

5. DIAMOND HARBOUR COMMUNITY EARLY CHILDHOOD CENTRE – POSSIBLE SITES

General Manager responsible:	General Manager Community Services DDI 941-8534
Officer responsible:	Community Support Unit Manager
Author:	Kathy Jarden, Property & Leasing Advisor

PURPOSE OF REPORT

1. The purpose of this report is to:
 - (a) Report back on the Board resolution of 18 October 2006 to *“request council staff to work with the Diamond Harbour Community Early Childhood Centre Inc. (DHCECC) to identify suitable sites for the establishment of an early childhood centre in Diamond Harbour.”*
 - (b) Resolve the level of support the Council is prepared to provide the DHCECC.
 - (c) Resolve the general process the Council wants to see undertaken from here in terms of it's proposed commitment.

EXECUTIVE SUMMARY

2. Following approaches from the DHCECC the Board have acknowledged that there is a need in the community and surrounding area for such a service and have furthered their support with the resolution outlined in 1.a) above.

In conjunction with the DHCECC a number of sites in the area have been considered and are outlined in this report along with a recommendation for a preferred site at 2M Waipapa Avenue, hereinafter referred to as “the site”.

This report also seeks to set out and agree a process from here that deals with the issues of planning, property tenure, establishing Council's commitment to and involvement in this project and the matters required to be attended to by the DHCECC, namely:

- (a) That the Board note that the property at 2M Waipapa Avenue is the preferred site.
- (b) That the Council will consult with the wider community to seek it's views on the use of the site by the DHCECC and/or alternative uses through the consultation process required for the approval of the Reserves Management Plan for Stoddart Point.
- (c) That the DHCECC will need to meet certain conditions and criteria before the Council will commit to leasing the site to them.
- (d) That the lease terms and conditions will need to be agreed along with clearly establishing the extent of Council's support for this project.

FINANCIAL IMPLICATIONS

3. In terms of financial return, the site is currently vacant and does not return an annual rental income.
4. An independent rental valuation completed in December 2006 indicates that lease of the site, if reclassified to a recreation reserve, could be expected to sustain a current market rental of \$4500 per annum plus GST and outgoings. A current market rental valuation would be required prior to agreeing to any terms and conditions of a lease.
5. It would be recommended that a Memorandum of Understanding, yet to be developed, between Council and DHCECC should limit Council's financial obligations to only the costs associated with a lease of land, if appropriate and possible, and not extend to any other capital and operating costs of the DHCECC.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

6. There is no money currently budgeted for this proposal in the LTCCP though this would realise a small revenue return if successful.

LEGAL CONSIDERATIONS

7. A portion of the preferred site has been used by the neighbouring residents of Purau Avenue to gain access to the back of their properties. Users of this current right of way may argue that they have been using this right of way for so long that the right of way should be deemed as an access way. Legally, this argument holds no basis. The right of way is not an easement and has no basis for its creation. It has not been created by a legal document, has not been created on an equitable basis with consideration and has not been implied by grant or reservation. The lack of creation provides users of the right of way with no rights to the land which is owned by Council. The users of this land have no rights in relation to the land. The land is Council owned and any decision to close off the access that has been used is ultimately Council's decision.

A review of the individual property files indicates that several of the former and current property owners have approached Council regarding their right to access through this land and that Council would consider an approach from the adjoining property owners to formalise use of the land for access purposes if the applicants were prepared to meet all costs of creating the easement.

A site visit indicates that any access to the front of these properties is via pedestrian walkways. Access is somewhat steep and any drive-on access to the properties would require extensive engineering works.

If Council decide to grant rights of way to these properties, increased visibility and presence when the facility was not operating would provide increased security for any development on this site.

8. The Board has the delegated authority of the Council to:
 - (a) Declare land as a reserve (s. 14 Reserves Act 1977).
 - (b) Change of classification or purpose or revocation of a reserve (s. 24 and 24A Reserves Act).
 - (c) Granting of leases or licences on reserves pursuant to ss. 54, 56, 58A, 61, 73 and 74 of the Reserves Act.
 - (d) Granting of rights-of-way and other easements over reserves (s.48 Reserves Act).
9. The Corporate Support Manager has delegated authority to consent to the registration of easements on land excluding reserve land.

Have you considered the legal implications of the issue under consideration?

10. Yes

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

11. Community outcomes identified that Christchurch be a "City of Lifelong Learning" with one of the measures being the numbers of children who have attended early childhood education.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

12. No – The Council provides and operates three early-learning centres where children aged under five are safe, well cared for and nurtured. It also provides an additional 13 facilities that are operated by the community. The Council is looking at this service over the next year and the Council's role in how it is to be delivered. LTCCP page 99.

