



# City of Ipswich

## **IPSWICH CITY COUNCIL**

### **AGENDA**

*of the*

## **GOVERNANCE AND TRANSPARENCY COMMITTEE**

**Held in the Council Chambers  
8th floor – 1 Nicholas Street  
IPSWICH QLD 4305**

On Thursday, 4 November 2021  
At 10 minutes after the conclusion of the Growth, Infrastructure and Waste  
Committee

**MEMBERS OF THE GOVERNANCE AND TRANSPARENCY COMMITTEE**

Councillor Jacob Madsen (**Chairperson**)  
Councillor Russell Milligan (**Deputy Chairperson**)

Mayor Teresa Harding  
Councillor Marnie Doyle  
Councillor Kate Kunzelmann  
Deputy Mayor Nicole Jonic

**GOVERNANCE AND TRANSPARENCY COMMITTEE AGENDA**  
*10 minutes after the conclusion of the Growth, Infrastructure and  
Waste Committee on **Thursday, 4 November 2021***  
Council Chambers

Item No.	Item Title	Page No.
	<b>Declarations of Interest</b>	
	<b>Business Outstanding</b>	
	<b>Confirmation of Minutes</b>	
1	Confirmation of Minutes of the Governance and Transparency Committee No. 2021(09) of 7 October 2021	11
	<b>Officers' Reports</b>	
2	Quarterly Reports to the Department of State Development, Infrastructure, Local Government and Planning	19
3	**New Trustee Lease over Reserve for Recreation Purposes - Australian Crawl (Goodna) Pty Ltd - 19A Toongarra Road Leichhardt	42
4	**Procurement: TCP - 10590 Supply and Delivery of Light Vehicles	191
5	Community Panels	195
6	Council, Committee Meetings and Briefings/Workshop dates for 2022 and January 2023	202
7	Drug and Alcohol (Councillors) Policy	208
	<b>Notices of Motion</b>	
	<b>Matters Arising</b>	

\*\* Item includes confidential papers

**GOVERNANCE AND TRANSPARENCY COMMITTEE NO. 10**

**4 NOVEMBER 2021**

AGENDA

**DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA**

**BUSINESS OUTSTANDING**

**CONFIRMATION OF MINUTES**

1. **CONFIRMATION OF MINUTES OF THE GOVERNANCE AND TRANSPARENCY COMMITTEE NO. 2021(09) OF 7 OCTOBER 2021**

**RECOMMENDATION**

That the Minutes of the Meeting held on 7 October 2021 be confirmed.

---

**OFFICERS' REPORTS**

2. **QUARTERLY REPORTS TO THE DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE, LOCAL GOVERNMENT AND PLANNING**

This is a report concerning a request received by the Mayor (on behalf of Council) from the Director-General, Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) for Council to provide a series of quarterly performance reports through to the quarter ending 30 June 2022.

This is the second of the quarterly reports for consideration by the Council and relates to the period July – September 2021. Council endorsement of this quarterly report is sought and for the Mayor to send a letter and quarterly report to the Director-General.

**RECOMMENDATION**

- A. That Council note that the Director-General, Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) has, through the Mayor, on 6 April 2021 requested under section 115 of the *Local Government Act 2009*, that the Council provide quarterly performance reports on certain matters through to the quarter ending 30 June 2022 (Attachment 1).
- B. That Council note the letter from the Mayor to the Director-General, DSDILGP dated 5 May 2021 acknowledging the request and setting out a proposed timetable for

the preparation, endorsement and provision of the quarterly reports (Attachment 2).

- C. That Council endorse the draft letter and second quarterly performance report (July – September 2021) set out in Attachments 3-8.

---

3. **\*\*NEW TRUSTEE LEASE OVER RESERVE FOR RECREATION PURPOSES - AUSTRALIAN CRAWL (GOODNA) PTY LTD - 19A TOONGARRA ROAD LEICHHARDT**

This is a report concerning the Trustee Lease at the Georgie Conway Leichhardt Swim Centre over trust land located at 19A Toongarra Road, Leichhardt, described as Lot 39 on Crown Plan 902321 between Ipswich City Council and Australian Crawl (Goodna) Pty Ltd

**RECOMMENDATION**

- A. That Council terminate the existing Trustee Lease with Australian Crawl (Goodna) Pty Ltd located at 19A Toongarra Road, Leichhardt described as Lot 39 on Crown Plan 902321.
- B. That pursuant to section 236(2) of the *Local Government Regulation 2012* (Regulation), Council resolve that the exception at section 236(1)(c)(v) of the Regulation applies to the disposal of interest in land at 19A Toongarra Road, Leichhardt more particularly described as part of Lot 39 and Crown Plan 902321, for a public swimming pool and ancillary purposes.
- C. That Council agree to enter a new Trustee Lease (Council file reference number 5520) with Australian Crawl (Goodna) Pty Ltd (Lessee):
- (i) at a yearly rent of \$1.00 excluding GST, payable to Council if demanded, and
  - (ii) for a term of ten (10) years, with no options for extension, and
  - (iii) for an in-kind contribution towards capital improvements over the term.
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take “contractual action” pursuant to section 238 of the Regulation, in order to implement Council’s decision.

---

4. **\*\*PROCUREMENT: TCP - 10590 SUPPLY AND DELIVERY OF LIGHT VEHICLES**

This is a report concerning extending the term of contract 10590 – Supply and Delivery of Light Vehicles for up to a further two (2) x one (1) year extension periods, through the adoption of the attached Tender Consideration Plan.

Contract 10590 commenced 1 January 2018 and was put in place for a period of four (4) years (two (2) years with two (2) x one (1) year options). Both available extensions have been exercised and the contract will expire 31 December 2021.

The forecasted contract value at commencement was \$8M with the current spend to date just under \$7M.

This extension of time is requested for Fleet and the business to determine the long-term strategy for light fleet vehicles across Council following the completion of the Low Emissions Vehicle Transitioning Plan.

#### RECOMMENDATION

- A. That pursuant to Section 230(1)(a) of the *Local Government Regulation 2012* (Regulation), Council resolve to prepare Tender Consideration Plan number 10590 for the provision of Supply and Delivery of Light Vehicles.
- B. That pursuant to Section 230(1)(b) of the *Local Government Regulation 2012* (Regulation), Council resolve to adopt Tender Consideration Plan number 10590 that was prepared for the provision of Supply and Delivery of Light Vehicles. as detailed in the report by the Category Specialist dated 19 October 2021.
- C. That in accordance with the Tender Consideration Plan, Council extend the current contractual arrangement with Q Automotive – Trading as Bremer Ford (ABN 47 010 489 460), Blue Ribbon Motors (ABN 31 458 735 262) and Ross Llewellyn Motors (ABN 81 010 428 841) at an approximate value of \$2,400,000.00 excluding GST over the additional term, being a further two (2) x one (1) year options.
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take “*contractual action*” pursuant to section 238 of the Regulation, in order to implement Council’s decision.

---

#### 5. COMMUNITY PANELS

Council’s five Community Reference Groups (CRG’s) have been operating since June 2019, and the two (2) year membership period has ended for members on each of the five CRG’s. The Community Engagement section have supported Council to develop a new community engagement model that is in line with Council’s strategic priorities and based on feedback from all involved with the CRG’s over the last two (2) years. A community panel model delivered online through Council’s community engagement platform - Shape Your Ipswich – is proposed as a more inclusive, timely and contemporary approach to community engagement.

#### RECOMMENDATION

- A. That the community panel program be implemented and included as part of council’s suite of community engagement approaches commencing February 2022.

- B. That the Community Reference Groups' come to an official close as the two (2) year term has ended, and members be acknowledged for their contribution to community.
- C. That the Manager, City Design arrange a Heritage Forum for the first half of 2022. The agenda and scope of the Forum is to be the subject of consultation with the Mayor and Councillors.
- D. That the Heritage and Monument Advisory Committee be formally ceased and the immediate previous members be acknowledged and thanked for their past participation and contribution to the community.
- E. That bi-annual community meetings be held for the following commencing in 2022: Seniors, and Access and Inclusion.

6. COUNCIL, COMMITTEE MEETINGS AND BRIEFINGS/WORKSHOP DATES FOR 2022 AND JANUARY 2023

This is a report concerning the proposed 2022 Ipswich City Council – Council, Committee Meetings and Briefings/Workshop schedule.

The schedule has been prepared on a 4-weekly cycle where possible with the exception of June, September and December. This is due to a special council meeting on 30 June 2022 for the adoption of the budget, a meeting later in September to allow for a break over the majority of the September school holidays and a shorter timeframe at the end of November/December to allow a good break over the Christmas period.

Informal meetings including briefings and workshops have been proposed to occur generally on the first week of the month and run from 9.00 am to 4.00 pm on these days.

Allowance has also been made within the overall schedule for strategic workshops related to the annual budget and the new Planning Scheme.

RECOMMENDATION

- A. That the Council, Committee Meetings and Briefings/Workshop dates for 2022 and January 2023 be held as detailed in Attachment 1 and as outlined below:

COUNCIL/COMMITTEE	MEETING DAY AND TIME	MEETING DATES
Council Ordinary Meeting  **includes Special Budget Meeting	Thursday - 9.00 am	27 January 2022 24 February 2022 24 March 2022 21 April 2022 19 May 2022 **30 June 2022

		28 July 2022 25 August 2022 29 September 2022 27 October 2022 24 November 2022 8 December 2022 19 January 2023
Growth, Infrastructure and Waste	Thursday - 9.00 am  **Tuesday – 9.00 am	10 February 2022 10 March 2022 7 April 2022 5 May 2022 16 June 2022 14 July 2022 11 August 2022 15 September 2022 13 October 2022 10 November 2022 **29 November 2022
Governance and Transparency	Thursday - 9.00 am  **Tuesday – 9.00 am	10 February 2022 10 March 2022 7 April 2022 5 May 2022 16 June 2022 14 July 2022 11 August 2022 15 September 2022 13 October 2022 10 November 2022 **29 November 2022
Community, Culture, Arts and Sport	Thursday - 10 minutes after the conclusion of the Governance and Transparency Committee  **Tuesday – 9.00 am	10 February 2022 10 March 2022 7 April 2022 5 May 2022 16 June 2022 14 July 2022 11 August 2022 15 September 2022 13 October 2022 10 November 2022 **29 November 2022
Economic and Industry Development	Thursday - 10 minutes after the conclusion of the Community, Culture, Arts and Sport Committee  **Tuesday – 9.00 am	10 February 2022 10 March 2022 7 April 2022 5 May 2022 16 June 2022 14 July 2022 11 August 2022

		15 September 2022 13 October 2022 10 November 2022 **29 November 2022
Environment and Sustainability	Thursday - 10 minutes after the conclusion of the Economic and Industry Development Committee  **Tuesday – 9.00 am	10 February 2022 10 March 2022 7 April 2022 5 May 2022 16 June 2022 14 July 2022 11 August 2022 15 September 2022 13 October 2022 10 November 2022 **29 November 2022
Ipswich Central Redevelopment Committee	Thursday - 10 minutes after the conclusion of the Environment and Sustainability Committee  **Tuesday – 9.00 am	10 February 2022 10 March 2022 7 April 2022 5 May 2022 16 June 2022 14 July 2022 11 August 2022 15 September 2022 13 October 2022 10 November 2022 **29 November 2022
Briefings/Workshops	Tuesday - 9.00 am to 4.00 pm	1 February 2022 1 March 2022 29 March 2022 26 April 2022 24 May 2022 7 June 2022 5 July 2022 2 August 2022 6 September 2022 4 October 2022 2 November 2022 22 November 2022

7. DRUG AND ALCOHOL (COUNCILLORS) POLICY

This is a report outlining the proposal for a Drug and Alcohol Policy for the elected representatives of Ipswich City Council and follows the presentation of two (2) reports to Council previously in December 2020 and March 2021. If adopted, Council voluntarily choosing to implement a policy that goes over and above the

requirements of the Code of Conduct for Councillors in Queensland further demonstrates its commitment to good governance.

A draft policy is now attached having been circulated to Councillors in July 2021 and being discussed at a meeting in October 2021.

**RECOMMENDATION**

That the Drug and Alcohol (Councillors) Policy as detailed in Attachment 1, be adopted.

---

**NOTICES OF MOTION**

**MATTERS ARISING**

---

**GOVERNANCE AND TRANSPARENCY COMMITTEE NO. 2021(09)**

**7 OCTOBER 2021**

MINUTES

**COUNCILLORS' ATTENDANCE:** Councillor Jacob Madsen (Chairperson); Councillors Russell Milligan (Deputy Chairperson), Mayor Teresa Harding, Marnie Doyle, Kate Kunzelmann and Deputy Mayor Nicole Jonic

**COUNCILLOR'S APOLOGIES:** Nil

**OFFICERS' ATTENDANCE:** Acting Chief Executive Officer (Sonia Cooper), Acting General Manager Corporate Services (Sylvia Swalling), Acting General Manager Infrastructure and Environment (Kaye Cavanagh), Acting General Manager Coordination and Performance (Barbara Dart), General Manager Community, Cultural and Economic Development (Ben Pole), General Manager Planning and Regulatory Services (Peter Tabulo), Manager Development Planning (Anthony Bowles), Manager, Senior Property Officer Tenure (Kerry Perrett), Manager Procurement (Richard White), Senior Digital Media and Content Officer (Jodie Richter), Manager, People and Culture (Talia Love-Linay), Workplace Relations Manager (Nick Sheehan), Manager, Communication and Engagement (Laura Bos), and Theatre Technician (Trent Gray)

**DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA**

Nil

---

**BUSINESS OUTSTANDING**

Nil

---

**CONFIRMATION OF MINUTES**

1. **CONFIRMATION OF MINUTES OF THE GOVERNANCE AND TRANSPARENCY COMMITTEE NO. 2021(08) OF 2 SEPTEMBER 2021**

**RECOMMENDATION**

Moved by Councillor Kate Kunzelmann:

Seconded by Councillor Marnie Doyle:

**That the minutes of the Governance and Transparency Committee No. 2021(08) held on 2 September 2021 be confirmed.**

AFFIRMATIVE	NEGATIVE
Councillors:	Councillors:
Madsen	Nil
Milligan	
Harding	
Doyle	
Kunzelmann	
Jonic	

The motion was put and carried.

---

### OFFICERS' REPORTS

#### 2. TRUSTEE LEASE RENEWAL TO AXICOM PTY LTD OVER 22 CHELMSFORD AVENUE, IPSWICH

This is a report concerning the proposed Trustee Lease renewal over part of trust land located at 22 Chelmsford Avenue, Ipswich, described as Lease CC in Lot 24 on I16262 on SP233721 between Ipswich City Council as Trustee (Council) and Axicom Pty Ltd (Axicom).

“The attachment/s to this report are confidential in accordance with section 254J(3)(g) of the *Local Government Regulation 2012*.”

#### RECOMMENDATION

- A. That pursuant to section 236(2) of the *Local Government Regulation 2012* (Regulation), Council resolve that the exception at section 236(1)(c)(vi) of the Regulation applies to the disposal of Council’s interest as trustee, in land at 22 Chelmsford Avenue, Ipswich more particularly described as part of Lot 24 and Plan I16262, because it is for a lease for a telecommunication tower.
- B. That Council enter into a trustee lease (Council reference number 5360) with Axicom Pty Ltd (Trustee Lessee):
  - (i) at a commencing monthly rent of \$30,000 excluding GST, payable to Council
  - (ii) for a term of ten (10) years, with no options for extension.
- C. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take “contractual action” pursuant to section 238 of the *Local Government Regulation 2009*, in order to implement Council’s decision.

Councillor Jacob Madsen proposed a variation to Recommendation B(i) to change the words 'monthly rent' to 'annual rent'.

**RECOMMENDATION**

Moved by Mayor Teresa Harding:

Seconded by Councillor Kate Kunzelmann:

- A. That pursuant to section 236(2) of the *Local Government Regulation 2012 (Regulation)*, Council resolve that the exception at section 236(1)(c)(vi) of the Regulation applies to the disposal of Council's interest as trustee, in land at 22 Chelmsford Avenue, Ipswich more particularly described as part of Lot 24 and Plan I16262, because it is for a lease for a telecommunication tower.**
- B. That Council enter into a trustee lease (Council reference number 5360) with Axicom Pty Ltd (Trustee Lessee):**
- (i) at a commencing annual rent of \$30,000 excluding GST, payable to Council**
  - (ii) for a term of ten (10) years, with no options for extension.**
- C. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take "contractual action" pursuant to section 238 of the *Local Government Regulation 2009*, in order to implement Council's decision.**

**AFFIRMATIVE**

Councillors:

Madsen

Milligan

Harding

Doyle

Kunzelmann

Jonic

**NEGATIVE**

Councillors:

Nil

The motion was put and carried.

---

**3. PROCUREMENT - MOBILE DATA ANYWHERE SUBSCRIPTION**

This is a report seeking Council resolution to continue the annual subscription renewals for the Mobile Data Anywhere (MDA) solution provided by Mobile Technologies Pty Ltd ABN 93 097 282 436.

This service subscription is used across Council. It is a cloud service that allows Council officers to access their projects online, manage their devices (mobile phones, laptops tablets), and access data anytime from anywhere. It is an important enabler of a flexible and efficient workforce. A new solution is under consideration to better provide Council with a faster, systematic approach to this

service with added cost saving benefits. Until this solution is implemented, an interim Council resolution is sought pursuant to section 235(b) of the *Local Government Regulation 2012* for the continuation of the specialised services provided.

A Council resolution is sought to approve the continuation of the annual renewals for the MDA subscription for up to two (2) x one (1) year periods from 1 November 2021 until 31 October 2023, at an estimated total cost of two hundred and eighty thousand dollars (\$280,000) excluding GST, if all annual renewal options are exercised up until 31 October 2023.

#### RECOMMENDATION

Moved by Councillor Kate Kunzelmann:  
Seconded by Mayor Teresa Harding:

- A. That pursuant to Section 235(b) of the *Local Government Regulation 2012* (Regulation), Council resolve that the exception applies because of the specialised nature of the services that are sought and that it would be impractical and disadvantageous to invite quotes or tenders for the provision of the Mobile Data Anywhere Subscription.**
- B. That Council resolve it is satisfied to continue with, and to renew, the annual Mobile Data Anywhere Subscriptions with Mobile Technologies Pty Ltd for an initial period of up to two (2) x one (1) year extension options from 1 November 2021 until 31 October 2023 for an estimated total cost of up to two hundred and eighty thousand dollars (\$280,000) excluding GST.**

#### AFFIRMATIVE

Councillors:  
Madsen  
Milligan  
Harding  
Doyle  
Kunzelmann  
Jonic

#### NEGATIVE

Councillors:  
Nil

The motion was put and carried.

---

#### 3.1. MATTER ON NOTICE - NUMBER OF MOBILE DEVICES UTILISING THE MOBILE DATA ANYWHERE SUBSCRIPTION IN THE FIELD

Mayor Teresa Harding queried how many mobile devices council had in the field that were utilising the Mobile Data Anywhere Subscription.

**Manager, Procurement to investigate Mayor Harding’s query regarding the number of mobile devices in the field that are utilising the Mobile Data Anywhere Subscription and provide a response to councillors prior to the October Council Ordinary Meeting.**

*See minutes attachments for outcome.*

4. PROCUREMENT – VELOCITYEHS WORKPLACE HEALTH AND SAFETY MANAGEMENT SOFTWARE SUBSCRIPTION

This a report seeking a resolution by Council to continue the annual subscription for the VelocityEHS Workplace Health and Safety management software system that is operationally utilised as part of Council’s workplace health and safety compliance management.

This matter is required as officers seek Council resolution that the exception under section 235(a) of the *Local Government Regulation 2012* applies to the continuation of the key system provided. The proprietary nature of the incumbent supplier’s Workplace Health and Safety Management system means that there is only one supplier who is reasonably available to continue providing the system. Further, due to the identified iVolve dependency of the Workplace Health and Safety Management system, it is more cost effective and disadvantageous to Council to tender for a different system until iVolve is able to deliver a final solution.

A resolution of Council is sought to approve the continuation of the annual subscription for the system with VelocityEHS Canada, Inc. each year for up to three (3) years for the period commencing 27 November 2021 and ending 26 November 2024. This is an estimated total cost of approximately ninety-nine thousand dollars (\$99,000.00) excluding GST for the full three (3) year period

RECOMMENDATION

Moved by Deputy Mayor Nicole Jonic:

Seconded by Councillor Marnie Doyle:

- A. **That pursuant to Section 235(a) of the *Local Government Regulation 2012* (Regulation), Council resolve that the exception applies as it is satisfied that there is only one supplier who is reasonably available for the provision of the Workplace Health and Safety Management software system.**
- B. **That Council enter into a contractual arrangement with VelocityEHS Canada, Inc. on a yearly basis for up to the next three (3) years at an approximate purchase price of \$99,000.00 excluding GST over the three (3) year period.**

AFFIRMATIVE

Councillors:

Madsen

Milligan

Harding

Doyle

Kunzelmann

Jonic

NEGATIVE

Councillors:

Nil

The motion was put and carried.

---

5. PROCUREMENT - PROFESSIONAL DEVELOPMENT MAYOR AND COUNCILLORS

This is a report concerning the procurement of a professional development course for the Mayor and Councillors, without first inviting written quotes or tenders. Section 235(b) of the *Local Government Regulation 2012* allows a local government to enter into a medium and large sized contractual arrangement, if the local government resolves that the services provided are of a specialised nature.

“The attachment/s to this report are confidential in accordance with section 254J(3)(g) of the *Local Government Regulation 2012*.”

RECOMMENDATION

Moved by Councillor Jacob Madsen:

Seconded by Councillor Marnie Doyle:

- A. That pursuant to Section 235(b) of the *Local Government Regulation 2012* (Regulation), Council resolves that the exception applies because of the specialised nature of the services that are sought and it would be impractical and disadvantageous to invite quotes for the provision of a bespoke professional development course tailored for the Mayor and Councillors.**
- B. That Council enter into a contractual arrangement (RFQ17345) with the Australian Institute of Company Directors (ABN 11 008 484 197), at a purchase price of \$76,491 excluding GST over the entire term, being an initial term of one (1) year, with no options to extend.**

AFFIRMATIVE

Councillors:

Madsen

Milligan

Harding

Doyle

Kunzelmann

NEGATIVE

Councillors:

Nil

Jonic

The motion was put and carried.

---

5.1. MATTER ON NOTICE - CONFIDENTIAL BACKGROUND PAPER

Mayor Teresa Harding queried why the background paper to Item 5 was confidential.

- A. Manager, Procurement to investigate if the confidential background paper should be confidential in relation to commercial in confidence information or whether the matter can be made available to the public.**
- B. That a response be provided to all councillors prior to the October Council Ordinary Meeting.**
- C. That if the paper is able to be made available to the public this be released prior to the October Council Ordinary Meeting.**

*See minutes attachments for outcome*

6. PEOPLE AND CULTURE POLICIES FOR REPEAL

This is a report concerning People and Culture policies for repeal and for adoption. The People and Culture Branch (Corporate Services) has undertaken an audit of all policies under its control and identified policies which have now been replaced by Administrative Directives approved by the Chief Executive Officer.

RECOMMENDATION

Moved by Councillor Marnie Doyle:  
Seconded by Mayor Teresa Harding:

- A. That the policy titled 'Workplace Health and Safety', as detailed in Attachment 1, be repealed and replaced with an updated policy as outlined in Recommendation D and detailed in Attachment 4.**
- B. That the policy titled 'Employee Complaints Policy', as detailed in Attachment 2, be repealed.**
- C. That the policy titled 'Anti-Discrimination and Equal Employment Opportunity (EEO) Policy', as detailed in Attachment 3, be repealed.**
- D. That the updated policy titled 'Workplace Health and Safety', as detailed in Attachment 4 be adopted.**

AFFIRMATIVE

Councillors:

Madsen

Milligan

Harding

Doyle

Kunzelmann

Jonic

NEGATIVE

Councillors:

Nil

The motion was put and carried.

---

**NOTICES OF MOTION**

Nil

---

**MATTERS ARISING**

Nil

---

**PROCEDURAL MOTIONS AND FORMAL MATTERS**

The meeting commenced at 9.29 am.

The meeting closed at 9.47 am.

---

Doc ID No: A7555474

ITEM: 2

SUBJECT: QUARTERLY REPORTS TO THE DEPARTMENT OF STATE DEVELOPMENT,  
INFRASTRUCTURE, LOCAL GOVERNMENT AND PLANNING

AUTHOR: ACTING MANAGER, PERFORMANCE

DATE: 27 OCTOBER 2021

### **EXECUTIVE SUMMARY**

This is a report concerning a request received by the Mayor (on behalf of Council) from the Director-General, Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) for Council to provide a series of quarterly performance reports through to the quarter ending 30 June 2022.

This is the second of the quarterly reports for consideration by the Council and relates to the period July – September 2021. Council endorsement of this quarterly report is sought and for the Mayor to send a letter and quarterly report to the Director-General.

### **RECOMMENDATION/S**

- A. That Council note that the Director-General, Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) has, through the Mayor, on 6 April 2021 requested under section 115 of the *Local Government Act 2009*, that the Council provide quarterly performance reports on certain matters through to the quarter ending 30 June 2022 (Attachment 1).**
- B. That Council note the letter from the Mayor to the Director-General, DSDILGP dated 5 May 2021 acknowledging the request and setting out a proposed timetable for the preparation, endorsement and provision of the quarterly reports (Attachment 2).**
- C. That Council endorse the draft letter and second quarterly performance report (July – September 2021) set out in Attachments 3-8.**

### **RELATED PARTIES**

There is no potential, perceived or actual conflicts of interest to disclose.

### **IFUTURE THEME**

A Trusted and Leading Organisation

### **PURPOSE OF REPORT/BACKGROUND**

The Director-General, DSDILGP wrote to Mayor Harding on 6 April 2021 and advised of his decision to not reappoint Mr Steve Greenwood as Advisor to Ipswich City Council for a further period. Mr Greenwood had been appointed to the role of Advisor for an initial period of twelve (12) months. The initial period ended on 12 April 2021.

However, under section 115 of the *Local Government Act 2009*, the Director-General, DSDILGP, Mr Damien Walker, requested that up to 30 June 2022, the Council provides him with quarterly reports on the performance of Council (**Attachment 1**) including the following matters:

- progress of the People and Culture Strategic Plan developed during Mr Greg Chemello's period of interim administration.
- implementation of any outstanding issues from Mr Chemello's final Vision 2020 which he understood to be: Procurement; ICT and Knowledge Management; and People and Culture.
- results from the Council's Pulse staff survey results and any actions being implemented to address issues of concern identified through that survey.
- any significant changes to governance policies and processes and the rationale for such changes.
- any significant issues relating to senior staff changes; and
- any issues which may identify corruption risks.

Upon receipt of the request, officers of Council developed a timetable for the preparation and provision of the quarterly reports that ensures that they can be considered and endorsed by the Council prior to provision to the Director-General. This timetable was advised by the Mayor to the Director-General in a letter dated 5 May 2021 (**Attachment 2**). The progress reports have been collated for the period of July to September 2021 for each item identified above (**Attachments 4-8**). These progress reports are proposed as the standard for the series of quarterly reports to the Director-General, DSDILGP up until 30 June 2022.

## **LEGAL/POLICY BASIS**

This report and its recommendations are consistent with the following legislative provisions:

*Local Government Act 2009*

*Local Government Regulation 2012*

*Public Sector Ethics Act 2004*

*Industrial Relations Act 2016*

*Crime and Corruption Act 2001*

## **RISK MANAGEMENT IMPLICATIONS**

There has been significant investment in good corporate governance and risk management both during the period of Interim Administration of Ipswich City Council and since the return of the elected representatives in April 2020. Council has implemented an Enterprise Risk Management Framework and has developed and is implementing a Five-Year Risk Maturity Roadmap to continue to mature its approach to identifying and managing risks.

## HUMAN RIGHTS IMPLICATIONS

### HUMAN RIGHTS IMPACTS

#### NON-DISCRETIONARY DECISION

Recommendations A to C of this report arise from a requirement under section 115 of the *Local Government Act 2009* that allows for the monitoring of a local government's performance and do not impact individuals. Therefore, the decision will not be unlawful under the *Human Rights Act 2019*.

## FINANCIAL/RESOURCE IMPLICATIONS

The collation of the quarterly performance reports has been undertaken by the Enterprise Program Management Office (ePMO) of Council within the existing resource allocation and has been given priority over other responsibilities given the legislative obligation. All future performance reports will continue to be coordinated by the ePMO up until 30 June 2022.

## COMMUNITY AND OTHER CONSULTATION

The Performance Reports have been coordinated by the ePMO with input and content verified by the relevant officers identified in the reports. Consultation on the draft letter and progress reports has also occurred with the Office of the Mayor.

## CONCLUSION

The Director-General, DSDILGP has requested council provide a series of quarterly reports up until 30 June 2022. The proposed cover letter and July – September 2021 quarterly report are set out in Attachments 3 to 8.

## ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Request from Director-General, Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) for quarterly progress report on performance of the Council <a href="#">↓</a> 
2.	Response to Director-General, DSDILGP from Mayor 5 May 2021 <a href="#">↓</a> 
3.	D-G Letter - Draft Cover Letter, July - Sept 2021 <a href="#">↓</a> 
4.	D-G Letter - Project Status - People and Culture, July to Sept 2021 <a href="#">↓</a> 
5.	D-G Letter - Project Status - Information and Knowledge Management, July to Sept 2021 <a href="#">↓</a> 
6.	D-G Letter - Project Status - Policy and Procedure Change, July to Sept 2021 <a href="#">↓</a> 
7.	D-G Letter - Project Status - Corruption Controls, July to Sept 2021 <a href="#">↓</a> 
8.	D-G Letter - Project Status - ICT Strategy Progress Status Report, July to Sept 2021 <a href="#">↓</a> 

Maree Walker

**ACTING MANAGER, PERFORMANCE**

I concur with the recommendations contained in this report.

Barbara Dart

**ACTING GENERAL MANAGER COORDINATION AND PERFORMANCE**

I concur with the recommendations contained in this report.

Sonia Cooper

**ACTING CHIEF EXECUTIVE OFFICER**

*“Together, we proudly enhance the quality of life for our community”*



Our ref: DGBN21/122

Department of  
**State Development, Infrastructure,  
Local Government and Planning**

- 6 APR 2021

Councillor Theresa Harding  
Mayor  
Ipswich City Council  
mayor@ipswich.qld.gov.au

  
Dear Councillor Harding

I am writing to advise of my decision to not re-appoint Mr Steve Greenwood as Advisor to the Ipswich City Council (the council).

As you are aware, Mr Greenwood was appointed to the role of Advisor for an initial period of 12 months. This initial appointment period will end on 12 April 2021.

I have given consideration as to whether Mr Greenwood's appointment as Advisor should be extended and I have decided not to do so. While I have very much appreciated the support Mr Greenwood has given to the council, I believe it is appropriate to now allow the council to return to normal operations.

However, under section 115 of the *Local Government Act 2009*, I request that up to 30 June 2022, the council provides me with quarterly reports on the performance of the council including the following matters:

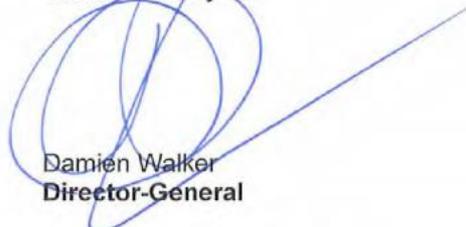
- progress of the People and Culture Strategic Plan developed during Mr Greg Chemello's period of interim administration
- implementation of any outstanding issues from Mr Chemello's final Vision 2020 report which I understand to be Procurement; ICT and Knowledge Management; and People and Culture
- results from the council's Pulse staff survey and any actions being implemented to address issues of concern identified through that survey
- any significant changes to governance policies and processes and the rationale for such changes
- any significant issues relating to senior staff changes
- any issues which may identify corruption risks.

