

**Dated**

**2016**

**DRAFT**

**DEED OF LICENCE TO OCCUPY**

**Council  
CHRISTCHURCH CITY COUNCIL**

**Licensee  
THE LITTLE RIVER WAIREWA COMMUNITY TRUST**



CIVIC OFFICES • 53 HEREFORD STREET • PO BOX 73013 • CHRISTCHURCH  
NEW ZEALAND • TELEPHONE (03) 941-8999 • FAX (03) 941-6441



## TERM

3. The term of this Licence will be a period of commencing on 16 January 2012 ("Commencement Date") and expiring on the date that a code compliance certificate for the Community Building is issued, with no right of renewal.

## RENTAL

4. During the term of this Licence the Licensee shall pay to the Council an Annual Licence Fee of \$1 per annum excluding Goods and Services Tax.

## COSTS

- 5 The Licensee must pay to the Council on demand all reasonable costs (including legal costs), charges and other expenses incurred by the Council of and incidental to:
  - (a) the negotiation, preparation and execution of any variation or surrender of this Licence;
  - (b) the Council remedying the Licensee's breach of any term of this Licence;
  - (c) the Council's exercise or attempted exercise or enforcement of any power, right or remedy conferred on the Council by this Licence; and
  - (d) the consideration and approval (if given) of any proposals made to the Council by the Licensee in respect of this Licence.

## LICENSEE'S OBLIGATIONS

- 6.1 Subject to the provisions of this Clause 6 the Licensee shall not carry out any building work on the Property without first providing plans and specifications of the proposed work to the Council and:
  - (a) obtaining the prior written approval of the Council; and
  - (b) obtaining and providing the Council with a copy of all regulatory Consents required to enable the relevant building work to be lawfully carried out.
- 6.2 The Licensee shall:
  - (a) carry out all building work in conformity with the regulatory consents produced to the Council under clause 6.1 (b)
  - (b) obtain a Code Compliance Certificate on completion of any building work.
- 6.3 The Licensee shall:

- (a) use best endeavours to complete the Community Building and to have a code compliance certificate issued in respect of it at the earliest opportunity.
- (b) comply with the terms of all permits, consents, statutes, orders, regulations and by-laws relating to the use of the Property by the Licensee.
- (c) maintain a Public Liability Insurance Policy in a sum not less than \$2,000,000.00 (or such other sum as the Council may approve) in the joint names of the Council and the Licensee during the term of this Licence and deliver a copy of the Policy and evidence of the payment of the premiums due to the Council upon demand.

## **INDEMNITY**

7. The Licensee will occupy the Property entirely at its own risk in all things and agrees to absolutely indemnify and keep the Council indemnified from and against all costs, claims, expenses, damages, actions and proceedings however arising in respect of or in connection with the granting of this Licence, or any other thing or circumstances relating to it.

## **SIGNS**

8. The Licensee shall not erect or place any signs or advertisements on the Property or any other structure or other improvement erected upon the Property without the consent of the Council (which consent may be granted or refused at the discretion of the Council).

## **ASSIGNMENT**

9. The Licensee shall not assign or otherwise part with or dispose of its interest under this Licence.

## **EARLY TERMINATION**

10. If the Community Building has not been completed and a code compliance certificate issued within one (1) year of the date of this Licence, then at any time thereafter the Council may terminate this Licence by giving the Licensee one calendar months' notice in writing of such termination. Any such termination of this Licence shall be deemed to be made without prejudice to the Council's remedies in respect of any earlier breach by the Licensee of its obligations under the Licence.

## **REMEDIES ON DEFAULT**

11. If at any time during the term of this Licence the Licensee is in breach of its obligations under this Licence then the Council may at any time upon reasonable notice (and in the case of emergency without notice) enter upon the Property, by its employees and contractors with all

necessary equipment and material to execute such works as may be necessary to rectify such breach. Any moneys expended by the Council in executing such works shall be payable by the Licensee to the Council upon demand.

