



caring about you & your environment

8 October 1999

To: Howard Stone, General Manager

From: Cr Mike Gibson

Notice of Motion for 2 November 1999

Please take this as my Notice of Motion for the Council meeting scheduled to take place on 2 November 1999:

“That the General Manager arrange for advice to be presented to the Council concerning a possible “Kiwi-share” type of arrangement in relation to the Council’s current policy that it might, under certain circumstances, sell its shares in CentrePort Ltd”.

Notes:

1. The reference to “Kiwi-share” is derived from my attached Report 99.508 dated 1/9/99.
2. Also relevant is the possibility that the Council “could sell some of its CentrePort shares and use the proceeds of that sale to establish a community trust under Section 225D of the Local Government Act 1974, with the trust deed being wide enough to include economic development” (Simpson Grierson letter to the Council dated 4 October 1999).

Mike Gibson

Attach.



caring about you & your environment

Report 99.508
1 September 1999
File: ENV/10/1/1

Report to the Environment Committee
from Councillor Mike Gibson, Deputy Chair, Environment Committee

Council-Owned Companies and Environmental Sensitivity

1. Purpose

To assess the adequacy of the Council's present approach to those environmental matters which are under the control of Council-Owned Companies and, if desirable, to set about making changes.

2. Council-Owned Companies

- 2.1 The Council has a Holding Company, WRC Holdings Ltd, which owns 100% of the shares in Pringle House Ltd (Pringle House being the Council's Wellington City premises). It also owns 77% of the shares in the Port Company which, since the 23% balance of shares is owned by the Manawatu-Wanganui Regional Council, is wholly the property of ratepayers.
- 2.2 Until this triennium the Holding Company has had two "outside" directors (as required by law) and only two directors who have been Councillors. In order to exercise a majority control on behalf of the people of the Wellington Region the Council resolved, earlier in this triennium, to appoint a third Councillor to the Holding Company.

3. The Port Company

- 3.1 The Port Company recently changed its name without consulting the Wellington Regional Council from Port Wellington Ltd to CentrePort Ltd.
- 3.2 It is possible that this change of name presages the acquisition of port interests outside the Wellington region and a consequent shift of focus away from Wellington.

- 3.3 The Port Company's Board of Directors are "outside" directors except for one nominee of the Wellington Regional Council, the Council's General Manager, Mr Howard Stone. This situation has pertained for **nearly a** decade. It is worth noting in this respect that the Council's only "Green" Councillor, Cnr Denis Foot, tried for many years to obtain community representation on the Port Company Board by means of having at least one Councillor appointed as a Director. (Cnr Foot is legally qualified and is a practising local solicitor. He did not stand for re-election in October 1998 but it is understood that his concerns about community representation on the Board of the Port Company remain and that a clear majority of Wellington residents share these concerns.)
- 3.4 Possible Sale of Port Company. Over the years several Council debates have been held in Public-Excluded concerning the possible sale of the Port Company. Councillors have seemingly been motivated to having such debates in Public-Excluded so that they can enter into "free and frank" discussion on the matter. The Council's custom has been to resolve, at the end of Public-Excluded debates, that the Chair might make public their results.
- 3.5 At the only such Public-Excluded debate this triennium a change was discernible in the attitude of the new Council to selling the Port Company.
- 3.6 It is possible that the Councillors of this triennium would be far happier either:
- (i) to incorporate a "Kiwi-Share" type of arrangement into the Port Company's structure as a safeguard of community interests if there was to be a sale, or
 - (ii) to change the Port Company's present approach to environmental matters if there was to be no sale.
- 3.7 In any event, there is concern amongst Wellington residents that a perceived all-consuming profit-orientation of the Port Company is disregarding of any satisfactory environmental safeguards.

4. Casus Belli

- 4.1 As a result of newspaper coverage regarding the concerns of a local group about the activities of the Port Company (see article from the Western News dated 30 July 1999 attached as **Appendix A**) it was suggested that representatives of the group speak in Public Participation at the Council meeting to be held on 3 August 1999 (see extract from draft Minutes attached as **Appendix B**).
- 4.2 The General Manager has confirmed that there has never ever been a report to the Council about the Port Company's environmental plans at Kaiwharawhara.
- 4.3 The Council's Consents Manager, Mr Rob Forlong, has' stated that no Environmental Impact Assessment report has ever been provided to the Council concerning the Kaiwharawhara proposals.

