

10. MORLEY RESERVE - PROPOSED COMMUNITY GARDEN

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Unit Manager, Asset and Network Planning
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PURPOSE OF REPORT

1. To obtain approval from the Fendalton/Waimairi Community Board, under delegated authority from the Council, to the granting of a licence to occupy for a community garden and a ground lease for a garden tool shed over part of Morley Reserve to the Bryndwr Community Garden Incorporated.

EXECUTIVE SUMMARY

2. The Bryndwr Community Garden Incorporated (BCG) is a 'not for profit' group made up of local garden enthusiasts and individuals passionate about community development. It is a registered incorporated society, incorporated on 26 May 2011.
3. The BCG has stated objectives to:
 - (a) Enhance community wellbeing;
 - (b) Bring people together;
 - (c) Have a venue that is a community focal point for events and activities, and a place of learning and sharing of skills; and
 - (d) Operate a community garden that reflects sustainable and environmental values.
4. The BCG advises that in order to put these objectives into effect it requires a suitable local greenspace site that can serve as a 'common ground' for the families and individuals in Bryndwr to come together to grow vegetables and hone gardening skills. The BCG believes such a community garden will inspire and educate the community by promoting environmental, economic and social sustainability in a supportive and participatory neighbourhood development project.
5. The BCG has requested that it be able to establish and operate such a community garden in part of Morley Reserve, an existing local park in Bryndwr that dates back to 1960. This will require the development and use of an open site of approximately 143 square metres in area, dimensions of this area being 10 metres by 14 metres, in the northern corner of Morley Reserve between the park boundary trees and the children's playground. The development will entail raised garden beds contained within the area. All will be out from under adjacent trees (a Council arborist's advice regarding these trees is given in paragraph 42 of this report). A garden tool shed, with approximate dimensions 1.7 metres by 1.0 metres, will be located close to the proposed garden area and next to the existing Christchurch Aikido Club building. This shed will be used solely to store and secure garden tools.
6. The proposed development and use of this part of Morley Reserve for a community garden will not require exclusive use of the site by the BCG or result in any restriction to access by the public. The community garden will be run employing a good grass-roots community development model that encourages local ownership of the garden. This model has been proven to lower the incidence of theft or damage. No fence will be put in place at any stage of the occupation. Produce may be sold but this will be on a not-for-profit basis and for community and fund-raising benefits. The BCG also intends to have a small membership fee for involvement with the community garden that it anticipates will generate some limited funds to cover further costs.
7. **Attachment 1** shows the location of Morley Reserve, its component parcels of land and the proposed area for the community garden. A proposed occupation plan is given in **Attachment 2**. Site photos are provided in **Attachment 3**.

8. To authorise this proposed non-exclusive occupation by the BCG, a licence to occupy the area for the community garden, and a separate ground lease incorporating the garden shed footprint, will need to be granted to the BCG. **Attachment 2** shows the areas involved.
9. Morley Reserve is a local park totalling 3,485 square metres in area. It is made up of three parcels of land vested in the Christchurch City Council as recreation reserve pursuant to the Reserves Act 1977. Details of these land parcels are given in paragraph 30 of this report.

FINANCIAL IMPLICATIONS

10. There will be no unforeseen financial implications for the Council arising from granting permission for the BCG to occupy the proposed site in Morley Reserve for a community garden. The BCG will meet all costs associated with the establishment and operation of the facility.
11. Council officers propose that the occupation of the site is formalised with a licence to occupy the area for a community garden and a ground lease for the premises containing the tool shed. In normal circumstances, where there is an occupation by a not-for-profit recreation or sports organisation on a recreation reserve, policy approved by the Council in 2001 requires that charges for occupied areas be based on a sports formula.
12. Of a relatively large number of community gardens in the city (25 or more have been identified in lists from various internet sources) a few are on Council land, with at least one on a recreation reserve, this being Packe Reserve in Edgware. This existing community garden is not formalised with a lease or licence, although the circumstances of its establishment are quite different to the one proposed for Morley Reserve. More details of the Packe Reserve community garden are given in paragraph 38 of this report. There is no charge to the group running this community garden, which shares park maintenance with the Council.
13. The Council's Community Gardens Policy, approved in 2003, provides in principle for land to be made available for use for a community garden under licence, with a minimum twelve month term and at a peppercorn rental, and for financial and other support on a case-by-case basis, subject to certain conditions being met. This policy is intended to apply to non-reserve land but reserve land may be considered on a case-by-case basis. For example, a productive garden could be considered to be part of a park's development.
14. For comparison, the Wellington City Council (WCC) has recently (October 2011) approved the granting to a trust of a licence to occupy a recreation reserve for a plant nursery and community garden, including the charging of an annual rental of \$225 plus GST. Legal and advertising costs associated with preparing the licence were met by the trust but the WCC assists the trust on an on-going basis with a contribution of up to \$300 (exclusive of GST) per annum towards water costs. More details of this particular case are given in paragraphs 39 to 41 of this report.

