

Between

THE FAR NORTH DISTRICT COUNCIL (Lessor)

And

AUPOURI NGATI KAHU-TE RARAWA TRUST (274324) (Lessee)
the umbrella organisation for OPEN THE CURTAINS (OTC)

DEED OF LEASE

Part Old Land Claim No.7 CFR NA530/132
and shown Recreation Reserve on Deeds Plan 108
Tangonge Domain Recreation Reserve, Bonnett Road, Kaitaia

Far North District Council
Kaikohe



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THIS DEED dated the 1st day of September 2018

BETWEEN THE FAR NORTH DISTRICT COUNCIL a body corporate pursuant to the Local Government Act 2002 (hereinafter together with its successors and assigns ("the Lessor"))

AND AUPOURI NGATI KAHU-TE RARAWA TRUST (274324) incorporated under the Charitable Trusts Act 1957 on the 23rd day of May 1985 ("the Lessee")

BACKGROUND

- A. the Lessor agrees to lease to the Lessee the reserve land described in Schedule 1 ("the Land") and shown outlined on the plan annexed hereto (Appendix 1)
- B. The Lessee is the umbrella organisation for the community group known as Open the Curtains (OTC)
- C. OTC has produced an "Operational Management Plan" annexed hereto (Schedule 2) which sets out how it will fulfil its responsibilities under this Lease in respect of the Land and Building

THE PARTIES AGREE:

1. INTERPRETATION

In this agreement unless the context indicates otherwise:

1.1 Definitions:

"Annual Rent" means the annual rent specified in the schedule subject to changes consequent on the Lessor's exercise of any right to review the annual rent or on the Lessee's exercise of any right to renew this lease;

"Authority" means and includes every governmental, local, territorial and statutory authority having jurisdiction or authority over the Land or its use;

"Building" means the building and other improvements described in the schedule;

"Commencement Date" means the date of commencement of the Lease specified in the schedule;

"GST" means tax charged under the Goods and Services Tax Act 1985 and includes any tax charged in substitution for that tax;

"Insured Risks" means loss, damage or destruction resulting from fire, earthquake, storm, tempest and aircraft impact and any other risks which the Lessor reasonably requires to be insured against;

"Lessee" means the person specified as the Lessee in the Schedule and the Lessee's permitted assigns and the Lessee's agents, employees, contractors and invitees;

"Lessee's Improvements" means the Lessee's property situated in or on the Land and includes all buildings, structures and improvements and all equipment and plant owned or placed on the Land by the Lessee;


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"Lessor" means person specified as the Lessor in the schedule and includes the Lessor's permitted assigns and Lessor's agents, employees, contractors and invitees;

"Outgoings" means all rates, taxes, charges, assessments, duties, impositions and fees from time to time payable to any Authority relating to the Land;

"Land" means the land described in the schedule and shown on the plan attached to this lease but excludes the Lessee's Improvements;

"Term" means the term of this lease and includes the initial term and (if this lease is renewed) the renewal;

"Utilities" means all utility and other services connected and/or supplied to the Land, including water, sewage, drainage, electricity, gas, telephone and rubbish collections;

- 1.2 **Building Act Terms:** the terms "Building Work" and "Code Compliance Certificate" have the meanings given to those terms in the Building Act 2004;
- 1.3 **Defined Expressions:** expressions defined in the main body of this lease have the defined meaning in the whole of this lease, including the background and the schedules;
- 1.4 **Headings:** section, clause and other headings are for ease of reference only and do not form any part of the context or affect this lease's interpretation;
- 1.5 **Joint and Several Obligations:** where two or more persons are bound by a provision in this lease, that provision will bind those persons jointly and each of them severally;
- 1.6 **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- 1.7 **Parties:** references to parties are references to parties to this agreement and include each party's executors, administrators and successors;
- 1.8 **Persons:** references to parties are references to individuals, companies, partnerships, associations, trusts, government departments and local authorities in each case whether or not having separate legal personality;
- 1.9 **Plural and Singular:** singular words include the plural and vice versa;
- 1.10 **Schedules:** the schedule and its contents have the same effect as if set out in the body of this lease;
- 1.11 **Schedule Terms:** the terms "Commencement Date", "Default Interest Rate", "Final Expiry Date", "Initial Term", "Permitted Use", "Renewal Term(s)", "Rent Payment Date(s)", "Rent Review Date(s)" and "Termination Date" together with the other terms specified in the schedule, will be interpreted by reference to the schedule;
- 1.12 **Sections, Clauses and Schedules:** references to sections, clauses and schedules are references to sections and clauses of and schedules to this deed;
- 1.13 **Statutes and Regulations:** references to a statute include references to regulations, orders, rules or notices made under that statute and references to a statute or regulation include references to all amendments to that statute or regulation whether by subsequent statute or otherwise.



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2. GRANT OF LEASE

Pursuant to sections 53 and 54 of the Reserves Act 1977, the Lessor leases to the Lessee and the Lessee takes the Land on lease for the Term beginning on the Commencement Date and ending on the Termination Date at the Annual Rent.

3. RENEWAL

3.1 **One further period of five (5) years** provided the Lessor is satisfied that the terms and conditions of the lease have been complied with and that there is sufficient need for the recreational activity specified in the lease, and further that it is in the public interest to renew the lease and not in the public interest that some other sport, game, or recreational activity be given priority.

