

Appendix 8.08 – Property and Valuation

5.1 Land

5.1.1 Value of Cobham Drive Park

Value of Cobham Park Drive

A number of different scenarios were valued at Cobham Drive Park to take into account the disposal of the whole park or part. An aerial photograph outlining the different parcel boundaries is enclosed. If the park was disposed of in part then one option would be to form Area 4 (Stopped Road) into legal road which would allow access through Tacy Street to Kemp Street. The current zoning is Suburban Centre.

| | Stopped Road as a fee simple title | Stopped Road fully formed at the expense of Council |
|-----------------------------------|------------------------------------|---|
| Areas A only | \$3,755,000 | N/A |
| Areas A & B | \$5,020,000 | N/A |
| Northern Portion (Areas A, B & C) | \$6,570,000 | N/A |
| Areas 1 & 2 | \$4,135,000 | \$4,550,000 |
| Areas 3, 5 & 6 | \$7,500,000 | \$9,160,000 |
| Valuation of Entire Site | \$12,000,000 | N/A |

If the land was valued as a park then the value of the entire site would be \$3,000,000.

A separate valuation report was prepared by Bill Bunt, Director Valuation Services, DTZ and peer reviewed by Ken Blucher, Registered Valuer, DTZ and has an effective date of 15 March 2009.

Value of Concourse Option (Air Space)

A number of assumptions were required to complete this valuation. These included:

- The proposed development is a Permitted Activity under the Wellington City Council Operative District Plan and Plan Change 48
- Disregard for any costs and expenses incurred as a result of strengthening or other works that may be required as part of the proposed development
- Area of valuation is 14,175 square metres

| | |
|---|--------------------------|
| Adopted Value for Underlying Land Rate | \$8,650,000 \$610/sqm |
| Adopted Value for Balance of Underlying Land Rate | \$5,190,000 \$366/sqm |
| Adopted Value for Air Rights Rate | \$3,460,000 \$244/sqm |

A separate valuation report was prepared by Paul Butchers, Director Valuation & Advisory Services, CB Richard Ellis and peer reviewed by Gerrard Wilson, Valuer, CB Richard Ellis and has an effective date of 25 March 2009.

5.1.1.1 Process for the Disposal of Council Owned Land

The process for the disposal of Council-owned land is broadly outlined below. Please note that the timeframe for each stage of the process is also indicated. However, some of these stages may be undertaken concurrently and some stages may not be required for all disposals.

| Stage | Timeframe |
|--|--|
| <p>1. Property Research Council officers consider whether the site:</p> <ul style="list-style-type: none"> • is listed in the Long Term Council Community Plan (LTCCP) as a disposal • has any contamination, stability or environmental issues. <p>The site is assessed to determine if it is:</p> <ul style="list-style-type: none"> • a park under s138 of the Local Government Act 2002 (LGA 2002) • a reserve under the Reserves Act 1977 • a strategic asset or significant according to the Annual Plan/LTCCP. <p>If the site is determined to fall under one of these definitions then public consultation is required.</p> | <p>1 week</p> |
| <p>2. Consultation with internal Council Business Units Consultation is undertaken with all internal Council Business Units to confirm that the subject property is no longer required for any Public Work purpose. An internal memo is circulated detailing any relevant information on the property and what Council’s intention is for the property. Each Business Unit is asked for their comments, including whether:</p> <ul style="list-style-type: none"> • the business unit has an interest in the property including the details of any interests including type of public work if property is to be retained • any interest the business unit may have in protecting a right on sale, for example, bush covenant, height restriction or easements. | <p>4 – 6 weeks</p> |
| <p>3. Public Consultation The requirement for public consultation is determined at the property research stage. Public consultation includes the following steps:</p> <ul style="list-style-type: none"> • Planning of the consultation • Public notification and engagement • Collation of written submissions • Oral submissions heard by the Strategy and Policy Committee (SPC). | <p>4 weeks 6 weeks 2 weeks 6 weeks</p> |
| <p>4. Determination of Public Work Status Council officers ascertain whether the property is held for either:</p> <ul style="list-style-type: none"> • Commercial, industrial or non-public work since initial acquisition; or • A public work. | <p>4 weeks</p> |

5.1.1.2 Opinion on Disposal or Part Disposal

Feasibility of Disposal of the Park for Commercial Use

The site is currently zoned suburban centre under the Wellington City Council District Plan. Under the District Plan Cobham Drive Park could be used for a wide range of commercial uses, but some retail activities are required to demonstrate that they are complimentary to neighbouring town centres. Residential activities must also be able to demonstrate compatibility with the noise effects generated by the Wellington International Airport Limited.

