or per stage basis.*
54. At the conclusion of each stage the engineering works, 'as-built' plans must be supplied to and certified by the Council, that meet the requirements of the Code of Practice for Land Development (A.7 As-built Details) and the Wellington City Council Interim As-built Specification for wastewater, stormwater drainage, and water supply. These must be certified as having been constructed in accordance with the certified plans by a suitably qualified person.

**Stormwater Connections:**

55. Prior to the installation of stormwater connections, the consent holder shall provide detailed construction plans illustrating that the development will be provided with stormwater connections in accordance with the specifications of the Wellington City Council Code of Practice for Land Development and the locations of these connections for certification by the Wellington Water Land Development Team.

***Note 1:** The Wellington City Council Code of Practice for Land Development – Regional Standard for Water Services, requires that each proposed building on a lot shall be serviced by a separate connection to the public network at a location approved by the Wellington Water Land Development Team. This will be a pre-requisite requirement for any future subdivision(s) of the development.*

***Note 2:** stormwater drainage construction plans prepared as part of **condition [55] above** can be prepared for the entire site or on a per lot or per stage basis.*

56. The installation of stormwater connections must be carried out in accordance with the detailed design plans certified under **Condition [55] above.**

57. Within one calendar month of completion of the installation of the stormwater connections certified under **condition [55] above**, an as-built drawing/s, which conforms to the Wellington City Council Interim As-built Specification, must be provided for certification to the Wellington Water Land Development Team. This must be certified as being correct by a technically qualified person as set out in the Wellington City Council Code of Practice for Land Development.

**Public Stormwater Networks:**

58. Prior to the installation of a new public stormwater network and/or upgrade to the existing public stormwater network, the consent holder shall prepare detailed construction plans illustrating that the development will be provided with a public gravity stormwater network and submit to the Wellington Water Land Development team for certification. The plans shall demonstrate compliance with the Wellington City Council Code of Practice for Land Development 2012, Regional Standard for Water Services, and Regional Specification for Water Services.

***Note:** The public stormwater network and/or upgrade construction plans prepared as part of **Condition [58] above** can be prepared for the entire site or on a per lot or per stage basis.*

59. The installation of a new public stormwater network and/or upgrade to the existing public stormwater network must be carried out in accordance with the plans certified under **condition [58] above**.
60. Within one calendar month of completion of the of the Public stormwater work certified under **condition [58] above**, an as-built drawing/s, which conforms to the Wellington City Council Interim As-built Specification, must be provided for certification to the Wellington Water Land Development Team. This must be certified as being correct by a Registered Drainlayer or a technically qualified person as set out in the Wellington City Council Code of Practice for Land Development.

***Note 1:** The extension of the public gravity stormwater network should take into account the overall level of development proposed for the site to ensure that there is sufficient capacity.*

***Note 2:** Scheme and other indicative layout plans submitted as part of the Application will be taken by Council as being for information purposes only. These plans will not be used for granting approval. Approvals will only be given on detailed construction plans.*

***Note 3:** Any alterations or additions to the existing public stormwater network needs to be carried out under a Public Drainage Permit (as distinct from a Building Consent) to be issued by the Wellington Water Land Development team and fees paid. All Public Drainage work needs to be carried out by a suitably experienced Registered Drainlayer; who is*

*employed by a contractor who has an approved Health and Safety Plan and Public Liability Insurance.*

**Note 4:** *The Public Drainage Permit Application needs to include a copy of the Safety in Design documentation generated in response to the legal requirements under the Health and Safety at Work Act (2015) section 39.*

**Note 5:** *The Public Drainage Permit holder is to submit a compliant as-built drawing to the Wellington Water Senior Drainage Inspector and arrange for a final inspection to be carried out within 1 month of completion of the main drainage works and/or before vesting of assets.*

61. Should the Consent Holder seek to utilise the existing public stormwater outfalls it must assess the ability of the outfall to accommodate any proposed increase in stormwater runoff associated with the development and provide documentation to Wellington Water Limited for certification.
62. The consent holder will undertake any works required to upgrade the existing outfall to accommodate any increase in stormwater runoff associated with any new development (if required) as confirmed by a suitably qualified infrastructure/ land development engineer.

#### **Stormwater Quality:**

63. Prior to the construction of any buildings containing bare, unpainted or untreated materials that can leach contaminants such as lead, copper and zinc, the consent holder shall submit stormwater treatment solutions to be installed to mitigate stormwater contamination to Council's CMO for certification.
64. The stormwater treatment solutions certified under **Condition [63] above** must be installed in conjunction with the construction of any new buildings containing these materials.

