

**REPORT 1**  
 (1215/11/IM)

**GRANTING OF NEW LEASE TO THE NEW ZEALAND  
 AFFORDABLE ART TRUST INCORPORATED OCCUPYING  
 WELLINGTON OPEN SPACE LAND**

**1. Purpose of Report**

This report seeks Council approval to the granting of a new lease over Wellington open space land to The New Zealand Affordable Art Trust Incorporated.

**2. Executive Summary**

The report provides a description and assessment of the New Zealand Affordable Art Trust (“The Trust”), requesting a new lease together with officers’ recommendations to grant a lease to the group.

The land being leased to the group is classified as Open Space B. This lease will be granted under the Local Government Act 2002.

The Leases Policy for Community & Recreation Groups 2001 (the Leases Policy) provides guidance for assessing new leases. This process includes assessment of the strategic fit, activity sustainability, optimal use of resources, environmental impact, demonstrated need and support from the community and the need for a lease.

The report outlines Council’s strategic direction and priorities and describes the lease assessment process. Officers have outlined how the proposed lease fits the Council’s strategies and priorities.

**3. Recommendations**

It is recommended that the Council:

1. *Receive the information.*
2. *Approve, subject to the conditions noted below, the granting of a new lease to the following group under the Local Government Act 2002:*

<b>Group</b>	<b>Type of Lease</b>	<b>Location</b>	<b>Term (years)</b>	<b>Annual Rent (GST exclusive)</b>
<i>The New Zealand Affordable Art Trust Inc</i>	<i>Premises</i>	<i>Lyall Bay Parade</i>	<i>3 + 2</i>	<i>\$67 Maintenance Fee</i>

*Note that any approval to grant a new lease will be conditional on:*

- (a) appropriate consultation with Iwi being completed;*
- (b) The proposed lease on fee simple and Open Space land being publicly notified in accordance with any conditions set out in the South Coast Management Plan;*
- (c) The Group reimbursing Council for any costs incurred in advertising;*
- (d) There being no objections or sustained objections resulting from the required consultation or notification.*

## **4. Background**

### **4.1 The Former Lyall Bay Youth Centre/Plunket Site at 5 Lyall Bay Parade, Lyall Bay**

The site is part of the Wellington South Coast and is managed in accordance with the South Coast Management Plan. The Lyall Bay and Maranui Surf Lifesaving clubs are nearby, and residential buildings are situated across the road to the north.

The site is made up of:

- A single storey building of 107 square metres which has a kitchen with stove, fridge, toilets, main large room and smaller second room (“the building”)
- It is noted that the status of the land is in the process of being classified as Local Purpose Reserve, which is set aside primarily for educational and community purposes.

The building was originally a lockup pavilion and was converted to a ladies rest room in 1926. According to archivists the building was altered again and used as Plunket rooms in 1958. The building was finally used as a youth centre but became vacant in 2003.

The building was recently refurbished by Council and is in good condition.

### **4.2 Registrations of Interest to Lease the Site**

In June/July 2007 Council officers publicly sought registrations of interest by tender to lease the building and site, in accordance with the Leases Policy for Community and Recreation Groups. Five applications were received, they were:

1. **The New Zealand Affordable Art Trust Incorporated:** (refer section 5.1 below for details of proposal).
2. A proposal for a boutique fine arts centre and juice bar (in the summer).
3. A proposal for a kiosk.
4. A proposal for a gourmet take-away outlet.
5. A proposal for a café and gallery

Council officers from Parks & Gardens, Property & Parking Services and City Services & Events assessed each of the applications against the following criteria:

- Compatibility of group/organisation and intended use with the area/site
- Compliance with the 1977 Reserves Act
- Strategic fit
- Level of compliance with South Coast Management Plan
- Level of compliance with Wellington City Council policies and strategies
- Activity sustainability
- Level of financial sustainability
- Mitigation of environmental impacts

The New Zealand Affordable Art Trust Inc. proposal was the highest scoring of the five applications.

## **5. Discussion**

### **5.1. The New Zealand Affordable Art Trust Incorporated**

The New Zealand Affordable Art Trust was formed in 2004 with the aim of:

- Providing new and emerging artists a vehicle to showcase their work
- Encouraging New Zealanders to own original New Zealand Art
- Fostering the idea that ‘Art is for Everyone’
- Facilitating viable commercial opportunities for artists

The New Zealand Affordable Art Trust Incorporated is a registered charitable trust and is governed by seven trustees with two full time staff who manage and administer the trust’s activities.

The Trust hosts an annual art event in Wellington at the TSB Arena called the “New Zealand Affordable Art Show”. The show promotes and exposes emerging and established artists by providing them with an opportunity to develop their talent through the display and sale of their art. About 1000 artists from New Zealand register for each show with over 3000 pieces of art work on display and for sale over the three day period. The New Zealand Affordable Art Show has grown since it started in 2004 and is now considered a significant event by Wellington City Council.

