

## 11. CHRISTCHURCH CITY BICYCLE MOTORCROSS (BMX) CLUB – NEW LEASE DECLARATION OF PART OF KYLE PARK A RECREATION RESERVE

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Corporate Plan Output:	

The purpose of this report is to enable a formal lease to be put in place for the recently relocated BMX track at Kyle Park and to declare part of the park presently held as fee simple land, Recreation Reserve. The opportunity is also being taken to have the Parks and Recreation Committee resolve that part of Kyle Park being Lot 2 on Deposited Plan 34558 of 1.6590 hectares be classified as a recreation reserve, as required by Section 16 (2A) of the Reserves Act 1977, it being vested as such a reserve on 2 October 1974. This report is presented to the Board to enable them to make a recommendation to the Parks and Recreation Committee upon the granting of this lease, and declaring part of the park recreation reserve.

### HISTORY

The Christchurch City Bicycle Motor cross (BMX) Club (The Club) have had a lease of approximately 7,372 sq metres of part of Lot 1 DP25716, known as Kyle Park since the 4 July 1988, under the provisions of the Local Government Act 1974.

The Water Services Unit, as part of their programme of upgrading of the stormwater system of Christchurch, have built a retention basin in the area, formally leased to The Club, the reason being the basin is situated in the bottom of an old shingle pit to which stormwater is drained from the surrounding residential area. Before under taking this work it was necessary to shift the club to an area further east in Kyle Park. This has occurred.

### LEGAL ISSUES

The new area to be leased straddles two pieces of land, one of which is held as a recreation reserve, the other parcel being held as fee simple land under the Local Government Act. Legally it is not possible to transfer a lease to a new site. It will be necessary therefore to put a new lease in place. The former lease was for a term of 33 years commencing on 31 January 1988, with a right of renewal for a further 33 years until 31 January 2054. It will not be possible for the new lease to be granted for the same period of time for two reasons. The first reason being it is not possible to put a lease over an area held under the Reserves Act for a period longer than 33 years. The second reason is that any lease longer than 19 years 364 days requires the area to be surveyed out and registered upon the title, (a registered lease) a process not normally undertaken on city council reserve land. Discussions have been held with the club, they agreeing to a lease term of 19 years, 364 days, as long as it is put in place at no cost to them. The costs of putting a new lease in place will be paid for by the Water Services Unit, who moved The Club to the new site before building the retention basin.

Lot 1 DP78681 of 7.0429 ha (45A/841) was a former shingle pit which has now been partially filled in, part of which has been used for sports fields for a number of years. Officers are therefore of the view that this land should be declared a recreation reserve to reflect its prime purpose outlined in section 17 of the Reserves Act 1977, before a lease to the club is put in place.

The Council may declare land vested in it to be a reserve as provided for in Section 14(1) of the act. It will not be necessary to advertise the proposal to declare the land a recreation reserve as set out in Section 14(2) of the act because the operative Papanui District Plan sets the use of this area aside for a recreation reserve. The relevant section of the Reserves Act is printed below for members' information.

*(2) No such resolution shall be passed before the expirations of one month after notice of intention to pass the same and calling for objections thereto in writing has been published in one or more newspapers circulating in its district, and until it has considered all such objections received within that period:*

*[Provided that such a notice of intention shall not be necessary where a district plan makes provision for the use of the land as a reserve or the land is designated*

*as a proposed reserve under an operative district plan under the Resources Management Act 1991].*

Where the resolution is gazetted under Section 14(4) of the Reserves Act 1977 it is deemed that the reserve is classified in accordance with its principal purpose which in this case is a recreation reserve.

#### **THE LEASE**

The area of park occupied by the new BMX track is approximately 5,000 sq metres, the clubs building occupying a further 22 sq m. This is considerably less than the original area occupied by the club because of the layout and configuration of the new track.

Unlike the previous track, the new facility will not be fenced off from the park, the club wishing to make it available to all park users, so as to assist to foster the sport, and thereby hopefully gain more members in the future. Officers and the Board Chairperson have had on-site discussions with the club concerning the maintenance of the track, officers agreeing that because of the availability of the track for the use of the general public at all times other than when formal events are being held, that Council will supply materials for the maintenance of the existing track, the onset maintenance work upon the track being the responsibility of the club. Officers have also agreed to undertake the mowing of grass around the track, the responsibility for maintaining the garden areas, and track edges being the clubs. The future maintenance of the clubs new building, lighting poles and lights being the responsibility of the club.

- Recommendation:**
1. That the Council adopt the following resolution to declare part of Kyle Park a recreation reserve within the meaning of Section 17 of the Reserves Act 1977.

#### **Resolution**

“That, in exercise of the powers conferred on it by Section 14 of the Reserves Act 1977, the Christchurch City Council hereby resolves that the piece of land held by the it in fee simple and described in the Schedule hereto, shall be, and the same is hereby declared to be a recreation reserve within the meaning of the said Act”.

**Schedule  
Canterbury Land District  
Christchurch City**

Lot 1 DP78681 containing 7.0429 hectares or thereabouts being all of the land comprised and described in Certificate of Title 45A/841.

2. That the Council adopt the following resolution to classify part of Kyle Park which is owned by Council for the purpose of a recreation reserve.

**Resolution**

“That, in exercise of the powers conferred on it by Section 16 of the Reserves Act 1977, the Christchurch City Council hereby resolves that the piece of land held by it for a recreation reserve and described in the Schedule hereto, shall be classified as a recreation reserve in accordance with Section 17 of the said Act”.

**Schedule  
Canterbury Land District  
Christchurch City**

Lot 1 DP34558 containing 1.6590 hectares or thereabouts being all of the land comprised and described in Certificate of Title 14A/1326.

3. That the Board recommend to the Parks and Recreation Committee that Council grant a lease to the Christchurch City Bicycle Motor Cross (BMX) Club over 5,022 sq m of Kyle Park pursuant to section 54, 1(c) of the Reserves Act 1977 for a period of 19 years, 364 days subject to the following conditions:
  - (a) That the Councils intention to lease part of Kyle Park is publicly advertised in accordance with the requirements of section 119 of the Reserves Act 1977, and that Ministerial Consent obtained.
  - (b) That the club be responsible for the maintenance and ongoing costs associated with the development and maintenance of the building, lighting system, planted areas around the track, and the track.

- (c) That the Council undertake the mowing of the grass areas inside the lease area, and provision of materials necessary to maintain the track only, subject to the condition that the lease area is not fenced and is available for general public use at no cost at all times other than when it is being formerly used by the club.
- (d) That the Property Manager in association with the Parks Consents Team Leader be authorised to put the lease documentation in place.

**Chairperson's  
Recommendation:** For discussion.