

Attachment B – Christchurch Civic Trust comments

CHRISTCHURCH CIVIC TRUST COMMENTS
ON
HAGLEY PARK TENNIS CLUB FLOODLIGHTS APPLICATION
28/02/2022

Hagley Park is a Recreation Reserve under the Reserves Act 1977. *For the avoidance of doubt*, the Council is required under s12 of the Christchurch City (Reserves) Empowering Act 1971 to administer Hagley Park subject to the provisions of the Reserves Act. This includes also the statutory Hagley Park Management Plan 2007(HPMP).

The public have been invited to “comment on the proposal”, namely the application by the Hagley Park Tennis Club to install new floodlighting to cover an unlit hard surface tennis courts area in the part of Hagley Park North adjacent to Riccarton Avenue. The Civic Trust draws to the attention of the elected representatives the deficient wording in the Council’s public notice published in The Press on 29 January 2022. Inexplicably, it omitted reference to the relevant statutory framework in respect of the necessary decision-making process. The Council-authorised notice denied the ability for the public to submit informed comment regarding a club proposal to install permanent structures in an area of North Hagley Park.

The Civic Trust notes that notification of the application has not appeared on the Council’s “Have Your Say” webpage, which is likely to be read more widely.

The Civic Trust understands that the Hagley Park Tennis Club (The applicant) continues to occupy an area within North Hagley Park without a current lease under the Reserves Act. Furthermore, no application for such a lease has been lodged with the Council. Whilst, in our opinion it is unlikely that a new lease would be denied outright, it would nevertheless have conditions attached, in particular, pertaining to the installation of structures such as floodlights within its leased area. The Civic Trust expects that terms specifying responsibility for all costs associated with the installation, insurance, operation, maintenance and any future removal, of the lighting system would be included.

Organisations with similar historical occupancy or expired leases within Hagley Park are required to formalise their situations in accordance with the appropriate statutory provisions. Why we ask, should the Hagley Park Tennis Club be exempt from that process, simply because it has overlooked this necessity? The Civic Trust understands that legal knowledge resides within the club’s membership which might assist the club to meet its legal obligations.

Lease applications under the Reserves Act require public notification by the Council, with the public provided with all relevant information to assist in making formal submissions, and with the opportunity to appear before a Hearings Panel **before any decision is made by Council**.

In response to the public notice, the Christchurch Civic Trust Board requested and was granted a meeting with [REDACTED]

During the meeting, [REDACTED]

[REDACTED] He disclosed that the tennis club was seeking prompt approval to install its floodlights before the onset of the coming winter. He disclosed also that the public notice had been very carefully worded, claiming also that its publication had not actually been necessary.

Nevertheless, he had insisted upon a lengthy period for public comments to be received. However, the deliberate omission of any reference to the relevant legislation is completely unacceptable, no matter from whom [REDACTED] may have taken advice.

[REDACTED] explained that the Council's intended decision-making process would involve two decisions:

1. The first by the Sustainability and Community Resilience Committee of the Christchurch City Council at its meeting on 30th March 2022, following receipt of the recommendation of the Linwood-Central-Heathcote Community Board scheduled for 16th March 2022
2. The second by Council Officer(s) as delegated in the Council's Delegations Register under the Local Government Act 2002

[REDACTED] further explained it was the Council's intention to use the Local Government Act to process the application and not the Reserves Act process. In the case of the Hagley Park Tennis Club's application, the Civic Trust contends that the Local Government Act cannot be used to circumvent the Council's obligations under the Reserves Act and the HPMP. In other parks and reserves administered by the Council, that do not enjoy the legal protections afforded Hagley Park, the use of the Local Government Act is possibly defensible. In this case, it is not.

That means all non Council-owned structures within Hagley Park require the prior granting of a lease under the Reserves Act. With respect to the Hagley Park North Tennis Court application for installation of new floodlights, there is a legally required process issue that the Council cannot set aside, regardless of any assessed merits of the application's intent.

[REDACTED] knows the statutory framework intimately, having been party to the drafting of the Hagley Park Management Plan 2007, and from subsequent years of working with it to inform and advise elected representatives. He knows that the current "expired lease" situation is untenable and that it should have been resolved when the two tennis clubs amalgamated in 2017.

Why must the Civic Trust, a voluntary charitable organisation, repeatedly have to point out to Council that adherence to statutory processes is mandatory for all parties involved? We do not charge Council for this service of scrutinising practices that are all too common.

Attachment C – Staff advice in reply to Christchurch Civic Trust comments

Council officer advice in relation to particular points raised in:

CHRISTCHURCH CIVIC TRUST COMMENTS

ON

HAGLEY PARK TENNIS CLUB FLOODLIGHTS APPLICATION

From the Trust's comments	Council officer advice
<i>The Council-authorized notice denied the ability for the public to submit informed comment ...</i>	The public notice published in The Press on Saturday 29 January 2022 invited the public to comment on the proposal over a period of more than one calendar month.
<i>... notification of the application has not appeared on the Council's "Have Your Say" webpage ...</i>	The notification was published on the Council's website by way of a public notice placed on the public notices webpage (https://ccc.govt.nz/news-and-events/public-notices) on 15 February 2022. The Trust was advised of this.
<i>The Civic Trust understands that the Hagley Park Tennis Club (The applicant) continues to occupy an area within North Hagley Park without a current lease under the Reserves Act.</i>	A 1982 lease and 1983 variation to that lease held by the Hagley Park Tennis Club still applies despite no subsequent lease being drawn up because payment of rent from the club has been received from May 2003 when the lease period ended and could have been renewed. The club, in giving notice that they wanted to renew, have exercised the right to renew the lease for a further 21 years until 2024 under the same terms and conditions. This is a separate and independent matter to the processing of this floodlights application.
<i>... its (the public notice) publication had not actually been necessary.</i>	With reference to the next comment of the Trust, the usual process for dealing with a floodlight installation application does not require public notice to be made. It was done in this case, though, because of the importance and history of the location (Hagley Park) and the scale of the development.
<i>... use the Local Government Act to process the application and not the Reserves Act process.</i>	The process for consideration and approval of an application for installation of floodlights in a sports park, which Hagley Park is, is delegated to staff and elected members. This process is independent of any required statutory process under the Reserves Act. The Local Government Act applies to, and directs, all actions undertaken by the Christchurch City Council, and this is the context within which most applications for floodlights on parks are processed.

1 March 2022

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Attachment C