

4. CHRISTCHURCH GONDOLA - ASSIGNMENT OF LEASE

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Corporate Plan Output: Parks Leases (consents 9.4.8)	

The purpose of this report is to obtain Council's approval as administrating body to the assignment of the lease of the Christchurch Gondola on Mt Cavendish scenic reserve. The lessor is the Department of Conservation for and on behalf of Her Majesty the Queen. The Council's powers under the terms and conditions of the lease do not extend to consenting to an assignment of the lease or renewal of the term.

APPLICATION

New Zealand Experience Ltd, the present owners of the Christchurch Gondola, have entered into a sale agreement with Armada Tourism Ltd in respect of the assets and business of the Christchurch Gondola. The sale agreement is due for settlement on 31 May 2001 subject to consent by the lessor to the assignment of the lease.

PROPOSED TRANSFEREE

Armada Tourism Ltd is owned 75% by James and Karen Boulton and 25% by Martin and Glenda Mongan. The Council would be aware that this company has recently been set up to take over the operation of the Christchurch Tramway. Detail with respect to the suitability, experience and solvency of this company was outlined in the report to the Council's April 2001 meeting dealing with the assignment of the tramway licence, which the Council has resolved to conditionally approve. Given that the Council is satisfied that this company and its directors are suitably positioned to take sole ownership and operate the Christchurch Tramway, it is considered that the assignment of the Gondola lease to this local operator is appropriate and relatively straightforward. By owning both these core Christchurch Tourism assets, Armada Tourism Ltd contend it will be better placed to develop and grow the gondola operation to its full potential.

New Zealand Experience are retaining ownership of their title to the base station which will be leased to Armada Tourism Ltd.

LEASE

Lessor:

Her Majesty the Queen acting by and through the Minister of Conservation.

Lessee:

New Zealand Experience Ltd (formally known as the Mount Cavendish Gondola Company).

Premises:

A ground lease of 1177m² of Mount Cavendish scenic reserve registered against CT 37C/1204 Canterbury Land Registry.

Term:

This lease which was issued in 1994 pursuant to section 56 of the Reserves Act 1977 runs until 30 September 2021 with one right of renewal for a term of 30 years.

Rental:

The rental is turnover based and the current lessee's advance rental obligation is cleared until 30 June 2001.

The lease provides for an assignment with the prior consent of the lessor with such consent not to be unreasonably withheld. Further, the current lessee under any assignment remains fully liable for performance of the lease covenants for three years after the date of assignment. Application has been made to the Department of Conservation as the lessor and the department has sought the Council's endorsement to the assignment. The

Council's interest in the gondola lease is the ground rental, the Council not owning any of the gondola infrastructure. Given that the Council has already accepted the transferee company as suitable solvent tenants, then there is no reason for the Council not to endorse to the Department of Conservation that consent be given to the assignment of this lease.

Recommendation: That the Council endorse for approval by the Department of Conservation the assignment of the lease from New Zealand Experience Ltd to Armada Tourism Ltd, subject to:

1. The costs of consenting to the assignment being met by the applicant lessee.
2. A Deed of Covenant being executed by the proposed transferee and the lessor to pay the rent due under the lease and to observe and perform all the covenants and conditions of the lease.
3. That the guarantee provisions that apply to the assignment of the Tramway licence also apply to the assignment of the gondola lease.

(Note: Councillors Buist and Corbett abstained from the voting and discussion on the above clause. Councillor Close abstained from the discussion on the above clause.)