

10. MOUNTFORT RESERVE - REVOCATION OF PART OF RESERVE TO ENABLE THIRD PARTY USE

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PROPOSAL/PURPOSE OF REPORT

The purpose of this report is to seek the Council's approval to revoke the reserve designation over part of Mountfort Reserve, to enable Lincoln Road Property Limited (the Applicant) to purchase the land and to build a 13 bay car park, associated driveway and turning area on the former reserve. The reason for this application is because the applicant proposes to lease out or on-sell the former Addington Prison building (a Group 2 Heritage building under the City Plan, which was built in 1872), to another party, so that the building can be converted into an 88 bed backpackers. For such a use, there is a recommendation under the City Plan to have a minimum of 13 car parks. There is insufficient room on the lot that the prison is built on and the surrounding lots, except for the reserve, on which to build the required car parking.

SUMMARY

The Applicant who owns Lot 1 Deposit Plan 310356, being a fee simple title of 812 square metres on which the former Addington Prison building is built has found that they are unable to proceed with a proposed conversion of the former Addington Prison building into a backpackers, the reason being that they are unable to provide the 13 car parks, which is a required under the City Plan. Refer attached location plan on which the layout of the site in relation to this report is shown. Council staff advised the developers of the former Addington Prison site that they needed to be conscious of the fact that there would be a requirement under the City Plan rules to provide car parks for any future use of the former Addington Prison building. There is no other land available on the surrounding subdivided lots upon which the required car parks could be located, except for the adjacent recreation reserve the Council acquired by way of reserve contribution and purchase during the subdivision of the site. It is important that a viable commercial use be found for the historic building, to ensure its future retention in a maintained state, otherwise the building may fall into neglect. Council officers have investigated three options (this includes the option of the status quo) of revoking part of the reserve designation which is over the adjacent reserves, to enable the developer to purchase the land, on which to construct the required 13 car parks and associated infrastructure. Officers are recommending that approximately 560 square metres of the narrow reserve being Lot 2 DP 310356 contained in Certificate of Title 40693 being a recreation reserve of 1210 square metres in area be revoked to enable the developer to purchase the land for the above mentioned purpose. Officers note that this is less than the ideal situation of retaining all the present reserve, but has minimal impact upon the usable recreation space provided by the existing reserves, the reserve land in question being narrow (14 metres wide) and therefore of little use other than a visual one, and commuting corridor between the adjacent properties and the larger reserve area to the east.

FINANCIAL AND LEGAL CONSIDERATIONS

Legal Considerations

The Council has no authority under the Reserves Act 1977 to grant any approval for third party car parking for activities not associated with reserves. The author of this report has discussed the possibility of using the easement or leasing provisions contained in the Reserves Act, to effect the transfer of the land to the Applicant, with officers of the Department of Conservation. All agree that it is not appropriate to use the leasing, or easement provisions of the Reserves Act, because of the large area of the reserve which will be permanently altered for the benefit of a third party, the use not being associated with the reserve, and therefore not for the purpose for which the land was taken/purchased originally. Therefore if the Council wishes to allow a third party to build car parks upon the reserve to service an adjacent non Reserves Act use, then the way forward is for the Council to revoke the reserve designation over part of the land in accordance with Section 24 of the Reserves Act, prior to selling it to the developer. This is a public consultative process, which must be approved by the Minister of Conservation, who grants the approval by placing a notice in the New Zealand Gazette.

If the land were taken for a public work (in this case a recreation reserve) under the Public Works Act then Section 40 of the Public Works Act must be exercised if the Council removes the reserve designation off the land prior to its sale. This means that the Council must offer the land back to the original owner before the reserve was vested in the Council, which in this case is not the applicant. If Section 40 of the Public Works Act is exercised then it will be up to the applicant to negotiate with the previous owner to purchase the land, before the applicant is able to develop the required car park.

