

Officer responsible Property Manager	Author Property Projects Manager, Angus Smith
Corporate Plan Output: Pioneer Pool Site/Surplus Property – Lyttelton Street Yard	

The purpose of this report is to seek a reallocation of sale proceeds from the Ministry of Education for the former Lyttelton Street yard site. This money is required to rectify a boundary problem between the Pioneer Pool site and the ex yard site to be sold to the Ministry.

POLICY PROVISION

This request can be permitted under Council’s policy on “Proceeds from the Sale of Council Property” set out in the 31 December 1997 Policy Register on page 90 *“That unless there are legal requirements or other extenuating circumstances, the proceeds from the sale of Council-owned property be redistributed through the annual plan process; extenuating circumstances to include the fulfilment of local needs identified as having a very high priority for land purchase in the immediate area where the land is located, and where a case is presented to the Council for determination by the relevant Community Board or Standing Committee.”*

BACKGROUND

The Council has entered into a contract with the Ministry of Education to sell the rear portion of the former Lyttelton Street yard to the Ministry of Education for the purpose of a Kura Kaupapa (State Maori Language Primary School).

The Ministry has obtained a designation over the site to operate a school.

The other step required in the process to sell the site is subdivision to obtain a separate title. Subdivision consent has been lodged and is currently being held up because there is a conflict in land area between the Resource Consent obtained for the Pioneer Pool site and the site sold to the Ministry of Education. The Resource Consent No. 972147 granted 20 November 1997 for the Pioneer Pool Complex refers to *“...the development proceeding in accordance with the plans and descriptions submitted with the application...”*. Those plans incorporated a 20m wide strip of land along the northern boundary with a length of 142.5m² (area 2850m²) designed for car parking and the provision of a secondary entrance/exit from Lyttelton Street – refer area marked “A” on annexed plan no. 1, this being the plan accompanying the Resource Consent. Unfortunately this strip of land has also been incorporated in the area sold to the Ministry of Education refer area marked “B” on annexed plan no.2, this being the plan accompanying the sale and purchase agreement. This means that the Resource Consent can not be given effect to in accordance with the approved plans.

A number of options to fix this problem have been canvassed with the Ministry without success. The Ministry have a binding contract for exclusive use of the site indicated including the 20m wide entrance strip from Lyttelton Street. Their site plans, building placement, pedestrian paths and cycle stands have all been planned with exclusive use of this site and street entrance as a requisite. Any compromise will put vehicles at conflict with pedestrians. Furthermore the buildings are designed to be erected over a portion of the subject strip of land.

LEGAL ADVICE

Buddle Findlay advise:

“The Council has legally committed itself to selling the land described in the agreement for sale and purchase dated 30 April 1998 to the Ministry of Education.

As a matter of law, the Council (as vendor) is now obligated to act in good faith to attempt to obtain the necessary subdivision consent.

The Ministry of Education will be entitled to insist that the present subdivision consent proceed unamended so as to provide the Ministry with the dedicated entrance to Lyttelton Street as per the plan attached to the agreement for Sale and Purchase.”

SOLUTION

The only practicable solution is for a redesign of the Pioneer Pool Complex site so as to relocate the northern site access and car parks displaced from the original site strip sold to the Ministry. The Environmental Services Unit is currently deciding whether the Resource Consent will be publicly notified or not.

The Parks, Leisure, Major Projects Co-ordination and Property Units have worked jointly on providing this solution.

There will obviously be a cost involved in: obtaining a new/varied Resource Consent; redesigning the car park layout to provide for the displaced parking and new access; along with resulting site works.

A small portion of the Pioneer Pool site has been taken without consideration of compensation.

Under these extenuating circumstances it would not appear unreasonable to partly fund the solution from the sale proceeds of the former Lyttelton Street yard site to the Ministry of Education.

The layout of the car park/siteworks at Pioneer Sports Stadium has been a major concern for the project team since they considered that the plan was not very “user friendly” or appropriate for a major civic facility.

However, the plan met the siteworks budget and the Projects and Property Committee had indicated at the time of the tender evaluation/recommendation report that it did not wish to provide additional funding at that stage.

The opportunity has now been taken to redesign the car park/siteworks and develop an enhanced plan which will better integrate Centennial Park with the proposed Maori school and Pioneer Sports Stadium. (The revised plan will be tabled at the meeting.)

The Parks and Recreation Committee, at its 25 November 1998 meeting, supported the revised car park design and recommended that \$150,000 should be used from cash in lieu funds to contribute to the cost of the enhanced car park.

The enhanced plan will be the best solution for the Council and will provide an appropriate car park for users of a major park and Council facility.

TIMING

Resolution to this matter needs to be obtained immediately to avoid penalties under the pool and site construction contract. A start on the site works is imminent under the contract programming.

FINANCIAL REQUIREMENTS

The financial aspects of the solution and sale proceeds in relationship to the Corporate Plan are provided in the public excluded section of this report.

ISSUES OF NOTE

The sale proceeds might not be available within the next financial year, therefore some short term funding arrangements may need to be considered or a temporary budget over-run on the pool site accepted.

The Director of Finance comments: *Clearly the costs to be incurred are a prerequisite to a sale and are an appropriate first call on sale proceeds. The Corporate Plan should be amended by adding the necessary provision to meet these costs which will be recouped from the sale proceeds in due course.*

Recommendation: That, taking into consideration the “Issues of Note” above, \$150,000 from the proceeds of the sale of the former Lyttelton Street yard site to the Ministry of Education as documented under a sale and purchase agreement dated 30 April 1998 be reallocated and applied to the Pioneer Pool site project for the purpose of:

1. Redesigning site access and car park layout to enable the pool redevelopment to proceed.
2. Obtaining a fresh/varied Resource Consent.
3. Undertaking the necessary site/project work as required by the new/varied Resource Consent.
4. The Corporate Plan be amended accordingly.

Chairman’s Recommendation: For discussion.