

FITZROY GOLF CLUB AND SURROUNDS - TECHNICAL REPORT OVERVIEW ON THE PROCESS FOR REVOCATION AND DISPOSAL OF PUBLIC RESERVE LEASED BY THE COUNCIL TO THE FITZROY GOLF CLUB INCORPORATED

A. PURPOSE

The purpose of this report is to outline the process for the revocation of the reserve reservation over public recreation reserve for disposal which is leased by the Council to the Fitzroy Golf Club, to provide facts on the potential for the sale of that land (or part / revenue, for consideration as part of the Council's current 2012 Activity Review.

B. DETAIL OF FITZROY GOLF CLUB LEASE

1. Lease

Original unregistered Lease dated 14 June 1983 (for a term of 21 years from 1 July 1981 expired 30/6/2002) with a conditional right of renewal for a further term of 21 years at annual fixed rental of \$2,400.

Lease renewed for another 21 year term by Deed of Variation in 2002, subject to new rental, and obligations relating to health and safety duties under the Health and Safety in Employment Act 1992 and 1995 Regulations, but otherwise on existing terms in original lease.

2. Authority

Issued pursuant to the provisions of Section 54(1) of the Reserves Act 1977 (subject to ministerial consent). Should also include the First Schedule to the Act.

3. Lessor:

New Plymouth District Council as the body corporate under the Local Government Act 1974 (Note that this should be more correctly recited as the Council as the administering body under the Reserves Act 1977).

4. Lessee:

The Fitzroy Golf Club Incorporated (an incorporated Society).

5. Current Lease Term

21 years from 1 July 2002. Expires 30 June 2023.

6. Conditional Right of the Club to a Renewal Lease.

Clause 24 provides that if the Council is satisfied that there is sufficient need for the continued operation of the Fitzroy Golf Club then the Club shall have the right or option (to be exercised in writing to the Council) to give at least six months' notice prior to the expiration of the term of the lease to take and accept renewal of the term created for the renewal period from the expiration of the term created at a rental to be agreed upon and failing agreement to be determined by a single arbitrator or in the case the parties cannot agree upon the appointment of such an arbitrator, then by two arbitrators one to be appointed by each party and an umpire selected by the two arbitrators, provided the rental shall not be less than the rental pertaining immediately prior to expiry of the said term, otherwise upon and subject to the same conditions as are herein contained excepting the present right of renewal.

7. Annual Rental from Term commencement 1 July 2002

Rental set at beginning of the term \$7,500 plus GST. Current Rent is \$8,293 plus GST.

8. Rental Reviews

Clause 21 provides for rental reviews based on the aggregated Consumer Price Index movement that has taken place over the three year period immediately preceding the review date.

9. Purpose of Lease

The lease requires the land to be used as a golf course for the playing of golf and the buildings thereon will be used as club rooms in connection therewith.

10. Rates

Clause 20 provides for the Club to pay rates levied. However a note on files indicates that the Club will not be charged rates on the land.

11. Buildings and Structures on the Land

Clause 7 provides that the Club remove buildings or structures on the land if required by the Council three calendar months from the date expiration or determination of the lease, but that if such removal is not affected within the specified date, the buildings and structures erected by the Club shall become absolute property of the Council.

Clause 8 provides that the Club shall not demolish or remove the original Club house or any other buildings erected or alter or make additions or erect new buildings or structures without the prior consent of the Council.

Clause 25 provides that the Club will not be entitled to compensation for any improvements effected by it, unless the Council exercises its discretion and decides to pay the Club the value of such improvements.

12. Other Conditions

Clause 11 - Club not to carry out acts which may cause sand drift or remove lupin on the foreshore without prior written consent of the Council.

Clause 27 provides for dispute arbitration under the Arbitration Act.

13. Limited Condition on Council Resumption of the Leased Land

Clause 22 provides that upon reasonable notice being given, the Council shall be entitled to resume possession of part or parts of the land along the foreshore during the term without payment of any kind and without reduction of rental provided however that the Council shall not resume possession of any part or parts where such resumption will affect the greens or fairways or the efficient operation of the said land as a golf course.

**14. Schedule of Land listed in lease
(Note No Area specified in lease - not separately surveyed)**

Legal Description	Full Title Area - not lease area	Computer Freehold Register	Status	Underlying Reversionary Reserve Title Ownership *	Remarks
Lots 1 to 11 DP 1910	2.4838	TN160/110	Recreation Reserve	NPDC	Classified for recreation reserve purposes by NZ Gazette 1989 page 868
Lots 16 and 17 DP 1910	0.4250	52/21 (now TNH3/1208)	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868
Lots 5 and 6 DP 6496	0.1610	TN 160/34	Primarily pleasure ground and secondly for recreation ground	NPDC	No record of classification of this reserve for recreation reserve purposes
Lot D, DP 1100	2.6165	90/154	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation Reserve by NZ Gazette 2011 page 4243
Lots 73 to 77 DP 2094	1.7219	147/234	Recreation Reserve forming part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Lot F DP 1100	1.3661	145/85 (now CFR 557504)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Lot 1 DP 5985 (and Section 202 Fitzroy District	1.2523	TN 148/57 (correctly should be TN148/157	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Section 159 Hua District SO 8607 (and Part Lot 2 DP 5985)	6.1215	TN 188/77 (now CFR 557167)	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243
Part Section 159 MR (Lot 2 DP 5664 and Lot 1 DP 8987 and Part Section 159 Hua District)	20.8939	TN 192/78	Not Public Reserve - held for a local public work for "public abattoir)	NPDC	Used as park (see Approved Coastal Reserves Management Plan) but not a reserve subject to the Reserves Act 1977,so is not subject to the revocation process for disposal purposes.
Part Section 159 Hua District SO 8617	2.6092	TN 191/67	Recreation Reserve to form part of Peringa Park	NPDC	Classified for recreation by NZ Gazette 2011 page 4243

Part Section 17B Block SO 6926	5.3621	TN 133/85	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868 and 1989 page 1812
Pukeweka 17A Block (SO 5817)	24.9135	TN 105/81 (now TNH3/1030)	Recreation Reserve	NPDC	Declared recreation Reserve and deemed Classified for that purpose by NZ Gazette 1989 page 868

- Note that as standard practice to any revocation, the Council ownership would be subject to further scrutiny to confirm Council underlying reserve ownership. The cost of this work , and securing reports on the need to any offer of land to former owners depending on the number of titled land parcels decided upon for disposal would be up to \$20,000.

