

8.19. Proposed Land Swap between Neutral Bay Club and Council - Part Ilbery Park - Public Exhibition Outcome Report

AUTHOR: Risha Joseph, Property Officer

ENDORSED BY: Rob Emerson, Director Open Space and Environmental Services

ATTACHMENTS:

1. Council Report 22 02 2021 - Neutral Bay Club Ilbery Park Land Swap Leas [8.19.1 - 2 pages]
2. Submissions Summary Neutral Bay Ilbery Park land swap [8.19.2 - 8 pages]

PURPOSE:

The purpose of this report is to inform Council of the outcome of the Public Exhibition of a proposal to undertake a land swap between Neutral Bay Club and Council (Ilbery Park), Neutral Bay.

EXECUTIVE SUMMARY:

At the meeting of Council dated 22 February 2021, Council supported the proposal of a land lease swap for 5 years to the Neutral Bay Club over approximately 50m² of Ilbery Park land which is located at the base of the retaining wall at the southern end of the park and a separate lease to Council over approximately 45m² of Neutral Bay Club land which is located at the Anderson Street access to the Club.

Council also resolved at this meeting that the proposal satisfy the requirements of Section 47A of the Local Government Act 1993 and be exhibited for 28 days. The community consultation was undertaken from 4 May to 1 June 2021 during which time Council received a total of 21 submissions.

The report outlines the issues raised in the submissions and Councils recommended response.

FINANCIAL IMPLICATIONS:

A peppercorn rental will be applied in relation to both leases. Council has borne the legal costs for both leases.

RECOMMENDATION:

1. THAT Council resolve to formalise the land lease swap between Neutral Bay Club and North Sydney Council, subject to the following:

- (a) That the leases commence on 1 September 2021 for a period of five years.

(b) That at the end of the lease period, Council re-assess the issues raised by the submitters with regards to patron behaviour and noise to assess compliance performance with appropriate standards and requirements.

2. THAT the North Sydney Police, NSW Office of Liquor and Gaming and the Neutral Bay Club be advised of the submissions identifying poor patron behavior and noise complaints and be requested to undertake the necessary action to ensure adherence of the Clubs activities with relevant Liquor Licensing conditions for the premises and existing noise control requirements.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment

1.4 Public open space and recreation facilities and services meet community needs

BACKGROUND

At the meeting of Council dated 22 February 2021, Council considered a report on a potential land lease swap between Neutral Bay Club and Council (Ilbery Park). Refer to Attachment 8.20.1 .

The proposal included a lease to Neutral Bay Club over approximately 50m² of Ilbery Park which is located at the base of the retaining wall at the southern end of the park and a separate lease to Council over approximately 45m² of Neutral Bay Club land which is located on the Anderson Street rear access to the Club.

Figure 1 illustrates the parcels of land which is the subject of the proposal.

