

12. PROPOSED POLICY FOR THE GRANTING OF LICENCES TO COMMERCIAL RECREATION PROVIDERS WISHING TO OPERATE UPON COUNCIL OWNED OR ADMINISTERED PARK AND RESERVE LAND

General Manager responsible:	General Manager City Environment
Officer responsible:	Acting Grasspace Manager
Author:	John All Policy and Licensing Administrator, DDI 941-8699 Tony Hallams, Policy and Licensing Officer DDI 941-8320

PURPOSE OF REPORT

1. The purpose of this report is to enable the Board to comment on the proposed policy, for the licensing of commercial recreation providers, who wish to operate regularly on Council owned or administered park and reserve land. The recommendations will be included in a final report which will be placed before Council to adopt the attached draft policy, as Council policy. This policy does not apply to the occasional one-off events, which may be organised by a commercial recreation provider through applications being processed by the Community and Recreation Unit. A commercial recreation provider as identified in this report is a person, company or organisation (including an educational institution), who provides a recreational opportunity for the public to participate in for which a specific payment is made to cover costs, including wages or profit. Organisations with paid instructors, who are instructing people in a recreational pursuit, as part of a formal program are included in this definition. This report is being placed before the City's Community Boards for comment, prior to being considered for adoption by Council.
2. The Council's objective in regard to the proposed policy is to ensure that the recreational resource is protected for future generations to enjoy, and that private individuals are still able to use the resource, whilst at the same time providing the maximum opportunity for commercial recreation providers to provide the recreational added value component to the park or reserve for the general public using the reserve, at no cost to the Council.

Benefits for Licensees

3. The benefits for commercial recreation providers who have a licence to operate their business on Council owned or administered park or reserve land are as follows:
 - (a) They have a legal right to operate their business on Council controlled or administered land.
 - (b) There is a formal relationship between the licence holder and the Council, ensuring that both parties are aware of their individual responsibilities in the relationship.
 - (c) The licence holder will be supplied with a visible logo stick indicating that the licence holder has a licence to operate on Council owned or administered park and/or reserve land.

EXECUTIVE SUMMARY

4. The Council is legally able to licence commercial recreation providers wishing to operate upon Council owned or administered park and reserve land.
5. Commercial recreation providers undertaking their business activities on Council owned or administered land, without authorisation are in breach of occupation law, and may expose the Council to risk.
6. Recently there has been an increase in the number of commercial recreation providers using, or wishing to use, Council owned or administered park and reserve land.
7. There is also a need for the Council to put in place a policy, the adherence to which will ensure that:
 - (a) The resource will be protected for future generations to enjoy.
 - (b) That clients of the commercial recreation providers will receive a quality experience.
 - (c) That the Council is protected from any liability arising from the activities of the commercial recreation providers who operate on Council owned or administered land.
 - (d) Other park users or potential users are not adversely affected by the activity, and the income accrued to the recreational resource is maintained.

- (e) That the commercial activities are aligned to the vision, purpose and management objectives for the park or reserve.
 - (f) That the commercial activities are aligned to the Council's goals and objectives of City Plan, bylaws, and other relevant Acts of Parliament.
8. The proposed policy sets out the methods by which commercial recreation providers' activities on Council owned or administered land may be limited or controlled and managed to ensure that the objectives outlined above are achieved.
 9. Based upon the premises that it is not the Council's responsibility to provide the public with the recreation added value component that takes place upon parks and reserves as well as advocating that a cost recovery mechanism of charging system be used in preference to a gross return per hectare basis of assessment. Five different options for applying a formal licensing process have been considered.
 - (a) Apply a formal licensing process with the fees that allow to cover Council costs only (the preferred option).
 - (b) Maintain the status quo (no formal licensing process).
 - (c) Apply a formal licensing process with full charges as a percentage of gross profit.
 - (d) Apply a formal licensing process with two levels of licence fees charged to Organisations who operate for profit are charged a percentage of gross profit, while organisations operating on a cost recovery basis only are charged at a level to cover Council costs only.
 - (e) Apply a formal licensing process with no full cost recovery.
 10. Officers are recommending that the proposed "Policy for the Granting of Licences to Operators Undertaking Commercial Activities on Council Owned or Administered Park and Reserve Land" as set out at the end of this report be adopted as Council Policy.
 11. Officers are recommending that where the Acts of Parliament allow, Council delegate its responsibilities for administering the proposed policy once adopted by Council to the Greater Space Manager.

FINANCIAL AND LEGAL CONSIDERATIONS

12. The Council is legally bound by Sections 54(1)(d), 56(1)(b), 58A(1), 59A and 61 of the Recreation Act 1977, and under the powers of general competency as provided for in Section of the Local Government Act 2002, to issue licences to commercial recreation providers. Commercial recreation providers undertaking the business activities on Council owned or administered land, without authorisation, are in breach of occupation law and may expose Council to risk. The conditions for granting a licence vary depending on the class of reserve involved.