It would be appreciated if you could provide the first of such reports for the period April to June 2021, being the first quarterly period after Mr Greenwood ends his role as Advisor.

1 William Street  
Brisbane Qld 4000  
PO Box 15009 City East  
Queensland 4002 Australia  
**Telephone** 13 QGOV (13 74 68)  
**Website** [www.dsdlgp.qld.gov.au](http://www.dsdlgp.qld.gov.au)  
**ABN** 25 166 523 889

I have asked for Ms Bronwyn Blagoev, Executive Director, Strategy and Service Delivery, Local Government Division in the Department of State Development, Infrastructure, Local Government and Planning to assist you with any further queries. You may wish to contact Ms Blagoev on (07) 3452 6792 or by email at [bronwyn.blagoev@dlgrma.qld.gov.au](mailto:bronwyn.blagoev@dlgrma.qld.gov.au).

Yours sincerely



Damien Walker  
**Director-General**

cc Mr David Farmer  
Chief Executive Officer  
Ipswich City Council  
[david.farmer@ipswich.qld.gov.au](mailto:david.farmer@ipswich.qld.gov.au)



**Mayor Teresa Harding**

City of Ipswich  
Queensland, Australia

Mr Damien Walker  
Director-General  
Department of State Development, Infrastructure,  
Local Government and Planning  
Via email: [Damien.Walker@dlgrma.qld.gov.au](mailto:Damien.Walker@dlgrma.qld.gov.au)

5 May 2021

Dear Mr Walker *Damien*

Thank you for your letter dated 6 April 2021, advising of your decision to not re-appoint Mr Steve Greenwood as an Advisor to Ipswich City Council. I would like to acknowledge Mr Greenwood's work in assisting the city's newly elected representatives over the past year.

As Council returns to normal operations, I look forward to working with you and your department to ensure you are informed on the progress and achievements made by Council on the key areas of interest outlined in your correspondence.

I am pleased to advise Council has made substantial progress following its transition out of administration. Since the election of the new Council, work to transform the organisation has continued, and I am pleased to advise a number of items have been completed or are in final stage delivery, including:

- Implementation of the new Good Governance Policy and Guide Establishment of the new Program Management Office with oversight of strategic projects across the organisation
- Maturing of the Enterprise Risk Management Framework, Integrated Planning and Reporting Framework and Policy and Procedure Framework
- Launching an Australian-first Transparency and Integrity Hub to 'open the books' and provide the Ipswich community with unprecedented access to the city's finances.
- Finalisation of a comprehensive review of legislative delegations
- Development of a new Information Management Framework
- Introduction of a new policy, procedure and online system for managing conflicts of interest for employees
- Implementation of the new centralised procurement model including a revised policy, procedure and a new Contract Management Framework
- Implementation of the People and Culture Strategic Plan 2019-2021 including development and implementation of a new Leadership Charter, Core Capability Framework, Inspiring Leaders Development Program, Resolving Workplace Grievances Administrative Directive and Procedure and regular workforce 'Pulse' surveys

45 Roderick Street  
PO Box 191  
IPSWICH QLD 4305

**Phone** (07) 3810 6011  
**Email** [mayor@ipswich.qld.gov.au](mailto:mayor@ipswich.qld.gov.au)

[ipswich.qld.gov.au](http://ipswich.qld.gov.au)

- Progressive implementation of the Information and Communication Technology Strategy 2019-2024 including the new ICT Steering Committee, Technical Advisory Group and the iVolve project to develop Council's future ICT architecture and software solution.

Regarding your request for quarterly reporting, Council's Program Management Office has advanced plans to identify and capture the information you have requested that will form the basis of the quarterly reports.

Council will take steps to ensure the accuracy and integrity of the information and will use our committee and full council process to review and consider each report to ensure public transparency and accountability. Council will then submit each report with a cover note within five (5) business days of consideration and adoption.

Initially, it may be worth noting some of the requested reporting areas have evolved or are nearing completion. Council will provide a detailed overview and status update on these changes in its first report to the Department.

The proposed timeframes are as follows, and will be updated once Council has considered its 2022 meeting schedule:

Quarterly report	Committee meeting date	Council meeting date	Latest submission date
April – June 2021	5 August 2021	19 August 2021	31 August 2021
July – September 2021	4 November 2021	18 November 2021	30 November 2021
October – December 2021	Early February 2022	Late February 2022	Early March 2022
January – March 2022	Early May 2022	Late May 2022	Early June 2022
April – June 2022	Early August 2022	Late August 2022	Early September 2022 (final report delivered)

I trust that these reporting dates and timeframes will be satisfactory, and I look forward to the submission of the quarterly reports. Should you require any additional information, please contact my Chief of Staff, Ms Melissa Fitzgerald, on 0439 994 156 or [Melissa.Fitzgerald@ipswich.qld.gov.au](mailto:Melissa.Fitzgerald@ipswich.qld.gov.au).

Yours sincerely



Mayor Teresa Harding

CC:

Ms Bronwyn Blagoev

DSDILGP

[Bronwyn.blagoev@dlgrma.qld.gov.au](mailto:Bronwyn.blagoev@dlgrma.qld.gov.au)

45 Roderick Street  
PO Box 191  
IPSWICH QLD 4305

Phone (07) 3810 6011  
Email [mayor@ipswich.qld.gov.au](mailto:mayor@ipswich.qld.gov.au)

[ipswich.qld.gov.au](http://ipswich.qld.gov.au)



**Mayor Teresa Harding**

City of Ipswich  
Queensland, Australia

Mr Damien Walker  
Director-General  
Department of State Development, Infrastructure,  
Local Government and Planning  
Via email: [damien.walker@dasilgp.qld.gov.au](mailto:damien.walker@dasilgp.qld.gov.au)

<date>

Dear Mr Walker,

I am pleased to provide the second quarterly report on the performance of Ipswich City Council under section 115 of the *Local Government Act 2009* in line with your request of 6 April 2021 (your ref: DGBN21/122).

The quarterly report has been resolved by Council at its Ordinary Council Meeting on 18 November 2021. The report addresses the following matters as requested:

- Progress of the People and Culture Strategic Plan;
- Implementation of outstanding issues from Mr Chemello's final Vision 2020 report namely:
  - Procurement;
  - ICT;
  - Knowledge Management;
  - People and Culture pulse survey results and actions;
- Significant changes to governance policies and processes;
- Significant issues relating to senior staff changes; and
- Issues which may identify corruption risks.

For the quarter from July 2021 to September 2021, I am pleased to advise this council has made some considerable achievements in these areas. A key summary is provided in Appendix 1 with related detailed progress reports also attached.

If you would like further detail or information on any of these matters, I would be happy to assist in providing this to you.

I look forward to providing council's next quarterly performance report and continuing to work with the organisation to rebuild community trust through accountability and transparency in our operations.

45 Roderick Street  
PO Box 191  
IPSWICH QLD 4305

Phone (07) 3810 6011  
Email [mayor@ipswich.qld.gov.au](mailto:mayor@ipswich.qld.gov.au)

[ipswich.qld.gov.au](http://ipswich.qld.gov.au)

Should you require any additional information, please contact my Chief of Staff, Ms Melissa Fitzgerald, on 0439 994 156 or [Melissa.Fitzgerald@ipswich.qld.gov.au](mailto:Melissa.Fitzgerald@ipswich.qld.gov.au).

Yours sincerely

Mayor Teresa Harding

Cc: Natalie Wilde, Deputy Director-General, Local Government Division  
[natalie.wilde@dasilgp.qld.gov.au](mailto:natalie.wilde@dasilgp.qld.gov.au)



45 Roderick Street  
PO Box 191  
IPSWICH QLD 4305

**Phone** (07) 3810 6011  
**Email** [mayor@ipswich.qld.gov.au](mailto:mayor@ipswich.qld.gov.au)

[ipswich.qld.gov.au](http://ipswich.qld.gov.au)

## Appendix 1

### Key Summary – Quarterly Performance Report July – September 2021

Index	Summary of Key Achievements this Quarter	Attachments
<ul style="list-style-type: none"> <li>- People and Culture Strategic Plan Progress</li> <li>- Results and Actions from Staff Pulse Surveys</li> <li>- Senior Staff Changes</li> </ul>	<ul style="list-style-type: none"> <li>- Continued focus on leadership development coaching of the Executive Leadership Team, ongoing implementation of the Inspiring Leaders Program, and Executive and Branch Manager workshops held every 6 weeks</li> <li>- Continued implementation of the Performance Framework</li> <li>- Recruitment process in progress and nearing final stages for a new Chief Executive Officer</li> </ul>	<b>1</b>
<ul style="list-style-type: none"> <li>- ICT</li> </ul>	<ul style="list-style-type: none"> <li>- Continued focus on ICT Governance with a range of outcomes achieved across initiatives</li> <li>- Significant effort into building ICT capability with the ICT Branch restructure complete</li> <li>- Business Case for Change (ICT Operating Model) Implementation is complete with project now in final stages of closure</li> </ul>	<b>2</b>
<ul style="list-style-type: none"> <li>- Knowledge Management</li> </ul>	<ul style="list-style-type: none"> <li>- Continued focus on Information Management with the approval of an Information Management (IM) Strategic Plan</li> <li>- Information Management Managers Toolkit approved</li> </ul>	<b>3</b>
<ul style="list-style-type: none"> <li>- Policy and Procedure Changes</li> </ul>	<ul style="list-style-type: none"> <li>- Significant changes to governance policies and processes were minimal during this period</li> <li>- New Children in the Workplace Procedure approved</li> <li>- Drug and Alcohol Management Procedure repealed and replaced</li> </ul>	<b>4</b>
<ul style="list-style-type: none"> <li>- Corruption Risks</li> </ul>	<ul style="list-style-type: none"> <li>- Robust frameworks and reporting regimes for risk management and fraud and corruption continue to be our focus</li> <li>- Fraud and corruption awareness training delivery is ongoing across the organisation for all elected representatives, senior leaders and staff.</li> <li>- Planned actions will be carried out in 2021-22 and are reported on quarterly to council's Audit and Risk Management Committee</li> </ul>	<b>5</b>
<ul style="list-style-type: none"> <li>- Procurement</li> </ul>	<ul style="list-style-type: none"> <li>- Nil outstanding actions and completed (refer to report submitted Q4 20/21).</li> <li>- The procurement model implementation was completed last quarter and has transitioned to 'business as usual'.</li> <li>- Publication of awarded contract data on the Transparency and Integrity Hub is an ongoing activity. Story published titled 'Monthly Procurement Transparency Uploads' with datasets updated on a monthly frequency.</li> </ul>	<b>N/A</b>

**CONFIDENTIAL – People and Culture Progress Report**

<b>Details</b>	Implement the People and Culture Strategy	<b>Governance Oversight</b>	Acting General Manager - Corporate Services
<b>Project Manager</b>	People and Culture Manager	<b>Reporting Period</b>	July to September 2021
<b>Overall Health</b>	<p>The People and Culture Strategy 2021 – 2026 was approved by Council on 16 September 2021. The Strategy has been developed with key consideration given to Council’s new corporate plan iFuture 2021 – 2026. A year 1 Action Plan has been developed and implementation has commenced in the delivery of the three key objectives:</p> <ol style="list-style-type: none"> <li>1. Strengthen our People and Culture services and products to ensure council is a trusted and leading organisation</li> <li>2. Actively improve our employee experience where staff are empowered, connected and supported for exceptional individual and council performance.</li> <li>3. Foster a safe and accountable workforce that thrives within an environment of inclusion, wellbeing and respect.</li> </ol> <p>Implementation of the actions required to achieve the desired outcomes of the People and Culture strategy have commenced strongly, with significant progress made in quarter one, as detailed below.</p>		

Key Project Area	Actions	Progress this Period
<b>Performance</b>	Quality Conversations Performance Framework implementation.	<ul style="list-style-type: none"> <li>• The new Performance Check-In Form was launched to 288 pilot participants on 1 September allowing for recording quality conversations – setting SMART goals, setting performance and behaviour expectations and establishing career and learning development goals</li> <li>• Delivery of the Quality Conversations module (6 weeks) to 56 participants in the Inspiring Leaders program covering effective communication, active listening, difficult situations, conflict resolution and providing feedback</li> <li>• 11 Team Effectiveness Program workshops with 119 participants were facilitated over the quarter</li> </ul>
<b>Leadership Development</b>	Continue to implement the ‘Inspiring Leaders Program’.	<ul style="list-style-type: none"> <li>• Inspiring Leaders Program continued to be implemented with 110 active participants completing six (6) leadership challenges (modules) over 18 months</li> <li>• Senior Leader Forums conducted every month</li> <li>• Executive and Branch Manager workshops held every 6 weeks</li> </ul>
<b>Workforce Planning</b>	Development of a Workforce Plan for the Infrastructure and Environment department	<ul style="list-style-type: none"> <li>• The IED Workforce Planning Project is following a strategic workforce planning process and steps 1 and 2 have been completed, with steps 3 and 4 due to be completed in the next quarter:                             <ol style="list-style-type: none"> <li>1. Scan – scan global, national and local landscapes and understand the strategic direction</li> <li>2. Profile – consider current and future workforce state</li> <li>3. Align – analyse and interpret gaps and identify essential activities required to position IED for the future</li> <li>4. Transition – develop and deliver IED Workforce Plan 2022 – 2027</li> </ol> </li> </ul>
<b>Learning and Development</b>	Learning and Development Framework in development	<ul style="list-style-type: none"> <li>• Learning and Development Framework 80% complete, to be considered by the Executive Leadership Team for approval late November 2021, with senior manager communications commencing in December 2021.</li> <li>• In partnership with the Governance Section, reviewed the training provided to all new employees regarding Right to</li> </ul>

Item 2 / Attachment 4.

		<p>Information and Information Privacy Act to ensure relevance to Council</p> <ul style="list-style-type: none"> <li>Launched online learning modules for Project Management and Security Awareness for increased staff learning across Council</li> </ul>
<b>Culture Engagement and Inclusion</b>	<p>Defining the ICC Employee Experience</p> <p>Reward and Recognition Framework development</p> <p>Progressing ICC Indigenous Accord actions</p>	<ul style="list-style-type: none"> <li>Wide consultation across Council to define the ICC Employee Experience vision and charter</li> <li>Development of the draft ICC Employee Experience strategy including the vision, charter, and focus areas</li> <li>Procurement process resulting in the engagement of Culture Amp for annual Employee Experience Surveys</li> <li>Review and update of Council's Flexible Working Arrangements procedure ensuring inclusive and progressive approaches to employment and flexibility in the workplace.</li> <li>Executive Leadership Team approval of paid Cultural, Ceremonial and NAIDOC leave for Aboriginal and Torres Strait Islander employees</li> <li>Executive Leadership Team endorsement of a Reward and Recognition Administrative Directive and Procedure allowing for improved approach to recognising our people and celebrating exceptional performance</li> </ul>
<b>Health and Safety</b>	<p>Be Upstanding research project</p> <p>Safe Work Month and Mental Health Week preparations</p> <p>Safety Leadership</p>	<ul style="list-style-type: none"> <li>Preparations for a suite of activities and promotions to raise community and workforce awareness about the importance of workplace health and safety and the benefits of mentally healthy workplaces – October Safe Work Month and Mental Health Week</li> <li>Continued focus on Safety Leadership with zero construction incidents in August and September</li> <li>Council is participating in a research project with University of Qld called Be Upstanding focused on improving the health and wellbeing of desk-based workers through: <ul style="list-style-type: none"> <li>improving health with evidence showing an increase to workers' energy, improved physical and mental health, lower stress and reduced injury</li> <li>increasing productivity through investment in health and wellbeing tips, therefore retaining talent and reducing absenteeism</li> </ul> </li> </ul>
<b>Service efficiency and effectiveness</b>	<p>Enterprise Bargaining negotiations underway</p> <p>Industrial relations process reviews</p>	<ul style="list-style-type: none"> <li>Five meetings have been held with the relevant Unions to negotiate updates for Council's four (4) Certified Agreements</li> <li>Review and update of Council's Investigation and Management of Disciplinary Matters Procedure ensuring a consistent approach to the application and management of corrective or disciplinary actions</li> <li>Development of a case management model to ensure human resource management matters are considered and addressed appropriately with oversight of relevant governance, industrial relations, staff health, wellbeing, safety and policy matters</li> </ul>

**Employee Experience**

The approved People and Culture Strategy 2021-2026 provides for a strategic focus on the employee experience, and based on feedback from the workforce, Council is moving away from frequent Pulse Surveys towards annual Employee Experience Surveys.

A procurement process has been completed to source a suitable provider for annual employee experience surveys, with Culture Amp selected. Council has consulted widely across the organisation to define the desired employee experience, develop a charter and strategy, which will inform the requirements of the annual Employee Experience Survey.

The first annual Employee Experience Survey is planned for late 2021 and future reports will focus on the Annual Employee Experience Survey results, agreed actions, progress achieved, and activities planned for the next period.

Item 2 / Attachment 4.

Senior Staff Movements			
Position	End Date	Recruitment status	Comments
Chief Executive Officer	9 April 2021	In progress	<p>Following a three-week campaign with executive recruitment firm Davidson, Council received 84 applications for the position from a high calibre pool of candidates from across Queensland and interstate.</p> <p>The CEO recruitment panel, consisting of Mayor Teresa Harding, Cr Marnie Doyle, Cr Andrew Fechner, Cr Jacob Madsen and Rachel Nolan (independent), have worked closely with Davidson to undertake a thorough selection process to shortlist seven (7) candidates who have participated in formal interviews, psychometric testing, referee reports, qualifications, employment and integrity checks to confirm two preferred candidates.</p> <p>The next stage is for a Special Meeting for a final decision by the full Council.</p> <p>Ms Sonia Cooper (General Manager, Corporate Services) continues to undertake the role of Acting CEO whilst the recruitment process is undertaken and finalised.</p>

**CONFIDENTIAL – Information and Knowledge Management Progress**

<b>Details</b>	Information Management Project	<b>Governance Oversight</b>	Acting General Manager - Corporate Services
<b>Project Manager</b>	Corporate Governance Manager	<b>Reporting Period</b>	July to September 2021
<b>Overall Health</b>	Council has been working on improving information and knowledge management practices through an Information Management sub-project of a broader program to increase the maturity of corporate governance (Strategic Maturity of Corporate Governance Project).		

Key Action	Progress this Period
Information Management risk and gap analysis	<p>Completed a risk and gap analysis of governance relating to Information Management to inform the development of the Information Management Strategic Plan and participated in the development of the Data Management Strategy and Roadmap initiative which is currently underway.</p> <p><b>Q1 21/22</b> - This has been completed and added to the Information Management Strategic Plan, which has been endorsed by the ICT Steering Committee on 16 June 2021.</p>
<p>Develop an Information Management Strategic Plan including:</p> <ul style="list-style-type: none"> <li>• Alignment to strategy</li> <li>• Current versus future state</li> <li>• 5-year implementation roadmap</li> <li>• An Implementation Plan</li> <li>• An Engagement and Communication Plan</li> </ul>	<p>The Information Management Strategic Plan and proposed 5-year implementation road map were endorsed by Council's ICT Steering Committee on 16 June 2021.</p> <p>The plan identified 28 deliverables from the risk and gap analysis of Council's information management governance coverage across the Framework's seven (7) Information Management Domains. Fourteen (14) are being delivered by the Information and Management Unit (IMU) and nine (14) by the Information, Communication and Technology (ICT) Branch. The Plan lays out a roadmap for a five-year development and implementation of the governance documents.</p> <p><b>Q1 21/22</b> - This has been completed and added to the Information Management Strategic Plan, which has been endorsed by the ICT Steering Committee on 16 June 2021.</p>
Information Management Managers Toolkit	<p>An Information Management Managers' Toolkit has been developed to provide topics for discussion at Branch and Section Meetings, with a 12-month communications plan and awareness program which is currently in progress. The next phase will see further engagement with Branch Managers across Council to assess levels of implementation. This measure will be included in progress reporting to the Executive Leadership Team.</p> <p><b>Q1 21/22</b> – The Information Management Managers' Toolkit was approved by the Corporate Services General Manager on 6 September 2021.</p>
Annual Information Management Training Calendar	<p>Annual information management training calendar has been established and embedded into business as usual.</p> <p><b>Q1 21/22</b> - This has been completed and added to the Information Management Strategic Plan, which has been endorsed by the ICT Steering Committee on 16 June 2021.</p>
Annual Information Management Awareness Campaign	<p>Continued internal communications delivered to promote information management practices.</p> <p><b>Q1 21/22</b> - Information Management Unit regularly publishes articles on the Wire (Council's intranet page). Ongoing</p>

**Item 2 / Attachment 5.**

Develop internal control process for council's information management system (Objective)	Process completed and meets the requirements of Office of the Information Commissioner (OIC) audit recommendations, effectively completing the management requirements of the 2017 OIC Audit.  <b>Q1 21/22</b> - No further action required
Information Management Unit Manual and processes	Reviewed and amended the Information Management Manual and processes for all activities for the Information Management Unit.  <b>Q1 21/22</b> - Information Management Manual and the Quick Reference Guides were been reviewed during the month of July 2021.

**CONFIDENTIAL – Policy and Procedure Change Overview Report**

<b>Details</b>	To provide oversight of all significant corporate wide policy and procedure changes approved through Council within the reporting period. Acting General Manager - Corporate Services		
<b>Report prepared by:</b>	Governance & Public Interest Disclosure Coordinator	<b>Reporting Period</b>	July to September 2021

Policy Title	Date of Change	Change Initiated by	Change Overview	Reasons for Change
Acquisition of Artworks for Ipswich Art Gallery Collection Procedure	12 August 2021	Approved by the Acting Chief Executive Officer	The procedure has been updated at the request of the Acting CEO to allow General Managers to ratify works that have been donated, gifted, bequeathed or identified for deaccession instead of seeking approval from the Executive Leadership Team.	Amended procedure provides for a streamlined and transparent process. Adopting this process maintains best practice and meets audit guidelines.
Regionally Significant Project Prioritisation Procedure	24 September 2021	Approved by the General Manager (Coordination and Performance)	Inclusion of additional steps in the procedure to include consultation with the Mayor and Councillors prior to community consultation followed by a briefing session prior to the submission of a Committee Report for consideration.	Updated following discussions by the Executive Leadership Team.
Children in the Workplace Procedure	25 August 2021	Approved by Acting General Manager (Corporate Services)	New procedure	Recognition by Council that, at times, there will be children at the workplace due to emergent parenting or carer requirements. ICC strives to be a family friendly Council.
Drug and Alcohol Management Procedure	12 July 2021	Approved by Acting General Manager (Corporate Services)	Acceptable blood alcohol and prohibited drug levels amended from “permitted blood alcohol level” to 0.00% blood alcohol or prohibited drug level.	Repealed procedure enforced alcohol levels for any employee operating a vehicle or plant. Changes ensure that all employees, regardless of whether they are office or field based, must adhere to the same standard of 0.00% blood alcohol or prohibited drug level.
Ipswich Enviroplan Program and Levy Procedure	12 July 2021	Approved by the Acting General Manager (Infrastructure and Environment)	Changes are in reference to the types and methods of funding available to partners and the removal of the reference to grants which are no longer issued, rather the funding is given via a bursary.	This more accurately reflects the organisational position around the use and definition of ‘grants’ and ‘grant funding’.

**CONFIDENTIAL – Corruption Controls Report**

<b>Details</b>	Provide an overview of the current corruption controls including key mechanisms in place and improvements carried out in the reporting period.		
<b>Report Prepared by</b>	Principal Risk & Compliance Specialist, Ethical Standards Manager and Governance and Public Interest Disclosures Coordinator	<b>Reporting Period</b>	July to September 2021
<b>Overall Comments</b>	Fraud and corruption controls are in place, are effective and are being regularly reviewed for continuous improvement.		

<b>Corruption Controls</b>	<b>Mechanisms in place and improvements made during reporting period</b>
Fraud and Corruption Control Plan	<ul style="list-style-type: none"> <li>- Council has a Fraud and Corruption Control Plan in place which sets the Framework for managing fraud and corruption and is due for review in November 2021.</li> </ul>
Fraud Risk Register	<ul style="list-style-type: none"> <li>- The Fraud Risk Register is in place and due for annual review in line with the Fraud and Corruption Control Plan in November 2021.</li> <li>- The Fraud Risk Register is reviewed quarterly and was provided to the Executive Leadership Team (ELT) Risk Committee in April, June and August 2021 with no changes made.</li> </ul> <p><i>Note: The Audit and Risk Management Committee is updated following ELT Risk Committee if an update is made to the Fraud Risk Register.</i></p>
Reporting and investigation of fraud and corruption	<ul style="list-style-type: none"> <li>- Mechanisms are in place for reporting fraud and corruption including:                             <ul style="list-style-type: none"> <li>o A Report a Concern internal intranet page which is promoted to all staff. This is a channel to report concerns (including public interest disclosures (PIDs))</li> <li>o The Ethical Standards Manager and CEO report suspected corrupt conduct through to the appropriate external agencies such as the Crime and Corruption Commission and Office of the Independent Assessor</li> <li>o An independent external 'Fair Call' facility (currently provided by KPMG) continues to be offered to and used by employees to report possible fraud or corruption concerns. Reports provided by KPMG show a reduction in numbers during 2021.</li> </ul> </li> <li>- Investigations into allegations of corrupt conduct are carried out by the Ethical Standards Manager, and effective fraud and corruption control practices are recommended to areas within council.</li> </ul>
Complaints and Public Interest Disclosures (PIDs) and protections	<ul style="list-style-type: none"> <li>- A Complaints Reporting Framework has been developed and approved.</li> <li>- Since the framework has been approved, new Complaints Report templates have been developed and will be sent to the Corporate Governance Manager and Branch Manager Legal and Governance on 6 October for their feedback and progression to the A/GM, CS before socialising with the ELT. Once feedback has been received from the ELT, quarterly reports will commence.</li> <li>- Learnings from complaints and PIDs continue to be captured to drive improvements in service delivery.</li> <li>- Council has 6 trained PID Support Officers who are available to support internal disclosers and witnesses.</li> <li>- A PID Support Officer's toolkit has been developed providing a guide for managing interactions, work instructions, Qld Ombudsman training notes as well as a Dos and Don'ts for the role of a support officer to raise awareness for disclosures.</li> <li>- Subject officer support arrangements have been formalised with Council's Confidential Counselling Services – Access EAP.</li> <li>- Council's PID procedure has been updated with this information identifying the Manager responsible for liaison and referral to the service.</li> </ul>
Fraud and corruption awareness training and education	<ul style="list-style-type: none"> <li>- The Ethical Standards Manager attends induction sessions weekly to provide an overview of:                             <ul style="list-style-type: none"> <li>o Code of Conduct</li> <li>o Where to locate policies, procedures, and administrative directives</li> </ul> </li> </ul>

**Item 2 / Attachment 7.**

	<ul style="list-style-type: none"><li>○ Focus areas including time sheet fraud, misuse of confidential information, conflicts of interest and secondary employment</li><li>○ Advice on how to report concerns.</li><li>- An e-learning on demand Fraud and Corruption Awareness Training is available for all staff and completed by new staff following induction. The training has been updated to include extended content on PIDs.</li></ul>
Reporting and data analysis related to fraud and corruption	<ul style="list-style-type: none"><li>- A Conflict of Interest Report is provided monthly to the Governance and Public Interest Disclosure Coordinator and Ethical Standards Manager who have full visibility over all Conflicts of Interest in council.</li></ul>

**CONFIDENTIAL – ICT Strategy Progress Report**

<b>Details</b>	The Information, Communication and Technology (ICT) Strategy has a roadmap/workplan addressing 26 individual initiatives to be delivered over 4 years.	<b>Governance Oversight</b>	ICT Steering Committee
<b>Project Manager</b>	Acting Chief Information Officer	<b>Reporting Period</b>	July to September 2021
<b>Overall Health</b>	Business Case for Change (ICT Operating Model) Implementation is complete with project now in final stages of closure. Positive outcomes across most initiatives relating to ICT Governance. Positive progress on: <ul style="list-style-type: none"> <li>• the Disaster Recovery enablement</li> <li>• the Oracle Enterprise Business Solution End-of-Life Risk</li> <li>• identity management and application performance, with both areas remaining a focus as Council seeks to leverage public cloud and relevant toolsets and technology that supports a best practice approach.</li> </ul>		

Item	Initiative	Progress this Period
ICT Governance	Rebuild ICT Governance and Controls Function	<ul style="list-style-type: none"> <li>• A new ICT Governance and Policy function was established in July 2021.</li> <li>• Existing ICT governance groups (ICT Technical Advisory Group; ICT Data Governance Advisory Group) have been reviewed and updated Terms of Reference have been developed.</li> <li>• Two new ICT governance groups (the Architecture Design Authority and the Service Review Forum) have been established to provide technical advice, recommendations, and make decisions on proposed new initiatives and technology and architecture changes.</li> <li>• The Change Control Authority (previously the Change Advisory Board, administered by Datacom) has been transitioned back into the ICT Branch.</li> </ul>
	Digital / Smart City / ICT Operating Model	<ul style="list-style-type: none"> <li>• Council Digital Working Group established and meetings held discuss any items of business.</li> <li>• Business Case for Change (ICT Operating Model) implementation complete.</li> </ul>
	Information Management Operating Model	<ul style="list-style-type: none"> <li>• The Terms of Reference and scope of the Data Governance Advisory Group (DGAG) has been expanded to incorporate all Council data, beyond the Transparency and Integrity Hub</li> <li>• ICT have recruited a Data and Solution Architect to draft council's data management standards.</li> <li>• The Data Management Strategy &amp; Roadmap to inform direction of 'Analytics and Business Intelligence', has been finalised.</li> </ul>
	ICT Directives Overhaul	<ul style="list-style-type: none"> <li>• Information Security Directives being reviewed as part of development of Information Security Management System.</li> <li>• Additional directives requiring development are being identified as part of the process.</li> </ul>

Item 2 / Attachment 8.

Business Platform	Oracle Enterprise Business Solution End of Life Risk Management Plan (BP01)	<ul style="list-style-type: none"> <li>• Oracle Enterprise Business Solution database upgraded, with support ending July 2022.</li> <li>• Premier support for Oracle Enterprise Business Solution application ends December 2021.</li> <li>• Risk mitigation for the Oracle environment is underway with a 3<sup>rd</sup> party provider preparing an options paper. There are 3 options available to ICC and an informed decision will be made after the paper is presented. The risk mitigation strategy will include DR capability for the Oracle suite, in the event of a system failure.</li> </ul>
	Customer Engagement System and Pathway	<ul style="list-style-type: none"> <li>• ICT has entered into a support agreement for Pathway for services such as the quarterly rates run, upgrades, and other support as required to mitigate gaps and risk.</li> <li>• ICT has extended their support agreement for CES to ensure the Customer Engagement System support requests, configuration changes and upgrades are supported to mitigate gaps and risk.</li> <li>• ICT has completed their recruitment and the 2 new developers have gained knowledge and skills to support some Pathway and CES functions, delivering a cross functional service between internal resources and the vendor, mitigating single points of failure.</li> </ul>
	Interim Dashboard and Data Lake (BP02)	<ul style="list-style-type: none"> <li>• Consolidated two projects as 'Analytics and Business Intelligence'</li> <li>• Business Reference Group being formed.</li> <li>• Data Management Strategy and Roadmap finalised and informs FY 21/22 solution (and asset) investments.</li> </ul>
	Information Management / Information Governance Enablers (BP03)	<ul style="list-style-type: none"> <li>• Initiative amalgamated with Interim Dashboard and Data Lake (BP02).</li> </ul>
	Internet of Things (IoT) Platform (BP04)	<ul style="list-style-type: none"> <li>• A Council strategy on IoT has not yet been approved</li> <li>• This initiative has not progressed and may be de-scoped.</li> </ul>
	GIS & Spatial Systems Operating Model & Architecture	<ul style="list-style-type: none"> <li>• Operating model has been finalised with implementation of the Business Case for Change</li> <li>• A Business Case has been approved to proceed with the procurement and implementation of a new enterprise spatial information system. The specifications have been completed, and it is expected a tender will be released in Q2 21/22.</li> </ul>
	Platform of the Future (PotF) - iVolve	<ul style="list-style-type: none"> <li>• The initial plan to deliver Stage 3 of iVolve was to engage an experienced Business Partner.</li> <li>• A revised delivery approach was developed and agreed in Q1 21/22.</li> <li>• The revised approach is to seek to engage and experienced Program Director (PD) to lead the</li> </ul>

Item 2 / Attachment 8.

