

13. GRAHAM CONDON RECREATION & SPORT CENTRE

General Manager responsible:	General Manager Community Services, DDI 941-8607
Officer responsible:	Recreation and Sport Unit Manager
Author:	John Filsell, Recreation and Sport Unit Manager

PURPOSE OF REPORT

1. The purpose of the report is to seek a Council resolution:
 - Approving the entering into of a Heads of Agreement and associated lease and licence documentation with the Ministry of Education and the Papanui High School Board of Trustees in relation to the land to be used for the construction and operation of the Graham Condon Recreation and Sport Centre (“the Facility”) on the terms generally described in this report;
 - Delegating authority to the General Manager Community Services to negotiate and agree the final form of the Heads of Agreement and related documents to be entered into with the Ministry of Education and the Papanui High School Board of Trustees in relation to the Facility;
 - Approving the proposed design of the Facility; and
 - Approving the commencement of the tender process for the construction of the Facility.

EXECUTIVE SUMMARY

2. Over the period from September 2004 to June 2006 the Council developed the Aquatic Facilities Plan to produce a city-wide plan for the future provision of aquatic facilities over the forthcoming 30 years. The development process included four Council reports, three Councillor workshops, the 2006 LTCCP process and regular presentations to the antecedent Creating Strong Communities Portfolio Group. The Plan concluded that based upon the Council’s criteria, the “Northern Corridor” was the area with the highest need for an aquatic facility following the completion of Jellie Park.
3. Page 35 of the Aquatic Facilities Plan details the Council approved site assessment criteria for the future location of aquatic facilities as follows:

That a preferential site:

- *Be located at or near a destination that attracts large numbers of people, preferably within 200m of the destination.*
 - *Have a strong relationship to transport networks and preferably have an entrance off a major arterial road and bus route, preferably within 200m of a transport hub.*
 - *Be visible—prominent site with a good visual profile for passing traffic and alongside a major destination so it is easily identifiable.*
 - *Present an opportunity to co-locate with other Council facilities such as libraries, dry recreation areas and service centres.*
 - *Have sufficient available land. Land area big enough for proposed facility and future co-location of other Council facilities to form a community hub. Preferably the land is in Council ownership or owned by a willing partner able to supply land at no cost.*
4. The development of the Plan included a search for a suitable site along the Northern Corridor. Papanui Domain, Redwood Park, St Bedes, Sheldon Park and St Andrews were amongst those considered. Papanui High School was the strongest site when considered against the criteria. As a result on 30 June 2006 Council resolved to:

“Through Council’s Aquatic Facilities Plan:

- 1. To construct an indoor pool, sports hall and gym at Papanui High School.”*

5. The 2006–2016 LTCCP includes the construction of an indoor pool, sports hall and gym at Papanui High School. On 25 June 2008 the Council approved additional funding in the capital programme to increase the number of lanes in the proposed pool from six to eight as part of the 2008/09 Annual Plan.
6. Over the past 18 months Council officers, representatives from Papanui High School and Ministry of Education officials have developed a detailed concept of how the relationship between the parties is reflected in the location and shared use of the facility. This is summarised below:
 - (i) The facility will be built on land leased by Council from the Ministry of Education for a term of 50 years.
 - (ii) The Council will have exclusive use of the pool and gym at all times.
 - (iii) The Council will have exclusive use of the new sports hall outside high school hours, this includes after school, evenings, weekends and holidays.
 - (iv) The Council will have exclusive use of the (school owned), existing sports hall outside high school hours, this includes after school, evenings, weekends and holidays. Note: Peak community use of the sports halls are outside of school hours.
 - (v) Papanui High School will have exclusive use of the new sports hall during school hours in return for giving Council exclusive use of the existing hall outside school hours.
 - (vi) Papanui High School will have the right to use the pool for up to 10,000 pre booked swim educational visits per year for three years at no cost. After this time Council will agree a cost that reflects the Council's fee for school use and the ongoing provision of the site by the School.
 - (vii) The Council will build, maintain and operate all new facilities, the school will maintain and operate the existing sports hall.
7. To implement the Aquatic Facilities Plan in respect of the Facility Council officers now wish to:
 - (a) Conclude the necessary contractual and lease arrangements with the Papanui High School Board of Trustees and the Ministry of Education in order to formally secure the use of the land at Papanui High School for the Facility; and
 - (b) Have the proposed design of the Facility, in the form of the floor plans and elevation plans **attached** to this report, formally approved; and
 - (c) Commence the tender process for the construction of the Facility. Detailed working drawings are currently being developed in preparation for a tender process scheduled to begin December 2008 with a recommendation as to a preferred tenderer expected to be presented to the Chief Executive Officer in March 2009.
8. The proposed timeframe for the project is as follows:
 - Issue tender documents, early December 2008.
 - Tenders close, end January 2009.
 - Consideration of tenders, late March 2009.
 - Construction begins, April 2009.
 - New sports hall complete, January 2010.
 - Project complete, May 2010.

9. In September 2007, following the death of Councillor Graham Condon, the Council informally agreed to name the facility after Graham Condon. This was informally agreed to by Graham's family and the Ministry of Education. This report will recommend that the Council agree to name the facility the "Graham Condon Recreation and Sport Centre" subject to the formal agreement of Graham's family and the Ministry of Education.

