

Fendalton-Waimairi-Harewood Community Board
Recess Committee
AGENDA

Notice of Meeting:

An ordinary meeting of the Fendalton-Waimairi-Harewood Community Board Recess Committee will be held on:

Date: Monday 15 January 2018
Time: 4.30pm
Venue: Boardroom, Fendalton Service Centre,
Corner Jeffreys and Clyde Roads, Fendalton

Membership

| | |
|---------|---------------------------------------------------|
| Members | David Cartwright Aaron Campbell Aaron Keown |
|---------|---------------------------------------------------|

10 January 2018

Matthew McLintock
Manager Community Governance, Fendalton-Waimairi-Harewood
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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. If you require further information relating to any reports, please contact the person named on the report.

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- Part A Matters Requiring a Council Decision
Part B Reports for Information
Part C Decisions Under Delegation
-

TABLE OF CONTENTS

| | | | |
|---|----|---------------------------------|---|
| C | 1. | Election of Chairperson | 4 |
| C | 2. | Apologies..... | 4 |
| B | 3. | Declarations of Interest..... | 4 |
| B | 4. | Deputations by Appointment..... | 4 |

STAFF REPORTS

| | | | |
|---|----|-------------------------------------------|---|
| C | 5. | The Groynes - Licence for Boat Hire | 5 |
|---|----|-------------------------------------------|---|

1. Election of Chairperson

The Fendalton-Waimairi-Harewood Community Board Recess Committee is required to elect a Chairperson for the term of the Committee. The Community Board Advisor will call for nominations at the meeting.

2. Apologies

At the close of the agenda no apologies had been received.

3. Declarations of Interest

Members are reminded of the need to be vigilant and to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4. Deputations by Appointment

4.1 There were no Deputations at the time the agenda went to print.

5. The Groynes - Licence for Boat Hire

Reference: 17/1492880

Contact: Kathy Jarden Kathy.Jarden@ccc.govt.nz

941-8203

1. Purpose and Origin of Report

Purpose of Report

- 1.1 The purpose of this report is for the Fendalton-Waimairi-Harewood Community Board Recess Committee to approve the granting of a licence to Phillip Neil Hanrahan and Victoria Rachel Hanrahan to operate a boat hire business on the Recreation Lake at the Groynes Regional Park.

Origin of Report

- 1.2 This report is staff generated.

2. Significance

- 2.1 The decision in this report is of low significance in relation to the Christchurch City Council's Significance and Engagement Policy.
 - 2.1.1 The level of significance was determined by staff evaluation
 - 2.1.2 The community engagement and consultation outlined in this report reflect the assessment.

3. Staff Recommendations

That the Fendalton-Waimairi-Harewood Community Board Recess Committee:

1. Acknowledging that:

- a) The future of the Council's lease of the Groynes Regional Park ("Park") from the Canterbury Regional Council is yet to be finalised and currently continues on a month to month basis; and
- b) Council staff are currently preparing a draft management plan for the Park for public consultation and formal adoption by the Council at some future date; and
- c) In order to comply with the Council's Leasing Policy and Procurement Policy, the granting of leases and licences to commercial operators in the Park will be required to be subject to a public tender or "request for proposals" process,

As an interim measure the Community Board:

- d) Approves the granting of a licence to Phillip Neil Hanrahan and Victoria Rachel Hanrahan (the "Hanrahans") to operate a pleasure boat hire business at the Park for a term determinable by either party on one month's written notice, under terms and conditions as generally outlined in this report; and
- e) Delegates to the Property Consultancy Manager the authority to negotiate and agree and to enter into such legal documentation with the Hanrahans as he shall in his discretion determine is reasonable or necessary to implement the terms of (d) and to give the notice cancelling such licence granted to the Hanrahans or the then licensee if such is required at any time in the future.

4. Key Points

- 4.1 This report supports the [Council's Long Term Plan \(2015 - 2025\)](#):
 - 4.1.1 Activity: Neighbourhood Parks
 - Level of Service: 6.0.2 Customer satisfaction with the range of recreation facilities
- 4.2 The following feasible options have been considered:
 - Option 1 – Grant a Licence (preferred option)
 - Option 2 – Not Grant a Licence
- 4.3 Option Summary - Advantages and Disadvantages (Preferred Option)
 - 4.3.1 The advantages of this option include:
 - Community enjoyment of the park
 - A formal agreement in place setting out the roles and responsibilities of the operator and the Council
 - Gives surety to the owners of the boat hire business to operate in the short term
 - 4.3.2 The disadvantages of this option include:
 - Contravenes the Council's Leasing Policy and Procurement Policy as it relates to dealing unilaterally with one party without going through a public tender process.

