

LOCAL PURPOSE RESERVE LEASE FOR PREMISES AT MAHURANGI WEST RESERVE

between

AUCKLAND COUNCIL

and

MAHURANGI WEST HALL AND RESERVE INCORPORATED

(Where Tenant owns Premises or improvements s61(2A)(a))

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DEED OF LEASE dated the _____ day of _____ 2014

BETWEEN **AUCKLAND COUNCIL** ("Council")

A N D **MAHURANGI WEST HALL AND RESERVE INCORPORATED** ("Tenant")

BACKGROUND:

- A. The Council has agreed to lease to the Tenant that part of the Local Purpose reserve under Section 61 (2A)(a) of the Reserves Act 1977.
- B. The Tenant owns the Buildings and/or other Improvements

GRANT:

The Council leases to the Tenant and the Tenant accepts the lease of the Premises for the Term, at the Rent and subject to the covenants, conditions, agreements, and restrictions in this Lease.

In witness of which the parties execute this Lease:

SIGNED for and on behalf of the
AUCKLAND COUNCIL under
delegated authority in the presence of:

Regional Operations Manager

Witness signature

Full Name

Occupation

Address

SIGNED by the Tenant (by affixing its
common seal) in the presence of:

President/Chairman

Secretary

REFERENCE SCHEDULE

PREMISES:	The land that is the part of the Reserve containing 175 m ² more or less as shown marked in red on the attached plan. The Tenant owns the Buildings and Improvements situated on that land
RESERVE:	Mahurangi West Reserve
TERM:	Ten (10) years
COMMENCEMENT DATE:	1 October 2014
EXPIRY DATE:	30 September 2023
RENEWAL TERMS (IF ANY):	nil
FINAL EXPIRY DATE:	30 September 2023
RENT:	\$1.00 plus Goods and Services Tax (if demanded)
RENT REVIEW DATES (IF ANY):	On renewal of the Lease, or in the event of a change in lease policy then in accordance with clause 4 of the Lease
REQUIRED USE:	Hall and community and indoor recreation
MINIMUM PUBLIC RISK INSURANCE COVER:	\$1 million

GENERAL PROVISIONS

1. INTERPRETATION

In this deed unless the context indicates otherwise:

1.1 Definitions:

Act means the Reserves Act 1977;

Building means any building(s) on the land comprised in the Premises, owned by the Tenant;

Building Work means work for or in connection with the construction, alteration, demolition or removal of a building or any fixtures or improvements and includes earthworks preparatory to or associated with that construction, alteration, demolition or removal and any work of a structural or retaining nature, and services associated with that work;

Council means Auckland Council;

Excepted Event means:

- (a) fire, flood, explosion, lightning, storm, earthquake or volcanic activity;
- (b) the occurrence of any other peril against the risk of which the Council is insured or has covenanted to insure under this Lease;

Improvement means any improvement on the land comprised in the Premises, and includes all pipes, drains, conduits and other connections for utilities that primarily serve the Premises, regardless of whether they are located within the Premises;

Premises means the premises defined in the Reference Schedule;

Reserve means the reserve designated as Local Purpose Reserve under the Reserves Act 1977 as named in the Reference Schedule;

Tenant means the tenant set out on page 1;

Tenant's Agent means a person for whose acts or omissions the Tenant is responsible;

1.2 Defined Expressions: expressions defined in the main body of this deed have the defined meaning in the whole of this deed including the background;

1.3 Gender: words importing one gender will include the other genders;

1.4 Headings: section, clause and other headings are for ease of reference only and will not affect this deed's interpretation;

1.5 Negative Obligations: any obligation not to do anything will include an obligation not to suffer, permit or cause that thing to be done;

1.6 Parties: references to parties are references to parties to this deed;

- 1.7 Persons:** references to persons will include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;
- 1.8 Plural and Singular:** words importing the singular number will include the plural and vice versa;
- 1.9 Schedules:** the schedules to this deed and the provisions and conditions contained in these schedules will have the same effect as if set out in the body of this deed;
- 1.10 Sections, Clauses and Schedules:** references to sections, clauses and schedules are references to this deed's sections, clauses and schedules;
- 1.11 Statutes and Regulations:** references to any statutory provision will include any statutory provision which amends or replaces it, and any subordinate legislation made under it.

2. TERM

- 2.1** The Term of this Lease will commence on the Commencement Date and will end at 5pm on the Expiry Date.
- 2.2** The Council will offer a new Lease of the Premises to the Tenant, if all the following occur:
- 2.2.1** the Council wishes to re-let the Premises at the end of the Term;
- 2.2.2** the Tenant is not in breach of any of its obligations under this Lease, both at the time it gives its notice under the next sub-clause, and at the end of the Term;
- 2.2.3** in the opinion of the Council there is sufficient need for the Required Use and that the Premises or any part of them are not required for any other purpose in the public interest; and
- 2.2.4** the Lease the Council offers to the Tenant will be on the then prevailing terms for Leases of similar premises let by the Council. The Tenant will pay the costs of the new Lease.
- 2.3** The Tenant will execute a new Lease in the form prepared by the Council's solicitor, if required to do so by the Council.
- 2.4** The Tenant may cancel this Lease on giving 3 months written notice to the Council, but this will not release the Tenant from any of its outstanding obligations under this Lease up to the time of the cancellation.

