Notice is hereby given that a meeting of the Community Strategy Committee will be held in the Council Chambers, James Cumming Wing, 10C Ardwick Street, Gore on Wednesday 5 August 2020 at 3.30pm.

Stephen Parry
Chief Executive
28 July 2020

Agenda

1. Gore Library: Upgrading
   Pages 1-16

2. Streets Alive Project – Innovating Streets Update
   Pages 17–19

3. Post-COVID-19 Response
   Pages 20-22
COMMUNITY STRATEGY COMMITTEE AGENDA

WEDNESDAY 5 AUGUST 2020

1. GORE LIBRARY: UPGRADING

(Report from Chief Executive 22.07.20)

1. Introduction

1.1 The future of the Gore Library has been foremost in the minds of elected members and the public since it was relocated on a temporary basis to the hall of the James Cumming Wing last year. This report profiles the evolution of the quest to improve the standard of accommodation for the library service together with a suggested pathway for realising a vision, replete with community engagement and input into the development process.

1.2 The recent introduction of central government funding for an upgraded library service along with community rooms, will also be covered, including an indicative timetable for the key milestones of the development project.

2. Background

2.1 The existing Gore Library building, which has a floor area of approximately 760m² was constructed in 1983. The building whilst serviceable in regard to operational needs that reflected library functionality of that era, has been afflicted with chronic and unresolved leaky roof issues. Longstanding members of staff have reported that the building leaked almost from the time of being opened.

2.2 Over the years, attempts to permanently fix the numerous leaks gave rise to considerable frustration. Inevitably these frustrations spilled over to a deep-seated resolve to fix the leaking roof once and for all.

2.3 Consequently, a sum of $1.1 million was allocated in the 2018-28 Long Term Plan to introduce a new roof for the building. The plan was not a mere recladding of the existing roof profile, but a completely new roof design aimed at eliminating the deficiencies with the original architectural design conceived nearly 40 years ago. Elected member unease about the cost of introducing a new roof design for the building together with questions around whether there was a better alternative location for the library in Gore, led to a cautious approach being taken to the new roof project.

2.4 An architect was commissioned to prepare a design for the new roof which would complement development plans for the Arts and Heritage precinct. These development plans had been accelerated when in April 2019 the Maruawai centre development and Hokonui Moonshine Museum upgrade
were awarded a substantial grant via the Provincial Growth Fund. However the euphoria of the announcement of this funding was dimmed somewhat by the discovery that the library building had the presence of black mould. This black mould, coupled with the existence of asbestos, necessitated closure of the library service and its relocation on urgent basis to the hall of the James Cumming Wing. This relocation was effected in May 2019. Once vacated, the black mould was eliminated via the removal of all wall linings.

2.5 Shortly afterward, in June 2019 the Council entered into a formal agreement with Mataura Valley Milk Limited in regard to a payment of a financial contribution for the new Mataura Valley Milk infant formula plant at McNab. The contribution assessed under the Council’s policy contained within the District Plan, provided a sum of $958,000 to be paid over a four-year period commencing in August 2021. Part of the agreement with Mataura Valley Milk Limited, is that the financial contribution will be directed to an upgraded library service.

2.6 In the latter half of 2019, two presentations to the Council in a workshop environment were given to elected members. The first of these presentations held in October 2019 focused more on redevelopment opportunities within the existing library building.

2.7 Subsequently in November 2019 following the Council elections a presentation was provided by the Libraries Manager to the new Council. This presentation focused on what a modern library service offers to the public and arrived at a conclusion that the existing floor area of 760m$^2$ was insufficient to be able to meaningfully provide the range of services now expected in a library.

2.8 Later that same month, the Council awarded a contract for the comprehensive upgrading of the civic administration building. This decision triggered the need for the Council staff to vacate the administration building and occupy the community rooms within the James Cumming Wing with effect from December 2019. Therefore as the year came to a close, the community facilities within the James Cumming Wing came to be completely occupied by Council functions, albeit on a temporary basis.

2.9 As an appetiser to a significant report being placed on the agenda of the first Community Strategy Committee meeting, the Libraries Manager provided a presentation to the Council in a workshop environment in late January 2020. This presentation explored the scope of a modern library service further, suggested an ideal size and speculated on possible options in which such a service could be domiciled.

2.10 The thinking at that time was that a report to the Committee would trigger wider debate in the community about options for the library, with a view to profiling these options with a preferred choice in the next iteration of the Long Term Plan, due to be shared with the community in March 2021.
However the sudden arrival of Covid-19 scuttled those plans and resulted in the cancellation of the first meeting of the Community Strategy Committee.

2.11 Not long after the imposition of level 4 lockdown commenced on 25 March 2020, the Council was made aware of the Government’s “Shovel Ready” funding initiative. This was a turbo-charged process where the Government sought expressions of interest for projects that were shovel ready, being defined as “ready to be constructed within a six-month period”. Further refinements of the evolution in its thinking extended this out to 12 months. The important point however is that by the time the Council was in receipt of the approved application form, less than 10 days were available to be able to complete the documentation, have the Council approve the suite of projects and submit all applications by the due deadline of Tuesday 14 April at 5.00pm. This necessitated a small group of senior staff working around the clock over Easter to complete applications for 10 separate projects and submit them to the Council for approval at an extraordinary meeting on 13 April.

