



15. BEXLEY RESERVE – NORTH AVON BMX CLUB – FORMALISATION OF LEASE/LICENCE

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Transport and Greenspace Unit Manager
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PURPOSE OF REPORT

1. The purpose of this report is to enable the Community Board to consider an application from the North Avon BMX Club, an Incorporated Society, to formalise their present occupation of Bexley Reserve.
2. To grant the Club approval to spend up to \$200,000 upgrading their site in preparation for hosting the 2012 National BMX Championships.

EXECUTIVE SUMMARY

3. The club have informally occupied part of Bexley Reserve for over 20 years. Club facilities include a track, club storage, and administration buildings.
4. The club wishes to upgrade its BMX track and other facilities in order to cater for their increasing membership, visitors, and the upcoming National Championships in 2012. This will assist them to raise the profile of the club and position themselves to better cater for changing demographics and interested community groups.
5. Staff are recommending that the Board, acting under delegated authority from the Council, approve the application by the North Avon BMX Club to lease/licence part of Bexley Reserve in accordance with the requirements of section 138 of the Local Government Act 2002 pursuant to section 12 of the same act. The proposed lease/licence areas are illustrated on **attachment one**.

FINANCIAL IMPLICATIONS

6. There are no financial implications to the Council in the granting of a lease/licence to the North Avon BMX Club. Likewise, there are no financial implications to the Council in the proposed track enhancement, it being the responsibility of the club to fund the development, and maintenance of their built infrastructure within their leased area at their expense. The only Council costs will be the staff time spent preparing this report to gain Council approval or otherwise of the club's application, putting the lease/licences in place, and monitoring the developments as they occur on site. These costs are already allowed for within existing operational budgets.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

7. The recommendations will have no impact on the 2009-19 LTCCP budgets except as outlined above.

LEGAL CONSIDERATIONS

8. The club's facilities are situated in the southeast corner of the reserve adjacent to Bexley Road. To formalise their occupation on the reserve, the Council will need to resolve:
 - (a) To lease the area of approximately 8812 square metres, on which the club's existing track and building infrastructure are situated, to the Club;
 - (b) To licence approximately 4890 square metres including the warm up paddock and area immediately surrounding the BMX track to the club.

9. The proposed lease area of approximately 8812 square metres (including the existing BMX track and building infrastructure) is located across two separate titles. Both titles are vested in the Council as fee simple land. One parcel of 4.0439 hectares is held in title CB40A/83, being part of Part Rural Section 5839, being held for no particular purpose. The other parcel is 1.8477 hectares in area, held in title CB40A/85 being part of Part Rural Section 6356, which is held for rubbish disposal. The purpose for which this latter parcel of land is held has been completed. These titles make up a portion of the area more commonly known as Bexley Reserve.
10. The proposed lease area will include all areas of which the club has built assets on, comprising the track, starters box, storage containers, and administration building.
11. Surrounding the BMX track are grass banks and to the north a grass area bordered by willows which is utilised as a warm up area of approximately 4890 square metres. These areas have always been informally included for BMX Club occupation purposes. It is intended that this area be licensed to the club.
12. Current Council practice is to grant leases to legally constituted sporting bodies for periods up to 33 years. Broken into three periods of 11 years. The club in question having the right to renew the lease at the end of the first two terms. If the club is a viable entity financially, membership numbers sustainable, and have fulfilled the requirements of the lease conditions during the previous lease period then staff are recommending that such a lease term be offered to the club.
13. Therefore it is proposed that the North Avon BMX Club be offered the lease/licence for a period of up to 33 years broken into three terms of 11 years each. The club having rights to renew the lease/licence at the end of the first two terms. If the lease is surrendered or terminated for any reason the licence agreement will automatically be terminated at the same time.
14. Under the requirements of section 138 of the Local Government Act 2002, it is necessary to publicly advertise the Council's intention to lease/licence the area to the North Avon BMX Club and to consider any submissions received before finally determining to lease/licence the land. This requirement has been performed as addressed in the consultation section, refer paragraph 25, of this report.
15. The Community Board has delegated authority from the Council (April 2008) to consider this application and to decide whether or not to grant the lease/licence over the reserve.