3. RENT

- 3.1** The Tenant must pay the Rent to the Council, if demanded, by equal annual instalments in advance. The first of these instalments is due on the Commencement Date. However, the Tenant may elect to pay the rent by equal monthly instalments in advance on the first day of each month, if the Council has reviewed the rent for the Premises.

- 3.2** The Tenant must not reduce any payment of rent by making any deduction from it or set off against it.

4. RENT REVIEW

- 4.1** The Council is entitled at its sole discretion to set a policy from time to time as to the rent levels that will apply to space of the type that comprises the Premises. For example, those levels may vary according to the type of space, and the purpose for which the space is used.
- 4.2** If the Council sets such a rental policy the Council will be entitled to review the rent for the Premises from the next Rent Review Date or Expiry Date.

5. OUTGOINGS

- 5.1** The Tenant must punctually pay all rates as defined in the Local Government (Rating) Act 2002 and any other charges levied by a local authority against the Premises if so required. The Tenant will also pay all charges for electricity, gas and any other service or utility charges addressed to either the Council or the Tenant for the Premises.
- 5.2** Where any of the above outgoings above are not levied wholly in respect of the Premises or the Term then the Tenant is only obliged to pay a fair proportion of such outgoings depending on the period during which and the area over which the outgoing has been charged.
- 5.3** The Second Schedule itemises the obligations of the Tenant and Council in relation to outgoings, utilities and services for the Premises (where applicable). In the event of any conflict between clauses 5.1 and 5.2 and the Second Schedule the allocation in the Schedule will prevail.
- 5.4** The Council may from time to time have a policy, which entitles the Tenant to Rates relief or financial assistance. In that case the Tenant may make an application to the Council and a remission or funding may be granted according to that policy.
- 5.5** The Tenant must pay all Goods and Services Tax on the Rent and other payments made by the Tenant under this Lease either to the Council or as the Council directs. The Tenant will also pay any additional Goods and Services Tax the Council must pay, because the Tenant fails to pay when required.

6. REQUIRED USE

- 6.1** The Tenant must not use the Premises for any purposes except the Required Use.
- 6.2** The Council is entitled to make such enquiries as the Council thinks fit, including giving the Tenant an opportunity of explaining the usage of the Premises if at any time the Council is concerned that the Premises are not being used or sufficiently used for the Required Use. The Tenant will be in default of its obligations under this lease if following such enquiries and having considered the Tenant's explanation the Council reasonably forms the opinion that the Premises are not being so used or sufficiently used.

- 6.3** The Tenant must not erect, paint, display or allow on the Premises any signs, notices or advertising material unless the Tenant first obtains the written approval of the Council in each case.

7. CONDUCT ON THE PREMISES

- 7.1** The Tenant must not use or permit the Premises or any part of the Premises to be used for any activity which is or may become dangerous, offensive, noxious, noisy, illegal or immoral, or which is or may become a nuisance or annoyance to the Council or to the owners and occupiers of neighbouring properties.
- 7.2** The Tenant must not allow any disorderly conduct to take place on the Premises and must limit noise levels to a moderate level, and in particular must keep the noise level at the boundaries of the Premises to within the requirements of the District Plan.
- 7.3** The Tenant may make rules for the management and control of the Premises and for the conduct of persons using the Premises. Those rules must not be inconsistent with the terms of this Lease. The Council must approve those rules before they can come into effect.
- 7.4** The Tenant must at all times comply with the Council's policy from time to time in effect relating to hiring, charges and other conditions of use of the Premises or reserve land.

8. COMMUNITY OBJECTIVES

- 8.1** The Tenant shall use the Premises in a manner consistent with the attainment of the Community Objectives in the First Schedule.
- 8.2** On each anniversary of the Commencement Date and at any other time considered reasonable by the Council, the Council and Tenant may meet to review the Community Objectives and to consider options for maximising use of the Premises. This review may include but is not limited to consideration of facility sharing, partnerships and amalgamations of organisations as well as any submissions made by members of the public or representatives of organisations using or wishing to use the Premises and any other factors relevant to the ability of the Tenant to better attain the Community Objectives.

9. LIQUOR LICENCES

- 9.1** The Tenant must not apply for a liquor licence or renew or vary any liquor licence for the Premises or any part of them without first obtaining the written consent of the Council as owner or administering body (on behalf of the Department of Conservation) of the Premises. The Council has a complete discretion, in this capacity:
- 9.1.1** To refuse consent to any application for liquor licence on the Premises; or
- 9.1.2** To require the Tenant to modify any part of the application, for example as to the days or times of the day for which the licence is sought, or the type of licence being sought.
- 9.2** If the Tenant obtains a liquor licence, it is the Tenant's obligation to maintain a safe and responsible approach to the use of the Premises for that purpose. If

there is a significant breach of that obligation, the Council may, without limiting its powers, warn the Tenant in writing that a second such breach will lead to the Council determining this Lease. If there is a second significant breach, this will be treated as being a breach of an essential term of this Lease entitling the Council to determine the Lease immediately in accordance with clause 22.1.3, as if the 28 day notice referred to in clause 22.1.3 had already been served on the Tenant.

