

APPENDIX 1

TO: THE MINISTRY OF EDUCATION

FROM: COMMISSIONER HEARING –
WELLINGTON CITY COUNCIL

SUBJECT: PROPOSED SCHOOL AND EARLY
CHILDHOOD & CARE SERVICE – 48
AMESBURY DRIVE, CHURTON PARK

DATE: 25 JUNE 2010

1. RECOMMENDATION

- (i) *That Council recommends to The Ministry of Education that the Notice of Requirement for School and Early Childhood Care Service be confirmed, subject to the inclusion of appropriate provisions in the District Plan as set out in Attachment 1 to this Report to manage the future development of the site under the Outline Plan process of the Resource Management Act 1991.*

2. INTRODUCTION

2.1 Authority to Report Leonie Gill

As Commissioner, I have been formally appointed by the Wellington City Council (WCC) with delegated authority to report and make a recommendation on the Notice of Requirement (NOR) for a designation received from the Ministry of Education (MoE).

The Notice of Requirement

- 2.2 The Wellington City Council has received a notice of requirement for a designation from The Ministry of Education. The general nature and description of the requirement is to “establish a primary school and early childhood education centre”. To allow for the establishment of this under the District Plan, a designation over the site is proposed. A designation would give the school permission to undertake educational activities on the land in accordance with the recommended conditions without Resource Consent. To this end, the Minister proposes to designate the site for the following purpose:

“School and Early Childhood Education and Care Service”

- 2.3 The primary school will cater for children from Year 1 to 6 and on opening is expected to have a roll size of approximately 200 children, which is predicted to increase to 400 by 2021. Approximately 25 full time staff are likely to be employed onsite. School hours will generally be from 9am to 3pm, though school activities will take place outside of these core hours, such as; sports activities, Board of Trustee and parent/teacher meetings (as occur with all other schools). In line with the Ministry’s

APPENDIX 1

current policy, the school will open with an enrolment scheme in place and a home zone that has been established through the normal process. This process will invoke consultation at a future time with the existing Churton Park School Board and Trustees of the community.

- 2.4 The early childhood education and care service is proposed to cater for up to 50 children from 0 to 5 years of age. Of these, it is expected that there will be approximately 20 children under 2 years of age and 30 between the ages of 2 to 5 years. Approximately 11 to 12 staff will be employed with the care service. Early childhood education and care services generally operate for longer hours than primary schools allowing parents to drop their children off on the way to work and collect them on their way home. Drop off times typically occur from 7am onwards, with collection occurring up to 6.30pm. It is expected that most children would stay at the centre all day.
- 2.5 No detailed design has been undertaken at this stage; however an 'Indicative Site Layout' plan has been provided which is appended at the back of Attachment 1 to this report. The buildings are likely to be located to the rear of the site (near Mauldeth Terrace end) and below the existing embankment. The primary access to the site is likely to be from Amesbury Drive, with a secondary access from Romaine Road. Car parking and drop off collection facilities are likely to be between these two access points and to the rear of the site. It is noted that these plans are indicative and that the final layout is subject to the approval of an outline plan lodged with the Council prior to any construction.

Statutory Requirements

- 2.6 This report is issued under s171 of the RMA and contains the Commissioner's recommendations with respect to the Notice of Requirement. The Requiring Authority will then consider the recommendations and issue a decision. The Council and/or the other submitters to the requirement then have the ability to appeal that decision to the Environment Court.
- 2.7 The provisions of s171 are set out below. An assessment of the Notice of Requirement in terms of those criteria is contained in the main part of this report.

Section 171

- 2.8 Section 171 of the RMA is for the recommendation by a territorial authority. It states:
- 2.9 Section 171(1) of the Resource Management Act states:

- (1) When considering a requirement and all submissions received, a territorial authority must, subject to Part II, consider the effects on the environment of allowing the requirement, having particular regard to—
- (a) any relevant provisions of —
 - (i) a national policy statement:

APPENDIX 1

- (ii) a New Zealand coastal policy statement;
- (iii) a regional policy statement or proposed regional policy statement
- (iv) a plan or proposed plan; and
- (b) Whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –
 - (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or
 - (ii) it is likely that the work will have a significant adverse effect on the environment; and
- (c) Whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and
- (d) any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.

Section 171(2) states that the territorial authority may recommend to the requiring authority that it –

- (a) *confirm the requirement;*
- (b) *modify the requirement;*
- (c) *impose conditions;*
- (d) *withdraw the requirement.*

Section 171(3) states that the territorial authority must give reasons for its recommendation under subsection (2)

District Plan Provisions

- 2.10 When considering the proposal with the Wellington City District Plan, the relevant objective and associated policies for designations in chapter 24.2 of the Plan are as follows:

Objective

- 24.2.1.1 *To provide for designations, only where they are necessary, to ensure the efficient functioning and operation of public works.*

Policies

- 24.2.2.1 *Encourage the removal of designations in favour of the management of public works through District Plan rules.*
- 24.2.2.2 *Avoid, remedy or mitigate adverse environmental effects of public works by including management provisions for their operation in the District Plan.*

- 2.11 It is considered that the proposal is entirely consistent with these objectives and policies.

