

**Chairperson and Committee Members**

ENVIRONMENT AND COMMUNITY DEVELOPMENT COMMITTEE

28 MARCH 2013

Meeting Status: **Public**

Purpose of Report: For Decision

**LEASE CONCESSION TO OCCUPY LAND AT HARUATAI PARK, OTAKI SPORTS CLUB INCORPORATED**

**PURPOSE OF REPORT**

- 1 This report seeks approval to renew the lease concession with the Otaki Sports Club Inc. 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 the land area shown hatched in Appendix 2, described as 3116m<sup>2</sup> being part of the land comprised and described in Section 88 Block IX Waitohu Survey District and being all of the land comprised and described in Certificate of Title Volume 17A Folio 62 (Wellington Registry) known as Haruatai Park at Mill Road in Ōtaki.
- 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, 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 Sports Club Inc. (formerly Otaki Tennis and Squash Club Incorporated) concession expired on 31 October 2009 after a 33 year term commencing 1 November 1976 with no right of renewal. The Otaki Sports Club has continued to pay the annual rental since the concession expired.
- 6 The Otaki Sports Club now incorporates tennis, squash and football. They are looking to consolidate sports in their area by bringing other codes into the club.
- 7 The Otaki Sports Club 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 1 November 2009 with two 10 year rights of renewal. Rental cost is \$758 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.

- 8 The Council may terminate the lease under Clause 14 of the standard lease if applied (Appendix 3), mainly:
- If the rent is in arrears for one (1) month
  - If the Lessee is in default of its obligations under the lease
  - If the Lessor is of the opinion that the Land and/or Building is not being sufficiently used for the purposes specified in the Lease
  - If the Lessee no longer operates in the structure it originally entered into the Lease agreement; being wound up, dissolved, liquidated, ceases to function or has a receiver appointed.

## CONSIDERATIONS

### Issues

- 9 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).
- 10 There are limitations on activities that are permitted in this site subject to the Reserves Act (1977). The activities proposed are consistent with the Act’s land classification which is designated Recreation Reserve.
- 11 The Otaki Sports Club has had concessions to occupy 3116m<sup>2</sup> of land on Haruatai Park since November 1976. The area to be occupied is shown hatched in Appendix 2.
- 12 It is proposed the concession activity will continue to provide a space for clubrooms, squash and tennis courts and such other recreational uses as the lessor may approve on the land.
- 13 There are circumstances relating to public access. The club currently requires that facility users are members of the Otaki Sports Club. This contradicts Section 53 (d) of the Reserves Act (1977) which allows a club to prescribe not more than 40 days a year that the public shall not be entitled to access, but not for more than 6 consecutive days. Public access is also specifically addressed in Clause 4 of the previous lease deed.
- 14 In any new lease public accessibility will have to be defined and provided, particularly with regard to free public access to the tennis courts for the purpose of playing tennis at times when the Otaki Sports Club does not have priority use in accordance with Section 53(d) of the Reserves Act (1977).
- 15 Council has previously contributed funds towards fencing and resurfacing of the tennis courts. \$199 000 has been budgeted in the Long Term Plan for tennis court resurfacing in 2018/19.
- 16 The tennis courts are not as visible to the public and local community as the courts in Paekākāriki and have been subject to vandalism in the past. It is recommended the possibility of members of the public collecting a key from the Ōtaki pool to gain access should be considered. A refundable bond may be an effective means of ensuring its return.

## Financial Considerations

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

## Legal Considerations

- 18 New lease documentation will be drafted and will be reviewed by the Council's legal advisor before being presented to the Otaki Sports Club for signature.

## Delegation

- 19 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

- 20 As this is a renewal of an existing occupation of 33 years neither Community Boards, community or others have been consulted in this matter.

## Policy Implications

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

## Tāngata Whenua Considerations

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

## Publicity Considerations

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

## RECOMMENDATIONS

- 24 That the Committee gives approval to enter into a concession for 10 years with two further 10 year rights of renewal, commencing 01 November 2009 with the Otaki Sports Club Inc. for the 3116m<sup>2</sup> of land at Haruatai Park shown hatched in Appendix 2 to report CS-12-763 at an annual rental set by the Council in the Long Term Plan or Annual Plan.
- 25 That the new lease with Otaki Sports Club requires public access to the tennis courts when the courts are not subject to priority use by the Otaki Sports Club under the provisions of Section 53 of the Reserves Act (1977).