(a) Recreation Reserves as set out in Section 54 of the Reserves Act 1977

A licence can be granted for the use of a recreation reserve by a business if the licence is necessary to enable the public to obtain the benefit and enjoyment of the reserve for the convenience of persons using the reserve. The Minister of Conservation (the Minister) must consent to the licence and the reserve is voted in the Council to administer and the proposal is contained within the reserve's approved management plan.

Public notice as specified in section 119 of the Recreation Act 1977, must be given prior to the granting of the licence. However, this is not necessary where the proposal is contained in the approved management plan or where the resource consent has been obtained.

(b) **Scenic Reserves as set out in Section 56 of the Reserves Act 1977**

It is possible to grant a licence for the use of a scenic reserve by a business if this is necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve. The Minister must consent to the licence. Public notice must be given prior to the granting of the licence, this can be avoided where the proposal is contained within the approved management plan for the reserve, or if a resource consent has been obtained.

(c) **Historic Reserves as set out in Section 58A of the Reserves Act 1977**

It is possible to grant a licence for the use of a historic reserve by a business with the consent of the Minister. Public Notice must be given prior to granting the licence, this can be avoided where the proposal is contained in the approved management plan, or if a resource consent has been obtained.

(d) **Local Purpose Reserves as set out in Section 61 of the Reserves Act 1977**

The Council may grant a licence for the use of a local purpose reserve by a business if this is necessary or desirable for the proper and beneficial management, control and use of the reserve for the purpose specified in its classification. No public notice, or the Minister's consent is required prior to granting a licence and this is a condition of the Act.

The Act makes no provision for licensing a business to use a natural or scientific reserve. The Council however owns or manages a number of these types of reserves.

Under Section 59A of the Reserves Act 1977 the Minister is granted the power to grant a consent for the use of a reserve.

Section 94 of the Reserves Act 1977 provides that it is an offence to carry on within any reserve or site in an administering body any trade, business, or occupation without authorisation obtained from the Minister of Conservation or the administering body, as the case may require.

13. There are currently a number of commercial operators who use Council owned or administered land without formal agreements in place. These activities include mountain biking and parapara paragliding, rock climbs, horse rides and other recreational pursuits. Officers are aware of only four such organisations that do have the required agreements in place. The only other recreational or recreational activity occurring on parks are the single on-off vehicles, which are required to be booked through the Call Centre, or the Major Events Co-ordinator. A fee is charged for this type of vehicle.
14. Some commercial recreation providers may require resource consents to operate their business in certain areas of the city, as defined in the City Plan. Officers are of the view that Council consent for business activities on Council controlled land should be obtained prior to the applicant applying for Resource Consents, if required by the City Plan.
15. Some coastal land and some of the Port Hill Reserve (including the Summit Road Scenic Reserve) are not vested in the Council. In these cases a consent may be issued by the Department of Conservation (usually done in consultation with the Council). The processing fees are paid directly to the Department of Conservation. Where the Council has a management role and the Reserves Act (in which the Council is appointed to control and manage such land), the subsurface licence payments will be paid to the Council.
16. In the case of the harbour, the Council will need to take into account the requirements of the Coastal Regional Plan that is governed by Environment Canterbury. The harbour low water high water springs is within the coastal marine air coverage by the plan.
17. It is also necessary for all applications to be assessed against the requirements of the Reserves Act 1977, the management plan for the park or reserve if there is one, City Plan requirements, other relevant bylaws, and Acts of Parliament where appropriate. Summit Road Protection Act. Where no management plan exists, the application needs to be assessed for alignment to the vision, purpose and management objectives for the park or reserve. The recreational purpose should also be aligned with the Council's goals and objectives.

18. Officers require all businesses operating on Council owned or controlled land to have a minimum of \$1,000,000 public liability insurance to protect themselves against claims from a third party in relation to damage to the third party's property, caused by the business activities on Council land. The Council also requires businesses operating on Council owned or controlled land to indemnify the Council against any actions and suits that may be taken against the business activities on the land.
19. A number of commercial activities take place in rural fire districts, which are prone to being high fire risk areas in the summer for example Bottl Brook Forde Park and the Port Hill Reserve. It is prudent that commercial operators operating in these areas have insurance to protect themselves against claims made against them under the Forde & Rural Fire Act 1977, should they start a fire. It is not uncommon for the cost of controlling and extinguishing a fire in these areas to cost more than \$100,000. If the fire insurance policy is adopted it will be a requirement of commercial operators, operating in these areas, to have a minimum of \$250,000 rural fire insurance, which some insurance companies provide as an extension to their public liability policy. This amount could be increased to \$500,000 if deemed appropriate by the Principal Rural Fire Officer.
20. The Council also has responsibilities under the Health & Safety in Employment Act as the owner of the land, and with it being a workplace. To discharge its obligations, it would generally need as a minimum to ensure that any operator has a Health & Safety Management Plan. Applicants will be required to include an external audit of Health & Safety in Employment Plan, when they make application for a licence.
21. Schedule 7, Part 1, Section 32 of the Local Government Act 2002 allows the Council to delegate any of its responsibilities to an officer of the Council unless it is expressly stated otherwise in any other Act. Sections 54(1)(d), 56(1)(b), 58A(1), 59A and 61 of the Resource Management Act 1977 are silent on the delegation matter and the Council is able to delegate these responsibilities to an officer of Council. Council Officers are therefore recommending that responsibility for administering the policy once adopted by Council, when an application received should be processed in accordance with the policy to the Resource Management Officer.