C. RESERVES ACT 1977

1. Statutory Provisions to Revoke the Reservation over Public Reserve under Reserves Act 1977

The recreation reserve held by the Council is vested “in trust” in the Council as the local authority administering body under the Reserves Act 1977.

Section 24(1) (b) of the Reserves Act 1977, provides that pursuant to a resolution of the local authority, it considers for any reason to be stated in the resolution that the reservation of the whole or part of the land as reserve should be revoked, then the Minister (of Conservation) at his discretion may by notice in the Gazette revoke the reservation of the whole or part of the land as reserve.

2. Public Notice Requirements under Reserves Act 1977

Subsection (2) (a) of Section 24(1) provides that the administering body (the Council) after consulting the Commissioner (Director General of Conservation) shall (mandatory) publicly notify the proposed revocation of the reservation specifying the reasons.

Note that the Council also has to take into account its statutory duty to consult with the community in its decision making under the Local Government Act 2002 (Sections 78, 81 to 83, 91 and 93) and in terms of its Consultation Policy P09-001.

3. Right of Objection

Subsection (2) (b) of Section 24(1) provides that every person claiming to be affected by the proposal to revocation shall have a right of objection and may at any time within one month after the date of the first publication of the notice of the proposal, give notice in writing of his objections to the proposed revocation to the Principal Administrative Officer or shall forward a copy of all such objections with a copy of the resolution of the administering body (the Council) in relation to those objections, after the administering body (the Council) has considered those objections.

Note that any person who does not lodge an objection shall be deemed to have assented to the revocation.

4. Iwi Consultation under Reserves Act 1977

Section 4 of the Conservation Act binds the Reserves Act, and the need to undertake iwi consultation on the revocation, alongside its obligations under the Local Government Act 2002 and Consultation Policy.

5. Consideration of Revocation by the Minister of Conservation

Subsection (2) (e) of Section 24(1) provides that the Minister (his delegate) shall as soon as practicable consider the proposed revocation and all objections received thereto and in the case of objections made to the administering body (the Council) the resolution of the administering body (the Council) and attitude of the administering body.

The Minister shall have power to receive such submissions and make inquiries as he thinks fit on the proposal. The Minister may follow such procedure as he determines.

6. Approval to Reserve Revocation

Gazettal of the Revocation over the whole or part of the recreation reserves would result in the uplifting of the “reserves trust and reservation” over the reserve and provide the Council as the body corporate under the Local Government Act 2002, with a freehold reversionary title (subject to any legal interests thereon).

Note that if only part of the reserve land title is involved, subdivision resource consent would be required in terms of the rules in the Council’s operative District Plan and the Resource Management, to enable new titles to issue over subsequent allotments on deposit of the Land Transfer Plan for gazettal purposes.

7. Subsequent Council Disposal of the Land - Council Sales Policy

Any disposal of the land at current market value would then be in accord with Council Policy Approval of Properties for Sale and Method of Sale P05 -019.

That policy would require the Council to investigate if there was any requirement to offer the land back to the former owners or successors under Section 40 of the Public Works Act 1981 or an exemption prevails not requiring an offer back.

Any offer back at current market value, to any former owner or successors in title would be open for a 40 day period. If the “off market” offer is declined, the Council can then decide how it wishes to market the sale of property.

8. Approved 2006 Council Coastal Reserves Management Plan

The Council approved a Management Plan for its Coastal Reserves pursuant to Section 41 of the Reserves Act 1977, to which management regime it is bound, which was subject to a robust public/iwi consultation/submission process.

Chapter 5.27 covers Peringa Park including Lake Rotomau and includes the leased 18 hole Fitzroy Golf Course reserve land.

Under Objectives 5.27.3 the plan provides “To provide opportunities for large scale outdoor recreational activities, such as golfing close to New Plymouth”.

Under Policies 5.27.4, the plan provides in respect of the golf course area:

“(k) The existing use of the reserve land as a golf course is recognised.”

“(i) If formalised use of this area ceases at some time in the future, the area will be reverted to public open space and used for the purposes of casual and organised outdoor recreation.”

“(m) Future landscape planning will investigate the provision of access across and around the golf course in consideration of safety and impacts on the use of the area as a golf course.”

Note that the Council can review its Management Plan at any time and is required to keep its plan under continuous review (Section 41(4)) so the plan can be adapted to changing circumstances. Note a plan change would result in public/iwi consultation/submission process and would follow the same statutory process for the initial approved plan.

D. FREEHOLD LAND - NOT PUBLIC RESERVE

1. Computer Freehold Register TN192/78 - Not Public Reserve

This land is held by the Council in an estate in fee simple (freehold) for the purpose of “public abattoir” and would therefore fall with the ambit of a local public work for that purpose as defined in the Public Works Act 1981.

It would not therefore be dealt with a revocation under the Reserves Act 1977, noting that this land forming Lake Rotomanu and lake margins is managed as reserve in terms of the Approved 2006 Coastal Reserves Management Plan.

2. Disposal/Retention of Public Abattoir Freehold

Any disposal would require the Council to initiate disposal through public/iwi consultation/consider submission or objection and then declare the land (or part) surplus to requirements which would then trigger consideration of the offer back requirements under Section 40 of the Public Works Act 1981. Thereafter the Council could sell the land in terms of its Sales Policy.

However, as this land comprises principally Lake Rotomanu, and land buffer margins around the lake and riparian strip along the Waiwhakaiho River, no disposal of the land would be contemplated as it would need to be retained for recreation purposes.

3. Disposal of Adjoining Stopped Road

Those areas of unformed legal road comprising Record Street (part may be used as golf course) and Weka Street (unless required to be formed as part of any subdivision) could be stopped under the Local Government Act 1974 subject to public notice, objections and/or any subsequent Environment Court decision.

On stopping the Council would secure a freehold title for disposal purposes.

E. PLANNING

1. District Plan Notations

Planning Maps B27 record the reserve (Peringa Park/Golf Club area) as open space A, B and C as delineated, with volcanic hazard 3 overlay and H1 (coastal hazard) overlays.

Any disposal of the land would require review/investigation in terms of any plan change to say residential.

