

## 2. FARMERS CAR PARK/WORKINGMEN'S CLUB AIRBRIDGE

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Corporate Plan Output: 8.9.18 Service Delivery Property – Car Parking Buildings	

The purpose of this report is to seek the Council's formal approval of contractual arrangements necessary to facilitate the construction of a pedestrian airbridge by the City Club, between the Farmers car park building and the City Club building (formerly known as the Workingmen's Club) in Oxford Terrace.

### **BACKGROUND**

The following is a summary of the history of this issue, as recounted by the City Club's management and supported by Council officers' recollections.

During planning of the Central Library in the 1970s negotiations were held with the club to assist in the library development. Primarily, these resulted in the club realigning some of its site boundaries as well as moving the foundations of its building some 20ft into Oxford Terrace. This was in the process of being built and additional costs were incurred as a result. It is claimed that there was only partial compensation and the balance of the agreement was for the Council to provide access to the library car park for both the club and Haywrights, who occupied adjoining retail space at the time.

The car parking was to be completed in 1978/79 and a special fund to build the future car park was established with approximately \$200,000 set aside each year, this totalled approximately \$4,000,000 by the early 1990s and was ultimately applied to the Farmers car park. The development however did not proceed as programmed for a variety of reasons not the least of which were site ownership and acquisition problems. Early in the 1980s when the library was being constructed the club placed an injunction on the library construction project because of this issue. This was lifted following negotiations, based on undertakings that car parking would be provided immediately following completion of the library. During the 1980s the club pursued fulfilment of these obligations to no avail.

Unfortunately, due to the significant period of time that has passed, there is no correspondence nor is there any formal agreement to record the above matters. The club however is adamant in its views and the recollections of some Council officers support this.

### **CURRENT STATUS**

The opportunity to settle this long outstanding moral obligation and dispute presented itself with the Council's involvement in the Farmers car park building and negotiations were recommenced with the club. Contractual arrangements were not finalised with the club at the time of design and construction. However, structural provision was made to accommodate support of an airbridge along the western wall and an opening provided to access the car park from this.

The airbridge is designed to connect the western wall of the Farmers car park building at level 3 with the eastern wall of the Workingmen's Club at level 2. Plans are tabled.

The airbridge is fully contained within the club's title boundary and airspace. The only involvement for the Council is a right of support to attach the airbridge walkway along the outside of the Farmers car park western boundary wall and a right of entry through the car park penetration.

Upon completion of the Farmers car park building last year the property was surveyed for the purpose of producing titles. During this process the appropriate easements were established to allow for attachment of the airbridge and this right of support is now registered against the titles.

Due to the fact that time was of the essence during the car park development and negotiations were not concluded with the club, a judgement call was made to put in place the above actions that would allow for the direct airbridge connection along with the mechanisms for access. Formal Council approval to access was preserved through the requirement for a Deed creating a right of access. In effect the club can at this point in time build the airbridge but it does not have a right of access through the wall penetration of the car park.

For safety purposes access to the car park requires small boundary readjustment to three of the car parks adjacent to the wall penetration. Due to the title structure in place it is necessary to facilitate this by way of a lease of common area. The area involved is however quite insignificant and approval of the body corporate owners has almost been obtained.

In summary the contractual arrangements to give effect to direct airbridge access by the club are:

- Right of support – already created and registered by way of easement against the title.
- Deed relating to airbridge access – this allows the club to pass through the penetration in the western wall of the Farmers car park along which the airbridge will be attached. Negotiations are almost finalised and this requires the Council's approval. In summary the Deed provides for a peppercorn consideration in return for full and final settlement of any agreements or alleged undertakings relating to car parking facilities for the club. Costs, consents and maintenance are at the club's expense. It does not confer any rights of access to park vehicles other than normally afforded to the public. There is a prohibition against assignment unless at the unfettered discretion of the Council. There are a number of cancellation provisions in the event of default, liquidation or sale of car park by the Council. Reinstatement is at the club's expense.

- Lease of the common area affected by the proposed car park reconfiguration – this requires the Council’s approval. The term is for 19 years 364 days. It is for a peppercorn rental and has virtually no effect on the property or car parking apart from a nominal boundary readjustment purely for safety purposes.

#### **SUMMARY**

The proposed arrangements are recommended to resolve a long-standing issue that would be difficult and costly to resolve by other means.

It is important to note that all costs are at the expense of the Workingmen’s Club and there is no return to the Council. In addition we also point out that the Council, by way of this report, is considering the matter as an owner of a property and not a regulatory authority. The Workingmen’s Club is obligated to attend to any statutes, regulations and bylaws, particularly those relating to building and resource consent in the normal manner.

**Recommendation:** That the Council, as owner of the Farmers car park building, agree to the attachment of a pedestrian airbridge link along the outside of its western boundary wall, directly linking it to the City Club building, and that this be facilitated by the contractual arrangements outlined in this report.