Financial Considerations

The reserve land was acquired by reserve contribution/purchase using reserve contribution account money, therefore if it is no longer required for a reserve the land must be sold at current market valuation to the applicant, or original owner if Section 40 of the Public Works Act is exercised, the money so received being paid into the Council's reserve contribution account.

The applicant in addition to this will be required to pay the cost of administrating this process, including reporting to the Council, public advertising, hearing (if required) Department of Conservation Approval fee, all survey and land administration fees etc. A quotation/estimate is being sent to the applicant, as per Council policy for signing and agreeing to pay all the costs of this process.

Objectives

The objective of this report is to request the Council to consider it is prepared to assist in preserving the 132 year old former Addington Prison building, which has a Category 2 Heritage classification in the City Plan, by enabling a viable commercial use of the building to be made, this ensuring its preservation for future generations. The Council is able to assist by resolving to allow part of the reservation over the existing reserve to be removed, and the land sold to the applicant to enable the required car park to be built on the land. Historic buildings which are not commercially viable are generally not well maintained, and can become a burden to the ratepayers if the Council decides to assist with their preservation.

STAFF RECOMMENDATION

It is recommended that the Council:

1. Resolve to revoke the reserve designation over approximately 560 square metres being Lot 2 DP 310356, contained in Certificate of Title 40693, being a recreational reserve of 1,210 square metres, known as Mountfort Reserve, as shown in Option 1 (attached). The reason for revoking the designation over the land is to enable it to be sold to the applicant in order for them to build the required car park. The car park is to service the proposed 88 bed backpackers which is to be located in the former historic Addington Prison building. The revocation is subject to the following conditions:
 - (a) That the outcome of the public consultation process as required by Section 24(2)(b) and (c) of the Reserves Act 1977 is successful.
 - (b) That the Minister of Conservation approves the revocation by placing a notice in the New Zealand Gazette.
 - (c) That the applicant pays the current market rate for the land as decided by independent valuation.
 - (d) That the applicant pays all costs associated with the revocation of the reserve status over the land, and subsequent survey and land transaction costs.
 - (e) That all existing rights over the existing land to be sold to the applicant be preserved by way of easements at the applicant's expense.
 - (f)
 - (i) That the present right of way which is down the left hand side of the land, as viewed from Lincoln Road be maintained, with the addition of a right to the Council on the easement to enable maintenance vehicles etc to cross the land to gain access to the reserve.
 - (ii) That an addition of an easement right be placed over the land enabling the general public to have pedestrian access over the land to access the reserve.

- (g) That should it be found that Section 40 of the Public Works Act is enacted, that the applicant be solely responsible for negotiating the purchase of the land from the previous owner.
- (h) The responsibility for forming the car park and undertaking the associated landscape work, be the applicants, including the payment of all costs for undertaking the work.
- (i) That a covenant be put on the title of the revoked part of the reserve prior to sale, prohibiting the building of any structures on the land other than car park and associated landscaping so as to ensure the visual link between Lincoln Road and the former prison building is maintained.

BACKGROUND

The Addington Prison site was originally bought from the Crown by Ngai Tahu Property, who then on-sold parts of the property to different developers, who further subdivided the property. The property on the Poulson Street frontage of the former prison site was sold to Poulson Street Developments Limited. Poulson Street Developments were required to give an area of land as reserve contribution, the Council agreeing to take Lot 1 Deposit Plan 303610 contained in Certificate of Title 14457 (issued on 31 October 2001) as recreation reserve, which is 2,435 square metres in area. This area was in excess of Poulson Developments reserve contribution requirements, and therefore the Council purchased the balance of the land using funds from the reserve contribution account. The reason why the reserve was placed adjacent to the historic prison building was to ensure that the building was properly integrated into the environment, and that the general public could see it. For the same reason the reserve contribution due from Addington Property Limited was taken as recreation reserve adjacent to the prison building, being Lot 2 Deposit Plan 310356 contained in Certificate of Title 40693 (issued on 26 August 2002) being 1,210 square metres in area.