2.12 One of these projects related to the redevelopment of the James Cumming Wing in response to the Government’s urging of bigger projects that could create and sustain employment. The thinking behind this project was to provide an expanded library utilising the ground floor of the James Cumming Wing, with new refurbished rooms to be placed on the first floor. In tandem with this redevelopment would be a comprehensive upgrade of the exterior so that it was complementary to the newly renovated civic administration building. A rough order of cost for this admittedly embryonic concept, was obtained at short notice by a quantity surveyor. This cost was $5.5 million.

2.13 Subsequently on 21 May 2020, the Council received notification that this particular project had not been successful in being included in a shortlist of 801 projects out of the over 1900 applications received that had been forwarded to the Government for closer consideration. However it was made clear in the letter received that the application, rather than being declined outright, had been referred to the Provincial Growth Fund for evaluation. Nothing further was heard for a period of approximately six weeks, when a phone call from two senior officials in early July suggested that this project was now viewed as a serious candidate for “Shovel Ready” funding. This resulted in the Minister of Infrastructure, Hon Shane Jones announcing a grant of $3 million for the project when visiting Gore on 15 July 2020.

2.14 The principal reason for providing this extended commentary on the background to this project, is to illustrate that there have been a number of unanticipated events and influences that have caused the library to be in the situation it finds itself in. If anything, the library has been waiting patiently in the wings for a long-term solution while the Council has grappled with larger infrastructure projects.
3. **The James Cumming Wing**

3.1 One of the advantages of having the library temporarily located within the James Cumming Wing hall, has been the ability to assess the suitability of this location in regard to meeting needs of library customers. There is no doubt that the hall is cramped and unsuitable as a permanent library location. However there has been a good level of support from customers for the central location of the James Cumming Wing, particularly for elderly members of the community, a good number of whom reside in close proximity to the James Cumming Wing complex.

3.2 A question often raised in the community is whether the Council has a legal right to occupy the James Cumming Wing on a permanent basis for any of its activities. This view has become somewhat of an urban myth which hopefully was dispelled when the Council commissioned a legal opinion from local senior lawyer Mr John Bannerman. This opinion was furnished in response to concerns when the Council staff first started to occupy some rooms in the James Cumming Wing complex in 2008 when space within the existing civic administration building proved to be inadequate to service present day needs. For completeness a copy of this opinion is attached.

3.3 Any redevelopment of the James Cumming Wing will certainly need to be sensitive to its history and the role that James Cumming provided as a progenitor of the development that we have today. However, as the attached opinion from Mr Bannerman points out, the Council as a significant funder of the development is legally entitled, subject to community consultation, to utilise the buildings as it sees fit.

3.4 But this does not diminish the role that James Cumming played in establishing the James Cumming Wing. The James Cumming Wing Trust contributed 35% of the development cost of the facility when it was opened in 1974. The Gore Borough Council, Henrietta Campion Fund and Gore Lions Club were the other major funders.

4. **What is meant by a modern public library?**

4.1 These days people expect a library to be much more than simply books on shelves. The modern library is still about books, learning and leisure reading but is also geared towards social spaces, community spaces and digital connectivity. It is a facility where ideas are shared, is a neutral and trusted place and where people can meet, talk and learn.

4.2 A modern library supports print, digital and other literacies for all ages. When young people engage with their library they are more comfortable using libraries for enjoyment and lifelong learning.

4.3 Libraries give people a sense of inclusion, comfort and social wellbeing. A wide range of individuals use the library including whanau/families, children,
teens, retired people, groups, people who are unemployed or under-employed, newcomers and visitors to the District. It really is a diverse customer base.

4.4 When it comes to uses within a library, our Libraries Manager has identified the following examples:

- For children it might be story-time, baby-time, kids crafts, activities, games, homework club …
- For adults it might be finding a book to read, a topic to learn about, a DVD to watch, job seeking and applications, attending an interview, meeting Workbridge staff …
- For students it might be finding reference resources, solo study, group study, Correspondence School meetings, one-on-one tutoring, sitting distance exams …
- For engaging socially, the library can offer opportunity for casual discussion, a place to meet friends; or more formally it might be a book discussion group, new migrant get-together, a club meeting.

5. Community Rooms

5.1 With the proposed incorporation of an enhanced library area within the James Cumming Wing complex, a number of questions will no doubt emerge in the public’s mind. The number of rooms to be provided for community usage, the size of such rooms, their location within the complex together with the relationship with the library activity are all likely to pique the interest of a wide cross-section of the community.

5.2 In making the application to the Shovel Ready fund for consideration, the Council made it quite clear the conversation via formal engagement would need to take place with the community to ascertain views on these types of questions. Such an approach will enhance the prospects of a design emerging which reflects community wishes for community space, within the limitations available in regard to the existing footprint of the building.

5.3 A key point to emphasise when contemplating answers to some of these questions is that the needs of the community have changed considerably since the original layout of the James Cumming Wing was conceived approximately fifty years ago. By way of illustration, a need for the community hall has perhaps been surpassed by other amenities that have been provided in the community since the James Cumming Wing was opened in 1974. On the flipside, the need for warm, natural light-filled rooms that can be used in a variety of ways with access to kitchen facilities appears to be as relevant today as it was when the James Cumming Wing was designed in the early 70s.

