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REPORT 5  
(1215/53/IM)

## GRANTING OF A LICENCE FOR A COMMUNITY ORCHARD TO ISLAND BAY AND BERHAMPORE COMMUNITY ORCHARD TRUST

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### 1. Purpose of Report

To recommend the Committee approves a licence to the Island Bay and Berhampore Community Orchard Trust (The Trust) for a community orchard at a site adjacent to 559 Adelaide Road.

### 2. Executive Summary

The Island Bay and Berhampore Community Orchard Trust was established in March 2010 and approached the Council to use an area of Town Belt land, of approximately 4,700m<sup>2</sup> to create a community orchard at a site adjacent to 559 Adelaide Road. The orchard will be maintained by the Trust and provide a sustainable food source for members of the public using this area of the Town Belt. The Trust also aims to increase environmental awareness and community participation through the planting, maintenance and harvesting of the orchard.

The site that will be occupied by the Trust is on Town Belt in the Golf Links/Mt Albert Management Area. The Town Belt Management Plan allows community orchards to be planted on this land.

### 3. Recommendations

Officers recommend that the Committee:

- Receive the information.*
- Agree subject to the terms and conditions noted below, the granting of a new licence to the Island Bay and Berhampore Community Orchard Trust in accordance with the Reserves Act 1977 and the Town Belt Management Plan.*
- Note that the terms of the licence are:*

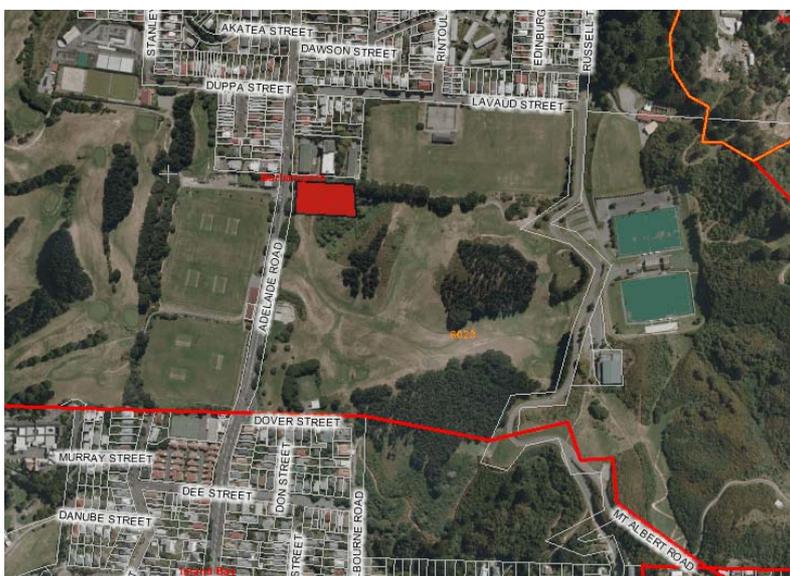
<i>Location:</i>	<i>Adjacent to 559 Adelaide Rd and the Berhampore Golf Course.</i>
<i>Term:</i>	<i>3 years.</i>
<i>Annual Rent:</i>	<i>\$1 (if demanded).</i>
<i>Special Conditions:</i>	<i>Wellington City Council to pay the first \$300 of metered water per annum (exclusive of GST).</i>

4. Note that any approval to grant a new licence will be conditional on:
- (a) appropriate consultation with Iwi being completed;
  - (b) the licence being publicly notified in accordance with sections 119 and 120 of the Reserves Act 1977 together with any conditions set out in any approved Management Plans (e.g. Town Belt Management Plan);
  - (c) there being no substantial objections resulting from the required consultation or notification;
  - (d) the Trust reimbursing council for any costs incurred in advertising and preparation of legal documents.

#### 4. Background

The Council offers Leases and Licenses on land to a wide range of groups undertaking various activities. These are important to provide certainty for the Council and groups in regard to their property obligations.

