

**5. CHRISTCHURCH CITY BICYCLE MOTOR-CROSS (BMX) CLUB –
NEW LEASE DECLARATION OF PART OF KYLE PARK A
RECREATION RESERVE**

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The purpose of this report is to seek approval to grant a lease to the above club over the land on which the relocated BMX track at Kyle Park is situated. Council consent is also being sought to declare the area of Kyle Park presently held in fee simple as recreation reserve and to classify another part of the park recreation reserve (see tabled plan).

HISTORY

The Christchurch City Bicycle Motor-Cross (BMX) Club has had a lease over approximately 7,372 sq metres of part of Lot 1 DP 25716, known as Kyle Park, since the 4 July 1988, under the provisions of the Local Government Act 1974.

The Water Services Unit, as part of its programme of upgrading of the stormwater system of Christchurch, has built a retention basin in the area formerly leased to the club. This work was required because the basin is situated at the bottom of an old shingle pit to which stormwater is drained from the surrounding residential area. Before undertaking this work it was necessary to shift the club to an area further east in Kyle Park. This has occurred.

LEGAL ISSUES

The new area to be leased straddles two pieces of land, one of which is held as a recreation reserve, the other parcel being held as fee simple land under the Local Government Act. Legally, it is not possible to transfer a lease to a new site. It will be necessary therefore to put a new lease in place. The former lease was for a term of 33 years commencing on 31 January 1988, with a right of renewal for a further 33 years until 31 January 2054. It will not be possible for the new lease to be granted for the same period of time for two reasons. Firstly, it is not possible to lease an area held under the Reserves Act for a period longer than 33 years. Secondly, any lease longer than 19 years 364 days requires the area to be surveyed and registered on the title, (a registered lease), a process not normally undertaken on Council reserve land. Discussions have been held with the club officials who have agreed to the reduced lease term subject to the Council accepting responsibility for the legal costs. These costs will be met by the Water Services Unit, which moved the club to the new site before building the retention basin.

Lot 1 DP 78681 of 7.0429 ha (45A/841) was a former shingle pit which has now been partially filled. Part of the site has been used for sports fields for a number of years. Before the lease is put in place, it is considered this land should be declared a recreation reserve to reflect its prime purpose. The Council may declare land vested in it to be a reserve. It will not be necessary to advertise the proposal to declare the land a recreation reserve because under the operative Paparua District Plan the area is designated as recreation reserve.

THE LEASE

The area occupied by the new BMX track is approximately 5,000 sq metres, with the club's building occupying a further 22 sq m. This is considerably less than the original area occupied by the club because of the layout and configuration of the new track.

Unlike the previous track, the new facility will not be fenced off from the park. The club wish to make the track available to all park users to assist in fostering the sport and with the aim of attracting new members.

Onsite discussions have been held with the club concerning track maintenance. Because the track will be available for public use when not required for club events, it is considered that it would be reasonable for the Council to contribute to its maintenance. It is proposed that the Council supply the materials for the maintenance of the existing track, with the club being responsible for ongoing maintenance. It is also proposed that the Council undertake the mowing of the grass around the track.

The club will be responsible for maintaining the garden areas and track edges. The future maintenance of the new building, lighting poles and lights will also be the club's responsibility.

The above report was before the Riccarton/Wigram Community Board at its meeting on 3 August 2000. The Board supported the leasing proposal.

- Recommendation:**
1. That the Council adopt the following resolution to declare part of Kyle Park a recreation reserve within the meaning of Section 17 of the Reserves Act 1977.

Resolution

“That, in exercise of the powers conferred on it by Section 14 of the Reserves Act 1977, the Christchurch City Council hereby resolves that the piece of land held by the it in fee simple and described in the Schedule hereto, shall be, and the same is hereby declared to be a recreation reserve within the meaning of the said Act”.

Schedule
Canterbury Land District
Christchurch City

Lot 1 DP 78681 containing 7.0429 hectares or thereabouts being all of the land comprised and described in Certificate of Title 45A/841.

2. That the Council adopt the following resolution to classify part of Kyle Park which is owned by Council for the purpose of a recreation reserve.

Resolution

“That, in exercise of the powers conferred on it by Section 16 of the Reserves Act 1977, the Christchurch City Council hereby resolves that the piece of land held by it for a recreation reserve and described in the Schedule hereto, shall be classified as a recreation reserve in accordance with Section 17 of the said Act”.

Schedule
Canterbury Land District
Christchurch City

Lot 1 DP 34558 containing 1.6590 hectares or thereabouts being all of the land comprised and described in Certificate of Title 14A/1326.

3. That the Council grant a lease to the Christchurch City Bicycle Motor Cross (BMX) Club over 5,022 sq m of Kyle Park pursuant to Section 54(1)(c) of the Reserves Act 1977 for a period of 19 years, 364 days, subject to the following conditions:
 - (a) The Council’s intention to lease part of Kyle Park being publicly advertised in accordance with the requirements of section 119 of the Reserves Act 1977.
 - (b) The consent of the Minister of Conservation being obtained.
 - (c) The club being responsible for the maintenance and ongoing costs associated with the development and maintenance of the building, lighting system, planted areas around the track, and the track.

- (d) The Council undertaking the mowing of the grass areas inside the lease area, and provision of materials necessary to maintain the track only, provided that the lease area is not fenced and is available for general public use at no cost at all times other than when it is being used by the club.
- (e) The Property Manager, in association with the Parks Consents Team Leader, being authorised to put the lease documentation in place.