



Shire of  
**Narrogin**

## MINUTES

### ORDINARY COUNCIL MEETING

25 August 2020

The Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.

Signed: .....

Date 26 August 2020

These minutes were confirmed at the Ordinary Council Meeting held on 22 September 2020.

Signed: .....

(Presiding Person at the meeting at which minutes were confirmed)

### **Acknowledgement of Noongar People**

The Shire of Narrogin acknowledges the Noongar people as traditional custodians of this land and their continuing connection to land and community. We pay our respect to them, to their culture and to their Elders past and present.

Naatj ngiyen Birdiya Gnarojin kep unna nidja Noongar Moort ngaala maya nidja boodjera baarlap djoowak karlerl koolark. Ngalak niny ngullang karnan balang Bibolman baalap borong koora wer boorda.

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Shire of  
**Narrogin**  
*Love the life*

# STRATEGIC COMMUNITY PLAN

SNAPSHOT

2017-27

## VISION

A leading regional economic driver and a socially interactive and inclusive community.

## MISSION

Provide leadership, direction and opportunities for the community.

## KEY PRINCIPLES

In achieving the Vision and Mission, we will set achievable goals and work with the community to maintain a reputation of openness, honesty and accountability. In doing so we will:

- Respect the points of view of individuals and groups;
- Build on existing community involvement;
- Encourage community leadership;
- Promote self-reliance and initiative;
- Recognise and celebrate achievement;
- Support the principles of social justice; and
- Acknowledge the value of staff and volunteers.

## OUR VALUES

### Care with Trust & Teamwork

**Caring** - We display kindness and concern for one another and our community

**Accountability** - We accept responsibility for our actions and outcomes

**Respect** - We treat everyone how we would like to be treated

**Excellence** - We go the extra mile to deliver outstanding services

**Trust** - We share without fear of consequences

**Team Work** - We work together for a common goal

## ECONOMIC

### Support growth and progress, locally and regionally...

#### Growth in revenue opportunities

- Attract new industry, business, investment and encourage diversity whilst encouraging growth of local business
- Promote Narrogin and the Region
- Promote Narrogin's health and aged services including aged housing

#### Increased Tourism

- Promote, develop tourism and maintain local attractions

#### An effective well maintained transport network

- Maintain and improve road network in line with resource capacity
- Review and implement the Airport Master Plan

#### Agriculture opportunities maintained and developed

- Support development of agricultural services

Shire of Narrogin

## SOCIAL

### Provide community facilities and promote social interaction...

#### Provision of youth services

- Develop and implement a youth strategy

#### Build a healthier and safer community

- Support the provision of community security services and facilities
- Advocate for mental health and social support services
- Continue and improve provision of in-home care services

#### Existing strong community spirit and pride is fostered, promoted and encouraged

- Develop and activate Sport and Recreation Master Plan
- Engage and support community groups and volunteers
- Facilitate and support community events
- Provide improved community facilities (eg library/recreation)
- Encourage and support continued development of arts and culture

#### Cultural and heritage diversity is recognised

- Maintain and enhance heritage assets
- Support our Narrogin cultural and indigenous community

#### A broad range of quality education services and facilities servicing the region

- Advocate for increased education facilities for the region
- Advocate for and support increased education services

Minutes Ordinary Council Meeting 25/08/2020

## ENVIRONMENT

### Conserve, protect and enhance our natural and built environment...

#### A preserved natural environment

- Conserve, enhance, promote and rehabilitate the natural environment

#### Effective waste services

- Support the provision of waste services

#### Efficient use of resources

- Increase resource usage efficiency

#### A well maintained built environment

- Improve and maintain built environment

## CIVIC

### Continually enhance the Shire's organisational capacity to service the needs of a growing community...

#### An efficient and effective organisation

- Continually improve operational efficiencies and provide effective services
- Continue to enhance communication and transparency

#### An employer of choice

- Provide a positive, desirable workplace

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Please note that meetings may be recorded for minute taking purposes.

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# ORDINARY COUNCIL MEETING

## 25 AUGUST 2020

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### 1. OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member, President Ballard, declared the meeting open at 7:08 pm.

### 2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

#### **Elected Members (Voting)**

Mr L Ballard – Shire President (Presiding Member)

Cr T Wiese – Deputy Shire President

Cr S Lushey

Cr M Fisher

Cr G Broad

Cr C Bartron

Cr J Early

Cr B Seale

Cr G Ballard

#### **Staff**

Mr D Stewart – Chief Executive Officer

Mr A Awang – Executive Manager Development & Regulatory Services

Mr T Evans – Executive Manager Technical & Rural Services

Mr F Ludovico – Executive Manager Corporate & Community Services

Ms W Russell – Acting Executive Assistant

#### **Leave of Absence**

Nil

#### **Apologies**

Ms C Thompson – Executive Assistant

#### **Absent**

Nil

#### **Visitors**

There were two (2) members of the public and one employee in attendance at the commencement of the meeting

**3. DECLARATION OF INTEREST BY ELECTED MEMBERS AND COUNCIL EMPLOYEES IN MATTERS INCLUDED IN THE MEETING AGENDA**

Name	Item No	Interest	Nature
Christmas And New Year Retail Trading Hours 2020	10.4.10	Impartiality	The Chief Executive Officer is a non-paid Board Member of the Narrogin Chamber of Commerce
Christmas And New Year Retail Trading Hours 2020	10.4.10	Impartiality	Cr Fisher is a non-paid Board Member of the Narrogin Chamber of Commerce
Proposed Lease of Portion of Reserve 9669 – Highbury Tennis Club	10.4.2	Impartiality	Cr Wiese is a committee member of the Highbury Tennis Club

**4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**5. PUBLIC QUESTION TIME**

**5.1 Mr Max Werner – Signage/Advertising Board at Church Square, 47 Fortune Street**

A summary of the question below was received from Mr Max Werner, 13 August 2020.

*“The recently erected sign at the front of Church Square, 47 Fortune Street Narrogin has a significant impact on visual properties and spatial configuration of the heritage building behind it, being the former Baptist Church, a building which is an integral heritage asset in terms of economic and cultural values, evoking deep nostalgia and childhood memories*

Mr Werner cited the draft Development Guidelines for Narrogin Town Centre Precinct:

- *Signs erected on heritage buildings, or any buildings in the Town Centre Precinct should be compatible with the character of the building, streetscape and heritage precinct.*
- *Signs should be located in appropriate positions on the building, be clear and easy to read from street, yet not be allowed to visually dominate the building or area.*

*The sign in its present spatial configuration obscures the prominent architectural features of the Church and should not have been erected... and the process has resulted in a deeply unsatisfactory situation.*

Mr Werner has asked the following question:

*“Does anyone know why the sign is still there?”*

Photograph taken by Heritage Consultant 7 October 2018



The Shire of Narrogin has provided the following comments to Mr Werner:

*“Thank you for your question dated 13 August 2020 in regards to the signage at the Church Square Shopping Centre directed to the Council Meeting of 25 August 2020.*

*Our response, follows, which will be included in that agenda, together with a summary of your question. You are welcome to attend the Council Meeting at the Shire Council Chambers on that day, commencing at 7pm.*

*Your preamble and broad question was whether a sign application or planning application has been lodged, assessed and or approved. Further whether anyone at the Shire knew why the sign was still there?*

*I can confirm that a search of our correspondence indicates that we have not received an application for Planning Approval, Sign Licence or Building Approval. The sign appears to have been erected sometime after 2015 and before 7 October 2018, from our initial photographic research.*

*A sign of this size does require Planning Approval and lodgement of a Sign Application. The sign measures (across the two panels) 1.2m by 3.6m high.*

*Given the sign has been there without complaint for the last 2 years (at least), the question needs to be asked as to what action should now take place?*

*It should be noted that the sign in question has not previously been brought to the attention of the Shire.*

*Given an application (planning, building or sign licence) has not been applied for, you are correct that the sign has not been assessed for its compatibility with the Heritage building on the land upon which it is situated. The Former Baptist Church is a significant building in the Narrogin Townsite and our CBD and the planning of the site needs to reflect and honour this. Whether the current signage reflects this has not been assessed. The Shire will be writing to the owners and managers of the Church Square Shopping Centre in order to discuss the issues and hopefully come to an agreement on how to balance the need for signage, approvals and ensuring heritage values are protected.*

*Thank you for bringing this issue to our attention.”*



## 10. MATTERS WHICH REQUIRE DECISIONS

### 10.1 DEVELOPMENT AND REGULATORY SERVICES

#### 10.1.1 SHIRE OF NARROGIN PUBLIC ART CONTRIBUTION POLICY & GUIDELINES

File Reference	26.3.8
Disclosure of Interest	Neither the Author nor Authorising Officer have any impartiality, financial or proximity Interests that require disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Item 10.1.2, 26 May 2020 Res. No. 0520.003 Item 10.1.5, 24 April 2019 Res. No. 0419.006
Date	19 August 2020
Author	Susan Guy – Manager Community Leisure & Culture
Authorising Officer	Azhar Awang – Executive Manager Development & Regulatory Services
<b>Attachments</b> 1. Public Art Contribution Policy 2. Public Art Contribution Policy Guidelines 3. Shire of Narrogin Public Artwork Approval Application Form 4. Public Art Contribution Policy Public Comment Schedule	

#### Summary

Council is requested to endorse the Shire of Narrogin Public Art Contribution Policy), Public Art Contribution Policy Guidelines and the Public Artwork Approval Application Form).

#### Background

The Shire of Narrogin Public Art Strategy & Masterplan 2019 was formally adopted by Council on 24 April 2019. The Public Art Strategy & Masterplan offers a much needed framework for Council's planning and decision making in the public art realm. The Strategy is a broad, aspirational document which offers practical advice and implementation guidelines for public art projects.

The Public Art Contribution Policy and Guidelines have been developed in order to support the Shire's implementation of the Public Art Strategy & Masterplan. The documents detail how Council may fund public art and offer a framework of guiding principles and procedural requirements for the planning, development, approval and management of public art projects.

The Public Art Contribution Policy & Guidelines was presented to Council at the Ordinary Council Meeting on 26 May 2020, for the purpose of seeking public comment with any submissions received referred to Council for further consideration.

It was resolved at that meeting:

*“That Council approve the Draft Public Art Contribution Policy, Public Art Policy Guidelines and Public Art Approval Application Form for the purpose of seeking public comment, for a period of 30 days, with any submissions received referred to Council for further consideration prior to formal adoption”.*

The public comment period commenced on 5 June 2020 and closed on 6 July 2020.

## Comments

In the past Council has built its public art collection through community art projects and individual commissions. The Policy sets out that Council should aim to acquire or commission and complete one public artwork (at a minimum) every two years with Council recognising that best practice public art projects can only be achieved through the allocation of adequate budgets. It outlines the approaches Council may take to make a financial contribution to public art. These are:

### 1. A Shire Percent for Art Scheme

The State Government ‘Percent for Art Scheme’ has allocated up to one percent of the estimated total construction cost of each State capital works project, valued at \$2 million and over, to a commissioned Western Australian artwork.

The proposed Shire’s Percent for Art Scheme requires 0.5% of the estimated construction cost of a capital works project valued at over \$2 million be allocated to public art. The contribution by the owner/applicant can be made via cash in lieu or through coordinating a public art project.

### 2. Infrastructure projects with a component of built-in artwork, funded under the Council’s annual capital works program

The Shire’s Capital Works program will be reviewed annually for the purpose of nominating projects that would be best suited to integrate public art, for example artist designed alternative paving treatments. The Policy directs that these nominated projects be costed and submitted for approval by the Council during the budget process.

The primary principle for selection will be any capital projects with value over \$200,000 and based on a minimum of 0.5% of the proposed value.

### 3. Annual Budget Allocations

It is recommended that Council should also consider public art opportunities as part of its annual budget process and if appropriate allocate a special budget to acquire or commission new public art.

### 4. Grant Funding

Council may apply for and receive grants from various sources. Community groups may also propose public art projects, funded by another source and seek to form a partnership with the Council.

The Public Art Contribution Policy Guidelines support the Public Art Strategy & Masterplan and the Shire of Narrogin Public Art Contribution Policy. The Guidelines provide a clear framework of guiding principles and procedural requirements for the planning, development, approval and management of public art projects. Along with the Public Art Contribution Policy, the Guidelines will assist Shire staff, private developers, architects, design professionals, art consultants, and artists in the delivery of public art within the Shire. Specifically the Guidelines address matters including:

Commissioning process:

- Artwork brief
- Procurement process
- Selection panel
- Advertising process
- Assessment criteria
- Shortlisting
- Artwork Concept
- Final selection process
- Contract
- Design documentation
- Copyright issues
- Asset management
- Decommissioning or removing works
- Artwork maintenance
- Artwork documentation.

The Shire of Narrogin Public Artwork Approval Application form has been developed for owners/applicants who chose to coordinate a public art project. The form is designed to collect information about the proposed artist and artwork and will allow the Shire to ensure that the proposed artwork complies with the Shire of Narrogin's endorsed Public Art Strategy & Masterplan and the Public Art Contribution Policy.

#### Public Submissions

One submission was received from ARtS Narrogin Inc with the organisation raising a number of concerns (See Attachment 4).

ARtS Narrogin queried how many capital works projects over the annual budgets for the next one to five years would be valued at over \$200,000 and if there are projects that qualified for the scheme, how much of the value of the project would be allocated to public artworks.

This question appears to reflect a concern for the proposal that the primary principle for selection of capital projects will be those valued at over \$200,000, with a minimum of 0.5 percent of the proposed value allocated to public art. This could conceivably mean that for projects valued at just over \$200,000, an allocation of just over \$1,000 (based on 0.5 percent) would be made to public art.

ARtS Narrogin's query should be set in a context of the going hourly rates for professional artists. The National Association for the Visual Arts (NAVA) recommends the scale of fees and wages expected to be applied to the commissioning of public art and special purpose commissioning. The hourly rate recommended for a Senior Practitioner/experienced professional artist for a short term contract is \$131 per hour, while a long term contract hourly rate is set at \$109. This rate does not include the payment of

production costs, which should be negotiated in addition to the fee. So as an example, an allocation of \$5,240 (ex GST) would be required for artist fees for the creation and installation of a commissioned public art work which requires 40 hours of the artist's time at \$131 per hour.

The Shire's Long Term Financial Plan projects that from the 2020/21 financial year to the 2024/25 financial year capital expenditure in the category of Land and Buildings totals \$1,165,370. Only three of these years indicate a projected capital expenditure of over \$200,000 with an average value of \$268,457 per annum. Given this projection, the Shire would potentially allocate (based on the 0.5 percent contribution, an average and nominal sum of just over \$1,300 to public art in each of the three financial years out of the next five. To counter this nominal contribution, given the NAVA rates set out above, a direct allocation to Council's annual budget, as additional financial support for the implementation of its Public Art Strategy & Masterplan 2019 would require consideration.

ARtS Narrogin also raised the issue of the work involved for artists to apply for selection for a public art commission stating it is far too onerous and would not ensure financial benefit to the artist for any artwork valued at under \$25,000. As a response, the Shire could give consideration to being as flexible as possible with its guidelines during the commissioning process to minimise this impost on interested professional artists.

As a further comment, ARtS Narrogin found the definition of an artist in the Policy too narrow, arguing it does not allow for anyone other than possibly the top five percent of professional artists in Australia to submit applications for commissions. ARtS Narrogin believes that under the definition, artists who engage in other commercial activities would be ineligible to apply if more than 50 percent of their income is derived from sources other than the creation of art.

The Shire's definition of an artist in the draft Public Art Contribution Policy is the same as that adopted in its endorsed Public Art Strategy & Masterplan 2019, which was prepared by Artsource, the peak membership body for visual artists in Western Australia. The definition was adopted in the Public Art Strategy & Masterplan 2019, so as to ensure the quality of work delivered is of a high standard. The Administration suggests that a selection panel involved in the commissioning of artwork for the Shire, could agree to consider other or broader definitions of a professional artist during the commissioning process, thereby acknowledging ARtS Narrogin's concerns.

## Consultation

Public Notices were placed in the Narrogin Observer, on the Shire's website and Facebook page as well as on public noticeboards. A copy of the Policy was made available for download from the Shire's website and hard copies were available for viewing at the following locations:

- Shire of Narrogin administration offices, 89 Earl Street Narrogin
- The R W (Bob) Farr Memorial Library, Fortune Street Narrogin
- ARtS Narrogin, Shop 2/80 Federal Street Narrogin.

The following officers have been consulted of the proposed policy:

- Chief Executive Officer
- Executive Manager, Development and Regulatory Services
- Penny Bovell - Artsource Consultant.

## Statutory Environment

Nil

## Policy Implications

The opportunity for public comment has been in accordance with the principles of the Council's Community Engagement Policy No. 1.14 and the provisions of the former Town of Narrogin's Town Planning Scheme No 2.

It is pertinent at this point, to highlight for Council's consideration, the question of whether the 'Percent for Art' Scheme should be mandatory as provided for pursuant to a local planning policy or whether it should be aspirational and limited to Shire projects.

In addition, whilst the intent is to only capture those developments great than \$2 million in value, other than Shire projects, it does impose an additional cost on development.

## Financial Implications

Council is asked to consider an annual allocation for public art during its annual budget process. Costs may include an external project manager for certain public art projects.

An example of the cost imposition to a private proponent of a project worth \$2 million is that this would equate to a 'Percent for Art' contribution of \$10,000 (at 0.5 percent).

An example of the cost imposition to the Shire of a capital project worth \$200,000 is that this would equate to a contribution of \$1,000 at (0.5%).

Other requests for public art will be considered on their merits in the same manner that all discretionary projects are considered by the Council during the annual budget deliberation processes.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017- 2027		
Outcome:	1.1	Growth In revenue opportunities
Strategy:	1.1.1	Attract new industry, business, investment and encourage diversity whilst encouraging growth of local businesses
Strategy:	1.1.2	Promote Narrogin and the Region
Outcome:	1.2	Increased Tourism
Strategy:	1.2.1	Promote, develop tourism and maintain local attractions
Outcome	2.3	Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2	Engage and support community groups and volunteers
Strategy:	2.3.3	Facilitate and support community events
Strategy:	2.3.4	Provide improved community facilities (e.g. library/recreation)
Strategy:	2.3.5	Encourage and support continued development of arts and culture
Strategy:	2.4.2	Support our Narrogin cultural and indigenous community
Strategy:	3.4.1	Improve and maintain built environment

## Voting Requirements

Simple Majority.

### OFFICERS' RECOMMENDATION

That with respect to the Shire of Narrogin Public Art Contribution Policy, Public Art Policy Guidelines and Public Artwork Approval Application Form, Council:

1. Adopt the Public Art Contribution Policy, incorporating the Policy Public Art Contribution Guidelines and the Shire of Narrogin Artwork Approval Application Form, as a policy of Council in supporting the implementation of the Shire's endorsed Public Art Strategy & Masterplan 2019.
2. Consider in the Long Term Financial Plan, an annual budget allocation of \$25,000, demonstrating Council's commitment to public art.
3. Advise all submitters of the above outcome.

### COUNCIL RESOLUTION 0820.003

Moved: Cr Bartron                      Seconded: Cr Seale

That with respect to the Shire of Narrogin Public Art Contribution Policy, Public Art Policy Guidelines and Public Artwork Approval Application Form, Council:

1. Adopt the Public Art Contribution Policy, incorporating the Policy Public Art Contribution Guidelines and the Shire of Narrogin Artwork Approval Application Form, as a policy of Council in supporting the implementation of the Shire's endorsed Public Art Strategy & Masterplan 2019, subject to the following changes / additions to the definitions of Artist:
  - Has a track record of exhibiting/selling their artworks in reputable galleries or public spaces.
  - Can otherwise demonstrate that they have artistic expertise.
2. Consider in the Long Term Financial Plan, an annual budget allocation of \$25,000, demonstrating Council's commitment to public art.
3. Advise all submitters of the above outcome.

**CARRIED 9/0**

Reason for Change: Council believed that the definition of Artist was too narrow to accommodate local artists and address the concerns of Arts Narrogin and the addition of the extra dot point and expansion of the first, would allow greater flexibility in the selection of artists.

## 1.1 PUBLIC ART CONTRIBUTION POLICY

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<b>Statutory context</b>	Nil	
<b>Corporate context</b>	Shire of Narrogin Public Art Strategy & Masterplan 2019	
<b>History</b>	Adopted	Date.....

### Policy Statement

#### 1. INTRODUCTION

Public art is mostly located in public places and spaces but may also be incorporated into private areas open to the public such as shopping plazas, schools, parks, town centres, streetscapes and buildings. It can be a literal piece of artwork such as a sculpture, a painting, a wall mosaic or a mural. It can be incorporated into a functional object including paving, water features (such as a fountain), seating, bridges and lighting. It can also be a temporary work such as an art performance in an outdoor public space.

Public art contributes to the identity of a place in a range of ways. This includes interpreting local culture and customs, enhancing the overall design and visual appearance of a place and adding to the vibrancy, liveability and familiarity of a place through the creation of memorable experiences and landmarks. Public art is often created by local communities themselves and is enhanced with the help of experienced community artists.

#### 2. POLICY OBJECTIVES

The Shire of Narrogin Public Art Contribution Policy aims to:

- Support the implementation of the Shire of Narrogin Public Art Strategy & Masterplan 2019;
- Facilitate the creation of original, high quality public artworks sited in a visually accessible public location;
- Contribute to the arts and cultural development and the fabric of daily life in Narrogin;
- Create a vibrant and contemporary sense of place whilst also respecting and responding to Narrogin's existing history, culture and aspirations;
- Encourage arts engagement, and interaction with places and spaces in Narrogin; and
- Infuse qualities of diversity, creativity and character through themes, types of art and approach.

The Public Art Contribution Guidelines for the commissioning of new public art works are to be read in conjunction with this Public Art Contribution Policy.

#### 3. DEFINITIONS

**Artist:** In this policy Artist means a person who meets two or more of the following criteria:

- Has a track record of exhibiting/selling their artworks in reputable galleries.
- Earns over 50 percent of their income from art related activities such as selling works or public art commissions.
- Has a Bachelor Degree or Diploma qualification in visual or fine art, or other art forms where relevant.

**Public Art:** For the purpose of this policy, public art is broadly defined as work or activity designed and/or fabricated by an artist, installed in public space and accessible to the general public. The work may be temporary or permanent, located in a public space or facility provided by both the public and private sector (this includes areas within private buildings that are easily accessible by the public). Public art also includes the contribution of a conceptual idea by an artist to the design of a public space or facility.

As part of this Public Art Contribution Policy, public art can include (but is not limited to):

- The artistic treatment of functional equipment such as bike racks, benches, fountains, playground equipment, light posts or shade structures which are unique;
- Landscape art enhancements such as walkways, bridges or art features within a garden;

- Murals, tiles and mosaics covering walls, floors and walkways and sculptures, free-standing or incorporated as an integral element of a building's design.

Public art does not include:

- Business logos.
- Advertising signage.
- Art objects which are mass produced or off-the-shelf reproductions.
- Landscaping or hardscaping which would normally be associated with a development.

**Owner:** means the owner of the land upon which the relevant development is proposed to be built. The Owner may also be the Applicant.

**Construction Cost:** In this policy construction cost means all costs associated with the preparation, construction and full completion of a development, including all materials, labour, servicing and ancillary costs. To ensure accurate calculation of public art contribution values the Shire if necessary may require an applicant to provide cost breakdowns and/or certification from a quantity surveyor to confirm construction cost.

#### 4. POLICY STATEMENT

Narrogin Shire Council aims to either acquire or commission and complete, at a minimum, one public artwork every two years. The Council recognises that best practice public art projects can only be achieved through the allocation of adequate budgets.

Council's financial contribution to public art will be through a number of approaches. These are set out below:

##### I. Percent for Art Scheme

Council may enter into a planning agreement with developers contracted to undertake new building works or refurbishments. The Western Australian State Government Percent for Art Scheme's offers a guide for this approach. Since 1989, this Scheme has allocated up to one percent of the estimated total construction cost of each State capital works project, valued at \$2 million and over, to a commissioned Western Australian artwork.

The Shire's Percent for Art approach requires that half a percent (0.5%) of the estimated construction cost (over \$2 million) is attributed to Public Art. The Shire's contribution requirement shall be imposed on applicable developments as a condition on the Planning Approval. The condition shall specify that the contribution must be made prior to commencement of the project.

Where Council determines a public art contribution applies the owner/applicant can choose to either make a cash in lieu contribution or coordinate a public art project.

##### Option 1: Cash in Lieu

It is recommended developers provide cash in lieu to the Shire of Narrogin for public art budgets up to \$25,000 but can provide cash in lieu for budgets over \$25,000 at their discretion.

##### Option 2: Coordinate a Public Art Project

The procurement of a public art project with budgets of \$25,000 and above, will be in accordance with the Shire of Narrogin's Public Art Strategy & Masterplan 2019 and the Public Art Contribution Policy Guidelines. It is recommended more complex public art projects are managed for the owner/applicant by an external public art consultant, unless there is a permanent role created within the Shire.

Costs associated with the production of public art include the following:

- Artist fees, materials, assistant's time, insurance, permits, business and legal expenses and operating costs;
- Fabrication and installation of the art work;
- Art consultant fees (maximum 15% of the budget);
- Site preparation, documentation of the art work and acknowledgement plaque.

Upon choosing Option 1, Cash in lieu full payment must be made to the Shire prior to submission of a building permit.

Upon choosing Option 2, the Owner/Applicant will review the Shire of Narrogin Public Art Strategy & Masterplan 2019 as well as the Shire of Narrogin Public Art Contribution Policy Guidelines and the Public Art Commissioning Process.

The percentage spent on public art and the threshold value will be reviewed by Council at the commencement of each financial year setting the minimum amount for which developments are required to contribute to public art. The amount will be set out in the Shire's Prescribed 'Fees and Charges'.

II. Infrastructure projects with a component of built-in artwork, funded under the Council's annual capital works program

Every year and in the process of developing the new financial year's draft capital works program, the Shire's Executive and the Manager Community Leisure & Culture will review the building program and nominate projects which offer the best opportunities to integrate public art. This process requires Shire officers to carefully consider, in advance, how public art may be assimilated within the design and construction of public facilities or their improvement works. Examples of infrastructure projects which could include a built-in art component are artist-designed alternative paving treatments, bridges, treatment to building facades, new fencing and new street furniture. Nominated infrastructure projects will be costed and submitted for Council's endorsement as part of its budget process.

III. Annual Budget Allocations

Council will consider public art opportunities as part of its annual budget and annual budget review process and consider it appropriate to allocate a special budget to acquire or commission a piece of stand-alone or iconic public artwork.

IV. Grant Funding

Council may obtain grant funding from a State or Commonwealth source, an arts institution or receive sponsorship from a philanthropic organisation or the private sector. Community groups may also propose public art funded by another source and seek to form a partnership with the Council.

5. SUSTAINABILITY AND PUBLIC ARTWORKS

The Council commits to implementing ecologically sustainable practices as part of all of its facilities and activities including the planning, design, and implementation of all outdoor public art projects. This includes the use of renewable (green) materials and technologies in artists' designs, fabrication and installation processes. The Council will also seek to acquire artworks that are appropriate to the environment in which they are to be installed e.g. outdoor artworks should be highly durable, resistant to vandalism and require low maintenance.

The Owner/Applicant seeks the Shire's approval for their chosen professional artist, enters into a contract with their approved chosen professional artist, and submits an Application for Artwork to the Shire. The application is reviewed internally by the Shire of Narrogin Public Art Advisory Panel. Once the Shire is satisfied, the project is given full approval.

**Procedures**

[Public Art Contribution Policy Guidelines \(Link\)](#)

**Forms and Templates**

[Public Artwork Approval Application Form \(Link\)](#)

– End of Policy

Notes

## 1.1 PUBLIC ART CONTRIBUTION POLICY GUIDELINES

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### 1. OBJECTIVE

These Public Art Contribution Policy Guidelines are intended to support the Public Art Strategy & Masterplan 2019 and the Shire of Narrogin Public Art Contribution Policy.

### 2. PROVISIONS

These Guidelines provide a clear framework of guiding principles and procedural requirements for the planning, development, approval and management of public art projects. Along with the Public Art Contribution Policy it will assist Shire staff, private developers, architects, design professionals, art consultants, and artists in the provision of public art within the Shire of Narrogin.

### 3. ARTWORK APPROVAL PROCESS

For owners/applicants who choose to coordinate a public art project, the following milestones are required for artwork approval.

#### Milestone 1: Development Approval

As part of the development approval, the developer must submit, at a minimum, the artwork brief, along with a copy of the contract agreement and provide the details of its appointed public art consultant. If the developer does not intend on engaging a consultant then the developer must provide a statement setting out its reasons for this decision. Projects where there is demonstrated experience within the development team of successful public art project management may not require a public art consultant.

#### Milestone 2: Building Licence

As part of the application for a Building Licence, the developer must submit as a minimum, a copy of the artwork concept and artist contract.

#### Milestone 3: Application for Artwork Approval

Once the applicant develops the artwork proposal through to design development, a completed Artwork Approval Application Form must be forwarded to the Shire officer responsible for the arts and culture portfolio. The Shire will provide an Artwork Approval Application Form which provides a checklist of requirements for the public art application including:

- Details of the artist's qualifications, experience and suitability to the project;
- Design documentation - including research, concept development, and a detailed statement addressing compliance with the Public Art Policy and the Shire of Narrogin Public Art Strategy & Masterplan;
- Detailed plans of the artwork/s - including plans to scale with dimensions, materials, colours and installation details;
- Detailed budget including artist fees, consultant fees, fabrication and installation costs;
- If artwork that is to be located on or over public land, a copy of relevant public liability insurance and written consent of the land owner and/or the authority managing the land; and
- Details of requirements and written consent from the artist for any ongoing care or maintenance of the artwork by the building owner.

#### Milestone 4: Artwork Approval

The application will be assessed by the Shire of Narrogin's Public Art Advisory Panel. Public Art offered to a local government authority as a donation or as a developer contribution on public land is usually referred to a Public Art Advisory Panel for consideration. A Public Art Advisory Panel is made up of independent community representatives in the professional fields of urban design, art and culture.

#### Milestone 5 Building Permit Granted

Following the Public Art Advisory Panel's approved of the Application for Artwork, an appropriate Shire Officer will prepare a short report for Executive Management sign off before a Report to Council for consideration and if approved, a building permit can be granted.

### **Milestone 6: Fabrication**

The artwork is fabricated and installed. The applicant arranges for the Shire officer overseeing the arts and culture portfolio to inspect the artwork.

### **Milestone 7: Occupancy**

Once the artwork is inspected and approved for occupancy, professional photographs of the installed work should be submitted to the Shire along with official advice of artwork completion.

## **4. ART CONSULTANTS**

As part of the above process, the Shire can provide art consultant contacts – for instance, Artsource or FORM.

## **5. GENERAL COMMISSIONING GUIDELINES FOR PUBLIC ARTWORK**

The public art commissioning program for artworks within the Shire of Narrogin should follow these general guidelines.

Public artworks will be:

- Designed in response to a brief that stipulates one or more of the key curatorial themes set out in the Shire's Public Art Strategy & Master Plan 2019 as the inspiration for the artwork.
- Located at key sight lines and visual nodes as outlined in the Shire of Narrogin Public Art Strategy & Master Plan 2019.

Functional public artworks such as artist designed seating, bridges, shade structures, bicycle racks, tree grates and bollards should be used to provide public amenity wherever these are needed. These need not be the same throughout the Shire as different locations may have a differing aesthetic or thematic requirement, however there are certain economies involved in repetition.

As public artworks are usually located where people congregate they should be people and child friendly. Children and possibly adults, will sit and climb on public artworks, so the materiality and safety of the public artwork needs to accommodate this.

All public artworks, particularly those in parks and reserves, will, as far as is possible, be designed with the environment in mind. Artworks made from recycled or upcycled materials may be suitable.

Consideration should be given to diversity of forms and materials as this diversity can help create a sense of vibrancy throughout an area.

Consideration needs to be given to options for:

- Temporary public art works with a longevity of up to five years, or artworks that respond to, or are the basis of events, help create a sense of vibrancy throughout the region, particularly within cities and towns;
- Small "discovery" public art works and public art works in the ground plane can add unexpected pleasure to a pedestrian journey through a town centre;
- The use of a few substantial and iconic public artworks can provide anchors for a program composed predominantly of temporary artworks; and
- Landscaping which can enrich public spaces and help soften and embed public artworks in the environment.

Iconic public artworks should, wherever possible, be celebrated with a launch event upon completion and celebrated on key anniversaries for heritage/memorial artworks.

## **COMMISSIONING PROCESS**

In commissioning new works of public art, the general process for the Shire will be as follows:

1. Appoint an internal or external project manager. A public art consultant will be an external project manager.
2. Select a suitable site from an approved priority list/strategy/plans/ and or imminent capital works projects.

3. Identify the category of commission - open competition, limited competition, purchase or direct commission.
4. Establish a Public Art Advisory Panel comprised of independent community representatives in the professional fields of urban design, art, design and culture.
5. Prepare a specific site brief, seeking input and guidance from the Council's Public Art Advisory Panel.
6. Identify and outline the approximate cost of works.
7. Secure Council's approval to proceed with the public art project.
8. Project Manager to prepare an artist's brief for review by relevant Shire officers, the Public Art Advisory Panel and the Selection Panel (see below) for discussion and finalisation prior to issuing.

It is mandatory that developers requiring a Development Application consult with relevant Shire officers to discuss opportunities for the public art contribution component within a proposed development and liaise with the Project Manager who in turn will liaise with the Shire's Public Art Advisory Panel and other relevant administrative bodies or authorities to advise the applicant as to the suitability of the proposed artworks and approval processes.

### ARTWORK BRIEF

The brief should provide artists with the following information:

- Project background;
- Vision or themes;
- Location;
- Budget and schedule;
- Constraints of form, scale or material of the artwork, and
- Any required aspects of community engagement.

The brief should not dictate the design of the finished artwork, but be flexible and open to enable a creative response. The brief must also include the Selection Criteria for the Selection Panel to short list the artists. It must also detail information required from the artist such as:

- A written response to the brief (2 x A4 pages);
- An artist CV (2 x A4 pages); and
- Provision of relevant images of past artworks (usually 6-10 digital images as JPEGs (1 MB), PDF or Power Point).

### PROCUREMENT PROCESS

The Project Manager will develop an Expression of Interest (EOI) once the artwork brief has been settled.

Best practice procurement for projects over \$25,000 recommends receiving at least three detailed concept proposals for consideration from the initial EOIs. Three artists (or artist teams) may be contacted directly for an EOI, or the Shire may publicly advertise the EOI to gain a broader selection.

An EOI will generally comprise:

- Artist's Curriculum Vitae;
- Portfolio of past public artworks; and
- A short written response to the artwork brief.

Artists are not expected to provide designs at this stage of the procurement process. The submission of an EOI is an opportunity to assess the artist's suitability for the project without requesting a detailed design proposal and therefor preserving the artists' intellectual property. Artists, however, must be remunerated for their detailed concepts according to the amount of time and money they are required to invest in preparing and presenting it.

A curated process, where the Public Art Consultant provides a list of artists invited to submit EOIs, may be appropriate where a specific artwork is required, for projects with budgets under \$25,000, or to reduce timeframes. In these cases, an artist can be commissioned from the EOI stage if required.

### SELECTION PANEL

A Selection Panel is made up of project stakeholders and is responsible for the shortlisting and final selection of the artist or artist team. The Shire's Project Manager will facilitate and manage the selection process/meetings.

The Selection Panel would comprise a representative of Council (usually the Project Manager) and for Shire funded projects, representative from the Public Art Advisory Panel. There should be a maximum number of members, ideally five, or at the most, seven members on the Selection Panel.

Permanent public artworks are to become part of the Shire of Narrogin's art collection. The artist must provide written acknowledgement of the implications of the Copyright Amendment (Moral Rights) Act 2000, including how the artist will be acknowledged, consent for any required maintenance or relocation, and consent for the Shire to publish images of the artwork for non-commercial purposes.

### ADVERTISING PROCESS

An EOI is an advertisement of the artwork brief. It may be advertised through the Shire's website, Tenders WA (if the budget is \$250,000 or above) and networks, in the local papers or through art agencies such as Artsource and FORM. It can be a formal tendering process, or an invitation only selection process coordinated by the Project Manager. The EOI should be open for three to four weeks for smaller commissions and four to eight weeks for large commissions (i.e. over \$25,000).

### ASSESSMENT CRITERIA

The Public Art Advisory Panel will assess Public Artwork applications against the following criteria:

- Public access: the artwork is clearly visible to the public realm and must positively impact the visual amenity of the development;
- Concept: the artwork is designed by an artist that shows strong vision, innovation, and excellent craftsmanship. The proposed artwork is unique and provides an opportunity for public engagement;
- Longevity: the artwork is designed to be structurally sound and resistant to theft, vandalism, weathering, and excessive maintenance;
- Context: the artwork is site specific and considers the relevant themes, architectural, historical, geographical and/or sociocultural context of the site and community identity;
- Public safety: the artwork is designed, constructed and installed with best practice risk management and the artwork does not present a hazard to public safety; and
- Special conditions: the artwork must adhere to any special conditions applied by the Shire.

### SHORTLISTING

Each member of the Selection Panel reviews each EOI and assesses them against the selection criteria. The Panel convenes to select the short-list of artists who are then invited to progress to the next stage and to submit a Concept.

### CONCEPT

The Project Manager will review the artwork brief and provide a Stage Two brief with relevant selection criteria and submission requirements for the final selection. Each shortlisted artist prepares a concept.

Depending on the scale of the project, artists should be given between four to eight weeks to submit the concept. A briefing session is usually held at the start of the concept period for all shortlisted artists and facilitated by the Project Manager with presentations from the design professionals working on the project. Architectural drawings including plans, elevations and perspectives are supplied in a PDF format to the artists so they can link their

concepts to the architectural or building specifications. Artists will be paid a fee for preparation of the concept relevant to the overall budget and the submission requirements for the concept.

The submission requirements will usually include concept documentation including:

- A written artwork statement;
- Detailed drawings or maquettes showing the artwork in its location;
- Material palette; and
- Budget and work program.

As part of best practice for the visual arts industry, the selection panel must agree to protect the copyright, moral rights and intellectual property of the artists submitting their ideas.

## FINAL SELECTION

The Selection Panel is convened and each short-listed artist or team presents their respective concept to the Panel. Following the presentations, the Panel undertakes a group assessment and selects the preferred proposal.

The Project Manager will prepare a Public Art Report for Public Art Advisory Panel for their recommendation to Council. The Report can be forwarded to the Shire's Chief Executive Officer (CEO).

The CEO provides comment and/or endorsement of recommendations. Should the CEO reject the recommendation, it can be referred to staff for further development. Proposals will only be rejected if the contents of the Public Art Report are substantially different from the previously approved artwork brief and concept. If the application is rejected, Shire staff will advise/liaise with the developer. If the CEO endorses the application under delegated authority it may proceed to implementation, or the CEO may refer it for Council's consideration.

This process may take between three and ten weeks assuming further information or consultation is not required. Once the proposal is approved the applicant is formally notified. The project will be scheduled for fabrication and installation. If the CEO endorses the application under delegated authority it may proceed to implementation, or the CEO may refer it for Council consideration.

## CONTRACT

Once selected, the artist is provided with a written contract which sets out terms and obligations. The contract should include a milestone work program with a payment schedule. Arts Law Australia and Artsource can provide template contracts in line with arts industry standards. Although there are some crossovers, an artist delivering a public artwork should never be engaged under a building or industry contract.

## DESIGN DOCUMENTATION

Following the contract execution, the artist prepares detailed design documentation in collaboration with the development design team, as required. The design documentation should include:

- Detailed plans or to-scale drawings;
- Information about all finishes and materials, including maintenance requirements;
- Information about all fixings and joinings;
- Names and addresses of subcontractors and fabricators planned to be used;
- Any technology specifications, including lighting;
- Engineering specifications and certification (sign off on each page of drawings) by structural engineer for all structures, fixings and footings and electrical elements;
- Delivery and installation details, including roles, responsibilities of yourself, subcontractors and client;
- Budget breakdown and detailed timeline;

- Documentation of community engagement plan if required; and
- Any other information required to accurately document the design.

Additional matters for the artist to check include:

- Safety in Design Requirements;
- Commissioner obligations such as:
  - Building engineer;
  - Collaboration in design;
  - Power;
  - Site preparation/excavation;
  - Drainage;
  - Landscaping/making good;
- Site access requirements (White Card, Site Access Deed);
- Other regulatory checks (Working with Children, Copyright Licenses);
- Any additional insurances or approvals (e.g. Working with Children, Working at Heights);
- Subcontractor agreements (artists and the commissioner's); and
- A risk analysis.

## COPYRIGHT AND MORAL RIGHTS

Any advice in this section is for guidance only, does not constitute legal advice and should be ratified by a lawyer. ArtsLaw is a body which specifically deals with legal issues around art and can provide advice in certain circumstances.

All artwork, including public artwork, is covered by the Copyright Act, 1968 (Cth). The Act provides creators of public artwork the exclusive rights to reproduce, publish or communicate the work to the public, including uploading it to the Internet or publishing it in brochures. Artists can give permission for copyright to be waived in certain circumstances or artists can be paid a fee for image use.

How copyright is managed after commissioning should be addressed as part of a contract with an artist at the time of commissioning. Generally this covers how the commissioner can use images of the work. ArtsLaw and Artsource has developed public art commissioning agreements which cover the issue of copyright and use of images of the artwork for non-commercial purposes.

- <http://www.artslaw.com.au/info-sheets/info-sheet/copyright/>;
- <http://www.artslaw.com.au//checklists/lists-and-guides/displaying-visual-art-on-the-internet>

There are obligations under the Moral Rights Amendments of the Copyright Act, 1968 (Cth); that is:

- The right for an artist to be identified and named as “author” of a work (via a plaque or sign near the work);
- Right of an artist to prevent others being incorrectly named as the “author” of a work; and
- The right to ensure their work is not subject to derogatory treatment.

Unlike copyright, these rights cannot be sold, traded or disposed of. Legal advice should be obtained from ArtsLaw or another source in the event of any concerns. The Copyright Act, 1968 (Cth) also covers circumstances around decommissioning public artworks from a copyright viewpoint.

## ASSET MANAGEMENT

Artwork that is part of a private building or on private property remains so; obligations for maintenance are with the building owner and the obligation to maintain public artwork appropriately may form part of a development condition.

Artwork that is commissioned by local government or is gifted to local government needs to be managed as an asset in accordance the Local Government Act (1995). The same duty of care obligations applies to public art as with other local government assets.

As part of standard industry practice and according to industry specific contracts for public art commissions, artists are required to prepare a manual containing comprehensive instructions for the proper cleaning, operation and maintenance of the artwork. The manual will include, where applicable:

- A description of the materials used, including Materials Safety Data Sheet where relevant, and any installed services or equipment and their mode of operation;
- An inspection, testing and maintenance program detailing the routine required to maintain the artwork throughout its intended lifespan;
- “As installed” certified engineers’ drawings for the artwork and all related equipment and services;
- A list of major sub-contractors used with appropriate contact details;
- Any other relevant issues relating to the cleaning, operation and maintenance of the artwork;
- Professionally documented and publishable quality images of the design and fabrication of the artwork, where appropriate, and images of the completed artwork in situ; and
- Contact details for the artist.

It is recommended that a copy of the manual be sent to the officer responsible for assets management within the Shire. This enables the assets manager to register the artworks as assets and prepare a database entry according to:

- Name and contact details of the artist (telephone/email/address);
- Title of the artwork;
- Date of commission;
- Date of installation;
- Location;
- Dimensions (height, breadth and length for 3-dimensional works);
- Approximate lifespan;
- Commission value;
- Materials and surface treatments;
- Details of plaque or signage;
- Details of regular required maintenance at certain intervals; and
- Any other information as required by the Shire of Narrogin.

It is useful to record other information which may be used for promotional or other internal processes. For example, a photographic record of the work; artist’s statement; artists CV; and records of any marketing material may prove useful if the shire wishes to publicise or assist with the production of tourist material or interpretive material on the works. This information may be best collated by cultural or arts officers within the Shire and appended to the assets register.

It is crucial that regular required maintenance be performed by either a suitably qualified external contractor or the most suitable Shire department; for example works in public open space be inspected and maintained by parks and gardens staff and works attached to Shire owned buildings be inspected and maintained as any other aspect of the building. The cost and record keeping would be borne by the program areas, as with any other asset maintenance performed. Regular maintenance and inspection ensures that works are presented as intended by the artist, according to their moral rights, enshrined in the Copyright Act 1968 (Cth) and ensures public safety is maintained. Any large scale repairs or alterations to the aesthetic nature of the

work should be performed by the artist themselves. To alter an artist's artwork without their permission may be in breach of the Copyright Act 1968 (Cth).

### DECOMMISSIONING OR REMOVING WORKS

The Shire of Narrogin, if it is the owner of the work, is able to remove, relocate, alter or destroy an artwork provided that they give the artist three weeks written notice of intent and comply with the procedures set out in Section 195 AT of the Copyright Act 1968.

A public artwork may be decommissioned for a number of reasons:

- The work is at the end of its intended life span;
- Maintenance and repair obligations and costs have become excessive in relation to the value and age of the artwork;
- There is irreparable damage to the work through vandalism or decay;
- There is a significant threat of damage of the work if left in its current location;
- The work has become unsafe, or is affected by changes in health and safety regulations;
- The site where the work is located is to be redeveloped or physically altered;
- The work is no longer relevant or appropriate.

If the work is identified for decommissioning, the assets manager will:

- Consult with the artist, maintenance contractors, professional assessors and any other stakeholders. Where possible it is important to be sensitive to the views of the general public and to any community and cultural groups who were involved in the original commission;
- Examine the artwork maintenance record, as well as any contractual agreements between the artist and the commissioner regarding the maintenance or decommission of the work;
- Follow the disposal methods outlined in relevant Shire Policy such as an Artwork Collection Policy. Where the work is sold or gifted a resale to a third party may incur resale royalties. The Resale Royalty Right for Visual Artists, 2009, provides guidance <https://www.resaleroyalty.org.au/>.

### PUBLIC ART MAINTENANCE

Public artworks are exposed to natural forces such as weather conditions and the human forces of pollution, acts of vandalism and accidents. Ideally, regular condition reviews should be carried out. Maintenance reviews and plans can be developed in collaboration with other local government departments which are responsible for public spaces. The Shire will need to develop a maintenance fund to cover future conservation and maintenance costs for all artworks. Ten percent of the project budget is a good guideline, and may be included in the project budget requirements at the time of the commission. The technical review of any public art proposal should consider the anticipated maintenance cost over time.

Each artwork should have a maintenance manual supplied by the artist at the time of completion. The manual lists specifications of the materials and where they were sourced, relevant fabricators and skilled tradespeople who could do repairs. The manual includes a preferred maintenance schedule. Routine maintenance of artwork may be within the scope of regular local government departments, but exceptional maintenance or repairs often require expertise beyond the normal maintenance of property. Whenever possible, the artist should be contacted regarding any repair to the work. Specialised maintenance and conservation duties can be outsourced to the artist or art conservation professionals. The Shire will need to keep a list of such resources.

### PUBLIC ART DOCUMENTATION

Council is committed to promoting its public art collection. It is useful for all commissioned artworks to be included in a Public Art Database with reference to a Collections Manual which would include a Maintenance Plan in regards to its Register of Public Artworks, and a staff member or contracted consultant to carry out the Maintenance Plan as per building assets maintenance schedules.

It is recommended a small percentage of the art budget is kept aside as a final payment for the artwork to be professionally photographed. The artist then submits the images and maintenance manual as part of their final documentation of the project's completion.

# PUBLIC ARTWORK APPROVAL APPLICATION FORM

(FDRSxxx)



Shire of  
**Narrogin**  
*Love the life*

89 Earl Street  
PO Box 1145  
Narrogin WA 6312

(08) 9890 0900

www.narrogin.wa.gov.au  
enquiries@narrogin.wa.gov.au

CASHIER HOURS:  
8:30am – 4:30pm  
MONDAY - FRIDAY

Address of Development:	
Approval to commence development serial no:	

## APPLICANT DETAILS

Name of Applicant /Main contact:	
Address	
Telephone No	
Email Address	

## ARCHITECT / DESIGNER DETAILS

Name of Architect / Designer:	
Address	
Telephone No	
Email Address	

## ARTIST DETAILS

Name of Artist	
Address	
Telephone No	
Email Address	

## PUBLIC ART COORDINATOR DETAILS

Name of Public Art Coordinator	
Address	
Telephone No	
Email Address	

## BUDGET DETAILS

Development budget	
Artwork budget	

## **ABOUT THE PROPOSED ARTWORK**

### **1. Description of proposed artwork**

Please describe the proposed artwork, including artist's intention, historical references (if any), relationship to the building design and the surrounding area, location, size, materials and accessibility to the public. You can use the space provided below or attach a separate sheet.

### **2. Artwork documentation**

Please supply documentation which includes drawings of the proposed artwork and shows colours, materials and dimensions.

### **3. Location of proposed artwork**

Please attach plans that show the proposed artwork's location in relation to the building.

### **4. Contract between the developer and artist**

Please attach a copy of the contract between the Developer and Artist, outlining the payment and timeline.

### **5. Artwork budget**

Please attach a detailed artwork budget. The budget should outline complete costs of procuring the artwork and include any fees to be paid to an art consultant.

### **6. Completion and installation of artwork**

When will the artwork be completed and installed? Please attach a timeline.

*It is a condition of your planning approval that the public art is installed prior to receiving the occupancy permit. Once the artwork has been installed, the Owner / Applicant must notify the Shire in writing. This will allow Shire officers to conduct a site inspection to ensure compliance with the artwork approval.*

### **How will this artwork proposal be assessed?**

Your application will be assessed based on the following criteria:

- The artwork can be clearly seen from, or is located in, the public realm.
- The artwork is consistent with the Shire of Narrogin Public Art Strategy & Masterplan 2019.
- The artwork contributes to an attractive, stimulating and functional environment and does not detract from the amenity or safety of the public realm.
- The artwork has been specifically designed for, and is suitable for, the building or site on which it is to be located and adds to the sense of place of that locality.
- It is original work designed and created by a professional artist/s.
- The artwork is of high aesthetic quality, made from quality materials and is durable and easy to maintain, unless approved as temporary or ephemeral art.

Please ensure your Application for Artwork Approval addresses each of the above criteria.

Submissions	Public Comment	Officer's Comment
ARTS Narrogin Inc	<p>Questions how many capital works projects in the next 1-5 years budgets would be over the \$200,000? If there are projects that qualified for the scheme, how much of the value of the project would be allocated to public artworks?</p>	<p>Officer notes that this question appears to reflect a concern for the limited opportunities, in a given financial year or over a period of time, for the Shire to allocate a budget to public art based on the annual value of any given public work projects within its annual public works program.</p> <p>This concern is noted and requires consideration.</p>
ARTS Narrogin Inc	<p>States that the amount of work involved for an artist to apply to be selected for a public art commission is far too onerous for any artwork valued at under \$25,000.</p> <p>Argues that the extensive hours needed for an artist to fulfil the requirements to apply for a public art commission would not be practical for smaller projects. It would not ensure financial benefit for the artist as most of the money would be consumed by following the policy guidelines.</p>	<p>Noted. The Shire could give consideration to being as flexible as possible with its guidelines during the commissioning process to minimise this impost on interested artists.</p>
ARTS Narrogin Inc	<p>States that the definition of an artist is too narrow, and does not allow for anyone other than possibly the top 5% of professional artists in Australia to apply. Provides an example of a local artist and furniture maker, who, in partnership with another artist, was commissioned to develop the public artwork entry statement for the Narrogin Regional Hospital upgrade. Argues under the definition, artists who engage in other commercial activities would be ineligible to apply as more than 50% of their income would be derived from other sources than the creation of art.</p> <p>Provides suggestions for possible definition:</p> <ul style="list-style-type: none"> <li>* Is a community arts worker or local artist.</li> <li>* Is an arts educator.</li> <li>* Has a track record of exhibiting/selling their artwork.</li> <li>* Earns a percentage of their income from art related activities such as selling works or public art commissions.</li> </ul>	<p>In the Public Art Contribution Policy, artist means a person who meets two or more of the following criteria:</p> <ul style="list-style-type: none"> <li>• Has a track record of exhibiting/selling their artworks in reputable galleries.</li> <li>• Earns over 50 percent of their income from art related activities such as selling works or public art commissions.</li> <li>• Has a Bachelor Degree or Diploma qualification in visual or fine art, or other art forms where relevant</li> </ul> <p>Officer advises that this definition is the same as that adopted in the Shire's endorsed Public Art Strategy &amp; Masterplan 2019. This key document was prepared by Artsource, the peak membership body for visual artists in WA.</p> <p>Officer agrees the definition could be restrictive but is there to ensure the quality of work delivered is of a high standard. Requires consideration. Officer suggests that a selection panel involved in the commissioning of artwork for the Shire, may agree to consider other definitions of an artist during the commissioning process.</p>

Submissions	Public Comment	Officer's Comment
ARTS Narrogin Inc	States that under the heading of Sustainability and Public Artworks, the Public Art Contribution Policy Guidelines does not mention that art work needs to meet public safety/worker safety standards	Noted. However public safety /worker safety standards are not deemed as appropriate content in addressing sustainability. Occupational health and safety issues can be addressed under other Shire policies related to public liability and work safety standards.
ARTS Narrogin Inc	Is of the view that the selection panel for all projects should include local arts professionals and Noongar cultural representatives.	<p>Officer advises that the Public Art Contribution Policy Guidelines state that there should be a maximum number of ideally five, or at the most, seven members on the Selection Panel and that the Selection Panel would comprise a representative of Council and for Shire funded projects, a representative from the Public Art Advisory Panel.</p> <p>It further states the Public Art Advisory Panel is to be made up of independent community representatives in the professional fields of urban design, art and culture. It is considered the Guidelines allow for the opportunity for local arts professionals and Noongar cultural representatives to be included in the selection panel for all projects.</p>

## 10.1.2 SPORT AND RECREATION INFRASTRUCTURE PLAN FEASIBILITY STUDY REPORT

<b>File Reference</b>	26.8.3
<b>Disclosure of Interest</b>	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure.
<b>Applicant</b>	SGL Consulting Group
<b>Previous Item Numbers</b>	Item 10.1.4, 26 May 2020, Res. No. 0520.005 Item 10.1.6, 24 April 2019, Res. No. 0419.007
<b>Date</b>	14 August 2020
<b>Author</b>	Susan Guy Manager – Community Leisure & Culture
<b>Authorising Officer</b>	Azhar Awang – Executive Manager Development and Regulatory Services
<b>Attachments</b>	
<ol style="list-style-type: none"> <li>1. Sport and Recreation Infrastructure Plan Feasibility Study Report</li> <li>2. Public Comment Schedule</li> </ol>	

### Summary

Council is requested to approve the Sport and Recreation Infrastructure Plan Feasibility Study Report as the basis for future work to:

1. Comprehensively assess the social, demographic and economic factors, likely to impact on participation rates in sport and recreation as well as club membership numbers in the Shire over the next ten years so as to clearly identify if the Shire can move forward in confidence with planning for a multi-million dollar sporting complex;
2. On the condition of a positive assessment for increasing participation rates in sport and recreation as well as increasing club membership numbers, in the Shire over the long term, develop a proposed governance structure for a multisport clubroom, widely accepted and agreed to, by the majority of local and key Narrogin sports clubs; and
3. On the condition of a positive assessment for increasing participation rates in sport and recreation as well as increasing club membership numbers, in the Shire over the long term, develop a proposed model for the financial management of a multi-sport clubroom which would be widely accepted, and agreed to, by local and key Narrogin sports clubs.

### Background

SGL Consulting Group was appointed by the Shire to prepare and develop a Sport and Recreation Infrastructure Plan Feasibility Study. The Scope of Works for this project was as follows:

- Phase 1: Needs Assessment – community profile, facility audit and future requirements assessment (preparation for the Master Plan).
- Phase 2: Development of the Sport and Recreation Master Plan – vision, concept design, costing and staging.
- Phase 3 – Feasibility Plan of the final concept.

The aims and objectives of the project were to:

1. Prepare a master plan that outlines a preferred concept for the future development or redevelopment of sport and recreation facilities and infrastructure within the Shire of Narrogin;
2. Provide tangible and supported information to Council which will assist in making informed decisions on any future developments for sporting precincts and allocation of capital planning within the Shire of Narrogin; and
3. Prepare a feasibility study for the final concept plan, as agreed upon by the Shire of Narrogin Council and relevant community Stakeholders.

The need for a feasibility study for a Shire of Narrogin Sport and Infrastructure Plan was driven by the increasing number of requests to the Shire over recent times, by local sport and recreation organisations requiring financial support due to rising maintenance costs of aging club buildings and facilities. Additionally, and as reported by SGL Consulting, a significant factor in the decision to prepare the Sport and Recreation Master Plan – vision, concept design, costing and staging was local sporting clubs aspirations to establish a multisport clubrooms. This is a major feature of the master plan presented in SGL's Feasibility Study Report.

To develop the master plan for the Narrogin Regional Recreation Precinct, SGL Consulting considered certain design factors and a design brief based on community's expressed expectations and concept options.

The preliminary design brief considered a number of development features including:

- A multisport club room to the north of the hockey pitch and overlooking the main football and cricket oval. It will involve the demolition of the small toilet block, Ram Shed and possible relocation or re-orientation of the netball courts;
- The main hall to overlook both the oval and the hockey pitch. Shade areas to be provided off the main hall to allow players and spectators to move from the main hall to the oval and hockey pitch;
- Demolition and re-location of Jessie House will create space to expand the Recreation Centre by constructing an indoor "show court";
- Expansion of the Recreation Centre to the south of the existing two court sports hall to include multipurpose sports hall with timber sprung floor at least 36.55m x 21.30 with fixed tiered seating along one long wall of 5m depth; and
- Removal of the Beach Volleyball (old 50m pool) will create space to introduce an outdoor play and passive recreation area for adults and children using the indoor aquatic centre. Features may include a splash pad for young children (up to upper primary age) and an outdoor relaxation area, including shade, BBQ, seating for families and groups of friends.

Based on the initial design brief two preliminary, sketch concepts were prepared by SGL and circulated to elected members and the Narrogin Sport and Recreation Advisory Network (NSRAN). The concepts presented were:

1. A multipurpose sports clubhouse in the north east corner of Clayton Oval, requiring relocation of the Ram Shed. (Plan 3.1 Preliminary Concept #1 See p.9 of SGL's report).
2. A multipurpose sports club as two buildings located between the hockey pitch and oval. (Plan 3.2 Concept Sketch #2. See p.10 of SGL's report).

As a result of NSRAN's feedback on these two preliminary concept options the original design brief - Plan 3.1- was confirmed as the preferred option with some minor amendments. However, the stakeholder feedback raised two significant issues which required resolution. These were reported by SGL as follows:

*"Narrogin Hawks Football Club...envisioned a central complex, probably two storey that would have glass viewing platforms on all sides for watching the races, the hockey, the football and the cricket". The club does not believe the proposed multisport clubrooms will benefit the club due to "logistics, area available and cost". It further advises the club is "best served by staying in our current location and upgrading our aging facilities" and "would prefer, at this time, to stay where we are".*

*Upper Great Southern Hockey Association ...feel that the current concept plan has not met the initial shared objectives of the sports bodies involved, and particularly UGSHA". The Association wishes to remain involved in a multi-use sports function centre if it provides significant benefits "over and above those that we currently enjoy". It is required to contain a "number of change rooms" and a viewing platform from a two storey building."*

In response, SGL Consulting advised the Football Club's position has a significant impact on the community vision of a multisport club rooms as a new building will require a substantial financial commitment to initially construct and needs the full support of all clubs to use the facility to generate revenues and profits through the bar and catering.

SGL further advised "It is unlikely that a multisport club will be financially viable without the support and involvement of football (or hockey, basketball or netball)" and that:

*"The existing layout of facilities at the Narrogin Sport and Recreation Precinct is such that it is not possible to locate a multisport club in a location which suits all sports. There must be compromises to effect a solution which meets the needs of all sports."*

And

*"Consequently, the future of the multisport clubrooms has to be resolved. The three main options are:*

- a Construct a single storey building at a cost in the order of \$2.36m*
- b Construct a two storey building at a cost in the order of \$3m - \$3.5m*
- c Maintain the status quo, with football and hockey continuing to use their existing facilities."*

Given the consultations reached a point where the Hawks Football Club and UGSHA both held positions which did not support the masterplan proposed by SGL, the consultant recommended that a solution is to include a single or two storey multisport club between the oval, hockey pitch and race track, and note that it will proceed when it is supported by the major sports and that further consultation with the sporting clubs and the broader community is required to determine the best option and finalise the master plan.

The Draft Sport and Recreation Infrastructure Plan Feasibility Study Report was first presented to Council at the Ordinary Council Meeting on 24 April 2019 for the purpose of seeking public comment with any submissions received referred to Council for final consideration prior to formal adoption.

However, Council resolved at that meeting:

*“That the item be deferred pending further engagement by the consultant and administration with the Working Group, the Hawks Football Club and Upper Great Southern Hockey Association to attempt to address their concerns with respect to the concept of the proposed new central building.”*

Following the Ordinary Council Meeting on 24 April 2019, SGL Consulting prepared a revised Narrogin Sport and Recreation Precinct Master Plan (See Plan 3.3, p.12) and a revised plan for the Multisport Clubrooms (Plan 3.4, p.13).

The revised Master Plan included a two storey building located centrally between the oval and hockey pitch (See Plan 3.5 Two Storey Multisport Clubrooms, p.18 and a Revised Master Plan, see Plan 3.6. p.19). Two perspectives were also prepared to indicate what the clubrooms will look like from the oval and hockey pitch (See Plans 3.7 and 3.8 on page 20 and 21 respectively). Complementing these perspectives photographs were taken from an elevated position at the potential location of the clubrooms, to provide an appreciation of the view to the oval and the hockey pitch. The draft concept plan placed the indoor sports courts to the south of the existing indoor sports centre.

Netball indicated that there is no need for a third outdoor netball court and their preference is for two additional indoor courts, rather than upgrade the existing outdoor courts. SGL pointed to the costs associated with this preference given the difference in the cost to upgrade the outdoor courts versus constructing two new indoor courts. As two indoor courts will meet the long term needs of both netball and basketball, SGL advised a siting option is to build over the existing outdoor courts. An issue to be considered are sight lines for horse racing down the back straight. To maintain these sight lines the building should not project further north than the existing sports centre and the Ram Shed. Given the limited space available and the sight line issue, SGL Consulting has considered that a better option from a design and operational perspective is to site the two netball courts to the south of the existing indoor double sports hall, as shown on Plan 3.6 in the report – the position marked as #9.

On 16 October 2019, the revised plans were presented to a NSRAN meeting and comments sought both at the meeting and by a follow up email to all NSRAN members for any further comments. These comments were submitted to SGL consulting by 11 December 2019. The feedback received clearly indicated that there was significant concerns regarding financial management, with Narrogin Hawks advising they believed they would be severely disadvantaged if this complex was to be built and would choose to stay in their current location and UGSHA expressing reservations as to how much control it will have running the new sporting complex as an association.

SGL Consulting’s summary of all feedback regarding the revised plans was provided to the Shire and is presented below in full. (Please note these comments were not summarised in the SGL’s final report to the Shire).

Feedback	SGL’s Comment/Response
<p><b>Upper Great Southern Hockey Association</b> I presented the plan to our delegates at our last hockey meeting and also emailed it out to all clubs in our association. The main concern going forward was how much control UGSHA will have running the new sporting complex as an association (financial</p>	<p>For information only</p> <p>The master plan report recommends community sporting clubs which will be users of the multisport clubrooms establish an incorporated association.</p>

Feedback	SGL's Comment/Response
<p>return). The group seemed to be reasonably happy with the new plan.</p>	<p>Initially, all sporting clubs in Narrogin should be invited to become members, with the key foundation members likely to include – football, cricket, hockey, netball, basketball, swimming, squash and archery.</p>
<p><b>Narrogin Hawks Football Club</b>  I think the concept is good but it would all come down to the way it is run and managed. The expenses and profits would be very hard to manage fairly between clubs. At the moment we get out what we put into our club, I am concerned this may not happen when multiple clubs get involved in something like this.</p> <p>The projected costings, we feel, are way out. .... we don't think there will be any profit left for clubs operating budgets. The football club, alone, needs approx. \$50,000 to pay players to come from Perth.</p> <p>Managing the club with volunteer labour is not a practical option and therefore a manager or managing committee will need to be employed to oversee the complex, eating into any profits and exacerbating our first concern.</p> <p>We feel, overall, that our club will be severely disadvantaged if we build this complex and would choose to stay where we are and approach council for funds to assist us to maintain our existing premises.</p>	<p>Agree with the comment, and future management and allocation of expenses and profit will be dependent upon the cooperation and willingness to behave in the best interests of both their club and the Narrogin community.</p> <p>Stakeholders need to be comfortable with the expenses and potential profit. They are best suited to review and finalise a budget based on their current turnover.</p> <p>Disagree, initially volunteers should be able to operate the clubrooms, in the same way the existing clubs operate their facilities. In the longer term when turnover and profitability increases, paid staff may be employed.</p> <p>This may be a fair assessment in the short term. Over the longer term a multiuse sports club is more likely to benefit sport in Narrogin and each sports club. It will create a larger collective number of volunteers, paying customers and members.</p>
<p><b>Narrogin Squash Club</b>  .. the building design is a massive improvement on the previous effort.  The internal 'Social' area...exactly how big is it? I think a comparison to another known building would be very useful. E.g. how big is the internal area at the John Higgins Centre?</p>	<p>Positive feedback  The design brief specified that the main hall will be at least 400m<sup>2</sup>, to cater for at least 160 people seated for meals and be capable of being divided into two areas (100 seats and 60 seats). The total area is based on an allowance of 2m<sup>2</sup> per person plus an additional area of 80m<sup>2</sup>.</p> <p>The main hall will be serviced by:</p> <ul style="list-style-type: none"> <li>▪ a bar, which serves directly on to both the two sections of the main hall, with cool room (12m<sup>2</sup>)</li> </ul>

Feedback	SGL's Comment/Response
	<ul style="list-style-type: none"> <li>▪ commercial kitchen suitable for catering for 160 meals with refrigerated food storage areas (20m<sup>2</sup>)</li> <li>▪ 2 x public toilets to service main hall and allow for public access from outside (2 x 20m<sup>2</sup>)</li> </ul> <p>The dimensions of the John Higgins Centre can be provided by Council.</p>
<p><b>Netball Association</b></p> <p>From a netball perspective, our main request is still 2 new indoor courts with tiered seating on one which should be wooden and sprung.</p> <p>In regard to the new building to be used mainly by hockey &amp; football, with other Associated sports contributing to costs, we would need to know what percentage would be the costs from the other associated sports.</p> <p>This would be the same feedback from Junior basketball as well (I am also secretary of this committee).</p>	<p>The master plan includes expansion of the Recreation Centre to the south of the existing two court sports hall to include multipurpose sports hall with timber sprung floor at least 36.55m x 21.30 with fixed tiered seating along one long wall of 5m depth.</p> <p>The funding strategy is to be determined by the clubs and Council. It may include a cocktail of grants from State and Federal Governments, supplemented by a contribution from Council and loans serviced by revenue generated by the facility.</p> <p>Same comment as above</p>
<p><b>Narrogin Golf Club</b></p> <p>The plan has no effect on the Narrogin Golf Club.</p>	<p>No comment required</p>

It is notable that SGL Consulting addressed the Narrogin Hawks current concerns by agreeing with its assessment that it would be significantly disadvantaged if the multisport complex was to be built. However SGL viewed this as an assessment about short term impacts and suggested that in the longer term a multiuse sports club is more likely to be of benefit to sport in Narrogin and each sports club as it will create a larger collective number of volunteers, paying customers and members. SGL holds the view that the synergies created by clubs cooperating and working together, will (ultimately) result in a broad range of improved outcomes for individual clubs. The alternative is for clubs to continue to operate separately which SGL gauges as an approach which will result in duplication of facilities and dilution of financial resources and volunteer efforts.

SGL advised that the existing layout of facilities at the Narrogin Sport and Recreation Precinct is such that it is not possible to locate a multisport club in a location which suits all sports and further advised there must be compromises to effect a solution which meets the needs of all sports.

SGL recommended the best location for a multisport clubrooms is between the oval, hockey pitch and race track. Space exists for a single storey building, and also a double storey facility with change rooms on the ground floor and clubrooms on the second floor.

Importantly it was noted that this concept would need to proceed when supported by the major sports and that further consultation with the sporting clubs and the broader community is required to determine the best option and finalise the master plan.

Following the feedback received in early December 2019, the Draft Sport and Recreation Infrastructure Plan Feasibility Study Report was again presented to Council at the Ordinary Council Meeting on 26 May 2020, for the purpose of seeking public comment with any submissions received referred to Council for further consideration.

It was resolved at that meeting:

*“That Council approve the Shire of Narrogin Draft Sport and Recreation Infrastructure Plan Feasibility Study Report for the purpose of seeking public comment, for a period of 60 days, with any submissions received referred to Council for further consideration.”*

The public comment period commenced on 11 June 2020, and closed on 3 August 2020. Public Notices were placed in the Narrogin Observer, on the Shire’s website and Facebook page as well as on public noticeboards. Comments were to be submitted to Council in writing by mail or email to the Chief Executive Officer. A copy of the Feasibility Study was made available for download from the Shire’s website and hard copies were available for viewing at the following locations:

- Shire of Narrogin Administration Offices, 89 Earl Street Narrogin
- The R W (Bob) Farr Memorial Library, Fortune Street Narrogin
- The Narrogin Regional Leisure Centre, Clayton Road, Narrogin.

## Comment

During the public comment period, the Shire received two submissions; one from the Croquet Club and one from a resident and ratepayer. Neither were in favour of the proposal for a multisport club room. The Croquet Club stated it would prefer to stay in its current location. Both submissions suggested that current economic, demographic and social indicators for Narrogin, would mean that investment in the facility would create a debt burden into the future for the community and future generations. There were also concerns expressed for the financial viability of certain clubs and future governance issues. For full comments please see Attachment 2.

The two public comments in large part mirrored many of SGL’s own findings. SGL points to the financial viability of the proposed development being undermined should football decide to remain at, and upgrade, its existing facility as it will result in less capital funds to develop the multisport clubroom and fewer customers to generate revenues. It is understood that the existing football clubrooms are structurally sound.

SGL’s report revealed a Narrogin sporting community concerned about the sharing of costs and revenues and sending a message that clubs would find this challenging. During the Needs Assessment phase of this Study, an electronic survey of clubs and association’s (with 14 clubs responding), pointed to clubs experiencing multiple issues. These included the increasing age of club members, declining club membership, increasing operating costs, rising participation costs, high travel costs and lack of volunteers. Face to face consultation indicated that junior sport in Narrogin was challenged to find the numbers to

create teams. The reasons given included parents who are busy and the high cost of sport. At the same time as reporting these challenges, the sporting community expressed the need for adequate and suitable facilities and finding funds for facility development and upgrades.

SGL found, that demographically there is an increasing level of economic disadvantage within the Shire of Narrogin, which is likely to have an adverse impact on the capacity for the resident population to pay for recreation and sport activities. This raises the issue of equity. Research cited found a high proportion of Narrogin's population is overweight or obese. This may be a strong indicator that a high proportion of the population is not participating in sport and recreation activities. Such findings raise important questions regarding the mix of social and economic factors impacting on current and future participation rates in sport and recreation and club membership numbers in the Shire.

It is also highly relevant that as recently as 2019, the Department of Planning Lands and Heritage research predicted Narrogin's population to decline by 8.5 percent - from 5,162 persons as at the 2016 ABS Census) to 4,725 by 2031.

Council may need to examine through further research (as it is was not explored by SGL during its work), the demographic, social and economic factors, which would contribute to high levels of participation in sports and recreation and/strong club membership numbers, which would feed a strong and robust community need for significant investment in the upgrade of sporting precincts and multipurpose club rooms.

## Consultation

### External

- Community (online survey)
- Sporting Clubs and Associations (on line survey - some 40 + contacts) although not all clubs are listed as they are supported through their parent association, e.g. Upper Great Southern Hockey Association.
- NSRAN - a community committee supported by the Shire which aims to work collaboratively to create a cohesive approach to the planning and development of sport and recreation facilities in the Shire of Narrogin. It currently comprises up to 15 local sport and recreation organisations.
- Narrogin Agricultural Society
- Narrogin Districts Stud Breeders Association
- Narrogin Poultry Society.

### Internal

- Elected Members
- Chief Executive Officer
- Executive Manager Development and Regulatory Services.

## Statutory Environment

- Former Town of Narrogin Town Planning Scheme No. 2.
- Recreation zoned land- Policy Statement states:

*“This zone includes land which is value for all forms of recreation use from passive low intensity use to organise sporting activities. As part of its recreation planning, the Council will produce a management plan for existing and future recreation areas and seek public comment upon those proposals.”*

## Policy Implications

The Council's Community Engagement Policy 1.14 relates.

## Financial Implications

Capital cost estimates for implementing the master plan were not prepared by an accredited quantity surveyor, but compiled from a number of sources – Rider Levett Bucknall cost estimates for similar projects, RLB Riders Digest Perth 2019, State Government costing fact sheets and web based research.

The individual capital cost estimates are summarised below and are indicative. They do not take into account opportunities to reduce costs through the use of voluntary labour and tradespeople providing "mates rates". They GST exclusive and based on 2018/19 costs, with no allowance for cost increases beyond January 2019.

Whilst the Administration notes that there may be some debate about the merits of a splash pad (in time) to replace the existing outdoor volleyball courts, particularly related to the ongoing costs and problems associated with water play areas, it should be noted that the report does highlight that there is no demonstrable need or financial warrant for an outdoor or 50 metre swimming pool.

A final position on these elements, in particular, will no doubt be assisted by feedback from the community and sporting groups as part of the broader community engagement process.

Capital Cost Estimates	
Works	Total
<b>STAGE 1</b>	
Multisport Clubroom (Two Story)	\$2,905,202
<b>Total (Stage 1)</b>	<b>\$2,905,202</b>
<b>STAGE 2</b>	
Demolition and/or re-location of Jessie House	\$150,000
Construct two sports courts at the Recreation Centre	\$4,929,540
<b>Total (Stage 2)</b>	<b>\$5,079,540</b>

<b>STAGE 3</b>	
Removal of the Beach Volleyball court	\$10,000
Outdoor dry play and passive recreation area	\$200,000
Outdoor splash pad and passive recreation area	\$500,000
<b>Total (Dry)</b>	<b>\$210,000</b>
<b>Total (Splash pad)</b>	<b>\$510,000</b>
Construct a synthetic surface bowling green (40m x 40m)	\$253,000
<b>Total (Bowling Green)</b>	<b>\$253,000</b>
<b>STAGE 4</b>	

Ram Shed relocation	\$155,925
Multipurpose club room for bowls, tennis, croquet	\$942,965
Upgrade the horse stalls to meet contemporary standards	Not costed
<b>Total (Stage 4)</b>	<b>\$1,098,890</b>

In relation to a management strategy, SGL assumed a future multisport clubrooms will be leased by Council to sporting clubs which will be responsible for the facility. SGL recommends that community sporting clubs which will be users of the multisport clubrooms establish an incorporated association – notionally named Narrogin Community Sporting Association or NCSA.

Specific operational responsibilities with cost implications were summarised by SGL as below:

Council Responsibilities	Narrogin Community Sporting Association (NCSA) responsibilities
<b>Term</b> The term must reflect the repayment of any loans raised to fund the construction and fit out of the building, and usually has a right of renewal. Minimum term should be 5 years.	<b>Term</b> Likely to seek a long term loan.
<b>Insurance</b> Building insurance Public liability insurance Contents insurance (for items owned by Council)	<b>Insurance</b> Repayment of building insurance premium Public liability insurance Directors and officers insurance Contents insurance (for items owned by NCSA)
<b>Maintenance</b> Structural maintenance of the building	<b>Maintenance</b> Preventative maintenance of the building such as painting  Day to day maintenance and repairs to the building and fittings and fixtures
<b>Utilities</b> Provide connections to utility services	<b>Utilities</b> Payment of all utility costs – electricity, gas, telephone, water etc.
<b>Rent and Rates</b> Determine rent and whether rates will be payable. Rent may be peppercorn or based on repayment of any loans raised by Council for the building	<b>Rent and Rates</b> Timely payment of applicable rent and rates
<b>Use</b> No involvement, except to require compliance with Council policies eg. no smoking	<b>Use</b> Responsible for all bookings and hire of the building, including establishing policies and procedures

Council Responsibilities	Narrogin Community Sporting Association (NCSA) responsibilities
Staffing No involvement	Staffing Ensure the building is appropriately supervised and managed by paid staff and/or volunteers
Distribution of Profit No involvement	Distribution of Profit Determine a policy and procedures for allocating surplus funds to members clubs. It is expected that the priority will be to ensure the building is maintained to a high standard, before funds are distributed to member clubs.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.1 Develop and activate Sport and Recreation Master Plan
Strategy	2.3.1.1 Seek funding and develop Sport and Recreation Master Plan
Strategy	2.3.1.2 Activate Sport and Recreation Master Plan
Strategy:	2.3.2 Engage and support community groups and volunteers
Strategy:	2.3.3 Facilitate and support community events
Strategy:	2.3.4 Provide improved community facilities (eg library/recreation)
Strategy:	2.3.5 Encourage and support continued development of arts and culture

### Voting Requirements

Simple Majority.

#### OFFICERS' RECOMMENDATION

That Council receive the Sport and Recreation Infrastructure Plan Feasibility Study Report and incorporate in the next review of Corporate Business Plan in year four, a task to undertake a comprehensive business case to:

1. Undertake a *Needs Analysis* to assess the social, demographic and economic factors, likely to impact on participation rates in sport and recreation, as well as club membership numbers in the Shire over the next ten years, so as to clearly identify if the Shire can move forward in planning for a multi-million dollar collocated sporting complex; and

2. Subject to point 1 above demonstrating a positive assessment for increasing participation rates in sport and recreation, as well as increasing club membership numbers, in the Shire over the long term, develop a proposed *Governance Structure* and proposed *Financial Management and Asset Sustainability Model* for a multisport clubroom, widely accepted by, and accepted to, the majority of local and key Narrogin sports clubs.

#### **COUNCIL RESOLUTION 0820.004**

Moved: Cr Broad

Seconded: Cr Wiese

That Council receive the Sport and Recreation Infrastructure Plan Feasibility Study Report and incorporate in the next review of Corporate Business Plan in year four, a task to undertake a comprehensive business case to:

1. Undertake a *Needs Analysis* to assess the social, demographic and economic factors, likely to impact on participation rates in sport and recreation, as well as club membership numbers in the Shire over the next ten years, so as to clearly identify how the Shire can move forward in planning for facilities at Clayton Road; and
2. Acknowledge that the many years of development and layout of the facilities at the Narrogin Regional Leisure Centre and Clayton Oval does not lend itself now to a single multisport clubroom, and therefore the Shire works with users towards consolidating existing major facilities, on the following guiding principles:
  - a) A refurbished combined Football and Cricket facility servicing those sports and the growing needs of female competitions, facing east towards Clayton Oval;
  - b) A refurbished sports club facility accommodating the needs of lawn bowls and croquet as a combined model;
  - c) Continuation of the tennis facilities as a stand-alone facility;
  - d) Supporting and encouraging the development of a multi-breed animal facility for horses and cloven hooved animals including the need to relocate or collocate elsewhere the Stud Breeders Shed;
  - e) Supporting the need to relocate Narrogin Regional Homecare (Jessie House) in time to accommodate the growth of future sporting needs;
  - f) Supporting the continuation of a stand-alone facility for the growing needs of Hockey; and
  - g) The Leisure Centre accommodating the needs for expansion of covered basketball and netball courts as usage patterns require it.

**CARRIED 9/0**

Reason for Change: The Council believed that after many years of development and layout of the facilities at the Narrogin Regional Leisure Centre and Clayton Oval, that the current layout does not lend itself now to a single multisport clubroom, and therefore the Shire believed it more appropriate to works with users towards consolidating existing major facilities.



# Sport and Recreation Infrastructure Plan

## Feasibility Study Report



Prepared by SGL Consulting Group in association with Hames Sharley and Rider Levett Bucknall



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# 1 INTRODUCTION

This chapter provides an introduction to the Sport and Recreation Infrastructure Plan, including background information, aims and objectives and methodology

## 1.1 Background

Narrogin is a rural community in the Wheatbelt South sub-region of Western Australia, approximately 200km south east of Perth. The Shire covers an area of 1,632 square kilometres and is home to a population of almost 5,000 residents. The Shire of Narrogin amalgamated with the Town of Narrogin on 1 July 2016 creating the current Shire of Narrogin and comprises two town sites, Narrogin which is recognised as the regional centre for the sub-region, and the town site of Highbury.

In November 2016 a group of local sport and recreation representatives acknowledged the benefit of working collaboratively to improve the planning and development of facilities and infrastructure for their sporting organisations. As a result the Narrogin Sport and Recreation Advisory Network (NSRAN) was formed and is currently comprised of up to fifteen local sport and recreation organisations. NSRAN is a community driven committee which is supported by the Council.

There has been a noticeable increase in the number of queries and requests received by the Shire of Narrogin from local sport and recreation organisations requiring additional financial support due to rising maintenance costs of aging buildings and facilities. As there are no existing plans in place that guide the future needs of sport and recreation infrastructure within the Shire of Narrogin extensive research and planning is required to increase individual sporting organisations success in accessing facility funding and to assist Council in making informed decisions regarding the priorities for future facility planning and development for the whole of the Shire.

## 1.2 Aims and Objectives

The aims and objectives of this project are to:

- 1 Prepare a master plan that outlines a preferred concept for the future development or redevelopment of sport and recreation facilities and infrastructure within the Shire of Narrogin;
- 2 Provide tangible and supported information to Council which will assist in making informed decisions on any future developments for sporting precincts and allocation of capital planning within the Shire of Narrogin;
- 3 Prepare a feasibility study for the final concept plan, as agreed upon by the Shire of Narrogin Council and relevant community Stakeholders.



## 2 NEEDS ASSESSMENT

This chapter summarises the findings of the Needs Assessment Report, which provides the basis for development of sport and recreation facilities at the Narrogin Regional Recreation Precinct.

### 2.1 Background Research

- An Economic Development Strategy for the Greater Narrogin Region incorporating the Shires of Cuballing, Highbury and Narrogin projects a 2050 population target of 20,000 people. Among the strategic assets identified are the recreation, sport and racing facilities in Narrogin. The Strategy supports upgrading recreation and sport facilities and improved management of facilities. Council's Strategic Community Plan has noted the potential to grow sporting events and festivals and a need to improve community recreation facilities.
- Narrogin Shire had a population of 5,149 at the 2016 Census. It has a higher median age and substantially more people aged over 65 years than for WA, although the proportion of children aged under 15 years is higher than for WA. The demographic data also indicates an increasing level of economic disadvantage. The population data suggests that demand will continue for facilities and programs for children and young people, combined with growing demand for services to meet an aging population. It also indicates limited capacity for residents to pay for recreation and sport activities.
- Narrogin has a wide range of recreation and sporting facilities. The main recreation and sport precinct includes an indoor sports and aquatic centre, synthetic hockey pitch, oval, tennis and netball courts, bowling and coquet greens and a trotting and racecourse. Two additional ovals are located in Narrogin, used for little athletics and archery, plus playing fields at the high and primary schools. Other facilities include a golf course, speedway, airfield and disused velodrome. Tennis courts are located at Highbury,
- Communities with similar multifunctional recreation and sporting facilities include York, Northam, and Broome. Whilst none of these venues include a horse racing facility, they do have similar indoor and outdoor recreation and sport components. Toodyay is a small community which plans to establish a new multipurpose recreation and sport precinct close to the local high school. However, it has not been able to attract funding for the project, and is therefore investigating strategies to fund the development from Council resources.

