

PROPERTY OCCUPANCY DOCUMENT

EARLY CHILDHOOD CENTRE

NUMBER :

5345

CENTRE :

Campbell Kindergarten

TAKE NOTICE that pursuant to Section 319 of the Education Act 1989 the Secretary for Education notifies this Property Occupancy Document, comprising the First, Second and Third Schedules attached. This document may from time to time be varied by any special conditions notified in the Third Schedule.

This notification is issued by :



..... (Signature)

John Simpson

(Full Name)

National Property Manager

(Designation)

acting for the Secretary pursuant to an Instrument of Delegation.

Dated at **Wellington** this **14th** ... day of

..... **June** 19**94**

Two copies of this document are dispatched to Centre Management who are requested to acknowledge receipt of this notification by completing the details below :

D.J. SELLENS

(Name)

PROPERTY MANAGER

(Designation)

**Wellington Region
Free Kindergarten Ass'n (Inc.)**

(Full name of Centre Management)

Dated at **WATN** this **29th** day of **JUNE** 19**94**

Retain one copy in a safe place and return the other copy to : Manager, Property Information Systems, Ministry of Education, PO Box 1666, WELLINGTON.



PROPERTY OCCUPANY DOCUMENT FOR AN EARLY CHILDHOOD

CENTRE ON CROWN OWNED LAND

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FIRST SCHEDULE

DEFINITIONS

- (a) "Building" means any fully or partially enclosed structure on the premises.
- (b) "Capital Works" means any works to extend, replace or reinstate or otherwise add to buildings and facilities, or to extend their life, or enhance the utility of buildings and facilities, but excludes all Centre Management Maintenance and Ministry Maintenance.
- (c) "Centre" means the Early Childhood Centre as defined in the Education Act 1989 named in the Property Occupancy Document.
- (d) "Centre Management" means the legal entity to whom this P.O.D. is issued.
- (e) "Centre Management Maintenance" means all maintenance and repairs necessary to keep the land, buildings and facilities in good clean and tidy order and condition having due regard to the criteria specified in Clause 7.00.
- (f) "Facilities" means all capital improvements to the Centre's premises other than buildings. It includes for example fences, sealed areas, structures for outdoor play, sand pits but excludes all chattels.
- (g) "Land" means the land described in the Second Schedule and shall extend to and include "Shared Use Area" where the text of this document requires this.
- (h) "Property Occupancy Document" or "P.O.D." means this document.
- (i) "The Ministry" means the Ministry of Education.
- (j) "Ministry Maintenance" means the Ministry's obligation (if any) to keep the exterior of any buildings on the land weather proof.

- (k) "Premises" means the land and buildings comprising the Centre.*
- (l) "Shared Use" means those cases where "Shared Use" is specified in the Second Schedule.
- (m) "The Secretary" or "Secretary" or "Secretary for Education" means the chief executive of the Ministry of Education.

2.0 NOTIFICATION

The Secretary acting for the Ministry:

2.1 Notifies under Section 319 of the Education Act 1989 the terms and conditions on which Centre Management shall occupy the premises.

2.2 Grants to the Centre Management a P.O.D. in respect of the Premises on the terms and conditions set out in the First, Second and Third Schedules of this P.O.D. which shall take effect fifteen working days after the date first specified on page one.

3.0 SCOPE

This P.O.D. applies to Early Childhood Centre's having shared or sole use of premises on land owned by the Crown (see the Second Schedule).

4.0 OPERATING COSTS

The Centre Management shall, unless otherwise provided, be responsible for all operating costs associated with the Centre including, but not limited to, charges for repairs and maintenance required by virtue of Clause 7.0, electricity, gas, water supply, rubbish disposal, heating, telephone, grass cutting, cleaning, insurance premiums, local body service charges and taxes. Where this P.O.D. relates to Shared Use the apportionment of operating costs shall be negotiated and agreed in writing between all occupants.

