



# Newsletter

JANUARY 2010

## THE MUSIC SCHOOL ISSUE - WHAT'S HAPPENING



**North elevation of the proposed Music School**

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The following includes several extracts from recent newsletters put out by the Concerned Citizens Group, and Save Our Arts Centre Inc. The Civic Trust would like to gratefully acknowledge these sources.

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### **CIVIC TRUST SEPTEMBER SUBMISSIONS OPPOSING THE FUNDING OF THE MUSIC SCHOOL BY THE CHRISTCHURCH CITY COUNCIL**

In September the Civic Trust made submissions opposing the proposal as part of the CCC Special Consultation Process. This was a response to the the Council's decision to borrowing \$24.35M to build part of the Music School , and to the leasing of 0.2 hectares from the Arts Centre. The Council building company Civic Building Ltd would build the conservatorium and the University would recoup all capital and operating expenses by way of rent in a lease agreement to the City Council as

its landlord. The leases proposed are for 50 years in the first instance and thereafter 3 more periods renewal up to 200 years. During that time the CCC would effectively be the owner and manager of that part of the site. This unusual arrangement attracted over 500 submissions in opposition and only 30 in support. The consultation process was very active and generated a solid opposition and a high quality of submissions. Presentations on the 20<sup>th</sup> and the 27<sup>th</sup> September, were made to the City Council by the Chairman Tim Hogan for the Civic Trust, Malcolm Douglass Jane Soons and Elric Hooper for the Concerned Citizens Group. Unfortunately in spite of the relevant and logical arguments from all the submitters on planning, heritage, economic and legal grounds, when the vote was taken on the 12 November, the Mayor and six councillors voted in favour of the proposal.

Of the six councillors who voted against the

Mayor were; Helen Broughton, Norm Withers, David Cox, Yani Johanson, Sally Buck and Chrissie Williams and they are to be commended for their efforts in the midst of a very intense and biased mayoral led charge for the proposal.

The council's decision to facilitate and fund the project is to be regretted on financial as well as city planning grounds. The conditions attached to the Council's decision are complex with several provisos. The opposition to the proposal has been steadily gaining ground in the community even since that decision was made and it has been apparent that the basis for that decision has got weaker in the months since. Recent financial reports find the case for the proposal is even less solidly founded than when first proposed. The most recent poll by the Canterbury Institute of Architects shows 72% of its members are against the proposal with only 14 % in favour.

This is repeating the opposition shown with earlier polls and website information.

In spite of this councillors still chose to vote in support of the Council's proposal. This support by City Councillors appears to have been largely because it was financially neutral on the city rates. The debate effectively by-passed all the issues of principle as to the wisdom of the project and the appropriateness of the site. The fact that this was really an important strategic decision being made which would dictate the future strategies of both the Arts Centre as well as the University was not really at issue. With hindsight time has shown that preparing such detailed plans and sorting out the financial details for the proposed project without any early public consultation was a major blunder in this saga of mistakes. Also the wisdom of this whole proposal has still not been debated in public by the University of Canterbury, the Arts Centre or the City Council. It was presented to the public in July as a 'done deal'.

#### **DECEMBER 2009 HEARING DECISION**

On Monday 21 and Tuesday 22<sup>nd</sup> of December 2009 an interim injunction to delay the Resource Management Act hearings, was lodged by the Save Our Arts Centre Society Inc. (SOAC) that involved a preliminary hearing which took place before Justice Fogarty. Included among the concerns outlined by SOAC were the Arts Centre Trust Board's:

- changes to its Trust Deed in 1993,1998, 2003 and 2007 (These changes SOAC

contended were designed to enable development and increase tenant rents on this heritage site)

- the absence, in the Trust Deed, of any explicit powers that enable the construction of a University Music School on the Arts Centre site,
- the proposed Music School leases being an imprudent use of the Arts Centre Trust Board's powers,
- the improper acceptance of a re-subdivision of the six existing titles being proposed, without notification and separately from the land use consent.
- the processes of consultation and decision making used by the Christchurch City Council showed bias and pre-determination.

In his decision on Wednesday 23 December Judge Fogarty confirmed that the matter is one of 'widespread public interest'. The Judge was not prepared to serve an interim injunction to halt the Resource Consent proceedings but stated that there was a 'serious and arguable case' to be answered on the ultra vires issue and he chose a 'fast track' procedure to deal with this. This would enable the issues to be determined by the High Court in February parallel with, and before, the Resource Consent hearing is completed.

Justice Fogarty indicated that in these proceedings the three parties (The Arts Centre, The Christchurch City Council and the University of Canterbury), through the formation of the Joint Venture Company which is proceeding with the Music Conservatorium/ Music School application are all implicated.

