

2 March 2022



Kia ora 

Advice to Council Shelly Bay

Thank you for your request made under the Local Government Official Information and Meetings Act 1987 (the Act), received on 21 December 2021. You requested in relation to the following:

The agenda of a 27 September 2017 meeting of the Strategy Committee (<https://wellington.govt.nz/~media/your-council/meetings/committees/city-strategy-committee/2017/09/27/agenda.pdf>), para 76, page 21, stated:

"Council asked that officers come back to Council with advice on the risks that Council may face as a result of development in this low-lying coastal area. This will include advice on how to indemnify the Council against future claims for infrastructure costs due to sea level rise on private land."

Please see below responses to your questions.

1. Did this work occur? If so, when and in what form; and please provide a copy of the advice brought back to Council on these matters.

Advice on sea level rise was provided as part of the report back to the Council on 'Shelly Bay - Key Commercial Terms of Proposed Development' on 11 November 2020, rather than as a stand-alone piece of work. This advice is all public and can be found at – [Agenda of Ordinary Council Meeting - 11 November 2020 \(wellington.govt.nz\)](#) (pages 12, 15-16, and 26.).

Key points are:

"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."" (Page 16) and;

"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." (Page 12).

Also see attached Councillor Question and Answer advice from officers. Specifically questions 22 and 24: : <https://wellington.govt.nz/-/media/your-council/projects/files/shelly-bay/shelly-bay-councillor-question-and-answers.pdf?la=en&hash=DEF19EF0EFC5AA23A656B6C907DFE9E1719178CD>

Climate change and sea level rise liability and indemnity was also discussed with the developer at the [Wellington City Council - Council Meeting - 11 November 2020 - YouTube](#) – see time at 43.39.

Legal advice was also provided to Councillors on this issue. That advice is confidential and subject to legal professional privilege. s7(2)(g) of LGOIMA contains a reason to withhold information where it is necessary to maintain legal professional privilege and that consideration is not outweighed by the public interest. It is in the public interest to maintain legal professional privilege and the confidentiality of legal advice provided to councillors as decision makers. Therefore, I consider that the information should be withheld under this ground.

2. If not, why not?

See above advice provided to Elected Members.

3. Please provide copies of all correspondence between WCC staff, councillors and third parties relating to this request, including the council officers' work to provide this advice or the reasons for not doing so.

As previously advised, there is no single work stream that contributed to the report back to the Council, however as outlined above officers did consider the issue and provided advice on this. As there was no dedicated work stream, this request would require officers to check all their emails on Shelly Bay dating back to September 2017 when the resolution was passed. This would be an extensive exercise and involve substantial collation and research. Therefore, it falls within the definition of s17(f) of the Act. You are able to refine this request to more accurately specify the information you are seeking.

4. If advice on this subject was not provided at that time, has it been provided to Council since then? If so, please provide a copy of the advice and the associated communications on that subject.

See response to question one.

Right of review

If you are not satisfied with the Council's response, you may request the Office of the Ombudsman to investigate the Council's decision. Further information is available on the Ombudsman website, www.ombudsman.parliament.nz.

Please note, we may proactively release our response to your request with your personal information removed.

Thank you again for your request, if you have any questions, please feel free to contact me.

Kind regards

Gareth Hancock
Team Leader Official Information