

Mayor and Councillors
COUNCIL

28 JANUARY 2016

Meeting Status: **Public**

Purpose of Report: For Decision

**LEASE TO OCCUPY LAND AT 11 NGAIO ROAD, WAIKANAЕ,
NORTH END BREWING**

PURPOSE OF REPORT

- 1 This report seeks approval to enter into a new lease with Food Folk Limited, who operate North End Brewing, for land at 11 Ngaio Road, Waikanae being part of the land described as Lots 3 7 DP 45550.

DELEGATION

- 2 Council has the authority to make this decision.

BACKGROUND

- 3 Council has been approached by the owners of North End Brewing at 11 Ngaio Road, Waikanae, asking for permission to occupy adjacent Council administered land between the road and the building they occupy.
- 4 The business has been producing craft beer for the last two years under contract throughout the Wellington region. They are now constructing their own café and tasting room in Waikanae.
- 5 The agreement would be for the land shown as the hatched area in Attachment 1 and being part of the land comprised and described in LOTS 3 7 DP 45550.
- 6 Part of the land is designated as recreation reserve, but as it is such a small area the land would not be developed by Council in any significant way. A small part of the area is designated road reserve.
- 7 This area of land will likely need to be used by Council as part of the Waikanae town centre upgrade and the associated road change to include a roundabout. The potential lessee is aware of this situation.
- 8 The owners of North End Brewing have completed the necessary resource consent requirements required by Council.

ISSUES AND OPTIONS

Issues

- 9 The Reserves Act 1977 (the Act) places limitations on the types of activities permitted on recreation reserves. Section 54(1)(d) of the Act allows the administering body to:

“Grant leases or licences for the carrying on of any trade, business, or occupation on any specified site within the reserve... provided that the trade, business, or occupation must be necessary to enable the public to obtain the

benefit and enjoyment of the reserve or for the convenience of persons using the reserve.”

- 10 The proposed occupation is to provide an outside seating area in association with the café and tasting room. This activity is permitted by the Act provided it enables the public to access and use the space.
- 11 Discussions were held between officers and the owners about the goals of the business' use of the space. Following these discussions, North End Brewing provided plans for consideration. The plans provided by them have been assessed and approved by officers and are shown in attachment 2. The Council billboard on the land will be removed.
- 12 It is proposed the lease activity will provide a space for café and tasting room activities as well as providing an open space for use by the general public.
- 13 The owners of North End Brewing understand that at any time Council may require the land for public purposes, or it may need to be disturbed to gain access to underground services. To this end surfaces and structures have been chosen which are non-permanent and reasonably easily removed.
- 14 The café and tasting room plan to open on the weekend of 1 March 2016. Section 54(1)(d) and (2) of the Act authorises the Council to grant a temporary licence for occupation of the land for trade without the need for public notification provided the term of the licence does not exceed six consecutive days. This would enable North End Brewing to utilise the space on the opening weekend without a permanent lease in place. A permanent lease would be arranged at the conclusion of the public notification period provided it is approved after considering any submissions received.

CONSIDERATIONS

Policy considerations

- 15 There are no policy issues arising from this decision.

Legal considerations

- 16 Section 54(1) of the Act authorises the Council to enter into a lease for recreation reserves. A lease for a recreation reserve may be granted for trade purposes provided it enables the public to obtain the benefit and enjoyment of the reserve. North End Brewery has confirmed it will provide a space for use by the general public.
- 17 Lease documentation will be drafted and will be reviewed by the Council's Legal Counsel before being presented for signing. Any documentation would be conditional upon the Council requiring the land for the Waikanae town centre upgrade and for access to underground services.
- 18 Section 54(2) of the Act requires that Council give public notice of the lease proposed to be granted. A period of not less than one calendar month must be provided by the Council for objections or submissions to be received. Council must consider any submissions received and review its recommendation in light of the submissions.

Financial considerations

- 19 The recommended annual commercial rental is \$2,800 + GST. This is based on an estimated land value of \$35,000 with a standard 8% of value applied. The rental will be reviewed annually.
- 20 Costs associated with a new lease, including costs associated with public notification, are required to be covered by the Lessee.

Tāngata whenua considerations

- 21 There are no known issues for consideration relating to iwi or the Treaty of Waitangi.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 22 This matter has a low level of significance under Council policy

Consultation already undertaken

- 23 As the proposal is required to be publicly notified, community and other agencies have not been consulted in this matter. All potentially affected parties will have the opportunity to submit their opinions during the course of the notification process. The Waikanae Community Board Chair has been approached for comment on this issue and his views will be provided at the time of the meeting.

Engagement planning

- 24 If the recommendations in this report are approved then staff will arrange for public notification, in accordance with the Reserves Act 1977.

