

Mayor and Councillors
COUNCIL

28 JUNE 2018

Meeting Status: **Public**

Purpose of Report: For Decision

LEASE WITH WAIKANAЕ BOATING CLUB AT WAIMEHA DOMAIN

PURPOSE OF REPORT

- 1 This report seeks approval to enter into a new lease with Waikanae Boating Club (the Club), at Waimeha Domain, Waikanae Beach.

DELEGATION

- 2 Council has the authority to consider this matter.

BACKGROUND

- 3 This agreement would be for part of the land known as Waimeha Domain and more particularly the area shown in red in Appendix 1 and being part of land defined as SEC 6 Blk V Kaitawa SD, Lot 30 DP 27250, Lot 34 DP 27250 and Lot 82 DP 7203.
- 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 The Club has a current lease agreement which expires on 30 March 2019 after a 19 year and 364 day term commencing 1 April 1999 with no right of renewal. Waikanae Boating Club owns the building that is associated with this lease.
- 7 On 13 March 2018, a submission was made by the Club to the Waikanae Community Board, requesting support for obtaining a new lease and a proposal for possible future development. The submission is attached as Appendix 2 and is considered to be an application for a new lease. This report does not contemplate any development proposal as part of the proposed lease. Once the Club has developed proposals a new lease will be considered in a separate report.
- 8 Waikanae Boating Club is a not-for-profit organisation that provides services that help create a safe boating environment including a radio and lookout station, weather information, boat safety training and the use of boat launching tractors. The club also operates licenced premises (restaurant and bar) for members and their visitors.
- 9 Coastguard Kāpiti Coast has an affiliation with the Club. Coastguard Kāpiti Coast is part of Coastguard New Zealand and is a not-for-profit organisation that

provides marine safety, education, and search and rescue services to the public. Coastguard Kāpiti Coast operates a rescue vessel from the Waimeha Domain site. The Coastguard can be incorporated into the proposed lease as sub-lessee in accordance with section 17ZE of the Conservation Act.

- 10 Waikanae Surf Club has an affiliation with the Club and currently stores equipment in the building. Waikanae Surf Club is a family focused club that provides surf related activities and equipment to members. The Waikanae Surf Club can continue their arrangement with the Waikanae Boating Club.
- 11 All three organisations provide services and activities to the community that are consistent with activities that are permitted on recreation reserve land.

Issues

- 12 The application requests a lease term of 33 years with a right for renewal for a further 33 years. Section 17Z of the Conservation Act states that a lease may be granted for a term (which term shall include all renewals of the lease) not exceeding 30 years or, where the Minister is satisfied that there are exceptional circumstances, for a term not exceeding 60 years.
- 13 After discussion with the Department of Conversation, Council officers consider the circumstances of the proposed lease are not exceptional. A lease term of 30 years would be consistent with the Conservation Act and with Council's other leases.
- 14 The definition for a lease in the Conservation Act is a grant of an interest in land that gives exclusive possession of the land: and makes provision for any activity on the land that the lessee is permitted to carry out. The exclusive possession of land through the use of a lease agreement is reasonable where lessees must be able to secure buildings or facilities for the protection of assets.
- 15 As well as the existing buildings, the application requests that the proposed lease area include car parking, hard standing for boats and the boat ramp.
- 16 Council must consider its obligations under the Act section 3(c) to ensure, as far as possible, the preservation of access for the public to and along the sea coast. Granting exclusive use for the boat ramp and the land that provides access to the boat ramp would not be considered as acting to preserve public access to the sea coast.
- 17 Given the limited number of boat ramps on the Kāpiti Coast, it is considered to be in the best interest of Council and the public for the boat ramp to remain outside of the lease area. No public boat ramps on Council land have exclusive rights given to any group.
- 18 Clearways for public access to and from the boat ramp to ensure public access to the boat ramp and public use of the boat ramp can be provided by excluding these areas from the proposed lease area, with Council continuing to manage and maintain this public access.

