Te Kaunihera-ā-Rohe o Ngāmotu
New Plymouth District Council

LEN LYE COMMITTEE MEETING AGENDA

Tuesday 8 February 2022 at 1pm

COUNCIL CHAMBER
LIARDET STREET, NEW PLYMOUTH

and via Zoom (Zoom link available on request)

Chairperson:	Cr	Marie	Pearce (NPDC)
Members:	Cr	Sam	Bennett (NPDC)
	Cr	Wystan	Curnow (LLF)
	Cr	Stacey	Hitchcock (NPDC)
	Mayor	Neil	Holdom (NPDC)
	Ms	Susan	Hughes (LLF)
	Dr	John	Matthews (LLF)
	Mr	Evan	Webb (LLF)

COMMITTEE PURPOSE

Purpose of Local Government
The reports contained in this agenda address the requirements of the Local Government Act 2002 in relation to decision making. Unless otherwise stated, the recommended option outlined in each report meets the purpose of local government and:

- Promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

END

OPENING KARAKIA

Kia uruuru mai	I draw in (to my being)
Ā hauora	The reviving essence
Ā haukaha	The strengthening essence
Ā haumāia	The essence of courage
Ki runga, ki raro	Above, below
Ki roto, ki waho	Within, without
Rirerire hau paimarire	Let there be peace

Te Kaunihera-ā-Rohe o Ngāmotu
New Plymouth District Council

Health and Safety Message

In the event of an emergency, please follow the instructions of Council staff.

Please exit through the main entrance.

Once you reach the footpath please turn right and walk towards Pukekura Park, congregating outside the Spark building. Please do not block the foothpath for other users.

Staff will guide you to an alternative route if necessary.

If there is an earthquake – drop, cover and hold where possible. Please be mindful of the glass overhead.

Please remain where you are until further instruction is given.

APOLOGIES

None advised

CONFLICTS OF INTEREST

1. People who fill positions of authority must undertake their duties free from real or perceived bias. Elected members must maintain a clear separation between their personal interests and their duties as an elected member. Failure to do so could invalidate a Council decision and leave the elected member open to prosecution and ouster from office.

2. An elected member is entitled to interact with the Council as a private citizen. However, they cannot use their position as an elected member to gain an advantage not available to the general public.

3. Elected and appointed members will:

    - Declare any interest whether pecuniary or non-pecuniary at a meeting where the interest is relevant to an item on that agenda.

    - Exclude themselves from any informal discussions with elected members relating to a matter they have an interest in.

    - Seek guidance from the Chief Executive if they are unclear of the extent of any interest.

    - Seek guidance or exemption from the Office of the Auditor General if necessary.

ADDRESSING THE MEETING

Requests for public forum and deputations need to be made at least one day prior to the meeting. The Chairperson has authority to approve or decline public comments and deputations in line with the standing order requirements.

PUBLIC FORUM

Public Forums enable members of the public to bring matters to the attention of the committee which are not contained on the meeting agenda. The matters must relate to the meeting's terms of reference. Speakers can speak for up to 5 minutes, with no more than two speakers on behalf of one organisation.

- None advised

DEPUTATIONS

Deputations enable a person, group or organisation to speak to the meeting on matters contained on the agenda. An individual speaker can speak for up to 10 minutes. Where there are multiple speakers for one organisation, a total time limit of 15 minutes, for the entire deputation, applies.

- None advised

PREVIOUS COMMITTEE MINUTES

Recommendation

That the minutes of the Len Lye Committee (21 October 2021), and the proceedings of the said meeting, as previously circulated, be taken as read and confirmed as a true and correct record.

END

REPORTS

ITEMS FOR DECISION BY COMMITTEE

1 Len Lye Foundation Update

2 Govett-Brewster Art Gallery / Len Lye Centre Update

3 Adoption of Memorandum of Understanding

END

LEN LYE FOUNDATION – ACTIVITY REPORT (FEBRUARY 2022)

PURPOSE

1. This report presents the Len Lye Foundation Activity Report to February 2022.

RECOMMENDATION

That, having considered all matters raised in the report, the report be noted.

SIGNIFICANCE AND ENGAGEMENT

2. This report is provided for information purposes only, and has been assessed as being of some importance.

DISCUSSION

3. The Len Lye Foundation have forwarded the attached report listing some of the activities (exhibitions, publications, film requests, sculpture re-constructions) undertaken by the Len Lye Foundation over the last 18 months.

CLIMATE CHANGE IMPACT AND CONSIDERATIONS

4. This report presents the activities of the Len Lye Foundation. There are no climate change impacts or considerations in receiving this report.

FINANCIAL AND RESOURCING IMPLICATIONS

5. This report presents the activities of the Len Lye Foundation. There are no financial or resourcing implications for the Council.