		<p>delivery of Stage 3, with a hybrid model of internal and external expertise.</p> <ul style="list-style-type: none"> <li>• A request for quote has been developed and issued in Q1 21/22. Award of a successful vendor will occur in Q2.</li> </ul>
ICT Service Management	ICT Service Catalogue, Service Level & Reporting Uplift	<ul style="list-style-type: none"> <li>• Completed and operating as business as usual.</li> </ul>
	Restructure Information Security Controls (ITSM03)	<ul style="list-style-type: none"> <li>• Information Security controls are being defined as part of the Information Security Management system currently in development.</li> </ul>
	Firewalls, Checkpoint and Bluecoat Upgrade	<ul style="list-style-type: none"> <li>• Edge security is now managed by an external partner.</li> <li>• The management contract has delivered cost savings</li> <li>• The total solution will be reviewed post transition of services to fully managed internally to identify other areas of opportunity for improvement.</li> </ul>
	Outsourcing Model & Service Partner Optimisation (ITSM02)	<ul style="list-style-type: none"> <li>• Phase 1 of transition-in completed as part of business case for change implementation.</li> <li>• Phase 2 of transition-in to be completed in Q2 21/22. Phase 2 includes the establishment and implementation of the AWS cloud environment and a Disaster Recovery capability. Note: - Oracle infrastructure transition is a variation to Phase 2.</li> </ul>
	Identity Management (ITSM04)	<ul style="list-style-type: none"> <li>• Initiative and funding amalgamated with Disaster Recovery (DR) Enablement (ITSM06).</li> </ul>
	Capacity Management & Application Performance Monitoring	<ul style="list-style-type: none"> <li>• Initiative not funded and to be re-prioritised.</li> </ul>
	Disaster Recovery (DR) Enablement (ITSM06)	<ul style="list-style-type: none"> <li>• Phase 2 of transition-in of services from existing Managed Services provider is to be completed in Q2 21/22. Phase 2 includes the establishment and implementation of the AWS cloud environment and a Disaster Recovery capability. Note: - Oracle infrastructure transition is a variation to Phase 2.</li> </ul>
	Desktop Virtualisation / DaaS (ITSM07)	<ul style="list-style-type: none"> <li>• Initiative under further review.</li> </ul>
	Cloud Needs Analysis & Roadmap (ITSM08)	<ul style="list-style-type: none"> <li>• Initiative and funding amalgamated with DR Enablement (ITSM06).</li> </ul>
ICT Capability	Staff Plan - Phase 1 (Leadership & Engagement)	<ul style="list-style-type: none"> <li>• Complete.</li> <li>• New ICT management and leadership team established and onboarded.</li> </ul>
	Staff Plan - Phase 2 (Job Restructuring)	<ul style="list-style-type: none"> <li>• Business Case for Change implementation complete, project closure underway.</li> <li>• New structure finalised and implemented.</li> <li>• Ongoing recruitment activities managed as business as usual.</li> </ul>

**Item 2 / Attachment 8.**

	<p>Staff Plan - Phase 3 (Capability &amp; Skills Uplift)</p>	<ul style="list-style-type: none"> <li>• Performance and development planning in progress as part of business as usual.</li> <li>• Additional targeted training and upskilling in key competencies underway as part of business as usual.</li> </ul>
	<p>Architecture and Application Portfolio Management Uplift (ITCAP04)</p>	<ul style="list-style-type: none"> <li>• Business as usual.</li> <li>• Process improvements relating to ICT Architecture and Application Portfolio Management will be progressed in FY 21/22, further to the completion of the implementation of the Business Case for Change.</li> </ul>
	<p>ICT Project Lifecycle Uplift (Bi-Modal) (ITCAP05)</p>	<ul style="list-style-type: none"> <li>• Process improvements relating to ICT Project Lifecycle are continuing to be progressed in FY 21/22.</li> </ul>

Doc ID No: A7619125

ITEM: 3

SUBJECT: NEW TRUSTEE LEASE OVER RESERVE FOR RECREATION PURPOSES -  
AUSTRALIAN CRAWL (GOODNA) PTY LTD - 19A TOONGARRA ROAD LEICHHARDT

AUTHOR: SENIOR PROPERTY OFFICER (TENURE)

DATE: 11 OCTOBER 2021

### EXECUTIVE SUMMARY

This is a report concerning the Trustee Lease at the Georgie Conway Leichhardt Swim Centre over trust land located at 19A Toongarra Road, Leichhardt, described as Lot 39 on Crown Plan 902321 between Ipswich City Council and Australian Crawl (Goodna) Pty Ltd.

### RECOMMENDATION

- A. That Council terminate the existing Trustee Lease with Australian Crawl (Goodna) Pty Ltd located at 19A Toongarra Road, Leichhardt described as Lot 39 on Crown Plan 902321.**
- B. That pursuant to section 236(2) of the *Local Government Regulation 2012* (Regulation), Council resolve that the exception at section 236(1)(c)(v) of the Regulation applies to the disposal of interest in land at 19A Toongarra Road, Leichhardt more particularly described as part of Lot 39 and Crown Plan 902321, for a public swimming pool and ancillary purposes.**
- C. That Council agree to enter a new Trustee Lease (Council file reference number 5520) with Australian Crawl (Goodna) Pty Ltd (Lessee):**
- (i) at a yearly rent of \$1.00 excluding GST, payable to Council if demanded, and**
  - (ii) for a term of ten (10) years, with no options for extension, and**
  - (iii) for an in-kind contribution towards capital improvements over the term.**
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take “contractual action” pursuant to section 238 of the Regulation, in order to implement Council’s decision.**

### RELATED PARTIES

There was no declaration of conflicts of interest

## IFUTURE THEME

A Trusted and Leading Organisation

## PURPOSE OF REPORT/BACKGROUND

The Georgie Conway Leichhardt Swim Centre is a public pool located at 19A Toongarra Road, Leichhardt and described as Lot 39 on Crown Plan 902321, which is a State Reserve for Recreation Purposes (trust land). The property is improved with a 25 metre in-ground pool, wading pool, change rooms and an entrance/office building and caretaker residence and the facility is operated for public use. Australian Crawl (Goodna) Pty Ltd (ACG) were successful in the tender process coordinated by the former Works, Parks and Recreation Department for the operation and management of the swim centre.

On 9 July 2019, Council (as Trustee) resolved to enter into a trustee lease with Australian Crawl (Goodna) Pty Ltd (ACG). The Trustee Lease provided for rent of \$1.00 per annum if demanded, a term of 9.5 years, and for an in-kind contribution towards capital improvements for agreed works to install a new heated indoor pool. It was originally negotiated that ACG would contribute a minimum guaranteed spend amount of \$100,000 (exclusive of GST).

Due to the economic crisis caused by the coronavirus (COVID19) pandemic capital improvements were significantly delayed. The significant regional and local impact delivered a radical uncertainty for operators, employees and the wider workforce.

ACG have commenced planning for the proposed new heated indoor pool which is proposed to be completed by 1 October 2021, funded on finance by ACG. ACG have advised Council that the remaining term under the existing trustee lease (which amounts to 5 years) is insufficient to write off the capital contribution which is a requirement for ACG to secure finance. To remedy this, Council proposes to surrender the existing trustee lease and enter into a new trustee lease to enable ACG to secure finance.

It is in the public interest for Council to support the new term of 10 years so that AGC can secure finance and complete the capital works. The in-kind contribution (the capital upgrade works) is to be provided by ACG as consideration for the disposal in lieu of market rent. The capital works will enhance the swimming pool facility and the value and opportunities the facility offers to the community.

Prior to completed capital works, ACG will obtain all relevant approvals. ACG have obtained Ministerial consent for the capital works. Council will retain ownership of the capital improvements that are unable to be removed.

The trustee lease essential terms are as follows:

<b>Lease Terms</b>	<b>Existing</b>	<b>Proposed</b>
Period:	10 Years	10 Years
Commencement Date:	01/09/2019	01/12/2021

Expiry Date:	31/03/2028	30/11/2031
Options:	Nil	Nil
Annual Rent:	\$1.00 per annum (excluding GST)	\$1.00 per annum (excluding GST)
Permitted Use:	Public Swimming Pool and Kiosk and Sporting Goods Outlet	Public Swimming Pool and Kiosk and Sporting Goods Outlet

## LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

*Land Act 1994*

*Land Regulation 2020*

*Local Government Act 2009*

*Local Government Regulation 2012*

## RISK MANAGEMENT IMPLICATIONS

Council risk jeopardising the capital works contribution for the new heated indoor pool should it not resolve to enter into a new trustee lease for a term of 10 years. Should Council decline to resolve the recommendations, ACG will either need to construct the new indoor heated pool within the remaining term or pay to Council the amount of \$100,000 as a contribution under the existing trustee lease.

## HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
<b>OTHER DECISION</b>	
(a) What is the Act/Decision being made?	The Recommendations resolve for Council to surrender the existing trustee lease to Australian Crawl (Goodna) Pty Ltd and enter into a new trustee lease with Australian Crawl (Goodna) Pty Ltd for the management and operation of a swim centre.
(b) What human rights are affected?	Recognition and equality before the law (section 15) Protection from torture and cruel, inhuman or degrading treatment Freedom of movement (section 19) Freedom of expression (section 21) Peaceful assembly and freedom of association (section 22) Privacy and reputation (section 25)
(c) How are the human rights limited?	The proposed decision to enter into the trustee lease will potentially interfere to restrict with the rights identified above because the trustee will have the power to eject persons in particular circumstances.
(d) Is there a good reason for limiting the	Yes. Ejecting a person in particular circumstances is a reasonable approach to ensure health and safety. Less restrictive means would be warnings etc, but it is anticipated that these would be utilised prior to any ejection.

relevant rights? Is the limitation fair and reasonable ?	
(e) Conclusion	The decision is consistent with human rights.

### FINANCIAL/RESOURCE IMPLICATIONS

Council will continue its responsibility for operating expenses, structural repairs and wear and tear to the building, as per the maintenance schedule of the proposed trustee lease aligned with the existing trustee lease.

Upon termination the lessee must return the premises to Council in good repair and working order, except for reasonable wear and tear.

Council does not track the expenses for specific buildings. There is also no budget particularly assigned to specific facilities.

Council does not currently have a long-term financial forecast for its managed facilities. Long-term financial forecasting includes estimated capital expenditure for renewing, upgrading, and extending each building and facility asset. Council are proposing a 5 year' plan to implement improved asset management of its buildings and facilities.

Under the *Local Government Act 2009* it is mandatory for Council to have a long-term asset management plan (AMP) and a long-term financial forecast.

Council currently has a very high level AMP lacking detail. The development of a more informed AMP for buildings and facilities, including long-term forecasting will ensure decisions are informed and will optimise asset performance and value at both portfolio and individual facility level.

The *Local Government Regulation 2012* sets out the requirements of the AMP:

- must be for 10 years or more;
- continues in force for the period stated in the plan unless a new AMP is adopted by Council;
- provide for strategies to ensure the sustainability of the management of assets outlined in Council’s asset register and Council infrastructure;
- state the estimated capital expenditure for renewing, upgrading, and extending assets for the period stated in the AMP;
- be consistent with, and part of, the long-term financial forecast.

## COMMUNITY AND OTHER CONSULTATION

Following Council's review of the existing trustee lease and the improvements required under that lease, Council's Works and Field Services and Property Services Teams met with ACG to discuss the requirement for the construction of the new heated indoor pool. ACG requested that the 10 year' term of the trustee lease commence upon completion of the new pool in order for ACG to secure finance for the capital improvements. ACG indicated that upon completion of capital works, there will be five (5) years remaining on the term of the trustee lease and finance would not be secured for a five (5) year term for the new pool.

Internal consultation was completed with Works and Field Services and Procurement on the term of the trustee lease, noting that a trustee lease does not allow for a term to be increased under the *Land Act 1994*;

- Works and Field Services indicated to ACG and advised Property Services that they would be agreeable to entering into a new 10 year' term to accommodate construction of the new heated indoor pool.
- Procurement advised that as this particular agreement is for trust land, they would refer to Property Services in this instance.

## CONCLUSION

It is recommended that Council surrender the existing trustee lease and enter into a new trustee lease with ACG, for a 10 year term for management and operation of the swim centre to facilitate the construction of the new heated indoor pool over the Georgie Conway Leichhardt Swim Centre located at 19A Toongarra Road, Leichhardt.

## ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Property Plan - 19A Toongarra Road, Leichhardt <a href="#">↓</a> 
2.	Survey Plan - Crown Plan 902321 <a href="#">↓</a> 
3.	Committee Report - Resolving to enter into Trustee Lease over 19A Toongarra Road, Leichhardt (not including attachments) <a href="#">↓</a> 
4.	Draft Trustee Lease <a href="#">↓</a> 
	CONFIDENTIAL
5.	Quote - New Heated Indoor Pool

Kerry Perrett

**SENIOR PROPERTY OFFICER (TENURE)**

I concur with the recommendations contained in this report.

Brett McGrath

**PROPERTY SERVICES MANAGER**

I concur with the recommendations contained in this report.

Allison Ferres-MacDonald  
**DEPUTY GENERAL COUNSEL**

I concur with the recommendations contained in this report.

Anthony Dunleavy  
**MANAGER, LEGAL AND GOVERNANCE (GENERAL COUNSEL)**

*“Together, we proudly enhance the quality of life for our community”*



**Ipswich City Council**  
PO Box 191  
IPSWICH QLD 4305  
Australia

Telephone (07) 3810 6666  
Fax (07) 3810 6731  
Email [council@ipswich.qld.gov.au](mailto:council@ipswich.qld.gov.au)  
Web [www.ipswich.qld.gov.au](http://www.ipswich.qld.gov.au)  
Business Hours 8:00am - 4:30pm (Mon - Fri)

## Property Plan



### PROPERTY DETAILS

**Address:** 19a Toongarra Road Leichhardt Qld 4305  
**Owner:** Australian Crawl (Goodna) Pty Ltd  
**Lot Plan:** 39CP902321  
**Area:** 7336m<sup>2</sup>

### MAP DETAILS

Scale: 1:2,415  
Metres 50 100  
North arrow and Creative Commons BY-SA license icons.

### LEGEND

- Selected Property
- 23 House Number / Boundary
- Easement

Item 3 / Attachment 1.

PROPERTY DETAILS			
Published Date: 13/10/2021			
<b>Address:</b>	19a Toongarra Road Leichhardt Qld 4305	<b>Suburb:</b>	Leichhardt
<b>LotPlan:</b>	39CP902321	<b>Postcode:</b>	4305
<b>Area:</b>	7336m <sup>2</sup>	<b>Division:</b>	Division 3
<b>Tenure:</b>	<b>Tenure:</b> RE <b>Description:</b> RESERVE		
RATING DETAILS			
<b>PPN:</b>	115520	<b>Assessment :</b>	113688
<b>Owner:</b>	Australian Crawl (Goodna) Pty Ltd	<b>Mail Address:</b>	Australian Crawl (Goodna) Pty Ltd 75 Nelson Parade MANLY QLD 4179
<b>Land Use:</b>	<b>Code:</b> 5000 <b>Description:</b> Club - Non Business (Community Hall, QCWA, Scouts)	<b>Rates:</b>	<b>Code:</b> 701 - State Govt Emergency & Fire Levy - Group 2 <b>Code:</b> 221 - Differential General Rate - Category 43a <b>Code:</b> 8855 - Waste Charges - Wheelie Bin Council
<b>Dogs:</b>	<b>Property Dog:</b> True <b>Dangerous Dog:</b> False		
WORK AREA DETAILS			
<b>Census:</b>	<b>SA1:</b> 31003129103 <b>SA2:</b> 31003129 <b>SA3:</b> 31003 <b>SA4:</b> 310 <b>Mesh Block:</b> 30338100000 <b>Block Category:</b> Residential	<b>Historic Flood:</b>	<b>1974 Affected:</b> False <b>2011 Affected:</b> False
<b>IE Work Area:</b>	District 3 - South Western Team	<b>PRS Planning Team Area:</b>	Development - West Team
<b>PRS Engineering Teams Areas:</b>	<b>Team Name:</b> West <b>Technical Officer :</b> Ravi Raveenthiran <b>Team Name:</b> West - Delivery Team B <b>Technical Officer :</b> Aaron Katt	<b>PRS Regulatory Work Area:</b>	<b>Area 1:</b> PRS Compliance - Development 4 <b>Area 2:</b> PRS Compliance - Local Laws Investigation 6 <b>Area 3:</b> PRS Compliance - Animal Management 4
<b>Waste Work Area:</b>	Zone 3	<b>Catchment:</b>	<b>Catchment:</b> Bremer River <b>Subcatchment:</b> Bremer River
PLANNING & DEVELOPMENT DETAILS			
<b>Zones:</b>	REC - Recreation	<b>Development Constraints:</b>	OV5 Urban Catchment Flow Paths OV7A Building Height Restriction Area 15m OV7A Building Height Restriction Area 7.5m OV7A Inner Horizontal Surface RL 71.5 OV7B 3km Existing Committed Urban Townships Buffer OV7C Possible Noise Amenity Impacts
<b>Divisions buffered 50m:</b>	Division 3		

Item 3 / Attachment 2.

LAND TITLE ACT 1994

SURVEY PLAN

FORM 21 VERSION 1

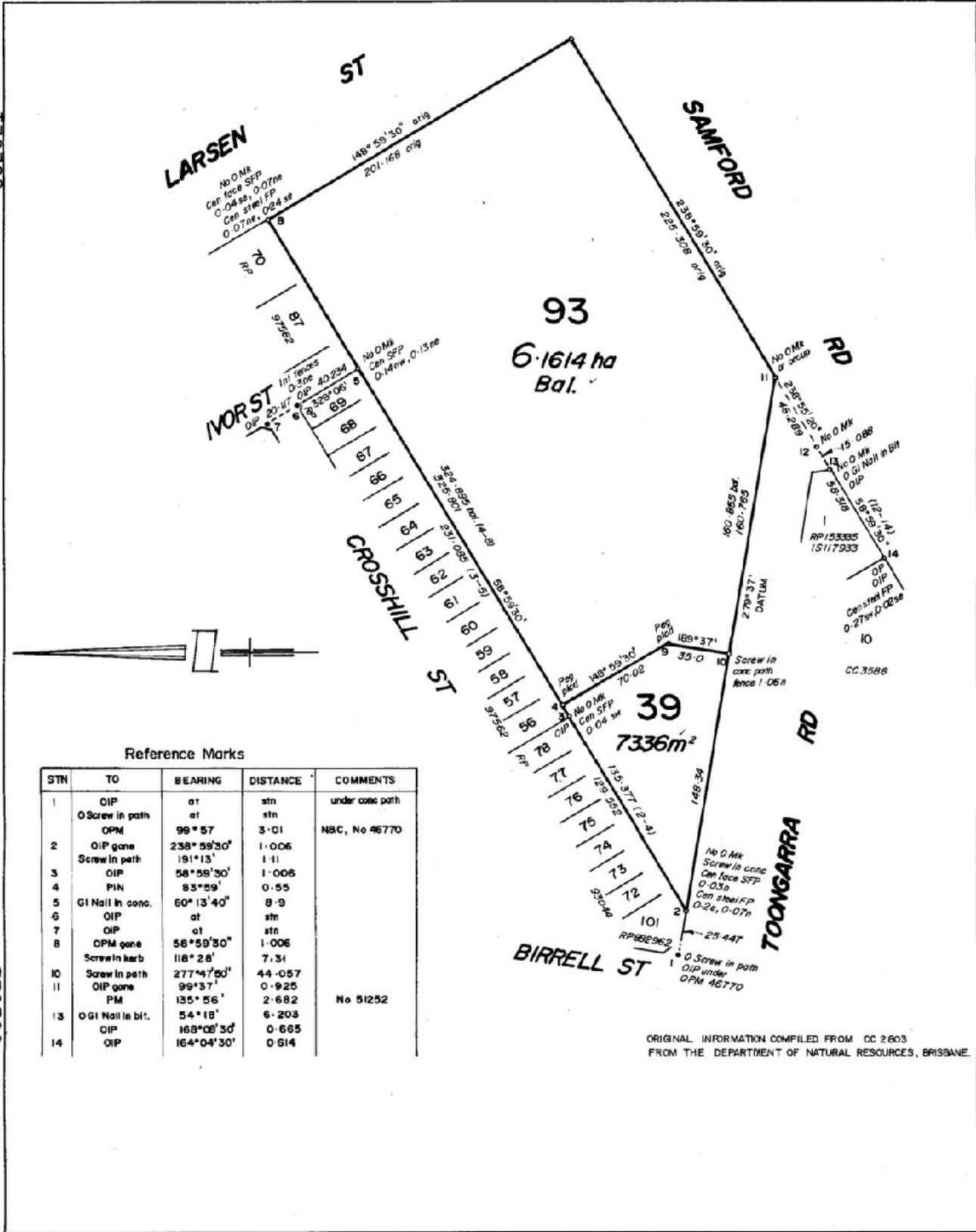
902321

PLAN MUST BE DRAWN WITHIN BLACK LINES

902321

902321

WARNING - PLAN MAY BE ROLLED - A FOLDED OR MUTILATED PLAN WILL NOT BE ACCEPTED 902321



Reference Marks

STN	TO	BEARING	DISTANCE	COMMENTS
1	CIP	at	stn	under conc path
	O Screw in path	at	stn	
2	OPM	99° 57'	3.01	NSC, No 46770
	OIP gone	238° 59'30"	1.006	
3	Screw in path	191°13'	1.11	
4	OIP	58° 59'30"	1.006	
5	PIN	83°59'	0.55	
6	GI Nail in conc.	60° 13'40"	8.9	
7	OIP	at	stn	
8	OPM gone	56° 59'30"	1.006	
	Screw in kerb	118° 28'	7.31	
10	Screw in path	277°47'50"	44.057	
11	OIP gone	99°37'	0.925	
	PM	135° 56'	2.682	No 51252
13	O GI Nail in bit.	54° 18'	6.203	
14	OIP	168°08'30"	0.665	
	OIP	164°04'30"	0.614	

ORIGINAL INFORMATION COMPILED FROM CC 2603 FROM THE DEPARTMENT OF NATURAL RESOURCES, BRISBANE.

Neil Woodford & Associates Pty Ltd ACNO 0682996 hereby certify that the Company has surveyed the land comprised in this plan by Neil Murray Woodford, Licensed Surveyor for whom the Company accepts responsibility and that the said survey was performed in accordance with the Surveyors Act 1977 and the Surveyors (Professional Practice) Act 1992 and that the said survey was completed on 11.4.97

Director & Licensed Surveyor  
Date 11.4.97

**PLAN OF LOTS 39 & 93**  
CANCELLING LOT 93 on CC 2803

ORIGINAL PORTION 93

MD<sup>3</sup> SURVEY RECORDS DEPOSITED

MERIDIAN RP 98044	MAP REF 1CC 42	SCALE 1:2000	ENDORSED ACCREDITED	ARCHIVED BRISBANE
----------------------	-------------------	-----------------	------------------------	----------------------

PARISH **BRASSALL**  
COUNTY **Churchill**  
TOWN/LOCALITY **Leichardt**  
LOCAL GOVERNMENT **IPSWICH C.C.**  
LANDS REGION **BRISBANE**  
MINING DISTRICT

**CROWN PLAN 902321**

GOVERNANCE COMMITTEE  
MEETING AGENDA

9 JULY  
2019

Doc ID No: A5584188

ITEM: 13  
SUBJECT: PROPOSED NEW TRUSTEE LEASE OVER RESERVE FOR RECREATION PURPOSES - AUSTRALIAN CRAWL (GOODNA) PTY LTD - 19A TOONGARRA ROAD LEICHHARDT  
AUTHOR: SENIOR PROPERTY OFFICER  
DATE: 11 JUNE 2019

---

#### EXECUTIVE SUMMARY

This is a report concerning the proposed Trustee Lease between Ipswich City Council as Trustee and Australian Crawl (Goodna) Pty Ltd for the whole of the land described as Lot 39 on Crown Plan 902321.

#### RECOMMENDATION/S

That the Interim Administrator of Ipswich City Council resolve:

- A. That Council terminate the Swimming Pool Management Agreement with Australian Crawl (Goodna) Pty Ltd located at 19A Toongarra Road Leichhardt described as Lot 39 on Crown Plan 902321.
- B. That Council, as Trustee of the Reserve located at 19A Toongarra Road Leichhardt, enter into a Trustee Lease with Australian Crawl (Goodna) Pty Ltd pursuant to section 236(1)(c)(iii) and (2) of the *Local Government Regulation 2012 (QLD)*.
- C. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the Trustee Lease to be executed by Council and to do any other acts necessary to implement Council's decision in accordance with section 13(3) of the *Local Government Act 2009*.

#### Comments added at Governance Committee No. 2019(07) of 9 July 2019.

Greg Chemello (Interim Administrator) stated that this was a similar report to a previous one presented to committee and that because council doesn't have the correct tenure in place it can't proceed with the lease until the tenure has been changed.

Simone Webbe (Interim Management Committee) commented that there have been a few examples of where wrong tenure had been used and queried whether this had been communicated to the relevant areas in order to process map the learnings from this.

#### RELATED PARTIES

The parties related to this matter include;

- Infrastructure and Environment Department (Internal)
- Legal Services (Internal)
- Australian Crawl (Goodna) Pty Ltd (External)
- Department Natural Resources, Mines and Energy (External)

#### **ADVANCE IPSWICH THEME LINKAGE**

Caring for the community

#### **PURPOSE OF REPORT/BACKGROUND**

The Georgie Conway Leichhardt Swim Centre is a public pool located at 19A Toongarra Road, Leichhardt and described as Lot 39 on Crown Plan 902321, which is a State Reserve for Recreation Purposes (trust land). The property is improved with a 25 metre in-ground pool, wading pool, change rooms and an entrance/office building and caretaker residence and the facility is operated for public use. Australian Crawl (Goodna) Pty Ltd were successful in the tender process coordinated by the former Works, Parks and Recreation Department for the management rights and lease of the swim centre. On 1 April 2018, Council (as Trustee) and Australian Crawl (Goodna) Pty Ltd (ACG) entered into a Swimming Pool Management Agreement for a ten (10) year term until 31 March 2028.

Following an internal review it has been noted that the Swimming Pool Management Agreement is the incorrect agreement for tenure over State Reserve under section 57 of the *Land Act 1994*. The legislation requires that Council as Trustee, only enter into a Trustee Permit for short term agreements (less than 3 years) or a Trustee Lease for longer term agreements for tenure over State Reserve. It is recommended that Council terminate the existing Swimming Pool Management Agreement and enter into a Trustee Lease to ensure that Council complies with its obligations as a Trustee under the *Land Act 1994*.

To remedy this, it is proposed that Council enter into a new Trustee Lease with ACG for a nine (9) year term until 31 March 2028 over the whole of the trust land and under the same terms and conditions of the existing agreement. The Trustee Lease will replace the existing Swimming Pool Management Agreement. There will be no increase to the length of the term and no change to the rent charged. Property Services have consulted with ACG regarding the requirements for the new Trustee Lease and ACG understand the reasons for and agree to the termination of the existing agreement and entering into the Trustee Lease.

As part of the successful tender submission, ACG proposed to construct a new pool within the swim centre subject to development approval. ACG has submitted a development application with Council to build the new swimming pool and they have been issued with an Action Notice requiring land owner consent for the improvements before final approval is provided. The State is the owner of the land and will only provide land owner consent to the development application provided that the applicant has a legal interest in the property. The Swimming Pool Management Agreement is the incorrect tenure for the property and once the new Trustee Lease is executed and registered on the reserve title, ACG will have a legal interest in the property and can then apply for land owner consent.

The caretaker's residence located on the property can be occupied by the manager or an employee of the swim centre under the *Land Act 1994*. Under the Act it cannot be leased on

an individual tenancy agreement and can only be used in association with the operation of the swimming pool complex. The caretaker's residence has been previously leased on an individual tenancy for approximately seven years and the tenant has now vacated the premises. ACG have expressed an interest to Council to now use the caretaker's residence for an employee to occupy and oversee the facility. The Infrastructure and Environment Department have agreed to allow the ACG to occupy the caretaker's residence and this will be included in the new Trustee Lease agreement.

Given the restrictions imposed under the *Land Act 1994* for the use of the caretaker's residence, there are both advantages and disadvantages for including the caretaker's residence in the lease area. Any potential operators of the swim centre may or may not want to use the caretaker's residence depending on how they want to operate the facility and given they are responsible for the asset during the lease term. Therefore, Property Services are satisfied that ACG are not receiving a significant benefit by allowing them to occupy the caretaker's residence.

The Trustee Lease document must satisfy all requirements of the *Land Act 1994* and the State's Operation Policy - Secondary Use of Trust Land under the Land Act and the Mandatory Standard Terms Document 711932933, the Trustee Lease can then be registered in the Titles Registry.

#### **FINANCIAL/RESOURCE IMPLICATIONS**

Council will continue its responsibility for structural repairs and other repairs to the building, as per the maintenance schedule of the proposed trustee lease.

#### **RISK MANAGEMENT IMPLICATIONS**

The major risk is that Council is not complying with their obligation as Trustee of the Reserve under the *Land Act 1994*. This includes providing the correct legal instrument for offering tenure over the Reserve. If Council terminates the existing Swimming Pool Management Agreement and enters into a new Trustee Lease, it will remove the risk to Council.

#### **LEGAL/POLICY BASIS**

This report and its recommendations are consistent with the following legislative provisions:

*Land Act 1994*

*Land Regulations 2009*

*Local Government Regulation 2012*

*Local Government Act 2009*

Council as Trustee are the legal owners of the land and must comply with any requirements under the *Local Government Regulation 2012* for disposal of land. Section 232(2) of the default contracting provisions of the Regulation have been considered, as they relate to this particular transaction, to create a trustee lease, the provisions under Part 3 of the Regulation do not apply to trust land.

The consequences of not applying for disposal are that Council do not need to go to tender in relation to trust land. The default contracting provisions are only specific to Part 3 of the Regulation and this specifically excludes trust land. The general powers of the Trustee are contained in s52 of the Land Act, but the obligations contained in s57 (5) of the Land Act relate to trustee leases, and the trustee lease must be consistent with the purpose of which the trust was reserved.

If it is proposed that Council enter into a new Trustee Lease with ACG for a specified period, over the whole of the trust land and under the same terms and conditions of the existing agreement, if necessary Council could achieve that through solely the instrument of a trustee lease.

Property Services have consulted with ACG regarding the requirements for the new Trustee Lease and ACG understand the reasons for and agree to the termination of the existing agreement. The Swimming Pool Management Agreement is the incorrect tenure for the property and once the new Trustee Lease is executed and registered on the reserve title, ACG will have a legal interest in the property and can then apply for land owner consent. Council as the trustee lessor are the owner of the property, for the purposes of providing consent under the *Planning Act 2016*, to any development application.

#### COMMUNITY AND OTHER CONSULTATION

The content of this report does not require any community consultation. ACG were the successful applicant in a public tender process to secure the occupancy of the facility.