3.2 **Holding Over:** If, other than under a renewal of this lease or the grant of a further lease, the Lessor permits the Lessee to remain in occupation of the Land after the expiry or earlier termination of the Term, the Lessee will be a monthly tenant only.

4. RENT

The Lessee must pay:

4.1 **Annual Rent:** the Annual Rent by annual payments in advance on the Rent Payment Dates;

4.2 **Annual Payments:** the first annual payment of the Annual Rent on the Commencement Date;

4.3 **No Deductions or Set-Off:** all rent and other money payable by the Lessee under this lease to the Lessor without any deduction or set-off; and

4.4 **Method:** all rent payments by direct bank payment or as the Lessor may direct.

5. RENT REVIEW

5.1 **Process:** The Annual Rent is subject to review on the Rent Review Dates using the process set out in clauses 5.2 – 5.4 (inclusive) during the Term.

5.2 **Lessor's Notice:** The Lessor may not later than two (2) months before each Rent Review Date give written notice to the Lessee ("Lessor's Notice") setting out the Lessor's assessment of the current rent of the Land on that particular Rent Review Date.

5.3 **Lessee's Notice:** The Lessee may within 28 days of receiving the Lessor's Notice (time being of the essence) by written notice to the Lessor (Lessee's Notice) dispute the rent set out in the Lessor's Notice. The Lessee's Notice must state the Lessee's assessment of the current rent of the Land on that particular Rent Review Date. If the Lessee does not give a Lessee's Notice, the Lessee will be taken to have accepted the rent set out in the Lessor's Notice.

5.4 **Determination of dispute:** If at any time the parties shall be unable to agree upon the rent to become payable following each Review, the appropriate rent shall be determined pursuant to clause 25 hereof.

5.5 **Rent Ratchet:** The Annual Rent payable by the Lessee following a Rent Review Date must never be less than the Annual Rent payable immediately before the Rent Review Date.

6. GST

6.1 Payment: The Lessee must pay to the Lessor all GST payable on the Annual Rent and other money payable by the Lessee under this lease. The Lessee must pay GST:

6.1.1 Annual Rent: on the Annual Rent on each occasion when any rent falls due for payment; and

6.1.2 Other Money: on any other money payable by the Lessee on demand.

6.2 Default: If:

6.2.1 Lessee Fails to Pay: the Lessee fails to pay the Annual Rent or other money payable under this lease (including GST); and

6.2.2 Lessor Liable to Penalty: the Lessor becomes liable to pay additional GST or penalty tax;

then the Lessee must pay the additional tax or penalty tax to the Lessor on demand.

7. DEFAULT INTEREST

If the Lessee fails to pay any instalment of the Annual Rent or any other money payable under this lease for 14 days after:

7.1 Date Due: the due date for payment; or

7.2 Demand: promptly following the date of the Lessor's demand, if there is no due date;

Then the Lessee must on demand pay interest at the Default Interest Rate on the money unpaid from the due date or the date of the Lessor's demand (as the case may be) down to the date of payment.

8. OUTGOINGS

8.1 Lessee to Pay Outgoings: The Lessee must on demand by the Lessor pay the Outgoings without deduction or set-off. If any Outgoing is not separately assessed on or charged to the Land or Building, the Lessee must pay a fair and reasonable proportion of that Outgoing.

8.2 Apportionment: Any Outgoing which is not assessed or charged for a period falling wholly within the Term will be apportioned between the Lessor and the Lessee.

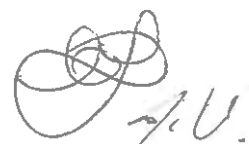
8.3 Penalties: If any Outgoing is payable by a date after which a penalty applies, the Lessee will comply with clause 8.1 if the Lessee pays that Outgoing at least five (5) days before the penalty date.

9. UTILITY CHARGES

9.1 Lessee to Pay Utility Charges: The Lessee must promptly pay to the relevant Authority or supplier all charges for Utilities (including water) which are separately metered or charged to the Land and Building and/or Lessee's Improvements.

9.2 Apportionment: The Lessee must pay to the Lessor on demand a fair and reasonable proportion of the charge for any Utility which is not separately metered or charged to the Land or Building.

9.3 Meters: If the Lessor or any Authority requires the Lessee to do so, the Lessee must at the Lessee's own expense install any meter or other measuring devices



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necessary for the proper measurement of the charges for any Utility or other services supplied to the Land or Building and/or Lessee's Improvements.

10. COSTS

The Lessee must pay to the Lessor on demand:

10.1 Legal Costs: the legal costs for the negotiation, preparation and execution of this lease and of any renewal, extension or variation of this lease (including any variation recording a rent review); and

10.2 Default Costs: all costs, charges and expenses for which the Lessor becomes liable as a result of the Lessee's breach of any of this lease's terms.

11. INSURANCE

11.1 Lessee to Insure: The Lessee must at all times during the Term:

11.1.1 Lessee's Improvements: insure and keep the Lessee's Improvements insured to their full insurable value against the Insured Risks; and

11.1.2 Pay Premiums: pay the premium for the insurance taken out under clause 11.1.1 when due.

11.2 Destruction of buildings:

11.2.1 Partial Damage: In the event of the Building or any part thereof at any time during the Term being partially destroyed or damaged as a result of an Insured Risk then, as often as that happens, all moneys received in respect of insurance shall be expended by the Lessee with all reasonable speed in repairing the damage sustained; or

11.2.2 Total Destruction: In the event of the Building being totally destroyed or damaged by any cause, the Lessee may elect not to rebuild or reinstate the Building and if the Lessee shall elect not to rebuild or reinstate, the Term shall immediately cease and determine and the Lessee will demolish and clear the debris and have the site clear to the satisfaction of the Lessor.