IMPLICATIONS ASSESSMENT

6. This report confirms that the matter concerned has no particular implications and has been dealt with in accordance with the Local Government Act 2002. Specifically:
   - Council staff have delegated authority for any decisions made;
   - Council staff have identified and assessed all reasonably practicable options for addressing the matter and considered the views and preferences of any interested or affected persons (including Māori), in proportion to the significance of the matter;
   - Council staff have considered how the matter will promote the social, economic, environmental, and cultural well-being of communities in the present and the future.
   - Unless stated above, any decisions made can be addressed through current funding under the Long-Term Plan and Annual Plan;

- Any decisions made are consistent with the Council's plans and policies; and
- No decisions have been made that would alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or would transfer the ownership or control of a strategic asset to or from the Council.

APPENDICES

Appendix 1 Activity Report to the Len Lye Committee Meeting, February 8, 2022 (ECM 8709221)

Report Details

Prepared By:	Julie Straka (Governance Lead)
Team:	Governance
Approved By:	Teresa Turner (Group Manager Community and Customer Services)
Ward/Community:	District Wide
Date:	26 January 2022
File Reference:	ECM 8709213

----------End of Report ----------

Activity Report to the Len Lye Committee Meeting, February 8, 2022

This is an update to an earlier report, which was unable to be tabled at the previous meeting. It lists some of the activities (exhibitions, publications, film requests, sculpture re-constructions) undertaken by the Len Lye Foundation over the last 18 months or so. It doesn't include all the film and exhibition programs at the GBAG/LLC which will be reported on separately. Nevertheless, I draw your attention to *Len Lye: Rainbow Dance*, currently on at the LL Centre. This exhibition surveys Len's multimedia practice over his fifty-year career. My thanks to Zara Stanhope and Paul Brobbel for the work they do in promoting and exhibiting Len's life and works at the Len Lye Centre.

1.0 Film, Exhibitions and Publications

1.1 **Dries van Noten**. The LLF licensed Dries van Noten, a prominent fashion designer based in Brussels, to use images from Len's films to print onto fabric for their 2021 Spring and Summer collection of fashion clothing. See for example: https://www.zambesistore.com/blogs/news/art-that-moves-dries-van-noten-x-len-lye

1.2 **Experimental Animation Monkey Puppet**. Restoration of the monkey puppet from Len's film, *Experimental Animation* (The Peanut Vendor) is been undertaken by Susanne Grieve Rawson, conservator at Heritage Preservation & Field Support Solutions. The Foundation is funding the costs of $6,000.

1.3 **Movement Making Movement.** Len's films: *A Colour Box, Tusalava, Free Radicals, Rainbow Dance, Experimental Animation and The Birth of the Robot* were shown at the National Museum of Modern and Contemporary Art in Seoul Korea from April until September, 2021. The exhibition featured five artist/filmmakers: Lotte Reiniger, Karel Zeman, Oskar Fischinger, Norman Mclaren and Len Lye. The exhibition also included related materials such as concept drawings and tools (stencils etc.) that showed how the artists made their films.

1.4 **Ngā Taonga Sound and Vision** have released a comprehensive selection of Len's films online to celebrate his 120th birthday. *Len Lye: Free Radical at 120* can be viewed at: https://ngataonga.org.nz/set/topics/58. Ng**ā** Taonga Sound and Vision restore, care for, transfer to digital and promote and distribute Len's films on behalf of the LLF. They are a valuable partner and I particularly thank Steve Russell and Sarah Davy for their work and support. The LLF has funded the preservation, transfer to digital and the rights to use the music in the films that, through Ngā Taonga Sound and Vision, are now available on line to members of the public at no charge.

1.5 **The International Surrealism exhibition**, *Surrealism Beyond Boarders* opened at the Metropolitan Museum of Art on October 11 and runs until January 30. See: https://www.youtube.com/watch?v=CBLMibOwqdw&ab_channel=TheMet. Then it opens at the Tate Modern on 24 February and runs until 29 August, 2022. Len's film, *Tusalava* is featured in these exhibitions and in the catalogue/book that accompanies the exhibition.

1.6 **Poems Len Lye**, Edited by Roger Horrocks and Paul Brobbel with an introduction from Roger, is being printed and will be available soon. This welcomed addition to books about Len and his art is published by the Govett-Brewster Art Gallery and the Len Lye Foundation. Artbeat website included Poems Len Lye among its 'Best 10 Art Books of the Year. See: https://cdn.fld.nz/uploads/sites/artbeat/files/PDF_Editions/2021/Artbeat__Dec_Jan22__final_copy.pdf

The LLF has provided $10,000 towards the costs of publishing this book.