The licence for this community orchard is on land situated adjacent to 559 Adelaide Road (commonly known as Granville Flats) and referred to as the Berhampore Golf Course (although unused for that purpose). The Licensed area is marked in red on the aerial photograph below and a larger scale plan is attached as Appendix 1.



The Town Belt Management plan permits Community gardens for approved community groups where the gardens will provide therapeutic benefits to people who do not have their own gardens or provide produce for charitable distribution i.e. produce shall not be grown for sale. The gardens must retain their public character, be compatible with adjacent uses and have no structures or fencing unless approved in writing by the Chief Executive, Wellington City Council, or delegated authority.

The Island Bay and Berhampore Community Orchard Trust (Trust) aims to establish and maintain one or more orchards in the Wellington region, as a community asset that produces food for the local community. The Trust also plans to foster community involvement and opportunities for enjoyment, education and co-operation of members.

#### **4.1 The Site**

The site is a sloped grassed area on Town Belt Land and was the site of a Custodian House, which burnt down in 2002. The area to be occupied by the Orchard is approximately 85m (West to East) and 55m (North to South), giving a total licensed area of 4,675m<sup>2</sup>.

The Trust proposes to plant the site in three stages. The first includes a feijoa hedge to the South with a mixture of fruit trees and soft fruit which will be in mulched beds. Planting stages 1, 2 and 3 are attached in Appendix 2.

The public will still have unrestricted access to the land and will be able to walk through the orchard unimpeded.

#### **4.2 The Licensee**

The Trust was established in March 2010 and aims to establish and maintain one or more orchards in the Wellington region. It approached the Council about a suitable site for the orchard and officers have been working with them to ensure that any proposed site is suitable.

The Trust consists of seven trustees who are actively involved in the promotion of the concept of community orchards. It has at least 190 interested Facebook members, some of whom the Trust expects to undertake the initial ground work and ongoing maintenance.

In July 2010 the Council provided an environmental grant of \$2,800 to the Trust for the preparation and planting of a community orchard.

A sign, consistent with the Town Belt Management policies will be erected by the Trust to highlight the location and existence of the community orchard. Water will be provided to the site via a hose from a nearby Toby owned by Wellington City Council.

## **5. Considerations when assessing a new licence**

### **5.1 Leases Policy for Community and Recreation Groups**

An application for a new licence is made under the Council's Leases Policy for Community and Recreation Groups 2001 (Leases Policy) and is subject to assessment under its criteria.

Appendix One of the Leases Policy requires that the assessment of a new lease or licence is considered against the following criteria:

- strategic fit
- activity sustainability
- optimal use of resources
- environmental impact
- a demonstrated need from the community, and
- the need for a licence

An assessment of the Trust and how it fits within these criteria is outline in section 6.

This licence is consistent with the provisions of the Social and Recreation Strategy.

## **5.2 Legislation**

The land adjacent to 559 Adelaide Road is held subject to the Town Belt Deed and managed in accordance with the Reserves Act 1977 and therefore the licence will be governed by this piece of legislation.

The Wellington Town Belt was vested in the Wellington City Council by the Town Belt and Basin Reserve Deed of 1873. The Deed remains the governing authority by which the Wellington City Council controls the Town Belt. The Deed provided for the Town Belt land to be kept forever 'as a public recreation ground for the inhabitants of the city of Wellington'.

A licence is appropriate for the orchard as the group would have a non-exclusive right to use the land. There will be no structures or fencing and the public will still be able to access the whole area.

The Town Belt Management Plan allows licences for gardens on a short-term tenancies of up to three years and requires that the licence is publicly notified in accordance with Public Consultation and Community Involvement

Sections 119 and 120 of the Reserves Act set out the requirement for public notification. The granting of the licence is subject to there being no sustained objection from any party.

## **6. Discussion**

### **6.1 Assessment**

The proposed licence for the Trust has been assessed against the criteria set out in the Leases Policy.