2. Recreation and Open Space Strategy

The Council is about to begin the development of a Recreation and Open Space Strategy which has the objectives of –

1. To develop recreation and open space outcomes including consideration of –
 - The recreation, sport and leisure needs of the community and emerging trends.
 - High performance sport needs.
 - Connectivity and use of open space for community accessibility.
 - Regional biodiversity objectives.
 - Local identity and sense of place amenity.
2. To define levels of service for open space and recreation facility provision.
3. To identify options for acquisition of land that has a high potential to meet community recreational needs or is required through level of service provision.
4. To develop criteria for de-acquisition and identify priorities for de-acquisition of land and facilities that offer limited opportunities or public benefit.
5. To identify opportunities for improving and enhancing recreation opportunities, including (but not limited to) opportunities for bridle trails, mountain bike tracks and a dog park (as identified during the 2009-19 Community Plan consultation process).

This strategy is due to be available as a draft for consultation in late 2013 and adopted in early 2014. This strategy will assist the Council in determining if there is sufficient need to continue with the land as a golf course or if de-acquisition should occur.

F. VALUATION

Rating Value - as at 1 September 2010	
Capital Value	\$ 4,280,000
Land Value	\$ 3,584,000
Value of improvements (including value of greens and course infrastructure)	\$ 696,000

Based on 38.55 hectares the current land value equates to \$93,000/ha, and has been discounted to take into account the recreational use and zoning. Normal discount is around 30-50% which would indicate a 'Market Value' of around \$5-\$7,000,000. (\$130-\$180,000/ha).

The most recent sale of a larger seafront block is 6.18 hectares, adjoining Hickford Park that the NP Golf Club sold to the Links developers for \$1.5m or \$243,000/ha, in 2009.

Sections adjoining the coast have a rating valuation at \$550,000-\$650,000. Closer to town they are up to \$1.0m. Sections overlooking the golf course in Rophia Street are valued at \$250,000, however recent sales have been in the order of \$350,000 upwards.

G. CONCLUSION - SUMMARY OF LIMITATIONS ON DISPOSAL

- a) The Council's ability of being able to claw back the whole or part of the Fitzroy Golf Club Lease area for disposal purposes. The lease provides for the option for the Club to seek a right of renewal for a further term of 21 years from expiry of the current lease on 30 June 2023, but that is subject to "*the Council being satisfied there is sufficient need for the continued operation of the Fitzroy Golf Club*". On the basis that the Club would want to continue its operation, the Council would need essentially to negotiate a voluntary surrender of the lease or buy the Golf Club lease out or relocate the club's course to other land.

NOTE there may be some very limited ability to look at the revocation and saleability of those areas of reserve/land not under lease by the Golf Club, if not required for reserve.

- b) Public opposition to the proposed revocation for disposal purpose following public notice/iwi consultation calling for objections under the Reserves Act/Local Government Act 2002. In addition direct objection that would likely arise from the Golf Club and or members.
- c) The need to secure the consent of the Minister of Conservation's delegate consent. The Department of Conservation will take into account public objection and require the Council to prove that the land is currently not required for reserve or for future generations on the basis that adequate recreation reserve is available. That will likely require a comprehensive study and report by the Council on available recreation reserve to demonstrate that the land proposed for revocation is not required for reserve. Note the land owned by the Council for Abattoir purposes is not affected by any revocation and disposal can be dealt with more freely by the Council.
- d) A study of planning zoning requirements/limitations on land use to ensure that there are no planning impediments that would limit securing the maximum sale price for the land for its intended end use.

H. CONCLUSION - SUMMARY OF OPTIONS FOR DISPOSAL

- a) Buy out the Golf Club lease and on-sell to third party.

Their current rent is \$8,293 per annum. The 'market rent' is estimated at \$17,325 per annum (\$450/ha). The Fitzroy Golf Club has around 300 members with an annual subscription of \$475, indicating an income from subscriptions of \$143,000. Thus they would be unlikely to sustain any major increase in rent between now and 2023.

The lessee's interest is made up of:

- The net present value of the rent savings for the next 11 years.
- An allowance for the chance that the lease could be renewed.
- The value of the Golf Club's improvements.

The Property Team estimate the lessee's interest at \$850,000 - but a range of between \$800,000-\$1,000,000 is the likely amount the Fitzroy Golf Club could hold out for during a negotiation process.

The Council could then on-sell to a third party – Developer, OTS, JV partner, at a market value of between \$5m-\$7m.

- b) Sell lessor's interest to Golf Club

The Council could approach the Club to purchase the Council's lessor's interest. A market value of between \$5m-\$7m is indicated, however in this instance a discount of between 30-50% to take into account that the land could only be utilised for a golf course would reduce the market estimate to \$2.5m-\$3.5m at the lower end.

However, this is unlikely on an affordability basis – a mortgage of \$3.5m at 6% requires annual payment of \$210,000 interest only. The Golf Club would have to sell part of the land to fund the purchase which would be problematic.

- c) Investigate what portions of the property could be practically excised from the main lease and developed or sold for residential use ie. stopped road in Record Street and Weka Street.

There may or may not be parcels of land that fit this category. Sections could be expected to start at \$350,000 sale price. However the disposal issues are still apparent.

I. CONCLUSION

Based on the fact that the Fitzroy Golf Club, has

1. A secure lease tenure until 30 June 2023.
2. A right to exercise renewal of its lease on expiry of the current term on the same terms and conditions subject to a new rental for the new term.

3. The assumption that the Club is likely to wish to continue on with its lease into the foreseeable future provided its operation continues to be viable.
4. The lease for golf course purposes is a legitimate open space activity on recreation reserve.
5. The proviso that the Council must grant a renewal lease provided it is “satisfied there is sufficient need for the continued operation of the Golf Club”; and

that the Council would:

 6. In effect need to negotiate with the Golf Club to secure release of the land (or part) and or purchase the lease and or relocate the Club to other land.
 7. Undertake public notice/iwi consultation of its intention to seek ministerial consent to revoke the reserve status over the golf course and consider all objections before making a final decision.
 8. Comply with its statutory obligations under the Local Government Act 2002, and/or policy considerations.
 9. Undertake a comprehensive exercise or obtain an independent report to demonstrate that there was no need to retain the Golf Club land for continued recreation reserve purposes either now or into the future, on the grounds that there is sufficient remaining public reserve available for recreation.
 10. Await the outcome of the Recreation and Open Space Strategy planned for adoption early 2014, as a pre-requisite to the possible need for the continued use of the recreation reserve for golf course purposes and/or retention of the land for public reserve.
 11. Undertake the hurdle to secure ministerial consent to revocation to remove the “reservation and trust” from the land on the basis that the Minister’s delegate would take into account all objections and iwi concerns, and make any enquiry he or she sees fit, noting that the weight of public objection to the loss of the reserve land/open space that the Minister’s delegate would likely refuse to give consent.
 12. Consider any statutory offer back requirements under Section 40 of the Public Works Act 1981, to any former owner or successor, unless an exemption applies to an offer back.
 13. Undertake any further public notice to the proposed sale of the land on the open market in terms of Council Policy on the Approval of Properties and Method of Sale.
 14. Undertake the required plan change to rezone the land from Open Space to Residential in terms of the RMA, submissions and/or any appeal to the Environment Court.
 15. Investigate and consider other more potential viable options for land sale/revenue purposes based on that land being surplus to current requirements.

