

8. NICHOLSON PARK RADIO NETWORK COMMUNICATIONS SITE

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

1. The purpose of this report is to seek a recommendation from the Hagley/Ferrymead Community Board that the Council grant a licence to The Radio Network Limited to formalise licensing arrangements in respect of an equipment cabinet for a radio translator that has been placed on site at Nicholson Park.

EXECUTIVE SUMMARY

2. This radio translator site has been in place and operating off an Orion pole for a significant number of years. A recent upgrade and enhancement of the site, in 2009, included the placement of a steel box (refer **Attachment 1**) on the ground to hold radio equipment. This did not exist in the past and now necessitates a licence with the Council.
3. The translator upgrade was necessary to improve reception in the immediate area and for The Radio Network to meet its Civil Defence obligations.
4. Licence terms and conditions have been agreed between Council staff and The Radio Network Limited, subject to the Council approving the licence.
5. The proposal is to grant a licence for a term of ten years (with a further right of renewal for ten years) at an annual rental of \$5,000 plus GST (adjusted for CPI changes every five years).

FINANCIAL IMPLICATIONS

6. An independent valuation was obtained and assessed a fair market rent to be \$5,000 plus GST per annum.

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

7. Not applicable.

LEGAL CONSIDERATIONS

8. The Radio Network Limited is a requiring authority under Section 167 of the Resource Management Act 1991, and is authorised to operate a network for the purposes of radio communication under the Radio Communications Act 1989.
9. Nicholson Park is held by the Council in fee simple and is not a reserve subject to the Reserves Act 1977. Accordingly the provisions of the Reserves Act do not apply to Nicholson Park or the licence application from The Radio Network Limited.
10. As the terms of the proposed licence fall outside the delegated authority of Council staff and the Community Board, a decision of the Council is required.

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

11. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Not applicable.

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

13. Not applicable.

ALIGNMENT WITH STRATEGIES

14. Not applicable.

Do the recommendations align with the Council's strategies?

15. Not applicable.

CONSULTATION FULFILMENT

16. As stated above, Nicholson Park is not a reserve under the Reserves Act 1977, the consultation requirements of that Act do not apply.
17. Section 138 of the Local Government Act can apply to a non-reserve park and requires consultation before the grant of any lease or licence. However as the proposed licence will not have the effect of "interfering with the public's access to the park" that requirement does not apply in the current circumstances.
18. However, the general requirement under section 78 of the Local Government Act 2002 to give consideration to the views and preferences of persons likely to be affected by, or who have an interest in, the matter does apply.
19. For this reason the local Residents' Association were consulted over the proposal and provided with diagrams and plans for the proposed upgrade. The plans detail the height and appearance of the upgrade. The Residents' Association subsequently approved the proposal in October 2009 (refer **Attachment 2**).
20. Due to the elapse of time since 2009 the Sumner Residents' Association have been further advised that this matter will be put before the Board for consideration in 2012 and have been advised of the meeting date. At the time of writing this report no further comment from the Residents' Association has been received.
21. Installation work in respect of the upgrade commenced in November 2009 after consultation with the Residents' Association. The work was completed and one email complaint was received in May 2010. No further comments from members of the public have been received. *This matter was raised by the Board in June 2010, and a memo was provided by staff at the time to advise the Board of the situation and the next steps to be undertaken.*

STAFF RECOMMENDATION

That the Hagley/Ferrymead Community Board recommend to the Council that it adopt the following:

- (a) That approval be given to grant a new licence to The Radio Network Limited in respect of the equipment cabinet for its existing radio translator site at Nicholson Park, on the following terms and conditions:
- (i) term of licence ten years from 1 December 2007, with one right of renewal for ten years
 - (ii) annual rent to be \$5,000 plus GST
 - (iii) a rent review by way of CPI Increase to apply on every fifth anniversary of the licence commencement date.

- (b) That subject to the above, the Corporate Support Unit Manager be authorised to negotiate and conclude the terms and conditions of the licence on behalf of the Council.

CHAIRPERSON'S RECOMMENDATION

That the staff recommendation be adopted.

BACKGROUND (THE ISSUES)

22. This application arises as the result of an upgrade to an existing radio transmitter facility. The pole that the radio transmitter is attached to is owned by Orion New Zealand Limited and has been on the site for many years, dating back to at least the days of Southpower. It is understood that the radio transmitter has been in place since at least this time.
23. The pole equipment does not need a license from the Council as all the aerial apparatus is attached to an Orion pole. Orion as a utility network operator has statutory powers to erect and maintain its facilities. This particular matter came to the Council's attention when The Radio Network Limited requested permission to upgrade their transmitter including the installation of a small cabinet on the ground adjacent to the pole, thus giving rise to the need for a licence from the Council. To formalise this matter a licence is required for that cabinet.
24. The transmitter upgrade benefits the people in the immediate surrounds that have impaired reception from the Sugarloaf transmitter. Reliable and effective coverage is required to fulfil The Radio Network's obligations for Civil Defence communications.
25. The local Residents Association was consulted and provided with diagrams and plans for the proposed upgrade. The plans detail the height and appearance of the proposed upgrade. The Residents' Association subsequently approved the proposal in October 2009.
26. Due to the elapsing of time the Sumner Residents' Association have been advised that this matter will be put before the Board for consideration in 2012 and have been advised of the meeting date, no further comment from them has been received.
27. The Council's Transport and Greenspace Unit approved the application in September 2009 and installation work commenced in November 2009 after consultation with the Residents' Association. The work was completed and one email complaint was received in May 2010. No further complaints have been received. *This matter was raised by the Board in June 2010, and a memo was provided by staff at the time to advise the Board of the situation and the next steps to be undertaken.*
28. In January 2010 The Radio Network Limited agreed to an annual rental of \$5,000 plus GST per annum for a term of 10 years with one right of renewal. Rent reviews are to occur every five years with compounding CPI adjustments.