### 2.2 Stakeholder Feedback

This section summarises key point raised by stakeholders in personal, telephone or group interviews and two workshops with NSRAN.

- Hockey, basketball and netball are well run sports with a strong membership, whereas football, cricket, tennis and bowls have declining membership. Junior sports participation appears to be relatively low compared with similar communities.
- Narrogin has a high proportion of its population which is overweight or obese.

- Major projects which have been identified to improve sport and recreation provision include a multipurpose sports clubhouse, show court with seating and synthetic bowling green.
- There is almost unanimous agreement that a new multisport club rooms to service outdoor and indoor sports is the highest priority project.
- Creating additional space to develop new facilities at the Recreation Precinct include removal of Jessies House, removal of the beach volleyball courts and relocation of the Ram Shed.
- The sports facilities and club rooms at the eastern end of the precinct were considered adequate to meet the needs of bowls, croquet and tennis.
- Narrogin Racing Club is responsible for both harness and thoroughbred racing meets. Both sports have multiple race meetings and expect to continue functioning in the long term. The existing horse stalls require upgrading.

## 2.3 Community Surveys

This section presents a summary of results from two web based surveys of the Narrogin community.

### 2.3.1 E-Survey

A sample of 136 residents completed an E survey (full results are included in the Needs Assessment Report and reproduced in Appendix B). It included far more females than males and was over represented in the 26 – 45 year age cohort, and substantially under represented in the over 65 age group.

- 67% of respondents currently play sport on an organised, competitive and regular basis. The most popular sports were netball, hockey, basketball and tennis.
- 69% of respondents participate in recreation, sporting or physical activity in a non-competitive and regular basis. The most popular activities were walking, attending fitness classes and visiting a gym.
- The most visited sporting facility was the Narrogin Indoor Sports Centre, followed by the indoor swimming pool, Clayton Road Oval and the hockey pitch.
- Satisfaction ratings for a range of aspects of sport and recreation within Narrogin found most received a good satisfaction rating. Participation opportunities for young children and participation opportunities for teenagers received the highest satisfaction ratings. Lower satisfaction ratings were given to the cost to participate in sport and physical activities and financial support provided by Council to sport.
- Increasing young peoples' participation, increasing maintenance standards, upgrading sport facilities to host major events and ensuring facilities are accessible to people with a disability were the most important strategies for improving sport in Narrogin.
- Potential development projects identified included a multipurpose sporting clubrooms, upgrade Narrogin Leisure Centre, resurface bowling greens to a synthetic surface, reinstate outdoor 50m pool to host competitions and affordable or subsidised access to various sports for children and teenagers.

### 2.3.2 Clubs Survey

An invitation to complete an E-survey was sent to all clubs and associations of Council's community data base and responses were received from 14 clubs:

- Overall, clubs with the largest membership are Upper Great Southern Hockey Association, Narrogin & Districts Netball Association, Upper Great Southern Cricket Association, Narrogin Speedway Club and Narrogin Squash Club.
- The dominant sport for junior females is netball, whereas hockey is the most popular sport for junior males. Cricket and hockey had the most adult males members, and netball and hockey had the most adult female members.
- Clubs fielded far more adult teams than junior teams.
- Most clubs anticipate either no change or an increase in membership over the next five years.
- The highest priority facility upgrades or re-developments were:
  - ✓ Change rooms at the Hockey Centre
  - ✓ Kitchen at the Hockey Centre
  - ✓ Repairing leaks on indoor sports courts
  - ✓ Lights at indoor sport courts
  - ✓ Club facilities at Clayton Road oval
  - ✓ Swimming pool suitable for swim meets and other water sports
  - ✓ Synthetic bowling green
- The major challenges confronting clubs were age of members, declining and maintaining members, decreasing membership in juniors, increasing operating and participation costs, adequate and suitable facilities, funding facility development and upgrades, travel costs and lack of volunteers.

## 2.4 Overview

The research conducted identified a suite of factors which will guide future provision of recreation and sport facilities in Narrogin.

### 2.4.1 Existing Situation

- Growing our Community – An Economic Development and Implementation Strategy projects population growth in the Greater Narrogin Region to 20,000 by 2050, based on 3% per annum growth. Narrogin Recreation Complex is considered a strategic asset, and integral to retaining and attracting residents.
- The “Wheatbelt Blueprint: A vision for a vibrant future” identified Sport and Recreation as being a core element of development of liveable and connected communities, and was identified as providing opportunities to network, socialise and helps create a sense of belonging.
- The Shire of Narrogin had a population of 5,149 people at the 2016 census. It has a higher proportion of children aged 0 -14 years and people aged over 65 years when compared with WA. The population data suggests that demand will continue for facilities and programs for children and young people, combined with growing demand for services to meet an aging population. The demographic data demonstrates an increasingly level of economic disadvantage within the Shire of Narrogin which is likely to have an adverse impact on capacity for the resident population to pay for recreation and sport activities.
- Narrogin Regional Recreation Precinct is the main recreation and sport reserve catering for football, cricket, hockey, archery, indoor ball sports, aquatic activities, health and fitness activities, squash, tennis, bowls and croquet, plus thoroughbred and harness racing and showgrounds,
- Complementing the Precinct are two playing fields one of which is used for little athletics, playing fields and outdoor courts at local schools, tennis courts at Highbury,

and a golf course, speedway and airfield. A disused velodrome is also located at Narrogin.

- A good range of sport is available in Narrogin, although participation levels in each sport varies. Over time the number of teams in each sport have either declined or stabilised at a low but possibly sustainable level. No sports have experienced significant growth in membership in recent year.
- Two sports facilities which are considered to be high quality are the turf cricket wicket and the synthetic hockey pitch.

### 2.4.2 Community Feedback

A series of community engagement techniques have been used to generate feedback from the local community regarding the future direction of recreation and sport in Narrogin.

- Football, cricket, bowls and tennis have been identified as clubs which have experienced a decline in participation, and appear to be struggling to maintain numbers. Conversely, hockey, basketball and netball are well run clubs which appear to be maintaining participation levels.
- Support for maintaining the Club Development Officer position and continuing to consult with clubs and associations.
- General support to retain all existing facilities, although some facilities need upgrading. The main demand for new facilities is for improved club rooms and change rooms.
- Recurring proposals are for:
  - ✓ Central clubrooms and amenities to service football/cricket oval and hockey pitch
  - ✓ Synthetic bowling green
  - ✓ Expanded aquatic facilities, specifically a 50m swimming pool
  - ✓ Upgrade the indoor courts to cater for high level sport
  - ✓ Rationalisation of showground pavilions, such as demolition of the ram shed and poultry shed
- The community is generally satisfied with participation opportunities for most age groups. However, the community was not as satisfied with the maintenance of facilities and the cost to participate.
- The community consider increasing young peoples' participation in sport and physical activities as important. It also wants an increase in maintenance standards of sport and recreation facilities and upgraded sport facilities to enable major events to be held in Narrogin.
- Many sports clubs do not believe their facilities are adequate to meet their long term needs.



## 3 MASTER PLAN CONCEPT

This chapter discusses future development of the Narrogin Regional Recreation Precinct, a written design brief based on community expectations and concept options.

### 3.1 Design Factors

In preparing this master plan factors to be considered include:

- 1 Narrogin Regional Recreation Precinct is comprised of zones which include compatible activities:
  - ✓ Main oval and hockey pitch
  - ✓ Leisure centre and outdoor netball courts
  - ✓ Tennis courts, bowling and croquet greens
  - ✓ Thoroughbred and harness racing
- 2 In a greenfield site, all sporting facilities will be integrated and serviced by a central community hub and car parking. The location and orientation of the racing tracks are a major constraint preventing any significant changes to the layout of the precinct.
- 3 Whilst the racing remains, the longitudinal layout will have to continue. Consequently, the tennis courts, bowling and croquet greens zone will have to remain in its current location. If racing ceases, potential exists to establish a new zone for tennis, bowls and croquet to the north of the main oval and hockey pitch.
- 4 The long term future of both thoroughbred and harness racing in country communities is not secure. There has been no indication from either thoroughbred or harness racing that either facilities will not continue to host racing in the future. Despite this, master planning should acknowledge the opportunity provided by the possible closure of the two tracks possibly in the long term.
- 5 Narrogin originally had an outdoor 50m swimming pool. It was closed and filled in to create a sand volleyball court. Some community members has identified the need for a 50m pool to meet the competitive needs of the swimming club.

Attendances at outdoor swimming pools in southern Australia are highly dependent upon the weather. Hot weather results in higher attendances, and conversely cold weather results in lower attendances. Attendances can be stabilised by heating the water. Mechanical heating is very expensive and solar heating while low cost does not result in a stable water temperature over a longer period.

It is highly unlikely that an outdoor 50m pool will attract major swimming events. At best a regional swim meet or a regional or country championships may be held. None of these events will be of significant economic benefit to the local community, and do not justify the capital and operating costs.

Overall, constructing a 50m pool will involve substantial capital costs (\$5+m) and increase annual operating costs (\$100,000+), with limited, if any, increase in attendances.

- 6 Although the Regional Recreation Precinct accommodates most sports in Narrogin, each sporting zone operates independently. Only limited sharing occurs, despite many families having members who participate in a range of activities. Given the expressed demand for a combined sports club building, a logical extension is to establish a multiuse clubhouse which is accessible to multiple sports.

- 7 Narrogin Regional Recreation Precinct has the potential to accommodate all outdoor field sports. Development of a multisport clubrooms, may result in the relocation of little athletics to the precinct. The impact will be to reduce maintenance cost of the Thomas Hogg Oval which is used by little athletics.

## 3.2 Preliminary Design Brief

Narrogin Regional Recreation Precinct will be redeveloped in the long term, in a series of stages.

### 3.2.1 Development Features

#### High Priority Projects:

Multisport club room to the north of the hockey pitch and overlooking the main football and cricket oval. It will involve the demolition of the small toilet block, Ram Shed and possible relocation or re-orientation of the netball courts. The club room to include:

- Main Hall to be used for:
  - ✓ social area eg during and after football, cricket and hockey matches, and during major tournaments such as basketball and tennis
  - ✓ functions eg dinners, presentations and celebrations
  - ✓ training eg seminars and conferences

The main hall will be at least 400m<sup>2</sup>, to cater for at least 160 people seated for meals and be capable of being divided into two areas (100 seats and 60 seats). The total area is based on an allowance of 2m<sup>2</sup> per person plus an additional area of 80m<sup>2</sup>.

The main hall to overlook both the oval and the hockey pitch. Shade areas to be provided off the main hall to allow players and spectators to move from the main hall to the oval and hockey pitch.

- The main hall will be serviced by:
  - ✓ a bar, which serves directly on to both the two sections of the main hall, with cool room (12m<sup>2</sup>)
  - ✓ commercial kitchen suitable for catering for 160 meals with refrigerated food storage areas (20m<sup>2</sup>)
  - ✓ 2 x public toilets to service main hall and allow for public access from outside (2 x 20m<sup>2</sup>)
- Sporting amenities to include:
  - ✓ 4 x unisex change rooms (2 x 75m<sup>2</sup> - 90m<sup>2</sup>) plus toilets/showers/ice bath (2 x 35m<sup>2</sup>). Direct access from the change rooms to the outside sporting areas .
  - ✓ Umpires Rooms, including toilet and showers (30m<sup>2</sup> - 40m<sup>2</sup>)
  - ✓ Timekeepers box (15m<sup>2</sup>)
- Administration areas to include:
  - ✓ Board/meeting room (25m<sup>2</sup>)
  - ✓ Office (20m<sup>2</sup>)
  - ✓ Storage and office requisites (16m<sup>2</sup>)
  - ✓ Equipment storage areas with direct external access (16m<sup>2</sup>)

Development of the multisport club:

- Will require the demolition and relocation of the Ram Shed.
- Enable resurfacing and possible re-positioning of the two outdoor netball courts to ensure adequate run off.

- Relocation and expansion of the children's play equipment to allow supervision for the multisport club.

### Other Projects

Demolition and re-location of Jessie House will create space to expand the Recreation Centre by constructing an indoor "show court".

Expansion of the Recreation Centre to the south of the existing two court sports hall to include multipurpose sports hall with timber sprung floor at least 36.55m x 21.30 with fixed tiered seating along one long wall of 5m depth.

Removal of the Beach Volleyball (old 50m pool) will create space to introduce an outdoor play and passive recreation area for adults and children using the indoor aquatic centre.

Features may include:

- Splash pad for young children (up to upper primary age)
- Outdoor relaxation area, including shade, BBQ, seating for families and groups of friends

Construction of a replacement Ram Shed adjacent to the Poultry Shed in the north west corner of the football oval approximately 40m x 35m with a loading ramp for livestock.

Whilst the buildings, tennis courts, bowling greens and croquet greens are in good condition, they can be maintained so they are fit for purpose and within the financial means of each club, no capital works is justified. When complete redevelopment of a building, court or green is needed, a long term integrated multipurpose club room may be pursued. The bowling green closest to, and on the south side of the bowls clubrooms, to be designated as a synthetic surface green.

The existing horse stalls are basic and can be upgraded, to meet contemporary standards.

### 3.2.2 Initial Concept Master Plans

Based on the initial design brief, two preliminary, sketch concept plans were prepared showing the potential siting of a multipurpose sports club (refer to Plans 3.1 and 3.2). Sketch #1 showed the multipurpose sports clubhouse in the north east corner of the oval, requiring relocation of the Ram Shed. Sketch #2 showed the multipurpose sports club as two buildings located between the hockey pitch and oval.

Plan 3.1: Preliminary Concept Sketch #1



Plan 3.2: Preliminary Concept Sketch #2



### 3.2.3 Stakeholder Engagement #1

The plans were circulated to Council and members of NSRAN for comments and feedback. Overall, Sketch #1 was the preferred option of NSRAN. Comments regarding the plans and relevant responses are detailed below.

Feedback	Response
Install water tanks to catch rainfall to prevent flooding of the race track in winter	To be included in the design brief
Hall size – would this accommodate the expected volume of users?	Main hall will be at least 400m <sup>2</sup> , to cater for at least 160 people seated for meals and be capable of being divided into two areas (100 seats and 60 seats). The total area is based on an allowance of 2m <sup>2</sup> per person plus an additional area of 80m <sup>2</sup> .
Relocation of Ram Shed	Replacement Ram Shed to be adjacent to the Poultry Shed in the north west corner of the football oval approximately 40m x 35m with a loading ramp for livestock. (refer to design brief)
Sports club to be a two storey structure	Planning is for a single storey building which has a larger footprint but substantially lower capital cost
Removal of the old football and cricket clubrooms	No decision, potential to reuse as a community building, demolish or continue to use existing change rooms reducing the need for change rooms in the new multisport club.
Removal of Jesse House	To be relocated (refer to design brief)

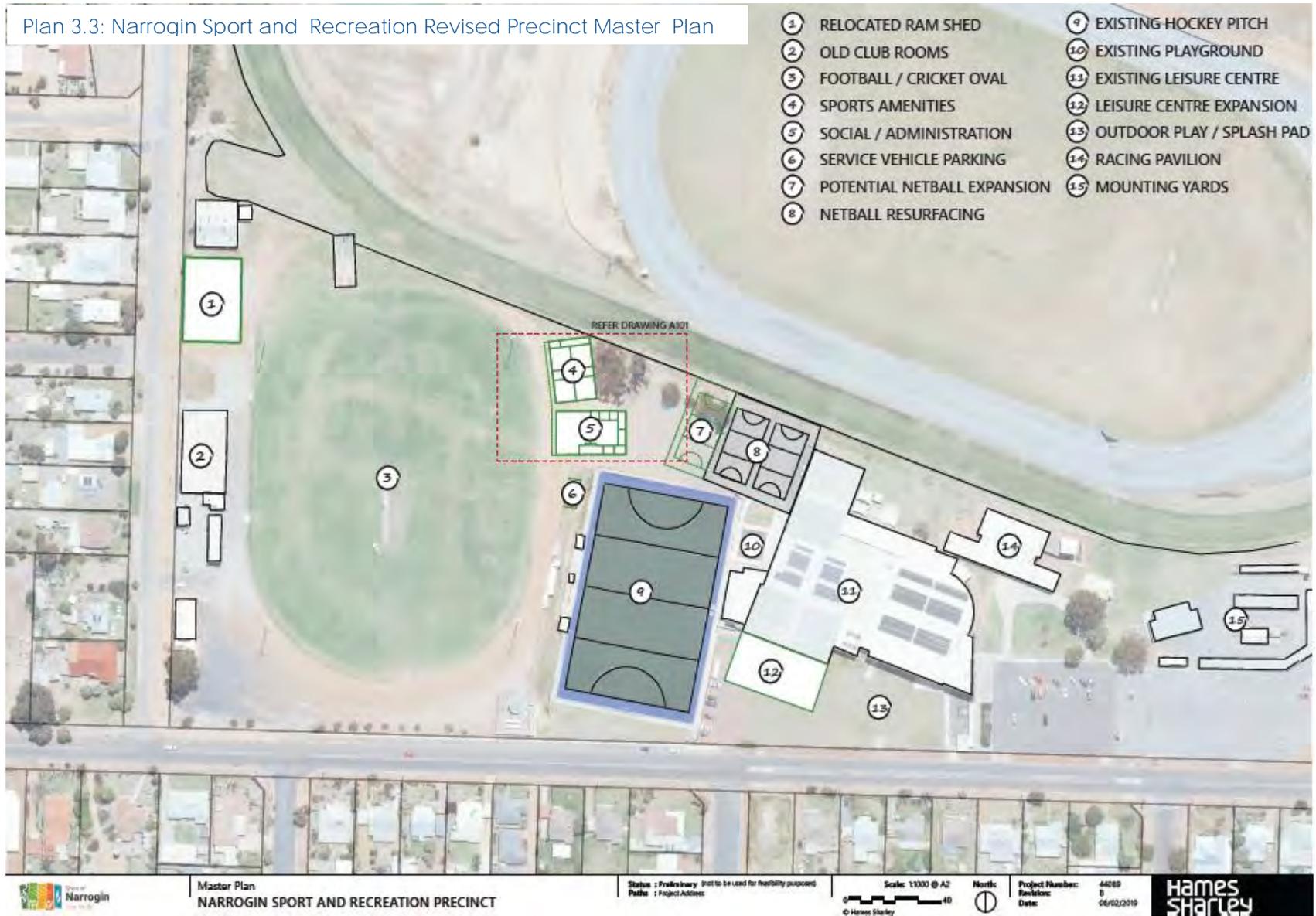
As a result of feedback on two preliminary concept plans for the multisport club, from members of NSRAN, the original design brief was confirmed with minor amendments:

- 1 The multisport club will be designed with water tanks to catch rain water, which can be recycled.
- 2 Maintain vehicular access to the multisport club for supplies, and create car parking as close as possible to the building.
- 3 Retain use of the existing football/cricket change rooms until replacement amenities constructed in association with the multisport clubrooms.

### 3.2.4 Revised Concept Master Plan

Based on feedback the concept master plan for the Narrogin Sport and Recreation Precinct and the proposed multisport clubrooms was revised (refer to Plans 3.1 and 3.2).

Plan 3.3: Narrogin Sport and Recreation Revised Precinct Master Plan



Plan 3.4: Narrogin Sport and Recreation Revised Multisport Clubrooms



## 3.3 Master Plan

### 3.3.1 Stakeholder Engagement #2

The revised concept master plans (Plans 3.3 and 3.4) were presented to a meeting of NSRAN, and stakeholders were given a week to provide additional comments and feedback.

Feedback at the NSRAN meeting included:

- During Saturday's when multiple sports are being played, on-site car parking is at a premium. Consequently, parking occurs on the Clayton Road. As such it causes inconvenience to residents, and a long term car parking solution is required.
- Potentially, overflow car parking in the centre of the race track is an option. It is understood that the racing club is not in favour of allowing car parking in the centre of the track, due to possible damage to the track from vehicles. A management solution negotiated with the race club is required.
- While bowls, croquet and tennis are satisfied with the current buildings and arrangements. In the long term a new club rooms to service all three clubs may be required.
- Netball prefers to have two additional indoor courts, rather than upgrade the existing outdoor courts.
- Three outdoor courts are not needed. Until additional indoor courts are constructed, two outdoor courts are adequate to meet the needs of netball.
- The long term future of the football club rooms was raised. It was mooted that it could be recycled as a community space.
- A synthetic bowling green is needed in the short term, as Narrogin is the only club in the region that does not have a synthetic bowling green.

Feedback following the NSRAN meeting included:

- Narrogin Hawks Football Club formally wrote to a submission in which it "envisioned a central complex, probably two storey, that would have glass viewing platforms on all sides for watching the races, the hockey, the football and the cricket". The club does not believe the proposed multisport clubrooms will benefit the club due to "logistics, area available and cost". It further advises the club is "best served by staying in our current location and upgrading our aging facilities" and "would prefer, at this time, to stay where we are".
- Upper Great Southern Hockey Association "feel that the current concept plan has not met the initial shared objectives of the sports bodies involved, and particularly UGSHA". The Association wishes to remain involved in a multi-use sports function centre if it provides significant benefits "over and above those that we currently enjoy". It is required to contain a "number of change rooms" and a viewing platform from a two storey building.
- Narrogin Croquet Club reiterated it works closely with the bowling club, and uses the bowling club rooms for social functions. The club supported the establishment of a synthetic bowling green "as soon as possible".

### 3.3.2 Discussion

The second round of stakeholder feedback raises a series of issues which require a resolution.

### Viability of multisport club

The idea to develop a multisport clubrooms appears to have been a long term vision within the Narrogin sporting community. All the consultation and feedback undertaken as part of this master planning exercise reinforced the vision. The decision of Narrogin Hawks Football Club to remain in its current facilities, has a significant impacts on the community vision of a multisport club rooms.

A new building will require a substantial financial commitment to initially construct. Subsequently, it will need the full support of all clubs to use the facility to generate revenues and profits through the bar and catering. It is unlikely that a multisport club will be financially viable without the support and involvement of football (or hockey, basketball or netball).

Both football and hockey have an expectation for a two story building with viewing areas on the upper floor. Football cited cost as a consideration for its current position, and hockey expects significant benefits over and above those currently enjoyed. A new multisport club on a single level will be costly, and a two storey building is likely to cost an additional 30% - 50%.

The existing layout of facilities at the Narrogin Sport and Recreation Precinct is such that it is not possible to locate a multisport club in a location which suits all sports. There must be compromises to effect a solution which meets the needs of all sports. The best location for a multisport clubrooms is between the oval, hockey pitch and race track. Space exists for a single storey building, and also a double storey facility with change rooms on the ground floor and clubrooms on the second floor.

A solution is to include a single or two storey multisport club between the oval, hockey pitch and race track, and note that it will proceed when it is supported by the major sports.

### Future of football clubrooms

It is understood that the existing football clubrooms are structurally sound. Hence they can be upgraded and continue to be used by the football club as their home. Similarly, if the decision is to proceed with a multisport clubrooms on the opposite side of the oval, it may be recycled as a community space. The specific refurbishment and use will be determined by community needs. It has potential to be used as a meeting space, activity space and community service space.

### Siting of two indoor sports courts

The draft concept plan sited the indoor sports courts to the south of the existing indoor sports centre. Netball has indicated that there is no need for a third outdoor netball court and their preference is for two additional indoor courts, rather than upgrade the existing outdoor courts. Clearly cost is a major consideration given the difference in the cost to upgrade the outdoor courts and construct two new indoor courts.

As two indoor courts will meet the long term needs of both netball and basketball, a siting option is to build over the existing outdoor courts. It is understood that an issue to be considered are sight lines for horse racing down the back straight. To maintain these sight lines the building should not project further north than the existing sports centre and the Ram Shed.

Given the limited space available and the sight line issue, the better option from a design and operational perspective is to site the two courts to the south of the existing indoor double indoor sports hall, as shown on Plan 3.6 (position marked as #9).

### Replacement of Ram Shed

It has been suggested that activities conducted in the Ram Shed may be re-located to the

indoor sports centre. A protective floor covering will be needed to ensure that the sports floor is not damaged. A multipurpose floor which meets the needs of sports and other activities is an option. A sprung, timber floor is both costly to maintain and easily damaged if not protected. However, a rubber sponge backed vinyl floor is more versatile and easier to protect. The cost to purchase a protective covering, and the cleaning costs to reinstate the building to a sports centre has not been estimated. A cost benefit analysis will determine whether this is a viable solution. A major factor will be the frequency and duration of livestock sales and events.

A second issue to consider is delivery of livestock to the building. Ramps have been constructed at the Ram Shed to allow stock to move from transport trucks directly into the pens within the building. Such as manoeuvre may not be possible if the multisport clubrooms are constricted in the north east corner of the oval, as inadequate room is available for truck access around the building. If the additional two courts are constructed to the south of the existing indoor sports centre as shown in Plan 3.6, additional truck access will be required. Adequate space is available to provide truck access to this location.

Relocating the Ram Shed to the western side of the oval near the poultry shed, will allow truck access to the new building. It will enable the Ram Shed to continue being operated in its current manner.

### Council and State Government Funding

As a general rule, government funding is usually provided for sporting facilities which benefit the maximum number of people, add economic benefit to the community, be financially and socially viable and are supported by the broader community. A principle of sustainable planning is to develop multipurpose facilities which are used by multiple sporting groups.

Developing a two court extension to the indoor sports centre is an example of a multipurpose, multiuser facility. It is also likely to be financially sustainable operationally once constructed. Similarly, a multisport clubroom used by all sports will meet the criteria. However, as noted above, a multisport clubrooms which is not supported by one of the major sporting bodies may not be financially viable from both a capital and operational perspective.

### Car parking

Existing car parking on site is inadequate during peak periods. Hence over flow carparking is needed. A negotiated agreement with the racing club is needed to access the interior of the race track for car parking. The main consideration is to ensure no damage to the track from cars crossing in all weather conditions.

### 3.3.3 Where to from here?

Many of the factors impacting upon a master plan for the Sport and Recreation Precinct are inter-related. A significant factor in the decision to prepare a master plan was the desire of sporting clubs to establish a multisport clubrooms. This is a major building block of the master plan.

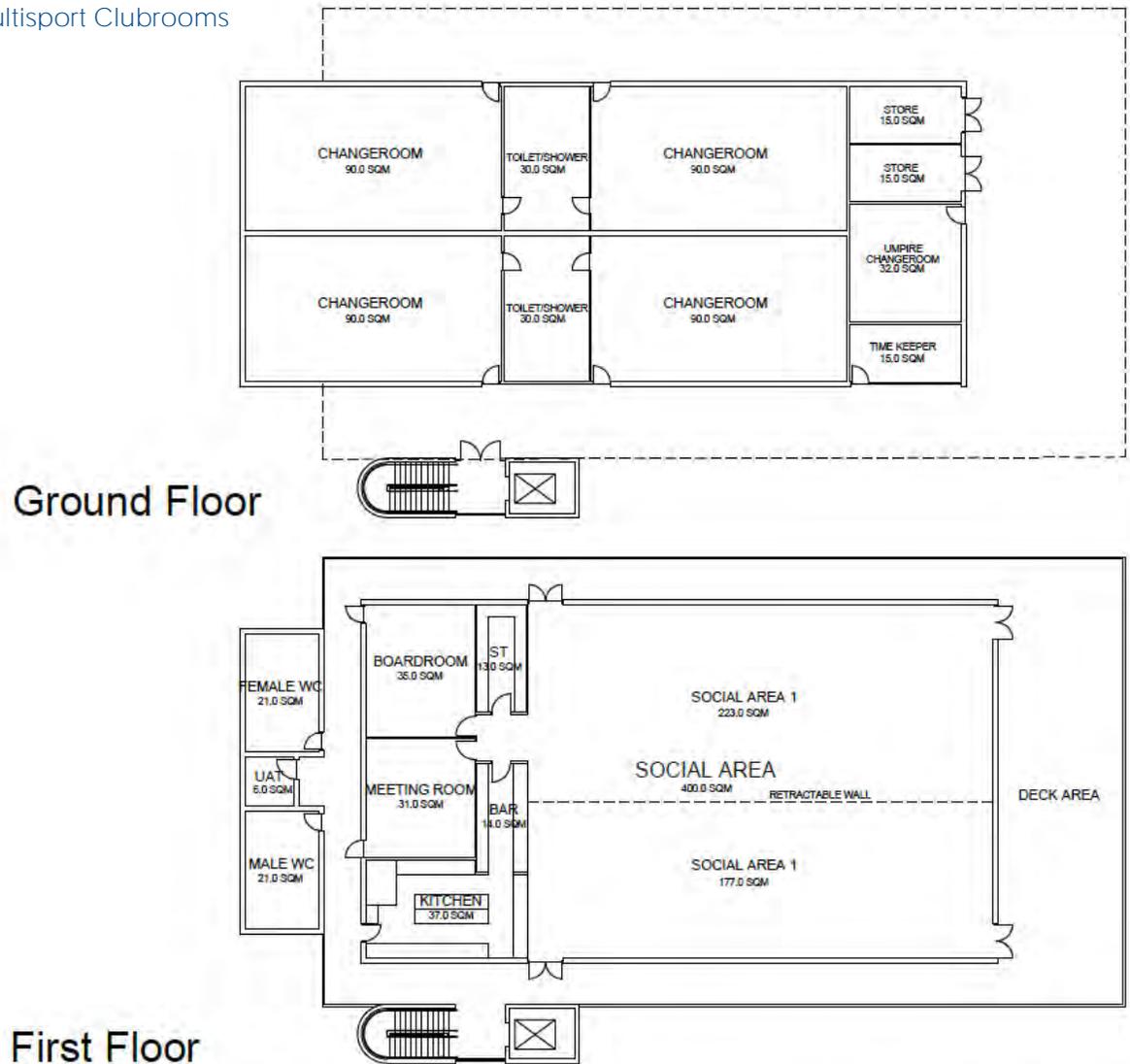
- 1 The best location for a multi sports clubroom which is accessible to football, netball, hockey and basketball (and other sports and clubs which operate from the indoor sports centre) is on the east side of the oval. This site is not ideal from a football perspective as viewing to the oval is into the sun. There is no site which is ideal for both hockey and football.
- 2 Siting the multisport clubrooms in the northeast corner of the oval will require the relocation of the Ram Shed. Adequate space exists to relocate the Ram Shed to the western side of the oval to the north or south of the existing football clubrooms.

- 3 Siting the multisport clubrooms central to the football oval and hockey pitch will provide good viewing over both the oval and hockey pitch. The main disadvantage of this site is that viewing the oval is into the setting sun.
- 4 Funding the capital cost of the multisport club will likely require a funding cocktail, with contributions from all sports clubs, Council and possibly the State Government. To be operational viable will require the support of the major sports, to generate revenues from food and beverage sales.
- 5 A decision by football to remain at, and upgrade, its existing facility will result in less capital funds to develop the multisport clubroom and fewer customers to generate revenues. In simple terms it is likely to undermine the financial viability of the development.
- 6 Consequently, the future of the multisport clubrooms has to be resolved. The three main options are:
  - a Construct a single storey building at a cost in the order of \$2.36m
  - b Construct a two storey building at a cost in the order of \$3m - \$3.5m
  - c Maintain the status quo, with football and hockey continuing to use their existing facilities
- 7 Further consultation with the sporting clubs and the broader community is required to determine the best option and finalise the master plan.

#### 3.3.4 Two Storey Clubrooms

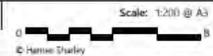
Based on the feedback from Council officers and the NSRAN the master plan was revised to include a two storey building located centrally to both the oval and hockey pitch (refer to Plans 3.5 and 3.6). Two perspectives were also prepared to indicate what the clubrooms will look like from the oval and hockey pitch (refer to Plans 3.7 and 3.8), Complementing these perspectives photographs were taken from an elevated position at the potential location of the clubrooms, to provide an appreciation of the view to the oval and the hockey pitch (refer to photographs 3.1 and 3.2).

Plan 3.5: Two Storey Multisport Clubrooms



MULTISPORT CLUB ROOM  
NARROGIN SPORT AND RECREATION PRECINCT

Status : Preliminary (not to be used for feasibility purposes)  
Path : Project Address



Scale: 1:200 @ A3  
North:  
Project Number: 44089  
Drawing Number: A101  
Revision: E  
Date: 03/07/2019



Plan 3.6: Revised Master Plan



Plan 3.7: View from hockey pitch



MULTISPORT CLUB ROOM - 3D PERSPECTIVE SOUTHEAST  
NARROGIN SPORT AND RECREATION PRECINCT

Status: Preliminary (not to be used for feasibility purposes)  
Path: (Project Address)



Project Number: 44089  
Drawing Number: A102  
Revision: A  
Date: 12/08/2019

Plan 3.8: View from oval



 Shire of Narrogin	MULTISPORT CLUB ROOM - 3D PERSPECTIVE SOUTHWEST NARROGIN SPORT AND RECREATION PRECINCT	Status: Preliminary (not to be used for feasibility purposes) Path: Project Address	Scale: Not to scale © Harvey Shire	North: 	Project Number: 44089 Drawing Number: A193 Revision: A Date: 12/05/2019	
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Photograph 3.1: View over the oval



Photograph 3.2: View over hockey pitch



### 3.3.5 Staging Plan

Funds may not be available to implement the master plan in a single stage. Consequently, a Staging Plan is proposed, with implementation based on funding availability.

#### Stage 1

- Construction of the two storey multisport club in a single stage

### Stage 2

- Demolition and/or re-location of Jessie House to another site in Narrogin.
- Construct two sports courts at the Recreation Centre. [Note: Ideally, this will be completed as soon as possible]

### Stage 3

- Construct a synthetic surface bowling green. [Note: This is a priority with the bowling club, although lack of finance may delay its development.]
- Removal of the Beach Volleyball court and construct an outdoor play and passive recreation area.

### Stage 4

- Demolition or relocation of the Ram Shed to the north west corner of the precinct, adjacent to the poultry shed. [Note: Relocation of the Ram Shed may not be necessary]
- A multipurpose club room for bowls, tennis, croquet.
- Upgrade the horse stalls to meet contemporary standards.

## 3.4 Capital Cost Estimates

The order of cost estimates for implementing the master plan have been prepared. The costs were not prepared by an accredited quantity surveyor, rather they were compiled from a number of sources – Rider Levett Bucknall cost estimates for similar projects, RLB Riders Digest Perth 2019, state government costing fact sheets and web based research.

The individual capital cost estimates are included in Appendix A, and are summarised below. They should be considered to be indicative, and do not take into account opportunities to reduce costs through the use of voluntary labour and tradespeople providing “mates rates”. The costs are GST exclusive and based on 2018/19 costs, with no allowance for cost increases beyond January 2019.

Works	Total
STAGE 1	
Multisport Clubroom (Two Storey)	\$2,905,202
Total	\$2,905,202
STAGE 2	
Demolition and/or re-location of Jessie House.	\$150,000
Construct two sports courts at the Recreation Centre.	\$4,929,540
Total	\$5,079,540
STAGE 3	
Removal of the Beach Volleyball court	\$10,000
Outdoor dry play and passive recreation area	\$200,000
Outdoor splash pad and passive recreation area	\$500,000
Total (Dry)	\$210,000
Total (Splash pad)	\$510,000
Construct a synthetic surface bowling green (40m x 40m)	\$253,000
Total (Bowling Green)	\$253,000

Works	Total
STAGE 4	
Ram Shed relocation	\$155,925
Multipurpose club room for bowls, tennis, croquet.	\$942,965
Upgrade the horse stalls to meet contemporary standards.	Not costed
<b>Total</b>	<b>\$1,098,890</b>

### 3.5 Multisport Club Management Strategy

It is expected that Narrogin Sport and Recreation Precinct will continue to be managed and operated under existing policies and procedures. For example the Regional Recreation Centre will be managed under contract by the YMCA, the oval will be maintained by Council and the football and cricket clubs will be charged a seasonal fee.

It is Council's practice to lease buildings to user groups which are responsible for its operation and maintenance. It is therefore assumed that the multisport clubrooms will be leased to sporting clubs which will be responsible for the facility.

#### 3.5.1 Management Group

To enter into a contract or lease with Council requires a legal entity. It is recommended that community sporting clubs which will be users of the multisport clubrooms establish an incorporated association – notionally named Narrogin Community Sporting Association or NCSA.

The model rules for an incorporated association may be used to develop a constitution, with variations to meet the specific needs of Narrogin and the member clubs. Provision should be provided in the constitution for new clubs to join NCSA. Initially, all sporting clubs in Narrogin should be invited to become members, with the key foundation members likely to include – football, cricket, hockey, netball, basketball, swimming, squash and archery.

#### 3.5.2 Management Responsibilities

A lease will detail the rights and responsibilities of Council and NCSA. In addition to standard terms in a lease, important operational responsibilities are summarised below.

Council Responsibilities	NCSA Responsibilities
<b>Term</b> The term must reflect the repayment of any loans raised to fund the construction and fit out of the building, and usually has a right of renewal. Minimum term should be 5 years.	<b>Term</b> Likely to seek a long term loan.
<b>Insurance</b> Building insurance Public liability insurance Contents insurance (for items owned by Council)	<b>Insurance</b> Repayment of building insurance premium Public liability insurance Directors and officers insurance Contents insurance (for items owned by NCSA)
<b>Maintenance</b> Structural maintenance of the building	<b>Maintenance</b> Preventative maintenance of the building such as painting

Council Responsibilities	NCSA Responsibilities
	Day to day maintenance and repairs to the building and fittings and fixtures
Utilities Provide connection to utility services	Utilities Payment of all utility costs – electricity, gas, telephone, water etc
Rent and Rates Determine rent and whether rates will be payable. Rent may be peppercorn or based on repayment of any loans raised by Council for the building	Rent and Rates Timely payment of applicable rent and rates
Use No involvement, except to require compliance with Council policies eg no smoking	Use Responsible for all bookings and hire of the building, including establishing policies and procedures.
Staffing No involvement	Staffing Ensure the building is appropriately supervised and managed by paid staff and/or volunteers.
Distribution of Profit No involvement	Distribution of Profit Determine a policy and procedures for allocating surplus funds to member clubs. It is expected that the priority will be to ensure the building is maintained to a high standard, before funds are distributed to member clubs.

### 3.5.3 Governance and Staffing

The day to day affairs of NCSA will be managed by a Board comprising elected representatives of its members. Ideally the Board will be a small group of up to five members including Chair, Treasurer, Secretary and "House Manager".

To ensure the smooth operation of the clubrooms, a "House Manager" should be appointed who is responsible for ensuring the bar is appropriately stocked, and managing all bookings for events and functions.

It is usual for sports clubrooms to be staffed by member volunteers, particularly in the bar and kitchen. An honorarium may be paid to the House Manager based on turnover or profitability. All volunteers need to be appropriately trained and qualified eg responsible serving of alcohol.

### 3.5.4 Type of Functions

The multisport clubrooms has spaces for a range of activities including:

- Social after sport (training and competition) drinks (bar only)
- Club meals (eg on Friday or Saturday evenings/night)
- Dinners, presentation nights, celebrations (eg 21<sup>st</sup> birthdays)
- Fundraising functions
- Seminars and training programs

### 3.5.5 Operating Costs

A detailed operating budget will be prepared when the building design is finalised. An indicative and realistic estimate of operating costs, based on comparable community facilities has been prepared. It does not include repayment of loans for the initial construction of the building and fit out, and trading stock eg bar and kitchen.

To maximise the profitability and return to member clubs it will be important to make a high level of use of volunteers for maintenance tasks. It is equally important to ensure volunteers are trained and qualified to undertake maintenance works. Thus only qualified tradespeople should undertake electrical and plumbing tasks.

Indicative costs are:

Expenditure Item	Indicative Budget
Accounting/audit	\$500
Bank charges	\$200
Cleaning consumables	\$800
Office expenses	\$350
Power	\$5,000
Water	\$350
Telephone	\$1,000
Repairs and maintenance fund	\$5,000
Building Insurance	\$2,000
Other insurances	\$1,500
Security	\$250
Rates	\$0
Loan repayments	\$0
Depreciation	\$0
Miscellaneous expenditures	\$250
<b>Total</b>	<b>\$17,500</b>

Revenues will be generated from:

- Membership fees (clubs and individuals)
- Bar takings
- Kitchen
- Hire fees
- Fundraising functions

# APPENDIX A:

# CAPITAL COST ESTIMATES

Works	Unit	Quantity	Rate	Total
<b>STAGE 1</b>				
Multisport Two Storey Clubroom				
Toilets and changerooms in multisport clubrooms	m2	497	\$1,950	\$969,150
New building inc main hall, toilets, administration and meeting rooms	m2	478	\$2,145	\$1,025,310
Fitout - bar	m2	12	\$1,600	\$19,200
Allowance for decking and stairs	Item			\$150,000
Two storey option (+30%)		1.30		
Allowance for stormwater pipes, pits and connection to existing system	Item			\$35,000
Allowance for sewer pipework, inspection points and connection to existing system	Item			\$45,000
Allowance for new water connection to serve new building	Item			\$12,500
Allowance for external power and lighting to building exterior (wall mounted lights, GPOs etc.)	Item			\$20,500
Allowance for external communications connection	Item			\$10,000
No allowance for power augmentation	Excl			\$0
Sub Total				\$2,286,660
Builder's Preliminaries and Supervision (10%)				\$228,666
Builder's Margin and Overheads (5%)				\$125,766
Design Development Contingency (10%)				\$264,109
Total				\$2,905,202
<b>STAGE 2</b>				
Demolition and/or re-location of Jessie House.	Item	1	\$150,000	\$150,000
Construct two sports courts at the Recreation Centre.	m2	1850	\$2,000	\$3,700,000
Lightweight fixed tiered seating to Sports Hall (300 seats)	Item			\$180,000
Sub total				\$3,880,000
Builder's Preliminaries and Supervision (10%)				\$388,000
Builder's Margin and Overheads (5%)				\$213,400
Design Development Contingency (10%)				\$448,140
Total				\$4,929,540
<b>STAGE 3</b>				
Removal of the Beach Volleyball court	Item		\$10,000	\$10,000

Works	Unit	Quantity	Rate	Total
Outdoor dry play and passive recreation area	Item		\$200,000	\$200,000
Outdoor splash pad and passive recreation area	Item		\$500,000	\$500,000
Total (Dry)				\$210,000
Total (Splash pad)				\$510,000
Construct a synthetic surface bowling green (40m x 40m)	m2	1,600	\$158	\$253,000
Total				\$253,000
<b>STAGE 4</b>				
Dismantle existing building	Item			\$50,000
Remove foundations	Item			\$10,000
Rebuild ram shed	Item			\$75,000
Sub Total				\$135,000
Builder's Preliminaries and Supervision (10%)				\$13,500
Builder's Margin and Overheads (5%)				\$7,425
Total				\$155,925
Multipurpose club room for bowls, tennis, croquet.	m2	400	\$1,500	\$600,000
Fitout - bar	m2	12	\$1,600	\$19,200
Allowance for stormwater pipes, pits and connection to existing system	Item			\$35,000
Allowance for sewer pipework, inspection points and connection to existing system	Item			\$45,000
Allowance for new water connection to serve new building	Item			\$12,500
Allowance for external power and lighting to building exterior (wall mounted lights, GPOs etc.)	Item			\$20,500
Allowance for external communications connection	Item			\$10,000
No allowance for power augmentation	Excl			\$0
Sub Total				\$742,200
Builder's Preliminaries and Supervision (10%)				\$74,220
Builder's Margin and Overheads (5%)				\$40,821
Design Development Contingency (10%)				\$85,724
Total				\$942,965
Upgrade the horse stalls to meet contemporary standards.	Not costed			

# APPENDIX B:

# COMMUNITY SURVEY

136 people completed the questionnaire. The demographic profile of respondents is summarised below. The sample included far more females than males (62% and 38%, respectively) and was over represented in the 26 – 45 year age cohort, and substantially under represented in the over 65 age group. 95% of respondents described their heritage as Caucasian with 77% from Narrogin.

Characteristic	%	Female	Male	2016 Census (15+ years)
Age				
Aged 25 years and Under	13%	8%	5%	16%
26 - 35	27%	19%	8%	15%
36 - 45	23%	16%	7%	13%
46 - 55	18%	8%	10%	15%
56 - 65	13%	9%	4%	17%
66 + years	7%	3%	4%	24%
	100%	62%	38%	

- 35% of the Respondents had children aged between 7 and 16 years.
- 94% of these children participated in a junior sports club.

## Sport and Physical Activity

Respondents were asked if they currently played an individual or team sport on an organised, competitive and regular basis, 67% answered Yes. 19% played Netball followed by Hockey (18%) and Basketball and Tennis (10%). The majority of "Other" sports played was Squash.

Individual or Team Sport	%
Netball	19%
Hockey	18%
Basketball	10%
Tennis	10%
Football	8%
Swimming	8%
Cricket	6%
Bowls	4%
Golf	4%
Motor sport	3%
Shooting	2%
Soccer	1%
Croquet	1%
Multi-disciple (eg triathlon)	1%
Equestrian activity	1%

Individual or Team Sport	%
Other	6%

Respondents were asked if they participated in recreation, sporting or physical activity in a non-competitive and regular basis, 69% answered Yes. 25% walked for exercise followed by attending fitness classes (15%) and visiting a gym (14%). The majority of "Other" sports activities were Dancing and Yoga.

Recreation, Sporting or Physical Activity	%
Walking for exercise	25%
Attend fitness classes	15%
Visit a gym	14%
Jogging or running	12%
Swimming	12%
Bike riding	6%
Individual sport (eg golf and tennis)	5%
Horse riding	2%
Other	9%

### Sporting Facilities

Respondents were asked in the last 12 months, had they visited a sporting facility in the Shire of Narrogin, 91% had visited a sporting facility.

Sporting Facility	%
Narrogin Indoor Sport Centre	14%
Narrogin Swimming Pool	13%
Clayton Road Oval	11%
Narrogin Hockey Pitch	10%
Narrogin Recreation Centre Gym	9%
Thomas Hogg Oval	7%
Highbury Tennis Club	7%
Narrogin Bowling Greens	6%
Narrogin Tennis Courts	6%
Narrogin Race and Harness Track	5%
Narrogin Speedway	5%
Narrogin Golf Club	4%
Outdoor Gym	4%
Railway Building (Gymnastic Centre)	1%
Narrogin Croquet Green	1%

The Respondents were then asked which facility they had visited the most in the last 12 months. Narrogin Indoor Sport Centre was the most visited facility (24%), followed by Narrogin Hockey Pitch (17%) and Narrogin Swimming Pool (16%)

Sporting Facility	%
Narrogin Indoor Sport Centre	24%

Sporting Facility	%
Narrogin Hockey Pitch	17%
Narrogin Swimming Pool	16%
Clayton Road Oval	13%
Narrogin Recreation Centre Gym	7%
Narrogin Speedway	6%
Narrogin Bowling Greens	5%
Highbury Tennis Club	4%
Narrogin Race and Harness Track	3%
Thomas Hogg Oval	2%

The Respondents were asked what their main reason was to visit the facility. 56% were a competitor/player.

Main Reason	\$
Competitor/player	56%
Caregiver/parent taking child to sport	15%
Spectator	12%
Official/umpire/referee	5%
Administrator	4%
Other	8%

### Satisfaction Ratings

Respondents were asked to rate their satisfaction with a range of aspects of sport and recreation within Narrogin on a scale of 1 to 5 (5 = Very Satisfied and 1 = Very Dissatisfied, 0 = Don't know).

Overall most aspects received a good satisfaction rating, with a positive satisfaction rating (ie >3.00). Participation opportunities for young children and participation opportunities for teenagers received the highest satisfaction ratings. Lower satisfaction ratings were given to the cost to participate in sport and physical activities and financial support provided by Council to sport.

Aspect	Satisfaction
Participation opportunities for young children	3.84
Participation opportunities for teenagers	3.78
The overall provision of sport and recreation facilities in the Shire	3.66
Participation opportunities for older adults	3.61
Quality of sport and recreation facilities in Narrogin	3.34
Access to sport and recreation facilities for people with a disability	3.15
Maintenance of sport and recreation facilities in Narrogin	2.87
The cost to participate in sport and physical activities	2.84
Financial support provided by Council to sport	2.77

### Importance Ratings

Respondents were asked to rate the importance of a range strategies on a scale of 1 to 5 (5 = Very Important and 1 = Very Important, 0 = Don't know).





Submissions	Public Comment	Officer's Comment
Public 1	<p>Strongly feels the Shire cannot afford to fund such a huge multi-million dollar sport and recreation facility and the feasibility studies. Argues that with a recession pending it will be future generations that will bear the burden of the pandemic's financial implications, and they do not need Narrogin excesses as well. States that Narrogin like other small Wheatbelt towns has empty shops and offices and a declining and ageing population. States that to commit the current ratepayers and population of Narrogin to such a huge financial commitment would be totally inappropriate.</p> <p>Asserts young school leavers tend to move to the city for further studies and very rarely return to their hometowns on a permanent basis. States farms tend to be sold on to, neighbouring farmers rather than to newcomers / younger people coming to town. Points out in the past, Narrogin was a vibrant town, with three football teams, two strong tennis clubs, and a bowling club with a strong patronage with both male and female members. States the football teams, tennis clubs, bowls, hockey and other sporting clubs were supported by teachers, government workers and railway personnel.</p> <p>Argues the demise of the railways has brought a dramatic decline in the population.</p> <p>Argues that mining towns have a "fly- in fly-out" work force while Narrogin has a "drive-in drive-out" population – driving in on a Sunday evening/ Monday morning and driving out "as soon as possible" on a Friday afternoon.</p> <p>Contends this drive-in, drive-out workforce contributes little to the Narrogin community and believes they do not shop locally.</p> <p>Further argues the COVID-19 pandemic has caused many people in Narrogin to lose their jobs and even with government support they would not be able to pay their rates or afford to support such a large Sport and Recreation facility. Believes some of Narrogin's current residents may need to re-locate to find work.</p>	<p>Officer notes this submission does not support the Shire investing significant funds into the sport and recreation facility on the basis of various and current economic, demographic and social indicators for Narrogin.</p>

Submissions	Public Comment	Officer's Comment
Public 1	<p>Claims that at a meeting leading up to the feasibility report, an “ex-Shire President” stated there was an excess of public halls and facilities as it is, and questioned why we need another building that is not used to full capacity.</p>	Noted.
Public 1	<p>Questions who will run, and how they will run, this multimillion-dollar sporting facility. Questions how the football club will finance their paid players and the upkeep of their club rooms if this multimillion-dollar sporting facility, is approved.</p> <p>Claims the current arrangements at the football club include the use of paid catering personnel to organise and supply food to the players, spectators and visitors.</p> <p>States that in the past family and other volunteers donated food and their time on a roster basis with the money raised paying for club room maintenance and any paid players. Believes volunteers are becoming extremely scarce with the few remaining reliable volunteers spread across multiple organisations.</p> <p>Argues if the facility was managed by paid personnel, then the volunteers would disappear when someone is paid to manage the facility as well as maintain and clean it. Asserts the “baby boomer” age group are the last of the strong reliable volunteer group who are always the “willing work horses.”</p>	<p><b>Does not support the concept of a new sport and recreation facility</b> due to concerns relating to governance issues and the ability of the football club to stay solvent due to operational issues and possible lack of volunteers.</p>
Public 1	<p>Claims Great Southern Hockey Association (UGSHA) run their canteen and bar with the help of volunteers with the proceeds going towards replacing their synthetic playing field, which needs replacing every 3- 4 years at a cost of \$300,000 - \$400,000.</p> <p>Questions if the Shire plans to meet the cost of replacing the synthetic field plus maintenance and the water needed to keep its condition to the standard required to attract international teams. Suggests more thought is needed</p>	<p><b>Does not support the concept of a new sport and recreation facility</b> due to concerns relating to the ongoing financing of the maintenance of the UGSHA playing field to a standard required for international games.</p>
Public 1	<p>Suggests Council consider inside netball courts with the correct court flooring to attract state and international players and teams.</p>	Noted

<b>Submissions</b>	<b>Public Comment</b>	<b>Officer's Comment</b>
Public 1	States that the netballers no longer have an area where they could sell food and drinks to raise funds to contribute towards upgrade of courts as they did in the past.	Officer notes further concern for Netball's ability to raise funds to upgrade courts.
Public 1	Questions whether any thought has been given to upgrading facilities for the Racing and Trotting Club.	The facilities for this club are funded from the industry or the club itself
Public 1	Agrees that Jesse House may be in the wrong place but demolishing it is not the answer. States demolishing Jessie House is highly inappropriate. Argues Jessie House provides valuable respite for the patient as well as the carer. Points out that the Shire has recently invested in Jessie House and therefore if it is demolished it will be a waste of time, effort and money upgrading this much needed facility.	Officer notes the submission does not agree to demolish Jessie House.
Public 1	Suggests that Jessie House be shifted to where the now filled in outdoor swimming pool is and to extend the recreation centre with international standard netball courts	Officer notes support for the relocation of Jessie House possibly to where the swimming pool once stood and combine this with extending the recreation centre so as to include international standard netball courts.
Public 1	Makes the observation that when in the past there was a proposal to relocate Jessie House adjacent to the Community Gardens, it was opposed by a person who no longer resides in Narrogin. Requests that Council listen to the local population of Narrogin who have local input and have supported the town over many years.	Noted.

<b>Submissions</b>	<b>Public Comment</b>	<b>Officer's Comment</b>
Public 1	<p>Argues that instead of spending such a huge amount on yet another building that the Shire could improve and re-furbish what it already has and tidy the town up.</p> <p>States that a pleasant walk along the creek is spoilt by rubbish both in and along both sides of the creek.</p> <p>Suggests the Shire employ some of the people who have lost their jobs to clean up along the creek and the walkways either side of the creek. Refers to visitors to the town using the creek for a break at the creek, and if tidied up visitors could tell other people that it is a nice place to stop and visit.</p> <p>Points out that the old railway barracks are an eyesore.</p>	Noted
Public 1	Suggest the Visitor Centre be moved as close as possible to the museum.	Noted.
Public 1	Asks that Council take notice of local input – local knowledge could have pointed out that to put the football grandstand on the eastern side of the football ground – people would be looking into the sun.	Officer advises that local input was sought and that NSRAN members were aware of the east facing grandstand.
Public 1	States that consultation with the sheep industry about the viability of shifting the ram shed would be appropriate instead of leaving it to “gossip” for the Stud Breeders to hear about it.	Officer advises that a representative of the Stud Breeders Association was invited to provide comment regarding shifting the ram shed.
Public 1	Questions the consultation with the Agricultural Society regarding the annual show and asks “where do they fit in?”	Officer advises that a representative of the Agricultural Society was invited to provide comment regarding the concept plan.
Croquet Club	<p>States the Croquet Club attended the various meetings held in the lead up to the Feasibility Study report being available for comment.</p> <p>Advises the Croquet Club Members are quite happy to stay where they are near the Bowling Club and Tennis Club as they work in well with the Bowling and Tennis clubs helping each other out when required.</p>	Officer notes the Croquet Club members prefer to stay in their current location.

<b>Submissions</b>	<b>Public Comment</b>	<b>Officer's Comment</b>
Croquet Club	<p>States the Club feels it is the wrong time to even consider going ahead with a multimillion-dollar facility.</p> <p>Supports their position by pointing to the COVID-19 pandemic creating financial stress with people losing their jobs, travel restrictions, empty shops in the CBD and Target closing in January.</p> <p>Argues the Club members do not feel the Shire is in a position to put rate payers and the future population in a position to fund such a huge commitment.</p> <p>Further argues future generations would be severely disadvantaged for years to come if such a project were to go ahead.</p> <p>Claims that with a recession looming, it would be a disadvantage to Narrogin's future generations to be burdened with such a huge financial commitment.</p>	<p>Officer notes this submission does not support the Shire investing significant funds into the sport and recreation facility on the basis of various and current economic, demographic and social indicators for Narrogin and the debt burden for future generations associated with this investment.</p>

### 10.1.3 SHIRE OF NARROGIN BUSHFIRE RISK MANAGEMENT PLAN 2020-2025

File Reference	9.5.1
Disclosure of Interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	1 August 2020
Author	Azhar Awang – Executive Manager Development and Regulatory Services
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	<ol style="list-style-type: none"><li>1. Bushfire Risk Management Plan 2020-2025</li><li>2. Approved Letter from Department of Fire and Emergency Services</li><li>3. Asset Risk Register (Confidential under separate cover)</li></ol>

#### Summary

Council is requested to consider the adoption of the Shire of Narrogin Bushfire Risk Management Plan 2020-2025, which has been reviewed and supported by the Office of Bushfire Risk Management (OBRM).

#### Background

The Shire of Narrogin Bushfire Risk Management Plan 2020-2025, has been developed in accordance with the requirement of the Guidelines for Preparing a Bushfire Risk Management Plan (BRMP), which is consistent with the policies of the State Emergency Management Committee.

The BRMP is a strategic document that identifies assets at risk from bushfire and their priority for treatment. The resulting 'Treatment Schedule' sets out a broad program of coordinated multi-agency treatments to address risks identified in the BRMP. Government agencies, and other land managers responsible for implementing treatments, participate in developing the BRMP to ensure treatment strategies are collaborative and efficient, regardless of land tenure. Treatments will be guided by risk priority, not land tenure, and will not be limited to local government managed lands. Mitigation Activity Funds (MAF) can, however, only be used on local government vested/managed land /reserves.

The objectives of the BRMP are to:

- Guide and coordinate a tenure blind, multi-agency bushfire risk management program over a five-year period;
- Document the process used to identify, analyse and evaluate risk, determine priorities and develop a plan to systematically treat risk;
- Facilitate the effective use of the financial and physical resources available for bushfire risk management activities;
- Integrate bushfire risk management into the business processes of local government, land owners and other agencies;

- Ensure there is integration between land owners and bushfire risk management programs and activities;
- Monitor and review the implementation of treatments to ensure treatment plans are adaptable and risk is managed at an acceptable level.

The OBRM has assessed the BRMP and confirmed in its letter dated 25 June 2020, that it meets the required standard as per the Bushfire Risk Management Planning – Guidelines for Preparing a Bushfire Risk Management Plan. The BRMP will require Council's approval and formal adoption.

### Comment

There were a total of 435 assets identified for the BRMP assessments covering four (4) Asset Categories (Human Settlement, Economic, Environmental and Cultural). The assets were assessed on the approach of the likelihood rating and the consequence. The assessment also took into consideration the Bushfire Hazard based on the Classification of Vegetation, Separation Distance and the Slope rating of the topography.

From this assessment, a Risk Evaluation was formulated identifying the risk category and the treatment priority for each of the assets. Assets listed as High, Very High and Extreme will require treatment and this will be developed in consultation with land owners and other stakeholders, with a treatment schedule to be completed within six months of the BRMP being endorsed by Council.

According to the BRMP report there are a total of 99 assets listed as High (67), Very High (21) and Extreme (11) which require treatments. Details of these specific assets are listed in Confidential Attachment 3. The 11 Extreme assets, are listed below:

- Narrogin Senior High School
- Road Bridge Timber – Northam Cranbrook Road (MRWA)
- Road Bridge Timber – William Narrogin Highway (MRWA)
- Road Bridge Timber – Northam Cranbrook Road (MRWA)
- Narrogin Caravan Park
- Residential – White Road, Narrogin
- Residential – Campbells Road, Yilliminning
- Residential – Woolyerling Road, Thompsons Lake
- Residential – Highbury Road West, Highbury
- Residential – Graham Road, Dumberning
- Residential – Geerayling Road, Dumberning

It is also a requirement of the Guidelines that at the end of each financial year, the Shire is to prepare and submit a report to OBRM detailing progress against the BRMP.

On the endorsement of the BRMP by the Council and the submission of treatment priority for the assets that are listed as High, Very High and Extreme, the Shire will be able to source funding from Mitigation Activity Funding (MAF).

Within six months of adoption by the Council, the Shire of Narrogin is required to finalise the Treatment Schedule in the Bushfire Risk Management System (BRMS) and provide written notification to OBRM. It is not necessary to provide further updates to OBRM if any individual treatments are subsequently added, edited, rescheduled or deleted from the original schedule after this time.

As per the Guidelines, at the end of each financial year, the Shire of Narrogin will be required to prepare and submit a report to OBRM detailing progress against the BRM Plan. The annual report is a standard report generated within BRMS and comments may be added to the report to provide further context.

## Consultation

Discussions have been undertaken with:

- Shire of Narrogin Bushfire Risk Planning Coordinator
- Department of Fire Emergency Services
- Bushfire Advisory Committee
- Chief Bushfire Control Officer.

The BRMP document, in section 2.2 – Communication & Consultation, makes reference to the requirement for the relevant stakeholders to be consulted. This is provided in detail under the Communication Strategy in Appendix 1 of the BRMP.

Where assets at risk are owned by private landowners, the BRMP requires the Administration to engage early on, with those impacted.

## Statutory Environment

The following Acts and Legislation apply:

- Aboriginal Heritage Act 1972
- Building Act 2011
- Bush Fires Act 1954
- Bush Fires Regulations 1954
- Conservation and Land Management Act 1984
- Country Areas Water Supply Act 1947
- Emergency Management Act 2005
- Emergency Management Regulations 2006
- Environmental Protection Act 1986
- Environmental Protection and Biodiversity Conservation Act 1999
- Fire and Emergency Service Act 1998
- Fire Brigades Act 1942
- Metropolitan Water Supply, Sewerage and Drainage Act 1909
- Planning and Development (Local Planning Scheme) Regulations 2015
- Wildlife Conservation Act 1950.

## Policy Implications

The following policies apply:

- Community Engagement Policy 1.4
- AS 3959-2009 Construction of buildings in bushfire-prone areas
- AS/NZS ISO 31000:2009 - Risk Management – Principles and Guidelines
- Building Protection Zone Standards (DFES)
- Bushfire Risk Management Planning – Guidelines for preparing a Bushfire Risk Management Plan (2015)
- Firebreak Location, Construction and Maintenance Guidelines (DFES)
- Guidelines for Planning in Bushfire Prone Areas (2015)

- Guidelines for Plantation Fire Protection (DFES 2011)
- National Emergency Risk Assessment Guidelines (NERAG) (Second Edition 2015)
- State Emergency Management Policy 2.5 – Local Arrangements
- State Emergency Management Policy 3.2 – Emergency Risk Management Planning
- State Emergency Management Preparedness Procedure 7 – Local Emergency Management Committee (LEMC)
- State Emergency Management Preparedness Procedure 8 – Local Emergency Management Arrangements
- State Emergency Management Prevention Procedure 1 – Emergency Risk Management Planning
- State Hazard Plan for Fire (2019)
- State Planning Policy 3.4: Natural Hazards and Disasters
- State Planning Policy 3.7: Planning in Bushfire Prone Areas
- Western Australian Emergency Risk Management Guide 2015.

### Financial Implications

There is funding available annually through the Mitigation Activity Funding (MAF) and this will be the primary source of funding. However, it must be noted that the funding available is for the initial treatment to reduce the fire risk and thereafter it will be the responsibility of the Shire for the ongoing maintenance of the firebreaks. Further funding for chemical spray, for example, can be sourced after initial works have been completed.

It is acknowledged that successful implementation of the treatment over the next five years will have a resource implication for the Shire’s Volunteer Bushfire Brigades, DFES’ Town Brigade and our respective volunteers.

It is also acknowledged that the Asset Risk Register contained within and the BMPS itself, do not include quantification of specific resources or financial impact at this stage.

The Council is reminded however of the significant impacts that catastrophic bushfires can have on communities and critical assets, and the Council should be reassured that the funding for initial treatment works, will be covered by Government funding (MAF) for the five-year life of the plan.

The Administration is of the view that ongoing costs to maintain Shire assets following initial treatment will be able to be accommodated with only modest increases to future budgets. The Council currently budgets in the order of \$45,000 per annum for Fire Prevention/Burning Control at present.

It is pleasing to note that the Bushfire Risk Management Coordinator position, funded fully by DFES, has been renewed to 20 June 2022.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027		
Objective	1.	Economic Objective (Support growth and progress, locally and regionally)
Outcome:	1.3	An effective well maintained transport network
Strategy:	1.3.1	Maintain and improve road network in line with resource capacity

Objective	2.	Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2	Build a healthier and safer community
Strategy:	2.2.1	Support the provision of community security services and facilities
Outcome:	2.3	Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2	Engage and support community groups and volunteers

Objective	3.	Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.1	A preserved natural environment
Strategy:	3.1.1	Conserve, enhance, promote and rehabilitate the natural environment
Outcome:	3.4	A well maintained built environment
Strategy:	3.4.1	Improve and maintain built environment

### Voting Requirements

Simple Majority.

#### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.005**

Moved: Seale                      Seconded: Fisher

That with respect to the Shire of Narrogin Bushfire Risk Management Plan 2020-2025 (Attachment 1) Council:

1. Adopt the document;
2. Request the Chief Executive Officer to ensure that a high level of consultation occurs with any private landowners potentially impacted with mitigation work, particularly those identified as having an extreme risk; and
3. Advise the Office of Bushfire Risk Management of the outcome.

**CARRIED 9/0**



# Bushfire Risk Management Plan

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## 2020– 2025

*Office of Bushfire Risk Management (OBRM) Bushfire Risk Management (BRM) Plan reviewed XX  
Month 20XX*

*Shire of Narrogin BRM Plan endorsement XX Month 20XX*

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## Document Control

<b>Document Name</b>	Bushfire Risk Management Plan	<b>Current Version</b>	
<b>Document Owner</b>	Shire of Narrogin CEO	<b>Issue Date</b>	DD/MM/YYYY
<b>Document Location</b>	Shire Office	<b>Next Review Date</b>	DD/MM/YYYY

## Document Endorsements

The Council of the Shire of Narrogin endorses that the Bushfire Risk Management Plan (BRM Plan) has been reviewed and assessed by the Office of Bushfire Risk Management as compliant with the standard for bushfire risk management planning in Western Australia, the *Guidelines for Preparing a Bushfire Risk Management Plan*.

The Shire of Narrogin is the owner of this document and has responsibility, as far as is reasonable, to manage the implementation of the BRM Plan and facilitate the implementation of bushfire risk management treatments by risk owners.

The endorsement of the BRM Plan by the Shire satisfies their endorsement obligations under section 2.2.8 of the *State Hazard Plan for Fire (Nov 2019)*.

Local Government	Representative	Signature	Date
Shire of Narrogin	CEO		

## Disclaimer

In approving this BRM Plan, the Shire of Narrogin is acknowledging the assets that have been identified and the risk ratings and treatment priorities assigned. Endorsement of the plan is a commitment by the Shire to work with land owners and managers to address unacceptable risk within the community. Endorsement of this plan is not committing the Shire to a program of treatment works to be implemented by others, or an acceptance of responsibility for risk occurring on land that is not owned or managed by the Shire.<sup>1</sup>

## Amendment List

Version	Date	Author	Section

<sup>1</sup> *Guidelines for Preparing a Bushfire Risk Management Plan, November 2015, Page 79*

## Publication Information

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# 1. Introduction

## 1.1 Background

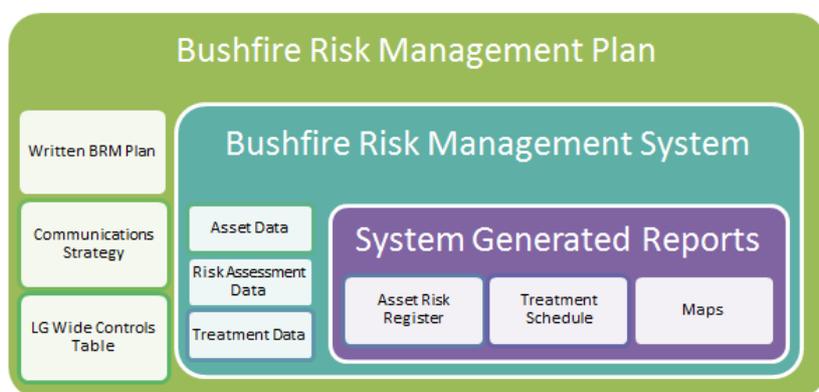
Under the *State Hazard Plan – Fire*, an integrated Bushfire Risk Management Plan (BRM Plan) is to be developed for local governments identified as having a significant bushfire risk. This BRM Plan has been prepared for the Shire of Narrogin in accordance with the requirements of the *Guidelines for Preparing a Bushfire Risk Management Plan*.

The risk management processes used to develop this BRM Plan are aligned to the key principles of *AS/NZS ISO 31000:2009 Risk management – Principles and guidelines (AS/NZS ISO 31000:2009)*, as described in the Second Edition of the *National Emergency Risk Assessment Guidelines (NERAG 2015)*. This approach is consistent with the policies of the State Emergency Management Committee.

This BRM Plan is a strategic document that identifies assets at risk from bushfire and their priority for treatment. The resulting ‘Treatment Schedule’ sets out a broad program of coordinated multi-agency treatments to address risks identified in the BRM Plan. Government agencies and other land managers responsible for implementing treatments participate in developing the BRM Plan to ensure treatment strategies are collaborative and efficient, regardless of land tenure. Treatments will be guided by risk priority, not land tenure, and will not be limited to local government managed lands.

This BRM Plan, as reflected in *Figure 1* below, consists of:

- Bushfire Risk Management Plan
- Communications Strategy (**Appendix 1**)
- Local Government Wide Controls & Multi Agency Work Plan (**Appendix 2**)
- Asset Risk Register (*refer to section 4.2.4*)
- Treatment Schedule (to be completed within 6 months of endorsement of the BRM Plan)



*Figure 1: Components of the Bushfire Risk Management Plan<sup>2</sup>*

Assets, risk assessments and treatment data is stored and maintained in an electronic database – the Bushfire Risk Management System (BRMS). Shire personnel will have access to the Shire’s data and are able to produce reports including the *Asset Risk Register* and *Treatment Schedule* as well as maps.

## 1.2 Aim and Objectives

The aim of the BRM Plan is to document a coordinated and efficient approach toward the identification, assessment and treatment of assets exposed to bushfire risk within the Shire of Narrogin.

<sup>2</sup> Source: *Bushfire Risk Management Handbook, Department of Fire and Emergency Services, 2017*.

The objective of the BRM Plan is to effectively manage bushfire risk within the Shire of Narrogin to protect people, assets and other things of local value. Specifically, the objectives of this BRM Plan are to:

- Guide and coordinate a tenure blind, multi-agency bushfire risk management program over a five-year period;
- Document the process used to identify, analyse and evaluate risk, determine priorities and develop a plan to systematically treat risk;
- Facilitate the effective use of the financial and physical resources available for bushfire risk management activities;
- Integrate bushfire risk management into the business processes of local government, land owners and other agencies;
- Ensure there is integration between land owners and bushfire risk management programs and activities;
- Monitor and review the implementation of treatments to ensure treatment plans are adaptable and risk is managed at an acceptable level.

### 1.3 Legislation, Policy and Standards

The following legislation, policy and standards were applicable in the development and implementation of the BRM Plan.

#### 1.3.1 Legislation

- *Aboriginal Heritage Act 1972*
- *Building Act 2011*
- *Bush Fires Act 1954*
- *Bush Fires Regulations 1954*
- *Conservation and Land Management Act 1984*
- *Country Areas Water Supply Act 1947*
- *Emergency Management Act 2005*
- *Emergency Management Regulations 2006*
- *Environmental Protection Act 1986*
- *Environmental Protection and Biodiversity Conservation Act 1999 (cth)*
- *Fire and Emergency Service Act 1998*
- *Fire Brigades Act 1942*
- *Metropolitan Water Supply, Sewerage and Drainage Act 1909*
- *Planning and Development (Local Planning Scheme) Regulations 2015*
- *Wildlife Conservation Act 1950*

#### 1.3.2 Policies, Guidelines and Standards

- AS 3959-2009 Construction of buildings in bushfire-prone areas
- AS/NZS ISO 31000:2009 - Risk Management – Principles and Guidelines
- Building Protection Zone Standards (DFES)
- Bushfire Risk Management Planning – Guidelines for preparing a Bushfire Risk Management Plan (2015)
- Firebreak Location, Construction and Maintenance Guidelines (DFES)
- Guidelines for Planning in Bushfire Prone Areas (2015)
- Guidelines for Plantation Fire Protection (DFES 2011)
- National Emergency Risk Assessment Guidelines (NERAG) (Second Edition 2015)
- State Emergency Management Policy 2.5 – Local Arrangements
- State Emergency Management Policy 3.2 – Emergency Risk Management Planning
- State Emergency Management Preparedness Procedure 7 – Local Emergency Management Committee (LEMC)

- State Emergency Management Preparedness Procedure 8 – Local Emergency Management Arrangements
- State Emergency Management Prevention Procedure 1 – Emergency Risk Management Planning
- State Hazard Plan for Fire (2019)
- State Planning Policy 3.4: Natural Hazards and Disasters
- State Planning Policy 3.7: Planning in Bushfire Prone Areas
- Western Australian Emergency Risk Management Guide 2015

### **1.3.3 Shire of Narrogin References**

- Shire of Narrogin Strategic Community Plan 2017 – 2027
- Shire of Narrogin Local Emergency Management Arrangements 2016
- Shire of Narrogin - Annual Fire Control order
- Shire of Narrogin – Corporate Business Plan 2019-2023
- Roadside vegetation and Conservation values in the Shire of Narrogin (2009)
- Shire of Narrogin - Bushfire Prone Area Map
- Narrogin Bridge Inventory (Main Roads Sept 2017)
- Local Recovery management Plan 2017
- The Shire of Narrogin Business Prospectus
- Native Vegetation Handbook for the Shire of Narrogin
- Hillman and Narrogin Zones (Blackwood zones 8 and 9): rapid catchment appraisal 2006

### **1.3.4 Other Related Documents**

- National Strategy for Disaster Resilience
- National Statement of Capability for Fire and Emergency Services (AFAC 2015)
- Public Service Circular No. 88 Use of Herbicides in Water Catchment Areas (Dept. of Health 2007)
- Code of Practice for Timber Plantations in Western Australia (Forest Products Commission 2014)

## 2. The Risk Management Process

The risk management processes used to identify and address risk in this BRM Plan are aligned with the international standard for risk management, AS/NZS ISO 31000:2009, as described in NERAG (2015). This process is outlined in Figure 2 below.

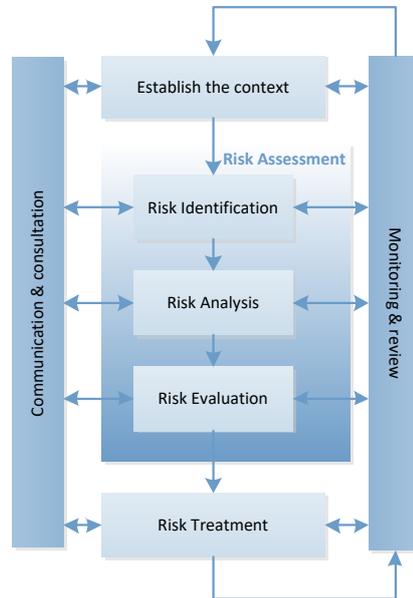


Figure 2 - An overview of the risk management process <sup>3</sup>

### 2.1 Roles and Responsibilities

The roles and responsibilities of the key stakeholders involved in the development of the BRM Plan are outlined in Table 1.

Table 1 – Roles and Responsibilities

Stakeholder Name	Roles and Responsibilities
<b>Local Government</b>	<ul style="list-style-type: none"> <li>▪ As custodian of the BRM Plan, coordination of the development and ongoing review of the integrated BRM Plan.</li> <li>▪ Negotiation of commitment from land owners to treat risks identified in the BRM Plan.</li> <li>▪ As treatment manager, implementation of treatment strategies.</li> <li>▪ As part of the approval process, submission of the draft BRM Plan to the Office of Bushfire Risk Management (OBRM) to review it for consistency with the Guidelines.</li> <li>▪ As part of the approval process, submission of the final BRM Plan to Council for their endorsement and adoption.</li> </ul>
<b>Department of Fire and Emergency Services (DFES)</b>	<ul style="list-style-type: none"> <li>▪ Participation in and contribution to the development and implementation of BRM Plans, as per their agency responsibilities as the Hazard Management Agency for fire.</li> <li>▪ Support to local government through expert knowledge and advice in relation to the identification, prevention and treatment of bushfire risk.</li> </ul>

<sup>3</sup> Source: AS/NZS ISO 31000:2009, Figure 2, reproduced under SAI Global copyright Licence 1411-c083.

Stakeholder Name	Roles and Responsibilities
	<ul style="list-style-type: none"> <li>▪ Facilitation of local government engagement with state and federal government agencies in the local planning process.</li> <li>▪ Undertake treatment strategies, including planned burning on behalf of Department of Lands for Unmanaged Reserves and Unallocated Crown Land within gazetted town site boundaries.</li> <li>▪ In accordance with Memorandums of Understanding and other agreements, implementation of treatment strategies for other landholders.</li> <li>▪ Ensure bushfire risk is managed in accordance with AS/NZS ISO 31000 and reporting on the state of bushfire risk across Western Australia (OBRM).</li> <li>▪ Review BRM Plans for consistency with the Guidelines prior to final endorsement by Council (OBRM).</li> </ul>
<b>Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service (PWS)</b>	<ul style="list-style-type: none"> <li>▪ Participation in and contribution to the development and implementation of BRM Plans.</li> <li>▪ Providing advice for the identification of environmental assets that are vulnerable to fire and planning appropriate treatment strategies for their protection.</li> <li>▪ As treatment manager, implementation of treatment strategies on department managed land and for Unmanaged Reserves and Unallocated Crown Land outside gazetted town site boundaries.</li> <li>▪ In accordance with Memorandums of Understanding and other agreements, implementation of treatment strategies for other landholders.</li> </ul>
<b>Other State and Federal Government Agencies</b>	<ul style="list-style-type: none"> <li>▪ Assist the local government by providing information about their assets and current risk treatment programs.</li> <li>▪ Participation in and contribution to the development and implementation of BRM Plans.</li> <li>▪ As treatment manager (where applicable), identification and implementation of treatment strategies.</li> </ul>
<b>Public Utilities</b>	<ul style="list-style-type: none"> <li>▪ Assist the local government by providing information about their assets and current risk treatment programs.</li> <li>▪ Participation in and contribution to the development and implementation of BRM Plans.</li> <li>▪ As treatment manager, implementation of treatment strategies.</li> </ul>
<b>Corporations and Private Land Owners</b>	<ul style="list-style-type: none"> <li>▪ Assist the local government by providing information about their assets and current risk treatment programs.</li> <li>▪ As land owner/treatment manager, identification and implementation of treatment strategies.</li> </ul>
<b>Other Stakeholders</b>	<ul style="list-style-type: none"> <li>▪ Providing advice for the identification of assets that are vulnerable to fire.</li> <li>▪ Providing advice on appropriate treatment strategies for asset protection.</li> </ul>

## 2.2 Communication & Consultation

As indicated in *Figure 2*, communication and consultation throughout the risk management process is fundamental to the preparation of an effective BRM Plan. To ensure appropriate and effective communication occurred with relevant stakeholders in the development of the BRM Plan, a *Communication Strategy* was prepared. This is provided at **Appendix 1**.

## 3. Establishing the Context

### 3.1 Description of the Local Government and Community Context

#### 3.1.1 Strategic and Corporate Framework

The Shire of Narrogin Strategic Community Plan (2017 – 2027) outlines the Shire’s commitment to community safety, risk management and effective management of the environment and natural resources. This is reflected in the Shire’s values and mission:

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***Our Vision: “A leading regional economic driver and a socially interactive and inclusive community”<sup>4</sup>***

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**Our Mission;** Provide leadership, direction and opportunities for the community.

**Key Principals:** In achieving the Vision and Mission, we will set achievable goals and work with the community to maintain a reputation of openness, honesty and accountability.

In doing so, we will:

- respect the points of view of individuals and groups;
- build on existing community involvement;
- encourage community leadership;
- promote self-reliance and initiative;
- recognise and celebrate achievement;
- support the principles of social justice; and
- acknowledge the value of staff and volunteers.<sup>5</sup>

The Shire’s commitment to these values are reflected throughout this document and are contextualised against each of the key result areas discussed below. On review of the Strategic Community Plan, the following key result areas, activities and objectives are identified as having direct relevance to the objectives of this BRM Plan:

#### Key Strategic Objectives

##### ***Objective 1: Economic: - Support growth and progress, locally and regionally***

- Outcome 1.3: An effective well-maintained transport network
  - Maintain and improve road network in line with resource capacity

The Shire of Narrogin is committed to ensuring land and infrastructure developments reflect best practice to reduce bushfire risks.

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<sup>4</sup> Shire of Narrogin Strategic Community Plan 2017 - 2027

<sup>5</sup> Shire of Narrogin Strategic Community Plan 2017 - 2027

**Objective 2: Social - To provide community facilities and promote social interaction**

- Outcome 2.3: Existing strong community spirit and pride is fostered, promoted and encouraged
  - Engage and support community groups and volunteers

The Shire recognises and values the efforts and dedication of the members of the local volunteer emergency services brigades and is committed to providing the necessary support and resources to enable them to respond to bushfires.

**Objective 3: Environment - Conserve, protect and enhance our natural and built environment**

- Outcome 3.1: A preserved natural environment
  - Conserve, enhance, promote and rehabilitate the natural environment
  
- Outcome 3.4: A well maintained built environment
  - Improved and maintain built environment

The Shire of Narrogin is committed to addressing bushfire risks and working with stakeholders to reduce this risk and will do so in a way with minimal impact to the environment.

**Objective 4: Civic Leadership - Continually enhance the Shire’s organisational capacity to service the needs of a growing community.<sup>6</sup>**

- Outcome 4.1 an efficient and effective organisation
  - Continue to enhance communication and transparency<sup>7</sup>

The Shire of Narrogin is committed to engaging with the community and stakeholders on matters related to bushfire risk management and maintaining compliance with bushfire related legislation including the responsible expenditure of any mitigation grant funding.

The size of the Shire’s structure and available funding at this time, does not support a role specifically allocated to Emergency Management. It has therefore been determined that this responsibility will be delegated by the Chief Executive Officer as appropriate. Tasks may be delegated to the Chief Bush Fire Control Officer (CBFCO), which is a volunteer position appointed by the Shire in accordance with the Bush Fires Act 1954. The following *table 2*, reflects the functions and positions within the Shire of Narrogin critical to the successful achievement of the objectives of this BRM Plan.

