

Kellys Bay Improvement Society Inc License to Occupy Application

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

Purpose | Ngā whāinga

To seek approval of an application from the Kellys Bay Improvement Society for a License to Occupy (LTO) of the Kellys Bay Community Hall.

Executive summary | Whakarāpopototanga

The Kelly's Bay Improvement Society Inc (KBIS) have managed the land on part of the Kelly's Bay Reserve since at least March 2001. This included the management of a campground on the reserve as well as the Community Hall.

KBIS had a change in direction and decided to terminate their management agreement for the Kelly's Bay Reserve in late March 2023.

The Kellys Bay Improvement Society are keen to have an initial tenure of the Kellys Bay Community Hall and propose Council grant a License to Occupy for a period of 15 years with a right of renewal for a further term. The length of any further term to be determined closer to LTO renewal date.

The Council Community Assistance Policy provides for organisations to be provided a tenure of Council land through a License to Occupy.

As it's unlikely that Council would want to take back control of the Hall and its operations in the foreseeable future, officers are supportive of this proposal.

Recommendation | Ngā tūtohunga

That the Kaipara District Council:

- a) Approves a License to Occupy (LTO) to the Kellys Bay Improvement Society for the Kelly's Bay Community Hall, for a period of 15 years with first right of renewal for a further term; the length of term to be decided closer to LTO renewal date.
- b) Delegates the Chief Executive responsibility for finalising the terms and conditions of the LTO documents.

Context | Horopaki

The Kelly's Bay Improvement Society Inc (KBIS) have managed the land on part of the Kelly's Bay Reserve since at least March 2001. This included the management of a campground on the reserve as well as the Community Hall

In July 2022 KBIS had a change in direction, and informed KDC that they wished to terminate their management agreement of the Kelly's Bay Reserve as they no longer wanted to operate the campground. They indicated they wished to continue managing the hall and have now submitted an application for a License to Occupy (LTO) of the Kelly's Bay Community Hall.

Discussion | Ngā kōrerorero

Council staff have been working with the committee of the Kellys Bay Improvement Society since July 2022, and at a special meeting held on 22 April 2023, the community voted to move forward with a License to Occupy to retain the use of the hall, they proposed a 15-year tenure with a right of renewal. They believe this will allow them time to ascertain the level of use of hall, the committee requested that the Hall be referred to as the Kellys Bay Community Hub on all License to Occupy documents. The Hall is an asset for Kellys Bay and is well utilised by the community.

A site survey was completed in October 2022 and the area on which the Hall is situated, the License to Occupy agreement would include the Hall, existing tank and shed and a 1 metre curtilage around the building and fixtures. A copy of the site survey can be found in **Attachment A**.

Staff have considered the proposal and recommend that Council approve the application from Kelly's Bay Improvement Society.

Options

Option 1: That Council approves the License To Occupy (LTO) for the Kellys Community Hall Community Society and agrees KBIS be given first right of renewal for a further term with the length of further term to be determined closer to LTO renewal date.

Option 2: That Council does not approve the License To Occupy

The recommended option is **option 1**.

Options Assessment

Options	Advantages	Disadvantages
Approves the Kellys Bay Improvement Society License to Occupy Agreement	<ul style="list-style-type: none"> Provides an accessible multipurpose facility for the community and visitors. Provides a dedicated committee to oversee the Hall activities. Increased visitors to the area. Gives the community a sense of pride and ownership of the space. The Hall is well maintained. 	<ul style="list-style-type: none"> Should KBIS committee dissolve the Hall would divert back to Council responsibility. The KBIS committee will need to ensure that they have the funds to insure the building and meet any overheads costs.
Declines the Kellys Bay Improvement Society License to Occupy Agreement		<ul style="list-style-type: none"> No Facilities for people in the community A risk of the Hall not being maintained. The Hall not utilised to its full potential and connectivity reduced. Locals have to travel outside the area for recreational activities. Community pride diminished. The Hall been removed and sold.

Policy and planning implications

A License to Occupy is an agreement for a not-for-profit community organisation to locate in or use Council- owned land, or a Council-owned building. The facilities and activities of the organisation applying for a License to Occupy must be available to members of the public. Applicants must demonstrate the organisation has the resources or ability to establish and operate on the land or in the building they been granted the license over. Council use a standard formal license which has

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

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

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

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

The Council's Community Halls Policy 2005 provided guidance on halls being transferred from a Council asset to community ownership, but this has since been superseded by the Community Assistance policy.

Financial implications

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

Risks and mitigations

There is a risk that if a LTO is granted to the Kellys Bay Community Hall Society that they will need to ensure that they have the resources to meet their overheads, i.e., replacement value insurance. In the event of an adverse situation resulting in damage or loss of the hall where the society hadn't arranged insurance the community may look to Council to rebuild the Hall. To manage this risk, council will require the Society to provide confirmation of its insurance annually.

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

Staff will finalise the details of the License to Occupy Agreement with Kellys Bay Improvement Society. These documents will then be executed by both parties.

Attachments | Ngā tapiritanga

	Title
A	Kellys Bay Community Hall Site Survey
B	License to Occupy template
C	Community Assistance Policy