

9. BURNSIDE PARK – BURNSIDE BOWLING CLUB - LEASE UPGRADE, AND BUILDING EXTENSION

Officer responsible Parks & Waterways Manager	Author John Allen – Policy & Leasing Administrator, DDI 941-8699
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PURPOSE

The Burnside Bowling Club Incorporated (BBC) has applied for a new lease over their present leased area at Burnside Park. They have also applied for permission from the Council to sublease an area within their present lease area to Bowls Canterbury (BC). The purpose of this report therefore is to consider these two applications from the BBC.

CONTEXT (PROCESS AND FINANCIAL) OF REPORT

This matter has arisen because BBC wishes to sublease approximately 422 square metres of their present leased area above the dining room of their present building to BC the umbrella organisation for the 88 Bowling Clubs in Canterbury. These clubs cater for over 6,750 bowlers. BC wishes to build their administration, and training facilities at Burnside Park.

A new lease has been requested by the BBC, which if approved will be issued under Section 54, (1)(c) of the Reserves Act 1977. As part of this process the intention to re-lease this area of Burnside Park to the BBC is required to be publicly advertised under Section 119 of the Reserves Act 1977.

Preliminary estimates indicate that the proposed extensions may cost in the region of \$500,000 to build. During discussions with Council officers, BC intimated that once permission has been obtained to proceed with the extensions, BC may approach the Council for some financial assistance toward the building costs, presumably from Council sources traditionally set aside for this purpose.

The Board has delegated authority from the Council to make this decision, and therefore the Board is acting as the Council (8 November 2001)

EXECUTIVE SUMMARY

The BBC has applied to the Council to enter into a new lease for a term of one day less than 20 years (unregistered lease) which is subject to them surrendering their present lease. The BBC have also applied to the Council to sublease an area of 422 square metres of their lease area to BC, to enable them to build a new administrative/training centre for BC. The reason for BC moving to Burnside Park is because their present central city site does not have space for training room facilities, or car parking for members visiting the centre. There is also insufficient office space in the present building since the Mens, and Womens Bowling Centres joined into one organisation approximately two years ago.

BBC has applied for the new lease to enable BC if necessary to apply to a third party for a mortgage to finance the proposed extension to the first floor of the BBC's building, at a preliminary cost estimate of \$500,000. The balance time of the present lease is insufficient to enable a mortgage to be secured against the lease, hence the reason for BBC applying for a new lease. Officers are recommending that the Council grant a new lease to BBC, and grant BBC permission to grant a sublease to BC subject to a number of conditions as outlined in the Conclusion Section of this report.

DESCRIPTION OF THE PROPOSAL

BC is presently domiciled in leased premises on the corner of Colombo and Peterborough Streets. Their lease of these premises comes up for renewal later this year.

BC wish to relocate to a new site, because their present premises, are not large enough to house, much needed training facilities for the Regional Development Officer to use. There is also no car parking associated with the facilities for members to use when visiting the administrative officers of BC.

BC is proposing a purpose built facility at Burnside Park, as a first floor extension to the northern end of BBC's present building at Burnside Park, this being the area that BC wish to sub-lease off BBC. These extensions will house a reception area, officers for staff, training room, boardroom, and associated facilities. It is intended to install a lift in the building, which will be placed between the proposed BC addition, and BBC first floor bar area, so that both areas can be serviced by the lift.

The form of the proposed extension will be different from the existing first floor, this being because the roofline of the present building, which also acts as the walls of the first floor, present a 'heavy' appearance to the facade of the building, (see **attached** diagram). Alterations have been made to the facade of the proposed extension to better integrate it into the surrounding environment by the architect, after discussions were held with the Council's landscape architects.

ISSUES FOR CONSIDERATION

BBC's present leased area is 1.0260 hectares in area, and covers part of Lot 23 DP 19118, which is 8600 square metres in area, (Reserve 4930), and part of Lot 30 DP 24410, which is 9626 square metres in area, both being held by the Christchurch City Council as recreation reserve subject to the Reserves Act 1977. BBC have built three greens, a central dining room/bar/changing rooms/groundsman's storage facility in one building, and a car parking area within their leased area, (see **attached** plan).