He also considered that the site should be treated as one whole and if the subdivision is to proceed it should be 'bundled' with the Music School land use consent as provided for under Section 103 of the RMA. He noted that the Commissioners for the RC hearing will be determining this matter and the need for public notification by the 18<sup>th</sup> January.

The Judge referred to other SOAC complaints which had been lodged on 12 August with the Attorney General for which there had been no response. This response and that from the Crown Law Office are still awaited. These should desirably be available before the next High Court sitting following a pre Court Hearing conference now set down for February.

The Civic Trust as a partner in this issue with SOAC is directly involved in any pending High Court actions. It is likely that the outcome from this High Court case might lead to the Arts Centre and or the University deciding to give up the project. It could provide a formal recommendation that the Arts Centre Board amends its Trust Deed, e.g. to achieve a wider Board Member representation. Another aspect could be to require the Arts Centre Board to more actively pursue its site heritage and conservation master planning and have it debated publicly.

#### **WHAT ARE THE IMPLICATIONS OF SUPPORT OF THE FUNDING PROPOSAL BY COUNCILLORS**

The City Council's support of the funding proposal is 'subject to' several provisos the most significant from a Resource Consent point of view being :-

*(b) (i) A resource consent being granted to the Christchurch Arts Centre Board for the issue of a separate certificate of title for the land on which the new facility is to be built, on terms and conditions that are acceptable to the Trust Board and the Council.-and-*

*(b) (iii) resource consent being granted (for the music School) to the University of Canterbury on terms and conditions that are acceptable to the University, the Christchurch Arts Centre Trust Board and the City Council.*

As Civic Trust members will be aware, on the 20th November the University requested a deferment of the resource consent hearing, proposed to have commence on the 7 December

2009 until February of this year. This hearing is shaping up to be protracted, as it will be covering the planning, architecture, heritage and conservation areas. The Civic Trust the SOAC Society, and a total of 182 other submissions opposing the proposal were all lodged by the 2 November 2009. There were 29 submissions in support of the Music School.

#### **THE CONCERNED CITIZENS GROUP SUBMISSIONS**

The Concerned Citizens Group (CCG) will be making submissions. These will rely on the wisdom of retaining the Music School, in its entirety, at Ilam. The CCG will simply seek the policies inherent in the City Plan which recognises the differences between the Cultural 4 (Tertiary Education) Zone and Cultural 1 (Central City Heritage Precincts) Zone be adhered to. It is proposed that there be five CCG presenters; Margaret Austin, Jane Soons, Elric Hooper, Stewart Ross and David Hindin each describing different aspects on a personal basis.

#### **THE FEBRUARY HEARING**

The hearing begins on 15 February commencing 9-15am at the Christchurch Netball Centre Hagley Ave., where independent commissioners will consider the University of Canterbury resource consent application for the planned building. The Civic Trust would welcome the support of any members who are able to attend.

In addition the Civic Trust and SOAC will be making a submission this month on the Christchurch Arts Centre subdivision plan.

## **CIVIC TRUST FUND RAISING**

## **WE NEED YOUR HELP**

**As you may be aware the needs of both the Christchurch Civic Trust to fund potential court action is now urgent and we are committed to expert and technical. Although the Civic Trust is now well into fund raising it continues to seek your support.**

**The Trust's target is \$40,000.**

**Donations in either: \$50, \$100, \$250 or \$500 units or less are now being sought to be forwarded to**

**The Treasurer - Bruce Alexander  
Christchurch Civic Trust  
P.O. Box 1927, Christchurch 8140  
Direct Banking to Acct No 38-9003-0081396-00**

# PORT HILLS PARK TRUST COMMEMORATIVE PLAQUE UNVEILING

The Civic Trust Board would like to advise members  
that a commemorative plaque will be unveiled

on

**6 March 2010 at ? pm**

**in the reception area to Mt Vernon Park**

All Civic Trust members are invited to attend

## SUMMER LECTURE SERIES

### GOING GOING GONE

- |             |             |  |
|-------------|-------------|--|
| Lecture 1   | February 12 | The Lost Art of Christchurch<br>[by Neil Roberts]      |
| Lecture II  | March 12    | The Lost Heritage of Christchurch<br>[by John Wilson ] |
| Lecture III | April 09    | Topic to be announced<br>[by Malcolm Duff]             |

Southern Region manager New Zealand Historic Places Trust

All lectures will be held 12.-30 ~ 1.-30pm

at

**Fendalton Service Centre**

Cnr Jeffrey's & Clyde Rd

The views expressed in this publication are not necessarily those of the Christchurch Civic Trust

