

1. UPPER RICCARTON COMMUNITY/SCHOOL LIBRARY

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The purpose of this report is to brief the Council on the land and legal issues relating to the building of a shared use library on the grounds of Riccarton High School. It also includes comment on the feedback received through the Annual Plan consultation process. This report was presented to the Riccarton/Wigram Community Board on 3 July 2002.

EXECUTIVE SUMMARY

The key findings contained in this report are:

- No submissions have been received against the proposal to build a library in partnership with Riccarton High School. One submission has been received in favour of the proposal.
- Funding is provided in the appropriate budgets.
- The public library would require notified resource consent.
- The site is owned by the Ministry of Education and is held under one title.
- Under the Resource Management Act, a fresh subdivision will be required.
- It is recommended that the Council enter into a lease agreement just short of fifty years.
- Neither the City Streets Unit nor the Environmental Services Unit have identified any significant barriers to locating an entrance to the library on the Main South Road site.
- No significant legal, land or lease issues have been identified, at this stage, that would stop the partnership from proceeding. Further work is required to finalise the arrangements.

BACKGROUND

On 27 February 2002 the Riccarton/Wigram Community Board agreed to support in principle the partnership with Riccarton High School to build a joint community/school library on the Riccarton High School land.

On 28 March 2002 the Council resolved to support in principle the partnership with Riccarton High School to build a joint community/school library on the Riccarton High School land subject to:

- Consultation in the 2002/2003 Annual Plan.
- Satisfactory resolution of the legal, land ownership and lease issues.
- Bringing forward funding for the Riccarton Library to 2004/05 (25%) and 2005/06 (75%).

CONSULTATION

One submission was received through the Annual Plan Process. This submission, from the Riccarton/Wigram Community Board, was in support of the project. The proposal was also outlined in City Scene.

FUNDING

Funding for the project is spread between the 2004/05 and 2005/06 financial years, with December 2005 as an expected date of completion. This is currently included in the Draft Financial Plan & Programme.

LEGAL, LAND OWNERSHIP AND LEASE DETAILS

1. Site Details

Victoria Murdoch, in her February 2002 report from the Property Unit, advised:

This site, as a library site, is well situated in terms of Church Corner, being opposite a primary school and in close proximity to elderly persons' housing.

The High School is in the process of confirming the '10-Year property plan' with a target date for completion for this of June 2002. Clearly they would prefer a strong indication of our commitment to the location of this library on their site. The High School has intimated very strong support for this partnership relationship and certainly derives significant benefits from such an arrangement.

Riccarton High School would be providing free land for the proposal and contributing to the cost of the building, which would be a benefit to the Council even though with the required increase in size of the library this would have some cost saving benefits.

Situated fronting Main South Road this property is some 1 kilometre west of Church Corner. This property owned by the Ministry of Education has individually surveyed areas of land adjoining the road, which may be suitable for the construction of a joint library facility servicing both the school and the community. To date these land areas are not held as individual titles.

Since the earlier report a review of onsite options to locate the proposed library has been conducted. This identifies a preferred location immediately northwest of the existing tennis courts in an existing open area bounded on two sides by established trees.

This site affords an appropriate community profile with a high level of visibility to and from the Main South Road, maximises retention of established trees and plantings, provides good orientation to existing school buildings, does not impinge on the primary playing fields and is well located in relation to the sun. The aerial photograph tabled of the site shows the preferred area identified for the site.

Legal and planning issues have been considered in relation to the above preferred site location and these are detailed below. One of the attractive features of the school option is the choice afforded by such a large frontage and focus has been given to achieving the best outcome from a library, school and community perspective, while taking into account legal and planning issues.

2. Zoning

In February, Victoria Murdoch reported:

The land is zoned Cultural 3 (Secondary School) under the proposed City Plan with an underlying Living 1 zoning and Residential 1 under the transitional District Plan. The land is also designated by the Ministry of Education for secondary school purposes in both plans.

The effect of the designation is that any activities not in accordance with the purpose of the designation (in this case anything to do with a secondary school) require the consent of the Ministry of Education and will be assessed against the plan rules for the Living 1/Residential 1 zoning.

The Residential 1 zoning lists places of assembly as a conditional use and so a library in this zone would require notified resource consent as a discretionary activity.

