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REPORT 2  
(1215/53/IM)

## GRANTING OF A NEW GROUND LEASE TO SOUTHERN ENVIRONMENTAL ASSOCIATION (WELLINGTON) INCORPORATED

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### 1. Purpose of Report

To seek the Committee's approval to grant a new ground lease over fee simple land to the Southern Environmental Association (Wellington) Incorporated for a native plant nursery.

### 2. Executive Summary

This report provides a description of the Southern Environmental Association, the group which the Council seeks to formalise a new lease with, and officers' recommendations to grant the new lease.

The Southern Environmental Association has occupied the land for approximately 17 years, on an informal basis, for use as a native plant nursery. The land is fee simple, therefore it is granted under the authority of the Local Government Act 2002; however under the Council's Leases Policy, the land is treated as though it was a reserve, and therefore subject to the same process as under the Reserves Act 1977.

### 3. Recommendations

Officers recommend that the Committee:

1. *Receives the information.*
2. *Approves subject to the conditions below, the granting of a new lease to the Southern Environmental Association under the Local Government Act 2002 (the Act):*

<b>Location</b>	<b>Term</b>	<b>Annual Rental</b>
<i>Preston's Gulley Closed Landfill, Happy Valley</i>	<i>10 years</i>	<i>\$1, if demanded</i>

*Any approval to grant a lease is conditional upon:*

- 1. Appropriate consultation with iwi;*
- 2. The Lease being publicly notified in accordance with sections 119 and 120 of the Act and any approved Management Plan;*
- 3. There being no objections or sustained objections resulting from the abovementioned consultation or notification.*
- 4. The lessee pays for the legal and advertising costs associated with preparing the leases.*

## **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***

Community group leases 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 has committed to provide greater leadership to promote a high level of social cohesion and participation.

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

#### ***Environment Strategy***

Community group leases also fit within the context of the Environment Strategy, which emphasises sustainable development and the protection and enhancement of our natural environment. The 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 also reinforces Council's significant role in fostering the well-being and strength of communities by facilitating networks, providing recreation opportunities and supporting community facilities. The objectives of the Leases Policy are:

- 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 the requirements of the lease.

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

#### **4.3 Assessment of new leases**

New leases are those where there is no current lease in place, and the group 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 (membership numbers and financially), their activities are consistent with the Council's strategic direction and objectives, and consider their previous lease performance.
3. Communicate officers' decision to the applicant. If a new lease is recommended then the officer negotiates lease tenure, rental and terms and conditions.
4. Seek approval in principle from the Regulatory Processes Committee.
5. Public notification as set out in the Reserves Act.
6. If all approvals are granted and no objections are sustained, lease documents will be prepared.

#### **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 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 their share of the external maintenance costs.

Leases offered to community groups are a standard format in accordance with 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 lessor
- payment of rates, water and other utilities
- maintenance of buildings, structures, vegetation and land
- insurance
- subleasing
- granting security against a lease
- termination of leases
- external signs
- external commercial advertising within leased areas.

#### 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.*

<b>Shorter Tenure</b>	<b>Longer Tenure</b>
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**

### **Southern Environmental Association (SEA)**

The land was previously used for landfill until its closure in 1979. The Southern Environmental Association (SEA) built the 450m<sup>2</sup> native plant nursery on the site in 1991. The SEA was legally established in 1992 and is a voluntary organisation that holds charitable trust status.

The SEA has been involved in ecological restoration of the wider area and has established a wetland on the ex-landfill site adjacent to the nursery. The SEA has planted over 30,000 eco-sourced trees and plants in the area since 1995, and hosts working bees most weekends year-round.

A 10-year term is recommended given the length of time the nursery has been successfully run on site by the SEA. The SEA has not requested a right of renewal.

Under the Leases Policy, the standard annual lease rental is calculated at \$134 +GST. In this case, the rent has been set at \$1 (if demanded) in recognition of the nature and purpose of the work; sourcing native species locally which the group then voluntarily plants in public land in surrounding areas. The Council benefits by having the ex-landfill site (and other Council-owned land) vegetated and beautified.

Plants are sourced, cultivated and planted in the reserve at no cost to the Council, and it is proposed that the SEA be granted a water subsidy of \$1000 per annum to allow the continued operation of the nursery. In practice, this means the Council will pay the first \$1000 of any water charges. If the annual cost for water is less than this, SEA will not receive the balance from the Council. Officers agree that this water subsidy should be more than sufficient for the successful operation of the nursery. Any water use over this amount will be paid by the SEA.

Lease history	The SEA has occupied the land for approximately 17 years. The parties have agreed to formalise this arrangement by entering into a new lease.	
Background	The SEA is run by volunteers; the group exists to cultivate and plant native vegetation in public land in surrounding areas. The Council benefits by having the ex-landfill site and other public land vegetated and beautified.	
Term	10 years.	
Rental	\$1 (if demanded) per annum.	
Water Subsidy	Up to \$1000 per annum.	
Strategic Fit	Contributes to More Liveable and Better Connected Outcomes.	
Group Sustainability	Member numbers	Approximately 100
	Financially viable	Yes

The land in question is fee simple, therefore the lease to the SEA 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 of more than six months constitutes 'disposal' and therefore requires consultation with the public. This will be undertaken after formal approval from Council is granted.

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 reserve because:

- the nursery is only 450m<sup>2</sup> and the reserve is some 20 hectares in size;
- access to the reserve is via any point on the reserve, it is an open space;
- the nursery has been in place for 17 years, and no objections to accessing the reserve have been received.

## 6. Conclusion

Officers recommend that the Committee exercise its delegated authority to approve the granting of a lease to the Southern Environmental Association, subject to the conditions identified in section 3 (Recommendations).

Contact Officers: *Heather Cotton, Amber Bill, David Halliday.*

## Supporting Information

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

*This report recommends a lease with the SEA which is consistent with the Council's LTCCP strategic vision in regard to Strategy 6: Social and Recreation. Directly related to:*

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

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

*This report recommends a lease with the SEA 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**

*As the land in question is fee simple; decisions regarding leases over the land are delegated to the Council as Local Authority.*

### **5) Consultation**

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

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

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

*Iwi will be consulted.*

### **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 the SEA 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.*