12. Any sum of money due to the Council under the terms of this Licence which is not paid on the due date for payment, or where there is no due date is not paid to the Council upon demand, shall bear interest at the default interest rate specified in clause 14 from the due date or from the date of demand, down to the date of payment. Interest shall continue to accrue both before and after judgement, and before and after any cancellation (including a cancellation under clause 11 or 15).
13. For the purposes of this Licence the “default interest rate” shall be a rate of interest equal to the Bank of New Zealand base rate at the due date for payment or the date of demand plus 5%.
14. Notwithstanding clause 10 the Council may (in addition to the Council's right to apply to the Court for an order for possession) cancel this Licence by re-entering the Property at the time or any time afterwards if:
  - (a) any instalment of the Annual Licence Fee is in arrears for ten (10) working days (as that term is defined in the Property Law Act 2007) after the due date for payment, or the date of the Council's demand (if there is no due date), and the Licensee has failed to remedy that breach within ten (10) working days (as that term is defined in the Property Law Act 2007) after service on the Licensee of a notice in accordance with section 245 of the Property Law Act 2007;
  - (b) the Licensee fails to perform or observe any of the Licensee's obligations under this Licence (other than the covenant to pay the Licence Fee) and the Licensee has failed to remedy that breach within the period specified in a notice served on the Licensee in accordance with section 246 of the Property Law Act 2007;
  - (c) execution is levied against any of the Licensee's assets;
  - (d) the Licensee is declared bankrupt or insolvent according to law or assigns the Licensee's estate or enters into a composition or scheme of arrangement for the benefit of all or a class of the Licensee's creditors;
  - (e) the Licensee, being a company:
    - (i) goes into liquidation (other than a voluntary liquidation for the purposes of reconstruction or amalgamation approved in writing by the Council);

- (ii) is wound up or dissolved; or
  - (iii) is declared to be subject to statutory management under the Corporations (Investigation and Management) Act 1989;
  - (f) a receiver or manager is appointed of any of the assets of the Licensee,
  - (g) the Licensee has an application made to a court for, or a resolution proposed for, or any other step is taken in anticipation of, the appointment of an administrator or has an administrator appointed; or
  - (h) the Licensee assigns or attempts to assign this Licence, or sub-licenses or attempts to sub-license all or any of the rights under this Licence.
15. No consent or waiver, expressed or implied, by the Council to or of the Licensee's breach of any term of this Licence will be construed as a consent or waiver to or of any other breach of that or any other term of this Licence. The Council's failure to exercise any of the Council's rights relating to the Licensee's breach will not constitute a waiver of that breach.
16. If the Council cancels this Licence under clause 14, then:
- (a) the Licensee will be treated as having breached an essential term of this Licence;
  - (b) the Licensee must compensate the Council for the Council's losses which arise as a result of cancellation following the Licensee's breach;
  - (c) the Council may recover damages for that breach;
  - (d) the Licensee must compensate the Council for the loss of benefits (including receipt of the Licence Fee) which the Council would have received if not for the cancellation, and the Council's entitlement to damages will include this loss; and
  - (e) subject to clause 17(d), this Licence and the parties' respective rights and obligations under this Licence will cease from the date of cancellation, but without prejudice to any rights which have accrued up to the date of cancellation.
17. If the term of this Licence, is terminated pursuant to clauses 10 or 14, the Licensee shall, if required by the Council and at the expense of the Licensee in all things, remove the Community Building and any structure or other improvements made by the Licensee on the Property. All or any damage made to the surface of the Property as a consequence of such removal shall be immediately repaired by the Licensee at its own expense.

18. If within sixty (60) working days (as that term is defined in the Property Law Act 2007) of the expiry of the term of this Licence, (whether by the passage of time or termination) the Licensee has failed or neglected to remove any structure or other improvements from the Property then the Council shall be entitled to remove the same and any money expended by the Council in such removal shall be payable by the Licensee to the Council upon demand.

## LESSOR'S RIGHT OF ENTRY

19. The Licensee acknowledges that the Council, together with their agents and servants, will have the right at any time to enter upon the Property for the purpose of inspecting the Property and undertaking any work in respect of the same.

## DISPUTES

20. Any dispute relating to or arising out of this Licence will be submitted to the arbitration of the single arbitrator, if one can be agreed upon by the parties. If the parties are unable to agree upon the employment of an arbitrator within fifteen (15) working days (as that term is defined in the Property Law Act 2007) of receipt of notification of the desire of the party to have the dispute arbitrated, the dispute will be submitted to the arbitration of a single arbitrator to be appointed by the President for the time being of the New Zealand Law Society. Any arbitration in terms of this clause will be carried out in accordance with the Arbitration Act 1996 or any re-enactment or modification of that Act.