10. TENANT'S ANNUAL REPORT

10.1 The Tenant within 3 months of the end of each financial year will provide the following information to the Council:

10.1.1 A set of its financial accounts for that financial year. If the Tenant's constitution/rules of incorporation require that the accounts be audited, then audited accounts are required;

10.1.2 A copy of the Tenant's chairperson or president's report of the Tenant's activities during that financial year;

10.1.3 A copy of any changes to its constitution that have not been previously approved under clause 21.2;

10.1.4 An up to date list of the Tenant's chairperson or president, secretary and other committee members, together with their addresses and other contact details.

10.2 The Council will be entitled at any time on reasonable notice to appoint an auditor, being a Chartered Accountant in private practice, to inspect and audit all of the books of account, statements, documents, records, returns, papers and files of the Tenant relating to the Required Use. The Tenant at the request of the Council shall make the same available for inspection or audit at the Premises or at such other place as the Council may reasonably require.

11. OPEN MEMBERSHIP

11.1 Any person who complies with the usual rules of the Tenant and pays any subscription may join the Tenant's organisation.

11.2 If any person applies for membership of the Tenant and that application is refused then, if requested by the Council, the Tenant must call a special meeting of the members of the Tenant. At that meeting, a vote must be taken among the members present, and that person will become a member if two thirds or more vote in favour of that person's admission.

11.3 The Tenant must comply with the Human Rights Act 1993 so far as it applies to the Tenant.

12. PUBLIC ACCESS

12.1 Subject to any prior bookings of the Tenant, the Tenant must, at the request of the Council make the whole or any part of the building on the Premises available from time to time at reasonable charges to other voluntary organisations wishing to use the Reserve or part of it.

12.2 The Tenant must obtain the Council's approval for any fees charged to the public for the use of the Premises.

13. INSURANCE

- 13.1** The Tenant will insure all Buildings and Improvements against damage or loss for any cause.
- 13.2** The insurance will be for the full cost of reinstatement, including all professional and consent fees, and costs of demolition, site clearance and any works required by statute.
- 13.3** The Tenant will maintain the following insurances during the term:
- 13.3.1** Public risk (which includes a tenants liability clause) for at least the Minimum Public Risk Insurance stated in the Reference Schedule, or any higher amount the Council reasonably requires;
 - 13.3.2** Replacement of all glass in the premises;
 - 13.3.3** Contents; and
 - 13.3.4** The indemnity value of the Tenant's Improvements.
- 13.4** The Tenant's insurance will be on terms and conditions and with a reputable insurer of which the Council reasonably approves. The Tenant will provide the Council with proof of the insurance and the terms of it on the Commencement Date stated in the Reference Schedule, and every 12 months from the Commencement Date. The insurance will be in the joint names of the Council and the Tenant for their respective interests.
- 13.5** Whenever the Council requests it to, the Tenant will provide the Council with a copy of the insurance policy for the insurances it must maintain, plus evidence that the Tenant has paid the premium.

14. DAMAGE TO OR DESTRUCTION OF THE PREMISES

- 14.1** If any Building or Improvement is destroyed or so damaged so as to render the Premises untenable, the Tenant will advise the Council within 3 months of the date of the destruction or damage whether the Tenant wishes to restore its Buildings and Improvements. The Tenant will provide the Council with reasonable evidence that it has the funds and is able to obtain all the necessary permits and consents to carry out the work. This Lease will continue and the Tenant will promptly restore its Buildings and Improvements within a reasonable period, if the Council advises the Tenant (in writing) that the Council is reasonably satisfied that the Tenant is able to do so. The Tenant will comply with clause 15.1 in relation to the restoration work.
- 14.2** This Lease will end at the end of the 3-month period under the previous clause 14.1, if any of the following occur:
- 14.2.1** the Tenant does not give a notice under that clause;
 - 14.2.2** the Tenant gives a notice that it does not wish to restore its Buildings and Improvements; or
 - 14.2.3** the Council is not reasonably satisfied the Tenant is able to promptly restore its Buildings and Improvements within a reasonable period, and advises the Tenant in writing accordingly.

Any termination under this clause will be without prejudice to the rights of either party against the other.

- 14.3** The Tenant will with all reasonable speed repair damage, or reinstate the area affected, if any Building or Improvement is damaged, but the Premises are still tenable. However, either party will be entitled to end this Lease by notice in writing to the other, if the Tenant cannot obtain all the necessary permits and consents for the work within a reasonable period.

