

## 1. CHRISTCHURCH MODEL YACHT CLUB - PROPOSED LEASE EXTENSION

<b>General Manager responsible:</b>	General Manager City Environment
<b>Officer responsible:</b>	Greenspace Manager
<b>Author:</b>	John Allen, Policy and Leasing Administrator, DDI 941-8699

### PURPOSE OF REPORT

1. The purpose of the report is for the Council to consider an application by the Christchurch Model Yacht Club (the club) to extend its small pavilion, which is situated in North Hagley Park between Victoria Lake and the Armagh Street car park for the Botanic Gardens, by approximately 24 square metres to house a disabled toilet, bench and sink to enable cups of tea to be made for members, and to provide for extra model yacht storage (see attached plans).

### EXECUTIVE SUMMARY

2. The club has requested that Council officers process the club's application independently of the Hagley Park Management Plan Review process because of the unforeseen hold-ups being experienced in the management plan review process. The club initiated discussions about enlarged premises over two years ago.
3. The club has been formally notified that officers would only be prepared to recommend to the Council that a lease be granted for one 10-year period, with no rights of renewal. Officers also informed the club that if the proposed Botanic Gardens/Hagley Park administration/entry building is built in close proximity to the lake, it is unlikely the Council will grant a new lease over the club's present site, preferring the club's facilities to be incorporated in the new building.
4. While it is unusual to process a lease application outside the management plan review process when it is underway, there is no legal impediment why this cannot be done. The Minister of Conservation, who is required to approve the Council's intention to lease the site unless it is foreshadowed in a management plan, may however decide not to approve the application until the management plan review process is completed. This is very likely to occur if an adverse reaction to the proposal is received as a result of the public advertising process.
5. Officers believe the delay in obtaining final approval to proceed with the lease extensions, undertaking consultation through the presently known timing for the management plan review process to be approximately nine months. This period would be shortened by approximately two months if a hearing needs to be held if the lease is advertised outside the management plan process.
6. Officers recommend that the Council approves the application, and that the public consultation be undertaken as part of the management plan review process. This will ensure that the final decision made is in accordance with the Hagley Park Management Plan review process. While this action will delay final approval for up to nine months, it will enable a lease term of up to 33 years to be offered, instead of a recommended 10-year term, thereby eliminating the risk to the club of paying for the construction of the proposed extension and the Council not issuing a new lease at the end of the 10 year lease period. By undertaking the required public consultation as part of the management plan review process, the Minister of Conservation's approval of the lease extension is not required.

### FINANCIAL AND LEGAL CONSIDERATIONS

7. Hagley Park is vested in the Council as a recreation reserve under the Reserves Act 1977, the land not being derived from the Crown. The particular part of the park the club's building is situated on has a legal description of Survey Office Plan 15235, Rural Section 41181, of 87.1700 hectares, it being classified as a recreation reserve this action being notified in New Zealand Gazette number 707 page 2706 on 11 September 1980.
8. The present occupation agreement the club has with the Council to occupy the site is an annual licence, first issued on 1 April 1975, which entitles it to occupy the 38 square metres on which its existing building is built. A licence agreement is not the correct instrument for such land tenure, because it does not grant the club an interest in the land under current land tenure legislation, which clearly it has. A lease is the correct instrument of land tenure that its interest in the land should be registered under.