STAFF RECOMMENDATIONS

That the Board recommend to Council:

1. To approve the proposed "Policy for the Granting of Licences to Commercial Residential Activities Wishing to Operate on Council Owned or Administered Park and Reserve Land" as set out in the attached policy.
2. Where the Acts of Parliament allow, Council delegates its responsibilities for administering the proposed policy once adopted by Council to the Resource Management Officer.

CHAIRPERSON'S RECOMMENDATION

For discussion.

BACKGROUND ON PROPOSED POLICY FOR THE GRANTING OF LICENCES TO COMMERCIAL RECREATION PROVIDERS WISHING TO OPERATE UPON COUNCIL OWNED OR ADMINISTERED PARK AND RESERVE LAND

22. The Council's past approach, when dealing with a commercial recreation provider's request or application, was to take into account the interests to the general public, while trying to balance the effects of the proposed activity on the environment, and other park users. In the past a number of commercial recreation providers operated under informal arrangements discussed with Council officials. Although these discussions and arrangements took place while the business was gradually evolving, a formal arrangement should have been put in place once the business became established and established. On the other hand, there are some instances where the Council officials have not been consulted at all by a commercial recreation provider who has been operating on Council owned or controlled land. If the land is held under the Resource Management Act 1977, the unknown Commercial Recreation Providers are committing an offence under section 94 of the Resource Management Act 1977.
23. The Council has in the past allowed commercial recreation providers to operate for a trial period on Council owned or administered park and reserve land, for the following reasons:
 - (a) Where the impact of the proposed activity on the park and/or reserve is difficult to assess. The granting of a temporary licence to the commercial recreation provider will allow the Council to place conditions on the activity during the trial period as the impacts of the activity become better understood, and the necessary mitigation requirements are identified.
 - (b) Where there are terms from a new business venture that require a significant capital investment are difficult to assess.
24. The trial period allows for a detailed valuation and assessment of the operation to be undertaken at the end of the period, enabling further conditions to be placed upon the operation to mitigate any adverse effects of the operation upon the environment, and to assess the future viability of the operation, before committing to a full licence.
25. During the past few years, the use of Council parks and reserves by commercial recreation providers has increased partly because many ventures that were previously run as amateur non-profit making activities have evolved into commercial businesses as individuals have sought to make a livelihood out of the leisure sector. A number of these are such as Bottle Lake For Park (mountain biking activities), and the Port Hills (paragliding, parapenting, hang gliding, rock climbing), are being represented from competing commercial operators. Officials are of the view that this competition at certain sites has reached a stage where ordinary public users sometimes are being jeopardised. Officials are therefore recommending that the Council adopt the draft policy as submitted herein this report as Council Policy thereby ensuring:
 - (a) That the recreation experience, which is derived from the activity, is what the participants should reasonably expect.
 - (b) That the recreation provider has the ability to manage activities so as to minimise conflict with other users and access to the recreation site for members of the general public who wish to use the site at the same time.
 - (c) That the natural resource that the recreation is taking place upon is protected for future generations to enjoy.
 - (d) That the commercial recreation experience being promoted is aligned to the vision, purpose, and management objectives for the park, or reserve, and Council.
 - (e) To ensure that health, safety, and other legislative requirements have been properly addressed by the commercial recreation provider before the recreation experience is undertaken.

Present Situation

26. The main areas being used for commercial recreational activities are Regional Parks, more specifically Bottle Lake For Park, The Groyn and the Port Hill Reserve although there are some commercial recreation providers operating in urban parks, for example South Brighton Domain, Hagley Park, and on the Forth.