5. Context/Background

The Land and Tenure

- 5.1 The Canterbury Regional Council ('ECAN') owns a parcel of land at 160 Johns Road, Northwood, commonly referred to as the Groynes.
- 5.2 The parcel of land comprises of approximately 88 hectares more or less, and forms part of a wider basin of land held by ECAN principally for the purposes of river control and drainage.
- 5.3 Notwithstanding its principal use, the Groynes was developed into a public recreation space in the 1960's and over the past 50 years the premises has proven to be a very popular recreation asset for the city attracting an estimated 600,000 visitors each year.
- 5.4 The Groynes is characterised by its large open spaces, and is used for a wide range of outdoor recreational activities including: canoeing and paddle boating, family picnics, walking tracks, youth fishing tournaments, playground equipment, a dog park and a high ropes course.
- 5.5 The Canterbury Regional Council and Christchurch City Council ('CCC') entered into a ground lease for a 20 year period, which commenced 1 October 1996 and expired on 30 September 2016. It has since been rolling over on a month to month basis while a new lease is being negotiated. The current lease occupies 71 hectares of land.
- 5.6 Over the past 24 months the landscape surrounding the Groynes has changed substantially.
- 5.7 The New Zealand Transport Authority ('NZTA') has acquired parts of the existing Groynes lease area (and a number of adjoining land parcels) for roading purposes associated with the Western Belfast Bypass project.
- 5.8 On completion, the Western Belfast Bypass will comprise of a new four lane motorway, linking the existing Northern Motorway onto Johns Road, south of the Groynes entrance. Construction is expected to be completed in 2018.
- 5.9 ECAN have indicated that the new lease will need to incorporate a series of irregular shaped pockets of land which run between the existing Groynes lease area and the new motorway.

- 5.10 These changes will see the proposed lease area increase in size from 71 hectares to approximately 102 hectares.
- 5.11 The new lease between ECAN and the Council cannot be finalised until the works are completed.
- 5.12 The Park's Planning Team are currently preparing the Groynes Roto Kohatu Master Plan.
- 5.13 The Council owns the boat shed and jetty structures. The particular piece of land these are located on has no reservation and is held as fee simple.

Previous Boat Hire Operator

- 5.14 Council officers had previously communicated with a former hire operator and their solicitor that the Council held no current licence or other agreement granting permission to operate the boat hire business at the Groynes.
- 5.15 The previous operator were advised that the future use and development of the Groynes, including opportunities for commercial activities, would be dependent on the successful renewal of Council's lease with ECAN and would then be addressed through a proposed new Master plan for the park. Based on this, Council's intention was to undertake a public process such as a Registration of Interest or Request for Proposals for various activities such as mobile food/beverage vendors, boating operation or other similar commercial recreational activities.
- 5.16 The former operator was advised that they could participate in this process at the appropriate time.

Application To Operate Boat Hire Business

- 5.17 On 22 August 2017 Phillip Neil Hanrahan and Victoria Rachel Hanrahan (the "Hanrahans") spoke to the Groynes Ranger on site to advise that they had purchased the boat hire business in July.
- 5.18 No prior contact had been made with the Council to determine what permissions were required to operate the business from the park.
- 5.19 Subsequent discussions with the Hanrahans were undertaken with a request to submit information to support their request to operate. This included a request for a business plan indicating financial viability, proof of public liability insurance and a health and safety plan.
- 5.20 It was essential for the boat hire business to cease operating immediately until such information could be assessed.
- 5.21 The Hanrahans were advised that it would be beneficial to the community to have a recreation activity like the boat hire continuing to operate at the Groynes over the summer months however legislative and other requirements needed to be satisfied.
- 5.22 Council officers indicated that they could not guarantee that the application would be approved, or renewed, or that any longer term licence would result from a temporary licence as it needed to go through a public process.
- 5.23 The Hanrahans submitted a business plan, including a health and safety plan in October and indicated they could not provide a case for the financial viability of the business.
- 5.24 The health and safety plan was reviewed by the Council's Health and Safety Advisor who identified a number of concerns. These issues needed to be resolved before staff could recommend that a licence be granted. A revised plan was submitted and reviewed in late November/early December. The licence will include a requirement that the licensee provide: evidence that arrangements are in place to manage the hazards and associated risks with this type of activity; evidence that there is a system in place for identifying staff training needs and assessing competence.(e.g. in emergency procedures/ response); CCC with any incident reports that required an emergency response.