3. SUBMISSIONS

APPENDIX 1

3.1 In accordance with Section 168 of the RMA, the requirement was publicly notified on Thursday 21 January 2010 and submissions closed on Monday 1 March 2010. Five submissions in total were received.

3.2 The following submissions were not represented at the hearing

Dea young um

3.3 Supports the proposal, but raised concerns in relation to the positioning of the kea crossing and it obstructing the entry into their driveway/garage.

The MoE made contact with Dea young um and agreed that the kea crossing would not obstruct or prevent access to theirs, or anyone else's, property.

Cherie and Kevin Arlidge

3.4 Generally support the proposal, but raised concerns in relation to primary access set-back of private dwellings to the site. It was submitted that the set-back be a minimum of 20 metres from the nearest dwelling. Concerns were also raised about the access being used as a thoroughfare by boy-racers and suggested that bollards be put at entrances to prevent this from happening. It was further requested that a graduated planting of trees at a depth of 5 metres be planted along the boundary of 44 Amesbury Drive to reduce construction noise and dust.

Prior to the hearing, the MoE made contact with Mr and Mrs Arlidge and agreed to the primary access set back of 20 metres from 44 Amesbury Drive; and that a planting strip would be planted to minimise dust and noise effects during construction. In terms of the bollards at the school entrances, this will be dealt with in the "Issues" section of this report.

Gregory McFetridge

3.5 Generally supports the proposal however, opposes the loss of Open Space A land and the area on indicative plans becoming hard surfacing. Mr. McFetridge also raised concerns about the increased traffic along Amesbury Drive and requested that Mauldeth Terrace be completed before any construction of the School site begins to help reduce this. Mr McFetridge also submitted that the school be considered part of the next stage of subdivision rather than as part of the current stage.

Alistair Gavin and Ruth Grace Ford

3.6 Generally supports the proposal but have raised concerns in relation to building location, access, parking, fencing and landscaping, site drainage and site lighting.

3.7 Phone calls were made to Greg McFetridge and Ruth Ford with offers to meet and discuss concerns raised in their submissions but neither party wished to make use of this offer.

3.8 Additionally, a meeting was had with Mr. John Morrison, Vice President of the Churton Park Community Association to address issues identified

APPENDIX 1

in their submission followed by a phone call from Tim Kelly to discuss traffic and parking issues. These discussions were finished with no agreement between the two parties. Subsequently, Mr. Morrison made a submission at the hearing.

4. THE HEARING

- 4.1 The Hearing of submissions was held on Wednesday 7 April 2010 in Committee Room 1 at Wellington City Council. The hearing was chaired by Councillor Leonie Gill, sitting alone. The following experts and submitters presented evidence.

APPLICANT

The Ministry of Education – Ross Chalmers

- 4.2 Mr. Chalmers, a Network Development Officer for the Central South Region, briefly covered the following:
- need for the work due to population growth in the Churton Park suburb;
 - alternative sites that were considered and subsequently dismissed as not being appropriate;
 - role of the Establishment Board of Trustees and their responsibility for ongoing consultation with the local community; and
 - current state of play with respect to the commencement of the design and the programme.
- 4.3 Mr. Chalmers commented that the MoE are keen to meet the Churton Park community's high expectations regarding the delivery of a new school to the suburb.

Tim Kelly – Traffic Engineer

- 4.4 Mr. Kelly presented evidence on traffic issues relating to the proposal. Mr. Kelly's evidence was in agreement with the recommended conditions suggested by Council's Principal Traffic Planner, Mr. Brendon Stone. These conditions are appended to this report as Attachment 1.

Malcolm Hunt – Environmental Noise Specialist

- 4.5 Mr. Hunt generally agreed with the recommendations made by Council's Noise Expert and is satisfied that the noise effects associated with the proposal will not have an adverse effect on the existing residents. However, Mr. Hunt did not agree with additional noise condition 6 for the Early Childhood Education and Care Service as it is effectively a duplication of condition 3(iv). It was recommended at hearing and agreed that it be deleted and condition 3(iv) be amended so it is a separate condition for the Primary School and then add an additional condition 3(v) for the Early Childhood Education and Care Service amending the noise limit to be 50dB LA_{eq} (15minutes). See Condition 3 appended as Attachment 1 to this report.

