

**GRANTING OF A PREMISES LEASE TO NEW ZEALAND  
AFFORDABLE ARTS TRUST OVER 5 LYALL BAY PARADE,  
LYALL BAY**

**1. Purpose of report**

To recommend the Committee approves the granting of a premises lease to the New Zealand Affordable Arts Trust over Council owned land known as 5 Lyall Bay Parade, Lyall Bay (outlined in red on Appendix 1).

**2. Executive summary**

The New Zealand Affordable Arts Trust has held a premises lease over land known as 5 Lyall Bay Parade, Lyall Bay with the Council since 2007. The lease expires on 30 September 2012.

The land is classified as fee simple land but is treated by Council as local purpose reserve. The land is currently in the process of being classified accordingly.

A premises lease would be granted in accordance with Section 61(2)(a) of the Reserves Act 1977.

This report recommends the Committee grants a premises lease for a five year term with a five year right of renewal.

**3. Recommendations**

Officers recommend that the Regulatory Processes Committee:

1. *Receive the information.*
2. *Agree subject to the terms and conditions noted below, the granting of a premises lease to the New Zealand Affordable Arts Trust in accordance with the Reserves Act 1977.*
3. *Note that the terms of the lease are as follows:*
  - Location: 5 Lyall Bay Parade, Lyall Bay*
  - Term: Five years with a five year right of renewal*
  - Annual Rental: \$134.00 per annum plus GST*
  - Rent Review: If the proposed rental model and maintenance fee structure outlined in the draft Leases Policy for Community and Recreation Groups is adopted, the New Zealand Affordable Arts Trust will be required to pay a rental of \$171.20 per annum plus GST and will be subject to the maintenance fee structure as at the date the Policy is adopted.*

4. *Note that any approval to grant the lease is conditional on:*
- (i) appropriate consultation with Iwi being completed;*
  - (ii) the lease being publicly notified in accordance with section 119 and 120 of the Reserves Act 1977;*
  - (iii) there being no sustained objections resulting from the abovementioned consultation or notification; and*
  - (iv) the legal and advertising costs associated with preparing the lease is met by the Lessee.*
5. *Agree that Council officers will finalise and negotiate the lease details.*

#### **4. Background**

The New Zealand Affordable Arts Trust (Trust) has held a lease over the land and building known as 5 Lyall Bay Parade, Lyall Bay (outlined in red on Appendix 1) since 2007.

The Trust was formed in 2004 with its objective being to facilitate, promote, educate and foster support for new, emerging and established New Zealand artists. The Trust's main operation is the annual New Zealand Art Show held in Wellington since 2004. The Trust also provides advice to thousands of artists and provides major awards and scholarships (for example, a \$15,000 artist in residence grant, a \$5,000 signature piece art award, a wine label design award and awards to emerging artists from Massey School of Fine Arts, Elam School of Fine Arts, Canterbury University and Otago Polytechnic.

The Trust is a registered charitable trust and is governed by eight trustees and two full time staff who manage and administer the Trust's activities.

Originally the building was used by the Trust to run a gallery promoting local artists by providing a space to showcase their artwork. A part of the building was also used as office space for the Trust.

In 2009 when the Maranui Surf Life Saving Club Incorporated (Maranui) had a fire, the Trust made its building available to the surf club so that it could store its salvaged items and run the nippers programme. At this time the Trust was offered free office space in the city. The Trust has been using the city site as its office since then and the leased building has been used as an artist run open studio/gallery space for local artists who are overseen by the Trust.

Moving forward, the Trust intends making the building available as an exhibition space for artists in the early stages of their careers. The Trust will take a modest commission of 15% from artists who sell their art works from the gallery to cover exhibition costs.

The Trust is also planning to move their office out of the city and move back into the building.

The Trust has plans to undertake works to the interior of the building at its cost in order to make it an attractive, usable space for the Trust's purposes.

The land is classified as fee simple but is treated by Council as local purpose reserve and managed under the South Coast Management Plan and the Reserves Act 1977 (Reserves Act). The land is currently in the process of being classified as local purpose reserve.

The leased area is 107m<sup>2</sup> and is legally described as Part Lot 3, Deposited Plan 2456 and is contained in Computer Freehold Register WN428/268.

## **5. Considerations when assessing a new lease**

### **5.1 Leases Policy for Community and Recreation Groups**

An application for a lease is made under the Council's Leases Policy for Community and Recreation Groups (Leases Policy) and is subject to assessment under its criteria.

Appendix one of the Leases Policy requires officers to assess new lease applications against the following criteria:

- strategic fit;
- activity sustainability;
- optimal use of resources;
- environmental impact;
- a demonstrated need from the community; and
- the need for a lease.

An assessment of the Trust and how it fits within these criteria is outlined in section 6.

The granting of a lease to the Trust is consistent with the provisions of the Council's Leases Policy.

### **5.2 Legislation**

The land at 5 Lyall Bay Parade, Lyall Bay is classified as fee simple but is treated by Council as local purpose reserve and managed in accordance with the South Coast Management Plan and the Reserves Act.