5.4 It is important to remember that the project involves a complete gutting of the interior layout of both floors of the complex and the development of contemporary, appealing spaces that will be fit for current and future needs.
Like the adjoining civic administration building, the basic structure of the building will be retained, but once demolition has exposed the structure, then in effect a new construction project ensues. Community input into completing this construction picture will be essential to deliver an outcome that meets expectations.

6. **Temporary accommodation**

6.1 The experience of the upgrade of the civic administration building has been instructive in relation to answering the question of whether a renovation of this magnitude can work around an existing operation. Given the invasive and dangerous nature of demolition work, including asbestos removal, the inevitable conclusion already reached is that the library unfortunately will have to once again be placed in another temporary premises. Such a move is in the best interests of both staff and ensuring the most efficient means by which the building work can be undertaken.

6.2 As much as the staff would like to stay put and not have to face up to yet another shift, the reality of the work being contemplated is that the library remaining as is during the construction process would be hazardous and enormously frustrating for Council staff, library customers and the building contractor. At this point in time a temporary location for the library has not been identified. However given the tight timelines for undertaking this project which will be touched on below, a suitable alternative location is a matter of high priority.

7. **Community engagement**

7.1 As already mentioned in this report, the need for meaningful community engagement is an important aspect of developing an enduring solution for this exciting project. Therefore, the Council’s Communications Manager has developed a plan for early engagement with the community, soliciting views and ideas on the composition and types of activities to be accommodated within both the library and neighbouring community rooms.

7.2 A copy of the engagement plan prepared by the Communications Manager is attached. This engagement with the community will assist in formulating and finalising a concept plan that can then be approved by the Council before commissioning a detailed design.

8. **Significance**

8.1 The Council’s Significance and Engagement Policy provides for the following thresholds as a criteria for determining significance:

- Expenditure of more than $1 million;
- Community interest – taking into account the extent to which individuals, groups, organisations and sectors of the community will be affected by Council decision;
• The impact on the Council’s capacity and capability to carry out any activity identified in the 10 Year Plan, Annual Plan and financial strategy; and

• Inconsistency with existing policy and strategy.

8.2 The district libraries are specifically mentioned as a strategic asset in this policy.

8.3 As mentioned earlier, a sum of $1.1 million has already been included in the 2018-28 Long Term Plan for replacement of the existing Gore Library roof. With this sum of money already being allocated to an upgraded library facility, and factoring in nearly $4 million of funding coming from central government and MVM respectively, the proposed project cost of $5.5 million is not considered to be of a magnitude that requires formal amendment of the Long Term Plan. This is due to the fact that the ratepayer input into an upgraded library, including new community rooms, is moving from $1.1 million to $1.5 million which is an increase of $400,000 on what was contemplated in the Long Term Plan.

8.4 That all stated, the Council needs to be committed to undertaking formal engagement with the community as set out in the attached plan of the Communications Manager. However, based on the available costings of this project at this point in time, the decision facing the Council is not deemed to be significant in a legal sense with reference to the Local Government Act 2002.

9. Design team and scheduling

9.1 It is proposed that the same project team that has designed and managed the upgrade of the civic administration building be retained for the new library and community rooms project. Contrary to rumours circulating in the community, the civic administration building has proceeded very smoothly and remains on budget.

9.2 The design team overseen by project manager Signal Management is very experienced in working together and has the benefit of working with the Council on the adjoining civic administration building. Further, this suggestion will ensure that there is a consistency of application to design, particularly to the exterior where the hope is that a complementary and sympathetic approach to what has occurred with the civic administration building will be adopted with the James Cumming Wing complex in order that it is appealing and compelling as an overall architectural package. Based on one planning session with this design team the following “first draft” of a design and construction timetable has been developed:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Engagement</td>
<td>August ‘20</td>
</tr>
<tr>
<td>Agreed Floor Plan and Elevations</td>
<td>October ‘20</td>
</tr>
<tr>
<td>Library Relocated</td>
<td>February ‘21</td>
</tr>
</tbody>
</table>
10. Conclusion

10.1 Just one month ago, senior management and councillors were turning their minds as to what could be done to give the exterior of the James Cumming Wing a minor facelift in order that it did not look like a very poor second cousin to the upgraded civic administration building. At that time complete renovation of the interior was a loose concept that may have been a hopeful inclusion in our initial draft of a long-term plan. However the announcement of “Shovel Ready” funding of $3 million has catapulted this project to the front of the priority queue and it now stands poised for execution.

10.2 The James Cumming Wing and the existing library have faithfully served the Gore District community for nearly 50 years. There is now a golden opportunity to design and construct a solution that will benefit current and future generations and make a statement that endorses the Council’s brand of Rural City Living and provides further evidence that Gore prefers to customise its solutions rather than plucking something off the shelf. Community input will be vital to ensuring that the optimal solution is secured in the final design.

RECOMMENDATION

THAT this report be received,

THAT the Council endorse the engagement Plan attached to this report,

THAT the Council note the rough order of cost of $5.5 million for this project,

THAT the Council note that the project will be funded by a government grant of $3 million, financial contributions from Mataura Valley Milk in the sum of $958,000, with the balance to be contributed by the Council by way of a loan,

THAT the Council endorse the engagement of the design team utilised for the civic administration building upgrade for this project, and the engagement of Signal Management Group as project managers,

AND THAT it be noted that a further report will be forwarded on the results of community engagement, together with updated costings and design.
The Council is in the unique position to be able to build a new Gore library and community space to serve today’s residents and well into the future.