Please see a summary of this assessment below:

<b>Criteria</b>		<b>Assessment</b>
<b>1. Strategic Fit</b>	<b>Social and Recreation Strategy</b>	<p>The Trust activities on the site are for the creation of community orchard. The orchard will produce fruit and provide opportunities for the education, enjoyment and co-operation of the local community, particularly those in need.</p> <p>These activities are consistent with the Social and Recreation Strategy which aims to build strong, safe and healthy communities for a better quality of life.</p>
<b>2. Activity Sustainability</b>	<b>Membership</b>	The Trust has a wider group of interested people (168) via facebook which the Trust will approach for membership once a licence has been approved.
	<b>Financial Position</b>	The Trust is in a good position to obtain community grants and has recently obtained funding for the first stage of their orchard project subject to Wellington City Council granting a licence to the Trust. In kind donations are expected with extensive volunteer hours.
<b>3. Use of Resources</b>	<b>Land Utilisation</b>	The Trust will tend to the orchard to undertake planting, harvesting and take general care of the land as required.
<b>4. Environmental Impact</b>	<b>Location</b>	<p>The site is located at adjacent to 559 Adelaide Road (commonly known as Granville Flats) and the Berhampore Golf.</p> <p>The group believes the orchard will provide a positive environmental impact on this piece of land and will include weed control.</p> <p>Officers have discussed the use of any chemicals with the Trust and are comfortable that there will be no damage to the plant environment.</p>
<b>5. Demonstrated Need and Support from the Community</b>	<b>People</b>	<p>The Trust will draw its members from a wide area all over Wellington. The facebook membership base and local interest which the trust has generated by word of mouth demonstrates a need within the community for such a resource.</p> <p>This will also provide opportunities for the community to become involved in the planting, maintenance and harvesting of the fruit in the orchard free of charge (which they encourage).</p>
<b>6. Need for a Licence</b>	<b>Capability</b>	A licence is an appropriate instrument in this case as it will outline the Trust and Council's responsibilities in relation to the orchards operation/existence.

## **6.2 Rental**

The Leases Policy sets out a calculation to determine an annual rental to community groups. However, the Leases Policy does not directly address licences of this nature, and permits some discretion in decision-making. In this case, officers recommend the rental be waived as the activities are for a public good and because the Trust must maintain public access to the land.

In addition, officers propose that the Trust is given a subsidy of \$300 plus GST per annum towards the cost of water for maintain the orchard in recognition of the public good. This will be funded from the Town Belt and Reserves Operational Fund.

## **6.3 Tenure**

The maximum term for a gardening licence, under the Reserves Act is five years. The Town Belt Management Plan states that gardens shall only be permitted under short term tenancies of up to three years, so a term of three years is recommended.

## **7. Conclusion**

Officers recommend that the Committee exercise its delegated authority to approve the granting of a licence to the Island Bay and Berhampore Community Orchard Trust, subject to the conditions identified in section 3 (Recommendations).

Contact Officer: *Dejan Kirbis (Property Advisor), Lucy Ross (Team Leader, Property Management and Amber Bill (Manager, Community Engagement and Reserves)*

## Supporting Information

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

*The provision of this licence is consistent with the Council's Social and Recreation Strategy which aims to build strong, safe and health communities by supporting agencies which contribute to the resident's health and safety and community strength*

*The Trusts plans to foster community involvement and opportunities for enjoyment, education and co-operation of members, which reflect the outcomes the Council aims to achieve.*

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

*The Island Bay and Berhampore Community Orchard Trust will be responsible for maintaining the orchard area.*

*The water subsidy of \$300 per annum plus GST will be provided from the Town Belt and Reserves Operational Fund.*

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

*There are no known considerations.*

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

*This is not a significant decision.*

### **5) Consultation**

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

*Public consultation will be undertaken as required by the Reserves Act 1977, and consultation with the Friends of the Town Belt*

