



TR19.9982


Education Report: Auckland Education Reserves Trust 2018 disbursement

To:	Hon Chris Hipkins, Minister of Education		
Date:	8 February 2019	Priority:	Low
Security Level:	In Confidence	METIS No:	1175876
Drafter:	Lisa Sengelow	DDI:	s 9(2)(a)
Key Contact:	Katrina Sutich	DDI:	
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of report

This paper seeks your agreement to the Public Trust disbursing \$682,000 to the Council of the University of Auckland, in accordance with the Auckland Education Reserves Act 1912 and the Reserves and Other Lands Disposal Act 1940.

Recommended actions

The Ministry of Education recommends you:

- agree** that the Public Trust disburse \$682,000 of surplus Auckland Education Reserves Trust income to the Council of the University of Auckland.
 Agree / Disagree
- sign** the attached letter to Suzanne Griffin, Senior Trust Officer, to advise of your agreement to the proposed disbursement.
- agree** that this Education Report is proactively released as part of the next publication.

Agree / Disagree


John MacCormick
Acting Group Manager – Tertiary Education
Graduate Achievement, Vocations and Careers
Ministry of Education


Hon Chris Hipkins
Minister of Education

2/8/2019

17/2/19

Background

- 1 The Auckland Education Reserves Trust (the Trust) is administered by the Public Trust, and its assets are vested in the Public Trust.
- 2 Section 4 of the Auckland Education Reserves Act 1912 (the 1912 Act) requires the Public Trust to disburse surplus income from certain Trust properties in central Auckland to the Council of the University of Auckland (the Council).
- 3 Section 16(3) of the Reserves and Other Lands Disposal Act 1940 requires the Minister of Education to make an annual determination of the amount to be disbursed to the Council.
- 4 The Council has an ongoing resolution that it will use the disbursed funds for the purposes outlined in sections 4(a) and 4(b)(i) of the 1912 Act. These require the Council to spend one-third of the funds on hostel maintenance, and allow two-thirds to be spent on a range of activities to build and improve hostels.

Proposed 2018 disbursement

- 5 On 24 January 2019, Suzanne Griffin (Senior Trust Officer, Public Trust) sent letters to you and to the Ministry of Education, proposing that you make a determination for the Public Trust to disburse \$682,000 of surplus Trust income (held as at 30 April 2018) to the Council.
- 6 The Ministry supports the proposed disbursement.

Next steps

- 7 We recommend you authorise the Public Trust to disburse \$682,000 to the Council.
- 8 We have prepared a letter to Suzanne Griffin on your behalf to advise her of your decision on the proposed disbursement. We recommend you sign the letter that is attached as Annex 1.

Proactive release

- 9 It is intended that this Education Report is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

Annexes

Annex 1: Proposed letter to Suzanne Griffin, Senior Trust Officer, Public Trust

Hon Chris Hipkins

MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services



18 FEB 2019

Suzanne Griffin
Senior Trust Officer
Public Trust Central
PO Box 31543
Lower Hutt 5040

Dear Suzanne,

Auckland Education Reserves Trust

Thank you for your letter of 24 January 2019, seeking a determination in accordance with section 16(3) of the Reserves and Other Lands Disposal Act 1940.

I agree with the Public Trust's proposal to disburse \$682,000.00 of surplus rental income from the Auckland Education Reserves Trust (the Trust) to the Council of the University of Auckland (the Council).

I hereby determine that \$682,000.00 be disbursed by the Public Trust (as administrator of the Trust) to the Council, to be used for the purposes specified in sections 4(a) and 4(b)(i) of the Auckland Education Reserves Act 1912.

Please provide a copy of this letter to the Chair of the Council.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'CH', written over a large, light grey watermark that reads 'Privately Released'.

Hon Chris Hipkins
Minister of Education



Rec'd 28/1/19

Public Trust Central
Level 6-7, 40-42 Queens Drive, Lower Hutt 5010
PO Box 31543, Lower Hutt 5040
Telephone 0800 371 471
Website www.publictrust.co.nz

24 January 2019

The Group Manager
Tertiary Education
Ministry of Education
PO Box 1666
Wellington 6140

Dear Sir/Madam

AUCKLAND EDUCATION RESERVES TRUST
Submission to the Minister for Education

The terms of this Trust require that Public Trust distribute such amount of income as the Minister for Education determines to the Council of the University of Auckland to be applied by the Council for students hostels or other purposes as the Council from time to time decides. The consent of the Minister for Education is required in accordance with Section 16 (3) of the Reserves and Other Lands Disposal Act 1940. Distributions are usually effected annually.

