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**REPORT 1**  
(1215/53/IM)

## **GRANTING OF LEASES TO EARLY CHILDHOOD CENTRES IN ACCORDANCE WITH THE EARLY CHILDHOOD CENTRES POLICY**

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### **1. Purpose of Report**

The purpose of this report is to obtain approval for Council officers to grant leases to 10 early childhood centres in accordance with the Early Childhood Centres Policy (Refer to Appendix 1).

### **2. Executive Summary**

The Early Childhood Centres Policy (Policy) was adopted by Council on 27 May 2009 and sets out the Council's role regarding early childhood centres. The Policy provides guidance on how and when the Council may offer support to early childhood centres and for managing their leases.

Council officers are required to implement the Policy through leases and licences with 22 licensed early childhood centres by 1 July 2010. Officers are unable to implement new leases in line with the Early Childhood Centres Policy for two of the 22 early childhood centres due because of lease obligations.

This report seeks approval to implement new leases for 10 of the early childhood centres the Council leases land and or buildings to (Refer to Appendix 2 and 3). The remaining 10 will be covered in a later report.

### **3. Recommendations**

Officers recommend that the Regulatory Processes Committee:

- 1. Receive the information.*
- 2. Agree to granting new ground and premises leases relating to Fee Simple land to the early childhood centres set out in Appendix 2, Schedule 1 in accordance with the Early Childhood Centres Policy and subject to the Local Government Act 2002.*
- 3. Agree to granting new ground and premises leases relating to Local Purpose Reserve land to the early childhood centres set out in Appendix 2, Schedule 2 in accordance with the Early Childhood Centres Policy and subject to the Reserves Act 1977.*

4. *Agree to granting a new licence agreement to the early childhood centre as set out in Appendix 2, Schedule 1, in accordance with the Early Childhood Centres Policy.*
5. *Note that the terms of the ground leases, premises leases and licence are as follows:*  
**Commencement Date:** 1 July 2010  
**Term:** 10 years plus a 10 year right of renewal  
**Ground Lease Rental:** 1% of the revenue of each early childhood centre  
**Premises Lease/Licence Rental:** 4% of the revenue attributable to each early childhood centre  
**Incremental Rental:** Where a centre has a rental increase greater than \$500.00 per annum the new rent will be phased in over a period of three years (as shown in Appendix 2).
6. *Note any approval to grant a lease or licence for Fee Simple land is conditional on:*
  - (i) *appropriate consultation in accordance with section 138 of the Local Government Act 2002;*
  - (ii) *there being no sustained objections resulting from the abovementioned consultation or notification; and*
  - (iii) *the legal and advertising costs associated with preparing the leases are met by the Lessee.*
7. *Note that any approval to grant premises leases and ground leases for Local Purpose land is conditional on:*
  - (i) *the leases being publicly notified in accordance with section 119 and 120 of the Reserves Act 1977;*
  - (ii) *there being no sustained objections resulting from the abovementioned consultation or notification; and*
  - (iii) *the legal and advertising costs associated with preparing the leases are met by the Lessee.*
8. *Agree that the Chief Executive will finalise and negotiate the lease details.*

#### **4. Background**

The Council has an interest in the provision of quality early childhood education because of the contribution such services make to promoting economic and social wellbeing. Early childhood education services support parents both as workers and in their parenting roles as well as providing intellectual and social enhancement that contributes to a child's later development.

On 27 May 2009, the Strategy and Policy Committee agreed to adopt the Policy. The adoption of this Policy was preceded by a period of consultation where each early childhood centre (centre) was given the opportunity to discuss with Council officers and make submissions on the Policy. The major change to the majority of the centres related to the rent they would pay under the new Policy.

The Council has premises leases, premises licences and ground leases to regulate the occupation of centres on Council owned land and or buildings.

A premises lease is used for centres that have exclusive use of Council owned land and buildings and a ground lease is used for centres that have use of Council owned land only. A premises licence is used for centres that have non-exclusive use of Council owned land and buildings.

## **5. Discussion**

Although each centre's lease needs to be treated on an individual basis due to historical and existing arrangements with each, the Policy sets out standard provisions for rental determination and management provisions that apply to all centres who have a lease with the Council. These standard provisions are as follows:

### **5.1 Term**

All centres will be granted a ten year term with a ten year right of renewal.