APPENDIX 1

Louise Miles – Resource Management Planner/Director Incite (Wellington)

- 4.6 Ms. Miles provided planning evidence on the proposal. Essentially, she agreed with the Planning Officer's recommendations. Matters where Ms. Miles raised concerns were in relation to noise and the inclusion of the word "Primary" in front of the designation title "School". The matters relating to noise were dealt with during Mr. Hunt's evidence, as detailed above.
- 4.7 In terms of the inclusions of the word "Primary" in the designation title "School", Ms. Miles disagrees with this approach as it is inconsistent with the notation used for other school designations in the Plan. She also feels that it will reduce the flexibility that the current terminology provides.
- 4.8 Ms. Miles also raised some concern regarding the inclusion of the indicative site map in the District Plan and it being confused as a condition of the designation. She requested that it either be removed or clearly labelled as "Indicative" with a note stating that it is not a condition of the designation.

SUBMITTERS

Churton Park Community Association – Mr. John Morrison

- 4.9 Mr. John Morrison spoke in support of the Churton Park Community Association (CPCA) submission at the hearing. The CPCA are generally in support of the proposal, but seek amendments to a number of issues, as discussed below.
- 4.10 These issues included; Pedestrian and vehicle access to and from the site, vehicle parking, site lighting, access to ground out of school hours, use of sports fields and other school facilities by the community/sports clubs, landscaping of the site, use of school as a civil defence post and an emergency water distribution centre.
- 4.11 Mr. Morrison also raised an issue in relation to minimisation of water run-off from the site at the hearing. This matter was not part of the CPCA's original submission. Although the Commissioner did not have to take this point into consideration, it is noted that this was raised in the Ministry's original application to Council and it is assured that this issue will be managed appropriately.

APPENDIX 1

5.0 **ISSUES**

- 5.1 At this stage of the proposal, detailed plans have not been supplied by the MoE, therefore, the Territorial Authority is only required to consider whether the site is appropriate to be designated as a “School and Early Childhood Education and Care Service”. The detail of the proposal in terms of construction effects, site development and layout will be dealt with in more detail when an outline plan is lodged with the Wellington City Council prior to construction.

Traffic, Parking and Access

- 5.2 The MoE will submit a traffic management plan when they lodge the schools outline plan with Wellington City Council. This will address traffic issues to reduce vehicle dependence and hence tackle the demand for parking and reduce congestion.

At hearing, there was consensus between Council’s Principal Transport Planner and the applicants transport expert. They agreed that the best approach to managing traffic effects was through the conditions recommended in the Officers Hearings Report. In terms of the detail in relation to parking and access, this will be covered when the outline plan and traffic management plan is submitted to Wellington City Council before construction commences.

Submitters 2, 3, 4 and 5 brought up issues relating to traffic, access and parking. These issues are beyond the scope of this process and will be dealt with during the more detailed outline plan stage.

Noise – Pre/Post Construction

- 5.3 It has been requested that a line of trees be planted along the boundary between their property and the site to reduce noise and dust nuisance during site construction. The MoE has agreed to this request.

It is considered that the inclusion of additional noise condition 6, suggested by Council’s noise expert, is merely a duplication of what is already there and causes confusion. It is therefore recommended that it be deleted and condition 3(iv) be amended so it specifically relates to the Primary School and an additional condition 3(v) be inserted which will relate to the early childhood education and care service. The noise limit for 3(v) will be reduced from 55 dB LAeq to 50dB LAeq. See attachment 1 to this report.

Completion of Mauldeth Terrace Prior to Construction of School

- 5.4 It has been requested that the completion of Mauldeth Terrace be a pre-requisite of the Designation prior to any construction begins. As per the Council Officers Report, this is considered unreasonable due to the completion of the street being subject to other development processes. It is however noted that the completion of Mauldeth Terrace is in the approved subdivision plans.

APPENDIX 1

Loss of Open Space A (Recreation) Land

- 5.5 Open Space A Land is identified in the Wellington City District Plan as land which provides “passive and active recreational opportunities”. It is important to note that while the school buildings would take up some of this recreation space, as per the indicative site plan (attached as appendix 1) the majority of the site will be available for recreation purposes. It is also important to note that the Designation only overlays the Open Space A land. The underlying zoning still exists. It is therefore considered that the effects associated with the development of the facility will be no more than minor.

It was also agreed through earlier negotiations between Council and the MoE that consultation would be undertaken with the relevant groups to establish an agreement on community use of school facilities outside of normal operating hours. This includes sports/recreation playing fields.

School Roll and Age of Pupils

- 5.6 It has been submitted that the school roll be kept to no higher than year 6 (11 years old).