#### CONCLUSION

It is recommended that Council enter into a Trustee Lease with Australian Crawl (Goodna) Pty Ltd over the whole of the land described as Lot 39 on Crown Plan 902321 under the same terms and conditions of the existing agreement.

The Trustee lease will reflect the obligation of Council as Trustee under the *Land Act 1994* and will be consistent with the State's Operational Policy – *Secondary use of Trust Land* and the *Mandatory Standard Terms Document 711932933*.

#### ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Map for 19A Toongarra Road Leichhardt
2.	Georgie Conway Leichhardt Community Swim Centre - Swimming Pool Management Agreement - Expires 31.03.2028
3.	Mandatory Standard Terms Document 711932933
4.	Action Notice
5.	Draft Plans

Brett McGrath  
**SENIOR PROPERTY OFFICER**

I concur with the recommendations contained in this report.

GOVERNANCE COMMITTEE  
MEETING AGENDA

9 JULY  
2019

Andrew Knight  
**GENERAL MANAGER - CORPORATE SERVICES**

*“Together, we proudly enhance the quality of life for our community”*



**Reserve for Recreation Purposes - 19a Toongarra Road Leichhardt**

Scale 1:704  
Printed Date: 1 May 2019



# SWIMMING POOL MANAGEMENT AGREEMENT

**Georgie Conway Leichhardt Community Swim Centre**

**Ipswich City Council**

**Australian Crawl (Goodna) Pty Ltd – A.B.N. 21 120 208 255**

Level 23 Central Plaza One  
345 Queen Street  
BRISBANE QLD 4000  
Tel: (07) 3231 0600  
Fax: (07) 3221 2921  
Our ref: BAS:MEG:117307

[www.mcw.com.au](http://www.mcw.com.au)

**Brisbane**  
Maroochydore  
Southport  
Sydney  
Canberra  
Melbourne  
Adelaide

---

## CONTENTS

<b>1.</b>	<b>DEFINITIONS AND INTERPRETATION</b>	<b>3</b>
1.1	Definitions	3
1.2	Rules for Interpreting this Document	6
<b>2.</b>	<b>TERM OF AGREEMENT</b>	<b>7</b>
<b>3.</b>	<b>RELATIONSHIP</b>	<b>7</b>
<b>4.</b>	<b>MANAGEMENT OF THE CENTRE</b>	<b>8</b>
4.1	Conduct business of the Centre	8
4.2	Operation of the Centre	8
4.3	Admission Fees and Hourly Fees	9
4.4	No Right to Sub-Contract	10
4.5	Manager obligations - General Responsibilities	10
4.6	Manager obligations - Use of the Centre	11
4.7	Manager obligations – Swimming Pools	12
4.8	Technical Operations Guidelines	13
4.9	Council's Obligations	13
<b>5.</b>	<b>MANAGEMENT OF THE CENTRE - EMPLOYEES</b>	<b>14</b>
5.1	Manager and Staff Qualifications	14
5.2	Designated Person in Charge	15
5.3	Supervision of Pools	16
5.4	Employee Records	17
<b>6.</b>	<b>HEALTH &amp; SAFETY</b>	<b>17</b>
6.1	Workplace Health & Safety	17
6.2	Guidelines for Safe Pool Operations	18
6.3	Accidents	18
6.4	Safety Equipment	18
6.5	Lighting	19
<b>7.</b>	<b>MANAGER'S OUTGOINGS</b>	<b>19</b>
<b>8.</b>	<b>NOT USED</b>	<b>20</b>
<b>9.</b>	<b>COUNCIL'S ASSETS</b>	<b>20</b>
<b>10.</b>	<b>REPAIRS AND MAINTENANCE</b>	<b>21</b>
10.1	General Repair and Maintenance Obligations	21
10.2	Maintenance Schedule	21
10.3	Manager Repair Obligations	22
10.4	Structural Repairs and Maintenance	22
10.5	Alterations or Additions	22
10.6	Council's Inspection	23
10.7	Notice to Repair	23
<b>11.</b>	<b>INSURANCE, RISK AND INDEMNITY</b>	<b>24</b>
11.1	Public Liability Insurance	24
11.2	Other Insurances	24
11.3	Council's Insurance	25
11.4	Additional Premiums	25
11.5	Prejudice of Insurance	25
11.6	Risk and Release	25
11.7	Indemnity	26
11.8	No Supervision	26
11.9	Obligations Not Exhaustive	26
11.10	Manager to Indemnify Council	27
11.11	Council Released	27
<b>12.</b>	<b>PERFORMANCE MANAGEMENT</b>	<b>27</b>
12.1	Submission of Business Plans	27
12.2	Updating of Business Plans	28
12.3	Implementation of Business Plans	28
12.4	Key Performance Indicators	29
12.5	Annual Performance Reviews	29
12.6	Performance Monitoring Scheme	30

<b>13. FINANCIAL MANAGEMENT</b>	<b>30</b>
13.1 Recording of Revenue and Manager's Outgoings	30
13.2 Inspection of books and accounts	32
<b>14. REPORTING</b>	<b>32</b>
14.1 Monthly reporting	32
<b>15. DEFAULT AND TERMINATION</b>	<b>33</b>
15.1 Remedy of breaches	33
15.2 Termination	34
<b>16. END DATE OBLIGATIONS</b>	<b>34</b>
16.1 End of Term Condition	34
16.2 Manager's Property at end of Term	35
<b>17. GOOD NEIGHBOUR PROCESSES</b>	<b>35</b>
17.1 Introduction	35
17.2 General Good Neighbour Processes	35
17.3 Complaint Handling Procedures	36
17.4 Non-compliance with processes	37
<b>18. DISPUTE RESOLUTION PROCEDURE</b>	<b>37</b>
<b>19. GST</b>	<b>38</b>
19.1 GST Exclusive Amounts	38
19.2 Payment of GST	38
19.3 Reimbursements	38
<b>20. NOTICES</b>	<b>38</b>
20.1 Service of Notice	38
20.2 Effective Service	38
20.3 Ineffective Service	39
<b>21. MISCELLANEOUS</b>	<b>39</b>
21.1 Special Conditions	39
21.2 Assignment and other dealings	39
21.3 Council delegate	39
21.4 Communication Protocols	39
21.5 Council's Consent	40
21.6 No Warranty by Giving Consent	40
21.7 Discretion in Exercising Rights	40
21.8 No Liability for Loss	40
21.9 Remedies Cumulative	40
21.10 Exclusion of Contrary Legislation	40
21.11 Amendment	40
21.12 Waiver	41
21.13 No Merger	41
21.14 Survival of Rights and Obligations	41
21.15 No Payment Required to Claim Indemnity	41
21.16 Giving Effect to this Document	41
21.17 Entire Agreement	41
21.18 Inconsistencies	42
21.19 Construction	42
21.20 Severability	42
21.21 Costs and Expenses	42
21.22 Governing Law	42
21.23 Counterparts	42
<b>SCHEDULE 1</b>	<b>43</b>
Maintenance Schedule	43
Key Performance Indicators (KPIs) cont'd	53
<b>SCHEDULE 3</b>	<b>54</b>
Council's Assets - Inventory	54
<b>EXECUTION</b>	<b>56</b>
<b>ANNEXURE A</b>	<b>57</b>
Special Conditions	57

---

## SWIMMING POOL MANAGEMENT AGREEMENT

### DATE

### DETAILS OF PARTIES

---

<b>Name</b>	Ipswich City Council
<b>Label</b>	<b>Council</b>
<b>Attention</b>	Technical Support Principal Officer
<b>Street Address</b>	45 Roderick Street IPSWICH QLD 4305
<b>Mailing Address</b>	PO Box 191 IPSWICH QLD 4305
<b>Fax Number</b>	(07) 3810 6206

---

<b>Name</b>	Australian Crawl (Goodna) Pty Ltd
<b>Label</b>	<b>Manager</b>
<b>ACN/ABN</b>	21 120 208 255
<b>Attention</b>	Justin Lemberg
<b>Street Address</b>	Cathedral Village 115 Wickham Street Fortitude Valley QLD 4006
<b>Mailing Address</b>	PO Box 348 CAROLE PARK QLD 4300
<b>Fax Number</b>	

---

### BACKGROUND

- A. The Council is the registered owner of the Land and is also the owner of all improvements, including the Centre, that are erected on that Land.
- B. The Manager has experience in the operation and management of swimming facilities.
- C. This Agreement is to provide for the good management of the Centre and ensure that the facility is maintained and managed to the highest possible standard and to ensure the continued access for residents to high quality swimming facilities.
- D. The Council agrees to appoint the Manager to manage the Centre in accordance with the terms of this Agreement.

### OPERATIVE PROVISIONS

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

The following definitions apply in this document:

**"Agreement"** means this Swimming Pool Management Agreement.

**"Business Day"** means a day on which banks are open for retail banking, other than a Saturday, Sunday or public holiday, in Ipswich, Australia.

**"Business Plan"** means the business plan (or plans) required to be prepared by the Manager and provided to Council in accordance with clause 12.1.

**"Centre"** means the Georgie Conway Leichhardt Community Swim Centre located on the Land and includes the fixtures, fittings, swimming pools, amenities, and where the context permits, the Centre includes Council's Assets.

**"Commencement Date"** means 1 April 2018.

**"Council Nominated Officer"** means the Chief Executive Officer or a staff member delegated by Council.

**"Council's Assets"** means all fixtures, fittings and goods belonging to Council in or on the Centre including those items listed in the inventory in Schedule 3. Where the context permits, the Centre includes Council's Assets.

**"Electricity Costs"** includes, but is not limited to, the cost of electricity associated with the following: -

- (a) water purification equipment;
- (b) water heating;
- (c) lighting of the Centre, the swimming pools and surrounds; and
- (d) lighting and water heating in the amenities buildings.

**"Expiry Date"** means 31 March 2028.

**"Externally Administered Body Corporate"** means a body corporate:

- (a) that is being wound up;
- (b) in respect of the property of which a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting;
- (c) that is under administration;
- (d) that has executed a deed of company arrangement that has not yet terminated; or
- (e) that has entered into a compromise or arrangement with another person the administration of which has not been concluded.

**"Government Authority"** means:

- (a) a local, state or federal government;
- (b) a minister, department or agency of any government in (a);
- (c) a corporation, authority or body that is constituted under statute or regulation for a public purpose;
- (d) a holder of a statutory office for a public purpose, or a person charged with the administration of a law; or
- (e) a court, tribunal or commission constituted under statute or regulation.

**"GST"** has the meaning given by the GST Law.

**"GST Law"** has the meaning given to "GST law" in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**"Land"** means the land containing the Centre, located at 21 Toongarra Road, Leichhardt and described as Lot 39 on Crown Plan 902321.

**"Maintenance Schedule"** means the table of obligations and responsibilities of each party to this Agreement relating to (amongst other matters) the inspection, cleaning, maintenance and repair of the Centre (and, where the context permits, the Council's Assets), which is contained in Schedule 1 of this Agreement.

**"Notice"** means a notice, demand, certificate, consent, approval, waiver or communication given under this document.

**"Revenue"** means the total of all amounts received or receivable for all goods or services sold, supplied or disposed of at or from the Centre (whether cash, credit or otherwise and whether made by the Manager or any other person other than where Council receives the amount directly).

**"Services"** means any water, gas, electricity, lighting, sanitary, hot water, air conditioning, ventilation, security and other services supplied to or enjoyed at the Centre.

**"Special Conditions"** means the terms (if any) contained in Annexure A.

**"Specific Statutory Charges"** means Statutory Charges:

- (a) attributable to the Manager because of the Manager's direct use and enjoyment of the Services or facilities or other subject matter of the Statutory Charges; or
- (b) in respect of any activity, matter or thing at or occurring in the Centre.

**"Statutory Charges"** means all rates, taxes, levies, charges and assessments, duties, impositions, surcharges or fees:

- (a) assessed, charged, imposed, levied or payable in relation to the use or occupation of the Land or the Centre; or
- (b) assessed, charged, imposed, levied or payable in relation to waste or garbage removal or for any other service or facility supplied to or enjoyed on the Land or the Centre;
- (c) assessed, charged, imposed, levied or payable in relation to the provision, reticulation or discharge of water, sewerage or drainage (including pedestal charges and meter rents) or
- (d) assessed, charged, imposed, levied or payable in relation to the payment or receipt of money; or
- (e) which are general rates, differential general rates, minimum general rate levies, separate rates and charges, special rates and charges and utility charges under the *Local Government Act 1993*; or
- (f) which are general rates (including differential rates), special rates and charges, utility charges and separate rates and charges under the *Local Government Act 2009*,

regardless of whether they are assessed, charged, imposed or levied to or on, or payable by, Council or the Manager or any other person.

**"Term"** means the term of this Agreement, commencing on the Commencement Date and expiring on the Expiry Date (or any earlier date this Agreement is terminated).

## 1.2 Rules for Interpreting this Document

This clause 1.2 specifies the rules for interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) The contents page[s] (if any), the Background and headings are for convenience only and do not affect the interpretation of this document.
- (b) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, re enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document), or a provision of a document (including a provision of this document), is to that document or provision as amended or replaced;
  - (iii) a party to this document, or a party to any other document or agreement, includes that party's executors, administrators, permitted substitutes and permitted assigns;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
  - (v) anything (including a right, obligation or concept) includes each part of it;
  - (vi) property includes real, personal and intangible property;
  - (vii) any body or agency, if that body or agency ceases to exist, is renamed, reconstituted, replaced or has its powers or functions removed (**Defunct Body**), means the agency or body which succeeds to the Defunct Body's powers or functions, or performs most closely the functions of the Defunct Body;
  - (viii) AUD\$, A\$, \$A, dollar or \$ is to Australian currency; or
  - (ix) a clause, schedule or annexure is to a clause of, or schedule or annexure to, this document.
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes any other genders.
- (e) If a word is defined, another part of speech or grammatical form of that word has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

- 
- (g) An obligation on, warranty by, or right of:
    - (i) two or more persons; or
    - (ii) a party that comprises two or more persons,is the obligation, warranty or right (as the case may be) of those persons jointly and severally.
  - (h) Time is reckoned as follows:
    - (i) A reference to the date or time of day, is a reference to that date or that time of day in Queensland, Australia.
    - (ii) If a period expressed in days, beginning on a given day, act or event is provided or allowed for any purpose, the period is calculated by:
      - (A) excluding the day, or the day of the act or event; and
      - (B) including the day on which the purpose is to be fulfilled.
    - (iii) If a period expressed in weeks, months or years, beginning on a given day, act or event is provided or allowed for any purpose, the period is calculated from:
      - (A) the day, or the day of the act or event; until
      - (B) the corresponding day in the next appropriate week, calendar month or year.
    - (iv) If there is no corresponding day for the purposes of clause 1.2(h)(iii)(B), because of the differing number of days in calendar months, the corresponding day is taken to be the last day of the relevant calendar month.
    - (v) If something is to be done on a particular day, it must be done by 5.00pm on that day.
    - (vi) If something is to be done on a day which is not a Business Day then that thing must be done on the next Business Day.
  - (i) Terms defined in the GST Law have the same meaning in this document unless the context makes it clear that a different meaning is intended.

**2. TERM OF AGREEMENT**

Subject to the terms and conditions of this Agreement, this Agreement will operate for the Term.

**3. RELATIONSHIP**

- (a) The parties' relationship is one of principal and independent Manager, not employer and employee, agency or partnership.
- (b) The Manager and any of its employees, sub-managers and agents are not entitled to any payments or benefits from the Council other than those provided for in this Agreement.

- 
- (c) the Manager does not have the right or authority to act on behalf of, or bind the Council or to speak on its behalf, and will not indicate to any third party that it has that right or authority unless the Manager has been expressly authorised by the Council in writing.

**4. MANAGEMENT OF THE CENTRE**

**4.1 Conduct business of the Centre**

The Manager shall have the sole right during the Term to conduct the business of the Centre.

**4.2 Operation of the Centre**

- (a) The Manager must operate the business of the Centre, and in that context, must manage the property as an income-producing asset.
- (b) The Manager must comply with all laws and the requirements, notices, orders and requisitions of any relevant Government Authority which relate to the Centre or the Manager's operation or occupation of the Centre.
- (c) The Manager must comply with the reasonable requirements of Council in relation to the proper operation of the Centre, for example, in relation to cleanliness, control or vermin, emergency drills and procedures, and installation, operation and maintenance of equipment.
- (d) The Manager must implement the Manager's current Business Plan in operating the Centre.
- (e) The Manager must ensure that the Centre is kept open to the general public on every day, except:
  - (i) Christmas Day and Good Friday;
  - (ii) any day during any period of closure under clauses 4.2(e), (f), (h) and (i);during the hours:
  - (iii) specified or approved from time to time by Council (Council may change or revoke the specification or approval at any time); or
  - (iv) if no hours are specified or approved, from 7 am to 6 pm.
- (f) The Manager may close the Centre in an emergency or during hours that the Manager cannot lawfully comply with clause 4.2(d).
- (g) The Manager may, with the approval of Council, temporarily suspend trading and close the Centre, or any part of it:
  - (i) if the Manager reasonably considers the suspension and closure commercially prudent or necessary; or
  - (ii) for the purposes of carrying out maintenance on the main swimming pool in the Centre.
- (h) If the Manager requires the Centre to be temporarily closed in accordance with clause 4.2(f), the Manager must notify Council as soon as possible, advising

---

Council of the reason for the intended closure and how long the Manager intends to close the Centre, and must seek Council's approval (which shall not be unreasonably withheld).

- (i) If Council is required to carry out maintenance on one or all of the swimming pools in the Centre, Council may direct the Manager to close the Centre to the general public for a period specified by Council to allow the work to be carried out.

#### 4.3 Admission Fees and Hourly Fees

- (a) The Manager may charge Admission Fees and Hourly Fees.
- (b) On or around 30 January each year, Council may give the Manager a list of median figures for proposed Admission Fees or Hourly Fees or both. The median figures will be generated by Council from benchmarking corresponding fees of similar facilities within south-east Queensland.
- (c) The Manager must, on or before 31 March each year, give Council a proposed schedule of Admission Fees and Hourly Fees to take effect on the next 1 July.
- (d) Council must notify the Manager whether or not Council approves the proposed schedule of Admission Fees and Hourly Fees. Council must not unreasonably withhold its consent if each item in the proposed schedule does not exceed the median figures by more than 5%. Council may approve, or decide not to approve, the proposed schedule in whole or in part.
- (e) The Manager must not charge to or recover from any person any fee, charge or other payment for:
  - (i) entering or being in the Centre; or
  - (ii) using any swimming pool or other facility in or at the Centre; or
  - (iii) any service supplied at the Centre,unless the fee, charge or payment is an Admission Fee or an Hourly Fee.
- (f) In this Agreement:
  - "Admission Fee" means a fee which:
    - (i) is charged to a person for the right to enter the Centre and use any swimming pool in the Centre; and
    - (ii) is in an amount which is, or which is calculated in accordance with:
      - (A) the Manager's tender for this Agreement; or
      - (B) a proposed schedule approved by Council under clause 4.3(d); or
      - (C) an approval given to the Manager by Council; and
    - (iii) is charged in circumstances provided in or necessarily contemplated by:
      - (A) the Manager's tender for this Agreement;
      - (B) a proposed schedule approved by Council under clause 4.3(d); or

(C) an approval given to the Manager by Council.

**"Hourly Fee"** means a fee which:

- (i) is charged to a Swimming Club for a club swim, carnival or similar event; and
- (ii) is in an amount which is, or which is calculated in accordance with:
  - (A) the Manager's tender for this Agreement; or
  - (B) a proposed schedule approved by Council under clause 4.3(d); or
  - (C) an approval given to the Manager by Council; and
- (iii) is charged in circumstances provided in or necessarily contemplated by:
  - (A) the Manager's tender for this Agreement;
  - (B) a proposed schedule approved by Council under clause 4.3(d); or
  - (C) an approval given to the Manager by Council.

**"Swimming Club"** means each of the following:

- (i) a swimming club;
- (ii) a school;
- (iii) another body or group approved or specified by Council from time to time.

#### **4.4 No Right to Sub-Contract**

The Manager must not at any time during the Term of this Agreement:

- (a) sub-contract or assign any of its obligations under this Agreement; or
- (b) leave the Centre, or any part thereof under the control or management of any other person,

unless the Manager has previously obtained the consent of the Council which must not be unreasonably withheld.

#### **4.5 Manager obligations - General Responsibilities**

The Manager must carry out the following general responsibilities in operation of the business of the Centre:

- (a) control all aspects of the day-to-day operations of the Centre;
- (b) the recruitment of employees and the training, supervision and dismissal of employees;
- (c) marketing and promotion of the Centre in line with the Manager's Business Plan;
- (d) purchasing of all goods and services required in carrying on the business of the Centre and payment of all expenses relating to the day-to-day business of the Centre, except for the chemicals needed to comply with the Manager's obligations

---

under this Agreement (which shall be supplied by Council) and unless this Agreement specifies otherwise;

- (e) ensuring that the personal presentation of the Manager and their employees and agents is to an appropriate and acceptable standard so as to present a positive professional image of the Centre (e.g. life guard uniforms, covered non-slip footwear etc.);
- (f) ensuring that all exterior doors, windows and gates in the Centre are securely locked and fastened at all times when the Centre is closed or not being used;

**4.6 Manager obligations - Use of the Centre**

Without limiting the obligations and responsibilities outlined in the Maintenance Schedule, the Manager must:

- (a) use toilets, sinks, drainage and plumbing facilities in the Centre only for the purpose for which they were constructed or provided, and must not deposit any rubbish in those facilities;
- (b) only prepare or cook food in an area installed and properly equipped for those purposes;
- (c) prohibit smoking within the Centre;
- (d) not display any signs or place any installations on the Centre without the prior written consent of Council;
- (e) keep the Centre (including all swimming pools in the Centre) thoroughly clean, remove any useless property from the Centre, remove all wet refuse daily and all other refuse periodically from the Centre, and store all refuse in proper receptacles located in the Centre;
- (f) keep the Centre free and clean from weeds and generally in accordance with Council's landscape maintenance standards from time to time, including (but not limited to):
  - (i) regularly trim all ornamental shrubs and maintain all garden and landscaping features;
  - (ii) regularly have the lawns mowed;
  - (iii) properly tend and water all shrubs, lawns and garden and landscaping features; and
  - (iv) generally tend and keep the gardens in the Centre in a clean and tidy condition to the reasonable satisfaction of Council;
- (g) keep any irrigation system in good working condition, including inspection and regular servicing of pumps, and inspection, repair and maintenance of the system in accordance with manufacturer recommendations;
- (h) not:
  - (i) obstruct access to, overload or otherwise interfere with or damage any of the Services;

- 
- (ii) damage or destroy anything in or on the Centre;
  - (iii) do anything dangerous, noxious, annoying or offensive, immoral or illegal in the Centre;
  - (iv) do anything to pollute the Centre or its environment; or
  - (v) without Council's approval, keep or use inflammable, explosive or volatile materials in the Centre;
- (i) comply with insurance, sprinkler and fire alarm regulations and any lawful directions given by Council or any relevant Government Authority;
  - (j) appoint fire controllers and fire wardens, carry out fire drills when required, comply with emergency evacuation procedures;
  - (k) give to Council from time to time when reasonably required (but at least annually) a written testing plan satisfactory to Council for the regular testing and maintenance of all electrical equipment in or on the Centre (including portable equipment that is not permanently installed in the Centre) and comply with those testing plans;
  - (l) give Council written reports other evidence as and when required by, and satisfactory to, Council to show that the Manager has complied with its obligations under this clause 4.6.

**4.7 Manager obligations – Swimming Pools**

Without limiting the obligations and responsibilities outlined in the Maintenance Schedule, the Manager must:

- (a) inspect the pool equipment, solar heating and electrical fittings (including heat pumps, gas heaters and solar heating system) each day to ensure that the fittings are operational and assess whether any servicing, maintenance or upgrade to the fittings may be required from time to time;
- (b) ensure that a free chlorine, total chlorine and pH test of the water in each swimming pool in the Centre is taken:
  - (i) at the time on each day when the pool is first opened for use by members or the public; and
  - (ii) at least once every 2 hours from that time until the pool is closed; and
  - (iii) at further or other times as Council specifies;
- (c) keep a record of those tests;
- (d) whenever the pool is open to members or the public, the Manager must ensure that chlorine and pH test readings are always within the range required under:
  - (i) any applicable law, regulation, local law or policy; or
  - (ii) the range specified by Council from time to time;
- (e) keep a record containing details, on a daily basis, of:

- 
- (i) all chemicals used in connection with the purification of water in or for any swimming pool in the Centre;
  - (ii) the time when the filters have been backwashed; and
  - (iii) any other particulars or information that Council requires from time to time;
- (f) keep any record given to or obtained by the Manager of any test or analysis of the water in any of the pools in the Centre;
- (g) ensure that no person other than the Manager's employees or agents are at the Centre when any swimming pool is being emptied or filled;
- (h) ensure that no springboard, diving board, trampoline or similar implement or thing is placed in installed at any time in, next to or near any swimming pool in the Centre;
- (i) ensure that at all times, except to the extent necessary for the Manager to comply with its other obligations under this Agreement, a minimum of 2 lanes in the main swimming pool in the Centre are kept open for use by the general public. If there is more than one swimming pool in the Centre, Council may designate which one is the main swimming pool and Council's designation is determinative.

**4.8 Technical Operations Guidelines**

- (a) The Manager must comply with all the procedures, requirements and obligations under any Technical Operations Guidelines from time to time.
- (b) For the purposes of this clause, "Technical Operations Guidelines" are guidelines, a manual, document or series of documents that:
  - (i) is published by Council;
  - (ii) contains procedures, requirements and obligations relating to technical operations with or without other matters;
  - (iii) Council notifies the Manager that the Manager must comply with or that it applies to the Centre; and
  - (iv) Council has not notified the Manager that Council has revoked.
- (c) If there is any inconsistency between the terms of this Agreement and the Technical Operations Guidelines, the Technical Operations Guidelines will prevail to the extent of the inconsistency.

**4.9 Council's Obligations**

- (a) Without limiting the obligations and responsibilities outlined in the Maintenance Schedule, Council must:
  - (i) be responsible for any vandalism, wilful destruction, wilful damage and graffiti for any part of the Centre or the Council's Assets unless caused by the Manager;
  - (ii) pay all Statutory Charges relating to the Land or the Centre, other than any Specific Statutory Charges;
  - (iii) supply the Manager with the chemicals reasonably required to enable the Manager to comply with its obligations under clause 4.7 (for avoidance of doubt, any equipment needed by the Manager to comply with clause 4.7 is to be supplied by the Manager); and

- 
- (iv) pay all Electricity Costs reasonably used by the Manager in operating the Centre in accordance with this Agreement, subject to the Manager:
    - (A) not misusing the electricity supply; and
    - (B) taking reasonable care to minimise Electricity Costs.
  - (b) The following applies to Council's obligations under clause 4.10(a)(ii):
    - (i) the chemicals will remain the property of Council until they are used by the Manager to comply with its obligations under clause 4.7;
    - (ii) Council gives no warranty about the chemicals and the Manager must satisfy itself that the chemicals are fit for their intended purpose and are of merchantable quality before using them;
    - (iii) the Manager cannot require Council to acquire chemicals from any particular supplier;
    - (iv) the Manager cannot require Council to acquire chemicals of a particular brand or make;
    - (v) the Manager must give Council reasonable advance notice before the Manager runs out of the chemicals held by the Manager and previously supplied to the Manager by Council.

**5. MANAGEMENT OF THE CENTRE - EMPLOYEES**

**5.1 Manager and Staff Qualifications**

- (a) The Manager warrants that as of the Commencement Date it possesses and that it shall ensure that its employees and agents (where applicable):
  - (i) shall possess the following qualifications, awards and certifications throughout the Term of this Agreement:
    - (A) a Pool Plant Operators Certificate;
    - (B) a Bronze Medallion;
    - (C) a Pool Lifeguard Certificate;
    - (D) a Positive Notice Blue Card for Child Related Employment;
    - (E) a First Aid Certificate; and
  - (ii) are competent, appropriately qualified and have the necessary skills to conduct the business of the Centre.
- (b) The First Aid Certificate referred to in clause 5.1(a)(i)(E) must be issued by at least one of the following organisations:
  - (i) The Royal Life Saving Society Australia;
  - (ii) Surf Life Saving Australia;
  - (iii) St John Ambulance Australia;

- 
- (iv) Queensland Ambulance Service;
  - (v) The Red Cross Society Australia;
  - (vi) an Australian State or Territory constituent body of one of the above organisations.
- (c) In the event that any of the above qualifications, awards or certificates held by the Manager expire or are otherwise terminated during the Term of this Agreement, the Manager must immediately inform Council. Council will advise the Manager as to what course of action Council requires the Manager to take in relation to the expiration or termination of the relevant qualifications, awards or certificates. Council may, in its discretion absolutely, terminate this Agreement on notice to the Manager.
- (d) A reference in this clause 5.1 to a particular organisation includes a reference to any organisation that succeeds to the functions or role of such organisation in the event that such organisation is disbanded or otherwise ceases to exist.
- (e) A reference in this clause 5.1 to a particular qualification, award or certification includes a reference to an equivalent qualification, award or certification, dealing with the same or substantially the same skills, competencies and subject matter as is covered by the relevant qualification, award or certification as at the Commencement Date, and awarded, granted or offered by the same organisation as at the Commencement Date (subject to clause 5.1(c)), with that organisation's certification of what is an equivalent qualification, award or certification being final and determinative.

## 5.2 Designated Person in Charge

- (a) The Manager must ensure that an individual is continuously appointed by the Manager as the person who is primarily responsible for the day to day running, maintenance, lubrication and cleanliness of all swimming pools and water treatment plant at the Centre. This person is called the "designated person".
- (b) The Manager must, on request, notify Council of the name of the designated person.
- (c) The Manager must ensure that the designated person:
- (i) is a person acceptable to Council; and
  - (ii) is not a person who Council has decided, on reasonable and lawful grounds, is not suitable to be the designated person.
- (d) The Manager must ensure that the designated person has successfully completed the following courses prior to the person's appointment as a designated person:
- (i) a Pool Plant Operations course or an equivalent course conducted by an accredited training organisation acceptable to Council or
  - (ii) another course acceptable to Council in its discretion.
- (e) The Manager must give Council a certificate of the successful completion of the course promptly after Commencement Date, the appointment of the designated person or the end of the course.

- 
- (f) If the designated person ceases to be appointed by the Manager to be primarily responsible for the day to day running, maintenance, lubrication and cleanliness of all swimming pools and water treatment plant at the Centre, the Manager must within 7 days:
- (i) notify Council of this fact;
  - (ii) appoint a new designated person; and
  - (iii) notify Council of the appointment.

**5.3 Supervision of Pools**

- (a) Without limiting clause 5.1(a), the Manager must employ or engage efficient, competent and appropriately qualified attendants to:
- (i) supervise and monitor the use of each swimming pool in the Centre;
  - (ii) ensure the safety of people at or using the Centre; and
  - (iii) protect the Centre and the any of Council's assets within the Centre.
- (b) For the purposes of clause 5.3(a), a person is an appropriately qualified attendant if he or she:
- (i) currently holds a Pool Lifeguard Certificate issued by The Royal Life Saving Society Australia (or an equivalent course offered by that organisation from time to time, with the organisation's certification of what is an equivalent course being final and determinative); and
  - (ii) currently holds a First Aid Certificate as referred to in clause 5.1(a)(i)(E); and
  - (iii) holds any further or other relevant qualifications specified by Council from time to time.
- (c) Without limiting clause 5.1(a) or 5.3(a), the Manager must ensure that:
- (i) a specified person is always in charge of the swimming pools in the Centre whenever the Centre is open to the public; and
  - (ii) the specified person in charge is someone who:
    - (A) currently holds a Pool Lifeguard Certificate issued by The Royal Life Saving Society Australia (or an equivalent course offered by that organisation from time to time, with the organisation's certification of what is an equivalent course being final and determinative); and
    - (B) currently holds a First Aid Certificate as referred to in clause 5.1(a)(i)(E); and
    - (C) holds a current certificate of the qualifications covered in subparagraphs (A) and (B) from a qualified examiner who is acceptable to Council (acting reasonably); and
    - (D) is a competent swimmer; and

- 
- (E) holds any further or other relevant qualifications specified by Council from time to time.