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

15. Not applicable.

LEGAL CONSIDERATIONS

16. An on-going occupation of a recreation reserve administered by the Council in accordance with section 17 of the Reserves Act 1977 (Act) by any group requires that occupation to be formalised through a lease and / or licence to occupy. The operative management plan that includes Morley Reserve emphasizes that "... any building or any other fixed facility not owned and operated by the Council, will be subject to a lease under the Reserves Act 1977." (4.13 Leasing, Policy 1, Waimairi County neighbourhood reserves management plan 1982).
17. The Council's powers to grant leases and licences to occupy recreation reserves are contained in section 54 of the Reserves Act 1977.

18. Council officers are of the view that the proposed activity of operating a community garden on a recreation reserve subject to the Act is consistent with the general purpose specified in section 17(1) of the Act, in that it contributes to "... *the recreation and sporting activities and the physical welfare and enjoyment of the public ...*". Furthermore, there will be no restriction to the public's freedom and access to the reserve, subject to any rights of occupation granted under sections 53 and 54, as required by section 17(2)(a) of the Act.
19. The Council's powers to grant leases and licences to occupy reserves have been delegated to community boards. In this case, this is the Fendalton/Waimari Community Board.
20. In addition to being granted the proposed lease and licence, the applicant is responsible for obtaining, all required resource and building consents before commencing work on the site.
21. Furthermore, before any establishment work commences upon the site it will also be necessary for the BCG to liaise with the Council's Parks Area Supervisor - Northern over any specific requirements for working on the reserve, and this may include, at the discretion of the Parks Area Supervisor - Northern, the signing of a temporary site access licence that sets out these requirements. The BCG's liaison with the Parks Area Supervisor – Northern will also need to cover agreement regarding garden maintenance specifications and general site care consistent with the level required in the Council's maintenance contract with City Care.

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

22. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

23. Not applicable.

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

24. Not applicable.

ALIGNMENT WITH STRATEGIES

25. Yes, with the Strengthening Communities Strategy 2007 (in particular, Goal 4 of the strategy – helping build and sustain a sense of local community) and the Community Gardens Policy 2003. The proposed project contributes particularly to the:
 - (a) Promotion of community based recreation, education and support programmes.
 - (b) Support of local lifelong learning opportunities.

Do the recommendations align with the Council's strategies?

26. Yes, see above.

CONSULTATION FULFILMENT

27. Public notice, in accordance with the requirements of section 54(2) of the Reserves Act, of the proposed ground lease and licence to occupy was made in The Press on Saturday 30 June 2012, inviting public comment, to be received no later than 5pm, Thursday 2 August 2012. One submission of support was received by the closing date. This is included in **Attachment 4** of this report.
28. The BCG is liaising with the Christchurch Aikido Club regarding the proposal, including having the tool shed located beside the Club's building and coming to an arrangement over water use. Notification was made by Council officers to the Club prior to the public notice of the BCG proposal. The Club has indicated support.

29. The BCG has also liaised with the local community and has received several written expressions of support, which were attached to the BCG's business proposal separately circulated to members of the Fendalton/Waimairi Community Board at its meeting on 28 May 2012 to accompany the staff report presenting the BCG's application for a grant from the Board's 2011/12 discretionary response fund.