#### **NZ Affordable Art Show Statistics**

<b>Year</b>	<b>Show Attendance</b>	<b>Pieces of art work sold</b>
2004	5,878	801
2005	7,740	1,046
2006	6,719	1,233
2007	8,336	1,400

The Trust intends to use the building at Lyall Bay primarily as a gallery to promote local artists who do not have the means to exhibit their own art.

Registration with The Trust will be available to all local artists and a modest commission of 15% will be charged by the trust for all work sold at the gallery. The

majority of the artists who will use the gallery will be new or emerging artists with a varied age group and ethnicity. With over 1000 registered artists, the trust has a large resource for exhibiting local art.

The Trust is proposing ten art exhibitions per year and would be open at least six days per week.

The Trust will also base administration staff at the building. It is noted that space is unavailable at Toi Poneke.

The status of the land that the building is situated on is in the process of being classified as Local Purpose Reserve, which is set aside primarily for educational and community purposes. The leasing of the building to the New Zealand Affordable Art Trust is considered by Council officers to be more compatible with the Local Purpose Reserve status than the other proposals that were received.

## **5.2 Granting a Lease on the South Coast**

When granting a lease on the South Coast the Council must consider its obligations under the South Coast Management Plan (SCMP) and the Council's Leases Policy for Community and Recreational Groups (Leases Policy).

One hundred and forty seven sports, recreation and community groups have current leases or are seeking fresh leases with the Council for land and/or premises on recreation and Open Space land.

This report presents an existing community group requesting a new premises lease of the commonly known former Plunket/Youth Centre building located at 5 Lyall Bay Parade, Lyall Bay on our Wellington south coast.

### **5.2.2 The South Coast Management Plan (SCMP)**

The SCMP sets out the Council's aims and objectives for the management of the South Coast and provides a framework for consistent decision-making.

The SCMP aims to achieve the following objectives:

#### Primary Objective:

*"To protect and enhance the coastal character of Wellington's South Coast.*

#### Secondary Objectives:

*To enhance and, where possible, restore the natural values of the coast, while providing for the recreational and leisure desires of visitors/users.*

*To reduce conflict between the many users and values of the area.*

*To respect, acknowledge and protect the history, heritage and diverse character that the south coast holds for iwi and Wellington's communities.*

*To meet the needs of coastal visitors/users of the City, while ensuring any infrastructure or facilities are developed in sympathy with the Coastal environment.*

*To manage the coast as a public asset with the assistance of the community in conjunction with our Treaty partners (in accordance with the memoranda of understanding held with the Council)”.*

The SCMP addresses the question of recreation/community group facilities and buildings, and supports their continued presence for facilitating public recreation and the character that buildings such as the former Plunket/Youth Centre building adds to the South Coast.

*“Where Buildings are being used for community/recreation uses, the Council’s intention will be that the maximum community benefit is gained from their use” (page 50, SCMP)*

*Leases and rentals apply to the use of these buildings and maintenance conditions will apply” (page 50, SCMP)*

The former Lyall Plunket/Youth Centre building is located within the SCMP geographical boundaries on the south coast and falls within the plan’s intent to utilise Council owned buildings for maximum community use and benefit.

### **5.2.3 Leases Policy for Community and Recreation Groups (Leases Policy)**

The Leases Policy 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.*
- *To ensure that the provision of leases is fair, equitable and responsive to community needs.*
- *To formally standardise the requirements of the lease.*

The Leases Policy outlines the process for a new lease and lease renewal. The process is outlined in Section 5.4.

### **5.3 Strategic Context and Direction**

The assessment of new leases process provides the Council with an opportunity to evaluate a group’s community value and/or proposed contribution to the various Council strategies and policies relevant to recreation and community groups. These strategies and policies include:

- Cultural Wellbeing Strategy
- Social and Recreation Strategy
- Environment Strategy
- Leases Policy for Community and Recreation Groups
- Reserve Management Plans such as the Town Belt Management Plan.

### **5.3.1 Cultural Wellbeing Strategy (2006)**

This strategy encourages Council to build “on our established arts and events capital image”. The strategy also makes a number of other statements that support the arts:

- Continuing to support high-end cultural activities while, shifting support to the grass-roots level to encourage emerging talent
- Creating opportunities to increase participation in arts, recreation, sport and cultural activities

One of the four priorities for the period 2006/09 is, “we will strengthen our partnerships with arts organisations, festival groups and institutions”.

### **5.3.2 Social and Recreation Strategy**

Sport, recreation and 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 will provide greater leadership to promote a high level of social cohesion and participation. High levels of participation in the community including sports and recreation groups are critical to resilient communities.