11.3 Public Risk Insurance: The Lessee must throughout the Term keep current a public risk insurance policy applicable to the Land and Building and Lessee's Improvements and the business and activities carried on, in, or from the Land and Building and Lessee's Improvements for:

11.3.1 Specified Amount: the amount specified in Schedule 1 (being the amount which may be paid out arising from any single accident or event); or

11.3.2 Increased Amount: any increased amount that the Lessor reasonably requires and in particular any increased amount required by the Lessor as a result of a change in government provision for Accident Compensation claims.

12. MAINTENANCE

12.1 Maintenance: The Lessee must throughout the Term:

12.1.1 Repair: maintain the Land and Building or the Lessee's Improvements in good repair and make good any damage which may be done to the Land or Building or Lessee's Improvements or any improvements thereon during the Term of this lease;

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- 12.1.2 **Keep Land Clean:** keep the Land and Building and Lessee's Improvements clean and tidy;
- 12.1.3 **Removal of Rubbish:** regularly remove all rubbish and waste from the Land and Building or Lessee's Improvements;
- 12.1.4 **Broken Glass:** replace all broken glass on the Land and Building and Lessee's Improvements; and
- 12.1.5 **Pests:** prevent and exterminate any pest infestation on the Land and Building or Lessee's Improvements; and
- 12.1.6 **Notice from Lessor:** upon receipt of notice in writing from the Lessor of any defect or want of repair of the Land or Building or other improvement on the Land requiring the Lessee within a reasonable time, to be specified therein, to repair the same, the Lessee shall with all reasonable speed cause the defect to be remedied and/or the repair to be made to the satisfaction of the Lessor.

13. USE OF LAND AND TERMINATION

- 13.1 **Permitted Use:** Subject to clause 13.2 and 13.6, the Lessee must only use the Land and Building for the Permitted Use and if at any time the Lessor is of the opinion that the Land or Building is not being used or is not sufficiently used for the Permitted Use, the Lessor after making such enquiries as it thinks fit and giving the Lessee the opportunity of explaining the useage of the Land or Building, and if satisfied that the Land or Building is not being used or is not being sufficiently used for the Permitted Use, may terminate this lease whereupon the Land and Building together with all the improvements (including Lessee's Improvements) thereon shall revert to the Lessor and no compensation shall be payable to the Lessee by the Lessor whatsoever.

13.2 Public Use:

- 13.2.1 **Entry to the Land:** It shall be lawful for any person to enter and to remain on the Land as a bystander and any such person entering or remaining on the land shall not, so long as he/she conducts and acts in an orderly and seemly manner in compliance with all statutory requirements and refrains from hindering and obstructing the activities of the Lessor or the Lessee be deemed a trespasser.

- 13.2.2 **Entry to the Lessees Improvements:** The authority contained in clause 13.2.1 does not authorise any person to enter or be within or upon any buildings on the Land belonging to or used by the Lessee without the previous consent of the Lessee.

13.3 Exclusive Use:

- 13.3.1 **Limitation:** Notwithstanding the rights set out in clause 13.2 above, the Lessee shall be entitled with the prior written consent of the Lessor to the exclusive possession of the Land for not more than 40 days in any one year of the Term, but not for more than 6 days consecutively at any time, when a charge for admission to the Land may be made.

13.3.1.1 And further that the Lessee shall at its own expense cause a notice to be published in a newspaper circulating in the district setting out the day or days upon which the Lessee has obtained consent to exclusive use of the leased area, such notice to be published not more than fourteen (14) days nor less than seven (7) days before the first day of such exclusive possession.

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- 13.3.2 Charges:** The amount of such charge for each day must first have been approved in writing by the Lessor and the Lessee must at its own expense cause a notice to be published in a newspaper circulated in the district setting out the day or days on which the Lessee has obtained consent to the exclusive use of the Land, such notice to be published not more than 14 days nor less than 7 days before the first day of exclusive possession.
- 13.4 Provision of toilet facilities:** notwithstanding anything to the contrary within clauses 13.2 and 13.3, the Lessee may at its discretion when the Land and Building is open for use make available to all persons whether members of the Lessee or otherwise such toilet facilities as may be requested by the Lessor.
- 13.5 Hours of use:** the Lessee acknowledges and agrees that use during the evening of the land and/or buildings shall cease no later than the following times:
- Sunday to Thursday: 9.30pm
- Friday and Saturday: 11.30pm
- Unless resource consent is granted, and, if so, the use provided for by the consent shall apply.
- 13.6 Change of Permitted Use:** The Lessee may use the Land or Building for a use or activity other than the Permitted Use but only with the Lessor's prior written consent.
- 13.7 Restrictions on use:** The Lessee must:
- 13.7.1 Noxious Activities and Nuisances:** not carry on any noxious, noisy or offensive business or activity in or about the Land or do anything which is or may become a nuisance or annoyance to any person, but the carrying on of the Permitted Use by the Lessee in a reasonable manner will not of itself be a breach of this clause;
- 13.7.2 Resource Management Act:** not do anything which is or may become a breach of any duty imposed on any person by the Resource Management Act 1991;
- 13.7.3 Health and Safety in Employment Act:** not do anything which is or may become a breach of any duty imposed on any person by the Health and Safety at Work Act 2015;
- 13.7.4 Acts, Bylaws, etc:** comply in all respects and at the Lessee's expense with all acts, bylaws, regulations, rules and requisitions relating to the Land and Lessee's Improvements and the Lessee's use of the Land; and
- 13.7.5 Accommodation:** under no circumstances use the Land or Lessee's Improvements for living accommodation.
- 13.7.6 No Right of Freehold:** The Lessee shall have no right to acquire the Freehold Title of the Land.
- 13.8 Reserves Act 1977:** The Land and this lease are subject to the Reserves Act 1977 and the provisions of said Act are applicable to this lease and shall be binding in all respects upon the Parties in the same manner as if such provisions had been fully set out herein and as such the Lessee accepts this lease of the Land to be held by it as tenant subject to the conditions, restrictions and covenants set forth in this lease.