**Note:** *Compliance with conditions [63] and [64] above will be assessed at building consent stage.*

#### **Wastewater Connections:**

65. Prior to the installation of new wastewater connections, the consent holder shall prepare detailed construction plans illustrating that the development will be provided with wastewater connections in accordance with the specifications of the Wellington City Council Code of Practice for Land Development and at locations approved by the Wellington Water Land Development Team.

**Note 1:** *The Wellington City Council Code of Practice for Land Development – Regional Standard for Water Services, requires that each proposed dwelling on a lot shall be serviced by a separate connection to the public network at a location approved by the Wellington Water Land Development Team. This will be a pre-requisite requirement for any future subdivision(s) of the development.*

**Note 2:** *In order to ensure that there will be sufficient capacity to serve the development, the connections should be appropriately sized.*

**Note 3:** *The public wastewater network and/or upgrade construction plans prepared as part of*

**Condition [65] above** *can be prepared for the entire site or on a per lot or per stage basis.*

66. The installation of new wastewater connections must be carried out in accordance with the plans certified under **condition [65] above**.
67. Within one calendar month of completion of the of the works certified under **condition [65] above**, an as-built drawing/s, which conforms to the Wellington City Council Interim As-built Specification, must be provided for certification to the Wellington Water Land Development Team. This must be certified as being correct by a Registered Drainlayer or a technically qualified person as set out in the Wellington City Council Code of Practice for Land Development.

**Public Wastewater:**

68. Prior to the installation of a new public wastewater network or upgrade or replacement to the existing network, the consent holder shall prepare detailed construction plans illustrating that the development will be provided with a public gravity wastewater network in accordance with the Wellington City Council Code of Practice for Land Development 2012, Regional Standard for Water Services, and Regional Specification for Water Services.

**Note:** *The public wastewater network or upgrade or replacement construction plans prepared as part of **Condition [68] above** can be prepared for the entire site or on a per lot or per stage basis.*

69. The installation of the new wastewater network must be carried out in accordance with the plans certified under **Condition [68] above**.
70. Within one calendar month of the completion of the works certified under **Condition [68] above**, an as-built drawing/s, which conforms to the Wellington City Council Interim As-built Specification, must be provided for certification to the Wellington Water Land Development Team. This must be certified as being correct by a Registered Drainlayer or technically qualified person as set out in the Wellington City Council Code of Practice for Land Development.

**Note 1:** *The replacement of the public gravity wastewater network should take into account the level of development proposed to ensure that there is sufficient capacity.*

**Note 2:** *Scheme and other indicative layout plans submitted as part of the Application will be taken by Council as being for information purposes only. These plans will not be used for granting approval. Approvals will only be given on detailed construction plans.*

**Note 3:** Any alterations or additions to the existing public wastewater network should be carried out under a Public Drainage Permit (as distinct from a Building Consent) to be issued by the Wellington Water Land Development team and fees paid. All Public Drainage work needs to be carried out by a suitable experienced Registered Drainlayer; who is employed by a contractor who has an approved Health and Safety Plan and Public Liability Insurance.

**Note 4:** The Public Drainage Permit Application needs to include a copy of the Safety in Design documentation generated in response to the legal requirements under the Health and Safety at Work Act (2015) section 39.

**Note 5:** The Public Drainage Permit holder is to submit a compliant as-built drawing to the Wellington Water Senior Drainage Inspector and arrange for a final inspection to be carried out within 1 month of completion of the main drainage works and/or before vesting of assets.

#### **Water Supply:**

71. Prior to the commencement of any new residential or commercial buildings the consent holder shall prepare detailed construction plans illustrating that the development will be provided with water supply which meets the specifications of the Wellington City Council Code of Practice for Land Development; at locations approved by the Wellington Water Land Development Team. The plans shall be accompanied with:
- a) Calculations that confirm that there is sufficient pressure and flow for the development to meet the Code of Practice for Land Development requirements. All calculations and designs, including structural elements related to water supply, must be endorsed by an appropriately qualified chartered engineer and submitted with a design statement.
  - b) A design statement shall confirm that the design of the water mains and services complies with the Wellington City Council Code of Practice for Land Development and current Wellington City Council Water Supply Specification.

**Note 1:** Scheme and other indicative layout plans submitted as part of the Application will be taken by Council as being for information purposes only. These plans will not be used for granting approval. Approvals will only be given on detailed construction plans.