It will be important to have conversations with library and James Cumming Wing users, as well as the wider community, to assist the Council in planning a building not only for current users, but also potential new customers.

The proposed community engagement plan is aimed at finding out information such as:

- What do people enjoy the most about the library?
- What are the areas they feel need improvement?
- What services do they use the most?
- What barriers do they believe there are for others to use the library?
- What services do they want in a new library?
- What spaces do they want in a new library?

The Council will use a variety of channels. These include our new digital engagement platform Let’s Talk Gore District. This will be the information hub for this project and be highly interactive. We will be able to offer forums for people to leave comments or photos, create questionnaires, and provide updates as the project progresses.

It is also planned to have targeted engagement via a series of informal gatherings where people can to talk about the project, and share ideas and visions. These will be curated by an experienced facilitator.

It is recommended the community conversations take place before the presentation of any architectural plans, as there are likely to be ideas gathered that can be included in the initial draft designs.

When draft designs have been created, it is equally important to re-engage with people to explain what suggestions have been incorporated and the reason why other suggestions were not.

Promotion of the campaign will be across all usual channels i.e. newspaper, radio, social media, Antenno. There will be hard copies of digital content as much as possible.
The engagement plan includes:

- Developing content and messaging
- Creating the online engagement portal and load content/images
- Creating and sending out invitations to community sessions
- Creating social media posts, advertising and media information
- Conduct a series of community sessions – estimate 20 people per one hour session
- Collate feedback and provide to project team
- On delivery of draft plans, provide feedback to the community and re-engage.

Deliver time is estimated to take about four weeks.
Our Reference
RJB Bannerman
1 September 2008

The Chief Executive Officer
Gore District Council
PO Box 8
GORE

JAMES CUMMING WING

Introduction
You have asked for a legal opinion in regard to:

(a) the Council’s ability to take over two rooms of the first floor of the James Cumming Wing for the purposes of accommodating information and technology staff;

(b) the identification of any impediments contained in the will of the Late James Cumming or any subsequent trust deed developed from that will; and

(c) the merits of seeking a declaration from the High Court in terms of a contemporary interpretation of the will of the Late James Cumming.

You advise that the Council has been approached by representatives of Federated Farmers and the Cumming family cautioning against the proposed move into the James Cumming Wing by Council staff.

We are told that these interested parties, together with Mr Gilbert Winwood a former Gore Borough Town Clerk, have referred to the trusts of the Will along with a 1971 High Court judgment in relation to the James Cumming Trust.

We have obtained a copy of the 1971 High Court judgment. We have also had access to background information held with the James Cumming Trust records at Malloch McClean. The High Court judgment file has been uplifted from Archives New Zealand and is now available at the Invercargill High Court for inspection if necessary to clarify any issues in relation to this matter.

We have also obtained a copy of the Trust Deed relating to the James Cumming Trust from Malloch McClean. We note a search of the incorporated societies register show that the James Cumming Trust was dissolved in 1992.

The Proposal
At issue is the Council’s proposal to take over two rooms of the first floor of the James Cumming Wing for the purposes of accommodating information and technology staff. Council reports indicate that three new staff members would be difficult to accommodate within the Council’s existing administration building. This is partly due to the need for designated interview rooms on both floors of the administration building.

After some deliberation the Council is of the view that the most cost effective way of achieving a solution is to utilise two rooms on the first floor of the James Cumming Wing, namely the Waikaia and Waipahi Rooms, to house the information and technology department. These rooms have limited public use and it is considered...
that there would still be a number of other rooms available for public use within the James Cumming Wing to satisfy public demand.

We understand that utilising the Waipahi and Waikaia Rooms to accommodate the information and technology department will not involve any structural alterations to the layout of the James Cumming Wing. All that is intended is that the two rooms in question will no longer be available for public hire for such time as they are being used by Council staff.

The proposal is likely to be semi-permanent. This is because at present the only practicable alternative solution to alleviating staff accommodation pressure would be to extend the existing administration premises. This option is not considered a cost effective solution having regard to the modest cost of effecting changes to the two rooms on the first floor of the James Cumming Wing compared to the cost of extending the existing premises. Further the loss of revenue from the Waipahi and Waikaia rooms being withdrawn from public use would be quite small.

The Council considers the number of other rooms remaining available for public use should be more than adequate to satisfy current demand for use by community organisations.

Executive Summary
It is our opinion that:

1. The charitable trusts under the Will of the Late James Cumming and the James Cumming Trust that was subsequently established were effectively brought to an end under the Scheme approved by the High Court in 1971 pursuant to the Charitable Trusts Act 1957. As a result of the approval of the Scheme, all the funds held by the James Cumming Trust and the remaining residue of the Estate of the Late Mr Cumming were transferred to the Gore Borough Council to be contributed to the cost of building the James Cumming Wing without any further trusts being interposed on these funds or the James Cumming Wing.

2. The James Cumming Wing is therefore no longer subject to any express or specific trusts that give any organisation or section of the community a proprietary interest in the James Cumming Wing or any other priority with regard to the use of this facility. As owner of the James Cumming Wing the Council is therefore entitled to deal with the James Cumming Wing and its use in accordance with its powers of management of Council property.