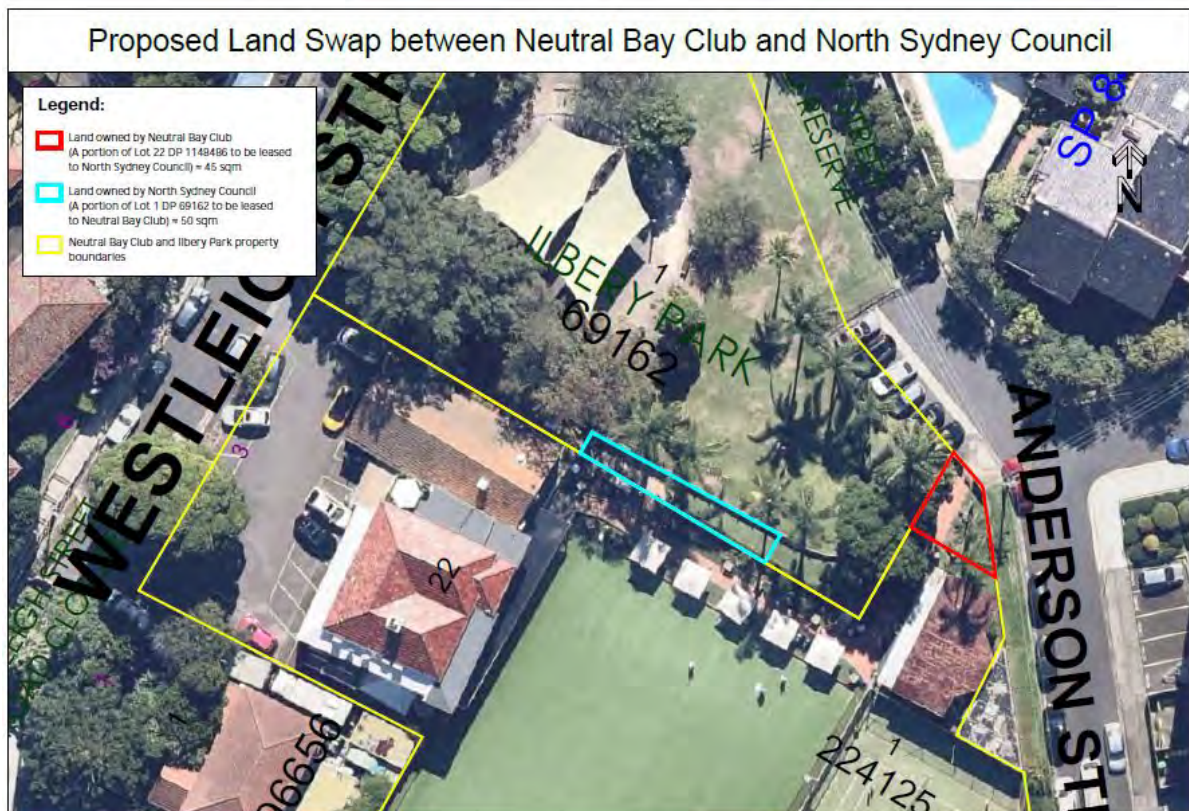


Figure 1: Parcels of land subject to the proposal

Council, at its meeting on 22 February 2021 resolved the following:

- “1. THAT Council proceeds with the required process of progressing a lease for a period of less than five years with the Neutral Bay Club for the identified 50m2 of Ilbery Reserve Community land that is located at the base of the Council retaining wall.*
- 2. THAT on completion of the required consultation process a further report be provided identifying any public submissions received by Council for consideration and determination.*
- 3. THAT Council enters into an agreement to lease for a period of less than five years from the Neutral Bay Club the identified 45m2 of the Neutral Bay Clubs property that fronts Anderson Street to be used as an extension of Ilbery Reserve.”*

CONSULTATION REQUIREMENTS

Community engagement was be undertaken in accordance with Council’s Community Engagement Protocol.

In accordance with the above resolution of Council, as well as satisfying the requirements of Section 47A of the Local Government Act 1993, which required the proposal to be exhibited for 28 days, the public exhibition of the proposed land lease swap ran from 4 May to 1 June 2021.

Council received a total of twenty-one (21) submissions during this period. The contents and responses to the submissions are outlined in the Detail section of this report.

DETAIL

DETAIL

1. Consultation Findings

The report details the outcomes of the public consultation on the proposal to undertake a land lease swap between Neutral Bay Club and Council (Ilbery Park) on a 5-year lease arrangement.

Following the outcome of the community consultation, it is proposed to amend the draft lease to address the concerns raised by the submitters. The primary concerns raised by the majority of the submitters was over the loud noise at night, the excessive use of alcohol and the poor behaviour demonstrated by the patrons of the Club.

2. Inform Methods

Consultation Outcomes

The proposed land lease swap was publicly notified between 4 May and 1 June 2021.

The following inform methods were used:

- Approximately 450 direct letters to neighbouring properties
- On-site signage, including at the park and Neutral Bay Club
- Your Say North Sydney website - 172 views
 - 8 downloads from the document library;
 - 3 downloads of the Council report,
 - 2 downloads of the map,
 - 2 downloads of the related Plan of Management; and
 - 1 download of the DP plan
- E-newsletters - including Council E-news and Precincts E-news
- Memorandum to Precinct Committees.

A total of 21 submissions was received in response to this exhibition.

A summary and response to all submissions received is detailed within the Submissions Summary (Attachment 8.20.2).

3. Submissions Received

Council received a total of 21 submissions. Out of the 21 submissions received 16 supported the proposal, whilst 5 opposed the proposal. All submissions were collated, analysed and are summarised in Attachment 8.20.2 of this report.

