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**REPORT 2**

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**PROPOSED LICENCES (12 MONTHS) – EVANS BAY  
MARINA CARPARK**

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**1. Purpose of report**

To seek approval for two occupation licenses (ground) for temporary commercial use over a total area measuring approximately 243 sqm located at 447 Evans Bay Parade (Evans Bay Marina car park).

**2. Executive summary**

This report proposes the Council grant a 12 month licence to two marine services businesses to temporarily relocate to the Evans Bay Marina car park.

The two businesses (McMorran Building Ltd and Duffy Marine Ltd) are currently operating from shipping containers temporarily located adjacent to the Overseas Passenger Terminal (now named Clyde Quay Wharf Apartments).

The proposal to relocate the businesses to the Evans Bay Marina Precinct is subject to a separate resource consent process.

**3. Recommendations**

Officers recommend that the Council:

1. *Receive the information.*
2. *Agree to grant 12 month licences at 501 Evans Bay Parade to:*
  - (a) *McMorran Building Limited*
  - (b) *Duffy Marine Limited*
3. *Note the terms of the proposed licences:*

<i>Location:</i>	<i>447 Evans Bay Parade, Kilbirnie</i>
<i>Legal description:</i>	<i>Approximately 243 sqm being part of Lot 11 DP88742 CT N56B/543</i>
<i>Term:</i>	<i>12 months</i>
<i>Rent:</i>	<i>Approximately \$7,290 + GST per annum</i>
<i>Use:</i>	<i>Boat building repairs, rigging and mast repairs</i>

4. *Note that public consultation on the new licences is not required as the land is not held subject to the Reserves Act 1977.*

5. *Note that the licences are granted by Council on the express condition that:*
- (a) the licences will not be extended without a further decision by the Council (or Committee under delegated authority)*
  - (b) the Council's involvement in the unresolved legal issues between Wellington Waterfront Ltd and Chaffers Marina Limited, Chaffers Holdings Ltd and the Marina Businesses, is expressly on a without prejudice basis*
  - (c) the licences do not signal support, or otherwise, for a permanent facility on the site, and that any such proposal would need to go through a full consultation and decision-making process.*

## **4. Background**

### **4.1 The proposal**

Approval is sought for two occupation licences (ground) for temporary commercial use over a total area measuring approximately 243 sqm located at 447 Evans Bay Parade (Evans Bay Marina car park) for a 12 month period.

The proposed licencees are:

1. McMorran Building Limited; a boat building and repair business
2. Duffy Marine Limited; a rigging and mast repair business

The licensees will locate five containers in a U shape with a common area and roofed section in between the containers (refer to attachment Appendix 1).

The combined area will measure approximately 243 square metres and the tenants will share the proposed \$7,290pa + GST rent between them. In the event that one of the licences is terminated early, the remaining licensee will assume these costs.

At the end of the proposed licence, the licensees would be responsible for removing the containers and reinstating the land.

### **4.2 The site**

The Evans Bay Marina Precinct land has been owned by the Council since the 1989 local government reforms, when it was transferred (along with the Evans Bay Marina structures on the seaward side of mean high water springs) from the former Wellington Harbour Board.

The Evans Bay Marina Precinct is zoned "Open Space A" under the District Plan. The land is held by the Council in fee simple. It is not held as reserve under the Reserves Act or covered by a reserve management plan.

Attached (as Appendix 2) is a Site map of the Evans Bay Marina Precinct Area.

### **4.3 Approvals required**

Activities and uses on publicly owned land are required to obtain permission (usually by way of a licence) from the Council as the owner (and/or administering authority in the context of reserve land). In the case of leases and licences to community and sport groups the Council's 'Leases Policy for Community and Recreation Groups' applies.

As this proposal is for commercial activities on non-reserve land there is no specific Council policy that applies to the approval process. Officers recommend that the following are factors to be taken into account by the Council when considering whether to grant the licences:

- The compatibility of the proposal with the site and its current uses
- The nature of the activity proposed (i.e. commercial use)
- The approach taken by Council in other similar circumstances

The Council approval process as landowner is separate to the Council's regulatory functions. In addition to the landowner approval, approval is required under the Resource Management Act 1991. Specifically, the proposal requires a land use consent under the Council's District Plan for both the activity and the proposed structure. A resource consent application has been lodged and is currently being considered by the Council in its regulatory capacity.

If the licences are granted, the licence documentation will expressly be subject to all regulatory approvals being obtained.

Given the status of the land and the long established use of the site for marine related activities, day to day decisions on licences for boat storage and berthage at the Evans Bay Marina and car park are made by officers. As this decision involves commercial use within the car park, it is appropriate that the decision is made by Committee.

Under the 20013/16 Terms of Reference, the decision is within the Environment Committee delegations. However, as the next meeting of that Committee is not until 6 August 2014, officers recommended that this paper is considered by the full Council at its already scheduled extraordinary meeting on 26 June 2014 to meet the timelines required to vacate the OPT site.