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

*Iwi will be consulted*

### **6) Legal Implications**

*The licence will be subject to the provisions of the Town Belt Deed 1865 and the Reserves Act 1977. Legal advice will be sought in the preparation of the lease and licence.*

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

*The provisions of this lease is consistent with t Leases Policy for Community and Recreation Groups.*



# APPENDIX ONE

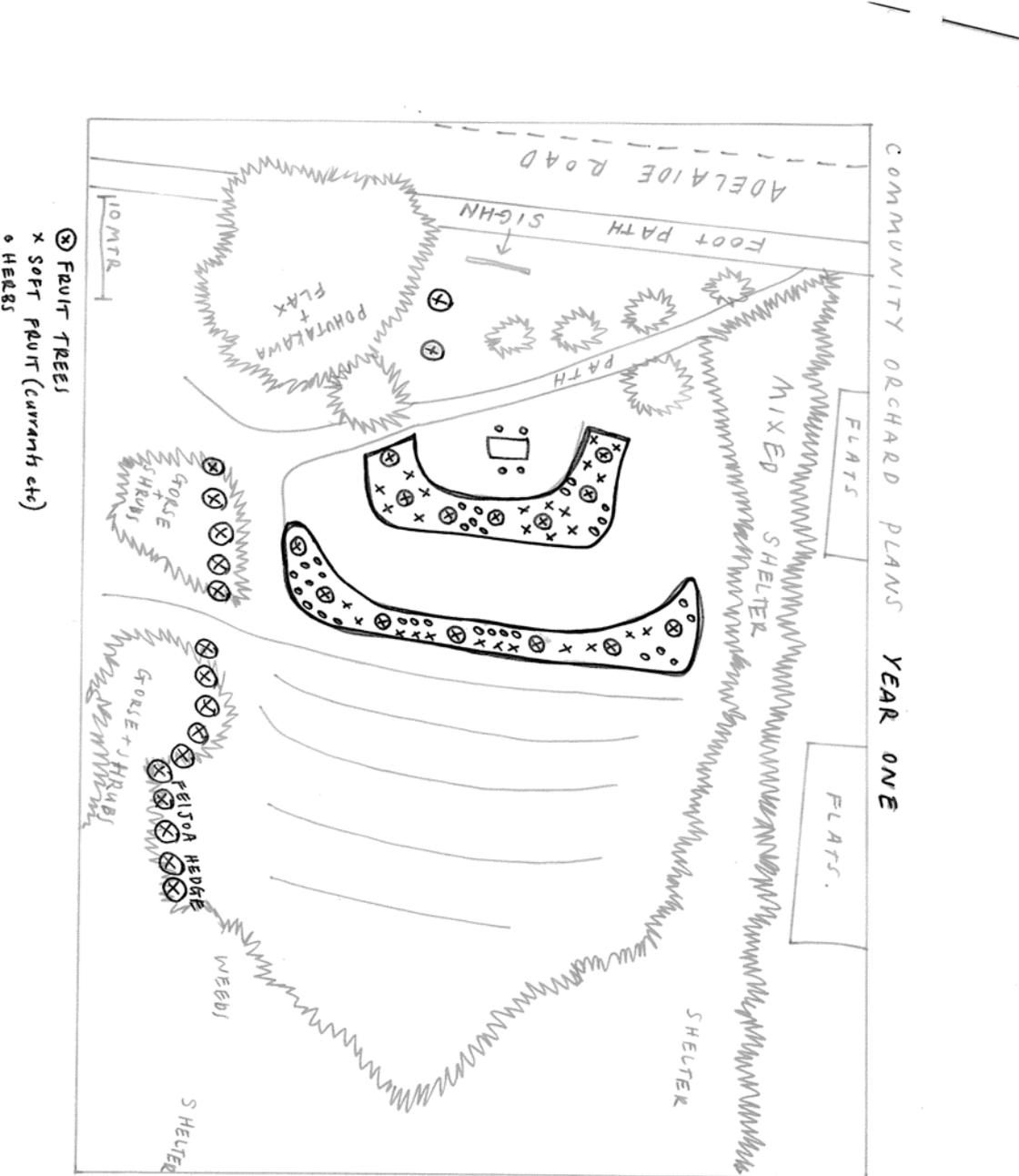
## Proposed site for Island Bay and Berhampore Community Orchard