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14. BUILDING WORK

14.1 Approvals: Subject to the provisions of this section, the Lessee must not carry out any Building Work or alterations or erect any signage on the Land without first giving plans and specifications of the proposed work to the Lessor and:

14.1.1 Lessor's Consent: obtaining the Lessor's prior written consent; and

14.1.2 Building Consent: obtaining and giving the Lessor a copy of all Building Consents required to enable the relevant Building Work to be carried out lawfully; and

14.2 Building Act: The Lessee must:

14.2.1 Building Consent: carry out all Building Work in conformity with the Building Consent produced to the Lessor under clause 14.1.2; and

14.2.2 Compliance Certificate: obtain a Code Compliance Certificate

15. REVERSION ON TERMINATION

On termination of this lease pursuant to the terms herein by effluxion of time, surrender, breach of conditions or otherwise, the Land and Building together with all improvements thereon shall revert to the Lessor without compensation being payable by the Lessor whatsoever.

16. REMOVAL OF IMPROVEMENTS

16.1 Conditions of Removal: Notwithstanding anything to the contrary in clauses 13.1 and 15, if the Lessee has:

16.1.1 Paid the rent due; and

16.1.2 Is not in breach of any of the terms of this lease; and

16.1.3 Has given notice sent by 'Courier Post-signature required' to the Lessor three months prior to the expiration or termination of the Term of its intention to remove the Lessee's Improvements;

then the Lessee:

16.2 Remove Lessee's Improvements: may remove the Lessee's Improvements from the Land or Building; and

16.3 Repair Damage: must repair any damage caused to the Land or Building by that removal; and

16.4 Leave Land Tidy: must leave the Land and Building in a clean and tidy condition to the Lessor's reasonable satisfaction.

16.5 Reversion to Lessor: In the event that the Lessee's Improvements are not removed within six calendar months of the date of expiry or termination of the Term, then the Lessee's Improvements will revert to the Lessor, who shall have the right to enter upon the Land and remove all the Lessee's Improvements and charge to the Lessee all costs of removal and storage of the Lessee's Improvements or deal with the Lessee's Improvements as it deems appropriate.

16.6 Lessee's Right to Transfer: Notwithstanding anything contained in clauses 16.2 and 16.5 and provided clause 16.1 has been complied with, the Lessee may alternatively transfer the Lessee's Improvements which shall remain on the Land to any body or organisation approved by the Lessor which has similar objects to the objects of the Lessee and which shall prohibit the distribution of its assets among its members and which body or organisation shall enter into a lease agreement with the Lessor for the use and enjoyment of the Land and

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Building and the Lessee shall yield and deliver up the Land and Building and the Lessee's Improvements to remain thereon in good clean and substantial order condition and repair.

- 16.7 Payment:** Nothing in this clause 16 shall render the Lessor liable to pay to the Lessee compensation for the Lessee's Improvements and if the Lessee does not exercise its right to remove or transfer the Lessee's Improvements in accordance with clauses 16.1-16.6, then the Lessee's Improvements shall revert to the Lessor without compensation being payable to the Lessee by the Lessor whatsoever.

17. ASSIGNMENT AND SUBLEASING

- 17.1 Control of Assignment and Subleasing:** Subject to the provisions of this section, the Lessee must not:

17.1.1 Assign: assign the Lessee's interest in this lease; or

17.1.2 Sublease: sublease or part with possession or share occupation of the whole or any part of the Land or Building.

- 17.2 Lessor's Consent:** The Lessee may with the Lessor's prior written consent:

17.2.1 Assign: assign the Lessee's entire interest in this lease; or

17.2.2 Sublease: sublease the whole or any part of the Land or Building.

- 17.3 Conditions:** Without limiting the grounds on which the Lessor may withhold consent under clause 17.2, the Lessor may, as a condition of any consent, require prior compliance with the following conditions:

17.3.1 Standing of Assignee: the Lessee must prove to the Lessor's reasonable satisfaction that the proposed assignee or sub lessee is responsible and, in the case of an assignment, of sound financial standing;

17.3.2 Performance by Lessee: the Lessee must have performed all of the Lessee's obligations under this lease up to the date of the proposed assignment or grant of the sublease;


17.3.3 Deed of Covenant: in the case of an assignment, the assignee must sign a deed of covenant with the Lessor agreeing to perform the Lessee's obligations under this lease but without releasing the assignor or any other person from liability under this lease; and

17.3.4 Assignment to a Company: in the case of an assignment to a company, the shares in which are not listed on the New Zealand Stock Exchange, the Lessor may require the assignee's directors and shareholders to guarantee the assignee's obligations under the deed of covenant signed by the assignee.

