

Kaiwaka Can McCleans Park Gibbons Road Development Agreement

Meeting: Kaipara District Council
Date of meeting: 26 July 2023
Reporting officer: Jenny Rooney, Community & Engagement Advisor
Fleur Denize, Property & Commercial Advisor

Purpose | Ngā whāinga

To provide Council with the relevant information to approve the Development Agreement/License to Occupy for Kaiwaka Can to develop McClean Park Gibbons Road, Kaiwaka.

Executive summary | Whakarāpopototanga

Kaiwaka Can has presented sufficient information to seek approval for a Development Agreement/License to Occupy to develop the Gibbons Road McClean Park. This will provide an accessible community play and recreational space for all ages. The project is a successive phase to the Kaiwaka Footbridges project to connect Kaiwaka.

Recommendation | Ngā tūtohunga

That the Kaipara District Council :

- a) Approves a Development Agreement/License to Occupy (LTO) for Kaiwaka Can to develop McClean Park, Gibbons Road
- b) Delegates the Chief Executive responsibility for finalising the terms and conditions of the Development Agreement/Licence To Occupy documents.

Context | Horopaki

Kaiwaka Can has applied to Council to enter into a Development Agreement to develop McClean Park, Gibbons Road, Kaiwaka to include a skatepark and public open space area for people to sit and relax with friends and family. This would provide added activities for the youth of Kaiwaka and connectivity to the nearby sports association as the shared path from the Footbridges runs through the Gibbons Rd site.

In March 2021 KDC received correspondence from David Wright, Kaiwaka Can, on behalf of Mr John McClean. It outlined the conditions for KDC to acquire the Gibbons Road site. The conditions are listed below:

- **Acknowledgement of Gift** – after the land has been gifted, signs are to be erected at both east and west park locations. Signs will acknowledge the gifting of the land to the Kaiwaka community by Mr McLean and his father. Mr McClean will review details for accuracy before final manufacture of the signs.
- **Gifting Ceremony** – to take place at Gibbons Road to formally receive the land and an appropriate time to unveil the above-mentioned signs.
- **Resolution of discrepancy around NZTA's section of the park** – This land was gifted to Council by Mr McClean, and he is confused about why this is now reported as being in NZTA's possession. Due to the lack of interest from NZTA in upkeep and maintaining the gifted land, Mr McClean would like to see it brought back under Council control as intended and the confusion around ownership resolved.
- **Use of Gibbons Road land** – This land is to be gifted on the basis of it being used for community recreation and amenity purposes. Mr McClean wants to avoid the gifted land being overlooked and left to deteriorate into a poor condition as is the current situation with

McClean Park on the west on State Highway One. To this end he would like a concept plan for future use of the land to be developed in conjunction with Kaiwaka Can. The path that is currently planned to go through this piece of land would need to be positioned to allow for future recreational facilities to be installed.

- **McClean Park (State Highway 1)** – Mr McClean would also like a concept plan for the improvement of the SH1 land to be developed in conjunction with Kaiwaka Can.

The gifting of McClean Park, Gibbons Road was pivotal in the completion of the Footbridges connection as without this piece of land there would have been no linkage from northern footbridge to Gibbons Road. The acquisition of land was finalised in 2022.

In 2022, Kaiwaka Can were successful with their Reserve Contribution Contestable Fund application for a grant to develop concept plans and complete the initial investigation for the development of McClean Park, Gibbons Road. The project is a successive phase to the Footbridges project to connect Kaiwaka and create a social fabric weaving walkways, parks, and people together. Youth activities, in particular a skate park was proposed for the park. High level spatial design and surrounding development research led to the proposed design option. The feedback gathered from a community questionnaire provided evidence of support from the local community for the project. A copy of the Draft Concept Plans can be found in **Attachment A**. Kaiwaka Can have developed a funding framework for a staged approach to the development of the park.

Kaiwaka Can representatives have met with NTA and DOC representatives to provide them with the information and talk through the initial concept plans, both organisations are supportive of the project.