The Social and Recreation Strategy encourages collaborative partnerships with our sports and recreation groups to ensure the best delivery of services and programmes and the maximum use of amenities and resources.

### **5.3.3 Environment Strategy**

Sport, recreation and 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.

### **5.3.4 Recreation Strategy (2003)**

The Recreation Strategy identifies that 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 an increase in participation.

The Council understands that the provision of recreation is provided to a wide variety of organisations including sports and recreation groups. The Council plays a pivotal leadership role and aims to establish strong partnerships with these organisation and groups to achieve and sustainable recreation opportunities for the city.

### **5.3.5 Leases Policy for Community and Recreation Groups (Leases Policy)**

The Leases Policy is discussed above in section 5.2.3.

### **5.3.6 Reserve Management Plans (For example the South Coast Management Plan)**

The South Coast Management Plan is discussed in section 5.2.2

## **5.4 Assessment of New Leases**

New leases apply in instances where either the land and/or buildings have not previously been leased or there has been an existing lease, but the lessee has not elected to renew it and it is available to be leased to another group.

The process for a new lease is as follows:

- Step 1. An application is made to the Council for a new lease and the applicant provides Council officers with relevant information including, financial information, historical patterns of use and future prospects.
- Step 2. Officers evaluate information, including assessing whether the group will be sustainable (membership and financial), their activities are consistent with Council's strategic direction and objectives. If there is evidence that these criteria are met to a significant extent a new lease will be available to the lessee.
- Step 3. Communicate officers' decision to the applicant. If a new lease is recommended then negotiate draft lease tenure, rental and terms and conditions.
- Step 4. Seek approval in principle from Regulatory Committee.
- Step 5. Public notification following the Reserves Act process.
- Step 6. If all approvals are granted and no objections are sustained, then lease documents will be prepared.

## **5.5 Lease Agreement and Documentation**

The Lease Policy provides guidance and a standard framework for the lease agreement 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.

The premises lease that has been offered to the group and accepted by The New Zealand Affordable Art Trust Incorporated is in the 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.

### 5.6 Term of Lease

In accordance with the Leases Policy the standard tenure for leases is ten years plus one further term of ten years.

However, there are occasions where it is 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 respond to changing community needs and expectations. The reasons a shorter or longer term may be offered are limited to the following circumstances:

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

<b>Shorter Tenure</b>	<b>Longer Tenure</b>
Declining trends in an activity	Recognition of past asset investment
Evolution of activities that will compete for assets	Proposed asset investment
Alternative uses are planned by the Council for the lease asset (for example, demolition of the buildings in X years)	To provide certainty for external funding purposes
Life expectancy of facility/ assets is less than lease tenure	Dependence by community or membership on continuity of a key activity
Group asks for a shorter tenure	

Officers are recommending that the New Zealand Affordable Art Trust be granted the option of a lease of three years with one right of renewal of two years because this is a new use of the building.

### 5.7 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 Council and the groups.

Reporting generally includes the requirement for:

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

- Financial information

## **6. Conclusion**

The New Zealand Affordable Art Trust Incorporated has requested a new lease on Open Space land and the Wellington South Coast. They have provided sufficient evidence to demonstrate their strategic fit, and are sustainable for the proposed term of their lease. The group is in agreement with the proposed terms and conditions, including the term of the lease.

Officers propose that the Council exercise its delegated authority to approve the granting of a new lease to this group, subject to the conditions identified in the Recommendations Section (Section 3) of this report.

Contact Officers: *Glenn McGovern, Recreation Projects Manager, City Services & Events and David Shaw, Property Advisor, Community Purpose Property*

## **Supporting information**

### **a) Strategic fit**

- 5.2 More Eventful - Wellington will be recognised as the arts and cultural capital, and known for its exciting entertainment scene and full calendar of events, festivals, exhibitions and concerts
- 5.4 More Actively Engaged - Wellington will encourage greater engagement and participation by offering an exceptional range of arts and cultural amenities that cater to all tastes as well as a high quality environment that fosters a vibrant city life
- 7.1 Recreation Opportunities – Wellington offers a diverse range and an abundance of quality recreation and leisure activities that are easily accessed and affordable.
- 7.2 Participation and Health – Increased participation in recreation and leisure activities enhances overall health and well-being
- 7.3 Events and Identity – Year-round recreation activities and event contribute to the economic prosperity and identity of Wellington.

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

Not applicable.

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

There is no Annual Plan measure for this activity.

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

The recommendations in this report are subject to consultation with appropriate Iwi being completed.

### **e) Consultation**

A copy of the notification will be sent to the Kilbirnie Lyall Bay Rongotai Progressive Association, and leases will be publicly advertised in accordance with the Council's Leases Policy for Community and Recreational Groups (Leases Policy).

### **f) Legal implications**

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