STAFF RECOMMENDATION

It is recommended that the Fendalton/Waimairi Community Board resolves as follows:

- (a) To approve the granting to the Bryndwr Community Garden Incorporated, for the purpose of developing and operating a community garden, a licence to occupy pursuant to section 54(1)(c) of the Reserves Act 1977 of that part of Morley Reserve containing approximately 143 square metres as is shown on the Proposed Occupation Plan in **Attachment 2** to this report.
- (b) To approve the granting to the Bryndwr Community Garden Incorporated, for the purpose of siting a garden tool shed, a ground lease pursuant to section 54(1)(b) of the Reserves Act 1977 of that part of Morley Reserve containing approximately six square metres as is shown on the Proposed Occupation Plan in **Attachment 2** to this report.
- (c) Reflecting the intention of the Council, as embodied in its Community Gardens Policy, to support community gardens in Christchurch, to approve the granting of the occupations referred to in (a) and (b) of this resolution above for contemporaneous terms of three years, with two rights of renewal of three years each, and at a peppercorn rental.
- (d) That the Corporate Support Manager be delegated the power to negotiate and enter into, on behalf of the Council, the occupations referred to in (a) and (b) of this resolution above on such terms and conditions, subject to (c) of this resolution above, as he shall consider necessary.
- (e) That the Bryndwr Community Garden Incorporated contacts the Parks Area Supervisor – Northern to agree to any requirements, including the signing of a temporary site access licence if required, before commencing garden establishment work on the reserve.

BACKGROUND (THE ISSUES)

30. The legal descriptions of Morley Reserve's component land parcels are listed in the table below. The parcels are shown on the Proposed Occupation Plan in **Attachment 2**.

Legal Description	Area	Certificate of Title
Lot 247 Deposited Plan 19548	374 square metres	CB6B/889
Reserve 5099	1,024 square metres	-
Reserve 5098	2,087 square metres	-

31. The BCG was established in May 2011 with the aim of creating a community garden in Morley Reserve in Bryndwr. The stated purpose of the Bryndwr Community Garden is to enhance the well-being of families and individuals living within the Bryndwr community. The BCG says the garden will be an inclusive place that will bring people together from diverse backgrounds and stages of life, and that it will be a place where families and individuals in Bryndwr can learn about growing their own vegetables, composting and healthy eating.
32. The Bryndwr Community Garden is proposed to be operated by way of a working-bee one afternoon each week, with supervision by at least one member of the BCG. During harvest and the main planting times there is intended to be additional working-bees organised alongside picnics or small social events. In addition, there will be a committed group from the BCG that will be responsible for the general maintenance of the garden and which will spend the extra time in the garden, when necessary, weeding, watering and making sure the garden is generally tidy. It is anticipated that the BCG will have on-going support from, and consultation with, the Canterbury Community Garden Association.
33. A management plan for neighbourhood reserves was prepared by the Waimairi County Council in 1982 pursuant to section 41 of the Reserves Act 1977. Morley Reserve is one of the reserves subject to this management plan, which remains the operative plan in spite of the time that has now elapsed. The Community Involvement objective of this plan is to "... encourage local residents and organisations (including service groups) to take an interest in their neighbourhood reserve and where appropriate assume a supervisory role." (4.12 Community Involvement objective, Waimairi County neighbourhood reserves management plan 1982).
34. Building policy two of the above management plan requires that "Additional buildings should not be permitted on neighbourhood reserves." (4.6 Buildings policy 2, Waimairi County neighbourhood reserves management plan 1982). Taking into account this policy, Council officers are of the view that the proposed garden shed may be considered an exception on the grounds that it is of small size, tucked in beside an existing building on the park, and is necessary to put into effect the proposed community garden that in turn supports the Community Involvement objective of the management plan referred to in paragraph 33 of this report above.
35. Morley Reserve is zoned Open Space 1 (Neighbourhood Recreation and Open Space) in the Christchurch City Plan. This zone includes small areas of public open space (generally between one-tenth of a hectare and two hectares in size) that are of value to local neighbourhoods and communities. Recreational uses of the smaller parks in this zone, such as Morley Reserve, are mostly informal in nature – for example, walking and playing. Therefore, many such parks contain or require seating, playground equipment or other small structures. It is important that these parks maintain their open space character and are not cluttered by facilities and, at the same time, maintain their important role as a recreational area and visual open space for local neighbourhoods. Some sites may contain community facilities of value to the local neighbourhood.
36. "Community gardens are common in cities all over the world. They provide a shared space for communities to work together to grow produce and learn new skills. They benefit individuals by giving people access to fresh, organic produce, by promoting physical activity, and by stimulating learning and adding to a person's knowledge and expertise. Community gardens also have social benefits through promoting community interaction, providing a venue to meet new people and building a sense of community." (Source: <http://www.sustain.canterbury.ac.nz>).