The Living 1 zoning provides primarily for residential activities requiring most non-residential activities to obtain resource consent. The zone rules include bulk and location requirements (setbacks etc) and rules specifically for non-residential activities that limit the scale of the activity, hours, traffic generation etc. A public library would require resource consent under these rules.

3. Legal Issues

Legal Entity / Boundaries

The site is owned by the Ministry of Education (the Crown) and held under one title. There are historical underlying surveyed lots along the Main South Road frontage that, if resurveyed and processed, could form a separate legal entity on which the library could be sited. In order for a lease of longer than 19 years 364 days to be entered into by the respective parties, a fresh subdivision is required under the Resource Management Act.

Having reviewed the very modest savings that may or may not be achieved by using the underlying surveyed lots, we believe the opportunity to use other more appropriate areas further along the frontage to the south west are justified. The benefit in terms of profile, orientation and retention of trees are compounded with the opportunity to create a new lot that more appropriately meets the stakeholder needs in terms of its shape and orientation.

Victoria Murdoch previously reported issues needing to be addressed as:

- (a) Assessing the Crown's ability to enter into a lease with the Council for 100 years. For example, we anticipate that the Crown will need to discuss this issue with Ngai Tahu as a lease of more than 50 years will normally trigger the right of first refusal mechanism under the Ngai Tahu Claims Settlement Act 1998 (the 'Act').
- (b) Negotiating suitable lease arrangements with the Crown and licence arrangements with the High School.

Since the earlier report, discussions have occurred with Ngai Tahu and it is acknowledged that a lease relationship of more than 50 years requires the Crown to offer the parcel of land to Ngai Tahu, under the 'Act'. The underlying intent of the Crown to use the land and the facility for educational purposes is unlikely to change, however, the structural ownership of the land could potentially result in the high land value driving an alternate use from Ngai Tahu, if they became the owner. The consequence of this is that the issues highlighted in 3(a) and 3(b) above need to be treated in tandem to ensure the underlying land ownership issues do not detract from the objectives of the Council, school and Ministry of Education.

As a consequence of this, and the reasonable expectation of the Crown wishing to retain the property for long-term educational purposes, the Council is limited to a lease of just short of 50 years. As a result the Council needs to assess the economic life of the building as being approximately 50 years and write off the investment over that time. Historically 50 years has not been seen as an unreasonable estimate of economic life, considering both physical depreciation and obsolescence. The Council has already entered into similar arrangements elsewhere, an example being the 50-year lease at a pepper corn rental with the Beckenham Housing Trust, at Lancewood Court. The political decisions relating to the Council's investment in this project therefore need to be viewed in the context of recouping sufficient outcomes over this 50-year period to justify the capital expenditure.

In reality, however, the structure is likely to be there well beyond 50 years, albeit with significant maintenance, upgrades and changes over time. Alongside this it is likely that significant residual value will remain in the building at the end of the 50-year period. An agreement, whereby the Crown or the School compensate the Council for their share of the residual value of the building provides the Council with the option of reclaiming at that time any remaining value the Council has in the building.

It is difficult to enter into such detailed and complex arrangements at this point in the project, although they will need to be worked through prior to any documentation being signed with the Crown and/or School. However, so long as the parties are seeking to resolve these arrangements fairly, in good faith and with some reasonable degree of transparency there is every confidence that a workable and financially appropriate agreement can be achieved.

4. Consent Issues

The flexibility afforded the project at this point, in having choice as to the size, shape and location of the site and facility, allows the majority of consent issues to be catered for within this decision-making framework.

The primary external or offsite factors revolve around traffic management. Consultation with both the Environmental Services Unit and the City Streets Unit indicate the traffic pressures on this road are moderate and traffic volumes are relatively stable. Traffic volume currently sits at 13,967 vehicle movements per day, Monday to Thursday, and 13,246 Monday to Sunday. These are comparatively low volumes for an arterial route such as this. City Streets are aware of some traffic issues relative to the pedestrian crossing at morning peak hour times and this would need to be factored into the design and location of the entrance to the library. These issues are considered to be modest and City Streets have intimated they do not constitute a barrier to the approval of the project. There may be an opportunity however to work collaboratively with City Streets to achieve an improved traffic flow. Good traffic flow design is essential for the success of the Library and relates to access not only by cars but also buses, bikes and by foot.