5.0 PROPERTY OCCUPANCY FEE

5.1 In addition to the operating costs specified in Clause 4.0 Centre Management shall pay an occupancy fee which is to be notified from time to time by the Secretary to Centre Management. The Secretary shall nominate the instalments by which the occupancy fee is to be paid and this shall for the purposes of Section 319 (b) (i) of the Education Act 1989 be deemed to be "rent".

5.2 The occupancy fee payable to the Ministry shall be payable as and from 1st January 1993 unless otherwise specified in the Third Schedule.

6.0 INSURANCE

6.1 Buildings and Facilities funded by the Centre or built with Government Grant or Subsidy

- (a) Centre Management shall at its own cost comprehensively insure in its name as occupier and the Ministry as owner, those Buildings where Centre Management fully or partially funded the establishment costs.
- (b) Where more than 50% of the insurance cover on any Building becomes payable by the insurer Centre Management agrees the Secretary may nominate, subject to the prior rights of any Insurer, whether reinstatement shall take place.

6.2 Buildings and Facilities Fully Funded by Government

- (a) Centre Management shall at its own cost comprehensively insure in the name of the Ministry and its name as occupier Buildings which were fully funded by Government.
- (b) Centre Management has no claim to any proceeds from insurance effected under clause 6.2

6.3 Provisions Common to 6.1 and 6.2

- (a) Centre Management and the Secretary shall liaise as required to keep insurance costs as reasonable as possible.
- (b) Centre Management will keep Buildings and Facilities insured at all times during the continuance of this P.O.D. if required to do so.
- (c) Centre Management will have no obligation under this Clause if the Third Schedule does not require Centre Management to insure.

7.0 REPAIRS AND MAINTENANCE

7.1 Repairs and Maintenance of Buildings and Facilities to which Clause 6.0 applies

Centre Management shall repair and maintain the buildings and facilities to which this P.O.D. applies. In construing this Clause regard shall be had to:

- (a) The condition of the buildings and facilities at the commencement of this P.O.D.
- (b) Fair wear and tear.
- (c) Good property maintenance principles within the resources available to Centre Management.
- (d) The purposes for which the premises are used.

7.2 Where Centre Management occupies Buildings and Facilities to which Clause 6.2 applies the Ministry shall have such Ministry Maintenance obligations as the Secretary may from time to time notify in writing.

8.0 ALTERATIONS TO OR CONSTRUCTION OF BUILDINGS AND FACILITIES

Centre Management shall not construct new Buildings or Facilities nor carry out any works which alter, extend or demolish any part of any Building or Facility without the prior written approval of the Secretary.

9.0 CAPITAL WORKS

The Secretary shall have the sole discretion to authorise capital works on buildings and facilities on land to which this P.O.D. applies.

10.0 EMERGENCIES

In an emergency such as fire, flood, storm, earthquake, major wilful damage or other exceptional circumstances, Centre Management shall be responsible for taking any reasonable action necessary to minimise or prevent further damage and safeguard the premises.

11.0 REGULATIONS ETC

Centre Management shall comply with all enactments, regulations, local authority bylaws, New Zealand Standards, and in addition any standards determined by the Secretary which are applicable to the Centre and the premises with regard to the health and safety of the occupants.

12.0 STANDARDS OF WORK

Centre Management shall ensure that any works referred to in Clauses 7.0 to 11.0, if carried out by Centre Management, are executed in accordance with good standards of workmanship. This work should comply with all relevant statutes, codes, regulations and such standards as may be determined by the Secretary from time to time.

13.0 RIGHT OF ENTRY

The Secretary or an authorised agent shall have the right to enter the premises for inspection purposes at reasonable times and with reasonable notice to Centre Management.

14.0 CANCELLATION OF P.O.D.

14.1 The Secretary may cancel this P.O.D. by giving not less than 120 days written notice to Centre Management and shall use the Secretary's best endeavours to give as much notice as practicable.

14.2 The Secretary

- (a) Shall be under no liability to make good any loss or damage accruing to Centre Management from the cancellation of this P.O.D. except as provided in Clause 14.3 (a).
- (b) May permit Centre Management to remove such Buildings and Facilities from the land upon such conditions the Secretary may deem appropriate.