- 4.4 The Resource Management aspects of the **Kaiwharawhara** proposals lie between the Port Company and the Wellington City Council. It would be of great concern in this respect if the Port Company's proposals have been made purely from a commercial, profit-driven, point of view.
- 4.5 At a Special Policy and Finance Committee meeting held on 3 August 1999 the "usual" Statements of Corporate Intent were considered for Council-owned companies.
- 4.6 It is understood that it is not customary in the Wellington Regional Council for officers to draw to Councillors' attention any omissions in such Statements of Corporate Intent vis-a-vis Council policy (e.g. "caring about you and your environment"). In this respect, on this occasion, officers kept to their past practice.
- 4.7 It is also understood that the past practice of Council before this triennium had been merely to "rubber-stamp" such Statements of Corporate Intent and that therefore the only emphasis in these Statements was on profit and dividend.
- 4.8 At the meeting on 3 August 1999, after debate, the following resolution was passed in respect of the Port Company's Statement of Corporate Intent:
- "That this Council convey its strong sympathy with the views expressed by those groups concerned with environmental aspects of future port development and ask that the directors of CentrePort delay any final decisions on future utilisation of the Kaiwharawhara reclamation until after the Architectural Centre study at central Wellington is complete. "**
- 4.9 Subsequently Cnr Stuart Macaskill, as Council Chair, wrote to the Port Company that "Perhaps the Directors might also wish to add into the draft Statement of Corporate Intent the company's intention to continue to act as a good corporate citizen through meeting its environmental obligations" (see letter dated 4 August 1999 attached as **Appendix C**).

5. Possible Action

- 5.1 There is clearly a new mood within the Council, a mood for progress and a mood for change.
- 5.2 Advice which recognised the new mood of the Council would therefore be helpful.

- 5.3 Such advice would involve:
- 5.3.1 Consideration of the response by the Port Company to Cnr Macaskill's letter dated 4 August 1999.
 - 5.3.2 Research into the practices of other authorities which issue Statements of Corporate Intent in similar circumstances, e.g. Wellington City Council in respect of Lambton Harbour Management Ltd.
 - 5.3.3 Discussions with the directors of WRC Holdings Ltd and the Port Company and the reporting back to the Council of the outcome of those discussions.
 - 5.3.4 Formal advice on relevant legislation e.g. S 13 1 of the Companies Act 1993 including advice on the relevant merits of encoding Council's requirements (if any) in a Company's Constitution or in its Statement of Corporate Intent and whether a "Kiwi-Share" type of arrangement would make Councillors more comfortable in a possible sale of the Port Company
 - 5.3.5 Advice on incorporating a Sunset Clause in any codified arrangements made by the present Council,
 - 5.3.6 At the same time, whilst recognising that the Kaiwharawhara situation is now subject to resolution at the Environment Court between the parties (i.e. a company wholly owned by ratepayers on the one hand and the local territorial authority, the Wellington City Council on the other hand), an earlier report on this situation, and possibly others, might be desired (even if the Kaiwharawhara matter need to be considered in Public-Excluded because of "sub judice").
 - 5.3.7 Maori Perspective. In view of the Council's efforts to establish a continuing relationship with Maori it would also be appropriate to discuss the subject of this report with Iwi. The Council's Iwi liaison officer, Tracey Whare, could make suitable arrangements for this and, of course, the Committee Chair, Cnr Ian Buchanan, should be involved as necessary.
 - 5.3.8 Leadership. With such an effort it would be most worthwhile if the Wellington Regional Council could establish an ideal to be followed by other authorities in New Zealand with Council-Owned Companies operating in environmentally sensitive situations.

6. General

The following are related matters which I plan to raise by means of a further report to the next ordinary meeting of the Policy and Finance Committee: the question of a conflict of interests between the General Manager's role of providing advice to the Council and his role as a director of the Port Company, the past methods of reporting Port Company business to the Council, the suitability (or otherwise) of workshops for such reporting and the way in which information on the Port Company has been made available to Councillors when it has previously been requested.

7. Recommendation

That suitable steps be taken so as to provide the Council with alternatives to the present arrangements for "caring about you and your environment" in respect of Council-Owned Companies, particularly the Port Company.