**5.4 Employee Records**

The Manager must keep a record of the names of the employees who are from time to time, or who have been, employed or engaged at the Centre. The Manager must include in that record:

- (a) the details of the qualifications, swimming and life saving ability, records and qualifications to show whether the Manager has complied with the requirements of this clause 5; and
- (b) the details of the days and hours worked by that person; and
- (c) any other details that Council lawfully directs the Manager to include.

**6. HEALTH & SAFETY**

**6.1 Workplace Health & Safety**

The Manager must:

- (a) at all times have in place a documented work health and safety management system ("WHSMS"); and
- (b) ensure that the WHSMS is at all times suitable for the nature of the activities carried on at or from the Centre so as to ensure compliance with all applicable laws relating to work health and safety and the requirements of any Government Authority (including, but not limited to, Council's safety policy);
- (c) ensure that the WHSMS includes (as a minimum) the following information:
  - (i) the identification of a person responsible for ensuring that work health and safety policies and procedures are implemented, and detailing that persons responsibilities;
  - (ii) details of Centre safety and emergency policies and procedures (including hazard/injury/incident reporting and reporting of notifiable incidents);
  - (iii) details of Centre training and induction policies and procedures;
  - (iv) the maintenance and control of safety records;
  - (v) details on hazard inspections and audit processes (including the testing of fire and other emergency equipment); and
  - (vi) details on risk management and the inclusion of a risk register;
- (d) give Council a copy of the WHSMS whenever Council asks for it;
- (e) give Council any evidence Council requests to demonstrate whether the Manager has complied with or is complying with the WHSMS; and
- (f) comply with a request under subparagraphs (d) and (e) promptly, and in any event, within 7 days.

---

**6.2 Guidelines for Safe Pool Operations**

- (a) The Manager must:
  - (i) at all times have in place documented policies and procedures to comply, as a minimum, with the Guidelines For Safe Pool Operations ("GSPO") published from time to time by The Royal Life Saving Society Australia;
  - (ii) give Council a full copy of those policies and procedures whenever the Council asks for it;
  - (iii) give Council any evidence Council requests to demonstrate that the Manager has complied with or is complying with those policies and procedures; and
  - (iv) comply with a request under subparagraphs (ii) and (iii) promptly, and in any event, within 7 days.
- (b) In this clause 6.2:
  - (i) a reference to The Royal Life Saving Society Australia includes a reference to any organisation that succeeds to the functions or role of The Royal Life Saving Society Australia if that organisation is disbanded or otherwise ceases to exist; and
  - (ii) a reference to the GSPO includes a reference to any substitute document, or set of guidelines, dealing with the same or substantially the same subject matter as is dealt with by the GSPO as at the Commencement Date.

**6.3 Accidents**

- (a) If an accident occurs at the Centre and a person is injured or appears to have suffered an injury or potential injury, the Manager must:
  - (i) immediately notify the nearest ambulance centre; and
  - (ii) then notify the Council Nominated Officer by the quickest available method.
- (b) If a danger or misadventure affecting or potentially affecting any person or property occurs at or affects the Centre (including any incident involving a water pipe or electrical light, wirings or fittings), the Manager must immediately notify the Council Nominated Officer.
- (c) If a major theft or loss of property occurs or is alleged to have occurred at or from the Centre, the Manager must:
  - (i) immediately notify the nearest police station; and
  - (ii) then notify the Council Nominated Officer by the quickest available method.
- (d) The Manager must keep records of any matters referred to in this clause 6.3.

**6.4 Safety Equipment**

- (a) The Manager is responsible for the supply, maintenance, repair and (where necessary) upgrade of all Safety Equipment, and for ensuring that all Safety

---

Equipment complies with all applicable laws and the requirements of any Government Authority.

- (b) In this clause "**Safety Equipment**" includes (but is not limited to):
- (i) rescue boards and tubes;
  - (ii) binoculars;
  - (iii) whistles;
  - (iv) spinal boards;
  - (v) first aid kits;
  - (vi) automated external defibrillator;
  - (vii) air bag oxygen resuscitator (and oxygen required for the resuscitator);
  - (viii) stiff neck collars;
  - (ix) two way radio communications.

**6.5 Lighting**

- (a) The Manager must ensure that any swimming pool, administration building or other area used or able to be used by swimmers, spectators and other members of the public at the Centre are lit by adequate electric lighting during times when the Centre is open to the general public if:
- (i) it is dark;
  - (ii) there is insufficient light for the safety and convenience of swimmers, spectators and members of the public at the Centre.
- (b) Subject to the obligations and responsibilities outlined in the Maintenance Schedule, the Manager must promptly replace all broken, burnt out or unserviceable lamps, bulbs or fluorescent tubes with lamps, bulbs or tubes of at least an equivalent quality and intensity.

**7. MANAGER'S OUTGOINGS**

- (a) The Manager must pay (or reimburse Council for):
- (i) all Specific Statutory Charges;
  - (ii) all assessments for Services supplied to the Centre in the Manager's name;
  - (iii) all salaries, wages and related costs and expenses incurred in the employment or engagement of employees or contractors by or for the Manager at the Centre or in connection with the business of the Centre; and
  - (iv) any expenses incurred in complying with the Manager's obligations under this Agreement,
- excluding Electricity Costs (the "**Manager's Outgoings**").

- 
- (b) If any Manager's Outgoings are charged to or payable directly by the Manager, the Manager must pay it on time.
  - (c) If any Manager's Outgoings are charged to or payable by Council:
    - (i) Council may demand payment of the Manager's Outgoings from the Manager at any time after Council has incurred or ascertained the outgoings amount (even if the Council has not yet paid it) or at any time after the Council has paid the outgoings amount;
    - (ii) Council may make the demand by giving the Manager an invoice; and
    - (iii) the Manager must pay the invoice within 14 days.
  - (d) Notwithstanding clause 7(b) or (c), where possible, and unless Council agrees otherwise in a particular case, the Manager must ensure that all accounts in relation to Manager's Outgoings are opened and maintained in the name of the Manager during the Term.
  - (e) Council will have, and keep, accounts for Electricity Costs connected in its own name or in the name of another entity nominated by Council.
  - (f) The Manager must pay Council's reasonable legal and other costs, charges and expenses (on a full indemnity basis) incidental to:
    - (i) an application for consent under this Agreement (even if consent is not given);
    - (ii) an assignment of this Agreement (even if the assignment does not proceed);
    - (iii) a rescission, termination or attempted termination of this Agreement;
    - (iv) a lawful notice given by Council to the Manager under this Agreement;
    - (v) any proceedings which Council brings to enforce the Manager's performance of this Agreement; and
    - (vi) any other costs which Council incurs because the Manager breaches this Agreement.

**8. NOT USED**

**9. COUNCIL'S ASSETS**

- (a) Council gives the Manager a right to use the Council's Assets during the Term.
- (b) The Manager must not remove, or allow to be removed, any of the Council's Assets from the Centre without written permission from Council.
- (c) The Manager may use Council's Assets only for the purpose of conducting the business of the Centre.
- (d) If any of Council's Assets are lost or destroyed:
  - (i) the Manager must replace them; and

- (ii) the replacement item then becomes Council's Asset for the purpose of this Agreement.
- (e) If any of Council's Assets are damaged, the Manager must repair the item to the condition and state of repair it was at the Commencement Date.
- (f) At the end of the Term, the Manager must:
  - (i) give back to Council all of Council's Assets; and
  - (ii) ensure, and do everything necessary to ensure, that all of Council's Assets are in working order and operational and otherwise in at least as good a condition and state of repair as they were at the Commencement Date.
- (g) If the Manager fails to comply with clause 9(f)(i) Council may recover from the Manager, as a debt due and owing, the higher of:
  - (i) any value for the Council's Assets which is specified in this Agreement (if any);
  - (ii) the actual value of the Council's Assets; or
  - (iii) the cost incurred by Council in replacing the Council's Assets, putting the assets in working order, making them operational and putting them in as good a condition and state of repair as they were in at the Commencement Date.

**10. REPAIRS AND MAINTENANCE**

**10.1 General Repair and Maintenance Obligations**

- (a) Without limiting any other provision of this Agreement, the Manager must:
  - (i) keep the Centre and the Council's Assets in good repair;
  - (ii) repair or replace all broken glass that is damaged by the wilful or negligent act of the Manager, the Manager's employees, agents, members, guests or invitees, with glass of the same or substantially similar quality;
  - (iii) promptly make good any damage to the Centre or the Council's Assets that it causes or that is caused by the Manager's employees, agents, members, guests or invitees, to the reasonable satisfaction of Council; and
  - (iv) comply in all respects with the obligations specified as being the responsibility of the Manager in the Maintenance Schedule.
- (b) For the purposes of subparagraph (a) 'good repair' is to be assessed having regard to the condition of the Centre (and Council's Assets) at the Commencement Date (or an earlier date, being the date that the Manager first took possession or entered into occupation of the Centre).

**10.2 Maintenance Schedule**

- (a) Both parties agree to comply in all respects with the obligations and responsibilities outlined in the Maintenance Schedule.

- 
- (b) If there is any inconsistency between the terms of this Agreement and the Maintenance Schedule, the Maintenance Schedule will prevail to the extent of the inconsistency.

### 10.3 Manager Repair Obligations

- (a) The Manager must repair or reinstate any part of the Centre or the Council's Assets that are damaged or destroyed by:
  - (i) a risk for which the Manager is required by this Agreement to hold insurance (regardless of whether the Manager actually holds that insurance or can recover under that insurance);
  - (ii) an Insured Risk if the Manager caused or contributed to the damage or destruction such that Council is either unable to make an insurance claim or recover the full amount that would otherwise have been recoverable from the insurer,but otherwise, the Manager does not have to repair or reinstate a part of the Centre (or Council's Assets) damaged or destroyed by an Insured Risk.
- (b) This clause is to be read subject to each party's responsibilities outlined in the Maintenance Schedule.
- (c) In this clause, an "Insured Risk" means a risk for which the Council insures in respect of the Centre or the Council's Assets from time to time.

### 10.4 Structural Repairs and Maintenance

Subject to the obligations and responsibilities outlined in the Maintenance Schedule, the Manager is not required to undertake maintenance or repairs of a structural nature, unless required as a result of:

- (a) failure by the Manager to comply with its obligations under this Agreement;
- (b) the Manager's act, neglect or default;
- (c) a requirement under a law or a requirement of a Government Authority arising from or relating to the Manager's particular use of the Centre;
- (d) a requirement under a law or a requirement of a Government Authority arising from or relating to the characteristics of people at or using the Centre; or
- (e) a requirement reasonably imposed by Council to do such work in order to eliminate or reduce danger to the Centre, people at or who may enter or use the Centre or any neighbouring land or people at or who may enter the neighbouring land.

### 10.5 Alterations or Additions

- (a) The Manager must not:
  - (i) make any structural alteration or addition to the Centre (regardless of whether the Manager is required to do so under clause 10.4);

- (ii) install any electrical wiring, equipment or appliance to provide water, gas, lighting, air-conditioning, heating, cooling or ventilation to the Centre;
  - (iii) install any partitions; or
  - (iv) carry out any other works to the Centre (other than in compliance with its obligations under this Agreement),  
without first obtaining Council's approval.
- (b) The Manager must ensure that any work it does at or to the Centre or the Council's Assets under clause 10.5 or otherwise in compliance with its obligations under this Agreement is done:
- (i) in a proper and workmanlike manner;
  - (ii) by contractors approved by Council (Council must not unreasonably withhold its approval);
  - (iii) without causing unreasonable disturbance to neighbouring property owners; and
  - (iv) in accordance with:
    - (A) any conditions imposed by Council (including about what parts of the works are to remain or be removed and what is to be reinstated and to what condition when this Agreement ends);
    - (B) any plans or specifications or schedule of finishes approved by Council (Council must not unreasonably withhold its approval);
    - (C) all laws and the requirements of all Government Authorities; and
    - (D) Council's other reasonable requirements and directions.

**10.6 Council's Inspection**

Council (including a Council Nominated Officer) may enter the Centre (with or without notice):

- (a) at all reasonable times; and
- (b) if there is an emergency, at any time (and specifically without the need for any notice),

and may inspect and view the Centre and the Council's Assets (to ascertain their condition and state of repair), to comply with its obligations under the Maintenance Schedule or otherwise under this Agreement, to exercise its rights under this Agreement (including any right to inspect records required to be kept by the Manager), or to show the Centre to any prospective purchaser or manager.

**10.7 Notice to Repair**

- (a) Council may serve the Manager with a Notice requiring the Manager to repair or maintain, within a reasonable time, a defect, item or matter which is the Manager's responsibility under this Agreement.

- (b) If the Manager does not comply with a Notice given to the Manager under subparagraph (a) within the time specified in the Notice, Council may carry out the repair, the defect or maintain the item or complete the matter, at the Manager's expense.
- (c) The Manager must advise the Council of any repair or maintenance work required at the Centre or to the Council's Assets which is not the responsibility of the Manager under this Agreement as soon as the Manager becomes aware that the work is required.

## 11. INSURANCE, RISK AND INDEMNITY

### 11.1 Public Liability Insurance

- (a) The Manager must effect a public liability insurance policy with an insurer approved by Council, in the name of the Manager and noting the interests of Council, covering legal liability for any loss or damage to any property and for the injury (including death) of any person arising out of anything done or omitted on or about the Centre or any improvements thereon and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof. Such policy must:
  - (i) be for an amount of not less than twenty million dollars (\$20,000,000.00) in respect of all claims arising out of a single event or such higher amount as Council may reasonably require;
  - (ii) be effected on a 'claims occurring' basis so that any claim made by the Manager under the policy after the expiration of the period of policy cover but relating to an event occurring during the currency of the policy will be covered by the policy subject to the claim meeting the policy's other terms and conditions;
  - (iii) be effected on such other reasonable terms and conditions as may be required by Council; and
  - (iv) be maintained at all times during the Term.
- (b) The Manager must, as soon as practicable, inform Council, in writing, of the occurrence of any event that the Manager considers is likely to give rise to a claim under the policy and must keep Council fully informed of subsequent actions and developments concerning the claim.
- (c) The Manager must renew such policy, at the Manager's expense, each year during the Term and provide a certificate of currency to Council within 14 days of the commencement of each respective renewal period.
- (d) Upon receipt of a notice of cancellation, the Manager must immediately effect another insurance policy in accordance with clause 11.1(a).

### 11.2 Other Insurances

- (a) The Manager must:
  - (i) insure all plate and other glass in the Centre against breakages for which the Manager is responsible under this Agreement;

- 
- (ii) insure against any other risk reasonably required by Council; and
  - (iii) have other insurances which are required by law,  
at all times during the Term.
- (b) The Manager must:
- (i) effect each policy with an insurer approved by Council;
  - (ii) take out and maintain the policies in the name of the Manager and noting the interests of Council;
  - (iii) ensure that the cover under the policies includes loss or damage to property and death of or injury to persons; and
  - (iv) give Council a certificate of currency for each policy before the Commencement Date, and within 14 days of the commencement of each renewal period.

**11.3 Council's Insurance**

Without limiting the Manager's obligations under this clause 11, Council will take out and maintain at all times during the Term general insurance for the improvements, plant, equipment and chattels owned by Council within the Centre.

**11.4 Additional Premiums**

The Manager must pay any extra or additional premiums incurred by Council for any extra risk caused by the use of the Centre by the Manager.

**11.5 Prejudice of Insurance**

The Manager must not do or omit to do anything which may:

- (a) increase the premium on any insurances taken out by Council relating to the Centre; or
- (b) allow an insurer to refuse a claim under any insurances taken out by Council relating to the Centre.

**11.6 Risk and Release**

The Manager occupies and uses the Centre at its own risk. Council is not liable to the Manager for damage to the Manager's property or for loss of profits, regardless of the cause and including where caused by:

- (a) any defect in the Centre or Council's Assets;
- (b) any defect in the operation of Council's Assets, any facilities or the Services to the Centre; and/or
- (c) water, fire or other like cause.

---

**11.7 Indemnity**

- (a) The Manager indemnifies Council against any action, demand, proceeding, loss, expense or other liability arising during or after the Term from:
  - (i) the Manager not complying with the obligations imposed on the Manager under this Agreement;
  - (ii) the Manager's use of the facilities or Services to the Centre;
  - (iii) the escape of any substance from the Centre or a place within the Centre other than as a result of something done by Council; or
  - (iv) the Manager occupying or using the Centre.
- (b) This indemnity:
  - (i) extends to any action, demand, proceeding, loss, expense or other liability made or brought against Council by the Manager or by any other person, or incurred by Council in favour of the Manager or any other person;
  - (ii) extends to penalties and legal and other costs incurred by Council;
  - (iii) may be enforced by Council at or prior to the finalisation or establishment of the action, demand, proceeding, loss, expense or other liability to which it relates; and
  - (iv) does not apply to an action, demand, proceeding, loss, expense or other liability for personal injuries to the extent that it is caused by the Council and/or its respective servants and contractors.
- (c) Council's exemption from liability and indemnity extends to its respective servants and contractors.

**11.8 No Supervision**

The Manager acknowledges and agrees that Council:

- (a) is not subject to;
- (b) does not assume; and
- (c) will not be taken as a result of any act or omission to be subject to or have assumed,

any obligation to supervise or monitor the Manager in its use of the Centre or in its compliance or otherwise with its obligations under this Agreement.

**11.9 Obligations Not Exhaustive**

The Manager acknowledges and agrees that:

- (a) the Manager's obligations under this Agreement are not, and are not intended to be, an exhaustive code of the risk management and other measures that the Manager must employ in order to fulfil its duty of care and other legal responsibilities; and

- 
- (b) the Manager is solely responsible for:
    - (i) determining or finding out whether it must employ other measures, in addition to fulfilling its obligations under this Agreement, in order to comply with its duty of care and its other legal obligations; and
    - (ii) employing and effectively carrying out those other measures.

**11.10 Manager to Indemnify Council**

The Manager specifically agrees that:

- (a) the indemnity contained in clause 11.7 extends to any action, demand, proceeding, loss, expense or other liability that could have been brought or made against or incurred by Council but for clause 11.8 or 11.9; and
- (b) despite anything else in clause 11.7, only the Manager will be taken to have caused an action, demand, proceeding, loss, expense or other liability even if:
  - (i) Council had but did not exercise the power, under this Agreement or otherwise, to direct or require the Manager to do something that would or could have prevented the action, demand, proceeding, loss, expense or other liability; or
  - (ii) Council had and did exercise such power, except to the extent that the action, demand, proceeding, loss, expense or other liability is a direct and inevitable consequence of the Manager doing something it was directed or required to do under that power (as distinct from merely being a consequence of the way the thing was done).

**11.11 Council Released**

If a person other than Council becomes the registered trustee of the Land and/or the owner of the Centre, then Council is released from all obligations under this Agreement.

**12. PERFORMANCE MANAGEMENT**

**12.1 Submission of Business Plans**

- (a) The Manager must:
  - (i) within 1 month after the Commencement Date; and
  - (ii) by no later than 30 April in each year,give Council a business plan ("**Business Plan**").
- (b) Each Business Plan must contain:
  - (i) a management plan incorporating detailed actions and strategies for the Centre for the forthcoming financial year;
  - (ii) a projection of Revenue that the Manager estimates will be derived in the forthcoming financial year;
  - (iii) a detailed marketing plan and promotion strategy for the Centre for the forthcoming financial year; and

- 
- (iv) any other content that Council reasonably requires and notifies the Manager of from time to time.
  - (c) Each Business Plan must be:
    - (i) of sufficient detail to comply with the reasonable requirements of Council;
    - (ii) in a form; and
    - (iii) given in the medium and in the manner,  
notified by the Council to the Manager from time to time.

#### 12.2 Updating of Business Plans

- (a) The Manager:
  - (i) may at any time; and
  - (ii) if the Manager knows or ought to reasonably suspect that the content of its Business Plan (or any assumption on which any of the content is based) is or has become substantially obsolete, incorrect or incomplete, must,  
add to or delete content from its Business Plan by giving Council an updated version of its Business Plan incorporating the amendment, addition or deletion.
- (b) Council may, after being given a Business Plan (or an updated version of a Business Plan) notify the Manager that:
  - (i) it considers that the Business Plan is deficient in a stated way; or
  - (ii) it requires the Business Plan to be amended, added to or have content deleted in a stated way.
- (c) If Council exercises its rights under clause 12.2(b), the Manager must, within 14 days, give Council an updated Business Plan that:
  - (i) remedies the stated deficiency to Council's reasonable satisfaction; or
  - (ii) incorporates the stated amended, addition or deletion,  
as the case may require.
- (d) When the Manager gives Council a Business Plan (or an updated Business Plan), that Business Plan becomes the Manager's current Business Plan for the purpose of this Agreement.

#### 12.3 Implementation of Business Plans

- (a) The Manager must:
  - (i) implement the Manager's current Business Plan; and
  - (ii) not depart substantially from the Manager's current Business Plan,  
in management and operation of the Centre.

- 
- (b) The obligations contained in clause 12.3(a) are subject to the Manager's obligations under this Agreement.

**12.4 Key Performance Indicators**

- (a) Council may from time to time notify the Manager (in writing) of:
  - (i) key performance indicators ("KPI's") against which the Council proposes to assess the standard and quality of performance by the Manager in carrying out its obligations under this Agreement; and
  - (ii) the quantitative data or qualitative criteria to which Council proposes to have regard in making that assessment.
- (b) Unless and until Council notifies the Manager of any replacement, amended, altered or new KPI's (and, if relevant, the data or criteria to which Council proposed to have regard) the KPI's are those set out in Schedule 2.
- (c) The Manager acknowledges that it is a condition of this Agreement that the Manager meets the KPI's, and must, during the Term, achieve the KPIs to Council's satisfaction.
- (d) If a KPI or a performance indicator corresponding to a KPI is expressed as an obligation or expectation:
  - (i) the Manager must fulfil that obligation or achieve that expectation;
  - (ii) Council must act reasonably in determining whether the obligation has been fulfilled or the expectation has been met; and
  - (iii) if Council decides that the Manager has not fulfilled an obligation or achieved an expectation, then the Manager has committed a breach of this Agreement.
- (e) Neither the KPIs, nor anything done in administering the KPIs, reduces or abrogates any other obligation of the Manager under this Agreement or relieves the Manager from its obligations to comply with this Agreement.

**12.5 Annual Performance Reviews**

- (a) The Manager must, within 28 days after the end of each financial year, give to Council a report that:
  - (i) self-assesses the Manager's performance of its functions under the Agreement during the preceding year, with particular reference to the applicable KPI's during that year; and
  - (ii) contains other information or content that Council decides and notifies the Manager from time to time.
- (b) Council may, at the end of each financial year, conduct its own assessment of the Manager's performance of its functions under this Agreement during the preceding year, with particular reference to the applicable KPI's during that year.
- (c) In connection with an assessment by Council, Council may require the Manager to:

- 
- (i) attend meetings, or have specified employees or agents of the Manager attend meetings, with representatives of Council;
  - (ii) give information to Council;
  - (iii) do other things which Council reasonably requires,  
and the Manager must comply with Council's requirements.
- (d) Council may, after it has either or both:
- (i) been given a report by the Manager on the Manager's performance of its functions under this Agreement; and
  - (ii) conducted its own assessment of the Manager's performance,
- give the Manager a report or a notice that specifies actions, processes, outcomes or objectives that Council requires the Manager to do, implement or achieve in the management and operation of the Centre and the Manager must comply with the report or notice.

#### **12.6 Performance Monitoring Scheme**

- (a) The Manager must, if requested by Council, on behalf of Council, subscribed to a performance monitoring scheme specified or approved by Council for either or both of the following purposes:
  - (i) monitoring, measuring or improving the performance the Centre;
  - (ii) benchmarking the performance of the Centre against comparable centres or facilities.
- (b) The Manager must:
  - (i) properly participate in the specified or approved performance monitoring scheme;
  - (ii) do, on time, all things that the operator of the scheme requires participants of the scheme to do; and
  - (iii) give Council a copy of any report or submission given by or to the Manager for the purposes of the scheme, immediately after the report or submission is given by or to the Manager.

### **13. FINANCIAL MANAGEMENT**

#### **13.1 Recording of Revenue and Manager's Outgoings**

- (a) The Manager must maintain detailed records recording the Revenue of the Centre and the following categories of that Revenue:
  - (i) Admission Fees and Hourly Fees;
  - (ii) carnival fees and special event fees;
  - (iii) pool / hall / room / facility hire;

- 
- (iv) kiosk sales (food and beverage);
  - (v) kiosk sales (equipment, swimwear and sportswear);
  - (vi) income received from the following:
    - (A) learn to swim;
    - (B) squad;
    - (C) aqua aerobics;
    - (D) any other specialised activity;
  - (vii) other sundry income (including income received from third parties who may pay to use or hire any of the areas or facilities within the Centre, and including income received from any licensee of any part or part of the Centre);
  - (viii) any further or other categories that Council notifies to the Manager from time to time.
- (b) The Manager must ensure that all Revenue of the Centre is accurately recorded and is recorded in the appropriate category of Revenue.
  - (c) The Manager must maintain detailed records recording expenditure in relation to the management and operation of the Centre, including the Manager's Outgoings.
  - (d) The Manager must ensure that the records required to be maintained under this Agreement are:
    - (i) prepared and compiled according to:
      - (A) any standards that Council decides and notifies to the Manager from time to time; and
      - (B) except to the extent that those standards otherwise require, the accounting standards applying from time to time under the *Corporations Act 2001*,
    - (ii) of sufficient detail to comply with any reasonable requirements of Council;
    - (iii) kept in a format the Council reasonably specifies from time to time;
    - (iv) kept at the Premises (unless Council consents otherwise);
    - (v) readily accessible and retrievable (so that the Manager can comply with its obligations under this Agreement, including under clause 13.2).
  - (e) Unless Council has specified otherwise, the records must be kept in the form of a document or book on paper, or electronically on a computer; and may consist of more than one document.
  - (f) The Manager must give all records to the Council at the end of the Term.
  - (g) The Manager:

- 
- (i) warrants and represents to Council that each of the reports will be accurate, up-to-date, not incomplete in any material particular and not misleading; and
  - (ii) is taken to repeat that warranty and representation every time the Manager gives Council one of those reports.

**13.2 Inspection of books and accounts**

- (a) Council may at any time after giving the Manager at least 5 days' notice, inspect the Manager's books and accounts recording or relating to the Revenue and expenditure (including Manager's Outgoings) of the Centre.
- (b) Council's notice must describe, in general terms, the books and accounts that Council wishes to inspect.
- (c) Following receipt of Council's notice, the Manager must:
  - (i) notify Council of the location of the books and accounts described in Council's notice;
  - (ii) ensure that on the date appointed for the inspection, those books and accounts are at the place that the Manager notifies Council;
  - (iii) let Council enter that place on the nominated date;
  - (iv) let Council inspect, copy and make reproductions of or take extracts from the books and accounts; and
  - (v) give any assistance, and provide any facilities, that Council reasonably requests in order to exercise its rights to inspect, copy and make reproductions of or take extracts from the books and account.
- (d) For the purposes of this Agreement, "**books and accounts**" includes:
  - (i) invoices, receipts, orders for payment of money, bills of exchange, cheques, promissory notes and vouchers;
  - (ii) documents of prime entry;
  - (iii) working papers and other documents needed to explain the methods by which any document or report the Manager is required to give Council under this Agreement is, has been or will be made up;
  - (iv) returns, financial statements and other documents that the Manager is required to lodge, or has lodged under any law; and
  - (v) registers, records or information and documents (including those in electronic form).

**14. REPORTING**

**14.1 Monthly reporting**

The Manager must, within 10 Business Days after the end of each calendar month, provide to Council a report containing:

- 
- (a) the measures taken by the Manager during the month to achieve KPI's;
  - (b) the Manager's assessment of its performance against the KPI's during the month;
  - (c) the name and qualifications of the designated person under clause 5.2 at the end of the month;
  - (d) details of the records kept by the Manager under clause 4.7(c) during the month;
  - (e) daily totals, for each day during the month, of the number of adults and children entering swimming pool within the Centre;
  - (f) changes or new entries required to be made by the Manager in the records kept under clause 6.3(d) during the month;
  - (g) a statement, categorised in a way acceptable to Council, of Admission Fees, Hourly Fees and other Revenue received by the Manager during the month;
  - (h) a statement of the amount payable by the Manager to Council under clause 13.3 for the month;
  - (i) a statement categorised in a way acceptable to Council, of expenditure in relation to the management and operation of the Centre, including the Manager's Outgoings;
  - (j) details of repairs, maintenance and any other work carried out to or at the Centre during the month;
  - (k) details of any marketing and promotional activities carried out by the Manager for the Centre during the month;
  - (l) details of any programs and activities developed, planned or cancelled at the Centre during the month; and
  - (m) any other matter or information that Council notifies the Manager that it requires be included in the report from time to time.

**15. DEFAULT AND TERMINATION**

**15.1 Remedy of breaches**

- (a) If the Manager does not comply with any of the Manager's obligations under this Agreement, Council may give Manager a notice that tells the Manager:
  - (i) what obligation has not been complied with; and
  - (ii) what Council requires the Manager to do in order to remedy the non-compliance.
- (b) If the Manager does not comply with Council's notice within 7 days, or if the Manager does not comply with an obligation under this Agreement and Council reasonably considers that the non-compliance cannot be remedied, Council may:
  - (i) do anything reasonably necessary to remedy (or to remedy as far as possible) the Manager's non-compliance; and

- (ii) recover from the Manager, as a liquidated debt, the costs and expenses incurred by Council (including costs and expenses attributable to the use of Council's facilities and people) in doing so.

**15.2 Termination**

- (a) Council may terminate this Agreement if:
  - (i) the Manager does not comply with any of the Manager's obligations under this Agreement and does not comply with a notice given by Council under clause 15.1(a);
  - (ii) the Manager does not comply with an obligation under this Agreement and Council reasonably considers that the non-compliance cannot be remedied;
  - (iii) the Manager, being an individual, becomes bankrupt;
  - (iv) the Manager, being a corporation, becomes an Externally Administered Body Corporate;
  - (v) the Manager, being an incorporated association under the *Associations Incorporation Act 1981* (the "Act"):
    - (A) is wound up under the Act; or
    - (B) any resolution, proceeding or step is taken for the winding up of the Manager (regardless of whether it culminates in the winding up of the Manager); or
    - (C) has its incorporation under the Act cancelled,
  - (vi) all or any part of the Centre is compulsorily acquired or otherwise taken, given or dedicated for any other public purpose;
  - (vii) any form of tenure under which Council holds all or any part of the Centre is resumed, cancelled or forfeited, expires or otherwise comes to an end;
  - (viii) the Centre is destroyed; or
  - (ix) the Centre is damaged to the extent that Council considers the Centre to no longer be fully usable and Council decides not to fix the damage.
- (b) If Council exercises its right to terminate this Agreement, Council can still exercise any other right or power against the Manager arising from any conduct, act or omission that happened before the termination.

