

Mayor and Councillors
COUNCIL

10 DECEMBER 2015

Meeting Status: **Public**

Purpose of Report: For Decision

LEASE RENEWAL

PURPOSE OF REPORT

- 1 This report seeks the Council's approval to renew the lease of the airspace above the Wharemauku Stream to Coastlands Shoppingtown Limited.

DELEGATION

- 2 Council has the authority to make this decision.

BACKGROUND

- 3 Report AS-10-837 to the Corporate Business Committee on 8 April 2010 recommended that Council enter into a five year lease agreement with Coastlands Shoppingtown Ltd for airspace over the Wharemauku Stream. This lease expires 16 December 2015 and Coastlands has expressed a desire to renew the lease agreement.
- 4 This airspace is currently used by Coastlands for access, retail and foodcourt activities and is the subject of two access easements in favour of Coastlands Shoppingtown Limited (appendix 1).

ISSUES AND OPTIONS

Issues

- 5 The land in which the airspace is located is classified as Local Purpose Reserve (Utility) being PT Lot 3 DP 30757 Lot 2 DP 75155. This land is vested in Kāpiti Coast District Council.
- 6 The existing lease of the airspace was granted under Section 61(2) of the Reserves Act. As this is a lease on a reserve, and subject to the Public Bodies Leasing Act, it was for the maximum term allowed in this scenario of five years. A renewed lease would be under the same legislative conditions as the previous lease.
- 7 As part of the previous lease the Lessee was subject to a Stream Maintenance Agreement which outlined both party's responsibilities with respect to the Wharemauku Stream in the area of the airspace lease. The Stream Maintenance Agreement should be renewed at the same time as the lease renewal.
- 8 Coastlands is seeking the surety of an agreement of 50 years in order to better protect the security of their investment in infrastructure in the Council owned airspace. A commitment was made at the time of the initial lease agreement five years ago to progress a long term agreement with Coastlands for use of the airspace.

- 9 The Council investigated a number of options with advice from Simpson Grierson and the Department of Conservation (DOC) and commenced a process to revoke the reserve status of the airspace to enable a longer term lease to be established. This would result in a “box” of air in the middle of the reserve which would not be classified reserve and would contain Coastlands infrastructure.
- 10 There were concerns from some quarters about the existence of an expanded Coastlands presence in the reserve area, as well as the proposed revocation of the reserve status. The Council received a number of submissions in opposition concerned about the suitability of the activity in the reserve and the impact on possible pedestrian access along the Wharemauku Stream. Following the notification and submissions the process to revoke the reserve status (and pursue a long term lease for Coastlands) was suspended while officers continue to investigate alternative options.
- 11 There are currently three main options open to the Council:
 - 11.1 continue to offer a five year lease under the Public Bodies Leasing and Reserves Acts
 - 11.2 progress the revocation of the reserve status of the airspace to enable a long term lease to be entered into
 - 11.3 investigate options for a longer term agreement and report back to the Council in 2016.
- 12 At this time the recommended action for Council is to renew the lease for a further five years, while continuing to investigate options to achieve a longer term agreement. Officers are continuing to investigate whether there is an alternate process which would provide Coastlands with greater certainty over their occupancy of the space but which also considers the interests of the community as expressed by submitters. This will be reported back to the Council in 2016. As such, the lease renewal is an interim option until an acceptable means of honouring the Council’s earlier commitment to a long term lease can be established.

CONSIDERATIONS

Policy considerations

- 13 There are no policy considerations.

Legal considerations

- 14 The lease is granted under the Reserves Act 1977. Legal considerations were accounted for at the time of investigating the initial lease term with advice obtained from Simpson Grierson. Any new lease and stream maintenance agreement would be reviewed by Council’s legal advisor before being offered for signing.

Financial considerations

- 15 The rental charged for the previous five years is \$4,095 plus GST per annum. This was a market valuation obtained in 2010. The new rental amount would be increased by inflation since the previous lease was agreed and would include an annual inflation adjustment for the term of the lease. Any costs associated with valuation and lease preparation would be borne by the Lessee.

Tāngata whenua considerations

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

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 17 This matter has a low level of significance under Council Policy.

Consultation already undertaken

- 18 Community Boards, community and other agencies have not been consulted in this matter.

Engagement planning

- 19 An engagement plan is not needed to implement this decision.

Publicity

- 20 There are no publicity implications associated with this lease renewal and no plans to develop a media release in respect of the issue.

RECOMMENDATIONS

- 21 That the Council approves the Chief Executive to enter into a five year lease agreement with Coastlands Shoppingtown Limited for the airspace identified in Appendix 1 to report CS-15-1778 and authorises the Chief Executive to negotiate the specific terms, conditions and rental amount of the lease agreement.
- 22 That the Council reviews and renews the Stream Maintenance Agreement with Coastlands Shoppingtown Limited in consideration of and in association with the lease agreement for the airspace identified in Attachment 1 to report CS-15-1778.
- 23 That the Council notes officers will continue to investigate and will report back in 2016 on options for long term leasing of the airspace identified in Appendix 1 to report CS-15-1778 that provides Coastlands Shoppingtown Limited with greater certainty over their occupancy but which also considers the interests of the community.

Report prepared by	Approved for submission	Approved for submission
Nathan Mourie	Stephen McArthur	Tamsin Evans
Parks & Recreation Planner	Group Manager Strategy and Planning	Group Manager Community Services

ATTACHMENT

- Appendix 1 Location of airspace lease

Appendix 1 Location of airspace lease on Council Land at Coastlands





Title Plan - LT 432494

Survey Number LT 432494
Surveyor Reference churford001
Surveyor Craig William Hurford
Survey Firm Aurecon (Wellington)
Surveyor Declaration I Craig William Hurford, being a licensed cadastral surveyor, certify that:
 (a) this dataset provided by me and its related survey are accurate, correct and in accordance with the
 Cadastral Survey Act 2002 and the Rules for Cadastral Survey 2010, and
 (b) the survey was undertaken by me or under my personal direction.
 Declared on 23 Jun 2010 11:36 AM

Survey Details

Dataset Description Area 1 Being a Lease Over Pt Lot 3 DP 30757 and Area 2 Being a Lease Over Lot 2 DP 75155
Status Submitted
Land District Wellington **Survey Class** Class A Cadastral Survey
Submitted Date 23/06/2010 **Survey Approval Date**
Deposit Date

Territorial Authorities

Kapiti Coast District

Comprised In

CT WN44C/956

Created Parcels

Parcels	Parcel Intent	Area	CT Reference
Area 2 Deposited Plan 432494	Lease	0.0078 Ha	
Area 1 Deposited Plan 432494	Lease	0.0102 Ha	
Total Area		0.0180 Ha	

