

REPORT 3
(1215/53/IM)

GRANTING OF A NEW LEASE TO HARBOUR CITY GYMSPORTS INCORPORATED

1. Purpose of Report

To seek the Committee's approval to grant a new ground lease over Town Belt land to the Harbour City GymSports Incorporated at Hataitai Park.

2. Executive Summary

The Wellington Darts Association (the current leaseholder), is disposing of its building on Hataitai Park with the assistance of council officers. The sale of the building is contingent upon the proposed tenant obtaining a lease from the Council.

The proposed tenant is Harbour City GymSports Incorporated.

The building is being purchased by New World Eastern Suburbs Sports Trust for the purpose of housing Harbour City GymSports Incorporated. This requires the granting of a lease and subleases to effect this outcome.

The ground lease will be granted under section 54 (1) (b) and (c) of the Reserves Act 1977.

3. Recommendations

Officers recommended that the Committee:

1. *Receive the information.*
2. *Approve, subject to the conditions below, the granting of a new ground lease to Harbour City GymSports Incorporated under the Reserves Act 1977 (the Act):*

Location	Term	Annual Rental
<i>Hataitai Park</i>	<i>10 years</i>	<i>\$434 + GST per annum</i>

3. *Note contingent on the granting of a lease to Harbour City GymSports, the building will be purchased by New World Eastern Suburbs Sports Trust.*

4. *Approve a sub-lease from Harbour City GymSports Incorporated to New World Eastern Suburbs Sports Trust.*
5. *Approve a sub-sub-lease from New World Eastern Suburbs Sports Trust to Harbour City GymSports Incorporated and note that any approval to grant a new lease is conditional upon:*
 - (a) *Appropriate consultation with iwi and Friends of the Town Belt;*
 - (b) *The Lease being publicly notified in accordance with sections 119 and 120 of the Act and any approved Management Plan;*
 - (c) *There being no objections or sustained objections resulting from the abovementioned consultation or notification.*
 - (d) *The lessee pays for the legal and advertising costs associated with preparing the leases.*

Note: this new ground lease does not require approval of the Minister of Conservation as approval is delegated to Wellington City Council as the Local Authority.

4. Background

4.1 Overview of the Community & Recreation Leases

The Council leases land and/or buildings to a wide range of groups undertaking various activities. Leases are important to provide certainty for the Council and groups in regard to their property obligations and to provide a framework for asset management.

4.2 Strategic Context and Direction

The lease assessment process provides the Council with an opportunity to evaluate a group's community value and contribution to the various Council strategies and policies relevant to recreation and community groups. These strategies and policies are:

- Social and Recreation Strategy
- Environmental Strategy
- Leases Policy for Community and Recreation Groups
- Reserve Management Plan(s) (if appropriate).

Social and Recreational Strategy

Community group leases fit under the Social and Recreation Strategy. This strategy aims to build strong, safe and healthy communities for a better quality of life. The Council has committed to provide greater leadership to promote a high level of social cohesion and participation.

The Social and Recreational strategy encourages collaborative partnerships with our recreation and sports groups to ensure the best delivery of services and programmes and maximise use of amenities and resources.

Environment Strategy

Community group leases also fit within the context of the Environment Strategy, which emphasises sustainable development and the protection and enhancement of our natural environment. The Strategy recognises the inter-relationship between social and cultural well being and the environment. It aims to make Wellington more liveable, where our natural environment is more accessible to all for a wide range of social and recreation opportunities while not compromising our environmental values.

Recreation Policy

The Recreation Policy identifies quality recreation and leisure opportunities enhance the city as a place to live and visit, and contributes to community well-being. It aims to offer a diverse range of accessible and affordable recreation activities, enhance the contribution of recreation events to the city's economy, and encourage participation.

The Council understands that recreation is provided to a wide section of the population via organisations like sports, recreation, and community groups. The Council plays a pivotal leadership role and aims to establish strong partnerships with these organisations and groups to provide recreational opportunities for the city's people.

Leases Policy for Community and Recreation Groups

The Leases Policy also reinforces Council's significant role in fostering the well-being and strength of communities by facilitating networks, providing recreation opportunities and supporting community facilities. The objectives of the Leases Policy are to:

- strengthen communities through leasing land and buildings to groups.
- ensure that the provision of leases is fair, equitable and responsive to community needs.
- formally standardise the requirements of the lease.

The Leases Policy outlines the process for a new lease and lease renewal. It calls renewing a lease a new lease. The process is outlined in Section 4.4.

Town Belt Management Plan

The Town Belt Management Plan supports leasing land to groups provided their activity is primarily concerned with public outdoor recreation, is open to public participation, does not restrict public access, and is not detrimental to any of the other values of the Town Belt. The term of the lease shall be no more than 10 years, with no right of renewal.