1.7 **M+ Hong Kong.** The new M+ Museum of Visual Culture in West Kowloon, Hong Kong, opens on Friday November 12. Len's film *Free Radicals* will be screened and merchandise based upon images from his films will be for sale in the shop. Clips from Len's films will also be shown on the large outdoor, media screen as part of the promotion of the Museum's collection and program. This façade is 66 metres high and 110 metres across. See more about M+ at: https://www.youtube.com/watch?v=rnjgZNRdYN8&ab_channel=MPlus

1.8 **Tusalava** to be screened in the exhibition, *The Beauty of Early Life* at the ZKM Center for Art and Media, Karlsruhe (Germany) in collaboration with the State Museum of Natural History Karlsruhe from March 2022 to July.

1.9 **Tusalava** was screened as part of the film program in *Paréidolie*, the International Contemporary Drawing Art Fair in Marseille, France The exhibition ran from Saturday 28 and Sunday 29 August 2021 at the Château de Servières.

1.10 **Rainbow Dance** to be screened in the exhibition, The *World of Music Video*, from 14 November 2021 to 24 July 2022, at the Völklingen Ironworks exhibition hall, Germany.

1.11 **A Colour Box**. Lemonade Films Vienna, Austria wish to tour *A Colour Box* as part of an education film project in Europe and the UK.

1.12 The Foundation granted **Dr Logan Esdale** the rights to publish Len's '"Still July" and four letters he sent to Gertrud Stein' in the forthcoming publication of the 'Stein & Laura Riding letters'.

1.13 The LLF has committed over $50,000 to have Len's extensive archive of **audio tapes and photographic slides** transferred to digital files. Paul Brobbel has catalogued and managed this project. The slides have been digitised by New Zealand Micrographic Services in Wellington at a cost of $19,400. The audio tapes have been transferred to digital files at the Dub Shop, Wellington at a cost of $36,360. Transferring the material to digital files will preserve the vulnerable magnetic tapes and make this rich source of information accessible to the public.

1.14 **Len Lye Talks about Art**. Len produced many lectures as audio tapes synchronised with photographic slides (projected from carousal slide projectors). Several years ago the Foundation and the GBAG published seven lectures, edited by Roger Horrocks, as a DVD. In February last year, the Foundation funded and published the transfer of the lectures on-line making them freely available. See the Len Lye Foundation website: http://www.lenlyefoundation.com/page/len-lye-talks-about-art/4/90/

1.15 The LLF has granted Steve Cournane the rights to publish Tusalava on line with his own composed soundtrack. The Foundation has previously allowed C L Bob, a Wellington based jazz group, of which Steve Cournane is a member, to use Len's films in a live concert. C L Bob are acclaimed musicians. They are long-time supporters of Len and his work.

2.0 Sculpture

2.1 **Roundhead** has been requested by the Kunsthalle Praha (Prague) in the Chez Republic for their exhibition *Kinetismus - 100 Years of Electricity in Art*. The exhibition opens in February 2022.

2.2 **Convolutions** was installed in the large, downstairs gallery at the Len Lye Centre in November 2021. The work has been well received by the public. The strip steel used in Convolutions is identical to the steel in Trilogy. A minimum order of 150 kg of was imported from the UK at a cost of $13,300. Convolutions requires only 28kg. The remainder will be used to replenish Trilogy. My thanks to Bruce Aitken for his excellent construction of this work. My thanks also to the Jon Geehan and his technical team at the GBAG/LLC for their assistance installing the work. Convolutions was funded from Zizz fundraising and cost approximately $55,000.

2.3 **The Adam Gallery Te Pātaka Toi** (at Victoria University) has requested Universe for the exhibition *Listening Stones Jumping Rocks* running, 20 November 2021 to 27 March 2022.

2.4 **New Plymouth Wind Wand (the Millennium Wind Wand)**. The Wind Wand was re-installed on the New Plymouth waterfront on June 16 after being repaired and re-painted. Restoration was overseen by Pace Engineering, New Plymouth. Sentinel Inspection Services (New Plymouth) used digital radiography and X-Ray to inspect the wand for deep structural damage. The top of the wand had been struck by lightning some time ago but remarkably, the light (or parts of it) continued to glow. Leith Robertson at Wells Electrical rebuilt a new lamp with the assistance of Stuart Robb. Dave Marks, who built the Wind Wand, died in Auckland on January aged 96. The Daily News published an obituary to Dave. You can read this at: https://www.stuff.co.nz/taranaki-daily-news/news/300493756/life-story-dave-marks--the-builder-behind-new-plymouths-wind-wand

2.5 **Universe**. The Foundation owns two re-constructed Universes as well as the original. The earlier re-construction was last exhibited in Strasbourg, France in 2000. Leith Robertson, Wells Electrical, is upgrading the electrics and electronics of. The steel loop has been refurbished and new cork balls made.