## NOTICES

- 21.1 Any notice or document required or authorised to be given or served under this Licence may be given or served:
- (a) in the case of a notice under sections 245 or 246 of the Property Law Act 2007, in the manner prescribed by section 353 of that Act 2007; and
  - (b) in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007;
    - (i) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or
    - (ii) by personal delivery, or by posting by registered mail or ordinary mail, or by facsimile, or by email.
- 21.2 In respect of the means of service specified in clause 21.1(b)(ii) any notice or other document will be treated as given or served and received by the other party:
- (a) when received by the addressee;

- (b) three (3) working days (as that term is defined in the Property Law Act 2007) after being posted to the addressee's last known address in New Zealand;
- (c) on completion of an error free transmission, when sent by facsimile; or
- (d) when acknowledged by the addressee by return email or otherwise in writing.

21.3 Any notice or document to be given or served under this lease must be in writing and may be signed by:

- (a) the party giving or serving the notice;
- (b) any attorney for the party serving or giving the notice; or
- (c) the solicitor or any director, officer, employee or other agent who has authority to give or serve the notice.

## **THE COUNCIL ACTING AS TERRITORIAL AUTHORITY**

22. The Licensee acknowledges that:

- (a) The Council, in its capacity as a territorial authority, is required to carry out its statutory functions under the Resource Management Act 1991 and the Local Government Act 1974 and the Local Government Act 2002 in accordance with the provisions of those statutes.
- (b) The granting by the Council of any consent or approval by the Council as territorial authority under either of those Acts will not of itself be deemed to be a consent or approval by the Council under this Licence.
- (c) The Council is bound by statutory obligations to exercise its powers, including discretionary powers and duties under either of those Acts without regard to any relationship it may have with the Licensee under this Licence.
- (d) The Council will not be liable to the Licensee or any other party if, in its regulatory capacity, the Council declines or imposes conditions on any consent or permission that the Licensee or any other party seeks for any purpose associated with this Licence.

## **NO LEASE**

23. The Licensee acknowledges that:

- (a) the Licensee's rights under this Licence are in personam rights only; and

- (b) the granting of this Licence does not create a lease or an interest in the Property or otherwise confer on the Licensee any rights of exclusive possession of the Property.

The Licensee must not register a caveat over the Computer Freehold Register to the Property relating to the Licensee's interest under this Licence.

## SUITABILITY OF THE PROPERTY

- 24.1 The Council does not warrant that the Property is or will remain suitable or adequate for the Licensee's purposes. All warranties as to suitability and adequacy implied by law are expressly negated to the full extent permitted by law.
- 24.2 The Council is not responsible for providing any safety measures to protect any fixtures, fittings or equipment from water damage, fire, explosion, storm, hazard or potential hazard.
- 24.3 The Licensee acknowledges that the Licensee:
  - (a) is satisfied that the Licensee will receive the benefits anticipated by the Licensee under this licence (having regard to the restrictions set out in this licence); and
  - (b) has not relied on any statement or representation by the Council.
- 24.4 If the benefit of any of the Licence Rights is permissible only with an Authority's consent or with an order of a tribunal or court, the Licensee must obtain that consent or order at the Licensee's own cost.

## INSURANCE

- 25.1 Licensee to Insure: The Licensee must at all times during the Term:
  - 25.1.1 Licensee's Improvements: insure and keep the Licensee's Improvements insured to their full insurable value against the Insured Risks; and
  - 25.1.2 Pay Premiums: pay the premium for the insurance taken out under clause 25.1.1 when due.
- 25.2 Section 271 Property Law Act 2007: For the purposes of section 271 of the Property Law Act 2007, the Licensee acknowledges and agrees that:
  - 25.2.1 Property Not Insured: the Licensor has not insured the Property against destruction or damage arising from fire, flood, explosion, lightning, storm, earthquake or volcanic activity; and
  - 25.2.2 Licensee to Make Good: the Licensee, subject to the provisions of section 271(2)(a) – (c) of the Property Law Act 2007, will meet the cost of making good any destruction or damage to the Property and indemnifies the Licensor against the cost of doing so should the Licensee default in that obligation.

## GIFT OF COMMUNITY BUILDING TO COUNCIL

- 26 Upon the completion of the work to build the Community Building and the issue of a Code Compliance Certificate in respect of such work the Licensee agrees to gift, and does hereby gift, and transfer for nil consideration free of all charges or encumbrances the completed Community Building to the Council.