3. We see little merit or need for the Council to re-litigate issues around the interpretation of the Late Mr Cumming’s Will having regard to the background to the establishment of the James Cumming Wing and, in particular, the manner in which the trusts created under the Will of the Late Mr Cumming were dealt with pursuant to the Scheme approved by the High Court.

4. There is no legal impediment to the Council taking over two rooms of the first floor of the James Cumming Wing for accommodating Council staff. The Council is the owner of this property and this proposal will not amount to a substantial deviation from the purposes for which the James Cumming Wing was established. In other words notwithstanding the two rooms under consideration no longer being available for public use, the James Cumming Wing will continue to be used predominantly as a community centre with more than adequate facilities to accommodate public demand.

5. The Council’s proposal to use two rooms of the James Cumming Wing to accommodate staff, and whether the Council proceeds with the proposal, should be decided on the basis of prudent management of Council assets by assessing the benefits and costs of different options and acting in the best interests of the District.

Background
The Late Mr James Cumming died on 2 September 1946 and Probate of his Will dated 12 June 1946 was granted to the Public Trustee.

In 1949 the High Court in re Cumming made Orders determining questions relating to the Trusts created by the Will so that the Public Trust could thereafter hold the trust funds upon the trusts as effected by that Order. In 1962 the James Cumming Trust was formed and incorporated pursuant to the Charitable Trusts Act 1957. The Board of the Trust was made up of members appointed by organisations who were intended to benefit from the trusts created pursuant to the Will. Once this Trust was formed its Board assumed responsibility for administration of the trusts.
In broad terms, under the trusts created by the Late Mr Cumming's Will, the residue of his estate was left for the establishment and maintenance of a hall or other meeting place for farmers and for educational societies at Gore.

Up to 1/3rd of the capital was to be held for the purchase or erection of such a hall, and the Will indicated the various types of organisations which were intended to receive the benefit of the hall. For many years attempts were made to find a way of implementing the Trust by the erection or acquisition of a suitable hall.

All these attempts were unsuccessful, mainly because the Trust Fund was insufficient to provide and maintain a hall of a suitable size. Implementing the Trust was also further complicated by the fact that there was a lack of unanimity among the various organisations affected.

From the outset the Board was of the opinion that in order to fulfil the objects of the Trust any premises it either purchased or erected would have to be large enough to hold 300 to 400 people. It was the Board's opinion that it would be inexpedient or impracticable to settle for anything less.

More specifically other records show that in order to carry out the trusts under the Will the Board was of the opinion that a hall at a minimum would have to comprise:

(a) seating capacity for (say) 400 persons;
(b) a stage 30 feet deep;
(c) Two dressing rooms;
(d) One committee room (say) 30' x 15' in area;
(e) One committee room (say) 15' x 18' in area;
(f) Kitchen (say) 10' x 15' in area;
(g) Two toilets at the front;
(h) One toilet at the rear;
(i) Central heating;
(j) Brick or reinforced concrete construction.

Over the years, interested organisations brought various proposals to the Board which were rejected because they would be contrary to the terms of the Trust.

Over time it also became apparent that the funds available from the Trust would be inadequate to fulfil the terms of the Trust.

In 1968 the Board unanimously resolved to support a proposed Scheme whereby the Trust Funds would be applied towards the cost of erecting a building to be known as the "James Cumming Wing", which would form part of a community centre known as the "Gore Civic Centre".

The site for the Civic Centre was to be provided by the Council free of cost and consisted of around 1.5 acres of freehold unencumbered land which the Council had purchased.

It was intended that the proposed James Cumming Wing would only be part of a Civic Centre which would eventually incorporate:

1. a Civic Administration Building (this had already been completed at the time);
2. a Civic Theatre;
3. an Elderly Citizens Centre;
4. Winter (Botanical) Gardens;
5. the James Cumming Wing.

The whole Civic complex was to be vested in the Council which would be responsible for its administration, running costs and maintenance.

The plans for the James Cumming Wing presented to the Board included:

(a) A major hall to seat approximately 750 people;
(b) A lounge/reading/writing room which would cater for the needs of elderly citizens until the proposed Elderly Citizens Centre was erected. These rooms were to be erected on the ground floor and designed with the
needs of elderly citizens in mind. The rooms were to be available for casual use by the public at large and also available for certain conferences and meetings.

(c) A supper room to serve both the main hall and the lounge.

(d) Meeting rooms situated on the second floor and of difference sizes to cater for the needs of various organisations within Gore and the surrounding districts.

(e) A small theatre for holding lectures/adult education programmes etc.

It is evident that the proposed James Cumming Wing was planned to provide all the facilities envisaged by the Late Mr Cumming in his Will, but on a much greater scale in order to meet the needs of the general public of Gore and surrounding districts.

Records show that the Scheme was met with an enthusiastic response from the people of Gore and surrounding districts. It was also understood and made clear by the Council at the time, that while the associations and organisations entitled to participate in the benefits of the James Cumming Trust may avail themselves of the facilities to be provided by the proposed James Cumming Wing, no sections of the community would be treated differently from other sections in terms of use and charges for the facility.

