

STAFF REPORT

TO: Mayor and Councillors
FROM: Manager Property Services
DATE: 20 January 2009
SUBJECT: Golden Bay Medical Centre

PURPOSE

To report on a proposal to sell the Golden Bay Medical Centre and to clarify the ownership of the property.

BACKGROUND

**Moved Crs King/Higgins
CN08/05/08**

THAT the Golden Bay Medical Centre Community Trust, the District Health Board and the Integrated Services Project be informed that Council is willing to give notice of an intention to sell the Golden Bay Medical Centre buildings, on the basis that the proportion of funds realised, would be provided towards new medical facilities.

CARRIED

A proposal setting out an intention to sell the property was notified with the closing date for submissions occurring on 31 July 2008. Twenty one submissions were received plus a letter from Glasgow Harley regarding the ownership of the medical centre property.

Details of submissions are attached.

In a letter dated 22 July 2008 Glasgow Harley (on behalf of the Golden Bay Medical Centre Community Trust) formed the conclusion that the Golden Bay Medical Centre Community Trust was the beneficial owner of the Medical Centre property and that on the sale of the Medical Centre property the proceeds belong to the Trust. Glasgow Harley also suggested that it would be appropriate and sensible for the legal ownership of the property to be transferred to the Trust making the position transparent.

Fletcher Vautier Moore considered the opinion of Glasgow Harley and arrived at their own conclusions which are:

- 1 That they don't agree the Trust is beneficial owner of the land and buildings (this is qualified).
- 2 That on the sale of any part of the title, the proceeds belong to the Council and that it would be inappropriate to transfer ownership to the Trust.

The qualification is that if the Trust or a predecessor body to the Trust funded the acquisition of a small part of this land, and that body assigned any interest it thereby acquired to the Trust, then the Trust can make out a claim for having a beneficial interest in the title. Compared to the total area of the title, this interest would be small.

The Council's solicitors have concluded that the Council is free to deal with the title as it sees fit. This is of course subject to compliance with relevant decision making provisions of the Local Government Act 2002, including consultation obligations before a decision is made on the sale of the land and the use of the proceeds of the sale. Also requiring consideration will be the position of the current occupiers of the property.

DISCUSSION

Councillors may recall that the request for the Council to consider the sale of the existing Medical Centre came from the Medical Centre Trust. They have proposals to construct a new Medical Centre and sought an assurance from Council that upon the sale of the property, the proceeds would be made available for the construction of a new Medical Centre facility. When considering this request, the Council was also conscious of the request from the Golden Bay Integrated Health Project for the realisation of any sale to go towards an integrated health facility.

The proposal to sell was undertaken as part of the consultation phase in order to gauge the opinions of residents and ratepayers but particularly the people of Golden Bay. The majority of submissions clearly favour support for the sale of the Golden Bay Medical Centre property subject to the proceeds being made available for further medical facilities in Golden Bay.

A summary of the submissions is attached.

As far as ownership of the Golden Bay Medical Centre property is concerned, there have been several property acquisitions and subdivisions with the property as it stands today. While the Golden Bay Medical Centre Trust and prior to that the Management Committee, which was a Committee of Council, have collected rents on behalf of the Council and have used that income to maintain the property and meet the loan payments for various acquisitions, this does not amount to ownership. There is no record of the Council agreeing to pass ownership to the Trust. Previously the Management Committee, or the Trust depending on timing, did meet the cost of subdividing some small areas of land which are now part of the Medical Centre property but this does not equate to ownership. What is clear is that the community, the Council and the Trust have invested into the existing medical facility

and that the general opinion is that if the property is to be sold then part or all of the proceeds should be put back into medical facilities in Golden Bay.

If the Council accepts their legal advice that the ownership of all or most of the Golden Bay Medical Centre property lies with the Council and if Council agrees to proceed to market the property, consideration will have to be given to the position of the existing tenants. This will require consultation with the Medical Centre Trust as well. Undertakings that the existing property would be protected until such time as alternative premises are constructed or made available, would have to be given.

Ideally the consultation process should form part of the Annual Plan/LTTCP round but if the timing for that is not appropriate, the Council could consider using a local process which could satisfy not only the proposed sale but also the use of the funds.

The opinion of the Council's solicitors has been relayed to Glasgow Harley and to the Council representative for the time being on the Golden Bay Medical Centre Trust, Mr H Holmwood.

The Council formal position is that it has supported the integrated health service proposals in principle only at this time.

AFFECTED PERSONS

Once the Council has adopted a position on the intention to sell the property and the distribution of the proceeds it will have to consider its consultative obligations. This will include the sitting tenants, the Golden Bay Medical Centre Community Trust and the Golden Bay community. The process followed to date has given any person the opportunity of making a submission on the original intention to sell.

SIGNIFICANCE

This subject is not considered significant under the Council policy on significance.

OPTIONS

Proposed intention to sell

- Agree. This was a strong option of submitters and obviously security for the tenants and the Golden Bay Medical Centre Trust would need to be addressed with any sales. Timing would also be an issue.
- Status quo. Only supported by a few submitters.
- Retain the doctor's residence and agree to sell the balance. This was the preferred option of submitters. It would need a subdivision.

Use of proceeds of sale (if it proceeded)

- Put toward a new medical centre (standalone facility). This was the preferred option by some.
- Put toward an integrated health facility. This was the preferred option by others.
- Retain some and put the balance toward either of the above two options.
- Retain all the proceeds for local projects – not favoured by submitters.

CONCLUSION

The Council legal advisors and staff are of the opinion that most or all of the medical centre property is owned by the Council.

The Golden Bay Medical Centre Trust may be able to lay claim for ownership of a small part of the land if they can show that it was acquired by them after the formation of the Trust.

Although not discussed in this paper, the medical centre fit out, the St John Ambulance buildings, other tenants chattels and any improvements or extensions to the buildings that have been undertaken since the formation of the Trust, would have to be separately identified.

The majority of submitters agreed to an intention to sell with ownership of the residence being retained.

Use of the net proceeds (after sales and subdivision expenses) are fairly evenly divided between a new medical centre and an integrated health facility.

Some form of local consultation will need to occur unless the status quo is retained (no sale).

RECOMMENDATION

- 1 That the report on the Golden Bay Medical Centre dated 20 January 2009 be received.
- 2 That Council confirms that it is not willing to pass ownership of the Golden Bay Medical Centre property to the Golden Bay Medical Centre Community Trust.
- 3 That Council agree to the request from the Golden Bay Medical Centre Community Trust that the medical centre property be offered for sale subject to:

- Agreements being sought and obtained with any existing tenants and the Golden Bay Medical Centre Community Trust and the St John Ambulance regarding their improvements.
- Agreement being reached with the Golden Bay Medical Centre Community Trust on the retention of the residence for use as a doctor's residence or similar use.
- Possession and settlement date to occur after any new medical facility is operational.

These actions to be delegated to the Chief Executive and Manager Property Services.

4 That subject to the issues in "3" being satisfactorily resolved the net proceeds of any sale after deduction of subdivision expenses, sale expense, value of other improvements etc be made available to the Golden Bay Community for; either:

- the construction of a new medical centre; or
- the construction of a new integrated health facility.

With a report and recommendations on the allocation of the net proceeds to be brought to Council at a later date.

J K Frater
Manager Property Services

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