9. It will be necessary for the club to surrender its present licence agreement, before being granted a new lease for the enlarged lease area of approximately 62 square metres, should the leasing process which is required to be worked through be successful, the lease being issued under Section 54(1)(b) of the Reserves Act 1977.
10. Section 54(2) of the Reserves Act 1977 requires the Council to publicly advertise the Council's intention to offer the club a lease of a larger area of Hagley Park, on which to build its extension. If submissions are received, and submitters wish to be heard in support of their submission, it will be necessary to convene a reserves hearings panel to hear submitters' views prior to the panel making a recommendation back to the Council. Public advertising of the proposal is not required if the proposal is foreshadowed in the management plan for the park. Staff are recommending that the required advertising of the extended lease area be undertaken, as part of the Hagley Park Management Plan review process, which is presently programmed to commence in August this year, the final adoption of the plan by the Council programmed to occur in March 2007.
11. The applicant has indicated that the cost of the proposed extension will be financed by the club, no application for Council financial assistance being necessary.
12. The Hagley/Ferrymead Community Board did not have delegated authority from the Council (16 December 2004) to make the decision on behalf of the Council whether to grant the lease or not, where the application is considered to have an influence on the park that is considered more than local, and is of a metropolitan significance. Officers deem the leasing of any parts of Hagley Park to be of metropolitan significance. This report was therefore placed before the Board to enable it to make a recommendation to the Council.
13. Club members sail model yachts at Lake Victoria in Hagley Park, every Wednesday from 10am until 3pm, and on the 2nd, 3rd, and 4th Saturday of every month from 12.30pm until 3pm. During this time they are granted sole use of the lake through the Council's "sports ground allocation programme". It is also important during these times for the club to have control over radio frequencies used in the area, to ensure that the radio frequencies used to control the model yachts are not subject to outside interference.

#### **BOARD RECOMMENDATION**

It is recommended that the Council grant the Christchurch Model Yacht Club a lease over approximately 62 square metres of North Hagley Park, which has a legal description of Rural Section 41181, on Survey Office Plan 15235, which is of 87.1700 hectares approximately, on which its present building is located, this area including an additional area for the proposed extension, as shown on the attached plan, and elevations, subject to the following conditions:

1. The lease being granted for three terms of 11 years each, the club having the right to renew the lease for a second, and third term, if the club is in a viable position, and the land is not required for any greater community recreational need in the Council's opinion.
2. The terms being negotiated by the Corporate Services Manager in consultation with Greenspace Policy and Leasing Administrator.
3. Public notification of the Council's intention to grant the proposed lease by way of inclusion in the Hagley Park Management Plan review process.
4. The club obtaining all necessary resource and building consents before any development commences on the site.
5. The construction area being maintained by the club in a safe and tidy condition at all times.
6. All costs associated with the development, and subsequent maintenance of the building being paid for by the club.
7. The club showing proof of having a minimum of \$1,000,000 public liability insurance to the Greenspace Policy and Leasing Administrator before commencing work on the site. This policy is to be kept current throughout the term of the lease.
8. The colour scheme for the proposed extensions to the building are to match those for the existing building.

9. Before any tenders are let or work commences on the site, discussions are to be held with the Greenspace Manager's designate, the Policy and Leasing Administrator, Civic Offices, to ascertain the Council's requirements through the development phase of the construction of the facility.
10. The club is to pay a bond of \$2,000 to the Christchurch City Council via the Policy and Leasing Administrator - Greenspace Unit, Civic Offices, prior to commencing construction on the site. This bond, less any expenses incurred by the Council, will be refunded to the payee upon satisfactory completion of the building.
11. The club is to submit a landscape plan for the planting of the east and south sides of the proposed extension, so as to integrate the proposed extension into the surrounding landscape, to the Greenspace Manager for approval prior to commencing work on the site. The club is to complete the work required to implement the approved plan at its cost.
12. If an underground tank foul water disposal system is installed, it is to be emptied only during the hours when the adjacent car park is closed during the evening hours.
13. The club being allocated sole rights to use the lake through the Council's "sports ground allocation programme" on official club days, which currently are every Wednesday from 10am until 3pm, and on the 2nd, 3rd, and 4th Saturday of every month from 12.30pm until 3pm. During these times the club is to have control as far as legally possible, over radio frequencies being used in the area, to ensure that the radio frequencies used to control the model yachts are not subject to outside interference.