2.6 Restoration and exhibition of **Wand Dance**. Research continues to produce components for this sculpture, particularly the bells, which are more robust and can improve the longevity of the work. Wand Dance was funded from the Zizz account.

2.7 **Sky Snakes**. Sky Snakes has been a popular exhibition at the Len Lye Centre. It was recently de-installed after 5,600 performances. Sky Snakes was funded from donations to the Zizz account and by the Museum Tinguely in Basel Switzerland.

2.8 **Coastal Pathway Sculpture**. The Coastal Pathway is a new walking and cycling path along the estuary in Christchurch. The Coastal Pathway Group is keen to commission a large outdoor Grass sculpture for Scott Park at the Western end of the walkway. Grass comprises an array of stainless steel rods 'planted' in a platform that tilts from side to side. The rods could be damaged by strong winds. Before the Foundation and the Coastal Pathway Group commit to the project, the rods will be tested. Angus McGregor, an engineering graduate from the University of Canterbury, is undertaking the preliminary design work and testing. This work is underway.

2.9 **A Sculpture for new Health Research and Teaching Faculty in Christchurch**. Otago University, Christchurch (the Christchurch Campus) is a research and teaching faculty for Health Science. The University has commissioned a new research and teaching building to be opened in 2 or 3 years. The Dean of the School, Professor David Murdoc, is keen to commission a Len Lye sculpture for the new building. I have presented several proposals including a Sky Snake, Double Torsion and Convolutions.

2.10 **Atomic Dance** comprises an array of small, plastic spheres tethered to a motor that orbit in a seemingly chaotic motion. The original sculpture is in the collection. Work is underway to reconstruct this work for exhibition later this year.

2.8 The Foundation intends to launch the **Team Zizz** fundraiser again this year. Our aim is fund the development and construction of Len's ***Storm Chamber***, an ambitious work comprising: *Storm King, Thunder Sheet*, two *Lightning bolts*, six *Twisters* and several *Sky Snakes* all forming one, grand ensemble.

Evan Webb, Director, Len Lye Foundation January 21, 2022

LEN LYE COMMITTEE UPDATE

PURPOSE

1. The purpose of this report is to provide an update on matters relating to the Govett-Brewster Art Gallery | Len Lye Centre. The report summarises activities that pertain to the Len Lye Centre since the previous Len Lye Committee meeting on 21 October 2021.

RECOMMENDATION

That, having considered all matters raised in the report, the report be noted.

SIGNIFICANCE AND ENGAGEMENT

2. This report is provided for information purposes only, and has been assessed as being of some importance.

DISCUSSION

Len Lye Collection Management Plan

3. The Len Lye Collection Management Plan discussed at the previous Len Lye Committee meeting is in draft form. The Director Govett-Brewster Art Gallery | Len Lye Centre will present the Plan to the Committee at a subsequent meeting in 2022.

Govett-Brewster Art Gallery Hobson Street Storage

4. Work continues on the storage issue of the Govett-Brewster Art Gallery (Gallery) of Len Lye artworks. The Gallery's primary offsite, climate controlled storage space at Hobson Street for its own collection, and that of the Len Lye collection (comprising almost 420 square metres), has been at capacity for several years.

5. A point of entry business case is in progress to assess the capital works required for adequate storage, including a request to bring forward funding designated for the purpose of a collection storage upgrade in the Long-Term Plan (LTP) from Year 9 to the next financial year's budget. Updates to the Committee will be included in subsequent reports.

6. The lack of space creates risks to people and art during handling, and leaves no space for the maintenance required on existing Len Lye kinetic sculptures. This includes the inability to open crates and inspect large works, as well as to move and unpack works.

7. The ongoing need to house newly made three-dimensional works have exacerbated the issue in recent years. The number of sculptures has increased annually as the Foundation develop new, large-scale works, but there is now no room for any new sculptures beyond the current ones, and the associated motors and mechanical elements that drive them.

8. Gallery staff require space to inspect, conduct maintenance or conservation on the sculptures to prepare them for exhibition or for loan to other institutions, and currently the crates take up the entire space – there are neither spaces nor aisles between crates. This is presenting a risk as the Foundation continues its plans to create the next sculpture.

9. An additional risk to work is the air-conditioning plant within the Gallery's area. Any leak would damage works and external technicians often enter to maintain the plant without Gallery staff being present.

10. The low-height loading area does not allow entry for trucks or vans, and does not have a hydraulic lift for crates. Staff and contractors therefore manually lift heavy crates or push them on ramps.

11. The Len Lye Centre's Archive area keeps the Len Lye documents and works on paper, therefore the scope of this storage risk does not apply to these items.