15. BUILDING WORK

- 15.1** The Tenant may not:

15.1.1 erect any Building or Improvement, or

15.1.2 alter, reinstate, extend, paint or redecorate any Building or Improvement without:

15.1.2.1 first supplying the Council with detailed plans and specifications and a project programme; and

15.1.2.2 obtaining the prior written approval of the Council as landowner. All costs of the Council in respect of such approval (including architects and consulting fees) shall be paid by the Tenant.

- 15.2** The Council will not withhold its consent arbitrarily or unreasonably, under clause 15.1.2.2 if the proposed Building Work:

15.2.1 complies with any reasonable standards applicable to the Reserve which the Council may from time to time set as to the design, quality, materials and colour of any Buildings and Improvements;

15.2.2 will not in the opinion of the Council overload or endanger the proper working of any services, utilities or amenities; and

15.2.3 will be carried out under the supervision of an architect, project manager, engineer or other suitably qualified person.

- 15.3** If the Council as landowner gives its approval under clause 15.1.2.2 then the Tenant must promptly complete the Building Work in a proper and workmanlike manner in accordance with the approved plans and specifications and all approvals, permits and consents.

- 15.4** The Tenant must obtain all consents required under the Building Act 2004 and the Resource Management Act 1991 and provide the Council (as landowner) with a copy of those consents. Approval of the Council under clause 15.1.2.2 will not be deemed to affect the Council's duties as a regulator as to those statutory consents.

- 15.5** In granting consent or approval under this clause 15 the Council will not be deemed to have warranted that the plans or specifications are suitable for the Tenant's purposes or that any person involved in the work is suitable or adequately qualified.

- 15.6** During the construction of the Building Work the Tenant must maintain, in the joint names of the Council and the Tenant for their respective interests, builders' risk and public liability insurance for amounts approved by the Council and will provide the Council with a copy. All Building Work is at the sole risk of the Tenant.
- 15.7** If during the course of the Building Work the Council reasonably considers the Tenant is failing to adhere to the approved plans or specifications, the project programme, the standards referred to in clause 15.2.1, or reasonably considers that the project is not being properly managed, the Council may by notice in writing to the Tenant require that all work stop immediately, or require it to take other action as necessary to mitigate the Council's concerns.
- 15.8** On completion of the Building Work, the Tenant must provide the Council with a copy of the code compliance certificate under the Building Act 2004 and a complete set of drawings and/or as-built plans accurately showing Buildings and Improvements as constructed or altered.

16. MAINTENANCE OF GROUNDS AND SURROUNDS

- 16.1** The Tenant must maintain the grounds and surrounds of the Premises in a tidy and attractive condition at all times to the satisfaction of the Council.
- 16.2** The Tenant must mow any lawns within the Premises regularly and keep those areas fertilised and watered, keep and maintain any gardens and planted and/or landscaped areas watered and in a tidy and attractive condition and replace plants and shrubs, which die or are destroyed through the actions of the Tenant.
- 16.3** The Tenant must take effective measures to prevent any noxious weeds and recognised environmental plant pests growing on the Premises and comply with the provisions of the Biosecurity Act 1993. The Tenant must also ensure that the Premises are kept free from stones, broken glass, litter, and other detritus.
- 16.4** The Tenant may with the prior written consent of the Council plant new trees on the Premises in places approved by the Council. The Tenant must maintain any trees on the Premises in a neat and tidy condition. The Tenant must not remove or prune any tree without the Council's prior written consent.
- 16.5** The Tenant must repair any damage however caused to any sealed or surfaced areas within or bounding the Premises
- 16.6** The Second Schedule itemises the obligations of the Tenant and Council in relation to the maintenance of the grounds and surrounds of the Premises (where applicable). In the event of any conflict between this clause 16 and the Second Schedule, the allocation in the Second Schedule will prevail.

17. MAINTENANCE OF BUILDINGS/IMPROVEMENTS

- 17.1** The Tenant must keep and maintain the Building and Improvement (being the exterior, the interior and the structure) in good, clean, and substantial order, repair and condition. The Tenant will do this to the satisfaction of the Council.
- 17.2** For the avoidance of doubt, where the Tenant owns the Building, the Tenant shall keep and maintain the Building and Improvement in good order, repair and condition and will be responsible for all repairs and replacement of the

structure and roof of the Building and Improvement, when necessary and/or when required by Council. The Tenant will do this to the satisfaction of the Council.

- 17.3** The Second Schedule itemises the obligations of the Tenant and Council in relation to the maintenance of the Premises. In the event of any conflict between this clause and the Second Schedule the obligations in the Second Schedule shall prevail.
- 17.4** The Tenant must remove any externally visible graffiti from any Buildings or Improvements within 5 days of any defacement occurring.
- 17.5** The Tenant must in any case repair or replace as reasonably necessary any windows, doors, glazing, light fittings, light bulbs, carpets, and floor coverings.
- 17.6** The Tenant shall permit the Council or any person authorised by the Council to enter the Premises at any time to carry out repairs to the Premises, if such repairs have not been carried out by the Tenant when required.
- 17.7** The Tenant shall ensure that the Premises are left in clean order repair and condition at the end or earlier determination of the term and will quietly yield up the Premises in clean order repair and condition. The Tenant shall not be liable for fair wear and tear arising from reasonable use.

