


10. NUNWEEK PARK - PROPOSED LEASE CANTERBURY HOCKEY ASSOCIATION

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Asset and Network Planning Manager
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PURPOSE OF REPORT

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1. To request the Board to recommend to the Council to accept the temporary surrender of part of the existing lease over part of Nunweek Park to the Canterbury Artificial Surfaces Trust.
 2. To obtain approval from the Board, under delegated authority from the Council, to the granting of a temporary ground lease over part of Nunweek Park to the Canterbury Hockey Association for a building to be used as a sports administration office.

EXECUTIVE SUMMARY

3. The Canterbury Hockey Association Incorporated ("CHA") is the regional sports organisation responsible for the administration and delivery of the sport of hockey in Canterbury. It is a registered incorporated society, incorporated on 13 March 1936.
4. The CHA owns a single-storied building currently located on Porritt Park. It has operated this building as a sports administration office up unto the time of the earthquake on 4 September 2010, when Porritt Park was closed due to ground damage. Since then, the CHA has occupied temporary commercial offices adjacent to Nunweek Park.
5. The CHA says this temporary office arrangement is not a viable one for it in the short to medium term; but still needs to have its offices located close to or on Nunweek Park, where some of its staff are directly involved in supporting hockey activities.
6. Nunweek Park is the home of the Harewood Hockey Club and is also the location of two hockey artificial turf playing fields, with a third field currently being developed. These fields lie within the leased premises of the Canterbury Artificial Surfaces Trust ("CAST"). CAST is a registered charitable trust, incorporated on 17 May 2010. The CHA leases the turf from CAST.
7. The CHA has requested that it temporarily relocate its sports administration office building from Porritt Park to Nunweek Park until such time as a replacement hockey venue for Porritt Park is established. This building is single storied, with plan dimensions of 12.85 by 7.78 metres, and will have an attached external ramp and steps located at the front of the building. Up to seven CHA staff will operate out of the office. **Attachment A** shows the location of Nunweek Park, its component parcels of land and the proposed site for the CHA sports administration office building. **Attachment B** shows a front view of the building at its present location at Porritt Park. In consultation with Council officers, a site to the side of the entrance to the No. 1 Artificial Hockey Turf at Nunweek Park, and straddling the boundary of the existing CAST leased premises has been proposed. The building front and entrance will face east, towards the artificial turf. The proposed site is shown on the plan given in **Attachment C**. Proposed site photos are provided in **Attachment D**.
8. To put into effect this proposed occupation by the CHA, a new ground lease incorporating the building footprint will need to be granted to the CHA. Prior to this, the part of the premises already leased to CAST that will be occupied by the CHA will need to be surrendered by CAST. **Attachment C** shows the areas involved.

FINANCIAL IMPLICATIONS

9. There are no financial implications for the Council arising from granting permission for the CHA to temporarily occupy the proposed site in Nunweek Park with their sports administration office building. The CHA will meet all costs associated with the establishment and operation of the facility, including all resource and building consents (already obtained), and costs to reinstate the site, to the satisfaction of the Transport and Greenspace Manager or his designate, at the end of the occupation.

10. Officers propose that the temporary occupation of the site is formalised with a lease, with a rental or charge determined by the Corporate Support Manager in consultation with the Property Consultancy Team.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