The majority of the submissions were received from the residents of Neutral Bay. Whilst 16 submitters supported the proposal, Council notes that not all submitters were from the area of Neutral Bay. The 5 submitters opposing the proposal were either from the area or were regular patrons of the Club. The number of submitters from each area are outlined below:

- Neutral Bay (13)
- Cammeray (1)
- Wollstonecraft (1)
- Chatswood (1)
- Cremorne (1)
- Crows Nest (1)
- 3 submitters did not provide their address

The summary (Attachment 8.20.2) outlines the submitters responses and also includes comments by the Departments of Engineering & Property and Open Space & Environment Services. The key issues raised in the submissions were:

- The unnecessary nature of the proposed land swap as the smoking area of the Club is being proposed to be incorporated into Ilbery Park.
- The loud and increased noise volumes at night.
- The excessive alcohol consumed by the patrons and that Council was now disregarding its effects by formalising a lease.
- The poor behaviour of the patrons especially after the consumption of alcohol.

Conclusion

Following the outcome of the community consultation, Council considered the issues raised by the community and recommends that Council supports the land lease swap which would allow both parties to benefit from this arrangement. The Neutral Bay Club land, which Council intends to lease is beneficial to Council as it would be landscaped and incorporated into Ilbery Park, allowing Council to benefit from an extension to the reserve. Council land being proposed to be leased to the Club will regularise an encroachment which has been in existence for a number of years without Council's consent.

It is therefore recommended that Council enter into a 5-year lease, however, Council is to re-assess its position at the end of the 5-year lease period.

8.11. Neutral Bay Club/Ilbery Park Land Swap Lease Proposal

AUTHOR: Robert Emerson, Director Open Space and Environmental Services

The purpose of this report is to outline a proposal to fundamentally undertake a land lease swap between the Neutral Bay Club and the Council.

The proposal includes leasing a small section of Community land in Ilbery Reserve that can't be effectively used as public parkland to the Neutral Bay Club and in return leasing a small amount of land owned by the Neutral Bay Club that could be effectively used as an extension of Ilbery Reserve for public recreation.

Council has been approached by the Neutral Bay Club to lease a small section of Ilbery Reserve that is located at the base of the retaining wall at the southern end of the park and is generally inaccessible due to the level change.

During discussion of their request, it was determined that a section of land that forms their Anderson Street rear access to the Club and adjoins the park is generally at grade with the existing park levels and if leased by the Council would increase the usable open space of Ilbery Reserve.

Whilst both leases are envisaged to be offered at a peppercorn rent there is a cost of preparing the two leases that would need to be borne equally by the two parties. It is envisaged that the total cost would be in the order of \$3,500.

RECOMMENDATION:

- 1. THAT** Council proceeds with the required process of progressing a lease for a period of less than five years with the Neutral Bay Club for the identified 50m² of Ilbery Reserve Community land that is located at the base of the Council retaining wall.
- 2. THAT** on completion of the required consultation process a further report be provided identifying any public submissions received by Council for consideration and determination.
- 3. THAT** Council enters into an agreement to lease for a period of less than five years from the Neutral Bay Club the identified 45m² of the Neutral Bay Clubs property that fronts Anderson Street to be used as an extension of Ilbery Reserve.

The Recommendation was moved by Councillor Keen and seconded by Councillor Barbour.

The Motion was put and **Carried**.

Voting was as follows:

For/Against 7 / 3

For: Councillor Gibson, Councillor Keen, Councillor Brodie, Councillor Barbour,
Councillor Drummond, Councillor Gunning, Councillor Mutton

Against: Councillor Beregi, Councillor Carr, Councillor Baker

Absent: nil

19. RESOLVED:

1. THAT Council proceeds with the required process of progressing a lease for a period of less than five years with the Neutral Bay Club for the identified 50m² of Ilbery Reserve Community land that is located at the base of the Council retaining wall.

2. THAT on completion of the required consultation process a further report be provided identifying any public submissions received by Council for consideration and determination.

3. THAT Council enters into an agreement to lease for a period of less than five years from the Neutral Bay Club the identified 45m² of the Neutral Bay Clubs property that fronts Anderson Street to be used as an extension of Ilbery Reserve.

ATTACHMENT 2

Proposed Land Swap between Neutral Bay Club and Council (Ilbery Park) Summary of submissions received during public exhibition period (4 May - 1 June 2021)

The following criteria are used to analyse all submissions received, and to determine whether or not the proposal/plan would be amended:

1. The proposal/plan **would be** amended if issues raised in the submission:
 - a provided additional information of relevance.
 - b indicated or clarified a change in government legislation, Council's commitment or management policy.
 - c proposed strategies that would better achieve or assist with Council's objectives.
 - d was an alternate viewpoint received on the topic and is considered a better option than that proposed or;
 - e indicated omissions, inaccuracies or a lack of clarity.