27. Examples of some of the issues which have given rise to the necessity for such a licensing policy, are outlined below:
- (a) The Council has received a number of complaints about the activities of wind power vessels (land yachts) using the South New Brighton for shore. The complaints focus on the danger that the use of the land yachts, which spend a long time at anchor, poses to other vessels. This activity raises issues of public safety, which need to be addressed.
 - (b) A number of bolts have been affixed in the past into the rock face in the same area of particular climbs on the rocky outcrops on the Port Hills. If this practice is continued it will result in the degradation of the rock face. The problem has arisen from the fact that it is a cardinal rule that climbs should not use 'dead' bolts, unless they are essential. It is a cardinal rule that climb routes should not use 'dead' bolts, unless they are essential. No bolting or removal of existing bolts should be undertaken without the permission of the Port Hills Area Heritage Rangefirst be obtained.
 - (c) Recently, the commercial mountain bike operators applied to hold night races on the same night in Bottleneck Park. Officers visited this with concern because, in their opinion, only on such races should be held at night during the night, for safety reasons.
 - (d) During recent investigations, it was found that an unlicensed paraplegic operator had no public liability insurance. All commercial recreation providers need to have adequate public liability insurance. In this particular case, the issue has been addressed.
 - (e) Recently a temporary sign, measuring 6x1 m in size, was placed on the top of Evans Pass Road, advising that the town of a paraplegic operator, was operating about 1km down Godley Head Road. This sign did not comply with City Planning rules.
 - (f) Some of the areas where commercial recreation activities take place are also home to rare indigenous plants, for example on the rocky outcrops of the Port Hills. The Council has asked the Council Botanist to ensure that any significant indigenous plant groupings are protected for any land use issues for activities in the area.
 - (g) Enquiries have been received in the past to operate a motorised skateboard board competition and an off road cross-country vehicle in Bottleneck Plantation and on the Port Hills. As a general policy, the use of motorised activities should be limited to areas specifically set aside for this purpose, for example Ruapuna Park, and Maryland's Reserve. The reason for this restriction is because of the effects of the noise and other impacts, the increased maintenance required to maintain the parks infrastructure, and the increased fire danger associated with the use of vehicles. It can also have a downward and visual impact, some of which may be considered suitable for this type of activity.
28. Council officers are strongly of the view that it is necessary for Council to take a proactive stance when dealing with existing and anticipated recreational issues to ensure that the recreation resources are protected for future generations to enjoy. Recently, officers of the Recreation Unit wrote to all known commercial operators informing them that they will be required to move into licensing with the Council to undertake the activities on Council owned and controlled land. It was also indicated to them that they would need to have adequate public liability insurance and a health and safety plan in place for the activities.
29. The Council may need in some cases to reduce the intensity of user control activities of a number of commercial providers using a particular park or reserve, to ensure that those facilities and commercial recreation providers are able to provide a quality experience to the community, while at the same time ensuring that the right of the general public to recreation upon the area is maintained and that the recreational resources are protected. This can be achieved by the Council limiting commercial operations upon a particular site, by temporarily closing, balloting, or restricting the period of existing licenses for permitted commercial activities on identified parks or reserves that are subject to a high intensity of use. Areas of high use can be identified by the Community and Recreation, and Recreation Customised Recreation Booking Records, Park Ranger Services Surveys, and other monitoring strategies.

- (a) Where a particular procedure is used, the successful tender will be chosen using the following criteria using the weight attributed to each of sections:
- (i) The tenderer's experience in the activity being offered to the custom
 - (ii) The quality of the service that the tenderer is prepared to provide to the custom
 - (iii) Measures that the tenderer is prepared to take to minimise the activity's effect on the environment
 - (iv) That the commercial operation is designed to align with the vision, purpose, and management objectives for the park, or resort
 - (v) The tenderer's monetary offer made to the Council to undertake the activity upon Council owned or controlled land.
- (b) It is a condition that the successful tender would be issued with a licence for a finite period after payment of a processing fee and annual licensing fee. Office is considered a licence fee in order to be able to offer and five years would be appropriate. This being determined upon the site application and the amount of capital investment required by the applicant to support the particular business.

Delegation

30. The philosophy behind the proposed policy, is to ensure that the operational resources are protected for future generations to enjoy, while providing the maximum opportunity for commercial operation provided to provide the operational added value component to the general public using the resort, at no cost to the Council. A licence does not confer an exclusive right to the land, as a licence does. Where the Acts of Parliament allow, officers are recommended that Council delegates its responsibilities for administering the proposed policy once adopted by Council to the Strategic Manager.

Consultation Procedure

31. The public, (using advertisements placed in the public notice column of the newspaper), existing known commercial operation providers, all licencees who licence Council owned or administered park and resort land, Canterbury Chamber of Commerce, Summit Road Society, and Summit Road Protection Authority, have been invited to comment on the draft policy for the granting of licences to commercial operation providers, who wish to operate on Council owned or administered park and/or resort land, during the month of October last year. Thirty six submissions were received to this process, 12 from Council staff, six from commercial operation providers, 11 from sports clubs, three from professional organisations, and four from the general public. Where appropriate, the proposed policy has been altered to take into account the suggestions. The main suggestions not included in the proposed policy are elaborated upon below:

- (a) It was suggested by two submitters that a bond be required from commercial operation providers, to cover the cost of rectifying any adverse effects that the commercial operation activity may have on the environment, which were not envisaged when the activity was approved or resulting from the commercial operation provider not complying with the conditions of the licence.

Officers did consider this issue, but leaving it better to include a trial licence period where the effects upon the environment of the proposed activity are not easily ascertainable. During this trial period alternative arrangements to the licence will be able to be made at any time by the Council to mitigate the activities effects upon the environment. It is also proposed in the policy to delegate to the Strategic Manager the right to limit, or shift a commercial activity from one site to another site, if in the opinion the activity is causing damage to the environment, infrastructure of the park or resort, or affecting the general public's rights to use and enjoy. Where a commercial operation provider has breached the conditions of the licence, the Council will have the right to withdraw the licence, should it decide to do so.