No doubt the fact that the proposed James Cumming Wing was going to provide facilities well beyond those envisaged by Mr Cumming in his Will would have been a significant factor in the James Cumming Wing proposal receiving unanimous approval from members of the Board of the James Cumming Trust and of the bodies and organisations represented by members of the Board.

Approval of Scheme under Part III Charitable Trusts Act 1957 ("CTA")

The 1971 High Court decision involved the approval of a Scheme under the CTA. As the Council has been cautioned against the proposal to use part of the James Cumming Wing to accommodate staff with reference to this decision, we believe it would be helpful if we explained the process for approval of a Scheme under Part III of the CTA and what effect this had on the trusts created under the Will of the Late Mr Cumming.

Where the objects of a charitable trust fail, there are two possible consequences - either the property held on trust can be applied for another charitable purpose, or the whole gift fails.

Reasons for failure of a charitable trust include where the stated purpose of the trust is impracticable or inexpedient, or where the amount available from the trust is inadequate to carry out the purpose of the trust. Where failure occurs for any of these reasons s32 of the CTA provides that the property of the trust must be disposed for other charitable purposes.

Where the Trustees of the charitable trust desire that the property of the trust is dealt with in accordance with s32 of the CTA they are required to prepare a Scheme for the disposition of the trust property.

The Scheme is then submitted to the Attorney-General for a report. The Scheme and that report are then filed in the High Court, with background information, the history of the trust, and the reason for the Scheme contained in supporting Affidavits.

A date for hearing is allocated by the Court and the Scheme then publicly advertised. The Scheme can be the subject of objection by any member of the public. The Scheme can be approved by the High Court with or without modification.

Before the Court can approve a Scheme there is a need to establish that it has in fact become impossible, impracticable or inexpedient to carry out the charitable purposes of the trust in respect of which the Scheme has been prepared, otherwise the Court has no jurisdiction to approve the Scheme.

Once jurisdiction is established the provisions of s32 of the CTA can be invoked whereby the property of the trust can be "disposed of for some other charitable purpose".

Case law has held that in deciding whether to approve a Scheme under s32, the Court having found that it is impossible, impracticable or inexpedient to carry out the terms of the trust as directed by the Settlor (in this case the Late Mr Cumming) the Court owes a duty to the Settlor of the trust property to dispose of it as nearly as possible in accordance with the intentions of the Settlor in establishing the trust.
It has been held that the Court owes a duty to those proposed to be benefited by the trust and to the public generally to dispose of the trust fund or property as nearly as possible in accordance with the charitable purpose of the trust and in such a way as will best serve the interests of those intended to be benefited.

In this case it is clear from the comments of Quilliam J. the Court was perfectly satisfied on the evidence that it could regard it as impracticable or inexpedient to attempt to carry out the objects of the James Cumming Trust in its precise terms.

The Court came to this conclusion primarily because all attempts at implementing the Trust had been unsuccessful for the reason mainly that the trust fund was insufficient to provide and maintain a hall of suitable size. Further the Court was satisfied that the James Cumming Wing, which would incorporate a separate hall and other rooms and facilities, would enable the original purpose of the trust under the Will of the Late Mr Cumming to be substantially fulfilled. Indeed, Quilliam J. in his decision went on to congratulate all interested organisations for agreeing to a solution whereby they had managed to preserve as nearly as possible the spirit of the original trust.

In approving the Scheme, the Court was therefore satisfied:

(a) that it was impracticable and inexpedient to carry out the purpose of the James Cumming Trust; and
(b) that the Scheme prepared by the Trustees for the transfer of the capital and accumulated income to the Gore Borough Council to be applied towards the erection of a community Centre, namely the James Cumming Wing, would substantially fulfil the purpose of the original trust created pursuant to the Will of the Late Mr Cumming.

The Scheme approved by the High Court involved the James Cumming Trust parting with the legal ownership of the whole of the trust funds in the residuary estate of the Late Mr Cumming, which funds would be used as a contribution to the cost of the James Cumming Wing, such Wing to be owned by the Gore Borough Council.

It should be noted that while the entire funds of the James Cumming Trust and the residue of the Estate were transferred to the Gore Borough Council pursuant to the Scheme approved by the High Court, these funds were insufficient to cover the total cost of construction, and that the remaining cost of the James Cumming Wing was funded by the Gore Borough Council, including the land on which the James Cumming Wing was erected. It was envisaged that as owner of the James Cumming Wing, ongoing management and maintenance of the James Cumming Wing would be the Council’s responsibility.

Analysis
It is important to understand that while it is a requirement under a Scheme approved under the CTA that the property of the trust to be disposed of for charitable purposes as nearly as possible to the purposes of the original trust, a “charitable purpose” is quite distinct from a trust.

The charitable purpose for which the Scheme was approved was the construction of a community centre to be known as the James Cumming Wing. The purpose of the Scheme was to be achieved by all the funds of the James Cumming Trust and the residue of the Estate of the Late Mr Cumming being transferred to and vested in the Gore Borough Council to assist with the funding of the new community centre.

These funds were not vested in the Council subject to any trust. The only obligation the Scheme imposed on the Council was a fiduciary duty to use the monies that were transferred to the Council for the purpose of building the James Cumming Wing. The Scheme submitted to the Court for approval did not contemplate the creation of any subsequent trust in relation to the James Cumming Wing and no direction was made by the Court for the James Cumming Wing to be held by the Council on any trust. As mentioned, the Court has the power to approve a Scheme with or without modifications, so a direction could have been made to create a subsequent trust in relation to the James Cumming Wing if that had been considered appropriate.