4.3 Assessment of new leases

New leases are those where there is no current lease in place, and the group or the Council seeks to formalise this relationship. The Council recognises that most groups have made investments in assets and this is a key consideration in the evaluation of any lease. The process for a new lease is as follows:

1. Applicant provides Council officers with relevant information including financial information, historical patterns of use, and future prospects.
2. Officers evaluate information and assess whether the group will be sustainable (membership numbers and financially), their activities are consistent with the Council's strategic direction and objectives, and consider their previous lease performance.
3. Communicate officers' decision to the applicant. If a new lease is recommended then the officer negotiates lease tenure, rental and terms and conditions.
4. Seek approval in principle from the Regulatory Processes Committee.
5. Public notification following the Reserves Act process.
6. If all approvals are granted and no objections are sustained, lease documents will be prepared.

4.4 Lease agreement and documentation

The Lease Policy provides guidance and a framework for the lease agreement process and documentation. This includes lease rental and tenure, procedural matters, and the responsibilities and requirements of the lessee and the Council.

The Council offers ground leases and premises leases to community groups. Some groups own their own building and are responsible for its maintenance and insurance. In these cases the Council can offer a ground lease, which is a lease for the land only. Groups that lease Council owned buildings are granted a premises lease. These groups lease both the land and the Council owned buildings on the land. They pay a maintenance fee to the Council for their share of the external maintenance costs.

Leases offered to community groups are a standard format in accordance with Leases Policy and Committee's resolution of 7 February 2007. The standard lease covers the following terms and conditions:

- reporting requirements
- allocation of responsibilities between lessee and lessor
- payment of rates, water and other utilities
- maintenance of buildings, structures, vegetation and land
- insurance
- subleasing
- granting security against a lease
- termination of leases
- external signs
- external commercial advertising within leased areas.

4.5 Term of lease

A standard term under the Leases Policy is ten years and one further term of ten years (the renewal). However the Town Belt Management Policy restricts the term of any lease to a maximum period of 10 years and overrides this aspect of the leases policy.

There are occasions where it may be appropriate to use a degree of flexibility in the term of a lease. This flexibility is at the Council's discretion and is designed to allow Council to deviate from standard policy to respond to changing community needs and expectations. The reasons a shorter term may be offered are limited to the following circumstances:

Table 1: Reasons for a shorter term may be offered.

Shorter Tenure
Declining trends in an activity
Evolution of activities that will compete for assets
Alternative uses are planned by the Council for the lease asset (for example, demolition of the buildings in a number of years)
Life expectancy of facility/ assets is less than lease tenure

4.6 Monitoring and reporting requirements

The Council is interested in the ongoing performance of community and recreation groups so it can monitor the achievement of strategic objectives for the city. The reporting requirements in the lease are not intended to be a control mechanism, rather a means of communication between the groups Council. Reporting generally includes the requirement for:

- Membership numbers and usage rates
- Community events run through the leases
- Financial information.

5. Discussion

Decision Making Process

When the Council grants a ground lease to a club, usually it is to a club who own the building. In this case, it is proposed that the building will be purchased by New World Eastern Suburbs Sports Trust (the Trust), for use by Harbour City GymSports (GymSports).

GymSports, who meet the criteria of the Leases Policy, has collaborated with the Trust to secure financial backing. It is proposed that the Trust purchases the

building and retains ownership; however the user of the building will be GymSports.

In order to recognise the Trust as proposed owner of the building, whilst reflecting the intentions of the Leases Policy and the Town Belt Management Plan, it is proposed that a ground lease is granted to GymSports, who is permitted to sub-lease to the Trust. This allows the Trust to have their building on the Council's land.

The Trust will then sub-sub-lease back to GymSports who will use the building for recreational purposes meeting the requirements of the Leases Policy and the Town Belt Management Plan.

The Council's legal relationship will be with GymSports, as lease-holder and user of the building.

The Darts Building, Hataitai Park

The Indian Sports Club Incorporated was granted a 21-year ground lease in 1983; and sold the building to Wellington Darts Association (Darts) in 1995 for \$106,666 with the Council's permission. The lease was assigned to Darts and expired in 2004. Darts has continued to occupy the building on a periodic tenancy since 2004.

Darts approached the Council in 2007 wishing to sell the building. Council had no wish to take over ownership of the building and therefore has taken a leadership role in the disposal process, working with and assisting Darts.

This process began with registrations of interest and 6 applications from various groups were received. Council officers then assessed each group against the criteria of the Leases Policy as to their viability, use of the building, and ability to share with other users.