18. REMOVAL OF BUILDING OR IMPROVEMENT

- 18.1** The Tenant may not pull down or remove any Building or Improvement without first obtaining the written consent of the Council.
- 18.2** At the end of this Lease whether by expiry of the term, breach of condition or otherwise, the Premises together with the Building and Improvement will revert to the Council without any compensation whatsoever being payable to the Tenant by the Council.
- 18.3** Despite clause 18.2, at the end of this Lease, having regard to the condition and safety of the Premises and the Building and Improvement, the Council will have the following rights with respect to the Building and Improvement the Tenant has constructed or made:
- 18.3.1** the Council may make the Premises available to another community group approved by the Council, in which case the Council may require any incoming tenant of the premises to pay to the Tenant the value of the Tenant's Building and Improvement. This value, or amount to be paid, is to be agreed by the parties or if they cannot agree, it is to be determined in accordance with clause 18.3.4.
- 18.3.2** the Council may require the Tenant on written notice from the Council to remove all or some of the Tenant's Building and Improvement, in which case the Tenant will, within a reasonable time as stipulated in the notice, and in the manner stipulated in that notice, remove the Building and Improvement, and if this is not done within the stipulated time or in the stipulated manner then the Council may remove the same at the cost in all respects of the Tenant.
- 18.3.3** Where the Building and Improvement erected by the Tenant are of value to the Council, the Council may pay the Tenant the value of the Building and Improvement, as agreed by the Council and the Tenant.

This value is to be agreed by the parties or if they cannot agree it is to be determined in accordance with clause 18.3.4. Whether the Building and Improvement are considered to be of value to the Council for the purpose of this sub-clause is entirely a matter for the Council's discretion.

18.3.4 Where under clause 18.3.1 or 18.3.3 the parties cannot agree on the value of the Building and Improvement within 14 days, each party will within a further 14 days appoint a registered valuer to act as an expert for the purpose of determining the value of the Building and Improvement. The valuers will appoint an umpire who need not be a registered valuer before determining the value of the Building and Improvement. Where the valuers cannot agree on the value, the umpire will make the final determination.

18.4 At the end of this Lease, the Council may remove from the Premises any chattels in the apparent possession of the Tenant and place them outside the Premises and the Council shall not be answerable for any loss resulting from the exercise of the power of re-entry.

19. ACTS, REGULATIONS, BY-LAWS AND RULES

19.1 The Tenant must comply with all Acts, Regulations, Bylaws and District and Regional Plan Rules as they affect the Premises.

19.2 Where any Building requires a compliance schedule under the Building Act 2004 ("the Building Act") the Tenant shall at its own cost fully comply with all obligations imposed under the Building Act including but not limited to:

19.2.1 complying with any requirements specified in any compliance schedule issued by the Council in its regulatory capacity;

19.2.2 ensuring the Building has at all times a current building warrant of fitness and obtaining any written reports relating to compliance with the compliance schedule;

19.2.3 complying with any notices issued by the Council in its regulatory capacity under the Building Act.

19.3 The Tenant shall at all times display at a place in the Building to which users of the Building have ready access, a copy of the current building warrant of fitness showing the location of the compliance schedule.

19.4 The Tenant shall make available to the Council in its capacity as Landlord:

19.4.1 prior to the annual anniversary of the issue of the compliance schedule a copy of the compliance schedule together with any written reports relating to compliance with the compliance schedule; and

19.4.2 on every subsequent annual anniversary a copy of the current building warrant of fitness for the Building together with any written reports relating to compliance with the compliance schedule.