**16. END DATE OBLIGATIONS**

**16.1 End of Term Condition**

At the end of the Term the Manager must:

- (a) ensure that the Centre and the Council's Assets are in good repair (as that term is defined in clause 10.1(b) of this Agreement) and in a condition consistent with the Manager having complied with its obligations under this Agreement;

- (b) carry out any repairs and make good any damage to the Centre or Council's Assets which are the responsibility of the Manager under this Agreement;
- (c) ensure that all of the obligations specified as being the responsibility of the Manager in the Maintenance Schedule have been fully complied with;
- (d) if requested by Council, reinstate the Centre or the Council's Assets to their configuration, layout or condition (to the reasonable satisfaction of Council) prior to the Manager having made any approved alterations or additions in accordance with clause 10.5 of this Agreement;
- (e) if requested by Council, remove any of signs which have been installed by or at the request of the Manager, which are outside or inside the Centre, and repair any damage caused by their installation or removal to the reasonable satisfaction of Council; and
- (f) ensure that the Centre and the Council's Assets are clean and free from rubbish.

**16.2 Manager's Property at end of Term**

- (a) At the end of the Term the Manager must:
  - (i) remove all of the Manager's equipment and any third party equipment (which is plant, equipment and goods belonging to anyone other than Council and not Council's Assets); and
  - (ii) repair any damage caused by the installation or removal such equipment the reasonable satisfaction of Council.
- (b) If the Manager does not remove any of the Manager's equipment or third party equipment in as required by this clause 16.2, then Council may (without liability to the Manager or any third party) treat the equipment as abandoned and Council may, at the expense of the Manager, remove, store and dispose of the equipment as Council sees fit.

**17. GOOD NEIGHBOUR PROCESSES**

**17.1 Introduction**

The Council and the Manager wish to work together to minimise inconvenience to, and complaints from, residents in the neighbourhood of the Centre who are affected by the Manager's use of the Centre ("residents"), including residents affected by noise coming from, or traffic connected with the Centre and to follow a procedure to resolve resident complaints in a way which satisfies the Manager, Council and the residents.

**17.2 General Good Neighbour Processes**

- (a) The Manager will use its best endeavours to work together with residents to minimise inconvenience to residents caused by the Manager's use of the Centre, and to develop close links between residents and the Manager.
- (b) The Manager will appoint an officer to represent the Manager in dealings with the residents (a "Community Liaison Officer") and will notify Council of the name and contact phone number of the Community Liaison Officer within 7 days of signing this Agreement. The Manager must keep this information current.

- 
- (c) The Manager agrees to comply with the processes outlined in this clause (the "Good Neighbour Processes"). Council may vary or replace the Good Neighbour Processes from time to time. All variations bind the Manager when notice of such variation is given to the Manager in writing by Council.
- (d) Examples of the way in which the Manager will put Good Neighbour Processes into practice include:
- (i) notifying residents in the neighbourhood of the Centre of the activities, especially of any major events to be held at the Centre;
  - (ii) appointing parking monitors to ensure that the Manager's employees, members, guests and invitees do not create undue noise when entering and leaving the Centre, or in neighbouring streets, and to ensure that resident access to driveways etc. is not obstructed;
  - (iii) circulating details of the Community Liaison Officer to residents and asking them to contact that person with any concerns or questions;
  - (iv) attending any seminars or meetings organised by Council about business activities in the community generally.

### 17.3 Complaint Handling Procedures

- (a) The Manager agrees to participate in any course of action proposed by Council under this clause.
- (b) If any person (the "complainant") makes a complaint to Council which arises from the Manager's use of Centre, Council will refer the complainant to the Community Liaison Officer and will record that a "resident notification" has been made in relation to the Manager.
- (c) Council will contact the complainant to find out the result of the referral.
- (d) If, in the reasonable opinion of Council, the complaint has not been resolved by the Community Liaison Officer within 14 days of the complainant contacting the Community Liaison Officer, Council will record that a "resident dispute" has arisen and may propose a method of solving the resident dispute to the complainant and the Manager.
- (For example, the method chosen may involve:
- a meeting between the Manager, the complainant and Council;
  - mediation (including a programme provided by the Community Justice Programme of the Department of Justice and Attorney General);
  - referral of the resident dispute to the appropriate statutory authority (for example, in the case of a resident dispute in relation to lights used at the Centre, to the Community Health Branch of the Ipswich City Council); or
  - any other method determined by Council.)
- (e) The Manager agrees to be bound by the outcome of any method of solving the resident dispute chosen by Council.

- 
- (f) If, in the reasonable opinion of Council, the method does not resolve the resident dispute, Council may require the Manager to participate in further attempts to resolve the resident dispute.
  - (g) If, in the reasonable opinion of Council, the resident dispute is resolved, Council may require the Manager to enter into a legally enforceable agreement in a form satisfactory to the Manager.
  - (h) Nothing in this clause affects any rights of Council under this Agreement to terminate the Agreement or take any other action.

**17.4 Non-compliance with processes**

The Manager acknowledges that the following will constitute a breach of this Agreement:

- (a) any breach of the Good Neighbour Processes;
- (b) three (3) resident notifications under the Good Neighbour Processes within any 12 month period;
- (c) three (3) resident disputes under the Good Neighbour Processes within any 12 month period.

**18. DISPUTE RESOLUTION PROCEDURE**

- (a) If the Manager or Council believes that a dispute (other than a resident dispute under the Good Neighbour Processes in clause 15) has arisen under this Agreement, that party may serve a notice upon the other party (a "Dispute Notice") requiring it to follow the procedure outlined in this clause and nominating a representative of that party with authority to settle the dispute.
- (b) Within 7 days of receiving the Dispute Notice, the party receiving the Dispute Notice must serve a notice on the other party (a "Reply Notice"), nominating a representative with authority to settle the dispute.
- (c) The representatives of each party will meet within 7 days of the receipt of the Reply Notice and will use their best endeavours to resolve the dispute.
- (d) If the dispute is not resolved to the satisfaction of both parties within 14 days of the receipt of the Reply Notice, the parties will refer the dispute to a Council Nominated Officer.
- (e) The Council Nominated Officer will decide the method of dispute resolution and the procedure to be adopted to resolve the dispute. For example, without limitation, the Council Nominated Officer may decide to:
  - (i) refer the dispute to arbitration under the *Commercial Arbitration Act 1990*;
  - (ii) refer the matter to the Community Justice Programme of the Department of Justice and Attorney General;
  - (iii) appoint an expert (whose decision will be final and binding on the parties) to decide the dispute; or
  - (iv) refer the dispute to mediation.

- (f) Each party will continue to perform its obligations under this document during any dispute.

**19. GST**

**19.1 GST Exclusive Amounts**

All amounts payable under or in connection with this document are exclusive of GST.

**19.2 Payment of GST**

- (a) A recipient of a taxable supply under or in connection with this document must pay to the supplier, in addition to the GST exclusive consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply ("**GST Amount**").
- (b) The recipient must pay the GST Amount to the supplier when the GST exclusive consideration or part of it is provided, except that the recipient need not pay the GST Amount unless the recipient has received a tax invoice (or an adjustment note) for that taxable supply.

**19.3 Reimbursements**

Where a supplier incurs a cost or expense for which it may claim payment, reimbursement or indemnity from another party under or in connection with this document, the amount to be paid or credited to the supplier is the cost or expense (reduced by the input tax credit that the supplier is entitled to claim in respect of that cost or expense) plus the amount in respect of GST payable by the recipient as calculated under clause 19.2.

**20. NOTICES**

**20.1 Service of Notice**

A Notice must be:

- (a) in writing, in English and signed by the party giving it, or by their agent; and
- (b) delivered or sent by prepaid post or fax to the party's address specified in this document, or any other address notified by a party to the other party as its address for service.

**20.2 Effective Service**

- (a) A Notice given in accordance with clause 20.1 takes effect when received, or at a later time specified in it.
- (b) A Notice is taken to be received at the time specified below:
- (i) if hand delivered – when delivered;
- (ii) if sent by prepaid post – on the second Business Day after the date of posting (or on the tenth Business Day after the date of posting if posted to, or from, a place outside Australia);
- (iii) if sent by fax – when the sender's fax system generates a message confirming successful transmission of the entire document.

- 
- (c) However, if the time at which a Notice is taken to be received is not on a Business Day, or is after 5.00pm on a Business Day, it is taken to be received at 9.00am on the next Business Day.

**20.3 Ineffective Service**

A Notice is taken not to be received if:

- (a) in the case of service by post, the Notice is returned to sender because the postal service was unable to deliver it;
- (b) in the case of service by fax, the sender's fax system generates a message stating that transmission was unsuccessful, or the Notice is not received in full and legible form.

**21. MISCELLANEOUS**

**21.1 Special Conditions**

The Special Conditions (if any) apply as terms of this Agreement. If there is any inconsistency between a Special Condition and a provision elsewhere in this Agreement, the Special Condition prevails to the extent of the inconsistency.

**21.2 Assignment and other dealings**

This Agreement is personal to the Manager and the Manager must not assign this Agreement or let or part with possession of any part of the Centre.

**21.3 Council delegate**

- (a) Council may:
  - (i) delegate any of its rights or powers under or relating to this Agreement to any person;
  - (ii) notify the Manager of the identity of the delegate; and
  - (iii) revoke the delegation and notify the Manager of the revocation.
- (b) Council's delegate may exercise any of Council's rights or powers under or relating to this Agreement.
- (c) Council may have more than one delegate.

**21.4 Communication Protocols**

- (a) The Manager must comply with any communication protocols that Council determines and notifies to the Manager from time to time.
- (b) Until and unless Council notifies the Manager otherwise, the communication protocol determined by Council is that the Manager must, in the first instance, refer any matter relating to the conduct, performance and monitoring of this Agreement to the employee of Council nominated by Council from time to time.
- (c) A communication protocol:

- 
- (i) does not relieve or alter the Manager's obligations under this Agreement; but
  - (ii) merely governs how the Manager is expected to communicate with Council about matters relating to the conduct, performance and monitoring of this Agreement.

**21.5 Council's Consent**

If this Agreement provides for or allows for the Council to give its consent or approval about any matter:

- (a) Council is not taken to have given its consent or approval unless it has given its consent or approval in writing by notice to the Manager;
- (b) Council may give or refuse to give its approval or consent in any way it considers appropriate (including by imposing conditions) (unless this Agreement expressly states otherwise); and
- (c) if Council gives its approval or consent conditionally, Council will not be taken to have given the approval or consent at all unless the Manager fulfils the conditions of the approval or consent.

**21.6 No Warranty by Giving Consent**

By giving its approval or consent, Council does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

**21.7 Discretion in Exercising Rights**

A party may exercise a right or remedy in any way it considers appropriate, unless this Agreement expressly states otherwise.

**21.8 No Liability for Loss**

A party is not liable to another party for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this document.

**21.9 Remedies Cumulative**

The rights and remedies provided in this document are in addition to other rights and remedies given by law independently of this document, except to the extent that those other rights and remedies are expressly excluded in this document.

**21.10 Exclusion of Contrary Legislation**

Any legislation that diminishes the obligation of a party, or adversely affects the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

**21.11 Amendment**

This document can only be amended, supplemented, novated or replaced by another document signed by the parties.

---

**21.12 Waiver**

A right under this document can only be waived by notice signed by the party or parties waiving the right. A party does not waive its rights under this document because it grants an extension or forbearance to any other party. A waiver of a right on one or more occasions does not operate as a waiver of that right if that right arises again. The exercise of a right does not prevent any further exercise of that right or of any other right. If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

**21.13 No Merger**

None of the rights and obligations of a party under this document merge:

- (a) on completion of any transaction contemplated by this document;
- (b) with any security interest, guarantee, judgement or other right or remedy that a party may hold at any time; or
- (c) as a consequence of anything done under this document,

and those rights and obligations at all times remain in full force and effect.

**21.14 Survival of Rights and Obligations**

The following survive termination or expiration of this document:

- (a) Rights accrued to a party up to the date of termination or expiration of this document.
- (b) Indemnities and obligations of confidence given by a party under this document.

**21.15 No Payment Required to Claim Indemnity**

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this document.

**21.16 Giving Effect to this Document**

Each party agrees, at its own expense, to do anything (including ensuring that its employees and agents do anything) that any other party reasonably requires (such as obtaining consents, signing and producing documents) as may be necessary or desirable to give full effect to the provisions of this document and the transactions contemplated by it.

**21.17 Entire Agreement**

This document embodies the entire agreement between the parties and supersedes all previous agreements, understandings, negotiations, warranties and representations on the subject matter of this document.

The parties acknowledge that they have not relied upon any representations or warranties in executing this document, except for those contained in this document.

---

**21.18 Inconsistencies**

If this document is inconsistent with any other agreement between the parties, this document prevails to the extent of the inconsistency.

**21.19 Construction**

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document.

**21.20 Severability**

If the whole, or any part, of a provision of this document is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this document has full force and effect, and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance materially alters the nature or intended effect of this document.

**21.21 Costs and Expenses**

Unless this Agreement specifies otherwise, each party will bear its own costs and expenses in relation to the negotiation, preparation, execution, delivery, registration and completion of this document and any related documentation.

**21.22 Governing Law**

This document is governed by the law in force in Queensland, Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Queensland, and any court that may hear appeals from any of those courts for any proceeding in connection with this document, and waives any right it may have to claim that those courts are an inconvenient forum.

**21.23 Counterparts**

This document may be executed in counterparts. A counterpart may be a copy of this document printed from a facsimile transmission. All counterparts together are taken to constitute one instrument. A copy of this document which has been executed by a party ("**Signatory**") may be relied upon by a party to the same extent as if it was an original of this document executed by the Signatory.

## Schedule 1

### Maintenance Schedule

Asset Description	Task Description	Maintenance Responsibility	Frequency
Building Structures	General cleaning requirements for the building and structures	Manager	As required
Building Structures	Inspection and audit	Council	-
Building Structures	General repair breakage or damage, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Building Structures	Repair structural damage due to normal wear and tear	Council	-
Building Structures	Asset end of life replacement.	Council	-
Building Structures	Register and maintain asbestos and hazardous material report	Council	-
Pest Control(termites)	Pest control services termite control	Council	-
Pest Control(general)	General Pest control services	Manager	6 Monthly
<b>Fire Services</b>			
Fire safety installations and features	Inspect, service and maintain fire safety installations in accordance to Fire and Rescue Service Act 1990 and the Building Fire Safety Regulations 2008 requirements including but not limited to the Fire Board/Panel, Sprinklers and Smoke Alarms. Fire Brigade Call Outs resulting from false alarms exceeding one (1) per month will be oncharged to the Manager. Any unnecessary call outs as a result of the Manager business (such as damage to fire equipment, inappropriate use of the building etc.) may be oncharged to the Manager.	Council	-

Fire safety installations and features	Fire Safety Installations and Features including but not limited to Emergency Exit, Fire Extinguishers, Fire Blankets, Fire Hose Reels and Evacuation Diagrams and Plans. Any unnecessary call outs as a result of the Manager business (such as missing extinguishers, damaged exit lights etc.) may be on charged to the Manager	Council	-
Wardens and Fire Evacuation Training	Emergency Control Organisation and General Evacuation First Response Training	Manager	In accordance with legislative requirements
<b>Electrical</b>			
General Electrical Repairs and Maintenance	General Repairs and Maintenance	Council	-
External Lighting	Clean and relamp light fittings	Council	-
Internal Lighting	Clean and relamp light fittings	Manager	As required
Electrical Switchboards	Thermal scan/repair of switchboards	Council	-
Power poles and cables	Maintenance of all poles carrying light and power cable	Council	-
Electrical safety switch	Annual performance electrical leakage test	Council	-
Appliance electrical safety testing	Appliance electrical safety testing for portable appliances by qualified electrician	Manager	In accordance with legislative requirements
Pool Electrical Fittings	Inspection of Heat Pumps, Gas Heaters and Solar Panel fittings and fixtures	Manager	Daily
Pool Electrical Fittings	Servicing, maintenance and upgrade of Heat Pumps, Gas Heaters and Solar Fittings and Fixtures	Council	-

<b>Mechanical Services</b>			
Circulating Fans	Check operation of ceiling fan	Manager	As required
Lifts	Inspect, service and maintain lifts	Council	-
Automatic Doors	Service automatic door	Council	-
Cold & Freezer Rooms	Inspect and service freezer and cold-rooms plant and equipment	Manager	In accordance with Manufacturers Recommended specifications
A/C Unit	Inspect and service A/C unit includes filter cleaning	Council	-
Pool Equipment and Solar Heating	Inspections of pool equipment and solar heating	Manager	Daily
Pool Equipment and Solar Heating	Inspections/Repairs and Maintenance -service pool equipment and solar heating	Council	-
<b>Windows and Doors</b>			
Roller doors	Inspect and service roller doors	Council	-
Sliding windows	Inspect and service window rollers	Manager	As required
Sliding doors	Inspect and service door rollers	Manager	As required
Hollow core doors	Restore painted surfaces	Manager	As required
Windows and Doors	Inspect and service hardware in accordance with ICC key and locking system	Council	-
Windows and Doors	Glass Breakage except in cases of wilful damage, the Manager is responsible	Council	-

Landscaping			
Trees and Shrubs	Pruning of trees and shrubs	Manager	As required
Grassing and Turfing	General Landscape Maintenance	Manager	As required
Irrigation System Pumps	Inspect/ Service Pump	Manager	In accordance with Manufacturers Recommended specifications
Irrigation System Pumps	Replacement of Pumps	Council	-
Irrigation System	Inspect, Repair and Maintenance of Irrigation for Leaks (valves, etc).	Manager	In accordance with Manufacturers Recommended specifications
Irrigation System	Renewal of Irrigation System	Council	-
Exterior Works			
External Gate	Inspect gate and fittings	Manager	Daily
External Gate	Repairs and maintain gates and fittings	Council	-
Pool Gates	Inspect and service self-closing mechanism	Manager	Daily
Pool Gates	Repair self-closing mechanism	Council	-
External Fence	Inspect fence and fittings	Manager	Daily
External Fence	Repair and maintain fences and fittings	Council	-
Seats and Benches	Inspect, clean & ensure seat fitted securely. This applies to fixed seating only	Manager	Daily
Seats and Benches	Repair fixed seating	Council	-
Shade Structures	Inspect and identification of repairs and maintenance	Manager	Daily
Shade Structures	Cleaning, repairs and maintenance	Council	-

Concrete/ Pavement	Pressure clean surface	Manager	Daily
Hardstand Areas	Pressure clean surface	Manager	Daily
Roof	Clean and inspect and spot seal roof	Council	-
Gutter	Clean and inspect and spot seal gutter	Council	-
Downpipes	Restore protective coatings	Council	-
External taps	Service tapware washers, seats and O rings	Manager	As required .
Stormwater Drains	Inspect/Clean S/water Drains in pathways	Council	-
Water Storage Tank	Inspect, service and clean first flush system	Council	-
Business Signage	Restore, repairs and maintenance painted surfaces	Manager	As required, but no less than 5 yearly
External Wall	Clean surfaces	Manager	As required
External Wall	Exterior wall painting	Council	-
Tennis Court Surface	Maintain court surface to installer instructions	Manager	-
Tennis Court Surface	Upgrade court surface in accordance with asset lifecycle plan	Council	As required
Netball Court Surface	Maintain court surface to installer instructions	Council	As required
Pools	Test and Maintain water quality to installer instructions. This includes the provision of all equipment necessary to conduct the testing	Manager	In accordance with legislative requirements
Pools	Repairs and maintenance, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-
Pools	Upgrade pool in accordance with asset lifecycle plan	Council	-

Hot Water System	Inspect, test and service pressure relief valve	Manager	As required
Hot Water System	Replace Hot Water System	Council	-
Regulatory Signage	Inspect, service and maintain regulatory signage	Council	-
Pool Tiles	Inspection and identification of repairs and maintenance	Manager	Daily
Pool Tiles	Repairs and maintenance, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-
Pool Blankets	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Pool Blanket Rollers	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Lane Ropes	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Lane Rope Reels	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Manager, the Manager is responsible	Council	-
Pool Autovac	Initial supply by the Council. Service, maintenance, repair and replacement	Manager	As required
Manual Pool Vacuum	Initial supply by the Council. Service, maintenance, repair and replacement	Manager	As required
Two way radio communication	Supply, repair, maintenance and upgrade	Manager	As required

Rescue Boards	Supply, repair, maintenance and upgrade	Manager	As required
Rescue Tubes	Supply, repair, maintenance and upgrade	Manager	As required
Binoculars	Supply, repair, maintenance and upgrade	Manager	As required
Whistle	Supply, repair, maintenance and upgrade	Manager	As required
Spinal Boards	Supply, repair, maintenance and upgrade	Manager	As required
First Aid Kits	Supply, repair, maintenance and upgrade	Manager	As required
Automated external defibrillator	Supply, repair, maintenance and upgrade	Manager	As required
Air bag oxygen resuscitator	Supply, repair, maintenance and upgrade	Manager	As required
Oxygen for air bag oxygen resuscitator	Supply	Manager	As required
Stiff Neck Collars	Supply, repair, maintenance and upgrade	Manager	As required
<b>Interior Finishes</b>			
Internal ceilings and walls	Restore painted surfaces ceiling and walls except in cases of damage or misuse caused by the Manager	Manager	As required
Drinking Fountains	Inspect and service Zip Chillmaster	Council	-
Tap Water Heater	Inspect and service Zip Hydroboil	Council	-
Grease Traps	Pump out and maintain grease traps	Manager	In accordance with legislative requirements

Floor - Tile	Heavy duty scrub clean floor surfaces	Manager	As required but no less than annually
Floor - Vinyl	Inspect, repair and buff floor surfaces	Manager	As required
Floor - Vinyl	Replacement of vinyl, except in cases of wilful damage, misuse or neglect caused by the Manager, the Manager is responsible	Council	-
Floor - Carpet	Heavy duty deep pile special cleaning	Manager	As required
Floor - Carpet	Replacement of carpet, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-
Kitchen Exhaust System	Inspect and service kitchen exhaust	Manager	As required
Kitchen Exhaust System	Heavy Duty Deep Clean kitchen exhaust	Manager	In accordance with manufacturers specifications and recommended requirements
General Internal Repairs	General repairs, except in cases of wilful damage, neglect or misuse caused by the Manager, the Manager is responsible	Council	-
<b>Plumbing</b>			
WC Toilet/cistern and Urinal	Inspect and service flushing mechanisms	Manager	As required
WC Toilet/cistern and Urinal	Clearing of blockages	Manager	As required
WC Toilet/cistern and Urinal	Repair and Maintenance, except in cases of wilful damage or neglect caused by the Manager, the Manager is responsible	Council	-

Tapware	Service Taps, rewasher, reseal, replace as necessary	Manager	As required
Temperature Control Valves	Inspect, service and clean thermostatic mixing & tempering valves	Council	-
Temperature Control Valves	Deep clean thermostatic mixing & tempering valves.	Council	-
Pipeworks	Service and maintain internal and external plumbing network	Manager	As required
Pipeworks	Repair and Replace internal and external plumbing pipeworks	Council	-
<b>Security</b>			
CCTV & Security Systems	Test and service Security Systems. Any editing or addition of alarm codes for the Manager, and any damage caused to the security system will be at the Manager's cost	Council	-
CCTV & Security Systems	CCTV Monitoring and Maintenance	Manager	Ongoing
CCTV & Security Systems	Security Patrols. Patrol Call Outs that result from False Alarms exceeding one (1) per month will be payable by the Manager	Council	-
CCTV & Security Systems	Access Cards, Keys, Locking Systems. Access Cards/Keys are the Manager responsibility however, if the access cards/keys are lost, damaged or stolen, replacements will be issued by the Council with the cost payable by the Manager	Council	-

## Schedule 2

### Key Performance Indicators (KPIs)

Objective	Performance Indicator	Minimum Performance Requirement
Facility marketing	Range of marketing/advertising tools used	Monthly report – 2 days after end of month
Training records	Staff development records	Results of staff training/career opportunities within aquatics to be supplied within 28 days of 31 March and 30 October
Incidences	All reportable incidents (when QAS/QPS are onsite) ASAP	Mandatory
Maintenance Operation Responsibility	Number of Defaults reported to Council or noted by Council on random quality inspections	Number of defects not rectified in a reasonable specified time: no more than 2 per annum
Council Equipment	Record Maintenance conducted under Manager Responsibilities	Maintenance not conducted no more than 2 per annum
Programs	The range and number of Programs offered at the Premises	Increased Programs or participation
Maintenance	Minor Maintenance to be undertaken by Manager	Number of repairs not rectified: no more than 3 per season having been given reasonable time to remedy
Attendance	Based on average annual attendances supplied by the Council for the subject premises or similar centre	A minimum 85% of that average annual attendance without request to provide written explanation on cause
Customer Satisfaction	Number of complaints received and number of complaints not dealt with to Council's reasonable satisfaction	Number of Complaints received: no more than 10 per year. Number of unresolved complaints: no more than 3 per year
Customer Satisfaction	Annual Customer Satisfaction Survey	Survey carried out as agreed with Council and results within agreed benchmarks to reasonable satisfaction of Council
Random Quality Inspections by Authorised Council Officers	A minimum of 10 inspections to be conducted per year	Manager must not receive 2 consecutive unsatisfactory assessments of the same criteria after random quality inspections are undertaken
Community Access	Opening Hours to meet Community needs and be similar to other comparable facilities	A minimum of 85 hours per week in summer season and minimum of 65 hours per week in winter season

**Key Performance Indicators (KPIs) cont'd**

Objective	Performance Indicator	Minimum Performance Requirement
Community Access	Fees and Charges schedule to be based benchmarking similar facilities within South East Queensland and no more than 5% variance from the medium range of the fees and charges at those other facilities	Proposed schedule submitted before 31 March annually
Administration Responsibilities	Attendance figures	Monthly report – 2 days after end of month
Administration Responsibilities	Water testing (as per Current Council Policy)	Monthly report – 2 days after end of month
Administration Responsibilities	Schedule of Works	Within 60 days of end of Financial Year
Administration Responsibilities	Financial Report showing Liquidity ratios to demonstrate ongoing viability	Within 60 days after end of Financial Year
Administration Responsibilities	Operational / Business Plan including Marketing Plan	Within 28 Days of 31 March provide a report that compares the performance against the plans
Administration Responsibilities	Insurance Certificate/ Licence/ Qualifications	Within 7 days of receipt of certificate/ licence/ qualifications or renewal to provide copy to Council
Administration Responsibilities	Workplace Health and Safety Plan	Supplied Annually

### Schedule 3

#### Council's Assets - Inventory

Item	Quantity
Large Filter Tank	1
Pool Blanket Roller	1
P.A. Equipment	1
Ropes Assembled	5
Storreel	1
Aquatic Machinery Leichhardt Swimming Pool	1
Heat Exchanger - Part Of Gas Heaters	2
Vacuum Cleaner	1
Pool Blanket	1
Mushrooms - Within Pool	3
Water Cannons - Within Pool	2
Air Blower - Within Pool	1
Lazy River - Within Pool	1
Pool Vacuum Auto	1
Thermal Blanket	1
Solar Collector System	1
Gas Heaters	2
Filtration System	1
Lane Ropes	1
Leichhardt Pool Kiosk	1
Change Room	1
Demountable Bldg First Aid	1
25x13m Pool	1
Wading Pool - Fountain	1
Chlorine System	1
Pool Cleaner	1
Submarine Play unit with Staircase and Tunnel	1
4 Way Rocker	1

Item 3 / Attachment 3.

55

---

Surfboard Rocker	1
Fish Rocker	1

---

55

117307:8548819\_1

**Execution**

Executed as an agreement.

**SIGNED for IPSWICH CITY COUNCIL** by its duly authorised officer, in the presence of:

JFF  
Signature of witness

THERESE FLYNN  
Name of witness (BLOCK LETTERS)

[Signature]  
Signature of officer

GARY RUSSELL KELLAR  
Name of officer (BLOCK LETTERS)

ACTING CHIEF EXECUTIVE OFFICER  
Office held (BLOCK LETTERS)

16.4.18  
Date signed

**EXECUTED by AUSTRALIAN CRAWL (GOODNA) PTY LTD A.C.N. 120 208 255:**

[Signature]  
Signature of director

JUSTIN LEMBERG  
Name (BLOCK LETTERS)

[Signature]  
Signature of director/secretary/  
sole director/sole director & secretary\*  
\*delete whichever is not applicable

JUSTIN LEMBERG  
Name (BLOCK LETTERS)

26/3/18  
Date signed

---

## Annexure A

### Special Conditions

---

#### 1. AVAILABILITY OF CENTRE TO COUNCIL

- (a) Council may notify the Manager that Council requires the Manager to make the Centre (or any part of the Centre) available to Council (free of charge) for an event that Council wishes to hold or allow to be held at the Centre.
- (b) Council may exercise its rights under this special condition no more than [twice] in each calendar year and for no more than 2 days in each calendar year.
- (c) If Council exercises its rights under this special condition, the Manager must make the Centre (or part of the Centre) available (free of charge) on the date or dates designated by Council for the event.
- (d) The Manager is not released from its obligations under this Agreement on the designated date or dates, unless Council specifically specifies or agrees in writing.
- (e) A reference in this special condition to making the Centre available 'free of charge' does not apply to any kiosk or sporting goods outlet in the Centre.

---

#### 2. AVAILABILITY OF CENTRE TO RESIDENT SWIM CLUB

- (a) The Manager must allow Ipswich Swimming Clubs (**Swim Clubs**) and all members and guests of Swim Clubs to use the Centre during the Designated Hours.
- (b) The Manager must not allow people who are not members or guests of the Swim Clubs to use the swimming pool(s) in the Centre during the Designated Hours unless the Swim Clubs agree.
- (c) The Manager's obligations under this Agreement continue during the Designated Hours.
- (d) Nothing in this special condition prevents the Manager from charging the Swim Clubs, or members or guests of the Swim Clubs, Admission Fees or Hourly Fees if the Manager could otherwise charge them under this Agreement.
- (e) The "**Designated Hours**" are:
  - (i) the hours that are agreed between the Manager and the Resident Swim Club from time to time; or
  - (ii) if Council specifies a period not exceeding half a day in each week that will be the Designated Hours (for example, between specified hours on a set day in every week) by notice to the Manager – each of those specified periods.

---

#### 3. USE OF CENTRE BY SWIMMING CLUBS, SCHOOLS, ETC.

- (a) The Manager:
  - (i) may, with the approval of Council; and

---

(ii) must, if directed to do so by Council,

allow swimming clubs, schools and other bodies approved or specified by Council from time to time (all called "swimming clubs") to access and use the Centre, and to access and use the swimming pool(s) in the Centre, to the exclusion of members of the general public:

(iii) for club swims, carnivals and similar events; and

(iv) for the length of time and on the day or days and on the conditions approved by or directed by Council.

(b) Nothing in this special condition prevents the Manager from charging the swimming clubs Admission Fees or Hourly Fees if the Manager could otherwise charge them under this Agreement.

---

#### 4. CAPITAL WORKS

##### 4.1 Manager Capital Works

(a) The Manager may undertake the Manager Capital Works at the Centre:

(i) in accordance with and without breaching the requirements of clause 10.5(b) of this Agreement;

(ii) after obtaining Council's approval to the scope of works and the manner of undertaking the Manager Capital Works; and

(iii) in accordance with any conditions imposed by Council when giving that approval.

(b) The Manager will be permitted to remove or deconstruct the Manager Capital Works at the end of the Term.

(c) Ownership of the Manager Capital Works shall remain with the Manager during the Term.

(d) If the Manager does remove or deconstruct the Manager Capital Works at the end of the Term, it must repair any damage caused by such removal or deconstruction, to the reasonable satisfaction of Council.

(e) If the Manager does not remove or deconstruct the Manager Capital Works at the end of the Term, Council may (without any liability to the Manager) treat the Manager Capital Works as abandoned and may, at Council's election, treat the ownership of the Manager Capital Works as having vested in Council and/or remove, store and dispose of the Manager Capital Works as the Council sees fit.