Other activities

12. The latest Len Lye kinetic sculpture to be realised from his concept, and funded by Team Zizz, entitled '*Convolutions*', was launched on 3 December 2021 to a small gathering of supporters. '*Convolutions*' is on exhibition from 4 December 2021 to 8 May 2022. The ongoing movement of the work has attracted visitors to increase their dwell time in the exhibition.

13. Len Lye Curatorial Assistant Emma Glucina left the role in December 2021. Council expects to appoint an elevated role of Len Lye Assistant Curator in February 2022.

14. The Gallery is supporting the selected summer scholarship postgraduate student Leroy Nurkka, with the Victoria University of Wellington, to research the photograms in the Foundation's collection.

15. The completion of the digitisation of Len Lye's slide lecture materials (comprising slides, archives and audio recordings – consisting of approximately 12,000 items), occurred over this period.

16. The publication of Len Lye's '*Poems*' by the Gallery and Foundation received press coverage over the summer period in the following locations: https://eyecontactmagazine.com/2022/01/lye-poetry-sampler https://artbeat.org.nz/best%20art%20books%20in%202021

17. Two Len Lye works are currently on loan:

- *Roundhead* to the Kunsthalle Praha (Prague, Czech Republic) in their exhibition 'Kinetismus: 100 Years of Electricity in Art' (22 February – 19 June 2022); and

- *Universe* to the Adam Art Gallery (Wellington) in their exhibition 'Listening Stones, Jumping Rocks' (20 November 2021 – 27 March 2022).

CLIMATE CHANGE IMPACT AND CONSIDERATIONS

18. As part of any applicable stages within the proposed project to source additional Gallery storage space, officers will consider climate change impacts as part of the standard project management process.

NEXT STEPS

19. A point of entry business case is in progress to assess the capital works required for adequate storage.

FINANCIAL AND RESOURCING IMPLICATIONS

20. Officers are proposing to bring forward funds designated for the purpose of the collection storage upgrade in the LTP from Year 9 to the next financial year's budget.

IMPLICATIONS ASSESSMENT

21. This report confirms that the matter concerned has no particular implications and has been dealt with in accordance with the Local Government Act 2002. Specifically:
    - Council staff have delegated authority for any decisions made;
    - Council staff have identified and assessed all reasonably practicable options for addressing the matter and considered the views and preferences of any interested or affected persons (including Māori), in proportion to the significance of the matter;
    - Council staff have considered how the matter will promote the social, economic, environmental, and cultural well-being of communities in the present and the future.
    - Unless stated above, any decisions made can be addressed through current funding under the Long-Term Plan and Annual Plan;
    - Any decisions made are consistent with the Council's plans and policies; and
    - No decisions have been made that would alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or would transfer the ownership or control of a strategic asset to or from the Council.

Report Details

Prepared By:	Zara Stanhope (Director Govett-Brewster Art Gallery | Len Lye Centre)
Team:	Govett-Brewster Art Gallery and Len Lye Centre
Reviewed By:	Kimberley Laurence (Senior Advisor Community and Customer Services)
Approved By:	Teresa Turner (Group Manager Community and Customer Services)
Ward/Community:	New Plymouth District-wide
Date:	28 January 2022
File Reference:	ECM 8711245

----------End of Report ----------

LEN LYE FOUNDATION AND COUNCIL MEMORANDUM OF UNDERSTANDING ADOPTION PROPOSAL

MATTER

1. The matter for consideration by the Council is whether to adopt the proposed Memorandum of Understanding between the New Plymouth District Council and the Len Lye Foundation.

RECOMMENDATION FOR CONSIDERATION

That having considered all matters raised in the report, Council adopts the Memorandum of Understanding with the Len Lye Foundation.

COMPLIANCE	
Significance	This matter is assessed as being of some importance.
Options	This report identifies and assesses the following reasonably practicable options for addressing the matter: 1. Adopt the proposed Memorandum of Understanding between the Council and the Len Lye Foundation. 2. Do not adopt the Memorandum of Understanding.
Affected persons	The persons who are affected by or interested in this matter are: • The Len Lye Foundation and the Govett-Brewster Art Gallery | Len Lye Centre; • The New Plymouth District community and visitors to the District who are interested in the art presented within the Govett-Brewster Art Gallery| Len Lye Centre.
Recommendation	This report recommends option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	No
Significant Policy and Plan Inconsistencies	No

EXECUTIVE SUMMARY

2. Officers recommend that Council adopts the proposed Memorandum of Understanding with the Len Lye Foundation in order to report on actions related to this Committee. Taking this approach will provide definition for the mutual responsibilities between Council and the Len Lye Foundation. There are no identified operational or legal risks in adopting the proposed Memorandum of Understanding. If Council adopts the Memorandum, the next step will be to review and approve the Len Lye Collection Management Plan at a subsequent Len Lye Committee meeting.