19.5 The Tenant shall:

- 19.5.1** be incorporated under the Incorporated Societies Act 1908 or registered under the Charitable Trusts Act 1957 and remain incorporated or registered for the Term;
- 19.5.2** comply with all of its obligations under the Incorporated Societies Act 1908 and the Charitable Trusts Act 1957 (where appropriate) including but not limited to the keeping of an up-to-date register of members containing the names addresses and occupations of members; and
- 19.5.3** deliver annually to the Registrar of Companies in prescribed form an annual financial statement containing the particulars required by the Incorporated Societies Act 1908 or the Charitable Trusts Act 1957.
- 19.6** The Tenant acknowledges that the Council is subject to the provisions of the Copyright Act 1994 in relation to the payment of fees for the broadcast and performance of music on the Premises. The Council has entered into a licence(s) with the Australasian Performing Rights Association (APRA) and with Phonographic Performances New Zealand (PPNZ), the two statutory bodies empowered to administer the Copyright Act, to authorise the public broadcast and performance of music in respect of some groups which occupy and use Council's land(s) and some activities which may occur on the land. Where the Tenant is contemplating the use of recorded music or the live performance of music on the Premises in the course of the Required Use, the Tenant must make all reasonable enquiries to ascertain whether the said use is covered under the Council's licence(s) with APRA and PPNZ. Where the Premises or proposed activity is not so covered, the Tenant must obtain directly from either or both APRA and PPNZ the relevant licence(s) prior to undertaking the activity.
- 19.7** In the event the broadcast or performance of music is contemplated in the course of an activity and where the Tenant proposes to levy a charge on the public for attending the said activity, the Tenant must obtain a licence from APRA and/or PPNZ prior to undertaking the said activity in every instance.
- 19.8** The Tenant agrees to indemnify Council to the fullest extent against any claims made or liability however incurred in respect of the Tenant's responsibilities under clauses 19.6 and 19.7.
- 20. INSPECTIONS**
- 20.1** The Tenant must allow the Council or any person authorised by the Council at all reasonable times on to the Premises and inside the Building to inspect them.
- 20.2** If the Council gives the Tenant notice of failure to do repairs required by this Lease, the Tenant must carry out work with all speed and complete the work in a diligent and workmanlike manner.
- 20.3** If the Tenant fails to comply with clause 20.2 then the Council is entitled to enter the Premises and carry out the work and the Tenant must pay the cost of that work on demand.
- 21. ASSIGNMENT AND SUBLETTING**
- 21.1** The Tenant must not assign, mortgage, charge, sublet or part with possession of the Premises or any part of the Premises.

21.2 If the Tenant is an incorporated society or an association or trust (whether incorporated or not), any amalgamation, or any change in the Tenant's constitution or rules which affects the objects or purposes of the Tenant, will be deemed to be an assignment of this Lease unless the Tenant has obtained the Council's prior written approval to the change, which may be granted (with or without conditions) or withheld at the Council's discretion.

21.3 The Tenant may let out or hire the Premises or any part of the Premises to any responsible and respectable person or persons with a community, cultural or recreational interest. The Council is entitled to require the Tenant to obtain the prior written consent of the Council to any future letting or hiring under this clause, if the Council reasonably believes that the volume, extent and nature of any previous lettings or hiring has been inconsistent with the Required Use or have not complied with this clause. The Council will give the Tenant notice in writing to exercise its right under this clause. The Council is entitled to exercise its right at any time, and on one or more occasions. The Council is entitled to grant or withhold its consent at its absolute discretion. The Council will advise the Tenant if and when it no longer wishes to consent to lettings or hiring.

22. DEFAULT

22.1 In accordance with the procedures stated in sections 244 to 252 of the Property Law Act 2007, the Council may cancel this Lease and either re-enter the Premises or apply to court for an order for possession of the Premises, if the Tenant:

22.1.1 fails for 14 days after the due date to pay any instalment of the Rent or any other money payable under this Lease; or

22.1.2 fails for 14 days to comply with any of its obligations under the Building Act 2004 contained in clause 19 of this Lease; or

22.1.3 fails to observe or perform any other obligation under this Lease for 28 days after receiving notice of such failure; or

22.1.4 being an incorporated body:

(a) is or is deemed to be unable to pay its debts as defined in section 287 of the Companies Act 1993; or

(b) goes into liquidation (other than voluntary liquidation for the purpose of a restructure or amalgamation approved in writing by the Council); or

(c) is wound up or dissolved; or

(d) enters into any assignment or other compromise or scheme of arrangement with its creditors or any class of its creditors; or

(e) has a receiver, manager or receiver and manager appointed in respect of any of its assets.

22.1.5 being an unincorporated association or trust, is wound up, dissolved or becomes defunct.

22.2 The Council may without being under any obligation to do so remedy at the Tenant's cost any default by the Tenant under this Lease.

23. INDEMNITY

23.1 The Tenant hereby indemnifies the Council against all costs, claims and demands in respect of injury or damage resulting from anything done on the Premises or in the Building to the extent that any insurance moneys that would otherwise have been payable to the Council are irrevocable because of the act or omission of the Tenant or Tenant's Agent.

24. DISPUTE RESOLUTION

24.1 Except for those provisions where the Council has a discretion contained in clauses **Error! Reference source not found.**, 4.1 and 21.3, if any dispute arises between the Council and the Tenant concerning this Lease, the parties will try in good faith to settle the matter by negotiation, and if that is unsuccessful by mediation.

24.2 If the dispute cannot be settled by negotiation or mediation, it will be referred to arbitration (under clause 24.3).

24.3 The dispute will be referred to a sole arbitrator if the parties agree upon one, and if not then the dispute will be referred to an arbitrator appointed by the then President or Vice President of the New Zealand Law Society.

24.4 The Arbitration Act 1996 will govern the arbitration and the arbitral award will be final and binding on the parties. However, either party is entitled to appeal to the High Court on any error of law arising out of the award.

25. NATURE OF THE COUNCIL

25.1 The Council has signed this Lease as the owner of the Premises. The Council is also the territorial authority for the area in which the Premises are situated. Nothing in this Lease limits or affects the duties and obligations of the Council as a regulatory authority under the Resource Management Act 1991, the Building Act 2004 or any other relevant statute. The Council will not be liable for any expense, costs, loss, or damages the Tenant or any person claiming through the Tenant suffers or incurs because of the Council lawfully carrying out its statutory duties.