2. The proposal/plan **would not be** amended if the issues raised in the submission:
 - a addressed issues beyond the scope of the proposal.
 - b was already in the proposal or will be considered during the development of a subordinate plan (prepared by Council).
 - c offered an open statement, or no change was sought.
 - d clearly supported the proposal.
 - e was an alternate viewpoint received on the topic but the recommendation was still considered the best option.
 - f was based on incorrect information.
 - g contributed options that are not possible (generally due to some aspect of existing legislation or government policy) or; involved details that are not appropriate or necessary for inclusion in a document aimed at providing a strategic community direction over the long term.

No.	Name and Address	Key Points Raised	Council Response	Criteria
1	Jim Lees	The proposal reciprocal leasing is mutually beneficial, NBC gains usable land as does the Council, the Council big advantage is ridding itself of the dangerous unfenced sheer drop of around 1.5-1.8 metres especially so in light of the number of young children running around away from "supervision".	Noted	2d
2	Edwina Warry	I've followed this land swap and the whole process seems so petty. Lease the narrow piece of land to NBC. It is useless at the moment but could be of use to NBC. The small smoking area of the NCB cannot be of any real use to Council. So why doesn't the Council see sense and forget about the land swap be magnanimous and just lease the narrow strip to NCB.	Council intends to incorporate NBC land into Ilbery Park, thus increasing the useable area	2e
3	Paul Walter 69 Pine St East, Cammeray	This appears to be a win-win. Land that is more valuable to the club available to the club, while land that is more valuable to the community becomes available to the community. I support the decision and commend Council for taking on this initiative.	Noted	2d
4	Francine Keeling	As a local resident and frequent visitor to the park (as a grandmother with my grandkids) I fully support the lease of the stated piece of land to the Club for their use. I have observed and participated in the activities at the Club on many occasions including Australia Day and Anzac Day celebrations and have always found them to be very well organised and controlled. In fact, the Mayor and local member are known to officiate at the Club on various Anzac Day commemorations.	Noted	2d
5	Neutral Precinct Committee	The Precinct supports the proposal.	Noted	2d

No.	Name and Address	Key Points Raised	Council Response	Criteria
6	Anonymous	<p>As North Sydney Council is fully aware of the intended utilisation of the land subject to the land swap, the council is acting above and beyond its usual process and will knowingly facilitate the consumption of alcohol on its land and be liable for the associated generation of noise. Accordingly, in order to protect itself, it is recommended the Council, includes appropriate provisions within the lease of its land such as in the event of say 3 noise or behaviour complaints within any 12 month period, the lease agreements may be immediately terminated.</p> <p>In addition, the lease from council to the club should contain:</p> <ol style="list-style-type: none"> 1) Appropriate controls on noise that will emanate from the council land; 2) A prohibition on the generation of music, swearing and poor behaviour of members/patrons given it is adjacent to a children's playground; 3) A prohibition on the erection of any marquee, or other similar structure or collective structures, which would have the effect of attracting groups of members or patrons to congregate for parties or large gatherings (which would generate increased noise for neighbours). <p>The fundamental premise underlying this submission is that the neighbourhood must not be subjected to increased noise as a result of the land swap.</p>	<p>Noted</p> <p>Council will notify the North Sydney Police, NSW Office of Liquor and Gaming and the Neutral Bay Club and advise them of submissions identifying poor patron behaviour and noise complaints and request that the necessary action is undertaken to ensure adherence of the Club's activities with relevant liquor licensing conditions for the premises and existing noise control requirements.</p>	2e

