

## 8. 353 AND 361 POUND ROAD - SHORT TERM USE OF LAND

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<b>Officer responsible:</b>	Unit Manager, Transport and Greenspace, DDI 941 8864
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### PURPOSE OF REPORT

1. The primary purpose of this report is to seek a resolution from the Riccarton/Wigram Community Board to:
  - a) Determine the future short term use of the land at 353 and 361 Pound Road.
  - b) Seek a staff delegation to enter into a licence to graze the said land.

### EXECUTIVE SUMMARY

2. The land at 353 and 361 Pound Road is gazetted and held by the Council for Gravel Purposes under the Reserves Act. The lease agreement granted to Fulton Hogan for 353 Pound Road to stockpile soil, hard fill, and road material, has expired.
3. The Transport and Greenspace Unit, who administer the asset, has advised that the site should not be considered for disposal in the short term, and any commitment by the Council to permit future occupation of the site should be for a period of no more than five (5) years.

### FINANCIAL IMPLICATIONS

4. The site at 353 Pound Road has been occupied by Fulton Hogan since 20 November 1991 when a Deed of Lease was signed between Fulton Hogan Limited and the Christchurch City Council.
5. Fulton Hogan have paid a licence fee for the occupation of 353 Pound Road, but their occupation of 361 Pound Road is not subject to a lease agreement or lease payment for the occupation of the site. The Council has not received a financial return on this land, Fulton Hogan are currently allowing a neighbour to occupy the land for horse grazing purposes.
6. Rates have been levied by the Council for 353 Pound Road and for the current financial year amounted to \$888.07. Rates have not been levied for 361 Pound Road. If rates were to be struck for 361 Pound Road, it would be in the region of \$1,344.85 for the 2012/2013 year.
7. Should the Board decide that the Council licences the use of the site as permitted under the provisions of Section 61(2) of the Reserves Act 1977 then the Council may recover the equivalent rates dues through a gross rental agreed to between the successful licensee and the Council by way of licence agreement(s) for the subject land.

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

8. The decision sought of the Board will not contravene any LTCCP budgets.

### LEGAL CONSIDERATIONS

9. The subject land is held as reserve for Gravel Purposes and as such is subject to the requirements of the Reserves Act 1977. Section 61 of the Reserves Act 1977 empowers the Council to grant leases of local purpose reserve. The current lease has expired and as such the Board may make a decision on what future short term use of the land may be put to. The Riccarton/Wigram Community Board has the delegation to grant leases over Local purpose Reserves, refer to Community Boards, Section 5.7 of the Christchurch City Council Delegations Register as at 24 November 2011. The present occupier of the subject land does not have resource consent to extract any gravels or minerals, nor will seek one, as the subject land has been quarried previously then in-filled.

Section 61(2) of the Reserves Act 1977 is the general leasing power and authorises the Council to grant leases that are compatible with the purposes for which the reserve is held.

Section 61(2A) also provides that in addition to the leasing powers in Section 61(2) that the Council may lease local purpose reserves for either-

(a) "Community building, play centre, kindergarten, plunket room or any other like purposes".

or

(b) "Farming, grazing, cultivation, cropping, or other like purposes".

If the Board is to permit any non Council activity on the sites that requires transparency of process, then the Council is required to publicly call for Requests for Proposals (RFP) to undertake the activity approved by the Board. The normal process is for any successful proposal to be chosen through a Weighted Attributes Selection Process organised and administered through the Councils Leasing Consultancy Team.

10. It is necessary for the Council to consider the requirements of Section 4 of the Conservation Act 1987, that being, to consider its obligations to give effect to the Treaty of Waitangi. There are no cultural materials, or fresh water fisheries of importance to Ngai Tahu within the subject land. The area is not identified as a site of significance to Tangata Whenua in the Christchurch City Plan. The writer has therefore considered the Councils obligations under Section 4 of the Conservation Act 1987 determining that this issue does not require specific consultation with Te Runanga o Ngai Tahu.

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

11. Yes

#### **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

- 12 The decision sought by the Board will not be in conflict with any LTCCP and Activity Management Plans.