**Table 2 – Functions/positions within Shire of Narrogin critical to this Bushfire Risk Management Plan**

Function	Roles
<b>Shire Leadership Team</b>	<ul style="list-style-type: none"><li>▪ Oversight of the implementation, monitoring and review of the Bushfire Risk Management Plan</li><li>▪ Sourcing and approving funding and expenditure</li><li>▪ Monitoring the implementation of agreed treatments</li><li>▪ Liaison with key stakeholders</li><li>▪ Participation on Local Emergency Management Committee (LEMC)</li><li>▪ Management of the release of BRM Plan and BRMS data</li></ul>

<sup>6</sup> Shire of Narrogin Strategic Community Plan 2017 - 2027

<sup>7</sup> Shire of Narrogin Strategic Community Plan 2017 - 2027

<b>Person/s Tasked with Emergency Management within the Shire Administration Team</b>	<ul style="list-style-type: none"> <li>▪ Develop practices for fire management on LG, UCL and UMR land</li> <li>▪ In consultation, planning annual schedule of works</li> <li>▪ Build knowledge and understanding of fire management practices within the community</li> <li>▪ Participation on Bushfire Advisory Committee (BFAC)</li> <li>▪ Support bushfire meetings and committees</li> <li>▪ Oversee burning programs and support from local brigades</li> <li>▪ Contributing to treatment planning</li> <li>▪ Negotiating with stakeholders</li> </ul>
<b>Chief Bushfire Control Officer</b>	<ul style="list-style-type: none"> <li>▪ Oversee burning programs and support from local brigades</li> <li>▪ Contributing to treatment planning</li> <li>▪ Negotiating with stakeholders</li> <li>▪ Fire breaks inspection and enforcement</li> </ul>
<b>Works Department</b>	<ul style="list-style-type: none"> <li>▪ Contributing to treatment planning</li> <li>▪ Undertake planned works</li> </ul>
<b>Town Planning</b>	<ul style="list-style-type: none"> <li>▪ Ensure adherence to building codes and planning scheme</li> <li>▪ Bushfire prone mapping</li> </ul>
<b>Finance</b>	<ul style="list-style-type: none"> <li>▪ Accessing and managing grants and funding</li> </ul>

*NOTE: Some functions outlined above may be fulfilled through the employment of contract personnel*

The Shire's Local Emergency Management Committee (LEMC) and Bushfire Advisory Committee (BFAC) are identified as key stakeholders in the development, implementation and review of the BRM Plan. Their input and advice are critical to the bushfire risk management process and will provide an important forum for consultation, joint-agency partnerships and the resolution of local issues affecting bushfire risk management.

The BRM Plan will assist in improving the community's awareness of bushfire risk and treatment activities planned in their area. Identification of treatment priorities will inform the Shire's forward planning and budgeting for treatment activities within the BRM Plan area.

The Shire has a scheduled annual works program and proactively addresses risks identified on Shire owned and managed land, within their budgetary constraints. The Bushfire Risk Management Plan can be used as a useful tool to help prioritise the work on their managed lands. The following challenges have been identified for the Shire, all of which have the potential to impact the objectives of this BRM Plan, consequently special consideration should be given to these matters during the life of this plan:

- Changes to agricultural practices
- Aging population
- Attraction and retention of residents impacting succession planning within the emergency services volunteer brigades
- Vulnerable groups, such as the elderly recreational visitors
- The volume of traffic moving through the Shire along known ignition routes

The challenges outlined above, and the priority areas detailed below, together with the actions being undertaken by the Shire in relation to these challenges and priorities, are referenced further in this document.

The Shire has identified a number of priority areas that need to be considered in the bushfire risk planning processes both in the context of this BRM Plan and beyond. These include:

- The risk of fire travelling along waterways in and around the more populated areas of the shire;
- Limitations of water access and long delays in turnaround times when refilling during firefighting operations;
- Bridges within the Shire are predominantly timber construction. These have been identified as a significant risk due to their cost of replacement and the potential economic impact if transport routes are interrupted for extended periods;
- Management of Unallocated Crown Land (UCL) and Unmanaged Reserves (UMR) both within and outside town boundaries;
- Management of reserves around the town boundary; and
- Vegetation in and around telecommunications and public utility infrastructure, such as the communications towers, water pipeline, pumping station and the railway.

These priority areas have been identified from matters raised through corporate governance processes such as Council, Local Emergency Management Committee, Bushfire Advisory Committee and local knowledge. The location of assets in relation to vegetation and their importance for the Shire’s response and recovery activities have driven identification of these risks.

### 3.1.2 Location, Boundaries and Tenure

The Shire of Narrogin is in the south-west interior of Western Australia within the Wheatbelt Region as depicted in *Figure 3*. The Shire is situated in undulating broad acre farming country. The Shire is located 200km southeast from Perth and the Shire covers an area of 1619km<sup>2</sup>.

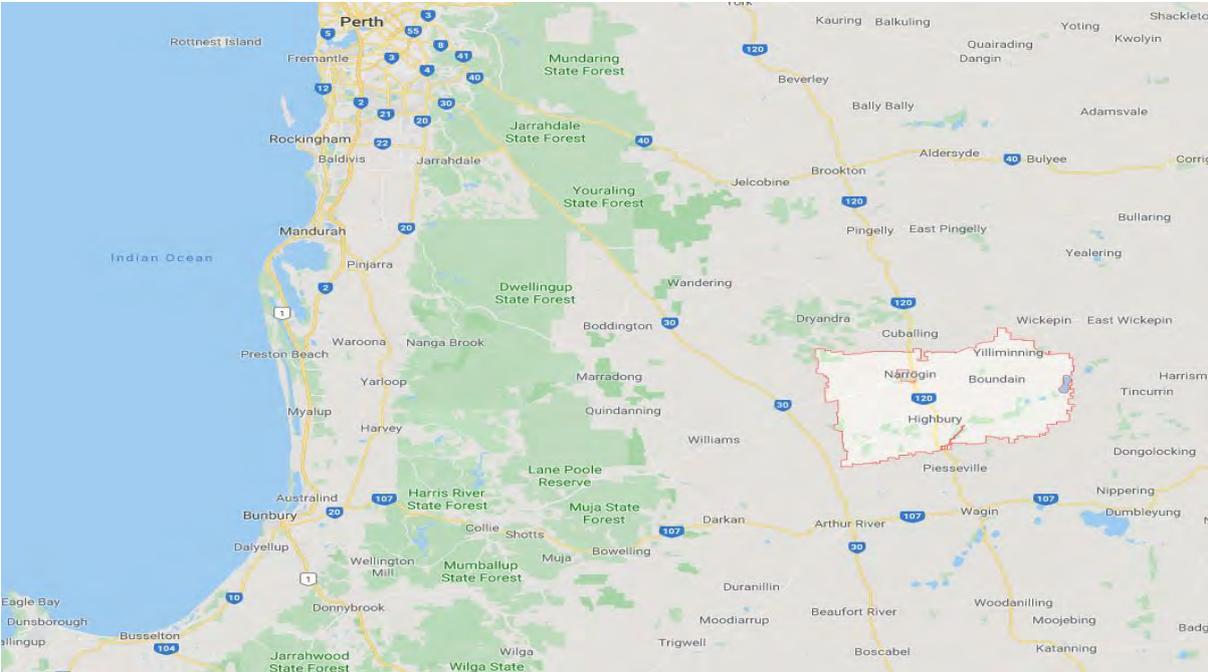


Figure 3: The location of the Shire Narrogin within the State of WA <sup>8</sup>

<sup>8</sup> Source: Map data Google 2019



The Shire includes the localities of Yilliminning, Hillside, Boundain, Nomans Lake, Narrogin Valley, Highbury, Minigin, Dumberning and Narrogin.

An overview of the Shire’s land tenure and management is shown in *Table 3*. The Shire is made up of a mosaic of land tenures. Fires can spread quickly across the landscape, moving between multiple tenures and areas of various land use. As shown in *Table 3*, 90.1% of land tenure within the Shire is private ownership, with the majority of this land used for agricultural purposes, predominantly broad acre farming. Approximately 69% of the Shire of Narrogin is arable land.<sup>11</sup> Some of the challenges related to this include:

- If one landowner does not comply with the Shire’s local laws this can increase the risk to other landowners, particularly those on adjoining properties;
- Fire impacting significantly on one farm can have substantial economic and social implications for the Shire; and
- There needs to be consideration given to balancing the impacts of mitigation and risk reduction in the context of productivity and associated costs.

This results in a challenge where the Shire needs to balance the benefits of risk reduction and the impacts of mitigation activities on the productivity of the area and the associated costs of works to be carried by the land owner. This is something the Shire will continue to review, in consultation with land owners and fire management agencies.

**Table 3 – Overview of Land Tenure and Management within the Shire of Narrogin**<sup>12</sup>

Land Manager	% of Plan Area
Shire of Narrogin (Vested)	0.85%
Department of Planning, Lands and Heritage and other government agencies	0.05%
Department of Biodiversity, Conservation and Attractions	9.00%
Private ( <i>predominantly agricultural holdings</i> )	90.10%
<b>Total</b>	<b>100.00%</b>

Unallocated Crown Land (UCL) and Unmanaged Reserves (UMR) constitute less than 0.1% of the total land tenure within the Shire. UCL/UMR located within the townsites are managed by the Department of Fire and Emergency Services with UCL/UMR located outside of the townsites managed by the Department of Biodiversity, Conservation and Attractions (DBCA). These management arrangements result from a memorandum of understanding (MOU) with the Department of Planning, Lands and Heritage.

Effective UCL/UMR Management within the Shire of Narrogin is necessary as UCL/UMR forms the rural-urban interface (RUI) and the vegetation on UCL/UMR is a significant driver of the Shires bushfire risk. A strong relationship has already been developed between the Shire, DFES and DBCA in recognition of the bushfire risk posed by UCL/UMR and the ongoing requirement for management programs delivered by each agency to align with, and address, key priorities identified within the BRM Plan.

*Figure 6* reflects the location of UCL/UMR across the Shire, whereas *Figures 7, 8, 9* and *10* show the location of the UCL/UMR within the townsites of Narrogin, Highbury, Nomans Lake and Yilliminning respectively.

<sup>11</sup> Department of Primary Industry and Regional Development  
<sup>12</sup> Source: Department of Fire and Emergency - Services Geographical Information Systems Section using SLIP data



Figure 6: –The location of UCL/UMR within the Shire of Narrogin <sup>13</sup>

Note: UCL is land within townsites (Pink). UMR is located outside the townsite.



Figure 7: –The location of UCL/UMR within the Townsite of Narrogin <sup>14</sup>

<sup>13</sup> Source: DFES Bushfire Risk Management System

<sup>14</sup> Source: DFES Bushfire Risk Management System



Figure 8: –The location of UCL/UMR within the Townsite of Highbury <sup>15</sup>



Figure 9: –The location of UCL/UMR within the Townsite of Nomans Lake <sup>16</sup>



Figure 10: –The location of UCL/UMR within the Townsite of Yilliminning <sup>17</sup>

<sup>15</sup> Source: DFES Bushfire Risk Management System

<sup>16</sup> Source: DFES Bushfire Risk Management System

<sup>17</sup> Source: DFES Bushfire Risk Management System

### 3.1.3 Population and Demographics

In the 2016 Census, there were 5,162 people in the Shire of Narrogin. The ancestry is predominantly Australian and English with 72.9% of residents listing Australia as their country of birth. The median age of people in Narrogin was 39 years.<sup>18</sup>

Table 4 reflects that the majority of the Shire’s residents are Australian born (73.3%) with 4.3% emigrating from England, 1.8% from New Zealand and 1.7% from the Philippines ,1% from South Africa and less than 1% from India.

Table 4: Population within the Shire of Narrogin by Country of Birth<sup>19</sup>

Country of birth	Narrogin (S)	%	Western Australia	%	Australia	%
Australia	3,770	73.3	1,492,842	60.3	15,614,835	66.7
<i>Other top responses</i>						
England	219	4.3	194,163	7.8	907,570	3.9
New Zealand	95	1.8	79,221	3.2	518,466	2.2
Philippines	89	1.7	30,835	1.2	232,386	1.0
South Africa	53	1.0	41,008	1.7	162,449	0.7
India	30	0.6	49,385	2.0	455,389	1.9

In Narrogin (S) (Local Government Areas), 73.3% of people were born in Australia. The most common countries of birth were England 4.3%, New Zealand 1.8%, Philippines 1.7%, South Africa 1.0% and India 0.6%.

The statistics show 53 percent of the population are aged between 20 – 64-years-old, which is the key age group for recruitment and retention of emergency services volunteers. The low population numbers overall means that there is a limited availability of bushfire brigade volunteers, with pressure further increased when considering the broad competing priorities associated with smaller rural communities. This is a key consideration for the Shire. However, as seen in many wheatbelt and farming communities, the shire has a strong turnout of spontaneous volunteers during fire events, with many local residents stepping forward to support their community. There may be an opportunity, through the BRM Plan, to engage with this sector of the community to potentially:

- increase the registration of volunteers or farmer response units prior to an event;
- deliver training or education programs;
- identify volunteer organisations that spontaneous volunteers could be referred to during an emergency.

The continued trend of an aging population is likely to impact the capability and availability of volunteers to respond to bushfires. The Shire will need to reconsider current methods for the attraction and retention of volunteers, with a particular focus on encouraging younger members of the community to volunteer with brigades, as well as ways to retain aging volunteers through the promotion of other roles or volunteer organisations that are more suitable to their skills and capabilities.

The statistics show lower number of residents than the state average in the 15 - 24 age bracket, which is most likely the result of children leaving town for further education and/or employment. These residents often return to the community, or similar communities, when they have young families of their own, seeking a similar early life experience to what they enjoyed.

The demographics of the Shire of Narrogin present a range of challenges for fire management. Forty percent (40%) of the population are in vulnerable groups (under 14 or over 65) which require special consideration when planning around prevention, preparedness, response and recovery.

<sup>18</sup> Source: Shire of Narrogin Strategic Community Plan 2017 - 2027

<sup>19</sup> Source: ABS Data 2016

The number of residents within the 0 – 14 age group indicates that delivery of a school based program may be of benefit for early engagement and increasing understanding of home bushfire awareness. Children can influence behaviour changes within families and increasing awareness within the school environment via DFES' current school-aged education programs could result in increased awareness throughout the community. There are many other established community networks and groups that could be identified and engaged in targeted bushfire risk and preparedness education programs, using for example, DFES' 5-minute Fire Chat resource.

The over 65 age group accounts for 19% of the population. Elderly people are considered a vulnerable demographic in bushfire management, as they may have less capacity to prepare and defend property or protect themselves during a fire event and may have additional or special needs during evacuation and relocation. Because of this, there is need for increased planning for this group to ensure that they are adequately considered in bushfire management planning, communications during fire events, community education delivery and consultation when planning mitigation works. Narrogin has an aged care facility that offers a wide range of care for the community. There is a need to ensure that there is tailored advice provided to this group during pre-fire season preparation, as well as during bushfire events.

Table 5: Population by Age, Shire of Narrogin<sup>20</sup>

Age	Narrogin	%	Western Australia	%	Australia	%
Median age	39	--	36	--	38	--
0-4 years	271	6.3	161,727	6.5	1,464,779	6.3
5-9 years	319	7.5	164,153	6.6	1,502,646	6.4
10-14 years	311	7.3	150,806	6.1	1,397,183	6.0
15-19 years	301	7.0	149,997	6.1	1,421,595	6.1
20-24 years	245	5.7	160,332	6.5	1,566,793	6.7
25-29 years	239	5.6	184,908	7.5	1,664,602	7.1
30-34 years	246	5.8	194,267	7.9	1,703,847	7.3
35-39 years	209	4.9	173,041	7.0	1,561,679	6.7
40-44 years	234	5.5	171,996	7.0	1,583,257	6.8
45-49 years	268	6.3	172,520	7.0	1,581,455	6.8
50-54 years	242	5.7	162,438	6.6	1,523,551	6.5
55-59 years	303	7.1	149,899	6.1	1,454,332	6.2
60-64 years	274	6.4	132,145	5.3	1,299,397	5.6
65-69 years	248	5.8	116,755	4.7	1,188,999	5.1
70-74 years	173	4.0	82,911	3.4	887,716	3.8
75-79 years	144	3.4	61,509	2.5	652,657	2.8
80-84 years	117	2.7	42,590	1.7	460,549	2.0
85 years and over	128	3.0	42,420	1.7	486,842	2.1

Table 6: Occupation, Shire of Narrogin<sup>21</sup>

Occupation	Narrogin (S)	%	Western Australia	%	Australia	%
<i>Employed people aged 15 years and over</i>						
Professionals	352	16.7	237,230	20.5	2,370,966	22.2
Technicians and Trades Workers	344	16.3	187,396	16.2	1,447,414	13.5
Managers	309	14.7	139,350	12.0	1,390,047	13.0
Labourers	272	12.9	112,599	9.7	1,011,520	9.5
Community and Personal Service Workers	257	12.2	122,889	10.6	1,157,003	10.8
Clerical and Administrative Workers	216	10.3	150,408	13.0	1,449,681	13.6
Sales Workers	171	8.1	102,337	8.8	1,000,955	9.4
Machinery Operators and Drivers	149	7.1	86,392	7.5	670,106	6.3

The most common occupations in Narrogin (S) (Local Government Areas) included Professionals 16.7%, Technicians and Trades Workers 16.3%, Managers 14.7%, Labourers 12.9%, and Community and Personal Service Workers 12.2%.

<sup>20</sup> Source: ABS Data 2016

<sup>21</sup> Source: ABS Data 2016

## Community Engagement

The Shire is proactive in sharing emergency prevention, preparation, response and recovery related information using the Shire's Facebook page and website. This is one way that the Shire of Narrogin is addressing the challenges of providing information to recreational visitors. This provide unique challenges for community education and often have limited information about local conditions and general bushfire awareness. There has been past targeting of community education focused on these groups through:

- Radio broadcasts about volunteering, being prepared for a fire, upcoming community events;
- Information stands at local community events;
- Back to school events (all emergency services);
- Provide bushfire information in Visitor Centres;
- Roadside signage advising the current fire conditions; and
- Variable message boards on major roads advising of fire conditions.

### 3.1.4 Economic Activities and Industry

Agriculture is the dominant industry in the region, including within the Shire of Narrogin. Due to its location, Narrogin is a key transport hub for the wider area and its population base means it also has more shopping options, facilities and services. Its close proximity to Perth makes it a very attractive location for new business and industry as well.

Cropping rotations in the Shire of Narrogin consist mainly of wheat, barley and oats (for grain or hay). Wheat is concentrated in the eastern parts, on paddocks less prone to frosts. Canola is also included in the rotation (depending on price fluctuation) in favourable seasons.<sup>22</sup>

There has been a move to explore alternative crops throughout the broader wheatbelt region. Some crops (i.e. canola or rapeseed) burn at a higher temperature, which can be harder to extinguish than native pastures.<sup>23</sup> The recent fire in the Shire of Katanning (February 2020) highlighted the potential for a similar event to occur in Narrogin due to the close proximity of agricultural land and vegetated reserves to the townsite boundary. Fires occurring on productive agricultural land can result in impacts such as the loss of top soil, which can reduce the soil condition and may take years for the soil quality to return to the pre-fire condition. This in turn can impact the quality of future crops and lead to increased operational costs.

Potentially, even the loss of an individual farm may have a significant long term economic and social cost to the Shire. In addition to the direct economic loss, the flow on impacts are great, for example families may leave the shire, which in turn can impact local businesses through loss of their customer base, as well as reduce the number of people available to undertake or participate in volunteering.

Key transport links within the Shire of Narrogin include the tier 2 railway line and Great Southern Highway, which run north-south through the centre of the Shire. The Shire has been identified as a Grain Freight Route, linking grain growing areas to the east with the Great Southern Highway, through to delivery centres in Brookton. Transport links, both rail and road, are critical for agricultural industries, with even minor disruptions to the network likely to cause economic losses. The Australian Rail Corporation (ARC), through their own internal bushfire risk management project, undertake a program of work along their rail corridor to protect their infrastructure. The Shire will continue to identify treatment priorities and work with ARC infrastructure through the BRM planning process.

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<sup>22</sup> Hillman and Narrogin Zones (Blackwood zones 8 and 9): rapid catchment appraisal 2006

<sup>23</sup> Department of Primary Industries and Regional Development [www.agric.wa.gov.au](http://www.agric.wa.gov.au)

The Shire has an established hazard reduction maintenance program, which includes roadside spraying of vegetation, tree trimming and grading of fire access tracks on Shire managed road reserves. The Shire liaises with Main Roads to ensure areas identified as higher risk are addressed in a timely manner.

By endorsing the BRM plan the Shire can continue their hazard reduction programs by using the plan and working on the high risks identified.

The tourism market is another area which has growth potential, particularly in attracting international visitors or day trippers. Old buildings in Narrogin are a major local tourist attraction.<sup>24</sup> Also within a short distance of the town is the Dryandra Woodland nature reserve, which is a key natural attraction due to its rich diversity of fauna and flora species, and it being a rare remnant of the open woodlands that covered much of the wheatbelt, prior to agricultural clearing. There are many accommodation (overnight and short-stay) options within the Shire, which support a growing tourism sector.

Hospitals and Education account for high proportion of the employment in the Shire. The Shire provides these services to the wider region with a regional hospital and boarding schools located within the Shire. The role as a service hub is a critical economic and social element of the Shire.

**Table 7: Industry of employment Shire of Narrogin<sup>25</sup>**

Industry of employment, top responses Employed people aged 15 years and over	Narrogin (S)	%	Western Australia	%	Australia	%
Hospitals (except Psychiatric Hospitals)	108	5.3	41,706	3.6	411,808	3.9
Secondary Education	102	5.0	20,488	1.8	177,487	1.7
Primary Education	95	4.7	29,683	2.6	231,198	2.2
Aged Care Residential Services	79	3.9	21,177	1.8	211,621	2.0
Grain-Sheep or Grain-Beef Cattle Farming	87	3.3	4,107	0.4	15,056	0.1

Of the employed people in Narrogin (S) (Local Government Areas), 5.3% worked in Hospitals (except Psychiatric Hospitals). Other major industries of employment included Secondary Education 5.0%, Primary Education 4.7%, Aged Care Residential Services 3.9% and Grain-Sheep or Grain-Beef Cattle Farming 3.3%.

## 3.2 Description of the Environment and Bushfire Context

### 3.2.1 Topography and Landscape Features

The agricultural areas of Western Australia are very diverse, with a wide range of landscapes, soils and landscape features. The Shire Narrogin’s landscape features are detailed in the Department of Agriculture and Food (WA) series ‘*Landscape and soils of the Narrogin District*’ 2010’.

The geology of southern Western Australia, including the Shire of Narrogin, is dominated by the Yilgarn Craton, an ancient plateau composed mainly of granite, with intrusions of dolerite and capped with laterite. The north-west alignment of major rock bands of the Yilgarn Craton reflects its formation over many hundreds of million years as ‘rafts’ of land on tectonic plates collided to form bands of gneiss that were intruded by granites. Gneiss is a metamorphic rock with a banded or foliated structure, typically coarse-grained and consisting mainly of feldspar, quartz, and mica. Extensive faulting and uplifts on the south and west of the Yilgarn craton caused marked changes to slope and drainage patterns. Stresses associated with these events caused cracking and intrusion of the dolerite dykes that occur throughout the craton. These dykes can be a locally significant as soil materials are frequently associated with mafic lateritic ridges. Bands of greenstone were formed when intra-plate rifts were alternately filled by sediments and volcanic rocks, and then also became extensively metamorphosed by ongoing plate collision. Igneous rocks include granite, dolerite, gabbro, quartz and metamorphic rocks such as gneiss, that are parent materials for wind and waterborne deposits, laterites and a range of soils. Outcrops are relatively common in dissected (rejuvenated) areas.<sup>26</sup>

<sup>24</sup> Source: *Shire of Narrogin Business Prospectus*

<sup>25</sup> Source: *ABS Data 2016*

<sup>26</sup> Source: *Landscape and soils of the Narrogin District, Dept of Agriculture and Food WA, 2010, Bulletin 4807*

Figure 11 shows an example of a rocky landscape with mafic breakaway on the ridge and soils formed from granite (foreground) and dolerite (background) and dolerite dykes on the slope common in the west of the Shire.

Topography can significantly impact potential bushfire behaviour, impeding access for suppression resources and limiting suitable options for mitigation, which makes it a significant factor in bushfire risk and management. The impact of topography is greater in the west of the Shire, where the rock outcrops can restrict and, in some cases, prevent access by fire appliances. In areas where the rocky formations prevent ground based firefighting, direct attack of a fire is limited to aerial response or waiting until the fire reaches an area of suitable topography for ground crews to access. This may greatly increase the time taken for fire to be suppressed, which can allow fires to grow, resulting larger, more destructive fires often with higher intensities and rates of spread. While these land formations can present challenges when installing firebreaks, the issue highlights the need for fuels to be broken up across the landscape using a range of suitable and sustainable strategies that provide low fuel buffers and firebreaks for use in fire suppression and mitigation.



Figure 11: Mafic Landscape Views<sup>27</sup>

A major challenge for the Shire is accessing and crossing landscape features during fire events. Rivers, valleys, pipelines and the rail network all present challenges for firefighting vehicles and equipment when responding to a bushfire. Infrastructure, such as rail lines and the above ground Water Corporation pipeline dissecting the Shire and present a barrier, with access often limited to crossover points. These barriers are a significant consideration and limitation when responding to fires, but also when planning bushfire mitigation activities.

The western portion of the district is located on the Darling Plateau and the eastern section contains flat floored valleys. The district's landscape is dominated by a system of valleys and this formation results in slopes that can exceed 20 degrees. Slope has a major influence on potential fire behaviour. The rate of spread of a bushfire will double for each 10 degrees of slope, meaning a fire going up a 20 degree slope will move four times faster than on flat ground. Fires occurring in these valley formations will often move very fast and can be difficult to stop.

The waterways in the Shire are often corridors of riparian vegetation that create avenues for fires to travel and present challenges for access and crossing. Fires often spot across the watercourses, where firefighters cannot easily cross and may have to travel some distance to be able to get to the other

<sup>27</sup> Source: *Landscape and soils of the Narrogin Districts*, Dept of Agriculture and Food WA.2010 Bulletin 4807

side. This can often result in a significant delay in firefighting response allowing fires to be able to grow quickly with limited suppression under the influence of significant slopes.

Given the prevalence of waterways it is not surprising that there are 10 bridges throughout the Shire. These are critical features in the landscape, particularly for bushfire risk management. They are traffic routes critical to tourism as well as the movement of agricultural produce and therefore the local and regional economy can be adversely affected if bridges are damaged/destroyed by fire. For bushfire risk management they are vital for the evacuation of communities and the movement of firefighting response vehicles as well. The BRM planning process has identified the bridges, particularly timber bridges, as a significant risk for the Shire and they will be a priority for risk treatment.

A major challenge for the Shire is access and crossing landscape features during fire events, water way valleys, pipelines and the rail network all pose challenges to fire fighting vehicles moving through areas of the landscape. There is an above ground Water Corporation pipeline running north-south, as well as east-west dissecting the Shire. This supplies water to the Shire of Narrogin as well as other surrounding Shires. This can restrict movement with limited crossovers accessible. This is a significant consideration and limitation when responding to fires but also when planning bushfire mitigation activities particularly in the context of risk management.

### 3.2.2 Climate and Bushfire Season

The climate of the Shire is described as semi-arid, with a warm, dry, Mediterranean climate. It has seven to eight dry months each year with an annual average rainfall of about 500 millimetres (20 in). Seasonal changes in temperature, rainfall and wind direction are marked and more extreme than coastal areas of the south-west.<sup>28</sup>

The following weather statistics were obtained from the Bureau of Meteorology (BOM) Narrogin Station ID 010614.

Bushfire threat is typically associated with very hot (above average temperatures), dry (less than 20% humidity) and windy (above 12 – 15 Km per hour) conditions. *Table 8* shows that the Shire of Narrogin can experience these conditions throughout the year, particularly during October to March inclusive (as highlighted). The wettest months are May through September when about 70% of the annual rainfall occurs. Weather is the primary influencer on fire activity<sup>29</sup> and therefore needs to be a significant consideration when planning both mitigation and response activities.

Month	Min temp °C	Max temp °C	Avg temp °C	Min RH %	Min avg RH %	Max avg RH %	Max RH %	Rain mm	Wind AvgSpeed @3m	Wind MaxSpeed @3m	Wind MaxCompass Point @3m	High wind days
Dec-19	8.6	41.9	24.5	5.4	15.9	73.7	95.7	1.8	12	60	NNW	21
Nov-19	1.8	40.9	19.2	7.9	20.5	84.1	97.8	12.6	13	60	SW	14
Oct-19	0.5	34	15.4	9.4	31.4	93	100	12.4	10	75	W	8
Sep-19	-1.4	28.7	13	16.1	43.3	97.4	100	17.2	8	50	NW	7
Aug-19	0.1	24.1	10.8	26.1	53.5	95.4	100	80.8	8	58	W	9
Jul-19	1.8	19.5	10.5	32.2	60.4	99	100	54.2	7	57	WSW	4
Jun-19	-0.6	23.2	11.2	12.3	52.3	91.2	100	120.6	9	66	N	11
May-19	-1.5	27.4	11.8	14.1	37.1	92.7	99.3	14.2	7	45	WSW	5
Apr-19	0.6	33.7	16.4	16.2	34.1	87.2	97.2	17	10	56	WSW	11
Mar-19	6.1	36.2	20.6	15.2	33.1	85.3	97.9	11.8	12	53	SE	10
Feb-19	9.2	40.2	22.6	9.9	21.5	81.3	93.1	0	14	60	SE	15
Jan-19	5.4	42.2	22.2	5.9	20.4	81.7	93.6	1.4	13	66	WNW	17

Table 8: 2018 Climatic Conditions for the Shire of Narrogin<sup>30</sup>

Figures 12 and 13 reflect high summer temperatures, with both the mean minimum and mean maximum temperatures the highest from December through to March. Figure 14 shows the mean maximum temperature by month during 2019 reflected against the mean maximum temperature and

<sup>28</sup> Source: Bureau of Meteorology

<sup>29</sup> The Burning Issue: Climate Change and the Australian Bushfire Threat [www.climatecouncil.org.au](http://www.climatecouncil.org.au)

<sup>30</sup> Department of Agriculture and Food

the highest and lowest mean maximum temperatures for all years. *Figure 15* reflects the mean rainfall over the years 1891 to 2019. Relative Humidity (RH) plays a big part in firefighting as the lower the relative humidity the more vigorously fuels can burn. *Figures 16* and *17* show the lowest RHs are recorded from December through to February. *Figures 12 through to 17* confirm the higher fire danger period in the Shire of Narrogin is between December through to February.



Figure 12: Graph depicting the mean minimum monthly temperate over the period 1913 – 2019. <sup>31</sup>



Figure 13: Graph depicting the mean maximum monthly temperate over the period 1913 – 2019. <sup>32</sup>

<sup>31</sup> Bureau of Meteorology

<sup>32</sup> Bureau of Meteorology

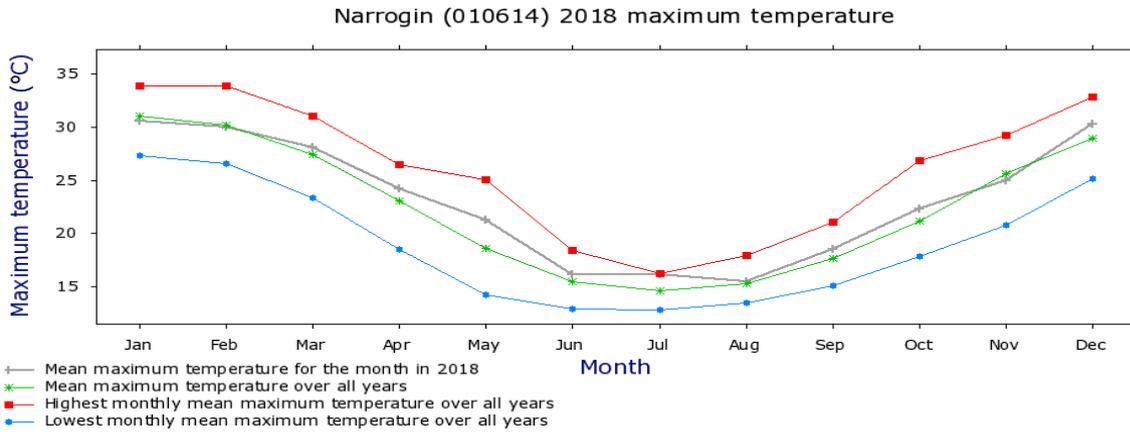


Figure 14: Graph depicting the mean maximum monthly temperate and the highest and lowest mean monthly temperature overall years in comparison to the mean maximum monthly temperatures during 2018<sup>33</sup>

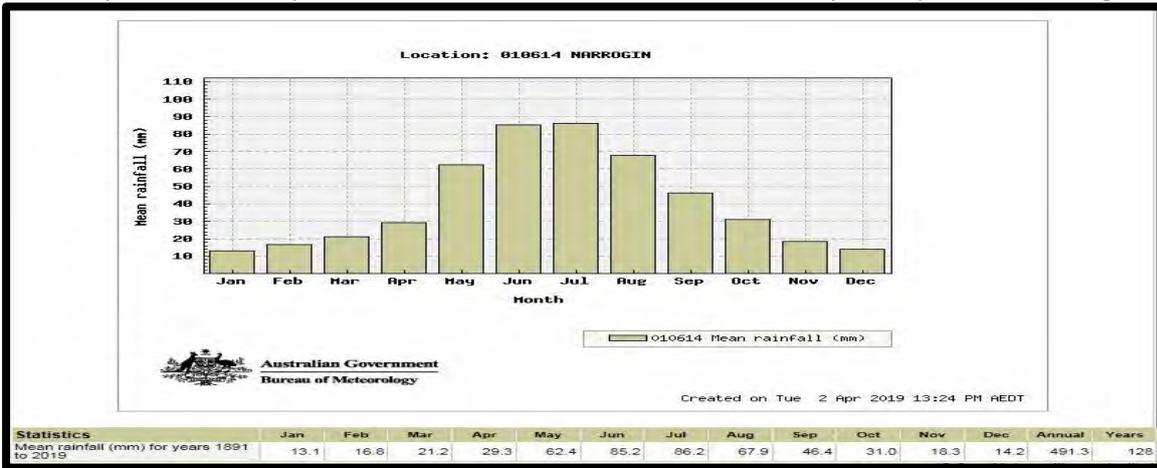


Figure 15: Graph depicting the mean rainfall between 1891 to 2019<sup>34</sup>

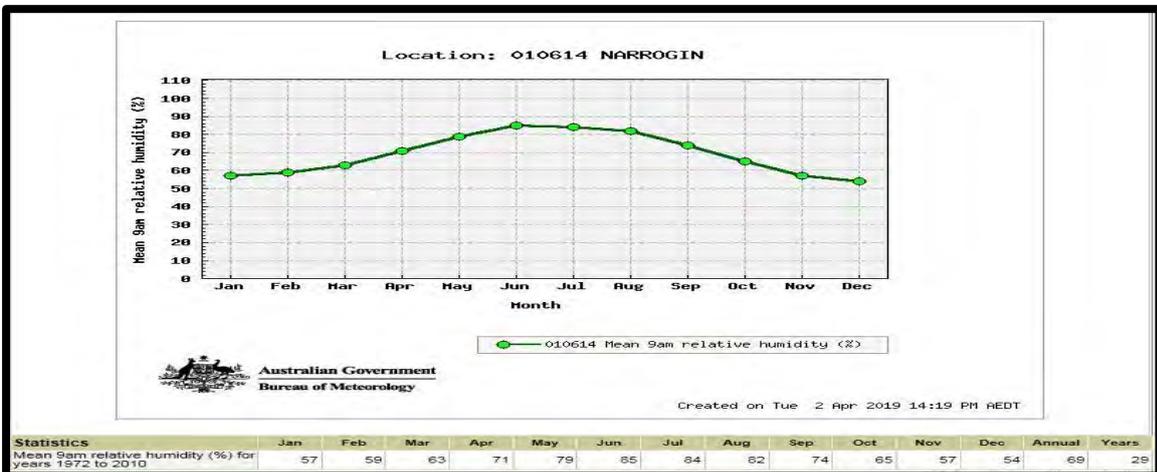


Figure 16: Graph depicting the 9am relative humidity for year 1972 to 2010<sup>35</sup>

<sup>33</sup> Bureau of Meteorology

<sup>34</sup> Bureau of Meteorology

<sup>35</sup> Bureau of Meteorology



Figure 17: Graph depicting the 3pm Relative Humidity between 1972 to 2010 <sup>36</sup>

### Wind Direction and Speed

The following diagram (Figure 18) is a wind rose covering a twelve (12) year period 2007 – 2019 reflecting the prevailing winds for the Shire of Narrogin. Figure 19 reflects a series of wind roses covering the years 2016 – 2019 individually. Both diagrams show prevailing winds predominantly from the West (W), West South West (WSW), South East (SE) and East South East (ESE).

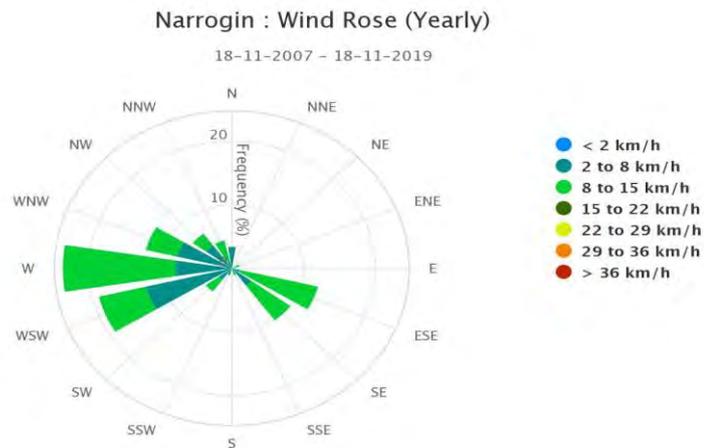


Figure 18: Wind rose reflecting predominant winds and wind speeds over the period 18 Nov 2007 – 18 Nov 2019 taken from the Dept of Agriculture Weather Station NA001 <sup>37</sup>

<sup>36</sup> Bureau of Meteorology

<sup>37</sup> Department of Agriculture and Food Weather Station Narrogin (NA001)

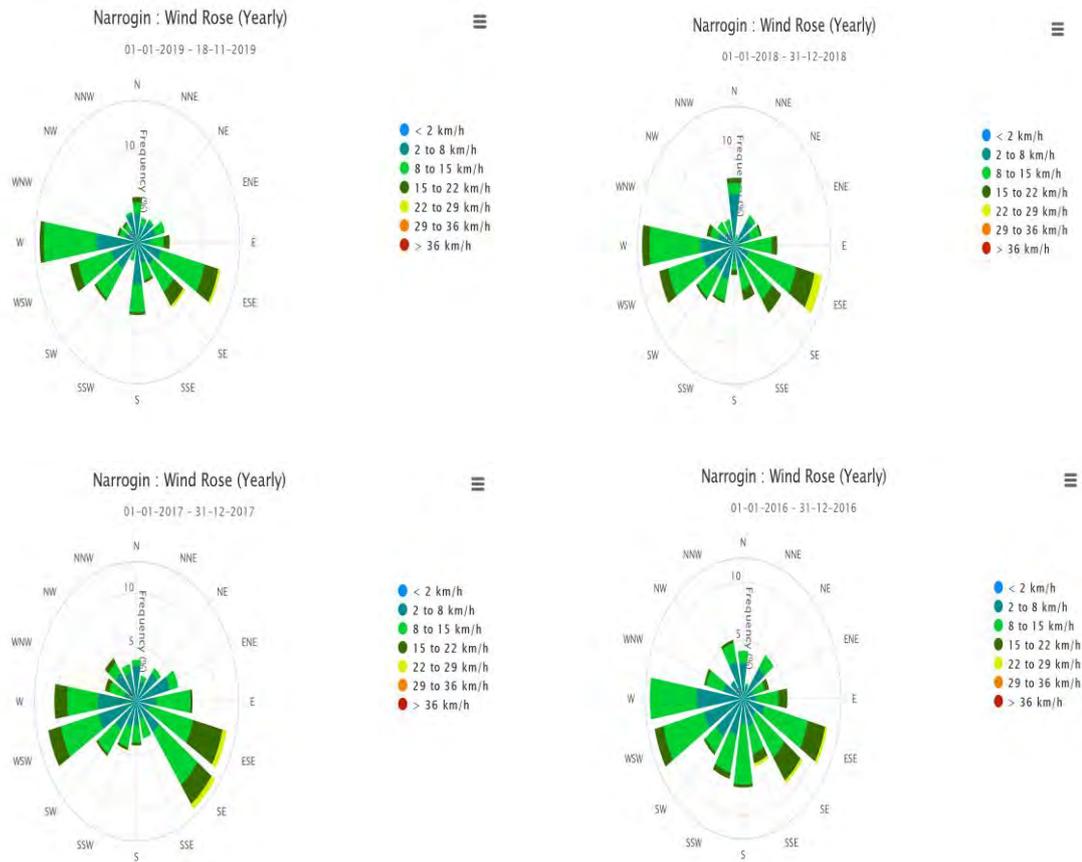
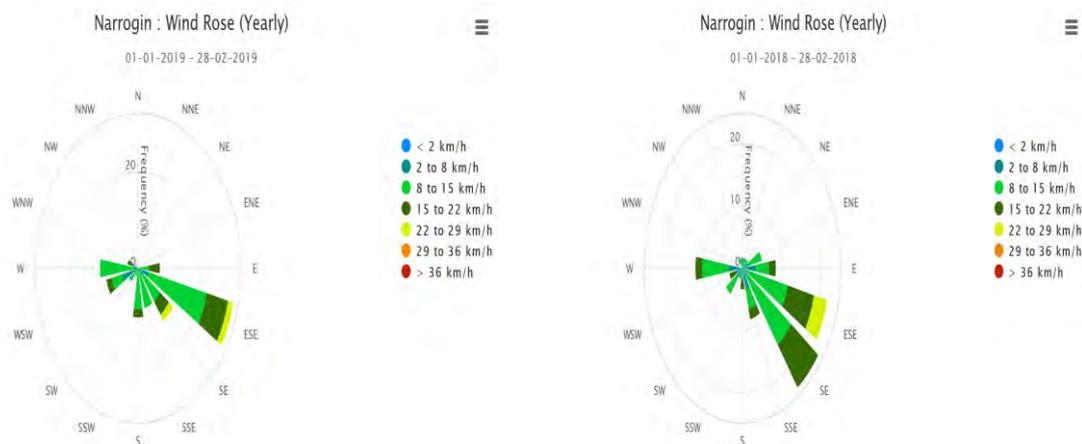


Figure 19: Wind roses reflecting the annual predominant winds and wind speeds for the years 2016 to Nov 2019 taken from the Dept of Agriculture Weather Station NA001. <sup>38</sup>

The following diagrams look at prevailing winds in the context of the hotter months corresponding with the peak of the fire season – December through February. These wind roses also indicate winds predominantly from the South-East. The prevailing winds within the Shire of Narrogin is known as the ‘Albany Doctor’ which comes from the South-East in the mid-afternoon. This is well known by the fire response personnel and subsequently fire management strategies are developed with this in mind.



<sup>38</sup> Department of Agriculture and Food Weather Station Narrogin (NA001)

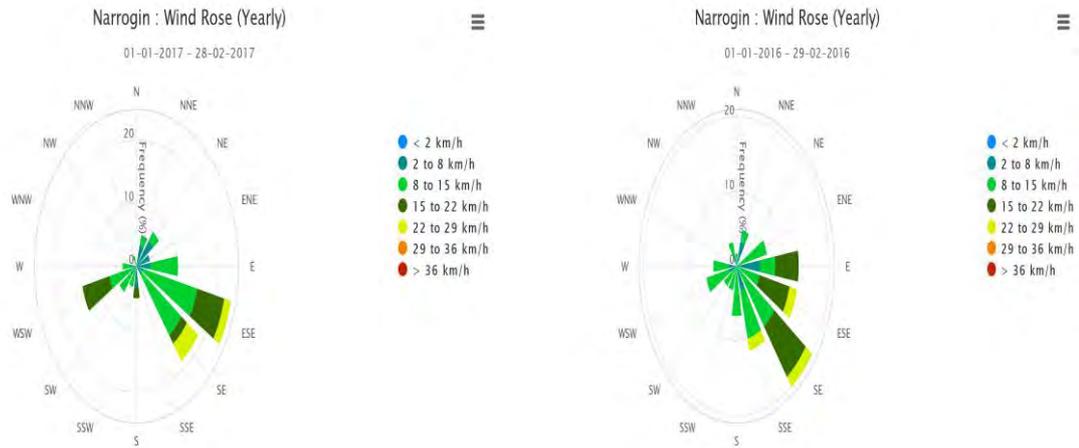


Figure 20: Graph depicting wind direction during the summer months (December to February) for the years 2015 to 2018 taken from the Dept of Agriculture Weather Station NAR001.<sup>39</sup>

The impact of wind speed and direction cannot be underestimated when it comes to any fire, however grassland fires can be particularly susceptible to the effects of wind changes. Prevailing winds are a significant consideration in relation to both operational response, as well as determining effective mitigation treatments.

### 3.2.3 Vegetation

The total area of native vegetation in the Shire of Narrogin has been significantly reduced through rapid and excessive clearing for agricultural purposes. Despite this, much of the native vegetation that remains in public reserves and on private land is similar to that which existed in the past, although the range of species has been significantly reduced.<sup>40</sup>

The Shire of Narrogin lies within the Avon Botanical District of the Southwest Botanical Province and contains three Vegetation Systems;

- Narrogin System

The northern region and majority of the Shire is covered by the Narrogin Vegetation System. As rainfall is higher than in the eastern region of the Shire, these plateaux are covered by a mosaic of brown mallett (*Eucalyptus astringens*) and powderbark (*Eucalyptus accedens*) woodlands instead of heath. Woodlands of York gum (*Eucalyptus loxophleba*) and wandoo (*Eucalyptus wandoo*) covers the dissected country with tendency to topographic separation to the west. The understory consists of sparse open shrubs, prickly poison (*Gastrolobium spinosum*), the one-sided bottlebrush (*Calothamnus quadrifidus*) roadside teatree (*Leptospermum erubescens*) and skirted grass tree (*Xanthorrhoea reflexa*).

Fires can be fast moving in understory with invasion of weeds and ladder fuels. This can cause high intensity patches with the potential to cause canopy fires.

- Wagin System

The Wagin system occupies the south-east corner of the Shire and is dominated by mixed York gum -wandoo woodland on the slopes of the undulating country. The vegetation of salt flats southeast of Highbury have been severely affected by the increase in salinity and rise of water tables following vegetation clearing.

Within the woodlands fire can be of high intensity with lower fuel intensity within the vegetation on the salt flats.

<sup>39</sup> Department of Agriculture and Food Weather Station Narrogin (NAR001)

<sup>40</sup> Source: Native Vegetation Handbook for the Shire of Narrogin

- Dumbleyung system

The Dumbleyung system occupies a small portion of the -east corner of the Shire and is dominated by a series of small salt lakes, York gum woodland with an understory of *Casuarina* spp., *Melaleuca* spp., and samphire species. For all intents and purposes, it can be regarded as being similar in composition to the Narrogin Vegetation System. Fires can be fast moving in understory with invasion of weeds and ladder fuels. This can cause high intensity patches within these fires.

Vegetation is one of the most significant influencers on fire risk and subsequent mitigation strategies. Further details about the indicative vegetation in the Narrogin District, is located at **Appendix 3**.

Three (3) aspects of vegetation within the Shire of Narrogin that requires specific attention, particularly in the context of bushfire mitigation treatment options moving forward, are:

1. The ability for sheoak – e.g. *Allocasuarina huegeliana* to invade into other native vegetation, significantly changing the vegetation and fuel structure. This is a common concern across the region with areas being significantly affected over time and, in the shorter term, from post fire regeneration.
2. The importance of managing annual weeds in remnant vegetation and the opportunity for these weeds to become established post mitigation works. Burning small remnants in the wrong way, wrong time and wrong frequency can potentially result in higher fuel loads.
3. Waterways, particularly those in and around assets, are significant as they offer riparian vegetation corridors which produce a wick-like effect and are often associated with fire runs with marked changes in fire behaviour, intensity and spread expected in this vegetation.

Whilst agricultural holdings (grassland) may appear to be a low bushfire risk, this vegetation presents a significant bushfire hazard, especially during harvest season (November to January) when harvesting activities have the potential to ignite a fire in fully cured crops. The impact of wind on open terrain regardless of whether it is under crop, should not be underestimated. Fortunately, the landscape in much of the agricultural tenure is gently undulating with broad fields and only scattered remnant vegetation, making access for firefighting appliances easier.

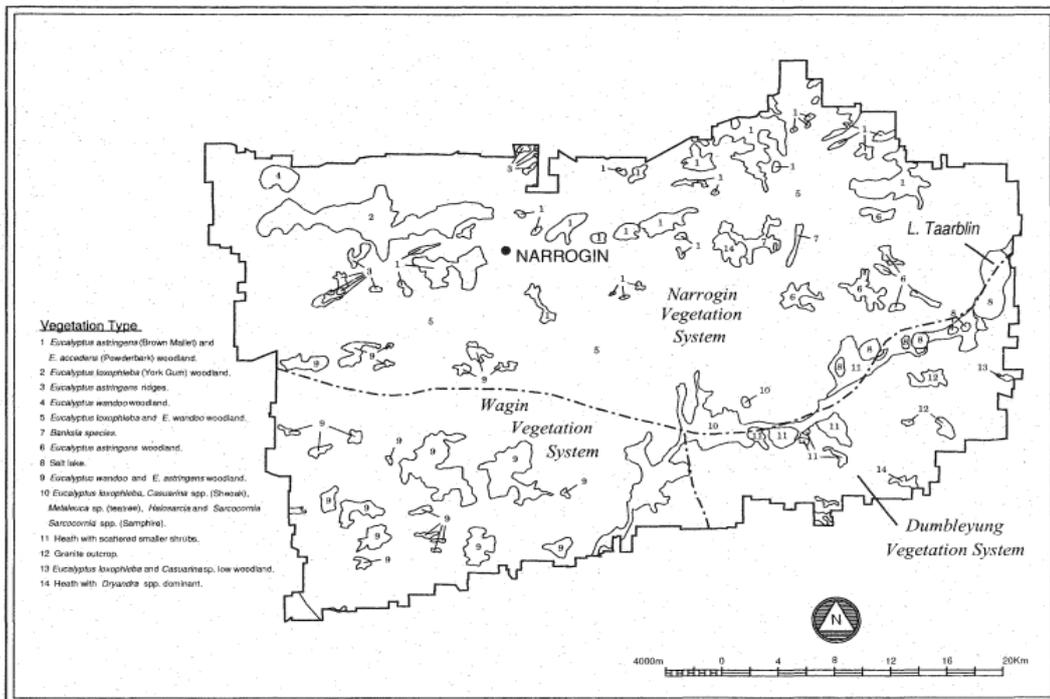


Figure 21: Vegetation Systems and major types in the Shire of Narrogin (According to Beard, 1980)<sup>41</sup>

## Environmental Considerations – Flora and Fauna

Flora and fauna are significant assets, but also impact the treatment options available for reducing risk to other assets. For example, the breeding cycle of some mammals, such as the Numbat, will restrict the period in which prescribed burns can be undertaken due to the need to ensure nests are not disturbed during the breeding season.

All risk treatments need to consider the requirements of the flora, fauna and communities located on the site. Appropriate authorities must be consulted prior to any mitigation work commencing. The Shire will take every opportunity to remind landowners/managers of their obligation to obtain appropriate clearances and approvals, prior to commencing vegetation-based treatments. Response strategies should be environmentally sensitive within the constraints of the incident.

A further consideration in relation to both bushfire prevention and response strategies is the potential spread of weeds or diseases such as *Phytophthora Cinnamomi* (Dieback), which is easily spread through soil movement from vehicles, animals, water and feet. Other fungal-borne diseases can also be spread through these mechanisms. This risk must be considered in the context of planned prevention and response strategies and the risk minimised wherever possible.

A list of the Declared Rare Flora and Declared Rare Fauna applicable to the Shire of Narrogin is included at **Appendix 4**.

## Threatened Ecological Communities

The Shire of Narrogin is within the catchment of the Threatened Ecological Community – *Eucalypt Woodlands of the Western Australian Wheatbelt Ecological Community*, listed under the *Environment Protection and Biodiversity Conservation Act 1999*. The distribution of this community in the Shire is show in figure 23, Narrogin townsite is the blue arrow indicated on map.

<sup>41</sup> Source: *Native Vegetation Handbook for the Shire of Narrogin*

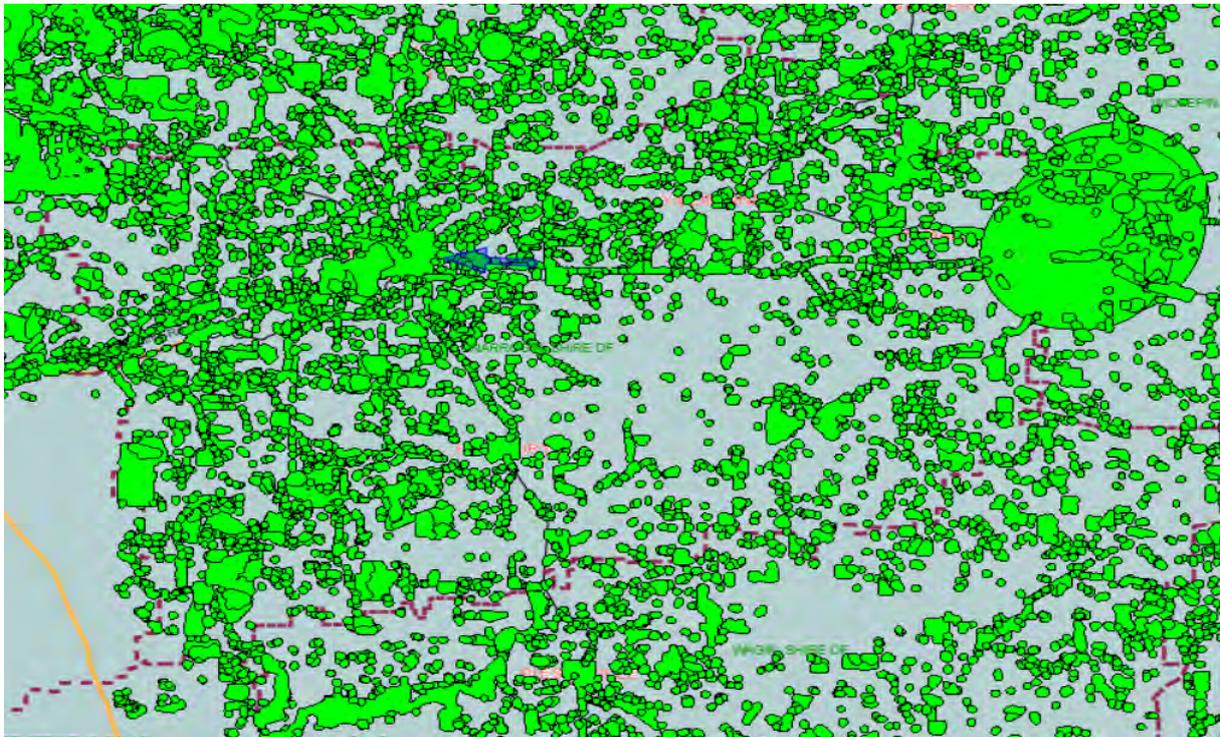


Figure 22: Map reflecting the location of the Eucalyptus Threatened Ecological Community<sup>42</sup>

The *Approved Conservation Advice (including listing advice) for the Eucalypt Woodlands of the Western Australian Wheatbelt* notes that altered fire regimes will have a significant impact on the threatened community. An altered fire regime includes any sustained changes from the long-term pattern of fires experienced at a site, this can include changes in frequency, seasonality and/or intensity. The Conservation Advice also notes that the response of the TEC to fire is site specific, that the TEC can benefit from an appropriate fire regime and that many responses to fire disturbance can be relatively temporary and/or minor. The impacts, both negative and positive, require careful consideration and balanced when undertaking prescribed burning in this TEC.

When planning risk treatments on tenure within the TEC catchment the following should be considered:

- the extent to which the risk treatment will remove or substantially damage tall *Eucalypt* trees which are a key component of the Eucalypt Woodlands TEC;
- the extent to which the understory is likely to be impacted and/or recover from the risk treatment;
- whether there is a risk that the risk treatment will facilitate the invasion and/or spread of fast colonising weed species benefiting from the temporary reduction in vegetative competition;
- can the prescribed burn be implemented effectively to meet the burn objectives with limited risk of creating damaging fire conditions, noting that a ‘hot’ burn can substantially alter the vegetative structure or change the nature of the understory of the TEC; and
- whether fire sensitive eucalypts, such as gimlet or salmon gums are present.

<sup>42</sup> Source: DFES Bushfire Risk Management System

## Fauna

Major populations of three nationally endangered species exist within the Shire of Narrogin, centred on the Wandoo Woodlands, Woylies (*Bettongia penicillata*), Red-Tailed Phascogales (*Phascogale calura*) and Numbats (*Myrmecobius fasciatus*).<sup>43</sup>



Figure 23: Picture of the nationally endangered Numbat (*Myrmecobius fasciatus*).<sup>44</sup>

Other native marsupial fauna includes Bilbies (*Macrotis lagotis*), Mala (*Lagorchestes hirsutus*), Boodies (*Bettongia lesueur*), Brown Bandicoots (*Isoden obesulus fasciventer*) and Marls (or Western Barred Bandicoot: *Perameles bougainville*).<sup>45</sup>

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<sup>43</sup> Source: Wikipedia – Dryandra Woodland

<sup>44</sup> Source: Wikipedia – Dryandra Woodland

<sup>45</sup> Source: Wikipedia – Dryandra Woodland

### 3.2.4 Bushfire Frequency and Causes of Ignition

DFES records show that from 1/07/2008 – 30/06/2019, a total of 276 incidents were reported in the Shire of Narrogin.



Government of Western Australia  
Department of Fire & Emergency Services



DFES  
Department of Fire & Emergency Services

**All Bushfires**  
LGA of NARROGIN (S)  
from 01/07/2008 to 30/06/2019

A Bushfire is considered to be any vegetation fire (bush, grass, scrub, forest), of any size

Bushfires Summary of Ignition for NARROGIN (S)	2008/ 2009	2009/ 2010	2010/ 2011	2011/ 2012	2012/ 2013	2013/ 2014	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018	2018/ 2019	Total
<b>Total Number of Bushfires:</b>	53	56	8	16	20	15	36	21	16	16	22	279
Burn off fires	0	0	0	1	1	4	8	1	2	6	3	26
Campfires/bonfires/outdoor cooking	0	0	0	1	0	0	0	0	0	1	0	2
Children misadventure	0	0	0	0	0	0	1	2	0	0	0	3
Cigarette	0	0	0	0	0	0	0	4	0	0	1	5
Equipment - Mechanical or electrical fault	0	0	1	0	0	0	0	0	0	1	0	2
Hot works (grinding, cutting, drilling etc..)	0	0	1	0	0	0	1	0	0	0	0	2
Other open flames or fire	0	0	0	3	2	1	8	2	2	0	1	19
Power lines	0	0	0	0	0	0	0	0	0	1	2	3
Reignition of previous fire	0	2	1	0	0	0	2	2	0	0	0	7
Sleeping/Alcohol/Drugs/Physical-Mental impairment	0	0	0	2	0	0	3	2	3	0	0	10
Suspicious/Deliberate	0	1	0	0	6	1	6	7	2	4	8	35
Undetermined	0	42	4	9	7	3	1	0	1	0	0	67
Unreported	53	10	1	0	1	1	3	1	3	2	3	78
Vehicles (incl. Farming Equipment/Activities)	0	0	0	0	1	0	0	0	0	1	0	2
Weather Conditions - Lightning	0	1	0	0	2	5	3	0	0	0	3	14
Weather Conditions (High winds, natural combustion etc. Excludes Lightning)	0	0	0	0	0	0	0	0	3	0	1	4

EXTERNAL USE APPROVED

**Table 9– Reported landscape fires in the Shire of Narrogin 2007 – 2018 46** Note: ‘Unreported’ - a known fire for which the ignition source was not provided to the incident reporting system. ‘Undetermined’ - Undermined ignition is where the attending officer cannot or will not make a determination on the ignition factor.

Of the 134 fires with known causes (i.e. excluding undetermined and unreported from the above table), the cause of ignition was predominantly as a result of deliberate/suspicious activities, reflecting approximately 26% of the fire occurrences, 19% of the fires were as a result of burn offs, 14% were the result of open flame sources. These fires represent 59% of reported fires and could be prevented. This is an area for the Shire for consideration.

With over 50% of recorded fires listed as ‘unreported’ it would be advantageous to promote, through the Bushfire Advisory Committee, the value of ensuring all fire reports are completed with the cause of ignition documented. This data has significance in emergency services resource planning and funding at the State level.

<sup>46</sup> Source: Department of Fire and Emergency Services

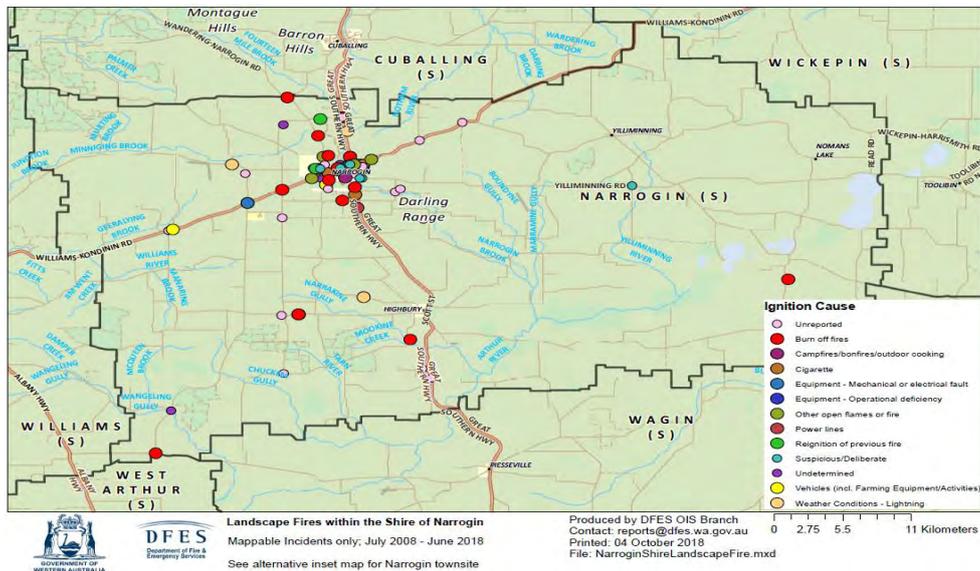


Figure 25 - Map reflecting the location of recorded fires within the Shire of Narrogin<sup>47</sup>

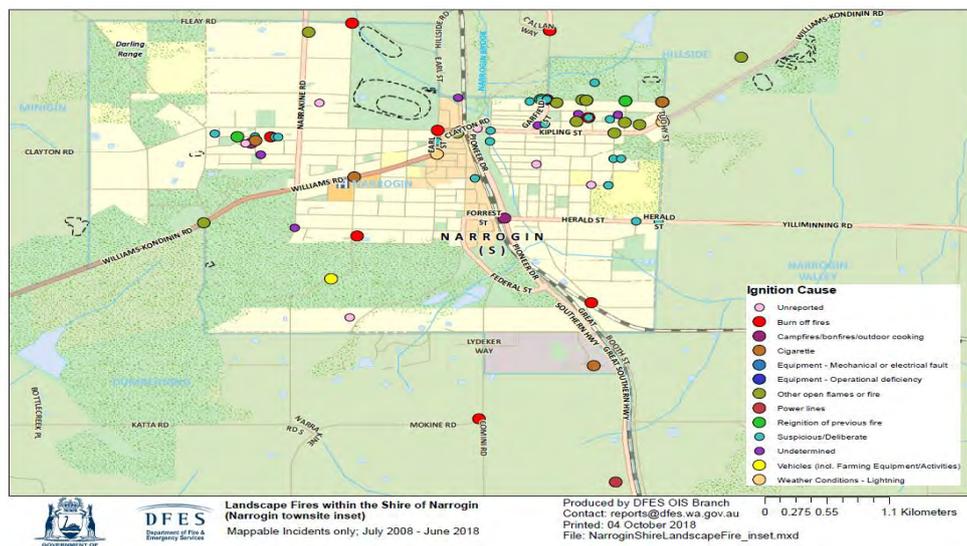


Figure 26 - Ignition type and location around the town of Narrogin<sup>48</sup>

### 3.2.5 Current Bushfire management

Narrogin has one Volunteer Fire and Rescue Service Brigade with two vehicles located in Narrogin, being a Country Pump and a Light Tanker. Narrogin Central Bush Fire Brigade and Minigin Bush Fire Brigade have a 4.4 broadacre appliance each.

There are eight other farmer response brigades being:

- Boundain Bush Fire Brigade
- Highbury East Bush Fire Brigade
- Highbury South Bush Fire Brigade
- Highbury West Bush Fire Brigade
- Narrogin South Bush Fire Brigade
- Narrogin Valley Bush Fire Brigade
- Nomans Lake Bush Fire Brigade
- Ockley Bush Fire Brigade

<sup>47</sup> Source: Department of Fire and Emergency Services

<sup>48</sup> Source: Shire of Narrogin Fire Management Requirements

The Shire had 173 registered emergency services volunteers as at March 2020.<sup>49</sup>

The Shire has an active Bushfire Advisory Committee (BFAC) with membership that includes leadership positions from each of the Brigades.

In the context of the four stages of emergency management – *Prevention, Preparation, Response and Recovery*, the Shire of Narrogin has a strong and very proactive approach to bushfires. As bushfire events can directly impact a farmer's livelihood, colloquially '*if the smoke goes up*', history has shown a positive response reflecting the community's values and willingness to help their neighbours. There's an all hands on-deck approach with farmer response units arriving from neighbouring farms and further afield. Many of the volunteers amass a considerable number of years of service and hold a significant level of skills and experience in rural and agricultural firefighting. The Shire and the community of Narrogin benefit greatly from the skills, knowledge, experience and commitment of their emergency services volunteers.

The emergency services volunteer figure of 173 does not reflect the additional personnel, sometimes referred to as 'spontaneous volunteers', who are not officially registered as Emergency Services (ES) Volunteers, but spring into action upon the first sight or smell of smoke. Together with the registered farmer response personnel this has inherent benefits including:

- Access to mobile fire units
- Bushfire fighting skills
- Familiarity with the terrain, tracks, landmarks, landowners etc.

Both the Bush Fire Brigades and Volunteer Fire and Rescue Service brigade respond to bushfires.

Like most local governments, the Shire of Narrogin has annually issued Fire Control order which details the requirements for residents to maintain and construct fire breaks, asset protection zones and undertake other hazard reduction activities.

### ***Bushfire Control Activities***

The *Bush Fires Act 1954*, sections 17 and 18, provides for the 'declaration and gazettal' of Prohibited and Restricted Burning Times as well as the ability to adjust burning times to suit changing weather conditions.

The Shire of Narrogin Restricted and Prohibited Burning times are as follows, subject to possible variation depending on each bushfire season:

- 1<sup>st</sup> May to 31<sup>st</sup> October: Restricted (permits required)
- 1<sup>st</sup> November to 1<sup>st</sup> March: Prohibited
- 1<sup>st</sup> May to 1<sup>st</sup> November: Firebreaks to be Maintained<sup>50</sup>

### ***Bushfire Prone Mapping***

The intent of the WA Government's *Bushfire Prone Planning Policy* is to implement effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.<sup>51</sup> The *State Planning Policy 3.7 – Planning for Bushfire Prone Areas* ensures bushfire risk is given due consideration in all future planning and development decisions. As the policy does not apply retrospectively and focuses on individual developments and buildings, the BRM Plan focuses on

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<sup>49</sup> Source: Department of Fire and Emergency Services

<sup>50</sup> Source: Department of Fire and Emergency Services

<sup>51</sup> Source: State Planning Policy 3.7 – Planning in Bushfire Prone Areas

identifying existing bushfire risk and establishing an effective treatment plan to manage unacceptable community risks.

The Shire of Narrogin has identified some areas within the local government area as Bushfire Prone, as evidenced by the associated map. Bushfire Prone Areas are subject to increased planning and construction requirements, under the Planning and Development (Local Planning Scheme amendment) Regulations 2015.

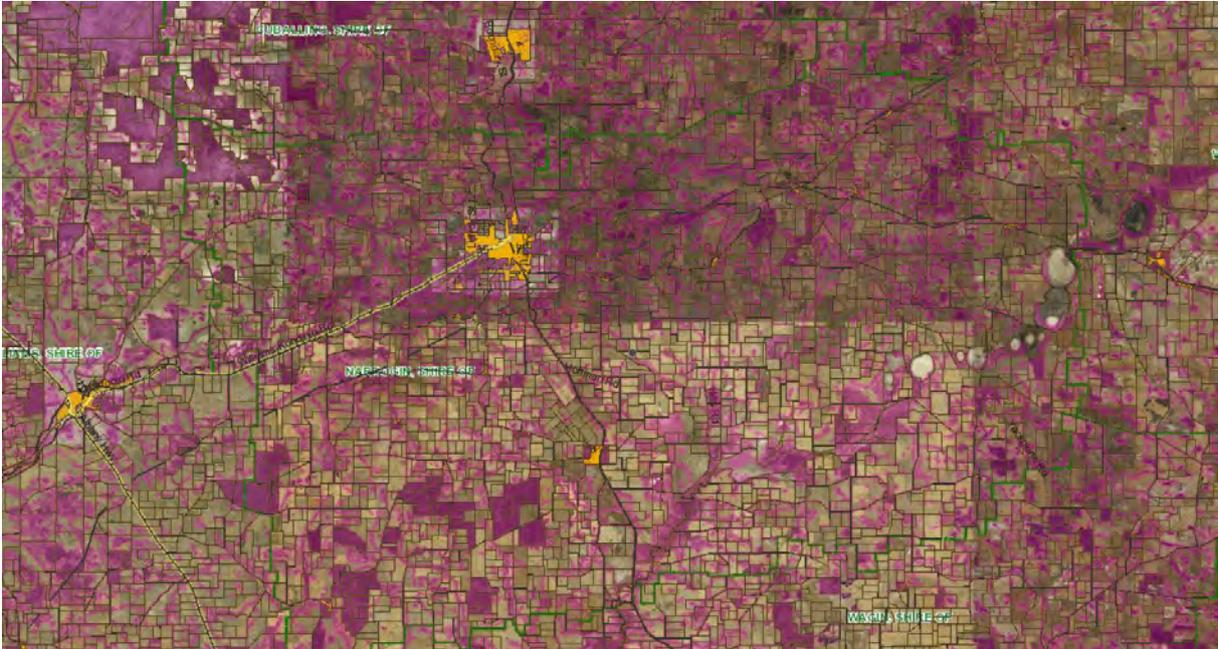


Figure 26: Shire of Narrogin Bushfire Prone Map<sup>52</sup>

**Harvest and Vehicle Movement Bans**

In recognising the significance of agricultural activities in the Shire, and to reduce the risk of crop related bushfires; the Shire has controls in place pursuant to the *Bush Fires Regulations 1954*. These controls are reviewed annually by the Bushfire Advisory Committee (BFAC). One such control is the issuing of Harvest and Vehicle Movement Bans. A Harvest and Vehicle Movement Ban is a ban that individual local governments are responsible for issuing under the *Bush Fires Regulations 1954 Section 38A, and/or Section 24C*. The Shire can issue Harvest and Vehicle Movement Bans to restrict the use of vehicles and machinery that have an increased risk of igniting a fire on days when weather conditions are considered unfavourable. Bans are generally issued as a result of the risk posed by agricultural practices during severe fire weather events.

Harvest and Vehicle Movement Bans are issued by the Shire’s Chief Bush Fire Control Officer, in consultation with the Bush Fire Brigade Fire Control Officers, when the use of engines, vehicles, plant or machinery during the Prohibited or Restricted Burning Times (or both) is likely to cause a fire or contribute to the spread of a bushfire. A Harvest and Vehicle Movement Ban may be imposed for any length of time, but is generally imposed for the ‘heat of the day’ periods and may be extended or revoked by the local government, should weather conditions change.

<sup>52</sup> Source: Department of Fire and Emergency Services

Whilst detailed records have not been kept for Harvest and Vehicle Movement Bans within the Shire, it is believed that on average, 5 bans (2016 to 10/1/2020) are issued annually.<sup>53</sup>

## 4. Asset Identification and Risk Assessment

### 4.1 Asset Identification

Asset identification and risk assessment has been conducted at the local level using the methodology described in the Guidelines'. Identified assets have been mapped, recorded and assessed in the Bushfire Risk Management System (BRMS). Identified assets are categorised into the following subcategories:

Table 10 – Asset Categories and Subcategories

Asset Category	Asset Subcategories
<b>Human Settlement</b>	<ul style="list-style-type: none"> <li>• <b>Residential areas</b> Rural urban interface areas and rural properties.</li> <li>• <b>Places of temporary occupation</b> Commercial, mining and industrial areas located away from towns and population centres (that is, not adjoining residential areas).</li> <li>• <b>Special risk and critical facilities</b> Hospitals, nursing homes, schools and childcare facilities, tourist accommodation and facilities, prison and detention centres, government administration centres and depots, incident control centres, designated evacuation centres, police, fire and emergency services.</li> </ul>
<b>Economic</b>	<ul style="list-style-type: none"> <li>• <b>Agricultural</b> Pasture, grazing, livestock, crops, viticulture, horticulture and other farming infrastructure.</li> <li>• <b>Commercial and industrial</b> Major industry, waste treatment plants, mines, mills and processing and manufacturing facilities and cottage industry.</li> <li>• <b>Critical infrastructure</b> Power lines and substations, water and gas pipelines, telecommunications infrastructure, railways, bridges, port facilities and waste water treatments plants.</li> <li>• <b>Tourist and recreational</b> Tourist attractions and recreational sites that generate significant tourism and/or employment within the local area.</li> <li>• <b>Commercial forests and plantations</b></li> <li>• <b>Drinking water catchments</b></li> </ul>
<b>Environmental</b>	<ul style="list-style-type: none"> <li>• <b>Protected</b> Rare and threatened flora and fauna, ecological communities and wetlands.</li> <li>• <b>Priority</b> Fire sensitive species and ecological communities.</li> <li>• <b>Locally important</b> Nature conservation and research sites, habitats, species and communities, areas of visual amenity.</li> </ul>
<b>Cultural</b>	<ul style="list-style-type: none"> <li>• <b>Aboriginal heritage</b> Places of indigenous significance.</li> <li>• <b>Recognised heritage</b> Assets afforded legislative protection through identification by the National Trust, State Heritage List or Local Planning Scheme Heritage List.</li> </ul>

<sup>53</sup> Source: Shire of Narrogin

Asset Category	Asset Subcategories
	<ul style="list-style-type: none"> <li>• <b>Local heritage</b> Assets identified in a Municipal Heritage Inventory or by the community.</li> <li>• <b>Other</b> Other assets of cultural value, for example community centres and recreation facilities.</li> </ul>

## 4.2 Assessment of Bushfire Risk

Risk assessments have been undertaken for each asset, or group of assets, identified using the methodology described in the Guidelines. Most risk assessments were undertaken via 'desk top' assessment in the first instance. However, assets with a preliminary rating of 'very high' and 'extreme' have been validated through field assessment.

At the time of completing this Bushfire Risk Management Plan, a total of **435 assets** have undergone a bushfire risk assessment.

The percentage of assets within the local government in each asset category at the time of BRM Plan endorsement is shown in Table 11:

Table 11– Asset Category Proportions

Asset category	Proportion of identified assets
<b>Human Settlement</b>	<b>86.00%</b>
<b>Economic</b>	<b>9.85%</b>
<b>Environmental</b>	<b>1.15%</b>
<b>Cultural</b>	<b>3.00 %</b>

### 4.2.1 Likelihood Assessment

Likelihood is described as the chance of a bushfire igniting, spreading and reaching an asset. The approach used to determine the likelihood rating is the same for each asset category: Human Settlement, Economic, Environmental and Cultural.

There are four possible likelihood ratings: almost certain, likely, possible, and unlikely.

Table 12 – Likelihood Ratings

Likelihood Rating	Description
<b>Almost Certain</b> (Sure to Happen)	<ul style="list-style-type: none"> <li>• Is expected to occur in most circumstances;</li> <li>• High level of recorded incidents and/or strong anecdotal evidence; and/or</li> <li>• Strong likelihood the event will recur; and/or</li> <li>• Great opportunity, reason or means to occur;</li> <li>• May occur more than once in 5 years.</li> </ul>
<b>Likely</b> (Probable)	<ul style="list-style-type: none"> <li>• Regular recorded incidents and strong anecdotal evidence; and/or</li> <li>• Considerable opportunity, reason or means to occur;</li> <li>• May occur at least once in 5 years.</li> </ul>
<b>Possible</b> (feasible but < probable)	<ul style="list-style-type: none"> <li>• Should occur at some stage; and/or</li> <li>• Few, infrequent, random recorded incidents or little anecdotal evidence; and/or</li> <li>• Some opportunity, reason or means to occur.</li> </ul>

Likelihood Rating	Description
<b>Unlikely</b> (Improbable, not likely)	<ul style="list-style-type: none"> <li>• Would only occur under exceptional circumstances.</li> </ul>

'Likelihood' has been assessed in the context of:

- **Separation Distance** – the distance between the asset and the hazard vegetation, and
- **Fuel Age** – the period of time elapsed since the fuel was last burnt.

#### 4.2.2 Consequence Assessment

Consequence is described as the outcome or impact of a bushfire event. The approach used to determine the consequence rating is different for each asset category: Human Settlement, Economic, Environmental and Cultural.

There are four possible consequence ratings: minor, moderate, major and catastrophic.

Table 13 – Consequence Ratings

Consequence Rating	Descriptions
<b>Minor</b>	<ul style="list-style-type: none"> <li>• No fatalities.</li> <li>• Near misses or minor injuries with first aid treatment possibly required.</li> <li>• No persons are displaced.</li> <li>• Little or no personal support (physical, mental, emotional) required.</li> <li>• Inconsequential or no damage to an asset, with little or no specific recovery efforts required beyond the immediate clean-up.</li> <li>• Inconsequential or no disruption to community.</li> <li>• Inconsequential short-term failure of infrastructure or service delivery. (Repairs occur within 1 week, service outages last less than 24 hours.)</li> <li>• Inconsequential or no financial loss. Government sector losses managed within standard financial provisions. Inconsequential business disruptions.</li> </ul>
<b>Moderate</b>	<ul style="list-style-type: none"> <li>• Isolated cases of serious injuries, but no fatalities. Some hospitalisation required, managed within normal operating capacity of health services.</li> <li>• Isolated cases of displaced persons who return within 24 hours.</li> <li>• Personal support satisfied through local arrangements.</li> <li>• Localised damage to assets that is rectified by routine arrangements.</li> <li>• Community functioning as normal with some inconvenience.</li> <li>• Isolated cases of short to mid-term failure of infrastructure and disruption to service delivery. (Repairs occur within 1 week to 2 months, service outages last less than 1 week.)</li> <li>• Local economy impacted with additional financial support required to recover. Government sector losses require activation of reserves to cover loss. Disruptions to businesses lead to isolated cases of loss of employment or business failure.</li> <li>• Isolated cases of damage to environmental or cultural assets, one-off recovery efforts required, but with no long term effects to asset.</li> </ul>
<b>Major</b>	<ul style="list-style-type: none"> <li>• Isolated cases of fatalities.</li> <li>• Multiple cases of serious injuries. Significant hospitalisation required, leading to health services being overstretched.</li> <li>• Large number of persons displaced (more than 24 hours duration).</li> </ul>

Consequence Rating	Descriptions
	<ul style="list-style-type: none"> <li>• Significant resources required for personal support.</li> <li>• Significant damage to assets, with ongoing recovery efforts and external resources required.</li> <li>• Community only partially functioning. Widespread inconvenience, with some services unavailable.</li> <li>• Mid to long-term failure of significant infrastructure and service delivery affecting large parts of the community. Initial external support required. (Repairs occur within 2 to 6 months, service outages last less than a month.)</li> <li>• Local or regional economy impacted for a significant period of time with significant financial assistance required. Significant disruptions across industry sectors leading to multiple business failures or loss of employment.</li> <li>• Significant damage to environmental or cultural assets that require major rehabilitation or recovery efforts.</li> <li>• Localised extinction of native species. This may range from loss of a single population to loss of all of the species within the BRM Plan area (for a species which occupies a greater range than just the BRM Plan area).</li> </ul>
<b>Catastrophic</b>	<ul style="list-style-type: none"> <li>• Multiple cases of fatalities.</li> <li>• Extensive number of severe injuries.</li> <li>• Extended and large number requiring hospitalisation, leading to health services being unable to cope.</li> <li>• Extensive displacement of persons for extended duration.</li> <li>• Extensive resources required for personal support.</li> <li>• Extensive damage to assets that will require significant ongoing recovery efforts and extensive external resources.</li> <li>• Community unable to function without significant support.</li> <li>• Long-term failure of significant infrastructure and service delivery affecting all parts of the community. Ongoing external support required. (Repairs will take longer than 6 months, service outages last more than 1 month.)</li> <li>• Regional or State economy impacted for an extended period of time with significant financial assistance required. Significant disruptions across industry sectors leading to widespread business failures or loss of employment.</li> <li>• Permanent damage to environmental or cultural assets.</li> <li>• Extinction of a native species in nature. This category is most relevant to species that are restricted to the BRM Plan area, or also occur in adjoining areas and are likely to be impacted upon by the same fire event. 'In nature' means wild specimens and does not include flora or fauna bred or kept in captivity.</li> </ul>

The methodology used to determine the consequence rating for each asset category is based on the following:

• **Consequence Rating - Human Settlement Assets**

The outcome or impact of a bushfire event on the asset, or a group of assets, measured by the hazard posed by the classified vegetation and the vulnerability of the asset.

• **Consequence Rating - Economic Assets**

The outcome or impact of a bushfire event on the asset, or a group of assets, measured by the hazard posed by the classified vegetation and the vulnerability of the asset.

- **Consequence Rating - Environmental Assets**

The outcome or impact of a bushfire event on the asset, or a group of assets, measured by the vulnerability of the asset and the potential impact of a bushfire or fire regime.

- **Consequence Rating - Cultural Assets**

The outcome or impact of a bushfire event on the asset, or a group of assets, measured by the hazard posed by the classified vegetation and the vulnerability of the asset.

The methodology used to determine the consequence rating for each asset category is based on the following taken from the *Bushfire Risk Management Planning Handbook (2018)*:

### Determining Bushfire Hazard

The level of bushfire hazard for human settlement, economic and cultural assets is determined using a quantified bushfire hazard assessment model.<sup>54</sup> The model is based on the methodology set out in *AS3959-2009 Construction of buildings in bushfire prone areas* that is used to undertake a Bushfire Attack Level (BAL) assessment. The hazard assessment is used to measure the severity of an asset's potential exposure to ember attack, radiant heat and direct flame contact. Criteria applied when undertaking the bushfire hazard assessment is as follows:<sup>55</sup>

**Application of Fire Danger Index (FDI) 80.** - The fire danger index reflects the chance of a fire starting, its rate of spread, its intensity and the difficulty of its suppression, according to various combinations of air temperature, relative humidity, wind speed and both the long- and short-term drought effects. Inputs to hazard assessment calculation are reflective of FDI 80 (Grass Fire Danger Index 110) conditions, as per AS3959-2009. The higher the rating, the less chance of controlling a fire until weather conditions improve.

The Shire of Narrogin is located with the Upper Great Southern Fire Weather District. Given the prevalence of agricultural holdings within the Shire of Narrogin, the Grass Fire Danger Index is the model applied to determine the FDI within the Shire given the prevalence of agricultural activities.

From the FDI, predictions can be made regarding a fire's rate of spread, intensity and the potential for various suppression tactics to succeed. The FDI is the basis for determining the Fire Danger Rating, shown below, which is a scale developed to assist communities to better understand information about fire danger.<sup>56</sup>

- **Classification of vegetation** - Vegetation is classified as per the vegetation categories listed in the Guidelines, and in accordance with AS3959-2009. Vegetation meeting the low hazard exclusion criteria is automatically rated as low hazard. Where more than one vegetation type is present, the assessment is based on the vegetation type that presents the greatest hazard to the asset.
- **Separation Distance** - Is measured from the closest part of the assets, such as a house, to the nearest edge of the hazard vegetation. Where there is a flammable structure within 6 metres (e.g. a shed or patio next to a house), it is included as a part of the asset.