Having regard to the background to the Scheme that was approved it is clear that the objective of the Scheme was to enable a more effective use of the funds available from the James Cumming Trust and the residue of the Estate by those funds being contributed to the cost of construction of the James Cumming Wing thereby bringing closure to the charitable trusts established by the Will of the Late Mr Cumming.

In our opinion, therefore, the James Cumming Wing is not held on any express charitable trust. This would be incompatible with the Council having full ownership and receiving all income from the James Cumming Wing, as well as being responsible for management and maintenance.
That said we would not go so far as to say that the Council may totally disregard the purposes for which the James Cumming Wing was established when making decisions about the use and management of this facility. Arguably while the Council does have ownership of the James Cumming Wing, a constructive trust may by law attach to the property which could provide members of the community with some remedy in the event that the Council proposed to make a major deviation from the purposes for which the James Cumming Wing was established. In our opinion the proposed use of two rooms to accommodate staff would not substantially undermine the purposes for which the James Cumming Wing was established.

The merits of seeking a Declaration from the High Court of the contemporary interpretation of the Will

A declaratory judgment is a formal statement by a Court pronouncing upon the existence or non-existence of a legal state of affairs. While a declaratory judgment pronounces upon a legal relationship it does not contain any order which can be enforced against a party. In other words the declaration simply pronounces on what is the legal position.

While declaratory judgment proceedings may be seen as a relatively quick and efficient means of bringing a legal issue before the Court for determination the Court has a very broad discretion to refuse to grant the relief sought. An applicant therefore needs to convince the Court it should exercise its discretion to make the relevant declaration.

In our opinion it is very questionable whether the Court would accept jurisdiction in relation to any proceedings aimed at re-litigating or perpetuating issues over the interpretation of the trusts created under the Late Mr Cumming’s Will, particularly because these issues have already been decided by the High Court with the approval of the Scheme in 1971 whereby the funds comprising the James Cumming Trust and the residue of the Estate of the Late Mr Cumming were vested in the Council, thereby bringing closure to the trusts established under the Will.

We therefore see no merit in the Council seeking a declaratory judgment from the High Court in regard to the interpretation of the Late Mr Cumming’s Will. This would seem to us to be pointless re-litigation of matters that were determined by the High Court in 1971 with the approval of the Scheme under the CTA.

We trust this opinion will provide some assistance to the Council when reaching a final decision on whether to proceed with the proposal to use two rooms of the James Cumming Wing to accommodate the Council’s information and technology department.

Yours faithfully
BANNERMANS

Per: 

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Partner

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2. STREETS ALIVE PROJECT - INNOVATING STREETS UPDATE

(Report from Roading Asset Manager – 23.07.20)

On 19 May this year, the Council endorsed the application to Waka Kotahi NZ Transport Agency’s Innovating Streets for People pilot fund. Approval was also granted for the 10% local share of $100,000 for this project (funded from the urban footpath rehabilitation budget).

The application was submitted in the New Zealand Transport Authority’s (NZTA) first round of funding on 8 May 2020.

The Council’s success in obtaining the funding was announced in mid-July: 13 July 2020 - Gore District Council gains major funding for the community project

The project successfully attracted $900,000 from NZTA for a community-driven project exploring low impact initiatives to make our streets more people orientated, vibrant, safer, and accessible for everyone.

The Longford shared bridge project, along with Ready for Living and the Gore District Council’s 2013 Streetscape Strategy, were all cited as key influential factors in being able to bring about transformational change so that pedestrian, cycling safety and simplicity of use is promoted.

Streets alive - project team
• Crs Bronwyn Reid and Richard McPhail (project champions)
• Ramesh Sharma (project sponsor)
• Peter Standring (project leader and Roading Asset Manager)
• Hashem Ramezan-zadeh (Project Manager Infrastructure)
• Sonia Gerken (Communications and Marketing Manager)
• Vivien Lightfoot (Communications and Engagement specialist - contractor)
• Anne Pullar (Community Development specialist and facilitator - contractor)
• Karla Brotherston (administrative support).

Community workshops
At the time of writing, three community workshops were planned for the week beginning 27 July 2020, with the aim of gathering initial ideas from invited representatives and other enthusiastic community members. The workshops aim to provide a foundation for further public conversations over the coming months; with the key objective being to obtain a good gauge of the community’s concerns and initial thoughts on what the future of Gore might look like. Anne Pullar will facilitate the workshops on behalf of the Council.

Communications
Work undertaken as part of the project set-up includes:
• Branding development - logo and illustration.

• A promotional video to garner enthusiasm and interest in ‘Streets Alive’ among the wider community. His Worship the Mayor introduces the project followed by a cross-section of Gore District residents sharing what they love about Gore. The video was launched at the workshops and shared via the Council’s communications channels.

• A webpage for Streets Alive has been created on the Council’s website: https://goredc.govt.nz/your-council/consultation/streets-alive-shaping-gores-future/

• A community engagement caravan has been purchased through project funding. It will be used ‘on location’ around Gore as a hub for talking with our community during the Streets Alive project. Ultimately, it will be available for upcoming community engagement projects, marketing and promotional events. Pictured below is the Waitaki District Council’s caravan, provided for illustrative/comparative purposes:

• The Council’s new digital engagement platform ‘Let’s Talk Gore District’ will provide an online hub link. An interactive platform, it will be a place where people can share and discuss ideas, complete a survey and converse around visual cues such as maps and photos.

