

5. FENDALTON PARK – LEASE TO BOWLS CANTERBURY INCORPORATED

General Manager responsible:	General Manager City Environment, Jane Parfitt DDI 941 8656
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PURPOSE OF REPORT

1. The purpose of this report is to seek the Board's approval to issue a Lease to Bowls Canterbury Incorporated over the area of Fendalton Park currently leased by the Fendalton Bowling Club.

EXECUTIVE SUMMARY

2. Fendalton Park is a Recreation Reserve vested in the Council under the provisions of the Reserves Act 1977.
3. In 2006 Bowls Canterbury Incorporated (BC) sought new premises from which to operate. Following discussions directly with the existing Lessee, Fendalton Bowling Club (FBC), BC made application to the Council to assign the FBC lease to it. FBC have confirmed in writing that they are supportive of any assignment.
4. BC spent some \$96,000 upgrading the building to accommodate their needs and in September 2006 shifted into the building. BC did this on the misunderstanding that Council had undertaken the necessary steps to approve an assignment.
5. Consequently, BC is occupying an area of Fendalton Park without the approval of the Council, and have spent considerable funds to upgrade the building. Now realising the implications of its actions, BC is anxious to either receive an assignment or negotiate a new lease for the reserve occupied by the building and the adjoining bowling green.
6. The Department of Conservation has raised some concerns about issuing BC with an assignment, or new lease as the case may be, on the basis of administration functions being undertaken on a park. However BC facilitate a number of recreational based activities on the site for example interclub competitions, training academy for coaches, umpires and green keepers, public introductions to the sport, and secondary and intermediate school programs promoting the sport and competition. It is therefore considered that administration is just one aspect of the operation.
7. It is recommended that a new lease is issued to BC, as opposed to an assignment of lease, subject to public notification of the intention to grant a lease occurring in accordance with the provisions of the Reserves Act 1977, and the consent of the Department of Conservation being obtained.
8. The Transport and Greenspace Unit has recommended that the lease be granted for 11 years with two rights of renewal of 11 years each making a total term of 33 years. Renewal of the lease at the expiry of each 11 year term will be subject to BC being in a strong financially viable position, and the area occupied not being required for a more important recreational use in the Council's opinion.
9. Consideration has not been given to the eventuality of Department of Conservation declining to grant consent to a new lease. If that was to occur negotiations and alternative solutions would need to be sought.
10. Appendix 1 outlines the history to this matter in detail.

FINANCIAL IMPLICATIONS

11. BC will be:
 - (a) Charged an appropriate annual rental, and the starting basis for determining the rental will be as set out in the Council's Sports Leasing Policy. In addition to that there are benefits accruing to BC due to their administrative function being located on a reserve and this will be factored into a final rent calculation. The Corporate Support and Transport and Greenspace Unit Managers will be given the delegated authority to approve the annual rent.
 - (b) Responsible for meeting all costs associated with Council's compliance under the Reserves Act 1977, and the preparation and execution of any lease.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

12. Not applicable.

LEGAL CONSIDERATIONS

Have you considered the legal implications of the issue under consideration?

13. The Community Board has delegated authority to approve the granting of a lease under Section 54 of the Reserves Act 1977. A new lease is not able to be issued until such time as the requirements of the Reserves Act have been met, as discussed below.
14. Section 54 of the Reserves Act 1977
This section of the Act enables the Council to issue leases in respect of recreation reserves with the consent of the Minister of Conservation.
15. Section 119 of the Reserves Act 1977
Relates to publicly notifying the subject matter, in this case the Council's intention to issue a lease.
16. Section 120 of the Reserves Act 1977
This Section provides for a public notification period of not less than one month from the date of publication of the notice, to allow the public the right of objection and of making submissions.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

17. Page 124 of the LTCCP, level of service under parks, open spaces and waterways.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

18. Not applicable.

CONSULTATION FULFILMENT

19. Public consultation to issue a new lease to BC is required. The procedure for consultation is set out in the Reserves Act 1977. The Act requires the Council to publicly notify its intention to issue a lease. The public has one month from the date of publication of the notice in which to make an objection or submission.
20. If objections to the proposal are received and are unable to be satisfied, then these are heard by a hearings panel of the Council. The Department of Conservations retains a prior right to approve or decline the lease following the outcome of the hearings panel process.

STAFF RECOMMENDATION

It is recommended that:

1. The Board approve a lease to Bowls Canterbury Incorporated of 2790m² of Fendalton Park for a term of 11 years with two rights of renewal of 11 years each, for the purposes of promoting and of playing bowls, training and administration subject to:
 - (a) Public notification under the Reserves Act 1977 and no sustainable objections being received.
 - (b) The approval of the Department of Conservation being obtained.
 - (c) The Fendalton Bowling Club agreeing to surrender the existing lease.
 - (d) The applicant meeting all costs associated with the granting of the new lease.
2. The Corporate Support and Transport and Greenspace Unit Managers be given delegated authority to negotiate and agree the annual rental.