- 5.25 The Hanrahans were advised that the Council could only grant a licence to operate on a month to month basis as the term could not exceed the current head lease between the Council and ECAN.
- 5.26 An alternative solution was investigated with ECAN granting a licence directly to the Hanrahans however ECAN advised that they could not issue a licence.
- 5.27 ECAN advised that they could grant a lease extension to the Council to cover the summer period to enable the licence to the Hanrahans to be granted.
- 5.28 The lease extension has not been exercised and the current head lease is rolling over on a monthly basis.
- 5.29 The Hanrahans were advised on 18 December 2017 that the Council could offer a licence on a month to month basis for the 2017/18 summer season subject to approval by the Community Board. The Hanrahans advised that they needed time to process the proposal and would advise their intentions as soon as possible.
- 5.30 The Hanrahans were emailed on 5 January 2018 seeking an update on their intentions. Questions as to the process for renewing a month to month licence were discussed and the applicants asked if there would be an option to continue the licence until the tender process began.

Proposed Licence to Operate

- 5.31 The Council may only grant a licence for a period of one month as the term of the licence may not exceed the term of the head lease which is rolling over on a month to month basis.
- 5.32 The commencement date of the new lease agreement between ECAN and the Council is unknown; however it will be for a term of 20 years once all necessary documentation is completed.
- 5.33 The indicative timeframe for completion of the Groynes Roto Kohatu Master Plan is 2018/2019 with consultation anticipated to occur in June/July 2018.
- 5.34 In consideration of the above time-frames, staff are supportive of an extension to the licence period until such time as Council has completed a process to secure commercial vendors through a public request for proposals/information process, subject to the satisfaction of the Head of Parks.
- 5.35 There is no market evidence to support a monthly rent for this type of activity. It is proposed that a nominal rental of \$25 per month plus GST be implemented and reviewed subject to the viability of the business.
- 5.36 The licence agreement would include use of the boat shed for storage of equipment, use of the jetty during business hours and non-exclusive use of the area known as Recreation Lake. Other lakes within the Groynes are reserved for fishing and wildlife.
- 5.37 The applicants would be responsible for clearing any weed growth in the lake should it impede with their operations.
- 5.38 The applicants would be permitted to post signage indicating hours of operation and contact details.
- 5.39 The purpose of the licence is to operate a pleasure boat hire business and storage of same at the Groynes. This licence would include the Council's standard terms and conditions including such issues but not limited to evidence that arrangements are in place for the management of the risks associated with this activity including associated training, be provided to Council's satisfaction and proof of current public liability insurance be provided to Council.

6. Option 1 – Grant a Licence (preferred)

Option Description

- 6.1 Grant a month to month licence to the applicants, Phillip Neil Hanrahan and Victoria Rachel Hanrahan “the Hanrahans” to operate a boat hire business at The Groynes.

Significance

- 6.2 The level of significance of this option is low consistent with section 2 of this report
6.3 Engagement requirements for this level of significance are not required.

Impact on Mana Whenua

- 6.4 This option does not involve a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, therefore this decision does not specifically impact Ngāi Tahu, their culture and traditions.

Community Views and Preferences

- 6.5 Visitors to the Groynes are specifically affected by this option due to their desire to enjoy a variety of recreational activities while visiting the area. Their views have not been sought however public media feedback indicates support of the activity.
6.6 Consultation under section 138 of the Local Government is not required as the granting of a licence does not have the effect of excluding or interfering with the public’s access to the park.