Attached is a submission recommending that the Minister determine that \$682,000 of accumulated Trust income held as at 31 March 2018, paid to the Council of the University of Auckland and that sum being applied by the Council as follows:

1. A third on the maintenance of any one or more hostels for students established by the Council
2. The remaining two thirds to be paid to a fund which shall be used for all or any of the following purposes...
 - the establishment, building, maintenance, repair, renovation, extension, rebuilding, alteration, management, decorating and furnishing of hostels for students of the University

The submission is self explanatory, but should you require any further information please contact me.

Please advise if the the Minister approves of the proposed grant.

Yours sincerely

Suzanne Griffin
Senior Trust Officer
Telephone direct s 9(2)(a)
Email [REDACTED]



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24 January 2019

The Minister for Education
Parliament Buildings
Wellington

Dear Sir/Madam

AUCKLAND EDUCATION RESERVES TRUST

Summary

Public Trust proposes that the Minister for Education:

Determine, in accordance with Section 16(3) of the Reserves and Other Lands Disposal Act 1940, that an amount of \$682,000 of accumulated Trust income be disbursed to the Council of the University of Auckland and in accordance with Sections 4(a) and 4(b)(i) of the Auckland Education Reserves Act 1912, the Council apply the funds in the following manner:

- One third on the maintenance of any one or more hostels for students established by the Council
- Two thirds to be credited to a fund that will use all or any of the funds for the purposes of the establishment, building, maintenance, repair, renovation, extension, rebuilding, alteration, management, decorating and furnishing of hostels for students of the University

Background

Public Trust administers the Auckland Education Reserves Trust. The major asset of the Trust is a valuable piece of land situated in Queen Street, Auckland and bounded also by Darby, Elliott and Victoria Streets, which is vested in Public Trust in terms of the Auckland Education Reserves Act 1912. The land is subject to a long-term lease.

Section 4 of the 1912 Act governs the distribution and application of funds from the Trust. It requires, subject to section 16 (3) of the Reserves and Other Lands Act 1940, the rents and profits of the Queen Street property to be paid by Public Trust to the Council of the University of Auckland to be applied by the Council as follows:

- (a) One third to be expended on the maintenance on any hostel for students established by the Council or for such other purposes in connection with Auckland University as the Council from time to time decides; and
- (b) Two thirds to be paid into a fund to be used for all or any of the following purposes:
 - (i) the establishment, building, maintenance, repair, renovation, extension, rebuilding, alteration, management, decoration and furnishings of hostels for the students of the University of Auckland; or

- (ii) with the consent of the Minister for Education (given either specifically in relation to any particular matter or generally) for such other purposes in connection with the University of Auckland from time to time determined by the Council.

Section 16 (3) of the Reserves and Other Lands Disposal Act 1940 qualifies the 1912 Act. In essence it specifies that the Minister for Education must in each year determine the amount Public Trust may disburse to the Council in terms of the 1912 Act.

Copies of the relevant portions of the 1912 and 1940 Acts are enclosed.

As at the Trust's last balance date of 30 April 2018, it held surplus accumulated rental income of \$682,000.

Public Trust's practice is to invite the Council of the University of Auckland each year to apply for a grant from the Trust. Subject to being satisfied that the amount applied for can be financed from accumulated Trust income, and that the expenditure of that amount proposed by the Council falls within the terms of the Trust, Public Trust then recommends the Minister make the appropriate determination.

In order to assist the Minister in considering the recommendation, Public Trust seeks and reports the views of the Registrar of the University of Auckland and the Council of the University of Auckland and enclosed are:

1. A copy of a letter dated 24 January 2019 from Adrienne Cleland, Deputy Vice-Chancellor (Operations) & Registrar of the University of Auckland, applying for a grant of \$682,000 to be utilised in accordance with Sections 4(a) and 4(b)(i) of the Auckland Education Reserves Act 1912.
2. A copy of the Council of the University of Auckland minutes of its meeting dated 16 August 2010 recording the resolution for consent to apply the funds as requested.

It is confirmed that the funding request can be financed from accumulated Trust income and that the expenditure of the funds proposed by the University of Auckland falls within the terms of the Trust.