- (b) Four submitters, some of whom operated and ran charitable trusts did argue that they make little or no profit from the activities and therefore should not have to pay a licence fee.

This situation how we do not provide commercial equity with another entity that is trying to run a business providing the same or similar activities because this entity will be at a cost disadvantage. The equity of the situation is that the Council is fully able and under the Resource Management Act 1977, and under the powers of general competence of the Local Government Act 2002, to license commercial operators who are the service that is being provided is being paid for by the client. Commercial operators provide services and making the business activities on Council owned or administered land, without authorisation or breach of occupation law and may pose Council to risk. In fact Section 94 of the Resource Management Act 1977 expressly provides that it is an offence to carry on within any resource consent or in an administrative body any trade, business, or occupation without authorisation first being obtained from the Minister of Conservation or the administrative body, as the case may require.

There is a need for the Council to satisfy itself that all commercial operators providing services, operating on Council owned or managed land, who are clients are paying a fee for the services provided and have the appropriate insurance, health and safety plans in place, and that they have the appropriate experience and qualifications to ensure that the services are provided at a good value for the client. There is also the need for the Council to address the balance of the costs of the commercial operators providing services, which include profit, and non-profit motivated organisations, and educational institutions, with the rights of the general public to use the resource. There is also an equity situation that the non-profit organisation should not have a cost advantage over a profit motivated organisation who provide a similar service to the general public. It should be noted that officers are recommending that a Council cost recovery system be established in place, not a profit based system.

This report for the project was submitted to the committee, indicating that they were still not happy with the definition of whom is included in the commercial operators definition, and they are going to be in a bid on the matter. This hearing will be set up shortly.

OPTIONS

General

- 32. Officers have examined the methods used by the Department of Conservation and the Auckland Regional Council to charge for commercial concessions on land under their control. In many cases the concessionaire is charged a percentage of the gross profits, accrued from the activity on the land, which in the case of the Department of Conservation is approximately 7%.
- 33. The costs of putting the licence in place for the operation of the commercial operators would be paid by the applicant in accordance with Council's policies relating to charging/quoting for the compilation of local authority and other rates as confirmed at the Council meeting of 28 June 2001. The costs would include the application processing costs (report preparation and meeting attendance) of public advertising for the preparation and attendance costs if required of Minister of Conservation approval of the Council's local and valuation officers.

Apply a formal licensing process with the fees set at a level to cover Council costs only (the preferred option).

- 34. Using this system will enable the commercial operators to offer their services to the general public at a low price, this being of benefit to the public. The advantage to the Council is that they will retain the maximum benefits of the services. The licence fee will still need to be reviewed annually, to ensure that costs involved in administering the licence are properly covered and that any additional costs incurred by Council for maintaining the Council owned assets for the benefit of the licence holder are covered. There are two options to this being:
 - (a) Where the licence holder applicants wishing to operate upon a particular site can accommodate, in which case a ballot process will be used to determine the price offered for a licence over the site being taken into account together with all the other requirements.
 - (b) Where the licence holder commercial operators providing a similar service on private land in the vicinity of Council managed or controlled park and reserve land, they will be able to charge a similar fee.

35. Officers are of the view that while Council has the responsibility to maintain reserves for the purposes for which the year budget is set, that as a general guide it is not the Council's responsibility to provide the additional value of recreational components, which may expose the Council to a greater financial risk. This area of activity is seen as the domain of the private recreational provider who is willing to take on the financial risks that such a venture entails. Sports Clubs also provide this service, but of course are not included in the definition of Commercial Recreation Provider. Conversely, officers are of the view that in the majority of cases the costs associated with private providers providing this service, and accounting for the financial risks involved should be minimal, covering the costs of Council, with a small percentage of this cost for profit, to ensure that no burden is placed upon the ratepayer. These costs should include, where possible, the additional expenses incurred by Council to maintain the public facility, where this additional expense can be directly attributed to the recreational activities. For example, mountain bike track maintenance.
36. The only exceptions to this rule should be where the provision of this additional value by a commercial recreation provider is in direct competition with private or recreational provider supplying the same recreational service on private land, where high rentals are often repaid, or where the relevant competition enters for a particular site. In these situations a fair rental for the use of the resource should be arrived at, using independent valuation methods, or taking the opportunity to use the site.
37. Such a Council policy would be seen as business friendly by the business community.

Maintain the status quo (no formal licensing process).

38. With this option there is no control over recreational recreation provider activities on Council owned or managed park and reserves land. Congestion at some sites may mean that the general public are not able to use the resource at times during congestion situations may occur, for example rock climbing resource sites.
39. The recreational resource may be damaged through overuse, or unique habitat damaged because of its presence in the area not being known, or understood.
40. Council maintenance costs may be increased by commercial recreation providers use of the resource, without the Council being able to recover the additional costs from the commercial operators.
41. Council not being aware of commercial recreation providers use of sites which may be culturally sensitive to Maori.