Publicity

- 25 The Public Notification will be advertised in local papers and through existing networks. This meets the requirements of section 119 of the Reserves Act 1977 which defines public notice to be: publishing the notice once in a newspaper circulating in the area in which the reserve is situated and, publication in any other newspaper the Council decides.
- 26 No communications plan or media release is anticipated in respect of this issue.

RECOMMENDATIONS

- 27 That Council authorises the Chief Executive to negotiate and sign a lease for the recreation reserve land (in general accordance with the proposed terms outlined in this report (CS-15-1783)) for the land at Ngaio Road, Waikanae shown in Attachment 1 to Food Folk Ltd, provided no submissions in opposition are received.
- 28 That Council authorises the Chief Executive to negotiate and sign a lease for the road reserve land (in general accordance with the proposed terms outlined in this report (CS-15-1783)) for the land at Ngaio Road, Waikanae shown in Attachment 1 to Food Folk Ltd, provided no submissions in opposition are received.
- 29 That the Council authorises a temporary licence for occupation to be arranged with Food Folk Ltd to cater for the opening event on 1 March 2016.

Report prepared by Approved for submission Approved for submission

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ATTACHMENTS

- 1 Plan of land area proposed for concession at Ngaio Road, Waikanae
- 2 Plan of land area development

Attachment 1 - Location



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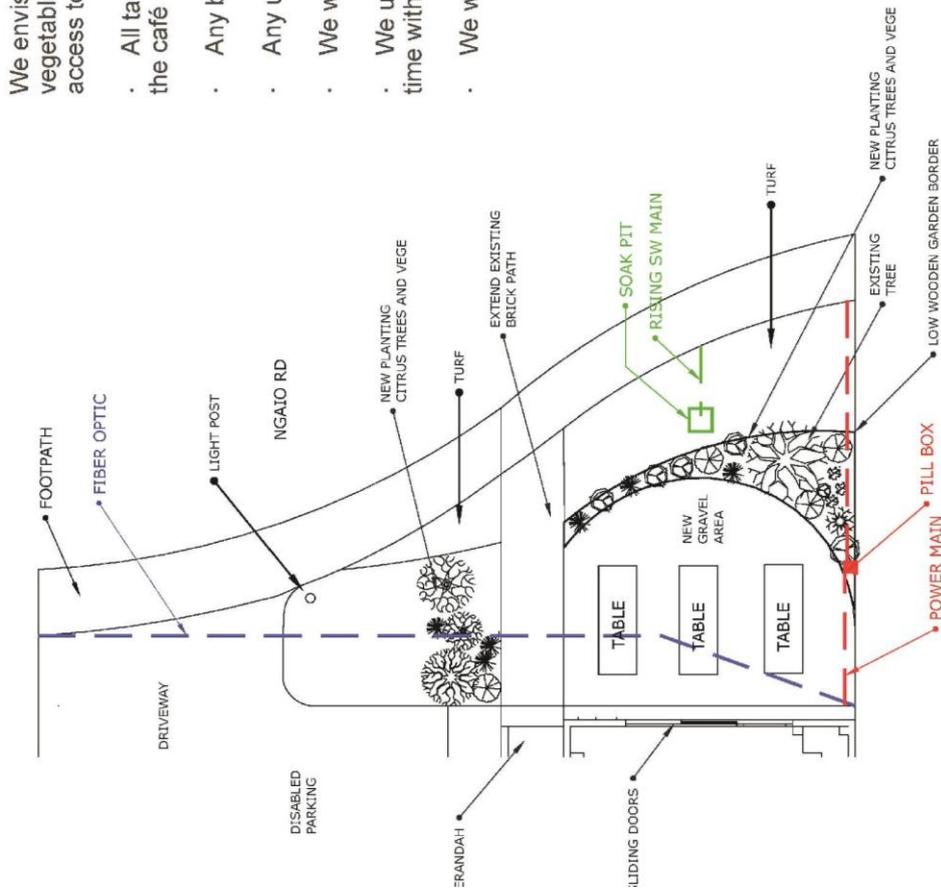
North End Brewery, Waikanae

SCALE 1: 250 @A4
 Date Printed: 22-December-2015

Attachment 2 - Development

SALT AND WOOD RESTAURANT

LANDSCAPING PLAN



- We envision replacing the turf with a flat gravel area surrounding by citrus and vegetable plantings. The landscaping will be designed to allowed continued access to underground services.
- All tables and chairs will be removed after the end of service and stored inside the café overnight.
 - Any barriers would be non-permanent.
 - Any use would comply with our liquor license conditions.
 - We would be responsible or any cleaning and maintenance of this space.
 - We understand the licence for use of this space would be terminable at any time with a reasonable notice period.
 - We would request that the dated council billboard be removed from this space.

SCALE 1:100
 11 NGAIO RD, WAIKANAÉ
 CONSENT #BC140705