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

13. No

#### **ALIGNMENT WITH STRATEGIES**

14. The decision sought of the Board will not be in conflict with any Council strategies.

#### **Do the recommendations align with the Council's strategies?**

15. The decision sought of the Board will not conflict or realign against any Council strategies.

#### **CONSULTATION FULFILMENT**

16. The Council has consulted with the immediate neighbour at 357 Pound Road. The owner, has submitted in writing concerns to the writer about any potential quarrying on the subject land and his concerns have been considered in this report. The other affected neighbour at 367 Pound has been written to informing her of the matter being considered and date of the proposed Community Board meeting. The greater community will be consulted through a public advertisement process following the Board's decision and what use the land should be put to.

#### **STAFF RECOMMENDATION**

It is recommended that the Riccarton/Wigram Community Board pass the following resolutions in respect of the subject land at 353 Pound Road (Part Reserve 1378) and 361 Pound Road (Part Reserve 329) (**Attachment 1**).

- a) That the land is held for grazing purposes and that no stockpiling of soil, gravel and sand is permitted.
- b) That the Corporate Support Unit Manager is delegated authority to enter into and administer a licence arrangement with a successful licensee, procured through an open and transparent public process, for a maximum period of five (5) years.

## **BACKGROUND (THE ISSUES)**

17. The licence agreement to enable Fulton Hogan Ltd to occupy 351 Pound Road for the purposes of the stockpiling of soil, hard fill, and road material products has expired. Fulton Hogan Ltd have not used the site at 351 Pound Road for the purposes as stated in the Deed of Lease which has expired, but keep the site as a bare grassed landscape buffer grazed by animals to minimize any potential of nuisance from dust which may generated from quarrying or the stockpiling of soil, gravel and sand at the quarry sites owned by Fulton Hogan Limited.
18. Fulton Hogan Limited do not have an occupation agreement for 361 Pound Road, but permit an adjoining neighbour to graze horses on this site and the site at 353 Pound Road at no cost to the occupier. Fulton Hogan has indicated a previous licence and extraction agreement existed prior to 20 November 1991, but a copy of this document cannot be produced. Two series of high voltage electrical power lines transit 361 Pound Road from the Pound Road frontage to the North West corner of the site.
19. Fulton Hogan Limited has indicated that the subject land has been quarried in the past and the land reinstated with hard fill.
20. Fulton Hogan provides a water supply to the subject land and the neighbouring residence owned by SUDs Developments at 357 Pound Road at no cost to the grazier and owner of Pound Road.
21. In the past year a large bunding consisting of gravel has been placed on the eastern periphery of the Council reserve site at 353 Pound Road which bounds the rear of 357 Pound Road. Fulton Hogan Limited has informed the writer they have not constructed this bunding. The placement of the materials constituting the bunding has not been approved by the Council. The bunding appears to serve to minimize any potential airborne dust nuisance to the occupiers of 357 Pound from Fulton Hogan quarrying activities some distance away.
22. The writer has consulted with Mr Peter Sutherland Director of SUDs Developments who has indicated that in the event of the Council considering any grazing options for the sites that he is able to fairly compete and submit a proposal. Mr Sutherland has raised concerns that if any future stockpiling of gravel and sand is permitted on the subject land then there will be potential health problems and nuisances caused by this activity.
23. The subject land at 353 and 361 Pound Road and Mr Sutherland's property at 357 Pound Road sit within the Quarry Zone as detailed under the operative City Plan and as such the stock piling of gravel and sand is permitted on site.

## **THE OBJECTIVES**

24. That the subject land is occupied for a short term use of no more than five (5) years and that no adverse effects are caused to any neighbours.

## **THE OPTIONS**

25. The Board may consider a number of options for land use for the site which may include the following:
  - a) Direct that the subject land is left bare and not occupied by any party.

This will give rise to potential fire hazard problems during the summer with grass drying on the sites.
  - b) Consider the site for a community building, playcentre, kindergarten, plunket room, or other like purposes.

There are difficulties in accessing the site from Pound Road. Because of the close proximity of a working quarry with the stockpiling of potential air pollutants it is considered the site would be unsuitable from any of the above purposes.
  - c) Consider the site for the purposes of farming, grazing, cultivation, cropping, or other like purposes.

It is considered that the existing subject land is most likely impoverished and unsuitable for cultivation or cropping. The subject land is currently well grassed and appears to be suitable for horse grazing.

**THE PREFERRED OPTION**

26. Option C - It is considered that the most practicable way for the Council to manage the land, and for any potential air and noise nuisances to be minimized to nearby residents, is for the Council to seek a license for horse grazing of the sites through a public advertisement process, and that no stockpiling of soil, gravel and sand is permitted. The Council receives a steady demand for horse grazing throughout all areas of the city.