The public have a legal right by way of an easement to walk from Lincoln Road through the recreation reserve, and out through the unit development on the Poulson Street frontage of the former prison site to Poulson Street. This right will be protected by way of easements.

The historic prison building presumably owned by the Applicant is on Lot 1 DP 310356 contained in Certificate of Title 40692 (issued on 26 August 2002) and is of 812 square metres in area. The title shows that the land is still owned by Addington Property Limited. There is a 3 metre wide vehicle easement down the eastern side of the 1,210 square metre recreation reserve to this lot. There is also a 2 metre wide pedestrian easement to this lot and the adjoining Lot 4 to the southwest of this reserve.

The Council's former senior traffic engineering planner in the Environmental Services Unit has been concerned for some time that the developers of the former Addington Prison site do not appear to have taken into account the necessity for car parking to service any proposed future use of the historic Addington Prison building. As far back as 15 July 2003 files show there was an agreement with the developers that the best position for shared car parking for the historic prison building was on the south side of Lot 5 this lot being adjacent to the reserve. For some reason Lot 5 was sold on to another developer without protecting this possible solution to the car-parking problem. The current owners now find themselves in the position of wanting to develop the former prison building, but having no place, other than the recreation reserve on which to provide the necessary car parks.

OPTIONS

Assessment of options

The status quo does not address the problem of finding a viable commercial use for the historic Addington Prison building because no land is available for the required car parking except for the reserve.

Option 1 (see attached plan) will require the revocation of part of the narrow 14 metre wide reserve which was purchased to enable uncluttered views of the historic prison building to be obtained from Lincoln Road and to assist to integrate the building into the surrounding landscape. The space because of its narrow nature is not suitable for active recreation, it being suitable for a commuting corridor only, which is its primary function. This function will be protected through the establishment of easements over the land in question before it is sold.

Option 2 (see attached plan) will require the revocation of part of the wide recreation reserve behind Lot 5, and while this option will minimise the impact upon the views of the historic building as seen from Lincoln Road, this option will have an adverse effect on the amount of usable recreation space available to the community for children's play, and family recreation. This option also requires that a further 238 square metres of reserve be revoked for the car park proposal than is required by Option 1. This option also requires that a further 238 square metres of reserve be revoked for the car park than is required for Option 1.

The favoured option therefore is Option 1, because it has the minimum effect upon the Council's capacity and responsibilities.

Option 1: The Preferred Option

Option One - The 13 bay car park and associated infrastructure being built on Lot 2 DP 310356 contained in CT 40693 being a Recreation Reserve of 1,210 square metres.

	Benefits (current and future)	Costs (current and future)
Social	While this option does reduce the amount of open space in the area, the space available for active recreation is not markedly reduced, the reason being, the reserve is only 14 metres wide and therefore is only suitable for commuting and through which views of the building can be obtained.	
Cultural	This option does not reduce the adjacent larger recreation space available for children's play and family recreation, thereby assisting to develop community cohesion.	
Environmental		The loss of the uncluttered views of the historic prison building by the public using Lincoln Road.
Economic	The former Addington Prison building will be able to be used for a commercial purpose ensuring its future maintenance for future generations to enjoy.	

Extent to which community outcomes are achieved:

This option does reduce the amount of open space presently available in the Living 3 Zone, however, because of the requirement to sell it at current market rates, the proceeds can be put forward to the purchase of a more usable recreation space, than the area it is proposed to revoke, in the area in the future.

Impact on the Council's capacity and responsibilities:

This option does impact on the Council's capacity and responsibilities to provide public open space in urban areas to a small extent, which needs to be balanced off against finding a viable commercial use for the historic prison building, thereby ensuring its future retention and maintenance. Also the monies obtained from the sale of the property will enable the purchase of a more usable recreation space in the future.

Effects on Maori:

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Consistency with existing Council policies:

This option is not consistent with Council Policy as contained in the City Plan of providing small areas of reserve for the local community to use informally for children's play and family recreation, however, the sale of the revoked reserve land will allow the Council to purchase a more usable recreation space in the area in the future.

