

Shelter Bay - Frequently Asked Questions for Sales Staff:

Updated April 15, 2024

Important Note: This document is to be read in conjunction with the Head Lease, Sublease, and Information Statement. In the event of a conflict the Headlease, Sublease and Information Statement will govern.

Question:

1. Is this Native Land?
The land is part of the Westbank First Nation reserve (WFN).
 2. What can you tell me about the WFN?
The WFN is one of the most progressive Bands in BC. WFN has been open for business for several decades, and many large-scale residential developments are located on their land, including Aria Apartments which was developed by Van Maren in 2006 / 2008.
 3. Can the WFN cancel the lease or can they raise the rent?
No, they cannot. The lease is 100% prepaid and there is no provision in the lease to modify its terms except with consent of the developer.
 4. What about road access to the property?
Shelter Bay is accessed via Campbell Road and Campbell Place, both of which are public roads.
 5. Do I have the right to cancel the Purchase Agreement?
Yes, you have the right to rescind the purchase agreement for 7 days after it is accepted by the developer. This will give you time to consult with a lawyer or notary if you choose to.
 6. When I decide to purchase how much of a deposit will be required?
Please contact our sales office, or refer to the Purchase Agreement as these may change from time to time.
 7. Can I enter into a conditional Purchase Agreement?
Yes. If you need to obtain confirmation that financing is available, you will be given sufficient time to do so. Check with sales staff for details.
 8. How long is the lease?
Shelter Bay Partnership (the "Developer") has leased the land required for the Project from Ronald Michael Derrickson and Douglas Noll Theodore Derrickson, for a term of 125 years ending on October 1, 2142 pursuant to a head lease registered at the Westbank Lands Registry on September 29, 2017.
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Question:

- 9.** What happens at the end of the 125-year lease?
The land and improvements revert back to Ronald Michael Derrickson and Douglas Noll Theodore Derrickson, or heirs as the case may be. Prior to October 1, 2142, however, the Owners may be able to negotiate an extension to the lease in return for an additional head lease payment.
- 10.** Do I have to make on-going lease payments?
No, both the head lease and the subleases are fully prepaid. You will have to pay property taxes to WFN and strata fees to the Shelter Bay Owner Association.
- 11.** What if I'm still worried about the lease?
The fact that Canada Mortgage and Housing (CMHC) has approved the Shelter Bay headlease and sublease for mortgage insurance purposes should provide some reassurance to buyers. After signing a conditional purchase agreement, you will have 7 days to obtain independent legal advice.
- 12.** Is GST payable on the Sublease at closing or at any time thereafter?
As long as you intend to use the unit solely for personal vacations and/or year-round living and either you never rent it out or you occasionally rent it out for short term rentals (not less than 5 days) then no GST is payable on the sublease at closing. Alternatively, if you intend to use the unit as a revenue property (i.e. solely in short term rentals or in a mixture of short term and long term rentals) then GST will be payable on the sublease at closing. As well, if you initially intend to use the unit for personal vacations and/or for year-round living and then, after closing, you subsequently change the use to being a revenue property then GST may become payable on the sublease at that time. We recommend you obtain legal and accounting advice from your own advisors.
See also: <https://www.wfn.ca/news/benefitsoflease.htm>
- 13.** Where are the leases registered?
In the Westbank First Nation Land Registry, which operates like a provincial land registry system.
- 14.** Can I sell or mortgage my sublease?
Absolutely.
- 15.** Has this project received pre-approval from various financial institutions?
We expect there will be several lenders who are pleased to provide financing for your new home at Shelter Bay, and our sales staff can provide more details. CMHC insured financing is also available.
- 16.** What happens to my deposits?
Your deposit is paid to the developer's lawyer, Waterstone Law LLP. If you choose to make upgrades to your home, additional deposits will have to be paid. Deposits for changes and upgrades are paid to the Developer, Shelter Bay Partnership.
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Question:

- 17.** Why does the developer have the right to extend the closing date by up to 180 days? The developer has this right in case of delays beyond the developer's control or other circumstances which may make it difficult to complete your home on time. This is a common provision in all presale contracts.
- 18.** What are the restrictions on assignment? Why are these necessary? This is common in presale contracts to prevent "flipping". You may assign your contract in accordance with the terms of the Purchase Agreement.
- 19.** Will I be able to obtain legal advice on the Purchase Agreement? Yes, during the 7-day rescission period. Barry Porrelli, a well-respected local lawyer, who specializes in leased-land transactions, has reviewed all of the documents related to Shelter Bay and he's prepared to answer your questions free of charge. He can be reached at 250.768.0717 or barry@plaw.ca. You may also consult with any lawyer of your choice as well.
- 20.** Who is the developer? Shelter Bay Partnership is the developer. This entity is controlled and managed by Bernie and Eric Van Maren, who own the Van Maren Group of Companies and Blair Neels who joined the firm in 2004. Van Maren has been in the construction and land development business for almost 50 years, and have built over 25,000 homes all over BC, Washington State and California. Refer to www.vanmarengroup.com.
- 21.** Has this developer done any similar projects? Yes several, including Halcyon Meadows and Clover Creek, both on First Nation's land in Chilliwack. Van Maren recently completed 285 homes on First Nation's land in Osoyoos (The Cottages on Osoyoos Lake) and in 2018 completed MidTown in Chilliwack. It is also about 70% complete on developing 640 homes on the Tzeachten First Nation Reserve in Chilliwack.
- 22.** Does the developer have the staying power to do a long-term project like this? What if he walks away? The developer has been in business for almost 50 years; always in construction and land development. The developer has never failed to complete a project. As further protection, your purchase agreement deposit remains in a lawyer's trust account until closing, and all homes are covered with a 2-5-10 warranty insured by WBI Home Warranty.
- 23.** How about other leased-land projects? The developer has completed 3 other residential projects on Indian Land (leases with Federal Government) Halcyon Meadows – 224 homes on the Tzeachten Reserve, completed in 2007; Aria Apartments – 175 homes on the Westbank Reserve, completed in 2008; and Clover Creek, 61 homes completed in 2011, and recently completed 285 detached homes at the Cottages on Osoyoos Lake. These projects were all built and sold without difficulty and they are recognized as desirable places to live. The developer is also currently developing 640 homes on the Tzeachten First Nation in Chilliwack.

Question:

- 24.** How large is this parcel of land?
Approximately 12 acres, including the site for future apartments. The townhouse site is approximately 7 acres.
- 25.** What is the purpose of the Shelter Bay Owner Association? Why don't we have a strata Corporation?
The Strata Act is a provincial act, which is not applicable to Federal Land like ours. We've set up the Shelter Bay Owner Association to fulfill all of the duties of a strata corporation. For all intents and purposes, this project will operate just like a strata development. Refer to the Information Statement for more details.
- 26.** Who maintains the landscaping and irrigation system?
These are maintained by the Shelter Bay Owner Association, even your front and back yards. The cost for this is included in the common costs. No lawns to mow or shrubs to trim!
- 27.** Does everyone pay the same proportion of the common area (strata) expenses?
Yes, all homes pay the same share of common costs. Common Costs will include the costs for the Amenity Centre and Beach Pavilion (Common Amenities). After the apartment homes are completed, the Owner of an apartment unit will pay 50% of the amount paid by townhouse homes for the maintenance of Common Amenities. See Information Statement for more details.
- 28.** When will the Beach Pavilion and Amenity Centre be completed?
The developer intends to complete the beach pavilion at the same time as the completion of the townhomes, and the Amenity Centre by May 31, 2025.
- 29.** Is there visitor parking available?
Yes, there are visitor stalls available throughout the project. Owners will also be allowed to park on the driveway in front of their double car garage, provided their vehicle does not extend over the edge of the adjacent road.
- 30.** Who provides water to the development?
Water is provided by the City of West Kelowna.
- 31.** Who provides sewer to the development?
The sewer system is owned by WFN, but maintained and managed by the Regional District.
- 32.** Who provides electricity to the development?
BC Hydro.
- 33.** Who provides natural gas to the development?
FortisBC.
- 34.** Who will provide telephone, cable and internet to the site?
TELUS and/or Shaw Cable.
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Question:

- 35.** Who provides fire protection to the development?
Fire protection is provided the City of West Kelowna.
- 36.** Is there any danger of flooding from the lake?
The Shelter Bay will be built well above the mandated flood construction level.
- 37.** What are my on-going expenses?
Property Taxes to the WFN (approximately the same rate as charged by the adjacent municipality); Owner's fees (Strata) to the Shelter Bay Owner Association for common area expenses; home insurance; plus utility payments for electricity, gas, telephone, internet, security, etc.
- 38.** Who made up the Project Rules? Who can change them?
The developer made up these rules to ensure a well-run project. Most rules can be changed by the Shelter Bay Owner Association after a vote by the Owners.
- 39.** Is it permissible to rent out my home?
Yes, you may rent your home provided you rent it for periods of not less than 5 days. See details in Sublease. Every Owner who rents their home for a period of less than 30 days must provide the tenancy details to the Owner Association. The following information must be provided: name(s) of all the tenants; vehicle make, model and license plate number; and length of stay. The Owner will be required to pay a fee (Resort Fee) to the Owner Association to cover the cost of a tenant check-in facility or other arrangement which would provide tenants with details on the bylaws, parking restrictions, pool and beach etiquette, etc.
We've received confirmation the new BC short term rental legislation does not apply to our Community and STR's (five consecutive day minimum rentals) are allowed at Shelter Bay. Buyers may use their home for vacation rentals and earn substantial rental income when they are not using it for themselves.
- 40.** Will the homes be built to comply with the BC Building Code?
All homes in this development will be designed and built to comply with current Edition of the BC Building Code.
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Question:

- 41.** Who monitors the quality of construction?
The developer has been building for almost 50 years and has appointed an experienced project manager, Blair Neels. Blair Neels is a partner in the development and has managed the construction of 6 similar projects for the developer. David Jimmie, a partner in the project will also be providing some level of construction oversight. A well-qualified construction superintendent will be retained to manage day to day construction and quality control.

All buildings were designed by professional architects and engineers, who will also be conducting regular quality control inspections.

Civil works (sewer, water, roads, etc) were designed by Protech Engineering and will be inspected by them.

All homes will also be provided with a 2/5/10 warranty from WBI Home Warranty.

- 42.** Who do I pay my Property Taxes to?
To the WFN.

- 43.** Is this property subject to the Provincial Vacancy and Speculation Tax?
No, because this property is under the jurisdiction of WFN.

- 44.** What appliances are included in the price?
Fridge, gas fired range, microwave, dishwasher, washer and dryer are included in each home.

- 45.** Where can I park my vehicle?
All homes have a two-car garage, and most homes have room for additional parking in front of the garage (refer to site plan). Visitor parking spaces are located throughout the development.

- 46.** Who is responsible for insurance at Shelter Bay?
The Owners Association will arrange insurance for the buildings and common areas as per the requirements of the Head and Sub-Lease. Owners must arrange their own insurance for the contents of their home. The insurance requirements for Shelter Bay are set by the Federal Government and are quite complex and Owners should provide details of the insurance requirements to their insurance broker.

- 47.** Will there be a security system installed? The developer will rough-in for a security system. Additional charges may apply for monitoring, etc.

- 48.** What type of warranty is the developer providing on the homes?
The developer is providing an insured 2/5/10 warranty through WBI Home Warranty.

- 49.** What is the exterior cladding of our home?
The home will be clad with a very durable Hardi-plank (or similar) exterior, along with metal accent siding.

Question:

- 50.** What type roofing will be used on the project?
A 2-ply torch-on roof
- 51.** What will be walking surface on the roof decks?
The developer will install concrete paving stones on pedestals to allow for free drainage.
- 52.** Will I be able to have a hot tub on my rooftop patio?
Yes, part of the roof structure is designed to carry the load of a hot tub. Please confirm size and location with developer.
- 53.** Who is responsible for the maintenance of my home?
The Owner is responsible for the interior maintenance of their home. Exterior and Landscape and irrigation maintenance is provided by the Shelter Bay Owner Association, the cost of which is included in your common area (strata) costs.
- 54.** Will I be able to upgrade the finishes in my home?
Yes, a limited number of upgrades are available.
- 55.** Will I be able to choose exterior colours?
No, all exterior colour schemes were pre-chosen by the architect.
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