**Note 2:** The water supply construction plans prepared as part of **Condition [71] above** can be prepared for the entire site or on a per lot or per stage basis.

72. The installation of the water supply network must be carried out in accordance with the plans certified under **Condition [71] above**.
73. Within one calendar month of the completion of works certified under **Condition [71] above** an as-built drawing/s, which conforms to the

Wellington City Council Interim As-built Specification, must be provided for certification to the Wellington Water Land Development Team. This must be certified as being correct by a Registered Drainlayer or technically qualified person as set out in the Wellington City Council Code of Practice for Land Development.

74. The as-built drawings required under **Condition [73] above** must be accompanied by a completion certificate that covers the construction of the works. The completion certificate shall be signed by a suitably qualified professional and shall certify that the construction work pertaining to the water supply infrastructure has been carried out in accordance with the consent conditions. The developer shall have new hydrants tested for compliance against SNZ PAS 4509:2008 and the certified results submitted with the completion certificate. In the case of a failed test for flow or pressure the suitably qualified professional is to provide an upgrade solution to the water supply in order to achieve compliance against SNZ PAS 4509:2008. The applicant will then need to rectify works to ensure compliance following a failed test.

**Landscaping:**

75. At least 20 working days prior to the commencement of any construction, the consent holder shall submit a final Landscape Management Plan (LMP) prepared by a suitably qualified and experienced practitioner for certification by the CMO in conjunction with Council's Landscape Advisor. The purpose of the LMP is to integrate the proposal into the surrounding landscape and urban context and to illustrate the landscape design element of the project. The LMP shall generally consistent with the Planting Strategy identified in Section 7.2 Planting Strategy, pages 97-100 of Shelly Bay Masterplan March 2019.

The LMP shall include, but not be limited to, the following information, methods, measures and techniques to achieve the purpose:

- i. Purpose and scope of the plan
- ii. Relationship with other management plans
- iii. Relationship with vegetation protection methodologies
- iv. Relevant standards and guidelines
- v. Summary of landscape values
- vi. Summary of actions to avoid, remedy and mitigate environmental effects
- vii. Relevant consent conditions
- viii. Management of construction effects
- ix. A final landscape plan including a planting schedule relating to the public realm (shown on page 83 of the Shelly Bay Masterplan date March 2019, version 23)
- x. A final landscape plan including a planting schedule relating to the shared lanes and parking mews (shown on page 75 of the Shelly Bay Masterplan date March 2019, version 23)
- xi. A final landscape plan showing mitigation planting details along the Escarpment Vegetation Management Zone (shown on page 98 of Shelly

Bay Masterplan date March 2019, version 23)

- xii. Landscape management post-construction
- xiii. Management of operational effects
- xiv. LMP review procedures

Once certified the landscaping must be completed by the Consent Holder within 3 months of completion of construction within the area to which the LMP relates. The consent holder shall monitor plantings for 18 months from time of planting in order to allow for plant establishment to the satisfaction of the CMO. Within this period monitoring includes the removal of weeds within the vicinity of the plantings and the replacement of plants that die, or are removed unlawfully, with plants of the same species and original size. Any plants that fail must be replaced at the expense of the consent holder. All plantings must continue to be maintained thereafter.

**Note 1:** *the LMP can be prepared for the entire site or on a per lot or per stage basis.*

**Note 2:** *The landscape plan shall include a mix of species as recommended in Ecological Zone 09 – Rocky Coastal in the Wellington Regional Native Plant Guide.*

(Refer to: <http://www.gw.govt.nz/assets/Be-the-Difference/Biodiversity/Wellington-Regional-Native-Plant-Guide-Revised-Edition-2010-Web.pdf>)

**Note 3:** *Myoporum laetum (Ngaio) should be considered as an alternative to Ulmus parvifolia (Chinese elm) due to its ability to tolerate the conditions.*

**Note 4:** *The best quality pohutukawa listed for removal will be transplanted and used for the new street trees, where practicable, at the Consent Holders discretion.*

76. Prior to the commencement of the LMP certified under **condition [75] above**, a pre- construction meeting must be held with the construction manager, consulting arborist, monitoring arborist and a Council arboriculture representative. At the meeting, the construction manager must consult with the consulting arborist, monitoring arborist and Council arboriculture representative about:
- The methodology and timing of the planting and landscaping works
  - Site access and areas for manoeuvring vehicles and machinery
  - Areas for storing and/or stockpiling materials, spoil and equipment
  - The care needed when working around trees

The construction manager must read and sign the Wellington City Council's Working around Trees Guidelines.