ALIGNMENT WITH STRATEGIES

13. The decision to work unilaterally with the DHCECC is a departure from Council's sale of property policy "*that, in principle, the Council should publicly tender properties for sale unless there is a clear reason for doing otherwise*". (This policy is applied for leased property transactions.)

Strengthening Community Strategy

The Council has developed a Strengthening Communities Strategy to guide its work with community organisations, which in turn work in a range of ways to help develop strong communities. A number of processes and disciplines can be used in working with and for communities to enhance their strength. These processes include the provision of community services, community capacity building, community development, community activism and advocacy. All these processes can be legitimate and effective ways of working when used appropriately.

The Strengthening Communities Strategy also encompassed a review of the Council's Community Group Grants and the Community facilities Plan.

Do the recommendations align with the Council's strategies?

14. Does not align with Council's sale of property policy as stated above.

CONSULTATION FULFILMENT

15. The Greenspace team is currently developing a Reserves Management Plan for the Stoddart Point reserves. The process associated with this is outlined later in this report. It is expected that this will be able to be undertaken in a timeframe that suits the DHCECC project and submissions to the Reserve Management Plan could take into account the community's desire to have a centre established on this site.
16. Public consultation has not been carried out to identify other potential uses for this land. With the preparation of the Reserves Management Plan for Stoddart Point, community consultation will be undertaken and the Board's recommendation noted in the concept plan for that site. This will determine support and/or alternative community uses for that land.
17. An internal property survey was circulated among all Council units to determine if the recommended site was required for other internal/community purposes. No expression was made for this land; however, a submission was made by the Policy and Planning team of the Strategic Support Unit highlighting the need for a Concept Development Plan for the Stoddart Point promontory. This proposes rationalising the ongoing management and development of the town centre, wharf, and recreation area comprehensively, taking into account future projected village growth, rather than continuing to process proposals on an ad hoc basis.
18. The land is currently held by the Council in Fee Simple and zoned recreation reserve in the district plan. Future development of the site would be limited to those activities permitted by the district plan rules related for that zoning. Should the DHCECC's use of this land be supported, it would be sensible to classify the land as local purpose (community) reserve to align with the zoning, consultation will be undertaken during the Reserve Management Plan process.

19. It is expected that if managed well the Reserve Management Planning process could attend to all the consultation requirements and to a large degree satisfy the planning issues. Public notification of the intention to prepare the management plan as required by Reserves Act 1977 Section 41(5) could be commenced immediately and this could be done together with a request for expressions of interest on the 2m Waipapa Avenue property and the intention to convert to reserve. In the event that no other interest occurred in the property, there would be a smooth, secure, and transparent transition to including the DHCECC's proposed use in preparation of the Draft Management Plan.

STAFF RECOMMENDATION

It is recommended:

- (a) That the Board acknowledge the property at 2M Waipapa Ave as the preferred site for the DHCECC and as such be incorporated in the Reserve Management Plan process.
- (b) That the process as **appended** to this report is endorsed by the Board.
- (c) That authority is delegated to the Corporate Support Unit Manager to negotiate and finalise easements for vehicular access by the adjoining property owners located at numbers 6, 8, 10, 12, 14 Purau Avenue.
- (d) That the Community Support Unit Manger is delegated authority to enter into a memorandum of understanding (or other form of agreement as deemed appropriate) that provides the frame work for how the Council and DHCECC will progress this project as generally encompassed in this report.

BACKGROUND (THE ISSUES)

20. The Board resolved at its meeting held 18 October 2006 to “request council staff to work with the Diamond Harbour Community Early Childhood Centre Inc. (DHCECC) to identify suitable sites for the establishment of an early childhood centre in Diamond Harbour.”
21. The DHCECC is an incorporated society whose main objective is to establish and manage an early childhood centre that provides high quality care and education for children up to the age of seven.
22. Council staff identified seven preliminary sites that may be suitable locations for the centre:
- (i) Purau Avenue, below bowling club
 - (ii) Waipapa Avenue near medical centre
 - (iii) Purau Avenue adjoining play centre
 - (iv) 38 Waipapa Avenue
 - (v) Hunters Road adjacent to school
 - (vi) Ngatea Road – adjacent to 27-28
 - (vii) Whero Avenue – adjacent to number 40
23. A meeting was held on 2 November with trustees of the DHCECC to discuss the sites and narrow down the list to three preferred locations, namely:
- (a) Purau Avenue, below bowling club
 - (b) Waipapa Avenue, near medical centre
 - (c) Whero Avenue, adjacent to number 40
24. Options

