
REPORT 2
(1215/53/IM)

GRANTING OF A NEW GROUND LEASE TO P 8 NT LIMITED

1. Purpose of Report

To seek the Committee's approval to grant a new ground lease to P 8 NT Limited on Open Space A land, accessed from Caribbean Drive, Grenada North, as shown on the attached aerial photograph.

2. Executive Summary

This report provides a description of P 8 NT Limited, and officers' recommendation to grant a new ground lease to the company.

Commercial activities are permitted on the land pursuant to the Local Government Act 2002, and under the Leases Policy for Community and Recreation Groups 2001; it is also recognised that the land has been used for approximately 15 years for recreational tag gaming (paint ball).

The land is designated Open Space A and does not have reserve status, however under the Leases for Community and Recreation Groups Policy 2001, when the Council grants a new lease under this policy, it is treated as though it was on reserve land. The lease will be granted pursuant to the Local Government Act 2002.

3. Recommendations

Officers recommended that the Committee:

1. *Receive the information.*
2. *Approve subject to the conditions below, the granting of a new ground lease to P 8 NT Limited pursuant to the Local Government Act 2002:*

| Location | Term | Annual Rental |
|--|----------------|----------------------|
| <i>Caribbean Reserve, accessed from Caribbean Drive, Grenada North</i> | <i>3 years</i> | <i>\$1,500 + GST</i> |

Any approval to grant a lease is conditional upon:

- (i) Appropriate consultation with iwi;*
- (ii) The lease being publicly notified in accordance with section 138 of the Local Government Act 2002 and the appropriate Management Plan;*
- (iii) There being no objections or sustained objections resulting from the abovementioned consultation or notification.*
- (iv) The lessee pays for the legal, advertising, and valuation costs associated with preparing the lease.*

4. Background

4.1 Overview of Community & Recreation Leases

The Council leases land and/or buildings to a wide range of groups undertaking various activities. Leases are important to provide certainty for the Council and groups in regard to their property obligations and to provide a framework for asset management.

4.2 Strategic Context and Direction

The lease assessment process provides the Council with an opportunity to evaluate a group's community value and contribution to the various Council strategies and policies relevant to recreation and community groups. These strategies and policies are:

- Social and Recreation Strategy;
- Environmental Strategy;
- Leases Policy for Community and Recreation Groups;
- Reserve Management Plan(s) (if appropriate).

Social and Recreational Strategy

Leases to community groups, and in some cases, commercial providers, fit under the Social and Recreation Strategy. This strategy aims to build strong, safe and healthy communities for a better quality of life. The Council is committed to providing leadership to promote a high level of social cohesion and participation.

The Social and Recreational Strategy encourages collaborative partnerships with recreation groups to ensure the best delivery of services and programmes and maximise use of amenities and resources.

Environment Strategy

This lease also fits within the context of the Environment Strategy, which emphasises sustainable development and the protection and enhancement of our natural environment. The Environment Strategy recognises the inter-relationship between social and cultural well being and the environment. It aims to make Wellington more liveable, where our natural environment is more accessible to all for a wide range of social and recreation opportunities while not compromising our environmental values.

Leases Policy for Community and Recreation Groups

The Leases Policy for Community and Recreation Groups 2001 (Leases Policy) reinforces Council's significant role in fostering the well-being and strength of communities by facilitating networks, providing and supporting recreation opportunities and facilities. The objectives of the Leases Policy are to:

- strengthen communities through leasing land and buildings to groups
- ensure that the provision of leases is fair, equitable and responsive to community needs
- formally standardise requirements of leases.

The Leases Policy applies only in part to commercial activities on open space or reserve land. Lease tenure and rental are not subject to the Leases policy but are negotiated on a commercial basis. In this case, a commercial assessment of the rental was obtained from DTZ New Zealand Limited MREINZ.

The Leases Policy outlines the process for a lease and lease renewal. The process is outlined in Section 4.3 and 4.4.

Northern Reserves Management Plan

The Northern Reserves Management Plan (NRMP) was approved by the Council in 2008 after public consultation and will come into effect after final approval from the Department of Conservation is obtained.