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<sup>54</sup> *Guidelines for Preparing a Bushfire Risk Management Plan (2015)*

<sup>55</sup> *AS3959-2009 Construction of buildings in bushfire prone areas*

<sup>56</sup> *Source: Department of Fire and Emergency Services*

- **Slope** - Two slope measurements are used in the hazard assessment calculation – the slope of the land under the hazard vegetation and the slope of the land between the asset and the hazard vegetation.

Hazard assessments are based around Bushfire Management Zones (BMZ) with a focus on hazards within the Asset Protection Zone (20 metres) and Hazard Separation Zone (80 metres).



Figure 27: Bushfire Management Zones <sup>57</sup>



	<b>Catastrophic</b> FDI 100 +	<b>Catastrophic</b> What does it mean? These are the worst conditions for a bush or grass fire. Homes are not designed or constructed to withstand fires in these conditions. The safest place to be is away from high risk bushfire areas.
	<b>Extreme</b> FDI 75 - 99	<b>Extreme</b> What does it mean? Expect extremely hot, dry and windy conditions. If a fire starts and takes hold, it will be uncontrollable, unpredictable and fast moving. Spot fires will start, move quickly and come from many directions. Homes that are situated and constructed or modified to withstand a bushfire, that are well prepared and actively defended, may provide safety. You must be physically and mentally prepared to defend in these conditions.
	<b>Severe</b> FDI 50 - 74	<b>Severe</b> What does it mean? Expect hot, dry and possibly windy conditions. If a fire starts and takes hold, it may be uncontrollable. Well prepared homes that are actively defended can provide safety. You must be physically and mentally prepared to defend in these conditions.
	<b>Very High</b> FDI 32 - 49	<b>Very High</b> What does it mean? If a fire starts, it can most likely be controlled in these conditions and homes can provide safety. Be aware of how fires can start and minimise the risk. Controlled burning off may occur in these conditions if it is safe - check to see if permits apply.

Figure 28: Fire Danger Ratings <sup>58</sup>

<sup>57</sup> Bushfire Risk Management Planning Handbook, DFES (March 2018)

<sup>58</sup> Source: Department of Fire and Emergency Services [www.dfes.wa.gov.au](http://www.dfes.wa.gov.au)

### 4.2.3 Assessment of Environmental Assets

Using available biological information and fire history data, environmental assets with a known minimum fire threshold were assessed to determine if they were at risk from bushfire, within the five-year life of the BRM Plan. The Department of Biodiversity, Conservation and Attractions (DBCA) Parks and Wildlife Services (PWS) assisted with the identification and assessment of Environmental assets. Environmental assets that were unlikely to be adversely impacted by bushfire within the five-year period have not been included and assessed in the BRM Plan. The negative impact of a fire on these assets (within the period of this BRM Plan) was determined to be minimal and may even be of benefit to the asset and surrounding habitat.

### 4.2.4 Local Government Asset Risk Summary

A risk profile for the Shire is provided in the summary table 14 below. This table shows the proportion of assets at risk from bushfire in each risk category at the time the BRM Plan was endorsed.

*Table 14 – Local Government Asset Risk Summary*

Risk Rating Asset Category	Low	Medium	High	Very High	Extreme
Human Settlement	0.9	68.8%	11.5%	4.3%	1.8%
Economic	-0.3	4.3%	2.5%	1.9%	0.9%
Environmental	-	-	1.15%	0.35%	-
Cultural	-	2.1%	0.9%	.95%	-

The ‘Guidelines for Preparing a Bushfire Risk Management Plan’ requires that only assets considered of value and vulnerable to bushfire are to be included in this plan consequently not all assets within the Shire have been included in the assessments.

## 5. Risk Evaluation

### 5.1 Evaluating Bushfire risk

The risk rating for each asset has been assessed against the likelihood and consequence descriptions to ensure:

- The rating for each asset reflects the relative seriousness of the bushfire risk to the asset;
- Likelihood and consequence ratings assigned to each asset are appropriate; and
- Local issues have been considered.

### 5.2 Treatment Priorities

The treatment priority for each asset has been automatically assigned by BRMS, based on the asset's risk rating. Table 15 shows how likelihood and consequence combine to give the risk rating and subsequent treatment priority for an asset.

*Table 15 – Treatment Priorities*

<b>Consequence</b> <b>Likelihood</b>	Minor	Moderate	Major	Catastrophic
Almost certain	3D (High)	2C (Very High)	1C (Extreme)	1A (Extreme)
Likely	4C (Medium)	3A (High)	2A (Very High)	1B (Extreme)
Possible	5A (Low)	4A (Medium)	3B (High)	2B (Very High)
Unlikely	5C (Low)	5B (Low)	4B (Medium)	3C (High)

### 5.3 Risk Acceptability

Risks below a certain level were not considered to require specific treatment during the life of this BRM Plan. They will be managed by routine local government wide controls and monitored for any significant change in risk.

In most circumstances risk acceptability and treatment will be determined by the land owner, in collaboration with local government and fire agencies. However, as a general rule, the following courses of action have been adopted for each risk rating.

Table 16– Criteria for Acceptance of Risk and Course of Action

Risk Rating	Criteria for Acceptance of Risk	Course of Action
<p><b>Extreme</b> (Priorities 1A, 1B, 1C)</p>	<p>Requires asset specific treatment strategies to be applied.</p> <p>Treatment action is required within 2 years of the plan being endorsed.</p> <p>It is unlikely that Local Government Wide Controls would be adequate to manage the risk.</p>	<ul style="list-style-type: none"> <li>• Specific action(s) required in the first 2 years of the BRM Plan where resourcing and funding permits.</li> <li>• Assets to be included on the Shire’s annual fire break inspection.</li> <li>• Priorities will include:               <ul style="list-style-type: none"> <li>○ treatments that will have maximum benefit to multiple assets and critical infrastructure.</li> <li>○ Identification of partnerships with other agencies for strategic mitigation.</li> <li>○ Assets within the townsite to be included on Fire Break inspection list.</li> </ul> </li> </ul>
<p><b>Very High</b> (Priorities 2A, 2B, 2C)</p>	<p>Requires asset specific treatment strategies to be applied.</p> <p>Treatment action is required with 2 years of the plan being endorsed.</p> <p>It is unlikely that Local Government Wide Controls would be adequate to manage the risk.</p>	<ul style="list-style-type: none"> <li>• Specific action(s) required in the first 3 years of the BRM Plan where resourcing and funding permits.</li> <li>• Priorities will include:               <ul style="list-style-type: none"> <li>○ treatments that will have maximum benefit to multiple assets and critical infrastructure.</li> <li>○ Identification of partnerships with other agencies for strategic mitigation.</li> </ul> </li> <li>• Assets within the townsite to be included on Fire Break inspection list.</li> <li>• Communication with stakeholders as per the Communications Plan.</li> </ul>
<p><b>High</b> (Priorities 3A, 3B, 3C, 3D)</p>	<p>Asset specific treatment strategies will likely be required to adequately manage the risk.</p>	<ul style="list-style-type: none"> <li>• Specific action(s) required in the first 4 years of the BRM Plan where resourcing and funding permits.</li> <li>• Priorities will include:               <ul style="list-style-type: none"> <li>○ Assets that fall adjacent to Extreme or Very High-risk assets.</li> <li>○ treatments that will have maximum benefit to multiple assets and critical infrastructure.</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ Identification of partnerships with other agencies for strategic mitigation.</li> <li>● Communication with stakeholders as per the Communications Plan.</li> </ul>
<b>Medium</b> (Priorities 4A, 4B, 4C)	<p>Asset specific treatments are not required, but risk should be monitored.</p> <p>Local government wide controls should be sufficient to manage the risk.</p> <p>If there is a change in the landscape /environment these assets may need to be reassessed more frequently.</p>	<ul style="list-style-type: none"> <li>● Addressed through Local Government Wide Controls.</li> <li>● Specific action is not required.</li> </ul>
<b>Low</b> (Priorities 5A, 5B, 5C)	<p>Asset specific treatments are not required, but risk should be monitored.</p> <p>Local government wide controls should be sufficient to manage the risk.</p> <p>If there is a change in the landscape / environment these assets may need to be reassessed more frequently.</p>	<ul style="list-style-type: none"> <li>● Addressed through Local Government Wide Controls and/or Community Education.</li> <li>● Specific action is not required.</li> </ul>

## 6. Risk Treatment

The purpose of risk treatment is to reduce the likelihood of a bushfire occurring and/or the potential impact of a bushfire on the community, economy and environment. This is achieved by implementing treatments that modify the characteristics of the hazard, the community or the environment.

There are many strategies available to treat bushfire risk. The treatment strategy (or combination of treatment strategies) selected will depend on the level of risk and the type of asset being treated. Not all treatment strategies will be suitable in every circumstance.

### 6.1 Local Government-Wide Controls

Local government-wide controls reflect activities that reduce the overall bushfire risk within the Shire of Narrogin. These types of treatments are not linked to specific assets and are applied across all or part of the local government as part of normal business or due to legislative requirements. The following controls are currently in place across the Shire of Narrogin:

- i. *Bush Fires Act 1954* Section 33 notices, including applicable fuel management requirements, firebreak standards and annual enforcement programs;
- ii. Declaration and management of Prohibited Burn Times, Restricted Burn Times, Total Fire Bans and Harvest and Vehicle Movement Bans for the local government;
- iii. Public education campaigns, including Shire community education programs, and the use of DBCA and DFES state-wide programs, tailored to suit local needs; including programs such as *5-Minute Fire Chat*, *Bushfire Action Month*, *Are You Ready Campaign* etc;
- iv. State-wide arson prevention programs developed in conjunction with WA Police and DFES;
- v. State planning framework and local planning schemes, implementation of appropriate land subdivision and building standards in line with DFES, Department of Planning and Building Commission policies and standards;
- vi. Monitoring performance against the BRM Plan and reporting annually to the local government Council and OBRM;
- vii. Shire annual works program; and
- viii. Other practices and programs undertaken by local government or state agencies (**Multi-Agency Work Plans**) that contribute to bushfire risk management within the local government, including controls in place under state government policies, agreements or memorandums of understanding. These include:
  - a. Department of Biodiversity, Conservation and Attractions Master Burn Program
  - b. Water Corporation Bushfire Risk Management Plan
  - c. Western Power annual asset inspection and vegetation management program
  - d. Department of Education Memorandum of Understanding
  - e. Main Roads WA Bridge Assessment and Maintenance Works Plan
  - f. Shire pre-season meetings and training with Fire Control Officers and local Brigade members covering high risk areas

A **Local Government-Wide Controls and Multi-Agency Work Plan** is attached at **Appendix 2**. The plan details work to be undertaken as a part of normal business, to improve current controls or to implement new controls to better manage bushfire risk across the local government.

### 6.2 Asset-Specific Treatment Strategies

Asset-specific treatments are implemented to protect an individual asset or group of assets, identified and assessed in the BRM Plan as being at risk from bushfire. There are six asset specific treatment strategies:

- **Fuel management** - Treatment reduces or modifies the bushfire fuel through manual, chemical and prescribed burning methods;

- **Ignition management** - Treatment aims to reduce potential human and infrastructure sources of ignition in the landscape;
- **Preparedness** - Treatments aim to improve access and water supply arrangements to assist firefighting operations;
- **Planning** - Treatments focus on developing plans to improve the ability of firefighters and the community to respond to bushfire;
- **Community Engagement** - Treatments seek to build relationships, raise awareness and change the behaviour of people exposed to bushfire risk; and
- **Other** - Local government-wide controls, such as community education campaigns and planning policies, will be used to manage the risk. Asset-specific treatment is not required or not possible in these circumstances.

### 6.3 Determining the Treatment Schedule

The Treatment Schedule will be developed in broad consultation with land owners and other stakeholders and efforts will be made to finalise the Treatment Schedule within six months of this BRM Plan being endorsed by Council. It is expected that the Treatment Schedule will be a dynamic document and will be amended to account for changing circumstances, including changes to assets and/or risk ratings.

Land owners are ultimately responsible for treatments implemented on their own land. This includes any costs associated with the treatment and obtaining the relevant approvals, permits or licences to undertake an activity. Where agreed, another agency may manage a treatment on behalf of a land owner. However, the onus is still on the land owner to ensure treatments detailed in this BRM Plan are completed.

It is important to note that some treatments, particularly those aimed at reducing the vegetation profile, will require ongoing management and will likely need to be repeated periodically in order to sustain risk reduction gains post the initial treatment. The maintenance regime should be included in the treatment schedule where possible.

## 7. Monitoring and Review

Monitoring and review processes are in place to ensure that the BRM Plan remains current and valid. These processes are detailed below to ensure outcomes are achieved in accordance with the *Communication Strategy* and *Treatment Schedule*.

### 7.1 Review

A comprehensive review of this BRM Plan will be undertaken at least once every five years, from the date of Council endorsement. Significant circumstances that may warrant an earlier review of the BRM Plan include:

- Changes to the BRM Plan area, organisational responsibilities or legislation;
- Changes to the bushfire risk profile of the area; or
- Following a major fire event.

### 7.2 Monitoring

BRMS will be used to monitor the risk ratings for each asset identified in the BRM Plan and record the treatments implemented. New assets will be added to the *Asset Risk Register* when they are identified.

The Shire of Narrogin has determined that assets rated:

- 'Extreme' risk will be reassessed biennially and at the completion of a treatment as part of the post treatment evaluation.
- 'Very High' will be reassessed biennially where possible and at the completion of a treatment as part of the post treatment evaluation.
- 'High' will be reassessed at least once during the life of the plan or at the completion of a treatment as part of the post treatment evaluation.
- 'Low' and 'Medium' risk should be reassessed during the development of future plans.

The plan will be monitored by a member of the Shire Administration Team designated by the Chief Executive Officer.

Post-treatment Risk Assessment, using the Bushfire Risk Management System, involves completing a risk re-assessment at the completion of any scheduled treatment/s in order to confirm that the treatment objectives have been achieved. This could include evaluation of the initial treatment or ongoing treatments included in a treatment management plan, noting that treatments may need to be repeated periodically in order to sustain risk reduction gains. The post-treatment risk assessment may identify that further treatments are required to reduce an asset's risk rating to an acceptable level. The post-treatment assessment uses the same methodology as the original assessment. All inputs to the assessment should be reviewed and updated to reflect any change (e.g. changes to the asset or surrounding area).

Risk Re-assessment involves an additional assessment to determine if any factors have changed (e.g. increases in fuel age, developments) that may impact upon the asset's risk rating. Risk re-assessments may be undertaken at any time using a 'desk top' assessment to review data and spatial information in BRMS. Ideally risk re-assessment for 'extreme' and 'very high' risk assets would include a site visit.

### 7.3 Reporting

The Shire of Narrogin will submit an annual report to the Office of Bushfire Risk Management summarising progress made towards implementation of the BRM Plan. This report will also be submitted to the Council for ratification (if required).

The reporting requirements will be managed by a member of the Shire Administration Team designated by the Chief Executive Officer.

#### 7.3.1 Privacy Issues and Release of Information

Information captured through the Bushfire Risk Management System (BRMS) includes data considered 'personal' in nature including the names and addresses of landholders. There is therefore the potential for the data collected through the BRMS to be used for purposes other than bushfire risk mitigation (i.e. Insurance companies using this information to set insurance premiums).

The Chief Executive Officer is to be consulted prior to any Bushfire Risk Management data being released to the public domain.

In order to actively encourage and support the implementation, monitoring and review of agreed actions the Shire of Narrogin, as a matter of course or upon request, will provide reports to key stakeholders that detail the assets and treatments that the stakeholders (landowners) have responsibility for.

## 8. Glossary

<b>Asset</b>	A term used to describe anything of value that may be adversely impacted by bushfire. This may include residential houses, infrastructure, commercial, agriculture, industry, environmental, cultural and heritage sites.
<b>Asset Category</b>	There are four categories that classify the type of asset – Human Settlement, Economic, Environmental and Cultural.
<b>Asset Owner</b>	The owner, occupier or custodian of the asset itself. Note: this may differ from the owner of the land the asset is located on, for example a communication tower located on leased land or private property.
<b>Asset Register</b>	A component within the Bushfire Risk Management System used to record the details of assets identified in the Bushfire Risk Management Plan.
<b>Asset Risk Register</b>	A report produced within the Bushfire Risk Management System that details the consequence, likelihood, risk rating and treatment priority for each asset identified in the Bushfire Risk Management Plan.
<b>Bushfire</b>	Unplanned vegetation fire. A generic term which includes grass fires, forest fires and scrub fires both with and without a suppression objective. <sup>59</sup>
<b>Bushfire Hazard</b>	The hazard posed by the classified vegetation, based on the vegetation category, slope and separation distance.
<b>Bushfire Management Plan</b>	A document that sets out short, medium- and long-term bushfire risk management strategies for the life of a development. <sup>60</sup>
<b>Bushfire risk management</b>	A systematic process to coordinate, direct and control activities relating to bushfire risk with the aim of limiting the adverse effects of bushfire on the community.
<b>Consequence</b>	The outcome or impact of a bushfire event.
<b>Draft Bushfire Risk Management Plan</b>	The finalised draft Bushfire Risk Management Plan (BRM Plan) is submitted to the OBRM for review. Once the OBRM review is complete, the BRM Plan is called the 'Final BRM Plan' and can be progressed to local government Council for endorsement.
<b>Emergency Risk Management Plan</b>	A document (developed under <i>State Emergency Management Policy 2.9</i> ) that describes how an organisation(s) intends to undertake the activities of emergency risk management based on minimising risk. These plans help

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<sup>59</sup> Australasian Fire and Emergency Service Authorities Council 2012, *AFAC Bushfire Glossary*, AFAC Limited, East Melbourne.

<sup>60</sup> Western Australian Planning Commission 2015, *State Planning Policy 3.7: Planning in Bushfire Prone Areas*, WAPC, Perth.

inform the ongoing development of Local Emergency Management Arrangements (LEMA) and Westplans.

<b>Geographic Information System (GIS)</b>	A data base technology, linking any aspect of land-related information to its precise geographic location. <sup>61</sup>
<b>Geographic Information System (GIS) Map</b>	The mapping component of the Bushfire Risk Management System. Assets, treatments and other associated information is spatially identified, displayed and recorded within the GIS Map.
<b>Land Owner</b>	The owner of the land, as listed on the Certificate of Title; or leaser under a registered lease agreement; or other entity that has a vested responsibility to manage the land.
<b>Likelihood</b>	The chance of something occurring. In this instance, the chance of a bushfire igniting, spreading and reaching the asset.
<b>Locality</b>	The officially recognised boundaries of suburbs (in cities and larger towns) and localities (outside cities and larger towns).
<b>Planning Area</b>	A geographic area determine by the local government which is used to provide a suitable scale for risk assessment and stakeholder engagement.
<b>Priority</b>	See Treatment Priority.
<b>Recovery Cost</b>	The capacity of an asset to recover from the impacts of a bushfire.
<b>Responsible Person</b>	The person responsible for planning, coordinating, implementing, evaluating and reporting on a risk treatment.
<b>Risk acceptance</b>	The informed decision to accept a risk, based on the knowledge gained during the risk assessment process.
<b>Risk analysis</b>	The application of consequence and likelihood to an event in order to determine the level of risk.
<b>Risk assessment</b>	The systematic process of identifying, analysing and evaluating risk.
<b>Risk evaluation</b>	The process of comparing the outcomes of risk analysis to the risk criteria in order to determine whether a risk is acceptable or tolerable.
<b>Risk identification</b>	The process of recognising, identifying and describing risks.

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<sup>61</sup> Landgate 2015, *Glossary of terms*, Landgate, Perth

<b>Risk Manager</b>	The organisation or individual responsible for managing a risk identified in the Bushfire Risk Management Plan; including review, monitoring and reporting.
<b>Risk Register</b>	A component within the Bushfire Risk Management System used to record, review and monitor risk assessments and treatments associated with assets recorded in the Bushfire Risk Management Plan.
<b>Risk treatment</b>	A process to select and implement appropriate measures undertaken to modify risk.
<b>Rural</b>	Any area where in residences and other developments are scattered and intermingled with forest, range, or farm land and native vegetation or cultivated crops. <sup>62</sup>
<b>Rural Urban Interface (RUI)</b>	The line or area where structures and other human development adjoin or overlap with undeveloped bushland. <sup>63</sup>
<b>Slope</b>	The angle of the ground's surface measured from the horizontal.
<b>Tenure Blind</b>	An approach where multiple land parcels are considered as a whole, regardless of individual ownership or management arrangements.
<b>Treatment</b>	An activity undertaken to modify risk, for example a planned burn.
<b>Treatment Objective</b>	The specific aim to be achieved or action to be undertaken, in order to complete the treatment. Treatment objectives should be specific and measurable.
<b>Treatment Manager</b>	The organisation, or individual, responsible for all aspects of a treatment listed in the Treatment Schedule of the Bushfire Risk Management Plan, including coordinating or undertaking work, monitoring, reviewing and reporting.
<b>Treatment Priority</b>	The order, importance or urgency for allocation of funding, resources and opportunity to treatments associated with a particular asset. The treatment priority is based on an asset's risk rating.
<b>Treatment Schedule</b>	A report produced within the Bushfire Risk Management System that details the treatment priority of each asset identified in the Bushfire Risk Management Plan and the treatments scheduled.

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<sup>62</sup> Australasian Fire and Emergency Service Authorities Council 2012, *AFAC Bushfire Glossary*, AFAC Limited, East Melbourne

<sup>63</sup> Australasian Fire and Emergency Service Authorities Council 2012, *AFAC Bushfire Glossary*, AFAC Limited, East Melbourne

- Treatment Strategy** The broad approach that will be used to modify risk, for example fuel management.
- Treatment Type** The specific treatment activity that will be implemented to modify risk, for example a planned burn.
- Vulnerability** The susceptibility of an asset to the impacts of bushfire.

## 9. Common Abbreviations

APZ	Asset Protection Zone
BRMP	Bushfire Risk Management Planning
BRMS	Bushfire Risk Management System
CALD	Culturally and Linguistically Diverse
DEMC	District Emergency Management Committee
DFES	Department of Fire and Emergency Services
ERMP	Emergency Risk Management Plan
FFDI	Forest Fire Danger Index
FMP	Fire Management Plan
GFDI	Grassland Fire Danger Index
GIS	Geographic Information System
HSZ	Hazard Separation Zone
JAFFA	Juvenile and Family Fire Awareness
LEMA	Local Emergency Management Arrangements
LEMC	Local Emergency Management Committee
LG	Local Government
LMZ	Land Management Zone
OBRM	Office of Bushfire Risk Management
PWS	Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service
SEMC	State Emergency Management Committee
SLIP	Shared Land Information Platform
WAPC	Western Australian Planning Commission

## **Appendices**

- 1 Communication Strategy**
- 2 Local Government-Wide Controls, Multi-Agency Treatment Work Plan**
- 3 Indicative Vegetation of the Narrogin District**
- 4 Declared Rare Flora and Fauna in the Shire of Narrogin**



*Shire of Narrogin*

## Bushfire Risk Management Planning Communication Strategy

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### *Document Control*

<b>Document Name</b>	<b>Communications Strategy</b>	<b>Current Version</b>	<b>1.1</b>
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### *Related Documents*

<b>Title</b>	<b>Version</b>	<b>Date</b>
Shire of Narrogin Bushfire Risk Management Plan	1.1	

### *Amendment List*

<b>Version</b>
<b>1.0</b>

## 1 INTRODUCTION

A Bushfire Risk Management Plan (BRM Plan) is a strategic document that outlines the approach to the identification, assessment and treatment of assets exposed to bushfire risk within the Shire of Narrogin. This Communication Strategy accompanies the BRM Plan for the Shire of Narrogin. It documents the communication objectives for the BRM Plan, roles and responsibilities for communication, key stakeholders, target audiences and key messages at each project stage, communication risks and strategies for their management, and communication monitoring and evaluation procedures.

## 2 COMMUNICATIONS OVERVIEW

### Communication Objectives

The communication objectives for the development, implementation and review of the BRM Plan for the Shire of Narrogin are as follows:

1. Key stakeholders understand the purpose of the BRM Plan and their role in the bushfire risk management planning process.
2. Stakeholders who are essential to the bushfire risk management planning process, or can supply required information, are identified and engaged in a timely and effective manner.
3. Relevant stakeholders are involved in decisions regarding risk acceptability and treatment.
4. Key stakeholders engage in the review of the BRM Plan as per the schedule in place for the local government area.
5. The community and other stakeholders engage with the bushfire risk management planning process and as a result are better informed about bushfire risk and understand their responsibilities to address bushfire risk on their own land.

### Communication Roles and Responsibilities

The Shire of Narrogin is responsible for the development, implementation and review of the Communication Strategy. Key stakeholders support local government by participating in the development and implementation of the Communications Strategy as appropriate. An overview of communication roles and responsibilities follows:

- Shire of Narrogin CEO, or nominee, is responsible for:
  - endorsement of the BRM Plan Communications Strategy,
  - external communication with the local government area,
  - operational-level communication between the Shire and the Department of Fire and Emergency Services
  - approve the release of BRMS and BRM Plan data.
- Designed Officer (as designated by the CEO), is responsible for:
  - BRM Plan monitoring, review and reporting

## Key Stakeholders for Communication

The following table identifies key stakeholders in bushfire risk management planning. These are stakeholders that are identified as having a significant role or interest in the planning process or are likely to be significantly impacted by the outcomes.

Stakeholder	Role or interest	Level of impact on outcomes	Level of engagement
<b>Shire of Narrogin</b>	Significant role in plan and treatment development, implementation and review. Responsible for treatments as a land owner/manager.	High	Inform, consult, involve, collaborate and empower
<b>Department of Fire and Emergency Services</b>	Significant role in plan and treatment development, implementation and review. Support role in treatment Implementation.	High	Inform, consult, involve and collaborate
<b>Office of Bushfire Risk Management</b>	Significant role in plan development, implementation and review.	Medium	Inform, consult and collaborate
<b>Department of Biodiversity, Conservation and Attractions</b>	Significant role in plan and treatment development, implementation and review. Responsible for treatments as a land owner/manager.	High	Inform, consult, involve, collaborate and empower
<b>Main Roads WA</b>	Role in plan and treatment development, implementation and review. Responsible for treatments as a land owner/manager Critical infrastructure interest.	Medium	Inform, consult, involve, collaborate and empower
<b>Telecommunication providers</b>	Role in plan and treatment development, implementation and review. Responsible for treatments as a land owner/manager Critical infrastructure interest.	Medium	Inform, consult, involve, collaborate and empower
<b>Department of Planning, Lands and Heritage, LandCorp &amp; Landgate</b>	Role in plan and treatment development, implementation and review	Medium	Inform, consult, involve, collaborate and empower
<b>Water Corporation &amp; Department of Water</b>	Role in plan and treatment development, implementation and review. Responsible for treatments as a land owner/manager. Critical infrastructure interest.	Medium	Inform, consult, involve, collaborate and empower
<b>Department of Education</b>	Role in plan and treatment development, implementation and review. Responsible for treatments as a land owner/manager. Critical infrastructure interest.	Medium	Inform, consult, involve, collaborate and empower
<b>Private Land Owners</b>	Role in plan and treatment development, implementation and review. May have responsibilities for treatments as land owners/managers	High	Inform, consult, involve, collaborate and empower
<b>Western Power</b>	Role in plan and treatment development, implementation and review. Responsible for treatments as a land owner/manager Critical infrastructure interest.	Medium	Inform, consult, involve, collaborate and empower
<b>Chief Bushfire Control Officer</b>	Significant role in plan and treatment development, implementation and review	High	Inform, consult, involve, collaborate and empower
<b>Bushfire Brigades and other Emergency Services Volunteers</b>	Significant role in plan and treatment development, implementation and review	High	Inform, consult, involve, collaborate

<b>Bushfire Advisory Committee, District Operations Advisory Committee &amp; Local Emergency Management Committee</b>	Role in plan development, implementation and review	High	Inform, consult, involve, collaborate
<b>Traditional Owners, Gnaala Karla Boodja Regional Corporation, South West Aboriginal Land and Sea Council &amp; Department of Aboriginal Affairs</b>	Role in plan and treatment development, implementation and review	Medium	Inform, consult and involve
<b>Narrogin Community</b>	Role in plan implementation and review	Low	Inform and consult

## Communications Plan

Timing of Communication	Stakeholder (s)	Communication Objectives <i>(Refer to Page 68)</i>	Communication Method	Key Message or Purpose	Responsibility	Identified Risks to Communication	Strategy to Manage Risks	Monitoring & Evaluation Method
<b>Development of the BRM Plan and Treatment Schedule</b>								
<b>Annually or as required</b>	Shire of Narrogin CEO, Senior Leadership Team and Council	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>Inform and consult</li> <li>Confirm accountability and responsibilities</li> <li>Input into plan and treatments</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Resource constraints could limit their ability to participate</li> </ul>	<ul style="list-style-type: none"> <li>Clarify misunderstandings and intentions of plan</li> <li>Express value of meeting</li> </ul>	<ul style="list-style-type: none"> <li>Stakeholder's willingness to participate</li> <li>Feedback on the presentation</li> </ul>
<b>Annually or as required</b>	Shire of Narrogin Building and Works	2,3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> <li>Phone</li> </ul>	<ul style="list-style-type: none"> <li>Input into plan and treatments</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>Limited time</li> <li>Conflicting priorities</li> </ul>	<ul style="list-style-type: none"> <li>Plan meetings</li> </ul>	<ul style="list-style-type: none"> <li>Stakeholder's willingness to participate</li> <li>Contributions to treatment plan</li> </ul>
<b>Annually</b>	Bushfire Advisory Committee (BFAC) and Regional Operations Advisory Committee (ROAC)	1 – 3 & 5	<ul style="list-style-type: none"> <li>Face to face meeting</li> <li>Presentation</li> </ul>	<ul style="list-style-type: none"> <li>Inform and consult</li> <li>Confirm project objectives</li> <li>Seek input into treatment plans</li> <li>Project updates</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Stakeholder's willingness to participate</li> </ul>	<ul style="list-style-type: none"> <li>Preparation</li> <li>Ensure current information on the BRM Plan Project is available</li> </ul>	<ul style="list-style-type: none"> <li>Seek feedback on the presentation and (anecdotal) community feedback</li> </ul>
<b>Annually and as required</b>	Local Emergency Management Committee (LEMC)	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> <li>Presentation</li> </ul>	<ul style="list-style-type: none"> <li>Confirm project objectives</li> <li>Seek input into treatment plans</li> <li>Project updates</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Stakeholder's willingness to participate</li> </ul>	<ul style="list-style-type: none"> <li>Preparation</li> <li>Ensure current information on the BRM Plan Project is available</li> </ul>	<ul style="list-style-type: none"> <li>Feedback on the presentation</li> </ul>
<b>Quarterly or as required</b>	Chief Bushfire Control Officer (CBFCO), Bushfire Brigades, Brigade Captains	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>Confirm project objectives</li> <li>Seek input into treatment plans and providing project updates</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Time constraints</li> <li>No plan, unorganised</li> <li>Availability of volunteers</li> </ul>	<ul style="list-style-type: none"> <li>Clarify misunderstandings and intentions of plan</li> <li>Confirm benefits</li> <li>Preparation</li> </ul>	<ul style="list-style-type: none"> <li>Feedback</li> <li>Support for BRMP process</li> <li>Level of engagement</li> </ul>

				<ul style="list-style-type: none"> <li>Identify Risk and share information</li> </ul>			<ul style="list-style-type: none"> <li>Ensure current information on the BRM Plan Project is available</li> </ul>	
<b>Biannually</b>	Dept of Biodiversity, Conservation and Attractions	1 – 3 & 5	<ul style="list-style-type: none"> <li>Face to face meetings</li> <li>Email</li> <li>Telephone</li> </ul>	<ul style="list-style-type: none"> <li>Confirmation of environmental assets</li> <li>Identification of DBCA burn plans</li> <li>Confirming project objectives, seeking input into treatment plans and providing project updates</li> <li>Development of treatment options</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Resource constraints could limit their ability to participate</li> <li>Willingness to release 'confidential' data re environmental assets</li> </ul>	<ul style="list-style-type: none"> <li>Clarify misunderstandings and intentions of plan</li> <li>Provide undertakings re the release of confidential data</li> <li>Restrict release of information and document in plan</li> </ul>	<ul style="list-style-type: none"> <li>Level of engagement</li> <li>Environmental assets in BRMS</li> </ul>
<b>Annually and as required</b>	Stakeholders – Landowners / Land Managers	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meeting</li> <li>Telephone</li> <li>Presentations</li> <li>Community Engagement activities</li> </ul>	<ul style="list-style-type: none"> <li>Asset identification/confirmation</li> <li>Outline BRMP process and objectives</li> <li>Identify assets at risk</li> <li>Identify existing controls/programs</li> <li>Development of treatment options</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Time constraints and travel</li> <li>Level of interest and engagements in process</li> <li>Lack of resourcing</li> </ul>	<ul style="list-style-type: none"> <li>Select appropriate channel of communication</li> <li>Prepare materials and good planning</li> <li>Communicate funding opportunities when available</li> </ul>	<ul style="list-style-type: none"> <li>Engagement and participation levels</li> <li>Feedback</li> <li>Contributions to treatment strategies</li> </ul>
<b>Annually or as required</b>	Stakeholders – Others	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meeting</li> <li>Telephone</li> <li>Presentations</li> <li>Community Engagement activities</li> </ul>	<ul style="list-style-type: none"> <li>Asset identification/confirmation</li> <li>Inform of BRMP process</li> <li>Identify assets at risk</li> <li>Identify existing controls/programs</li> <li>Development of treatment options</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Time constraints and travel</li> <li>Level of interest and engagements in process</li> </ul>	<ul style="list-style-type: none"> <li>Select appropriate channel of communication</li> <li>Prepare materials</li> <li>Plan communication</li> </ul>	<ul style="list-style-type: none"> <li>Engagement and participation levels</li> <li>Feedback</li> </ul>
<b>Annually and as required</b>	Office of Bushfire Risk Management	1 & 2	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>Compliance and governance</li> <li>Plan endorsement</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>Government funding</li> <li>Government priorities</li> </ul>	<ul style="list-style-type: none"> <li>Stay up to date with process improvements</li> </ul>	<ul style="list-style-type: none"> <li>Plan endorsed</li> </ul>

						<ul style="list-style-type: none"> <li>Identified non-compliances</li> </ul>		
<b>Bi-annually and as required</b>	Dept of Fire and Emergency Services (DFES) – District/Regional Office	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> <li>Telephone</li> </ul>	<ul style="list-style-type: none"> <li>UCL/UMR planned works</li> <li>Identification of treatment strategies</li> <li>Identification of other planned works</li> <li>Sharing information</li> <li>Identifying funding opportunities</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>Time constraints</li> <li>Conflicting priorities</li> <li>Response obligations</li> </ul>	<ul style="list-style-type: none"> <li>Plan communications</li> <li>Share information</li> </ul>	<ul style="list-style-type: none"> <li>Other planned works identified</li> <li>Funding opportunities identified</li> <li>UCL/UMR treatments included on BRMS</li> </ul>
<b>Implementation of the BRM Plan and Treatment Schedule</b>								
<b>Timing of Communication</b>	<b>Stakeholder (s)</b>	<b>Communication Objectives</b> <i>(Refer to Page 64)</i>	<b>Communication Method</b>	<b>Key Message or Purpose</b>	<b>Responsibility</b>	<b>Identified Risks to Communication</b>	<b>Strategy to Manage Risks</b>	<b>Monitoring &amp; Evaluation Method</b>
<b>Annually or as required</b>	Shire of Narrogin CEO, Senior Leadership Team and Council	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>Inform and consult</li> <li>Confirm accountabilities and responsibilities.</li> <li>Progress update</li> <li>Issues identification and action planning</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>Time constraints</li> <li>Availability</li> <li>Lack of understanding</li> <li>Budget (for LG mitigation)</li> </ul>	<ul style="list-style-type: none"> <li>Planning and time management</li> <li>Clear purpose</li> <li>Targeted communication</li> <li>Regular updates</li> </ul>	<ul style="list-style-type: none"> <li>Feedback,</li> <li>Questions raised</li> <li>Level of support received</li> </ul>
<b>Annually or as required</b>	Shire of Narrogin Building and Works	1-3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>Reduction of fuel loads on LG managed lands</li> <li>Upgrades to strategic firebreaks</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>Poor organisation,</li> <li>Limited time,</li> <li>Not preparing</li> <li>Poor communication from stakeholders and LG on completion of works</li> </ul>	<ul style="list-style-type: none"> <li>Clarify misunderstandings and intentions of plan</li> <li>Plan communications</li> <li>Regular updates</li> </ul>	<ul style="list-style-type: none"> <li>Treatments applied</li> <li>Positive feedback received on treatment supplied</li> <li>Risk ratings reduced</li> </ul>
<b>Biannually or as required</b>	LEMC, BFAC & ROAC, CBFCO, CAPTS	1 – 3 & 5	<ul style="list-style-type: none"> <li>Email</li> <li>Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>Report on progress to plan</li> <li>Report issues/constraints</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>Availability</li> <li>Time</li> <li>'Buy in'</li> </ul>	<ul style="list-style-type: none"> <li>Collate data and report on success to plan</li> </ul>	<ul style="list-style-type: none"> <li>Feedback received</li> <li>Level of engagement</li> </ul>

							<ul style="list-style-type: none"> <li>• Compliance to plan</li> <li>• Keep informed</li> </ul>	<ul style="list-style-type: none"> <li>• Issues identified and addressed</li> </ul>
<b>Biannually or as required</b>	Dept of Biodiversity, Conservation and Attractions	1 – 3 & 5	<ul style="list-style-type: none"> <li>• Face to face meetings</li> <li>• Email</li> <li>• Telephone</li> </ul>	<ul style="list-style-type: none"> <li>• Confirmation of environmental assets</li> <li>• Development of treatment options</li> </ul>	BRMO & BRPC	<ul style="list-style-type: none"> <li>• Resource constraints could limit their ability to participate</li> <li>• Willingness to release 'confidential' data re environmental assets</li> </ul>	<ul style="list-style-type: none"> <li>• Clarify misunderstandings and intentions of plan</li> <li>• Provide undertakings re the release of confidential data</li> <li>• Restrict release of information and document in plan</li> </ul>	<ul style="list-style-type: none"> <li>• Level of engagement</li> <li>• Environmental assets in BRMS</li> </ul>
<b>As per Section 7.2 of this plan</b>	Stakeholders – Landowners / Land Managers	1 – 3 & 5	<ul style="list-style-type: none"> <li>• Email</li> <li>• Face to face meetings</li> <li>• Presentations</li> <li>• Community Engagement</li> </ul>	<ul style="list-style-type: none"> <li>• Inform and consult</li> <li>• Confirm accountability and responsibility</li> <li>• Status and progress of plan</li> <li>• Treatment status, gaps and issues to be addressed</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>• Availability</li> <li>• Time</li> <li>• Loss of commitment</li> <li>• Access to treatment resources</li> <li>• Funding</li> </ul>	<ul style="list-style-type: none"> <li>• Planned sharing of information</li> <li>• Negotiations conducted</li> <li>• Communicate funding opportunities when available</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback</li> <li>• Commitment to implement agreed controls</li> <li>• Highly engaged</li> <li>• Treatments being completed</li> </ul>
<b>As required</b>	Stakeholders – Others	1 – 3 & 5	<ul style="list-style-type: none"> <li>• Face to face</li> <li>• Presentations</li> <li>• Community Engagement</li> <li>• Telephone</li> <li>• Email</li> </ul>	<ul style="list-style-type: none"> <li>• Inform and consult</li> <li>• Confirm accountability and responsibility</li> <li>• Status and progress of plan</li> <li>• Treatment status</li> <li>• Gaps and issues to be addressed</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>• Availability</li> <li>• Time</li> <li>• Loss of commitment</li> </ul>	<ul style="list-style-type: none"> <li>• Planned sharing of information</li> <li>• Negotiations conducted</li> <li>• Communicate funding opportunities when available</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback</li> <li>• Commitment to implement agreed controls</li> <li>• Highly engaged</li> <li>• Treatments being completed</li> </ul>
<b>Annually or as required</b>	OBRM, DFES District / Regional Office	1 – 3 & 5	<ul style="list-style-type: none"> <li>• Face to face meetings</li> <li>• Email</li> <li>• Telephone</li> </ul>	<ul style="list-style-type: none"> <li>• UCL/UMR Management</li> <li>• Status and progress of plan</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>• Time</li> <li>• Conflicting priorities</li> </ul>	<ul style="list-style-type: none"> <li>• Schedule communication opportunities</li> </ul>	<ul style="list-style-type: none"> <li>• Planned works identified</li> </ul>

				<ul style="list-style-type: none"> <li>• Treatment status, gaps and issues to be addressed</li> <li>• Continuous improvement</li> <li>• Information sharing</li> <li>• Identification of other planned works</li> <li>• Identification of funding opportunities</li> </ul>				<ul style="list-style-type: none"> <li>• Improvements identified and implemented</li> <li>• Issues addressed</li> </ul>
<b>Annually</b>	OBRM	1 – 3 & 5	<ul style="list-style-type: none"> <li>• Written report</li> </ul>	<ul style="list-style-type: none"> <li>• Governance and compliance</li> <li>• Continuous improvement</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>• Time</li> <li>• Conflicting priorities</li> </ul>	<ul style="list-style-type: none"> <li>• Plan communication</li> </ul>	<ul style="list-style-type: none"> <li>• Compliance requirements met</li> </ul>
<b>Annually – ideally prior to fire season</b>	Community	5	<ul style="list-style-type: none"> <li>• Newsletter</li> <li>• Website</li> <li>• Facebook</li> </ul>	<ul style="list-style-type: none"> <li>• Continuous improvement</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>• Time</li> <li>• Conflicting priorities</li> </ul>	<ul style="list-style-type: none"> <li>• Plan communication</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback received</li> </ul>
<b>Review of the BRM Plan and Treatment Schedule</b>								
<b>Timing of Communication</b>	<b>Stakeholder (s)</b>	<b>Communication Objectives</b> <i>(Refer to Page 64)</i>	<b>Communication Method</b>	<b>Key Message or Purpose</b>	<b>Responsibility</b>	<b>Identified Risks to Communication</b>	<b>Strategy to Manage Risks</b>	<b>Monitoring &amp; Evaluation Method</b>
<b>Annually</b>	Shire of Narrogin CEO and Elected Members	4, 5	<ul style="list-style-type: none"> <li>• Email</li> <li>• Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Governance and compliance</li> <li>• Review, monitoring and reporting to Council</li> <li>• Status update</li> <li>• Continuous improvement</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>• Poor reporting and recording of information</li> <li>• Review not completed by OBRM</li> </ul>	<ul style="list-style-type: none"> <li>• BRPC &amp; BRMO to record data and information appropriately</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback received</li> <li>• Planned works completed</li> <li>• Reporting &amp; Statistics</li> <li>• Risk ratings reduced</li> </ul>
<b>5 Yearly (Shire, DFES and OBRM)</b>	OBRM & LG Council	4, 5	<ul style="list-style-type: none"> <li>• Email</li> <li>• Face to face meetings</li> <li>• Telephone</li> <li>• Written report</li> </ul>	<ul style="list-style-type: none"> <li>• Governance and compliance</li> <li>• Review, monitoring and reporting</li> <li>• Future planning</li> </ul>	CEO or Delegate	<ul style="list-style-type: none"> <li>• Poor reporting and recording of information</li> <li>• Review not completed by OBRM</li> </ul>	<ul style="list-style-type: none"> <li>• BRPC &amp; BRMO to record data and information appropriately</li> <li>• Endorsed by OBRM</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback received</li> <li>• Planned works completed</li> <li>• Reporting &amp; Statistics</li> <li>• Risk ratings reduced</li> </ul>

<b>Quarterly and as required</b>	Shire of Narrogin – Building and Works	4, 5	<ul style="list-style-type: none"> <li>• Face to face meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Report on actions and status of BRM Plan</li> <li>• Continuous improvement</li> </ul>	CEO Delegate or	<ul style="list-style-type: none"> <li>• Time</li> <li>• Availability</li> <li>• Conflicting priorities</li> </ul>	<ul style="list-style-type: none"> <li>• Plan Communication</li> <li>• Discuss with Shire Leadership Team</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback on work completed</li> <li>• Risk ratings reduced</li> <li>• Improvements identified and implemented</li> </ul>
<b>Biannually and as required</b>	DFES Regional / District Office	4, 5	<ul style="list-style-type: none"> <li>• Face to face meetings</li> <li>• Email</li> <li>• Telephone</li> </ul>	<ul style="list-style-type: none"> <li>• Report on actions and status of BRMP</li> <li>• Continuous improvement</li> <li>• UCL/UMR funding</li> </ul>	CEO Delegate or	<ul style="list-style-type: none"> <li>• Time</li> <li>• Availability</li> <li>• Conflicting priorities</li> </ul>	<ul style="list-style-type: none"> <li>• Plan communications</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback on work completed</li> <li>• Risk ratings reduced</li> <li>• Improvements identified and implemented</li> </ul>
<b>Annually</b>	BFAC, ROAC, LEMC, CBFCO, Captains	4, 5	<ul style="list-style-type: none"> <li>• Face to face meetings</li> <li>• Email</li> <li>• Telephone</li> <li>• Presentations</li> </ul>	<ul style="list-style-type: none"> <li>• Report on actions and status of BRMP</li> <li>• Continuous improvement</li> </ul>	CEO Delegate or	<ul style="list-style-type: none"> <li>• Availability</li> <li>• Time</li> <li>• Conflicting priorities</li> <li>• Buy in</li> </ul>	<ul style="list-style-type: none"> <li>• Keep informed</li> <li>• Share the wins</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback on work completed</li> <li>• Risk ratings reduced</li> <li>• Improvements identified and implemented</li> </ul>
<b>Every 2 years or as required</b>	Stakeholders – Land Owners / Land Managers	4, 5	<ul style="list-style-type: none"> <li>• Face to face meetings</li> <li>• Telephone</li> <li>• Presentation</li> <li>• Community Engagement</li> <li>• Survey</li> </ul>	<ul style="list-style-type: none"> <li>• Status of treatments</li> <li>• Success of treatments</li> <li>• Continuous improvement</li> </ul>	CEO Delegate or	<ul style="list-style-type: none"> <li>• Availability</li> <li>• Time</li> <li>• Conflicting priorities</li> <li>• Buy in</li> <li>• Access to resources</li> </ul>	<ul style="list-style-type: none"> <li>• Plan communication</li> <li>• Target communication</li> <li>• Planned and prepared</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback on work completed</li> <li>• Risk ratings reduced</li> <li>• Improvements identified and implemented</li> </ul>
<b>Every 2 years or as required</b>	Stakeholders – Other	4, 5	<ul style="list-style-type: none"> <li>• Face to face meetings</li> <li>• Telephone</li> <li>• Presentations</li> <li>• Community Engagement</li> <li>• Survey</li> </ul>	<ul style="list-style-type: none"> <li>• Status of treatments</li> <li>• Success of treatments</li> <li>• Continuous improvement</li> </ul>	CEO Delegate or	<ul style="list-style-type: none"> <li>• Availability</li> <li>• Time</li> <li>• Conflicting priorities</li> <li>• Buy in</li> <li>• Access to resources</li> </ul>	<ul style="list-style-type: none"> <li>• Plan communication</li> <li>• Target communication</li> <li>• Planned and prepared</li> </ul>	<ul style="list-style-type: none"> <li>• Feedback on work completed</li> <li>• Risk ratings reduced</li> <li>• Improvements identified and implemented</li> </ul>

## Appendix 2 – Local Government-Wide Controls and Multi-Agency Work Plans

### Local Government-Wide Controls

Control	Action or Activity Description	Lead Agency	Other Stakeholder(s)	Notes and Comments	
1.	BRM Planning Risk Analysis	<ul style="list-style-type: none"> <li>Maintain and refine BRM Plan</li> </ul>	Shire of Narrogin	Landowners DFES	Treatment identification and planning for all very high and extreme risk assets within the Shire.
2.	Strategic Community Plan 2017 – 2032 & Corporate Plan 2019 - 2023	<ul style="list-style-type: none"> <li>As per documented actions</li> </ul>	Shire of Narrogin		As per section 3.1.1 of the Bushfire Risk Management Plan.
3.	Shire of Narrogin Bush Fire Notice and ( <i>Bush Fires Act 1954</i> )	<ul style="list-style-type: none"> <li>Review annual notice</li> <li>Publish annual notice</li> <li>Inspections in accordance with annual notice</li> </ul>	Shire of Narrogin	CBFCO, FCO, Captains and the public	Published Annually. Inspect local properties. 'Fire Access Track' has the same meaning as 'Fire Break', in the <i>Bush Fires Act 1954</i> .
4.	Shire Prohibited and Restricted burn times and issuing of permits. ( <i>Bush Fires Act 1954</i> )	<ul style="list-style-type: none"> <li>Restricted and Prohibited Burn Times set the requirement that 'a permit to set fire to the bush' must be obtained.</li> </ul>	Shire of Narrogin	CBFCO, FCO's	Published Annually.
5.	Harvest and Vehicle Movement Bans	<ul style="list-style-type: none"> <li>Bans imposed when the CBFCO and FCO's are of the opinion that the use of engines, vehicles, plant or machinery is likely to cause/contribute to the spread of a bushfire.</li> </ul>	Shire of Narrogin	CBFCO and FCO's	A Harvest and Vehicle Movement Ban may be imposed for any length of time but is generally imposed for the 'heat of the day' periods and may be extended or revoked by the local government should weather conditions change.
6.	Local Emergency Management Arrangements	<ul style="list-style-type: none"> <li>Emergency Management Plan</li> </ul>	Shire of Narrogin	SJA WAPOL DFES Dept of Child Protection Dept of Education CBFCO Gt Southern DEMC	Annual review of emergency plans and arrangements.

Control	Action or Activity Description	Lead Agency	Other Stakeholder(s)	Notes and Comments	
			OEM		
7.	Local Planning Scheme No 2	<ul style="list-style-type: none"> <li>Requirement for new developments to complete a Fire Management Plan endorsed through the Dept of Fire and Emergency Services (if in a Bushfire Prone area)</li> </ul>	Shire of Narrogin	DFES	Where a Fire Management Plan has been endorsed by DFES and the Shire, the affected land owners will be responsible for the ongoing implementation of the “land owners’ responsibilities” as specified in that Fire Management Plan.
8.	Total Fire Bans	<ul style="list-style-type: none"> <li>Restriction of activities that may cause or contribute to the spread of a bushfire</li> </ul>	Department of Fire and Emergency Services	Shire of Narrogin	A Total Fire Ban (TFB) is declared because of extreme weather conditions or when widespread fires are stretching firefighting resources. A TFB is declared by DFES following consultation with the LG.
9.	State Planning Policy 3.7	<ul style="list-style-type: none"> <li>Planning in Bushfire Prone Areas</li> </ul>	Department of Planning, Lands and Heritage	WA Planning Commission Shire of Narrogin	Land developers are required to implement a Fire Management Plan to ensure risk is managed and other controls implemented and monitored.
10.	State-wide arson prevention program	<ul style="list-style-type: none"> <li>Education and awareness campaigns exist across the state for arson.</li> </ul>	WA Police Department of Fire and Emergency Services	Shire of Narrogin	Participation as required. The Shire participates in campaigns for arson prevention.
11.	Bushfire Action Month	<ul style="list-style-type: none"> <li>Public preparedness and education campaign</li> </ul>	Department of Fire and Emergency Services	CBFCO, FCO, Rangers and the public	During Bushfire Action Month, brigades and community groups hold a number of events across the State, to help you prepare your home and family ahead of the bushfire season. The Shire of Narrogin uses a range of mediums, such as the Shires webpage, Facebook, local community newsletter, SMS’s and an annual Fire Newsletter.
12.	Are you Ready Campaign	<ul style="list-style-type: none"> <li>Community Engagement</li> </ul>	WA Government	Shire of Narrogin, Chief FCO, and the public	The key message of this campaign is - preparing for and responding to bushfires is a team effort and everyone needs to play their part <a href="http://www.areyouready.wa.gov.au">www.areyouready.wa.gov.au</a>
13.	Australian Rail Commission(ARC)	<ul style="list-style-type: none"> <li>Mitigation plan</li> </ul>	Australian Rail Commission	Shire of Narrogin	

Control	Action or Activity Description	Lead Agency	Other Stakeholder(s)	Notes and Comments
14.	The Principal's guide to Bushfire - Department of Education	<ul style="list-style-type: none"> <li>All schools should include their plan for dealing with bushfire as a part of their governance documentation</li> </ul>	Department of Education	DFES

## Appendix 3 – Indicative Vegetation of the Narrogin District

The following has been taken from the publication Landscapes and soils of the Narrogin District, D.N. Sawkins, Bulletin 4807, 2010:

*Landscapes and soils of the Narrogin district*

### Indicator vegetation of the Narrogin district

**Tree** - single trunk, with branches that usually start more than 1 meter above the ground and occupy about half of the tree's height. If the main trunk is damaged, many branches can resprout from the base or stems (epicormic growth). Examples include salmon and York gums, wandoo, marri and jarrah.

**Mallet** - single trunk with relatively steep angled branches and a terminal crown. Mallets are sensitive to fire and do not recover if the main trunk is lost. Examples include mallets, yates, gimlet and moort. Mallets often occur as pure or massed stands.

**Mallee** - multi stemmed plants usually less than 10 meters high. Several stems come from a lignotuber that can replace them when one or more are lost. Mallees that have not had to regenerate may have a single stem, but also have the basal 'mallee root'.



**Salmon gum** (*E. salmonophloia* left, RDZ and ADZ) and **gimlet** (*E. salubris* right, ADZ, note fluted stem) are common on clay, clay loam soils and loamy duplex soils on slopes and valleys. Salmon gums often dominate on loamy duplex and deep loam soils, and gimlets on heavier clay soils.

Buds and fruit can differentiate salmon gum from similar looking species like silver mallet.



Salmon gum

Silver mallet

Brown mallet

Blue mallet

**Silver mallet** (*E. argyphaea*) grows on stony usually mafic gravel uplands, in the east of the district. It can be mistaken for salmon gum, but only occurs on upland gravels, has the characteristic mallet form, and distinctive buds.

**Blue mallet** (*E. gardneri*) often occurs with silver mallet, mainly on mafic stony uplands.

**Brown mallet** (*E. astringens*) is the most common mallet in this district. It is common below breakaways on poorly structured mottled zone soils ('mallet' soils), and may occur with silver and blue mallets.



Silver mallet (silver bark green shiny leaves) with blue mallet (brown bark dull blue green leaves)

Silver mallet (silver bark) with brown mallet (brown bark), both with shiny green leaves



**Red morrel** (*E. longicornis*) is an upright rough barked tree that occurs on the following aeolian or mafic soils

- (1) Soils formed on mafic rock uplands in the RDZ and ADZ. Red brown stony and loamy gravels grading to gravelly loams with alkaline subsoils.
- (2) Aeolian loamy soils usually on the west and southern sides of trunk valleys in the ADZ.
- (3) Duplex soils with a brown subsoil on slopes.

York gum can be distinguished from red morrel by its generally rougher bark and more branching form. There are several species of trees and mallees with a stocking of rough bark that occur on alkaline valley soils (often aeolian loams), and red brown clay loam soils north and east of Harrismith. These include Yorrel (*E. yilgarnensis* syn Beard *E. gracilis*), *E. myriadena* (syn Beard *E. ovularis*).

These species all have shiny leaves and rough bark, but can be differentiated from York gum by narrower leaves and smaller fruit.

DRZ = Darling Range Zone, RDZ = Rejuvenated Drainage Zone, ADZ = Ancient Drainage Zone



**York Gum** (*E. loxophleba*) has 3 types in the Narrogin district. They all have characteristic shiny green leaves but differ in their form and bark characteristics.

*Ssp. loxophleba* (tree with rough bark on whole stem) is the most common form and occurs mainly on loamy soils formed from crystalline rock (usually with jam *Acacia acuminata*).

*Ssp. lissophloia* is the smooth bark mallee form that occurs on lower slopes and valleys, generally on loams or loamy duplex soils often with salmon gum and gimlet east and north of Jitarning, and is common in the Merredin district.

An intergrade form that has rough bark part way up the stem is common in the Corrigin and Kukerin systems.

On the left is York gum (*E. loxophleba ssp. loxophleba*) with jam understorey.



York gum mallee (*E. loxophleba ssp. lissophloia*.)



Intergrade form



**Flooded gum** (*E. rudis* left) is a multi-branched tree that occurs on winter wet soils that were originally non saline, mainly in valleys and granitic duplex slopes in the DRZ and western RDZ.

Many waterways with flooded gum have become mildly saline. These areas and fresh seepages have often been colonised by the introduced weed Spiny rush (*Dacutus spp*) below.



**Wandoo** (*E. wandoo subsp. wandoo*) is widespread, ranging from gravels (in association with dryandras, jarrah and marri), to valley duplex soils. Where wandoo is the dominant vegetation it often indicates deep or grey sandy duplex and gravelly duplex soils. With other vegetation, it usually becomes more dominant when the soil becomes more duplex. Wandoo is widespread on lower slopes and sandy duplex valleys, often in association with salmon gum and rock sheoak.

Salmon gums dominate on very shallow sandy duplex, clay or calcareous duplex soils, with wandoo being more common sandy duplexes in deeper sandy duplexes, and rock sheoak on very deep sandy duplex patches.

Salmon gums with their shiny leaves and layered foliage can be readily distinguished from dull leaved wandoos with bunchy foliage.



Sandy duplex wandoo woodland



Broad valley with salmon gum flanked by two wandoos



**Powder-bark wandoo** (*E. accedens* left) generally occurs in the west of the RDZ north of Williams on breakaways and stony ridges. It often occurs near brown mallet. Both are typical of highly water repellent soils.

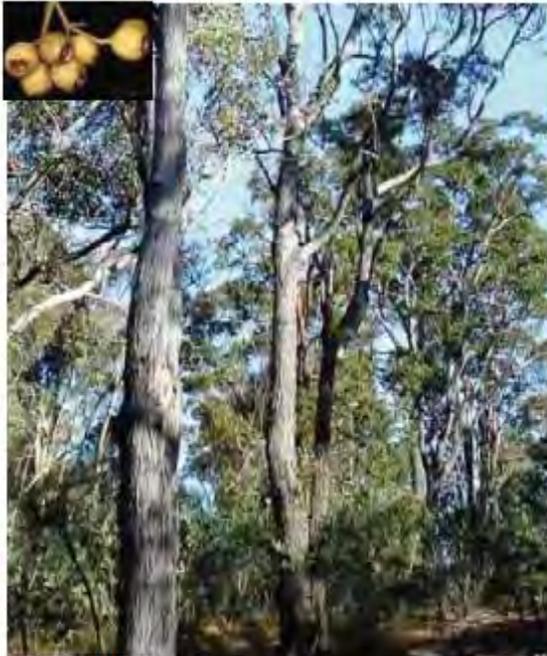
Powder-bark wandoo can be distinguished from wandoo by its powdery smooth bark, and much brighter white-seasonally pink bark. Wandoo bark colour is generally steel grey-yellow



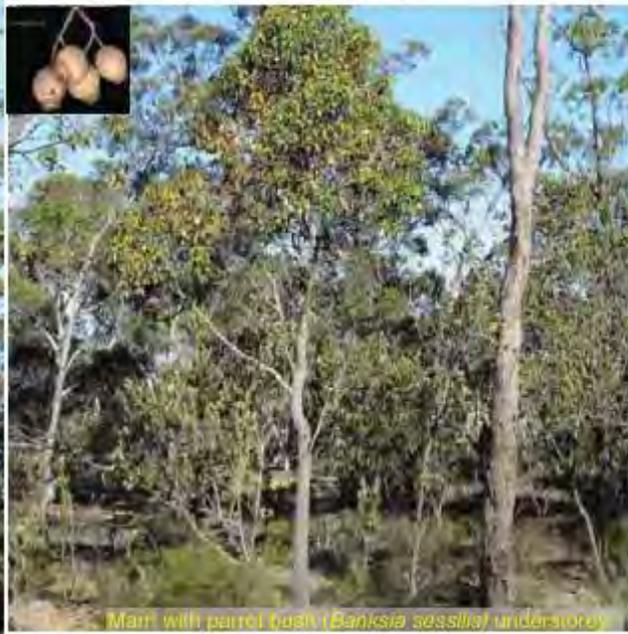
Powder-bark wandoo

Wandoo

**Jarrah** (*E. marginata*) (below) occurs in the gravelly uplands in the DRZ and western RDZ. It indicates very gravelly and sandy gravelly soil, often with ironstone ridges, associated with marri and dryandras, but can also occur on deep pale sands.



**Marri** (*Corymbia calophylla*) occurs on gravelly rises and slopes in the DRZ and western RDZ, often down-slope of jarrah or dryandra ironstone ridges. It may be intermixed with jarrah on gravelly rises or wandoo on gravelly duplex soils. It generally grows on better water holding soils than jarrah, but can occur on deep grey sand over gravel.



**Jam** (*Acacia acuminata*) often occurs with York gum and rock sheoak, and can dominate in shallow granitic and mafic soils, with another less common wattle (*Acacia saligna*.) Sometimes it can be scattered in lower slope sandy duplex soils in dissected landscapes.

**Manna wattle** (*Acacia microbotrya*) can be mistaken for jam, as they often occur together. However unlike jam, manna wattle can occur on a wide range of soils, including lateritic gravels and sands.

Plant differences are that jam has slender pointed leaves, rod shaped flowers, and flowers in spring; while manna wattle has broader sickle-shaped leaves, ball flowers and flowers in late autumn.



**Mallees** are most common in the ADZ and eastern RDZ). The eastern edge of the district is the start of the mallee zone with widespread mallee duplex soils. Mallee scrub with melaleuca understorey usually indicates duplex or shallow soils (e.g. near breakaways, and rocky, or hard setting areas).

A few species - mottlecah (*E. macrocarpa*), white mallee (*E. albidata*), ridge fruited mallee (*E. incrassata*), and mallee white gum (*E. phaenophylla*) occur with sandplain and gravel heath

Apart from a few easily identifiable species like mottlecah, it is difficult to associate the many species with soil type without species identification keys. You can gain an idea of soil type by noting the type of understorey in conjunction with landscape clues like slope, rock fragments, and topsoil features.



**Mottlecah** (*E. macrocarpa*) is commonly found on yellow sandy soils and some pale gravelly sands in ADZ



**White mallee** (*E. albidata*) is found in the same areas as Mottlecah on grey sandy laterites



**Mallee scrub**; shallow hard-setting mallee duplex soil with sparse understorey



**Mallee scrub**; shallow sandy duplex with dense melaleuca understorey



**Melaleucas** occur in all zones and many landscape positions. They are common on mallee duplex soils, or soils that can be winter wet. Where melaleucas are the dominant vegetation, they often indicate soils that are waterlogged in winter

The plants shown are from the frequently occurring *Melaleuca uncinata* group.



**Sheoaks** (small trees) and **Tammas** (mainly shrubs) have needle type foliage with separate male (pollen) and female ('nut') plants. Salt sheoak (*Casuarina obesa*) favours saline and wet areas, but the others are *Allocasuarina* species that indicate well drained sandy or gravelly soils.

Rock sheoak (*Allocasuarina huegeliana*) is widespread. Before agriculture, it was mainly on granitic sandy surfaced soils, sandy gravels and deep sandy duplex soils. However it has colonised many different well drained soils on roadsides.

Black tamma (*Allocasuarina acutivalvis*) occurs mainly on mafic and yellow stony and shallow gravels, in the east of the district.

Tamma, the most common tamma (*Allocasuarina campestris*) occurs with black tamma, but tends to be more common in deeper or loamier gravels and yellow earths.



Rock sheoak

Salt sheoak with samphire near a salt lake



Tamma

Black tamma

Male tamma with pollen and typical needle like foliage

## Sandy soil vegetation



**Roadside tea tree** (*Leptospermum erubescens*) is common on well drained sandy surfaced soil. Tea trees are common on deep grey sands, but are colonising species that have spread on well drained disturbed areas.



**Christmas tree** (*Nuytsia floribunda* left) an indicator of deep grey sandy soils, with **sheoak** (*Allocasuarina fraseriana* right) that occurs on Darling Range sands and sandy gravels.



**Sandplain cypress** (*Actinostrobus arenarius*) often occurs in sandy soil, particularly yellow aeolian deep sands with Acorn banksia and woody pear



**Woody Pear** (*Xylomelum angustifolium*) occurs mainly on smooth slopes and crests and in dunes adjoining salt lakes and old drainage lines, mainly north and east of Pingelly.

It often occurs with banksias, sandplain cypress, roadside tea tree and sandplain heath. It indicates aeolian deep yellow sands. The image on the left shows woody pear with tamma.

**Proteaceous species** are major components of lateritic and sandy heaths, and as understorey species are a good guide to differentiating mallee duplex gravels from other duplexes.

**Banksias** are generally a good guide to sandy gravel and deep sandy soils.



Bull banksia (*Banksia grandis*) is a common tree on Darling Range gravels



Acorn banksia (*B. prionotes*) is a common tree on aeolian yellow sand



Sphere banksia (*B. sphaerocarpa*) is a shrub found in many sand and gravel heaths



Woolly banksia (*B. baueri*) is a feature of lateritic grey sandy soils to the east.

**Grevilleas** are also noticeable in lower rainfall sandplain heath, particularly yellow sand over gravel, but also occur on other well drained upland soils.



Flame grevillea (*G. eriostrachya*) is a feature of yellow sandplain.



Hookers grevillea (*G. hookeriana*) is a feature of yellow sand over gravel soils.

**Hakeas** have similar flowers to grevilleas, but have a persistent woody fruit (see below). They are very common on sandy gravel to shallow and loamy gravel soils, but can occur on a range of soils. Needle hakea (*Hakea preissii*) occurs on red clay soils)



Fan leaf hakea  
(*Hakea brownii*)

Marble hakea  
(*Hakea incrassata*)

Honeybush  
(*Hakea lissocarpa*)

**Dryandras** (now in the *Banksia* genus) with their prickly vegetation are a noticeable feature of shallow gravel and sandy gravel soils.



Parrot bush (*Banksia sessilis*) is common on Darling Range gravels.

Prickly dryandra (*Banksia armata*) is widespread on shallow gravels

Dryandra rich shallow sand over gravel vegetation near Harrismith.

**Other sandplain Proteaceae**



Stinkwood (*Jacksonia sternbergiana*) is common on deep grey sandy soils

Chittick (*Lambertia inermis*) is common on grey sand over gravel soils in the south east

Woolly bush (*Adenanthos sericea*) is also common on deep grey sandy soils.

## Appendix 4 – Declared Rare Flora and Fauna in the Shire of Narrogin

The following has been taken from the Protected Matters Report produced by the Federal Department of Agriculture, Water and the Environment in March 2020. This report provides general guidance on matters of national environment significance and other matters protected by the *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999*.

Threatened Ecological Communities		[ Resource Information ]
For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.		
Name	Status	Type of Presence
<a href="#">Eucalypt Woodlands of the Western Australian Wheatbelt</a>	Critically Endangered	Community likely to occur within area
Threatened Species		[ Resource Information ]
Name	Status	Type of Presence
<b>BIRDS</b>		
<a href="#">Calidris ferruginea</a> Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
<a href="#">Calyptorhynchus banksii naso</a> Forest Red-tailed Black-Cockatoo, Karrak [67034]	Vulnerable	Species or species habitat may occur within area
<a href="#">Calyptorhynchus baudinii</a> Baudin's Cockatoo, Long-billed Black-Cockatoo [769]	Endangered	Species or species habitat likely to occur within area
<a href="#">Calyptorhynchus latirostris</a> Carnaby's Cockatoo, Short-billed Black-Cockatoo [59523]	Endangered	Species or species habitat known to occur within area
<a href="#">Leipoa ocellata</a> Malleefowl [934]	Vulnerable	Species or species habitat known to occur within area
<b>MAMMALS</b>		
<a href="#">Bettongia lesueur lesueur</a> Burrowing Bettong (Shark Bay), Boodie [66659]	Vulnerable	Translocated population known to occur within area
<a href="#">Bettongia penicillata ogilbyi</a> Woylie [66844]	Endangered	Species or species habitat known to occur within area
<a href="#">Dasyurus geoffroii</a> Chuditch, Western Quoll [330]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Macrotis lagotis</a> Greater Bilby [282]	Vulnerable	Translocated population known to occur within area
<a href="#">Myrmecobius fasciatus</a> Numbat [294]	Endangered	Species or species habitat known to occur within area
<a href="#">Phascogale calura</a> Red-tailed Phascogale, Red-tailed Wambenger, Kenngoor [316]	Vulnerable	Species or species habitat known to occur

## PLANTS

<a href="#">Acacia cochlocarpa subsp. cochlocarpa</a> Spiral-fruited Wattle [23877]	Endangered	Species or species habitat may occur within area
<a href="#">Acacia insolita subsp. recurva</a> Yormaning Wattle [64495]	Endangered	Species or species habitat known to occur within area
<a href="#">Banksia cuneata</a> Matchstick Banksia, Quairading Banksia [9827]	Endangered	Species or species habitat known to occur within area
<a href="#">Banksia oligantha</a> Wagin Banksia [20697]	Endangered	Species or species habitat likely to occur within area
<a href="#">Boronia capitata subsp. capitata</a> a shrub [29156]	Endangered	Species or species habitat likely to occur within area
<a href="#">Caladenia hoffmanii</a> Hoffman's Spider-orchid [56719]	Endangered	Species or species habitat may occur within area
<a href="#">Darwinia carnea</a> Mogumber Bell, Narrogin Bell [9736]	Endangered	Species or species habitat likely to occur within area
<a href="#">Diuris micrantha</a> Dwarf Bee-orchid [55082]	Vulnerable	Species or species habitat may occur within area
<a href="#">Eleocharis keigheryi</a> Keighery's Eleocharis [64893]	Vulnerable	Species or species habitat known to occur within area
<a href="#">Grevillea dryandroides subsp. hirsuta</a> Hairy Phalanx Grevillea [64577]	Endangered	Species or species habitat likely to occur within area
<a href="#">Grevillea scapigera</a> Corrigin Grevillea [12195]	Endangered	Species or species habitat may occur within area
<a href="#">Pultenaea pauciflora</a> Narrogin Pea [14013]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Roycea pycnophylloides</a> Saltmat [21161]	Endangered	Species or species habitat likely to occur within area
<a href="#">Thelymitra dedmanianum</a> Cinnamon Sun Orchid [65105]	Endangered	Species or species habitat may occur within area
<a href="#">Thomasia montana</a> Hill Thomasia [12136]	Vulnerable	Species or species habitat likely to occur within area
<a href="#">Verticordia fimbriolepis subsp. fimbriolepis</a> Shy Featherflower [24631]	Endangered	Species or species habitat known to occur within area

### Migratory Terrestrial Species

[Motacilla cinerea](#)

Grey Wagtail [842]

Species or species habitat  
may occur within area

### Migratory Wetlands Species

[Actitis hypoleucos](#)

Common Sandpiper [59309]

Species or species habitat  
may occur within area

[Calidris acuminata](#)

Sharp-tailed Sandpiper [874]

Species or species habitat  
may occur within area

[Calidris ferruginea](#)

Curlew Sandpiper [856]

Critically Endangered

Species or species habitat  
may occur within area

[Calidris melanotos](#)

Pectoral Sandpiper [858]

Species or species habitat  
may occur within area



Government of **Western Australia**  
Department of **Fire & Emergency Services**



Our Ref: D00394  
Your Ref: OCR208484 – 9.5.1

Dale Stewart  
Chief Executive Officer  
Shire of Narrogin  
PO Box 1145  
Narrogin WA 6312

Dear Mr Stewart

**RE: SUBMISSION OF DRAFT BUSHFIRE RISK MANAGEMENT PLAN TO THE OFFICE OF BUSHFIRE RISK MANAGEMENT (OBRM)**

Thank you for the draft Bushfire Risk Management Plan (BRM Plan) for Shire of Narrogin received on 17 June 2020.

I am pleased to inform you that the draft BRM Plan has been reviewed by OBRM and meets the required standard as per the *Bushfire Risk Management Planning – Guidelines for Preparing a Bushfire Risk Management Plan* (the Guidelines). The BRM Plan should now be presented to Council for approval and formal adoption. It would be appreciated if you would advise OBRM in writing of Council's approval of the BRM Plan.

Within six months of this, the Shire of Narrogin is requested to finalise the Treatment Schedule in the Bushfire Risk Management System (BRMS) and provide written notification to OBRM. Please note, it is not necessary to provide further updates to OBRM if any individual treatments are subsequently added, edited, rescheduled or deleted from the original schedule after this time.

As per the Guidelines, at the end of each financial year the Shire of Narrogin will be required to prepare and submit a report to OBRM detailing progress against the BRM Plan. The annual report is a standard report generated within BRMS and comments may be added to the report should you wish to provide further context. A reminder will be sent to all Local Governments providing further instructions for the submission of the report.

Yours sincerely

**Paul Simpson**  
**A/DIRECTOR OBRM**  
25/06/2020

#### 10.1.4 CONSIDERATION OF INTRODUCING A FRUIT FLY (MEDFLY) PROGRAM

File Reference	11.6.1
Disclosure of Interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Item 9.2, 28 July 2020, and Item 10.1.794, 11 June 2013, Res. No. 0612.110
Date	14 August 2020
Author	Rob Powell – Senior Environmental Health Officer
Authorising Officer	Azhar Awang – Executive Manager Development and Regulatory Services
<b>Attachments</b> <ol style="list-style-type: none"> <li>Petition and supporting documentation from Mr Mearns</li> <li>Copy of report to the former Town of Narrogin on the Fruit Fly Program, 11 June 2013</li> <li>Copy of letter from the former Department of Agriculture and Food dated 8 July 2013</li> </ol>	

#### Summary

At the Ordinary Council Meeting held on 28 July 2020, Mr John Mearns presented a petition together with supporting information and a request that the fruit fly eradication program be reinstated in the Shire of Narrogin. The petition, also requested that Council consider funding for the supply of fruit fly traps and monitor their use.

Note: the former Fruit Fly eradication program was operated by the former Town of Narrogin within the town boundaries and did not operate in the former Shire of Narrogin's area.

The petitions, as submitted, state as follows:

- a. *“2013 Narrogin Shire refuse to help eradicate fruit fly. They even sought legal opinion!! We have a life changing Pandemic & we are being told to stay home. People are growing everything they can for food assistance. All our fruit on our trees is useless. Our Shire can supply us with Fruit Fly traps. They won't. They should give one to each of us with fruit trees & monitor them. Please sign this to show your support”*

One hundred and sixty eight (168) petitioners signed this petition. However, it is not possible to easily verify whether those who signed the petition live in the Shire as no residential addresses were recorded.

- b. The second petition stated *“Narrogin Shire to actively support eradication of our fruit fly plague by making available fruit fly traps & subsequent monitoring by relevant Officers.”*

Twenty five (25) petitioners signed this petition and again it is not possible to easily verify whether those who signed live in the Shire as no residential addresses were recorded.

## Background

At the Ordinary Council Meeting of the former Town of Narrogin held on 11 June 2013, Council considered a report on the Town of Narrogin Fruit Fly Program, and resolved:

“That:

- 1) *Council authorise the Chief Executive Officer to forward correspondence to the Department of Agriculture and Food WA requesting that:*
  - a) *A Fruit Fly monitoring program, similar to that being undertaken in the hills of Perth Metropolitan Area be established over the greater Narrogin Valley area;*
  - b) *An area wide Fruit Fly Control Program be implemented; and*
  - c) *An information campaign is undertaken within the district to ensure that individual landowners are aware of their responsibilities in respect of fruit fly control.*
- 2) *Correspondence be forwarded to the applicant to advise of point No. 1 above and clarify that the responsibility for Fruit Fly control rests with individual landowners under the WA Plants and Diseases Act, which can only be enforced by the Department of Agriculture and Food.”*

Further, at that time, Council did not make allowance for funding to be made available in the 2012/2013 annual budget to undertake a Fruit Fly control program. The program was wound up at that time. Since that time funds have not been allocated for a similar program. The decision to discontinue the program was based on a number of factors including the need for budget savings, the fact that the program was limited to the town and did not include the (former) Shire area. A legal opinion was also sought that advised that the management of the fruit fly pest was not a general function of local government and that the Town of Narrogin had no legal basis for entering private property without the landowner’s consent.

## Comment

The management of fruit fly is a responsibility that is currently managed by the Department of Primary Industries and Regional Development (DPIRD).

There is currently very limited local government involvement in Western Australia in fruit fly control programs. These include a pilot program, managed by the Shire of Carnarvon, and a community-based baiting scheme at Balingup in the Shire of Donnybrook-Balingup. DPIRD advise that they know of only two operating schemes at present. These are:

- Shire of Carnarvon

In 2014 a five (5) year pilot program to eradicate Mediterranean Fruit Fly (Medfly) was commenced to help to protect the Gascoyne Food Bowl. The Shire made a one-off contribution of \$99,300 towards the program to assist in first year of set-up and operation. Ongoing funding came from local growers (1/6) through a levy raised by the Shire with the balance from DPIRD (5/6). The Shire of Carnarvon advised that they did manage the fruit fly program in the past and that their involvement has ceased due to grower pressure. This program is currently on hold. A search of the Shire of Carnarvon’s website failed to find any reference to a fruit fly program, however, a search of the web did find a media release from 2014:

<https://www.mediastatements.wa.gov.au/Pages/Barnett/2014/12/Shire-support-for-Carnarvon-fruit-fly-pilot.aspx>

- Shire of Donnybrook-Balingup

A baiting supply program, operated by local volunteers from the local landfill with minimal input by the Shire of Donnybrook-Balingup. The Shire allows the use of the site, being the local landfill for the storage of baiting chemicals. This program is operated by volunteers, who mix the bait chemical and supply to local landowners. However, the volunteers are aging and the future of this program is not known.

It is acknowledged that the petitioner has advised of a continuing Medfly baiting program in the Shire of Wickepin, of which he is a resident. Residents in that Shire are able to acquire from a local retailer, a fruit fly bait kit which is funded by the Shire. The CEO of the Shire of Wickepin advises that approximately 20 kits are acquired per annum, costing approximately \$600.

With respect to the Shire of Narrogin, no Medfly control program exists at present. The former Town of Narrogin did have a Medfly program prior to 2013.

To introduce a successful Medfly control program, it would need to commence with community consultation and to be successful, would require the active co-operation of the community and most landowners, with fruiting trees. Without a majority of landowner involvement, any proposed program would, in all probability, fail. A Medfly control program would need to be a multifaceted approach using a range of tools including traps, baits and good hygiene.

Indeed, advice of the DPIRD Officer is that traps would be required on almost every fruiting tree in the town area. Fruit fly traps range in price from \$15 to \$30.

Effective commercial baits can be expensive, including lure and kill products with a need for baits to be replaced regularly.

DPIRD also provides advice for landowners to make low-cost and effective home-made baits.

Good hygiene relies on the landowner maintaining the land around fruit trees, including removing stung and fallen fruit and either placing in a sealed bin or bag or boiling the fruit for 30 minutes then, for example, fed to poultry.

The cost of traps and baits is estimated at \$30,000 based on 1,000 fruit trees. The number of fruit trees in the Shire is not known. Ongoing monitoring, as requested in the petition, could cost an estimated \$50,000 to employ a person part time 2 or 3 days a week. Further, documentation would be required in the form of policies and guidelines. As these documents would be technical in nature providing landowners with accurate information on chemicals and usage, developing these documents may involve the use of consultants and this cost is not known but expected to be up to \$50,000 in the first year with ongoing reviews at an unknown cost for future years. The total cost of a fruit fly program is estimated at up to \$150,000 for the first year then between \$100,000 and \$120,000 annually in the second and subsequent years. Costs are unlikely to be offset by State Government contributions, however a levy could be imposed on properties that contain fruit trees.

As the Department has a limited budget it would be unlikely to contribute any funding to a Medfly control program, although DPIRD may be able to provide in-kind support.

Should Council wish to be involved with Medfly control a funding model could be developed based on a similar program to the Carnarvon model. This would involve a levy on local landowners who have fruit trees in Narrogin and surrounding areas, with local landowners contributing towards, either the full cost or a shared arrangement with the Shire, as funding from other sources is unlikely, especially since Narrogin is not recognised as a major fruit growing area.

Should the Shire proceed with a Medfly program it would need to be a long-term commitment to be effective with a Medfly Management plan developed to include such matters as developing a baiting guideline with suggested chemical usage and a local engagement policy to include all landowners who grow or wish to grow fruit trees. However, as the Shire does not have any legislative authority in this area it would rely on voluntary acceptance of the program. DPIRD, under their legislation can require landowners to manage fruit fly by service of a notice but currently do not have the resources to assist in that area. Further, any baiting guide developed would need to be updated on a regular basis as chemicals are either withdrawn or introduced onto the market. The use of chemicals is currently administered by the Commonwealth. The Shire currently does not have the resources to manage this area into the future. DPIRD do have a baiting guideline that has been withdrawn from public distribution as the document needs updating and they have other competing priorities at present. Basically, they do not have the resources either, at present, but can give advice and assistance to the Shire, if required.

DPIRD would also require a Regional Biosecurity Group (RBG) to be established to oversee the Medfly program, similar to that established in Carnarvon.

### **Consultation**

- Darryl Hardie, Acting Deputy Plant Biosecurity Officer, DPIRD, Perth.
- Annie Ban Blonnestin, Development Officer, DPIRD, Carnarvon.
- Dallas, Creditors/Rates Officer, Shire of Carnarvon

### **Statutory Environment**

Biosecurity and Agriculture Management Act 2007.

### **Policy Implications**

Policy 1.14 – Community Engagement Policy.

### **Financial Implications**

No budget allocation has been made towards a Fruit Fly control program in the 2020/2021 financial year. The anticipated cost of an effective program, as described by DPIRD, is estimated at \$150,000 for the first year with ongoing expenditure of between \$100,000 to \$120,000 per year thereafter. Part or most of these funds would need to be raised through a levy on landowners.

Implementing initiatives, such as community education and promotion of home-made low-cost baits and traps, and/or introducing a budget allocation similar to the program at the Shire of Wickiepin would be low-cost alternatives for consideration.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	1. Economic Objective (Support growth and progress, locally and regionally)
	1.4 Agriculture opportunities maintained and developed

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
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## Voting Requirements

Simple Majority.

### OFFICERS' RECOMMENDATION

That, with respect to the petition requesting the introduction of a fruit fly (Medfly) Program for the Shire of Narrogin, Council:

1. Request the CEO, before the end of March 2021 to:
  - a. Liaise with the Department of Primary Industries and Regional Development (DPIRD), as the responsible agency on the matter, regarding what assistance they can provide, including how they currently monitor fruit fly infestations within the district and how they propose to in the future, and
  - b. Develop and publish on the Shire's website, a local fruit fly (Medfly) eradication and control brochure for residents, on managing fruit trees, the pest, and including information on low-cost home-made baits and traps.
  - c. Introduce appropriate control measures to the Shire's street and reserve trees that attract fruit fly (Medfly).
2. Consider in the 2021/22 Budget, the introduction of a fruit fly (Medfly) trap subsidy program available from local retailers, similar to the Shire of Wickpin, at an estimated annual cost of \$5,000, with details of the program, including limits to the number of traps that residents can obtain, and other details, to be prepared by the CEO.
3. Request the Gnarojin Community Gardens Committee Inc, who manage a community-owned asset with a relatively large number of fruit trees, to actively bait and trap fruit fly (Medfly) at that property and to assist with education programs with vendors that frequent their Farmers' Market from time to time.
4. Advise the petitioner of the Council's resolution.