The Council is currently reviewing the provisions applying to Suburban Centres. While the exact details of the review have not been finalised, it is probable that future zone rules for this site will retain some degree of control over 'out of centre' retail activities (focusing on general comparison retail) and also over residential uses within the air noise boundary. A separate report was commissioned that provides further analysis of District Plan considerations.

Could the park be disposed

The Council has sought legal advice regarding the disposal of the land from Simpson Grierson. A full legal opinion has been provided separately, however in summary, Cobham Drive Park is comprised in six computer freehold registers (titles). A plan of the land is included in the legal opinion.

Only one of the parcels of land that comprise Cobham Drive Park (Area 6) is stated to be held for a particular purpose (being "electric light and tramway power station" purposes). That purpose reflects the original purpose for which that part of Cobham Drive Park was held in public ownership, and does not affect the ability of the Council to dispose of that land.

Cobham Drive Park is a "park" for the purposes of section 138 of the LGA 2002. While this does not prevent the disposal of the land, or part of it, it does require the Council to consult on any proposal to sell or otherwise dispose of Cobham Drive Park or part of it before it sells or agrees to sell or dispose of the land.

Section 138 does not specify any particular form of consultation that must be followed. However, as public interest in the future of the land is likely to be high, any consultation under section 138 should be comprehensive. Please see appendix 6 for a potential outline of the consultation process.

Two parcels of the land (Areas 4 and 5) are stopped road and therefore potentially subject to further restrictions regarding sale or disposal as a consequence of section 345 of the Local Government Act 1974, which specifically addresses the ability of a council to dispose of land not required for road. The requirements of section 345 are procedural only, and would not ultimately prevent a sale or disposal.

All of the land that comprises Cobham Drive Park has a certificate registered on the titles under section 77 of the Building Act 2004 which prevents allotments being sold in isolation when there is a building which spans those allotments. As a result of the certificate it is not currently possible to sell any part of Cobham Drive Park, except in conjunction with the other allotments.

The certificate could be removed by following the process set out in section 83 of the Building Act 2004, which would require the Council to establish that any building that spanned two or more allotments had been removed, that there had been a boundary adjustment so that the building is contained entirely within one allotment, or that circumstances had otherwise changed.

To the extent that Cobham Park Drive is currently held for a public work and subject to section 40 of the Public Works Act 1981, it is not at present surplus. It has been advised that there could be potential issues with disposing of the land and an offer back if it is still held, and being used for, public works purposes.

If, in the future it is decided that Cobham Drive Park (or part of it) is surplus and the Council decides to sell or dispose of all or part of the land, a comprehensive section 40 report will be required to determine if there is any obligation to offer the land back to a former owner and certain procedures may need to be followed.

A full section 40 report should not be obtained prior to a decision being made if the land is declared surplus. However, a preliminary section 40 report has been obtained.

Any decision that involves the future of Cobham Drive Park would involve financial implications and impact on the community. Therefore it has been advised that any such decision should comply with the decision making requirements of Part 6 of the LGA 2002. This disposal would not constitute a significant asset under the Council's significance policy.

Any decision made within a statutory framework could be the subject of a potential challenge. Provided that the decision making is within the scope of the Council's statutory powers, that it follows the appropriate procedures, and clearly documents its decision, then it has been advised that the risk of a successful challenge based on any procedural and other grounds should be low.

Would the park be disposed

While the legal advice from Simpson Grierson states that Cobham Park could, in theory, be sold, in practice there would be a number of significant obstacles blocking such a sale. Principally these would be based on the likelihood of widespread public opposition to the sale.

The Council would have to undertake significant public consultation (the land is a Park and requires consultation in accordance with section 138 LGA 2002) - asking the public to comment on the proposed sale.

Based on previous processes involving the sale of Council land and property, it is likely a sale proposal would encounter major public opposition. Principally this would be from sportspeople who regularly use Cobham Park - ranging from club cricketers to rugby and football.

It is also likely that a proposal to sell the site for the best possible price - i.e. for commercial use - would be met with opposition from local residents - not just from Kilbirnie but also from the eastern suburbs in general. Other residents around the city would probably object strongly to the sale and privatisation of a 'park' - in other words a public piece of land.

To put the possible opposition in context, the Council's plans to sell relatively small pieces of land around the city have, in the past, met with strident opposition. Examples include:

- The proposed sale of two small sections adjoining the quarry in Owhiro Bay. This was met with determined opposition from neighbours and also environmental groups who objected to the loss of open space. The sale investigation process commenced in mid 2004 and a final Council resolution was obtained on 28 June 2006 declaring the land surplus after consultation processes were followed. The sections are still not sold due to environmental groups appealing to the Environment Court regarding the rezoning of the sections from Rural to Outer Residential.
- The sale of a small and steep piece of fee simple land at the intersection of Upland Road and St Michaels Crescent in Kelburn. This process has been significantly opposed by local residents mainly because of concerns about the effects on local 'amenity' if the site is built on.