Report Prepared By:



Councillor Mike Gibson
Deputy Chair, Environment Committee

Appendix A – Article from Western News dated 30 July 1999

Appendix B – Extract from draft Minutes of Council Meeting held on 3 August 1999

Appendix C – Letter from Cnr Stuart Macaskill dated 4 August 1999

8
Appendix A - front-page article in Western News
dated 30/7/99, attached to WRC Report 99.508

SEHOLDS PHONE 478 8469

FRIDAY, JULY 30, 1999



Dorothy Douglass is one Highland Park resident concerned about development on Kaiwharawhara Point.

Scenic spot debated

Wellington's panoramic vista, as seen driving in from the motorway, may not be so scenic if CentrePort (previously Port of Wellington) gets permission to build higher than the 12 metre limit currently allowed in the District Plan.

The use of open space on Kaiwharawhara reclamation has been debated for numerous years.

In 1994 Wellington City Council tried to zone the land open space but this was successfully appealed by the land's owners, CentrePort, and it is now zoned commercial.

Western News believes CentrePort wants permission to build up to 27 metres high on the space, but a compromise of 18.6 metres is currently being discussed between the council, CentrePort and Tranz Rail (which also owns land on the reclamation).

It is understood the three will present their negotiated height agreement to the Environment Court next month.

The possibility of having the open site developed concerns nearby residents.

Highland Park Progressive Association secretary Dorothy Douglass says preserving Kaiwharawhara reclamation is one of the association's 12 points in its Vision for Highland Park statement.

The group supports the right of public

access to the beach and its beautification.

She says for many Highland Park residents, the reclamation area is a significant part of their view.

Fellow association member Mark Strange says his concerns are "twofold".

"There's the aesthetics - it's such a prominent view when you're coming home - it says 'welcome home'.

"I'm also with the people who say there should be a Town Belt to water corridor for bird activity and things.

"It is a site that warrants something decent on it."

Ohariu Belmont MP Peter Dunne says he is "horrified" at suggestions large commercial buildings could be erected on the reclamation.

He says Wellington City Council should commit itself to ensuring the city's environmental heritage is not compromised by development on the point.

Wellington City Council spokesperson Richard Maclean says the council has no comment on the matter, as the issue is cur-

By Anna Chalmers

rently subject to the Environment Court.

CentrePort chief executive Ken Harris says he does not believe the view would be altered by anything CentrePort might do with the land.

"The port owns the site but there are no intentions to develop it in the near future."

He says the port currently plans to store logs on it.

CentrePort has been talking with local groups and Mr Harris says he thought they had found a middle ground.

"Our understanding was everyone is happy."

Wellington Architectural Centre president Guy Cleverley is working with 100 architects to develop a series of proposals for Wellington's port and railyard area.

"From an architectural perspective, it [the port] appears to be a natural gateway, whether it be a port or natural area," he says.

9
2 Appendix B - extract from draft
Minutes of Council Meeting of 3/8/99,
attached to WRC Report 99.508

Caroline Adams presented a proposal for the configuration of hospital services for the region. This included a rationale for locating the regional tertiary hospital at Kenepuru.

Caroline Adams concluded that Kenepuru should also be combined with decentralised secondary hospital services at Newtown., Hutt and Kenepuru and integrated with primary and secondary outpatients services across the region.

A copy of the overhead presentation was distributed to members.

Frances Lee, Kaiwharawhara Reclamation Working Group

Frances Lee said her group was concerned about the future use and development of the Kaiwharawhara reclamation. Frances Lee said that she understood **CentrePort** had plans to use the area for logs and timber products storage buildings. The Reclamation Working Group preferred the Kaiwharawhara reclamation be developed for recreation purposes and asked that an appropriate direction be given to **CentrePort** Ltd.

A copy of Frances Lee's statement was distributed to members.

Joyce Griffin, Action for Environment Inc

Joyce Griffin asked the Wellington Regional Council as the majority owner of **CentrePort** Ltd to ensure that the Kaiwharawhara reclamation remains a recreational reserve without commercial interference.

A copy of Joyce Griffin's representations dated 2 August 1999 was circulated to members.