A lease is appropriate as the Trust has exclusive use of the land.

Sections 119 and 120 of the Reserves Act set out the requirement for public notification of any lease on reserve land. The granting of the lease is subject to there being no sustained objections from any party.

## 6. Discussion

### 6.1 Assessment

The proposed lease for the Trust has been assessed against the criteria set out in the Leases Policy. Please see a summary of this assessment below:

| <b>Criteria</b>   |   | <b>Assessment</b>  |
|---|---|--|
| <b>Strategic Fit</b>                                      | <b>Social &amp; Recreation Strategy</b> | The Trust's activities are consistent with other permitted activities on local purpose reserve land and satisfy the criteria of recreational/community use.  |
| <b>Activity Sustainability</b>                            | <b>Membership</b>                       | The Trust has held a lease over the land at 5 Lyall Bay Parade, Lyall Bay since 2007. The Trust is governed by eight trustees and two full time staff who manage and administer the Trust's activities. The Trust has approximately 4,000 New Zealand artists registered on their database and has many patrons and 'friends' members.                               |
|   | <b>Financial Position</b>               | The Trust's financial position is satisfactory. A substantial amount of funding is generated through artist's application fees and shows, commissions on art sales, 'Friends' memberships, sponsorships, grants and ticket sales from the annual New Zealand Art Show.   |
| <b>Use of Resources</b>                                   | <b>Land Utilisation</b>                 | The Trust intend on utilising the building fully by having the gallery open five days a week from Tuesday to Saturday from 10.00am to 4.30pm. The building will also be used for the purposes of an office for the Trust.  |
| <b>Environmental Impact</b>                               | <b>Location</b>                         | The activity does not have the potential to adversely affect open space values.  |
| <b>Demonstrated Need &amp; Support from the Community</b> | <b>People</b>                           | The Trust's main operation being the annual New Zealand Art Show showcases thousands of artworks by hundreds of New Zealand artists and is the largest exhibition of its kind. It has sold around \$6 million dollars worth of art, returning over \$5 million dollars back to artists, making the show a significant contributor to the New Zealand arts community. |

|                         |                   |   |
|-------------------------|-------------------|---|
|                         |                   | The show has been instrumental in launching some part time artists into full time careers, some winning highly recognised art awards and many going on to participate at an international level.<br>The Trust has approximately 4,000 New Zealand artists registered on their database. |
| <b>Need for a Lease</b> | <b>Capability</b> | A lease is appropriate as the Trust will have exclusive use of the land as outlined in red on Appendix 1.   |

## **6.2 Lease Rental**

The lease rental has been assessed in accordance with the rental framework outlined in the Leases Policy. The annual rent has been assessed at \$134.00 per annum plus GST.

If the proposed rental model in the draft leases policy is adopted, the Trust's rental will increase from \$134.00 per annum plus GST to \$171.20 per annum plus GST. As the Trust is subject to a premises lease, the maintenance fee structure will also be applied if adopted. This will mean that the Trust will be required to pay for a percentage of costs (as outlined in the proposed leases policy) relating to scheduled maintenance, reactive maintenance, building compliance and exterior renewals.

## **6.3 Lease Tenure**

The Leases Policy for Community and Recreation Groups allows for a lease to be granted for a 10 year term with a 10 year right of renewal.

Officers recommend granting an initial term of five years with a five year right of renewal.

## **7. Conclusion**

The New Zealand Affordable Arts Trust has demonstrated that it is a good fit with the Council's strategic direction and existing policies. The New Zealand Affordable Arts Trust utilises the land to a satisfactory standard. The Trust's financial position will enable it to fulfil its lease obligations.

Council officers recommend that the Regulatory Processes Committee approves the granting of a ground lease to the New Zealand Affordable Arts Trust.

Contact Officer: *Hanita Shantilal, Senior Property Advisor, Property Management, Paul Andrews, Manager Parks & Gardens*

## SUPPORTING INFORMATION

### 1) Strategic fit / Strategic outcome

*The Leases Policy for Community and Recreation Groups supports Council's role as a facilitator of recreation partnerships and provider of recreation services. The recreational activities that will be provided by the New Zealand Affordable Arts Trust will contribute to the outcome of 'offering a diverse range of quality recreation and leisure activities' (see outcome 7.1 Recreation Opportunities).*

### 2) LTP/Annual Plan reference and long term financial impact

*There is no financial impact.*

### 3) Treaty of Waitangi considerations

*No Treaty implications have been identified.*

### 4) Decision-making

*This is not considered a significant decision.*

### 5) Consultation

#### a) General consultation

*Public consultation will be undertaken in accordance with the Reserves Act 1977.*

#### b) Consultation with Maori

*Iwi will be consulted.*

### 6) Legal implications

*The lease will be subject to the provisions of the Reserves Act 1977.*

### 7) Consistency with existing policy

*The provisions of the lease are consistent with the Leases Policy for Community and Recreation Groups.*