Officers then recommended to Darts three preferred groups who met the criteria of the Leases Policy and who were in a position to make an offer for the building. GymSports and the Trust submitted a joint tender which met Darts' approval.

Harbour City GymSports

Harbour City GymSports (GymSports) is a not-for-profit group whose objectives are promoting and advancing gymnastics and other mat-based sports in Wellington. GymSports was incorporated in 2007, consolidating the operations of the Hataitai Gymfun club and its fundraising committee.

Gymfun operated as a private entity successfully for 15 years from the Shelly Bay Defence Base on the Miramar Peninsula. Tenants at Shelly Bay have received advice from Department of Defence, their current landlord, that they will be required to vacate their existing premises in the near future.

The New World Eastern Suburbs Sports Trust

The New World Eastern Suburbs Sports Trust was established in 1996, is a charitable trust and has donated \$822,754 to the community since its inception by way of 972 grants to kindergartens, primary and secondary schools, and individuals, within the Eastern Suburbs. The Trust supports events such as Round the Bays Fun Run. The Trust generates income from Pak N Save Kilbirnie and Miramar New World, and their suppliers.

The objects of the Trust are to benefit the Eastern Suburbs by:-

- Assisting, supporting and encouraging participation and expertise in amateur sports;
- Promoting, assisting, supporting and encouraging the physical education, well being and development;
- Administration, management and holding of the Trust Fund for the benefit of the community;
- Other charitable purposes for the benefit of the Community.

The Trust's rules allow them to purchase, invest, sell or lease property. They have committed to purchase the building for GymSports to enable them to continue their recreational activities.

History	<p>1983. Ground lease granted to Indian Sports Club Inc.</p> <p>1995. Indian Sports Club Inc sold building to Wellington Darts Association and assigned the lease.</p> <p>2004. Lease with Wellington Darts Association expired.</p> <p>2007. Wellington Darts Association approached Council wanting to sell the building.</p> <p>2008. Proposal to lease to Harbour City GymSports (GymSports) with financial support from New World Eastern Suburbs Sports Trust (the Trust).</p>	
Lease Background	<p>No formal agreement has been entered into with GymSports prior to this one; this will be the first.</p> <p>The building is on Town Belt land, therefore the lease to GymSports is granted under the Reserves Act 1977.</p> <p>GymSports will hold the lease with the Council.</p> <p>The Trust will hold a sub-lease with GymSports.</p> <p>GymSports will hold a sub-sub-lease with The Trust.</p>	
Term	10 years.	
Rental	\$434 + GST per annum.	
Strategic Fit	Contributes to More Liveable, Better Connected, More Actively Engaged, and Healthier Outcomes.	
Club Sustainability	Users	750 per week
	Financially viable	Yes

6. Conclusion

Officers recommend that the Committee exercise its delegated authority to approve the granting of a ground lease to Harbour City GymSports, a sub-lease to New World Eastern Suburbs Sports Trust, and a sub-sub-lease to Harbour City GymSports; subject to the conditions identified in section 3, (Recommendations).

Contact Officers: *Heather Cotton - Property Advisor, Recreation Reserves and Paul Andrews – Manager, Parks and Gardens and Ken Bailey - Manager Sports and Recreation Engagement.*

Supporting Information

1) Strategic Fit / Strategic Outcome

This report recommends a new lease with Harbour City GymSports Incorporated, a sub-lease to New World Eastern Suburbs Sports Trust, and a sub-sub-lease to Harbour City GymSports Incorporated, which is consistent with the Council's LTCCP strategic vision in regard to Strategy 6: Social and Recreation. Directly related to:

- More liveable
- More actively engaged
- Better connected
- Healthier.

2) LTCCP/Annual Plan reference and long term financial impact

This report recommends a new lease with Harbour City GymSports Incorporated which is consistent with the Council's LTCCP in regard to Strategy 6: Social and Recreation.

All costs associated with preparing the new lease are met by the lessee.

3) Treaty of Waitangi considerations

Iwi will be consulted.

4) Decision-Making

As the land in question is Town Belt, decisions regarding Leases over the land are delegated to the Council as Local Authority as per the Town Belt Management Plan.

5) Consultation

a) General Consultation

The Council will call for submissions as required by the Reserves Act 1977 and as set out in the Town Belt Management Plan.

b) Consultation with Maori

Iwi will be consulted as required by the Reserves Act 1977.

6) Legal Implications

Council's lawyers have been consulted during the development of this report.

7) Consistency with existing policy

- *The provision of a new lease to Harbour City GymSports Incorporated supports Council's overall vision of Creative Wellington – Innovation Capital. The Leases Policy supports Council activities as a facilitator of recreation partnerships and provider of recreation and social opportunities.*