25.2 Where this Lease requires the Tenant to obtain any consent or approval of the Council, the Council will grant that consent or approval in its capacity as the owner of the Premises only. The Tenant must separately obtain through the relevant department of the Council any consent or approval it requires from the Council acting as regulatory authority. Similarly, any consent or approval the Tenant obtains from the Council acting as territorial authority, does not constitute the consent of the Council in its capacity as the owner of the Premises.

25.3 Where the Tenant wants to give a notice to or otherwise communicate with the Council, the Tenant must address the notice to, or otherwise deal with the department of the Council from time to time charged with administering this Lease. A notice the Tenant sends that has not been addressed to that department will have no effect and will not have been given, until it has been actually received by that department. Any consent, approval or other

permission obtained from any other department will not be binding on the Council.

- 25.4** The Council will advise the Tenant in writing at the Commencement Date as to the department of the Council charged with administering this Lease. The Council will advise the Tenant of any change as soon as practicable after the change comes into effect.

26. IMPLIED PROVISIONS

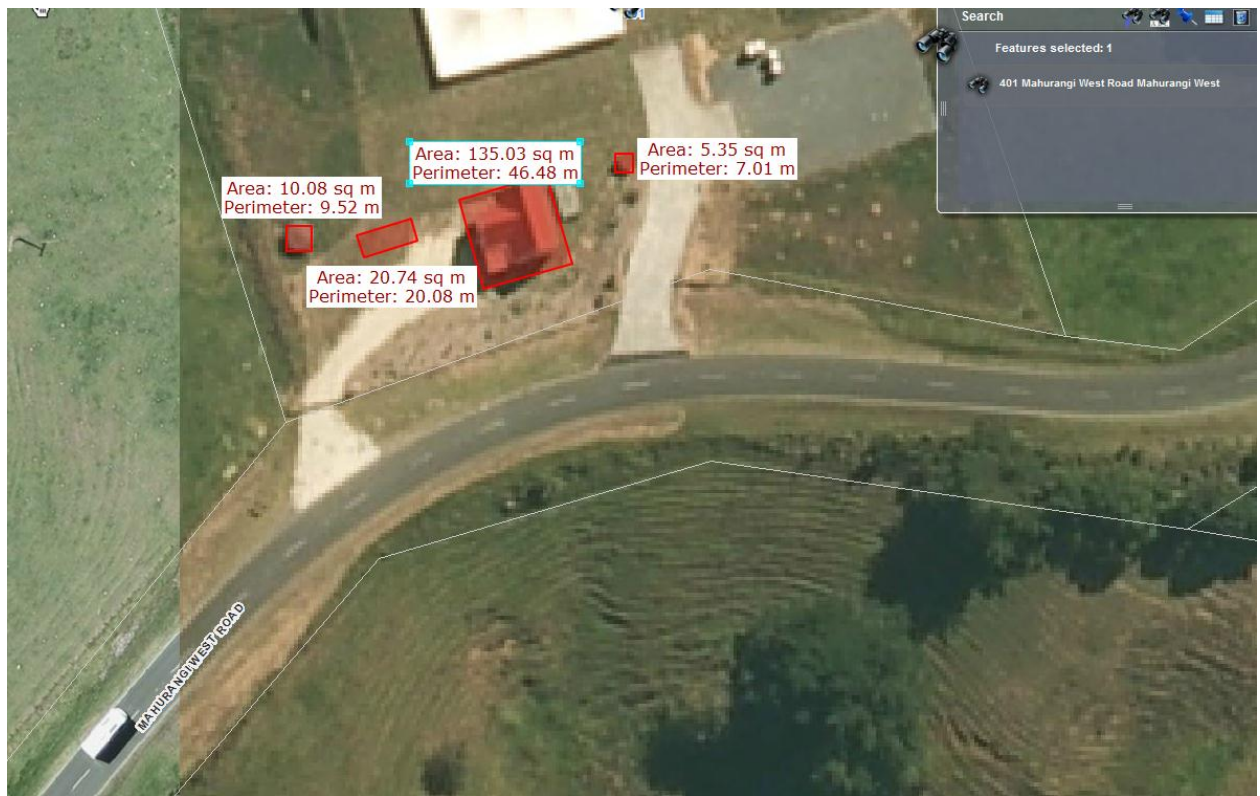
- 26.1** The covenants and provisions implied in Leases by the Property Law Act 2007 and the Land Transfer Act 1952 will apply to this Lease except to the extent they are inconsistent with the terms of this Lease.

- 26.2** The Tenant will not call for this Lease to be registered, or lodge a caveat against the title to the Land.

27. COSTS

The Tenant must pay all the Council's and its own legal costs and expenses for the preparation and completion of this Lease or any renewal or variation of it and all costs incurred by the Council in exercising any rights and remedies because of any default by the Tenant.