Preference	A	B	C
Site Address	20B Purau Avenue	2M Waipapa Avenue	Whero Avenue
Legal Address	Part Lot 5 DP 14050	Lot 6 DP 304811	Lot 56-59 DP 9607
Estate	Fee Simple	Fee Simple	Fee Simple
Approximate Area Required	3000 m ²	2705 m ²	3125 m ²
Controlling Unit	Transport & Greenspace	Transport & Greenspace	Corporate Support
District Plan Status	Recreation Reserve	Recreation Reserve	Residential
Current Use	<ul style="list-style-type: none"> • This parcel of land is at the bottom of Stoddarts Point Reserve. • The land was surveyed and subdivided in August 2002. • The adjoining sections were classified as local purpose community and recreation reserves. • The land is currently used for passive recreational purposes. 	<ul style="list-style-type: none"> • This parcel of land was once part of the larger Stoddarts Point development. • The land was surveyed and subdivided and a new title issued in August 2002. • It holds no classification. • The land is currently used as an informal entrance to the neighbouring properties on Purau Avenue. • It is prone to use as an area for illegal dumping of rubbish. • Vegetation on the site is overgrown and the land has not been maintained. 	<ul style="list-style-type: none"> • Thirteen sections of land have been surveyed and separate titles exist for these properties. The land was acquired through the Lyttelton Borough Extension Act 1911. • The land is currently grazed in conjunction with the 38ha block in Diamond Harbour.

25. Advantages/Disadvantages

Preference	A	B	C
Advantages	<ul style="list-style-type: none"> • Close to town centre • Proximity to ferry service, could encourage more public transport users • Sunny location • Well planted and good shelter • Close to medical centre • Adjacent to Library and sports grounds 	<ul style="list-style-type: none"> • Close to town centre • Proximity to ferry service, could encourage more public transport users • Well planted and good shelter • Away from busy traffic • Sewer and Water reticulation in close proximity to potential building site • Close to medical centre • Adjacent to Library and sports grounds • Separate title • Good size • “Buy in”/support from DHCECC • No impact on Council’s planning processes eg strategic, annual plan, LTCCP. • Greatest flexibility, easy to achieve outcome. Likely to have least impact on future planning 	<ul style="list-style-type: none"> • Area is subdivided and has separate title • Wide open spaces with good views • Level sites • Closer for Church and Charteris Bay residents • Close proximity to school • Access to sewer and water reticulation.
Disadvantages	<ul style="list-style-type: none"> • Requires survey and subdivision • To be classified as local purpose reserve • Road safety issues at top of Purau Road • Require removal of extensive vegetation • Difficult access to water reticulation. • Main sewer pumping line running behind desired area • Requires resource consent as is it a discretionary activity in the district plan. This could be overcome by designating the area a local purpose community reserve. 	<ul style="list-style-type: none"> • Noise could be problem as located in an amphitheatre and close to residential developments on Waipapa Avenue and Purau Avenue. . (Most childhood centres are located in residential developments.) • Requires resource consent as it is a discretionary activity in the district plan. This could be overcome by designating the area a local purpose community reserve. • The site is located in a small valley, away from any main roads which could lead to potential vandalism. Crime prevention design of the site could address these risks. • The land is currently held in Fee Simple and if the zoning were changed to residential, Council could realise a potential sale of 3 residential lots for an indicated total current market value of \$232,000. • Aspect not ideal, limited amount of sunlight being lower than surrounding residential developments and bordered by mature poplar trees.. 	<ul style="list-style-type: none"> • Road safety • May hinder future sale of the other sections and 38ha development • Lack of trees and shelter. • Requires resource consent as it is a discretionary activity in the district plan.

Preferred Location

26. The preferred location for the establishment of the early childhood centre is Site B - the land adjacent to the medical centre, Lot 6 DP 304811. It is the preferred location of the DHCECC and is supported by the Council's controlling unit, Transport and Greenspace.

COUNCIL SUPPORT

27. This project is not provided for in the LTCCP or Council's Annual Plan. In actual fact, further support for this form of activity is specifically precluded until further study and policy is adopted. As such support for this project could not be recommended by staff. However there would be no impact on the LTCCP or Annual Plan in providing the DHCECC a long term lease of the site other than a nominal amount of unbudgeted revenue. Accordingly it is recommended that Council support to the DHCECC be limited solely to a lease of the land and the costs to put that in place, including consultation.

Memorandum of Understanding

28. It is proposed that the DHCECC and the Council enter into a memorandum of understanding, or similar such document, that sets out the processes, rules and respective responsibilities to follow over the following months for the process as contained in this report. In general that memorandum should include:
- The process to be undertaken
 - The extent of Council's commitment to support this project
 - Timeframes
 - Ground rules
 - Obligations and conditions to be met by both parties
 - DHCECC requirements in terms of satisfying the Council that it is a suitable tenant, e.g. provision of business plans, funding methods MOE approval, plans specifications etc.

Proposed Process

29. A process and time line for attending to the issues associated with this project is **appended**.