## **COUNCIL RESOLUTION 0820.006**

Moved: Cr Broad

Seconded: Cr G Ballard

That, with respect to the petition requesting the introduction of a fruit fly (Medfly) Program for the Shire of Narrogin, Council:

1. Request the CEO, before the end of March 2021 to:
  - a. Liaise with the Department of Primary Industries and Regional Development (DPIRD), as the responsible agency on the matter, regarding what assistance they can provide, including how they currently monitor fruit fly infestations within the district and how they propose to in the future;
  - b. Develop and publish on the Shire's website, a local fruit fly (Medfly) eradication and control brochure for residents, on managing fruit trees on occupied and unoccupied land, the pest, and including information on low-cost home-made baits and traps; and
  - c. Introduce appropriate control measures to the Shire's street and reserve trees that attract fruit fly (Medfly).
2. Consider in the 2021/22 Budget, the introduction of a fruit fly (Medfly) trap subsidy program available from local retailers, similar to the Shire of Wickepin, at an estimated annual cost of \$5,000, with details of the program, including limits to the number of traps that residents can obtain, and other details, to be prepared by the CEO.
3. Request the Gnarojin Community Gardens Committee Inc, who manage a community-owned asset with a relatively large number of fruit trees, to actively bait and trap fruit fly (Medfly) at that property and to assist with education programs with vendors that frequent their Farmers' Market from time to time.
4. Advise the petitioner of the Council's resolution.

**CARRIED 9/0**

Reason for Change: Council requested the inclusion of 'on occupied and unoccupied land' in point b so as to ensure that the education and promotion programs also targeted land that contained unmanaged fruit trees.

0457698912 APRIL 2020.

JULY COUNCIL MEETING

PETITION

FAX NO

2013 Narrogin Shire Refuse To Help Eradicate Fruit Fly. They even sought legal opinion!! We have a life changing Pandemic & we are being told to stay home. People are growing everything they can for food assistance. All our fruit on our trees is useless. Our Shire Can supply us with Fruit Fly traps. They won't. They should give one to each of us with fruit trees & monitor them.

Please sign this to show your support. Thank You

NAME	EMAIL	COMMENT	SIGNATURE
S. Birrell	—	Please reinstate	[Signature]
B. Bonford		Please reinstate	[Signature]
M. CHASTIE	marie.louise.chastie@outlook.com		[Signature]
F. Birrell			[Signature]
J. ANNESLEY			[Signature]
A. KERRIGAN		No fruit since it ceased	[Signature]
L. KERRIGAN		" " " "	[Signature]
M. McDougall		Yes please	[Signature]
J. RIDD		PLEASE	[Signature]
Ray McLean		YES PLEASE	[Signature]
Quinten Paine		Yes Please	[Signature]
Montana Freeman		yes	[Signature]
D. Derbyshire		yes please	[Signature]
Leah Silvester		" "	[Signature]
130ey Hill		definitely yes	[Signature]
CHRIS DENNIS		please reinstate	[Signature]
STEPH BROWN		"	[Signature]
C. Pettybridge		"	[Signature]
Nita Auckland		yes please	[Signature]
Frank McLean		yes - needed.	[Signature]
Mawra McLean		Yes	[Signature]
OPERA			[Signature]
Jean Walsh		yes	[Signature]
Hazel Ball		yes	[Signature]
Genevieve Stephens		Please in all shires	[Signature]
A. COMET		yes.	[Signature]
M. Boulton		yes	[Signature]
V. Ramicini		yes ✓	[Signature]
A. HOWEN			[Signature]
A. HOWEN		PLEASE !!	[Signature]
B. Claude			[Signature]
M. Thomas		PLEASE	[Signature]
K. Frost		yes please	[Signature]
J. BOOTHBY		& Beatty YES	[Signature]
S. Roachey		YES	[Signature]

PETITION-REINSTATE  
FRUIT FLY SPRAYING!

PETITION

2013 Narrogin Shire Refuse To Help Eradicate Fruit Fly. They even sought legal opinion!! We have a life changing Pandemic & we are being told to stay home. People are growing everything they can for food assistance. All our fruit on our trees is useless. Our Shire Can supply us with Fruit Fly traps. They won't. They should give one to each of us with fruit trees & monitor them.

Please sign this to show your support. Thank You

NAME	EMAIL	COMMENT	SIGNATURE
P. MISKIEWICZ		PLEASE REINSTATE	[Signature]
C. CATCHPOLE		BADLY NEEDED AGAIN.	[Signature]
K. Angwin		Rethink.	[Signature]
Ken Waddock		also in Narrogin	[Signature]
E Evans		about time	[Signature]
J Chadwick		Yes	[Signature]
T. Skelton			[Signature]
M. Maper		Good luck !!	[Signature]
P. Coleman		Always	[Signature]
L. GREEN		JUST DO IT	[Signature]
Narelle Millett		JUST DO IT	[Signature]
Marty Mitchell		Rampant pests in town	[Signature]
D. Giles		NEEDED badly	[Signature]
A. TAYLOR		Just Do it	[Signature]
A. Waters		Reinstate Please	[Signature]
K. Nicol		Reinstate Please	[Signature]
M. Waters		Reinstate Please	[Signature]
S. ADAMS		REINSTATE PLEASE	[Signature]
J. Firmin		Reinstate please	[Signature]
J. Slater		Please re-instate	[Signature]
R. Slater		Please re-instate	[Signature]
S. KEMPTON		✓ ✓	[Signature]
J. Kempston			[Signature]
J. Eltridge		PLEASE PLEASE	[Signature]
M. FLYNN		PLEASE PLEASE	[Signature]
J. ECKERSLEY		YES PLEASE	[Signature]
JH SM STEELE		YES PLEASE	[Signature]
S. Burbidge		Yes Please	[Signature]
Carole Barber		It's also employment for some one	[Signature]
Cherie Passio		Please.	[Signature]
Meredith Beckwith	Fingers crossed	Tried some yrs ago to stop them stopping it!	[Signature]
J. RAE		QUICK	[Signature]
E. Lamb		YES PLEASE	[Signature]
K R Tomy		great idea	[Signature]
G. ALLIN ATON		✓ ✓	[Signature]

PETITION

Narrogin Shire To Actively Support Eradication Of Our Fruit Fly Plague By Making Available Fruit Fly Traps & Subsequent Monitoring By Relevant Officers.

NAME	EMAIL	COMMENT	SIGNATURE
T. BRUCE	-	GOOD IDEA!	T. Bruce
FIONA HASTIE	-	Please Do!	F. Hastie
S. Kendall	-	Excellent	S. Kendall
A. STEER	-	Please Please Please	A. Steer
I. Z. TURNER.	-	YES DO IT.	I. Z. Turner
J. Allan	-	DO IT	J. Allan
R. Rane	-	yes please	R. Rane
V. HEIPEN	-	PLEASE	V. Heipen
J. FOWARDS	-	YES: DEFINITELY NEEDED	J. Edwards
K. HAMS	-	yes	K. Hams
K. ASHBY	-	yes	K. Ashby
S. LEE	-	Yes.	S. Lee
B. O'Leary	-	yes	B. O'Leary
K. MURPHY	-	yes	K. Murphy
G. STANWARD	-	yes	G. Stanward
J. GROUT	-	should never have stopped	J. GROUT
C. WATKINS	-	YES! Absolutely	C. Watkins
Jen O'Leary	-	YES	Jen O'Leary
K+E MELVIN	-	PLEASE DO ESSENTIAL	K+E Melvin
F+D MULLINS	-	✓ ✓ ✓	F+D Mullins
ANN A ERICKSON	-	88 felspar st	A. Erickson
KERRI Bergas	-	88 " "	K. Bergas
Peter Bergas	-		P. Bergas
Eliza James	-		E. James

PETITION

2013 Narrogin Shire Refuse To Help Eradicate Fruit Fly. They even sought legal opinion!! We have a life changing Pandemic & we are being told to stay home. People are growing everything they can for food assistance. All our fruit on our trees is useless. Our Shire Can supply us with Fruit Fly traps. They won't. They should give one to each of us with fruit trees & monitor them.

Please sign this to show your support. Thank You

NAME	EMAIL	COMMENT	SIGNATURE
ROY SPURR		not getting fruit must start spraying	[Signature]
Doug Sawkins			[Signature]
K SIMMS			[Signature]
L. EASTWOOD		F Fly is a big prob in Town	[Signature]
STEVEN ANONIN			[Signature]
Sandra Blakiston		Have to throw all my fruit away	[Signature]
As Hart			[Signature]
Robert Edley			[Signature]
Alice Smith			[Signature]
CHRIS FLEAY		WOULD BE GREAT	[Signature]
JOHN MEARNS		THANKS	[Signature]
SUE MEARNS		Very important	[Signature]
C. MOFFAT			[Signature]
JO EDWARDS		SPRAYING NEEDED	[Signature]
MUCH WRAY			[Signature]
MORRIS RUSSELL			[Signature]
Sam Smith			[Signature]
Kerianne Mills			[Signature]
Jessica Westphal			[Signature]
Alpha Mills			[Signature]
LISA MURRAY		SPRAY / TRAPS NEEDED.	[Signature]
ANDSON EPHORAT		" "	[Signature]
Dale Holipuh			[Signature]
Nicky Rae		SPRAY / TRAPS	[Signature]
Renee Pook		" "	[Signature]
Sarah Mather		" "	[Signature]
S. Little		" "	[Signature]
NEIL GANNAWAY		" "	[Signature]
A. IASCO			[Signature]
IN CLARK			[Signature]
B Beecham			[Signature]
J Sutton		Should allow community to grow own produce	[Signature]
C. Passaris			[Signature]

PETITION

2013 Narrogin Shire Refuse To Help Eradicate Fruit Fly. They even sought legal opinion!! We have a life changing Pandemic & we are being told to stay home. People are growing everything they can for food assistance. All our fruit on our trees is useless. Our Shire Can supply us with Fruit Fly traps. They won't. They should give one to each of us with fruit trees & monitor them.

Please sign this to show your support. Thank You

NAME	EMAIL	COMMENT	SIGNATURE
Chris Passaris	crisp.69@bt.net	they should spray.	
Evon White	evonj@bigpond.com	Spray.	
BARRY NORWELL	bynorwell@comp.net.au	spray	
Jess White	sales@nvsq.com.au	plis bring it back	
Maria Silvester	*	A Necessity	
Leona "		"	
Tracey Brandner	traceybrandner@raywhite.com		
Chloe Lyons	lyonschloe11@gmail.com		
Helenishwaefugam	Helenishwaefugam1446@livejournal.com		
Susan Sosa	Susanma@earthlink.net		
Rachel Panizza			
Rolan Poole		Get it	
Ashlyn Nelson	ashlyn1822@gmail.com		
Bob My Lee			
DIANNE STEWARD	YES	YES YES	
M deRooy		yes	
Emmalee Gardner	emmalee.gardner@hotmail.com		
Katelyn Newman	katelyn.newman@gmail.com		
Sarah Hayward	sarah.hayward78@hotmail	yes	
Olivia Melville-Main			
Wynnda Herdman			
Colin Boyle	yes.		
Cullen		Please.	
Deane HSA	dheah8764@gmail.com	YES PLEASE	
Janet Innes	janet.m.innes@gmail.com	YES	
Sandra Nankivell	sandj20257@gmail.com	yes	
Kathleen Rillstone	Carfield St	Yes	
Schmeier	Bannister St	Yes.	
T Coulson	Bannister St	Yes.	
D Ferguson	Narrogin	Yes	
Paul M. Peard	pavimprard@hotmail.com		
RAY BATH		Yes	
Debbie McLean			

PETITION

2013 Narrogin Shire Refuse To Help Eradicate Fruit Fly. They even sought legal opinion!! We have a life changing Pandemic & we are being told to stay home. People are growing everything they can for food assistance. All our fruit on our trees is useless. Our Shire Can supply us with Fruit Fly traps. They won't. They should give one to each of us with fruit trees & monitor them.

Please sign this to show your support. Thank You

NAME	EMAIL	COMMENT	SIGNATURE
Daniel Klomp			
Allengah Bell			
Col Lymanne			
VIAL BALLARD			
Amy Edwards	jasnamy1@hotmail.com		
Rahim Nazarian			
Antonia Ward			
Lucy Ward			
M Bathols			
Felicity Briggs			
Angela Saunders			
APLE ROUX			
Andrew Garslow			
Kathy Crossley	k.crossley@inet.net.au		
Narelle MILLET			
KAT KARALEY	patrick@westnet.com		
KIM MELVIN	KARALEY@bigpond.com		
AMANDA NERETIS	amandaneer@bigpond.com		
AUST VALDES BERR	albystell@gmail.com		
Sam Spurr	Spurr.Samantha@gmail.com		
PETER MISKIEWICZ	PETERMISKIEWICZ@GMAIL.COM		
Jodie Lanier			
JASON DE SILVA			
Shae-lee Thompson			
Susan Guy		food abundance - Inpt 10	
Barry McWick			
Michael Norwell			

## 10.1 DEVELOPMENT AND TECHNICAL SERVICES

### 10.1.794 TOWN OF NARROGIN FRUIT FLY PROGRAM

**File Reference:** 11.6.1  
**Disclosure of Interest:** Nil  
**Applicant:** Ms Lee Thomson  
**Previous Item Nos:** Nil  
**Date:** 28<sup>th</sup> May 2013  
**Author:** Brian Robinson, Director Technical & Environmental

#### Attachments:

- Copy of correspondence from Lee Thomson
- Print of the AGFWA Frequently Asked Questions
- Legal Advice from McLeod's

#### Summary:

Council is requested to consider correspondence received in respect of the Town of Narrogin's Fruit Fly Program.

#### Background:

As Councillors would be aware, no allowances were made within the annual budget to undertake a Fruit Fly control program in the 2012/13 financial year. This decision was made for various reasons, including but not limited to:-

- The need to identify substantial savings through the budget process;
- The effect of the program given that not all landowners participate and the adjacent Shire of Narrogin does not complete any fruit fly program;
- The impact of pesticide on the organic status of fruit;

It was also identified that at the time that the Town of Narrogin was only one of two local government areas where a fruit fly program was being undertaken, with the local government area (being Carnarvon) having a significant fruit industry.

Correspondence has now been received from a representative on the Town of Narrogin's Townscape Committee expressing concern that the cessation of the program is causing considerable community dismay.

As stated in the submitted correspondence the author mainly has contact with retired people who have the *"interest and skills in using home grown fruit in daily meals as well as for fruit preserving and jam making"*. The author further indicates that a *"good"* number of people they have spoken to have said that they would be prepared to pay a moderate increase in their rates in order to *"enjoy the pleasure and benefits of picking their own fruit"*.

A response to the correspondence is provided in the comment section below.

**Comment:**

The Mediterranean Fruit Fly is a recognised as a serious horticultural pest within Western Australia infecting more than 200 fruit and vegetable species over a large portion of the state. Pursuant to the WA Plant Diseases Act 1914, it is the responsibility of all landowners to take steps to prevent the spread of pests and diseases, including Fruit Fly. Responsibility for enforcement of this act rests with the Department of Agriculture and Food WA.

Through the previous implementation of a Fruit Fly Program, the Town of Narrogin and its ratepayers were effectively taking on this responsibility on behalf of fruit tree owners within the Town. As a result, some ratepayers feel it is the Town of Narrogin's responsibility to complete fruit fly control.

A substantial amount of information on the Fruit Fly is available from the Department of Agriculture and Department and Food website (DAFWA), including recommendations on how to effectively control the pest and its impact on a property by property basis.

The information provided on the DAFWA website also indicates that the DAFWA has a research project being undertaken within Jarrahdale and the Perth Hills, with an area wide system approach being implemented for fruit fly control and detailed monitoring of fruit fly numbers.

The only other program for area wide control of fruit fly, is a locally funded program in Carnarvon.

As stated in the background section of this report, the effectiveness of Council's previous program is questionable, given that not all landowners with fruit trees participated in the program and no program was being implemented within the Shire which contains many fruit trees, including disused orchards.

The enforcement of the WA Plants diseases act and the implementation an area wide system for control are considered by the author of this report to be the only effective way of treating fruit fly in the district. For this reason, it is recommended that correspondence be forwarded to the Department of Agriculture and Food WA requesting that:

- a) A Fruit Fly monitoring program be established over the greater Narrogin Valley area;
- b) An area wide Fruit Fly Control Program be implemented; and
- c) An information campaign be undertaken within the district to ensure that individual landowners are aware of their responsibilities in respect of fruit fly control.

Please also find attached a response form Council's legal representation as to the legalities of Council entering private residences to deal with the Fruit Fly problem. The response is that Council does not have the right and should not perform the action without the expressed prior consent of all property owners.

**Consultation:**

Since cessation of the program a total of 5 formal complaints have been received, expressing their disappointment that the program was not continued; however, it has been raised that the have been verbal complaints to the Councillors regarding this matter.

**Statutory Environment:** WA Plant and Diseases Act

**Policy Implications:** Nil

**Financial Implications:**

The adopted 2012/13 budget does not contain any allowance for the implementation of a fruit fly program.

Whilst consideration may be given to future re-introduction of a fruit fly program, Council's legal ability to implement such a program should be examined. For example is it legal for the Town of Narrogin to use public funds to assist landowners in meeting the individual responsibilities applicable under the WA Plant Diseases Act?

**Strategic Implications:**

As an alternative, Council may wish to examine the implementation of a program on a volunteer basis. The author of this report is however, concerned that this will result in members of the public continuing to hold the view that the control of Fruit Fly is a responsibility of the local government and not the Department of Agriculture and Food WA.

It is therefore recommended that the operation of a volunteer scheme would be best co-ordinated by either the Department of Agriculture and Food WA, or a community based organisation/group.

**Voting Requirements:** Simple Majority

Note: A late attachment of an article from the Countryman Newspaper concerning Carnarvon's fruit fly baiting was presented at the meeting.

<b>Council Resolution: 0613.109</b>
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**Moved: Cr McKenzie**

**Seconded: Cr Madson**

That Council:

Move to suspend Standing Orders

**CARRIED: 7/0**

**Note: Mayor Ennis requested that the CEO present his recent information findings from the Shire of Carnarvon.**

**Moved: Cr Madson**

**Seconded: Cr McKenzie**

That:

- 1) Council Authorise the Chief Executive Officer to forward correspondence to the Department of Agriculture and Food WA requesting that:
  - a) A Fruit Fly monitoring program, similar to that being undertaken in the hills of Perth Metropolitan Area, be established over the greater Narrogin Valley area;
  - b) An area wide Fruit Fly Control Program be implemented; and
  - c) An information campaign is undertaken within the district to ensure that individual landowners are aware of their responsibilities in respect of fruit fly control.
- 2) Correspondence be forwarded to the applicant to advise of point No 1 above and clarify that the responsibility for Fruit Fly control rests with individual landowners under the WA Plants and Diseases Act, which can only be enforced by the Department of Agriculture and Food.

**CARRIED: 7/0**

45A Argus Street,  
Narrogin. 6312.

Mr. Brian Robinson,  
Director,  
Technical & Environmental Services,  
Town of Narrogin.

Dear Brian, I'm hoping this request may reach you in time to be included on the agenda for the forthcoming Townscape meeting.

The recent decision by Council to discontinue the Fruit-fly Baiting programme appears to be causing considerable community dismay.

My personal contact has been mainly with retired people who have the interest & skills in using home grown fruit in daily meals, as well as for fruit preserving & jam making.

However, I know that today schools are teaching young to be more knowledgeable about the benefits of growing & eating fresh fruit and vegetables.

I understand that financial constraints are a major factor in Council's decision, but a good number of those I've spoken with have said they'd be prepared to pay a moderate increase in their rates, in order to enjoy the pleasure & benefits of picking their own fruit. Could this matter please be discussed at the Townscape meeting?

Yours sincerely,  
Lee Thomson

Town of Narrogin RECEIVED	
Directed to	Brian.
Ref No.	27 MAY 2013 ICR131341
Property File	
Subject File	26-38
C/Point No	



## **Mediterranean fruit fly (Medfly) Frequently Asked Questions**

### *What is Mediterranean fruit fly?*

The Mediterranean fruit fly (Medfly), *Ceratitidis capitata*, is a pest in many areas of the world including Western Australia. Medfly is not present in other Australian states or territories. It was first detected at Claremont in 1895. The main area of infestation extends from Camarvon to Bunbury.

### *Why is it important to control fruit fly?*

Fruit fly costs the WA horticulture industry about \$20 million each year, in lost production, market access and control costs. Fruit fly is known to infect more than 200 fruit and vegetable species, including stone fruit, apples and pears, citrus, loquats, persimmons, figs and guavas. The larvae feed on the flesh of fruit and some vegetables, causing it to decompose.

Industry is focusing on an area-wide approach to controlling fruit fly. This means every grower - whether they are a commercial grower or landholder with a fruit tree or vegetable patch - needs to help control fruit fly.

### *What can I do?*

The Department of Agriculture and Food (DAFWA) is urging all residents with fruit trees or vegetable patches to be aware of the need to control fruit fly in order to help protect the State's valuable industry from the damaging pest and protect your local supply of fruit.

### *How can I control fruit fly?*

To protect your local industry and your local supply of fruit, it is vital to take action to reduce the risk of fruit fly.

**Remove unwanted trees:** To protect fruit trees, households should remove any unwanted or unmanaged fruit trees.

**Bag and bin:** Don't leave fruit or fruiting vegetables on the ground to rot. Pick up any fallen fruit under your trees and put them into a black plastic rubbish bag which is sealed or tied-off. Leave the bag in the full sun for five days, and then dispose. The heat will be enough to kill any flies or maggots. Alternatively, put fallen fruit into containers or plastic bags and place in the freezer for at least seven days, then dispose. Pick and destroy all unwanted fruit before ripening.

**Bait or trap:** Apply liquid baits to your fruit trees or hang 'lure and kill' traps in your fruit trees or near susceptible vegetable fruits.

**Screen trees:** Use mesh screens to exclude fruit flies before the fruit becomes susceptible to infestation. Screens with a weave of less than 1.8mm such as mosquito netting, shade cloth and fly screen can be either draped over the tree or on framework arching over the tree. Pruning the tree to a manageable size may be necessary and the screen should be sealed at ground level.

**Use exclusion bags over fruit:** Cloth or waxed paper bags with are commercially available to place over clusters of fruit and sealed to prevent fruit flies access. Alternatively exclusions bags can be home-made.

September 2012



**Keep watch:** Keep an eye out for fruit fly damage to your fruit. If you spot this, your controls are not working and you will need to remove your fruit and treat as described in 'bag and bin'.

More information on control is available from [www.agric.wa.gov.au](http://www.agric.wa.gov.au)

*What does a Medfly look like?*

Most people initially find the larvae (maggots) of fruit fly. The larvae are white with a pointed head and are about 1 mm long when they hatch. They quickly grow to 8 mm after which they exit the fruit, enter the ground and form a brown casing around their bodies. The adult fly emerges from its casing underground and is 3 - 5 mm long, light brown and slightly smaller than a housefly. The wings have distinct brown bands and remain extended while resting, the abdomen is brown and the middle has irregular patches of black and silver.

*Where can I get more information on control?*

From the Department of Agriculture and Food website [www.agric.wa.gov.au](http://www.agric.wa.gov.au) or by phoning the department's Pests and Diseases Information Service on 1800 084 881.

*What are my obligations?*

The *WA Plant Diseases Act 1914* states that it is the responsibility of all property owners to take steps to prevent the spread of pests and diseases. Under the Act an order for the removal of unmanaged trees can be issued.

*What is the commercial fruit industry doing?*

The commercial industry uses a systems approach including baiting, trapping, strict orchard hygiene and spray options depending on the crop.

*What about cover sprays for backyard trees?*

The Australian Pesticides and Veterinary Medicines (APVMA) has made recent changes on the allowed use patterns of the organophosphate dimethoate and will likely make changes on the use of the organophosphate fenthion to control fruit fly, resulting in restricted use. More information on these restrictions is available from [www.apvma.gov.au](http://www.apvma.gov.au)

*What is DAFWA doing to support industry and growers control fruit fly?*

DAFWA encourages anyone with a fruit tree or vegetable patch to be aware of the need to control fruit fly and to take responsibility for any potential food sources that would encourage fruit fly.

DAFWA has an expert team who are available to assist industry with technical advice. One DAFWA research project, supported by industry groups Summerfruit Australia, Fruit West and Horticulture Australia Ltd, will implement an area-wide systems approach for fruit fly control in Jarrahdale and the Perth Hills. Foliar bait spraying, orchard and garden sanitation along with lure and kill techniques such as trapping will be used. An array of traps will be used to monitor fruit fly populations and evaluate the strategy. As part of this project, DAFWA will also trial a strategy known as the Sterile Insect Technique. This involves the release of sterile male flies which mate with the existing females and reduce reproduction levels.

*Do area-wide baiting schemes exist elsewhere in WA?*

A locally-funded fruit fly baiting scheme currently operates in Carnarvon.

September 2012



Our Ref  
Your Ref

DFN:NARR-33930

6 June 2013

Mr Brian Robinson  
Director Technical & Environmental Services  
Town of Narrogin  
89 Earl Street  
NARROGIN WA 6312



Stirling Law Chambers  
220-222 Stirling Highway  
Claremont WA 6010  
Tel (08) 9383 3133  
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Denis McLeod  
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Andrew Roberts  
Craig Starke  
Peter Wittkuhn  
David Nicholson  
Peter Gillett  
Elisabeth Stevenson (Special Counsel)  
Trudi Firth (Associate)  
Tim Beckett (Associate)

*By email*

Dear Brian

**Proposed Fruit Fly Control Program**

I refer to our telephone conversation on 5 June 2013 and your subsequent email correspondence of the same date.

You have requested advice in relation to a fruit fly control program proposed to be undertaken within the district of the Town. I understand the background to this matter to be as follows.

**1. Background**

The Mediterranean fruit fly is recognised as a serious horticultural pest within Western Australia. The Town has previously implemented a fruit fly control program within its district, pursuant to which it entered onto private properties to undertake spraying for fruit flies.

The Town has not made any allowance in its annual budget for the 2012/2013 financial year for a fruit fly control program, however it has recently received correspondence expressing concern that the program has been discontinued.

You have requested advice as to whether fruit fly control is the legislative responsibility of the Town and whether the Town has the necessary legal authority to implement a programme of this nature.

**2. Whether fruit fly control within general function of local government**

Under s. 3.1(1) of the *Local Government Act 1995* the general function of a local government is to provide for the good government of persons in its district. Whilst the scope of that general function is to be interpreted liberally, in accordance with s. 3.1(3), it is arguable that the control of fruit fly as an agricultural pest falls outside the scope of its general function and within the field of separate legislation. In this respect, control of fruit fly is more appropriately

(33930-13.06.06-DFN-Narrogin)

described as an environmental or agricultural matter, than a matter that relates to the good government of persons in the district of a local government.

I further note that in Western Australia, the *Agricultural Produce Commission Act 1988* makes provision for the control of fruit fly as an agricultural pest. Under s.12A of this Act any officer, employee or other person employed or engaged under s. 12(2) by a producers committee established to administer a fruit fly foliage baiting scheme may, when authorised by the producers' committee, enter any orchard within the specified area to bait or spray all or any of the fruit trees and fruit vines in the manner and with the materials determined by the producers' committee.

Provision to this effect was previously contained within the Plant Diseases Act 1914, however that Act was repealed by the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 62 (No. 24 of 2007) as at 1 May 2013 (see s. 2(2) and *Gazette* 5 Feb 2013 p. 823).

The specific provision for the control of fruit fly contained within the *Agricultural Produce Commission Act* suggests that the control of fruit fly is unlikely to fall within the general function of a local government under the *Local Government Act*. Additionally, I note that the *Local Government Act* does not contain any provision:

- (a) in Schedule 3.1 to authorise a local government to issue a notice to an owner of private property requiring certain actions to be undertaken for the control of fruit fly; or
- (b) in Schedule 3.2 to enter onto private property to undertake spraying etc for the control of fruit fly.

If it had been the intent of the *Local Government Act* to authorise local governments to undertake programs to control agricultural pests such as fruit fly, then one would expect that provision to this effect would have been included in either Schedules 3.1 or 3.2 of the Act.

### **3. Whether Town has legal authority to enter private property for fruit fly control**

I also do not consider that the Town would have the necessary legal authority to enter onto private property without consent in order to implement a fruit fly control program. The powers of entry conferred under Division 3, Subdivision 3 of the *Local Government Act* may only be used for performing any function that a local government has under the Act if entry is required for the performance of the function or in any other case in which entry is authorised by the Act. As discussed above, the control of fruit fly is unlikely to fall within the functions of a local government under the Act and the provisions of the Act do not authorise entry onto private property for this purpose.

Accordingly, entry of the Town onto private property would only be lawful if consent of the owner or occupier had been obtained. I do not consider that the Town would be entitled to obtain entry by giving notice under s. 3.32, as the purpose of entry (control of fruit fly) is not authorised by the Act.

6 June 2013  
Town of Narrogin

McLeods  
Page 3

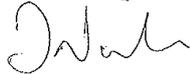
**Proposed Fruit Fly Control Program**

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In summary, I do not consider that the Town holds the requisite legal authority under the *Local Government Act* to implement the proposed fruit fly control program.

I trust this advice satisfies your requirements. Please contact me should you have any further queries in respect of this matter

Yours sincerely



**David Nicholson**  
**Partner**

Direct line: 9424 6221  
Email: [dnicholson@mcleods.com.au](mailto:dnicholson@mcleods.com.au)



Town of Narrogin  
**RECEIVED**  
Directed to Brian.  
**12 JUL 2013**  
Ref No. ICR131610.  
Property File \_\_\_\_\_  
Subject File 4-9-17  
C Point No. \_\_\_\_\_

Your Ref:  
Our Ref:  
Enquiries: E. Steiner  
Date: 8 July 2013

Mr Brian Robinson  
Town of Narrogin  
89 Earl Street  
NARROGIN WA 6312

Dear Brian

Thank you for your letter dated 18 June 2013. The Department of Agriculture and Food WA (DAFWA) is involved in various Mediterranean fruit fly (Medfly) related projects including Area Wide Management (AWM) trials, fruit disinfestation trials and Sterile Insect Technology (SIT). However, DAFWA currently does not operate any public fruit fly baiting schemes.

The fruit fly monitoring program in the Perth Hills that you refer to in your letter is part of a research program being funded by DAFWA and the fruit industry, to prepare commercial growers for the likely ban on the use of a key pesticide, fenthion, widely used for Medfly control. DAFWA has been testing new control methods such as 'lure and kill' as part of an AWM program in Jarrahdale. Additional fruit fly population monitoring is being carried out in Carmel, Karragullen, and Roleystone to determine Medfly population levels in commercial orchards and urban backyards. The results of this Medfly research are reported every three months in the Fruitwest Magazine, which is available electronically from <http://www.fruitwest.org.au/>. Research results from the AWM project applicable to 'backyard' fruit growers is also disseminated to local Governments.

Fruit fly baiting schemes are an integral part of AWM. These schemes can be established under the Agricultural Produce Commission (APC), which provides right of entry for any person engaged by an APC committee to bait fruit trees and for the collection of funds from householders with fruit trees. Please note that the APC is unlikely to establish community fruit fly baiting schemes without first receiving the full support of the Shire, through facilitating the collection of funds for the scheme. If you would like further information on fruit fly baiting schemes under the APC or for any Medfly related technical issues, please contact Mr Ernie Steiner (email: [ernie.steiner@agric.wa.gov.au](mailto:ernie.steiner@agric.wa.gov.au), phone: 9368 3584).

Yours sincerely,

John van Schagen  
DIRECTOR, PLANT BIOSECURITY

3 Baron-Hay Court, South Perth Western Australia 6151  
Postal address: Locked Bag 4, Bentley Delivery Centre WA 6983  
Telephone: (+61 8) 9368 3333 Website: [agric.wa.gov.au](http://agric.wa.gov.au)

## 10.2 TECHNICAL AND RURAL SERVICES

### 10.2.1 AWARDING THE 2020/21 ROAD SEAL REQUEST FOR QUOTE (RFQ 2020/21 – 01)

File Reference	28.1.1
Disclosure of Interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interest that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	8 August 2020
Author	John Warburton – Manager Operations
Authorising Officer	Torre Evans – Executive Manager Technical & Rural Services
Attachments	<ol style="list-style-type: none"><li>1. List of Roads for Sealing</li><li>2. Evaluation Matrix (Commercial In Confidence – Under Separate Cover)</li></ol>

#### Summary

Council is requested to consider awarding the 2020/21 Road Seal Request For Quote (RFQ 20/21-01) to Fulton Hogan, for the sum of \$635,559, excluding GST using basalt aggregate, for budgeted road seal projects within the 2020/21 Budget and as listed in Attachment 1 - List of Roads for Sealing.

#### Background

The 2020/21 Budget listed road sealing works (Attachment 1) are part of ongoing maintenance and preservation of road assets within the Shire and in accordance with Council's adopted Ten Year Road Program 2019-2029. The author has also conducted a visual inspection of the Shire's road network to confirm that no other roads need to take priority over the listed roads in this financial year.

These works need to be completed by contractors with specialised machinery and expertise. The cost of such works was estimated to exceed the \$250,000 expenditure threshold and therefore necessary to go to tender or facilitated through a WALGA RFQ process.

The Road Seal RFQ was facilitated through the WALGA Panel of Preferred Suppliers eQuotes portal, which satisfies the Local Government statutory requirement.

#### Comment

The Road Seal RFQ was advertised through the WALGA eQuotes Portal from 22 June 2020 to 16 July 2020. The RFQ document was sent to five WALGA preferred suppliers through the WALGA eQuotes portal with five companies responding. See below companies.

- Downer
- Fulton Hogan
- Colas
- Bitutek
- Boral

All five companies are prequalified WALGA preferred suppliers and have relevant experience for these works. Out of the five submissions that were received, three were deemed to be compliant submissions based on the specifications contained within the RFQ.

The RFQ was evaluated on 80% price, 10% previous experience and 10% OS&H and assessed on the information and documentation provided in the suppliers' submissions as requested in the selection criteria and based on a predetermined bitumen application rates for each road contained in Attachment 1, so that suppliers were quoting on an equal basis. The predetermined bitumen application rates for roads contained in Attachment 1 are estimates based on the Manager Operation's experience and judgement however these may vary slightly from a compliant seal design.

An evaluation panel was formed that consisted of:

- Executive Manager Technical & Rural Services;
- Manager Operations; and
- Technical Officer.

The Combined Assessment Scores for the three compliant submissions are illustrated below:

Contractor	Assessment Score
Fulton Hogan	100
Downer	99.4
Bitutek	95.3

Fulton Hogan's submission was scored the highest and is considered to be the best value submission from this procurement process.

Fulton Hogan were previously successful with road seal works for the Shire in the 2017/18, 2018/19 and 2019/20 financial years and have provided a very good quality of service and product.

The cheapest pricing between basalt and granite aggregate was basalt, with Fulton Hogan providing the cheapest cost for road sealing work using basalt.

### Consultation

The roads that are included in the Seal RFQ are roads identified in the adopted Ten Year Road Program whereby the Road Reference Group and Council were consulted as part of the road program adoption. The listed roads are contained within the 2020/21 Budget.

### Statutory Environment

- Local Government Act 1995 section 3.57 – Tenders for providing goods or services
- Local Government (Functions and General) Regulations 1996 Part 4 – Provisions of Goods and Services, Division 2 – Tenders for Providing Goods and Services (section 3.57).

### Policy Implications

RFQ 20/21 – 01 complies with Council Policy – Section 3 Financial Management, 3.1 Purchasing Framework, 3.1(b) Purchasing Thresholds and Requirements.

It is noted that the procurement was facilitated as a compliant eQuote and not as a Public Tender consistent with Council Policy and Regulations.

### Financial Implications

RFQ 20/21-01 expenditure of \$635,559 excluding GST, is wholly contained within the 2020/21 adopted Budget.

The Budget contains a provision of \$646,787 excluding GST for the proposed road seal contract works.

The difference between the contract price and the budgeted amount may be used with price variances which may occur with fluctuating environmental conditions, e.g. hot weather, that can affect bitumen applications rates. Surplus funds, if any, will be reviewed towards the end of the works.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027		
Objective	1.	Economic Objective (Support growth and progress, locally and regionally)
Outcome:	1.3	An effective well maintained transport network
Strategy:	1.3.1	Maintain and improve road network in line with resource capacity
Objective	3.	Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.4	A well maintained built environment
Strategy:	3.4.1	Improve and maintain built environment

### Voting Requirements

Simple Majority.

#### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.007**

Moved: Cr Seale                      Seconded: Cr Wiese

That, with respect to awarding the 2020/21 Road Seal Request for Quote (RFQ 20/21 – 01), Council:

1. Award the works, as listed in Attachment 1, to Fulton Hogan, for the sum of \$635,559 excluding GST, using basalt aggregate; and
2. Authorise the Chief Executive Officer to execute and manage the contract, including any variations, providing these variations do not exceed the allocated budget provision or reduce the overall scope.

**CARRIED 9/0**

It was noted that officers would ensure that local rock content is included in the RFQ if not already for next year.

## SHIRE OF NARROGIN 2020/21 ROAD SEAL SITES

Road Name	SLK Start	SLK End	Total Area m <sup>2</sup>	Aggregate Size	Bitumen Rate ltrs/m <sup>2</sup>	NOTES
Bannister Street	0	0.94	7138	7mm	1.4	Reseal
Bunbury Street	0	0.22	1480	7mm	1.4	Reseal
Congelin Road	8.14	9.07	7050	10mm	1.8	Reseal
Dongolocking Road	10	10.9	6300	14mm	2.2	Primer Seal
Dongolocking Road	10	10.9	6300	7mm	1.1	Second Seal
Francis Street	0	0.1	1343	7mm	1.4	Reseal
Grainger Street	0	0.39	2730	7mm	1.4	Reseal
Gregory Street	0.02	0.16	1136	7mm	1.4	Reseal
Hansard Street	0.55	0.85	2291	7mm	1.4	Reseal
Heath Street	0.27	0.3	575	7mm	1.4	Reseal
Homer Street	0	0.21	2415	7mm	1.4	Reseal
Hughes Street	0	0.14	1380	7mm	1.4	Reseal
Kealy Street	0	0.27	1254	7mm	1.4	Reseal
Moss Street	0	0.65	4320	10mm	1.4	Primer Seal
Moss Street	0	0.65	4320	7mm	1.1	Second Seal
Narrakine Road	0	1	9000	7mm	1.4	Reseal
Narrogin Caravan Park	–	–	3500	7mm	1.4	Reseal
Narrogin Harrismith Road	31.6	32.83	7872	10mm	1.8	Reseal
Nomans Lake Road	4.07	6.07	17142	10mm	1.8	Reseal
Olden Street	0	0.15	840	7mm	1.4	Reseal
Parry Court	0	0.14	1200	7mm	1.4	Reseal
Ried Road	1.88	3.77	11842	10mm	1.8	Reseal
Scott Street	0	0.19	1260	7mm	1.4	Reseal
Wagin Wickepin Road	1.03	2.06	7416	14mm	2.2	Primer Seal
Wagin Wickepin Road	1.03	2.06	7416	7mm	1.1	Second Seal
Wagin Wickepin Road	8.17	11.17	21600	14mm	2.2	Primer Seal
Wagin Wickepin Road	8.17	11.17	21600	7mm	1.1	Second Seal
Whinbin Rock Road	0.17	0.3	936	14mm	2.2	Primer Seal
Whinbin Rock Road	0.17	0.3	936	7mm	1.1	Second Seal
Whinbin Rock Road	1.01	1.73	5184	14mm	2.2	Primer Seal
Whinbin Rock Road	1.01	1.73	5184	7mm	1.1	Second Seal
Yale Place	0	0.09	1012	7mm	1.4	Reseal

## 10.3 CORPORATE AND COMMUNITY SERVICES

### 10.3.1 SCHEDULE OF ACCOUNTS PAID – JULY 2020

<b>File Reference</b>	12.1.1
<b>Disclosure of Interest</b>	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interest that requires disclosure.
<b>Applicant</b>	Shire of Narrogin
<b>Previous Item Numbers</b>	Nil
<b>Date</b>	31 July 2020
<b>Author</b>	Agatha Prior – Senior Finance Officer - Statutory
<b>Authorising Officer</b>	Frank Ludovico – Executive Manager Corporate & Community Services
<b>Attachments</b>	
1. Schedule of Accounts Paid – July 2020 (separate cover).	

#### Summary

Council is requested to note the payments as presented in the Schedule of Accounts Paid – July 2020

#### Background

Pursuant to Local Government Act 1995, Section 6.8 (2)(b), where expenditure has been incurred by a local government, it is to be reported to the next Ordinary Meeting of Council.

#### Comment

The Schedule of Accounts Paid – July 2020 is presented to Council for notation. Below is a summary of activity.

<i>July 2020 Payments</i>		
<i>Payment Type</i>	<i>\$</i>	<i>%</i>
Cheque	1,379.80	0.12
EFT (incl Payroll)	1,038,081.46	89.44
Direct Debit	115,376.78	9.94
Credit Card	3,060.40	0.26
Trust	2,807.00	0.24
<b>Total Payments</b>	<b>1,160,705.44</b>	<b>100.00</b>

<i>Local Spending</i>	<i>\$</i>	<i>%</i>
Local Suppliers	235,721.81	20.31
Payroll	385,300.72	33.20
<b>Total</b>	<b>621,022.53</b>	<b>53.50</b>

The payment schedule has been provided to Elected Members separately and is not published on the Shire of Narrogin website owing to potential fraudulent activity that can arise from this practice.

Printed copies will be available on request at the Administration building and the Library.

## Consultation

Manager Finance

## Statutory Environment

Local Government Act 1995, Section 6.8 (2)(b)

## Policy Implications

Nil

## Financial Implications

All expenditure has been approved via adoption of the 2020/2021 Annual Budget, or resulting from a Council resolution for a budget amendment.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	4. Civic Leadership Objective (Continually enhance the Shire's organisational capacity to service the needs of a growing community)
Outcome:	4.1 An efficient and effective organisation

## Voting Requirements

Simple Majority.

### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.008**

Moved: Cr Fisher                      Seconded: Cr Bartron

That, with respect to the Schedule of Accounts Paid for July 2020, Council note the Report as presented.

**CARRIED 9/0**

### 10.3.2 MONTHLY FINANCIAL REPORT - JULY 2020

File Reference	12.8.1
Disclosure of Interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interest that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	11 AUGUST 2020
Author	Karen Oborn – Manager Corporate Services
Authorising Officer	Frank Ludovico – Executive Manager Corporate & Community Services
Attachments	1. Financial Report for the period ended 31 July 2020.

#### Summary

Council is requested to review the July 2020 Monthly Financial Reports. In accordance with the Local Government Financial Management Regulations (1996), Regulation 34, the Shire is to prepare a monthly Statement of Financial Activity for notation by Council.

#### Background

Council is requested to review the July 2020 Monthly Financial Reports.

#### Comment

The July 2020 Monthly Financial Reports are presented for review.

#### Consultation

Executive Manager Corporate and Community Services.

#### Statutory Environment

Local Government (Financial Management) Regulations 1996, Regulation 34 applies.

#### Policy Implications

Nil

#### Financial Implications

All expenditure has been approved via adoption of the 2020/21 Annual Budget or resulting from a Council Motion for a budget amendment.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	4. Civic Leadership Objective (Continually enhance the Shire's organisational capacity to service the needs of a growing community)
Outcome:	4.1 An efficient and effective organisation

## Voting Requirements

Simple Majority.

### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.009**

Moved: Cr Lushey                      Seconded: Cr Fisher

That, with respect to the Monthly Financial Reports for July 2020, Council note the Reports as presented.

**CARRIED 9/0**

# SHIRE OF NARROGIN



## MONTHLY FINANCIAL REPORT (Containing the Statement of Financial Activity) For the Period Ended 31 July 2020

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LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

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## MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDED 31 JULY 2020

## Monthly Summary Information

### PREPARATION TIMING AND REVIEW

Date prepared: All known transactions up to 31 July 2020

Prepared by: Agatha Prior

Reviewed by: Karen Oborn

### BASIS OF PREPARATION

#### REPORT PURPOSE

This report is prepared to meet the requirements of *Local Government (Financial Management) Regulations 1996, Regulation 34*. Note: The statements and accompanying notes are prepared based on all transactions recorded at the time of preparation and may vary due to transactions being processed for the reporting period after the date of preparation.

#### BASIS OF ACCOUNTING

This statement comprises a special purpose financial report which has been prepared in accordance with Australian Accounting Standards (as they apply to local governments and not-for-profit entities and to the extent they are not in-consistent with the *Local Government Act 1995* and accompanying regulations), Australian Accounting Interpretations, other authoritative pronouncements of the Australian Accounting Standards Board, the *Local Government Act 1995* and accompanying regulations. Accounting policies which have been adopted in the preparation of this financial report have been consistently applied unless stated otherwise.

Except for cash flow and rate setting information, the report has been prepared on the accrual basis and is based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and liabilities.

#### THE LOCAL GOVERNMENT REPORTING ENTITY

All Funds through which the Council controls resources to carry on its functions have been included in this statement. In the process of reporting on the local government as a single unit, all transactions and balances between those funds (for example, loans and transfers between Funds) have been eliminated.

### SIGNIFICANT ACCOUNTING POLICIES

#### GOODS AND SERVICES TAX

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). Receivables and payables are stated inclusive of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with receivables or payables in the statement of financial position. Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

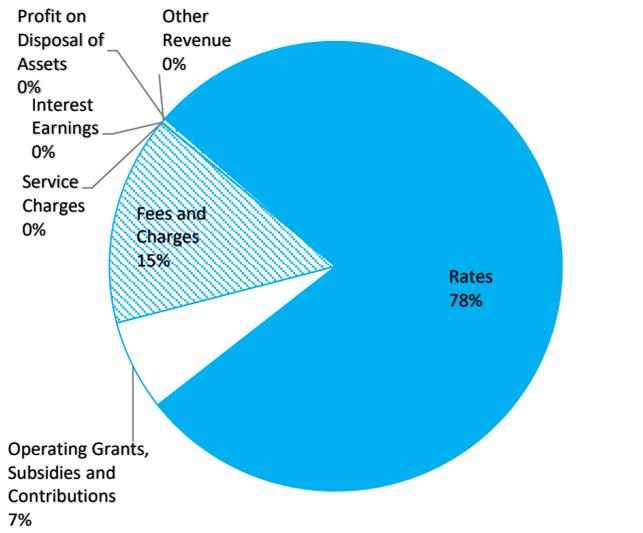
#### CRITICAL ACCOUNTING ESTIMATES

The preparation of a financial report in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that effect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances; the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

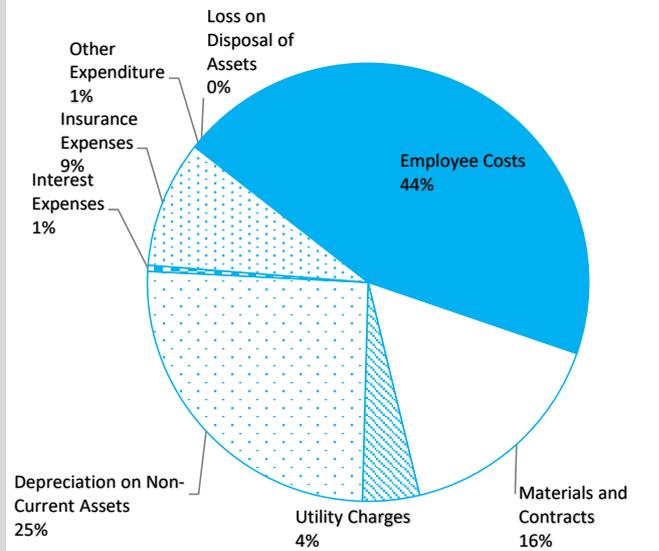
#### ROUNDING OFF FIGURES

All figures shown in this statement are rounded to the nearest dollar.

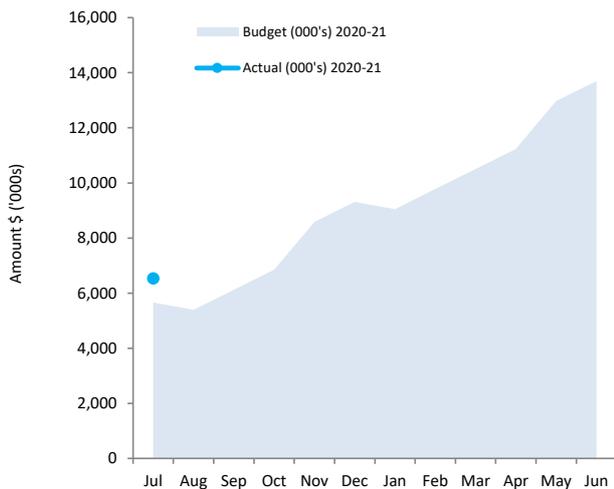
**OPERATING REVENUE**



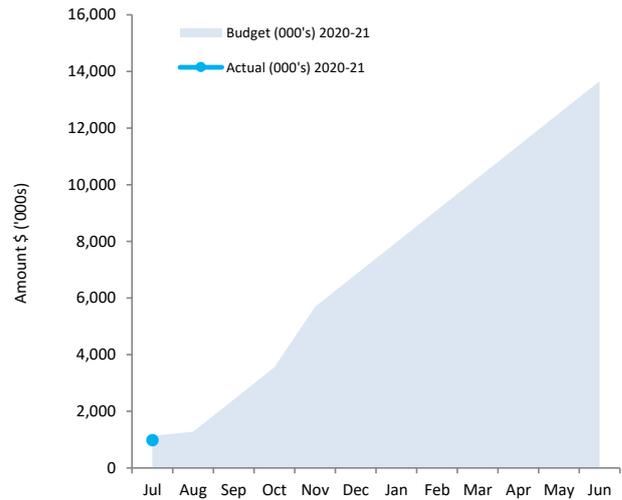
**OPERATING EXPENSES**



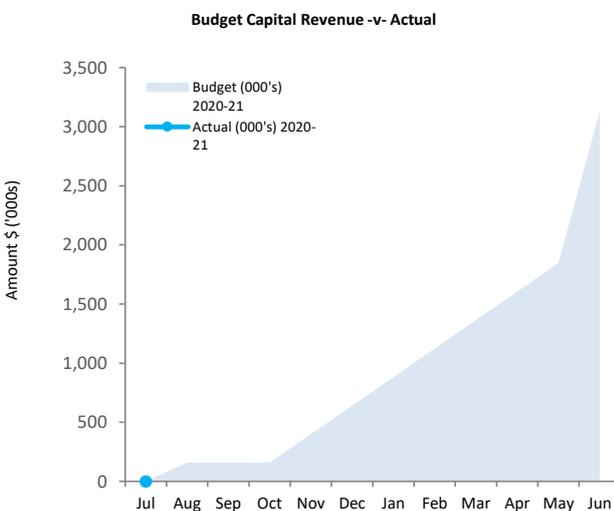
**Budget Operating Revenues -v- Actual**



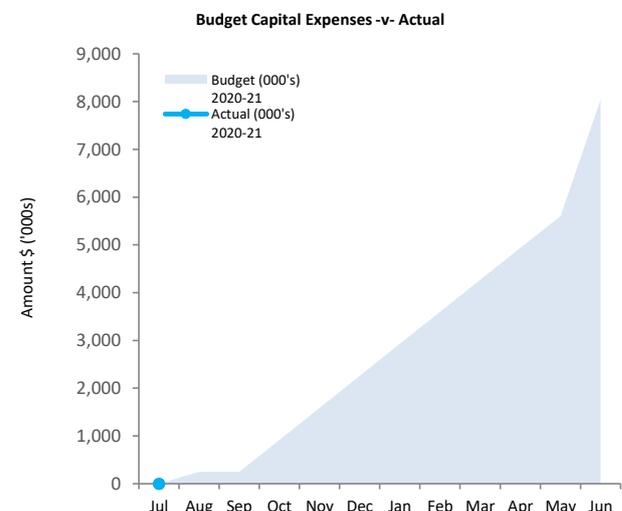
**Budget Operating Expenses -v- YTD Actual**



**CAPITAL REVENUE**



**CAPITAL EXPENSES**



This information is to be read in conjunction with the accompanying Financial Statements and Notes.

**STATEMENT OF FINANCIAL ACTIVITY  
FOR THE PERIOD ENDED 31 JULY 2020**

**STATUTORY REPORTING PROGRAMS**

	Ref Note	Adopted Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
		\$	\$	\$	\$	%	
<b>Opening Funding Surplus / (Deficit)</b>		2,697,512	2,697,512	<b>2,697,512</b>	0	0.00%	
<b>Revenue from operating activities</b>							
Governance		1,850	238	<b>243</b>	5	2.10%	
General Purpose Funding - Rates		4,941,455	4,941,453	<b>4,931,379</b>	(10,074)	(0.20%)	
General Purpose Funding - Other		1,339,989	24,252	<b>25,528</b>	1,276	5.26%	
Law, Order and Public Safety		285,505	1,791	<b>1,828</b>	37	2.07%	
Health		21,350	2,002	<b>2,043</b>	41	2.05%	
Education and Welfare		1,579,357	276,597	<b>282,242</b>	5,645	2.04%	
Housing		8,241	621	<b>634</b>	13	2.09%	
Community Amenities		1,145,512	861,372	<b>668,584</b>	(192,788)	(22.38%)	▼
Recreation and Culture		162,200	8,295	<b>8,465</b>	170	2.05%	
Transport		251,970	357,489	<b>364,785</b>	7,296	2.04%	
Economic Services		304,200	29,369	<b>29,969</b>	600	2.04%	
Other Property and Services		218,368	5,419	<b>5,530</b>	111	2.05%	
		<b>10,259,997</b>	<b>6,508,898</b>	<b>6,321,230</b>	(187,668)		
<b>Expenditure from operating activities</b>							
Governance		(647,946)	(64,314)	<b>(65,626)</b>	(1,312)	(2.04%)	
General Purpose Funding		(250,012)	(31,085)	<b>(31,719)</b>	(634)	(2.04%)	
Law, Order and Public Safety		(773,425)	(61,066)	<b>(62,312)</b>	(1,246)	(2.04%)	
Health		(290,379)	(23,880)	<b>(24,367)</b>	(487)	(2.04%)	
Education and Welfare		(1,854,952)	(68,878)	<b>(70,284)</b>	(1,406)	(2.04%)	
Housing		(33,202)	(2,694)	<b>(2,749)</b>	(55)	(2.04%)	
Community Amenities		(1,537,957)	(78,648)	<b>(80,253)</b>	(1,605)	(2.04%)	
Recreation and Culture		(3,514,894)	(178,423)	<b>(182,064)</b>	(3,641)	(2.04%)	
Transport		(3,732,389)	(199,605)	<b>(295,678)</b>	(96,073)	(48.13%)	▼
Economic Services		(893,760)	(69,817)	<b>(71,242)</b>	(1,425)	(2.04%)	
Other Property and Services		(64,343)	(86,318)	<b>(88,080)</b>	(1,762)	(2.04%)	
		<b>(13,593,259)</b>	<b>(864,728)</b>	<b>(974,374)</b>	(109,646)		
Non-cash amounts excluded from operating activities		3,579,846	242,404	<b>247,639</b>	5,235	2.16%	
<b>Amount attributable to operating activities</b>		<b>246,584</b>	<b>5,886,574</b>	<b>5,594,495</b>	(292,079)		
<b>Investing Activities</b>							
Proceeds from non-operating grants, subsidies and contributions		3,546,581	210,367	<b>210,367</b>	0	0.00%	
Proceeds from disposal of assets	12	592,000	0	<b>0</b>	0	0.00%	
Purchase of property, plant and equipment	12	(7,856,315)	(85,000)	<b>(90,696)</b>	(5,696)	(6.70%)	
<b>Amount attributable to investing activities</b>		<b>(3,717,734)</b>	<b>125,367</b>	<b>119,671</b>	(5,696)		
<b>Financing Activities</b>							
Proceeds from New Debentures	13	180,000	0	<b>0</b>	0	0.00%	
Transfer from Reserves	10	3,067,461	0	<b>0</b>	0	0.00%	
Repayment of Debentures	13	(173,653)	0	<b>0</b>	0	0.00%	
Transfer to Reserves	10	(2,300,170)	0	<b>0</b>	0	0.00%	
<b>Amount attributable to financing activities</b>		<b>773,638</b>	<b>0</b>	<b>0</b>	0		
<b>Closing Funding Surplus / (Deficit)</b>		<b>0</b>	<b>8,709,453</b>	<b>8,411,678</b>			

**KEY INFORMATION**

▲ ▼ Indicates a variance between Year to Date (YTD) Actual and YTD Actual data as per the adopted materiality threshold. Refer to Refer to Note for an explanation of the reasons for the variance.

The material variance adopted by Council for the 2020-21 year is \$15,000 or 10.00% whichever is the greater.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

**SIGNIFICANT ACCOUNTING POLICIES**

**CURRENT AND NON-CURRENT CLASSIFICATION**

In the determination of whether an asset or liability is current or non-current, consideration is given to the time when each asset or liability is expected to be settled. The asset or liability is classified as current if it is expected to be settled within the next 12 months, being the Council's operational cycle. In the case of liabilities where Council does not have the unconditional right to defer settlement beyond 12 months, such as vested long service leave, the liability is classified as current even if not expected to be settled within the next 12 months. Inventories held for trading are classified as current even if not expected to be realised in the next 12 months except for land held for resale where it is held as non current based on Council's intentions to release for sale.

**EMPLOYEE BENEFITS**

The provisions for employee benefits relates to amounts expected to be paid for long service leave, annual leave, wages and salaries and are calculated as follows:

(i) Wages, Salaries, Annual Leave and Long Service Leave (*Short-term Benefits*)

The provision for employees' benefits to wages, salaries, annual leave and long service leave expected to be settled within 12 months represents the amount the City has a present obligation to pay resulting from employees services provided to balance date. The provision has been calculated at nominal amounts based on remuneration rates the City expects to pay and includes related on-costs.

(ii) *Annual Leave and Long Service Leave (Long-term Benefits)*

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date using the project unit credit method. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match as closely as possible, the estimated future cash outflows. Where the City does not have the unconditional right to defer settlement beyond 12 months, the liability is recognised as a current liability.

**PROVISIONS**

Provisions are recognised when: The council has a present legal or constructive obligation as a result of past events; it is more likely than not that an outflow of resources will be required to settle the obligation; and the amount has been reliably estimated. Provisions are not recognised for future operating losses. Where there are a number of similar obligations, the likelihood that an outflow will be required in settlement is determined by considering the class of obligations as a whole. A provision is recognised even if the likelihood of an outflow with respect to any one of item included in the same class of obligations may be small.

**INVENTORIES**

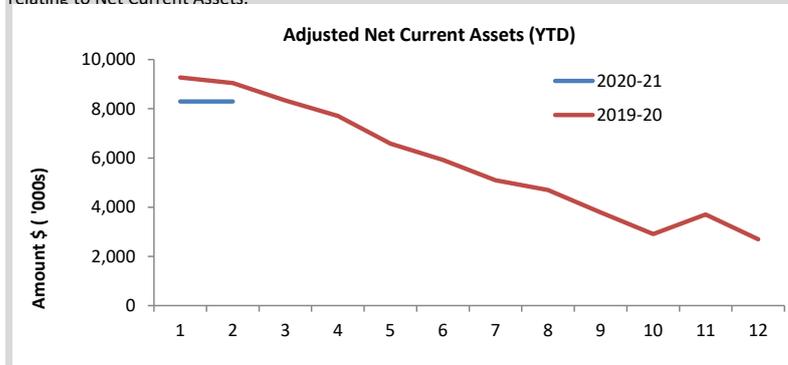
Inventories are measured at the lower of cost and net realisable value. Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

**Adjusted Net Current Assets**

	Previous Month Actual 30 Jun 2020	Year to Date Actual 31 Jul 2020
	\$	\$
<b>Current Assets</b>		
Cash Unrestricted	3,169,605	2,993,941
Cash Restricted - Reserves and Bonds/Deposits	4,075,039	4,047,131
Receivables - Rates and Rubbish, ESL, Excess Rates	312,134	6,349,512
Receivables - Other	332,391	288,929
Inventories	25,990	23,942
	7,915,159	13,703,455
<b>Less: Current Liabilities</b>		
Payables	(962,344)	(778,870)
Loan Liability	537	4,959
Provisions	(559,859)	(815,616)
	(1,521,666)	(1,589,527)
<b>Net Current Asset Position</b>	6,393,493	12,113,928
Less: Cash Restricted	(4,047,132)	(4,047,131)
Add Back: Component of Leave Liability not Required to be funded	360,583	360,583
Add Back: Current Loan Liability	(537)	(4,959)
Adjustment for Trust Transactions Within Muni	(8,895)	(10,743)
<b>Net Current Funding Position</b>	2,697,512	8,411,678

**SIGNIFICANT ACCOUNTING POLICIES**

Please see page 4 for information on significant accounting policies relating to Net Current Assets.



**KEY INFORMATION**

The amount of the adjusted net current assets at the end of the period represents the actual surplus (or deficit if the figure is a

<b>Year YTD Actual</b>
<b>Surplus(Deficit)</b>
<b>\$8.41 M</b>
<b>Last Month Actual</b>
<b>Surplus(Deficit)</b>
<b>\$2.7 M</b>

**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
FOR THE PERIOD ENDED 31 JULY 2020**

**EXPLANATION OF MATERIAL VARIANCES**

The material variance thresholds are adopted annually by Council as an indicator of whether the actual expenditure or revenue varies from the year to date Actual materially.

The material variance adopted by Council for the 2020-21 year is \$15,000 or 10.00% whichever is the greater.

Reporting Program	Var. \$	Var. %	Timing/ Permanent	Explanation of Variance
<b>Revenue from operating activities</b>	\$	%		
Community Amenities				Waste Transfer Station revenue is behind. As operational budgeting is spread over the year. As a result timing differences YTD often occur.
	(192,788)	(22.38%)	▼ Timing	
<b>Expenditure from operating activities</b>				
Transport				Maintenance activities have been kept to a minimum pending Budget adoption. This variance is due to operational budgeting is spread over the year. As a result timing differences YTD often occur.
	(96,073)	(48.13%)	▼ Timing	

**KEY INFORMATION**

**The 20 /21 Budget was not adopted until late July 2020. Operational activities were kept to a minimum as far as practicable until budget adoption.**

**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
FOR THE PERIOD ENDED 31 JULY 2020**

**OPERATING ACTIVITIES  
RECEIVABLES**

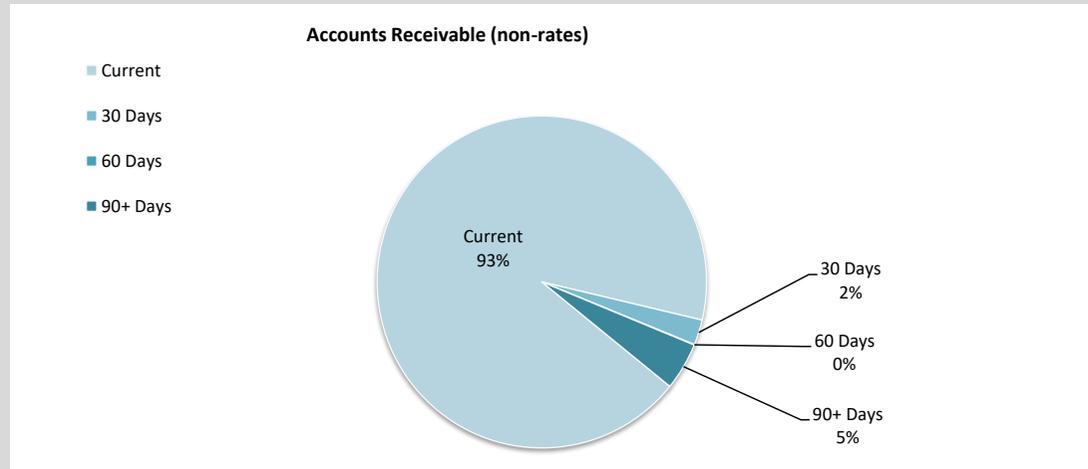
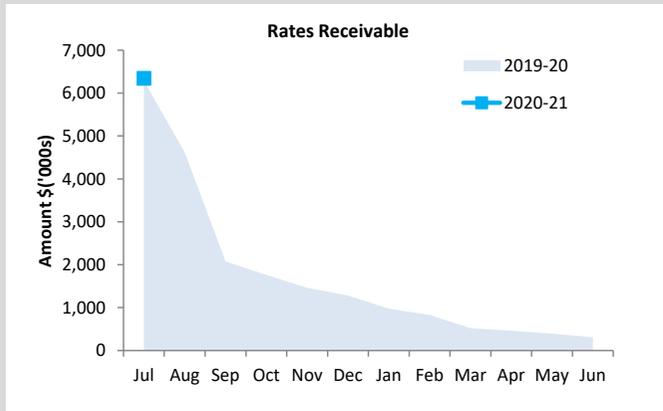
Rates Receivable	30 Jun 2020	31 Jul 20
	\$	\$
Opening Arrears Previous Years	644,525	312,134
Levied this year	4,812,392	4,931,379
Other Rates Debtors (ESL Rubbish Etc)	0	1,106,788
Less - Collections to date	(5,144,783)	(789)
<b>Equals Current Outstanding</b>	<b>312,134</b>	<b>6,349,512</b>
<b>Net Rates Collectable</b>	<b>312,134</b>	<b>6,349,512</b>
% Collected	94.3%	0%

Receivables - General	Credit	Current	30 Days	60 Days	90+ Days	Total
	\$	\$	\$	\$	\$	\$
Receivables - General	(176)	263,193	6,983	135	13,118	283,253
Percentage	-0.1%	92.9%	2.5%	0%	4.6%	
<b>Balance per Trial Balance</b>						
Sundry receivable	0	263,193	6,983	135	13,118	283,253
GST receivable	0	43,144	0	0	0	43,696
Allowance for impairment of receivables	(38,020)	0	0	0	0	(38,020)
<b>Total Receivables General Outstanding</b>						<b>288,929</b>

Amounts shown above include GST (where applicable)

**KEY INFORMATION**

Trade and other receivables include amounts due from ratepayers for unpaid rates and service charges and other amounts due from third parties for goods sold and services performed in the ordinary course of business. Receivables expected to be collected within 12 months of the end of the reporting period are classified as current assets. All other receivables are classified as non-current assets. Collectability of trade and other receivables is reviewed on an ongoing basis. Debts that are known to be uncollectible are written off when identified. An allowance for doubtful debts is raised when there is objective evidence that they will not be collectible.



<b>Debtors Due</b>
<b>\$288,929</b>
<b>Over 30 Days</b>
<b>7%</b>
<b>Over 90 Days</b>
<b>4.6%</b>

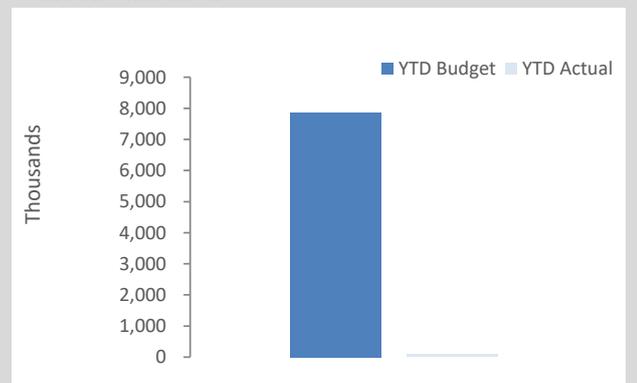
Collected	Rates Due
<b>0%</b>	<b>\$6,349,512</b>

Capital Acquisitions	Adopted		YTD Actual	YTD Actual Variance
	Budget	YTD Budget		
	\$	\$	\$	\$
Buildings	2,644,757	10,000	11,232	1,232
Furniture and equipment	94,000	0	0	0
Plant and equipment	1,171,000	0	0	0
Infrastructure - Roads	1,900,181	5,000	6,000	1,000
Footpaths	81,360	0	0	0
Drainage	30,000	0	0	0
Parks & Ovals	45,000	0	0	0
Townscape	0	0	0	0
Other	1,620,017	70,000	73,360	3,360
Bridges	270,000	0	104	104
<b>Capital Expenditure Totals</b>	<b>7,856,315</b>	<b>85,000</b>	<b>90,696</b>	<b>5,696</b>

**SIGNIFICANT ACCOUNTING POLICIES**

All assets are initially recognised at cost. Cost is determined as the fair value of the assets given as consideration plus costs incidental to the acquisition. For assets acquired at no cost or for nominal consideration, cost is determined as fair value at the date of acquisition. The cost of non-current assets constructed by the local government includes the cost of all materials used in the construction, direct labour on the project and an appropriate proportion of variable and fixed overhead. Certain asset classes may be revalued on a regular basis such that the carrying values are not materially different from fair value. Assets carried at fair value are to be revalued with sufficient regularity to ensure the carrying amount does not differ materially from that determined using fair value at reporting date.

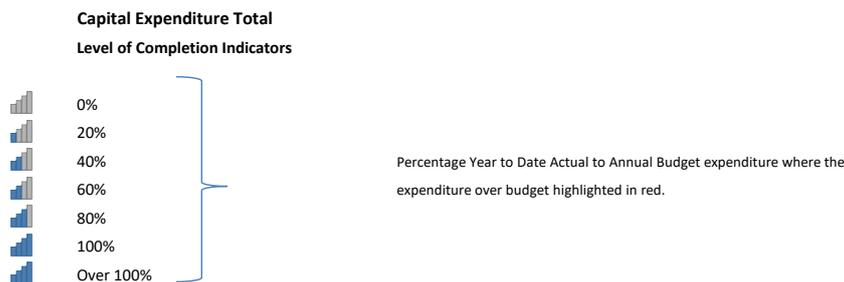
**KEY INFORMATION**



Acquisitions	Annual Budget	YTD Actual	% Spent
	<b>\$7.86 M</b>	<b>\$.09 M</b>	<b>1%</b>
Capital Grant	Annual Budget	YTD Actual	% Received
	<b>\$3.55 M</b>	<b>\$.00 M</b>	<b>6%</b>

To be read in conjunction with Strategic Projects Tracker

CAPITAL ACQUISITIONS (CONTINUED)



Level of completion indicator, please see table at the end of this note for further detail.

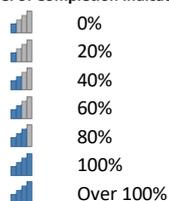
Capital Expenditure			Original Budget	Current Budget	YTD Budget	YTD Actual	YTD Variance (Under)/Over
Account Description	JOBS		\$	\$	\$	\$	\$
<b>Land and Buildings</b>							
Building Renovation Administration	4040260	LB011	26,297	26,297	0	95	(95)
Fire Prevention Building (Capital)	4040260	BC020	1,500,000	1,500,000	0	0	0
SES Training / Meeting Room	4080360	BC265	62,210	62,210	0	0	0
HACC - Building (Capital)	4080360	BC050	70,000	70,000	10,000	10,249	(249)
HACC - Building CCTV	4080360	BC051	10,000	10,000	0	0	0
NRLC Building (Capital)	4110260	BC160	30,000	30,000	0	0	0
NRLC Building Capital 2018-19	4110260	BC161	40,000	40,000	0	0	0
NRLC - Infrastructure Other (Capital - Outside)	4110260	IO161	132,398	132,398	0	0	0
NRLC - Infrastructure Other (Capital - Inside)	4110260	IO162	150,000	150,000	0	0	0
Library Building (Capital)	4110560	BC190	7,000	7,000	0	0	0
Railway Station Building (Capital)	4110860	BC200	18,250	18,250	0	0	0
Railway Station Resortation COVID recovery project	4110860	BC202	750,000	750,000	0	0	0
Town Hall (Federal St) Building Capital	4110160	BC150	80,000	80,000	0	0	0
Caravan Park Campers Kitchen Building Capital	4130260	BC234	5,000	5,000	0	888	(888)
Strata- Old Shire Building	4130650	BC255	20,000	20,000	0	0	0
30 Gray St Building upgrade	4130650	BC290	30,000	30,000	0	0	0
Admin Office Building Capital	4130560	BC260	13,000	13,000	0	0	0
			<b>2,944,155</b>	<b>2,944,155</b>	<b>10,000</b>	<b>11,232</b>	<b>(1,232)</b>
<b>Plant and Equipment</b>							
EHO Vehicle 2020	4050355	PA065B	30,000	30,000	0	0	0
NO05 Ranger Vehicle 2018	4050355	PA8163A	45,000	45,000	0	0	0
NGN417 RO Vehicle	4050355	PA007A	44,000	44,000	0	0	0
009NGN 2019 Toyota Camry Altise	4080455	PA043B	28,000	28,000	0	0	0
NGN219 CATS Vehicle 2021	4080750	PA014H	28,000	28,000	0	0	0
NGN00 EMDRS Vehicle 2020(2)	4100655	PA002K	46,500	46,500	0	0	0
NGN00 EMDRS Vehicle 2021(1)	4100655	PA002L	46,500	46,500	0	0	0
NGN00 EMDRS Vehicle 2021(2)	4100655	PA002M	46,500	46,500	0	0	0
NRLC - Plant & Equipment Other (Capital)	4110255	PE161	17,500	17,500	0	0	0
NO4719 John Deere Grader	4120350	PA978B	410,000	410,000	0	0	0
NO764 Bomag Twin Vibrating Roller	4120350	PA022A	45,000	45,000	0	0	0
NO023 Toyota Dual Cab 4x4	4120350	PA8165A	30,000	30,000	0	0	0
NO591 Toyoata Single Cab 4X4	4120350	PA8144A	35,000	35,000	0	0	0
BT50 UTE 2020 (WORKS) (P62)	4120350	PA062A	30,000	30,000	0	0	0
ON0 EMTRS Vehicle 2020 (1)	4120350	PA700J	46,500	46,500	0	0	0
ON0 EMTRS Vehicle 2020 (2)	4120350	PA700K	46,500	46,500	0	0	0
ON0 EMTRS Vehicle 2021 (1)	4120350	PA700L	46,500	46,500	0	0	0

	ONO EMTRS Vehicle 2021 (2)	4120350	PA700M	46,500	46,500	0	0	0
	ONGN EMCCS Vehicle 2019(2)	4140585	PA005H	43,000	43,000	0	0	0
	002 NGN MF Vehicle 2020	4140585	PA047E	30,000	30,000	0	0	0
	NGN 0 MLC Vehicle 2018	4140585	PA004D	30,000	30,000	0	0	0
				<b>1,171,000</b>	<b>1,171,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Furniture and Equipment</b>							
	Governance Furniture & Equipment							
	Replacements	4040250	FE028	5,000	5,000	0	0	0
	LIB - F&E Minor Assets	4110550	FE033	19,000	19,000	0	0	0
	ADMIN - IT Software & Equipment							
	(Capital)	4110580	FE100	60,000	60,000	0	0	0
	Computer Purchases	4080350	FE031	10,000	10,000	0	0	0
				<b>94,000</b>	<b>94,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Infrastructure - Roads</b>							
	Carpark Renewals (Capital)	4120145	IO023	17,320	17,320	0	0	0
	Earl Street - Renewal (Local)	4120165	IR002	29,400	29,400	0	0	0
	Moss Street - Upgrade (Local)	4120165	IR130	93,528	93,528	0	0	0
	Dongolocking Road - Upgrade (Rural)	4120165	IR209	101,846	101,846	0	0	0
	Narrakine Road South - Upgrade (Rural)	4120165	IR221	77,008	77,008	0	0	0
	Whinbin Rock Road - Renewal (Rural)	4120165	IR205	93,358	93,358	0	0	0
	Parks Road Renewal (Capital)	4120165	IR281	52,871	52,871	0	0	0
	Narrogin Valley Road - Renewal (Rural)	4120165	IR212	170,224	170,224	5,000	6,000	(1,000)
	Graham Road - Renewal (Local)	4120165	IR303	95,607	95,607	0	0	0
	Street Tree Capital	4120165	IRTREE	20,000	20,000	0	0	0
	Bannister St Renewal (R2R)	4120166	R2R003	23,555	23,555	0	0	0
	Bunbury St Renewal (R2R)	4120166	R2R006	4,884	4,884	0	0	0
	Francis Street - Renewal (Local) (R2R)	4120166	R2R054	4,432	4,432	0	0	0
	Grainger St Renewal (R2R)	4120166	R2R071	9,009	9,009	0	0	0
	Gregory St Renewal (R2R)	4120166	R2R026	3,749	3,749	0	0	0
	Hansard Street - Renewal (Local) (R2R)	4120166	R2R028	7,560	7,560	0	0	0
	Homer Street - Renewal (Local) (R2R)	4120166	R2R024	7,970	7,970	0	0	0
	Heath Street - Renewal (Local) (R2R)	4120166	R2R040	1,898	1,898	0	0	0
	Hughes St Renewal (R2R)	4120166	R2R092	4,554	4,554	0	0	0
	Keally St Renewal (R2R)	4120166	R2R087	4,138	4,138	0	0	0
	Narrakine Road - Renewal (R2R)	4120166	R2R112C	52,830	52,830	0	0	0
	Yale Pl Renewal (R2R)	4120166	R2R091	3,340	3,340	0	0	0
	Scotts St Renewal (R2R)	4120166	R2R049	4,158	4,158	0	0	0
	Olden St Renewal (R2R)	4120166	R2R078	2,772	2,772	0	0	0
	Parry Crt Renewal (R2R)	4120166	R2R115	3,960	3,960	0	0	0
	Congelin Rd Renewal (R2R)	4120166	R2R203	26,790	26,790	0	0	0
	Ried Rd Renewal (R2R)	4120166	R2R333	45,000	45,000	0	0	0
	Narrogin-Harrismith Road - Renewal (Local) (R2R)	4120166	R2R331	29,914	29,914	0	0	0
	Smith Street - Renewal (Local) (R2R)	4120166	R2R020	54,950	54,950	0	0	0
	Normans Lake Siding Rd Renewal (R2R)	4120166	R2R255	59,998	59,998	0	0	0
	William Kennedy Way Renewal (R2R)	4120166	R2R100	23,380	23,380	0	0	0
	Wagin-Wickepin Road - Renewal (Rural) (RRG)	4120167	RRG207	787,500	787,500	0	0	0
				<b>1,917,501</b>	<b>1,917,501</b>	<b>5,000</b>	<b>6,000</b>	<b>(1,000)</b>
	<b>Infrastructure - Footpaths</b>							
	Argus Street Footpath Construction	4120175	IF038	48,000	48,000	0	0	0
	Park Street Footpath Construction	4120175	IF052	27,360	27,360	0	0	0
	Memorial Park Footpath Construction	4120175	IF102	6,000	6,000	0	0	0
				<b>81,360</b>	<b>81,360</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Infrastructure - Drainage</b>							
	Drainage Works	4120180	ID000	30,000	30,000	0	0	0

				<b>30,000</b>	<b>30,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Infrastructure - Other</b>							
	White Road Refuse Site	4110165	IO024	10,000	10,000	0	0	0
	TWIS renewal	4100430	IO078	180,000	180,000	0	0	0
	Drainage Engineering consultancy - stormwater diversion	4100430	IO119	13,610	13,610	10,000	9,184	816
	May Street Public Toilet Upgrade	4100860	BC176	35,000	35,000	35,000	64,176	(29,176)
	COM AMEN - Building (Capital) - CBD							
	Ablution Upgrades	4100860	BC267	90,000	90,000	25,000	0	25,000
	Cemetery Upgrade	4100860	IO026	15,000	15,000	0	0	0
	CBD Design - Colour Palette and signage	4100860	IO100	15,000	15,000	0	0	0
	NRLC Infrastructure Other (Capital)	4110265	IO160	83,000	83,000	0	0	0
	Bowling Club Capital Projects	4110365	IO029	335,109	335,109	0	0	0
	Highbury Tennis Court	4110365	IO093	50,000	50,000	0	0	0
	Clayton Road Storm Water							
	Catchment Dam	4110365	IO116	35,000	35,000	0	0	0
	Projects NEXIS (Capital)	4100860	IO150	27,630	27,630	0	0	0
	IO Fencing Projects (Capital)	4120145	IO022	15,000	15,000	0	0	0
	Street Furniture	4120145	IO014	18,000	18,000	0	0	0
	DEPOT Rainwater Tank 120,000Lt	4120145	IO250	20,000	20,000	0	0	0
	Visitor Information Bay Upgrade (Williams Road)	4130260	IO094	8,000	8,000	0	0	0
	Caravan Park Resealing, Line Marking	4130265	IO081	110,000	110,000	0	0	0
				<b>1,060,349</b>	<b>1,060,349</b>	<b>70,000</b>	<b>73,360</b>	<b>(3,360)</b>
	<b>Infrastructure - Parks &amp; Gardens</b>							
	Street Furniture	4110165	IO014	18,000	18,000	0	0	0
	Gnarojin Park Cultural Heritage Management Plan	4100860	IO108	10,440	10,440	0	0	0
	Gnarojin Park Electrical Design Work	4100860	IO109	33,000	33,000	0	0	0
	Gnarojin Park Landscape Design	4100860	IO110	95,000	95,000	0	0	0
	Park Furniture (Capital)	4110360	IO174	35,000	35,000	0	0	0
	Street & Parks Solar Lighting (Capital)	4110360	IO175	10,000	10,000	0	0	0
	Railway Dam	4110365	IO018	61,000	61,000	0	0	0
	Gnarojin Community Garden Projects	4110860	IO101	10,000	10,000	0	0	0
	Gnarojin Park Hydrology Report	4100860	IO117	15,510	15,510	0	0	0
				<b>287,950</b>	<b>287,950</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>Infrastructure - Bridges</b>							
	Footbridge Refurbishment	4120181	IB001	0	0	0	104	(104)
	Manaring Bridge (R2R) (Capital)	4120181	IB002	270,000	270,000	0	0	0
				<b>270,000</b>	<b>270,000</b>	<b>0</b>	<b>104</b>	<b>0</b>
	<b>Grand Total</b>			<b>7,856,315</b>	<b>7,856,315</b>	<b>85,000</b>	<b>90,696</b>	<b>(5,592)</b>

#### Capital Expenditure Total

#### Level of Completion Indicators



Percentage YTD Actual to Revised Budget  
Expenditure over budget highlighted in red.