Project schedule
The term of this project is July 2020 to June 2021. This project requires a high level of public engagement. The phases of work below will evolve as we progress with the open public discussions.
| 28 July – 1 August | **Community workshops**  
- Gauge community direction.  
- Public Licence to act. | - Build awareness of the project  
- Use the reference group to test conclusions  
- Share conclusions with the public. |
|-------------------|-----------------|--------------------------------|
| Mid-late August   | **Ideas gathering**  
- Encourage public participation | - Discussions with the general public  
- Discussions with Community groups  
- Use the reference group to test ideas  
- Share conclusions with the public. |
| September         | **Idea development**  
- Flesh out the ideas. Plan of work. | - Use the reference group to test ideas  
- Draft up the intended work. |
| October           | **Test ideas**  
- Share the programme of work. | - Use the reference group to accept the plan  
- Gauge response, make adjustments if needed  
- Share a plan with the public.  
- Council to approve the plan. |
| Mid-October – early November | **Begin trials** | - Continue to gather feedback. |

**RECOMMENDATION**

**THAT** the report be received.
3. POST-COVID-19 RESPONSE (Sonia Gerken)

(Report from Communications/Marketing Manager 23.07.20)

Purpose
This report provides an overview of the Council’s COVID-19 response taskforce and what it has achieved over the past three months.

Background
There can be little argument that 2020 has been, to quote the Queen, an *annus horribilis*. The big difference between the two civil defence emergencies we’ve been through is that where February’s floods were a sprint, COVID-19 is a marathon in terms of the Council’s response.

The need for a long term Council response was recognised during lockdown. Following a series of virtual meetings with business and community leaders, where the need for a trusted, central point of contact was discussed, it was decided to put together a community recovery taskforce.

The taskforce comprises elected members and staff, and is supported by Retail First.

As mentioned, the conversation with business and community leaders started in May with a series of zoom meetings. A common theme from those meetings was that Gore was as good a place as any for recover from the pandemic, given its strong agricultural-based economy and caring community.

Today, almost three months out of lockdown, the Gore District has not been immune to the fallout from COVID-19, but it’s fair to say the impact is less widespread than elsewhere in the country. Preparedness is essential as the Council, social services and businesses navigate unknowns - including changes in employment levels, demand for products and services, and the welfare of our people.

Think Local Buy Local Be Local
This short campaign was undertaken in May with the production of social media frames with the Love Gore Support Local message and a video.

The video featured not only retailers, but also tradespeople and agricultural contractors. It promoted a ‘buy from neighbours, not strangers” message and received great support from business willing to take part. It has received 16,500 views across the Council’s social media channels.

Consumer and Business Survey
Two digital surveys were carried out in June – one focusing on helping businesses understand their customers’ changing needs and the other to gauge business confidence in a post-COVID-19 environment.
The former attracted 142 respondents. While this may not seem a good response, it is among the highest number of respondents we have received for a retail customer-focused survey since GoRetail was formed.

Many of the themes were similar to previous survey ie better customer service, opening at weekends and uniformity in opening hours.

The business survey was sent to 184 subscribers on the GoRetail database and a Love Gore Facebook page post reached 667 people. In the end there were 35 respondents.

Over half (55%) of respondents represented the retail sector, 34% represented hospitality/tourism and services with the remaining in health, construction and farming. Overall, respondents were positive about the future.

The responses were:

How was your business tracking ahead of lockdown?
- 40% stated the were tracking positively ahead of same time last year
- 28% were behind/the same time as last year
- Remaining were neutral or preferred not to say.

How is your business tracking since Level One?
- 45% stated they were tracking positively - ahead of same time last year
- 32% were behind/the same time as last year
- Remaining were neutral or preferred not to say.

Over the next 12 months what do you anticipate with staff numbers?
- 17% say they will need to increase
- 71 % expect staff levels will remain the same
- 12% will reduce

What are your key concerns for the local economy?
- Many mentioned the impacts of the significant downsizing of H&J store (this was announced in the media the same time the survey went live) the gaps in our local retail offering that this will leave
- The need to ensure we keep the spend local buzz alive - widening beyond retail
- Don’t feel the true effects or impacts have been felt yet and concerns over potentially more job losses in the District
- Gore needs to maintain a strong retail & hospitality offering to drive traffic into the area and reduce reasons to shop out of town.

Te Kāpehu – Where Business and Community Meet
Launched last month, Te Kāpehu is a hub where the Council can coordinate, support and explore innovative solutions to assist businesses, individuals and community.
The Maori word for compass, Te Kāpehu is a community partnership to navigate the District’s future. Resourced by Gore Visitor Centre staff with support from the Council’s event coordinator, it will be point of contact for anyone needing information or help but not knowing where to find it. A good analogy is to think of it as a triage centre.

Contact can be made via a dedicated email, a 0800 number, or in person. Staff seek to understand the customer’s need and provide a referral to the appropriate local business or agency. Where required, the customer will be offered a supported self-service option to resolve their need.

RECOMMENDATION

THAT the report be received.