

6. GRAHAM CONDON RECREATION & SPORT CENTRE

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

PURPOSE OF REPORT

1. The purpose of the report is to seek a Council resolution:
 - Approving in principle 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. On 30 June 2006 the Council adopted the Aquatic Facilities Plan as part of the 2006 LTCCP process. 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 2008–2009 Annual Plan.
3. 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:
 - The facility will be built on land leased by Council from the Ministry of Education.
 - Papanui High School will have exclusive use of the new sports hall during school hours.
 - The Council will have exclusive use of the existing sports hall outside school hours.
 - The pool and fitness centre are public facilities open to the public at times consistent with similar facilities city wide.
 - Papanui High School will have the right to use the pool for up to 30,000 pre booked swim educational visits per year for four 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.
 - The Council will build, maintain and operate all new facilities, the school will maintain and operate the existing sports hall.
4. 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 tendered expected to be presented to Council in March 2009.

5. The proposed timeframe for the project is as follows:
 - Issue tender documents, early December 2008.
 - Tenders close, end January 2009.
 - Council considers tenders March meeting (late March 2009).
 - Construction begins, April 2009.
 - New sports hall complete, January 2010.
 - Project complete, May 2010.
6. 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

7. The Council has a budget of \$12,058,000 for the construction and fit out of the Facility including the agreed contribution of third parties. The latest capital construction and fit out estimates by the quantity surveyor indicate that the total cost will be \$12,970,037 leaving the potential for a \$912,037 capital shortfall subject to a tender process.

The additional capital costs and justification are detailed in Table 1 below. The capital costs relate to works needed in order to get a resource consent, works needed to improve disabled access and works previously and incorrectly budgeted under operational expenditure.

Table 1: Additional Capital Costs and Justification		
Description	Justification	Amount
Traffic Lights	Identified in the traffic engineering proposal as the preferred solution to a serious health and safety issue by providing a safe pedestrian route between Northlands and the Facility.	\$200,000
Additional car parking	Additional car parking needed to fulfil the Council's parking requirement regulations for this sized facility under the city plan and to satisfy stakeholder concerns.	\$125,000
Additional facilities for disabled access	Additional facilities including ramps, hoists and changing facilities following a disabled access audit process. Necessary as the facility is dedicated to Graham Condon heightening the focus on access.	\$74,292
Software Licences	New Class licences due to a planned software upgrade, this will result in operational efficiencies.	\$41,100
Fit Out	Office, changing facility and poolside fit out, previously budgeted in a separate operational project but amalgamated into the capital project to demonstrate the full and total cost of the project.	\$87,185
Fitness Equipment	Research has shown it is cheaper for the Council to purchase the equipment rather than lease. Lease charges will be deducted from operational costs.	\$384,460
Total Cost		\$912,037

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 seven of this report.

8. 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?

9. There will be an estimated shortfall in the 2006/16 LTCCP capital programme of the \$912,037 mentioned in clause 7, which is being added into the 2009/19 LTCCP.

LEGAL CONSIDERATIONS

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. In addition, a Council resolution is required to approve the proposed design of the Facility and to authorise the commencement of the tender process for the construction of the Facility. When a preferred tenderer has been identified it will be necessary for a further Council resolution to be obtained approving the acceptance of the preferred tender. It is envisaged that this matter will be reported to Council in approximately March 2009.

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

17. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

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

ALIGNMENT WITH STRATEGIES

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

CONSULTATION FULFILMENT

20. The Aquatic Facilities Plan was the subject of extensive consultation over a period of 12 months as part of 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) 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.