

**Mayor and Councillors
COUNCIL**

27 SEPTEMBER 2018

Meeting Status: **Public**

Purpose of Report: For Decision

**LEASE WITH KAPITI CITIZENS SERVICES TRUST AT BLUE
GUM RESERVE**

PURPOSE OF REPORT

- 1 This report seeks approval to enter into a new lease with Kapiti Citizens Services Trust, at Blue Gum Reserve, Paraparaumu.

DELEGATION

- 2 The Council has the authority, as a delegate of the Minister of Conservation through the 12 June 2013 Delegation of Powers under the Reserves Act 1977, to consider leases on recreation reserve that is owned by the Crown, and controlled and managed by the Council.

BACKGROUND

- 3 This lease would be for part of the land known as Blue Gum Reserve and more particularly the area shown in red in Appendix 1 and being part of land defined as PART LOT 128 DP 9498.
- 4 The land is owned by the Crown and is reserve land subject to the Reserves Act 1977 (the Act). Council is appointed to control and manage the land and must do so in accordance with the provisions of the Act relating to recreation reserves.
- 5 As the land ownership is Crown, the proposed lease must be considered under section 59A(1) of the Act, which requires leases to be granted in accordance with Part 3B of the Conservation Act 1987 (Conservation Act).
- 6 Kapiti Citizens Services Trust (the Trust) has a current lease agreement which expires on 31 March 2019 after 33 years; consisting of three 11 year terms commencing 1 April 1986. The Trust owns the building that is associated with this lease.
- 7 The Trust has advised the Council they would like a new lease for 10 years with two rights of renewal for 10 years.

ISSUES AND OPTIONS

Issues

- 8 There are limitations on activities that are permitted on this site subject to the Act. The activities proposed are consistent with the Act. It is proposed that the Trust continues to occupy this space by way of a lease solely for the purposes associated with the Trust.

- 9 The Trust has been granted resource consent for building extensions which include a boardroom, entrance foyers, a vestibule, a service carport and a driveway with a canopy at the building entrance. These will improve the provision of community services for older people and improve accessibility to the existing building.
- 10 The proposed lease area will cover the footprint of the future building extensions and driveway as shown on the plans.

CONSIDERATIONS

Policy considerations

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

Legal considerations

- 12 The Council is able to grant a concession, which includes a lease, a permit or licence under section 59A of the Act, in accordance with Part 3B of the Conservation Act. While section 59A specifically states that the “Minister” may grant a concession, in the present circumstances, the Minister has delegated their power to grant a lease to any territorial authority appointed to control and manage a reserve.
- 13 While the Minister has delegated the power to a local authority, there are matters that the Council must consider before the lease is granted. These matters are set out in section 17U of the Act, and can be found in Appendix 2 of this report.
- 14 Part 3B of the Conservation Act requires that Council give public notice for a period of 20 working days. The Council must publically notify its intention to grant the lease and allow time for submissions to be received and considered.
- 15 If the proposal is approved, new lease documentation will be drafted and will be reviewed by the Council’s legal counsel before being presented to the Trust for signing.

Financial considerations

- 16 The lease will include annual rental to be paid at the appropriate rate set annually by the Council in either the Long Term Plan or Annual Plan. Costs associated with a new lease are required to be covered by the Lessee.

Tāngata whenua considerations

- 17 Te Ātiawa ki Whakarongotai have advised that they have no issues with the proposed lease.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 18 This matter has a low level of significance under Council’s Significance and Engagement Policy.

Consultation already undertaken

- 19 The Paraparaumu/Raumati Community Board Chair has been advised of this proposed lease and has raised no concerns.

Engagement planning

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

Publicity

- 21 As this is a new lease, a 20 working day public notification is required by the Conservation Act.