Schools currently designated in the District Plan are designated as “School” offering flexibility to the MoE to change the type of school as demand for different facilities changes. It is considered, however, that there is a difference in the effects associated with primary, intermediate and secondary schools. Because of this difference, it is considered appropriate to specify this school as “Primary School” to avoid any confusion in what age group this proposal aims to cater for.

Community Use of School Facilities

- 5.7 The community use of school facilities is outside the scope of designating 48 Amesbury Drive for school purposes. It is a management issue that will be dealt with by the School’s Board of Trustees and other relevant groups.

Minimisation of Water Run-Off

- 5.8 The Churton Park Community Association raised the issue of water run-off from the site during the hearing. This issue was not raised in their original submission. However, the MoE did raise this issue as part of their original application (Annexure G of Application) and it is calculated that the increase in water flow as a result of the school development will be 3.5% of the total flow. It can therefore be assured that this will be managed and dealt with appropriately and its effects on the environment will be no more than minor.

6. **DISCUSSION**

6.1 **PART II CONSIDERATIONS**

6.1.1 The Commissioners consideration of the Notice of Requirement is subject to Part II of the Resource Management Act 1991. The Purpose and Principles of the Act is as follows:

5. *Purpose—*

(1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*

(2) *In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*

(a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*

(b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*

(c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

6.1.2 The proposal is consistent with section 5 in that the provision of educational facilities is essential to people and communities being able to provide for their social, economic and cultural wellbeing. The primary school and early childhood education and care service are able to be provided on this site while avoiding, remedying, or mitigating any adverse effects of the activity on the environment.

6.1.3 Section 6 sets out the matters of national importance that the Council and the Requiring Authority must recognise and provide for.

6.1.4 No matters of national importance are relevant to this proposal.

6.1.5 Section 7 states that in achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to a range of matters. The following two are considered relevant to this proposal:

(c) *the maintenance and enhancement of amenity values; and*

(f) *maintenance and enhancement of the quality of the environment*

6.1.6 The matters are addressed in 7.2 and 7.3 below.

6.1.7 Section 8 sets out matters relating to the Treaty of Waitangi. The establishment of the primary school and early childhood education and

APPENDIX 1

care service will not be in conflict with the principles of the Treaty of Waitangi.

- 6.1.8 As such, the use of this site for the development of a primary school and early childhood education and care service is considered consistent with the purpose and principles of the Act, subject to adverse effects being avoided, remedied or mitigated.

6.2 GENERAL

- 6.2.1 Section 171(1)(a) requires that Council have particular regard to the relevant provisions of national and regional policy statements, and any relevant plan.

- 6.2.2 There are no National Policy Statements that would be relevant to this proposal.

- 6.2.3 On review of the Operative and Proposed Regional Policy statements, neither include any provisions that are directly relevant to this proposal.

- 6.2.4 Routine population growth monitoring by the Ministry of Education has concluded that state schooling in the Churton Park/ Stebbings Valley area identified the need for a second state primary school to serve the future growth expected for this area.

- 6.2.5 A school of this size needs at least four hectares of flat land. The site proposed, including Council land, is approximately six hectares in total, of which around four hectares is relatively flat.

- 6.2.6 Four other alternative sites, including the expansion of the existing Churton Park School site, have been considered by the requiring authority. Due to the topography of the Churton Park area and other constraints such as Stebbings Stream, high voltage transmission lines and the need for a central accessible location, the site proposed is considered the only viable choice. On the basis of the requiring authorities analysis, outlined in more detail in their application, it is considered that the Minister has given adequate consideration to alternative sites thereby fulfilling the requirements of section 171(1)(b) of the Act.

- 6.2.7 The consideration of alternative routes or methods of undertaking the work is not considered relevant to a state primary school.

7. CONDITIONS & RECOMMENDATION

The conditions which are set out in attachment 1 to this report are mostly to do with control of effects which may arise from designating the land at 48 Amesbury Drive for School purposes. These are based on conditions proposed by the Officer in her report to the hearing. In its submission as requiring authority, MoE noted its agreement with many of the proposed conditions, but suggested a couple of minor changes and amendments to

APPENDIX 1

others. The conditions therefore have been modified in response to matters raised by MoE and submitters during the course of the hearing.

The rationale to these changes has been noted in the course of this report.

8. CONCLUSION

- 8.1 It is considered that the proposed designation is consistent with the Resource Management Act in that the provision of educational facilities is essential to people and communities being able to provide for their social, economic and cultural wellbeing. Adequate consideration has been given to alternate sites and methods of undertaking the works, with the proposed Amesbury Drive site being the most practical and appropriate response to proposed future growth.
- 8.2 It is considered that this site is appropriate for the proposed School and Early Childhood Care Service and it recommend that the designation be confirmed.

Cr. Leonie Gill
Hearings Commissioner