Alignment with Council Plans and Policies

- 6.7 This option is not consistent with Council’s Plans and Policies
6.7.1 Inconsistency – contravenes the Council’s Lease Policy for the Creation of New Leases; contravenes Council’s Procurement Policy.
6.7.2 Reason for inconsistency – dealing unilaterally with one party “when seeking to lease premises where there is an obvious and potentially broader market and public interest, the Council shall not deal unilaterally, but shall seek tenants through an open transparent and public process e.g. by tender, by request for proposal or by using a sound public advertised marketing process to attract tenants.”
6.7.3 Amendment necessary – Community Board decision to depart from policy.

Financial Implications

- 6.8 Cost of Implementation – costs in preparing Licence Agreement to be passed on to the applicants - \$250.00 plus GST.
6.9 Maintenance / Ongoing Costs – ongoing maintenance costs for the building and jetty structures
6.10 Funding source – current operational budgets

Legal Implications

- 6.11 There is a legal context, issue or implication relevant to this decision.
6.12 This report has not been reviewed and approved by the Legal Services Unit.
6.13 The legal consideration is the preparation of a Licence Agreement between Council and the Hanrahans.
6.14 The status of the land is fee simple i.e. there is no reservation under the Reserves Act. The Community Board holds the delegated authority to grant leases and licences of non-reserve land. This provides the power to issue leases or licences for the carrying on of any trade, business or occupation on parks (excluding public road) for terms not exceeding five years and at rentals not exceeding \$20,000. (Delegations Register 13 December 2017 Part D – Sub-part 1 – Community Boards 5.12) This delegation can be exercised in this instance.

Risks and Mitigations

6.15 There is a risk that the boat hire operations are not financially viable and the applicants may wish to terminate their licence agreement.

6.15.1 Residual risk rating: The residual rating of the risk after the below treatment(s) is implemented will be low.

6.15.2 Planned treatment(s) include setting out the responsibilities of both parties in a formal licence agreement.

Implementation

6.16 Implementation dependencies - Community Board decision and preparation of Licence Agreement

6.17 Implementation timeframe – approximately one week to prepare and conclude Licence Agreement

Option Summary - Advantages and Disadvantages

6.18 The advantages of this option include:

- Community enjoyment of the park
- A formal agreement in place setting out the roles and responsibilities of the operator and the Council
- Gives surety to the owners of the boat hire business to operate.

6.19 The disadvantages of this option include:

- Contravenes the Council's Leasing Policy and Procurement Policy as it relates to dealing unilaterally with one party without going through a public tender process.

7. Option 2 – Not Grant a Licence

Option Description

7.1 Not grant a licence.

Significance

7.2 The level of significance of this option is low consistent with section 2 of this report.

7.3 Engagement requirements for this level of significance are not required.

Impact on Mana Whenua

7.4 This option does not involve a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, therefore this decision does not specifically impact Ngāi Tahu, their culture and traditions.

Community Views and Preferences

7.5 Visitors to the Groynes are specifically affected by this option due to their desire to partake in recreational activities at the Groynes. Their views have not been sought however public media feedback indicates support of the activity.

Alignment with Council Plans and Policies

7.6 This option is consistent with Council's Plans and Policies.

Financial Implications

7.7 Cost of Implementation – staff time.

7.8 Maintenance / Ongoing Costs – not applicable.

7.9 Funding source – not applicable.

Legal Implications

7.10 There is not a legal context, issue or implication relevant to this decision

7.11 This report has not been reviewed and approved by the Legal Services Unit

Risks and Mitigations

7.12 There is a risk of damage to the Council's image and reputation by not granting a licence. This may result in negative media coverage over a short term.

7.12.1 Residual risk rating: The residual rating of the risk after the below treatment(s) is implemented will be moderate.

7.12.2 Planned treatment(s) include a positive media campaign to counter potential negative press.

Implementation

7.13 Implementation dependencies - decision by community board.

7.14 Implementation timeframe – not applicable.

Option Summary - Advantages and Disadvantages

7.15 The advantages of this option include:

- Conformity with Council's Leasing Policy and Procurement Policy.

7.16 The disadvantages of this option include:

- Dissatisfaction with the Council by members of the applicants and members of the public.
- The boatshed being left vacant and subject to vandalism.

Attachments

There are no attachments to this report.

Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories

| | |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Author | Kathy Jarden - Team Leader Leasing Consultancy |
| Approved By | Angus Smith - Manager Property Consultancy Kay Holder - Operations Manager Regional Parks Brent Smith - Head of Parks Mary Richardson - General Manager Citizen and Community |