- 17.4 Costs:** The Lessee must pay the Lessor's reasonable costs for any consent or application for consent under this section (including the Lessor's legal costs) and the costs of investigating the suitability of the proposed assignee or sub lessee.

18. LESSOR'S RIGHTS OF ENTRY

- 18.1 Entry to Land by Lessor:** The Lessor may, with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time without notice in the case of an emergency), enter the Land or the Lessee's Improvements to:

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- 18.1.1 **Inspect Land:** inspect the condition and state of repair of the Land or the Lessee's Improvements; or
- 18.1.2 **Compliance with Statutes, etc:** carry out any works to comply with any statutes, regulations, by-laws, ordinances, orders, proclamations, requirements of or notices by any Authority and if such works are the responsibility of the Lessee under this lease such works shall be at the Lessee's cost and all moneys expended by the Lessor in completing the works shall be payable by the Lessee to the Lessor and shall be recoverable together with interest thereon at the default rate until payment thereon as rent in arrears.

18.2 **Minimise Disturbance to Lessee:** The Lessor will take reasonable steps to minimise any disturbance to the Lessee when exercising the entry rights granted under clause 18.1.

19. QUIET ENJOYMENT

If the Lessee pays the Annual Rent and performs the Lessee's obligations in this lease subject to the provisions of this lease, the Lessee will be entitled to quiet enjoyment of the Land and the Lessee's Improvements without interruption by the Lessor or any person claiming under the Lessor.

20. DEFAULT

20.1 **Re-Entry:** The Lessor may re-enter the Land and the Lessee's Improvements and terminate this lease if the Lessee:

20.1.1 **Failure to Pay Rent:** fails for a period of 30 days after the due date to pay any instalment of the Annual Rent or any other money payable under this lease;

20.1.2 **Failure to Perform:** fails for a period of 14 days to observe or perform any other obligation under this lease;

20.1.3 **Winding up:** is wound up or dissolved.

20.2 **Lessor May Remedy Lessee's Default:** The Lessor may, without being under any obligation to do so, remedy any default or breach by the Lessee under this lease at the Lessee's cost and all monies expended by the Lessor by reason of the default shall be payable by the Lessee to the Lessor together with interest thereon at the default rate until payment thereon and shall be recoverable as rent in arrears.

21. ESSENTIAL TERMS

21.1 **Essential Terms:** The Lessee's breach of the following terms is a breach of an essential term of this lease:

21.1.1 **Payment of Rent:** the covenant to pay rent or other money payable by the Lessee under this lease;

21.1.2 **Assignment and Subleasing:** the terms dealing with assignment and subleasing; or

21.1.3 **Use of Land and Building:** the terms restricting the use of the Land and Building.

21.2 **Waiver:** The Lessor's acceptance of any arrears of rent or other money payable under this lease is not a waiver of the essential obligation to pay any other rent or money payable under this lease.

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- 21.3 **Compensation:** The Lessee must compensate the Lessor for any breach of an essential term of this lease. The Lessor may recover damages from the Lessee for those breaches. The Lessor's entitlement to compensation under this clause is in addition to any other remedy or entitlement of the Lessor (including the right to terminate this lease).

22. COMPENSATION

- 22.1 **Lessee's Acts or Omissions:** If any act or omission of the Lessee:

22.1.1 **Repudiation:** is a repudiation of this lease or of the Lessee's obligations under this lease; or

22.1.2 **Breach of Lease:** is a breach of any of the Lessee's obligations under this lease;

the Lessee must compensate the Lessor for the loss or damage suffered by reason of the repudiation or breach during the whole of the Term.

- 22.2 **Entitlement:** The Lessor's entitlement to recover damages will not be affected or limited by:

22.2.1 **Abandonment:** the Lessee abandoning or vacating the Land;

22.2.2 **Re-entry or Termination:** the Lessor electing to re-enter or to terminate this lease;

22.2.3 **Acceptance of Repudiation:** the Lessor accepting the Lessee's repudiation; or

22.2.4 **Surrender:** the parties' conduct constituting a surrender by operation of law.

- 22.3 **Legal Proceedings:** The Lessor may bring legal proceedings against the Lessee claiming damages for the entire Term including the periods before and after:

22.3.1 **Land Vacated:** the Lessee has vacated the Land; and

22.3.2 **Abandonment, etc:** the abandonment, termination, repudiation, acceptance of repudiation or surrender by operation of law referred to in clause 22.2;

whether the proceedings are instituted before or after that conduct.

- 22.4 **Mitigation of Damages:** If the Lessee vacates the Land, whether with or without the Lessor's consent, the Lessor must take reasonable steps to:

22.4.1 **Mitigate Damages:** mitigate the Lessor's damages; and

22.4.2 **Lease Land:** endeavour to lease the Land at a reasonable rent and on reasonable terms.

The Lessor's entitlement to damages will be assessed on the basis that the Lessor should have observed the obligation to mitigate damages contained in this clause. The Lessor's conduct in pursuance of the duty to mitigate damages will not by itself constitute acceptance of the Lessee's breach or repudiation, or a surrender by operation of law.