The Council's sale of its parking buildings in March/April 2004 was also a drawn-out process that involved much opposition and controversy. Though the Council was losing money on the facilities each year due to political opposition to the raising of parking fees, many people in the community still saw them as important assets to the city and so campaigned against their sale.

Cobham Park, by contrast, is a high-profile and large site passed and seen by thousands of motorists every day. It can be assumed that the prospect that it be turned from an open playing field (albeit not a particularly attractive one) into, say, a big-box retail outlet will be met with widespread opposition.

The sporting codes that use Cobham Park have already made public the fact that they are reluctant to lose this valuable playing field so that an indoor sports centre can be built on the site. However they understand the need for such a centre - and are willing to use its construction as a possible 'bargaining tool' in their bid for more artificial outdoor playing surfaces in the city to be funded by the Council.

It is less likely they will take so kindly to the sale of the site for commercial use.

It is also likely such a plan would meet with strong political opposition from the Rongotai MP, Annette King, who was instrumental in the Labour-led Government's sale of the park to the City.

In addition, initial consultation with the Council's Parks and Gardens department has been undertaken. This has indicated that if Cobham Drive Park is not utilised for an Indoor Community Sports Centre (ICSC) then the park would still be required for a public work. This process has been summarised in a separate memorandum.

Timeframe for Disposal

An indication of the timeframe for disposal is given under 5.1.1.1. However, it is important to note that some of the stages of the disposal process may be run concurrently. Given that public consultation would be required for the disposal of Cobham Drive and subject to other conditions (e.g. no appeals) the minimum timeframe for a disposal of this nature would be 63-75 weeks.

Approximate Costs associated with Disposal

There are three different scenarios if Council were to dispose of Cobham Drive Park. The scenarios depend on the outcome of a section 40 investigation and whether the offer back (if applicable) is accepted.

1) Offer back to former owner and accepted

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|--|------------------------|
| Site investigations (geotechnical/contamination) | \$8,000 |
| Section 40 reports by LINZ accredited agent and locating offer backees | \$5,000 |
| Solicitor opinion on section 40 (if required) | \$7,000 |
| Valuation | \$4,000 |
| LIM report | \$1,000 |
| Consultation | \$15,000 |
| Offer back sale agreement | \$3,000 |
| Title subdivision for parcel 6 | \$2,200 |
| Legal settlement /transfer | \$3,000 |
| | |
| Total | <u>\$48,200</u> |

2) Offer back to former owner not accepted and then goes to open market sale

| | |
|--|-------------------------|
| Site investigations (geotechnical/contamination) | \$8,000 |
| Section 40 reports by LINZ accredited agent and locating offer backees | \$5,000 |
| Solicitor opinion on section 40 (if required) | \$7,000 |
| Valuation | \$4,000 |
| LIM report | \$1,000 |
| Consultation | \$15,000 |
| Offer back sale agreement | \$3,000 |
| Tender form and sale agreement preparation | \$10,000 |
| Title subdivision for parcel 6 | \$2,200 |
| Legal settlement /transfer | \$3,000 |
| Real estate commission (1.5 to 2.0% of \$12 million) | \$240,000 |
| Real estate advertising (international/national) | \$20,000 |
| | |
| Total | <u>\$318,200</u> |

3) Offer back exempt and go straight to open market sale

| | |
|--|-------------------------|
| Site investigations (geotechnical/contamination) | \$8,000 |
| Section 40 reports by LINZ accredited agent | \$3,000 |
| Solicitor opinion on section 40 (if required) | \$7,000 |
| Valuation | \$4,000 |
| LIM report | \$1,000 |
| Consultation | \$15,000 |
| Tender form and sale agreement preparation | \$10,000 |
| Title subdivision for parcel 6 | \$2,200 |
| Legal settlement /transfer | \$3,000 |
| Real estate commission (1.5 to 2.0% of \$12 million) | \$240,000 |
| Real estate advertising (international/national) | \$20,000 |
| | |
| Total | <u>\$313,200</u> |

Building removal (changing sheds) not allowed for and this may cost circa \$10,000. It is assumed that the building would be sold with the land.

If Council's decision to sell was challenged by the public someone may call for a judicial review which could cost the Council further legal advice, this has not been taken into account in any of the three scenarios.

Aerial Photograph of Cobham Drive Park



Notes;

Document number refers to specific sections of the Terms of Reference.
All separate reports, legal opinions and memorandum referenced in this report are available upon request.