Apply a formal licensing process with fees charged as a percentage of gross profit.

42. Officers are of the view that percentage based payments are more difficult to police. It is acknowledged that while the Council may miss out on some revenue using a cost recovery system, the system will afford the resource the maximum opportunity to establish the business, at no cost to the Council. This option will not be seen as business friendly as the commercial option.

Apply a formal licensing process with two levels of licence fees charged. Organisations who operate for profit are charged a percentage of gross profit, while organisations operating on a cost recovery basis only are charged at a level to cover Council costs only.

43. The Commercial Recreation Provider who is offering the service for profit will be at a cost disadvantage to other providers because they will not need to charge customers more to cover costs.
44. This option does not provide for commercial equity between operators operating for profit, and those that operate to cover costs only.
45. Because of how different applicants' organisations are constituted it is likely to be difficult to ascertain which category some of the organisations should fit into.
46. This option will not be seen as business friendly as the commercial option.

Apply a formal licensing process with no fee or cost recovery.

47. This option was not considered for the following reasons:

- (a) The applicants are commercial operators, and the relevant costs are a legitimate cost that applicants should expect to pay when setting up the business that should not be subsidised by the rate payer.
- (b) Council has approved a policy based on a process of quoting/estimating giving the applicant for the recovery of Council costs for processing commercial type applications to use Council owned or managed park and recreation land (28 Jun 2001).

PREFERRED OPTION

48. Apply a formal licensing process which recovers a level of Council costs only.

ASSESSMENT OF OPTIONS

The Preferred Option

49. The fee for the licence that is put in place for commercial recreation provides that a licence to cover Council costs only. The provisions to this effect provide for the provision of this additional value by a commercial recreation provider in direct competition with private recreation providers supplying the same recreation services on private land, where there will be a net cost to charge a similar fee for where there are more applicants wishing to operate upon a particular site than the site can accommodate, in which case a ballot or ballot process will be used to price off requests for a licence to cover the site taking into account together with all the other requests.

	Benefits (current and future)	Costs (current and future)
Social	<ul style="list-style-type: none"> Control over quality of services offered to the public. Enable potential congestion problems at popular sites that may cause antagonism between commercial operators and/or public to be resolved. Ensure a possible congestion which may lead to dangerous situations occurring between parties using the same resource (rock outcrops) do not occur. Minimise the effect of commercial recreation providers to charge to cover their costs, thereby enabling the public to participate in the activity at minimal expense. Ensure that the activity proposed is aligned to the management objectives for the park or reserve, comply with the relevant Acts of Parliament, and is aligned with the Council's goals and objectives. 	
Cultural	Enable the Council to exercise control over sites which may be sensitive to Maori, on the Port Hills.	
Environmental	Control is able to be exercised over activities at particular sites which may be ecologically sensitive, e.g. plants and rock outcrops on the Port Hills, to ensure their resource is protected.	
Economic	<ul style="list-style-type: none"> The increased maintenance costs to Council because of commercial recreation providers taking place on park and reserve land are able to be reimbursed from the commercial recreation providers. Allows commercial recreation providers to add value to the park and reserve by providing the recreational component of the park and reserve at minimal cost to the residents and no cost to the Council. 	Council will forego some revenue that could be gained using a percentage of gross profits gained by commercial recreation providers as a system.

Extent to which community outcomes are achieved:

Because this year known, the applicants' proposals can be adjusted to ensure that community outcomes are maximised.

Impact on Council's capacity and responsibilities:

- If there are increased maintenance costs to Council, as a result of a commercial or other activity provided in the year, the Council will be able to recover those costs from that provider.
- The Council is able to put in place formal protection measures or valuation procedures to assess the impact of the commercial or other activity on the environment, or culturally sensitive sites.

Effects on Maori:

Formal protection measures and valuation procedures are able to be put in place to assess the impact, and gain Maori approval to allow commercial or other activity provided to operate in culturally sensitive sites.

Consistency with existing Council policies:

- The rules consist with the passing of the proposed commercial or other activity against the Resource Management Act 1977 and other rules, management plans for the park or other area, City Plan, bylaws, and other Acts of Parliament which are appropriate.
- The rules consist with the assessment of the application for alignment with the vision, purpose and management objectives for the park or other area which are in the management plan.
- The rules consist with the assessment if the commercial proposal is aligned with the Council's goals and objectives.
- The rules consist with Council's policy of charging for undertaking the necessary processing work to put such licences in place for the benefit of a third party.

Views and preferences of persons affected or likely to have an interest:

Most of the views expressed by the submitter to the consultation process as elaborated upon above have been taken into account. The two issues raised by the submitter not included in the proposed policy for the reasons explained above are that the commercial or other activity provider pay a bond to council before being allowed to operate on Council land, and types of organisations that are included in the definition of 'Commercial or Other Activity Provider'. By having the same policy in place it will enable the Council to minimise the effects of the proposed activity on other parks users, and gauge the views and preferences of persons affected or likely to have an interest in a particular activity.