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

16. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

17. The LTCCP's strong communities strategic direction section prioritises: providing accessible and welcoming public buildings, spaces and facilities; providing parks, public buildings, and other facilities that are accessible, safe, welcoming and enjoyable to use; working with partners to reduce crime, help people avoid injury and feel safer; providing and supporting a range of arts, festivals and events; and protecting and promoting the heritage character and history of the city. The fulfilment of the club's ambitions, by approving this application, will formalise the enjoyment and experience both members and visitors obtain from visiting the site.
18. The LTCCP's healthy environment strategic direction section prioritises: providing a variety of safe, accessible and welcoming local parks, open spaces and waterways; providing street landscapes and open spaces that enhance the character of the city; and protecting and enhancing significant areas of open spaces within the metropolitan area. The approval of this application and the resulting development will enhance the character of the reserve/open space for peoples enjoyment.

19. The LTCCP's liveable city strategic direction section prioritises: improving the way in which public and private spaces work together. The approval of this application will add to the private infrastructure on the reserve thereby improving the way it interrelates with the public reserve it is situated upon, which in turn will add to the value of the experiences club members and their visitors can obtain at the reserve.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

20. Yes, see above.

ALIGNMENT WITH STRATEGIES

21. This application is aligned with the Christchurch Active Living Strategy by supporting members mental stimulation (learning how to ride and to compete also builds personal confidence).
22. This application also supports the Christchurch Visitor Strategy by allowing the club to enhance their facilities. Thereby strengthening the value of facilities on Bexley Reserve will make them more appealing to locals in the area, interested in riding, and other like minded people visiting the area.
23. The approval of this application is in alignment with the Council's Strategic Direction to support Strong Communities. It encourages residents to enjoy living in the city, and to have fun, thereby supporting Christchurch as being a good place to live.

Do the recommendations align with the Council's strategies?

24. Yes, see above.

CONSULTATION FULFILMENT

25. Public consultation occurred in accordance with the requirements of section 138 of the Local Government Act 2002. The proposal being advertised in the Press Newspaper for one calendar month commencing on 30 January 2010. Other lessees and local residents associations were similarly made aware of the intention to lease/licence the aforementioned areas. No submissions were received in response to this notification.

STAFF RECOMMENDATION

It is recommended that the Burwood/Pegasus Community Board, acting under delegated authority from the Council, resolve to:

- (a) Grant to the North Avon BMX Club, pursuant to section 12 of the Local Government Act 2002, a lease over approximately 8812 square metres and a licence over approximately 4890 square metres of Bexley Reserve. The legal description being Part Rural Section 5839 contained in CT CB40A/83 and Part Rural Section 6356. Both land parcels, which are vested in the Council, to be granted for a period of 33 years, broken into three periods of 11 years each, and subject to:
 - (i) The North Avon BMX Club having the right to ask for a renewal of their lease/licence area for a further term at the end of the first two 11 year terms. Subject to the Council being satisfied that the conditions of the lease have been met and that there is sufficient need for the facilities and amenities and that some other use should not have priority in the public interest.
 - (ii) The area covered by the licence agreement being available for public use at all times except when being used by the North Avon BMX Club for associated track activities.
 - (iii) The lease/licence terms being negotiated by the Corporate Support Manager in consultation with the Policy and Leasing Administrator, City Environment Group.
 - (iv) The lease/licence areas being maintained by the North Avon BMX Club in a safe and tidy condition at all times.
 - (v) All costs associated with the issuing of the lease/licence, development and subsequent maintenance of all structures within the lease/licence area, are to be the responsibility of North Avon BMX Club.
 - (vi) The lease/licence agreement is to include a clause which indemnifies the Council and its servants from all claims or demands of any kind, and all liability in respect to any damage or injury occurring to any person or property, as a result of the North Avon BMX Club's activities on the site.
 - (vi) The North Avon BMX Club is to show proof to the Policy and Leasing Administrator that it has a minimum of \$2,000,000 public liability insurance which must be maintained as current during the lease licence period.
 - (vii) The licence will be automatically revoked upon the surrender or withdrawal of the lease associated with this application.
- (b) Grant the North Avon BMX Club approval to spend up to \$200,000 upgrading its site in preparation for hosting the 2012 National BMX Championships subject to the following conditions:
 - (i) The applicant is to pay a \$2,000 bond to the Council via the Greenspace Contract Manager, Linwood Service Centre, and sign a temporary access licence before any construction work commences on the site. The bond less any expenses incurred by the Council will be refunded to the payee upon completion of the development to a standard acceptable to the Transport and Greenspace Manager or his nominee.
 - (ii) The easement construction area being maintained by the applicant, and their contractors in a safe and tidy condition at all times.