(f) "Manager Capital Works" means capital improvements made or to be made to the Centre by the Manager during the Term including but not limited to:

Manager Capital Works	Estimated Cost
Office Fit Out	\$10,000.00
Pool Furniture Fit Out	\$10,000.00
Miscellaneous	\$5,000.00
<b>Total</b>	<b>\$25,000.00</b>

**4.2 Agreed Capital Works**

- (a) The Manager must submit a written proposal (including a scope of works, draft design brief, draft plans and specifications, draft schedule of finishes, proposed time line and indicative costings) to Council outlining the Manager's proposed capital improvements to the Centre (other than the Manager Capital Works) during the Term (the "Capital Works Proposal") on or before 1 June 2018.
- (b) Council will review the Manager's Capital Works Proposal and provide a response on the proposal to the Manager within 30 days of receipt of the proposal.
- (c) The parties agree to collaborate in good faith in relation to the proposed capital improvements and the Capital Works Proposal. The Manager acknowledges that Council has a masterplan for the Centre and may be desirous to undertaking additional or other capital improvements to the Centre.
- (d) Council may (acting reasonably):
  - (i) approve the Manager's Capital Works Proposal;
  - (ii) require amendments to the Manager's Capital Works Proposal;
  - (iii) impose conditions on any approval of the Manager's Capital Works Proposal (including on any amended Capital Works Proposal); or
  - (iv) not approve the Manager's Capital Works Proposal.
- (e) If Council approves the Manager's Capital Works Proposal (including any amended Capital Works Proposal):
  - (i) the Manager's proposed capital improvements (as per the Capital Works Proposal) will be the "Agreed Capital Works" for the purposes of this special condition;
  - (ii) the Manager must undertake the Agreed Capital Works at the Centre during the Term:
    - (A) to a minimum guaranteed spend amount of \$100,000 (exclusive of GST). In this regard, the Manager must provide to Council, as and when requested, evidence of the expenditure of funds, including for example, copies of invoices and receipts for payment;
    - (B) in accordance with and without breaching the requirements of clause 10.5(b) of this Agreement; and

- 
- (C) in accordance with any conditions imposed by Council when giving that approval.
  - (iii) the ownership of the Agreed Capital Works shall be with the Manager during the Term, but shall vest in Council on termination of this Agreement. The Manager must do all things reasonably possible to ensure that Council obtains the benefit of any warranties relating to the Agreed Capital Works; and
  - (iv) the Manager will not be permitted to remove or deconstruct the Agreed Capital Works at the end of the Term. For the purpose of clause 16 of this Agreement, the Agreed Capital Works will form part of the Centre and/or the Council's Assets at the end of the Term.
- (f) If:
- (i) Council does not approve the Manager's Capital Works Proposal; or
  - (ii) Council approves the Manager's Capital Works Proposal but the Manager does not carry out and complete the Agreed Capital Works in the manner required by this special condition by 1 April 2021,
- the Manager must pay to Council the sum of \$100,000 plus GST within 30 days of receipt of a valid tax invoice from Council.
- (g) Nothing in this special condition prohibits Council from undertaking its own capital improvements to the Centre and/or utilising the funds received from the Manager in accordance with special condition 4.2(f) towards its capital improvements to the Centre.

#### 4.3 Disputes

If a dispute arises between the parties in relation to the operation of this special condition 4, such dispute shall be managed in accordance with clause 18 of this Agreement.

---

#### 6. TRUSTS

If the Manager is at any time acting in the capacity of trustee of any trust (**the Trust**) then whether or not Council may have notice of the Trust the Manager covenants with Council as follows:

- (a) the Manager is the sole trustee of the Trust;
- (b) this Agreement extends to all rights of indemnity which the Manager has against the Trust;
- (c) the Manager has power and authority to enter into this Agreement and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Manager against the Trust and the Manager will not breach that right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
- (d) the Manager will be and at all times remain personally liable to Council for the due performance fulfilment and observance of the obligations in this Agreement;
- (e) the Manager will not without the consent in writing of Council allow any of the

---

following events to happen:

- (i) the removal replacement or retirement of the Manager as sole trustee of the Trust;
  - (ii) any alteration to or variation of the terms of the Trust;
  - (iii) any advancement or distribution of capital of the Trust;
  - (iv) any resettlement of the trust property.
- (f) It will be an event of default under this Agreement if the Manager is guilty of any breach of trust in respect of the Trust or ceases to be the sole trustee of the Trust.

---

**6. NOT USED**

**7. LICENSING**

**7.1 Right to Grant Licence**

The Manager may, subject to first obtaining the written consent of Council, grant to third parties a non-exclusive licence to use and occupy part or parts of the Centre on terms satisfactory to Council, and otherwise in accordance with this provision.

**7.2 Council's Consent**

Council's consent to a licence arrangement contemplated by this provision (a **Licence**) will not be unreasonably withheld or delayed if the following conditions are satisfied:

- (a) the Manager gives to Council reasonable prior written notice of the Manager's desire to grant a Licence, details of the nature of the proposed Licence and the name of the proposed licensee;
- (b) the Manager gives to Council upon demand such further information financial reports or other material as Council may reasonably require in respect of the proposed Licence and proposed licensee;
- (c) the proposed licensee is a respectable and financially responsible person who has the ability to meet all relevant obligations of the Manager contained in this Agreement (having regard to the nature and extent of the proposed Licence);
- (d) the use to which it is proposed that the licenced area will be put is not inconsistent with the nature and character of the Centre, and will not detract from the good management of the Centre or the standard or quality of the facilities offered at the Centre;
- (e) the Manager is not in breach of this Agreement;
- (f) if required by Council, the proposed licensee agrees to enter into a covenant with Council that the proposed licensee will observe and perform all relevant obligations conditions and restrictions (having regard to the nature and extent of the proposed Licence) contained in this Agreement on the part of the Manager to be observed and performed;
- (g) the Manager pays Councils reasonable legal and other costs incurred in

---

connection with considering the proposed Licence (whether or not Council's consent is granted and whether or not the proposed Licence proceeds) including the cost of enquiries made by or on behalf of Council regarding the solvency fitness and suitability of the proposed licensee;

- (h) if the proposed licensee is a limited liability company, one (1) or more directors or shareholders of the proposed licensee as may be reasonably required by Council will provide personal guarantees in the form reasonably required by Council and to the effect that:
  - (i) the proposed licensee will observe and perform all relevant obligations conditions and restrictions (having regard to the nature and extent of the proposed Licence) contained in this Agreement on the part of the Manager to be observed and performed; and
  - (ii) they will indemnify Council against all loss damages costs and expenses arising by reason of any default by the proposed licensee;

### 7.3 Licence Terms

Every permitted Licence must be granted at a licence fee equal to the then current market licence fee value of the area being licensed (the **Licensed Area**) and will contain covenants:

- (a) for the review of the licence fee reserved on an annual basis;
- (b) prohibiting the licensee from doing or allowing any act or thing inconsistent with or in breach of this Agreement; and
- (c) not to assign or sub-licence the Licensed Area.

### 7.4 Performance Management, Financial Management and Reporting

Without limiting special condition 7.3, the Manager must ensure that every permitted Licence contains terms and obligations to be performed on the part of the licensee that mirror (as applicable, having regard to the nature and extent of the Licence) those covenants contained in this Agreement relating to:

- (a) performance management (as contained in clause 12 of this Agreement);
- (b) financial management (as contained in clause 13 of this Agreement); and
- (c) reporting (as contained in clause 14 of this Agreement),

so as to enable the Manager to comply with its obligations under those provisions of this Agreement and to include, where applicable, all relevant information in respect of the Licence (including income generated by the licensee, and licence fees or other amounts payable by the licensee to the Manager) in all records and reports the Manager is required to keep, maintain and provide to Council under the terms of this Agreement.

### 7.5 Licence Fees as Revenue

For avoidance of doubt, all amounts received by the Manager from the licensee under any permitted Licence will be considered Revenue of the Centre for the purposes of this Agreement, and in particular, under clause 13 of this Agreement.

---

**8. BANK GUARANTEE**

**8.1 Application**

This Special Condition 8 applies unless the Manager provides Council with a Security Bond in accordance with Special Condition 9.

**8.2 Provision of Guarantee and Review**

The Manager must:

- (a) on or before executing this Agreement arrange for the issue of an unconditional Australian bank guarantee in favour of Council, on terms and issued by a bank acceptable to Council, for the amount of \$5,000.00 (**Bank Guarantee**) to secure performance by the Manager of its obligations under this Agreement;
- (b) ensure that any Bank Guarantee is kept current and enforceable and that it has no expiry date; and
- (c) if Council is paid an amount under the Bank Guarantee following a demand provide Council with a replacement or additional bank guarantee for the amount paid out.

**8.3 Recourse to Bank Guarantee**

If the Manager does not comply with any of its obligations under this Agreement Council may call on the Bank Guarantee to the extent of the Manager's default.

**8.4 Transfer by Council**

- (d) If Council sells or transfers the Centre, it may:
  - (i) assign the Bank Guarantee to the transferee; or
  - (ii) require the Manager to provide a replacement Bank Guarantee in favour of the transferee.
- (e) If the Manager does not comply with a request to provide a replacement Bank Guarantee within 14 days, Council may present the Bank Guarantee and deliver the proceeds to the transferee to hold as a security deposit until the Manager provides a Bank Guarantee to the transferee and on doing so, Council will be discharged from any legal responsibility to the Manager or any other person in relation to the Bank Guarantee.

---

**9. SECURITY BOND**

**9.1 Application**

This Special Condition 9 applies unless the Manager provides Council with a Bank Guarantee in accordance with Special Condition 8.

**9.2 Amount**

The Manager must on or before executing this Agreement pay a security bond to Council in the amount of \$5,000.00 (**Security Bond**) to be held by Council as security for the performance of the Manager's obligations under this Agreement.

---

**9.3 Holding of the Security Bond**

The Security Bond will, at Council's discretion, be held by Council or in Council's solicitor's or managing agent's trust account.

**9.4 Charging of the Security Bond**

The Manager:

- (a) charges of Security Bond in favour of Council for the Term with the performance by the Manager of all its obligations under this Agreement;
- (b) authorises Council to make withdrawals from the Security Bond; and
- (c) must sign any documents that Council requires to enable Council to be paid any part of the Security Bond.

**9.5 Application of the Security Bond**

Council may apply the Security Bond towards the payment of any money payable by the Manager to Council under this Agreement.

**9.6 Maintenance of Security Bond**

If Council applies the Security Bond under this special condition, the Manager must within 14 days of being so requested pay any deficiency so that the Security Bond is reinstated to its full amount.

**9.7 Not to Prejudice Other Rights**

The application of the Security Bond by Council does not prejudice Council's other rights under this Agreement or by law. Council's failure to apply the Security Bond does not constitute a waiver.

**9.8 Bank Fees**

Council is not legally responsible for any bank fees or charges GST or other tax on any interest bearing account in which the Security Bond is deposited. Any bank fees or charges GST or other taxes will be deducted from the Security Bond. If requested by Council, the Manager will provide its tax file number for disclosure to the relevant bank. Nothing in this special condition obliges Council to invest the Security Bond in an interest bearing account.

**9.9 Payment of Security Bond**

Council must pay the balance of the Security Bond to the Manager (including any interest) within one (1) month after the later of the following:

- (a) if there is a dispute between Council and Manager pertaining to this Agreement when this Agreement ends – the date when that dispute is resolved or determined; or
- (b) otherwise – when all the Manager's obligations under this Agreement have been fulfilled.

---

**9.10 Assignment of Security Bond**

If Council sells or transfers the Centre, it may pay the Security Bond or assign its interest in it to the buyer or transferee and on doing so, Council will be discharged from any legal responsibility to the Manager or any other person in relation to the Security Bond.

---

**10. GUARANTEE AND INDEMNITY**

**10.1 Application**

If the Manager is a corporation as defined in the *Corporations Act 2001*, the Manager must at the same time as execution of this Agreement, arrange for the execution of the guarantee and indemnity contained in this Agreement by its directors and principal shareholders, as reasonably required by Council.

**10.2 Guarantee and Indemnity**

In consideration of Council entering into this Agreement with the Manager, the Guarantor covenants and agrees with Council that:

- (a) it will be legally responsible jointly and separately with the Manager for the due performance by the Manager of all the obligations terms and conditions of this Agreement on the part of the Manager to be performed;
- (b) the Guarantor indemnifies Council against all losses damages costs and expenses which Council may incur from any breach or non observance of this Agreement by the Manager;
- (c) the legal responsibility of the Guarantor is not affected by:
  - (i) Council exercising any rights under this Agreement;
  - (ii) Council terminating this Agreement;
  - (iii) the Manager that is a corporation being wound up or dissolved;
  - (iv) the Manager who is a natural person being declared bankrupt;
  - (v) a transfer of the Manager's interest in this Agreement;
  - (vi) a variation of this Agreement;
  - (vii) any failure by Council to exercise its rights or any delay in doing so;
- (d) the Guarantor is treated as a primary debtor and contractor together and separately with the Manager;
- (e) this guarantee and indemnity does not depend upon the enforceability of the obligations and agreements of any other person and remains binding even if another person does not sign this Agreement or this guarantee and indemnity;
- (f) if the Manager enters into liquidation (or being a natural person enters into bankruptcy) and the liquidator or trustee in bankruptcy disclaims this Agreement the Guarantor must accept from Council an agreement for a period equal to the remaining Term of this Agreement, the agreement to contain the same conditions

---

as are in this Agreement;

- (g) notices to be given to the Guarantor may be signed by the solicitors for Council or any officer of Council and may be given by post at the Guarantor's last known address;
- (h) if any part of this guarantee and indemnity is unenforceable that will not affect the enforceability of any other part of this guarantee and indemnity;
- (i) if the Guarantor is more than one person the liabilities of each of those persons are joint and separate;
- (j) this guarantee and indemnity takes effect immediately upon its signing and continues to be of full effect. References to **this Agreement** include any agreement arising upon signing or acceptance by the Manager of the document to which this guarantee and indemnity is attached or forms part;
- (k) if the Licensor transfers the Centre or otherwise transfers Council's rights under this Agreement Council's rights under this guarantee and indemnity will be treated as transferred to any future owner of the Centre or other transferee.

Item 3 / Attachment 3.

Executed by the Guarantor as a deed.

**SIGNED SEALED AND DELIVERED** by  
**JUSTIN WILLIAM LEMBERG**, in the  
presence of:

  
\_\_\_\_\_  
Signature of witness

*Roslyn Schukins*  
\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

  
\_\_\_\_\_  
Signature of party

*28.3.18*  
\_\_\_\_\_  
Date signed

**SIGNED SEALED AND DELIVERED** by  
**WILLIAM HARRY LEMBERG**, in the  
presence of:

*NA QL*  
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

*NA QL*  
\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date signed

**SIGNED SEALED AND DELIVERED** by  
**ELIZABETH ANN LEMBERG**, in the  
presence of:

*NA QL*  
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

*NA QL*  
\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Date signed

FQUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

FORM 14 Version 4  
Page 1 of 2



711932933

NO FEE  
19/09/2008 11:31

BE 608

NO FEE

1. Nature of request

REQUEST TO REGISTER MANDATORY  
STANDARD TERMS FOR A TRUSTEE LEASE

Lodger (Name, address, E-mail & phone number)

SLAM – Policy  
GPO Box 2454  
Brisbane Q 4001  
SLAMPolicyCHQ@nrw.qld.gov.au

Lodger  
Code

BE 2268

2. Lot on Plan Description

NOT APPLICABLE

County

Parish

Title Reference

3. Registered Proprietor/State Lessee

NOT APPLICABLE

4. Interest

NOT APPLICABLE

5. Applicant

DEPARTMENT OF NATURAL RESOURCES AND WATER

6. Request

I hereby request that: PURSUANT TO SECTION 318A OF THE LAND ACT 1994 THE ATTACHED MANDATORY  
STANDARD TERMS DOCUMENT FOR A TRUSTEE LEASE BE REGISTERED.

7. Execution by applicant

17 19 2008  
Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant  
Graham Nicholas, A/Director, State Land Asset  
Management, Department of Natural Resources  
and Water a duly authorised delegate of  
the Minister under the current Land Act  
(Ministerial) Delegation

QUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994  
and Water Act 2000

**SCHEDULE / ENLARGED PANEL /  
ADDITIONAL PAGE / DECLARATION**

Form 20 Version 2  
Page 2 of [ ]

Title Reference [ ]

eLVAS Case Id [ ]

**Mandatory standard terms for a Trustee Lease  
(Sections 318, 318A Land Act 1994)**

For the *Land Act 1994*, this document contains provisions that are treated as terms of a further document, and applies to a document, that is a trustee lease under that Act. Those provisions are:

**1. INTRODUCTION**

- 1.1 This Trustee Lease is subject to the provisions of the Act and if any clause or condition of this Trustee Lease is inconsistent with the Act, the provisions of the Act prevail.
- 1.2 A mandatory standard terms document for a trustee lease under the Act forms part of this Trustee Lease under the Act.
- 1.3 If there is a conflict between the Mandatory Standard Terms Document and the terms of another document for this Trustee Lease, the Mandatory Standard Terms Document prevails as provided for under section 320A of the Act.

**2. DEFINITIONS**

2.1 In this Trustee Lease, unless the context requires otherwise:

- (a) **"the Act"** means the *Land Act 1994 (Q)*, as amended from time to time and if that Act is repealed, any Act which replaces that Act;
- (b) **"Approval"** means any approval, consent or permission required by law, including under the Act;
- (c) **"Business Day"** means any day in the State of Queensland which is not a Saturday, Sunday or public holiday either in the locality of the Premises or in Brisbane.
- (d) **"Commencement Date"** means the commencement date stated in Item 6 of the Form 7;
- (e) **"Form 7"** means the Form 7 lease which forms part of this Trustee Lease;
- (f) **"Improvements"** means all improvements, fixtures and fittings as constructed on the Premises from time to time;
- (g) **"Mandatory Standard Terms Document"** means the mandatory standard terms document lodged by the Minister in the land registry for a trustee lease under the Act;
- (h) **"Minister"** means the Minister administering the Act;
- (i) **"Parties"**, other than in clause 15 (Release and Indemnity), means the Trustee and the Trustee Lessee;
- (j) **"Premises"** means the premises described in Item 5 of the Form 7 and the Improvements on those premises;
- (k) **"Rent"** means the rent stated in Item 7 of the Form 7;
- (l) **"Term"** means the term stated in Item 8 of the Form 7;
- (m) **"Trust Land"** means the land described in Item 2 of the Form 7;
- (n) **"Trustee"** means the lessor stated in Item 1 of the Form 7 and any trustee appointed under the Act in place of that lessor. Where the context permits, the definition also includes all of the Trustee's officers, employees, agents, contractors, consultants and invitees;
- (o) **"Trustee Lease"** means the Mandatory Standard Terms Document and any other document (including the Form 7, any schedule, plans and attachments) for a lease by the Trustee to the Trustee Lessee of the Premises for the Term;
- (p) **"Trustee Lessee"** means the lessee stated in Item 3 of the Form 7 and includes any personal representative or successor in title to the Trustee Lessee. Where the context permits, the definition also includes all of the Trustee Lessee's officers, employees, agents, contractors, consultants and invitees.

**3. SUPERSEDED ACTS ET CETERA**

- 3.1 Where a law, person or body or other thing referred to in this Trustee Lease is renamed, superseded or replaced with another law, person or body or other thing (as the case may be), references in this Trustee Lease will be taken to be changed in a corresponding manner, except where the context requires otherwise.

QUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994  
and Water Act 2000

**SCHEDULE / ENLARGED PANEL /  
ADDITIONAL PAGE / DECLARATION**

Form 20 Version 2  
Page 3 of [ ]

Title Reference [ ]

eLVAS Case Id [ ]

---

#### **4. MINISTERIAL APPROVAL**

4.1 This Trustee Lease is subject to and conditional on:

- (a) the Minister's written 'in principle' approval to the Trustee Lease under section 57(1) of the Act;
- (b) endorsement of the Minister's approval on this Trustee Lease under section 57(4) of the Act;
- (c) compliance with any conditions of an approval of the Minister that must be complied with before the Trustee may lease the Premises to the Trustee Lessee under this Trustee Lease; and
- (d) registration under the Act, as required by section 57(3) of the Act, of this Trustee Lease in the land registry.

Until paragraphs (a), (b), (c) and (d) are satisfied and despite the definitions of "Commencement Date" and "Term" in clause 2.1, the (purported) Trustee Lease does not take effect as a lease of the Premises and the Trustee Lessee has no right to the possession, occupation or use of the Premises.

---

#### **5. GRANT OF TRUSTEE LEASE**

5.1 Subject to clause 4.1, the Trustee leases the Premises to the Trustee Lessee for the Term under this Trustee Lease.

---

#### **6. USE AND DEVELOPMENT, ACCESS AND SERVICES**

6.1 The Trustee Lessee may only use or develop the Premises:

- (a) according to all relevant laws including, without limitation, any planning and environmental laws and any local laws;
- (b) where an Approval of any entity is required to undertake or carry out a use or development of the Premises, with the prior Approval of the relevant entity and according to that Approval;
- (c) subject to the terms of this Trustee Lease, according to any management plan for the Trust Land under section 48 of the Act.

6.2 Without limiting clause 6.1, if the purpose of this Trustee Lease is inconsistent with the purpose for which the Trust Land was dedicated or granted, all Improvements built or placed by the Trustee Lessee on the Premises must first be approved by the Minister under section 59(2) of the Act.

6.3 In clause 6.1, 'develop' includes the construction of Improvements on the Premises.

6.4 Despite anything else, the Trustee Lessee holds this Trustee Lease so that the Trust Land (including the Premises) may be used for the purpose for which the Trust Land was dedicated or granted without undue interruption or obstruction.

6.5 Clause 6.4 does not apply to a building permitted to be built on the Trust Land.

6.6 If the Trustee Lease does not adjoin a dedicated road, or have some other legal access, the Trustee Lessee may access and provide services (including electricity, telephone, water and like services) to the Trustee Lease and Premises through the Trust Land via the most convenient route or location as determined by the Trustee and on any terms and conditions of the Trustee.

---

#### **7. DECLARED PEST PLANTS AND ANIMALS**

7.1 The Trustee Lessee must control pest plants and animals on the Premises during the Term in accordance with the *Land Protection (Pest and Stock Route Management) Act 2002* and any requirements of the local government in whose local government area the Premises are situated.

QUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994  
and Water Act 2000

**SCHEDULE / ENLARGED PANEL /  
ADDITIONAL PAGE / DECLARATION**

Form 20 Version 2  
Page 4 of [ ]

Title Reference [ ]

eLVAS Case Id [ ]

---

**8. CLEARING OF VEGETATION**

8.1 The Trustee Lessee may only clear, remove or destroy any native vegetation ('clear') on the Premises if the:

- (a) clearing is permitted or not prohibited by law or, if required by law, the Trustee Lessee may under a development permit under the *Integrated Planning Act 1997* clear; and
- (b) Trustee has given its consent to the clearing.

---

**9. ENVIRONMENT PROTECTION AND DUTY OF CARE**

9.1 The Trustee Lessee must not dispose of or allow to be disposed of, any substance or thing (including refuse, garbage, oil or chemical) into any watercourse, the sea or onto the Trust Land (including the Premises). For this clause and without limitation, a substance or thing is disposed of if it leaks, or is washed, blown or otherwise enters, into any watercourse, the sea or onto the Trust Land (including the Premises).

9.2 Without limiting clause 9.1, the Trustee Lessee must:

- (a) store and keep all trade refuse and trade garbage in proper containers; and
- (b) dispose of all refuse and trade garbage regularly and hygienically at an approved rubbish dump without causing pollution or damage to the Trust Land (including the Premises), any land adjoining the Trust Land, a watercourse or the sea.

For this clause and without limitation, trade refuse and trade garbage includes debris from building works, chemicals from chemical works, medical waste and other waste of this nature but does not include general refuse and garbage that is collected regularly by or for the relevant local government.

9.3 The Trustee Lessee must:

- (a) use all reasonable endeavours to overcome and minimise any harmful effects on the environment arising from its use of the Premises; and
- (b) rehabilitate the Premises, and any watercourse, the sea, the Trust Land and any other land (the "affected areas") if there is any damage caused to the Premises and the affected areas by its use of the Premises and any other area of the Trust Land.

9.4 The Trustee Lessee has a responsibility for a duty of care for the Premises.

---

**10. LIQUOR OR GAMING AND OTHER LICENCE**

10.1 The Trustee Lessee must not store, sell or supply, or allow to be stored, sold or supplied, any liquor on or from the Premises:

- (a) except with the prior written consent of the Trustee and the Minister; and
- (b) according to any required licence or other authority under the *Liquor Act 1992*.

10.2 The Trustee Lessee must not operate the Premises under a gaming machine licence (as defined in the *Gaming Machine Act 1991*) without the prior written consent of the Trustee and the Minister.

10.3 The Trustee Lessee must not operate KENO facilities on the Premises. With the prior written consent of the Trustee and the Minister, this clause 10.3 will not apply if KENO facilities have been operating on the Premises under a previous lease from the Trustee for the Premises and where all necessary Approvals were obtained.

10.4 The Trustee Lessee must not operate TAB facilities on the Premises. With the prior written consent of the Trustee and the Minister, this clause 10.4 will not apply if TAB facilities have been operating on the Premises under a previous lease from the Trustee for the Premises and where all necessary Approvals were obtained.

QUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994  
and Water Act 2000

**SCHEDULE / ENLARGED PANEL /  
ADDITIONAL PAGE / DECLARATION**

Form 20 Version 2  
Page 5 of [ ]

Title Reference [ ]

eLVAS Case Id [ ]

**11. TRANSFER, MORTGAGE OR SUBLEASE**

11.1 The Trustee Lessee may not transfer, mortgage or sublease this Trustee Lease without the prior Approval of the Trustee and the Minister.

**12. NO HOLDING OVER AND OTHER DEALINGS**

12.1 The Trustee Lessee may not:

- (a) hold over, possess or occupy the Premises after the expiry of this Trustee Lease;
- (b) renew this Trustee Lease;
- (c) convert this Trustee Lease to another form of tenure; or
- (d) buy the Premises.

**13. THE MINISTER AND STATE OF QUEENSLAND NOT BOUND**

13.1 The Parties may not bind or subject the Minister or the State of Queensland to any agreement, or liability for costs, fees or expenses under this Trustee Lease.

**14. INSURANCE**

14.1 The Trustee Lessee must effect a public liability insurance policy with an insurer authorised under the *Insurance Act 1973* (Cth) or, in any other case, to the satisfaction of the Minister, naming the Trustee Lessee as the insured covering legal liability for any loss of or damage to any property and for the injury (including death) to any person arising out of anything done or omitted on or about the Premises and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof subject to the terms and conditions of the insurance policy.

Such policy must:

- (a) be for an amount of not less than twenty million dollars (\$20,000,000.00) in respect of all claims arising out of a single event or such higher amounts as the Minister may reasonably require; and
  - (b) be effected on a "claims occurring" basis so that any claim made by the Trustee Lessee under the policy after the expiration of the period of policy cover but relating to an event occurring during the currency of the policy will be covered by the policy subject to the claim meeting the policy's other terms and conditions; and
  - (c) be maintained at all times during the currency of this Trustee Lease, and upon receipt of any Notice of Cancellation, the Trustee Lessee must immediately effect another public liability insurance policy in accordance with the terms and conditions of this Trustee Lease.
- 14.2 The Trustee Lessee must forward a certificate of currency to the Trustee within 10 business days of the commencement of each respective renewal period.
- 14.3 The Trustee must, within 10 business days of becoming aware of any of the following occurrences, inform the Minister in writing, of any such occurrences:
- (a) the Trustee Lessee's failure to renew the public liability insurance cover as required under the terms and conditions of this Trustee Lease;
  - (b) the Trustee Lessee's failure to forward to the Trustee within 10 business days after the commencement of a renewal period for such cover, a copy of the certificate of currency as required under this Trustee Lease;
  - (c) receipt by the Trustee of a Notice of Cancellation in relation to such cover.
- 14.4 Clauses 14.1 to 14.3 will be satisfied if the Trustee Lessee is the State of Queensland or a statutory authority eligible for cover under the Queensland Government Insurance Fund and is insured and continues to be insured by the Queensland Government Insurance Fund.

QUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994  
and Water Act 2000

**SCHEDULE / ENLARGED PANEL /  
ADDITIONAL PAGE / DECLARATION**

Form 20 Version 2  
Page 6 of [ ]

Title Reference [ ] eLVAS Case Id [ ]

- 14.5 Clauses 14.1 to 14.3 will be satisfied if the Trustee Lessee is the Commonwealth of Australia or a statutory authority eligible for cover under the Comcover Insurance Fund and is insured and continues to be insured by Comcover.
- 14.6 Clauses 14.1 to 14.3 will be satisfied if the Minister approves by separate letter a replacement clause or clauses for inclusion in another document that forms part of this Trustee Lease. For this clause 14.6 to have effect, the replacement clause or clauses must be included in that other document and the original of the letter of approval must have been lodged in the land registry with a document that forms part of this Trustee Lease.
- 14.7 The Trustee Lessee must, as soon as practicable, inform the Minister and Trustee, in writing, of the occurrence of any event that the Trustee Lessee considers is likely to give rise to a claim under the policy of insurance effected and must ensure that the Minister and Trustee are kept fully informed of subsequent actions and developments concerning the claim.
- 14.8 To remove doubt, the requirements of clause 14 apply to any other area of the Trust Land used by the Trustee Lessee.

---

**15. RELEASE AND INDEMNITY**

- 15.1 The Trustee Lessee indemnifies and agrees to keep indemnified the Minister, the State of Queensland, and the Trustee ("the Indemnified parties") against all actions, suits, proceedings, claims, demands, costs, losses, damages and expenses ("Claim") arising out of or in any way connected to or resulting from the granting of this Trustee Lease to the Trustee Lessee or which is connected to or resulting from the Trustee Lessee's use and occupation of the Premises (all of which are referred to as "the indemnified acts or omissions") save to the extent that the Claim arises as a result of any negligent act or omission of the Indemnified parties, however, any negligent act or omission of one of the Indemnified parties does not negate the indemnity to any of the other Indemnified parties.
- 15.2 The Trustee Lessee hereby releases and discharges the Indemnified parties from any Claim relating to the indemnified acts or omissions which may be made against the Indemnified parties, save to the extent that the Claim arises as a result of any negligent act or omission of the Indemnified parties, however, any negligent act or omission of one of the Indemnified parties does not negate the release and discharge in favour of any of the other Indemnified parties.
- 15.3 To remove doubt, the Trustee Lessee specifically agrees that the indemnity provided by the Trustee Lessee in this clause 15 extends to any Claim (as defined by this clause 15) arising from the use of any other area of the Trust Land by the Trustee Lessee.

---

**16. POWER OF ATTORNEY**

- 16.1 The Trustee Lessee, other than if the Trustee Lessee is the Commonwealth of Australia or the State of Queensland, appoints the Trustee to act as the Trustee Lessee's attorney and authorises the Trustee to execute all such documents and to perform such acts on the Trustee Lessee's behalf as are necessary to procure the registration of a surrender of this Trustee Lease to the Trustee.
- 16.2 The Trustee must not use its power pursuant to this clause unless:
- (a) the Trustee Lessee has breached a term or condition of this Trustee Lease;
  - (b) the Trustee has given written notice of the breach to the Trustee Lessee and has allowed the Trustee Lessee 20 business days (or such other time as the Trustee may allow after taking into account what needs to be done and the time required to remedy the breach) from the delivery of that written notice to remedy the breach; and
  - (c) the Trustee Lessee has not remedied the breach by the expiration of the 20 business day period (or such other time as the Trustee has allowed);

and the Trustee is entitled to end this Trustee Lease as provided for under this clause 16 and take possession of the Premises.