Variance is calculated on:  
YTD Budget vs YTD Actual

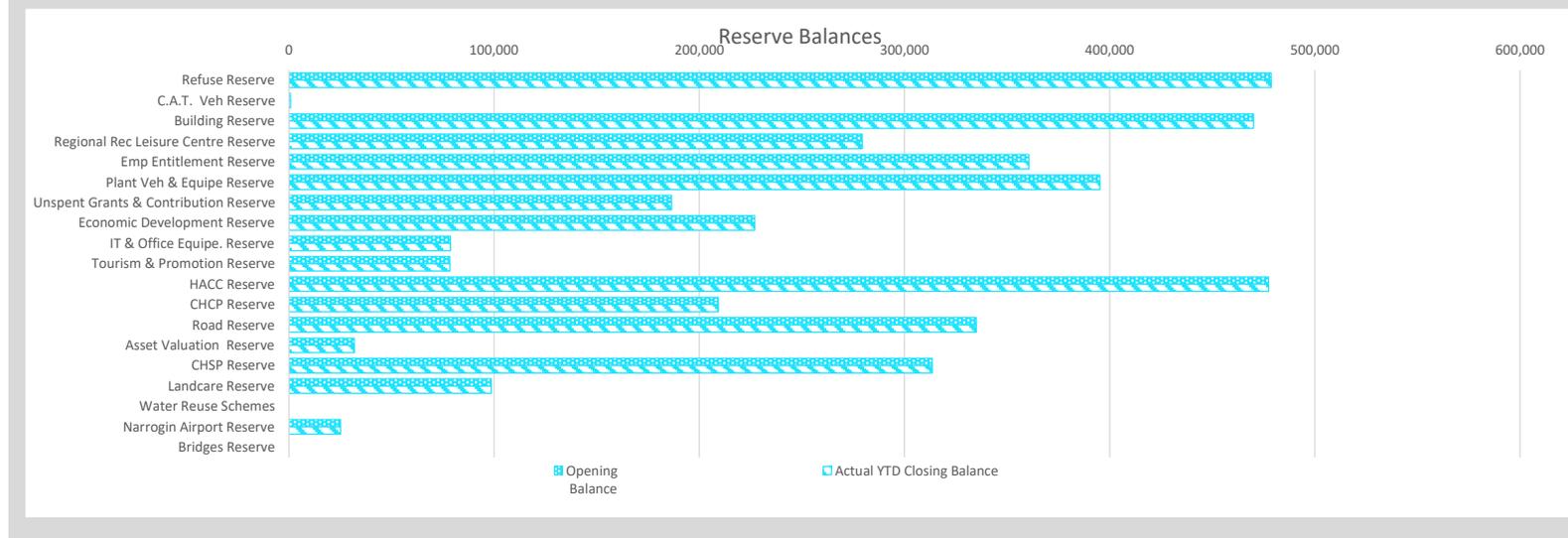
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
FOR THE PERIOD ENDED 31 JULY 2020**

**OPERATING ACTIVITIES  
CASH RESERVES**

**Cash Backed Reserve**

Reserve Name	Opening Balance	Budget Interest Earned	Actual Interest Earned	Budget Transfers In (+)	Actual Transfers In (+)	Budget Transfers Out (-)	Actual Transfers Out (-)	Budget Closing Balance	Actual YTD Closing Balance
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Refuse Reserve	478,789	7,239	0	50,213	0	(92,720)	0	443,521	478,789
C.A.T. Veh Reserve	794	42	0	13,000	0	(13,000)	0	836	794
Building Reserve	470,148	7,101	0	0	0	(158,297)	0	318,952	470,148
Regional Rec Leisure Centre Reserve	279,436	4,225	0	125,000	0	(215,000)	0	193,661	279,436
Emp Entitlement Reserve	360,583	5,452	0	0	0	0	0	366,035	360,583
Plant Veh & Equipe Reserve	395,308	5,159	0	425,000	0	(538,500)	0	286,967	395,308
Unspent Grants & Contribution Reserve	186,594	3,382	0	0	0	0	0	189,976	186,594
Economic Development Reserve	227,022	3,432	0	0	0	(208,059)	0	22,395	227,022
IT & Office Equipe. Reserve	78,802	1,191	0	0	0	(60,000)	0	19,993	78,802
Tourism & Promotion Reserve	78,521	1,187	0	0	0	0	0	79,708	78,521
HACC Reserve	477,523	7,434	0	41,554	0	(214,069)	0	312,442	477,523
CHCP Reserve	209,296	633	0	759,989	0	(462,415)	0	507,503	209,296
Road Reserve	335,003	5,065	0	0	0	0	0	340,068	335,003
Asset Valuation Reserve	31,844	0	0	0	0	0	0	31,844	31,844
CHSP Reserve	313,617	6,585	0	744,914	0	(1,045,401)	0	19,715	313,617
Landcare Reserve	98,681	1,492	0	0	0	0	0	100,173	98,681
Water Reuse Schemes	0	0	0	17,500	0	(25,000)	0	(7,500)	0
Narrogin Airport Reserve	25,171	381	0	15,000	0	0	0	40,552	25,171
Bridges Reserve	0	0	0	48,000	0	(35,000)	0	13,000	0
	<b>4,047,132</b>	<b>60,000</b>	<b>0</b>	<b>2,240,170</b>	<b>0</b>	<b>(3,067,461)</b>	<b>0</b>	<b>3,279,841</b>	<b>4,047,132</b>

**KEY INFORMATION**



**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
FOR THE PERIOD ENDED 31 JULY 2020**

**BUDGET AMENDMENTS**

Amendments to original budget since budget adoption. Surplus/(Deficit)

GL Code	Description	Council Resolution	Classification	Non Cash Adjustment	Increase in Available Cash	Decrease in Available Cash	Amended Budget Running Balance
				\$	\$	\$	\$
<b>Budget Adoption</b>			Opening Surplus				0
				<b>0</b>	<b>0</b>	<b>0</b>	

**Shire of Narrogin  
Strategic Projects 2019/20**

**For the Period Ended 30 June 2021**

Project Progress		
Complete	4	●
On Track	3	●
Off Track	2	●
In Trouble / Not Started	1	●

Value of Original Budget of Completed Projects:	\$0.00
Value of Actuals of Completed Projects:	\$0.00
\$ Under / (Over) of Completed Projects:	\$0.00
Actual v's Budget of Completed Projects %:	#DIV/0!

Total projects:	105
Total complete:	0
% complete:	0.00%

Item #	Account Number	Project Description	2019/20 Current Budget	Total Committed Expenditure	Responsible Officer	2020				2021				Comments
						1st Quarter Jul-Sep	2nd Quarter Oct-Dec	3rd Quarter Jan-Mar	4th Quarter Apr-Jul	1st Quarter Jul-Sep	2nd Quarter Oct-Dec	3rd Quarter Jan-Mar	4th Quarter Apr-Jul	
		<b>Governance</b>												0
1	4040250	Governance Furniture & Equipment Replacements	5,000.00	-	CEO	3	●							0
2	4040260	Building Renovation Administration	26,297.00	95.00	Azhar Awang	3	●							0
		<b>Law, Order &amp; Public Safety</b>												0
3	4050160	DFES Joint facility (100% DFES funded)	1,500,000.00	-	Azhar Awang	3	●							0
4	4050160	SES Training / Meeting Room (DFES Joint facility (100% DFES funded))	62,210.00	-	Azhar Awang	3	●							0
5	4050355	NO05 Ranger Vehicle 2018	45,000.00	-	Torre Evans	3	●							0
6	4050355	NGN417 RO Vehicle	44,000.00	-	Torre Evans	3	●							0
		<b>HEALTH</b>												0
7	4070355	EHO Vehicle 2020	30,000.00	-	Torre Evans	3	●							0
		<b>Education &amp; Welfare</b>												0
8	4080350	Computer Purchases (2 laptops, 2 scanners, 2 portable printers - for	10,000.00	-	Frank Ludovico	3	●							0
9	4080355	HACC - Building CCTV	10,000.00	-	Frank Ludovico	3	●							0
10	4080360	HACC - Building (Capital)	70,000.00	31,600.35	Frank Ludovico	3	●							0
11	4080455	009NGN 2019 Toyota Camry Altise	28,000.00	-	Frank Ludovico	3	●							0
12	4080750	NGN219 CATS Vehicle 2021	28,000.00	-	Frank Ludovico	3	●							0
		<b>Community Amenities</b>												0
13	4100165	White Road Refuse Site	10,000.00	-	Azhar Awang	3	●							0
14	4100165	Bin Surrounds	18,000.00	-	Torre Evans	3	●							0
15	4100450	TWIS Pipe Replacement	180,000.00	-	Torre Evans	3	●							0
16	4100450	Drainage Engineering consultancy -Moss St hydrology report	13,610.00	9,184.00	Torre Evans	3	●							0
17	4100655	NGN00 EMDRS Vehicle 2020(2)	46,500.00	-	Torre Evans	3	●							0
18	4100655	NGN00 EMDRS Vehicle 2021(1)	46,500.00	-	Torre Evans	3	●							0
19	4100655	NGN00 EMDRS Vehicle 2021(2)	46,500.00	-	Torre Evans	3	●							0
20	4100850	May Street Public Toilet Upgrade	35,000.00	97,165.00	Azhar Awang	3	●							0
21	4100850	COM AMEN - Building (Capital) - CBD Ablution Upgrades	90,000.00	-	Azhar Awang	3	●							0
22	4100850	Cemetery Upgrade	15,000.00	1,600.00	Torre Evans	3	●							0
23	4100860	CBD Design - Colour Palette and signage	15,000.00	-	Azhar Awang	3	●							0
24	4100850	Gnarojin Park Cultural Heritage Management Plan	10,440.00	10,433.48	Azhar Awang	3	●							0
25	4100850	Gnarojin Park Electrical Design Work	33,000.00	-	Azhar Awang	3	●							0
26	4100860	Gnarojin Park Landscape Design	95,000.00	-	Azhar Awang	3	●							0

**Shire of Narrogin  
Strategic Projects 2019/20**

**For the Period Ended 30 June 2021**

Project Progress		
Complete	4	●
On Track	3	●
Off Track	2	●
In Trouble / Not Started	1	●

Value of Original Budget of Completed Projects:	\$0.00
Value of Actuals of Completed Projects:	\$0.00
\$ Under / (Over) of Completed Projects:	\$0.00
Actual v's Budget of Completed Projects %:	#DIV/0!

Total projects:	105
Total complete:	0
% complete:	0.00%

Item #	Account Number	Project Description	2019/20 Current Budget	Total Committed Expenditure	Responsible Officer		2020				2021				Comments	
							1st Quarter Jul- Sep	2nd Quarter Oct - Dec	3rd Quarter Jan - Mar	4th Quarter Apr - Jul	1st Quarter Jul- Sep	2nd Quarter Oct - Dec	3rd Quarter Jan - Mar	4th Quarter Apr - Jul		
		<b>Recreation &amp; Culture</b>	-	-	-	3	●									0
27	4110160	Town Hall Stage Rigging \$30,000	80,000.00	2,200.00	Azhar Awang	3	●									0
28	4110255	NRLC - Floor Scrubber \$10,000, Emergency Light Repair \$7,500	17,500.00	-	Azhar Awang	3	●									0
29	4110260	NRLC - Air Conditioning to Squash Courts	30,000.00	-	Azhar Awang	3	●									0
30	4110260	NRLC - Building Management System	40,000.00	-	Azhar Awang	3	●									0
31	4110265	NRLC - Carpark upgrade (Townscape)	132,398.00	2,920.00	Torre Evans	3	●									0
32	4110265	NRLC - HVAC Renewal/Upgrade	150,000.00	982.00	Torre Evans	3	●									0
33	4110265	NRLC - Shade Sails \$10,000, Conversion to grass of old 50m Pool \$73,000	83,000.00	-	Torre Evans	3	●									0
34	4110360	Park Furn 20/21 \$20,000 & 2xPark shelters over existing tables - Ashworth,	35,000.00	-	Torre Evans	3	●									0
35	4110360	Street & Parks Solar Lighting Garfield, Northwood & Yale Parks	10,000.00	-	Torre Evans	3	●									0
36	4110365	Railway Dam Improvements - Yr.1 carparking, bin, BBQ, picnic table, RV plan	61,000.00	-	Torre Evans	3	●									0
37	4110365	Synthetic Turf Narrogin Bowling Club Shire 1/3, Bowling Club 1/3, Grant 1/3	335,109.00	-	Torre Evans	3	●									0
38	4110365	Highbury Tennis Court Resurfacing	50,000.00	42,500.00	Torre Evans	3	●									0
39	4110365	Clayton Road Storm Water Catchment Engineering Hydrology Report	35,000.00	16,800.00	Torre Evans	3	●									0
40	4110560	Library Building (Capital) window treatments	7,000.00	-	Frank Ludovico	3	●									0
41	4110550	LIB - F&E Rechargeable Tables for public use	19,000.00	-	Frank Ludovico	3	●									0
42	4110660	Railway Station Building (Capital)	18,250.00	18,250.00	Torre Evans	3	●									0
43	4110660	Railway Station Resortation COVID recovery project	750,000.00	-	Torre Evans	3	●									0
44	4110860	Gnarrojin Community Garden Projects	10,000.00	-	Azhar Awang	3	●									0
45	4110860	Gnarrojin Park Hydrology Report	15,510.00	15,510.00	Torre Evans	3	●									0
46	4110860	Project NEXIS - Track Lighting Gallery & Hallway	27,630.00	-	Azhar Awang	3	●									0
		<b>Transport</b>	-	-	-	3	●									0
47	4120145	Goods Shed Fencing	15,000.00	-	Torre Evans	3	●									0
48	4120145	Street Furniture	18,000.00	1,703.00	Torre Evans	3	●									0
49	4120145	DEPOT Rainwater Tank 120,000Lt	20,000.00	-	Torre Evans	3	●									0
50	4120145	Carpark Renewals (Capital)	17,320.00	-	Torre Evans	3	●									0
51	4120165	Earl Street - Renewal (Local)	29,400.00	-	Torre Evans	3	●									0
52	4120165	Moss Street - Upgrade (Local)	93,528.00	-	Torre Evans	3	●									0
53	4120165	Dongolocking Road - Upgrade (Rural)	101,846.00	-	Torre Evans	3	●									0
54	4120165	Narrakine Road South - Upgrade (Rural)	77,008.00	-	Torre Evans	3	●									0
55	4120165	Whinbin Rock Road - Renewal (Rural)	93,358.00	-	Torre Evans	3	●									0
56	4120165	Parks Road Renewal (Capital)	52,871.00	-	Torre Evans	3	●									0
57	4120165	Narrogin Valley Road - Renewal (Rural)	170,224.00	6,000.00	Torre Evans	3	●									0
58	4120165	Graham Road - Renewal (Local)	95,607.00	-	Torre Evans	3	●									0
59	4120165	Street Tree Capital	20,000.00	-	Torre Evans	3	●									0
60	4120166	Bannister St Renewal (R2R)	23,555.40	-	Torre Evans	3	●									0
61	4120166	Bunbury St Renewal (R2R)	4,884.00	-	Torre Evans	3	●									0
62	4120166	Francis Street - Renewal (Local) (R2R)	4,431.90	-	Torre Evans	3	●									0
63	4120166	Grainger St Renewal (R2R)	9,009.00	-	Torre Evans	3	●									0
64	4120166	Gregory St Renewal (R2R)	3,748.80	-	Torre Evans	3	●									0
65	4120166	Hansard Street - Renewal (Local) (R2R)	7,560.30	-	Torre Evans	3	●									0
66	4120166	Homer Street - Renewal (Local) (R2R)	7,969.50	-	Torre Evans	3	●									0
67	4120166	Heath Street - Renewal (Local) (R2R)	1,897.50	-	Torre Evans	3	●									0
68	4120166	Hughes St Renewal (R2R)	4,554.00	-	Torre Evans	3	●									0
69	4120166	Keally St Renewal (R2R)	4,138.20	-	Torre Evans	3	●									0

**Shire of Narrogin  
Strategic Projects 2019/20**

**For the Period Ended 30 June 2021**

Project Progress		
Complete	4	●
On Track	3	●
Off Track	2	●
In Trouble / Not Started	1	●

Value of Original Budget of Completed Projects:	\$0.00
Value of Actuals of Completed Projects:	\$0.00
\$ Under / (Over) of Completed Projects:	\$0.00
Actual v's Budget of Completed Projects %:	#DIV/0!

Total projects:	105
Total complete:	0
% complete:	0.00%

Item #	Account Number	Project Description	2019/20 Current Budget	Total Committed Expenditure	Responsible Officer		2020				2021				Comments	
							1st Quarter Jul- Sep	2nd Quarter Oct - Dec	3rd Quarter Jan - Mar	4th Quarter Apr - Jul	1st Quarter Jul- Sep	2nd Quarter Oct - Dec	3rd Quarter Jan - Mar	4th Quarter Apr - Jul		
70	4120166	Narrakine Road - Renewal (R2R)	52,829.70	-	Torre Evans	3	●									0
71	4120166	Yale Pl Renewal (R2R)	3,339.60	-	Torre Evans	3	●									0
72	4120166	Scotts St Renewal (R2R)	4,158.00	-	Torre Evans	3	●									0
73	4120166	Olden St Renewal (R2R)	2,772.00	-	Torre Evans	3	●									0
74	4120166	Parry Crt Renewal (R2R)	3,960.00	-	Torre Evans	3	●									0
75	4120166	Congelin Rd Renewal (R2R)	26,790.00	-	Torre Evans	3	●									0
76	4120166	Ried Rd Renewal (R2R)	44,999.60	-	Torre Evans	3	●									0
77	4120166	Narrogin-Harrismith Road - Renewal (Local) (R2R)	29,913.60	-	Torre Evans	3	●									0
78	4120166	Smith Street - Renewal (Local) (R2R)	54,950.00	-	Torre Evans	3	●									0
79	4120166	Normans Lake Siding Rd Renewal (R2R)	59,998.20	-	Torre Evans	3	●									0
80	4120166	William Kennedy Way Renewal (R2R)	23,380.00	-	Torre Evans	3	●									0
81	4120167	Wagin-Wickepin Road - Renewal (Rural) (RRG)	787,500.00	-	Torre Evans	3	●									0
82	4120175	Memorial Park Footpath Construction	6,000.00	-	Torre Evans	3	●									0
83	4120175	Argus Street Footpath Construction	48,000.00	-	Torre Evans	3	●									0
84	4120175	Park Street Footpath Construction	27,360.00	-	Torre Evans	3	●									0
85	4120180	Drainage Works - Falcone St	30,000.00	-	Torre Evans	3	●									0
86	4120181	Manaring Bridge (R2R) (Capital)	270,000.00	-	Torre Evans	3	●									0
		<b>Plant Purchases</b>	-	-	-	3	●									0
87	4120350	NO4719 John Deere Grader	410,000.00	-	Torre Evans	3	●									0
88	4120350	NO764 Bomag Twin Vibrating Roller	45,000.00	-	Torre Evans	3	●									0
89	4120350	NO023 Toyota Dual Cab 4x4	30,000.00	-	Torre Evans	3	●									0
90	4120350	NO591 Toyoata Single Cab 4X4	35,000.00	-	Torre Evans	3	●									0
91	4120350	BT50 UTE 2020 (WORKS) (P62)	30,000.00	-	Torre Evans	3	●									0
92	4120350	ONO EMTRS Vehicle 2020 (1)	46,500.00	-	Torre Evans	3	●									0
93	4120350	ONO EMTRS Vehicle 2020 (2)	46,500.00	-	Torre Evans	3	●									0
94	4120350	ONO EMTRS Vehicle 2021 (1)	46,500.00	-	Torre Evans	3	●									0
95	4120350	ONO EMTRS Vehicle 2021 (2)	46,500.00	-	Torre Evans	3	●									0
		<b>Economic Services</b>	-	-	-	3	●									0
96	4130260	Caravan Park Campers Kitchen Building Capital	5,000.00	888.00	Frank Ludovico	3	●									0
97	4130260	Visitor Information Bay Upgrade (Williams Road)	8,000.00	6,930.00	Frank Ludovico	3	●									0
98	4130265	Caravan Park Resealing, Line Marking	110,000.00	-	Torre Evans	3	●									0
99	4130650	Strata- Old Shire Building	20,000.00	-	Azhar Awang	3	●									0
100	4130650	30 Gray St Building upgrade	30,000.00	-	Azhar Awang	3	●									0
		<b>Other Property &amp; Services</b>	-	-	-	3	●									0
101	4140580	ADMIN - IT Software & Equipment (Capital)	60,000.00	-	Frank Ludovico	3	●									0
102	4140560	Admin Office Building Capital	13,000.00	-	Azhar Awang	3	●									0
103	4140585	ONGN EMCCS Vehicle 2019(2)	43,000.00	-	Torre Evans	3	●									0
104	4140585	002 NGN MF Vehicle 2020	30,000.00	-	Torre Evans	3	●									0
105	4140655	NGN 0 MLC Vehicle 2018	30,000.00	-	Torre Evans	3	●									0
<b>:PLEASE INSERT NEW PROJECTS ABOVE THIS LINE</b>																
			7,856,315.30	264,760.83												
			-	-												
<b>Capital Projects</b>			<b>7,856,315.30</b>	<b>264,760.83</b>												
Operational Projects			-	-												
			7,856,315.30	264,760.83												

## 10.4 OFFICE OF THE CHIEF EXECUTIVE OFFICER

### 10.4.1 Highbury District Community Council – Highbury Hall, Toilets and Shed (Portion of Reserve 9669) Lease

File Reference	A340067
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	7 July 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Highbury District Community Council

#### Summary

The Administration has drafted a 10 year lease, with an option of a further 10 years, over a portion of Reserve 9669 (Lots 26 and 27 Burley Street, Highbury), for the Highbury District Community Council (HDCC). The lease includes Highbury Hall, the toilets and shed. Council is requested to consider and approve the draft lease, and request the CEO to obtain Ministerial approval for the arrangement of leasing the portion of the reserve.

#### Background

There is currently no lease for the Highbury Hall, toilets or shed located on Reserve 9669, for which the Shire of Narrogin is the management authority on behalf of the Crown (the State Government). The Highbury Hall has been used by the Highbury District Community Council for a number of years in the past, however it is understood that this was by a verbal arrangement with the former Shire of Narrogin. As such, the Administration has seen it prudent that a lease agreement is put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The Highbury District Community Council acts as the representative body for the Highbury community and surrounds, which advocates to the Shire on particular issues or concerns, including the Highbury townscape. The Highbury Hall is used as a meeting point for the group as well as for other community group and activities on a regular basis.

The Hall was built in 1906 and is listed on the Shire's Local Heritage Inventory as a *GRADE B: High level of cultural heritage significance to Shire of Narrogin 'Heritage List.'* TPS: Development Application. Retain & conserve.



Figure 1: Highbury Hall

### Comment

The Highbury District Community Council performs the community role of advocating and lobbying on behalf of the residents of Highbury and its surrounds, on matters which directly affect it.

As there is no formal lease for the use of the premises by the organisation, the Shire has drafted a lease in consultation with the organisation for its use. The Highbury Hall and toilets are situated on the south-west portion of Reserve 9669 (Lot 27), adjacent to the Highbury tennis courts, with the shed located on the north-west portion of the reserve (Lot 26). The hall provides a public meeting point for residents of Highbury and its surrounds, and is used primarily by the Highbury District Community Council for meetings and community activities. The HDCC is also responsible for the community hall bookings, receiving any income derived from its hire.

The purpose of the reserve is stated as “Public Hall Site and Recreation” with the Shire as the vested management authority on behalf of the Crown (the State Government). In order to lease Crown Land, Ministerial approval is required before the vested management authority can lease the land to any party.



Figure 2: Reserve 9669 (Lots 26 and 27 Burley Street, Highbury)

## Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer; and
- Highbury District Community Council representatives including Mitch Wray and Danni Porter.

## Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.

## Policy Implications

There are no current or proposed relevant policy implications.

## Financial Implications

There are no new major financial implications in pursuing a lease for the premises. The lease is known as a 'peppercorn lease' which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit and not of exclusive use to any sporting club or group.

As the Shire is already responsible for most charges on the property, including insurance and water charges, there will be no extra financial impact on the organisation to continue bearing these costs. The Lessee acknowledges that it will meet all costs of power utilities and consumption for the reserve and as there is no sub-meter, and also meets the costs for the Highbury Tennis Club and courts. As such, the Lessee will make fair and necessary arrangements with the other organisation, who shares the reserve, regarding the recoup of any costs.

The Shire will also continue responsibility for the payment of building insurance, all rates and refuse charges, Emergency Services Levy, termite treatment and inspection, and public building legislative requirements such as exit signage, as it has done so in the past.

The lease states that, notwithstanding Clauses 6.2 and 8, the Lessor, being the Shire of Narrogin, shall pay to the Highbury District Community Council an annual contribution of a sum no less than \$2,000.00 in acknowledgement of the role of managing the bookings and minor maintenance and cleaning requirements of the facilities for public benefit.

This relatively small sum can be accommodated within the existing Budget allocations.

The minimum contribution total over the lifetime of the lease will be no less than \$40,000.00 over the 20-year period. This in part acknowledges that the Association is incorporated and also must have their own public liability insurance, which also protects the interest of the volunteers, the executive of the Committee and also the Council and Shire as land and asset owner (and landlord).

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2 Build a healthier and safer community
Strategy:	2.2.1 Support the provision of community security services and facilities
Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2 Engage and support community groups and volunteers

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3 Efficient use of resources
Strategy:	3.3.1 Increase resource usage efficiency

## Voting Requirements

Simple Majority.

### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.010**

Moved: Cr Seale                      Seconded: Cr Early

That with respect to the proposed lease over the Highbury Hall and Toilets, on portion of Reserve 9669, request the Chief Executive Officer to seek consent of the Minister for Lands and subject to receiving this, authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Highbury District Community Council in the substantive form of the draft attached to this report, for an initial 10 year term, commencing on 1 September 2020, with the option of a further 10 years

**CARRIED 9/0**

# Lease **Highbury Hall, Toilets and Shed** (Portion of Reserve 9669)

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Shire of Narrogin

Highbury District Community Council Inc.



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### **Shire of Narrogin**

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### **Highbury District Community Council Inc.**

of PO Box  
HIGHBURY WA 6313

(Lessee)

## Background

- A The Lessor has the care, control and management of the Land pursuant to a management order.
- B Subject to the prior written approval of the Minister for Lands, the Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

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### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Management Order** means the Management Order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Lessor to be held for the purpose of Recreation;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;

- (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

This Lease is subject to and conditional on the prior approval of the Minister for Lands under the *Land Administration Act 1997*.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, for so long as the Lessor is the management body of the Premises under a management order, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

## Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

## Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;
  - (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

## Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

## Costs

- (3) To pay to the Lessor on demand:
  - (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and

- (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
  - (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;
  - (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
  - (d) any work done at the Lessee's request; and
  - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

#### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

#### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

## Building Insurance to be effected by Lessor

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:
  - (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
  - (ii) any work carried out by or on behalf of the Lessee on the Premises;
  - (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
  - (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
  - (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
  - (vi) an act or omission of the Lessee.

## Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.
- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## No indemnity for Lessor's negligence

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

## Release

- (4) The Lessee:
    - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
    - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
      - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
      - (ii) loss of or damage to the Premises or personal property of the Lessee; and
      - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area
- except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## 10. Limit of Lessor's liability

### No liability for loss on Premises

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### Limit on liability for breach of Lessor's covenants

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 11. Maintenance, repair and cleaning

### Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any plumbing;
  - (c) any air-conditioning fittings and fixtures;
  - (d) any gas fittings and fixtures,

in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (3) The Lessee must take such reasonable action as is necessary to:
  - (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and

- (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

### **Cleaning**

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

### **Repair**

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

### **Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

### **Maintain surroundings**

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

### **Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

### **Pest control**

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

### **Painting**

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;

- (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
- (c) comply will all reasonable directions given or requests made by the Lessor; and
- (d) be finished in a proper and workmanlike manner.

### **Drains**

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.
- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## **12. Use**

### **Restrictions on use**

#### **(1) Generally**

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### **(2) No offensive or illegal acts**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### **(3) No nuisance**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### **(4) No dangerous substances**

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;

- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

**(5) No harm or stress**

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

**(6) No signs**

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any

music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

### **Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

### **Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## **13. Alcohol**

### **Consumption of alcohol**

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### **Liquor licence**

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and

- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

## Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or
  - (d) permit the Lessor to carry out those other works at the Lessee's expense,
- in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;

- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

### **Forfeiture**

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

### **Lessor may remedy breach**

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

### **Acceptance of Amount Payable By Lessor**

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

### **Essential Terms**

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;

- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

## Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;

- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### **Remove property prior to termination**

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## 26. Casual Hire of Premises

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## 27. Assignment, Subletting and Charging

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Minister for Lands, the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

## **Lessor's Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

## **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

## **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

## **Property Law Act 1969**

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

## **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
  - (f) any consents required under this Lease or at law; and
  - (g) all other matters relating to the proposed assignment or sub-letting,
- whether or not the assignment or Sub-letting proceeds.

## No mortgage or charge

The Lessee must not mortgage nor charge the Premises.

## 28. Disputes

### Referral of Dispute: Phase 1

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### Referral of Dispute: Phase 2

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### Appointment of Arbitrator: Phase 3

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### Payment of Amounts Payable to Date of Award

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## 29. Prior notice of proposal to change rules

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## 30. Provision of information

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## 31. Right to terminate upon notice

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor and the Minister for Lands, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### **Lessee to pay GST**

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.
- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### **Consideration in Kind**

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## **34. No Fetter**

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

## Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;
- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### No general waiver

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

## **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of Reserve 9669 and comprising the Highbury Hall, Public Toilets and Shed as depicted in green outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in GREEN outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2030.

## Item 3 Further Term

10 years commencing on 1 September 2030 and expiring on 31 August 2040.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Public Hall, Recreation & Cultural Activities.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

February 2030 and February 2040.

## Item 10 Additional terms and covenants

- a) For clarity this lease does not cover the maintenance or lease of the following;
- i. Carparks;
  - ii. Wilbur Park and Gazebo; and
  - iii. Public Playground.
- b) For clarity, the lessee is entitled to all income derived from the property, to be utilised by the lessee in accord with its objects of Association and / or the upkeep or improvements to the demised premises;
- c) Notwithstanding Clauses 6.2 and 8 of the lease, and due to the fact that the Hall, Toilets and ancillary shed is provided and used for community benefit as a Community Hall; and not exclusive use of a sporting club or group, the lessor agrees to paying all the following outgoings;
- An annual contribution to the lessee, to be determined from time to time by the lessor, which will not be less than \$2,000, which acknowledge the role of managing the bookings and general minor maintenance and cleaning requirements of the facilities for the public benefit for the locality;
  - Building insurance;
  - All rates and refuse charges;
  - Emergency service levies;
  - Termite treatment and inspections;
  - Public Building legislative requirements, such as exit signage; and
  - Water charges and consumption on the Reserve due to their being no sub-meter and the fact that Wilbur Park is maintained by the lessor.
- d) The lessee acknowledges that it will meet all costs of power utilities and consumption for the Reserve due to their being no sub-meter, notwithstanding that this also includes the Highbury Tennis Club and Courts power usage and will make fair and reasonable necessary arrangements with that organisation should it seek to recoup any costs of power consumption associated with the organisations lease of portion of the same Reserve; and
- e) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease.

# Signing page

---

EXECUTED [add day and month] 2020

**THE COMMON SEAL of THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the Highbury Community District Hall Inc. pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Green Outline)



# Annexure 2 – Minister for Lands' Consent

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Cr Wiese declared an impartiality interest in the following item.

#### 10.4.2 PROPOSED LEASE OF PORTION OF RESERVE 9669 – Highbury Tennis Club

File Reference	A340067
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	7 July 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Highbury Tennis Club

#### Summary

The Administration has drafted a 10 year lease, with an option of a further 10 years, over a portion of Reserve 9669 (Lots 26 and 27 Burley Street, Highbury), for the Highbury Tennis Club. The lease includes the tennis courts, clubrooms and hit-up wall. Council is requested to consider and approve the draft lease, and request the CEO to obtain Ministerial approval for the arrangement of leasing the portion of the reserve.

#### Background

There is currently no lease for the Highbury Tennis Club to utilise the tennis courts and clubrooms on Reserve 9669, for which the Shire of Narrogin is the management authority on behalf of the Crown (the State Government). The facilities have been used by the Highbury Tennis Club for a number of years in the past, however it is understood that this was by a verbal arrangement with the former Shire of Narrogin. As such, the Administration has seen it prudent that a lease agreement is put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The Highbury Tennis Club is a sporting group local to Highbury and the surrounding area, but not exclusive to members of these areas.

#### Comment

The Highbury Tennis Club provides sporting opportunities to residents of Highbury and its surrounds, through the provision of tennis facilities and competitions.

As there is no formal lease for the use of the premises by the organisation, the Shire has drafted a lease in consultation with the organisation for its use. The tennis courts, clubrooms and hit-up wall are situated on the central portion of Reserve 9669 (Lots 26 and 27), adjacent to the Highbury Hall.

The purpose of the reserve is stated as “Public Hall Site and Recreation” with the Shire as the vested management authority on behalf of the Crown (the State Government). In order to lease Crown Land, Ministerial approval is required before the vested management authority can lease the land to any party.



*Figure 1: Reserve 9669 (Lots 26 and 27 Burley Street, Highbury)*

## Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer; and
- Highbury Tennis Club representative Lauren Clarke.

## Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.

## Policy Implications

There are no current or proposed relevant policy implications.

## Financial Implications

There are no new major financial implications in pursuing a lease for the premises. The lease is known as a 'peppercorn lease' which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit through the organisation.

As the Shire is already responsible for any charges on the property, including insurance and water charges, there will be no extra financial impact on the organisation to continue bearing these costs. The Lessee acknowledges that it will make fair and necessary arrangements with the Highbury District Community Council, who shares the reserve and power consumption, regarding the reimbursement of any costs required.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027		
Objective	2.	Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2	Build a healthier and safer community
Strategy:	2.2.1	Support the provision of community security services and facilities
Outcome:	2.3	Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2	Engage and support community groups and volunteers

Objective	3.	Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3	Efficient use of resources
Strategy:	3.3.1	Increase resource usage efficiency

## Voting Requirements

Simple Majority.

### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.011**

Moved: Cr Fisher                      Seconded: Cr Early

That with respect to the proposed lease over the Highbury Tennis Courts and Pavilion, on portion of Reserve 9669, request the Chief Executive Officer to seek consent of the Minister for Lands and subject to receiving this, authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Highbury Tennis Club in the substantive form of the draft attached to this report, for an initial 10 year term, commencing on 1 September 2020, with the option of a further 10 years

**CARRIED 9/0**

# Lease **Highbury Tennis Club** (Portion of Reserve 9669)

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Shire of Narrogin

Highbury Tennis Club Incorporated



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### **Shire of Narrogin**

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### **Highbury Tennis Club Incorporated**

of PO Box  
HIGHBURY WA 6313  
(Lessee)

## Background

- A The Lessor has the care, control and management of the Land pursuant to a management order.
- B Subject to the prior written approval of the Minister for Lands, the Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

---

### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Management Order** means the Management Order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Lessor to be held for the purpose of Recreation;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;

- (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

This Lease is subject to and conditional on the prior approval of the Minister for Lands under the *Land Administration Act 1997*.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, for so long as the Lessor is the management body of the Premises under a management order, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

## Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

## Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;
  - (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

## Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

## Costs

- (3) To pay to the Lessor on demand:
  - (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and

- (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
  - (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;
  - (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
  - (d) any work done at the Lessee's request; and
  - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

#### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

#### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

## Building Insurance to be effected by Lessor

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:
  - (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
  - (ii) any work carried out by or on behalf of the Lessee on the Premises;
  - (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
  - (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
  - (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
  - (vi) an act or omission of the Lessee.

## Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.
- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## No indemnity for Lessor's negligence

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

## Release

- (4) The Lessee:
    - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
    - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
      - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
      - (ii) loss of or damage to the Premises or personal property of the Lessee; and
      - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area
- except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## 10. Limit of Lessor's liability

### No liability for loss on Premises

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### Limit on liability for breach of Lessor's covenants

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 11. Maintenance, repair and cleaning

### Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any plumbing;
  - (c) any air-conditioning fittings and fixtures;
  - (d) any gas fittings and fixtures,

in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (3) The Lessee must take such reasonable action as is necessary to:
  - (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and

- (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

### **Cleaning**

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

### **Repair**

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

### **Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

### **Maintain surroundings**

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

### **Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

### **Pest control**

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

### **Painting**

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;

- (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
- (c) comply will all reasonable directions given or requests made by the Lessor; and
- (d) be finished in a proper and workmanlike manner.

### **Drains**

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.
- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## **12. Use**

### **Restrictions on use**

#### **(1) Generally**

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### **(2) No offensive or illegal acts**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### **(3) No nuisance**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### **(4) No dangerous substances**

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;

- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

**(5) No harm or stress**

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

**(6) No signs**

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any

music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

### **Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

### **Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## **13. Alcohol**

### **Consumption of alcohol**

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### **Liquor licence**

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and

- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

## Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or
  - (d) permit the Lessor to carry out those other works at the Lessee's expense,
- in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;

- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

### **Forfeiture**

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

### **Lessor may remedy breach**

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

### **Acceptance of Amount Payable By Lessor**

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

### **Essential Terms**

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;

- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

## Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;

- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### **Remove property prior to termination**

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## 26. Casual Hire of Premises

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## 27. Assignment, Subletting and Charging

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Minister for Lands, the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

## **Lessor's Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

## **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

## **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

## **Property Law Act 1969**

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

## **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
  - (f) any consents required under this Lease or at law; and
  - (g) all other matters relating to the proposed assignment or sub-letting,
- whether or not the assignment or Sub-letting proceeds.

## **No mortgage or charge**

The Lessee must not mortgage nor charge the Premises.

## **28. Disputes**

### **Referral of Dispute: Phase 1**

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### **Referral of Dispute: Phase 2**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### **Appointment of Arbitrator: Phase 3**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### **Payment of Amounts Payable to Date of Award**

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## **29. Prior notice of proposal to change rules**

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## **30. Provision of information**

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## 31. Right to terminate upon notice

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor and the Minister for Lands, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### **Lessee to pay GST**

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.
- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### **Consideration in Kind**

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## **34. No Fetter**

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

## Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;
- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### No general waiver

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

## **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of Reserve 9669 and comprising the Highbury Tennis Clubrooms, Courts and Hit-up Wall as depicted in green outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in GREEN outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2030.

## Item 3 Further Term

10 years commencing on 1 September 2030 and expiring on 31 August 2040.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable.

## Item 7 Permitted purpose

Tennis Club and tennis or ancillary sporting activities.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

February 2030 and February 2040.

## Item 10 Additional terms and covenants

- a) For clarity this lease does not cover the maintenance or lease of the following;
  - i. Carparks;
  - ii. Wilbur Park and Gazebo; and
  - iii. Public Playground.
- b) For clarity, the lessee is entitled to all income derived from the property, to be utilised by the lessee in accord with its objects of Association and / or the upkeep or improvements to the demised premises;
- c) The lessee paying all outgoings including but not limited to all rates and refuse charges, emergency service levies and utilities on the property;
- d) Notwithstanding clause (c) above;
  - i. The Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995; and
  - ii. Water rates and consumption will be met by the lessor as there is no sub-meter and the water also services the adjoining public Wilbur Park and Highbury Community Hall.
- e) The fixed building assets on the property being insured by the Shire of Narrogin and the lessee is being required to reimburse the Shire for that expense;
- f) The lessee acknowledges that there is no sub-meter for the Reserve with respect to power and that accordingly it will make fair and reasonable arrangements with the Highbury District Community Council Inc. to reimburse them, on demand, its share of energy consumption and charges reasonably attributable to the Highbury Tennis Club and Courts usage; and
- g) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease.

# Signing page

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EXECUTED [add day and month] 2020

**THE COMMON SEAL** of **THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the Highbury Tennis Club Incorporated pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Green Outline)



# Annexure 2 – Minister for Lands' Consent

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### 10.4.3 PROPOSED LEASE OF RESERVE 13717 (LOT 15787 LAKES ROAD, NOMANS LAKE) – NOMANS LAKE COMMUNITY HALL COMMITTEE

File Reference	A340072
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	22 July 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Nomans Lake Community Hall Committee Inc.

#### Summary

The Administration has drafted a 10 year lease, with an option of a further 10 years, over a portion of Reserve 13717 (Lot 15787 Lakes Road, Nomans Lake), for the Nomans Lake Community Hall Committee. The lease includes the Nomans Lake Community Hall, toilets and playground on 0.4048 ha of land. Council is requested to consider and approve the draft lease, and request the CEO to obtain Ministerial approval for the arrangement of leasing the reserve.

#### Background

There is currently no lease for the Nomans Lake Community Hall Committee to utilise the hall, toilets or playground on Reserve 13717, for which the Shire of Narrogin is the management authority on behalf of the Crown (the State Government). The facilities have been used by the Nomans Lake Community for a number of years in the past, however it is understood that this was by a verbal arrangement with the former Shire of Narrogin. As such, the Administration has seen it prudent that a lease agreement is put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The Nomans Lake Community Hall is used for the Country Women’s Association (CWA) meetings and agricultural group and grower meetings, as well as bushfire brigade meetings, Christmas Tree events, community playgroup and similar community gatherings and social activities from time to time.

The Reserve was vested in the Shire in 1990. The background prior to this has not been researched for the purposes of this report.

The Hall is listed on the Shire’s Local Heritage Inventory as a *GRADE C: Moderate level of cultural heritage significance to Shire of Narrogin. Retain & conserve.*



*Figure 2: Nomans Lake Hall 1912*

### Comment

The Nomans Lake Community Hall Committee use of the facilities through the local CWA branch and agricultural group meetings, providing a meeting point for residents in the area for these and other social activities.

As there is no formal lease for the use of the premises by the organisation, the Shire has drafted a lease in consultation with the organisation for its use. The community hall was built in 1912 and is situated in the centre of the Reserve 13717, the toilet block on the western portion and the playground adjoining the eastern part of the hall.

The purpose of the reserve is stated as “Agricultural Hall” with the Shire as the vested management authority on behalf of the Crown (the State Government). In order to lease Crown Land, Ministerial approval is required before the vested management authority can lease the land to any party.



*Figure 2: Reserve 13717 (Lot 15787 Lakes Road, Nomans Lake)*

## Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer; and
- Nomans Lake Community Hall Committee representatives, including Nathan Walker, Linda Kilpatrick and Alistair McDougall

## Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.

## Policy Implications

There are no current or proposed relevant policy implications.

## Financial Implications

The lease states that, notwithstanding Clauses 6.2 and 8, the Lessor, being the Shire of Narrogin, shall pay to the Nomans Lake Community Hall Committee an annual contribution of a sum no less than \$2,000.00 in acknowledgement of the role of managing the bookings and minor maintenance and cleaning requirements of the facilities for public benefit.

This relatively small sum can be accommodated within the existing Budget allocations.

The minimum contribution total over the lifetime of the lease will be no less than \$40,000.00 over the 20-year period. This in part acknowledges that the Association will have to become incorporated and also have their own public liability insurance, which has never been the case in the past, but protects the interest of the volunteers, the executive of the Committee and also the Council and Shire as land and asset owner (and landlord).

The Shire will also continue responsibility for the payment of building insurance, all rates and refuse charges, Emergency Services Levy, termite treatment and inspection, and public building legislative requirements such as exit signage, as it has done so in the past.

The Lessee will meet the costs of power utilities and consumption for the reserve. There is no scheme water to the reserve, toilets or Hall so no water rates or consumption charges.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2 Build a healthier and safer community
Strategy:	2.2.1 Support the provision of community security services and facilities

Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2 Engage and support community groups and volunteers

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3 Efficient use of resources
Strategy:	3.3.1 Increase resource usage efficiency

### Voting Requirements

Simple Majority.

#### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.012**

Moved: Cr Lushey                      Seconded: Cr Seale

Request the Chief Executive Officer to seek consent of the Minister for Lands and subject to receiving this, authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Nomans Lake Community Hall Committee in the substantive form of the draft attached to this report, for an initial 10 year term, commencing on 1 September 2020, with the option of a further 10 years.

**CARRIED 9/0**

# Lease Nomans Lake Community Hall, Toilets and Playground (Lot 15787 on Reserve 13717)

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Shire of Narrogin

**Nomans Lake Community Hall Committee Inc**



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### Shire of Narrogin

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### Nomans Lake Community Hall Committee Inc

of PO Box  
NARROGIN WA 6312

(Lessee)

## Background

- A The Lessor has the care, control and management of the Land pursuant to a management order.
- B Subject to the prior written approval of the Minister for Lands, the Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

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### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Management Order** means the Management Order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Lessor to be held for the purpose of Recreation;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;

- (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

This Lease is subject to and conditional on the prior approval of the Minister for Lands under the *Land Administration Act 1997*.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, for so long as the Lessor is the management body of the Premises under a management order, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

## Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

## Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;
  - (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

## Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

## Costs

- (3) To pay to the Lessor on demand:
  - (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and

- (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
  - (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;
  - (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
  - (d) any work done at the Lessee's request; and
  - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

#### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

#### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

## Building Insurance to be effected by Lessor

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:
  - (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
  - (ii) any work carried out by or on behalf of the Lessee on the Premises;
  - (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
  - (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
  - (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
  - (vi) an act or omission of the Lessee.

## Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.
- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## No indemnity for Lessor's negligence

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

## Release

- (4) The Lessee:
    - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
    - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
      - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
      - (ii) loss of or damage to the Premises or personal property of the Lessee; and
      - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area
- except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## 10. Limit of Lessor's liability

### No liability for loss on Premises

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### Limit on liability for breach of Lessor's covenants

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 11. Maintenance, repair and cleaning

### Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any plumbing;
  - (c) any air-conditioning fittings and fixtures;
  - (d) any gas fittings and fixtures,

in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (3) The Lessee must take such reasonable action as is necessary to:
  - (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and

- (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

### **Cleaning**

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

### **Repair**

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

### **Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

### **Maintain surroundings**

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

### **Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

### **Pest control**

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

### **Painting**

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;

- (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
- (c) comply will all reasonable directions given or requests made by the Lessor; and
- (d) be finished in a proper and workmanlike manner.

### **Drains**

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.
- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## **12. Use**

### **Restrictions on use**

#### **(1) Generally**

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### **(2) No offensive or illegal acts**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### **(3) No nuisance**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### **(4) No dangerous substances**

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;

- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

**(5) No harm or stress**

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

**(6) No signs**

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any

music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

### **Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

### **Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## **13. Alcohol**

### **Consumption of alcohol**

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### **Liquor licence**

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and

- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

## Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or
  - (d) permit the Lessor to carry out those other works at the Lessee's expense,
- in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;

- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

### **Forfeiture**

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

### **Lessor may remedy breach**

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

### **Acceptance of Amount Payable By Lessor**

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

### **Essential Terms**

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;

- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

## Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;

- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### **Remove property prior to termination**

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## 26. Casual Hire of Premises

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## 27. Assignment, Subletting and Charging

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Minister for Lands, the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

## **Lessor's Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

## **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

## **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

## **Property Law Act 1969**

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

## **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
  - (f) any consents required under this Lease or at law; and
  - (g) all other matters relating to the proposed assignment or sub-letting,
- whether or not the assignment or Sub-letting proceeds.

## No mortgage or charge

The Lessee must not mortgage nor charge the Premises.

## 28. Disputes

### Referral of Dispute: Phase 1

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### Referral of Dispute: Phase 2

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### Appointment of Arbitrator: Phase 3

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### Payment of Amounts Payable to Date of Award

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## 29. Prior notice of proposal to change rules

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## 30. Provision of information

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## 31. Right to terminate upon notice

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor and the Minister for Lands, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### **Lessee to pay GST**

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.
- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### **Consideration in Kind**

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## **34. No Fetter**

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

## Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;
- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### No general waiver

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

## **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Lot 15787 on Reserve 13717 and comprising the Nomans Lake Hall, Public Toilets and Playground as depicted in yellow outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in Yellow outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2030.

## Item 3 Further Term

10 years commencing on 1 September 2030 and expiring on 31 August 2040.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Public Hall, Recreation & Cultural Activities.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

February 2030 and February 2040.

## Item 10 Additional terms and covenants

- a) For clarity, the lessee is entitled to all income derived from the property, to be utilised by the lessee in accord with its objects of Association and / or the upkeep or improvements to the demised premises;
- b) Notwithstanding Clauses 6.2 and 8 of the lease, and due to the fact that the Hall and Toilets is provided and used for community benefit as a Community Hall; and not exclusive use of a sporting club or group, the lessor agrees to paying all the following outgoings;
  - An annual contribution to the lessee, to be determined from time to time by the lessor, which will not be less than \$2,000, which acknowledge the role of managing the bookings and general minor maintenance and cleaning requirements of the facilities for the public benefit for the locality;
  - Building insurance;
  - All rates and refuse charges;
  - Emergency service levies;
  - Termite treatment and inspections;
  - Public Building legislative requirements, such as exit signage; and
  - Public liability and safety inspections from time to time of the playground.
- c) The lessee acknowledges that it will meet all costs of power utilities and consumption for the reserve and maintain public liability insurance pursuant to Clause 8 to the amount specified in Item 8; and
- d) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease.

# Signing page

---

EXECUTED [add day and month] 2020

**THE COMMON SEAL of THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the **Noman Lake Community Hall Inc.**, pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Yellow Outline)

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# Annexure 2 – Minister for Lands' Consent

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#### 10.4.4 PROPOSED LEASE OF PORTION OF LOT 1561 CLAYTON ROAD, NARROGIN – NARROGIN AND DISTRICTS STUD SHEEP BREEDERS ASSOCIATION INC.

File Reference	A105217
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	7 July 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Narrogin and Districts Stud Sheep Breeders Association Inc.

#### Summary

The Administration has drafted a five (5) year lease, with an option of a further five (5) years, over a portion of Lot 1561 Clayton Road, Narrogin, for the Narrogin and Districts Stud Sheep Breeders Association. The lease includes the sheep pavilion located directly north of the hockey field. Council is requested to consider and approve the draft lease.

#### Background

There is currently no lease for the Narrogin and Districts Stud Sheep Breeders Association for the use of the sheep pavilion, which has been used by the community group for a number of years in the past. As such, the administration has seen it prudent that a lease agreement is put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The former Town of Narrogin, on 26 November 2002, resolved to enter into a lease with the Association for a period of 10 years with an option of five years (putting its expiry at approximately 2019 if it was prepared and executed. No such leased can however be located by either party (signed or unsigned).

#### Comment

There is currently no formal lease for the portion of Lot 1561 Clayton Road, Narrogin being the 'sheep pavilion'. Due to this, the Shire has drafted a lease in consultation with the organisation for its use. The pavilion is situated north-west of the Narrogin Regional Leisure Centre, comprising the fixed building only. The pavilion is used by the organisation multiple times per year.

As the Shire is the owner, and therefore management authority of the entire property being Lot 1561 Clayton Road, Narrogin, it has a responsibility to ensure that community organisation(s) who use the premises are appropriately insured, and the facilities are leased in a fair and equitable manner. As such, the Administration has seen it prudent that a lease is developed for the use of the shed by the community organisation.



*Figure 3: Portion of Lot 1561 Clayton Road (Sheep Pavilion)*

### **Consultation**

Consultation and negotiation has occurred between:

- Chief Executive Officer; and
- Narrogin and Districts Stud Sheep Breeders Association representatives, Sarah Blight and Richard Chadwick.

### **Statutory Environment**

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.
- The land is owned as a Crown Grant in Trust, so consent of the Minister for Lands is not required.

### **Policy Implications**

There are no current or proposed relevant policy implications.

### **Financial Implications**

There are no new major financial implications in pursuing a lease for the premises. The lease is known as a 'peppercorn lease' which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit and of exclusive use to a specific not for profit sporting or community group.

The only new financial aspect regarding the lease is the requirement for the Lessee to reimburse the Shire for the expenses of insurance on the fixed building and assets. This cost has been met directly by the Shire in the past on an annual basis, and so the recouping of these costs is an added financial benefit to the Shire. It is acknowledged that this may be an added cost to the group – although if they are currently insuring the shed privately, this should cease and will, in all probability, be more expensive than the insurance coverage obtained by the Shire through the Local Government Insurances Service ‘self-insurance’ scheme.

The costs of utilities (power and water) will need to continue to be met by the Shire due to there being no sub-meter on the property to distinguish proportionate use from other organisations and or the Shire’s own use on the lot. The cost of installing, reading and managing a sub-meter for the deemed relative small consumption of utilities is considered not justified.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2 Build a healthier and safer community
Strategy:	2.2.1 Support the provision of community security services and facilities
Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2 Engage and support community groups and volunteers

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3 Efficient use of resources
Strategy:	3.3.1 Increase resource usage efficiency

The current shed is somewhat strategically located abutting several important aspects of the Narrogin Regional Leisure Centre. To this end it has been identified in the Draft (out for public comment) Narrogin Sport & Recreation Infrastructure Plan Feasibility Study Report.

In that document it highlights the land that the shed is located on potentially restricts future expansion of facilities associated with the more highly utilised community activities of Netball and Hockey.

To overcome this strategy concern, the draft lease includes a clause number 31 (a) as follows:

*“(a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party”.*

The Association has noted this clause and respects the reasons why it is included and expects appropriate forward notice and consultation should the Shire ever wish to effect this clause. Some discussions between the Chief Executive Officer and the Executive of Narrogin Race and Pace have also occurred regarding the potential to build a *multibreed facility* in their desired future covered horse stables facility, potentially providing benefits to all three parties and the community as a whole.

## Voting Requirements

Simple Majority.

The CEO noted that the Stud Breeders Association and Narrogin Agricultural Society had requested the lease to be in joint names and therefore the CEO has amended the Officers Recommendation to reflect this.

### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.013**

Moved: Seale                      Seconded: Wiese

That with respect to the proposed lease over the Stud Breeders Shed on portion of lot 1561, Clayton Rd, Narrogin, the Council authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Narrogin and Districts Stud Breeders Association Inc. and the Narrogin Agricultural Society Inc. as tenants in common in the substantive form of the draft attached to this report, for an initial five (5) year term, commencing on 1 September 2020, with the option of the Lessee to a further five (5) years.

**CARRIED 9/0**

**Lease NARROGIN AND  
DISTRICTS STUD SHEEP  
BREEDERS ASSOCIATION  
INC (Portion of Lot 1561  
Clayton Road)**

---

Shire of Narrogin

Narrogin And Districts Stud Sheep Breeders  
Association Inc.



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

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Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### Shire of Narrogin

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### NARROGIN AND DISTRICTS STUD SHEEP BREEDERS ASSOCIATION INC

of PO Box 395  
NARROGIN WA 6312  
(Lessee)

## Background

- A The Lessor is registered as the proprietor of the land.
- B The Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

---

### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
  - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
  - (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;

- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

Clause not applicable.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

#### Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

#### Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;

- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

### Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

### Costs

- (3) To pay to the Lessor on demand:
- (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and
  - (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
- (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;

- (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
- (d) any work done at the Lessee's request; and
- (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

### **Building Insurance to be effected by Lessor**

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
- (ii) any work carried out by or on behalf of the Lessee on the Premises;
- (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
- (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
- (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease;  
or
- (vi) an act or omission of the Lessee.

### Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by

the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.

- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

### **No indemnity for Lessor's negligence**

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

### **Release**

- (4) The Lessee:
    - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
    - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
      - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
      - (ii) loss of or damage to the Premises or personal property of the Lessee; and
      - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area
- except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## **10. Limit of Lessor's liability**

### **No liability for loss on Premises**

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### **Limit on liability for breach of Lessor's covenants**

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.

- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 11. Maintenance, repair and cleaning

### Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:

- (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
- (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.

- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:

- (a) any electrical fittings and fixtures;
- (b) any plumbing;
- (c) any air-conditioning fittings and fixtures;
- (d) any gas fittings and fixtures,

in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.

- (3) The Lessee must take such reasonable action as is necessary to:

- (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and
- (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

### Cleaning

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

### Repair

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the

Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

### **Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

### **Maintain surroundings**

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

### **Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

### **Pest control**

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

### **Painting**

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;
  - (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
  - (c) comply will all reasonable directions given or requests made by the Lessor; and
  - (d) be finished in a proper and workmanlike manner.

### **Drains**

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the

Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.

- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## 12. Use

### Restrictions on use

#### (1) Generally

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### (2) No offensive or illegal acts

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### (3) No nuisance

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### (4) No dangerous substances

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;
- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

#### (5) No harm or stress

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

#### (6) No signs

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

**Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

**Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## 13. Alcohol

### Consumption of alcohol

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### Liquor licence

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and
- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

### Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or

- (d) permit the Lessor to carry out those other works at the Lessee's expense, in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;

- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;
- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

## Forfeiture

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

## Lessor may remedy breach

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

## Acceptance of Amount Payable By Lessor

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

## Essential Terms

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;

- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;
- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

### Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### **Peacefully surrender**

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;
- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### **Remove property prior to termination**

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-

conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## **26. Casual Hire of Premises**

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## **27. Assignment, Subletting and Charging**

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

### **Lessor’s Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;

- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,
 to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

### **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

### **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

### ***Property Law Act 1969***

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

### **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
- (f) any consents required under this Lease or at law; and
- (g) all other matters relating to the proposed assignment or sub-letting,

whether or not the assignment or Sub-letting proceeds.

### **No mortgage or charge**

The Lessee must not mortgage nor charge the Premises.

## **28. Disputes**

### **Referral of Dispute: Phase 1**

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from

time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### **Referral of Dispute: Phase 2**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### **Appointment of Arbitrator: Phase 3**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### **Payment of Amounts Payable to Date of Award**

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## **29. Prior notice of proposal to change rules**

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## **30. Provision of information**

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## **31. Right to terminate upon notice**

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### Lessee to pay GST

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.

- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### Consideration in Kind

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## 34. No Fetter

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

### Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;

- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### **No general waiver**

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

### **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of lot 1561 Clayton Road, Narrogin, and comprising the Narrogin And Districts Stud Sheep Breeders Association Inc. Shed, as depicted in RED outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in RED outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2025.

## Item 3 Further Term

Five (5) years commencing on 1 September 2025 and expiring on 31 August 2030.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Ram and Sheep selling and showing and ancillary agricultural show activities.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

Not applicable.

## Item 10 Additional terms and covenants

- a) The lessee is to pay all outgoings including but not limited to all rates and refuse charges, emergency service levies and utilities on the property;
- b) Notwithstanding clause (a) above;
  - i. The Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995; and
  - ii. Water rates and consumption and electricity consumption will be met by the lessor as there is no sub-meters to the shed and consumption is deemed to be ad-hoc, and minimal.
- c) The fixed building assets on the property being insured by the Shire of Narrogin and the lessee is being required to reimburse the Shire for that expense; and
- d) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease.

# Signing page

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EXECUTED [add day and month] 2020

**THE COMMON SEAL** of **THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the Narrogin And Districts Stud Sheep Breeders Association Inc. pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Red Outline)



#### 10.4.5 PROPOSED LEASE OF PORTION OF LOT 1117 BANNISTER STREET, NARROGIN (RESERVE 20443) – NARROGIN EAGLES SPORTING CLUB

File Reference	A109850
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	7 July 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Narrogin Eagles Sporting Club

#### Summary

The Administration has drafted a 10 year lease, with an option of a further 10 years, over a portion of Reserve 20443 (Lot 1117 Bannister Street, Narrogin), for the Narrogin Eagles Sporting Club Inc. The lease comprises the clubrooms adjacent to Thomas Hogg Oval. Council is requested to consider and approve the draft lease, and request the CEO to obtain Ministerial approval for the arrangement of leasing the portion of the reserve.

#### Background

The Administration contacted the club in January 2020 regarding proposing a lease of the premises, being the clubrooms on Reserve 20443 (Lot 1117 Clayton Road Narrogin), for which the Shire of Narrogin is the management authority on behalf of the Crown (the State Government). The facilities have been used by the Narrogin Eagles Sporting Club for a number of years in the past, and as such the Shire of Narrogin has drafted a new lease to come into effect, commencing on 1 September 2020.

The Narrogin Eagles Sporting Club is a local organisation which, in combination with Narrogin REVHEADS, utilises the venue and facilities at Thomas Hogg Grounds to coordinates numerous community and charitable events on an annual basis, donating funds to numerous community organisations, including the funding of the Shire of Narrogin C.A.T.S car.

The representatives of both groups have agreed however that the Narrogin Eagles Sporting Club is the appropriate Lessee.

#### Comment

The Narrogin Eagles Sporting Club provides community events multiple times per year, and uses these as a means for charitable fundraisers for various initiatives as well as a members sporting bar for social events, and sport activities such as eight ball and darts competitions. The clubrooms on Reserve 20443 serve as the meeting point for the organisation, including providing a place for the aforementioned charity and community events.

As a previous lease for the use of the premises by the organisation has not been sighted nor supplied by the existing occupier, the Shire has drafted a new lease in consultation with the organisation for its continuing use. The clubrooms are located on the south-east side of the Thomas Hogg Oval, on the eastern portion of the reserve. The proposed lease includes the adjoining 'REVHEADS Bar', but excludes community facilities such as the carpark, toilets and oval.

The potential to lease the nearby velodrome and or velodrome building (which is now vacant and without Lessee) was canvassed with the Club, however they declined the opportunity, noting that they were happy to continue 'keeping an eye' on the facility.

The clubrooms were from all reports originally constructed for / by the former Railways Football Club, which then was assumed by the then Eagles Football Club, which has evolved into the current day Narrogin Eagles Sporting Club Inc.

The objects of the Association are:

- (a) *"The raising of money for the purpose of providing money, property or benefits to other charitable or not for profit organisations that benefit person residing in the Upper Great Southern area of Western Australia;*
- (b) *promoting the Upper Great Southern area of Western Australia;*
- (c) *providing events and facilities for the purposes of sport, recreation or amusement;*
- (d) *promoting the interest of local communities within the Upper Great Southern area of Western Australia".*

The purpose of the reserve is stated as 'Recreation' with the Shire as the vested management authority on behalf of the Crown (the State Government). In order to lease Crown Land, Ministerial approval is required before the vested management authority can lease the land to any party.



*Figure 4: Reserve 20443 (Lots 1117 Bannister Street, Narrogin)*

## Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer;
- Narrogin REVHEADS; and
- Narrogin Eagles Sporting Club representatives.

## Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.
- It should also be noted that the premises has been used as a caretakers residence for many years without having obtained the formal approval of the Shire, pursuant to the former Town of Narrogin Town Planning Scheme No.2. The Shire's Senior Environmental Health Officer has inspected the property with this in mind and is satisfied that the building can qualify as a Class 4 Caretakers Residence, with minor building modifications including: provision of a laundry tub and demonstration of access to a shower, toilet and kitchen facility for use by the caretaker.

## Policy Implications

There are no current or proposed relevant policy implications.

## Financial Implications

There are no new major financial implications in pursuing an inaugural lease for the premises. The lease is known as a 'peppercorn lease' which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit through the organisation.

The new financial considerations emanating from the lease include:

- The Shire will be reimbursed for insurance charges on the property, which it currently pays now, as does the Club (with contents) to a separate insurance entity.
- Gas and electricity consumption charges will also be on-charged to the organisation, for which the Shire also currently bears these costs.
- Water consumption will continue to be borne by the Shire as there is no sub-meter for separating the buildings on the reserve from the velodrome building and public ablutions. The oval is watered with treated effluent.
- The Lessee is entitled to all income derived from the property, to be utilised by organisation for the objects of the organisation and/or upkeep of the premises.

In respect of the question of power consumption, which equates to approximately \$2,000 per annum, the Club seeks Council's dispensation from this charge, as has been the case for many years (if not decades), on the basis that surplus profits on trading are used to donate monies back to local charitable activities and groups. The draft lease is currently written with reimbursement of electricity consumption

by the Club (to the Shire) included, as is consistent with all other community facilities occupied by exclusive user groups (where relative power use can be readily ascertained).

It should be noted that the Council annually includes in its budgets a contribution to events held at Thomas Hogg grounds such as the annual Narrogin RevHeads event.

Additionally, from time to time, the Shire contributes to upgrades to the grounds and facilities via the Community Chest Grants Scheme.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2 Build a healthier and safer community
Strategy:	2.2.1 Support the provision of community security services and facilities
Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2 Engage and support community groups and volunteers

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3 Efficient use of resources
Strategy:	3.3.1 Increase resource usage efficiency

### Voting Requirements

Absolute Majority.

**OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.014**

Moved: Cr Bartron                      Seconded: Cr Seale

That with respect to the proposed lease over the Narrogin Eagles Sporting Clubrooms and Bar, on portion of Reserve 20443, Council:

1. Delegate authority for the Chief Executive Officer to waive the planning application fee and to grant planning approval for use of the premises as a caretakers residence subject to compliance with requirements of the Shire's Town Planning and Environmental Health Officers to satisfy a Class 4 Building; and
2. Request the Chief Executive Officer to seek consent of the Minister for Lands and subject to receiving this, authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Narrogin Eagles Sporting Club Inc. in the substantive form of the draft attached to this report, subject to the deletion of clause (b) ii of item 10 of the Schedule, for an initial 10 year term, commencing on 1 September 2020, with the option of a further 10 years.

**CARRIED 9/0  
BY ABSOLUTE MAJORITY**

**Lease Narrogin Eagles  
Sporting Club Inc (Portion  
of lot 1117 on Reserve  
20443, Bannister Street,  
Narrogin)**

---

Shire of Narrogin

Narrogin Eagles Sporting Club Inc



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### Shire of Narrogin

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### Narrogin Eagles Sporting Club Inc

of PO Box 299  
NARROGIN WA 6312

(Lessee)

## Background

- A The Lessor has the care, control and management of the Land pursuant to a management order.
- B Subject to the prior written approval of the Minister for Lands, the Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

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### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Management Order** means the Management Order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Lessor to be held for the purpose of Recreation;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;

- (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

This Lease is subject to and conditional on the prior approval of the Minister for Lands under the *Land Administration Act 1997*.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, for so long as the Lessor is the management body of the Premises under a management order, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

## Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

## Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;
  - (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

## Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

## Costs

- (3) To pay to the Lessor on demand:
  - (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and

- (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
  - (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;
  - (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
  - (d) any work done at the Lessee's request; and
  - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

#### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

#### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

## Building Insurance to be effected by Lessor

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:
  - (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
  - (ii) any work carried out by or on behalf of the Lessee on the Premises;
  - (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
  - (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
  - (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
  - (vi) an act or omission of the Lessee.

## Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.
- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## No indemnity for Lessor's negligence

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

## Release

- (4) The Lessee:
    - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
    - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
      - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
      - (ii) loss of or damage to the Premises or personal property of the Lessee; and
      - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area
- except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## 10. Limit of Lessor's liability

### No liability for loss on Premises

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### Limit on liability for breach of Lessor's covenants

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 11. Maintenance, repair and cleaning

### Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any plumbing;
  - (c) any air-conditioning fittings and fixtures;
  - (d) any gas fittings and fixtures,in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (3) The Lessee must take such reasonable action as is necessary to:
  - (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and

- (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

### **Cleaning**

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

### **Repair**

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

### **Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

### **Maintain surroundings**

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

### **Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

### **Pest control**

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

### **Painting**

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;

- (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
- (c) comply will all reasonable directions given or requests made by the Lessor; and
- (d) be finished in a proper and workmanlike manner.

### **Drains**

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.
- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## **12. Use**

### **Restrictions on use**

#### **(1) Generally**

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### **(2) No offensive or illegal acts**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### **(3) No nuisance**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### **(4) No dangerous substances**

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;

- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

**(5) No harm or stress**

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

**(6) No signs**

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any

music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

### **Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

### **Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## **13. Alcohol**

### **Consumption of alcohol**

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### **Liquor licence**

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and

- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

## Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or
  - (d) permit the Lessor to carry out those other works at the Lessee's expense,
- in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;

- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

### **Forfeiture**

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

### **Lessor may remedy breach**

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

### **Acceptance of Amount Payable By Lessor**

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

### **Essential Terms**

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;

- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

## Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;

- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### **Remove property prior to termination**

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## 26. Casual Hire of Premises

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## 27. Assignment, Subletting and Charging

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Minister for Lands, the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

## **Lessor's Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

## **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

## **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

## **Property Law Act 1969**

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

## **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
  - (f) any consents required under this Lease or at law; and
  - (g) all other matters relating to the proposed assignment or sub-letting,
- whether or not the assignment or Sub-letting proceeds.

## **No mortgage or charge**

The Lessee must not mortgage nor charge the Premises.

## **28. Disputes**

### **Referral of Dispute: Phase 1**

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### **Referral of Dispute: Phase 2**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### **Appointment of Arbitrator: Phase 3**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### **Payment of Amounts Payable to Date of Award**

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## **29. Prior notice of proposal to change rules**

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## **30. Provision of information**

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## 31. Right to terminate upon notice

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor and the Minister for Lands, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### **Lessee to pay GST**

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.
- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### **Consideration in Kind**

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## **34. No Fetter**

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

## Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;
- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### No general waiver

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

## **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of lot 1117 on Reserve 20443 and comprising the Narrogin Eagles Sporting Club and adjoining bar as depicted in green outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in GREEN outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2030.

## Item 3 Further Term

10 years commencing on 1 September 2030 and expiring on 31 August 2040.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Sporting Club and Licensed Bar and associated functions including live-in caretaker (no more than two (2) occupants).

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

February 2030 and February 2040.

## Item 10 Additional terms and covenants

- a) The lessee is to pay all outgoings including but not limited to all rates and refuse charges, emergency service levies and power and gas utilities on the demised premises.
- b) Notwithstanding clause (a) above;
  - i. The Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995.
  - ii. Water rates and consumption will be met by the lessor as there is no sub-meters to the Clubrooms and consumption is deemed to be minimal.
- c) The fixed building assets on the property being insured by the Shire of Narrogin and the lessee is being required to reimburse the Shire for that expense.
- d) For clarity, the lessee is entitled to all income derived from the property, to be utilised by the lessee in accord with its objects of Association and / or the upkeep or improvements to the demised premises.
- e) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease

# Signing page

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EXECUTED [add day and month] 2020

**THE COMMON SEAL of THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the **Narrogin Eagles Sporting Club Inc** pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

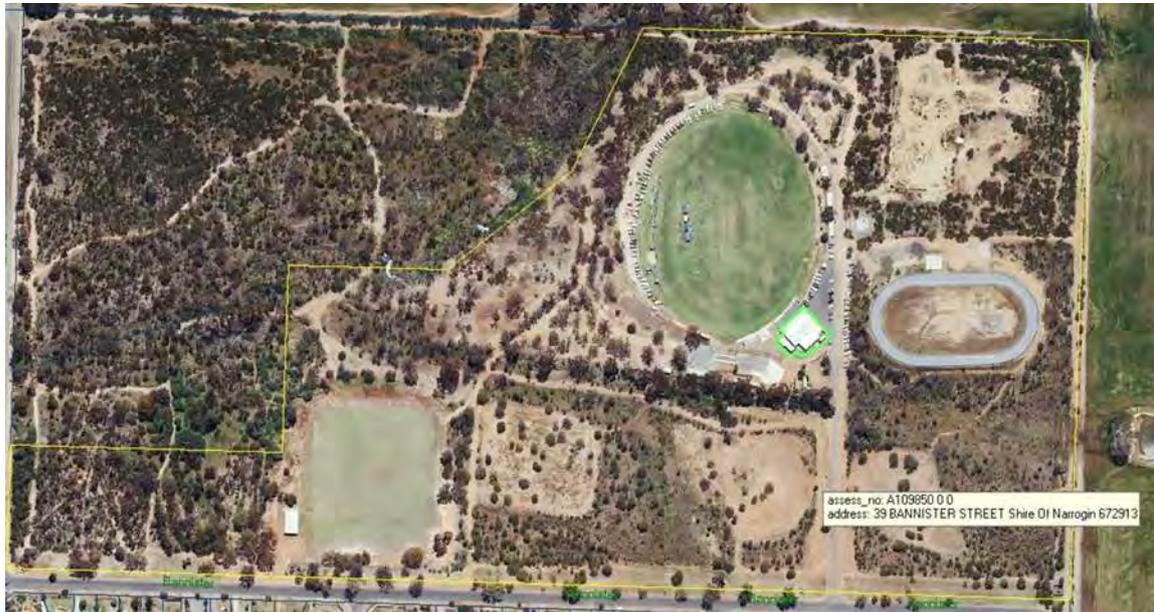
\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Green Outline)

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# Annexure 2 – Minister for Lands' Consent

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#### 10.4.6 PROPOSED LEASE OF PORTION OF LOT 1561 CLAYTON ROAD, NARROGIN – NARROGIN POULTRY SOCIETY

File Reference	A105216
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	14 July 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Narrogin Poultry Society

#### Summary

The Administration has drafted a five (5) year lease, with an option of a further five (5) years, over a portion of Lot 1561 Clayton Road, Narrogin for the Narrogin Poultry Society. The lease includes the poultry shed only, located on the west side of the property abutting May Street. Council is requested to consider and approve the draft lease.

#### Background

There is no current lease for the Narrogin Poultry Society to utilise the poultry shed on portion of Lot 1561, for which the Shire of Narrogin is the owner and management authority. The facilities have been used by the Narrogin Poultry Society for a number of years in the past, however it is understood that no signed renewal has ever been effected. As such, the Administration has seen it prudent that a lease agreement is put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The Narrogin Poultry Society is a not for profit incorporated community group, local to Narrogin and the surrounds, specialising in the area of poultry and fowl.

The previous lease expired on 30 June 2004 and a new 10 year lease, supposedly expiring in 2014, was approved by the Town of Narrogin by resolution on 22 February 2005. A copy of the proposed new lease has not been found.

#### Comment

There is currently no valid lease for the portion of Lot 1561 Clayton Road, Narrogin being the 'poultry shed'. Due to this, the Shire has drafted a lease in consultation with the organisation for its use. The shed is situated north-west of Clayton Oval, on the west side of the property which abuts May Street. The shed is used by the organisation multiple times per year.

As the Shire is the owner, and therefore management authority of the entire property being Lot 1561 Clayton Road, Narrogin. The Shire has a responsibility to ensure that community organisation(s) who use the premises are appropriately insured, and the facilities are leased in a fair and equitable manner.

As such, the Administration has seen it prudent that a lease is developed for the use of the shed by the community organisation.

The purposes of the lease are for 'Poultry Club meetings, shows, exhibitions, demonstrations, poultry auctions; any of which must not allow the keeping of live birds on the premises for more than seventy two (72) hours.



Figure 5: Portion of Lot 1561 Clayton Road, Narrogin (Poultry Shed)

### Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer; and
- Narrogin Poultry Society representative Carol Mahony.

### Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.
- The land is owned as a Crown Grant in Trust, so consent of the Minister for Lands is not required.

### Policy Implications

There are no current or proposed relevant policy implications.

## Financial Implications

There are no new major financial implications in pursuing a lease for the premises. The lease is known as a 'peppercorn lease' which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit and of exclusive use to a specific not for profit sporting or community group.

The only new financial aspect regarding the lease is the requirement for the Lessee to reimburse the Shire for the expenses of insurance on the fixed building and assets. This cost has been met directly by the Shire in the past on an annual basis, and so the recouping of these costs is an added financial benefit to the Shire. It is acknowledged that this may be an added cost to the group – although if they are currently insuring the shed privately this should cease and will, in all probability, be more expensive than the insurance coverage obtained by the Shire through the Local Government Insurances Service 'self-insurance' scheme.

The costs of utilities (power and water) will need to continue to be met by the Shire due to there being no sub-meter on the property to distinguish proportionate use from other organisations. The cost of installing, reading and managing a sub-meter for the deemed relative small consumption of utilities is considered not justified.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027		
Objective	2.	Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2	Build a healthier and safer community
Strategy:	2.2.1	Support the provision of community security services and facilities
Outcome:	2.3	Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2	Engage and support community groups and volunteers
Objective	3.	Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3	Efficient use of resources
Strategy:	3.3.1	Increase resource usage efficiency

## Voting Requirements

Simple Majority.

**OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.0015**

Moved: Cr Wiese                      Seconded: Cr Fisher

That with respect to the proposed lease over the Narrogin Poultry Society Shed on portion of lot 1561, Clayton Rd, Narrogin, the Council authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Narrogin Poultry Society Incorporated in the substantive form of the draft attached to this report, for an initial five (5) year term, commencing on 1 September 2020, with the option of the Lessee to a further five (5) years.

**CARRIED 9/0**

# Lease **Narrogin Poultry Society** (Portion of Lot 1561 Clayton Road)

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Shire of Narrogin

Narrogin Poultry Society Incorporated



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### Shire of Narrogin

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### Narrogin Poultry Society Incorporated

of PO Box 568  
NARROGIN WA 6312  
(Lessee)

## Background

- A The Lessor is registered as the proprietor of the land.
- B The Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

---

### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
  - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
  - (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;

- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

Clause not applicable.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

#### Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

#### Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;

- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

### Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

### Costs

- (3) To pay to the Lessor on demand:
- (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and
  - (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
- (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;

- (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
- (d) any work done at the Lessee's request; and
- (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

### **Building Insurance to be effected by Lessor**

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
- (ii) any work carried out by or on behalf of the Lessee on the Premises;
- (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
- (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
- (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease;  
or
- (vi) an act or omission of the Lessee.

### Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by

the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.

- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

### **No indemnity for Lessor's negligence**

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

### **Release**

- (4) The Lessee:
    - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
    - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
      - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
      - (ii) loss of or damage to the Premises or personal property of the Lessee; and
      - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area
- except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## **10. Limit of Lessor's liability**

### **No liability for loss on Premises**

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### **Limit on liability for breach of Lessor's covenants**

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.

- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 11. Maintenance, repair and cleaning

### Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:

- (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
- (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.

- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:

- (a) any electrical fittings and fixtures;
- (b) any plumbing;
- (c) any air-conditioning fittings and fixtures;
- (d) any gas fittings and fixtures,

in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.

- (3) The Lessee must take such reasonable action as is necessary to:

- (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and
- (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

### Cleaning

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

### Repair

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the

Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

### **Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

### **Maintain surroundings**

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

### **Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

### **Pest control**

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

### **Painting**

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;
  - (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
  - (c) comply will all reasonable directions given or requests made by the Lessor; and
  - (d) be finished in a proper and workmanlike manner.

### **Drains**

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the

Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.

- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## 12. Use

### Restrictions on use

#### (1) Generally

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### (2) No offensive or illegal acts

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### (3) No nuisance

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### (4) No dangerous substances

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;
- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

#### (5) No harm or stress

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

#### (6) No signs

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

**Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

**Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## 13. Alcohol

### Consumption of alcohol

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### Liquor licence

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and
- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

### Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or

- (d) permit the Lessor to carry out those other works at the Lessee's expense, in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;

- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;
- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

## Forfeiture

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

## Lessor may remedy breach

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

## Acceptance of Amount Payable By Lessor

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

## Essential Terms

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;

- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;
- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

### Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;
- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### Remove property prior to termination

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-

conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## **26. Casual Hire of Premises**

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## **27. Assignment, Subletting and Charging**

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

### **Lessor’s Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;

- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,
 to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

### **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

### **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

### ***Property Law Act 1969***

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

### **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
- (f) any consents required under this Lease or at law; and
- (g) all other matters relating to the proposed assignment or sub-letting,

whether or not the assignment or Sub-letting proceeds.

### **No mortgage or charge**

The Lessee must not mortgage nor charge the Premises.

## **28. Disputes**

### **Referral of Dispute: Phase 1**

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from

time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### **Referral of Dispute: Phase 2**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### **Appointment of Arbitrator: Phase 3**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### **Payment of Amounts Payable to Date of Award**

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## **29. Prior notice of proposal to change rules**

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## **30. Provision of information**

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## **31. Right to terminate upon notice**

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### Lessee to pay GST

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.

- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### Consideration in Kind

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## 34. No Fetter

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

### Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;

- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### **No general waiver**

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

### **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of lot 1561 Clayton Road, Narrogin, and comprising the Narrogin Poultry Society Shed, as depicted in RED outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in RED outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2025.

## Item 3 Further Term

Five (5) years commencing on 1 September 2025 and expiring on 31 August 2030.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Poultry Club meetings, shows, exhibitions, demonstrations, poultry auctions; any of which must not allow the keeping of live birds on the premises for more than seventy two (72) hours.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

Not applicable.

## Item 10 Additional terms and covenants

- a) The lessee is to pay all outgoings including but not limited to all rates and refuse charges, emergency service levies and utilities on the property;
- b) Notwithstanding clause (a) above;
  - i. The Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995; and
  - ii. Water rates and consumption and electricity consumption will be met by the lessor as there is no sub-meters to the shed and consumption is deemed to be ad-hoc, and minimal.
- c) The fixed building assets on the property being insured by the Shire of Narrogin and the lessee is being required to reimburse the Shire for that expense; and
- d) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease.

# Signing page

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EXECUTED [add day and month] 2020

**THE COMMON SEAL of THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the **Narrogin Poultry Society Incorporated** pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Red Outline)



#### 10.4.7 PROPOSED LEASE OF PORTION OF LOT 1561 CLAYTON ROAD – NARROGIN TENNIS CLUB

File Reference	A115320
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	6 August 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Narrogin Tennis Club

#### Summary

The Administration has drafted a 10 year lease, with an option of a further 10 years, over a portion of Lot 1561 Clayton Road, Narrogin, for the Narrogin Tennis Club Inc. The lease includes the tennis courts, clubrooms, playground, shed, and the Dr Maitland Pavilion. Council is requested to consider and approve the draft lease.

#### Background

There is currently no valid lease for the Narrogin Tennis Club to utilise the tennis courts and clubrooms on Lot 1561 Clayton Road, for which the Shire of Narrogin is the owner and management authority. The facilities have been used by the Narrogin Tennis Club for a number of years in the past, however no lease can be found by either party for any permitted use. As such, the Administration has seen it prudent that a lease agreement is put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The Narrogin Tennis Club is a sporting group local to Narrogin and the surrounding area, but not exclusive to members of these areas.

#### Comment

The Narrogin Tennis Club provides sporting opportunities to residents of Narrogin and its surrounds, through the provision of tennis facilities and competitions.

As there is no formal lease for the use of the premises by the organisation, the Shire has drafted a lease in consultation with the organisation for its use. Included in the leased area are the tennis courts, clubrooms, shed, playground and Dr Maitland Pavilion, which are situated on the south-east portion of Lot 1561 Clayton Road.

As the Shire is the owner, and therefore management authority of the entire property being Lot 1561 Clayton Road, Narrogin, it has a responsibility to ensure that community organisation(s) who use the premises are appropriately insured, and the facilities are leased in a fair and equitable manner. As

such, the Administration has seen it prudent that a lease is developed for the use of the facilities by the community organisation.



*Figure 6: Portion of Lot 1561 Clayton Road, Narrogin*

## Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer; and
- Narrogin Tennis Club representative Dale Woodruff.

## Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.

## Policy Implications

There are no current or proposed relevant policy implications.

## Financial Implications

There are no new major financial implications in pursuing a lease for the premises. The lease is known as a ‘peppercorn lease’ which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit through the organisation.

The costs of utilities (power and water) are already met by the Narrogin Tennis Club, and other charges including insurance will be required to be met by them, therefore there will be no extra financial impact on the Shire. The lease also stipulates that infrastructure maintenance and replacements associated with the tennis courts, lighting and lighting towers, fencing, playground, shed will be the responsibility of the club. The lease does provide that structural matters associated with the two substantial buildings (the Clubrooms and Dr Maitland Pavilion) are the responsibility of the Lessor (the Shire), which is consistent with most other community group buildings (and leases) on Shire land.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2 Build a healthier and safer community
Strategy:	2.2.1 Support the provision of community security services and facilities
Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2 Engage and support community groups and volunteers

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3 Efficient use of resources
Strategy:	3.3.1 Increase resource usage efficiency

The location of the courts should prove to be no impediment for planned future developments on site, even with the recommendations contained in the Draft Sport and Recreation Infrastructure Plan Feasibility Study Report. If there were in time, the lease contains a provision at Clause 31 as follows:

*“(a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party”.*

It should be noted in discussion with the Tennis Club that they do have concerns about the surface replacement of courts 9 & 10, the western most abutting Clayton Rd, due to concerns with long standing sub-soil drainage issues, as well as the viability of maintaining (and replacing 10 court surfaces) in time.

It was indicated to them that the Shire would, in all probability, only assist to a maximum extent of 1/3 of any replacement cost consistent with the funding principles of the State Government’s long standing Community Sport & Recreation Facilities Fund (CSRFF) Grant Rounds.

## Voting Requirements

Simple Majority.

### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.016**

Moved: Cr Seale                      Seconded: Cr Broad

That with respect to the proposed lease over the Narrogin Tennis Courts, Clubrooms, playground, shed and Pavilion, on portion of Lot 1561 Clayton Road, the Council authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Narrogin Tennis Club Inc. in the substantive form of the draft attached to this report, for an initial 10 year term, commencing on 1 September 2020, with the option of the Lessee to a further 10 years.