## **5. Discussion**

### **5.1 The site and the current uses on the site**

There are three separately managed areas in the Evans Bay Precinct (refer to attachment Appendix 2).

#### **5.1.1 The Evans Bay Yacht and MotorBoat Club (EBYMC).**

The area is located to the north of the area and has a current ground lease.

The land is home to the EBYMC Clubrooms and boat storage building that are owned by the club. Water based assets including the wharf, boat ramps, travel lift fingers, seawalls and jetties are owned and maintained by WCC.

The club also runs a boat repair yard that comprises a boat travel lift and boat storage areas for members. The boat yard is commercially operated with the area used for repairs, hull antifouling and general boat maintenance.

### **5.1.2 The public boat ramp and car parking areas**

The public boat ramp and jetties and parking areas and the car parking area closest to Cobham Drive. The car and boat ramp area and the launching ramp are available to all members of the public at no cost. Car and boat parking is on a temporary basis only and no permanent storage is allowed in this area

### **5.1.3 The Evans Bay Marina**

The Evans Bay Marina area consists of the breakwater, 4 piers, 3 buildings for boat and gear storage and car parking. The licence agreements are recreation based although historically there have been a small number of commercial fishermen and charter boats operating from the piers.

The marina comprises the following facilities:

43 boatsheds  
139 berths  
37 Dinghy lockers  
Car parking and permanent trailer boat parking

The centre building has the marina supervisor office, laundry and marina and public showers and toilets. There is also a sewage disposal area for campervans.

## **5.2 The nature of the activity proposed**

The containers are needed to specifically to provide workshop and office space for two businesses:

- Duffy Yacht and Rigging Limited and
- McMorran Boat Building Limited

These businesses will provide an ancillary service to Marina users and other marine business clientele in the Wellington region. The businesses will undertake commercial activities in relation to the maintenance and repair of recreational and commercial vessels for a period of 12 months.

As the businesses are involved in servicing the marine industry they complement the existing activities in the Evans Bay Marina Precinct, such as the Evans Bay Yacht Club Travel Lift and Boat Yard Facilities. They will offer an increased level of service to existing berth licence holders at Evans Bay Marina whilst also being able to continue to service boats at Chaffers Marina and Clyde Quay Boat Harbour.

The closest boat servicing businesses' of a similar nature are located at Seaview Marina in Hutt City.

### **5.3 The approach taken by Council in other circumstances**

The proposal involves commercial uses of a marine nature. There is no restriction on the Council (in its landowning capacity) granting a licence for a commercial activity, which means that each situation must be assessed on a case by case basis.

For guidance officers note that:

- Council has a ground lease with the Evans Bay Yacht and Motor Boat Club Inc at Evans Bay which permits commercial activities, including the operation of a travel lift and boat storage areas.
- The Evans Bay Marina (piers, boatsheds and car parks) is operated on full cost recovery basis as per the Revenue and Financing Policy.

### **5.4 Views /feedback**

While there is no requirement for the Council to consult on the proposed licence prior to making its decision, officers approached the Evans Bay Marina tenants and nearby residents and advised of the proposal.

This resulted in discussions regarding the proposed licence and location of the structures with the Evans Bay Marina Tenants Association – which passed a meeting resolution to support the proposal.

Information has been provided to nearby residents on Evans Bay Road and a meeting was held at which a range of views were expressed. Those concerned with the proposal have been provided details about the resource consent process and assurances regarding the duration of the proposed licences.

The officer recommendations have been drafted to reflect the limited duration and that any future proposal (if any) for the site would be subject to future consultation and decision-making (see the matter raised under 'Other Information' below).

### **5.5 Next steps**

Subject to the approval of a resource consent and agreement of Council to grant licences, licences to occupy for a 12 month period will be concluded with the businesses, and relocation of the containers would take place.

### **5.6 Other Information**

Both McMorran Building Ltd and Duffy Marine Ltd currently operate from shipping containers temporarily located adjacent to the Overseas Passenger Terminal (now named Clyde Quay Wharf Apartments). This was a temporary arrangement that was agreed with Wellington Waterfront Ltd (WWL), to

facilitate relocation of those businesses from the OPT when the site was taken over by Willis Bond.

There is a dispute regarding the extent of WWL's obligation to both of the businesses, now that the temporary relocation adjacent to the OPT has concluded. In an effort to facilitate a solution, Council officers and WWL have been working in good faith to find a solution, while still maintaining the position that WWL is under no obligation to do so. If this proposal does not proceed then WWL (or the Council in-house Waterfront project team, post 1 July 2014) will need to consider next steps.

The Council has received an approach from a third party, to develop a proposal for a permanent marine facility for the site. This proposal has not yet been considered fully by officers to then put it before Council. This paper is unrelated to a future proposal, and if there is one to be developed for the site it would be first subject to Council decision-making - and then following that consultation, before any final decision.

## **6. Conclusion**

Officers recommend that the proposed licences to McMorran and Duffy at 447 Evans Bay Parade (Evans Bay Marina Car Park) are approved for a term of 12 months.