Discussion for | Ngā kōrerorero

Staff have considered the proposal and recommend that Council approve the application from Kaiwaka Can so that they can develop McClean Park, Gibbons Road, Kaiwaka. Staff will work with Kaiwaka Can so they can enter into a Development Agreement.

Options

Option 1: That Council:

- Approves the Kaiwaka Can Development Agreement/License to Occupy application.

Option 2: Status quo.

- Declines the application the Development Agreement

The recommended is **Option One**

Options Assessment

Options	Advantages	Disadvantages
Approves the McClean Park, Gibbons Road development	<ul style="list-style-type: none"> ▪ Provides an accessible area with multiple recreational facilities for all to enjoy. ▪ Provides a safe destination point for visitors to stop and take a break. ▪ Increased tourism to the area ▪ Gives the community a sense of pride and ownership of the space. ▪ Provides opportunities to increase physical fitness. 	<ul style="list-style-type: none"> ▪ Kaiwaka Can will need to secure funding for future development

	▪ The area is maintained	
Declines the development of McClean Park, Gibbons Road		<ul style="list-style-type: none"> ▪ No Facilities for young people in the community ▪ A risk of the Park not being maintained. ▪ The Park not utilised to its full potential and connectivity reduced. ▪ Tourism remains minimal. ▪ Locals have to travel outside the area for recreational activities. ▪ Community pride diminished.

Policy and planning implications

A License to Occupy is an agreement for a not-for-profit community organisation to locate in or use Council- owned land, or a Council-owned building. The facilities and activities of the organisation applying for a License to Occupy must be available to members of the public. Applicants must demonstrate the organisation has the resources or ability to establish and operate on the land or in the building they been granted the license over. Given the time and investment needed to comply with the conditions an agreement in principle (Development Agreement) may be initially entered into. The period to undertake and complete Development is 2 years and following successful completion Council will grant the License to Occupy in accordance with the relevant terms and conditions agreed upon by both parties.

Council use standard formal license agreements which have been developed and endorsed by their legal representatives, the agreement includes an accountability clause and default/termination clause. Factors that are considered when staff are making recommendations to Council include factors such as the financial position of the Community Group and the benefits to the community. A copy of the Development Agreement template can be found in **Attachment B** and copy of the Development Agreement & License to Occupy Agreement template can be found in **Attachment C**.

Council's Community Assistance Policy provides for Community organisations to be provided tenure of Council land through a License to Occupy (LTO) usually for a maximum of 30 years. A copy of the Community Assistance can be found in **Attachment D**.

The RMA requires that a lease can be for no more than 35 years unless a resource consent for a subdivision is obtained.

The Reserves Act provides for a lease or licence for a maximum period of 33 years.

Financial implications

In addition to staff time there may be some legal costs incurred to finalising the terms of the Development Agreement/License to Occupy, however, these can be managed within existing budgets. Currently Councils practice is to only charge Community Organisations a peppercorn rental, however any new License to Occupy agreements would include provision to change this as long as it was consistent with any community rents policy that may be adopted in the future.

Risks and mitigations

Kaiwaka Can will need to apply to the Council for the appropriate consents to build the structures identified in this report and the outcome will determine if the Development Agreement proposal goes ahead.

Impacts on Māori

There will be ongoing engagement with local Iwi at each phase of the development of the site. A cultural impact assessment was undertaken by Environs Ltd prior to the Footbridge's construction and cultural monitoring of the construction was overseen by local Iwi.

Significance and engagement | Hirahira me ngā whakapāpā

The decisions or matters of this report are considered to have a low degree of significance in accordance with Council's Significance and Engagement Policy. No feedback is required, and the public will be informed of Council's decision via the agenda and minutes publication of this meeting, on the website and through other channels if appropriate.

Next steps | E whaiake nei

Staff will work with Kaiwaka Can to finalise the details of the Development Agreement/License to Occupy agreements. These documents will then be executed by all parties.

Attachments | Ngā tapiritanga

	Title
A	McClean Park Gibbons Road Concept Plan
B	Development Agreement template
C	License to Occupy Agreement template
D	Community Assistance Policy