Accordingly we recommend you:

Determine, in accordance with Section 16(3) of the Reserves and Other Lands Disposal Act 1940, that an amount of \$682,000 of accumulated Trust income be disbursed to the Council of the University of Auckland and in accordance with Sections 4(a) and 4(b)(i) of the Auckland Education Reserves Act 1912, the Council apply the funds in the following manner:

- One third on the maintenance of any one or more hostels for students established by the Council

- Two thirds to be credited to a fund that will use all or any of the funds for the purposes of the establishment, building, maintenance, repair, renovation, extension, rebuilding, alteration, management, decorating and furnishing of hostels for students of the University

Yours sincerely



Suzanne Griffin
Senior Trust Officer
Telephone direct s 9(2)(a)
Email [REDACTED]

Proactively Released

AUCKLAND EDUCATION RESERVES ACT 1912
AND AMENDMENTS

1912, No. 5 - Local

An Act to provide for the Administration of certain Lands in the City of Auckland, and for the Distribution of the Rents and Profits thereof for Educational Purposes. [15th October 1912].

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:-

1. This Act may be cited as the Auckland Education Reserves Act, 1912.

2. (1) The land described in the First Schedule hereto, and hitherto known as the Auckland Supreme Court site, is hereby vested in the Public Trustee as a reserve for education purposes in the Education District of Auckland in the manner hereinafter described.

(2) The Public Trustee shall have power to let the said land or any part thereof in accordance with paragraphs (e), (f), (g), or (h) of section five of the Public Bodies' Leases Act, 1908, but not otherwise; and for the purposes of this section the Public Trustee shall be a leasing authority within the meaning of that Act.

(3) Leases already made of any part of the said land may be surrendered with a view to new leases being granted under this section, and preliminary contracts (not inconsistent with the provisions of this section) may be made for effecting any such surrender and new lease.

(4) The rents and profits of the said land, including the accumulated rents and profits thereof now in the hands of the Public Trustee, shall be applied by him in the manner hereinafter described.

3. (Spent Provisions)

4. Subject to the provisions of subsections three of section sixteen of the Reserves and Other Lands Disposal Act, 1940, the Public Trustee shall each quarter pay over the rents and profits of the lands described in the First Schedule hereto to the Auckland University College Council, and the Council shall apply the amount so paid as follows:-

(a) One-third shall be expended on the maintenance of any hostel for students established by the Council or for such other purpose in connection with the said College as the Council from time to time decides;

(b) Two-thirds shall be paid into a fund which shall be used for all or any of the following purposes:

(i) The establishment, building, maintenance, repair, renovation, extension, rebuilding, alteration, management, decorating and furnishing of hostels for students of the said University; or

(ii) With the consent of the Minister of Education (given either specifically in relation to any particular matter, or generally) for such other purposes in connection with the said University as shall from time to time be determined by the Council.

5. (1) The memorandum of lease, copy of which is contained in the Third Schedule hereto, shall henceforth be deemed to have been

validity and effectually granted by the Public Trustee in exercise of the powers vested in him by the Auckland Hospitals Act Amendment Act, 1905, and of all other powers in any way enabling him in that behalf, and the said memorandum of lease is hereby ratified and confirmed, and shall be registered by the District Land Registrar when presented for that purpose.

(2) The Public Trustee is hereby expressly authorised to accept proper registrable surrenders of the existing lease and grant of bridge-way as provided by paragraph 12 of the said memorandum of lease.

(3) Notwithstanding anything in the said memorandum of lease the Public Trustee is hereby authorised in the meantime, while the construction of the buildings to be erected by the lessees in terms of the second paragraph of the said memorandum of lease is with all reasonable expedition proceeded with and until such date as the said buildings are completely finished (of all of which facts the Public Trustee shall be the sole and final judge), to accept in lieu of the yearly rent of eight hundred and fifty pounds, reserved by the said memorandum of lease, the lower yearly rent of three hundred and seventy pounds, being the aggregate yearly sum payable by the lessees as rent under the existing leases and grant of bridge-way at the date of execution of the said memorandum of lease.

(4) Nothing in subsection three of section two of this Act shall apply to the memorandum of lease referred to in this section.

SCHEDULES

Schedule I

Description of Land

Schedule II

Spent - see Section 3

Schedule III

Details of now expired lease

1940 ACT

S16 of Reserves and Other Lands Disposal Act 1940 (and its amendments) reads as follows:-

(1) On the expiry by effluxion of time or on the determination in any other manner of any lease affecting any part of the said land [in the First Schedule to the 1912 Act] the Public Trustee may resume possession of the land affected and may take such legal remedies as may be necessary in order to enable him to take and resume such possession.