J. RECOMMENDATION

While noting the incumbent high revenue potential held by way of Council equity value in the rezone/sale of the land leased to the Fitzroy Golf Club, it is **recommended** that because of the burden imposed by the right of renewal terms under the current leasing regime, the Council's limitations to deal freely with the land, allied to the restraints in process imposed by statute under the Reserves Act 1977, Local Government Act 2002 and the Resource Management Act 1991, *that no further action be taken until the completion of the Parks Recreation and Open Space Strategy. That Strategy is proposed to be available a draft for consultation in late 2013, and for adoption in early 2014, and will be a pre-requisite in determining if there is sufficient need for the continued recreational use for golf course purposes and/or retention of the land for public reserve.*

2. In addition to 1 above, notes that, with a period of 2 to 3 years prior to the expiry of the current Golf Club lease term, the Council will need to consider the continued use and leasing of the recreation reserve land as part of the lease renewal process.

K. APPENDICES

Appendix A	Recreation Reserve (including Public Abattoir Area).
Appendix B	Fitzroy Golf Club Lease Area.
Appendix C	Planning Maps B26 and B28.
Appendix C	Copy of Fitzroy Golf Club Lease and Variation.

Murray Greig

Jeremy Wichman

Peter Handcock

PROPERTY ASSET TEAM

Anna Crawford

Mark Bruhn

PARKS ASSEST TEAM

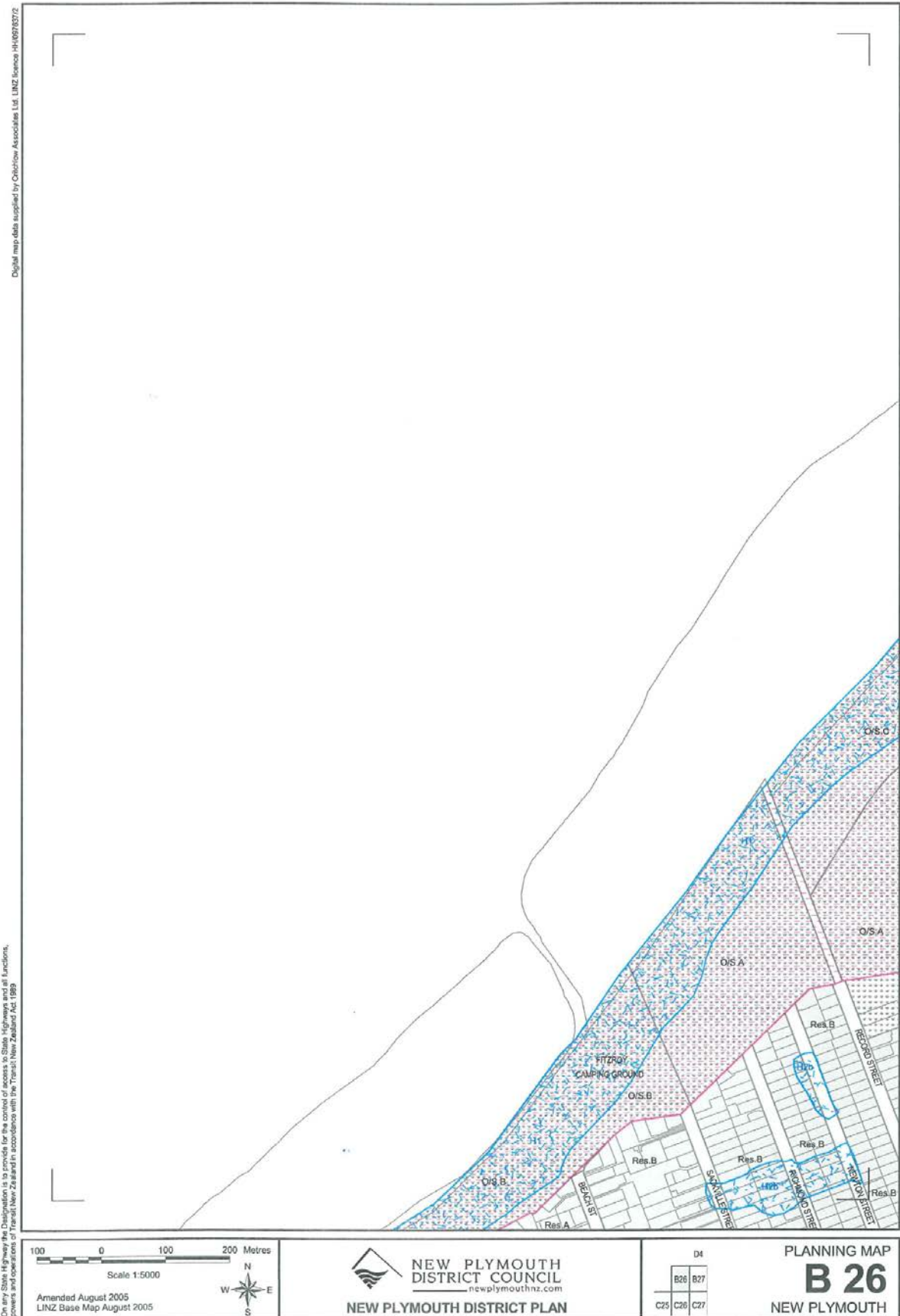


PRINTED: 2/11/2012
 PRINTED BY:
COPYRIGHT: Cadastral information sourced from Land Information New Zealand data, Crown Copyright Reserved.
 DISCLAIMER: NPDC assumes no responsibility or liability for the completeness or accuracy of the data displayed on this plot. To be used for indicative purposes only