23. NO WAIVER

The Lessor's waiver or failure to act in response to the Lessee's breach of any of the Lessee's obligations in this lease will not operate as a waiver of:

- 23.1 **Waiver of Breach:** the same breach on any later occasion; or

23.2 **Waiver of Obligations:** any other obligations in this lease.

24. INDEMNITY

24.1 **Lessor Indemnified:** The Lessee indemnifies the Lessor against all actions, proceedings, calls, claims, demands, losses, damages, costs, expenses or liabilities of any kind suffered or incurred by the Lessor resulting from the Lessee's acts or omission.

24.2 **Repair Costs:** The Lessee must pay to the Lessor on demand the amount of all costs and expenses incurred by the Lessor in making good any damage to the Land and the Lessee's Improvements resulting from the Lessee's acts or omission.

24.3 **Extent of Indemnity:** The Lessee is liable to indemnify the Lessor only to the extent that the Lessor is not fully indemnified under any insurance policy unless the lessor will suffer financial loss as a result.

25. RESOLUTION OF DISPUTES

25.1 **Disputes:** Any dispute, difference or question arising between the parties about:

25.1.1 **Interpretation:** the interpretation of this lease;

25.1.2 **Matters Arising:** anything contained in or arising out of this lease;

25.1.3 **Rights, Liabilities or Duties:** the rights, liabilities or duties of the Lessor or Lessee; or

25.1.4 **Other Matters:** any other matter touching on the relationship of the Lessor and the Lessee under this lease (including claims in tort as well as in contract);

Will be referred to the arbitration of a single arbitrator under the Arbitration Act 1996.

25.2 **Arbitrator:** The parties must try to agree on the arbitrator. If they cannot agree, the president for the time being of the New Zealand Law Society for the place where the Land is situated (or his or her nominee) will, on either party's application, nominate the arbitrator.

25.3 **Action at Law:** The parties must go to arbitration under this section before they can begin any action at law (other than an application for injunctive relief).

26. NOTICES

26.1 **Service of Notices and Time of Service:** Any notice or document required or authorised to be delivered or served under this lease may be delivered or served:

26.1.1 **Property Law Act:** in the manner authorised by sections 352-361 of the Property Law Act 2007; or

26.1.2 **Facsimile:** by facsimile.

26.2 **Signature of Notices:** Any notice or document to be delivered or served under this lease must be in writing and may be signed by:

26.2.1 **Attorney, etc:** any attorney, officer, employee or solicitor for the party serving or giving the notice; or

26.2.2 **Authorised Person:** the party serving the notice or any other person authorised by that party.



27. PROPERTY LAW ACT

The covenants and powers contained in section 218 and Schedule 3 of the Property Law Act 2007 apply to this lease unless they are inconsistent with this lease's express terms.

28. LEASE NOT REGISTRABLE

The Lessor does not warrant that this lease is in registrable form. The Lessee must not require registration of this lease against the title to the Land.

29. LESSOR'S CONSENT


Where the Lessor's consent is required under this lease then it is required for each occasion even if the Lessor has given consent for the same or a similar purpose on an earlier occasion.

30. CONTINUED OPERATION OF CLAUSES:


The provisions of clauses 20, 25 and 26 shall operate and have effect notwithstanding that this lease may have expired or been terminated.

EXECUTED AS A DEED

Executed for and on behalf of the
FAR NORTH DISTRICT COUNCIL
by two elected representatives



Elected member signature



Please print name

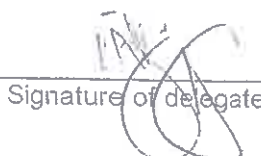


Elected member signature

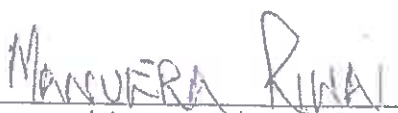


Please print name

Executed for and on behalf of the
**AUPOURI NGATI KAHU-TE
RARAWA TRUST** as the umbrella
organisation for **Open the Curtains**



Signature of delegated person




Please print name and position
25/09/18

In the presence of:



Signature



Please print name and occupation
25/09/18

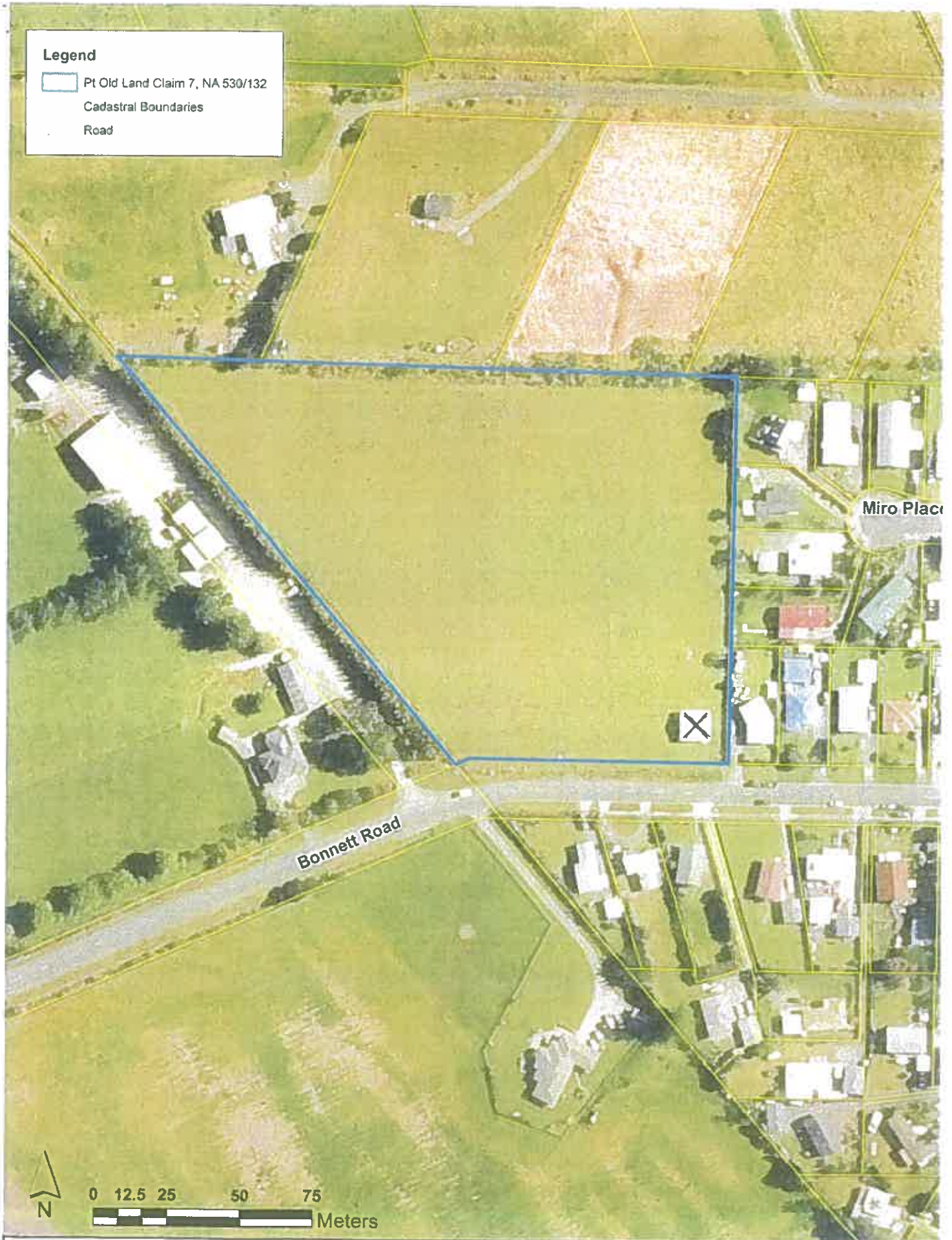


SCHEDULE 1

Lessor:	Far North District Council
Lessor's Address	Private Bag 752, Kaikohe
Lessee:	Aupouri Ngatikahu-Te Rarawa Trust (274324) as the umbrella organisation for Open the Curtains
Registered Offices	Aupouri Ngatikahu-Te Rarawa Trust 332 Quarry Road, Awanui
Lessee's Postal Address	332 Quarry Road, Awanui
And	Open the Curtains , 60 North Road, Awanui
Land	Part Old Land Claim No.7 contained in CFR NA530/132 shown as Recreation Reserve on Deeds Plan 108 and shown outlined on the plan annexed hereto (Appendix 1)
Building	Concrete amenity block with a corrugated iron roof containing changing rooms and toilets and shown marked 'X' on the plan annexed hereto (Appendix 1)
Commencement Date	1 September 2018
Termination Date	31 August 2023
Final Expiry Date	31 August 2028
Initial Term	Five (5) years
Renewal Term(s)	Five (5) years
Annual Rent	\$100 per annum plus GST
Rent Payment Dates	On or before 1 September of each year
Rent Review Date(s)	On renewal
Permitted Use of Land	Proposed playground/park, exercise track with work stations, field for sport and recreational activities, basketball court, fruit forest and designated native planting of trees, marakai gardens (community gardens) and a water pad.
Public Liability Insurance	\$5,000,000.00
Default Rate:	14% per annum



APPENDIX 1



Tangonge Recreation Reserve

SCHEDULE 2
OTC Operational Management Plan



Operational Management Plan by OTC

This document is a basic operational plan for the Tangonge Park community-led project on Tangonge Domain Recreation Reserve and explains how OTC will manage its responsibilities under the Lease. A plan of the Tangonge Park facility is shown on the attached 'Bonnets Road Park Plan'.

Lawns:

Tangonge Park will have approximately 1.5 acres of grass to be mowed regularly and will be OTC's responsibility. OTC have a contractor to do the lawns and will mow smaller sections using their own mowing gear. Funds for this will come from our annual Fight The P event.

Toilets:

OTC will employ a local contractor to open and maintain the hygiene and cleanliness of the Park Toilets located in the old soccer shed. The toilets will only be available when OTC are holding events. Funds for this will come from our annual Fight The P event.

Existing Building:

OTC will maintain cleanliness and appearance of the building. OTC wish to use lottery funding to develop the existing building for community use. Lottery funding will pay for renovations and OTC will use funds from Fight The P to pay for power and upkeep and maintenance of the building.

Gardens:

OTC will use volunteers to maintain the Mara kai gardens, fruit tree area and basic weeding and spraying to keep the park tidy. OTC have a collaboration with Corrections who can employ there community hours teams to the project to help keep the park clean. OTC will use Northland waste another collaborative partner to remove rubbish.