11. Not applicable.

LEGAL CONSIDERATIONS

12. The Council's powers to grant leases on recreation reserves are contained in section 54 of the Reserves Act 1977.
13. As the grant of any lease to the CHA of land at Nunweek Park requires the approval of the Minister of Conservation, City Environment Group staff have sought the view of Department of Conservation staff on the appropriateness of the proposed lease. Department staff have indicated that they consider that it is possible to grant the proposed lease, provided that it is granted under section 54(1)(d) of the Reserves Act. This section authorises the Council to grant leases "for the "carrying on of any trade, business, or occupation on any specified site within the reserve" that is "necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve".
14. It is therefore necessary for the Fendalton/Waimairi Community Board to consider if the proposed lease is, to use the words of the section, "necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve". The reported High Court case of Summit Road Society Incorporated v The Minister of Conservation (1990) 14 NZTPA 217, involving the proposal to lease land in Mt Cavendish Scenic Reserve to the gondola operator, is relevant to the meaning of "necessary" in this context. That case considered the use of that word in the sister provision of the Reserves Act concerning the leasing powers in respect of scenic reserves (section 56(1)(b), Reserves Act), and adopted the meaning of "necessary" as meaning something "falling between expedient or desirable on one hand, and essential on the other". In that case, the judge found that the lease was "necessary" to enable a much larger portion of the public to obtain the benefit of the reserve than would have been the case if the lease was not granted.
15. With this decision of the High Court referred to in the paragraph above in mind, the Legal Services Unit is of the view that it is arguable that the proposed lease to the CHA at Nunweek Park is "necessary" as it will facilitate much greater use of Nunweek Park through CHA staff being immediately available to deliver effective training and development of hockey players at a range of levels. The location of the sports administration office building on the reserve will permit CHA staff to be readily available to train, and be directly involved in the development of, hockey players using the artificial turfs. Given that it is the intention that two thirds of the CHA staff to be located on the proposed leased premises at Nunweek Park will be directly involved in the use and enjoyment of the reserve by the public and will be there for the convenience of persons using the reserve, the view of the Legal Services Unit is that the requirements of section 54(1)(d) of the Reserves Act will be met. This advice accords with the advice received from Department of Conservation staff referred to in paragraph 13 of this report.
16. As around two thirds (approximately 107 square metres) of the proposed leased premises for the CHA building is on the existing leased premises of CAST (as shown on the plan in **Attachment C**) it will be necessary to obtain the agreement of CAST to surrender part of their existing lease for the term of the proposed CHA lease.
17. CAST has confirmed in writing that it is prepared to surrender the part of its existing leased premises as shown on the plan in **Attachment C**, on the understanding that upon termination of the temporary lease with the CHA the land reverts back to the lease with CAST.
18. The Council's powers to grant leases on reserves have been delegated to community boards. However, the Council's power to agree to the proposed lease surrender by CAST has not been delegated and requires a Council decision.

19. In addition to concluding the required lease arrangements, the applicant is responsible to obtain all required resource and building consents before commencing work on the site. These statutory consents have already been obtained.

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

20. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

21. Not applicable.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

22. Not applicable.

ALIGNMENT WITH STRATEGIES

23. Not applicable.

Do the recommendations align with the Council's strategies?

24. Not applicable.

CONSULTATION FULFILMENT

25. Public notice, in accordance with the requirements of section 54(2) of the Reserves Act, of the proposed ground lease was made in The Press on Saturday 26 May 2012, inviting public comment, to be received no later than 5pm, Friday 29 June 2012. No objections or submissions were received by the closing date.

STAFF RECOMMENDATION

It is recommended that the Board resolves as follows:

- (a) To recommend to the Council that it agrees to the surrender of part of the premises at Nunweek Park currently leased to Canterbury Artificial Surfaces Trust Incorporated to enable the grant of the lease to Canterbury Hockey Association Incorporated referred to in paragraph (b) of this resolution, subject to the following conditions:
 - (i) the surrender being effective only during the duration of the lease to the Canterbury Hockey Association Incorporated; and
 - (ii) the part so surrendered being reinstated by Canterbury Hockey Association Incorporated upon the termination of the lease granted to Canterbury Hockey Association Incorporated.
- (b) Subject to the surrender of lease referred to in paragraph (a) of this resolution being approved by the Council and agreed with Canterbury Artificial Surfaces Trust Incorporated, to seek the consent of the Minister of Conservation to grant, and, if that consent is granted, to grant to Canterbury Hockey Association Incorporated, for the purpose of locating a sports administration office building, a ground lease pursuant to section 54(1)(d) of the Reserves Act 1977 of that part of Nunweek Park containing approximately 152 square metres as is shown on the Proposed Premises Plan in **Attachment C** to this report, subject to the following conditions:
 - (i) the lease to be granted for a term of up to a maximum of five years, with no right of renewal, and on the Council's standard lease terms for leases of recreation reserves in compliance with the Reserves Act 1977; and