## **BACKGROUND ON CANTERBURY MODEL YACHT CLUB - PROPOSED LEASE EXTENSION**

### **History of the Club**

14. The club, which is one of the oldest clubs in Canterbury, was first established as the Christchurch Model Yacht Club in 1898, and has had the use of Lake Victoria for its activities since that time, a period of 107 years. The club was incorporated under the Incorporated Societies Act in 1956. The current patron of the club is the Mayor of Christchurch. The club merged with the Waimairi Model Yacht Club in 1999, retaining the name, and constitution of the Christchurch Model Yacht Club. The club has a growing membership, currently numbering 85 members. Club members sail mainly on Lake Victoria, but also to a lesser extent at the Groynes. Recently the club has been granted permission to sail on the lakes in Westlake Reserve.
15. Further to the above mentioned club days, the club sails at the Groynes on the first Saturday of each month from 2.30pm until approximately 3pm.
16. Many of the club's members are senior citizens, who find the present public toilets which are some distance away less than ideal. To assist in this respect officers have allowed the club to locate a 'portaloo' close by in the former North Hagley Bowls Club groundsman shed as a temporary measure.
17. The toilet in the proposed extension to the club's building is located a long way from any foul water drainage system, and as such the club intends to install a 1,056 litre holding tank which they can have pumped out periodically. The author of the report has discussed this possibility informally with the Council Building Inspectorate, who indicated that in these types of situation they are comfortable with this type of foul water disposal system. It will be a requirement of the lease conditions that this tank is emptied after the car park is closed to the public during the evening.

### **Management Plan Issues**

18. The present Hagley Park Management Plan, which is currently being reviewed, and which is a legally binding document on how the Council will manage Hagley Park, contains a number of objectives and policies that need to be taken into account when deciding whether or not to grant the club's application.
19. The objective under Section 7 of the plan entitled 'Recreation' stipulates:  
  
*To maximise the recreational potential of the park but limit ancillary developments such as buildings and car-parking which detract from the park's landscape value.*

The relevant policies to achieve the above objective, which need to be consider when assessing this application are:

- (a) *Sporting codes which currently occupy areas required for other forms of recreation or which have an undesirable impact upon the park shall:*
- *Be relocated to suburban grounds.*
  - *Change the times which games are played to minimise the peaks which occur at any particular time.*

Sunday is the busiest day for use of the adjacent Botanic Gardens Armagh Street car park. The club does not operate on Sundays. There is also no trouble in finding a car park on Wednesdays, which is the other day that the club membership is active during the week. Unlike other sports there are very few lakes within Christchurch that are suitable for model yacht sailing.

- (b) *Formal lease agreements shall be required where sports clubs occupy land and/or buildings in Hagley Park.*

If the club's application is successful, a lease agreement will be entered into, as elaborated upon earlier in the report.

- (c) *All leases shall be reviewed upon expiry.*
- (d) *No automatic rights of renewal clauses shall be provided in leases in the future.*

The above two policies will be adhered to when negotiating the lease if the application is successful.

20. The objective under Section 8 of the plan entitled 'Structures' stipulates:

*To keep to a minimum the number of new buildings on the park and to coordinate and integrate the existing Hagley Park buildings. To protect historic buildings within the park.*

The relevant policies which need to be considered when assessing this application to achieve the above objective are:

- (a) *Any proposal for new structures shall take account of the following:*
- (i) *The effect of the building on the park environment. In this regard all design (including external material, colour scheme, and landscape proposal) must be approved by Council to ensure the facility is appropriate to the parkland surroundings.*

Officers are satisfied that the design of the building is appropriate, the other requirements being adhered to by putting the appropriate conditions on any lease approval.

- (ii) *The possible increased demand for car parking in or adjacent to the park, and the possible detrimental effect on the environment.*

While officers acknowledge that the club is experiencing a growth in membership, and consequently a small increase in members using the Hagley Park car parks, it is not expected that the building of the addition to the club's premises at the park will result in a huge increase in the club's membership in itself, but rather provide better facilities for existing members.

- (iii) *The effects of the additional facilities and requirements on the convenience and well being of other park users.*

Officers believe that the propose additions to the building will only have a minor impact upon other park users, if at all.

- (b) *Where the appearance of unattractive buildings cannot be significantly improved with a new colour-scheme, provision shall be made to screen the building with appropriate planting.*

To better integrate the building into the park landscape the club will be required to plant the south and east side of the proposed extension to match the existing plantings.