BACKGROUND

3. Previous background to this are the 1980 Deed of Trust between Len Lye, the New Plymouth District Council and the Len Lye Foundation, and the 2004 Deed between Council and the Len Lye Foundation.

Memorandum of Understanding

4. The Memorandum of Understanding (MoU) between the Len Lye Foundation (the Foundation) and the New Plymouth District Council has been finalised and is presented for consideration of adoption by the Council. The MoU appears at Appendix 1.

5. The MoU captures the agreed way of working between the Council and the Foundation through the Len Lye Committee.

6. The MoU incorporates the principles agreed between the Foundation and the Council in the 2005 Len Lye Management Agreement and reflects subsequent developments such as the creation of the Len Lye Centre and the involvement of Ngā Taonga Sound and Vision.

7. The MoU does not replace the 1980 Deed of Trust, which retains its special status as a foundation document.

CLIMATE CHANGE IMPACT AND CONSIDERATIONS

8. There are no climate change impacts as these matters are considered administrative in nature.

NEXT STEPS

9. In relation to the MoU adoption, the next step will be to review and approve the Len Lye Collection Management Plan at a subsequent Committee meeting.

SIGNIFICANCE AND ENGAGEMENT

10. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance as it involves the strategic asset Len Lye Collection, which is housed, managed and exhibited by the Govett-Brewster Art Gallery | Len Lye Centre operated by Council.

OPTIONS

Option 1: Adopt the MoU

Financial and Resourcing Implications

11. Operational and capital expenditure budgets for the Govett-Brewster Art Gallery | Len Lye Centre as per the LTP.

Risk Analysis

12. No legal or operational risk.

Promotion or Achievement of Community Outcomes

13. The MoU promotes the achievement of public access to the Len Lye Collection and archive and a creative, connected community.

Statutory Responsibilities

14. Not applicable.

Consistency with Policies and Plans

15. Consistent with Council goals and the Long-Term Plan.

Participation by Māori

16. There has been no participation by Māori in the preparation of this report.

Community Views and Preferences

17. The art-interested community will be supportive.

Advantages and Disadvantages

18. The proposed MOU will provide smoother relationships and operations with, and accountability of, the Len Lye Foundation.

Option 2: Do not adopt the MOU

Financial and Resourcing Implications

19. Assets will decrease, as the Foundation are likely to remove the Len Lye Collection.

Risk Analysis

20. High reputational risk for the Govett-Brewster Art Gallery | Len Lye Centre and Council.

Promotion or Achievement of Community Outcomes

21. Community servicing would diminish.

Statutory Responsibilities

22. Not applicable.

Consistency with Policies and Plans

23. Diverges from plans including the LTP.

Participation by Māori

24. There has been no participation by Māori in the preparation of this report.

Community Views and Preferences

25. The art-interested community would complain at this decision.

Advantages and Disadvantages

26. Long-term reputational damage.

Recommended Option
This report recommends option 1, adopting the MoU for addressing the matter.

APPENDICES

Appendix 1 Memorandum of Understanding between the New Plymouth District Council and the Len Lye Foundation in relation to the Len Lye Centre (ECM 8708488)

Report Details

Prepared By:	Zara Stanhope (Director Govett-Brewster Art Gallery | Len Lye Centre)
Team:	Govett-Brewster Art Gallery and Len Lye Centre
Reviewed By:	Kimberley Laurence (Senior Advisor Community and Customer Services)
Approved By:	Teresa Turner (Group Manager Community and Customer Services)
Ward/Community:	District Wide
Date:	28 January 2022
File Reference:	ECM 8701624

----------End of Report ----------

MEMORANDUM OF UNDERSTANDING

between

NEW PLYMOUTH DISTRICT COUNCIL

and

THE LEN LYE FOUNDATION

in relation to the

LEN LYE CENTRE

Te Kaunihera-ā-Rohe o Ngāmotu
NEW PLYMOUTH DISTRICT COUNCIL
newplymouthnz.com

Memorandum of Understanding

PARTIES

NEW PLYMOUTH DISTRICT COUNCIL of the one part

AND

THE LEN LYE FOUNDATION of the other part

Background

A. The Len Lye Centre has been operational since July 2015. To ensure the effectiveness of the Centre, there needs to be an agreed way of working between the key parties of New Plymouth District Council (the **Council**) and the Len Lye Foundation (the **Foundation**).

B. The need for an agreed way of working between the Council and the Foundation has been discussed through workshops of the Len Lye Committee (the **Committee**).

C. The agreed way of working will be captured in this Memorandum of Understanding (**MoU**) between the Council and the Foundation.

D. This MoU incorporates the principles agreed between Foundation and the Council in the 2005 Len Lye Management Agreement and reflects subsequent developments such as the creation of the Len Lye Centre and the involvement of Ngā Taonga Sound and Vision (**Ngā Taonga**).

