

Chairperson and Committee Members

ENVIRONMENT AND COMMUNITY DEVELOPMENT COMMITTEE

26 JUNE 2014

Meeting Status: **Public**

Purpose of Report: For Decision

LEASE CONCESSION TO OCCUPY LAND AT HARUATAI PARK, OTAKI MONTESSORI PRE-SCHOOL INC.

PURPOSE OF REPORT

- 1 This report seeks approval to renew the lease concession with the Otaki Montessori Pre-School Incorporated on land at Haruatai Park.

SIGNIFICANCE OF DECISION

- 2 The Council's Significance Policy is not triggered by this report.

BACKGROUND

- 3 The agreement is for part of the land area known as Haruatai Park and more particularly shown as the hatched area in Appendix 2 and being part of the land comprised and described as Part Section 82 BLK IX Waitohu Survey District.
- 4 The land is owned and managed by Kāpiti Coast District Council under Section 28 of the Reserves Act (1977). The Council's role under this section is to provide areas for recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment. Under the Act the land described is classified Recreation Reserve.
- 5 The Otaki Montessori Pre-School lease concession to occupy expired on 30 June 2013 after a nine Year 364 Day year term commencing 01 July 2003 with no further right of renewal.
- 6 The Otaki Montessori Pre-School Inc. has advised Council they would like to renew the expired concession for land use at Haruatai Park for a further 10 year term commencing 01 July 2014, with two 10 year rights of renewal. Current rental cost is \$311 per annum with an annual review. This aligns with charges set out in the Long Term Plan and the current policy on Reserve Land Rentals shown in Appendix 1.
- 7 The Council may terminate the lease under Clause 14 of the standard lease if applied (Appendix 3).

CONSIDERATIONS

Issues

- 8 A “concession” by definition is a permit, lease or licence which allows any activity authorised by the concession document under the provisions of Section 59A of the Reserves Act 1977.
- 9 There are limitations on activities that are permitted on this site subject to the Reserves Act 1977. The activities proposed are consistent with the site’s land classification which is designated recreation reserve.
- 10 The Otaki Montessori Pre-School Inc. has had concessions to occupy land at Haruatai Park since July 1993. The area to be occupied is shown in Appendix 2.
- 11 It is proposed the concession activity will continue to provide a space for the purposes associated with the Otaki Montessori Pre-School Inc.
- 12 The previous lease entitled Otaki Montessori to occupy land of 193m² which was subsequently changed to 449m² which covered the footprint of the building. The school actually occupies a fenced area of approximately 1245m² which should be reflected in the new lease agreement.

Financial Considerations

- 13 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 preparing a new lease are required to be covered by the Lessee.

Legal Considerations

- 14 New lease documentation will be drafted and will be reviewed by the Council’s legal advisor before being presented to the Otaki Montessori Pre-School for signing.

Delegation

- 15 The Committee may make a decision under the following delegation in Section B.1. paragraph 7.3 of the Governance Structure:

“Authority to exercise the functions, powers and duties of the Council under the Reserves Act 1977 or any other statute, regulation or bylaw relating to the management and control, maintenance and operation of parks and reserves, except as delegated to Community Boards or officers. This authority encompasses the power to: grant leases for reserve land.”

Consultation

- 16 As this is a renewal of an existing occupation since 1993 neither Community Boards, community or other agencies have been consulted in this matter. The Chair of the Ōtaki Community Board has provided informal feedback and is supportive of the renewal.

Policy Implications

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

Tāngata Whenua Considerations

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

Publicity Considerations

- 19 No public notification is required as this concession is being treated as a reissue of permit under the Reserves Act 1977.

RECOMMENDATIONS

- 20 That the Committee gives approval to enter into a concession for 10 years with two further 10 year rights of renewal, commencing 01 July 2014 with the Otaki Montessori Pre-School Incorporated, for the land at Haruatai Park shown in Appendix 2 to report CS-13-785 at an annual rental set by the Council in the Long Term Plan or Annual Plan.

Report prepared by:	Approved for submission by:	
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Leisure and Open Space Planner	Group Manager Community Services	Group Manager Infrastructure Services

ATTACHMENTS:

- Appendix 1: Reserve Land Rentals
 Appendix 2: Plan of land area proposed for concession at Haruatai Park
 Appendix 3: Standard Termination Clause

Appendix 1

KĀPITI COAST DISTRICT COUNCIL Reserve Land Rentals	
Reserve Land Type	Charges Effective 1 July 2013 (incl. GST)
Clubs with Liquor Licences	\$776
Clubs without Liquor Licences	\$389
Craft, Hobbies and Other Activities	\$311
Educational (Montessori)	\$311
Educational (Standard)	\$189
Youth and Service	\$189

Appendix 3

14 Termination

- 14.1 The Lessor may terminate this Lease:
- 14.1.1 if the rent is in arrears for one (1) month; or
 - 14.1.2 if the Lessee is in default of its obligations under the Lease and that default is continued for one (1) month after notice in writing stating the nature of the default has been given; or
 - 14.1.3 if at any time the Lessor is of the opinion that the Land and Building is not being sufficiently used for the purposes specified in clause 4.1 and after making such enquiries as the Lessor thinks fit and giving the Lessee an opportunity of explaining the usage of the Land and Building the Lessor is satisfied that the Land and Building is not being used sufficiently for the purposes specified in clause 4.1; or
 - 14.1.4 if the Lessor has guaranteed the repayment of any advance made to the Lessee and demand is made of the Lessor under such guarantee; or
 - 14.1.5 upon default by the Lessee as outlined in clause 13; or
 - 14.1.6 if the Lessee (being a company or corporation):
 - a) is wound up or goes into voluntary liquidation (other than for the purpose of reconstruction); or
 - b) enters into any composition with or assignment for the benefit of its creditors; or
 - c) ceases to function; or
 - d) is dissolved by Declaration of the Registrar of Incorporated Societies; or
 - e) is the subject of an order made, or an effective resolution passed, for winding up; or
 - f) has a receiver appointed in respect of the whole or part of the activity or property of the Lessee; or
 - 14.1.7 any assignment of the Lessee's property is made for the benefit of creditors; or
 - 14.1.8 the interest of the Lessee in or under this Lease or in the Building are attached or taken in execution or under any legal process.