FINANCIAL IMPLICATIONS

10. The Council has a budget provision of \$12,970,037 for the construction and fit out of the Facility, this is included as a level of service in the draft Recreation and Sport Services Activity Management Plan. Papanui High School and Kiwi Income Property Trust (Northlands Mall) have both agreed to make a financial contribution to the project. Both parties have asked that these amounts remain confidential. Both contributions are included in the budgeted figure in section ten of this report and will be made available to Councillors upon request.
11. The completed facility will cost approximately \$1,220,000 per annum to operate including a depreciation charge of \$500,000 per annum.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

12. All required funding has been added into the draft 2009/19 LTCCP budget.

LEGAL CONSIDERATIONS

13. The land to be occupied by the Facility currently forms part of the grounds of Papanui High School and is legally owned by the Ministry of Education. Therefore, to enable the Council to construct and operate the Facility on the land it will be necessary for the Papanui High School Board to grant a lease to the Council under section 70B of the Education Act 1989 and for the Ministry of Education to consent to that lease.
14. A draft Heads of Agreement has been prepared by the Ministry of Education's solicitors on the Ministry's standard template and is currently being reviewed in detail by the Recreation & Sport Unit, the Legal Services Unit and the Property Consultancy Team. The Heads of Agreement is intended to set the contractual framework and detail the contractual relationship between the Council, the Papanui High School Board and the Ministry of Education in relation to the Facility.
15. Essentially, it is intended that the proposed Heads of Agreement will provide for the following:
 - (a) That the School Board will grant a licence to the Council to occupy the land to permit the Council to undertake the construction of the Facility. It is proposed that the consideration for the grant of the licence will be a nominal 10c and that the term will be 2 or 5 years.
 - (b) That the School Board will, upon completion of the Facility, grant a lease to the Council of the required land for a term of 49 years and 364 days at a nominal rental of \$1.
 - (c) That contemporaneously with the grant to the Council of the lease the Council will grant to the School Board a licence to use the Facility, the purpose of which is to define and regulate the School's use of the Facility in common with the community. The term of the licence will be 49 years and 364 days and the rental a nominal \$1.
 - (d) That contemporaneously with the grant to the Council of the lease the School Board will grant to the Council a licence to use the existing School Sports Hall, the purpose of which is to define and regulate the Council and the Community's use of the existing School Sports Hall in common with the School. The term of the licence will be 49 years and 364 days and the rental a nominal \$1.
 - (e) That contemporaneously with the grant to the Council of the lease the School Board will grant to the Council a lease of the car park associated with the Facility (but to be available for general community use). The term of the licence will be 49 years and 364 days and the rental a nominal \$1.

16. Whilst the draft documentation has been prepared on the Ministry's standard template there are a number of details that will require amendment by negotiation.
17. The School Board and the Ministry of Education are authorised to enter into the Heads of Agreement and the associated documentation by section 70B of the Education Act 1989.
18. The Heads of Agreement and related lease and licence documentation can only be entered into by the Council with the express authority of a formal Council resolution.
19. In addition, a Council resolution is required to approve the proposed design of the Facility, to authorise the commencement of the tender process for the construction of the Facility and to give the Chief Executive Officer delegated authority to accept the preferred tender up to five per cent over.

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

20. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

21. The project is expressly included in the 2006–2016 LTCCP on page 135.

ALIGNMENT WITH STRATEGIES

22. The project is included in the Aquatic Facilities Plan 2006 as adopted by Council on 30 June 2006 and the 2006–2016 LTCCP.

CONSULTATION FULFILMENT

23. The Aquatic Facilities Plan was the subject of extensive consultation over a period of 18 months culminating with the 2006 LTCCP process. The Graham Condon Recreation and Sport Centre (then called the Northern Area Pool) was included as a proposed increased level of service in the draft 2006–2016 LTCCP. It received full public consultation in the 2006 LTCCP process and was subsequently included in the final 2006–2016 LTCCP.

STAFF RECOMMENDATION

It is recommended that the Council resolves to:

- (a) Enter into the following documents by the Council with the Ministry of Education and the Papanui High School Board of Trustees in relation to the land to be used for the construction and operation of the Graham Condon Recreation and Sport Centre on the terms generally described in this report:
 - (i) Heads of Agreement.
 - (ii) Construction Licence.
 - (iii) Deed of Lease.
 - (iv) Deed of Licence relating to the School's use of the Graham Condon Recreation and Sport Centre.
 - (v) Deed of Licence relating to Council/ community use of the existing School Sports Hall.
 - (vi) Deed of Lease or Licence relating to the associated car park.

- (b) Authorise the General Manager Community Services to enter into negotiations with the Ministry of Education and the Papanui High School Board of Trustees in relation to the proposed Heads of Agreement and associated documents referred to above and delegate to him the authority to enter into such documentation once he is satisfied that they are in a form satisfactory to the Council.
- (c) Approve the proposed design of the Graham Condon Recreation and Sport Centre in the form of the floor plans and elevation plans **attached** to this report with authority to the General Manager Community Services to agree such minor variations to such plans that he considers necessary.
- (d) Approve the commencement of the tender process for the construction of the Graham Condon Recreation and Sport Centre.
- (e) Delegate to the Chief Executive Officer the authority to accept the preferred tender up to five per cent over for the construction of the Graham Condon Recreation and Sport Centre in the form described by this report and provided the tender is within budget.
- (f) Agree to name the facility the "Graham Condon Recreation and Sport Centre", but subject to the formal agreement of the family of Graham Condon, the Ministry of Education and the Papanui High School Board of Trustees to that name.