Other relevant matters:

Maintain The Status Quo

50. No Licence is put in place for commercial recreation provided, and consequently no fee charged

	Benefits (current and future)	Costs (current and future)
Social		<ul style="list-style-type: none"> No control over quality of service offered to the public. Congestion at popular sites that may cause antagonism between commercial operators and/or public. Congestion may lead to dangerous situations occurring between parties using the same resource (rock outcrops). No way of ensuring that the activity proposed is aligned to the management objectives for the park or reserve, compliance with the relevant Acts of Parliament, and is aligned with the Council's goals and objectives. No method for assessing, minimising, and protecting the commercial recreation provided Council, an climate against the risks inherent in the activity.
Cultural		No control over use of sites which may be sensitive to Maori, such as Port Hills.
Environmental		No control is able to be exercised over activities at particular sites which may be ecologically sensitive, such as plants and rock outcrops on the Port Hills.
Economic		The increased maintenance costs to Council because of commercial recreation provided activities taking place on park and reserves and not able to be charged to commercial recreation provided.

Extent to which community outcomes are achieved:

Because this year is not known it is haphazard.

Impact on Council's capacity and responsibilities:

- The current increase in maintenance costs to Council that are not able to be covered from the commercial recreation provided.
- The current no formal protection measures or valuation procedures to assess the impact of the commercial recreation activities on the environment, or culturally sensitive sites.

Effects on Maori:

No formal protection measures or valuation procedures to assess the impact, or gain Maori approval to allow commercial recreation provided to operate in culturally sensitive sites.

Consistency with existing Council policies:

- There is no consistency with respect to the proposed Commercial Recreation Activity against the Resource Management Act 1977 requirements, management plan for the park or reserve, City Plan, bylaws, and other Acts of Parliament which are appropriate.
- There is no consistency in assessing the application for alignment to the vision, purpose and management objectives for the park or reserve with the management plan objectives.
- There is no consistency in assessing if the commercial proposal is aligned with the Council's goals and objectives.
- There is no consistency with Council's policy of charging for undertaking the necessary processing work to put such a licence in place for the benefit of a third party.

Views and preferences of persons affected or likely to have an interest:

- Most of the views expressed by the submittees to the consultation process as elaborated upon above have been taken into account. The two issues raised by submittees not included in the proposed policy for the reasons explained above are, that the requirement that commercial recreation providers pay a bond to council before being allowed to operate on Council land, and type of organisations that are included in the definition of 'Commercial Recreation Provider'. There is no umbrella policy in place by which Council is able to minimise the effects of the proposed activity on other parks users, and gauge the views and preferences of persons affected or likely to have an interest in a particular activity.
- There is no umbrella policy in place by which the Council is able to minimise the effects on other parks users, caused by the activities of a commercial recreation provider.

Other relevant matters:

Option 3

51. Licences put in place for commercial recreation providers, the effect being charged as a percentage of gross profit.

	Benefits (current and future)	Costs (current and future)
Social	<ul style="list-style-type: none"> Control over equality of service offered to the public. Enable spot recreational congestion problems at popular sites that may cause antagonism between commercial operators and/or public to be resolved. Ensure congestion which may lead to dangerous situations occurring between parties using the same resource (rock outcrops) do not occur. Ensure that the activity proposed is aligned to the management objectives for the park or reserve, comply with the relevant Acts of Parliament, and is aligned with the Council's goals and objectives. 	<ul style="list-style-type: none"> The Commercial Recreation Provider will not be charged a high rate per hour or per fee option to cover costs. High cost may make it less affordable for some prospective users to participate in the activity.
Cultural	Enable the Council to exercise control over uses of sites which may be sensitive to Maori, or the Port Hills.	
Environmental	Control is able to be exercised over recreational activities at particular sites which may be ecologically sensitive, e.g. plants and rock outcrops on the Port Hills, to ensure their resource is protected.	
Economic	<ul style="list-style-type: none"> Allows the commercial recreation provider to provide an additional value to Council owned and managed Parks. The Council will gain revenue to use where needed to assist it to run the city. 	<ul style="list-style-type: none"> Will add to the costs of the commercial recreation provider to provide the additional value to Council owned and managed Parks and Reserves. This may discourage some potential commercial recreation providers.

Extent to which community outcomes are achieved:

Because the year is known, the applicants' proposals can be adjusted to ensure that community outcomes are maximised.

Impact on Council's capacity and responsibilities:

- The rate increase to maintain financial costs to Council that are able to be recovered from the commercial ratepayers.
- The Council is able to put in place formal protection measures or valuation procedures to assess the impact of the commercial ratepayer activities on the environment, or culturally sensitive sites.

Effects on Maori:

Formal protection measures and valuation procedures are able to be put in place to assess the impact, and gain Maori approval to allow commercial ratepayer activities to operate in culturally sensitive sites.