**DRAFT**

In witness of which this Deed has been executed

**THE COMMON SEAL** of the )  
**CHRISTCHURCH CITY COUNCIL** )  
was affixed in the presence of: )

\_\_\_\_\_ Mayor/Councillor

\_\_\_\_\_ Authorised Officer

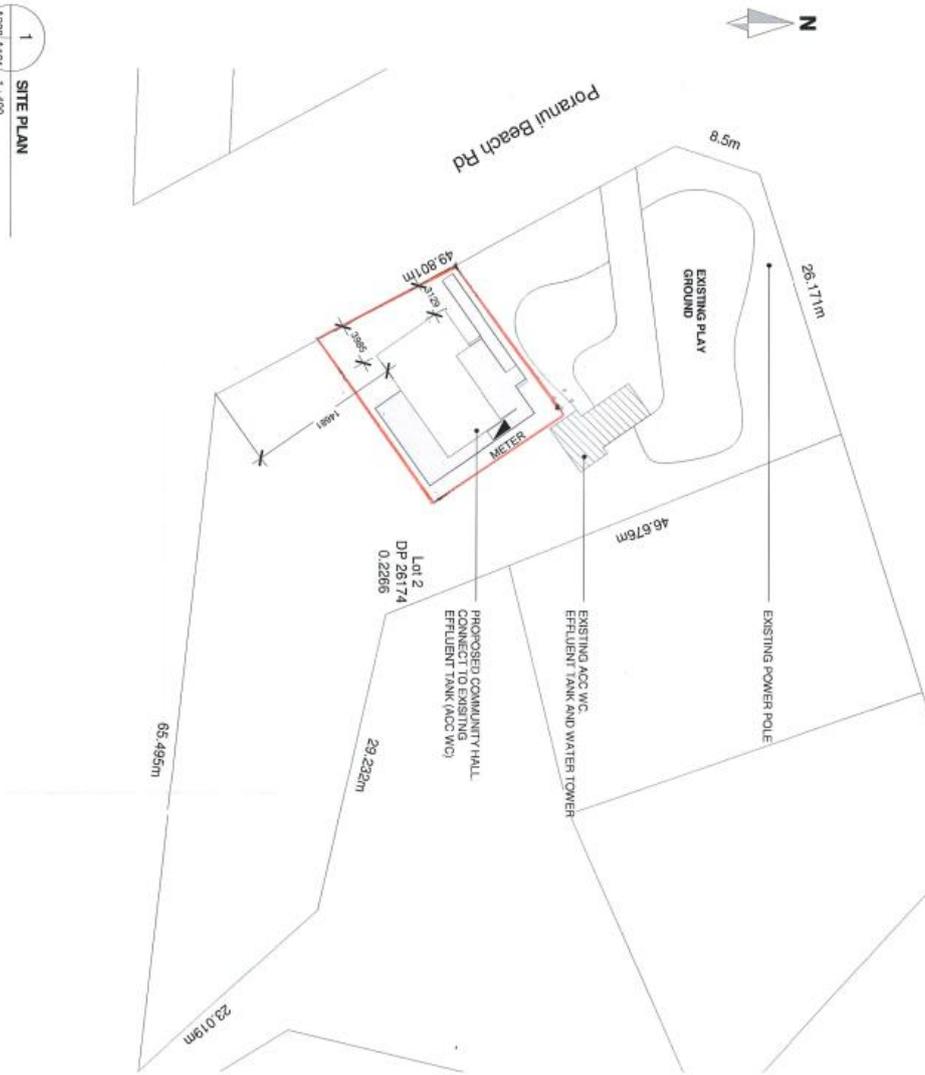
**THE COMMON SEAL** of )  
**THE LITTLE RIVER WAIREWA** )  
**COMMUNITY TRUST** )  
in the presence of: )

\_\_\_\_\_ Authorised Signatory

\_\_\_\_\_ Authorised Signatory

FLOOR SCHEDULE			
Type	Area	Description	
2nd FLOOR	18.41 m <sup>2</sup>	COMMUNITY HALL	
DECK	64.01 m <sup>2</sup>	DECK	
Overall total 2	145.42 m <sup>2</sup>		