CONSIDERATIONS

Policy considerations

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

Legal considerations

- 20 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 his power to grant a concession to any territorial authority appointed to control and manage a reserve
- 21 While the Minister has delegated the power to a local authority, there are matters that the Council must consider before the concession is granted. These matters are set out in section 17U of the Act, and can be found in appendix 2 of this report.
- 22 Part 3B of the Conservation Act sets out the process to be followed in granting a concession. The Council must publically notify its intention to grant the concession and allow time for submissions to be received and considered
- 23 If the proposal is approved, new concession documentation will be drafted and will be reviewed by the Council’s legal counsel before being presented to the Club for signing.

Financial considerations

- 24 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

- 25 Council officers will work with Te Ātiawa ki Whakarongotai with the aim that any submissions from iwi would be in the same time frame as the public consultation process.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

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

Consultation already undertaken

- 27 The Club presented their proposal to the Waikanae Community Board meeting on 13 March 2018. The community board moved that they support the Waikanae Boating Club in obtaining a more favourable lease. Council officers have met with the three clubs to discuss the proposal.

Engagement planning

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

Publicity

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

RECOMMENDATIONS

- 30 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-18-518) for the land at Waimeha Domain, Waikanae, shown in Appendix 1, to Waikanae Boating Club, with Coastguard Kāpiti Coast as a sub-lessee.
- 31 If any objections are received, these are considered at the Kāpiti Coast District Council meeting of 27 September 2018.
- 32 If no objections are made, that the Kāpiti Coast District Council authorises the Chief Executive to enter into a lease for thirty years with no right of renewal, commencing 1 April 2019 with Waikanae Boating Club, with Coastguard Kāpiti Coast as a sub-lessee, for the land at Waimeha Domain, Waikanae shown in Appendix 1 to report CS-18-518 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

Alison Law

Sean Mallon

Max Pedersen

**Manager Parks and
Recreation**

**Group Manager
Infrastructure Services**

**Group Manager
Community Services**

ATTACHMENTS

- Appendix 1: Proposed lease area
- Appendix 2: New lease submission from Waikanae Boating Club
- Appendix 3: Section 17U (Matters to be considered by the Minister), Conservation Act 1987

APPENDIX 1 - PROPOSED LEASE AREA



LEASE AREA BUILDING



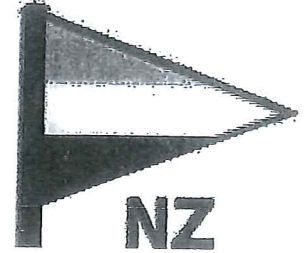
LEASE AREA EXTERNAL

APPENDIX 2

WCB E-MAILED
6/3/18 + 13/3/18



**WAIKANAЕ
BOATING CLUB**



6 March 2018

Chair & Members
Waikanae Community Board

SUBMISSION – SECURITY OF TENURE FOR BOATING SAFETY

Waikanae Boating Club & Coastguard (WBC) is a community asset which has been providing a safe boating environment for 57 years.

It now faces two critical issues:

- the existing lease for its existing site expires on 30 March 2019
- the existing building is now inadequate to cope with demand

Boating Club

The primary roles of WBC are to provide a safe boating environment for local and visiting boat owners, provide boating safety training, and to create a recreational and social environment for members and their families.

Its services include:

- an upstairs radio and lookout station to keep track of boats on the water and provide weather and other relevant information
- a secure space for a 7.5 metre Coastguard rescue vessel and rescue equipment
- housing three boat launching tractors
- providing a base for Waikanae Surf Club's equipment.

The building itself also serves as a popular recreational and social centre for members and visitors and includes a well-run bar and restaurant.

With the growth of Kapiti and the opening of the Expressway, demand for membership is strong but space is limited and new membership was capped in December 2017 at the current total of 650.

Coastguard

Waikanae Boating Club was an early member of the Royal New Zealand Coastguard Federation and in 1989 Waikanae Hotel donated an inshore 3.8 metre rescue boat.

In the early 1990s Waikanae Community Board helped fund its first 6.8 metre offshore rescue vessel which served the community for more than a decade and saved many lives.

Waikanae Coastguard – which now operates a powerful 7.5 metre rescue vessel - is organisationally part of Kapiti Coastguard which also operates an offshore rescue vessel at Paraparaumu (Kapiti Boating Club).