E. This MoU does not, nor is it intended to, replace the 1980 Deed of Trust which still retains its special status as a Foundation document.

1. Scope

1.1. This MOU records the commitment of both Council and Foundation to care for, and to enhance the Len Lye Collection ("Collection") in the Centre, nationally and internationally.

1.2. The Foundation is the owner of the Collection and has overall responsibility for caring for, exhibiting, promoting and providing access to the works of Len Lye.

1.3. The Foundation will exercise its responsibility for the Collection through the provisions of the 1980 Deed of Trust and through its participation on the Len Lye Committee.

1.4. Through the Len Lye Committee, the Foundation and Council will work together to develop the Len Lye Centre as a world centre of Len Lye exhibitions and research.

1.5. The Council has responsibility for the care, maintenance and display of the Collection which is permanently stored and displayed in a Council facility, and

provides resourcing to successfully operate the Len Lye Centre including providing funding for two dedicated Len Lye curators.

2. Principles

2.1. The parties commit to acting in good faith and treating each other with respect. The parties acknowledge that at all times they are ambassadors for Len Lye and the advancement of his reputation as a pre-eminent artist. The parties acknowledge that from time to time differences of opinion may arise between them, but in the event of any dispute it will not be conducted in public but in accordance with section 12 hereafter.

2.2. Each party will maintain a "no surprises" policy, thereby advising each other promptly of any issue which might adversely affect the Collection or the reputation of Len Lye or the relationship between the Council and the Foundation.

2.3. Neither the Council nor the Foundation may incur obligations on behalf of the other.

3. Governance

3.1. Governance decisions relating to the management of the Len Lye collection will be through the Len Lye Committee.

4. Administration

4.1. The Council is the principal funder of the Len Lye Centre.

4.2. The Council has responsibility for the day to day operational requirements of the Centre. The Foundation will be consulted on the appointment of key staff, namely the Director of GBAG/Len Lye Centre, Len Lye curator and assistant curator.

5. Business Development

5.1. The Council and the Foundation will jointly agree objectives and a plan for managing the use of Len Lye material in communications, marketing and merchandising of the Len Lye Centre.

5.2. The Council will resource and manage the fundraising, brand development, marketing, communications and merchandising activities of the Len Lye Centre.

5.3. The Council's business development activities will support the Foundation's role in protecting the artistic integrity of Len Lye and recognise the role the Foundation plays in growing the Len Lye brand.

5.4. The Foundation will contribute to the financial viability of the Len Lye Centre through funding approved preservation/restoration projects, collection development and the granting of licensing rights where appropriate.

5.5. Royalties on licensing rights will be apportioned on a case-by-case basis between the Council and the Foundation.

6. Collection Management and Care

6.1. The Foundation, together with the Len Lye curator and assistant curator, will develop an Annual Plan of works required to ensure that the collection is in good working order and is available for exhibition.

6.2. The Annual Plan for the Collection will be reported as required to the Len Lye Committee.

6.3. Research projects to add to the existing knowledge of Len Lye's work including the development of new exhibition material will be developed as proposals and discussed between the Foundation and the Council. The Len Lye Committee will be kept appraised of any projects with wide-ranging implications.

6.4. The Foundation plays a major role in bringing new works to the Collection (e.g. sculptures and restoring films according to Len Lye's intentions) and such generates new knowledge about the artist and his work. Whilst this aspect of Collection development is managed by the Foundation it is acknowledged that the Council will need to have regular updates to ensure it can manage future exhibition planning effectively.

7. Exhibitions and Programming

7.1. For the purposes of this clause -:

a) **Exhibition/s** refers to the display of Len Lye's work (in all its forms including moving images) at the Len Lye Centre (including the cinema). It may also relate to artists whose works are closely related to Len Lye, whose work can appropriately be displayed alongside work by Len Lye or instead of Len Lye.

b) **Programming** refers to speaking events, education, publishing including scholarly books and longer term future planning of exhibitions

7.2. Exhibitions in the Len Lye Centre change three times per annum in May, September and December. The Large Works gallery can accommodate an independent and longer term schedule with Exhibitions running for more than six months.

7.3. The parties shall meet to discuss the proposed exhibition programme on an as required basis.

7.4. At these meetings, representatives of the two parties - the Director of GBAG/Len Lye Centre and/or the Len Lye curators and the Director of the Foundation and/or nominated trustees – will exchange any proposals or advice. In particular the Foundation's unique knowledge of the exhibition record and standard operating requirements of individual works in the collection is to be respected and utilised by the Curator to ensure that the display of the works is consistent with Len Lye's vision.

7.5. Programming is to be developed no less than six months in advance, except where the development of new works reliant on research and testing and requiring Health and Safety compliance are not resolved in this timeframe.