The present BBC lease was issued under Section 7 of the Public Bodies Leases Act 1969, for a term of 33 years from 1 July 1976. The reason for the granting of this lease under this Act was because the leasing provisions of the old Reserves and Domains Act 1955 that this area of the park was held under at the time, was by the Public Bodies Leases Act 1969. The BBC has the right to request a renewal of their present lease for a further period of 33 years.

Clause 29 of their present lease, does not allow BBC to assign, transfer, sublet, or part with possession of the land leased to them, or any part of the land. This clause therefore precludes them from sub-leasing part of the land to BC. BBC can however request that the Council consider a variation to this clause in the lease allowing BBC to sub-lease part of their area to BC.

Since the granting of their original lease two things have occurred.

1. There has been a change in the method of how the leasing of land held under the Reserves Act 1977 is undertaken. The land upon which the BBC is situated is Recreation Reserve as defined by the Reserves Act 1977, which requires amongst other things that the term of any lease that is granted does not exceed 33 years. A lease document is able to include a provision that further similar terms may be granted if the lessor is satisfied that the terms and conditions of the lease have been complied with, and that there is sufficient need for the sports, games, or other recreational activity specified in the lease. The lessor needs to be sure that in the public interest some other sport, game, or recreational activity should not have priority.
2. The Resource Management Act 1991 has been enacted. This act requires that an unregistered lease, that is a lease that is not registered upon the title for the land, can be granted for a maximum term of one day less than twenty years. All leases over this term must be in registered form. Registered leases over a complete title are not expensive to grant, however in the case of part of a title, or in this case a part of two titles cost thousands of dollars to process. The reason for this being, the requirement to undertake a full survey, and related registering of the new titles, and associated administration costs. It is not the Council's practice of undertaking this work at its cost, because the benefit of such a procedure is in favour of the lessee, not the lessor. In the case of the BBC lease, the lease would have to be registered before the renewal clause could be activated.

The BBC present lease must be renewed on or about 1 July 2009, which is a little over 6 years from now. BC would like to be in the position of being able, if necessary, to raise a mortgage to finance the proposed extension to the present building. A six-year term will not give the security of tenure required for lending institutions to lend BC the money to build the building. To assist BC, BBC have decided to apply to the Council for a new unregistered lease for one day less than twenty years, to enable the security of tenure issue to be addressed. A clause will be inserted in the new lease requiring Council permission prior to the lessee, or sub-lessee registering a mortgage over the property. The BBC will surrender the old lease before signing the new lease over their present site.

The BBC has requested that a clause be inserted in their new lease document allowing them to sub-lease an area within their leased area to BC, subject to obtaining Council approval. They have also requested that the following clauses be included in their new lease agreement.

1. A clause be inserted in the lease which indicates that should the Resource Management Act 1991 be changed to allow non-registered leases for periods longer than one day less than twenty years, that the BBC, at its option have a right to apply to the Council to extend the lease period to a maximum period of 33 years, or such lessor period allowed for an unregistered lease, whichever is the lessor.

2. That should the BBC decide that they wish to register the lease at their expense, the Council agrees to their request, subject to the BBC paying the cost of preparing the lease in a registered lease form.

Staff from the Environmental Services Unit have indicated that they do not believe that additional car parking will be required for the extension. It has been indicated that an application for resource consent will be treated as a non-notified application, subject to approximately 6 neighbours across the other side of Avonhead Road agreeing to the proposed extension.

CONCLUSION

The BBC have applied to the Council for a new lease for the maximum unregistered lease period, thereby ensuring a reasonably long tenure, against which a mortgage may be granted to BC by a third party. The lease is to include clauses enabling BBC to apply for the lease to be registered, at their expense, or the non-registered lease period to be extended should there be a change in the Resource Management Act 1991 allowing for such an extended period.

The BBC has applied to the Council to allow them to sublease approximately 422 square metres of their leased area to BC to enable them to build their Canterbury Regional Headquarters building by way of addition over the dining room of the present BBC building. Officers are comfortable with this proposal.