BACKGROUND (THE ISSUES)

27. The North Avon BMX Club has occupied Bexley Reserve for nearly 20 years. The club was founded in 1981 and was originally based at Burwood Park. However, the Club was soon relocated to the Horseshoe Lake Reserve. Holding a formal lease at Horseshoe Lake the Club stayed for 10 years before finally moving to Bexley Reserve where it has been since.
28. The Club successfully hosted the 2008 New Zealand Nationals and will again host the New Zealand Nationals in 2012. Therefore, the club wishes to further upgrade its track facilities to international standards. The track is currently viewed as the most technical in the South Island. The location has idyllic park like surroundings with plenty of room for all clubs to have their own trackside marquees. Excellent off road parking facilities and a safe secure adjacent warm up area completes the package.
29. During its history, the club has held a stable membership. The current number of financial members is 63 plus 10 junior members under six years old who do not currently pay fees. In the last two seasons the Club has experienced the biggest growth in skill level and membership numbers ever seen. The club believe this is to be attributable to commissioning last year two top North Island coaches to coach members.
30. The Club is in a good financial situation for a club of this size. The club intends to spend \$150,000 - \$200,000 on enhancements to provide a great facility that the city will benefit from for the next 20 years. The club's goal is to host the New Zealand Nationals every second or third year. Enhancements proposed include rebuilding the start hill, reshaping some corners and straights, beautifying the surrounding area, levelling ground, re-sowing grass, landscaping, adding permanent picnic tables and increasing storage facilities.
31. Staff are comfortable with formalising the club's present informal occupation of the reserve with a lease/licence agreement. This arrangement will maximise the general public's right of access to the reserve while minimising the areas that are necessarily leased to the club to enable them to undertake their activities efficiently.
32. The adjacent public toilets are situated outside the proposed lease/licence area.

THE OBJECTIVES

33. The objective is to grant a lease/licence over Bexley Reserve to formalise the North Avon BMX Club's long occupation of the reserve pursuant to the Council's powers under section 12 of the Local Government Act 2002.

THE OPTIONS

34. To approve the application thereby allowing the club to realise its aspirations which will assist the club to better service their members and future visitors whilst raising their profile in the community and allowing them to enhance their track for hosting the New Zealand Nationals in 2012.
35. Not approve the application which will mean that the club's informal occupation of the reserve will not be legalised thereby not enabling the club to better service its existing members, and visitors, nor enhance their track to international standards making them unable to host the New Zealand Nationals in 2012. By not approving the application the Club has no security of tenure.

PREFERRED OPTION

36. To approve the application thereby allowing the club to realise their aspirations which will assist the club to better service its members and future visitors whilst raising their profile in the community and allowing them to enhance their track for hosting the New Zealand Nationals in 2012.