14.3 Where there are Buildings and Facilities on the land to which Clause 6.1 applies and notice is given under Clause 14.1 the Secretary may with the agreement of Centre management either:

- (a) Cause such Buildings and Facilities to be valued by an independent registered Valuer and upon expiry of notice and delivery of vacant possession as soon as reasonably practicable pay that portion of present day value representing Centre Management's Ministry acknowledged equity in such Building or Facility; OR
- (b) Allow Centre Management to relocate such Buildings and Facilities prior to cancellation of this P.O.D. taking effect or such later time as may be mutually agreed between the parties upon such conditions as the Secretary may deem appropriate.

14.4 Should Centre Management fail to nominate or be unable to agree whether Clause 14.3 (a) or (b) shall apply within 60 days of receiving notice under Clause 14.1 the Secretary may unilaterally decide which option shall apply.

14.5 Centre Management shall remain liable for any breach or default in the observance and performance of its various obligations under this P.O.D. notwithstanding the cancellation of the P.O.D. under this Clause or Clause 16.

15.0 AMENDMENT OF P.O.D.

This P.O.D. may be amended by the Secretary from time to time by written notice to the Centre Management.

16.0 GENERAL TERMS AND CONDITIONS

16.1 The premises shall be used only for activities normally associated with Early Childhood Centres and such other community purposes as approved by the Secretary.

16.2 Centre Management shall not part with possession or control; or allow any other person to share possession, control or use of the premises without the prior written consent of the Secretary (or as authorised under Clause 16.1).

16.3 The Secretary may give notice in writing to the Centre Management to make good any defect in the repair, order or condition of the buildings and/or facilities and Centre Management shall, subject to the provisions of this P.O.D., remedy such defects at its own expense. If such defects are not remedied within a time specified by the Secretary, then the Secretary may remedy the defects at the expense of the Centre Management or terminate this document under Clause 16.10. Nothing in this Clause shall detract from Centre Management's obligations under Clause 7.0.

- 16.4 Centre Management shall comprehensively indemnify the Secretary from and against all claims, actions, suits and demands that may be made or brought against the Secretary in respect of any work matter or thing done or omitted to be done by Centre Management upon the premises PROVIDED HOWEVER that where the Secretary is insured against any loss or damage contemplated by this sub-clause the liability of Centre Management shall abate accordingly.
- 16.5 The Secretary shall not be under any obligation to repair or replace any Buildings or Facilities on the premises that may be damaged, destroyed or become unusable.
- 16.6 Centre Management shall take all prudent precautions to ensure the safety and security of the Buildings and Facilities.
- 16.7 Centre Management shall not allow any activity to be carried out on the Premises which may cause nuisance, annoyance or inconvenience to the public or nearby occupants of other properties.
- 16.8 Unless otherwise determined by the Secretary nothing in this P.O.D. shall obligate Centre Management to undertake works of a structural or capital nature.
- 16.9 The Secretary may direct Centre Management not to use the whole or any part of the Premises if at any time the Secretary believes that such part of the Premises is unsafe or unfit for use and Centre Management shall comply with the provisions of such notice.
- 16.10 The Secretary may, in addition to powers of cancellation under Clause 14.0, upon giving not less than 21 days notice in writing cancel this P.O.D. in whole or as to any portion of the premises if:
- (a) Centre Management fails to comply with the terms and conditions of this P.O.D; or
 - (b) The Centre permanently ceases to operate as an Early Childhood Centre.

- (c) Any building or part thereof is substantially damaged by fire or other cause and the Secretary determines that repair, reinstatement or replacement is not feasible. This provision shall be construed to be subject to any prior rights of an Insurer.
- (d) The Secretary considers that all or part of the Buildings can no longer be repaired, maintained or upgraded economically.
- (e) The property occupancy fee, operating costs or any other cost or disbursement payable under this P.O.D. to the Secretary or any third party remains unpaid for more than 90 days.

