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**REPORT 1**  
*(1215/53/IM)*

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## **THE GRANTING OF A LEASE TO THE SALAMANCA TENNIS CLUB INCORPORATED.**

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### **1. Purpose of Report**

The purpose of this report is to seek the Committee's approval in principle to the granting of a new lease over Local Purpose Reserve to the Salamanca Tennis Club, under the Public Bodies Leases Act 1969.

### **2. Executive Summary**

In September last year, Council Officer's were advised by Simpson Grierson that we were not able to offer the Salamanca Tennis Club a lease under the Reserves Act 1977.

This is because the land on which the tennis club is situated is classified as Local Purpose Reserve (Public Gardens). The correct land classification for a tennis club is Recreation Reserve.

Subsection 61(2) of the Reserves Act states that "The administering body, in the case of a local purpose reserve that is vested in the administering body, is hereby declared to be a leasing authority for that reserve for the purposes of the Public Bodies Leases Act 1969."

In addition to the powers described above, subsection 61 (2A) states that certain types of lease of a Local Purpose Reserve are administered under the Reserves Act, and sets out the rules for such leases, but these are restricted to kindergartens, plunket rooms and farming/grazing type activities rather than a recreational activity such as a tennis club.

As a tennis club does not fall within the permitted uses stated in subsection 2A, it is necessary to rely on subsection 2 and grant a lease as a leasing authority in accordance with the Public Bodies Leases Act rather than the Reserves Act.

### **3. Recommendations**

It is recommended that the Committee:

1. *Receive the information.*
2. *Agree in principle to the granting of a lease to the Salamanca Tennis Club under the Public Bodies Leases Act 1969 and in accordance with Council's Leases Policy for Community and Recreational Groups 2001.*
3. *Note that the approval to grant a new lease will be conditional on:*
  - a) *the consent of Iwi being obtained.*

## **4. Background**

The Salamanca Tennis Club's lease expired in 2001 and has been rolling over on a monthly basis since. After consultation with the Parks and Gardens Business Unit a new lease was offered to the Salamanca Tennis Club in 2002.

However, legal advice received last year advised that a lease to the Salamanca Tennis Club had to be under the Public Bodies Leases Act rather than the Reserves Act, due to the land being classified as Local Purpose Reserve rather than Recreation Reserve.

The legal advice also stated that, under Sections 8 and 9 of the Public Bodies Leases Act, public applications must be called for to allow any other parties an opportunity to express their interest.

Therefore, an advertisement was placed in The Dominion Post on Thursday 24 February 2005 calling for public applications to lease the land on which the tennis club is situated. Any new group wanting to lease the land would have had to purchase the improvements from the Salamanca Tennis Club, however the Salamanca Tennis Club was the only applicant.

## **5. Discussion**

### **5.1 Rental**

The revised lease remains generally the same as the lease drafted under the Reserves Act. The only information that has been changed is where specific clauses are required to comply with the Public Bodies Leases Act.

The annual rental for the new lease has been calculated in accordance with the formula outlined in Section 4.1 of Council's Policy for Community and Recreational Groups 2001. (See Appendix for annual rental.)

### **5.2 Process**

Even though the lease is being offered under the Public Bodies Leases Act the land is still classified as reserve and therefore is also subject to the Reserves Act.

Should Council approve this lease in principle, Iwi consent will be sought before the lease is referred to Council Solicitor's to confirm that documentation is in order, prior to either party signing the final lease documents.

Under the Public Bodies Leases Act there is no requirement for the lease to be publicly advertised, nor consent from the Ministry of Conservation to be obtained. Under the Reserves Act public notification and Ministry of Conservation consent are also not necessary as these are not required for the granting of leases under Section 61 (Leasing in respect of Local Purpose Reserves) of the Reserves Act.

### **5.3 Future Leases**

This parcel of land is on the Forward Programme to be reclassified from Local Purpose Reserve to Recreation Reserve so that in the future a lease can be offered under The Reserves Act 1977 rather than the Public Bodies Leases Act 1969.

## **6. Conclusion**

Council Officers recommend that the Committee approve in principle the granting of a new lease to the Salamanca Tennis Club subject to the condition outlined in the Recommendations section of the report.

Contact Officer: *Robyn Marx, Property Advisor, Property and Standards.*

## Supporting information

### a) **Strategic fit**

7.1 Recreation Opportunities – Wellington offers a diverse range and an abundance of quality recreation and leisure activities that are easily accessed and affordable.

7.2 Participation and Health – Increased participation in recreation and leisure activities enhances overall health and well-being.

7.3 Events and Identity – Year-round recreation activities and events contribute to the economic prosperity and identity of Wellington.

### b) **Annual Plan reference**

There is no Annual Plan reference for this activity.

### c) **Annual Plan and Long Term Financial Strategy implications**

There is no Annual Plan reference for this activity.

### d) **Treaty of Waitangi implications**

This paper is conditional upon obtaining Iwi consent.

### e) **Consultation**

The Council's Parks & Gardens Business Unit is in support of offering a new lease to the Salamanca Tennis Club.

Public consultation will take place by way of a single public notification in The Dominion Post and a local newspaper relevant to the location of the tennis club.

### f) **Legal implications**

Each lease is referred to Council Solicitor's to confirm that documentation is in order prior to either party signing the final lease documents. Council Solicitor's to provide certification to support this.

## **APPENDIX 1**

Synopsis and Aerial Photograph of the Tennis Club

Name of Group: Salamanca Tennis Club Incorporated

Location: Corner Salamanca Road and Wesley Streets, Kelburn.  
Botanic Gardens.

Lease Type: Ground Lease

Legal Description: Part Lot 1 DP 8530

Use: Tennis Clubrooms and Tennis Courts

Facility Site Area: 1300m2

Annual Rental: \$613.00 per annum plus GST. (Current Rental \$535.00 per annum plus GST)

Refer to attached aerial photo showing lease area.