### **5.2 Rental**

The rental will be calculated annually based on each centres' revenue for the previous year and is due on a monthly or quarterly basis, depending on what suits each centre. After the end of each year a final payment or refund may be due if there is a difference between the current and previous years' revenue. Given the reduction in Ministry of Education (MoE) funding for centres which was announced in the May 2010 Budget, the estimated rental figures for 2011, 2012 and 2013 as shown in Appendix 2 may decrease to reflect the reduction in MoE funding.

Rental for ground leases will be based on 1% and rental for premises leases and licences will be based on 4% of the revenue attributable to each centre. Revenue is defined in the Policy as being Ministry of Education payments (excluding equity grants) and income received by each centre that constitutes payment for childcare services (including fees, donations and subsidies from Work and Income New Zealand).

Where a centre faces a rental increase greater than \$500 per annum as a result of renewing its lease, the new rent will be phased in over a period of three years as shown in Appendix 2 attached.

Although Wadestown Community Crèche Incorporated (Crèche) (Refer to Appendix 2, Schedule 1) will receive a reduction in rental, the Crèche's rental will also be phased in over a three year period. The Crèche is currently paying a rental of \$5,842.00 which excludes outgoings. Under the new licence the Crèche will be paying a rental of \$6,089.05 plus electricity and cleaning charges which will bring the Crèche in excess of a \$500.00 increase per annum.

### **5.3 Maintenance Obligations**

Where a centre has a ground lease, the centre is responsible for all maintenance and compliance costs associated with the building.

Where a centre has a premises lease, the Council is responsible for all exterior and deferred maintenance, compliance costs to meet requirements of the Building Act 2004 and building insurance. The centre is responsible for all interior maintenance.

The accommodation used by Wadestown Community Crèche Incorporated is shared with other groups. It is therefore appropriate to grant a premises licence rather than a premises lease as the Crèche does not have exclusive possession of the premises. Officers have applied the Policy to this Crèche but have adjusted the terms relating to maintenance to reflect the shared use of accommodation.

Centres with leases are responsible for electricity, water rates and the legal and advertising costs for preparing a new lease when the lease expires or is varied, whether the centre owns the building or not. Centres with licences are also responsible for these costs with the exception of water rates.

Officers have prepared draft leases in accordance with the Policy and have met with each of the centres to discuss the implications of the Policy for each centre and discussed their individual circumstances. Although the finer details of each lease still needs to be negotiated, all the Centres other than the Wellington Region Free Kindergartens Association have agreed to the rental figures proposed and terms as set out in Appendix 2.

The Wellington Region Free Kindergartens Association considers the rental increases to be inappropriate. Officers have not uncovered any compelling reasons to reduce the rental applying to the Kindergartens.

## **6. Conclusion**

Council officers recommend that the Regulatory Processes Committee give their approval to proceed with implementing the Policy to 10 early childhood centres who lease or licence land and or buildings from the Council.

Contact Officer: *Hanita Shantilal, Senior Property Advisor, Property Management.*

## Supporting Information

### **1) Strategic Fit / Strategic Outcome**

*The Early Childhood Centres Policy supports Council activities as a provider of social infrastructure and community properties. The Policy contributes to the Council meeting the following outcomes:*

- *Improving liveability*
- *Building capability and capacity to support social infrastructure*
- *Promoting and enhancing community participation*
- *Attracting and retaining a highly skilled productive population base.*

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

*The project is contained in the Council Plan A468 and C524. The changes indicated here will lead to an increase in revenue for the remainder of the LTCCP period through the revised rentals effective 1 July 2010. Details of these fee adjustments are contained within Appendix 2.*

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

*No Treaty implications have been identified.*

### **4) Decision-Making**

*This is not considered a significant decision in terms of the Council's Significance Policy.*

### **5) Consultation**

#### **a) General Consultation**

*Council officers have met with all early childhood centres that are subject to this report and discussed the implications of the Early Childhood Centres Policy in relation to each centre.*

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

*Not Applicable – The Early Childhood Centres Policy was reviewed by the Manager of Treaty Relations before being adopted by Council.*

### **6) Legal Implications**

*Legal advice has been obtained.*

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

*This report is consistent with the Early Childhood Centres Policy.*