 Parcel Boundary

MAP KEY		NOTES
ENVIRONMENT AREAS		
Residential		All public roads, including state highways, have the same zoning as adjoining sites. Where a road has different environment areas on either side, each side of the road takes on the zoning of the adjoining site with the centre line of the road
Rural		
Business		
Industrial		
Open Space		
OVERLAYS		
Designations		
Govt. Departments, Network Utilities and Local Authorities All Public Roads (including State Highways)		Refer to Appendix 4 - Schedule of Designations and to section 3 of these maps for detail of proposed road widening and service lanes.
Proposed Road Widening		All public roads and state highways are designated.
Hazards		
Coastal		Where the area affected by a hazard is large a border only has been utilised to improve map clarity.
Flood Detention Areas & Spillways		
Ponding Areas		
Hood Plain		
Volcanic		
Fault Line		
Fault Line (Approximate)		
Airport Flight Path Surface		Refer to Appendix 11 - New Plymouth Airport Flight Surfaces and section 3 of these maps for more detail. Airport Flight Path Surface is divided into four zones.
Urban Viewshafts		Refer to section 3 of these maps for full details of the urban viewshafts. Urban viewshafts are divided into sections, denoted on the maps as 1, 2 or 3.
Coastal Policy Area		
Priority Water Bodies		Refer to Appendix 18.
Significant Coastal Areas		Refer to Appendix 20.
Significant Natural Areas		Refer to Appendix 21.
Preferred Esplanade Reserves & Strips		Refer to Appendix 17.
Outstanding Landscape		
Regionally Significant Landscapes		
NP Entrance Corridors		
Waahi Tapu & Archaeological Sites		Refer to Appendix 26. Location and extent of waahi tapu and archaeological sites is indicative only. Broken triangles represent silent files which are accurate to parcel only.
Heritage Buildings & Items		Refer to Appendix 8. Refer to Appendix 13.
Notable Trees		Where a symbol has a shadow line, this indicates a group of notable trees is located on the site.
Defined Retail Frontage		
High Voltage Electricity Transmission Lines (766kV)		
Energy Pipelines		
Noise Control Boundaries		Refer to Appendix 12. Port Taranaki Noise Control Boundaries: Planning Maps C21,C22,C23,D22. Airport Noise Control Boundaries: Planning Maps C5,D5,A30,A31.
Indicative Collector Road		
Indicative Local Road		
Indicative Pedestrian Route/Link		
OTHER		
State Highway Limited Access Road		Refer to Appendix 23 Part A.
State Highway		
Arterial Road		
Collector Road		
Local Road		
District Boundary		
Indicative Rivers		
Structure Plan Area		

Amended June 2008



APPENDIX D

9-60

THIS DEED made this 14th day of June 1982

BETWEEN THE NEW PLYMOUTH CITY COUNCIL a body corporate duly constituted under the provisions of the Local Government Act, 1974 (hereinafter called "the Council") of the one part

AND THE FITZROY GOLF CLUB INCORPORATED a Society incorporated under the Incorporated Societies Act, 1908 (hereinafter called "the Club") of the other part

WHEREAS:

- A. The Council is registered as proprietor of an estate in fee simple in the lands described in the Schedule hereto (hereinafter called "the said land") and the said land is shown delineated in red on the plan attached hereto.
- B. The Council has agreed to lease the demised premises to the Club for the term, at the rental and upon and subject to the conditions hereinafter set out which the Club has agreed to accept.
- C. The said land will be used as a golf course for the playing of golf and the buildings erected thereon will be used as clubrooms in connection therewith.

NOW THEREFORE THIS DEED WITNESSES that pursuant to the provisions of Section 54 of the Reserves Act, 1977 and in consideration of the rent hereinafter reserved and of the covenants and conditions on the part of the Club hereinafter contained the Council DOETH HEREBY DEMISE AND LEASE unto the Club all that the said land and buildings erected thereon (hereinafter called "the demised premises") to hold the same for the term set forth in the Schedule hereto commencing on the Commencement Date set forth in the Schedule hereto at the annual rental set forth in the schedule hereto and upon and subject to the following conditions and covenants.

THE CLUB DOETH HEREBY COVENANT WITH THE COUNCIL AS FOLLOWS:

15 21 83 - 215 28-000,009,60

6/11/83

1. TO duly and punctually pay to the Council the rent hereby reserved at the times and in the manner described in the Schedule as "Manner of Rental Payment" free of exchange without any deduction whatsoever.

2. TO duly and punctually pay and discharge all charges, assessments and outgoings for electricity, sewerage and water consumed or used on the said land or buildings erected thereon together with refuse removal charges relating to the buildings on the said land.

3. TO forthwith insure and throughout the said term keep insured against loss or damage by fire all buildings, on the said land to the full insurable value thereof such insurance to be effected in the name of the Council and to deliver the Policy or Policies of such insurance to the Council and to duly and punctually pay all premiums necessary for keeping such insurance on foot.

4. TO keep all buildings and other erections now or hereafter erected upon the said land in good order, condition and repair, and to regularly paint the exterior of such buildings to the satisfaction of the Council so that at the expiration or sooner determination of the said term yield the same up in as good and substantial state of repair and condition as the same now are in fair wear and tear damage by fire flood earthquake or other inevitable accident.

5. TO maintain in good condition the said land to the satisfaction of the Director of Parks and Recreation and to repair and maintain in good order and condition all fences, drains, watercourses, ditches, gates and pipes in upon or about the said land and at the expiration or sooner determination of the said term yield the same up in as good and substantial state of repair and condition as the same now are in fair wear and tear damage by fire flood earthquake or other inevitable accident.

particular but without limiting the generality of the foregoing to at all times duly comply with the provisions of the Agricultural Pests Destruction Act 1967 and any statutory modifications or re-enactments thereof for the time being in force, and save harmless and keep indemnified the Council from and against all claims and actions whatsoever arising in respect thereof.

11. TO not alter the present layout of the greens or dig up or remove any turf, soil, clay or metal from any part of the said land or cut down, remove, destroy or damage any trees or shrubs on the said land without the prior written approval of the Council.

12. TO refrain doing any acts which may cause a sand drift on the said land and in particular to not remove lupin from any part of the said land which forms a foreshore without the prior written approval of the Council.