- (ii) provision be made in the Deed of Lease for termination of the lease upon any shorter term than five years upon request of the Lessee.
- (c) That the Corporate Support Manager be delegated the power to negotiate and enter into, on behalf of the Council, the surrender of lease and the new lease referred to above on such terms and conditions as he shall consider necessary, including the obligation on Canterbury Hockey Association Incorporated, at its cost, to remove the developments and to reinstate the land on the expiry of the lease.
- (d) That the Lessee be required to sign a temporary access licence before accessing the site, the purpose of which is to clearly delineate the Council's and Lessee's responsibilities during any construction phase of the developments on the leased site.

BACKGROUND (THE ISSUES)

26. With the closure of Porritt Park, two other locations, being Nunweek Park and Marist Park (the latter located at St Bedes College), remain the sole locations in Christchurch with hockey artificial turfs available for use. Both these two available venues, though, do not provide artificial turfs that are considered by the CHA to be of a scale and/or standard to host international and major national level hockey games in Christchurch. That had officially been the role of the facility at Porritt Park. Therefore, there is a need to develop a new venue to replace Porritt Park. That new venue, when it is established, will be where the CHA intends to permanently locate its sports administration office.
27. Grounds for the CHA re-locating its sports administration office building to Nunweek Park include:
- It being advantageous for CHA staff, approximately two thirds of whom are involved in training hockey sports people who are at various levels of playing the game from learners to regional representative players, to be close to an artificial hockey surface;
 - A similar arrangement having previously applied at Porritt Park, with the building currently located there also on CAST leased premises and used as a sports administration office (formalised as a tenant's improvement on the Deed of Lease);
 - It being a temporary occupation only, with the intention of Canterbury Hockey to shift their staff to the replacement venue for Porritt Park when that is decided upon and built;
 - CAST, as the existing tenant at Nunweek Park directly affected by the proposed building placement, is in support;
 - The impact on Nunweek Park is likely to be minimal or able to be mitigated. The proposed site for locating the building is already modified and filled with built features, such as high security fencing and hard surfaces. Existing car parking and trees will not be affected and, with plantings, landscaping, sympathetic building colour and the accompanying removal of part of an unsightly security fence, the placement of the building should not result in a diminished visual landscape for the Park;
 - Council staff, including those in the landscape architecture profession, support the proposed site being the better of the more than two site options that were considered at Nunweek Park. Factors taken into account include locating at the approved main access point of the Park, having buildings clustered in one area, permitting only minimal encroachment into a currently unoccupied part of the Park, not creating any unsafe areas for the public, and having no impact on existing trees;
 - There are no other viable potential site options off Nunweek Park able to be considered by the CHA that meet its particular needs, which includes being close to the artificial turfs at the Park.
28. Nunweek Park comprises eight parcels of land totalling 19.5886 hectares in area. Five of these parcels, making up the majority of the Park area, are vested in the Christchurch City Council as recreation reserve subject to the Reserves Act 1977 ("Act"). Four of these recreation reserves were classified for this purpose pursuant to section 16(2A) of the Act by resolution of the Waimairi District Council at its meeting on 27 September 1989.
29. There is a grouped parks management plan approved by the Waimairi District Council on 20 August 1986 that includes Nunweek Park. Buildings policies in this management plan provide for the "erection of buildings and structures associated with and necessary for the use of the reserve for outdoor recreation" and "with the prior consent of the Minister of [Conservation], buildings and structures for public recreation and enjoyment not directly associated with outdoor recreation." (policy 3(a), Management plan for parks and reserves Waimairi District Open Space A zone (active recreation) August 1986).

30. Nunweek Park is zoned Open Space 2 (District Recreation and Open Space) in the Christchurch City Plan. This zone includes parks that have substantial physical resources within them such as clubrooms, changing sheds and toilet facilities. Environmental results anticipated for this zone include the provision of buildings and facilities necessary to facilitate both formal and informal recreation, consistent with overall maintenance of an open space character which is not dominated by buildings and hard surfacing. The building proposed to be added on a temporary basis is relatively small and will not have a major impact on Nunweek Park.