(2) In addition to his powers under the Auckland Education Reserves Act, 1912, the Public Trustee may,-

- (a) Lease or let the whole or any part of the said land, or any buildings or any part of such buildings now or hereafter erected on the said land at will or for such period or periods and subject to such terms and conditions (including the right to take fines, premiums, and foregifts, or any of them) as he thinks fit:
- (b) Accept, on such terms and conditions as he thinks fit, a surrender of any lease or tenancy granted under this section:
- (c) At any time or times during the currency of a lease or tenancy granted under this section, reduce the rent payable thereunder, or compromise with the lessee or tenant for any rent due by him or in respect of the breach by him of any covenant in the lease or tenancy:
- (d) Repair, renovate, or reinstate the whole or any part of any building or erection now or hereafter erected on the said land:
- (e) Insure against risk of loss or damage by fire, earthquake, accident, or other contingency, any property of whatever kind administered by him under the Auckland Education Reserves Act, 1912, or this section, or against any other risk of loss or damage to which he may be subject in connection with such administration:
- (f) Bring or defend any action or claim in respect of or affecting the said land or any premises now or hereafter erected thereon, or compromise or settle any such action or claim in such manner as he thinks fit:
- (g) Pay all costs and expenses involved in the exercise of any of the powers conferred by this subsection out of accumulated rentals paid in respect of leases or tenancies granted thereunder.

(3) Notwithstanding the provisions of section four of the Auckland Education Reserves Act, 1912, the Minister of Education shall in each year determine the amount to be disbursed in accordance with the provisions of that section, and the balance of the rents and profits of the said land, after allowing for such disbursement and for the payment of the costs and expenses authorised by the foregoing provisions of this section, shall be

held by the Public Trustee as a reserve for rebuilding and improvements on the said land, or for contingencies, or for such other purposes connected with the administration of the property to which this section relates as the Minister of Education shall determine.

(3a) Where the Public Trustee takes any fine, premium, or foregift under a lease entered into under subsection (2)(a) of this section, the amount of any such fine, premium, or foregift shall be deemed to have accrued and become payable on the day on which it is received by the Public Trustee, and no such amount shall be apportioned over the term of the lease.

(3b) Notwithstanding anything in subsection (3) of this section, the Public Trustee may from time to time, if so authorised by the Minister of Education, pay over all or any part of the said reserve to the Council of the University of Auckland for any purpose specified in section 4 of the Auckland Education Reserves Act 1912; and all money so paid over by the Public Trustee shall be applied by the Council for the purpose so specified.

(4) The said reserve shall be invested by the Public Trustee in any security in which a trustee may lawfully invest trust funds or in the Common Fund of the Public Trust Office.

(5) The Public Trustee may build or construct buildings or improvements on the said land, and for that purpose may expend moneys held by him in the said reserve:

Provided that no moneys shall be expended under this subsection without the authority in writing of the Minister of Education.



Office of the Vice-Chancellor

Mrs Adrienne Cleland
Deputy Vice-Chancellor (Operations) & Registrar

24 January 2019

Ms Suzanne Griffin
Senior Trust Officer
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E a.cleland@auckland.ac.nz
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By email: s 9(2)(a)

Dear Suzanne

Re: Auckland Education Reserves Trust - Your Ref: CLI00495258

Thank you for your letter dated 18 January, received 22 January 2019, advising that an amount of \$682,000.00 will be available to the University for this financial year.

I **enclose** an extract of the Resolution appearing in the August 2010 Minutes of Council which states that until any further determination is made (and there has not been any), the funds are to be applied in accordance with the provisions under Section 4 of the Auckland Education Reserves Act 1912.

Yours sincerely

Adrienne Cleland
Deputy Vice-Chancellor (Operations) & Registrar



**THE UNIVERSITY
OF AUCKLAND**
NEW ZEALAND
Te Whare Wānanga o Tāmaki Makaurau

**Extract from The University of Auckland Council Meeting Minutes 16
August 2010:**

11.4 AUCKLAND EDUCATION RESERVES TRUST

**RESOLVED THAT THE MONIES DUE TO THE UNIVERSITY OF AUCKLAND
FROM THE AUCKLAND EDUCATION RESERVES TRUST SHALL, UNTIL A
FURTHER DETERMINATION BY THIS COUNCIL, BE APPLIED:**

- (I) AS TO A THIRD ON THE MAINTENANCE OF ANY ONE OR MORE
HOSTELS FOR STUDENTS ESTABLISHED BY THE UNIVERSITY;
- (II) AS TO THE REMAINING TWO THIRDS FOR THE PURPOSES AS ARE
SET OUT IN S4(b)(I) OF THE AUCKLAND EDUCATION RESERVES
ACT 1912.