13. TO not assign, sublet or part with the possession of the premises or any part thereof without first obtaining the written consent of the Council PROVIDED THAT such consent shall not be arbitrarily or unreasonably withheld in the case of an assignment or sub-letting to a respectable, financial and responsible proposed assignee or sub-tenant, and who will contemporaneously enter into a Deed of Covenant with the Council whereby the proposed assignee or sub-tenant shall covenant to perform, observe and keep all the covenants, provisions, conditions and agreements herein contained or implied on the part of the Club and if the proposed assignee or sub-tenant be a corporation the Council may at the option of the Council require any such Deed of Covenant to extend to and include the shareholders and/or the directors or principal officers of such corporation any Deed of Covenant to be prepared and stamped by the Solicitors for the Council at the expense of the Club AND IT IS HEREBY AGREED AND DECLARED for the purpose of this clause:-

- (a) That where the Club or sub-tenant is a corporation any sale, transfer disposition or transmission of shares or stock or any new issues of shares or stock which has the effect of transferring the effective control of the corporation to any person or corporation not being a shareholder of such first mentioned corporation at the time of his becoming the tenant or sub-tenant hereunder shall be deemed to be an assignment by the Club and shall likewise require the consent of the Council and the completion of a Deed of Covenant.
- (b) That any dealing with the premises as is mentioned in Section 109 (2) of the Property Law Act, 1952 shall be deemed to be an assignment by the Club and shall likewise require the consent of the Council and the completion of a Deed of Covenant.

AND subject to the Club and the proposed assignee or sub-tenant complying with the foregoing conditions the Council covenants for his part as a separate and private covenant not to withhold consent.

14. TO take out and keep in force with a reputable company a Public Liability Policy in the joint names of the Council and the Club the same to be effected at the expense of the Club and to keep indemnified the Council as owner of the said land from and against all actions, claims, costs and demands arising out of the use of the said land and buildings thereon by the Club, its members, invitees, servants and workmen.

15. TO permit the Council, its officers, or agents with or without workmen to enter the demised premises at all reasonable times for the purposes of carrying out survey and fixing survey pegs thereon or for the purpose of viewing the condition thereof or for any other reasonable purpose.

16. TO take all necessary steps throughout the said term to ensure proper behaviour of all persons using the demised

21. THAT the rental hereby reserved shall be subject to review at intervals of three years during the said term and such reviews shall be on the basis of the aggregated Consumer Price Index movement which shall have taken place over the three year period immediately preceding the review date.

22. THAT upon reasonable notice being given the Council shall be entitled to resume possession of part or parts of land along the foreshore of the said land during the term hereof without payment of any kind and without a reduction being made in the rental hereby reserved PROVIDED HOWEVER that the Council shall not resume possession of any part or parts of land where such resumption will affect the greens or fairways on the said land or affect the efficient operation of the said land as a golf course.

23. IF the rent hereby reserved or any part thereof shall be in arrear and unpaid for the space of thirty days and/or if at any time the Club is in default of performing or observing any covenant condition or agreement herein contained or implied and/or if the Club shall be wound up or go into liquidation the Council shall forthwith (without making any demand or giving any notice) re-enter and take possession of the demised premises and thereupon the interest of the Club hereunder shall absolutely cease and determine but without releasing the Club from liability for any rent due or accruing hereunder or from liability for any antecedent breach of any covenant, condition or agreement.

24. THAT if the Club shall have punctually paid the rent hereby reserved and observed and performed all the covenants and provisions herein contained and implied and the Council is satisfied that there is sufficient need for the continued operation of the Fitzroy Golf Club then the Club shall have the right or option (to be exercised by notice in writing to the Council given at least six months prior to the expiration of the term of this Lease) to take and accept a

renewal of the term hereby created for the "renewal period" set forth in the Schedule hereto from the expiration of the term hereby created at a rental to be agreed upon and failing agreement to be determined by a single arbitrator or in case the parties cannot agree upon the appointment of such an arbitrator, then by two arbitrators one to be appointed by each party and an umpire to be selected by the two arbitrators PROVIDED THAT the rental on such renewal shall in no event be less than the rental pertaining immediately at the expiry of the said term and otherwise upon and subject to the same terms and conditions as are herein contained excepting this present right of renewal.

25. THAT the Club will not be entitled to compensation for any improvements effected by it on the said land during the continuance hereof unless, however, the Council exercises its discretion and decides to pay to the Club the value of such improvements.

26. THESE presents shall be considered as always speaking and whenever any matter or thing is expressed in the present tense the same shall be applied to the circumstances as they arise so that effect may be given to these presents and every part thereof according to their spirit true intent and meaning.

27. ANY differences or dispute which may arise between the parties hereto touching any of the matters arising out of this Lease shall be decided according to the decision of a single arbitrator or in case the parties cannot agree upon the appointment of such arbitrator then by two arbitrators one to be appointed by the Council and the other to be appointed by the Club and an umpire to be selected by the two arbitrators and the reference of such dispute shall be a submission to arbitration within the meaning of the Arbitration Act, 1908 or any then subsisting statutory provisions relating to arbitration.

28. THAT subject to the payment of prescribed fees the Club

will allow the playing of golf on the said land by persons other than members of the Club and will permit such players to have the use of the clubhouse in common with club members together with such other facilities as are available at rates and conditions determined by the Club.

29. THIS lease is subject to the obtaining of any necessary consent or consents pursuant to Section 54(1) of the Reserves Act, 1977, and notwithstanding anything herein contained the agreement herein will be subject to such terms and conditions that may be required to be complied with by the Minister of Lands and will be further subject to the provisions of the Reserves Act, 1977.

IN WITNESS WHEREOF this Deed has been executed this 14th
day of June . 1982

SEALED with the COMMON SEAL of)
the NEW PLYMOUTH CITY COUNCIL)
and SIGNED by two members of)
the New Plymouth City Council)
on behalf of and by direction)
of the said Council in the)
presence of:)