The location and nature of the entrance to the Library is a key factor not only in managing vehicular access in and out of the site, and the resulting impact on the flow of traffic in Main South Road, but also in creating an appropriate profile for the Library that welcomes clientele to the facility. It is the 'front door' of the facility that either enhances access and appeal or discourages it.

In order to achieve the objective of making the library a community facility, as distinct from part of the high school, the entrance and building needs to be clearly visible. Access needs to be clear, unambiguous and operationally effective. To this end, any design that frustrates other road users, causes delay or confusion to traffic entering or leaving the property or adversely affects other modes of transport is undesirable.

Discussions with City Streets have indicated their desire, in time, to make some changes to the streetscape in this area. This could change the operation of the existing pedestrian crossing and take into account the possibility of widening the road along this area to introduce a turning bay. None of these are currently budgeted for by City Streets and as a result it is difficult to firm up on a specific entrance location.

While factors mentioned above may affect the final design it is believed the entrance location that best achieves the criteria outlined above is mid-way between Bowman Street and Colman Avenue, on the South East side of the street. Neither City Streets nor the Environmental Services Unit identified any significant barriers to locating an entrance to a library facility of the scope along this area of the site.

5. Relationship Issues

The legal relationships being contemplated need to both protect the legal rights of the respective parties and, at the same time, reflect the intended operational relationship. In essence the Crown would be providing a land lease to the Council at a pepper-corn rental and the Council would be providing a licence for the school to access and occupy part of the library at specified times. This latter arrangement needs to reflect the school's contribution to the building project, and issues relating to the maintenance and management of the building, the library collection, computer networks and other operational aspects.

The parties will need to continue to discuss and understand their respective contributions, ongoing roles and responsibilities and to have identified change or exit strategies. Once agreed, these arrangements will need to be formally documented. The opinion held is that this relationship building has already begun. Discussions have been held with the school and with the Ministry of Education and it is the view that all parties are open about their objectives within the relationship as well as acknowledging the potential for changing circumstances to impact on the relationship. As long as all three parties (the Council, Riccarton High School and the Ministry of Education) are seeking to work towards establishing a partnership agreement in a fair and transparent way, there is every confidence that a workable and financially appropriate agreement can be achieved.

NATURAL + PEOPLE + ECONOMIC STEP ASSESSMENT

#	CONDITION:	Meets condition ✓✓0*	HOW IT HELPS MEET CONDITION:
The Natural Step			
N1	Reduce non-renewable resource use	Yes	Building one building instead of two. Build to make the best use of the site.
N2	Eliminate emission of harmful substances	Yes	As above
N3	Protect and restore biodiversity and ecosystems	Yes	
The People Step			
P1	Basic needs met	Yes	Literacy, learning, recreation, community place. Place provided for people to meet together
P2	Full potential developed	Yes	As above
P3	Social capital enhanced	Yes	As above
P4	Culture and identity protected	Yes	As above
P5	Governance and participatory democracy strengthened	Yes	As above
The Economic Step			
E1	Effective and efficient use of all resources	Yes	Cost benefits to both the Council and the school
E2	Job rich local economy	Yes	New jobs created
E3	Financial sustainability	Yes	Ongoing financial partnership. Operational costs for one building rather than two. Resources shared

The Riccarton/Wigram Community Board considered this report on 3 July 2002 and supports the recommendation set out below.

Attention is drawn to the fact that there is a public excluded item relating to this report.

The Council confirmed at the Annual Plan meeting on 16 July 2002 the provision made in the Draft Annual Plan of \$500,000 in the 2004/05 financial year and \$2,594,000 in the 2005/06 financial year;

Recommendation:

1. That the Council build a library on the Riccarton High School land, with frontage onto the Main South Road, subject to the following conditions:
 - (a) All necessary statutory consents being obtained, including resource and building consents;
 - (b) Formal documentation being entered into upon terms and conditions approved by the Council's Director of Finance and the Legal Services Manager, including:
 - (i) a lease from the Crown (Ministry of Education) to the Council for a term of 50 years less a day;
 - (ii) a licence to occupy and/or a contract being entered into between the Council and Riccarton High School Board of Trustees;
 - (c) Any other legal matters being resolved to the satisfaction of the Council's Legal Services Manager, including the Crown's consent under the Resource Management Act 1991 in relation to its designation.
2. That the Riccarton Wigram Community Board be fully involved in the future discussions and decisions in the establishment of the Library on the Riccarton High School site.