Drains:

OTC have support from community corrections Norm Popata who will provide working groups on community sentences to help maintain the drains once they have been cleaned.

Kids Playground, walking track and basketball court:

OTC will work with council to satisfy the same policy as council regarding health and safety around children's playgrounds, walking track and the basketball court. Both areas will be monitored and regulated against council's policy around play areas.

Operational costs to be met through:

1. OTC will hold an annual fundraising event Fight The P to raise funds for operational costs. The annual event expects to raise \$15,000.00 that will cover the annual expected costs.



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2. OTC will apply for \$5,000 COGS funding that will enable them to support the annual project costs.
3. OTC will apply to the FNDC when funds for community facilities or any other funds available for the park arise.
4. OTC have been successful in raising \$20,000 for a feasibility study to be completed on the existing building. The study will pave the way for OTC to then apply for a full renovation and development of the building in Jan 2019.

Open The Curtains will endeavour to source funds from all available resources possible before discussing needs with FNDC. The FNDC will work with OTC to prepare them for available funding for community projects such as the Tangonge Park project.

Signed on behalf of Open The Curtains



Print name: JASON RETI

Position: Community Initiatives Manager

Date: 25/9/18

Signed on behalf of the Far North District Council

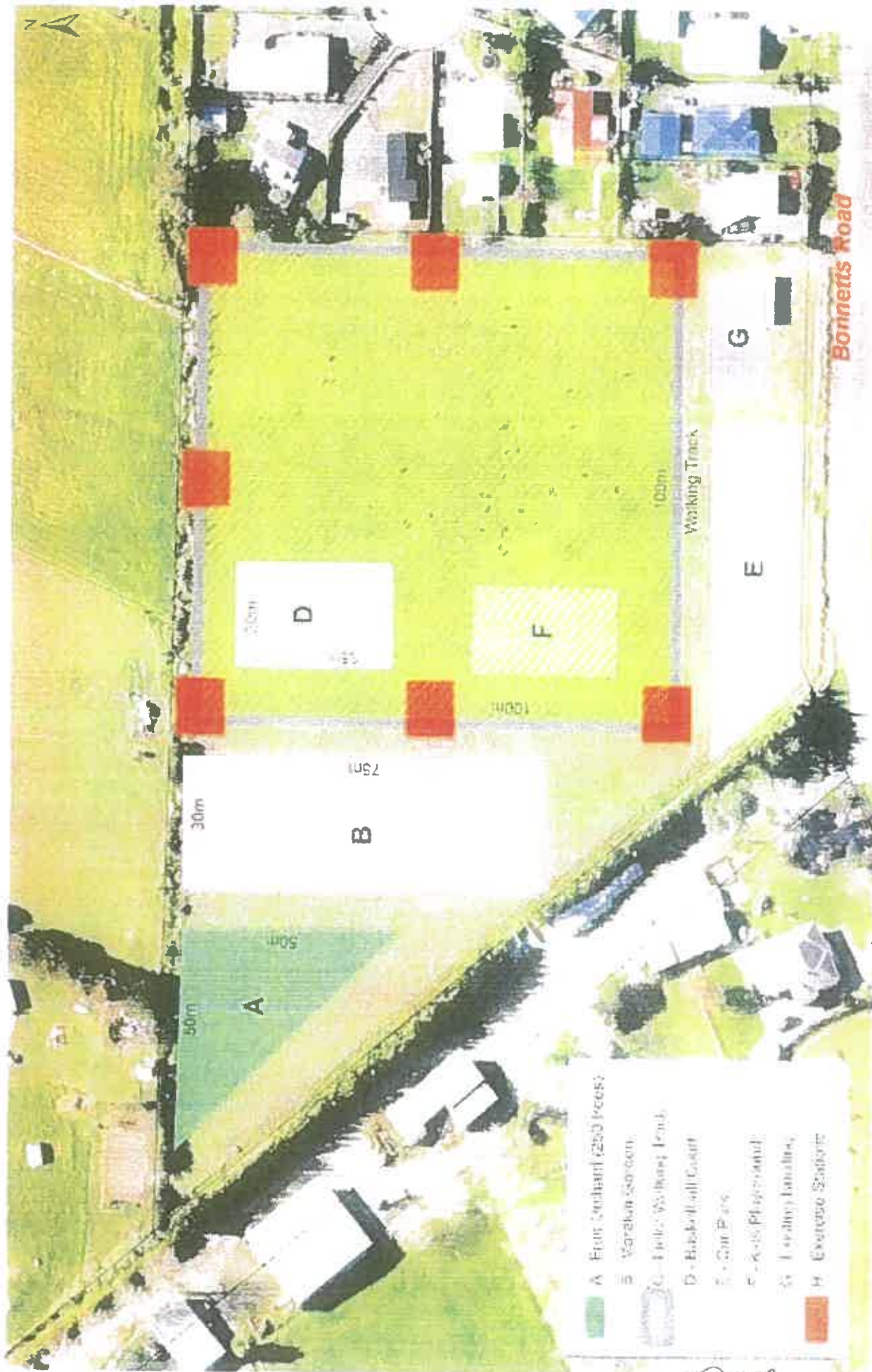


Print name: A-C-FINCH

Position: GM Ian

Date: 4 October 2018





Bonnetts Road Park Plan - Updated April 2018

J.V. JR