Robyn Buxton, Federation of Wellington Progressive Association

Robyn Buxton said the Wellington Regional Council had authority under the new Company's Act to ask the directors of **CentrePort** Ltd to look beyond the profit motive and consider the wider community interest. There were safety and aesthetic reasons why the Kaiwharawhara reclamation should not be used for commercial purposes.

The Chairperson thanked each person for their representations and said members would give their comments full consideration.

D T S Riddiford

The Chairperson invited Mr Riddiford to speak to Council noting that members had already received a copy of Mr Riddiford's submission to the Regional Council dated 3 August 1999. Mr Riddiford thanked members for the opportunity to speak and then summarised his written representations.



Appendix C - attached
to WRC Report 99.50
COPY

caring about you & your environment
Office of the Chairperson

4 August 1999

Nigel Gould
The Chairman
CentrePort Limited
PO Box 794
WELLINGTON

Dear Nigel

1999100 Statement of Corporate Intent

At yesterday's Policy and Finance Committee meeting, the Committee considered CentrePort's draft Statement of Corporate Intent for 1999/2000.

At the same meeting, the Council received a number of submissions from interested members of the public in relation to the potential future use of the Kaiwharawhara reclamation (copies of submissions and correspondence attached). The Council did ask that I communicate these community concerns to the Directors.

I'm sure Councillors would appreciate an early opportunity for a further briefing on the property development plan and, in particular, the Company's plans for the future use of the Kaiwharawhara reclamation.

Perhaps the Directors might also wish to add into the **draft** Statement of Corporate Intent the company's intention to continue to act as a good corporate citizen through meeting its environmental obligations.

Yours sincerely

STUART MACASKILL
Chairman



11

WELLINGTON REGIONAL COUNCIL
06 OCT 1999

SIMPSON GRIERSON
LAW

4 October 1999

CONFIRMATION
OF FAX

Partner Reference
Jonathan Salter

e-mail tmt@sglaw.co.nz

*file ref
please*

Chief Executive
Wellington Regional Council
PO Box 11646
WELLINGTON

By Fax: 04 385-6960

For: Ted Maguire

FILE NO	/	/	/
TO NOTE	INIT	DATE	
T. Maguire			
TO ACTION			

Ability to Contribute to "Economic Development Proposal"

We refer to your facsimile of 4 October 1999 asking us to answer the following two questions:

1. Is the Wellington Regional Council ("WRC") lawfully able, under the Local Government Act 1974 ("LGA") to contribute \$350,000 to any other organisation for the purposes of economic development of the region?
2. Are there any other options which the WRC may lawfully pursue to achieve the same effect if the answer to question one is no?

Answers

1. The economic development proposal as described has as its dominant objective the development of business connections and trade and it is our opinion that the WRC is not lawfully able to contribute \$350,000 to a proposai in those terms. Channelling the WRC's contribution through another organisation would not make a lawful application of its funds.
2. We have not found a lawful option for precisely the proposal described (other than by way of explicit legislative enactment). However, the following options would be lawful:
 - (i) If the proposal can be refined to being primarily concerned with tourism promotion then, providing that WRC has the support of the territorial

ISO 9001
Quality Assured

WG992770.169s2p1v2

BARRISTERS & SOLICITORS

Unisys House, 44-52 The Terrace, P O Box 2402, Wellington, New Zealand Telephone 0-4-499 4599, Fax 0-4-472 6986. DX SX11174

Auckland: Simpson Grierson Building, 92-96 Albert St. Private Bag 92518, Wellesley St, Auckland. New Zealand. Telephone 0-9-358 2222. Fax 0-9-307 0331. DX CX10092

Website <http://www.sglaw.co.nz>

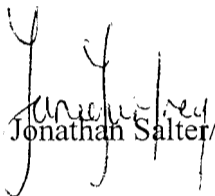
41419

authorities to engage in the promotion of tourism, it would be lawful for WRC itself to contribute the money.

- (ii) The WRC could sell some of its CentrePort shares and use the proceeds of that sale to establish a community trust under section 225D of the LGA, with the trust deed being wide enough to include economic development.
- (iii) CentrePort Limited may make the financial contribution to the economic development proposal. CentrePort clearly has a direct interest in the economic growth in the region and on that basis may contribute.

We hope this is of assistance. Please do not hesitate to contact us if you have any further queries.

Yours faithfully
SIMPSON GRIERSON


Jonathan Salter/Tania Turfrey