**CARRIED 9/0**

# Lease **Narrogin Tennis Club** (Portion of Lot 1561 Clayton Road)

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Shire of Narrogin

Narrogin Tennis Club Inc.



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

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Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### Shire of Narrogin

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### Narrogin Tennis Club Inc.

of PO Box 306  
NARROGIN WA 6312  
(Lessee)

## Background

- A The Lessor is registered as the proprietor of the land.
- B The Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

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### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
  - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
  - (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;

- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

Clause not applicable.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

#### Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

#### Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;

- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

### Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

### Costs

- (3) To pay to the Lessor on demand:
- (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and
  - (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
- (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;

- (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
- (d) any work done at the Lessee's request; and
- (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

### **Building Insurance to be effected by Lessor**

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
- (ii) any work carried out by or on behalf of the Lessee on the Premises;
- (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
- (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
- (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease;  
or
- (vi) an act or omission of the Lessee.

### Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.

- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

### **No indemnity for Lessor's negligence**

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

### **Release**

- (4) The Lessee:
  - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
  - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
    - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
    - (ii) loss of or damage to the Premises or personal property of the Lessee; and
    - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area

except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## **10. Limit of Lessor's liability**

### **No liability for loss on Premises**

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### **Limit on liability for breach of Lessor's covenants**

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

# 11. Maintenance, repair and cleaning

## Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any plumbing;
  - (c) any air-conditioning fittings and fixtures;
  - (d) any gas fittings and fixtures,

in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (3) The Lessee must take such reasonable action as is necessary to:
  - (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and
  - (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

## Cleaning

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

## Repair

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

## Responsibility for Securing the Premises

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

## Maintain surroundings

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

## Lessor's Fixtures and Fittings

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

## Pest control

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

## Painting

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;
  - (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
  - (c) comply will all reasonable directions given or requests made by the Lessor; and
  - (d) be finished in a proper and workmanlike manner.

## Drains

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point

of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.

- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## 12. Use

### Restrictions on use

#### (1) Generally

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### (2) No offensive or illegal acts

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### (3) No nuisance

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### (4) No dangerous substances

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;
- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

#### (5) No harm or stress

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

#### (6) No signs

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

**Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

**Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## 13. Alcohol

### Consumption of alcohol

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### Liquor licence

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and
- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

### Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or

- (d) permit the Lessor to carry out those other works at the Lessee's expense, in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;

- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;
- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

## Forfeiture

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

## Lessor may remedy breach

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

## Acceptance of Amount Payable By Lessor

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

## Essential Terms

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;

- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;
- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

### Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;
- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### Remove property prior to termination

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-

conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## **26. Casual Hire of Premises**

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## **27. Assignment, Subletting and Charging**

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

### **Lessor’s Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;

- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

### **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

### **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

### **Property Law Act 1969**

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

### **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
- (f) any consents required under this Lease or at law; and
- (g) all other matters relating to the proposed assignment or sub-letting,

whether or not the assignment or Sub-letting proceeds.

### **No mortgage or charge**

The Lessee must not mortgage nor charge the Premises.

## **28. Disputes**

### **Referral of Dispute: Phase 1**

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from

time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### **Referral of Dispute: Phase 2**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### **Appointment of Arbitrator: Phase 3**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### **Payment of Amounts Payable to Date of Award**

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## **29. Prior notice of proposal to change rules**

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## **30. Provision of information**

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## **31. Right to terminate upon notice**

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### Lessee to pay GST

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.

- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### Consideration in Kind

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## 34. No Fetter

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

### Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;

- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### **No general waiver**

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

### **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of lot 1561 Clayton Road, Narrogin, and comprising the Narrogin Tennis Club, Courts, playground, shed, and Dr Maitland Pavilion as depicted in RED outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in RED outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2030.

## Item 3 Further Term

Ten (10) years commencing on 1 September 2030 and expiring on 31 August 2040.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Tennis Club and tennis or ancillary sporting activities.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

Not applicable.

## Item 10 Additional terms and covenants

- a) The lessee is to pay all outgoings including but not limited to all rates and refuse charges, emergency service levies and utilities on the property;
- b) Notwithstanding clause (a) above, the Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995;
- c) The fixed building and structural assets including lighting and fencing on the property being insured by the Shire of Narrogin and the lessee is being required to reimburse the Shire for that expense;
- d) The lessee is to be responsible for all capital (infrastructure) repairs and operating maintenance and surface repairs and replacements associated with the tennis courts, lighting and lighting towers, fencing, playground, and shed, and all internal surfaces to the leased area;
- e) The lessee is to be responsible for all maintenance repairs, cleaning and operating expenses associated with the Dr Maitland Pavilion and Clubrooms; and
- f) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease.

# Signing page

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EXECUTED [add day and month] 2020

**THE COMMON SEAL of THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the Narrogin Tennis Club Inc. pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Red Outline)



#### 10.4.8 PROPOSED LEASE OF PORTION OF LOT 1561 CLAYTON ROAD – TOWNS CRICKET CLUB

File Reference	A105249
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	6 August 2020
Author	Joshua Pomykala – Governance Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Draft Lease Towns Cricket Club

#### Summary

The Administration has drafted a five (5) year lease, with an option of a further five (5) years, over a portion of Lot 1561 Clayton Road, Narrogin, for the Towns Cricket Club. The lease includes the shed located on the western portion of the property. Council is requested to consider and approve the draft lease.

#### Background

There is currently no valid lease for the Towns Cricket Club to utilise the shed on Lot 1561 Clayton Road, for which the Shire of Narrogin is the owner and management authority. The shed has been used by the Towns Cricket Club for a number of years in the past, however no lease can be found by either party for any permitted use. As such, the Administration has seen it prudent that a lease agreement is put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The Towns Cricket Club is a sporting group local to Narrogin and the surrounding area, but not exclusive to members of these areas. It should be noted that the Club is not incorporated. The Shire's preference is generally to only lease property to incorporated clubs or organisations due to the legal protection that concerns with incorporation (for the members). In this instance and given the Club has been successfully using the shed (that it built) for many years, the Administration has taken the view that incorporation is not required in this instance, and that this should not be construed as precedent for any future unincorporated group or organisation seeking to 'erect' buildings on Shire land.

#### Comment

The Towns Cricket Club provides sporting opportunities to residents of Narrogin and its surrounds, through the provision of cricket facilities and competitions.

As there is no formal lease for the use of the premises by the organisation, the Shire has drafted a lease in consultation with the organisation for its use. Included in the lease is the cricket shed, which is situated on the western portion of Lot 1561 Clayton Road.

As the Shire is the owner, and therefore management authority of the entire property being Lot 1561 Clayton Road, Narrogin, it has a responsibility to ensure that community organisation(s) who use the premises are appropriately insured, and the facilities are leased in a fair and equitable manner. As such, the Administration has seen it prudent that a lease is developed for the use of the facilities by the community organisation.



*Figure 7: Portion of Lot 1561 Clayton Road, Narrogin*

### Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer; and
- Towns Cricket Club representative Peter Baker.

### Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.

### Policy Implications

While it is not policy for the Shire to lease exclusively to incorporated organisations, it has been a common practice. This is due to the greater risks associated with the leasing of properties to unincorporated organisations.

Taking into consideration, however, that the Towns Cricket Club has been using the shed facilities for a number of years, the Administration does not see it to be a major issue to continue for the club to continue using the shed with a lease in place.

### Financial Implications

There are no new major financial implications in pursuing a lease for the premises. The lease is known as a 'peppercorn lease' which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit through the organisation.

In this instance there are no power or water services connected to the shed.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2 Build a healthier and safer community
Strategy:	2.2.1 Support the provision of community security services and facilities
Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2 Engage and support community groups and volunteers

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3 Efficient use of resources
Strategy:	3.3.1 Increase resource usage efficiency

The location of the shed should not prove to be an impediment to planned future developments on site, even with the recommendations contained in the Draft Sport and Recreation Infrastructure Plan Feasibility Study Report. If there were in time, the lease contains a provision at Clause 31 as follows:

*“(a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party”.*

### Voting Requirements

Simple Majority.

**OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.017**

Moved: Cr Seale                      Seconded: Cr Early

That with respect to the proposed lease over the Cricket Shed, on portion of Lot 1561 Clayton Road, the Council authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a new lease with the Towns Cricket Club in the substantive form of the draft attached to this report, for an initial 5 year term, commencing on 1 September 2020, with the option of the Lessee to a further five (5) years.

**CARRIED 9/0**

# Lease **Towns Cricket Club** (Portion of Lot 1561 Clayton Road)

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Shire of Narrogin

Towns Cricket Club



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### **Shire of Narrogin**

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### **Towns Cricket Club**

of C/-57 Fortune Street  
NARROGIN WA 6312  
(Lessee)

## Background

- A The Lessor is registered as the proprietor of the land.
- B The Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

---

### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
  - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
  - (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;

- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

Clause not applicable.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

#### Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

#### Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;

- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

### Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

### Costs

- (3) To pay to the Lessor on demand:
- (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and
  - (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
- (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;

- (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
- (d) any work done at the Lessee's request; and
- (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

### **Building Insurance to be effected by Lessor**

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
- (ii) any work carried out by or on behalf of the Lessee on the Premises;
- (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
- (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
- (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease;  
or
- (vi) an act or omission of the Lessee.

### Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.

- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

### **No indemnity for Lessor's negligence**

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

### **Release**

- (4) The Lessee:
  - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
  - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
    - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
    - (ii) loss of or damage to the Premises or personal property of the Lessee; and
    - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area

except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## **10. Limit of Lessor's liability**

### **No liability for loss on Premises**

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### **Limit on liability for breach of Lessor's covenants**

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

# 11. Maintenance, repair and cleaning

## Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any plumbing;
  - (c) any air-conditioning fittings and fixtures;
  - (d) any gas fittings and fixtures,

in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (3) The Lessee must take such reasonable action as is necessary to:
  - (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and
  - (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

## Cleaning

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

## Repair

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

## Responsibility for Securing the Premises

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

## Maintain surroundings

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

## Lessor's Fixtures and Fittings

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

## Pest control

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

## Painting

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;
  - (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
  - (c) comply will all reasonable directions given or requests made by the Lessor; and
  - (d) be finished in a proper and workmanlike manner.

## Drains

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point

of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.

- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## 12. Use

### Restrictions on use

#### (1) Generally

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### (2) No offensive or illegal acts

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### (3) No nuisance

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### (4) No dangerous substances

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;
- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

#### (5) No harm or stress

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

#### (6) No signs

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

**Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

**Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## 13. Alcohol

### Consumption of alcohol

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### Liquor licence

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and
- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

### Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or

- (d) permit the Lessor to carry out those other works at the Lessee's expense, in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;

- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;
- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

## Forfeiture

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

## Lessor may remedy breach

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

## Acceptance of Amount Payable By Lessor

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

## Essential Terms

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;

- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;
- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

### Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### **Peacefully surrender**

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;
- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### **Remove property prior to termination**

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-

conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## **26. Casual Hire of Premises**

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## **27. Assignment, Subletting and Charging**

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

### **Lessor’s Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;

- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,
 to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

### **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

### **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

### ***Property Law Act 1969***

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

### **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
- (f) any consents required under this Lease or at law; and
- (g) all other matters relating to the proposed assignment or sub-letting,

whether or not the assignment or Sub-letting proceeds.

### **No mortgage or charge**

The Lessee must not mortgage nor charge the Premises.

## **28. Disputes**

### **Referral of Dispute: Phase 1**

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from

time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### **Referral of Dispute: Phase 2**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### **Appointment of Arbitrator: Phase 3**

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### **Payment of Amounts Payable to Date of Award**

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## **29. Prior notice of proposal to change rules**

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## **30. Provision of information**

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## **31. Right to terminate upon notice**

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### Lessee to pay GST

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.

- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### Consideration in Kind

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## 34. No Fetter

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

### Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;

- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### **No general waiver**

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

### **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of Lot 1561 Clayton Road, Narrogin, comprising the Towns Cricket Club shed, as depicted in RED outline on Annexure 1.

### Premises

That part of the Land depicted on the plan in RED outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2025.

## Item 3 Further Term

Five (5) years commencing on 1 September 2025 and expiring on 31 August 2030.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Storage of materials and equipment used for the purpose of cricket.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

Not applicable.

## Item 10 Additional terms and covenants

- a) The lessee is to pay all outgoings including but not limited to all rates and refuse charges, emergency service levies and utilities on the property;
- b) Notwithstanding clause (a) above;
  - i. The Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995; and
  - ii. Water rates and consumption and electricity consumption will be met by the lessor as there is no sub-meters to the shed and consumption is deemed to be ad-hoc, and minimal.
- c) The fixed building assets on the property being insured by the Shire of Narrogin and the lessee is being required to reimburse the Shire for that expense; and
- d) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease.

# Signing page

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EXECUTED [add day and month] 2020

**THE COMMON SEAL** of **THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the **Towns Cricket Club** pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Office Held:

\_\_\_\_\_  
Office Held:

# Annexure 1 – Sketch of Premises (Red Outline)



#### 10.4.9 GNAROJIN COMMUNITY GARDENS – FORMER RAILWAYS BOWLING CLUB (PORTION OF RESERVE 49048) LEASE

File Reference	A340067
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	19 August 2020
Author	Dale Stewart – Chief Executive Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
<b>Attachments</b> 1. Draft Lease Gnarojin Community Gardens 2. Structural report. 3. presentation previously provided to Elected Members	

#### Summary

The Administration has drafted a 10 year lease, with an option of a further 10 years, over a portion of Reserve 49048 (Lot 1712 Hale Street, Narrogin), for the Gnarojin Community Garden Inc. (GCG). The proposed lease (Attachment 1) includes the buildings and land formerly occupied many years ago by the Railways Bowling Club and subsequently Hotham Personnel. Council is requested to consider and approve the draft lease, and request the CEO to obtain Ministerial approval for the arrangement of leasing the portion of the reserve.

#### Background

There is currently no lease for the Community Gardens located on portion of Reserve 49048, for which the Shire of Narrogin is the management authority on behalf of the Crown (the State Government). The site (buildings and lands) has been used by the Gnarojin Community Gardens for a number of years following on from Hotham Personnel in approximately 2013, with the former Town of Narrogin and now Shire of Narrogin attempting to negotiate a lease since that time. As such, the Administration has seen it prudent that a lease agreement is now put in place to ensure any arising issues or concerns are dealt with in the appropriate and procedural manner.

The Community Gardens is used as a meeting point for the group as well as for other community groups and community and social activities on a regular basis, including the Farmers & Makers Markets that occur generally about six times per annum.

The former Town of Narrogin has previously considered the matter of the lease to the organisation at the meetings of 24 September 2013 and 11 February 2014.

Council's resolutions at that time were:

*“That Council:*

*Support the Gnarojin Community Garden's Interim Management Committee to meet the operating costs of the Garden by:*

- a) Allowing the Gnarojin Community Garden's Interim Management Committee use of the Community Garden site for a period of 12 months to allow it time to become incorporated and the Town time to amend the Vesting Order to include the power to lease; and*
- b) Approving Out of Budget expenditure in the amount of \$3,200 to cover the cost of water and power usage and waste removal charges at the Community Garden site in the year."*

and

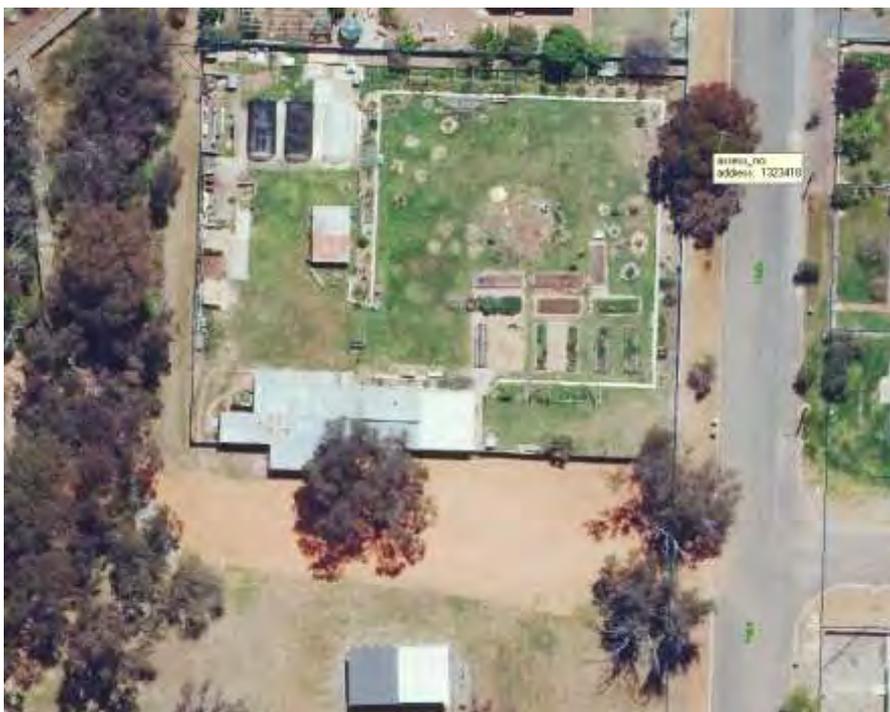
*"That Council:*

- 1. Endorse an application being made to the Department of Land Administration to amend the current Management Order for Lot 1721 Pioneer Drive Narrogin to permit the leasing of the land for community purposes.*
- 2. Await a further report on the Departments response to the above request and the potential establishment of formal leases over portions of Lot 1721 abutting Hale Street".*

#### Comment

As there is no formal lease for the use of the premises by the organisation, the Shire has drafted a lease in consultation with the organisation for its use. The buildings and grounds are situated on the south-west portion of Reserve 49048 (Lot 1712), adjacent to the community open air gym. The GCG have been responsible for the facility since 2013, receiving any income derived from its use.

The purpose of the reserve is stated as "Recreation" with the Shire as the vested management authority on behalf of the Crown (the State Government). In order to lease Crown Land, Ministerial approval is required before the vested management authority can lease the land to any party.



*Figure 1: Gnarojin Community Gardens*

## Consultation

Consultation and negotiation has occurred between:

- Chief Executive Officer;
- Manager Community Leisure & Culture; and
- GCG representatives including Ned Crossley and Jan Smith.

It should be noted that the Lessee has sought for a 21 year lease. The proposed lease includes 10 years plus years' option.

## Statutory Environment

- The Local Government Act 1995, Section.3.58, addresses the disposition of property.
- Local Government (Function and General) Regulations 1993, Regulation 30, provides for exemptions from the disposition requirements for not for profit community groups (no need to advertise).
- Delegations Register – 3.4 Disposing of land – leases, rentals etc provides for delegation to the Chief Executive Officer to exercise disposition (leasing) for periods up to 12 months maximum duration.

## Policy Implications

There are no current or proposed relevant policy implications.

## Financial Implications

The lease is known as a 'peppercorn lease' which requires the Lessee to pay an annual rental amount of \$1.00, due to the premises being used for community benefit and not of exclusive use to any sporting club or group.

With no current lease or agreement, the Shire has been and is currently responsible for almost all charges on the property, including insurance and water charges.

As a result of negotiations with the lease, the Lessee becomes responsible for these charges which they have never had to meet in the past.

To compensate for this impost, the adopted 2020/21 Budget includes the sum, of \$6,000 as a contribution to the GCG in the form of sponsorship of the Farmers & Makers Markets, on the premise of \$1,000 per markets held.

The adopted Budget also includes the sum of \$10,000 to account for much need maintenance to the aging property including urgent works associated with the ceiling, some minor asbestos repairs works, identification and rectification of a water line break to one of the toilets, and also installation of compliant public building requirements (exits signs etc) (refer Structural Building Report commissioned by the Shire, illustrated in Attachment 2).

There will also be a need to mark with signage, and for both parties to acknowledge, a known asbestos contamination area (former broken fencing) abutting the northern fenceline.

The following other specific conditions to this lease are listed here:

- a) The Lessee is to pay all outgoings including but not limited to all rates and refuse charges, emergency service levies and power and gas utilities on the demised premises.
- b) Notwithstanding clause (a) above;
  - i. The Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995.
- c) The fixed building assets on the property being insured by the Shire of Narrogin and the Lessee is being required to reimburse the Shire for that expense.
- d) For clarity, the Lessee is entitled to all income derived from the property, to be utilised by the Lessee in accord with its objects of Association and / or the upkeep or improvements to the demised premises.
- e) The Lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the Lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease
- f) The land immediately south of, and adjacent to, Lot 1721 on Deposited Plan 26861 is excluded from the leased Premises. The land is located on Reserve 49048 and is subject to planning as part of the future process of implementing the Shire of Narrogin's Gnarojin Park Masterplan and remains the responsibility of the Shire.
- g) Notwithstanding Item 9.1 of the Schedule, the Lessor approves the Lessees use of the land immediately south of, and adjacent, to Lot 1721 as off street parking, for visitors attending the Premises for the purpose of participating in activities associated with the use of the Premises.
- h) Pursuant to Clause 8.1(b), the parties agree that the separate insurance of plate glass surfaces is not a requirement of the lease.
- i) Pursuant to Clause 11.3 the Lessor undertakes to complete repairs to the ceiling in the main building in the 2020 financial year by either removing it or replacing it.
- j) Notwithstanding Clause 11.5 and 15(1)(c) and consistent with the Item 6: Permitted of this Schedule: The Lessor agrees that the planting and caring of all flora on the Premises will be at the discretion of the Lessee and the removal of any flora does not require consultation with or approval by the Lessor.
- k) Pursuant to Clause 11.8; the Lessor requires only that all painting carried out on the Premises be completed to a professional standard.
- l) Notwithstanding Clauses 12(8), (9),13.1 and 13.2 and acknowledging that the Lessee will organise special events on the Premises from time to time;
  - i. The Lessor approves the Premises to be used for the occasional consumption and sale of alcohol without application to the Lessor.
- m) Notwithstanding Clause 30 (a); as the Lessee is a Not for Profit Tier 1 Association (not required to be audited) the Lessee may supply the Lessor with reconciled bank balances and an annual statement of assets and liabilities for each year;

- n) Notwithstanding Clauses 6.2 and 8 of the lease and consistent with the exclusive use of the premises for the Community's benefit, the Lessor agrees to make a contribution to the Lessee each financial year of not less than \$6,000, to be determined from time to time by the Lessor, to support the Gnarojin Community Garden Inc's activities (such as regular Farmers and Makers Markets and various other public events throughout the year).

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.2 Build a healthier and safer community
Strategy:	2.2.1 Support the provision of community security services and facilities
Outcome:	2.3 Existing strong community spirit and pride is fostered, promoted and encouraged
Strategy:	2.3.2 Engage and support community groups and volunteers

Objective	3. Environment Objective (Conserve, protect and enhance our natural and built environment)
Outcome:	3.3 Efficient use of resources
Strategy:	3.3.1 Increase resource usage efficiency

### Voting Requirements

Simple Majority.

#### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.018**

Moved: Cr Fisher                      Seconded: Cr Bartron

That with respect to the proposed lease over the Gnarojin Community Gardens, on portion of Reserve 49048, request the Chief Executive Officer seek consent of the Minister for Lands and subject to receiving this, authorise the Shire President and the Chief Executive Officer to prepare, sign and affix the common seal to a lease with the Gnarojin Community Gardens Inc. in the substantive form of the draft attached to this report, for an initial 10 year term, commencing on 1 September 2020, with the option of a further 10 years.

**CARRIED 9/0**

# **Lease Lot 1712 on Deposited Plan 26861 (Portion of Reserve 49048)**

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Shire of Narrogin

Gnarojin Community Garden Inc.



**McLEODS**

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: [mcleods@mcleods.com.au](mailto:mcleods@mcleods.com.au)

Ref: NG:NARR:41868

# Disclaimer

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This document has been prepared as a template for the Shire of Narrogin (**Shire**).

McLeods cannot be held responsible for any errors of the Shire in preparing this document.

If something arises which is not addressed in the template then we advise the Shire to contact us to seek advice.

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# Details

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## Parties

### Shire of Narrogin

of PO Box 1145, Narrogin, Western Australia  
(Lessor)

### Gnarrojin Community Garden Inc.

of 8 Hale Street  
NARROGIN WA 6312

(Lessee)

## Background

- A The Lessor has the care, control and management of the Land pursuant to a management order.
- B Subject to the prior written approval of the Minister for Lands, the Lessor has agreed to lease and the Lessee has agreed to take a lease of the Premises upon the terms and conditions contained in this Deed.

## Agreed terms

---

### 1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

**Amounts Payable** means the Rent and any other money payable by the Lessee under this Lease;

**Authorised Person** means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Contaminated Sites Act** means the *Contaminated Sites Act 2003 (WA)*;

**CPI** means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

**DER** means the Department of Water and Environmental Regulation of Western Australia;

**Environmental Contamination** has the same meaning as the word “contaminated” in the Contaminated Sites Act;

**EPA** means the Environment Protection Agency of Western Australia;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat;

**Further Term** means each further term specified in **Item 3** of the Schedule;

**Good Repair** means good and substantial tenantable repair and in clean, good working order and condition;

**Interest Rate** means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

**Land** means the land described at **Item 1** of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee’s Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

**Lessee’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

**Lessor’s Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

**Management Order** means the Management Order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Lessor to be held for the purpose of Recreation;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Premises** means the premises described at **Item 1** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Term** means the term of years specified in **Item 2** of the Schedule and any Further Term; and

**Termination** means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

## 2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
  - (vi) a right includes a benefit, remedy, discretion, authority or power;
  - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
  - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
    - (A) both express and implied provisions; and
    - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;

- (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### 3. Minister for Lands Consent

This Lease is subject to and conditional on the prior approval of the Minister for Lands under the *Land Administration Act 1997*.

### 4. Grant of lease

The Lessor, subject to clause 3 of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

### 5. Quiet enjoyment

Except as provided in the Lease, for so long as the Lessor is the management body of the Premises under a management order, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

### 6. Rent and other payments

The Lessee covenants with the Lessor:

## Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

## Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
  - (a) local government rates, specified area rates, taxes, service and other charges and including charges for rubbish and garbage removal;
  - (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
  - (e) premiums, excess and other costs arising from the insurance obtained by the Lessor pursuant to **clause 8.2**. For the avoidance of doubt, the parties agree:
    - (i) that if such premium or cost does not include a separate assessment or identification of the Premises or the Land, the Lessee must pay a proportionate part of such premium or cost determined by the Lessor acting reasonably; and
    - (ii) such insurance will include insurance for the full replacement value of buildings; and
  - (f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

## Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

## Costs

- (3) To pay to the Lessor on demand:
  - (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and

- (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (4) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
  - (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents;
  - (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
  - (d) any work done at the Lessee's request; and
  - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6** or any matter arising out of this Lease.

#### **Accrual of amounts payable**

Amounts Payable accrue on a daily basis.

## **7. Rent Review**

Not applicable.

## **8. Insurance**

#### **Insurance required**

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor's and the Lessee's respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

## Building Insurance to be effected by Lessor

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks and the Lessee will reimburse the Lessor for any premiums, excess or other costs arising therefrom.

## Details and receipts

In respect of the insurances required by **clause 8** the Lessee must:

- (f) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (g) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (h) notify the Lessor immediately:
  - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
  - (ii) when a policy of insurance is cancelled.

## Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8**.

## Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (i) render any insurance effected under **clause 8** on the Premises, or any adjoining premises, void or voidable; or
- (j) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

## Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (k) any damage to the Premises of which they are or might be aware; and
- (l) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

## Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clause 8**.

## Lessor as attorney

Deleted

## 9. Indemnity

### Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

### Indemnity

- (3) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:
  - (a) any loss whatsoever (including loss of use);
  - (b) injury or damage of, or to, any kind of property or thing; and
  - (c) the death of, or injury suffered by, any person,caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:
  - (i) the use or occupation of the Premises by the Lessee or the Lessee's Agents;
  - (ii) any work carried out by or on behalf of the Lessee on the Premises;
  - (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
  - (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
  - (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
  - (vi) an act or omission of the Lessee.

## Obligations Continuing

The obligations of the Lessee under this clause:

- (d) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9** will be reduced by the extent of such payment.
- (e) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## No indemnity for Lessor's negligence

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

## Release

- (4) The Lessee:
    - (a) agrees to occupy and use the Premises at the risk of the Lessee; and
    - (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
      - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
      - (ii) loss of or damage to the Premises or personal property of the Lessee; and
      - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area
- except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.
- (5) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## 10. Limit of Lessor's liability

### No liability for loss on Premises

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring unless caused by the lessor.

### Limit on liability for breach of Lessor's covenants

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple in the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 11. Maintenance, repair and cleaning

### Generally

- (1) The Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
  - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
  - (b) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
  - (a) any electrical fittings and fixtures;
  - (b) any plumbing;
  - (c) any air-conditioning fittings and fixtures;
  - (d) any gas fittings and fixtures,in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (3) The Lessee must take such reasonable action as is necessary to:
  - (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and

- (b) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

### **Cleaning**

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from rubbish.

### **Repair**

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

### **Responsibility for Securing the Premises**

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

### **Maintain surroundings**

- (4) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (5) The Lessee agrees that any major pruning of trees must be undertaken by a qualified tree surgeon.
- (6) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (7) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (8) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

### **Lessor's Fixtures and Fittings**

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

### **Pest control**

With the exception of termite control, the Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

### **Painting**

- (9) The Lessee must on or before each repainting date as stated in **Item 9** of the Schedule paint with at least 2 coats of paint those parts of the Premises usually painted internally.
- (10) All painting carried out on the Premises must be carried out by in a professional manner; and the contractor or other person engaged by the Lessee to paint the Premises must:
  - (a) do so in a proper manner using good quality materials;

- (b) have the colour and quality of the materials approved in writing by the Lessor before the work commences;
- (c) comply will all reasonable directions given or requests made by the Lessor; and
- (d) be finished in a proper and workmanlike manner.

### **Drains**

- (11) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.
- (12) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

## **12. Use**

### **Restrictions on use**

#### **(1) Generally**

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

#### **(2) No offensive or illegal acts**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

#### **(3) No nuisance**

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

#### **(4) No dangerous substances**

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;

- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

**(5) No harm or stress**

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

**(6) No signs**

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

**(7) No smoking**

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

**(8) Consumption of alcohol**

Deleted.

**(9) Sale of Alcohol**

The Lessee will not sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises without the prior written consent of the Lessor and then only in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

**(10) Removal of rubbish**

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

**(11) No pollution**

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

**No warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

**Lessee to Observe Copyright**

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any

music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

### **Premises Subject to Restriction**

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

### **Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

## **13. Alcohol**

### **Consumption of alcohol**

The Lessee COVENANTS AND AGREES:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under the Liquor Control Act 1988 for the Premises, or apply for an amendment to a licence or permit it has been granted, without first obtaining the written consent of the Lessor.

### **Liquor licence**

The Lessee COVENANTS AND AGREES that if a licence or permit is granted under the Liquor Control Act 1988 for the Premises it must:

- (c) comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises **clause 15** shall apply;
- (d) comply with the requirements of the Harm Minimisation Policy (as amended from time to time) of the Department of Racing, Gaming & Liquor, which will require, without limitation the following:
  - (i) the development and implementation of a House Management Policy and Code of Conduct (as defined by the Harm Minimisation Policy) for the Premises, and such policies must be displayed in a prominent position on the Premises at all times; and
  - (ii) the development and implementation of a Management Plan (as defined by the Harm Minimisation Policy) for the Premises.
- (e) provide a copy of the licence or permit (as well as a copy of any document referred to in the licence or permit, including without limitation a copy of the House Management Policy, Code of Conduct and Management Plan (as defined by the Harm Minimisation Policy)) to the Lessor as soon as practicable after the date of grant; and

- (f) indemnify and keep indemnified the Lessor from and against any breach of the Liquor Control Act 1988, Health (Food Hygiene) Regulations 1993, Liquor Control Regulations 1989 or the licence or permit or any conditions imposed thereupon for which it may be liable as the owner of the Premises.

## 14. Minimise nuisance to neighbours

- (1) Deleted

## 15. Alterations

### Restriction

- (1) The Lessee must not without prior written consent:
  - (a) (i) from the Lessor;
  - (ii) from any other person from whom consent is required under this Lease;
  - (iii) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
- (b) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (c) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

### Consent

- (2) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15** the Lessor may:
  - (a) consent subject to conditions; and
    - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
    - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
  - (b) if the Lessor consents to any matter referred to in **clause 15**:
    - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
    - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

### Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

## Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (c) carry out those other works at the Lessee's expense; or
  - (d) permit the Lessor to carry out those other works at the Lessee's expense,
- in accordance with the Lessor's requirements.

## 16. Lessor's right of entry

### Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

### Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

## 17. Statutory obligations and notices

### Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

### **Indemnity if Lessee Fails to Comply**

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (e) failing to perform, discharge or execute any of the items referred to in **clause 17**; and
- (f) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17**.

## **18. Report to Lessor**

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

## **19. Default**

### **Events of Default**

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;

- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

### **Forfeiture**

On the occurrence of any of the events of default specified in **clause 19** the Lessor may:

- (h) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (i) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (j) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

### **Lessor may remedy breach**

If the Lessee:

- (k) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (l) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

### **Acceptance of Amount Payable By Lessor**

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

### **Essential Terms**

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **7** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **26** (Assignment, Subletting and Charging) and **33** (Goods and Services Tax), is an essential term of this Lease but this **clause 19** does not mean or imply that there are no other essential terms in this Lease.

## Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (m) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (n) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (o) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;

- (p) the Lessee agrees that the covenant set out in this **clause 19(o)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (q) the Lessee may deduct from the amounts referred to at **clause 19(o)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (r) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 20. Damage or destruction of Premises

### Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the aware appears to have been overpaid.

## Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee either party may be notice in writing to the other of them given within sixty (60) days after the event elect to cancel and terminate this lease. The term will terminate upon such notice being given and the Lessee must vacate the premises and surrender the same to the Lessor, but such termination will be without prejudice however to the liability of the Lessee under this Lease up to the date of termination.

## 21. Option to renew

If the Lessee at least one month, but not earlier than 12 months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor shall **consider**, at the lessors absolute discretion, granting to the Lessee a lease for the Further Term at the Rent and on terms and conditions similar to this Lease other than this **clause 21** in respect of any Further Term previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

## 22. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

## 23. Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

## 24. Yield up the premises

### Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease;

- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

## 25. Removal of property from Premises

### **Remove property prior to termination**

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all property of the Lessee which is not a fixture other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

### **Lessor can remove property on re-entry**

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

## 26. Casual Hire of Premises

### **Casual Hire**

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only PROVIDED:
  - (a) such use is consistent at all times with the Permitted Purpose;
  - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
  - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, “casual hire” means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

### **Lessee remains responsible for Premises at all times**

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

## 27. Assignment, Subletting and Charging

### **No assignment or sub-letting without consent**

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Minister for Lands, the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

## **Lessor's Consent to Assignment and Sub-letting**

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
  - (i) the proposed assignee of a deed of assignment; or
  - (ii) the proposed sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

## **Where sublessee is a community group**

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 27(c)**.

## **Consents of Assignee Supplementary**

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

## **Property Law Act 1969**

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

## **Costs for assignment and sub-letting**

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (e) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
  - (f) any consents required under this Lease or at law; and
  - (g) all other matters relating to the proposed assignment or sub-letting,
- whether or not the assignment or Sub-letting proceeds.

## No mortgage or charge

The Lessee must not mortgage nor charge the Premises.

## 28. Disputes

### Referral of Dispute: Phase 1

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

### Referral of Dispute: Phase 2

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

### Appointment of Arbitrator: Phase 3

In the event the dispute is not resolved in accordance with **clause 28** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

### Payment of Amounts Payable to Date of Award

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid

## 29. Prior notice of proposal to change rules

The Lessee agrees that it will not change its rules of association under the Associations Incorporations Act 1987 without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## 30. Provision of information

The Lessee agrees to provide to the Lessor:

- (a) a copy of the Lessee's annual audited statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

## 31. Right to terminate upon notice

- (a) Notwithstanding any other provision of this Lease, the Parties AGREE that either party may terminate this Lease for any reason upon six months written notice to the other party.
- (b) If this Lease is terminated in accordance with this clause, **clause 24** will apply.

## 32. Caveat

### No absolute caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor and the Minister for Lands, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

### CEO & Lessor as attorney

Deleted

### Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

### Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

## 33. Goods and services tax

### Definitions

- (1) The following definitions apply for the purpose of this clause:
  - (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
  - (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
  - (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
  - (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

### **Lessee to pay GST**

- (2) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (3) The Lessee must pay any increase referred to at **clause 33(2)** whether it is the Lessee or any other person who takes the benefit of any Supply.
- (4) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

### **Consideration in Kind**

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 33(3)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

- (5) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

- (6) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

- (7) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

- (8) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

## **34. No Fetter**

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## 35. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

## 36. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

## 37. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 38. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

## 39. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 40. Notice

### Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### Service of notice

A Notice to a Party is deemed to be given or made:

- (c) if by personal delivery, when delivered;
- (d) if by leaving the Notice at an address specified in **clause 40(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (e) if by post to an address specified in **clause 40(b)**, on the second business day following the date of posting of the Notice.

## Signing of notice

A Notice to a Party may be signed:

- (f) if given by an individual, by the person giving the Notice;
- (g) if given by a corporation, by a director, secretary or manager of that corporation;
- (h) if given by a local government, by the CEO;
- (i) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (j) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 41. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

## 42. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

## 43. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

## 44. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

## 45. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

## 46. Waiver

### No general waiver

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

## **Partial exercise of right power or privilege**

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

# Schedule

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## Item 1 Land and Premises

### Land

Portion of lot 1712 on Deposited Plan 26861 on Reserve 49048 and comprised in Certificate of Title Volume [LR3124] Folio [620]. Being the former Railways Bowling Club and now comprising the Gnarojin Community Gardens as depicted on **Annexure 1**.

### Premises

That part of the Land depicted on the plan in GREEN outline annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

## Item 2 Term

Commencing on 1 September 2020 and expiring on 31 August 2030.

## Item 3 Further Term

10 years commencing on 1 September 2030 and expiring on 31 August 2040.

## Item 4 Commencement Date

1 September 2020.

## Item 5 Rent

\$1 plus GST payable annually in advance on demand.

## Item 6 Rent Review

Not applicable

## Item 7 Permitted purpose

Community Garden development and maintenance and uses reasonably ancillary thereto.

## Item 8 Public liability insurance

Ten million dollars (\$10,000,000.00).

## Item 9 Repainting Dates

February 2030 and February 2040.

## Item 10 Additional terms and covenants

- a) The lessee is to pay all outgoings including but not limited to all rates and refuse charges, emergency service levies and power and gas utilities on the demised premises.
- b) Notwithstanding clause (a) above;
  - i. The Council will consider waiving the local government's rates each year, pursuant to section 6.47 of the Local Government Act 1995.
- c) The fixed building assets on the property being insured by the Shire of Narrogin and the lessee is being required to reimburse the Shire for that expense.
- d) For clarity, the lessee is entitled to all income derived from the property, to be utilised by the lessee in accord with its objects of Association and / or the upkeep or improvements to the demised premises.
- e) The lessors Building Surveyor or appointed agents or shall, at least on an annual basis (in conjunction with the lessee) inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority future and long term maintenance to be undertaken by either party pursuant to the lease
- f) The land immediately south of, and adjacent to, Lot 1721 on Deposited Plan 26861 is excluded from the leased Premises. The land is located on Reserve 49048 and is subject to planning as part of the future process of implementing the Shire of Narrogin's Gnarojin Park Masterplan and remains the responsibility of the Shire.
- g) Notwithstanding Item 9.1 of the Schedule, the Lessor approves the Lessor's use of the land immediately south of, and adjacent, to Lot 1721 as off street parking, for visitors attending the Premises for the purpose of participating in activities associated with the use of the Premises.
- h) Pursuant to Clause 8.1(b), the parties agree that the separate insurance of plate glass surfaces is not a requirement of the lease.
- i) Pursuant to Clause 11.3 the Lessor undertakes to complete repairs to the ceiling in the main building in the 2020 financial year by either removing it or replacing it.
- j) Notwithstanding Clause 11.5 and 15(1)(c) and consistent with the Item 6: Permitted of this Schedule: The Lessor agrees that the planting and caring of all flora on the Premises will be at the discretion of the Lessee and the removal of any flora does not require consultation with or approval by the lessor.
- k) Pursuant to Clause 11.8; the Lessor requires only that all painting carried out on the Premises be completed to a professional standard.
- l) Notwithstanding Clauses 12(8), (9),13.1 and 13.2 and acknowledging that the lessee will organise special events on the Premises from time to time;
  - i. The Lessor approves the Premises to be used for the occasional consumption and sale of alcohol without application to the Lessor.

- m) Notwithstanding Clause 30 (a); as the lessee is a Not for Profit Tier 1 Association (not required to be audited) the lessee may supply the lessor with reconciled bank balances and an annual statement of assets and liabilities for each year;
- n) Notwithstanding Clauses 6.2 and 8 of the lease and consistent with the exclusive use of the premises for the Community's benefit, the lessor agrees to make a contribution to the Lessee each financial year of not less than \$6 000, to be determined from time to time by the Lessor, to support the Gnarojin Community Garden Inc's activities (such as regular Farmers and Makers Markets and various other public events throughout the year).

# Signing page

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EXECUTED [add day and month] 2020

**THE COMMON SEAL of THE SHIRE OF NARROGIN** was hereunto affixed in the presence of:

\_\_\_\_\_  
President

\_\_\_\_\_  
Leigh Ballard

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Dale Stewart

Signed by the **Gnarojin Community Garden Inc.** Pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Office Holder Sign

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

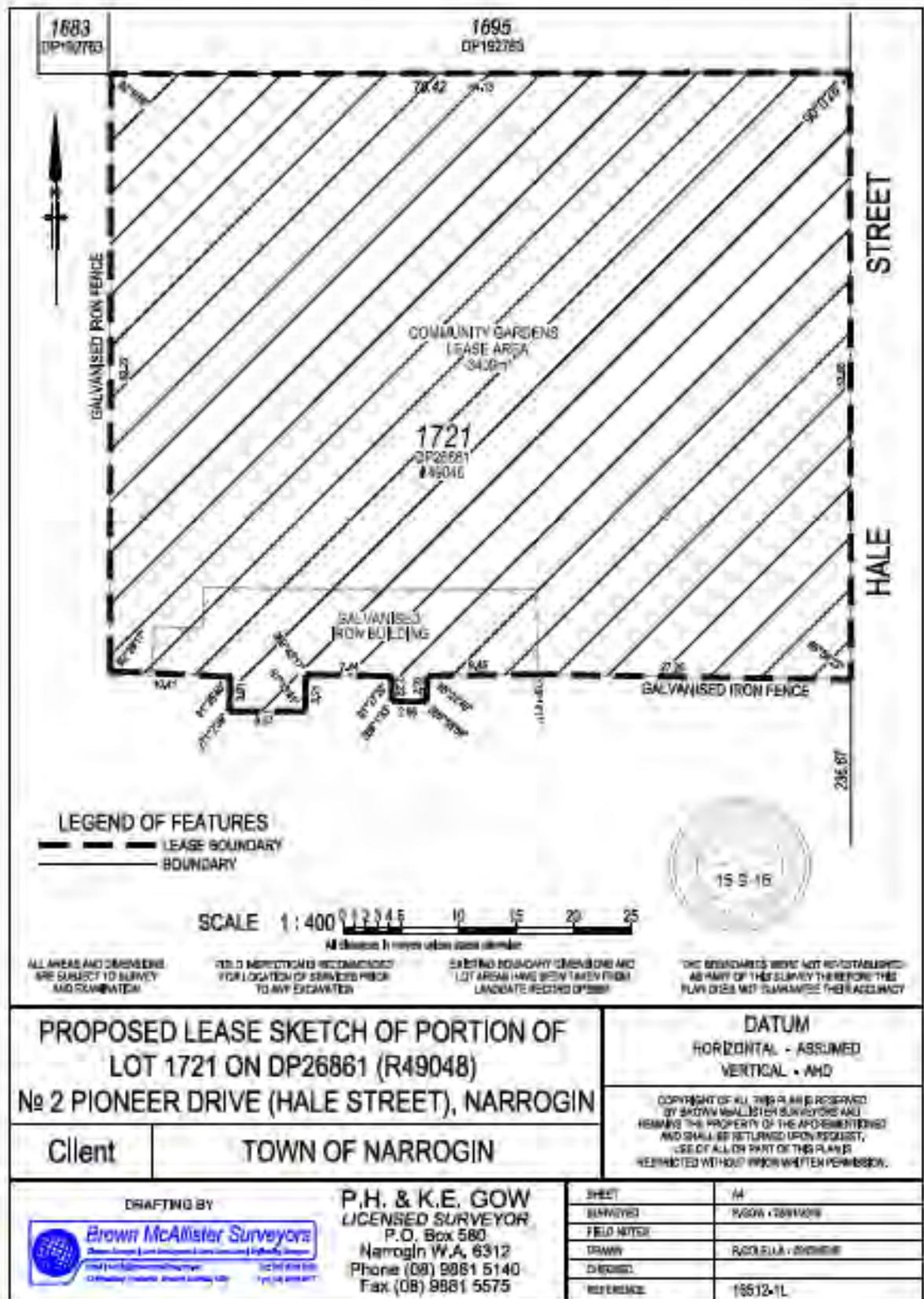
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Address:

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Office Held:

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Office Held:

# Annexure 1 – Sketch of Premises



# Annexure 2 – Minister for Lands' Consent

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Structural Report

# Structural Report; Shed at Gnarojin Community Garden, Narrogin.

The Dan Turner Family Trust trading as  
Dan Turner BE (Civil) RPEQ  
Civil, Structural and Project Management  
Narrogin  
Ph (08) 9881 5007, Mob 0409 867 048,

# Structural Report; Shed at Gnarojin Community Garden, Narrogin.

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## Introduction

Rob Powell, Senior Environmental Health Officer at Narrogin Shire Council, has requested an inspection of the main shed at Gnarojin Community Gardens. (Part of Lot 2 Pioneer Drive.)

The Community Garden is presently leased to a community group and Council wishes to ensure the safety of the building before renewing the lease.

The inspection was carried out by Dan Turner (practicing Structural Engineer) on Thursday 30<sup>th</sup> January 2020 with Rob.



FIGURE 1 FRONT ELEVATION OF BUILDING

## Summary

The building consists of several units joined together and built over a long period of time. While being dilapidated from lack of maintenance and in need of painting, the building is essentially structurally sound. In part, this is due to the many cross-walls in the building giving good resistance to lateral wind forces.

## Observations During the Inspection

1. There is extensive use of asbestos cement sheeting for walls and ceilings. Some of this seems to be Hardie-flex which has less or no asbestos fibers in it.

In itself, asbestos cement sheeting is a sound building product, but it needs to be kept painted. Any work carried out on it must conform with recommended practice including wearing respirators.

2. Some of the ceilings have cracked and this could lead to possible failure. Very crude methods have been used to avoid this disaster.
3. Some of the roofing is in very poor condition and needs replacing. This could be carried out using second hand corrugated iron sheeting.
4. The gutters need cleaning.
5. There is some obvious termite damage, but this doesn't appear to have made the building unsafe.
6. The building has deteriorated considerably through lack of maintenance.
7. The electrical wiring appears to have been upgraded with a new meter-box and RCDs installed.
8. There are few gutters on the roofs, but these do not seem to be needed. If installed, they could create a problem for disposal of roof water and therefore I recommend that the gutters not be replaced.



FIGURE 2; AERIAL PHOTO OF THE SHED AND GARDEN.



FIGURE 3; AERIAL PHOTO OF NO 2 PIONEER DRIVE.



FIGURE 4; AERIAL PHOTO OF SHED. NOTE THE TWO AREAS OF RUSTING ROOF.



FIGURE 5; REAR VIEW OF BUILDING.



FIGURE 6; REAR END VIEW OF BUILDING.



FIGURE 7; ADDITIONAL ELEMENT OF REAR WALL.



FIGURE 2; DAMAGE TO WALL. THIS MAY BE HARDIE-FLEX.





FIGURE 11; TWO LIGHTS IN THE CEILING NEED RE-FIXING MORE SECURELY.



FIGURE 12; CRUDE EFFORT TO ENSURE SAFETY OF CEILING.



FIGURE 13; SECTION OF ROOF IN POOR CONDITION.



FIGURE 14; SECTION OF ROOF IN POOR CONDITION.



FIGURE 15; ROOF IN POOR CONDITION



FIGURE 16; ROOF NAILS NEED ADJUSTING.



FIGURE 17; SAGGING RAFTERS.



FIGURE 18; GUTTER NEEDS CLEANING. THIS MAY BE CAUSING OVER-FLOW INTO CEILING.



FIGURE 19; TERMITE DAMAGE.

## Recommendation

- Consideration needs to be given to Council's long-term plans for the shed.
- The Community Garden may become a long-term asset, with wide user involvement by the Community and a strong loyal customer base.
- The shed could be used for many years doing nothing else to the shed but painting the asbestos with minimum repairs to the asbestos sheeting and replacing the badly rusted roof sheeting and making the two lights safe. A strengthening sill may be needed for one wall.
- An inspection on termite damage and present activity should be made before any extensive remedial work is contemplated. A quote could also be obtained for treatment of the site before commencing any upgrading.
- If the Community involvement is high over sufficient time, consideration could be given to applying for funding for a new purpose suitable building.
- If this was the future path, there would seem to be little point in carrying out extensive re-modelling and upgrading a building which essentially is an assembly of poorly built sheds in poor condition.
- Strengthen or remove ceilings using appropriate methods.
- The Gnarojin Community Garden Group may agree to carry out limited remedial work to make safe for say, the next five years.

Dan Turner BE (Civil) RPEQ No 05707

30<sup>th</sup> January 2020

## Presentation to Elected Members of the Shire of Narrogin by the Gnarojin Community Garden (Inc.) and Proposed Lease of lot 1721.

In regard to the proposed lease agreement of the Gnarojin Community Garden (GCG) premises, we advise that in its current form, the additional annual costs arising from the proposed agreement will make the continuation of the Garden at 8 Hale St (lot 1721), untenable and we petition the Shire of Narrogin to consider a partnership for the mutual benefit of Community and the Gnarojin Community Garden Inc.

The “Gnarojin Community Garden” was first established in 2011 when Hotham Personnel negotiated a peppercorn lease of the premises as an employment and training facility for its clients. Following the withdrawal of Hotham Personnel from the project in 2012, the Manager of Leisure and Culture for the Shire of Narrogin, Susan Guy, convened a meeting of individuals and organisations interested in carrying on the venture as a community-run garden. From these initial meetings an Interim Management Committee was formed in March 2013 to oversee the ongoing development of the Community Garden.



In 2014 the Gnarojin Community Garden adopted a constitution, was incorporated and held its inaugural AGM.

The Objects of the Gnarojin Community Garden are to:

- Develop and maintain a Community Garden in Narrogin Western Australia that is accessible to, inclusive of and equitable for the whole community.
- Foster community engagement, cooperation, cultivation of positive relationships and the enjoyment of gardening, community arts and other cultural activities.
- Implement and promote practices that reduce use of, reuse and recycle materials and energy and reduce waste going to landfill.
- Promote develop and foster healthful, local food production and equitable food distribution to all community members.
- Encourage activity that promotes and facilitates health and wellbeing through the cultivation and preparation of food and involvement in the Garden.



*12 raised beds produce vegetables year round. At rear our pizza oven with bricks supplied by Narrogin Brick*

In partnership with the Shire of Narrogin, funded by the Narrogin Healthy Lifestyles Project and with the legacy of tools and garden infrastructure from Hotham Personnel, several funding grants and in kind support from several local businesses, the site has gradually evolved from a disused bowling club into a productive garden and community facility used by many individuals and community groups. Groups using the premises include Repay WA (Community work teams until 2019), PCYC (Certificate II Leadership training program 2013), Accessibility Inc. (Community Connections Program and individually supported disabled clients), Narrogin Regional Homecare (Walk and Talk group), Narrogin Playgroup (until November 2015) and Narrogin Regional Childcare Centre (until 2014), the Forget-me-not Café (a social morning for carers of and people with dementia). The Garden is also registered as a Voluntary work organisation with Centrelink and has engaged numerous Newstart participants over the years.

The Garden continues to provide an accessible facility for the public, an outlet for healthy outdoor activities, learning about and growing nutritious food and an engaging community life for members. It has also become the home of the Narrogin Farmers' Market, which is run by the GCG committee to provide a source of income to help finance our operating costs. It is not only a garden, it is also a public venue for events and community activities and tourism draw card for Narrogin. (Refer to Appendix A for more details).

The Community Garden's activities are in line with the Shire's Vision, Mission and Key Principles and address the four key strategic objectives as set out within the Strategic Community Plan 2017-2027.

#### Objectives:

- Economic - Support growth and progress locally and regionally.
- Social - Provide community facilities and promote social interaction.
- Environmental - Conserve, protect and enhance our natural built environment.
- Civic Leadership - Continually enhance the Shire's organisational capacity to service the needs of a growing community.



*Relaxed scene at the Narrogin Farmers Market*

### **Future directions for the Garden**

Since the founding of the garden and in the absence of a lease, the Shire has kindly met the cost of sewerage rates, metered power and water charges for the premises and waived the payment of Shire rates and rubbish collection. The committee very much appreciates the Shire's financial support to date, which has enabled us to invest in garden infrastructure to enhance the functioning of the Garden and in just seven years establish one of the best equipped and well developed community gardens in regional Western Australia. Meanwhile the committee has focused on establishing and maintaining good governance, including purchase of volunteer and public liability insurance to facilitate the Garden's operation.

The committee accepts that it is timely and appropriate for us to move towards formalising a lease of the premise. However the GCG is a volunteer based community organisation with a small turnover and without external financial support will be unable to meet all the costs arising from the terms of the proposed lease. These costs, including property insurance, refuse charges, emergency services levy, sewerage rates, fire extinguisher maintenance and power and water charges amount to approximately \$6500 per year, before adding any additional costs for repairs and maintenance to an increasingly run-down facility and our current expenditure in building and maintaining gardening infrastructure.

It is the committee's view that we need to negotiate a supportive partnership with the Shire to enable the Garden to continue to serve the community, meet our costs and resolve the issues related to running costs and maintenance of the site. Such partnerships between Shires and community gardens are not uncommon. One such example is that between the Kondinin Community Garden and the Shire of Kondinin, in which that Council includes an annual allocation in their budget for general upgrade of facilities, maintenance and 3 hours per week for their Manager for Planning and Development for grant writing and coordination.

### ***Current arrangement with regard to the COVID 29 emergency***

In response to the Covid19 pandemic, the GCG has moved to keep the premises closed to the public to ensure proper social distancing; permitting access only for a few members at a time engaged in plant propagation, picking produce, caring for chickens or creating compost.

The committee has initiated a regular newsletter to inform members about garden plans, produce in season and maintain a connection with members through sharing this experience in our regional area.

We are still growing food, utilising the contributions of our volunteer, donating their time and energy to make our garden a place of enjoyment for the whole community.

We invite you to help us continue to do it.

The Community Garden Committee

23 April 2020



*There is nothing healthier than locally grown fresh fruit and vegetables*

## Appendix A:

In return for the Council's investment in us, we have recorded thousands of hours of volunteer time at the Garden, to develop a place in the Community that serves us all.

### General achievements:

- Created a green open space for all members of the community (for some, it is easier to enter the open space of a garden than a building).
- Increased biodiversity values of the local environment.
- Developed a garden where people can take part in healthy outdoor activity, learn and gain a sense of achievement through growing food for themselves, sharing knowledge, skills and expertise in the process.



*Tomato pickle making workshop last year*



*Long table lunch to mark Neighbour day*

- Provided a Saturday morning Pick and Purchase where members of the public can pick a basket of food for \$10.00, this recoups funds spent on garden consumables.
- Encouraged local producers to bring their excellent produce to Market to provide for customers and promote their businesses and through these Farmers' Markets raised the required funds for our community insurances and develop the garden.
- Through workshops, sharing meals from our harvest, marking special occasions in the community calendar and encouraging other organisations to share the garden environment, we have created a place many describe fondly as their "other place."

Specifically, our activities to date have included the following:

### Partner projects

- Heathy eating classes with NHLP
- Cooking in Season series of cook booklets also supported by NHLP
- Eggsellent Eggs, Composting system with WA Waste Authority
- Dual-use pathway and covered seating area with Department of Local Government
- PCYC mural projects I conjunction with the Eggsellent Eggs project



*PCYC Certificate II in leadership trainees in front of their chook house mural*

## Events

- Narrogin Farmers' Market, bimonthly since 2014
- Neighbour day film night and long table lunch (2 years)
- 'Art in the Garden', Dryandra Art Trail (2 years)
- Presentes! Band, dinner and show in association with ARtS Narrogin
- Retrosuburbia road show with David Holmgren



*Left Retrosuburbia attracted people from as far away as Brookton, Katanning and Germany. Right Farmers Market attracts around 1-300 people each market.*

## Workshops

- Strategic planning workshops for the garden (3)
- Composting
- Keeping chooks
- Waterwise Gardening
- Introduction to Permaculture
- Organic gardening with Neil Collins (2)



*One of many successful gardening workshops, this with Neil Collins from Denmark*



Cr Fisher declared an Impartiality Interest in this item as he is a non-paid Board Member of the Narrogin Chamber of Commerce.

#### 10.4.10 CHRISTMAS AND NEW YEAR RETAIL TRADING HOURS 2020

File Reference	8.1.3
Disclosure of Interest	The Chief Executive Officer is currently a non-paid Board Member of the Narrogin Chamber of Commerce and therefore declares an Impartiality Interest.
Applicant	Narrogin Chamber of Commerce
Previous Item Numbers	10.4.2 – 25 September 2019, Resolution 0919.014
Date	17 September 2019
Author	Dale Stewart – Chief Executive Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Letter and list of dates from the Narrogin Chamber of Commerce Inc.

#### Summary

Council is requested to consider the endorsement of the proposed extended retail trading hours for the month of December 2020, as requested by the Narrogin Chamber of Commerce (Inc.).

#### Background

Each year the Narrogin Chamber of Commerce requests that Council make an application to the Department of Mines, Industry Regulation and Safety (DMIRS) to extend the business operating hours for the Christmas period, being the month of December. If approved by Council, officers then make application to the DMIRS for this to be considered and formally approved.

Council at its meeting of 25 September 2019 resolved as follows:

*“That with respect to the extended retail trading hours for the month of December 2019, Council endorse the proposed hours for 2019, as per the request of the Narrogin Chamber of Commerce Inc., consistent with Attachment 1”.*

#### Comment

As in previous years, it is presented to Council to endorse the proposed dates and times for the Christmas trading hours extension for the month of December 2020. The dates and times have been developed by the Narrogin Chamber of Commerce, in consultation with its members and was resolved in consultation by the Narrogin Chamber of Commerce Executive Officer with the Committee after its meeting of 17 August 2020.

Should Council approve the attached dates and times, application is then made to the DMIRS for formal approval. Once the approval has been received from the DMIRS, the Christmas trading hours will be advertised by the Narrogin Chamber of Commerce.

It should be noted that the increase in operating hours does not commit any business to opening extended hours, however, provides the ability to do so, if they choose.

### Consultation

Discussion has been held with:

- Kerry Bryant – Executive Officer of the Narrogin Chamber of Commerce.

### Statutory Environment

The Retail Trading Hours Act 1987 applies to retail shops in Western Australia south of the 26th parallel. It sets out the trading hours and rules covering various categories of retail outlets.

The trading hours of the following store types are not covered by the Act:

- restaurants
- cafes
- takeaway food shops
- short-term markets (set up and dismantled in one day); and
- shops on Rottnest Island.

### Policy Implications

There are no current or future policy implications relative to this matter.

### Financial Implications

There are no known meaningful financial implications relative to this matter.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective:	1. Economic Objective (Support growth and progress, locally and regionally)
Outcome:	1.1 Growth in revenue opportunities
Strategy:	1.1.1 Attract new industry, business, investment and encourage diversity whilst encouraging growth of local business

### Voting Requirements

Simple Majority.

#### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.019**

Moved: Cr Early                      Seconded: Cr Searle

That, with respect to the extended retail trading hours for the month of December 2020, Council endorse the proposed hours for 2020 as per the request of the Narrogin Chamber of Commerce Inc., consistent with Attachment 1.

**CARRIED 9/0**

Mr Dale Stewart  
Chief Executive Officer  
Shire of Narrogin  
PO Box 1145  
**NARROGIN WA 6312**

Dear Dale

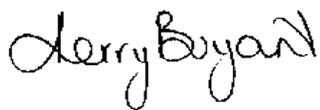
**PROPOSED TRADING HOURS FOR 2020 / 2021 CHRISTMAS / NEW YEAR PERIOD**

Please find attached the attached proposed amendments for the Narrogin Christmas/New Year 2020-2021 Retail Trading hours for consideration by the Shire of Narrogin.

The chamber believes these hours will meet the needs of both shoppers and retailers in our region and is recommending trading be allowed on Monday 28<sup>th</sup> December 2020 which is a Public Holiday.

Please advise the chamber when the amended hours have been approved by the Minister to enable this information to be provided to our members.

Kind regards



Kerry Bryant  
**Executive Officer**

19 August 2020

Enc: 2020-2021 Proposed Hours

## PROPOSED Narrogin Christmas/New Year retail trading hours 2020/2021

Day and Date	Trading Hours
<b>Sunday 6 December 2020</b>	<b>10.00 am to 5.00 pm</b>
Monday 7 December 2020	8.00 am to 6.00 pm
Tuesday 8 December 2020	8.00 am to 6.00 pm
Wednesday 9 December 2020	8.00 am to 6.00 pm
Thursday 10 December 2020	8.00 am to 9.00 pm
Friday 11 December 2020	8.00 am to 6.00 pm
Saturday 12 December 2020	8.00 am to 5.00 pm
<b>Sunday 13 December 2020</b>	<b>10.00 am to 5.00 pm</b>
Monday 14 December 2020	8.00 am to 6.00 pm
Tuesday 15 December 2020	8.00 am to 6.00 pm
Wednesday 16 December 2020	8.00 am to 6.00 pm
Thursday 17 December 2020	8.00 am to 9.00 pm
Friday 18 December 2020	8.00 am to 6.00 pm
Saturday 19 December 2020	8.00 am to 5.00 pm
<b>Sunday 20 December 2020</b>	<b>10.00 am to 5.00 pm</b>
Monday 21 December 2020	8.00 am to 6.00 pm
Tuesday 22 December 2020	8.00 am to 6.00 pm
Wednesday 23 December 2020	8.00 am to 6.00 pm
Thursday 24 December 2020	8.00 am to 9.00 pm
<b>Friday 25 December 2020 (PUBLIC HOLIDAY)</b>	<b>CLOSED</b>
<b>Saturday 26 December 2020 (PUBLIC HOLIDAY)</b>	<b>CLOSED</b>
<b>Sunday 27 December 2020</b>	<b>CLOSED</b>
<b>Monday 28 December 2020 (PUBLIC HOLIDAY)</b>	8.00 am to 6.00 pm
Tuesday 29 December 2020	8.00 am to 6.00 pm
Wednesday 30 December 2020	8.00 am to 6.00 pm
Thursday 31 December 2020	8.00 am to 6.00 pm
<b>Friday 1 January 2021 (PUBLIC HOLIDAY)</b>	<b>CLOSED</b>
<b>Saturday 2 January 2021 reverts to                      Narrogin General Retail Hours</b> 8:00 am – 6:00 pm Monday, Tuesday, Wednesday & Friday 8:00 am – 9:00 pm Thursday 8:00 am – 5:00 pm Saturday CLOSED Sunday and Public Holidays	

#### 10.4.11 NO SCHOOL NO POOL RULE – PROPERTY LOCAL LAW DETERMINATION

File Reference	13.5.4
Disclosure of Interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	18/12/2019 – No School No Pool Rule – Resolution 1219.007
Date	17 August 2020
Author	Dale Stewart – Chief Executive Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. 1 x Community submission received

#### Summary

Council is requested to consider the adoption of a Property Local Law determination of not permitting school-aged children that are suspended from, or ‘wagging’ school, from utilising the Narrogin Regional Leisure Centre (NRLC) aquatic centre pool on that school day.

#### Background

On 18 December 2019, Council resolved to seek submissions from the public and the schools of the Shire as below:

*“That, in relation to implementing a No School No Pool Rule, Council resolve that it intends to consider making the following Property Local Law determination and seek submissions from the public and the schools of the Shire with respect to the proposal, via Council’s website, Facebook and local advertising, closing 30 days after the date of publication in the first Narrogin Observer to be published in 2020:*

*Determination: Public Places and Local Government Property Local Law 2016 Part 2 Determinations in Respect of Local Government Property Determination No. 1:*

#### *No School, No Pool Rule*

1. *It is a determination of the Shire of Narrogin, that the Centre Manager of the Narrogin Regional Recreation Centre is required to deny entry to the Centre on a relevant day to any student patron, if the following conditions are met on that day:*
  - a. *The student is, or was absent from school on that day; and*
  - b. *That it is not a school-sponsored activity, excursion or event; and*
  - c. *That they are of primary or high school age; and*
  - d. *They normally attend schools in Narrogin; and*
  - e. *It is a normal school day that is not a pupil free day; and/or*
  - f. *They are temporarily suspended from the school in Narrogin and the above conditions apply.*

2. *Notwithstanding the above, the Centre Manager has authority to approve entry if the Manager is satisfied that there are extenuating circumstances.*
3. *This Determination does not restrict entry to Department of Education-approved 'Home Schooled' children, nor children ordinarily resident from other districts."*

On behalf of the Wheatbelt Human Services Managers' Forum South (Narrogin), a Government led Forum, Avon Community Services (ACS), approached the Shire requesting support to implement a No School No Pool Rule. ACS cited the need to re-engage with an estimated 200 school aged Narrogin children, who are currently not enrolled in, or habitually failing to attend school-based education programs. As a result, these young people are at risk of; engaging in criminal activity; failing to achieve minimum education outcomes; and reduced opportunities for employment.

The Rule will prohibit entry to the pool at the NRLC to school-aged children that should otherwise be at school. The purpose of the Rule is to address absenteeism rates and banning the student from the pool for the whole day that they are suspended, or absent, is preferred as a deterrent, rather than a ban per se, just during school hours.

In addition, ACS requested the Shire's support for an incentive program in which pool passes be given to those students where improved attendance is demonstrated, to reward and encourage attendance rates and promote the No School No Pool Rule.

The No School No Pool Rule will not restrict entry to Department of Education approved activities, home-schooled children, nor children ordinarily resident from other districts.

### **Comment**

The adoption of a No School No Pool Rule will assist Narrogin's schools, youth and health services providers and law enforcement agencies in their endeavours to re-engage with school-aged children, reduce criminal and anti-social activity by school-aged children during school hours and improve educational outcomes.

The request is in keeping with what the Administration would expect to be the community's view, in relation to the matter of school-aged children being in school – which has been supported generally by the comment and submissions period.

It should be noted that a web review of associated literature on the subject (web based) indicates that:

- there was a general widespread support for the principles of a 'no school, no pool' Rule wherever it was adopted and applied;
- anecdotally there appeared to be a corresponding decrease in vandalism and antisocial behaviours during school hours; and
- that there was no real evidence indicating it directly decreased school absenteeism, other than at remote indigenous communities.

The practical application of the Policy will come down to the working relationship between the Regional Education Office and staff at the YMCA WA knowing their customers. It is acknowledged that there will always be some practical teething problems with estimating ages of customers and knowing whether they should be at a school or not. The key is the principle of supporting measures that both penalise and reward student behaviours that, together, increase school attendances. If the Shire was presented

with initiatives from various agencies or schools that sought to reward positive behaviours, then these would be considered on their merits also.

## Consultation

ACS consulted with and sought support from the Principals of Narrogin's four schools. Furthermore, ACS has consulted with Narrogin Police, Shire of Narrogin CEO, Moorditj Youth Foundation Aboriginal Corporation, KEEDAC and the recently established Wheatbelt Human Services Managers' Forum South (Narrogin).

A key element of this determination requires the District Education Office providing the Shire, via NRLC Manager, a daily list of all students who are absent from school each day.

Wheatbelt Human Services Managers' Forum South (Narrogin) representatives have indicated the support of the four public schools and St Matthew's Primary School would be beneficial, however, it should be stated, that despite the Shire contacting the local schools, no responses were received.

The proposal was advertised in the Narrogin Observer, seeking public comment, on 16 January 2020 for an extended timeframe of 30 days. Due to COVID-19 and the fact that the aquatic facility was closed for two months as a result of that, reconsideration of this matter has taken a lower priority in Council business.

Only one official submission / comment was received from a member of the public (Attachment 1).

That submitter noted that qualitative research would assist in revealing the factors in play behind why students fail to attend school. The submitter also noted that punitive measure shouldn't ideally be dealt with in isolation of positive reinforcement or reward or recognition measures. These comments are noted and indeed supported.

They are however the predominant role of education authorities and the education intuitions themselves and not the remit of local authorities or the Shire of Narrogin. It is the administration's understanding that there are indeed a suite of measures implemented by all schools within the Narrogin Shire and the Regional Education Office assures the administration that there is a concerted effort to reduce absenteeism with both punitive and positive measures. Hence the request to the Shire to introduce this particular measure under the control of the Shire of Narrogin.

In addition to advertising in the newspaper and making available on public noticeboards, the subject was raised in the Shire's Social Media content on Facebook:

The below post reach gained 1436 followers and 39 On Post reactions which illustrated a relatively strong view by the public on the matter. Comments were mostly supportive with 41 'likes' and 1 'love' response.

**MUST READS**

**Shire of Narrogin**  
Published by Carolyn Thomson (1) · January 16 · 🌐

**\*\* PROPOSED 'No School No Pool' RULE \*\***  
Council is considering adopting the following rule.  
Determination: Public Places and Local Government Property Local Law 2016 Part 2 Determinations in Respect of Local Government Property Determination No. 1  
No School, No Pool Rule  
1 It is a determination of the Shire of Narrogin, that the Centre Manager of the Narrogin Regional Recreation Centre is required to deny entry to the Centre on a relevant day to any student patron, if the f. See More



**Performance for Your Post**

**1,436** People Reached

**56** Reactions, Comments & Shares

<b>41</b> Like	<b>39</b> On Post	<b>2</b> On Shares
<b>1</b> Love	<b>1</b> On Post	<b>0</b> On Shares
<b>12</b> Comments	<b>11</b> On Post	<b>1</b> On Shares
<b>2</b> Shares	<b>2</b> On Post	<b>0</b> On Shares

**233** Post Clicks

<b>7</b> Photo Views	<b>0</b> Link Clicks	<b>226</b> Other Clicks
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**NEGATIVE FEEDBACK**

<b>1</b> Hide Post	<b>0</b> Hide All Posts
<b>0</b> Report as Spam	<b>0</b> Unlike Page

Reported stats may be delayed from what appears on posts

**Get More Likes, Comments and Shares**  
When you boost this post, you'll show it to more people.

**1,436** People Reached      **289** Engagements      **Boost Post**

Hazlene Warty, In Edwards and 37 others      8 Comments 2 Shares

Like    Comment    Share    🌐

Consultation regarding this proposal was also undertaken between:

- Dale Stewart – Chief Executive Officer;
- Management of the Narrogin Regional Leisure Centre (of the YMCA WA);
- John Bouwman – Officer in Charge Narrogin Police;
- Mandy Richardson – Youth Worker Avon Community Services; and
- Yvette Harrison - Regional Education Office (Narrogin).

### Statutory Environment

The Shire's Public Places and Local Government Property Local Law 2016, *Part 2.1 Determinations as to use of local government property* may provide that the Shire may advertise a determination prohibiting a person from undertaking or doing a certain thing.

The advertisement must be undertaken via local public notice providing 21 days minimum for submissions with respect to the proposed determination (cl 2.2).

Resolving a particular determination cannot be delegated [cl 2.2(8)] and, pursuant to clause 2.8 of that Local Law, may specify a certain class of person(s) that the prohibition relates.

Consideration of any submissions received and final adoption of the Determination must be by an absolute majority decision of the Council and therefore cannot be delegated.

### Policy Implications

Other than complying with the intent of the Community Engagement Policy, there are no current Council policy implications, however the Council, if it adopts a Property Local Law Determination, would be effectively creating a new rule with respect to the Aquatic Facility.

### Financial Implications

The adoption of a position on No School, No Pool Rule will have negligible (if any) Budget impacts nor impact the provisions of the Long Term Financial Plan.

### Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027		
Objective	2.	Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.1	Provision of youth services
Strategy:	2.1.1	Develop and implement a youth strategy

### Voting Requirements

Absolute Majority.

#### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.020**

Moved: Cr Weise                      Seconded: Cr G Ballard

That in relation to implementing a No School No Pool Rule, Council;

1. Make the following Property Local Law determination:

Determination: Public Places and Local Government Property Local Law 2016 Part 2 Determinations in Respect of Local Government Property Determination No. 1:

#### No School, No Pool Rule

It is a determination of the Shire of Narrogin, that the Centre Manager of the Narrogin Regional Recreation Centre is required to deny entry to the Centre on a relevant day to any student patron, if the following conditions are met on that day:

- a. The student is, or was absent from school on that day; and
- b. That it is not a school-sponsored activity, excursion or event; and
- c. That they are of primary or high school age; and
- d. They normally attend schools in Narrogin; and
- e. It is a normal school day that is not a pupil free day; and/or
- f. They are temporarily suspended from the school in Narrogin and the above conditions apply.

Notwithstanding the paragraph above, the Centre Manager has authority to approve entry if the Manager is satisfied that there are extenuating circumstances.

This Determination does not restrict entry to Department of Education approved 'Home Schooled' children, nor children ordinarily resident from other districts.

2. Request the Chief Executive Officer to seek from the Regional Education Department public school attendance data of all public schools within the Shire of Narrogin on at least an annual basis to assist in providing benchmark data on whether this, combined with other punitive and reward and recognition strategies that the schools implement, are being effective over time.
3. Thank the submitter for their submission and advise them of the decision of the Council.

**LOST 2/7**

The following Councillors voted against the Resolution

President L Ballard  
Cr S Lushey  
Cr M Fisher  
Cr G Broad  
Cr C Bartron  
Cr J Early  
Cr B Seale

#### Reasons for Loss

The Council believed that there was insufficient evidence indicating this particular punitive measure had a demonstrated beneficial outcome and that local government was not the responsible agency to manage truancy in the education system, which should be providing a balance of reward mechanisms as an incentive, as well punitive measures.

Chief Executive Officer  
Shire of Narrogin  
PO Box 1145 Narrogin WA 6312

I refer to the Shire of Narrogin's proposed No School No Pool Rule

The Minutes of the Ordinary Council Meeting 18 December 2019, state that Avon Community Youth Services cite the need to re-engage with an estimated 200 school aged Narrogin children, who are currently not enrolled in, or habitually failing to attend school-based education programs.

This data ( without a reference source) immediately raises questions as to causation and correlation between socio-economic variables, enrolment rates and attendance rates. If this absolute figure of 200 school aged children was converted to a non attendance rate, how would this rate compare to other wheatbelt regional towns? It appears to be a very high absolute number and if verified points to systemic failure in Narrogin. This systemic failure is not surprising when Narrogin's Socio-economic Index for Areas (SEIFA) score shows Narrogin doing very poorly across the state in terms of its relative socio-economic disadvantage. At the time of the 2006 Census, Narrogin's SEIFA was 956 giving it a ranking of 33 out of 142 LGAs in Western Australia( See Community Safety and Crime Prevention Profile Town of Narrogin 2007-08 WA Office of Crime Preventions Profile). Narrogin's SEIFA remains well below the baseline of 1,000 in 2016. ( SEIFA 2016 ABS 2033.0.55.001)

Qualitative research would assist in revealing the factors at play behind the hard data. A failure to be enrolled is something a child cannot control and a child not registered on a school roll clearly flags the need to explore and establish the reasons behind such a statistic. A child cannot control for a home environment where attendance at school is not valued, cannot control for domestic violence or lack of food on the table, alcoholic parents, illiterate parents, a lack of transport, or overcrowded housing. Therefore low engagement and attendance must be viewed as systemic with many variables in the equation.

Tasmania has the second worst Year 12 completion rate in Australia behind the Northern Territory with data from the Australian Curriculum and Reporting Authority showing just 73 per cent of students went on from Year 10 to finish Year 12 in 2018. The Smith Family has pointed to an array of possible reasons some Tasmanian students struggled to get to school including a lack of transport, a parent or other family member with an illness or a disability and the strong relationship between achievement and attendance, which becomes stronger through the school years with children who aren't doing well at school tending to go to school less. ( See: <https://www.abc.net.au/news/2019-08-23/school-attendance-postcode-stigma-tasmania/11438622>).

This Tasmanian example is included to support the assertion that every Narrogin school will have school age children's attendance rates negatively impacted by a range of complex issues. I ask if Council has considered these and if Council has looked for examples of other initiatives and positive actions, to combat low rates of attendance rather reach for an authoritarian and punitive No Pool No School Rule.

Leonora District High School as a remote school has battled some of the lowest attendance rates in the state. However it was reported in December 2019 as beginning to see positive changes after introducing a series of initiatives over the 2019 calendar year.

One of the initiatives for this school was to **end** its no-school, no-pool policy which had been in place for some ten years. The Principal reported it had created a fractious community (personal discussion). Instead this Leonora District High School has granted free entry to the Council pool for school attendees, as well as introducing free hot school lunches. It is this policy that has been credited for the attendance turnaround. This school has seen, in some individual cases, student attendance jump from less than 50 per cent to more than 90 per cent. Overall attendance rates jumped significantly for this High School from 34.5 per cent to 45.7 per cent in 2019 and the number of students at "severe risk" has decreased by 11.5 per cent. ( See <https://www.abc.net.au/news/2019-12-19/remote-school-battles-low-attendance-rates-leonora/11812146>)

The free pool entry and free lunches are part of a suite of initiatives at this school. As the Principal commented issues at home, including domestic violence, fatigue and hunger contribute to truancy. The Principal, advised there is no one solution, that there is a need for a multi-faceted holistic view of school attendance and a holistic ongoing approach. She particularly stressed the need for a safe school environment for every child (Personal discussion). On this note, the 12th Closing the Gap report was tabled in Parliament on 12 February 2020 and is a timely reminder of the complexity of issues relating specifically to Aboriginal children when it comes to school attendance.

The Closing the Gap report shows Aboriginal children still trail far behind non-Indigenous children in literacy, numeracy and writing skills. An ABC new article on the release of the report pointed to the despair of a 28 year old Aboriginal male who was bullied at school.

*Her 28-year-old son ...graduated from high school a decade ago but admits he "basically couldn't write a sentence or paragraph".*

*"Through school I had a really hard life," he said. "I got bullied a lot, I couldn't handle it."*

*"The education gap is just massive," said his mother.*

*"We've got grandmothers who can't write shopping lists, young men who can't read to their children."*

<https://www.abc.net.au/news/2020-02-12/closing-the-gap-report-2019-indigenous-outcomes-not-on-track/11949712>

In a case like this, would an incentive to attend a local swimming pool encourage such a child to attend an unsafe school environment? Bullying is a school yard fact, a contemporary social phenomena. Is this taken into account when considering adopting a punitive intervention such as No School No Pool Rule? Given Narrogin's Aboriginal and Torres Strait Islander (ATSI) population is just under seven percent of its total population, the Closing the Gap report is instructive for this town.

The 18 December Minutes states that

It should be noted that a "web review of associated literature" on the subject indicates that:

There was general widespread support for the principles of a 'no school, no pool' rule wherever it was adopted and applied;

There are no references provided for this claim and no reference to geographical location. What was the source of this web based literature? It should be cited and examples given to fully support the Shire's argument. It would serve the Council to know the source of the information on which it is making its decisions.

The Agenda also states that with regards to the No School No Pool Rule:

...there was no real evidence indicating it directly decreased school absenteeism, other than at remote indigenous communities.

This statement is highly significant. In other words - the Shire acknowledges there is **no evidence** that a No Pool No School Rule increased school attendance outside of remote indigenous communities. Given this, and given the generality of the above claims, Council if adopting this Rule, appears willing to support the Rule without an evidence base. This is never good policy making.

When looking for evidence, the Remote Aboriginal Swimming Pool research conducted by the Royal Life Saving Society ([file:///C:/Users/Owner/Downloads/ROYAL0372 Photovoice Project Report Digital%20\(1\).pdf](file:///C:/Users/Owner/Downloads/ROYAL0372%20Photovoice%20Project%20Report%20Digital%20(1).pdf))

found that:

Overall, participants showed great support for and acceptance of NSNP and reported that the pool was seen as an attractive incentive for children to go to school. This research showed that school attendance was lowest on Mondays and Fridays, a trend that may be probable for a number of reasons.

At the same time, the research also found that the pool encouraged younger students to attend school; however pool participation decreased with age.

This, however, is specific research in remote isolated communities with very hot all year round weather. It is perhaps useful in flagging that a blanket policy applied by a Council targeting children of all ages may well be misguided - particularly outside of remote regions. Further Council may well ask what intervention it would plan for the winter months in Narrogin.

If Council proceeds to adopt this Rule - based at best, on questionable research and at worst on no evidence, then let the Shire be the first Local Government to provide the evidence, the hard facts to the State.

If adopting the policy then as part of the implementation process, I urge the Shire to request the Department of Education to provide it with current statistics for attendance (absolute numbers and rates) at each of the four schools in Narrogin across the school year and a breakdown based on demographics - gender, ATSI and non ATSI and age. Then the Shire has can use this benchmark data into the future, to evaluate outcomes of a specified

trial period and assess the success or otherwise, longitudinally, of implementing such a policy. Such evidence can then form a solid rationale for continuing or ceasing this intervention in what is clearly a fraught domain.

Thank you for your consideration.



#### 10.4.12 NARROGIN RETAIL SHOPPING HOURS DEREGULATION – REQUEST BY COLES

File Reference	13.5.4
Disclosure of Interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Shire of Narrogin
Previous Item Numbers	Nil
Date	17 August 2020
Author	Dale Stewart – Chief Executive Officer
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	<ol style="list-style-type: none"><li>1. Letters from Coles dated 21 June 2019 &amp; 17 April 2020</li><li>2. Letter from Narrogin Chamber of Commerce dated 8 May 2020</li></ol>

#### Summary

Council is requested to consider a proposal to invite written submissions from the public and businesses for a 14 day period on the following proposal:

To consider writing to the Department of Mines, Industry Regulation and Safety requesting permission for retail shops in the Shire of Narrogin to be able to permanently trade on the following additional days and hours:

- Sundays and Public Holidays between the hours of 11am and 5pm; and
- Weekdays until 9pm (currently 6pm, bar Thursdays, which is already 9pm).

#### Background

Council has received a request from Coles Supermarkets Australia Pty Ltd to permanently allow retail trading in the Shire of Narrogin on Sundays and Public Holidays between the hours of 11am and 5pm and late night shopping to 9pm on weeknights in addition to the already permitted Thursday nights.

A copy of their request is attached at Attachment 1.

Prior to considering the request, the Chief Executive Officer undertook to seek the views of the Narrogin Chamber of Commerce and also seek clarification of certain matters from Coles. Those responses are outlined under the consultation section of this report.

Local government authorities outside the Perth metropolitan area can apply to the Department of Mines, Industry Regulation and Safety - Consumer Protection Division, to extend the trading hours for general retail shops in their district beyond those stipulated in the Act.

Consumer Protection requires a local government to consult with the community to demonstrate that there is general support for a permanent change to Sunday or late night trading hours.

## Comment

Sunday trading will provide a convenience to shoppers in Narrogin and Districts currently only afforded to shoppers in the metropolitan and larger regional centres. Sunday trading is already approved for Katanning and Armadale, Narrogin's major regional shopping competitors. Retailers will retain the right to choose whether to open on Sundays or later at night (to 9pm on weeknights) or not.

