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**Report 01.759**

05 October 2001

File: CFO/22/1/5

Report to Policy and Finance Committee  
from Greg Schollum, Chief Financial Officer

## **Shelly Bay Update**

### **1. Purpose**

To review the current position relating to Council interests in the land at Shelly Bay.

### **2. Background**

The Policy and Finance Committee last considered the issue of Shelly Bay in November 2000 (report 00.872) and subsequently all Councillors were provided with an update on 11 April 2001 as a result of media attention at that time.

At the time of the November 2000 report, the joint proposal of the Council and the NZ Defence Force had been conditionally supported by the Wellington City Council. Additional concessions had been sought by the Wellington City Council and negotiations were underway to meet those. However, before a conclusion could be reached, the Wellington City Council, in December 2000, advised that it had obtained a legal opinion which argued that the land, which had always been agreed resided in the ownership of the Wellington Regional Council, should be in the ownership of the Wellington City Council. All negotiations were therefore suspended by the Wellington City Council.

### 3. **Comment**

Immediately upon receipt of the Wellington City Council's legal opinion, Oakley Moran was requested by officers to provide its opinion on ownership rights to the land. The Oakley Moran opinion supported the Wellington Regional Council's claim to ownership.

Legal opinions were exchanged, but with such divergent opinions expressed, it was clear the matter would in all likelihood have to be placed before a third party for resolution.

The Council's General Manager then met with the Wellington City Council Chief Executive Officer to canvass the issue to explain the three way proposal and to seek an agreed compromise position. The Chief Executive Officer of the Wellington City Council undertook to review the matter prior to reconvening to discuss his findings before any further action was to occur.

However, at the reconvened meeting which followed the General Manager was advised that Wellington City Council officers had unilaterally referred the matter as a dispute to the Local Government Commission for a ruling. There appeared to be no room for discussion or compromise. It was confirmed that the City Council saw the land as a valuable asset and that it wanted the whole cake rather than part, as was proposed by the three way proposal promoted by Regional Council and NZ Defence Force.

Subsequently, a notice was received from the Local Government Commission, dated 19 July 2001, confirming receipt of the Wellington City Council application to have the matter of land ownership resolved. The Commission asked the Council to comment on the application. That response is in the hands of Oakley Moran.

Oakley Moran have recommended to officers that the Commission should be supplied with the full background at this time so that it can appreciate the level of involvement of the Council and the acceptance since 1995 by the City Council that the Regional Council had a role as owner, evidenced by the extensive negotiations which have taken place over the past six years. Oakley Moran also wish to display to the Commission the open and fair way in which the Regional Council has made every attempt to meet the needs of the public, the City Council and NZ Defence Force, rather than to focus solely on the profit motive.

The Commission has been advised of the Oakley Moran intended approach and has endorsed the delay in receiving the Council response to give Oakley Moran sufficient time to collate the necessary background information.

It is likely that when the matter is heard by the Commission the Council will be represented by John Tizard of Oakley Moran and the City Council will be

represented by Simpson Grierson. Each Council will be asked to present submissions in support of their respective stances.

The matter is now effectively in the hands of the Commission. Until a decision on ownership is available, no further progress toward resolution of the Shelly Bay issue can be made.

4. **Recommendation**

*That the report be received and the contents noted.*

Prepared by:

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