16.11 Should the Secretary cancel this P.O.D. under the provisions of Clause 16.10 and should there be Buildings and Facilities on the land to which Clause 6.1 applies then Centre Management's entitlement to payment under Clause 14.3 (a) shall continue notwithstanding the termination of this P.O.D.

16.12 Any notice required under this P.O.D. shall be in writing and shall be delivered personally or by post to the addressee. Service in the case of Post shall be deemed to have been effected five working days after the date of posting to the address specified.

17.0 ARBITRATION

17.1 This provision relates to a Shared Use P.O.D.

17.2 Where disagreement between the Centre Management and other users regarding the sharing of facilities and the apportionment of operating, maintenance or any other costs, in respect of shared use areas cannot be resolved by discussion, then the disagreement shall be referred to the Secretary for arbitration upon such terms and conditions as the Secretary may reasonably prescribe.

SECOND SCHEDULE
ECE LAND CLASSIFICATION

ECC : Campbell Kindergarten
LOCATION : 25 Campbell Street, Karori
 : Wellington
ECE_ORG : Wellington Region Free Kindergarten Assoc. Inc.
POD : Y Tertiary RENT : Y NUMBER : 5345 MTer REF : 7KF-WGTN

LAND_DESCRIPTION : Lot 1 DP9619

LAND_AREA(m2) : 615 (but use by arrangement 880m2)

LAND_COMMENTS : Site originally purchased for future College of Education use and to be retained for that purpose; consequently if proposed transfer of Land to tertiary institutions goes ahead it is anticipated the ownership of this site will transfer to the Wellington College of Education.

CURRENT_LAND_STATUS : Crown (MoE) owned.
MOE_RECOGNISED_EC_ORG_LAND_CONTRIBUTION_PERCENTAGE : Nil.

VAL_REF : 16940/24600 VAL_DATE : 1/5/87 LAND : \$100,000 BLDG : \$50,000

BUILDING_DETAILS :

BLDG_AREA(m2) : 170 APPROX_YEAR_BUILT : 1950
BUILDING_COMMENTS : DoE file HO25/3 page 37, shows grant approved 31-3-82 on estimate of \$20,524, Seg817, to cover DoE share of conversion cost, authority 27/4/82, DoE \$4 to \$1 subsidy being DoE=\$20,524, Assoc=\$11,726, Assoc share from sale Petone Ktgn=\$26,380 =Total of \$58,630.
Documentation provided by Association shows total cost \$63,462.23 and DoE subsidy \$24,389.08.

CURRENT_BUILDING_STATUS : Crown (MoE) owned.
MOE_RECOGNISED_EC_ORG_BUILDING_CONTRIBUTION_PERCENTAGE : 62%, subject to adjustments for errors and omissions and any additional capital funding.

DOES OWNERSHIP OR FUNDING NECESSITATE ISSUE OF "MOE POD" FOR LAND : Yes.
" " " " " " " " " FOR BUILDINGS : Yes.
If applicable, POD type (Sole Use or Shared) : Sole.
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THIRD SCHEDULE
SPECIAL CONDITIONS

NUMBER_OF_ITEMS_ENTERED : Two.

1 : This ECC is on Crown property which is part of a tertiary institution site. Provision exists in Section 206 of the Education Act 1989 for Crown assets, which includes the ECC site, to be transferred to the tertiary institution. Should this option be exercised by the Crown at some future date, the Crown's rights and liabilities under this POD shall cease to be operative and pursuant to Section 206 of the Act will be transferred to the tertiary institution. After transfer the ECC and the tertiary institution may vary the terms and conditions of the POD by mutual consent.

2 : Where the ECC exists as an integral part of the tertiary institution complex with procedures established for respective accountabilities it is intended that this POD operates alongside those existing agreements which are supportive of the provisions of this POD to provide an effective and efficient ECC operation.

3 :

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Date Second and Third Schedules Compiled : 30-5-94.
Date POD Issued : 14-6-94.
MOE Copy :