Narrogin already provides opportunities for local residents and those from surrounding communities to access many of their core services including education, health, recreation and shopping requirements. Extended retail trading hours will enhance Narrogin's position as a regional centre in the Upper Great Southern and Southern Wheatbelt.

Sunday trading can offer an opportunity for increased retail activity for businesses, as well as increased job opportunities and tourism benefits. It may however have a negative impact on sporting, volunteer or social activities.

In attempting to address or quantify some of these opportunities and concerns, the Chief Executive Officer sought to clarify a number of matters.

Coles responded in part as follows (Attachment 1):

*"Given the changing retail environment with greater options for customer choice and 24 hour retail shopping, Coles' believes it is an opportune time for Council to review these restrictions and consider an alignment of Narrogin's retail trading hours with those of the Perth Metropolitan Area.*

*The Perth Metropolitan Area allows for large retailers to trade from 8am – 9pm Monday through Friday; 8am – 5pm on Saturday and 11am – 5pm on Sunday. Stores remain closed on Christmas Day, Good Friday and ANZAC Day; with trading permitted from 11am – 5pm on all other public holidays.*

*The Coles Narrogin supermarket offers its local customers a full range of fresh produce and groceries including an in-house bakery and delicatessen and employs 112 local team members.*

*We anticipate that our customers will respond enthusiastically to the greater opportunities and choice provided by these extended hours, as they have in other regional council areas that have extended or deregulated retail trading hours.*

*Such a change would give local businesses the ability to better meet consumer demand and compete more effectively with online retailers. More fundamentally, it means consumers in Narrogin will be able to enjoy greater convenience, choice and flexibility when doing their shopping, while providing them with the same access to bricks and mortar retailers as those in neighbouring municipalities.*

*Indeed under the current arrangement, we have loyal customers who are forced to go to their non-preferred supermarket on Sundays where their favoured value offering or product may not be available. Presently, customers who wish to access a large scale supermarket on a Sunday are required to travel the 200km round trip to Katanning or the 230km round trip to Collie.*

*Food businesses, such as cafes and restaurants, rely on retail businesses to give life and vibrancy to a precinct and enhance the dining experience of customers. Restricting the hours that large anchor retail businesses can operate negatively impacts other businesses, food*

*service providers in particular, especially those operating in areas with high proportions of tourists and day trippers as well as local residents. There is an opportunity to create excitement, provide additional value, enhance productivity and increase choice and value to consumers.*

*Based on our team member take-up in other areas that have introduced extended trading hours, Coles does not envisage any issues in attracting sufficient team members to work. We want to maintain opportunities for our employees to work on public holidays if that suits their lifestyle. Should the extension be approved, Coles' team members would be given the opportunity to voluntarily work and be provided with public holiday penalty rates, as specified under the Coles Enterprise Bargaining Agreement (EBA).*

*Coles would strongly encourage Council to consider this proposal at a future meeting in order to enable Narrogin locals access to the same convenient shopping experience as those in Perth and other regional local government areas”.*

## Consultation

Consultation regarding this proposal was also undertaken between:

- Management of the Coles Supermarket Narrogin;
- Elected Members via briefing forums; and
- Narrogin Chamber of Commerce.

The Chamber of Commerce wrote to the Shire on 8 May 2020 advising that they support the request from Coles, noting that whilst it may not be view of some of their members, that the Committee was supportive of the request, due to the opportunity that would present to Narrogin by competing with competitors such as Katanning and Armadale, which already provides trading on Sundays.

The Chamber noted that they believed that as a Regional Centre, the addition of Sunday trading could also provide benefits to smaller retailers that might also consider opening.

## Statutory Environment

Retail Trading Hours Act 1987, managed by the Department of Mines, Industry Regulation and Safety.

## Policy Implications

Council's Community Engagement Policy No. 1.14 has been taken into consideration.

There are no current or proposed other Council policy implications.

It should be noted that traders have the right to exercise individual discretion whether to open or not if the proposed trading extension is eventually approved. Traders have the right to exercise individual discretion and decisions made by traders will be supported by the Department of Mines, Industry Regulation and Safety.

## Financial Implications

There are no implications with respect to the Council's Budget or Long Term Financial or Asset Management Plans with respect to the decision.

## Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027		
Objective	1.	Economic Objective (Support growth and progress, locally and regionally)
Outcome:	1.1.1	Attract new industry, business, investment and encourage diversity whilst encouraging growth of local business
Strategy:	1.1.2	Promote Narrogin and the Region

## Voting Requirements

Simple Majority.

### OFFICERS' RECOMMENDATION

That in relation to the request for extended retail trading by Coles Supermarkets Australia Pty Ltd, Council, advertise in the Narrogin Observer and Shire website inviting written submissions from the public and businesses for a 30 day period on the following proposal:

To consider writing to the Department of Mines, Industry Regulation and Safety requesting permission for retail shops in the Shire of Narrogin to permanently be able to trade on the following additional days and hours if they so wish:

- Sundays and Public Holidays between the hours of 11am and 5pm; and
- Weekdays until 9pm (currently 6pm, bar Thursdays, which is already 9pm).

### COUNCIL RESOLUTION 0820.021

Moved: Cr Seale                      Seconded: Cr Broad

That in relation to the request for extended retail trading by Coles Supermarkets Australia Pty Ltd, Council, advertise in the Narrogin Observer and Shire website inviting written submissions from the public and businesses for a 30 day period on the following alternate proposals:

1. To write to the Department of Mines, Industry Regulation and Safety requesting permission for retail shops in the Shire of Narrogin to permanently be able to trade on the following additional days and hours if they so wish:

- Sundays and Public Holidays between the hours of 11am and 5pm; and
- Weekdays until 9pm (currently 6pm, bar Thursdays, which is already 9pm);

or

2. To write to the Department of Mines, Industry Regulation and Safety requesting permission for unrestricted daily trading in the Shire of Narrogin.

**CARRIED 9/0**

Reason for Change: Council requested that the option of unrestricted trading be included to guide Council in its deliberations.

17<sup>th</sup> of April 2020

Mr Dale Stewart  
Chief Executive Officer  
Shire of Narrogin  
PO Box 1145  
Narrogin WA 6312

Via email: [enquiries@narrogin.wa.gov.au](mailto:enquiries@narrogin.wa.gov.au)

*Dear Mr Stewart,*

#### RETAIL TRADING HOURS IN THE SHIRE OF NARROGIN

I write to you seeking Council's consideration of an extension to retail trading hours within the Shire of Narrogin.

As you would be aware, large retailers in Narrogin have restricted trading hours of 8am – 6pm Monday, Tuesday, Wednesday and Friday; 8am – 9pm Thursday; 8am – 5pm Saturday and closed on Sundays and all public holidays.

Given the changing retail environment with greater options for customer choice and 24 hour retail shopping, Coles' believes it is an opportune time for Council to review these restrictions and consider an alignment of Narrogin's retail trading hours with those of the Perth Metropolitan Area.

The Perth Metropolitan Area allows for large retailers to trade from 8am – 9pm Monday through Friday; 8am – 5pm on Saturday and 11am – 5pm on Sunday. Stores remain closed on Christmas Day, Good Friday and ANZAC Day; with trading permitted from 11am – 5pm on all other public holidays.

The Coles Narrogin supermarket offers its local customers a full range of fresh produce and groceries including an in-house bakery and delicatessen and employs 112 local team members.

We anticipate that our customers will respond enthusiastically to the greater opportunities and choice provided by these extended hours, as they have in other regional council areas that have extended or deregulated retail trading hours.

Such a change would give local businesses the ability to better meet consumer demand and compete more effectively with online retailers. More fundamentally, it means consumers in Narrogin will be able to enjoy greater convenience, choice and flexibility when doing their shopping, while providing them with the same access to bricks and mortar retailers as those in neighbouring municipalities.

Indeed under the current arrangement, we have loyal customers who are forced to go to their non-preferred supermarket on Sundays where their favoured value offering or product may not be available. Presently, customers who wish to access a large scale supermarket on a Sunday are required to travel the 200km round trip to Katanning or the 230km round trip to Collie.

Food businesses, such as cafes and restaurants, rely on retail businesses to give life and vibrancy to a precinct and enhance the dining experience of customers. Restricting the hours that large anchor retail businesses can operate negatively impacts other businesses, food service providers in particular, especially those operating in areas with high proportions of tourists and day trippers as well as local residents. There is an opportunity to create excitement, provide additional value, enhance productivity and increase choice and value to consumers.

Based on our team member take-up in other areas that have introduced extended trading hours, Coles does not envisage any issues in attracting sufficient team members to work. We want to maintain opportunities for our employees to work on public holidays if that suits their lifestyle. Should the extension be approved, Coles' team members would be given the opportunity to voluntarily work and be provided with public holiday penalty rates, as specified under the Coles Enterprise Bargaining Agreement (EBA).

Coles would strongly encourage Council to consider this proposal at a future meeting in order to enable Narrogin locals access to the same convenient shopping experience as those in Perth and other regional local government areas.

Should you require any additional information, please do not hesitate to contact me on [jerome.anderson@coles.com.au](mailto:jerome.anderson@coles.com.au) or 0408380271

*Yours sincerely*

*Jerome Anderson*

Jerome Anderson  
Regional Manager  
0408380271



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Mr Dale Stewart  
 Chief Executive Officer  
 Shire of Narrogin  
 PO Box 1145  
 NARROGIN WA 6312

Dear Dale

### **REQUEST FOR REVIEW OF TRADING HOURS**

Thank you for the opportunity to provide feedback regarding the request from Jerome Anderson, Coles Regional Manager to update the Retail Trading Hours in Narrogin.

Jerome's request was emailed to all committee members who are representatives of a variety of industries including both retail and not-retail.

Feedback from the committee was positive for the requested extension to the Narrogin Trading Hours, however this may not necessarily be the overwhelming response of some of our smaller business members.

In the weeks leading up to Christmas, the Chamber provides suggested changes to the hours for consideration by the Shire as we are aware there are a number of people who travel to Katanning and to Armadale to shop.. By extending the Narrogin Retail Trading hours to include Sunday gives both locals and visitors a greater opportunity to shop.

As a Regional Centre with a catchment of approximately 11,000 we provide an option for shoppers who reside away from Narrogin and are potentially missing out on their trade. With the COVID 19 restrictions beginning to be lifted, we are keen to encourage as shoppers to continue to support Narrogin and by providing this opportunity to Coles, smaller retailers may consider opening as well.

Please accept this letter as confirmation the Narrogin Chamber of Commerce supports the changes to the Narrogin Retail Trading hours, subject to the opportunity for Public Comment which will give our members the opportunity to provide their feedback.

Kind regards

A handwritten signature in black ink that reads 'Kerry Bryant'.

Kerry Bryant  
**Executive Officer**  
 8 May 2020

#### 10.4.13 THE SHIRE OF NARROGIN AND THE YMCA WA – YOUTH ENGAGEMENT, STRATEGY AND DEVELOPMENT PLAN 2019/20

File Reference	26.3.12
Disclosure of Interest	The Author does not have any Impartiality, Financial or Proximity Interests that requires disclosure.
Applicant	Mark Furr – General Manager Youth, Community and Leisure YMCA WA
Previous Item Numbers	Nil
Date	09 June 2020
Author	Mark Furr – General Manager Youth, Community and Leisure
Authorising Officer	Dale Stewart – Chief Executive Officer
Attachments	1. Youth Engagement, Strategy and Development Plan 2019/20

#### Summary

The YMCA WA has completed a youth engagement survey, revised its' approach to youth work and has developed an action plan on behalf of the Shire of Narrogin for consideration. The YMCA WA requests that the Council review this document and agree to its public dissemination for comment and if and when appropriate, advocate and support the implementation of agreed final recommendations.

#### Background

In late 2018 and as part of the Shire of Narrogin's Community Development Strategy, the YMCA WA was requested to engage the Shires' young people on a range of pertinent issues related to their current experiences and coexistence within the community of Narrogin and surrounds.

On behalf of the Shire of Narrogin, the YMCA WA, with assistance and support of other community stakeholders, conducted an engagement project with young people in Narrogin aged between nine and twenty-five years old.

The attached document reports on a process of engagement and consultation that represents the young people's perspective and expectations whilst living and growing up in the region. This work and its' represented data and findings was then used to inform the development of a strategy and a development plan which could be provided to engage and support young people in Narrogin and the surrounds.

#### Comment

The YMCA WA manages the Narrogin Reginal Leisure Centre on behalf of the Shire and agreed to undertake the youth surveys and engagement in 2018/19 as part of its broader involvement within Narrogin and commitment to youth development and empowerment. This was subsequently undertaken in 2019 with the final Draft Report concluded in 2020.

The YMCA WA in submitting the Draft Report, notes that it values the partnership it has with the Shire and its community, and is keen to further engage and support young people in Narrogin.

Mark Furr, General Manager Youth, Community and Leisure for the YMCA WA added *“The YMCA believes in the power of inspired young people and there is great potential to further enhance the NRLC and provide, in partnership with other organisations, even more activities and supports for the Shire’s youth population”*.

Based on the feedback to date, the following recommendations are tabled for consideration in the Draft Report and, subject to final endorsement following community feedback, subsequent advocacy and support by the YMCA WA, other agencies and the Shire:

1. The establishment of a Youth Leadership Group be considered.
2. Develop a youth strategy and youth development action plan (*this document*).
3. The mapping of relevant NGO services in Narrogin as part of the development of a youth strategy (*refer appendix B of the report*).
4. Establishment of an Inter-Agency forum that drives partnership and coordinated service delivery.
5. The activation and optimisation of space for young people in Narrogin be explored.
6. Develop proposals that enable resourcing and service delivery partnerships for young people in Narrogin.
7. Opportunities to fund developed programs should be explored in partnership with appropriate stakeholders.
8. The proposed strategy should encourage opportunities to conduct youth programs across the local community.
9. The proposed youth strategy includes opportunities that enables young people to connect with older people including Aboriginal Elders.
10. The development of education and transition to work initiatives for young people in Narrogin.

## Consultation

In producing this document, the following stakeholders were engaged and consulted and made significant contributions:

- Young people of Narrogin
- Shire of Narrogin
- YMCA WA
- Department of Prime Minister and Cabinet, (now NIA)
- South Regional TAFE
- Narrogin Senior High School
- Narrogin Primary School
- Aboriginal Development Officer – South Regional TAFE
- KEEDAC
- Moorditj Youth Foundation
- Shooting Stars
- Nurtured Youth Services
- West Australian Community Health Services
- West Australian Police Force
- Avon Youth Services
- Department of Justice.

## Statutory Environment

The only relevant statutory implication is section 3.18 of the Local Government Act 1995 which states:

### *“3.18. Performing executive functions*

*(1) A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.*

*(2) In performing its executive functions, a local government may provide services and facilities.*

*(3) A local government is to satisfy itself that services and facilities that it provides —*

*(a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body; and*

*(b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*

*(c) are managed efficiently and effectively.”*

In this regard the provision of youth services is considered within the realm of local government and the Shire of Narrogin, in partnership with other government and community organisations.

## Policy Implications

The Council’s Community Engagement Policy No 1.14 relates and the engagement processes were utilised in developing consulting with the various agencies and youth participants.

## Financial Implications

For the purpose of this submission to Council, there is no financial implication or request for financial support at this time.

If Council supports the dissemination of this document for public comment and there is an appetite to pursue the actions and recommendations within the paper, then the implications of providing additional supports and services to young people in Narrogin would inevitably require resources and funding. The YMCA has indicated that in collaboration with the Shire of Narrogin that it would actively pursue a consortium of funders to establish the finance required and would lobby Federal, State and Local Government departments and apply for funds, whilst also encouraging investment from potential partnering Organisations.

To further the general aims of the Draft Strategy and Plan, the Council has included in the 2020/21 Budget the sum of \$20,000 for Youth Support Services and Programs that might emanate from the process.

## Strategic Implications

In accordance with the Shire of Narrogin Strategic Community Plan 2017-2027, this work and subsequent report is intrinsically linked and aligned to the following strategic outcomes for the Shire:

Objective	2. Social Objective (To provide community facilities and promote social interaction)
Outcome:	2.1 Provision of Youth Services
Strategy:	2.1.1 Develop and implement a Youth Strategy

Outcome:	2.4 Cultural and heritage diversity is recognised
Strategy:	2.4.2 Support our Narrogin cultural and Indigenous community

### Voting Requirements

Simple Majority.

#### **OFFICERS' RECOMMENDATION AND COUNCIL RESOLUTION 0820.022**

Moved: Cr Lushey                      Seconded: Cr Early

That with respect to the Draft Youth Engagement, Strategy and Development Plan prepared by the YMCA WA, Council:

1. Acknowledge the provided report and its recommendations;
2. Approve the publication of the Draft Strategy and Draft Plan for general public comment for a period of 30 days in local media and direct to stakeholders and agencies; and
3. Consider the next steps following receipt of submissions.

**CARRIED 9/0**



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## BACKGROUND

The YMCA WA believes in the power of inspired young people; and strives to establish strong partnerships with its communities across the state of Western Australia. In doing so, The YMCA adopts a strategy of partnering and complementing service and supports without competition, thus ensuring a collaborative approach and community impact across the regions.

The Shire of Narrogin's expectations, are that services and support provided to young people in Narrogin, must be impactful, intervening, proactive and relevant. This ensures that the needs and voice of Narrogin's young people can be realized, supported and can subsequently lead to a more positive environment and contribution by all members of the community.

A collaborative and empowering strategy not only enables the provision of impactful services and support desired in Narrogin, but also aligns itself to addressing the state wide complex challenges and issues facing young people in Western Australia (WA), such as mental health, unemployment, education, homelessness, youth detention and out of home care.

The information below reflects a process of engagement and consultation that represents the young people's perspective and expectations whilst living and growing up in the region. As an outcome, this document outlines a strategy that will ensure the 'Y' and its partnering stakeholders and network will deliver quality outcomes aligned to the input of the Shire's younger population.

In 2018 and as part of the Shire of Narrogin's Community Development Strategy, the YMCA WA was requested to engage the Shires' young people on a range of pertinent issues related to their current experiences and coexistence within the community of Narrogin and surrounds.

On behalf of the Shire of Narrogin, the YMCA WA, with assistance and support of other community stakeholders, conducted an engagement project with young people in Narrogin aged between nine and twenty five years old.

This work and its' represented data and findings were to inform the development of a strategy and a development plan which is deemed paramount before any additional activities, initiatives and resources could be provided to engage and support young people in Narrogin and the surrounds. This was to ensure that the voice of young people was heard, and any next steps taken, were indicative of the feedback and input provided by those young people of Narrogin.

This document represents a three step process from engagement to plan and all input and data should be read in conjunction; the three parts to this process were:

- The development of a **Youth Survey** and the engagement process – feedback, findings and recommendations reported,
- The implementation of a **Youth Strategy**<sup>1</sup> and ,
- To establish a **Youth Development Plan** for Narrogin with agreed actions and measurable outcomes.

Findings and information relating to each if these phases are listed below:

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<sup>1</sup> The strategy represented within this document has been developed and written by the YMCA WA for YMCA WA and evaluated by Curtin University.



## **INTRODUCTION**

The YMCA WA believes in the power of inspired young people; and strives to establish strong partnerships with its communities across the state of Western Australia. In doing so, The YMCA adopts a strategy of partnering and complementing service and supports without competition, thus ensuring a collaborative approach and community impact across the regions.

Over the past ten (10) months the YMCA WA, has engaged with the Shire of Narrogin and in particular its young people, to conduct a survey and engage with as many young people across the community. This input and feedback from the towns younger generations has been sought to ensure their voice is represented in the Shire and can be used to inform and influence future direction and decisions made within the Narrogin community.

This report provides a representation of the data extrapolated from completed surveys, from which evidence-based assumptions can be made within each finding. This informs the report and supports subsequent recommendations for consideration.

In undertaking this body of work, the Department of Prime Minister and Cabinet, now National Indigenous Australians Agency, NIAA, approached the YMCA WA, to provide input, support and observe the process with a keen interest. It is acknowledged by the NIAA, that the data, information and subsequent report is provided at the request of the Shire of Narrogin, who also acknowledge the NIAA's appropriate interest in this body of work and its findings.

Information will be disseminated to other parties at the discretion of the Chief Executive Officer of the Shire of Narrogin.

## **BACKGROUND**

In 2018, negotiations and a commitment to resource a youth program in Narrogin had been agreed between the Shire and the YMCA. Terms of Reference to establish a Narrogin Youth Advisory Group were drafted and funds from both YMCA and the Shire were available for use.

The appointment of the new CEO in Narrogin and the General Manager Youth, Community and Leisure in 2018, resulted in meetings to discuss how the Shire funds were to be expended. It became apparent that there was no particular clarity regarding how best to utilize the resources available as it was unclear what "programs" were needed.

It was agreed that the YMCA would conduct a youth engagement project and survey as many young people in Narrogin as possible. The data would inform and represent in part, how life was as a young person in Narrogin and also represent their perception of their current environment, engagement and social life, including activities to improve their current situation and create further opportunities for young people in Narrogin. Once the report was published, the YMCA agreed to support the Shire in its composition of Strategy and Plan for youth in Narrogin.

## **PROJECT GOALS**

The goals of the engagement survey were:

- To provide opportunity for young people to express their views and be heard.
- To use this information in the development of local initiatives and projects relating to young people.
- To inform the establishment of a mechanism that enables young people to be able to contribute and influence Council decisions, strategies and plans.

## SCOPE

The scope of this project was to include:

- Input from young people aged between 9 years to 25 years of age.
- A timeframe for completion that was dictated by the community.
- Work with as many stakeholders from within the community to ensure coverage.
- A focus to engage disengaged and at-risk young people.
- A young demographic that is representative of the Narrogin community.

## STAKEHOLDERS

The completion of this engagement survey involved significant input and support from numerous stakeholders within the Community. Representatives from the following Departments, Agencies and Organisations provided access and support during the engagement project and should be commended for their contribution:

- Shire of Narrogin
- YMCA WA
- Department of Prime Minister and Cabinet, (now NIAA)
- South Regional Tafe
- Narrogin Senior High School
- Narrogin Primary School
- Aboriginal Development Officer – South Regional Tafe
- KEEDAC
- Moorditj Youth Foundation
- Shooting Stars
- Nurtured Youth Services
- West Australian Community Health Services
- West Australian Police Force
- Avon Youth Services
- Department of Justice

## ENGAGEMENT SURVEY COMPOSITION AND DESIGN

The composition of the survey itself was undertaken in consultation with a number of stakeholders; Mission Impact Specialist, YMCA WA, Department of Prime Minister and Cabinet, (now NIAA) and the Shire of Narrogin. This collaboration was essential to ensure an alignment to the YMCA National Outcomes Framework, NIAA service outcome priorities and local objectives.

The design of the survey was important, and it was determined that whilst the survey could be completed in a facilitated environment, as well as independently, it had to ensure that the respondent was not deterred by an onerous activity requiring significant writing and application to complete.

Agreed by all involved in the design, the use of emoji's was determined as an appropriate methodology to provide feedback, reducing time and potential confusion during completion. A small number of free text questions were also posed to obtain any other context relevant to the experiences of the young person in their community.

The survey included eleven (11) questions requesting a scaled agree/disagreement and five (5) free text responses. Additional demographic data including age, ethnicity and additional language was included too. The survey asked the following questions:

### **Emoji Response.**

1. I am involved in events or I am aware there are events and activities held in our community that involve multi – generational family members.
2. There are positive things for me to do other than sports and school sponsored events and activities
3. I think that the towns projects and events are respectful for the various cultures of the community.
4. There are people I respect within my community that could be a mentor to me.
5. I have had opportunities to work with older people/elders regarding community matters.
6. I have learned about my heritage, culture and my community through stories, interaction with senior citizens and cultural events etc.
7. I am involved in making decisions about my community and its future.
8. I think that in Narrogin the school and the community work together on shared objectives.
9. My ideas are listened to and I believe that this helps other complete work in the community.
10. I think that the Narrogin community invests money into projects and programs led by young people.
11. The Arts, Music and Library are important to me.

### **Free Text.**

1. What is your life like at the moment?
2. What do you want to achieve in life?
3. What would you like to see happen tomorrow?
4. What will you do to make this happen?
5. Is there anything else you want to say?

The survey was made available online via survey monkey, copies were available at the Regional Leisure Centre, as well as part of Youth week and NAIDOC week events; there was also facilitated completions at schools and also supported presentations by YMCA staff to the students. Even the local police station provided surveys when engaging young people at their premises. YMCA staff and community stakeholders walked the streets of Narrogin at night to engage vulnerable young people. The survey was released for completion from February to May 2019.

### **GENERAL ABS STATISTICS FOR NARROGIN**

- In the 2016 Census, there was a reported population of 5,162.
- 48.8% were male and 51.2% were female.
- 362 or 6.8% of this population were Aboriginal and Torres Strait Islanders (ATSI).
- This ATSI population was 3.7% higher than the WA State average.
- 704 or 13.6% of this population was aged between 0-10 years.
- 1,022 or 19.8% of this population was aged between 10-24 years, therefore,
- 1,726 or 33.4% of this population was 0-24 years.
- 288 or 10% of households spoke a language other than English.
- 658 or 12.7% of the population was aged between 15-24 years.
- 51 of these 15-24 year old's were aboriginal and 607 were Non-Aboriginal.
- 395 or 7.6% of the population was aged between 15-19 years.
- 34 of these 15-19 year old's were Aboriginal and 361 were Non-Aboriginal.

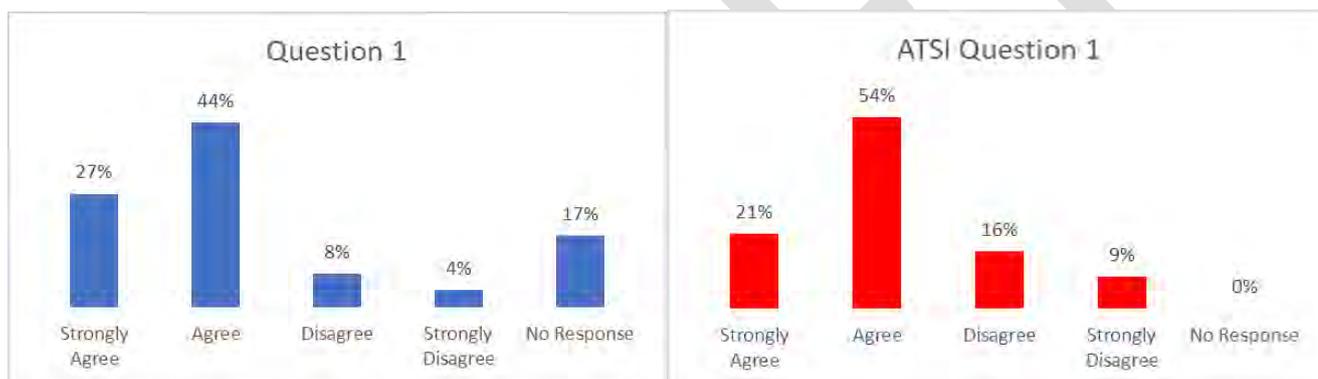
## YOUTH SURVEY STATISTICS AND FINDINGS

The following section outlines survey specific statistics and findings. Age demographic for survey responses were:

- 39% were 9-11 years.
- 52% were 12-16 years.
- 8% were 17-25 years.
- 291 or 28.5% of the young population in Narrogin responded to this survey.
- 24% of 291 respondents were Aboriginal.
- 19% of the 2016 census total of Aboriginal population in Narrogin was surveyed.
- 47% of 15-24 years Aboriginal people identified in the 2016 census data (51), were represented.
- 21% of total respondents spoke a language other than English at home.

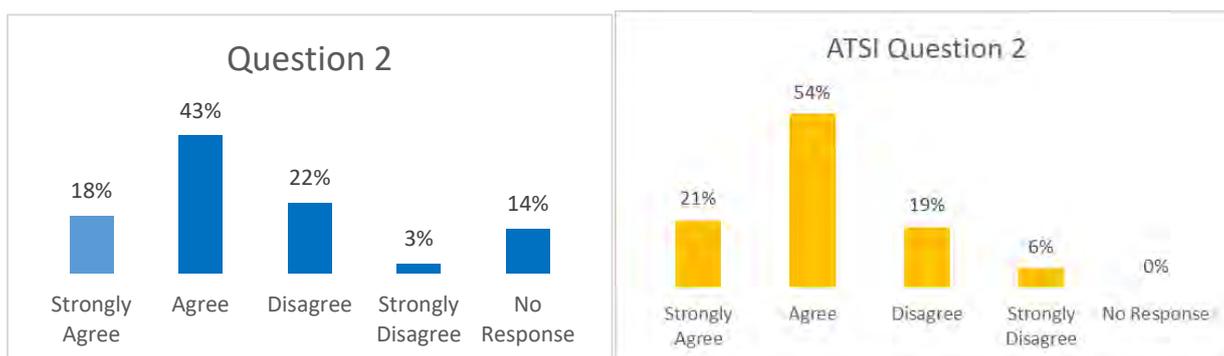
**Note:** The data from each of the questions below, are represented by overall Youth respondents and the same question is represented in the second chart as feedback from Aboriginal Youth respondents all from the Narrogin community.

### Question 1 - I am involved in events or I am aware there are events and activities held in our community that involve multi – generational family members.



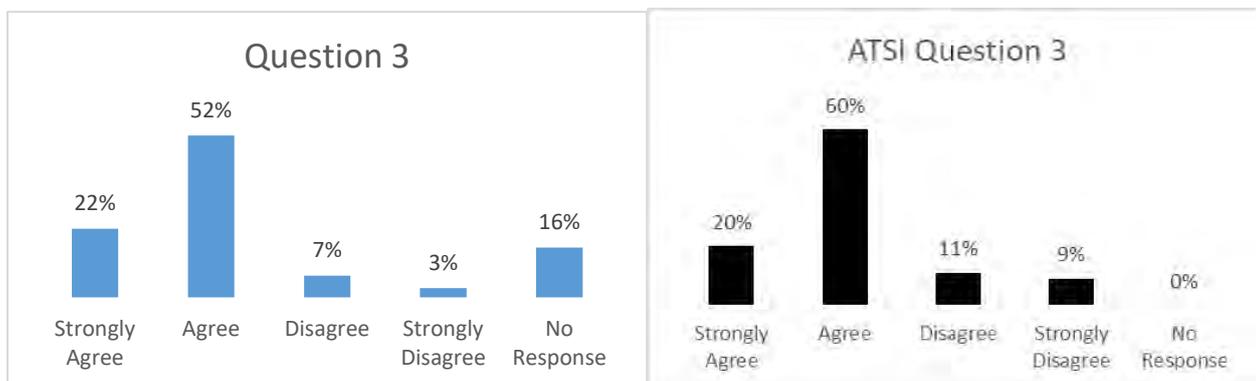
The data suggests that there are events and activities held in the community that involve multi-generational family members since 71% of total respondents agreed or agreed strongly, and 75% of Aboriginal respondents. This is a strong and positive result that can be built on. For the 12% of total respondents and 25% of Aboriginal respondents who were either not aware or not involved further consultation will be needed to determine why this is the case, particularly for the relatively high percentage of Aboriginal respondents. The 17% “No response” is mostly respondents who live outside Narrogin.

### Question 2 - There are positive things for me to do other than sports and school sponsored events and activities.



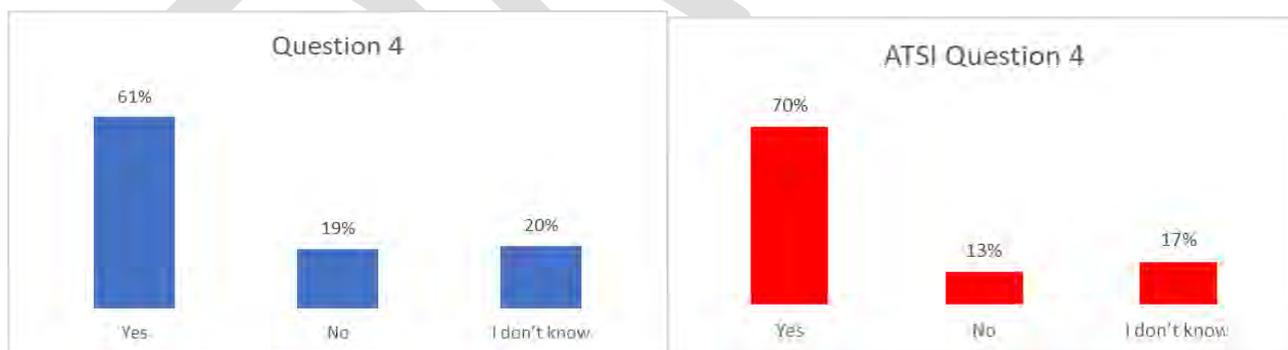
While a majority of total respondents have positive things to do other than sports and school sponsored events and activities, a significant minority (25%) don't. This represents 72 survey respondents, and probably a higher number of all the young people in town. This is a significant number of young people who are bored and looking for some excitement, and therefore likely to become involved in anti-social behaviour. Addressing this need as a priority is therefore likely to have a significant effect on reducing anti-social behaviour in town. The 14% "No response" is respondents who live outside of Narrogin.

**Question 3 - I think that the towns projects and events are respectful for the various cultures of the community.**



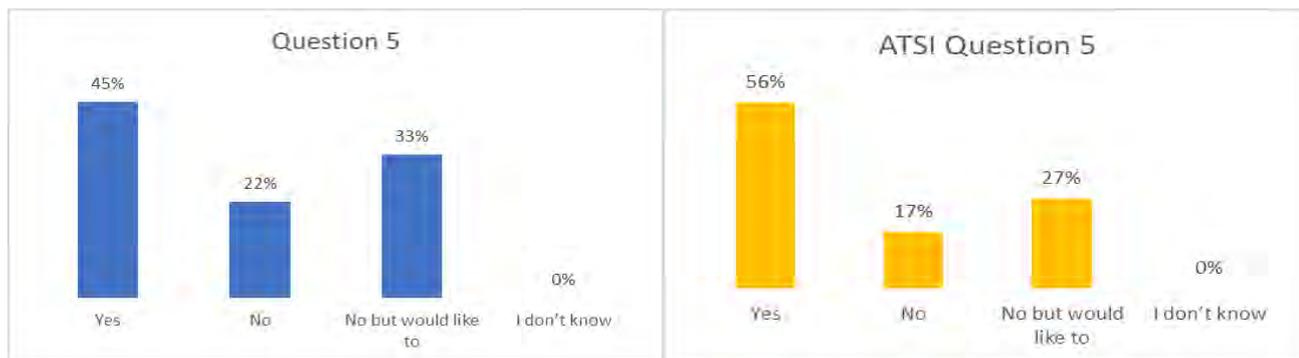
A high proportion of respondents, (74%), perceive local events and projects to be culturally respectful which is a positive result; this is even more positive when it is considered that 80% of Aboriginal respondents perceive culturally respectful events and activities are undertaken. Overall 10% of respondents disagreed and this statistic is much higher at 20% from Aboriginal respondents, believing this is not the case. Improved planning and implementation around the cultural respect component of town projects and events is likely to improve this perception. The 16% "No response" is mostly respondents who live outside of Narrogin.

**Question 4 - There are people I respect within my community that could be a mentor to me.**



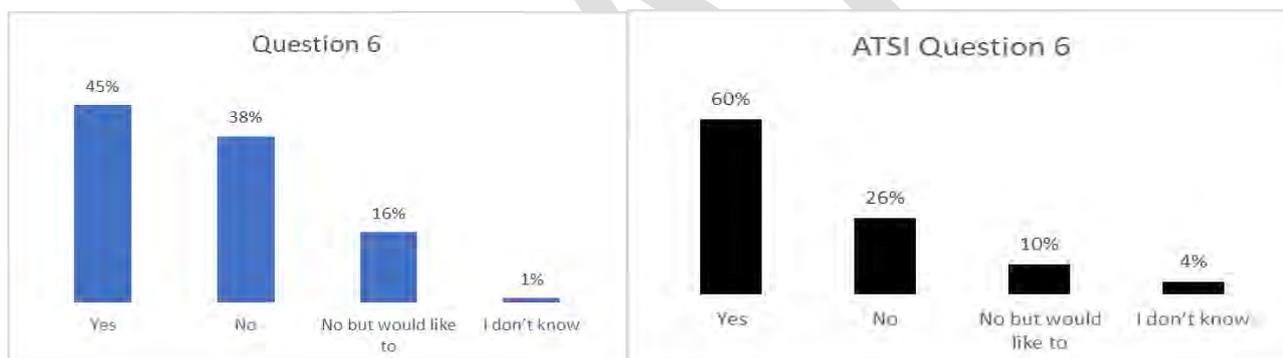
This is a troubling result with only 61% of young people surveyed perceiving there to be community members they respect who could be a mentor to them (slightly better for Aboriginal young people). It is also surprising in comparison with the responses to Statement 1 about multi-generational events. It suggests that even though the generations have opportunities to mix, there is a significant disconnect between younger and older members of the community, and a lack of broad-based leadership. This is a matter for whole-of-community discussion and addressing it is likely to be a multi-year process.

**Question 5 - I have had opportunities to work with older people/elders regarding community matters.**



Less than half of the survey respondents, 45%, have had opportunities to work with older people or elders. This also suggests a disconnect between young people in Narrogin and the older community. This statistic is not as high in Aboriginal respondents at 44% but is still a concern as it potentially implies a cultural disconnect between young aboriginal people and local elders. Of the 44% to 55% of respondents that claimed no opportunities to work with older people in the community, a significant proportion of that percentile expressed a desire to do so. This can indicate missed opportunities in the Shire, as 33% of young people engaged, would like to address this.

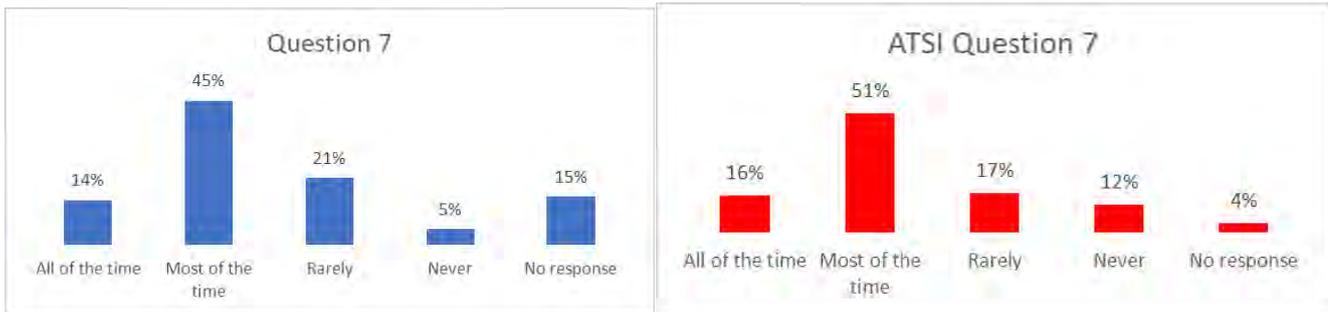
**Question 6 - I have learned about my heritage, culture and my community through stories, interaction with senior citizens and cultural events etc.**



A similar statistic to the above question is represented when young people were asked if they are learning about their local heritage and culture. Only 45% of young people stated they had learned about their heritage through elder interactions and cultural events. 60% of aboriginal respondents stated that they had, but this also indicates nearly 40% of aboriginal young people at risk by not or wanting to learn about their culture and heritage. Of those respondents that stated “No”, 16% expressed a desire to do so, which raises the question of opportunities to undertake this practice. Only one quarter of the 40% of aboriginal respondents that stated “No”, expressed a desire to engage and learn about their heritage and culture.

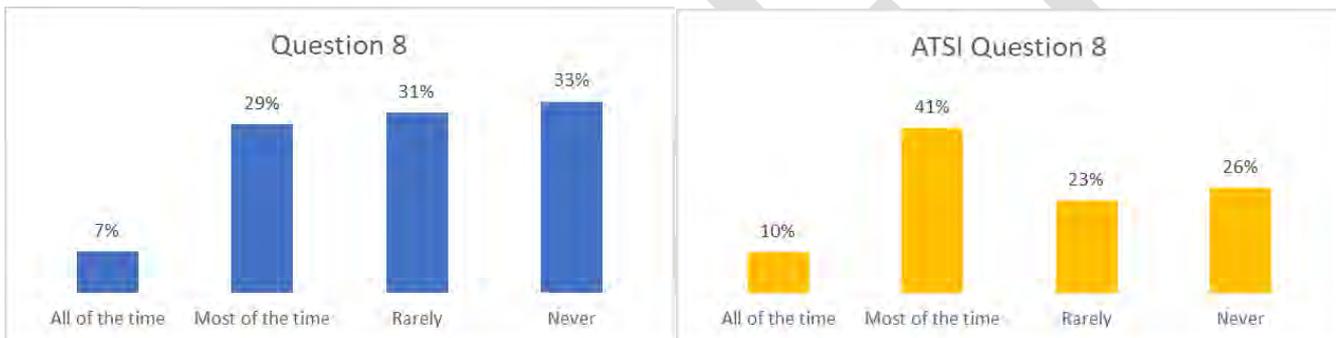
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**Question 7 - I think that in Narrogin the school and the community work together on shared objectives.**



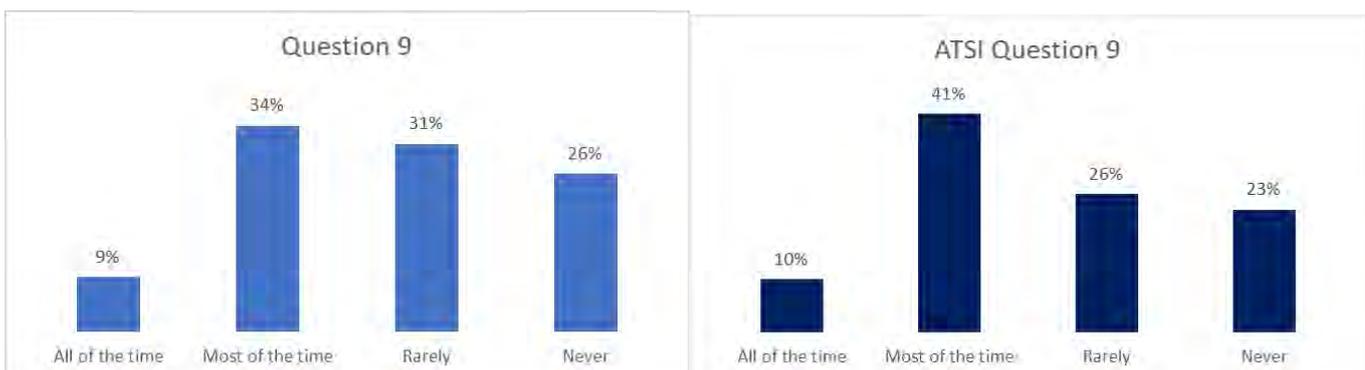
59% of young people surveyed believed that the schools and the local community worked together on projects events or objectives. 67% of Aboriginal respondents believed this occurs all, or most of the time. This leaves more than a quarter who believe to the contrary. It suggests that the school and the community are working together on shared objectives however not communicating this alignment well enough to the community and especially young people. The 15% “No response” is mostly respondents who live outside of Narrogin.

**Question 8 - I am involved in making decisions about my community and its future.**



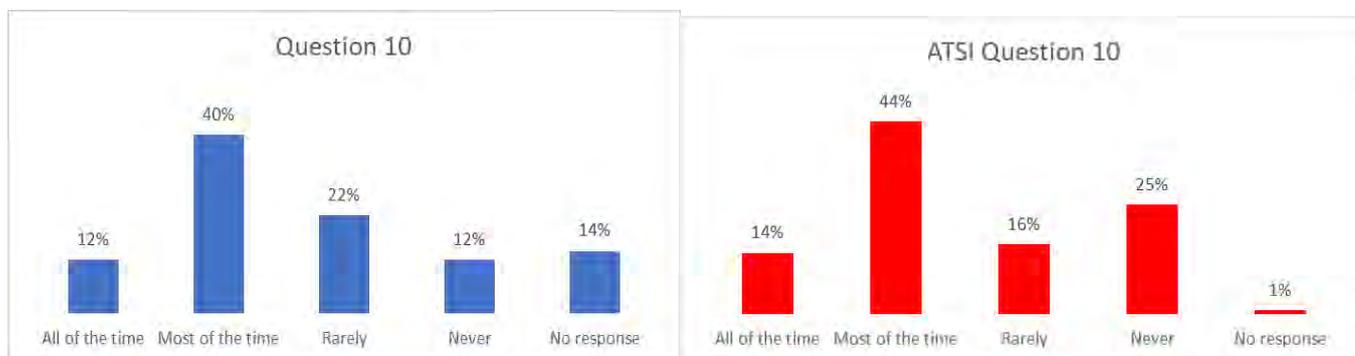
Only 36% of young people surveyed believe that they are involved in decisions made regarding the Narrogin community and its future. This is representative of a perception that the voice of young people is not a factor in determining important decisions of the community. The statistics are slightly higher from Aboriginal respondents at 51%, reflecting they are more involved. 64% of young people believe they are rarely or never involved in the decisions regarding the community. This matches a 2017 YMCA survey of young people across Australia that found that 66% of young people feel their age prevents them from being heard. This situation provides Narrogin with an opportunity to be a leader in Australia in giving young people a genuine voice in their community.

**Question 9 - My ideas are listened to and I believe that this helps other complete work in the community.**



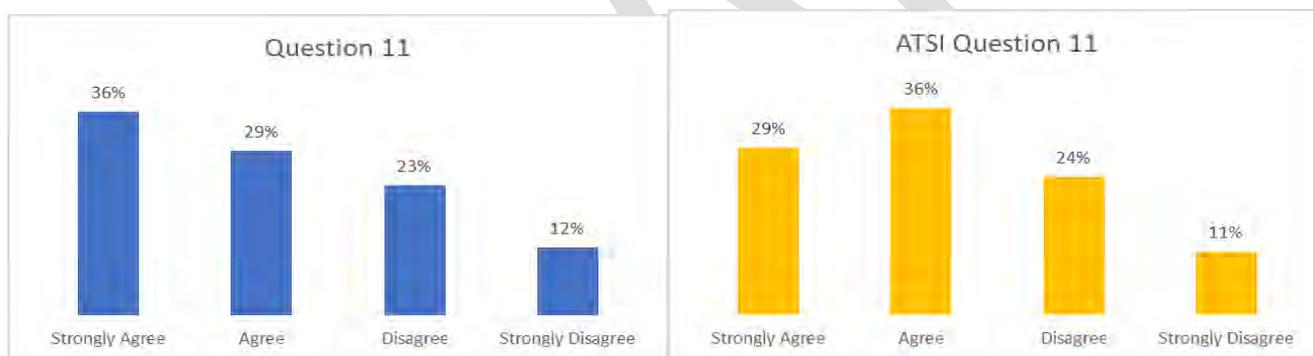
43% of respondents felt listened to and Aboriginal respondents at 51% was a consistent response linked to the previous question. This result for the total group is significantly better than for the previous statement (43% compared with 36%) perhaps suggesting a differentiation in their thinking between “being involved in making decisions” and “being listened to”. For the Aboriginal young people this doesn’t appear to be the case as their results are almost identical between the two statements.

**Question 10 - I think that the Narrogin community invests money into projects and programs led by young people.**



52% of young people believe the community invest money into ideas, projects and programs led by young people. This is a consistent statistic linked to previous questions and reinforce the perception of the voice of young people not being heard. This statistic is slightly higher in Aboriginal respondents, as 58% responded positively to this statement.

**Question 11 - The Arts, Music and Library are important to me.**



65% of young people agreed that art, music and the library was important to them. This was the same statistic from Aboriginal respondents. Appreciation for the arts, music and literature are widely considered to be an important part of becoming a well-rounded person and therefore this result has implications for the local schools, parents and the shire in developing this appreciation in more young people.

**Note: The following questions were free text responses and findings provided are generalized to themes. All surveys and individual responses are held and available for further analysis as required.**

**Question 12 - What is your life like at the moment?**

Responses from young people in Narrogin were split equally between life being positive or a negative experience for them at the time they were surveyed.

For those that represented a positive outlook, a linkage to sports and local activities that motivated them featured prominently. Health and Wellbeing is intrinsically linked to physical activities and sports and this is reflected in the comments made. For those respondents that had a more negative outlook, themes of racism, school pressures, bullying and boredom were prominent in their responses.

### **Question 13 - What do you want to achieve in life?**

A strong theme in the responses provided was associated to having a family. Many respondents recognised this as a key outcome and achievement and this is an encouraging narrative from young people in Narrogin. There was significant representation of various professions ranging from professional careers and sports related careers. Some respondents represented a generalization associated with financial security.

### **Question 14 - What would you like to see happen tomorrow?**

There was some significant diversity in the responses to this question. References to the cessation of racism and bullying stood out in the responses. A greater variety of sporting and recreation activities including water activities in the summer months, a keen interest to have a cinema in Narrogin as well as various other retail options within the town was strongly represented.

The cessation of racism and a respect for cultural differences was articulated frequently along with a desire for programs for Noongar females. More youth workers and associated youth activities was also a theme throughout the responses provided to this question.

### **Question 15 - What will you do to make this happen?**

The resounding theme that respondents represented to this question was communication. "Talk to someone", "talk to the Shire", "talk to school leaders", "talk to local businesses", "talk to the YMCA", "write letters". "Get people to listen" and "convince them to do something", was another frequent response.

### **Question 16 - Is there anything else you want to say?**

There were limited additional responses that were not already captured in previous questions, however some themes that emerged from this question included requests for a community youth mentor, more youth workers in Narrogin, free WIFI at the Narrogin Regional Leisure Centre and Youth Camps. Several responses articulated the desire for cultural camps to be established that reconnected aboriginal young people to their country.

## **CONCLUSIONS**

1. There is a positive culture of events and activities held in the community that involve multi-generational family members, however a significant proportion (25%) of the Aboriginal young people do not agree with this. The reasons why should be investigated.
2. Most young people have positive things to do other than sports and school sponsored events and activities, however a significant minority (25%) don't. Addressing this need as a priority is therefore likely to have a significant effect on reducing anti-social behaviour in town.
3. Most agree that town projects and events are respectful of the various cultures in the community however there is a minority who disagree, particularly among Aboriginal young people. Improved planning and implementation around the cultural respect component of town projects and events is likely to improve this perception.
4. There appears to be a significant disconnect between younger and older members of the community, and a lack of broad-based leadership by adults. This is a matter for whole-of-community discussion and addressing it is likely to be a multi-year process. A signal of hope is the one third of respondents who would like to engage more with adults in the community, in addition to the half (more for Aboriginal young people) who already do.

5. The school and the community are working together on shared objectives however not communicating this alignment well enough to the community and especially to young people.
6. Narrogin has an opportunity to be a leader in Australia in giving young people a genuine voice in their community since two thirds responded that they don't currently have a voice in making decisions in the Narrogin community, the same as a 2017 YMCA survey result across Australia. Responses to Question 15 make it clear they would like to have a voice.
7. Appreciation for the arts, music and literature are widely considered to be an important part of becoming a well-rounded person and therefore these not being important to one third of respondents has implications for the local schools, parents, local organisations and the shire in developing this appreciation in more young people.
8. Racism, bullying and boredom featured as key issues for respondents. Many suggestions were made by the young people to address these issues and provide an "easy win" for the town to listen to and implement at least some of these ideas quickly.

## RECOMMENDATIONS

The recommendations provided in this section represent areas for consideration, support and advocacy by the Shire Council. These recommendations are not limited to those stated but can be further evolved as part of the presentation and engagement of this survey report across community and stakeholders.

Based on the feedback to date the following recommendations are tabled for consideration and subsequent advocacy and support by the Shire:

1. The establishment of a Youth Leadership Group be considered.
2. Develop a youth strategy and youth development action plan.
3. The mapping of relevant NGO services in Narrogin as part of the development of a youth strategy.
4. Establishment of an Inter-Agency forum that drives partnership and coordinated service delivery.
5. The activation and optimisation of space for young people in Narrogin be explored.
6. Develop proposals that enable resourcing and service delivery partnerships for young people in Narrogin.
7. Opportunities to fund developed programs should be explored in partnership with appropriate stakeholders.
8. The proposed strategy should encourage opportunities to conduct youth programs across the local community.
9. The proposed youth strategy includes opportunities that enables young people to connect with older people including Aboriginal Elders.
10. The development of education and transition to work initiatives for young people in Narrogin.

**Note:** After feedback from young people completing this survey, the YMCA has installed free Wi-Fi at the Centre.

## NEXT STEPS

The following proposals are provided for consideration by the Shire and NIAA:

- The YMCA presents approved report to various community stakeholders – NIAA, Schools, Organisations, and captures feedback.
- The Shire / YMCA invites the District Leadership Group to Narrogin and presents the engagement survey findings.
- The YMCA liaises with young leaders and representatives in the community and supports them to present the findings of their engagement survey to Council.

- Shire of Narrogin to consider its support and advocacy for the recommendations made in this report.
- National Indigenous Australians Agency to consider appropriate recommendations by YMCA made in this report.
- YMCA to provide a Community Youth Strategy and Youth Development Plan for the Shire of Narrogin.

## **SUMMARY**

- This report summarises a comprehensive process that has taken a considerable amount of time, months, to complete. There is significant data and supporting evidence that supports this summary report. In reaching this stage, reflections of the process and feedback received already, lends itself to achievable recommendations that could potentially have a positive impact within a short period of implementation. Utilization and optimization of current resources and assets can contribute to a tailored approach that enables a positive response to the input provided by young people in Narrogin.
- Whilst there is opportunity and “low hanging fruit” identified within the recommendations, the process of engagement should still be pursued to capture additional input from the youth cohort aged between 17 years to 24 years, as this age group is a key priority and focus to engage and support them transition into work and adulthood. This process has been challenging to obtain responses from this group, and whilst 47% of the total population age group engaged, may seem a high statistic, this is not necessarily a high actual number for a critical age group that is currently trending as more “disengaged in their community than engaged”.
- It should be noted that there are other disengaged and at-risk young people within the community that may not have been represented fully within this process, however, YMCA staff in partnership with community stakeholders are undertaking strategies to capture their feedback in the following months as part of the development of a strategy and actions for Narrogin.
- This engagement project should be acknowledged as the commencement of a continued practice by the Shire that will facilitate closer engagement and understanding of issues and priorities for young people within Narrogin and its surrounds.

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## THE THEORY BEHIND THE YMCA WA YOUTH STRATEGY FOR NARROGIN

Significant work has been undertaken by the YMCA WA to research and develop its youth strategy, (**Appendix C**), called “Y-Time”. This work has identified that this strategy and its foundations for any youth practice, support and service must be:

- **Person-centered**: each young person has the ability and desire for personal growth and change – we place the young person and their interests first and walk alongside them wherever their journey may take them.<sup>2</sup>
- **Strengths-based**<sup>3</sup>: a core belief that all individuals have strengths and resources – the focus is on a young person's skills, interests and support systems - identify what is going well, do more of it, and build on it.
- **Solutions-focused**<sup>4</sup>: support needed is best informed by the young person’s view of what life would be like without their identified problem - holds a person accountable for solutions rather than accountable for problems.
- **Trauma-informed**<sup>5</sup>: an understanding of the impact of trauma in order to create physical, psychological, and emotional safety for everyone and provide opportunities for survivors to develop a sense of control and empowerment.

As a consequence, this approach supports young people to:

- Learn to learn;
- Explore and grow their identity;
- Have a voice in their community;
- Have decision-making power about issues that affect them; and
- Meet their needs and aspirations.

The YMCA WA is a preventative organisation who works with all young people to prevent crisis and support them to recognise and fulfil their potential. The YMCA WA and Shire of Narrogin will work with young people inclusive of all cultures and abilities. Both the Shire and YMCA WA recognises that support, activity and youth work start where young people are at. Where young people are at is represented by four states:

- **Surviving** - those who are ‘at risk’ and are living day to day with no real goals, aspirations or hope other than surviving.
- **Functioning** – those who are generally doing what society ‘expects’ of them; unsure of goals or aspirations and may feel they have limited choices; may be socially isolated or on the fringes of various groups, may not know where or how they fit in.
- **Aspiring** - those who are generally doing ‘ok’; they have goals and aspirations but maybe do not know how to or have the means to achieve them.
- **Thriving** – those who are generally doing ‘well’; they know what they want to achieve and how to do it.

Where a young person ‘is at’ is constantly changing with their circumstances, as they face challenges or difficulties, and as they grow and develop. Where the YMCA WA engages with young people at risk and in

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<sup>2</sup> (Young,1997, and others)

<sup>3</sup> (Pattoni,2012, and others)

<sup>4</sup> (Van Breda, 2018, and others)

<sup>5</sup> (The Australian Institute of Family Studies, 2016 and others)

crisis, we act as a broker to link young people to specialist services while supporting them to continue to access our activities and programs.

In developing the Youth Strategy some key factors were considered:

- Young people should have the same experience of youth work wherever they engage; best practice youth work is consistent and linked across the state.
- Many young people who engage with want to identify with their community; to have a sense of connection and belonging and be able to give back and contribute.
- Young people want to have their say; to have a voice and be able to make decisions around issues that are important to them within their community and beyond.
- The youth work should have a clear point of difference.
- The YMCA wants to make it easy for other YMCA associations and local government to adopt the same or a similar strategy. (A consistent approach).

## GOAL

Establish a model of engagement, service and support ("*Y-Time*"), as the primary vehicle for YMCA WA's and Narrogin's approach to youth work.

## AREAS OF FOCUS

Based on the input and feedback received by young people and stakeholders within the community of Narrogin, the following areas of focus will be used to inform the Youth Development plan:

- **Developing leadership** – *Young people take part in, express views on, and have decision making power about issues that affect them.*
- **Supporting physical and mental activity and wellbeing** – *Young people have access to a range of physical and mental activities, and are supported to develop resilience, emotional literacy and realise their potential.*
- **Learning to learn** – *Young people build the capacity to think critically and reflect on their experiences to guide their own personal and social development.*
- **Exploring self-identity** – *Young people are supported to explore their experiences, thoughts and feelings to develop their own identity.*
- **Fostering connection and belonging** – *Relationships are the context in which youth development and empowerment occur. Young people increase their sense of connection and belonging, and their capacity to contribute to the world around them.*

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## NARROGIN YOUTH DEVELOPMENT PLAN

The input and feedback provided by the young people of Narrogin has informed the development of a plan that recognises current youth engagement and positivity, as well as aspects of the feedback that support a continuous improvement strategy to further supporting and engaging young people on issues and matters that are important to them and that enable them to aspire and thrive as opposed to merely surviving and functioning.<sup>6</sup>

The process and means to develop response statements from the feedback was a series of steps and actions as follows:

- Evaluate survey feedback,
- Consolidate and categorise responses,
- Identify key findings from the feedback,
- Articulate enabling activity that supports the findings and feedback,
- Align these to the Youth Strategy,
- Develop the qualitative statements and cross reference these to the feedback, findings and strategy,
- Develop actions and measurable outcomes against each statement

## SERVICES AND SUPPORT

The Shire of Narrogin currently has services and supports that are either community or youth focused. The list of these relevant supports and services are listed at **Appendix B**. Agencies should be encouraged to interact, complement and partner each other to ensure there is no duplication of initiatives, programs and support services, and the community of Narrogin and its' young people have optimised resources serving the community: in some cases it will be pertinent for the Shire and its community to proactively request the establishment of necessary services and resource, evident in its current omission and availability.

## WHAT OUR YOUTH TOLD US

Nearly 300 young people living in Narrogin and the surrounds were asked what their life was like?, what was important to them, what they wanted to achieve, and what they wanted more of in their community?

Their individual responses have been interpreted, evaluated and consolidated into ten (10) aspirations of young people in Narrogin and are listed as follows:

- Dedicated youth spaces and places to go,
- To feel safer as an individual within the community,
- More programs and events that explore music and the arts,
- Individual support (mental health) and the opportunity to talk to someone,
- Workshops that address issues like bullying, racism and self-esteem as well as how I feel,
- Opportunity to contribute to local issues and make decisions,
- More connection to "my culture", "our heritage" and the community
- To learn and develop life skills and have opportunities to find work
- Access to role models within the community,
- Improved retail and activity options,

This feedback is further extrapolated into response statements that enable progression towards a plan of actions and required outcomes to be achieved; they are listed as follows:

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<sup>6</sup> YMCA WA Youth Strategy 2019

- “We want to have a voice and be heard.”
- “We want to support our community to thrive and contribute on issues that affect us.”
- “We want to have more choices and be more active.”
- “We want to feel safe and secure.”
- “We want opportunities to learn and grow.”

The tables below are used to align and cross reference actions and outcomes from each survey response and youth strategy focus area with each response statement.

ITEM	YOUTH ASPIRATIONS
1.	Dedicated youth spaces and places to go.
2.	To feel safer as an individual within the community.
3.	More programs and events that explore music and the arts.
4.	Individual support (mental health) and the opportunity to talk to someone.
5.	Workshops that address issues like bullying, racism and self-esteem as well as how I feel.
6.	Opportunity to contribute to local issues and make decisions.
7.	More connection to “my culture”, “our heritage” and the community.
8.	To learn and develop life skills and have opportunities to find work.
9.	Access to role models within the community
10.	Improved retail and activity options.

ITEM	YOUTH STRATEGY ALIGNMENT
1.	Developing leadership.
2.	Supporting physical and mental activity and wellbeing.
3.	Learning to learn.
4.	Exploring self-identity
5.	Fostering connection and belonging.

ITEM	RESPONSE STATEMENT
1.	We want to have a voice and be heard.
2.	We want to support our community to thrive and contribute on issues that affect us.
3.	We want to have more choices and be more active.
4.	We want to feel safe and secure.
5.	We want opportunities to learn and grow.

## RESPONSE STATEMENTS

Listed below are the five (5) response statements that are cross-references to the youth aspirations and strategy. These tables identify actions, outputs and outcomes.

*(This space is intentionally blank)*

## Response Statement 1:

### “We want to have a voice and be heard”

**Youth Aspirations**

6

**Strategy Alignment**

1, 3, 5

**Actions:**

- Identify potential local leaders amongst young community of Narrogin.
- Youth Leadership Group established and functional in Narrogin.
- Development of annual projects and engagement with Shire of Narrogin.
- Local schools and other agencies engaged to promote initiative.
- Youth Forum for engagement and information sharing as well as addressing hot topics.

**Measurable Outputs:**

- Terms of reference for YLG established and endorsed by the Shire.
- YLG engages bi-annually with Council as part of Shire’s annual program of work (APOW).
- Shire representative from the YLG attends annual YMCA WA Youth State Parliament to represent local issues.
- Annual survey identifies youth perception against quality statement 1 is progressing.

**Measurable Outcome:**

- Increased % of young people report having a voice and being heard.

**Indicators:**

- % of young people who responded “Yes”, “All of the Time” or “Most of the Time” to statements 7 and 9 in the 2020 Narrogin Youth Survey compared with 2019.

## Response Statement 2:

**“We want to support our community to thrive and contribute on issues that affect us.”**

<b>Survey Response</b>	3, 5, 6, 7, 8, 10
<b>Strategy Alignment</b>	1,2,3, 4, 5

### Actions:

- Young people have opportunities to give back to their community via employment, peer support and volunteering.
- Initiatives are developed to give young people an opportunity to feedback on issues that are important to them.
- Resourcing and development of programs to deliver life and employment skills workshops.
- Development of culture and heritage initiatives that connect young people with Elders / senior members of the community.
- Establish an Inter-agency service forum to support young people in the community.

### Measurable Outputs:

- Evidence of proposed actions being implemented and progressing.
- Evidenced increase of inter-agency collaboration within the Shire.
- Evidenced support by local schools to endorse and support YLG.
- Community youth forum provides input to future initiatives for the youth community in Narrogin.

### Measurable Outcome:

- Increased % of young people report supporting and contributing to the community.

### Indicators:

- % of young people who responded, “Strongly Agree”, “Agree”, “Yes”, “All of the Time” or “Most of the Time” to statements 1, 5, 6, 7, 8, 9, 10 and 11 in the 2020 Narrogin Youth Survey compared with 2019.

### Response Statement 3:

**“We want to have more choices and be more active”.**

<b>Survey Response</b>	1, 3, 7, 8, 10
<b>Strategy Alignment</b>	2, 4, 5

#### **Actions:**

- Source funding to resource program development.
- Development of Narrogin Regional Leisure Centre to become a Community Hub.
- Development of Art, Music and Sports programs and workshops.
- Improved access to communication technology.
- More variety of services and product offerings relevant to young people of Narrogin.
- Narrogin Youth Music Festival (“Diversion”) in partnership with YMCA WA.

#### **Measurable Outputs:**

- Increased access to free Wi-Fi.
- Youth worker role in Centre establishment.
- Evidence of youth attendance and engagement at related events.
- Evidence of increase in diversity of activities and programs for young people in Narrogin.

#### **Measurable Outcome:**

- Increased % of young people report having more choices and being more active.

#### **Indicators:**

- % of young people who responded, “Strongly agree”, “Agree”, “Yes”, “All of the time” or “Most of the time” to statements 1, 2, 5, 10 and 11 in the 2020 Narrogin Youth Survey compared with 2019.

## Response Statement 4:

### “We want to feel safe and secure”

<b>Survey Response</b>	1,2,4, 5, 8, 9
<b>Strategy Alignment</b>	2, 3, 4, 5

#### Actions:

- Identify dedicated youth spaces within Narrogin community.
- Source additional funding for facilitated drop-in support activities and mobile outreach initiatives.
- Develop local initiatives to improve location aesthetics.
- Collaboration with other agencies to enable and deliver on idea generation and supports to deliver those requirements.
- Source funding to deliver additional social and topical awareness raising workshops and programs for young people.
- Inter-agency collaboration and resourcing to provide support to young people in Narrogin without duplication.

#### Measurable Outputs:

- Attendance of young people at locations, programs and workshops.
- Regular feedback mechanisms maintained.
- Spaces developed achieved through community initiatives.
- Funding sourced to provide support.
- Narrogin Regional Leisure Centre to deliver increased hours of youth focused activities.

#### Measurable Outcome:

- Increased % of young people report feeling safe and secure.

#### Indicators:

- % of young people who responded, “Strongly agree”, “Agree” or “Yes” to statements 1, 2, 3, 4, 5 and 6 in the 2020 Narrogin Youth Survey compared with 2019.

## Response Statement 5:

**“We want opportunities to learn and grow.”**

**Survey Response** 3, 4, 5, 7, 8, 9

**Strategy Alignment** 2, 3, 4

### **Actions:**

- Funding and other resources sourced to enable.
- Availability of youth staff, volunteers and peers to engage in individual and group activities that address relevant youth challenges in Narrogin.
- Inter-agency collaboration and partnerships for programs and support delivery all aligned to strategy and focus areas.
- Sourcing, resourcing and delivery of topical workshops, themed events and initiatives that address engagement responses.
- Life skills and social skills development.
- Alternative learning initiatives developed and implemented in Narrogin.
- Individual engagement and support for young people.
- Develop job readiness activities and linkages with Tafe and employment service agencies.

### **Measurable Outputs:**

- Referrals by agency to required support agencies as a result of engagement with young people.
- Evidenced progress against individual goals and aspirations – as required.
- Evidence of youth attendance and engagement at related events.
- Youth Community feedback acknowledges progression associated with quality statement.

### **Measurable Outcome:**

- Increased % of young people report having opportunities to learn and grow.

### **Indicators:**

- % of young people who responded, “Strongly agree”, “Agree”, “Yes”, “All of the time” or “Most of the time” to statements 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 in the 2020 Narrogin Youth Survey compared with 2019.

## SUMMARY

There is confidence in the engagement process that has been undertaken and the input and feedback provided. This is reflected in the mapping of the responses and the youth strategy alignment to each of the quality statements.

There is a considerable number of each populating each statement thus providing strong linkage to what our youth said, the areas of focus based on their responses and the proposed actions; all of which, will enable the continuous improvement of youth engagement and provision of initiatives, events and support that aims to have a positive impact on them and the local community.

It is essential to monitor and review to ensure continued relevance, and that practice associated within the plan are still meeting youth community needs and or if additional actions should be included.

This is especially pertinent if the input from Narrogin youth identifies a particular area of focus or a principle change required within the development plan. This would be ascertained through continued communication and engagement with young people in Narrogin.

In the meantime, once the inter-agency forum is established a program of work will be established to implement the required actions identified and accountability for their implementation will be under the direction of the CEO Shire of Narrogin.



Mark Furr  
General Manager  
Youth Community & Leisure  
YMCA WA

DRAFT

## Narrogin Youth Survey 2019

*Thank you for taking the time to complete this survey, you are helping young people to be heard within your community and that is powerful.*

*The YMCA believes in the power of inspired young people and is committed to listening and supporting young people to reach their potential.*

*If you speak up, the more powerful and empowered young people will be and the results of this survey will inform a report and a plan that the YMCA hopes will be represent the opinion of young people, presented by young people, from your community.*

*Our aim is for several hundred young people to complete the survey, if we can do this, leaders within Local, State and Commonwealth Departments and Government will take notice.*

<b>Please indicate how much you agree or disagree with each statement.</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>
I am involved in events or I am aware there are events and activities held in our community that involve multi-generational family members.				
There are positive things for me to do other than sports and school-sponsored events and activities.				
I think that the town's projects and events are respectful for the various cultures of the community.				

<b>Please indicate your response against this statement.</b>	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>
There are people I respect within my community that could be a mentor to me.			

<b>Please indicate your response against each statement.</b>	<b>Yes</b>	<b>No</b>	<b>No, but would like to</b>
I have had opportunities to work with older people, Elders regarding community matters.			
I have learned about my heritage, culture and my community through stories, interaction with senior citizens and cultural events, etc.			

<i>Please indicate your response against each statement.</i>	All of the time	Most of the time	Rarely	Never
I am involved in making decisions about my community and its future.				
I think that in Narrogin the school and community work together on shared objectives.				
My ideas are listened to and I believe that this helps them complete work in the community				
I think that our community invests money in programs and projects led by young people.				
The arts, music and our library are important to me.				

**What do you want to achieve in life?**

**What would you like to see happen tomorrow?**

**What will you do to make this happen?**

**Is there anything else you want to say?**

*It would also be really helpful if you could please complete the following:*

- I am, 9-11 yrs  12-16 yrs  17-20yrs  21-25yrs
- I am of Aboriginal or Torres Strait Island descent, Yes  No
- We mostly speak a language other than English at home. Yes  No

*Many thanks for taking the time, it's a great help.*

## DIRECTORY OF RELATED SERVICES

Service Area	Company/Organisation Name	Contact Name	Place	Phone	Email	Website	Referral Needed?	Opening Hours	Places Served	Notes
Arts	Arts Narrogin		80 Federal Street Narrogin WA 6312	08 9881 6987	admin@artsnarrogin.com.au	www.artsnarrogin.com.au	No			A creative group of local people who pursue a variety of Arts
Disability Services	Accessibility	Shanthi Collins	114 Federal Street, Narrogin WA 6312	98814557	shanthi.collins@accessability.org.au		Yes (GP)	Southern Wheatbelt		
Early Years	Moorditj Youth Foundation	Malcolm Jetta	43 Federal Street, Narrogin WA	04311 76882	malcolm@moorditjyouth.com					Aboriginal Early childhood programs and youth services
Early Years	Early Years Network WACHS (WA Country Health services)	Ellen Smith	Narrogin Health Service, Williams Road, NARROGIN, WA, 6312	9881 0385	Ellen.Smith@health.wa.gov.au					
Early Years	REED - Regional Early Education and Development INC	Kylie Helgesen	Postal address - PO Box 390 Narrogin WA	08 6832 3825	kylie.helgesen@reedwa.org.au	www.reedwa.org.au				
Education	South Regional TAFE		Fortune St, Narrogin	9881 9000	narrogin@srtafe.wa.edu.au	https://www.southregionaltafe.wa.edu.au/	No			TAFE
Education	Narrogin Senior High School			9881 9300						
Education	Department of Education Wheatbelt Education Regional Office	Yvette Harrison	Local Education Office Homer St Narrogin	98810000	yvette.harrison@education.wa.edu.au					
Education/Youth	Shooting Stars	Tiresa Foi	Narrogin High School		tiresa.foi@shootingstars.org.au	www.shootingstars.com.au		school hours		Uses motor and other tools as the vehicles to drive greater engagement and
Emergency Support	Narrogin Women's Refuge			9881 6810						
Health	WACHS (WA Country Health services)	Wheatbelt Office	Narrogin Health Service, Williams Rd Narrogin	9881 0385		http://www.wacountry.health.wa.gov.au/index.php?id=993	Self referral			Allied health services including: dietetics occupational therapy
Health	Narrogin Child Health Clinic			9881 0385						Early Initiatives Primary Health Services
Health	Amity Health			08 9842 2797	query@amityhealth.com.au	https://www.amityhealth.com.au/	No			Aboriginal & Torres Strait Islander ATSI Wellbeing & Resilience program
Mental Health	Great Southern Community Mental Health Service - Narrogin		Narrogin Health Service, Williams Road, NARROGIN, WA, 6312	08 9881 0700			Yes (GP)	Weekdays 8:30am - 4:30pm		This service provides comprehensive assessment and treatment for people with mental health problems. Free counselling service
Mental Health	HolyOake		New Ambulatory Care Building Narrogin Hospital, Williams Road, Narrogin, WA 6312	9881 1999	adminnarrogin@holyoake.org.au	https://holyoake.org.au/	No		Southern Wheatbelt	Suicide prevention Alcohol and other drugs
Mental Health	Rural Community Support Services (Counselling)			9881 3939						
Parenting	Wanslea - Parenting Connection	Jeni Pages		447622736	jpages@wanslea			northam based but provides outreach services to Narrogin		Parenting programs
State Government	Department for Family Support & Child Protection			9881 6548						
State Government	Department of Justice									
Youth	Avon Community Youth Services	Mandy Richardson	55 Fairway Street Narrogin WA 6312	0476 169 174	narrogin.youth@avoncs.org.au	www.avoncs.org.au	No			Drop In & Outreach Service
Youth	YMCA									
Youth	WAPeL - Youth Crime intervention officer	TBA								
Youth/Community	Girl Guides	Gwenda Savage	8 Clough Place Narrogin WA 6312	08 9881 1605		https://www.facebook.com/girlguidesnarrogin/	No			Empower girls and young women to grow into confident, self-respecting
Youth/Community	Narrogin Scout Group		7 Furnival Street Narrogin WA 6312	08 9883 6201		http://scoutswa.com.au/	No			Youth Group
Youth/Sport	Steven Michael Foundation	Liam Anthony	Fremantle Oval, Parry St, Fremantle	0408 929 960	liam@smfoundation.org.au	www.smfoundation.org.au	No			Sport Clinics/Nightfields

**NARROGIN REGION SERVICE PROVIDER CONTACT LIST**

Service Area	Company/Organisation Name	Contact Name	Place	Phone	Email	Website	Referral Needed?	Opening Hours	Places Served	Notes
Arts	Arts Narrogin		80 Federal Street Narrogin WA 6312	08 9881 6987	admin@artsnarrogin.com.au	www.artsnarrogin.com.au	No			A creative group of local people who
Early Years	Early Years Network WACHS (WA Country Health services)	Ellen Smith	Narrogin Health Service, Williams Road, NARROGIN, WA, 6312	9881 0385	Ellen.Smith@health.wa.gov.au					
Early Years	Moordij Youth Foundation	Malcolm Jetta	43 Federal Street, Narrogin WA	04311 76882	malcolm@moordijyouth.com					Aboriginal Early childhood programs and youth services
Early Years	Early Years Network WACHS (WA Country Health services)	Ellen Smith	Narrogin Health Service, Williams Road, NARROGIN, WA, 6312	9881 0385	Ellen.Smith@health.wa.gov.au					
Health	WACHS (WA Country Health services)	Wheatbelt Office	Narrogin Health Service, Williams Rd Narrogin	9881 0385		http://www.wacountryhealth.wa.gov.au/index.php?id=993	Self referral			Aboriginal health services Allied health services including: - dietetics - occupational therapy - physiotherapy - podiatry - social work - speech pathology Child development services Child health clinics and services Community media /fa services Aboriginal & Torres Strait Islander ATSI Wellbeing & Resiliency program (Narrogin only) Integrated Team Care Child & Parent Support program (CaPS) Chronic Disease – Integrated Chronic
Health	Amity Health			08 9842 2797	query@amityhealth.com.au	https://www.amityhealth.com.au/	No			Aboriginal & Torres Strait Islander ATSI Wellbeing & Resiliency program (Narrogin only) Integrated Team Care Child & Parent Support program (CaPS) Chronic Disease – Integrated Chronic
Mental Health	Great Southern Community Mental Health Service - Narrogin		Narrogin Health Service, Williams Road, NARROGIN, WA, 6312	08 9881 0700			Yes (GP)	Weekdays 8.30am - 4.30pm		This service provides comprehensive assessment and treatment for people with mental health problems. Services/Facilities: - Clinical Programs include: - Child and Adolescent Mental Health Free counselling service Suicide prevention Alcohol and other drug prevention
Mental Health	HolyOake		New Ambulatory Care Building Narrogin Hospital, Williams Road, Narrogin, WA 6312	9881 1999	adminnarrogin@holyoake.org.au	https://holyoake.org.au/	No		Southern Wheatbelt	
Education	Department of Education Wheatbelt Education Regional Office	Yvette Harrison	Local Education Office Homer St Narrogin	98810000	yvette.harrison@education.wa.edu.au					
Education	South Regional TAFE		Fortune St, Narrogin	9881 9000	narrogin@srtafe.wa.edu.au	https://www.southregionaltafe.wa.edu.au/	No			TAFE
Education	Narrogin Senior High School			9881 9300						
State Government	Department for Family Support & Child Protection			9881 6548						
Emergency Support	Narrogin Women's Refuge			9881 6810						
Mental Health	Rural Community Support Services (Counselling)			9881 3939						
Health	Narrogin Child Health Clinic			9881 0385						Early Initiatives Primary Health Services
Youth	Avon Community Youth Services	Mandy Richardson	55 Fairway Street Narrogin WA 6312	0476 169 174	narrogin.youth@avoncs.org.au	www.avoncs.org.au	No			Drop In & Outreach Service
Youth/Community	Girl Guides	Gwenda Savage	8 Clough Place Narrogin WA 6312	08 9881 1605		https://www.facebook.com/girlguidesnarrogin/	No			Empower girls and young women to grow into confident, self-respecting, responsible community members
Youth/Community	Narrogin Scout Group		7 Furnival Street Narrogin WA 6312	08 9883 6201		http://scoutswa.com.au/	No			Youth Group
Youth/Sport	Steven Michael Foundation	Liam Anthony	Fremantle Oval, Parry St, Fremantle	0408 929 960	liam@smfoundation.org.au	www.smfoundation.org.au	No			Sport Clinics/Nightfields
Education/Youth	Shooting Stars	Teresa Foal	Narrogin High School		tiresa.foal@shootingstars.org.au	www.shootingstars.com.au		school hours		Uses netball and other tools as the vehicles to drive greater engagement and attendance at school of young Aboriginal girls Shooting Stars is targeting 25 girls in years 7-8.
State Government	Department of Justice									
Youth	YMCA									
Youth	WAPoL - Youth Crime Intervention officer	TBA								
Early Years	REED - Regional Early Education and Development INC	Kylie Helgesen	Postal address - PO Box 390 Narrogin WA	08 6832 3825	kylie.helgesen@reedwa.org.au	www.reedwa.org.au				
Parenting	Wanslea - Parenting Connection	Jeni Pages		447622736	jpages@wanslea			northern based but provides outreach services to Narrogin		Parenting programs
Disability Services	accessability	Shanthi Collins	114 Federal Street, Narrogin WA 6312	98814557	shanthi.collins@accessability.org.au		Yes (GP)	Southern Wheatbelt		

## NARROGIN REGION SPORT & REC CLUBS CONTACT LIST

Sport/Rec Area	Company/Organisation Name	Contact Name	Place	Phone	Email	Website	Referral Needed?
Hockey	Upper Great Southern Junior Hockey Association	Rodney Johnson	YMCA Narrogin Regional Leisure Centre	0409 625 428	uqshockeydo@gmail.com		N
Cricket	Narrogin Junior Cricket Club	Paul Blechynden	YMCA Narrogin Regional Leisure Centre	0427 580 481	narroginjuniorcricket@gmail.com		N
Football	Narrogin Auskick	Gavin de Gruchy	Narrogin Hawks Football Club	0472 877 629	gavin.de.gruchy@bankwest.com.au narroginauskick@westnet.com.au		N
Football	Narrogin Hawks	Karen Fazey	Narrogin Hawks Football Club	0403 620 501	karen_garry@optusnet.com.au		N
Basketball	Narrogin Junior Basketball Association	Roxanne McNab	YMCA Narrogin Regional Leisure Centre	0428 526 407	narroginbasketball@gmail.com		N
Basketball	Strikers Basketball Club	Tanya Todt	YMCA Narrogin Regional Leisure Centre	0427 726 950	strikersbasketballclub2015@gmail.com		N
Basketball	Blazers Basketball Club	Leanne Kickett	YMCA Narrogin Regional Leisure Centre	9881 6666	blazersbasketballclub51@gmail.com		N
Horse-riding	Dryandra Regional Equestrian Association	Joy Gray	Dryandra Regional Equestrian Park, Cuballing		dreamembers@westnet.com.au		N
Horse-riding	Narrogin Pony & Riding Association	Sarah Wiese	Dryandra Regional Equestrian Park, Cuballing	0407 474 587	wiese@activ8.net.au		N
Horse-riding	Dryandra Pony Club		Dryandra Regional Equestrian Park, Cuballing		dryandraponyclub@gmail.com		N
Tennis	Narrogin Tennis Club	Dale Woodruff	Clayton Rd, Narrogin	0408 931 219	dale@byfields		N
Athletics	Narrogin Little Athletics	Claire Levesque	Thomas Hogg Oval, Narrogin	0448 338 640	narroginlac@gmail.com		N
Gymnastics	Narrogin Gymnastics Club	Paula Raworth	Old Railway Hall, Federal St, Narrogin	0400 179 477	ngngymclub.sec@gmail.com		N
Netball	Narrogin and Districts Netball Association	Lee Conlan	YMCA Narrogin Regional Leisure Centre	0428 815 029	nanddnasec@hotmail.com		N
Swimming	Narrogin Swimming Club		YMCA Narrogin Regional Leisure Centre	9881 2651	nrlc.swimschool@ymcawa.org.au		N
Calisthenics	Narrogin Calisthenics Club	Heather Lange		9882 4011	narroginclub@gmail.com		N
Tae Kwon Do	Narrogin Tae Kwon Do	Owen Gath		9888 4054			N
Speedway	Quarter Midget Youth Speedway	Bridgit Coakley	Lot 238 Williams - Kondinin Rd, Narrogin	0458 350 111	quartermidgetproject@gmail.com		N
Squash	Narrogin Junior Squash Club	Andrew Pratt	YMCA Narrogin Regional Leisure Centre	9881 1657	narrogin squash@outlook.com		N
Archery	Dryandra Archery Club	Mike Fitzgerald		0427 030 308	dryandra.archery@gmail.com		N

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**11. ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**12. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION OF THE MEETING**

**13. CLOSURE OF MEETING**

There being no further business to discuss, the Presiding Member declared the meeting closed at 10:10 pm and pursuant to Resolution 1219.010 of 18 December 2019, reminded Councillors of the next Ordinary Meeting of the Council, scheduled for 7.00 pm on Tuesday 22 September 2020, at this same venue.



Shire of  
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