*John
Local Body Officer
New Plymouth*



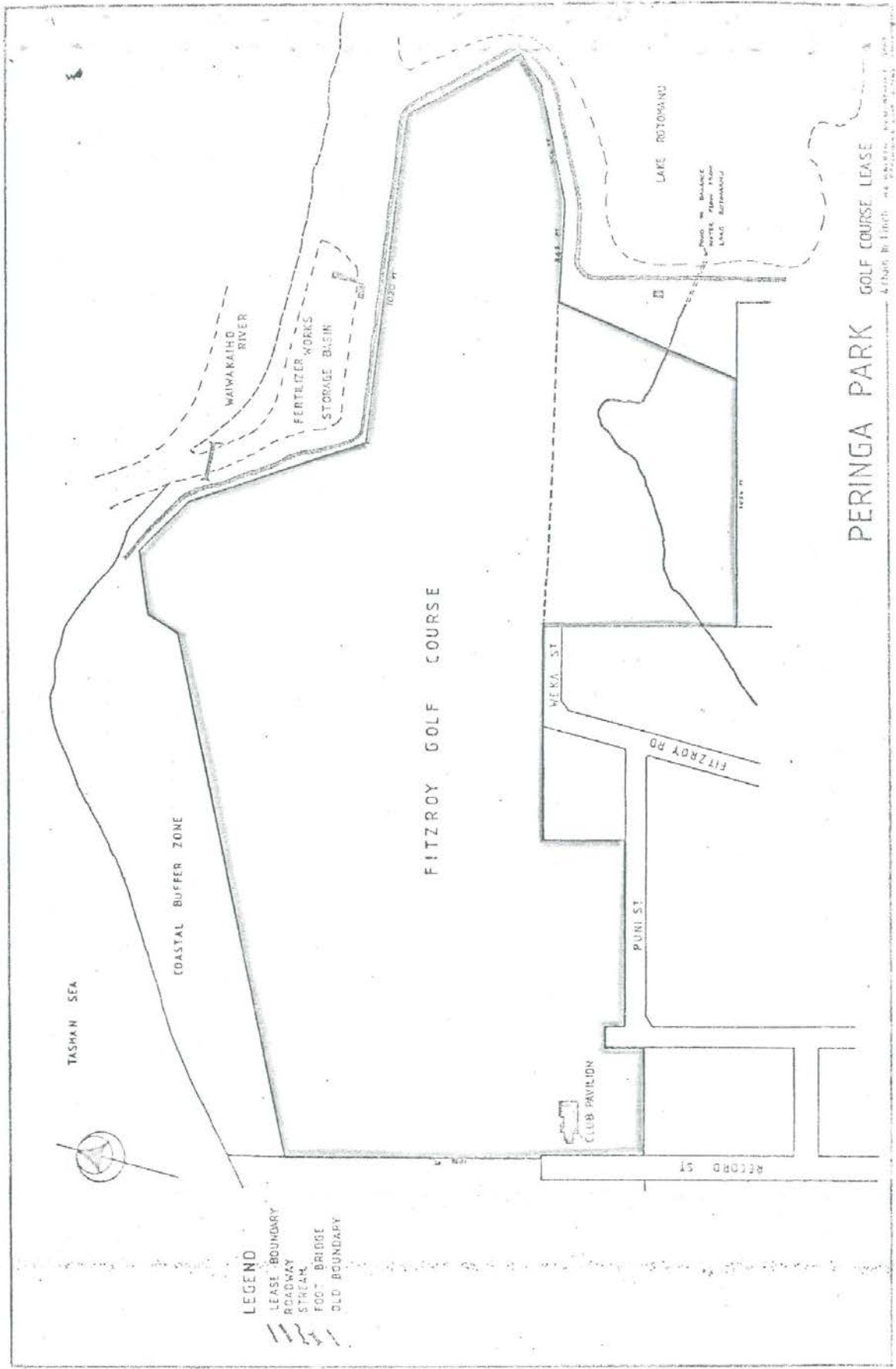
*Wardell
Ryan*

THE COMMON SEAL of the)
FITZROY GOLF CLUB INCORPORATED)
was hereunto affixed in the)
presence of:)

*John
Club Captain
Fitzroy Golf Club*



*Wiley, President
Kearney, Secretary*



COPY

DATED

2002

BETWEEN

THE NEW PLYMOUTH DISTRICT COUNCIL
("THE COUNCIL")

AND

THE FITZROY GOLF CLUB INCORPORATED
("THE LESSEE")

DEED OF VARIATION OF LEASE

PERINGA PARK

LE11205

THIS DEED OF VARIATION OF LEASE is made the day and year hereafter

written

July 2002

BETWEEN THE NEW PLYMOUTH DISTRICT COUNCIL a body corporate duly constituted under the provisions of the Local Government Act 1974 (hereinafter called "the Council") of the one part

AND THE FITZROY GOLF CLUB INCORPORATED (hereinafter called "the Lessee") of the other part

WHEREAS

- a) By Deed of Lease dated 14 June 1983, the Council did demise and lease the said piece of land described in the said Lease upon the terms and conditions more particularly set forth therein to the Lessee.
- b) The current term of the Deed of Lease is due to expire on the 30 June 2002.
- c) The Council and the Lessee have agreed to vary the said Deed of Lease in the manner hereinafter set forth.

NOW THIS DEED WITNESSES that in pursuance of the said land and in consideration of the Council and Lessee agreeing to vary the said Deed of Lease, the Lease is hereby varied to provide that:-

- I. The parties acknowledge that the Deed of Lease has been renewed for a term of twenty one (21) years effective from 1 July 2002.
- II. The new rental as from the commencement date of the new term is \$7,500.00 plus GST.
- III. As part of the Council's duties under the Health & Safety in Employment Act 1992 and Regulations 1995, the Council as principal in the agreement will ensure that:
 - a) the lessee is informed of all known hazards associated with the site;
 - b) no work arranged by the Council on the site will harm or interfere with the lessee's use of the site"
- IV. The Lessee shall ensure that:
 - a) any work activity directly related to the maintenance of the leased area identified in this agreement is effectively managed to ensure accidents and/or incidents do not happen;


LE11205

- b) any contractors engaged to undertake any works are made aware of all known hazards on the leased area and are in control of any hazards they bring onto the said land;
 - c) where possible the Council approved contractors are engaged to undertake any works; and
 - d) all serious accidents are reported to the Council within 24 hours of the incident occurring"
- 2) That in all other respects the terms of the said Deed of Lease are hereby confirmed.

IN WITNESS WHEREOF this Deed has been executed this _____ day of _____ 2002.

SIGNED by the said

**THE FITZROY GOLF CLUB
INCORPORATED**



[Signature] PRESIDENT *[Signature]* Club Captain

In the presence of

J. K. [Signature]

38 McLean, CT
New Plymouth

**Sealed with the common seal
of the New Plymouth District
Council as 'the Council'**

LE11205

When replying please quote: 780191
File Ref: RT-25-01-v01

13 May 2009

B Seebeck
Secretary/Manager
Fitzroy Golf Club
PO Box 3139
NEW PLYMOUTH

Dear Barry

USE OF PAPER ROAD SECTION OF RECORD STREET, NEW PLYMOUTH

Thank you for your letter dated 30 April 2009 inquiring as to the possibility of moving the tee for the 16th hole of the golf course.