7.6. Both parties will respect and be mindful of the contexts within which each party needs to operate including the 1980 Deed of Trust, the Council's Govett-Brewster Art Gallery policy and the Monica Brewster Trust Deed.

7.7. The Foundation will advise on the readiness and availability of kinetic sculptures (including new sculptures) twice per annum, providing at minimum six month lead time, preferably nine month lead time for an Exhibition.

7.8. Any external exhibitions of any part of the Collection shall be agreed between the Foundation and the Council with 12 months notice or at twice yearly meetings about external projects.

7.9. The Foundation has committed to meeting four times per year, with an agenda set by the Foundation with input from the Director of the GBAG/Len Lye Centre and the Curator of the Collection.

8. Collection Access

8.1. The Foundation will be provided with access to the Len Lye Collection at any reasonable time.

8.2. The Foundation will give reasonable prior notice to the Director of GBAG/Len Lye Centre and endeavour to use normal Gallery visiting hours.

8.3. It is recognised that the Foundation may require access to the Collection at relatively short notice particularly as Foundation members have limited time in New Plymouth. The Council will do everything practicable to provide access under these circumstances.

9. Film

9.1. The repository of the Foundation's film collection is Ngā Taonga Sound and Vision. Ngā Taonga is an important partner with the Foundation and the Len Lye Centre in organising and facilitating Len Lye film programmes both nationally and internationally.

9.2. The Len Lye Centre cinema is an important forum for the screening of Len Lye's cinema and the GBAG/Len Lye Centre will maintain (and demonstrate) a commitment to all visitors being able to see Lye's films in this forum (including the original celluloid format).

9.3. The Council and the Foundation will continue to collaborate with Ngā Taonga on restoration projects, searches for Len Lye films and related material and promoting public awareness of Len Lye's film-making.

10. Website

10.1. A website for the Len Lye Centre is hosted by the Council, either alongside or as part of the Govett Brewster Art Gallery's websites. The Council will ensure that there is direct route to this website. This website will provide links to the other key websites of GBAG, the Foundation, and Ngā Taonga. The website is managed on a day-to-day basis by Council staff.

11. Amendment

11.1. This MoU may be amended at any time by written agreement of the parties.

12. Dispute Resolution

12.1. The parties agree that should a conflict arise between the parties in relation to this MoU, they will endeavour to resolve the dispute in good faith.

12.2. If the dispute is unable to be resolved at an operational level, the matter will be referred to the Council's Chief Executive and the Foundation's Chairperson who will use their best endeavours to resolve the dispute within 21 days of the date the dispute is referred to them (or any longer time agreed by the parties).

12.3. If the parties are unable to resolve the dispute under clause 12.2 either party may require that the dispute be referred to mediation. If the parties cannot agree on the appointment of a mediator the Council will ask the President of the New Zealand Law Society to nominate one. Each party will bear their own costs in the mediation and will share equally the mediator's costs.

12.4. In the event that the parties cannot agree the Mediator shall be deemed an Adjudicator, with the power to deliver a binding decision.

12.5. The Adjudicator shall fix his or her procedure in resolving the dispute.

12.6. The parties agree to be bound by that decision.

13. Intention

13.1. The Council and the Foundation are independent entities and do not intend their relationship to be a partnership or a joint venture.

13.2. This document is intended to be a Memorandum of Understanding between the parties and will guide them in their interaction with each other.

14. Representatives

The Council:
Group Manager Community and Customer Services
New Plymouth District Council
Private Bag 2025
New Plymouth 4342
06 759 6060
email: teresa.turner@npdc.govt.nz

The Len Lye Foundation:
Susan Hughes
The Len Lye Foundation Chairperson
email: susan@bankchambers.co.nz

EXECUTION:

SIGNED for and on behalf of the)

NEW PLYMOUTH DISTRICT COUNCIL)
under delegated authority by)
Craig Stevenson, Chief Executive) ……

Date

SIGNED by or on behalf of
THE LEN LYE FOUNDATION by:

Name of authorised signatory

Signature of authorised signatory

Date

CLOSING KARAKIA

Unuhia, unuhia,	Draw on, draw on
Unuhia i te uru tapu-nui	Draw on the supreme sacredness
Kia wātea, kia māmā te ngākau, te tinana	To clear, to free the heart, the body
Te Wairua i te ara takatū	and the spirit of mankind
Koia rā Rongo whakairihia ake ki runga	Rongo suspended high above us (in heaven)
Kia wātea, kia wātea	To be cleared of obstruction
Ae rā kua wātea	It is cleared
Hau Paimarire	

This karakia is recited to close a hui or event. It takes us from a place of focus and releases us to be clear of all the issues or tenisions that may have arisen during the hui. We are now free to get on with other things.