

REPORT OF THE NICHOLSON PARK SUB-COMMITTEE

1. NICHOLSON PARK – PROPOSED EXCHANGE OF LAND

RR 7790

The following report was submitted to the June meetings of the Hagley/Ferrymead Community Board and the Parks and Recreation Committee:

“The purpose of this report is to consider a proposed exchange of land whereby three privately owned adjoining sections will be incorporated into the park in exchange for two allotments to be created on the western boundary to the park. This exchange is promoted as a solution to a long-standing residential access problem and also a chance to enhance Nicholson Park.

INTRODUCTION

Historical/Legal Status Nicholson Park

Nicholson Park which contains an area of 3.5991 hectares was purchased by the Sumner Borough Council in 1912 and was subsequently transmitted to the Christchurch City Council on amalgamation in 1947. The park is zoned Conservation 1 and is held by the Council in fee simple and is subject to the provisions of the Local Government Act 1974 which provides, under Section 230 sub-section (1) “The Council pursuant to a resolution made after notice has been given in accordance with sub-section (2) of this section may sell any land vested in the corporation of the district or exchange any such land and respect of any such exchange may give or receive any money for equality of exchange”.

Flowers Track

Flowers Track is legal but unformed road being proclaimed as such by New Zealand Gazette 1912 page 1708. It is clearly evident from early plans that the track had been used as a walkway some years prior to it being proclaimed as road. As a consequence of its dedication it afforded the neighbouring properties legal road frontage which led to the subsequent subdivision of their properties, even though it was too steep to physically form as road to provide anything other than pedestrian access. The first subdivision in 1913 provided legal frontage to six sections to the south while a subsequent subdivision in 1914 provided legal frontage to a further nine sections. Currently a total of 18 properties have legal frontage to Flowers Track with the majority having secured vehicular access via private right of ways. Flowers Track does, however, still remain as the legal frontage to the properties which historically have presented problems to successive Councils in trying to resolve and provide practical access to the properties still affected.

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In 1937 Scarborough Lane, a private right of way with an entrance/exit off Scarborough Road, was extended into Nicholson Park to give access to the property which is now owned by Mr McPhail (Lot 36). In 1950 the lane was further extended into Nicholson Park to give access to the property now owned by Mr Harris (Lot 39). This extended the lane to the boundary of Lot 41 DP 3709 which has legal but impractical access to Flowers Track. In addition, two further sections, being Lots 40 DP 3709 and Lot 2 DP 14516 both of which have legal but unformed access to Flowers Track, are similarly land locked, their only potential access being from the extended Scarborough Lane.

The former Christchurch City Council resolved on 15 December 1986 to grant approval in principle to Messrs Godward and Matthews to extend an existing accessway in Nicholson Park to link with Lots 40 and 41, which they owned, including access over part of Flowers Track. This approval in principle was subject to a number of conditions including the consent of the owners of Scarborough Lane being obtained. On 13 November 1990 the Council was served with a copy of an application by Godward and Matthews in which they sought orders against the owners of Scarborough Lane requiring them to provide access over the lane to Lots 40 and 41. The Court had, as is its normal practice in these types of applications, directed that the Christchurch City Council also be served with a copy of the application. The Council filed a notice with the Court stating that it did not oppose the application but it wished to appear in order to reserve its rights in the event that any other party may wish to take steps adverse to the City Council's position. This notice was filed on the basis of the former City Council's 1986 decision. Since the court proceedings were initiated, neither Messrs Godward nor Matthews took any steps to request the Court to set the matter down for a hearing. The sections have subsequently been sold and are now owned by a holding company, Jack Dawe House No. 53 Limited.

The current owners have now approached the Council to determine whether it will consider exchanging the three sections that they own for part of Nicholson Park which it is proposed to subdivide and create into two sections in order to give effect to the exchange. In doing so it will provide a solution to this contentious issue which has been ongoing for many years with no practical solution being found.

PROPOSED EXCHANGE

As indicated above, the owners of the three sections concerned being Lot 40 and 41 DP 3709, together with Lot 2 DP 14516, which have a combined area of 2228m² have approached the Council to exchange these sections for two sections to be created and depicted on the attached plan S2904 as Lots 1 and 2 and containing 2,206m².

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Before proceeding with the proposal a landscape assessment was commissioned and undertaken by Studio 33 Landscape Architects, to examine and report on the existing landscape values of the two parcels of land proposed with the land swap arrangement. The architects were asked to assess the implications of the proposed land swap and resulting developments and to draw conclusions on the suitability of the land swap and the intended development. In summary the architects considered the existing landscape values of the respective areas undertook a visual assessment together with an ecological, character, recreational, historical and land use assessment. In conclusion the architects recommended the proposed land swap on the following basis.

“The proposed development would increase the recreation potential currently offered within the local recreational context. This would make Nicholson Park a more desirable destination for a wider range of park users.

The addition of the lower site into the park boundaries would increase the diversity and experience within Nicholson Park. The development of the lower slope into a public reserve that would emphasise the existing historical elements in a local indigenous setting would develop the character and identity of Nicholson Park and Scarborough.

The addition of the lower slope into the park has the potential to culture a community association with the park landscape and would be a valuable asset to the local community and the general public.

