

Mangawhai Museum Licence to Occupy

Meeting: Council
Date of meeting: 29 September 2021
Reporting officer: John Burt, Property, Procurement and Commercial Manager

Purpose | Ngā whāinga

To seek approval of a proposal from the Mangawhai Museum for a new License to Occupy (LTO) to replace their existing lease.

Executive summary | Whakarāpopototanga

Mangawhai Historical Society has developed and constructed a modern museum facility on a part of the approx. 1 hectare of land they lease from Council. Their lease commenced in 2009 for an initial period of 13 years or to 2022 and a right of renewal for a further 10 years.

In 2017 Council resolved to accept a surrender of a portion of the land that the historical Society leases. This will allow the Mangawhai Artists to develop a building.

The Museum Society are keen to address the long-term tenure of the Museum and have proposed Council grant a new LTO for a period of up to 35 years.

As it's unlikely that Council would want to play a greater role in managing the Museum and its operations in the foreseeable future, officers are supportive of this proposal.

The Mangawhai Community Park Governance Committee considered the request at its recent meeting and has recommended that the request for a new LTO be approved by Council.

Recommendation | Ngā tūtohunga

That Kaipara District Council:

- a) Approves the Mangawhai Museum's proposal for a new Licence to Occupy (LTO) for a period of up to 35 Years.
- b) Accepts a Surrender of the Mangawhai Museums existing lease once the terms of the new LTO have been agreed.
- c) Delegates to the Chief Executive responsibility for finalising the terms and conditions of the Surrender and LTO documents.

Context | Horopaki

Mangawhai Historical Society (Mangawhai Museum) leases approx. one hectare of Mangawhai Community Park and has developed and constructed a modern museum facility on a part of the land they lease. The lease was granted by Council in 2009 to allow for the development of the Museum to commence and runs for an initial period of 13 years or 2022, with a right of renewal for a further 10 years.

- i. Council has adopted a Mangawhai Community Park Master Plan (Master Plan). One of the principles or objectives in the Master Plan is that, where possible, entrances and vehicle parking in the park become shared facilities maintained by Council. Currently there is a historical village (the Pioneer Village) under development on an area of the Mangawhai Community Park adjacent to the Museum. In accordance with the Master Plan, Council has already developed a shared parking facility on a portion of the land leased to the Mangawhai Historical Society Inc.

- ii. At its meeting on 26 September 2016 Council approved an initial partial surrender of a small portion of the lease as a way of facilitating the desired outcome of a shared entrance and parking for both the Museum and the Pioneer Village.

- iii. At its meeting of 14 November 2017, Council resolved the following:
 - 3 *Approves the Partial Surrender of the Lease by the Mangawhai Museum; and*
 - 4 *Approves the grant to the Mangawhai Museum of a non-exclusive licence to use the surrendered area for the use permitted in its lease; and*

- iv. The 2017 resolution was made by Council because at that time Mangawhai Museum wished to surrender all its leased area except for the footprint of its building and its curtilages. Once a surrender and variation document was finalised and executed Council would then have been responsible for the maintenance and potentially the upgrade of all existing carparks and grounds.

- v. This matter was considered by the Mangawhai Community Park Governance committee at its meeting of 6 September 2021. The Committee resolved to recommend that Council approve a new LTO for 35 Years and accepts a surrender of the previous lease. Concerns were raised regarding opportunities for how the remaining land could be used whilst continuing to provide access.

Discussion | Ngā kōrerorero

There have been ongoing discussions between Officers and Museum volunteers in the intervening years since the Council resolution was passed. Agreement on the terms of surrender and lease variation have now been concluded noting two key matters which frustrated completion of the negotiations:

1. The identification of the exact land area's that would be surrendered by the Museum.
2. The location of a building proposed to be constructed by Mangawhai Artists incorporated on land currently leased by the Museum.

Recently Officers and the Museum Society board have reached agreement on both these matters. A plan showing the agreed lease footprints of the Museum and Mangawhai Artists is appended to this report as Attachment A.

However, the Museum has now proposed that as well as addressing the above issues there is an opportunity to address the long-term tenure of the Museum at this time. They have proposed that to secure the Museum's future, that Council could grant a new LTO for a period of up to 35 years. A copy of an email from a representative of the Museum's board, Howard Johnson, requesting this new LTO and explaining the rationale is appended to this report as Attachment B.

At the recent meeting of the MCPGC several members voiced reservations regarding the length of tenure being proposed. The key concern was there be sufficient flexibility so that shared access and/or parking could be potentially developed in the future on land not utilised by the Museum building and/or any future extension. This concern has been discussed with the board.

To address these reservations, flexibility in respect of some of the currently leased area can be incorporated into the finalised LTO documentation.

Options

Option 1: That Council approves a new LTO for the Mangawhai Museum

Option 2: Status quo. Do not recommend that Council approves a new LTO.

The recommended option is **option 1**.

While up to 35 Years is a very long period for an LTO, the Historical Society have created a substantial Community asset which a credit to them and the Community. They operate the Museum without any direct financial support from Council. It's also unlikely that Council would want to play a greater role in managing the Museum and its operations in the foreseeable future. The terms of any LTO would require the Historical Society to maintain the building to an appropriate standard at their expense for the term of the licence, thereby eliminating this potential cost for Council.

Policy and planning implications

Council's Community assistance Policy provides for Community organisations to be provided tenure of Council land through a Licence to Occupy (LTO).). The RMA requires that a lease can be for no more than 35 Years unless a resource consent for a subdivision is obtained.

Financial implications

In addition to staff time there will be some legal costs incurred to document the surrender of the existing lease and finalising the terms of the new LTO, however these can be managed with existing budgets. Currently Council's practice is to only charge Community organisations peppercorn rental, but any new LTO would include provision to change this as long as it was consistent with any Community rents policy that may be adopted in future.

In its Email to Council requesting an LTO the \$100k loan that Council has provided the historical society was raised. This loan is interest bearing and repayment is due in 2022. There would need to be a separate report to Council on this matter, so its not considered a financial implication in relation to the request for an LTO.

Risks and mitigations

There is a risk that if a longer-term tenure isn't granted to the Mangawhai Historical Society, that they will not surrender the land that's been identified for the Mangawhai Artists, thereby creating possible challenges for the Artists aspirations to establish a new Community Arts centre.

Impacts on Māori

None have been identified.

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

Officers will finalise the details of the LTO and surrender documents with the Mangawhai Historical Society. These documents will then need to be executed by both parties.

Attachments | Ngā tapiritanga

	Title
A	Proposed Lease/Licence plan (ref 1708 revision 5).
B	Email of 16 July from Mangawhai Museum