**Report prepared by:**

**Approved for submission by:**

Nathan Mourie

Tamsin Evans

**Leisure and Open Space Planner**

**Group Manager Community Services**

**ATTACHMENTS:**

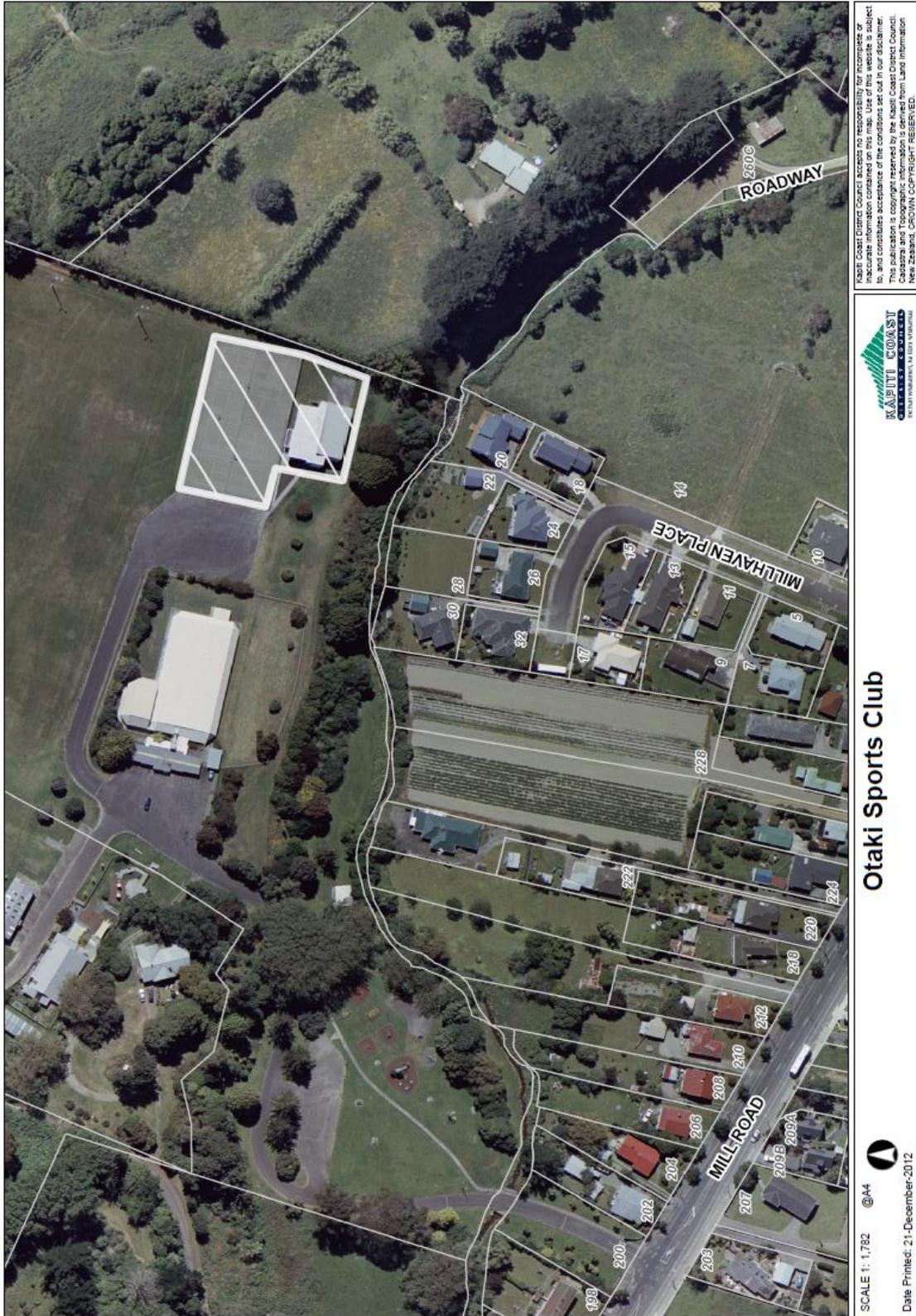
- Appendix 1: Reserve Land Rentals  
 Appendix 2: Plan of land area proposed for concession at Haruatai Park.  
 Appendix 3: Standard Termination Clause

## Appendix 1

<b>KĀPITI COAST DISTRICT COUNCIL Reserve Land Rentals</b>	
<b>Reserve Land Type</b>	<b>Charges Effective 1 July 2012 (incl. GST)</b>
Clubs with Liquor Licences	\$758
Clubs without Liquor Licences	\$380
Craft, Hobbies and Other Activities	\$304
Educational (Montessori)	\$304
Educational (Standard)	\$185
Youth and Service	\$185



Appendix 2



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### Otaki Sports Club

SCALE 1: 1,782 ©A4  
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## 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.