

10. PART OF PARK TERRACE RESERVE LAND EXCHANGE FOR OTHER LAND

General Manager responsible:	General Manager City Environment, DDI 941-8656
Officer responsible:	Transport & Greenspace Manager
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PURPOSE OF REPORT

1. The purpose of this report is to seek a Council resolution to exchange approximately 654 square metres (subject to survey), of RS 41394 (formerly Reserves 5023 and 5024), situated in Block VI, Halswell Survey District, on S.O. Plan 15475, a classified recreation reserve (page 2768 *New Zealand Gazette* 1984) known as Park Terrace Reserve vested in the Christchurch City Council, for approximately 1515 square metres (subject to survey), of Lot 1 DP 72644 comprised and described in Certificate of Title 42A/442 vested in the Christchurch City Council for no particular purpose. The areas it is proposed to exchange are shown in the **attached** plan labelled Drawing Number SM1692-02, the present reserve land being described as section 1, and the other land as section 2.
2. The reason for this exchange is that as part of the agreement that the Council has with the developers of the proposed Lyttelton Marina, it has been agreed that the flat portion of Park Terrace Reserve, which abuts the other land on which the marina will be developed will be added to this land once the reserve designation has been removed from this land.

EXECUTIVE SUMMARY

3. The Council as part of the agreement it has with the developers of the proposed Lyttelton Marina, have agreed that the flat portion of Park Terrace Reserve, which abuts the other land on which the marina will be developed will be added to this land once the reserve designation has been removed.
4. Full public consultation over the proposed exchange has occurred in excess of legal requirements, from which no objections to the proposed exchange but two in support, have been received.
5. Staff are recommending that the Council approve of the proposed exchange.
6. In approving the proposed exchange it will be necessary for the Council to pay the Crown \$889 exclusive of GST, because there is a requirement if a reserve was derived from the Crown, which is the case for Park Terrace Reserve, for the Council to pay any inequality of exchange as decided by independent valuation, if the value of the exchange is in the Council's favour. Staff are recommending that the Council approve this payment being made.

FINANCIAL AND LEGAL CONSIDERATIONS

7. The Community Board has been granted the powers of the Council, (except the hearing of submissions/objections, which is not applicable in this instance), in relation to the exchange of reserves for other land (s.15 Reserves Act).
8. Section 15 of the Reserves Act 1977 requires that the intention to pass a resolution, to exchange the land, is not to be made before the expiration of one months public notice of the intention to pass the resolution, and calling for objections thereto in writing has been published in one or more newspapers circulating in the district of the Christchurch City Council. The proposed exchange was advertised in the public notices columns of the Press Newspaper on Saturday 14 October 2006, calling for submissions, and objections in writing to be forwarded to the author of this report, before Wednesday 15 November 2006.
9. Two submissions in support were received from Magazine Bay Berth Holders Association Inc, and a private resident, none being received against. Although not a statutory requirement, a letter was also sent to approximately 200 Lyttelton residents, that live on the south west side of Lyttelton, the local residents association, and the volunteer management committee which administers the reserve on behalf of the Council, (powers formally delegated from the former Banks Peninsula District Council). This action generated two enquiries, and the above mentioned formal submission.
10. Once the Council has resolved to proceed with the exchange, staff will request the Minister of Conservation to authorise the exchange, by placing a notice in the New Zealand Gazette.

11. Ngai Tahu have registered memorials against the above mentioned reserve title in accordance with part 9 of the Ngai Tahu Claims Settlement Act 1998. This is because the reserve was derived from the Crown. The Council in accordance with section 51 of the Act has given Ngai Tahu notice of its intention to proceed with the exchange described above. Exchanges under section 15 of the Reserves Act 1977 are exempt under section (g)(iii) of the Ngai Tahu Claims Settlement Act from the offer back provisions of section 49 of that Act, which Ngai Tahu have formally acknowledged.
12. DTZ, Registered Public Valuers, have been retained by the Council to value the two parcels of land, because the land has come from the Crown. DTZ have valued the reserve land to be exchanged at the GST exclusive figure of \$31,111, and the land it has been exchanged for at \$30,222. The reason for the difference is that besides the present District Plan zoning of the land, although much smaller in area (654 square metres in area) than the area it is being exchanged for, it is flat, and able to be built on, whereas the much larger area of land it is being exchanged for besides the present District Plan zoning, is very steep, and not able to be built on. The Council will need to pay the difference between the two values to the Crown this being \$889 excluding GST, which is available for payment from WBS 562/424/5/35.
13. By exchanging this land a more useful area of reserve will be obtained, enabling a more logical development of the proposed Marina to occur. The reserve land shown in the plan as Section 1 is not accessible from the balance of the reserve, being separated from it by a cliff face, however it abuts the land on which the Marina is to be built, and therefore is suitable for the marina development to be extended into. The top of the land that the present reserve land is being exchanged for is accessible from the balance of the reserve, having a pedestrian track along it linking the reserve with the pedestrian pathway system in Lyttelton. Commanding views of the outer part of The Port of Lyttelton and Harbour are obtainable from this track. Planting of native plants on this land has occurred in the past. This land because of its topography is unsuitable to build on, however has passive recreational values as described above.

OPTIONS

14. There are only two options as set out below:
 - (a) To proceed with the exchange as set out in the agreement with the company that is developing the Lyttelton Marina, thereby adhering to the agreement, which will enable the land of the present reserve to be exchanged for land which is accessible from the balance of the reserve, and has a pedestrian track along it linking the reserve with the pedestrian pathway system in Lyttelton, from which commanding views of the outer part of The Port of Lyttelton and Harbour can be obtained. This is the option that staff are recommending that the Council approve.
 - (b) Not to proceed with the exchange, which would be contrary to the agreement that the Council has with the Lyttelton Marina developers, and not make the best use of the two areas of land being exchanged.

STAFF RECOMMENDATIONS

That the Board, under delegated authority from the Council, approve the exchange of the present reserve land as set out in Schedule A for the land as set out in Schedule B below.

(a) Schedule A

Approximately 654 square metres (subject to survey), of RS 41394 (formerly Reserves 5023 and 5024), situated in Block VI, Halswell Survey District. C/A 338933/1. All New Zealand Statute, 1877, (Local), page 3 and all K518213 (New Zealand Gazette, 1960, page 134). S.O. Plan 15475, a classified recreation reserve (page 2768 New Zealand Gazette 1984) vested in the Christchurch City Council.

(b) Schedule B

Approximately 1515 square metres (subject to survey), of Lot 1 DP 72644 comprised and described in Certificate of Title 42A/442 vested in the Christchurch City Council for no particular purpose.

That the Council, as required by the Crown, approve the expenditure of the GST exclusive amount of \$889 from WBS 562/424/5/35 to pay the Crown, as required by the Crown because of the equality of exchange being in the Council's favour.