#### **Minimum Floor Levels:**

77. Any new buildings constructed on an allotment must have the following minimum floor levels:
- a) Minimum floor level of RL 2.64m (New Zealand Vertical Datum 2016)

- or RL 3.05m (WCC New City Datum) for any new non-habitable building;
- b) Minimum floor level of RL 3.19m (New Zealand Vertical Datum 2016) or RL 3.60m (WCC New City Datum) for any new habitable building.

**Lighting of Roads and Public Spaces:**

78. All outdoor lighting to public roads and outdoor public spaces available for use during the hours of darkness shall be designed and installed in accordance with AS/NZS 1158.3.1:2005 and any amendments in accordance with District Plan standard 34.6.1.7.2.

**Noise emissions limits post construction:**

79. Noise emission levels from activities in Business Areas when measured at or within the boundary of any site to be used for a noise sensitive use or containing a residential building which has not been sound insulated to meet the minimum noise insulation standard (refer District Plan Rule 34.6.2.10.1) and excluding Masterplan buildings SBW B1, SBW B2, SBW4, SBW B7 and SBW B9 as shown on Noise and Ventilation Mitigation Plan Appendix 7 Wellington Company Limited Application dated May 2019, shall not exceed the noise limits specified in the District Plan.

Monday to Sunday	7am to 10pm	50dB LAeq (15 min)
Monday to Sunday	10pm to 7am	40dB LAeq (15 min)
Monday to Sunday	10pm to 7am	70dB LAFmax

**Monitoring and review:**

80. The Consent Holder shall contact the Council's Compliance Monitoring Officer (CMO) at least 48 hours prior to any physical work commencing on the site and give notice of the date upon which such works will commence. This notice shall quote the RC number of this consent and the address of the site and shall be either by telephone (801 4017), facsimile (801 3165) or email ([rcmonitoring@wcc.govt.nz](mailto:rcmonitoring@wcc.govt.nz)).
81. The conditions of this resource consent must be met to the satisfaction of the Council's Compliance Monitoring Officer. The Compliance Monitoring Officer will visit the site to monitor the conditions, with more than one site visit where necessary. The Consent Holder must pay to the Council the actual and reasonable costs associated with the monitoring of conditions (or review of consent conditions), or supervision of the resource consent as set in accordance with section 36 of the Resource Management Act 1991. These costs\* may include site visits, correspondence and other activities, the actual costs of materials or services, including the costs of consultants or other reports or investigations which may have to be obtained.
- \* Please refer to the current schedule of Resource Management Fees for guidance on the current administration charge and hourly rate chargeable for Council officers.

82. The consent holder shall provide a copy of this consent and any documents referred to in this consent to each operator or contractor undertaking works authorised by this consent before that operator or contractor starts any works.
83. The consent holder shall ensure that a copy of this consent is kept in the site office at all times and presented to any Wellington City Council officer on request.

**DECISION THREE – CANCELLATION OF AMALGAMATION CONDITION:**

That independent commissioners, acting under delegated authority from the Wellington City Council (the Council) and pursuant to section 241(3) of the Resource Management Act 1991 (the Act), agree to cancel in part the condition which requires the amalgamation of proposed lots 2, 3, 4, 5 and 900 in one Computer Freehold Register; Section 5 SO 339948 and proposed Lot 904 in one Computer Freehold Register; and, Proposed lots 9, 10, 11 and 903 held in one Computer Freehold Register, on a staged basis as it relates to each lot, subject to the following:

1. That any existing buildings which straddle any new boundaries on completion of the subdivision have been relocated or demolished as it relates to that specific lot so that no buildings straddle new boundaries.
2. That Rights of Way B and C have been constructed to ensure that the lots being served have physical and legal access. The Council would accept a bond against final surfacing of the Rights of Way.

**ADVICE NOTES:**

1. The survey plan must be submitted for approval in accordance with sections 223 & 224 of the Resource Management Act 1991 (RMA) (as modified by section 51 of the HASHAA) and given effect to within **1 year** of the granting of this consent, or within such extended period of time pursuant to section 125 of the RMA as the Council may allow.
2. Under section 51 of the HASHAA and the RMA, the land use consent approved under Decision Two must be given effect to within **13 years** of the granting of this consent, or within such extended period of time pursuant to section 125 of the Resource Management Act 1991 (RMA) as the Council may allow.
3. Additional fees will be required by the Council with the Application(s) for the section 223 and 224 certificates. The section 224 certificate will be issued following compliance with all conditions of consent set out above, and payment of any development contribution that may be payable.
4. Where appropriate, in relation to the land use consents, the Council may agree to reduce the required monitoring charges where the Consent Holder will carry out appropriate monitoring and reporting back to the Council.
5. This resource consent is not consent to build. A building consent may be required under the Building Act 2004 prior to commencement of construction.
6. This resource consent does not authorise any works that also require consent from the Greater Wellington Regional Council (GWRC). If necessary, separate resource consent(s) will need to be obtained prior to commencing work.