Both sides of the paper road section of Record Street are reserves. To the southwest is the Fitzroy Camping Ground and to the northeast is the area leased by the Fitzroy Golf Club. The sketch plan did not provide any topographical detail and we referenced the Council's GISBoost system to position the specifics of the request. This indicated that about 60% of the paper road fronting the Fitzroy Golf Course as well as about 700m² of the Fitzroy Camping Ground is at present utilised by the golf course and that the proposed tee would in fact not be on the paper road but within the camping ground.

Most of the camping grounds in the district are under review and therefore discussions were held with our Parks Team to ascertain the future plans for the Fitzroy Camping Ground as it affects the paper road section of Record St. This indicated that the present proposal is to limit development to the southwest of the natural bush covered ridge and the position of the proposed tee would not interfere with any development plan of the camping ground.

In developing the tee, please make contact with Trevor Hornby from our Parks Team to ensure that any development is in line with their strategies.

We are of the opinion that the paper road in its present position serves no specific purpose and as such NPDC will investigate the stopping of that section of Record St. If successful, the area under lease to the Fitzroy Golf Club will be reviewed. In the interim a street encroachment licence will not be required.

Should you have any further queries, please feel free to contact me.

Yours faithfully

Alf Pieters
ROADING PLANNING ENGINEER



Old map of area

New Plymouth District Council
Private Bag 2025
New Plymouth 4342

Attention Property and Insurance Officer

Dear Steve

REF: FITZROY GOLF CLUB LEASE: NEW PLAN
912260 File Ref CM-08-20: ID 008568

Further to my recent telephone message, my apologies for the delay in replying to your letter of 08 Feb 2010.

The Club accepts the new lease plan as set out in your letter. Please note that the Club wishes to retain the option it has until 2014 to utilise the part outlined in orange in the plan attached to the Lease variation in 2005.

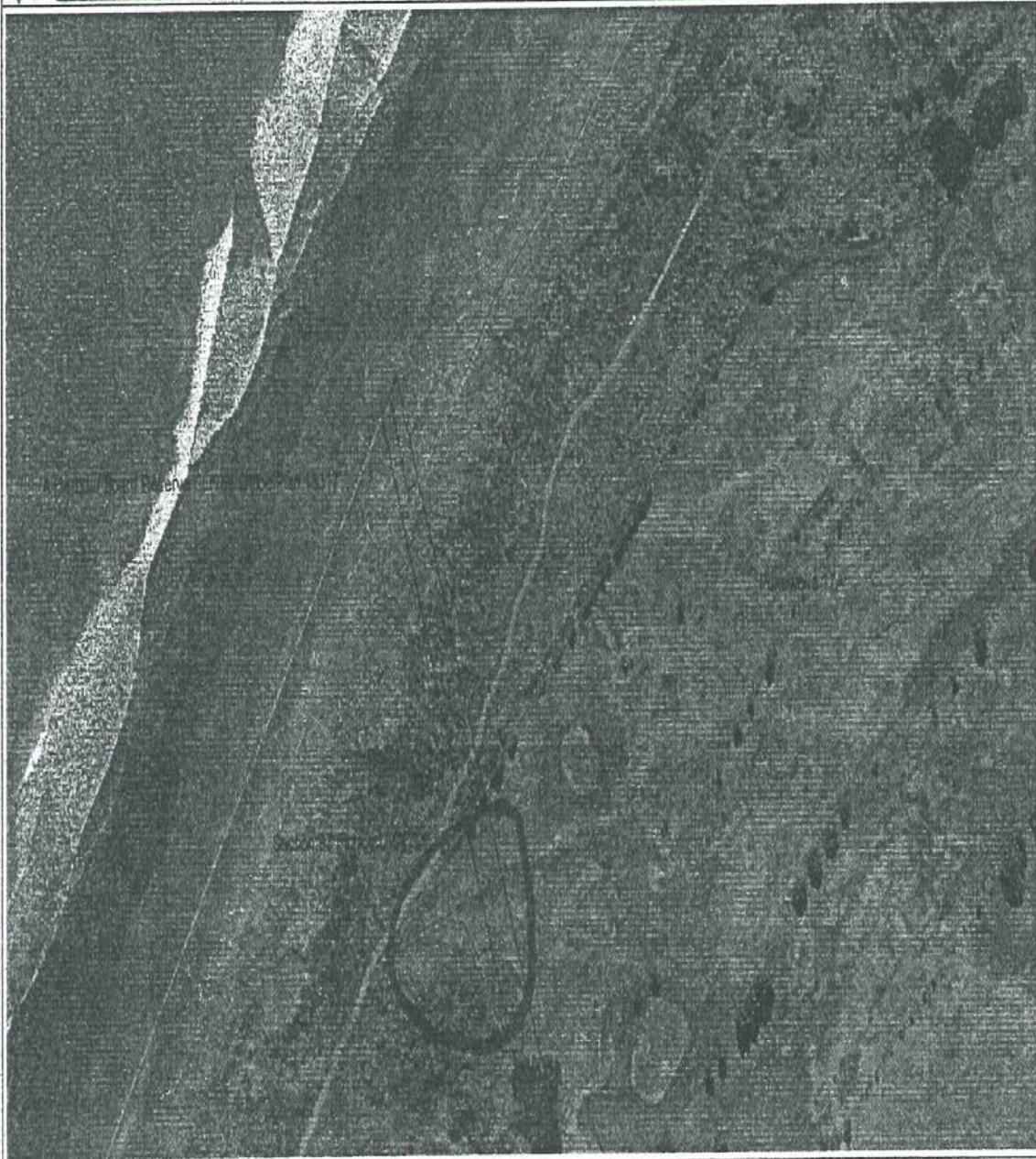
In the past there has been discussion about the Club utilising part of the land adjacent to the area circled [approx] on the attached map. This is to enable re-development of the 14th Tee. Would it be appropriate to discuss this at this stage before a further Lease variation is prepared? If so please contact our Club President, Mr. Ken Durrant [ph. 755 0734] to discuss this further.

Yours faithfully,

Vivienne Reed
Secretary/Manager

cc Ken Durrant, President

NPDC		RECD: -5 MAR 2010
DM No:		
CLASS: CM-08-20		
PROPERTY ID: 8568		
LEGAL ID:		
TECH 1:		RELATED:
PERIOD:	ACTION/FYI	REPLY REQUIRED
CMMTE	Steve Corlett	
REF TYPE		
REF NO		
ASSET		



Map Printed On {2010-02-01 09:05}

Copyright Cadastral information sourced from Land Information New Zealand data. Crown Copyright Reserved.