### **Application Processing Issues**

21. Records show that the club made enquiries to Council officers during August 2003 about the possibility of leasing part of the former North Hagley Bowls Club pavilion for its requirements. At the time they were formally replied to indicating that the future use of this building, indeed if at all because of the cost of bringing it up to comply with modern earthquake requirements, would be decided through the Hagley Park Management Plan review process, which was imminent at the time.
22. In January 2004, after the club had reassessed its requirements, the club decided to build an extension to its existing building. Further meetings were held between the club and Council officers, which culminated in the club making a formal application to extend its clubrooms during late March 2004. At the time officers formally indicated to the club that there may be issues with respect to its application concerning the possible siting of a proposed Botanic Gardens/Hagley Park administration and entrance building in the vicinity, and until the planning required around this issue became clearer, (at that time thought to be about a month, but still not resolved), no further work would be undertaken on the application.
23. For numerous reasons the Hagley Park Management Plan review process has been delayed a number of times, this being the appropriate process to undertake the required public advertising of the club's proposed lease extension, because the proposal can be considered in the context of other Hagley Park planning matters. The Hagley Park Management Plan review process is now being considered as part of a wider management planning process which includes the Botanic Gardens, because of the linkages between them. At this time it is planned that this management planning process will not be completed until approximately March 2007.
24. The delays to the management plan review process, and the resulting impact on the club's ambitions to extend its building has caused some disquiet among sections of the club's membership, and is of concern to officers processing the application. However at this time a number of issues need to be considered, before deciding to process this application outside the management plan review process, which are elaborated upon below:
  - (a) If the application is successfully processed separately at this time, final approval will need to be obtained from the Minister's delegate of the Department of Conservation in accordance with the section 54 leasing requirements of the Reserves Act 1977. This is by no means assured. It is unusual for an administering authority to undertake leasing of a part of a reserve outside the management plan review process being undertaken for a reserve, when this action is pending, however there is no legal impediment to the undertaking of such an action. The Minister of Conservation may grant permission for the granting of a lease in this situation if minimal adverse public reaction is received in response to the public advertising of the Council's intention to grant the lease. However if an adverse public response to the proposal is received, the Minister is very likely to delay the approval process pending the outcome of the management plan review process, under Section 41 (15) of the Reserves Act 1977.
  - (b) If the application is successfully processed separately at this time, officers recommend that the Council should offer the club a lease for one period of ten years. There will be no rights of renewal as per the current Hagley Park Management Plan policy. This period will be striking a balance between the club obtaining a reasonable return on the capital it invests in the proposed extension, whilst enabling its activities at the end of the proposed lease period to be incorporated into the proposed Botanic Gardens/Hagley Park administration/entry building, if it is decided at the end of the management plan review process that this building is going to be placed in close proximity to Lake Victoria.
  - (c) If the application is included in the Hagley Park Management Plan review process as recommended, officers are recommending that a lease period up to the maximum allowed term (33 years) be offered, which will give the club certainty of tenure in the longer term, and a much better return on the capital expended to build its additions.
  - (d) Officers anticipate the delay in processing the application using the presently known timing for the management plan public consultation process to be approximately nine months, this period will be shortened by approximately two months if a hearing is required as a result of the application being publicly advertised outside the management plan process.

## **OPTIONS**

### **The Preferred Option**

25. This option is to grant the club a lease over the site its present building is located on, plus an additional area on which to build its extension for a maximum period of thirty three years, subject to all the requirements of the Reserves Act and other legislative requirements being completed correctly, including the required consultation being undertaken as part of the management plan review process.

### **Maintain The Status Quo (If Not Preferred Option)**

26. This option does not contribute to the wellbeing of the growing club, the facilities being too small for the growing membership of the club. Officers do not support this option.

### **Option 3**

27. This option is to grant the club a lease over the site its present building is located on, plus an additional area on which to build its extension for a maximum period of ten years, subject to all the requirements of the Reserves Act and other legislative requirements being completed correctly, before the management plan review process is completed.