The ability of the new and much larger rescue boat to get into its shed at WBC is constrained by tight access and limited space in the existing building.

Waikanae's Coastguard unit responds 24-hours-a-day to an average of 30 callouts a year and supports many search-and-rescue operations from Wellington to Foxton.

With recreational boats becoming larger and more powerful, many with offshore capability, the need for Coastguard has never been more vital.

Waikanae Surf Club

Affiliated since 2015 to Waikanae Boating Club with limited storage space for surfing, boogie boarding, wind surfing and beach sports equipment for its 70 family members.

This is a valuable recreational and training resource for young people but membership has been capped at 70 for lack of space (there is a waiting list).

Waikanae Boating Club Lease

Originally beachfront land adjacent to Tutere Street was gifted by Waikanae Beach Motor Camp owner Wolf Harry to Horowhenua County Council on the proviso that some of the land be designated for use by the local boating community.

Waikanae Boating Club was formally incorporated in 1961 and, with the support of Horowhenua County Council, members developed the existing track down which to launch boats.

Members raised the money to construct the present boating club, opened in 1970. Extensions were added in 1986.

While there was a clear understanding about usage, there was no formal lease with Horowhenua County Council and it was disestablished in 1989 with local government changes).

The land come under the stewardship in 1989 of first the Kapiti Borough Council and then Kapiti Coast District Council.

A formal lease was entered into with the KCDC on 19 November 1999 for 19 years and 364 days but unfortunately no right of renewal was built in and, as of now, that lease expires on 30 March 2019.

With no surety of tenure, WBC is unable to plan for the future, including extending and improving its services to meet growing demand.

Extension

WBC needs more space to keep pace with boating safety responsibilities and membership growth which is currently capped at 650.

Almost 270 are Tractor members – those who choose to pay an additional membership sum for the use of our tractors – and this points up a growing demand for safe launching and retrieving in often difficult seas.

We would like to see the following improvements:

- provide an expanded and more accessible home for the Coastguard unit and Surf Club by asking the KCDC to remove its existing public toilet block at the north end of the existing boating club
- use the space created by shifting the Coastguard and Surf Club units to extend the recreational and social space of the boating club itself, providing among other things for a larger kitchen which is seriously limited, and more space for storing and maintaining our three tractors.
- encouragement for the KCDC to provide safer public access to Waikanae beach with tracks which can be more readily used by the elderly, disabled and young families (the boat launching ramp itself can be dangerous with tractors launching and retrieving boats)

Long Term Lease

With a history stretching back 57 years and growing public demand for its services, WBC asks for the support of Waikanae Community Board in encouraging the KCDC to:

- grant Waikanae Boating Club a 33-year lease on the existing property including buildings, car parking, hard standing for boats, and the launching ramp, with a further right of renewal for 33 years
- remove the existing concrete Council toilet block at the north end of the boating club and extend the footprint towards the beach to allow for construction of a more accessible Coastguard base and a larger home for Waikanae Surf Club
- provide safer and more accessible public access to Waikanae beach

WBC Improvements

If the lease is extended, and more space created by removing the toilet block, Waikanae Boating Club takes responsibility for meeting the costs of single-storey building improvements

Designs will be commissioned if the KCDC approves an extension of lease for the present facility

No construction will exceed permitted limits and designs will be submitted to the KCDC for approval

No improvements can be entered into without the surety of a long term lease

Summary

The boating safety and marine search-and-rescue services offered by Waikanae Boating Club & Coastguard are part of Kapiti's community fabric.

The whole District is faced with growth and the boating community is no exception – with the Expressway making access to the Kapiti Coast and its waterways easier.

We ask that Waikanae Community Board support our proposals and recommend approval of a new lease by Kapiti Coast District Council so that we can get on with the proposed modest developments.

As your community facility, we invite Community Board members to visit Waikanae Boating Club and Coastguard at any time and we would be happy to show you around.

Bob Tait
Commodore
Waikanae Boating Club Inc
021-491639

Rob Berry
President
Kapiti Coastguard
021-2200440

Greg Shaw
Waikanae Surf Club
027-5554437

Visits: Please call our Secretary Hannah Spicer on 022-4048660

Local Purpose Reserve in Red Line area

Recreational Reserve is in Blue Line area.