The proposed land swap would have less significant visual impact than other residential development options involving the lower site. The proposed residential development of the upper site will have little effect on recreation context of Nicholson Park. The site currently functions as a buffer and a visual barrier to the park and existing views. The residential interface between the upper site and the park does little to involve the community and a sense of community participation in the life of the park. The benefits of the proposed development resulting from the land swap will ensure Nicholson Park is a public reserve of quality for all time.”

A further benefit to the park will be the provision of an additional fire fighting access point once the right of way is formed which is a matter of constant concern.

SUBDIVISION

To give effect to the exchange it will be necessary for the Council to subdivide Nicholson Park to provide for the two allotments as depicted on the plan and to create the relevant easements.

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It will be noted that Lots 1 and 2 are to be serviced from a right of way over parcel "A" which will be required to be formed by the Council and over which the two sections will have easements created in their favour. In addition it will be necessary to provide drainage and sewage connections to the properties which is shown as parcel "G" on the plan while existing services being a water main and electricity will need to be protected through the creation of easements in favour of both the Council and Southpower and these are shown as parcel "C" and "E" and "V, W, X, Y, Z" on the plan.

In terms of the Living Hill zone, Lot 1 is of sufficient size to accommodate one unit while Lot 2 could accommodate two units. However with the agreement of the owners a covenant is to be placed on the title of Lot 2 restricting it for one unit only and preventing any further subdivision whether in fee simple by way of cross lease, company lease or under the Unit Titles Act 1972.

VALUATIONS

To assess the equality of exchange payable the Council engaged the services of Ford Baker, Registered Public Valuers, while the owners of the private property engaged Robertson Young Telfer. In making their assessments the valuers were asked to take cognisance of the findings of the landscape assessment undertaken by Studio 33 Landscape Architects Limited. While there was a disparity between the initial assessments following discussions with the respective valuers, agreement has been reached over the values as follows:

Council owned land (Lots 1 & 2)	\$760,000
Jack Dawe House No.53 Limited's land (3 sections)	\$530,000

Equality of Exchange payable to the Council	\$230,000
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It should be noted that the above assessment is as indicated, subject to the Council undertaking the proposed subdivision and providing the right of way access together with the sewer and stormwater outfalls. These costs could be in the order of \$70,000 with the net revenue to the Council being \$160,000.

REVENUE AND PARK DEVELOPMENT PROPOSALS

In support of the land exchange a landscape plan has been prepared to indicate how the cash revenue benefits could be reinvested in the park.

Features include redevelopment of Flowers and Edwin Mouldy Tracks, a small World War II bunker, planting etc.

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This plan needs to be discussed as part of the resource consent application and exact expenditure finalised following detailed planning and budget estimates.

It is considered that the public concern already expressed during the investigation of this application reinforces the need to reinvest all the cash benefits of this land exchange on site. Any "loss" to the park will be of concern to the general public (as it would be to the Parks Unit).

CONSENTS

Zoning

Within the proposed city plan Nicholson Park is zoned Conservation 1 while the sections to be exchanged are zoned Living Hills. As a consequence of this it will be necessary to uplift the Conservation 1 zoning from the area to be disposed of from Nicholson Park and at the same time place the zoning on the sections to be acquired. This will be the subject of a resource consent application at which time the public will have the opportunity to comment on the proposed exchange.

LOCAL GOVERNMENT ACT REQUIREMENTS

In accordance with Section 230 of the Local Government Act 1974 it will be necessary to advertise the intention to exchange the land pursuant to Section 230 of the Act. The requirement has been complied with and it will be necessary for the Council to adopt the resolution contained in the recommendation which is only subject to resource consent being obtained."

At its meeting on 2 June 1998 the Parks and Recreation Committee established a sub-committee comprising Councillor Ron Wright (Chairman), Councillors Carole Anderton, Graham Berry and Anna Crighton to meet with the Sumner Residents' Association and report its findings direct to the June meeting of the Council.

A meeting with the Community Board and Sumner Residents' Association was held on 16 June 1998 with a public meeting organised by the Sumner Residents' Association being held on 17 June 1998. As a consequence of those meetings the Sub-Committee recommended to the June Council meeting that consideration of the matter be deferred for a month pending consideration of the issues raised at the public meeting.

A submission was subsequently made direct to the Council by Mrs Shirley Fairhall, Chairperson of the Sumner Residents' Association. The Association identified the main issue as "*why does the Council wish to acquire the land owned by Jack Daw House Limited*". The secondary question raised was that if the Council was persuaded that a proper case for purchase had been made how much should it pay for the land and how should the acquisition be funded.

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The Council concluded that the issues raised by the Association required further consideration and as a consequence it was resolved to hold over consideration of the proposed exchange for a period of 2-3 months to allow further consultation with all parties concerned.

At its August meeting the Parks and Recreation Committee considered a report seeking a special meeting of the Committee to consider the exchange proposal in detail. However the Committee reappointed the Sub-Committee to consider this matter and to meet with the Summer Residents' Association and any other interested parties again should they express an interest in doing so to consider the Council's response to the submissions that have been made.

As the meeting did not take place until 17 September 1998 the Sub-Committee's report was not available when this agenda was being prepared. The Sub-Committee will report separately, with a recommendation, to the present meeting.

CONSIDERED THIS 23RD DAY OF SEPTEMBER 1998

MAYOR