RECOMMENDATIONS

- 22 That the Kāpiti Coast District Council in its role as a delegate of the Minister of Conservation considers the lease proposal in regard to the matters set out in section 17U of the Reserves Act 1977.
- 23 That the Kāpiti Coast District Council authorises the Chief Executive to undertake the required public notification process for the lease proposal as outlined in this report (CS-18-606) for the land at Blue Gum Reserve, Paraparaumu, shown in Appendix 1, to Kapiti Citizens Services Trust.
- 24 If any objections are received, these are considered at the Kāpiti Coast District Council meeting of 6 December 2018.
- 25 If no objections are made, that the Kāpiti Coast District Council authorises the Chief Executive to enter into a lease for 10 years with two rights of renewal, commencing 1 April 2019 with Kapiti Citizens Services Trust, for the land at Blue Gum Reserve, Paraparaumu shown in Appendix 1 to report CS-18-606 at an annual rental set by the Council in the Long Term Plan or Annual Plan.


Report prepared by	Approved for submission	Approved for submission
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ATTACHMENTS

- Appendix 1 Proposed lease area
- Appendix 2 Section 17U (Matters to be considered by the Minister),
Conservation Act 1987

APPENDIX 1 – PROPOSED LEASE AREA



 Proposed lease area

APPENDIX 2 - 17U Matters to be considered by Minister



New Zealand Legislation

Conservation Act 1987

- Warning: Some amendments have not yet been incorporated

17U Matters to be considered by Minister

- (1) In considering any application for a concession, the Minister shall have regard to the following matters:
 - (a) the nature of the activity and the type of structure or facility (if any) proposed to be constructed:
 - (b) the effects of the activity, structure, or facility:
 - (c) any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity:
 - (d) any information received by the Minister under sections 17S, 17SD, and 17SE:
 - (e) any relevant environmental impact assessment, including any audit or review:
 - (f) any relevant oral or written submissions received as a result of any relevant public notice issued under section 49:
 - (g) any relevant information which may be withheld from any person in accordance with the Official Information Act 1982 or the Privacy Act 1993.
- (2) The Minister may decline any application if the Minister considers that—
 - (a) the information available is insufficient or inadequate to enable him or her to assess the effects (including the effects of any proposed methods to avoid, remedy, or mitigate the adverse effects) of any activity, structure, or facility; or
 - (b) there are no adequate methods or no reasonable methods for remedying, avoiding, or mitigating the adverse effects of the activity, structure, or facility.
- (3) The Minister shall not grant an application for a concession if the proposed activity is contrary to the provisions of this Act or the purposes for which the land concerned is held.
- (4) The Minister shall not grant any application for a concession to build a structure or facility, or to extend or add to an existing structure or facility, where he or she is satisfied that the activity—
 - (a) could reasonably be undertaken in another location that—
 - (i) is outside the conservation area to which the application relates; or
 - (ii) is in another conservation area or in another part of the conservation area to which the application relates, where the potential adverse effects would be significantly less; or
 - (b) could reasonably use an existing structure or facility or the existing structure or facility without the addition.
- (5) The Minister may grant a lease or a licence (other than a *profit à prendre*) granting an interest in land only if—
 - (a)

the lease or licence relates to 1 or more fixed structures and facilities (which structures and facilities do not include any track or road except where the track or road is an integral part of a larger facility); and

- (b) in any case where the application includes an area or areas around the structure or facility,—
 - (i) either—
 - (A) it is necessary for the purposes of safety or security of the site, structure, or facility to include any area or areas (including any security fence) around the structure or facility; or
 - (B) it is necessary to include any clearly defined area or areas that are an integral part of the activity on the land; and
 - (ii) the grant of a lease or licence granting an interest in land is essential to enable the activity to be carried on.
- (6) No lease may be granted unless the applicant satisfies the Minister that exclusive possession is necessary for—
 - (a) the protection of public safety; or
 - (b) the protection of the physical security of the activity concerned; or
 - (c) the competent operation of the activity concerned.
- (7) For the purposes of subsection (6), the competent operation of an activity includes the necessity for the activity to achieve adequate investment and maintenance.
- (8) Nothing in this Act or any other Act requires the Minister to grant any concession if he or she considers that the grant of a concession is inappropriate in the circumstances of the particular application having regard to the matters set out in this section.

Section 17U: inserted, on 1 July 1996, by section 7(1) of the Conservation Amendment Act 1996 (1996 No 1).

Section 17U(1)(d): amended, on 18 October 2017, by section 203(1) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 17U(8): inserted, on 18 October 2017, by section 203(2) of the Resource Legislation Amendment Act 2017 (2017 No 15).