SITE PLAN



DRAFT

FIRST SCHEDULE

DRAFT COMMUNITY OBJECTIVES

The Tenant must use reasonable endeavours to achieve the following Community Objectives:

- to be accessible to the community and support and encourage the use of the Reserve for the purpose of #11=*required use*#
- to ensure the Premises are available for use by voluntary organisations on payment of a reasonable charge that is consistent with the fees policy of the Council to achieve the Community Objectives;
- to create a sense of availability of the Premises to the wider community of Auckland;
- to provide a service that is responsive to the demands of the wider community of Auckland;
- to be managed in a financially sustainable manner that not only maintains but permits use of the Reserve for the purpose of #11=*required use*#
- provide a high level of customer satisfaction to users and members of the public using the Premises;
- provide a venue for events and activities consistent with these Community Objectives.

SECOND SCHEDULE
UTILITIES, OUTGOINGS AND MAINTENANCE ITEMS
 (Clauses 5, 16 & 17)

ITEMS	UTILITIES	COUNCIL	TENANT
UTILITIES	Water connection to Building		✓
UTILITIES	Ongoing water charges – meter ID		✓
UTILITIES	Power connection to Building		✓
UTILITIES	Ongoing power charges		✓
UTILITIES	Gas connection to Building		✓
UTILITIES	Ongoing gas charges		✓
UTILITIES	Telephone connection and ongoing charges, (i.e. telephone listings, internet access)		✓
UTILITIES	Rubbish collection		✓
UTILITIES	Hygiene service contract		✓

ITEMS	SERVICES	COUNCIL	TENANT
SERVICES	Fire service charges and maintenance charges in respect of all fire detection equipment		✓
SERVICES	Maintenance of all fire extinguishers and fire hose reels		✓
SERVICES	Air conditioning service contract		✓
SERVICES	Air conditioning replacement		✓
SERVICES	Lift service contract		✓
SERVICES	Security system service		✓
SERVICES	Monitoring of security system and associated alarm call-outs		✓
SERVICES	Automatic door servicing contract		✓

ITEMS	OUTGOINGS AND MAINTENANCE	COUNCIL	TENANT
RATES	Levies payable to any local or territorial authority		✓
INSURANCE	Building – premiums against all insured risks		✓
INSURANCE	Related valuation fees		✓

ITEMS	OUTGOINGS AND MAINTENANCE	COUNCIL	TENANT
INSURANCE	Contents (Tenant's chattels and possessions)		✓
INSURANCE	Public liability insurance (as per Reference Schedule)		✓
INSURANCE	Any insurance excess in respect of a claim (as Tenant managing their own risk)		✓
CLEANING	External		✓
CLEANING	Internal		✓
CLEANING	Windows – external		✓
CLEANING	Windows – internal		✓
CLEANING	Carpet cleaning		✓
CLEANING	Cleaning materials		✓
CLEANING	Graffiti removal		✓
CLEANING	Pest control		✓
MAINTENANCE	Repairs – structural		✓
MAINTENANCE	Repairs – external		✓
MAINTENANCE	Repairs – internal		✓
MAINTENANCE	Repainting – external		✓
MAINTENANCE	Repainting – internal (i.e. decorative)		✓
MAINTENANCE	Roof and guttering (including down pipes)		✓
MAINTENANCE	Plumbing (i.e. blocked toilets, drains)		✓
MAINTENANCE	Plumbing (i.e. replacement sink plugs, tap washers)		✓
MAINTENANCE	Electrical (i.e. faulty switches, plugs, light fittings)		✓
MAINTENANCE	Electrical (i.e. replacement light bulbs, fuses)		✓
MAINTENANCE	Floor coverings – replacement after fair wear and tear		✓
MAINTENANCE	Floor coverings – carpet / vinyl repairs		✓
MAINTENANCE	Window coverings (i.e. curtains and/or blinds)		✓
MAINTENANCE	Glass – replacement		✓
MAINTENANCE	External doors and locks		✓
MAINTENANCE	Internal doors and locks		✓
MAINTENANCE	Keys – replacement and additional keys		✓

ITEMS	OUTGOINGS AND MAINTENANCE	COUNCIL	TENANT
GROUNDS	Mowing of lawns / grass within the Premises		✓
GROUNDS	Gardens, including trees and bushes within the Premises		✓
GROUNDS	Replacement plants within the Premises		✓
GROUNDS	Car park maintenance (i.e. re-marking, potholes)		✓
GROUNDS	Repairs to paths and driveways within the Premises		✓
GROUNDS	Repairs to existing fences within the Premises		✓
GROUNDS	Replacement of fences within the Premises		✓
GROUNDS	Playground / play equipment maintenance within the Premises		✓
LEGISLATIVE	Building warrant of fitness inspections		✓
LEGISLATIVE	Building warrant of fitness charges		✓
LEGISLATIVE	Compliance with fire and egress codes (including signage)		✓
OTHER	External signage relating to the Premises		✓
OTHER	Maintenance of any improvements made to the Building by the Tenant		✓