7. The Consent Holder is advised to consult with GWRC if it is likely that discharges will occur from soil disturbance works that exceeds 5000m<sup>2</sup>, if any bore/piling work is to be undertaken, or if any work is to be undertaken within the Coastal Marine Area.
8. Vehicle access bylaw consents are required for the construction of kerb crossings, driveways and parking facilities under Part 5, Section 16 of the Council's Consolidated Bylaw 2008.
9. Vehicle crossings which service more than 6 household units or any commercial vehicle crossing need to be constructed as heavy vehicle crossings in accordance with the Code of Practice for Land Development 2012.
10. It is suggested that the Consent Holder reviews the proposed parking provision, in particular the matter of visitor parking for the residential developments, parking associated with the proposed hotel, and parking provision for employees. It will be important to ensure that the appropriate mix of parking is provided so that such parking as will be provided is effectively targeted to the various land use parking demands and that any shortfall in parking does not result in inappropriate parking pressure at locations within the development. This will include the proposed angle parking within the legal road which the Council will be responsible for managing.
11. It is recommended that a Staff Travel Plan/s (STP/s) for the development be prepared prior to occupation of any buildings to be utilised for non-residential purposes. The STP/s should detail how employees working at Shelly Bay can travel to and from the site so as to minimise the need for individual workers to use their own transport. The plan/s could include the extent of staff parking to be provided, together with other transport arrangements, to ensure staff can safely and conveniently travel to and from what is a relatively isolated site. The STP/s could relate to either individual businesses or combinations of businesses seeking to reduce overall individual staff vehicle use and associated parking demand. Council would be happy to review any such STP/s.
12. Given the northern point of the site has a meteorological designation (ref: M3) with the Requiring Authority being Meteorological Service of New Zealand Limited, its approval under s176(1)(b) will be required prior to any works being undertaken in this area.
13. Landowner approval is required for any construction of buildings or structures on, or use of land owned by the Wellington City Council. Landowner approval must be obtained prior to any use or construction commencing.
14. As far as practicable all construction activity related to the development must take place within the confines of the site. No buildings, vehicles, materials or debris associated with construction may be kept on Council land, including the road, without prior approval from the Council. Please

note that landowner approval is required under a *separate approval process* and that this must be sought and approved prior to any works commencing. For more information on the traffic management process and what further separate land owner approvals may be required in relation to the logistics of working within the legal road either contact the Transport Asset Performance team or visit this link:

<http://wellington.govt.nz/~media/services/parking-and-roads/roadworks/files/traffic-management-process-2013.pdf>

15. Construction noise is managed through the construction noise controls set out in NZS 6803:1999 and adoption of a best practical option approach in accordance with section 16 of the Act, to ensure that the emission of noise from the site does not exceed a reasonable level.
16. A Vodafone mobile site is currently located within the site, approved under SR 75875, and it is recommended that the Consent Holder liaises with Vodafone in terms of the effects of this proposal if this has not already been undertaken.
17. In accordance with the Health and Safety at Work (Asbestos) Regulations 2016, a person conducting a business or undertaking (PCBU) with management or control of a workplace must ensure the following:
  - (a) Work is not to be carried out until the structure has been inspected by a competent person to determine whether asbestos or asbestos containing materials (ACM) are fixed to or installed in the structure.
  - (b) That all asbestos that is likely to be disturbed during any demolition or refurbishment is identified and that removal, so far as is reasonably practicable, is carried out by an asbestos removalist licensed to carry out the work.
  - (c) That a competent person carries out air monitoring of the area where asbestos-related work is being done if the airborne contamination standard for asbestos could be exceeded.
  - (d) For further information contact: **WorkSafe New Zealand** Phone 04 897 7699.
18. Rights of objection to this decision are set out at section 81 of the HASHAA. Any objection shall be made in writing, setting out the reasons for the objection within 15 working days of this notification or within such extended period as the Council in any special case may allow.