37. The Canterbury Community Gardens Association (CCGA) is a networking organisation for community gardens, promoting the growth of new and existing initiatives. The CCGA is a group of community gardeners and supportive individuals who are working together to promote and strengthen community garden initiatives in Christchurch. The CCGA states that “Community gardens are community and social centres that produce food and promote self-sufficiency. They play a vital role in communities by bringing people together and breaking down social isolation. They are also valuable educational resources, places for people to build confidence and develop employment related skills.” (Source: <http://communitygardens.org.nz>). The CCGA vision is to: “strengthen and nurture existing community gardens, and support new initiatives, in order to build strong communities and encourage these by respecting and fostering human and environmental diversity.”
38. The Packe Street Park Community Garden (which the community garden on Packe Reserve is commonly called), as an example of an existing community garden on a recreation reserve in Christchurch, is a local neighbourhood ‘pick n’ share’ garden cared for by the community. The ‘Friends of the Park at 125 – 129 Packe Street Incorporated’ (the Friends) is a society of people who look after this reserve in partnership with the Council. The land was purchased by the Council in 1996, following a community campaign, and vested at that time as a recreation reserve. The Friends had a park design drawn up to create the park, in partnership with the Council under the Council’s Adopt-a-Park scheme. Today, the Council, through City Care, cuts the grass and takes away the big prunings that cannot be composted on site. The Council also maintains the play equipment and services the rubbish bin. The Friends, in turn, plant and weed, water and prune, collect litter, deal with stray dog droppings, put on events and generally provide, what they call, a benign presence in the park. The Friends have a working-bee every Thursday from 2pm to 4pm. An annual subscription is charged for involvement with the garden, which is two dollars per individual and five dollars for a family. Being a public reserve, though, the park is open to everyone all of the time. The Friends see the park / community garden as a heavily used and well-loved asset in the community, and believe the key to its success is the relationship between the Council, City Care and themselves.
39. An example of a recent (October 2011) case of another local authority approving a community garden on a recreation reserve that it administers under the Reserves Act 1977 is the Wellington City Council approving the grant of a licence to the Northern Community Gardens Trust (Trust) in accordance with the Reserves Act to set up a plant nursery and a community garden on Jay Street Reserve, which is a recreation reserve. This licence is for a term of five years plus a further right of renewal of five years. An annual rent was set at \$225 plus GST per annum in accordance with the rental framework outlined in the Wellington City Council’s Leases Policy for the footprint of the nursery. The Trust met the legal and advertising costs associated with preparing the licence. The Wellington City Council resolved to pay up to \$300 (exclusive of GST) of the metered water charges per annum in recognition of the Trust planting native trees on the land and the fact that the produce will be available to the public.
40. Jay Street Reserve was assessed as part of the Wellington City Council’s Newlands Network Plan (2009-2020) as being of poor open space quality and it had been recommended through that plan that the reserve be assessed for other activities, including a community garden, prior to any decisions being potentially made to divest it of its reserve status. The proposal from the Trust provided an opportunity to trial it as a community garden, and its relative security and proximity to schools suggested that it was well suited for this use.
41. The Wellington City Council’s Northern Reserves Management Plan permits leases and licences to facilitate the public use of reserves covered by this plan by providing for a wider range of facilities than would otherwise be available. Any leases or licences, though, must primarily be concerned with public recreation and other community purposes and open for public participation. A community garden and nursery was considered to fit within this policy framework.

42. Finally, with respect to existing trees in the vicinity of the proposed community garden at Morley Reserve, the Council's Trees and Nurseries Team notes that a couple of these trees are evergreen and that other (deciduous) trees are not fully mature and are in close proximity to the proposed garden site. Therefore, the Council cannot guarantee that in the future there may not be issues with light, for instance, and shading of the garden. The Council will maintain trees for public health and safety reasons, and for the general amenity of the reserve, but any request to excessively prune or remove any trees for the above reason may not be able to be accommodated.