Views and preferences of persons affected or likely to have an interest:

These will be gauged through the public consultation process as required by Section 24(2)(b) and (c) of the Reserves Act 1977. Should objections be received these will be heard and cumulate in a further report being prepared for the Council seeking endorsement or otherwise of its original decision. The views of objectors and the Reserves Hearings Panel's recommendation will be included in the report.

Other relevant matters:

A caveat will be put upon the land before it is sold to ensure that it is not able to be used for any purpose other than car parking thereby ensuring the vistas the public gain from Lincoln Road of the historic prison building are protected in the future.

Easements will be placed over the land protecting the public's right of access to the reserve, and between Poulson Street and Lincoln Road. This option requires the Council to agree to revoke approximately 560 square metres of recreation reserve.

Option 2

The 13 bay car park and associated infrastructure being built on Lot 1 DP 14457 contained in CT 14457 being a recreation reserve of 2,435 square metres.

	Benefits (current and future)	Costs (current and future)
Social		This option does reduce the amount of usable recreation space in the area that children can play upon, and families can use for recreation.
Cultural		This option reduces the usable recreation space available for the community to come together and play, and therefore reduces the area of open space available for community cohesion.
Environmental	While reducing the amount of green space there is minimum impact upon the views of the historic prison building as viewed by the general public from Lincoln Road.	
Economic	The former Addington Prison building will be able to be used for a usable commercial purpose ensuring its future maintenance for future generations to enjoy.	

Extent to which community outcomes are achieved:

This option does reduce the amount of useable open space available to the community for children's play, and family recreation, although the proceeds from the sale of the land can be used to purchase other usable recreation space in the area in the future.

Impact on Council's capacity and responsibilities:

This option does impact on the Council's capacity and responsibilities to provide usable public open space as per the City Plan requirements in urban areas. The monies accruing from any sale would need to be used to purchase similar land for recreation purposes in the area.

Effects on Maori:

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Consistency with existing Council policies:

This option is not consistent with Council Policy of providing small areas of reserve for the local community to use informally for children's play and family recreation. The sale of the revoked reserve does allow the Council to purchase a similar recreation space in the area in the future.

Views and preferences of persons affected or likely to have an interest:

These will be gauged through the public consultation process as required by Section 24(2)(b) and (c) of the Reserves Act 1977. Should objections be received these will be heard and cumulate in a further report being prepared for the Council seeking endorsement or otherwise of its original decision. The views of objectors and the Reserves Hearings Panel's recommendation will be included in the report (if required).

Other relevant matters:

This option requires the Council to agree to revoke approximately 798 square metres of recreation reserve.

Option 3: Maintain The Status Quo

	Benefits (current and future)	Costs (current and future)
Social	Retains a larger area of recreation reserve in Council ownership for community use.	
Cultural	This option does not reduce the recreation space available for children's play and family recreation, which assists in the development of community cohesion.	
Environmental	The maintenance of as large a green space as possible in the otherwise densely built surroundings enables the former prison building to be better integrated into the environment, and be seen by the general public.	
Economic		The former Addington Prison building will not be able to be used for a viable commercial use, which may culminate in it falling into disrepair.
<p>Extent to which community outcomes are achieved:</p> <p>This option ensures the retention of the present open space in the Living 3 Zone, much of the area around the former prison site having not been developed to the living density allowed for by the zone. Future development in the zone will require the provision of more open space in the area in the future, and consequently the provision of public open space will become a more important issue in the future.</p> <p>Impact on Council's capacity and responsibilities:</p> <p>No impact of Council's capacity and responsibilities.</p> <p>Effects on Maori:</p> <p>-</p> <p>Consistency with existing Council policies:</p> <p>Maintaining the status quo is consistent with the policy of providing small areas of reserve for the local community to use informally for children's play and family recreation.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>No change to the existing reserve layout.</p> <p>Other relevant matters:</p> <p>-</p>		