

**REPORT 3**  
*(1215/53/IM)*

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## **GRANTING OF A LICENCE FOR A COMMUNITY GARDEN TO MOKAI KAINGA MAORI CENTRE**

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

To recommend the Committee approves a licence to the Mokai Kainga Maori Centre for a community garden on part of the land known as Tanera Park which is situated in Brooklyn on Wellington Town Belt, outlined in red on Appendix 1.

### **2. Executive Summary**

The Mokai Kainga Maori Centre is a charitable trust and registered as an incorporated society in 1998. The Mokai Kainga Maori Centre currently occupies part of Town Belt land at Tanera Park, Brooklyn on which they have established and maintained a community garden since 1997.

The community garden provides sustainable access to wholesome food for the group and members of the public who use this area of the Town Belt.

### **3. Recommendations**

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Agree subject to the terms and conditions noted below, the granting of a licence to Mokai Kainga Maori Centre in accordance with the Reserves Act 1977 and the Town Belt Management Plan.*
3. *Note that the terms of the licence are as follows:*

|                            |   |
|----------------------------|---|
| <i>Location:</i>           | <i>Part of the land at Tanera Park, Brooklyn.</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 up to \$300 of the metered water per annum (exclusive of GST). The Mokai Kainga Maori Centre will pay metered water charges above \$300 per annum (exclusive of GST).</i> |

4. *Note than any approval to grant a new licence will be conditional on:*
- (a) appropriate consultation with Iwi, Friends of Town Belt and Action for the Environment 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;*
  - (c) there being no substantial objections resulting from the required consultation or notification;*
  - (d) the legal and advertising costs associated with preparing the licence is met by Mokai Kainga Maori Centre.*

#### **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 garden is on part of Town Belt land known as Tanera Park, Brooklyn. The Licensed area is outlined in red on 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. The gardens must retain their public character, be compatible with adjacent uses and have no structures or fencing unless approved in writing by the Council's Chief Executive or Council officers with delegated authority.

Mokai Kainga Maori Centre (Mokai Kainga) has built a small shed on the land to store their gardening tools and has fenced the garden on one side due to the adjoining land being a dog exercise area. The gate is unlocked at all times allowing members of the public to enter the garden. The existing sign on the gate will be reworded to further clarify that the garden is open to the public.

The community garden provides its produce to its members and the wider community which includes the residents at the Pukehinou Flats on the corner of Aro Street and Owhiro Road. Mokai Kainga is already a well established group in the community and has a large membership base, meaning that it has access to large numbers of people to assist with the maintenance of the garden.

Council granted Mokai Kainga a licence for the purposes of a community garden at Frobisher Street Reserve in February 2010. This garden is known as Happy Valley Community Garden. The land is accessed via 72 Happy Valley Road which is private property owned by Mokai Kainga. Mokai Kainga have built and maintained garden tracks and stone edging on this site. The garden has been successful in providing sustainable access to wholesome food for the group, and the wider community.

#### **4.1 The Site**

The land is a sloped grassed area at Tanera Park and is held as Town Belt. The community garden is made up of 38 plots which have been planted with vegetables, herbs and flowers. Water is provided to the site via a hose from a nearby toby owned by the Council.

The proposed licensed area is approximately 2,231m<sup>2</sup> and is legally described as Part Lot 1 Deposited Plan 10508 and contained in Computer Freehold Register WN12D/1438.

#### **4.2 The Licensee**

Mokai Kainga provides health, education, welfare and employment services to Maori. The group exists to empower Maori and engender the principals of the Treaty of Waitangi. Mokai Kainga's members span the whole Wellington area, demonstrating the need for this activity within the community.

### **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 Mokai Kainga and how it fits within these criteria is outlined in section 6.

The granting of a licence to Mokai Kainga is consistent with the provisions of the Social and Recreation Strategy.

#### **5.2 Legislation**

The land on which the community garden is situated is held subject to the Town Belt Deed and managed in accordance with the Reserves Act 1977 (Reserves Act).

The Wellington Town Belt was vested in the Council by the Town Belt and Basin Reserve Deed of 1873 (Deed). The Deed remains the governing authority by which the 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 garden as Mokai Kainga have a non-exclusive right to use the land. The land is fenced on one side due to the adjoining land being a dog exercise area. The gate is unlocked at all times allowing members of the public to enter the garden.

The Town Belt Management Plan allows licences for gardens on 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 Mokai Kainga 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>Strategic Fit</b>           | <b>Social and Recreation Strategy</b> | Mokai Kainga's activities on the site are for the growing of vegetables, herbs and flowers. The garden also provides wider benefits to the community through opportunities to teach, learn and meet. These activities are consistent with the Social and Recreational Strategy which aims to build strong, safe and healthy communities for a better quality of life. |
| <b>Activity Sustainability</b> | <b>Membership</b>                     | Mokai Kainga has 328 members which are from all over Wellington. Each of the 38 plots is allocated to a single person, family or group. There are currently a number of people awaiting access to a plot.   |
|                                | <b>Financial Position</b>             | Mokai Kainga is a well established group who have already successfully created and maintained a community garden on this land. The group has also established another garden on Council owned land known as Happy Valley Community Garden. Mokai Kainga is in a good position to obtain community grants.   |
| <b>Use of Resources</b>        | <b>Land Utilisation</b>               | Mokai Kainga has created the community garden over the entire area to be licensed. The group takes general care of the land as required.  |

|   |                   |  |
|---|-------------------|--|
| <b>Environmental Impact</b>                             | <b>Location</b>   | The creation of a community garden on this land has improved the space and aesthetics of the area. It has not changed the landscape and is visually unobtrusive.         |
| <b>Demonstrated Need and Support from the Community</b> | <b>People</b>     | Mokai Kainga draws its members from all over Wellington. The large membership base and geographical spread demonstrates a need within the community for such a resource. |
| <b>Need for a Licence</b>                               | <b>Capability</b> | A licence is an appropriate instrument in this case as it will outline Mokai Kainga and Council's responsibilities in relation to the gardens operation.                 |

## **6.2 Rental**

Officers recommend the rental be waived as Mokai Kainga maintains public access to the land and their activities benefit the group as well as the wider community.

In addition, officers propose that Mokai Kainga is given a subsidy of \$300 per annum, plus GST towards the cost of water to maintain the community garden in recognition of the benefit the community garden provides the public. This will be funded from the Town Belt and Reserves Operational Fund.

## **6.3 Tenure**

The maximum term for a community garden licence, under the Reserves Act is ten 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. This term is consistent with other community gardens in the City.

## **7. Conclusion**

Officers recommend that the Regulatory Processes Committee approves the granting of a licence to Mokai Kainga Maori Centre at Tanera Park.

Contact Officer: *Hayley Moselen, Property Management Administrator, Property Management, and Amber Bill, Manager, Community Engagement and Reserves, Parks and Gardens*

## 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 healthy communities by supporting agencies which contribute to the resident's health, safety and community strength.*

*The Mokai Kainga Maori Centre plans to foster community involvement and opportunities for enjoyment, education and co-operation of members, which reflects the outcome the Council aims to achieve.*

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

*The Mokai Kainga Maori Centre will be responsible for maintaining the garden area.*

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

### **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, as well as consulting 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 licence.*

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

*The provisions of the licence are consistent with the Leases Policy for Community and Recreation Groups.*