The NRMP permits leases to groups that are primarily concerned with public recreation (particularly for outdoor recreation use), including commercial activities that contribute to the enjoyment of the land by the public. Commercial use such as recreational tag games may be permitted where it does not have significant impacts on the environment. The paint cartridges used by P 8 NT Limited are fully biodegradable, consistent with the environmental requirements under the NRMP.

The NRMP sets out an intention to undertake a landscape development plan for the area covered by the lease. This is scheduled for 2011/12.

4.3 Assessment of new leases

New leases are those where there is no current lease in place, and the applicant or the Council seeks to formalise this relationship. The Council recognises that most groups have made investments in assets and this is a key consideration in the evaluation of any lease. The process for a new lease is as follows:

1. Applicant provides Council officers with relevant information including financial information, historical patterns of use, and future prospects.
2. Officers evaluate information and assess whether the group will be sustainable (participant numbers and financially), and if their activities are consistent with the Council's strategic direction and objectives.
3. Officers communicate their decision to the applicant. If a new lease is recommended then officers negotiate lease tenure, rental and terms and conditions.
4. Officers seek approval for the granting of the lease from the Regulatory Processes Committee subject to the appropriate conditions being met.
5. Officers notify the new lease in the Dominion Post pursuant to the Local Government Act 2002.
6. Officers prepare lease documents if all approvals are granted and no objections are sustained.

4.4 Lease agreement and documentation

The Leases Policy provides guidance and a framework for the lease agreement process and documentation. This includes lease rental and tenure, procedural matters, and the responsibilities and requirements of the lessee and the Council.

The Council may offer ground leases and premises leases to community or commercial recreation groups. Some groups own their own building and are responsible for its maintenance and insurance. In these cases the Council can offer a ground lease, which is a lease for the land only. Groups that lease Council-owned buildings are granted a premises lease. These groups lease both the land and the Council-owned buildings on the land. They pay a maintenance fee to the Council for a proportion of the external maintenance costs.

Leases offered to recreation groups are in a standard format in accordance with the Leases Policy and Committee's resolution of 7 February 2007. The standard lease covers the following terms and conditions:

- reporting requirements
- allocation of responsibilities between lessee and the Council
- payment of rates, water and other utilities
- maintenance of buildings, structures, vegetation and land
- insurance
- subleasing
- granting security against a lease

- termination of the lease
- external signs
- external commercial advertising within leased area(s).

4.5 Term of lease

A standard term under the Leases Policy is ten years and one further term of ten years (the renewal).

However, there are occasions where it may be appropriate to use a degree of flexibility in the term of a lease. This flexibility is at the Council's discretion and is designed to allow Council to respond to changing community needs and expectations. The reasons a shorter or longer term may be offered are limited to the following circumstances:

Table 1: Reasons for a shorter or longer term may be offered.

| Shorter Tenure | Longer Tenure |
|---|---|
| Declining trends in an activity | Recognition of past asset investment |
| Evolution of activities that will compete for assets | Proposed asset investment |
| Alternative uses are planned by the Council for the lease asset (for example, demolition of the buildings in a number of years) | To provide certainty for external funding purposes |
| Life expectancy of facility/ assets is less than lease tenure | Dependence by community or membership on continuity of a key activity |

4.6 Monitoring and reporting requirements

The Council is interested in the ongoing performance of community and recreation groups so it can monitor the achievement of strategic objectives for the city. The reporting requirements in the lease are not intended to be a control mechanism, rather a means of communication between the groups and the Council. Reporting generally includes the requirement for:

- Membership numbers and usage rates
- Community events run on the land or in the building(s)
- Financial information.

5. Discussion

P 8 NT Limited

P 8 NT Limited was established in 2008 when the previous licensee, Tag War Games Limited, sold the business. The director of P 8 NT Limited is an experienced paint-baller, has been involved with the New Zealand Paintball Players Association, and served as president of the association for a number of years prior to standing down in 2007.

The Grenada North site has been used for tag games for more than 15 years. The site is located on one side of a gully which is not frequently used for casual walking by the public.

As a condition of the new lease P 8 NT Limited is required to install signage at appropriate locations to warn the public of paint ball activities in the area. P 8 NT Limited will also be required to keep the land in a reasonable state, keeping the land free of rubbish and debris. The land is mainly used during the weekends and school holidays for paintball, and P 8 NT Limited is projecting approximately 3,000 users for the first 12 months of operation.