Dark Roof (A) is the Public Toilets (Ideally these need to be relocated) 74 sq meters 18% of foot print

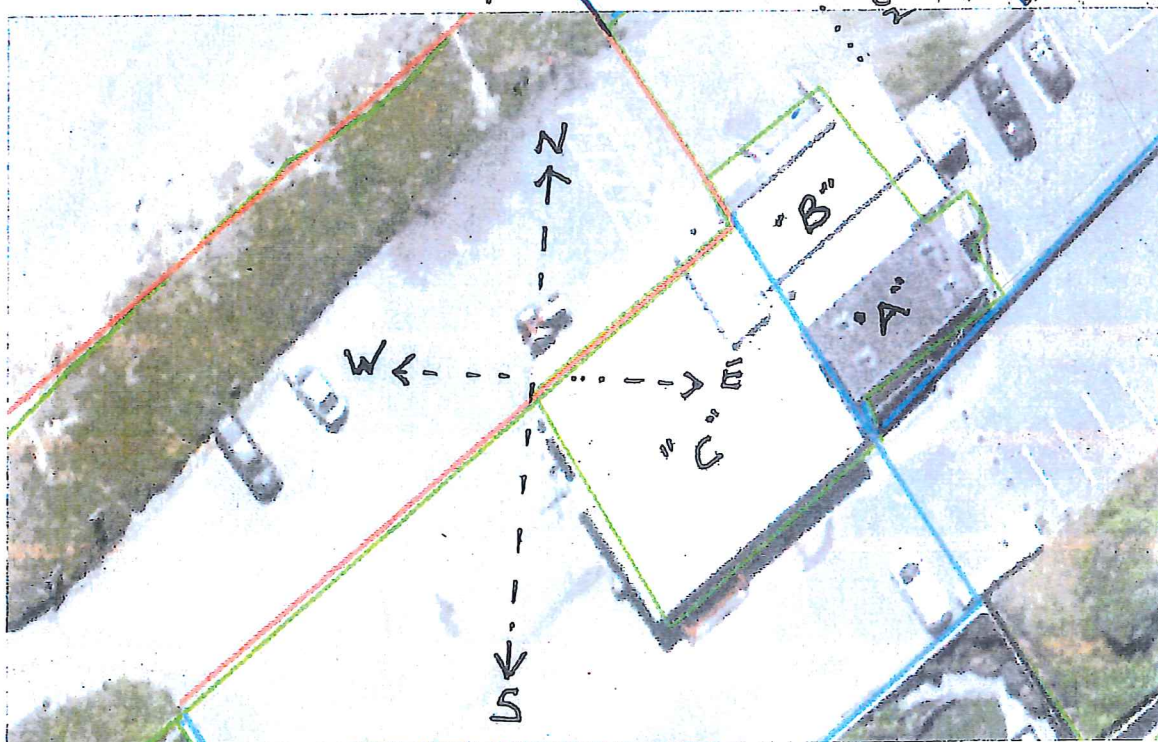
Area in front of Public toilets (B) on the beach side houses 2 Tractors plus Coast Guard Rescue Boat and the Waikanae Surf Club equipment 117 sq meters 28% of foot print

Light roof area (C) on the southern side of the image is the Members Club room ,Bar and Restaurant facility is 185 sq metres 46% of foot print Veranda is 35 sq meters 8% of footprint

191 sq meters 46% of the footprint close to half is taken up by a combination of Public Toilets and Servicing sheds that house operational and safety equipment.

Overall Foot print approximately 411 sq. meters

Ideally a foot print expansion approximately 130-150sq metres to the North to house facilities marked (B) which would give our safety Coastguard facility their own designated premises. This vacated space (B) could then be allocated to area (C) for the expansion of the club rooms which would service the Membership and Community.



Rob Berry - Coastguard

Bob Tait > base
Chris Turner

Bob Tait > base
Chris Turner

Bob Tait > base
Chris Turner

Bob Tait > base
Chris Turner



APPENDIX 3

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).