KEYNOTE LEGEND	
Key Value	Keynote Text



1 SITE PLAN  
A101 / 1:400

**INOVO PROJECTS**  
 Pty. 08 377 3290  
 16 Bordenham, Sydneyham,  
 Queensland 4803  
 PO Box 7069 Sydneyham 4840

**PROPOSED COMMUNITY HALL - 12.08.14**  
 BIRDINGS FLAT

**SITE PLAN**  
 Contractor to obtain all existing services & verify all dimensions before commencing work

Design	Drawn	QA Check
Scale @ A3	K.M.E.D.	SE
As indicated	14/07/2014	10014

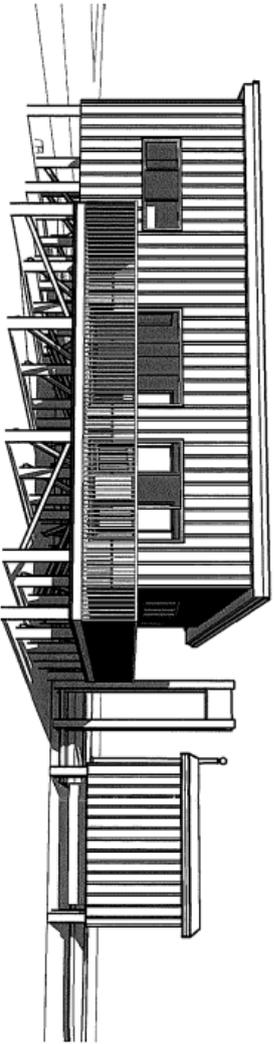
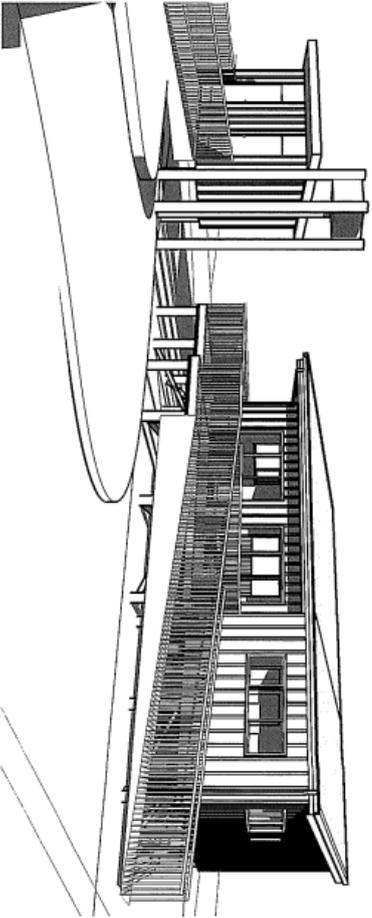
**A101**

**GENERAL**  
 HEIGHT (max. m) : 10.0  
 SETBACKS : COMPLIANT  
 RECESSION PLANES : COMPLIANT (2-4.5)  
 ZONING CODE : SH9/2011  
 WIND ZONE : VERY HIGH  
 WIND SPEED : 100  
 EXPOSURE ZONE : 2  
 EARTHQUAKE ZONE : D  
 SNOW ZONE : NA

**NOTES**  
 LEVEL 1 (over hall) : 1000  
 EXISTING W/C : 1000  
 SITE DISTANCE (100m) : 90

**SET OUT NOTES**  
 All set out dimensions are in horizontal plane and do not take into account varying ground levels.

# DRAFT



DRAWING LIST

Sheet Number	Sheet Name	Issue 1 - P/M	Issue 2
A100	COVER SHEET	18.05.2014	
A101	SITE PLAN	18.05.2014	
A102	FLOOR PLAN	18.05.2014	
A103	FOUNDATION/ELE. PLAN	18.05.2014	
A104	ROOF PLAN		
A105	FOUNDATION/FRAMING PLAN		
A106	ELEVATIONS	18.05.2014	
A200	SECTION 1	18.05.2014	
A201	SECTION 2	18.05.2014	
A202	SECTION 3	18.05.2014	
A203	DETAILS - ROOFING		
A204	DETAILS		

**INOVO PROJECTS**  
 Ph. 03 977 3290  
 118 Kentfield St. Sylvania,  
 Chisholm 2023  
 PO Box 7059 Sylvania 2240

**PROPOSED COMMUNITY HALL - 12.08.14**  
 BIRDINGS FLAT

**COVER SHEET**

Drawn: SHJ/DA  
 Check: AJ  
 Date: 14/07/2014  
 Scale: 1:100

**A100**

Disclaimer: The documents that are prepared by the applicant have been prepared for the use of the applicant only. They are not to be used for any other purpose without the written consent of the applicant.