No.	Name and Address	Key Points Raised	Council Response	Criteria
7	Anonymous	<p>So, it looks like NBC has historically already encroached and built structures on Council parkland. The light blue parcel (in Figure 3) "Land owned by NSC (A portion of Lot 1 69162 to be leased to NBC = 50sqm)" NBC has already previously over many years erected shade structures on a semi-permanent basis on that 50sqm land. So, this will normalise that practice. As such it is an intensification of use, bringing noise and alcohol to the border of a kid's park. Ilbery is, by its own description, a particularly younger age park, so is NSC comfortable mixing those uses? To the right of the light blue parcel "Land owned by NSC (A portion of Lot 1 69162 to be leased to NBC = 50sqm)" is the continuation of the curved wall held up by coppers logs, will Council now raze that area, and reclaim that land up to boundary? So, remove the copper logs curve at least and extend to past the pale blue border (as figure 3 indicates)? In doing so this will bring the viewing angle to within sight of looking into the shade structures which could be inappropriate for young kids.</p> <p>This bottom right yellow border corner (fig. 3) is a south-east corner that appears to be Council-owned.</p> <p>The reclamation of that area, that contains the curve is welcome, but that area is yet not to grade, how will this be done? And if it not be done then please explain why not? The swap will remove one entry/exit to NBC. Will NBC open another entry-exit elsewhere along the boundary? I do support the land-swap lease because the NBC club does an admirable job and works very hard to be neighbour-friendly.</p> <p>Their commercial activities enable the sporting activities, and these two sides to the club are intertwined so that the health of the facility depends upon both.</p> <p>Expansion here in the centre of the area is probably the one and only area in which they can expand, as it brings them no closer to neighbours, however it does bring them onto parkland.</p> <p>While I support the swap, but I also support the reclamation of the S-E corner up to the bottom right yellow boundary as shown in Fig.3.</p>	<p>Contents noted.</p> <p>All entries and exists will remain. Patrons will still be able to access the Club from the south east corner of Ilbery Park. <i>The Land swap will normalise a practice that has been undertaken by the Club in the past without consent.</i> <i>As the land in question is approximately two metres in width (50m2 in total) the increased impacts on the park are considered negligible.</i></p> <p><i>The Council is currently not intending to remove or make structural adjustments to the existing retaining wall.</i></p> <p><i>The realignment of the retaining wall to the correct boundary will be considered when the retaining wall has reached the end of its structural life</i></p> <p><i>Noted</i></p> <p><i>Noted</i></p> <p><i>Noted</i></p>	<p>2d 2f</p>

No.	Name and Address	Key Points Raised	Council Response	Criteria
8	Virginia Ware 1D/22 Ross S, Wollstonecraft	In my opinion, the Council's lease of the land from the Neutral Bay club would be advantageous to the Park, increasing its area, and would also provide a convenient back entrance to the park. The Council's lease to the Neutral Bay Club, which is not currently accessible to those in the park, would be of greater advantage to the Club for entertainment and shade purposes.	Noted	2d
9	Henry B 23/88 Wycombe Rd, Neutral Bay	While I have previously been a member of the neutral bay club, I believe this is a negative move. the neutral bay club has not demonstrated they have a desire to be good neighbours. Multiple reports have been put in documenting the noise well after the cut off times. While we appreciate it may be difficult to control patrons the club makes minimal efforts. With the existing smokers section often turning into a lively sub green party. To highlight the behaviour of the club as generally inconsistent with an organization looking to make an effort, they often leave their lights on causing light pollution to our building. Providing them with this lease will only increase capacity and have them further encroach on Ilbery Park. Making the playground unusable during the clubs' lively events. Attached photo at 5am after lights on all night.	Noted. Council will notify the North Sydney Police, NSW Office of Liquor and Gaming and the Neutral Bay Club and advise them of submissions identifying poor patron behaviour and noise complaints and request that the necessary action is undertaken to ensure adherence of the Club's activities with relevant liquor licensing conditions for the premises and existing noise control requirements.	2b
10	Angela Bunn 131 Ben Boyd Rd, Neutral Bay	The land swap seems like a better use of space for both the Neutral Bay Club and the park.	Noted	2d
11	James Galea 75A Shellcove Rd, Neutral Bay	I fully support this land swap. As a local resident and visitor to the Neutral Bay Club I have missed not being able to sit, drink and eat on the area that is proposed to be leased. I think this a very smart and wise decision and will enhance the community in a positive way.	Noted	2d
12	Jennifer Palmer 90/260 Military Rd, Neutral Bay	This appears to make sense and will be advantageous to the Club and to the local residents many of whom already use the facilities of the Park and the Club.	Noted	2d

