

1. NURSES HOSTEL - LOCAL BILL

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Corporate Plan Output: Legal Advice	

The purpose of this report is to seek a review of a Council decision to promote legislation to amend the Christchurch City (Reserves) Empowering Act 1971.

INTRODUCTION

At its meeting on 25 November 1999 the Council had before it an information report by the writer relating to the Hagley Nurses Home and the sale of the land and building by Ngai Tahu to Canterbury Health Limited. A copy of that report is attached.

As a consequence of that report the Council resolved, in part, to promote legislation to amend section 5 of the Christchurch City (Reserves) Empowering Act 1971 to require that if the Nurses Hostel site ceases to be used for public health care purposes, then it would revert back to Hagley Park.

The purpose of this report is to request that the Council reconsider that resolution regarding the promotion of a local Bill.

While the Nurses Hostel land issue is self contained, I believe it needs to be seen in the wider context of the Council's relationship with Canterbury Health Limited, and also the need to obtain agreement of that company to the Council's acquisition of the Nurses Chapel land. The Parks and Recreation Committee is reporting to the present meeting of the Council on the Nurses' Chapel land.

LOCAL BILL

The Council should reconsider its resolution to promote legislation to amend the 1971 Reserves Empowering Act to require that if the Nurses Hostel site ceases to be used for public health care purposes, then it reverts to Hagley Park for the following reasons:

1. This approach of seeking a law change to ensure that the land revert to Hagley Park, was exactly that adopted by the Council in May 1998 when it resolved to make a submission to that effect to the Maori Affairs Select Committee when it considered the Ngai Tahu Claims Settlement Bill. The Select Committee did not take up that submission when it reported back to Parliament on the Bill and in August 1998 the Council resolved to request a Member of Parliament to promote the same amendment while the Bill was in the House.

Subsequently, when the Bill was debated in Parliament in September 1998, Mr Jim Anderson MP moved an amendment to the Bill to this effect, but the amendment was defeated by a substantial majority in the House. At that time no other political party in Parliament was willing to support the Council's proposed amendment.

Given that the same political parties are today still represented in Parliament, in my view it is clear that any local Bill seeking to achieve the same objective, is going to meet the same fate as the 1998 proposed amendment, and not be passed by Parliament. In practical terms, in my opinion, Parliament will reach the same view on any local Bill as it did with regard to the Council's proposed 1998 amendment.

2. Historically, select committees do not wish to become embroiled in disputes at a local level and often if there is dissension locally, the Committee will recommend to Parliament the local Bill not proceed. Also, the Council has an interest in having other local Bills to be promoted in Parliament. Of current interest is the Bill relating to Jade Stadium and the Bill regarding the Nurses Chapel land.

I believe that it is important that the Council always endeavour to promote local Bills which have a reasonable chance of success in Parliament, and which do not give rise to disputes at a local level.

3. There is also the issue of the Council's relationship with the new district health board structure to take into account in the promotion of this local Bill. As I have noted previously, the Council needs to obtain the agreement of that district health board to the Council's acquisition of the Nurses Chapel land, and it is the Council's desire to see the local Bill to amend the 1971 Reserves Empowering Act successfully proceed through Parliament to enable the acquisition of the Nurses Chapel land which is on the agenda of the Parks and Recreation Committee.

I have given consideration to alternative means of achieving the Council's objective without the need for a local Bill which will probably be unsuccessful.

Canterbury Health Limited has indicated it is willing to negotiate with the City Council regarding non-hospital use of the land. They have indicated that at the present time, their intended long-term use of the land is for hospital-related purposes. I would also note that with the Christchurch Women's Hospital being relocated to the Riccarton Avenue site, in practical terms that would probably mean that the Hospital would need the Nurses Hostel land indefinitely in any event.

My advice to the Council on this matter is that it not proceed with a local Bill as it resolved in November 1999, but that it negotiate a deed with Canterbury Health Limited to achieve the best outcome it can in relation to the Nurses Hostel site.

RECOMMENDATION

1. That the Council resolution of 25 November 1999 to promote legislation to amend the Christchurch City (Reserves) Empowering Act 1971 be rescinded.
2. That the Council negotiate a deed with Canterbury Health Limited to achieve protection of the Nurses Hostel land as far as possible.
3. That the Council give consideration to what planning controls should be put in place regarding the Nurses Hostel land.

The above recommendation was not supported by the majority of the Committee. The Committee considered that the situation had changed significantly since 1998 with the outstanding issues relating to the use of the site and the Ngai Tahu claims settlement having now been resolved. Given this, and in light of the greater degree of protection afforded by an Act of Parliament, the Committee was strongly of the view that the Council should not resile from its original decision to promote local legislation providing for the Nurses Hostel site to revert to Hagley Park if the hostel ceases to be used for health care purposes.

Recommendation: That the Legal Services Manager proceed to prepare the necessary local Bill.