Contact Officers: Paul Andrews, Manager Parks, Sports & Recreation and  
Phil Becker, Business Relations Manager

## SUPPORTING INFORMATION

### **1) Strategic fit / Strategic outcome**

*The proposed licences are consistent with three of the four pillars of the 2040 strategy:*

- 2. Dynamic City*
- 3. Connected City*
- 4. People-centred City*

### **2) LTP/Annual Plan reference and long term financial impact**

*The proposals outlined in this report will have no substantial long-term financial impact*

### **3) Treaty of Waitangi considerations**

*There are no Treaty of Waitangi considerations*

### **4) Decision-making**

*This is not a significant decision*

### **5) Consultation**

#### **a) General consultation**

*The consultation is detailed in the report*

#### **b) Consultation with Maori**

*Given the temporary nature of the proposal iwi have not been consulted*

### **6) Legal implications**

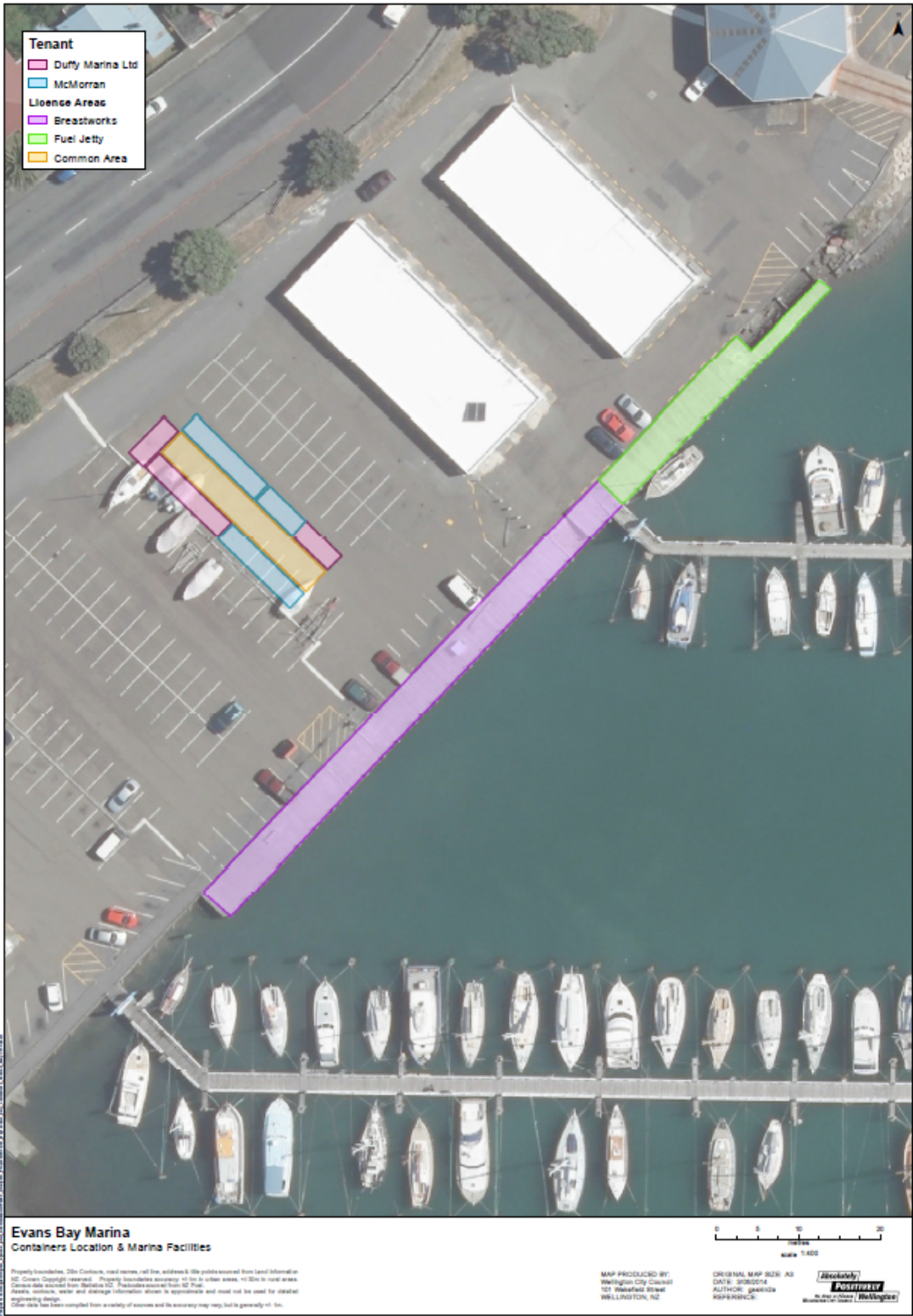
*The legal decision-making context is set out in this report*

### **7) Consistency with existing policy**

*There is not Council policy applicable to this land, however as detailed in the paper the approach to the proposal is consistent with relevant Council policies*

# Appendix 1

## Layout of the proposal





Evans Bay Precinct