No.	Name and Address	Key Points Raised	Council Response	Criteria
13	Douglas Whelan 72 Wycombe Rd, Neutral Bay	Sounds like a rare win-win situation. Bigger usable park and better use of land for the Neutral Bay Club. Fully supported.	Noted	2d
14	Ian Brugnoli 1 Anderson Str, Neutral Bay	This is a very positive proposal, I am a close local resident (Anderson St) and a club member and this proposal will improve the experience for all members and patrons of the Neutral Bay Club .	Noted	2d
15	Mark Williams 7/59 Wycombe Rd, Neutral Bay	As a local resident living on Wycombe Road, I regularly take my grandchildren to Ilbery Park and believe the extension as suggested would be an asset to residents. I also frequent the Neutral Bay Club with family and found the club to be a safe environment with helpful staff and would fully support the land swap as set out.	Noted	2d
16	Chris 10 Westleigh St, Neutral Bay	I have no issue as long as they are prepared for the odd dog to go in that area. we have a hard-enough job keeping the dogs out of the club as it is without a barrier been there.	Noted	2e
17	Trish Wilson 79a Fullers Rd, Chatswood	Neutral Bay Club serves an important community function. It makes good sense for the land swap to proceed	Noted	2d
18	Shannon Gillespie 7/6 Bannerman St, Cremorne	I am extremely supportive of this land swap. The NBC is increasingly becoming an important community hub, where people of all ages and backgrounds gather together in the spirit of community and sport. The current astro-turf area would really help the club build that community engagement by providing additional areas people, in particularly family, can gather.	Noted	2d
19	Jonathan Grant 5/112 Ben Boyd Rd, Neutral Bay	I'm supportive of the swap plan and think it's a great idea to let the NBC have its terrace back - which is otherwise not used by council.	Noted	2d 2f

No.	Name and Address	Key Points Raised	Council Response	Criteria
20	Anonymous	<p>I live across the road from Neutral Bay Sports Club. My concerns about the land swap are as follows:</p> <ol style="list-style-type: none"> 1. The club will be able to provide more chairs and tables in the blue area as shown on the map. This means more people and more noise particularly at night. The club is open until quite late at night and as the club is surrounded by several tall apartment blocks the echo effects of noise is significant. One way for the club to deal with the noise is to move patrons INSIDE after 10.30pm particularly during the week but it needs to be enforced. Noise is a significant problem especially in the summer months when people are outside for most of the night. 2. The red area as shown on the map becomes council land - how will this be shown to the public? The red area will also be a main access point to the club -how will the club prevent people from congregating in the red area as they think the area is still part of the club. One way is for the council /club to erect signs advising the red area is now park. Also, the club needs to remove the furniture which is there. In addition, an access gate adjoining the tennis office could be erected. People would have to go through the gate to get to the club -this new second gate would clearly show the boundary between the club and the new park area. 	<p>Contents Noted</p> <p>The net increase in land available to the Club is minimal and therefore increase in patronage capacity would be also be minimal</p> <p>Council will notify the North Sydney Police, NSW Office of Liquor and Gaming and the Neutral Bay Club and advise them of submissions identifying poor patron behaviour and noise complaints and request that the necessary action is undertaken to ensure adherence of the Club's activities with relevant liquor licensing conditions for the premises and existing noise control requirements.</p> <p>There will be landscaping of the leased area to ensure the area is identifiable as parkland rather than the Club grounds. This will include the removal of the existing furniture, regrading the area to blend into the park, opening the parks eastern boundary to flow onto the leased area. Changes to fencing and signage as required.</p>	2e

No.	Name and Address	Key Points Raised	Council Response	Criteria
21	<p>Ms Del Purcell c/o Jaridel P/I and Nimmitabel Water P/L 6, 7, 8, 9, 11, 14, 15 and 16 - 94-96 Wycombe Rd, Neutral Bay</p>	<p>We are residents adjacent to the park and club in a block of units. The noise from the club now is intrusive and very disturbing in a residential area especially on Thursday, Friday, Saturday and Sunday when they bring people in for functions. A lot of these people are foreigners with no respect for anyone. Sometimes the noise of drunks goes on all night. And liquor is taken into the park.</p> <p>Now regarding the development into the park, the club has no need to build structures into park lands, why do they not build the structures on club land, there is no need for these people to expand onto public land. At least 9 owners in these premises do not want any more expansion of this club in our area in any way, our main concern being the disruption of the club to everyone around here.</p> <p>The proposal shows no connection to the tennis courts, it will not increase use of the park, it does not need a five year lease, but most importantly this unnecessary structure can be built on the club own land, this structure is completely unnecessary.</p>	<p>Noted</p>	<p>2e</p>