Consistency with existing Council policies:

- The rate does not conflict with the passing of the proposed commercial ratepayer activity against the Resource Management Act 1977 or other rules, Management Plan for the park or other City Plan, bylaws, and other Acts of Parliament which are appropriate.
- The rate does not conflict in assessing the application for alignment with the vision, purpose and management objectives for the park or other which do not manage the plan.
- The rate does not conflict in assessing if the commercial proposal is aligned with the Council's goals and objectives.
- The rate does not conflict with Council's policy of charging for undertaking the necessary processing work to put such licences in place for the benefit of a third party.

Views and preferences of persons affected or likely to have an interest:

Most of the views expressed by the submitter to the consultation process as elaborated upon above have been taken into account. The two issues raised by the submitter not included in the proposed policy for the reasons explained above are that commercial ratepayers pay a bond to council before being allowed to operate on Council land, and types of organisations that are included in the definition of 'Commercial Ratepayer Provided'. By having the same policy in place it will enable the Council to minimise the effects of the proposed activity on other parks users, and gauge the views and preferences of persons affected or likely to have an interest in a particular activity.

Other relevant matters:

This policy will not be expected to be as business friendly as the current policy.

Option 4

52. Licences are being put in place for which two levels of licence fees are charged. For commercial operators providing services for profit, they pay a percentage of gross profit. For commercial operators providing services at cost, they pay a licence fee to cover Council costs only.

	Benefits (current and future)	Costs (current and future)
Social	<ul style="list-style-type: none"> Control over quality of services offered to the public. Enable potential congestion problems at popular sites that may cause antagonism between commercial operators and/or public to be resolved. Ensure congestion which may lead to dangerous situations occurring between parties using the same resource (rock outcrops) does not occur. Ensure that the activity proposed is aligned to the management objectives for the park or reserve, complies with the relevant Acts of Parliament, and is aligned with the Council's goals and objectives. Recognise social outcomes of non-profit organisations. 	<ul style="list-style-type: none"> The commercial operator who is providing the services for profit will not be able to charge customers as high a price than under the free option to cover costs. This option does not provide commercial equity between commercial operators who operate for profit, and those that provide a similar service who operate to cover costs only. Because of how different applicant organisations are constituted it may be difficult to ascertain which category of the organisations should fit into.
Cultural	Enable the Council to exercise control over sites which may be sensitive to Maori, on the Port Hills.	
Environmental	Control is able to be exercised over activities at particular sites which may be ecologically sensitive, e.g. plants and rock outcrops on the Port Hills, to ensure the resource is protected.	
Economic	<ul style="list-style-type: none"> Allows the commercial operator providing services to provide an added value commercial component to Council owned and managed Parks. The Council will gain revenue to use as it wishes to assist it to run the city. 	Will add to the costs of the commercial operator who operates for profit to provide an added value commercial component to Council owned and managed Parks and Reserves. This may discourage and thereby exclude some potential commercial operators who operate for profit, because similar non-profit organisations have a cost advantage over profit motivated organisations.

Extent to which community outcomes are achieved:

Because this year is known, the applicants' proposals can be adjusted to ensure that community outcomes are maximised.

Impact on Council's capacity and responsibilities:

- The increase in maintenance costs to Council that are able to be covered from the Commercial Operator Provider.
- The Council is able to put in place formal protection measures or valuation procedures to assess the impact of the commercial operator activities on the environment, or culturally sensitive sites.

Effects on Maori:

Formal protection measures and valuation procedures are able to be put in place to assess the impact, and gain Maori approval to allow commercial operators to operate in culturally sensitive areas able to be put in place.

Consistency with existing Council policies:

- The rules consist of any which pass during the proposed Commercial Recreation Activity against Recreation Act 1977, Recreation Rules, Management Plan for the park or recreation City Plan, bylaws, and other Acts of Parliament which are appropriate.
- The rules consist of any in assessing the application for alignment with the vision, purpose and management objectives for the park or recreation which do not manage recreation plans.
- The rules consist of any in assessing if the commercial proposal is aligned with the Council's goals and objectives.
- The rules consist of any with Council's policy of charging for undertaking the necessary processing work to put such licences in place for the benefit of a third party.

Views and preferences of persons affected or likely to have an interest:

Most of the views expressed by the submissions to the consultation process as elaborated upon above have been taken into account. The two issues raised by submissions not included in the proposed policy for the reasons explained above are that the Recreation Rules that commercial recreation providers pay a bond to Council before being allowed to operate on Council land, and types of organisations that are included in the definition of 'Commercial Recreation Provider'. By having the current policy in place it will enable the Council to minimise the effects of the proposed activity on other parks users, and gauge the views and preferences of persons affected or likely to have an interest in a particular activity within.

Other relevant matters:

This option will in all probability be likely to be unfair by profit motivated organisations wishing to use Council owned or managed park and recreation land to provide a commercial recreational opportunity to the public. This policy will not be likely to be as business friendly as the current policy.