Given the commercial nature of P 8 NT Limited and use of the land, a commercial valuation has been undertaken to establish an appropriate annual rental. DTZ New Zealand gave consideration to location, accessibility, and restrictions on use of the land (given the land status), and their valuation came back at \$1,500 + GST per annum.

The NRMP has identified the area as one that requires a landscape development plan. The plan is scheduled to be prepared in 2011/2012 and will assess the values of the land and how this fits with the Council's strategic and community needs. A short-term lease will fit with the timing of the proposed landscape development plan, allowing a recreational use of the land in the interim. Therefore a 3 year term is considered appropriate so that officers can make a decision on the use of the land without having a long-term tenant on the land.

On completion of the plan, a fresh lease may be granted to P 8 NT Limited if the use is compatible with the outcome of the plan.

| | | |
|-------------------------|---|-----------------|
| History of P8NT Limited | Established in 2008 when the previous licensee, Tag War Games, sold the business to Martin Dannefaerd. | |
| Use of the land | <p>Most weekends in the summer the land is actively used by paintballers. Projected use of the land is approximately 3,000 users in the first 12 months of operation.</p> <p>Simple structures such as wooden shells of buildings, forts, and dug-outs, which include retained sections of land, were placed on the land by the previous licensee. These are used by P 8 NT Limited for their customers to shoot from and at.</p> | |
| Term | 3 years with no right of renewal. The Northern Reserves Management Plan has identified the area for evaluation, and the Council may decide not to permit further use of the land for paint ball games in the future. | |
| Rental | \$1,500 + GST per annum. | |
| Strategic Fit | Contributes to More Liveable, More Actively Engaged, Better Connected and Healthier Outcomes. | |
| Group Sustainability | Projected user numbers | 3,000 per annum |
| | Financially viable | Yes |

The land that P8NT Limited occupies is designated Open Space A, therefore the lease is granted under the Local Government Act 2002 (LGA).

Section 138 of the LGA stipulates that any lease for a term of 6 months or more over a Local Authority's land constitutes 'disposal' and therefore requires consultation with the public. This will be undertaken after approval from Council is granted.

The Council must also consider whether the proposed lease will exclude or substantially interfere with the public's access to the land. It is considered that this lease will not interfere with the public's access to the park because:

- the land hosts very few structures, and the park is some 10 hectares in size. The existing structures are set away from the main walking track in a small gully;
- access to the park is via any point, it is an open space;
- the land has been used for this purpose for 15 years, and no objections to accessing the reserve have been received.

6. Conclusion

Officers recommend that the Committee exercises its delegated authority to approve the granting of a lease to P 8 NT Limited. P 8 NT Limited has demonstrated a good fit with the Council's strategic direction and existing policies, there is a demand for this activity, as evidenced by the popularity of the business, and viability in terms of its financial position.

The granting of this new ground lease will be subject to the conditions identified in section 3 (Recommendations).

Contact Officers: *Heather Cotton – Property Adviser, Amber Bill – Manager, Community Engagement and Reserves*

Supporting Information

1) Strategic Fit / Strategic Outcome

This report recommends a lease with P 8 NT Limited which is consistent with the Council's LTCCP strategic vision in regard to Strategy 6: Social and Recreation.

Directly related to:

- More liveable
- More actively engaged
- Better connected
- Healthier.

2) LTCCP/Annual Plan reference and long term financial impact

This report recommends a lease with P 8 NT Limited which is consistent with the Council's LTCCP in regard to Strategy 6: Social and Recreation.

All costs associated with preparing the lease are met by the lessee.

3) Treaty of Waitangi considerations

Iwi will be consulted.

4) Decision-Making

Decisions regarding leases over the land are made by the Council as land owner.

5) Consultation

a) General Consultation

The Council will call for submissions as required by the Local Government Act 2002.

b) Consultation with Maori

Iwi will be consulted as required by the Local Government Act 2002.

6) Legal Implications

Council's lawyers have been consulted during the development of this lease.

7) Consistency with existing policy

The provision of a lease to P 8 NT Limited supports Council's overall vision of Creative Wellington – Innovation Capital. The Leases Policy supports Council activities as a facilitator of recreation partnerships and provider of recreation and social opportunities.

Appendix 1