Officers therefore are recommending that the Council agree to the BBC application:

1. To enter into a new lease subject to the following conditions.
 - (a) Public notification.
 - (b) Approval by the Minister of Conservation.
 - (c) The terms of the lease being negotiated by the Property Manager in consultation with the Parks & Waterways Policy & Leasing Administrator.
 - (d) That BBC is to take out and maintain at their own cost, at all times during the term of the lease Public Liability Insurance an amount of not less than \$1,000,000. All such insurance shall be on terms and with such insurers as the Council may reasonably require. Proof of obtaining this insurance is to be shown to the Parks & Waterways Policy & Leasing Administrator.
 - (e) All costs associated with any development, and maintenance of all areas within the leased area are to be the responsibility of the BBC.
 - (f) That the BBC surrender their present lease once all the issues concerning the granting of a new lease have been worked through, prior to the signing of the new lease.
 - (g) That BBC at their option have the right to apply for an extension to the non-registered lease period up to a maximum of 33 years, should the Resource Management Act 1991 be amended in the future to allow for longer unregistered lease periods.
 - (h) That should the BBC decide that they wish to register the lease, and pay all the costs involved in this process, including the preparation of the lease in a registered form, the Council agree to the lease being registered.
 - (i) Council permission must first be obtained prior to the registering of any mortgage or other deed or instrument against the title to the land.
2. Agree to BBC subleasing an area to BC subject to the following conditions.
 - (a) The sublease agreement being in the format prescribed by the Council (Council will provide a generic base document). The signatories to the agreement being BC, BBC, and the Council.
 - (b) The term of the sub-lease agreement being aligned to that of the head lease.
 - (c) BC is to obtain all necessary resource, and building consents before any development commences upon the site.

- (d) The applicant is to submit a colour scheme for the proposed extension to the Parks & Waterways Manager or their designate for approval, prior to commencing work upon the site.
- (c) The sublease area being maintained by BC or their contractors in a safe and tidy condition at all times.
- (d) Before any tenders are let, or work commences upon the site, discussions are to be held with the Parks and Waterways Manager's designate, The Parks & Waterways Area Advocate, Fendalton Service Centre, to ascertain the Council's requirements through the development phase of construction of the facility.
- (e) BC is to be responsible for ensuring a minimum bond of \$2000 is paid to BBC before work commences upon the site. The Bond is to be held in trust for the duration of the construction work. The bond less any expenses paid by BBC, or the Council will be refunded to the payee upon the completion of the work. The Parks & Waterways Area Advocate, is to be present at the final inspection, of the completed work, and is to be in agreement with the bond being returned, before it is returned.
- (f) BBC is to ensure that BC take out and maintain at their own cost, at all times during the term of the sub-lease. Public Liability Insurance for an amount of not less than \$1,000,000. All such insurance shall be on such terms and with such insurers as the Council may reasonably require. Proof of obtaining this insurance is to be forwarded to the Parks & Waterways Policy & Leasing Administrator.
- (g) The sublease document is to contain all the clauses that are contained in the head lease document. For clarification the permission of the Council must first be obtained prior to a mortgage, or other deed or instrument being registered against the title of the land.

Staff

- Recommendations:**
1. That the Council resolves to grant a lease over approximately 1.0260 hectares of Burnside Park, the area presently leased to BBC, being part of Lots 23 DP 19118, and 30 DP 24410, held as a recreation reserve, pursuant to section 54(1) (c) of the Reserves Act 1977 to the Burnside Bowling Club Inc for a total period of one day less than twenty years subject to conditions 1 (a) to (i) in 1 above.
 2. That the Council resolves to approve a sub-lease of approximately 422 square metres of Burnside Bowling Club's leased area, as requested by the Club to Bowls Canterbury upon which to erect their administrative offices and training centre for the Canterbury Region subject to conditions 2.(a) to (g) above.

Chairman's

- Recommendation:**
1. That the above recommendations be adopted.
 2. That the Works, Traffic and Environment Committee arrange a visit to the site for discussions with BBC regarding short and long term aspirations for their activity.