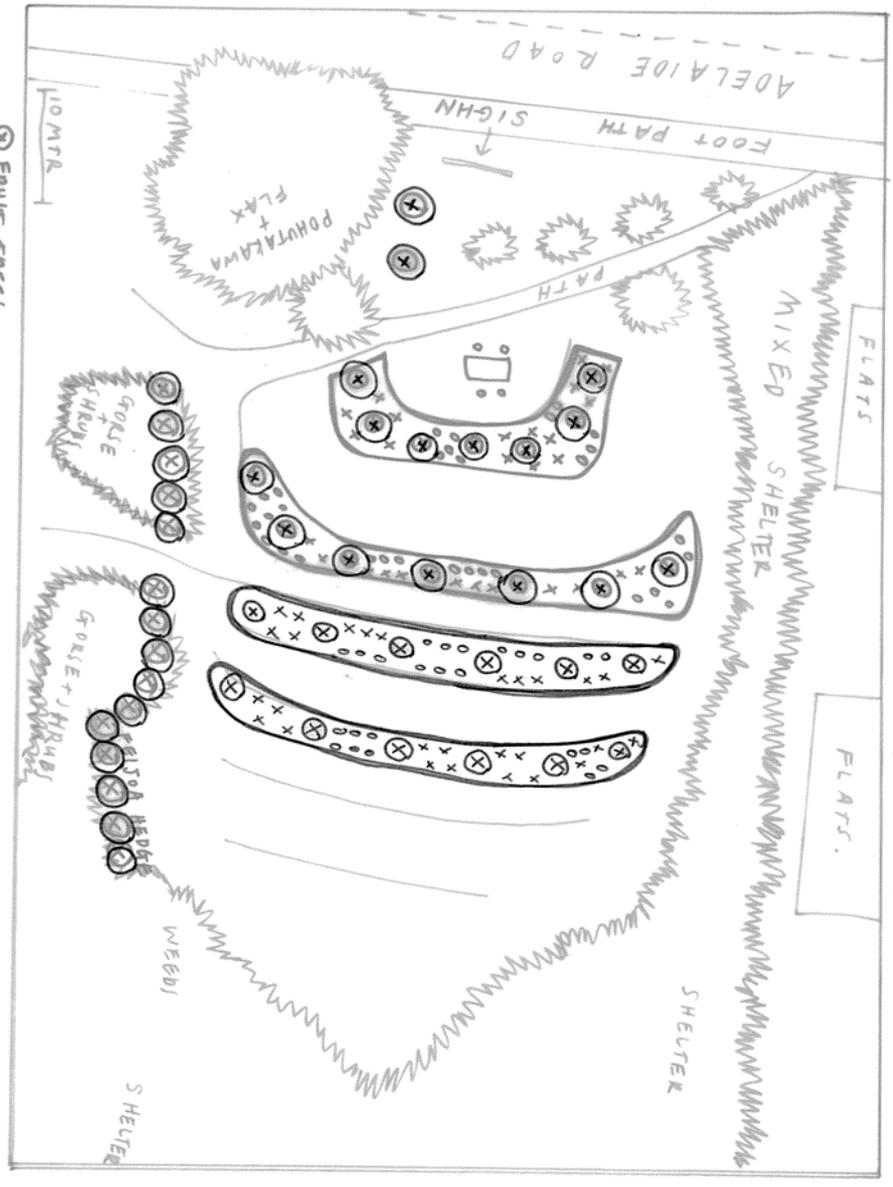


# APPENDIX TWO

Proposed Planting Stages 1, 2 and 3.

