

8. ASSIGNMENT OF LEASE - FENDALTON WOMEN'S BOWLING CLUB

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PROPOSAL/PURPOSE OF REPORT

To present to the Council for approval as Lessor, the assignment and variation of a sports club lease situated on Fendalton Park.

EXECUTIVE SUMMARY

1. The Fendalton Women's Bowling Club (FWBC) and the Fendalton Bowling Club (FBC) have been formally amalgamated and a new constitution incorporating both clubs adopted.
2. The FWBC has resolved to go into liquidation (but has not appointed a liquidator) with the funds and assets of that club remaining after satisfaction of its debts and liabilities and the costs expenses of liquidation being distributed to the FBC Incorporated.
3. As a consequence of liquidation the lease asset is to pass to the FBC by assignment subject to the Council's consent as landlord.
4. FWBC is to be wound up so as to cease to be an entity before 31 December 2004.
5. The FBC lease term runs until 31 December 2008. The Club is a co-host with Burnside and Bowls Papanui to the World Bowls 2008 and has been asked that all three of the combined greens be made available for that event. Understandably FBC would like to secure tenure to the combined bowling facilities until after the finish of 2008 event. Should, however, events do not transpire as anticipated FBC would like the option of being able to surrender the lease of the former FWBC on six months notice. This would allow a reasonable timeframe for both the Council and the Club to deal with its asset should this eventuality arise. The FWBC lease (term expires 31 March 2012) is silent on the right of that Club to surrender the lease.
6. The assignment as proposed is a pragmatic and logical way of dealing with the FWBC site following the demise of that Club. The honorary solicitor for the FBC wishes to assure that the FBC has the consent of the Council to the assignment, following which appropriate notification can be given to the Registrar of Incorporated Societies to wind up the FWBC.

FINANCIAL AND LEGAL CONSIDERATIONS

There are no financial considerations. The lease contains a right of assignment and the Council would need to have reasonable grounds to refuse consent. There are no such grounds staff are aware of. Both parties involved have executed under common seal a deed of assignment. The variation proposed is a practical way of managing the lease given the various possibilities that could arise before and after the World Bowls 2008. Council staff do not have delegated authority for dealings with leases issued under the provisions of the Reserves Act 1977.

STAFF RECOMMENDATIONS

It is recommended that the Council:

1. Consents to the assignment of the lease in the name of the Fendalton Women's Bowling Club to the Fendalton Bowling Club Incorporated.
2. Approve a variation to the lease, as assigned, to provide that the Fendalton Bowling Club may give six months prior notice to the Council of the intention to surrender the assigned lease, with the Greenspace Manager being authorised to accept a surrender of that lease.
3. That the Fendalton Bowling Club meet all costs of the assignment and variation.

BACKGROUND

1. Fendalton Park is a Recreation Reserve vested in the Council in trust under the provisions of the Reserves Act 1977.
2. The FWBC was granted a lease for a term to finally expire 31 March 2012. The lease to the FBC granted by the former Waimairi District Council was for a term of 33 years which will expire (no right of renewal) 31 December 2008.
3. Following notice in September 2004 that the FWBC had been put into liquidation, staff discussed with Club representatives what the best approach was to deal with the matter of the FWBC lease. It was agreed that subject to application and consent of the Council an assignment of that lease would be in order, considering this facility would still be used by both men and women bowlers and that the World Bowls 2008 is to be co-hosted by FBC.
4. No significant change is likely to occur in the use of the women's facility with women's bowling events continuing to be centred mainly from these premises. The Pavilion will accommodate the same external bookings while continuing to be used by both women and men members during the ordinary course of the bowling season. As part of the World Bowls 2008 FBC is also the champion of champion singles event in the 2005 season FBC having control of both facilities will also mean flexibility with organising use of both sites, including providing in the most practical way for any future increase or a decrease in the popularity of the game of bowls. On expiry of the FBC lease in 2008 consideration can be given, if appropriate, to granting one new lease to that club of the combined premises. One of the reasons for the amalgamation of the women's and men's clubs was the falling membership numbers of both clubs. With amalgamation FBC currently has approximately 269 members including honorary and social members.

THE OPTIONS

Apart from assignment there are only two other options. "The do nothing" option is not an option as this would not address or resolve the situation which must now be dealt with. The other alternative of accepting a surrender of the FWBC lease and inviting public proposals for use of this site would be counter productive and unreasonable, considering that the facility will still continue to be used for Bowls and that there is an existing legitimate established entity in the FBC to continue with control and use for the recognised recreational activity. A full analysis of options is not in the circumstances seen necessary.