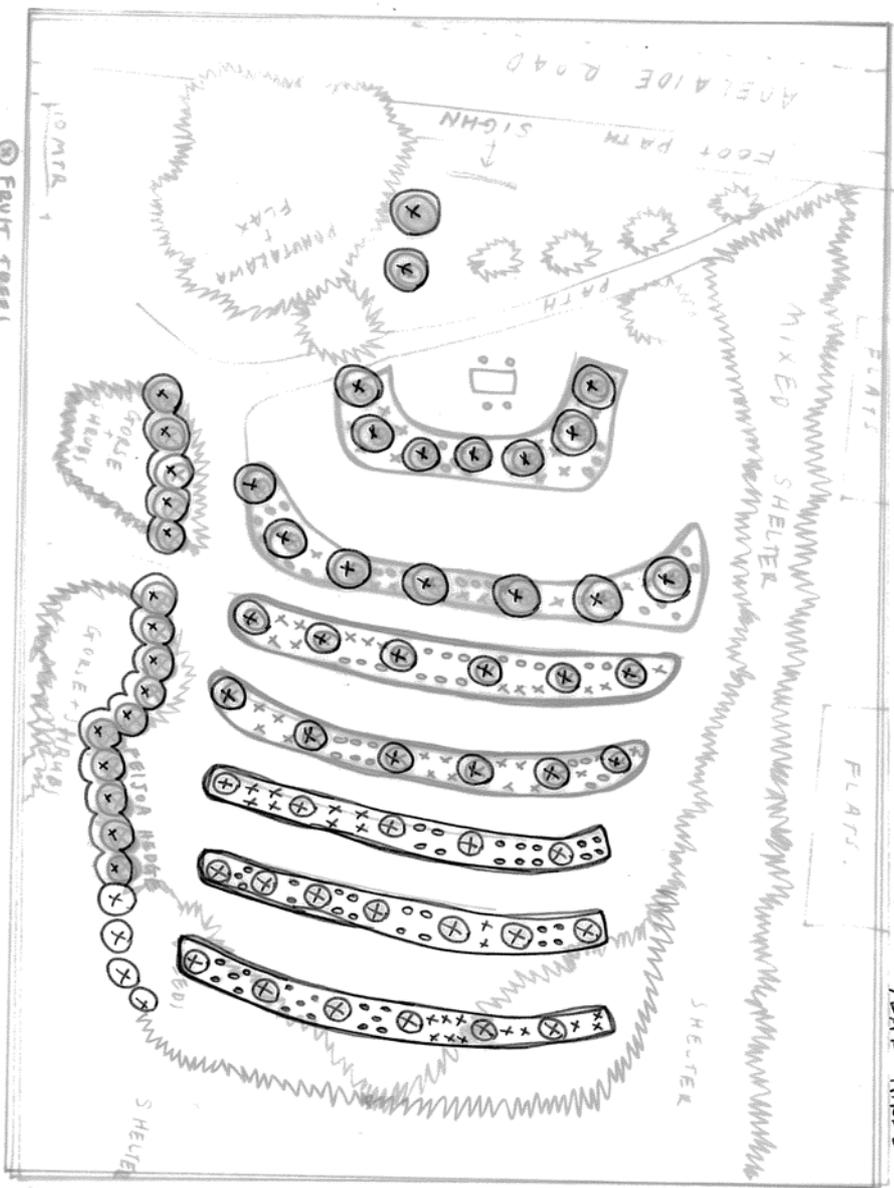


COMMUNITY ORCHARD PLANS YEAR ONE YEAR TWO



- ⊗ FRUIT TREES
- x SOFT FRUIT (Cassava etc)
- o HERBS

COMMUNITY (S HARD PLANS YEAR ONE YEAR TWO YEAR THREE



- FAULT TREES
- x SOFT PAULT (cavities etc)
- HEADS