QUEENSLAND LAND REGISTRY  
Land Title Act 1994, Land Act 1994  
and Water Act 2000

**SCHEDULE / ENLARGED PANEL /  
ADDITIONAL PAGE / DECLARATION**

Form 20 Version 2  
Page 7 of [ ]

Title Reference [ ]

eLVAS Case Id [ ]

**17. SURRENDER**

17.1 The Trustee Lessee, with the Trustee's consent, may, at any time during the Term, surrender this Trustee Lease. On surrender, clause 18 applies.

**18. TRUSTEE LESSEE'S OBLIGATIONS AT THE END OF THIS TRUSTEE LEASE**

- 18.1 At the end of this Trustee Lease, if the Trustee Lessee removes its Improvements from the Premises under this Trustee Lease or otherwise, the Trustee Lessee must restore and otherwise make good the Premises to a similar condition the Premises were in before the Commencement Date to the satisfaction of the Trustee.
- 18.2 At the end of this Trustee Lease, the Trustee Lessee must leave the Premises in a clean and tidy condition to the satisfaction of the Trustee.
- 18.3 The Trustee Lessee must maintain any insurance it is required to effect under clause 14 during any period in which it may remove its Improvements (the 'removal period').
- 18.4 During the removal period, the Trustee Lessee indemnifies, releases and discharges those persons stated in clause 15 to the same extent provided for under clause 15.

**19. CANCELLATION OF TRUSTEE LEASE**

- 19.1 If this Trustee Lease is cancelled under section 65 of the Act:
- (a) this Trustee Lease ends and no person has a right to a claim for compensation; and
  - (b) any Improvements not removed from the Trust Land become the property of the Trustee.

**20. REVOCATION OF DEDICATION OF WHOLE OR PART OF RESERVE OR CANCELLATION OF A DEED OF GRANT IN TRUST**

- 20.1 If the Trust Land is a reserve under the Act:
- (a) the Minister may revoke the dedication of all or part of the reserve under section 33 of the Act;
  - (b) on revocation of all or part of the reserve, this Trustee Lease, in relation to the land the subject of the revocation, is cancelled from the day the revocation of the dedication of the reserve takes effect under section 34D of the Act;
  - (c) if this Trustee Lease is cancelled, no person has a right to a claim for compensation for the revocation (as provided under section 34F(f) of the Act), and the Trustee Lessee must immediately vacate the Premises as required under section 34G of the Act;
  - (d) on cancellation of this Trustee Lease under section 34F, improvements (as defined in the Act) that have not been removed from the Trust Land become the property of the State subject to section 34H of the Act.
- 20.2 If the Trust Land is a deed of grant in trust under the Act:
- (a) the Governor in Council may cancel the deed of grant in trust under section 38 of the Act;
  - (b) on cancellation of the deed of grant in trust, this Trustee Lease is cancelled from the day the cancellation takes effect under section 38(6) of the Act;
  - (c) if this Trustee Lease is cancelled, no person has a right to a claim for compensation for the cancellation (as provided by section 38E(e) of the Act) and the Trustee Lessee must immediately vacate the Premises as required under section 38F of the Act;
  - (d) on cancellation of this Trustee Lease under section 38E, improvements (as defined in the Act) that have not been removed from the Trust Land become the property of the State subject to section 38G of the Act.

**END OF DOCUMENT**

Your reference  
Our reference 425/2019/MCU  
Contact Officer Sue Taylor  
Telephone (07) 3810 6986



**Ipswich City Council**

45 Roderick St  
PO Box 191  
Ipswich QLD 4305  
Australia

**Tel** (07) 3810 6666  
**Fax** (07) 3810 6731  
**Email** [council@ipswich.qld.gov.au](mailto:council@ipswich.qld.gov.au)  
**Web** [www.ipswich.qld.gov.au](http://www.ipswich.qld.gov.au)

Just Sports N Fitness  
[aaron@poolshopqld.com.au](mailto:aaron@poolshopqld.com.au)

4 February 2019

Dear Sir/Madam

**Re: Action Notice**  
**Application No: 425/2019/MCU**  
**Proposal: Material Change of Use - Recreation Use (Outdoor Recreation - Swimming Pool)**  
**Property Location: 19A Toongarra Road, LEICHHARDT QLD 4305**

I refer to your application submitted to Council on 23 January 2019 for Material Change of Use - Recreation Use (Outdoor Recreation - Swimming Pool) to be carried out on land situated at the above referenced property.

Section 51 of the *Planning Act 2016* specifies requirements for an application to be deemed "properly made". You are advised that the above referenced application is not properly made for the following reasons:

- The correct owner's consent has not been provided in accordance with section 51(2) of the *Planning Act 2016*. Specifically, the State Government is the owner of the land over which the application has been submitted, however no written land owners consent has been submitted with the application;
- The mandatory supporting information, as prescribed on the application forms, has not been supplied in accordance with section 51(1)(b)(i) of the *Planning Act 2016*. Specifically, no town planning assessment report has been submitted with the application. Further the submitted development application forms do not correctly define the proposal in accordance with the Schedule 1 'Dictionary' of the Ipswich Planning Scheme. The proposal would be correctly defined as a Recreation Use (Extension to Outdoor Recreation – New Swimming Pool) under the provisions of the Ipswich Planning Scheme;
- The application was not accompanied by the correct fee in accordance with section 51(1)(b)(ii) of the *Planning Act 2016* and pursuant to Council's Fees and Charges Schedule. The application fee is calculated based on the area of the use being applied for. In this instance, it would be calculated based on the area of the pool and any other new structures or buildings proposed. The applicant is requested to confirm the area of the use being applied for as it is unclear exactly what is proposed. The required fee applicable to the

proposal is either \$3,650 based on a use area of 200m<sup>2</sup> or less, or \$3,675 plus \$2.50 per m<sup>2</sup> over 200m<sup>2</sup>. As at the date of this letter, Council has received an amount of \$0.00.

In order to comply with section 51 of the *Planning Act 2016*, you must undertake the following actions for the application to be considered properly made:

- Provide signed and dated land owners consent. As the State Government owns the land, it is recommended you approach Council's property branch in the first instance to obtain further direction and advice with respect to the acquisition of owners consent. The property department may be contacted on [propertyrequests@ipswich.qld.gov.au](mailto:propertyrequests@ipswich.qld.gov.au) and 3810 6617;
- Pay the relevant application fee. You can pay over the phone by contacting 3810 6888;
- Provide an amended DA Form 1 'Development Application Details', correctly defining the proposal as Recreation Use (Extension to Outdoor Recreation – New Swimming Pool);
- Provide a town planning assessment report clearly outlining the development proposed and how the proposal complies with the relevant provisions of the Ipswich Planning Scheme and the State Planning Policy. Relevant provisions of the Ipswich Planning Scheme which should be addressed include:
  - The Recreation Zone Code (Part 4, division 17);
  - The Recreation and Entertainment Code (Part 12, division 11);
  - The Parking Code (Part 12, division 9)
  - The Development Constraint Overlay Code (Part 11)
- A copy of the state planning policy and interactive mapping can be viewed at <https://planning.dsdmip.qld.gov.au/planning/spa-system/plan-making-under-spa/state-planning-under-spa/state-planning-policy>

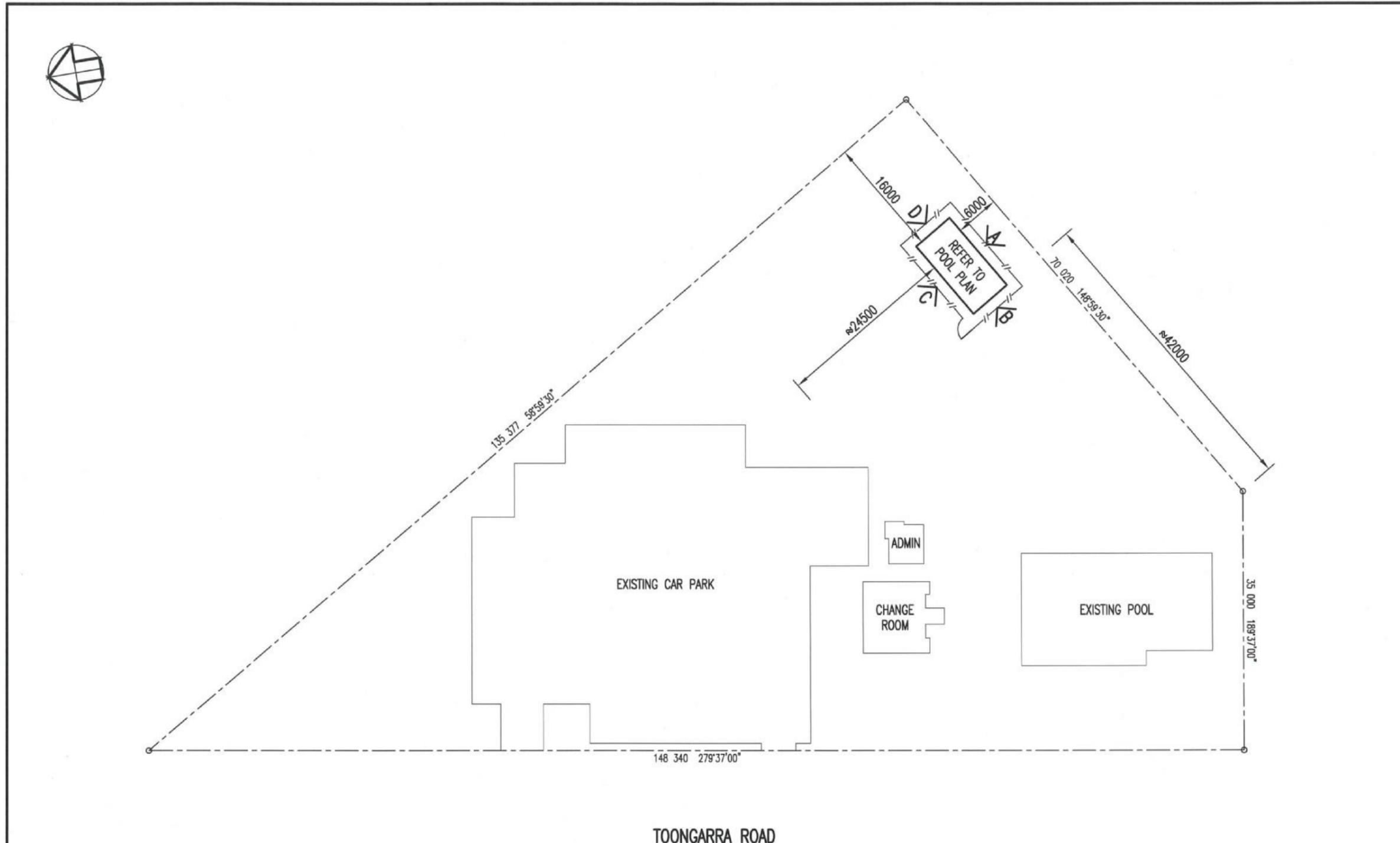
Council will not formally receive your application until such time as the above mentioned items are adequately provided to Council. You are requested to submit the above items within 20 business days of receipt of this notice, in order to make the application properly made. **A further period may be agreed in writing by the Assessment Manager upon written request for an extension.**

Pursuant to section 3.7 of the Development Assessment Rules under the *Planning Act 2016*, failure to respond to this notice within the designated time may result in the application being taken to have not been made. In this instance, Council will arrange to have your application returned and a refund of any application fee paid, less any applicable administration costs.

If you have any queries regarding this Action Notice, please contact Sue Taylor (Planner – Development) on the telephone number listed above.

Yours faithfully

Nikki Morrison  
**SENIOR PLANNER (DEVELOPMENT)**



NOTE: ALL SETOUT DIMENSIONS SUPPLIED BY THE BUILDER OR CLIENT. SETOUT DIMENSIONS TO BE CONFIRMED ON SITE.

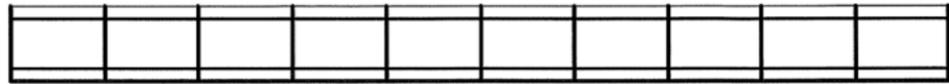
SOIL TEST BY THE SOIL TESTERS SHOWED SOIL TO BE HIGHLY REACTIVE H2. BUILDER TO ENSURE GROUND SLOPES AWAY FROM POOL IN ALL DIRECTIONS.

TOONGARRA ROAD  
**SITE PLAN**  
SCALE 1:500

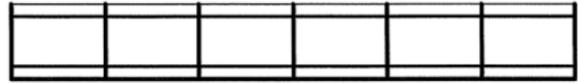
					CLIENT <b>AUSTRALIAN CRAWL GOODNA</b> <b>21 (19A) TOONGARRA ROAD,</b> <b>LEICHHARDT</b> <b>4305</b>			BUILDER <b>PLATINUM AQUATICS</b> <b>AUSTRALIA</b>			I CERTIFY THAT IF CONSTRUCTED IN ACCORDANCE WITH THESE DRAWINGS, THE PROJECT WILL BE STRUCTURALLY ADEQUATE COMPLYING WITH ALL RELEVANT AUSTRALIAN STANDARD AND CODES OF PRACTICE.  M. S. YOURELL R.P.E.Q. (8295) M.I.E. (AUST)			JOB NO. <b>18-2622</b>														
PH: (07) 3252 9822 FAX: (07) 3252 9844 info@newportengineers.com.au					Ground Floor 349 Coronation Drive Milton, QLD-4064			LOT NUMBER 39 CP 902321			DWG NO. <b>P01</b>																	
<table border="1"> <thead> <tr> <th>SUFF</th> <th>REVISION</th> <th>DATE</th> <th>DRAWN</th> <th>CHECKED</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>ISSUE FOR CONSTRUCTION</td> <td>31/10/2018</td> <td>NC</td> <td>MY</td> </tr> </tbody> </table>					SUFF	REVISION	DATE	DRAWN	CHECKED	A	ISSUE FOR CONSTRUCTION	31/10/2018	NC	MY				<table border="1"> <tr> <td>DRAWN</td> <td>NC</td> <td>DESIGNED</td> <td>MY</td> <td>APPROVED</td> <td>MY</td> </tr> </table>			DRAWN	NC	DESIGNED	MY	APPROVED	MY	SHEET 1	
SUFF	REVISION	DATE	DRAWN	CHECKED																								
A	ISSUE FOR CONSTRUCTION	31/10/2018	NC	MY																								
DRAWN	NC	DESIGNED	MY	APPROVED	MY																							

**NOTES**

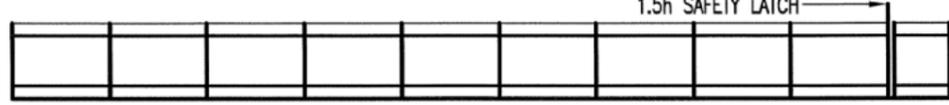
- P1 POOL BUILDER TO ENSURE ANY FOOTINGS OR ADJOINING STRUCTURES ARE NOT UNDERMINED BY POOL EXCAVATION. ANY UNDERPINNING REQUIRED SHALL BE DONE BEFORE EXCAVATION.
- P2 POOL WATER TO BE TREATED IN ACCORDANCE WITH AS 3633.
- P3 POOL AREA TO BE FENCED IN ACCORDANCE WITH AS 1926 - "FENCING FOR PRIVATE SWIMMING POOLS", AS 2818 - "GUIDE TO SWIMMING POOL SAFETY", BUILDING ACT 1975 CHAPTER 8 AND BUILDING REGULATION 2006 PART 4.
- P4 EMPTY POOL BY DISCHARGING TO STORMWATER, OR SEWER (AS DIRECTED BY COUNCIL).
- P5 FIX EARTHSTRAP TO REINF. BESIDE SKIMMER AND WIRE TO HOUSE CIRCUIT EARTHING SYSTEM.
- P6 IF POOL FOUNDED ON FILL ENGINEERS TO BE CONSULTED FOR PIER DESIGN.
- P7 ANY UNDERGROUND SERVICES SHOWN ON THIS PLAN ARE LOCATED IN GOOD FAITH FROM INFORMATION SUPPLIED TO US BY OTHERS. N.C.E. CARRIES NO RESPONSIBILITY FOR ACCURACY OF THE LOCATION OF SERVICES WHICH MUST BE LOCATED ON SITE BY OWNER.
- P8 IT IS THE BUILDERS RESPONSIBILITY THAT WHEN POOL EXCAVATION EXCEEDS 1500 DEEP, RISK TO ANY PERSON ARISING FROM THE COLLAPSE OF THE EXCAVATION / TRENCH OR ENGULFMENT MUST BE MINIMISED BY THE FOLLOWING, BUT NOT LIMITED TO : SHORING BY SHIELDING OR OTHER COMPARABLE MEANS (eg. BOXING) BATTERING OR BENCHING.



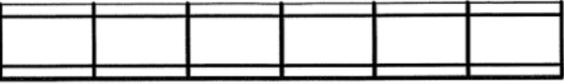
**FENCE ELEVATION A** SCALE 1:100  
15.0m REFER NOTE P3 ON SHEET 1.



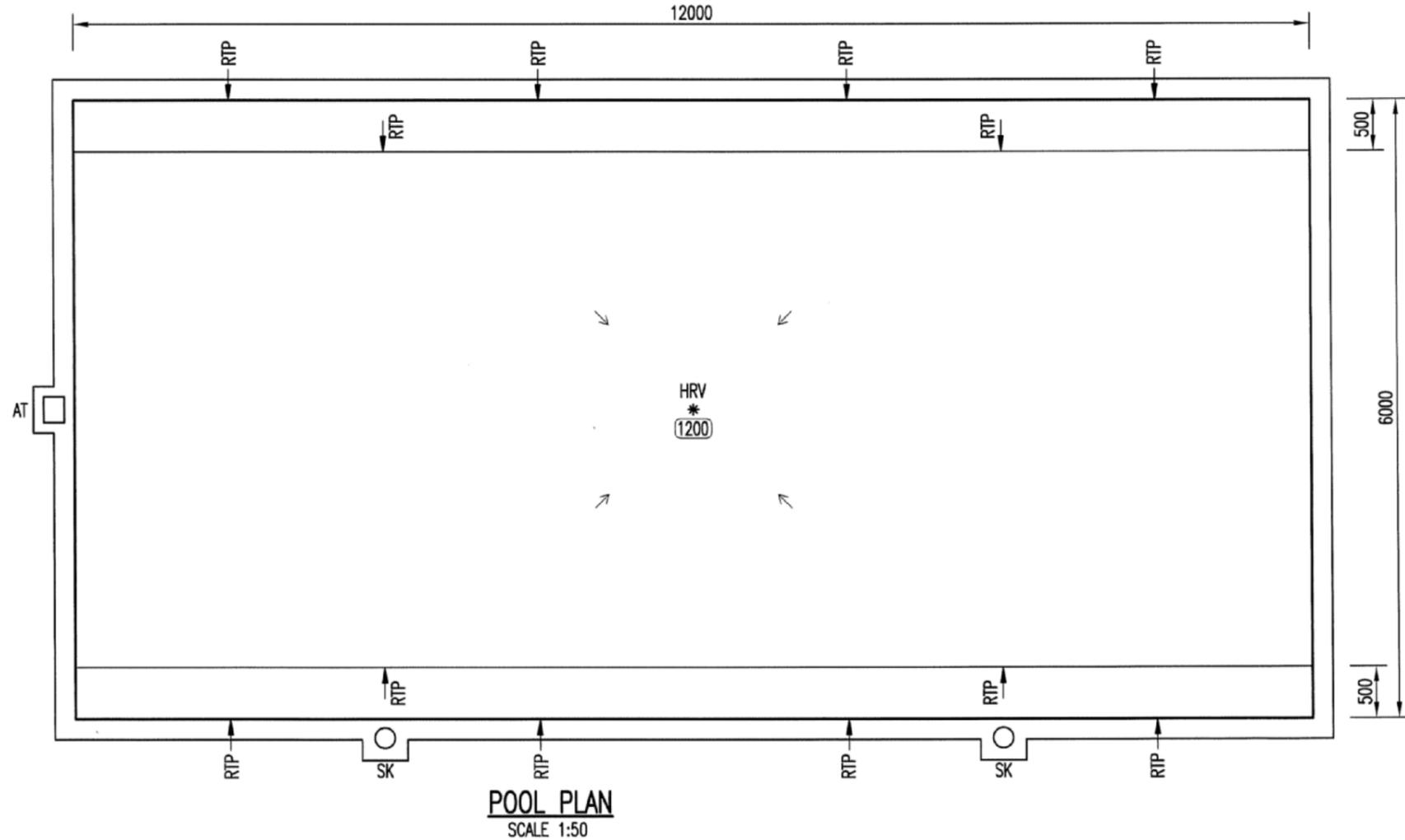
**FENCE ELEVATION B** SCALE 1:100  
9.0m REFER NOTE P3 ON SHEET 1.



**FENCE ELEVATION C** SCALE 1:100  
15.0m REFER NOTE P3 ON SHEET 1.

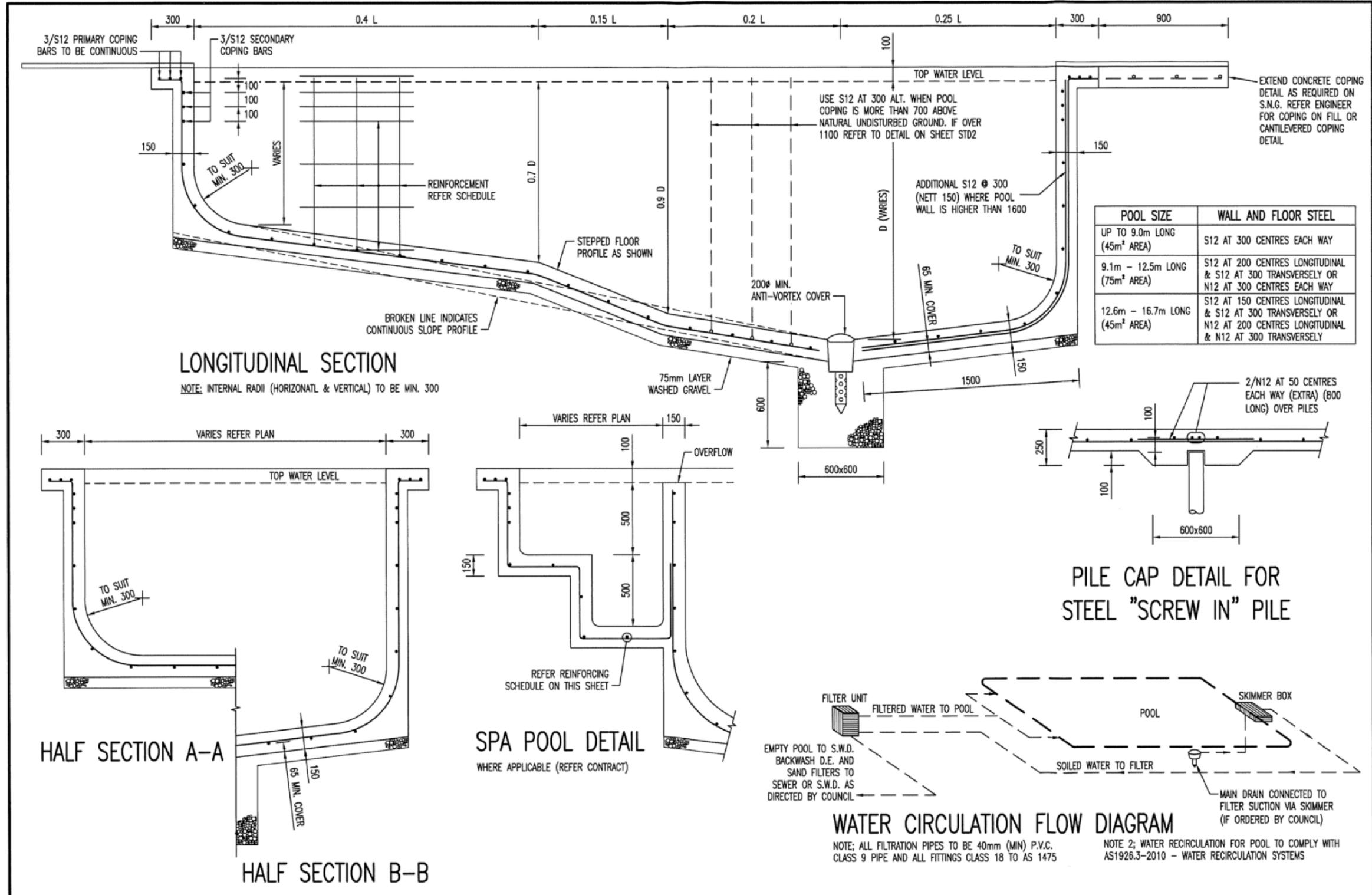


**FENCE ELEVATION D** SCALE 1:100  
9.0m REFER NOTE P3 ON SHEET 1.



POOL LEGEND	
SYMBOL	DESCRIPTION
AT	INDICATES AUTO TOP UP
SK	INDICATES SKIMMER BOX
RTP	INDICATES POOL RETURN (2 MIN, IF NOT SHOWN BUILDER TO CONFIRM ON SITE)
HRV *	INDICATES HYDROSTATIC RELIEF VALVE
s	INDICATES SEWER MAIN LINE
sw	INDICATES STORMWATER MAIN LINE
←	INDICATES FALL OF POOL FLOOR
+1200	INDICATES APPROXIMATE HEIGHT OF POOL WALL OUT OF GROUND.
■	INDICATES SAND FILTER LOCATED 300 MIN. FROM POOL FENCE, 1200 MIN. FROM TOP OF BOUNDARY POOL FENCE & ENCLOSED IN A SOUND PROOF BOX IF REQUESTED BY COUNCIL

	<p>Newport Consulting Engineers</p> <p>PH: (07) 3252 9822 FAX: (07) 3252 9844 info@newportengineers.com.au</p>	<p>CLIENT <b>AUSTRALIAN CRAWL GOODNA 21 (19A) TOONGARRA ROAD, LEICHHARDT 4305</b></p>	<p>BUILDER <b>PLATINUM AQUATICS AUSTRALIA</b></p>
<p>PH: (07) 3252 9822 FAX: (07) 3252 9844 info@newportengineers.com.au</p>		<p>Ground Floor 349 Coronation Drive Milton, QLD-4064</p>	
<p>LOT NUMBER 39 CP 902321</p>		<p>JOB NO. <b>18-2622</b></p> <p>DWG NO. <b>P02</b></p>	
<p>A ISSUE FOR CONSTRUCTION 31/10/2018 NC MY</p>		<p>DRAWN NC DESIGNED MY APPROVED MY SHEET 2</p>	



B	SIGNATURE BLOCK REVISED	01/02/2016	RM	GH
A	ISSUE FOR CONSTRUCTION	04/11/2015	NJS	MY
SUFF	REVISION	DATE	DRAWN	CHECKED

Newport  
Consulting Engineers

I certify that if constructed in accordance with these drawings, the project will be structurally adequate complying with all relevant Australian Standard and Codes of Practice.

M. S. YOURELL  
M.I.E. (AUST)  
R.P.E.Q. (8295)  
B.E. Civil (EC-43863)

PH: (07) 3252 9822  
FAX: (07) 3252 9844  
info@newportengineers.com.au

Ground Floor  
349 Coronation Drive  
Milton, QLD-4064

DRAWING NAME <b>STANDARD SWIMMING POOL STRUCTURAL DRAWING SHEET 1 OF 2</b>					JOB No <b>POOL</b>
DRAWN NJS					DWG No <b>STD2</b>
DESIGNED	MY	APPROVED	MY		

**REINFORCING AROUND SKIMMER BOX**  
ISOMETRIC VIEW

2000 WIDE RAMPED SURROUND FULLY GRASSED AND FREE OF ALL CULTIVATION

1200W. IMPERVIOUS MASONRY SURROUND IN 'H' SITES. REFER ENGINEER FOR 'E' CLASS SITES

SURFACE DRAIN TO STORMWATER SYSTEM

NOTE: ADVICE SHOULD BE SOUGHT FROM QUALIFIED PERSON WHEN PLANTING ANY TREE CLOSER THAN MATURE HEIGHT FROM A POOL IN EXPANSIVE CLAY

**EXPANSIVE CLAY SOILS PROVISIONS PLAN**  
NOTE: REFER FOUNDATION NOTE B

**CONSTRUCTION NOTES**

A THE STRUCTURE HAS BEEN DESIGNED IN ACCORDANCE WITH THE RELEVANT AUSTRALIAN AND BRITISH CODES OF PRACTICE. SAMPLING AND TESTING OF CONCRETE TO BE AS SET DOWN IN AS 3600-1987 CONCRETE STRUCTURE CODES

B CONCRETING SHALL BE CARRIED OUT IN ONE CONTINUOUS OPERATION AND SHALL BE APPLIED BY THE PNEUMATIC SPRAYED PROCESS. CONCRETE SHALL HAVE A MINIMUM ULTIMATE COMPRESSIVE STRENGTH (F<sub>c</sub>) OF 25 MPa AT 28 DAYS MIN CEMENT CONTENT OF 270 kg/m<sup>3</sup> AND MAX. 10 AGG. (ALL WORK IN ACCORDANCE WITH AS 3735)

**CURING**

A IMMEDIATELY AFTER THE PNEUMATIC CONCRETE HAS BEEN PLACED, IT SHOULD BE PROTECTED FROM PREMATURE DRYING BY SHADING FROM DIRECT SUN AND SHIELDING FROM WIND. AS SOON AS CONCRETE HAS HARDENED SUFFICIENTLY IT SHOULD BE THOROUGHLY WETTED AND THEREAFTER KEPT WET CONTINUOUSLY FOR AT LEAST 7 DAYS

**REINFORCEMENT**

A REINFORCEMENT SHOWN N12 SHALL BE 12mm DIAMETER DEFORMED BARS TO AS 1302. REINFORCEMENT TO BE SECURELY FIXED AND SUPPORTED TO OBTAIN CORRECT COVER TO BARS AS NOTED ON DRAWING. UNLESS NOTED OTHERWISE LAPS TO BARS TO BE 500

**GROUND WATER**

A THE DESIGN REQUIRES THAT GROUND WATER PRESSURE TO POOL WALLS AND FLOOR SLAB BE RELIEVED BY INSTALLATION OF A HYDROSTATIC VALVE WITH MAIN DRAIN DETAIL

B SURFACE WATER SHOULD BE DIRECTED AWAY FROM POOL

**POOL SIZE**

A THE MAXIMUM OVERALL SIZE OF POOL SHALL NOT EXCEED 100m<sup>2</sup> IN AREA OR 16.7m IN LENGTH

B THE DETAILS ON THIS DRAWING APPLY GENERALLY TO UNIFORMLY CURVED POOLS UNUSUAL SHAPES MAY REQUIRE SPECIAL CONSIDERATION

**FOUNDATIONS**

A WHERE POOL IS TO BE CONSTRUCTED IN ROCKY OR CLAYEY GROUND A 75mm LAYER OF 20mm DIAMETER (MAXIMUM) GRAVEL IS TO BE SPREAD UNDER POOL SLAB

B THIS STANDARD POOL DESIGN IS SUITABLE FOR CONSTRUCTION IN EXPANSIVE CLAY SOILS ONLY WHERE THE EXPANSIVE CLAY PROVISIONS SHOWN ON THIS DRAWING ARE ADHERED TO

C WHERE THERE ARE ANY VARYING FOUNDATIONS OVER POOL AREA OR WHERE UNDISTURBED SOUND NATURAL GROUND IS NOT ENCOUNTERED, REFER ENGINEER FOR FOUNDATION DESIGN

D ALL TOPSOIL AND ORGANIC MATTER UNDER POOL FLOOR IS TO BE REMOVED. THE DESIGN REQUIRES THAT THE POOL BASE BE CONSTRUCTED ON UNDISTURBED SOUND NATURAL GROUND (SNG) CAPABLE OF WITHSTANDING A MINIMUM BEARING PRESSURE OF NOT LESS THAN 75kPa UNLESS APPROVED BY ENGINEER

E WHERE THE POOL WALLS ARE NOT POURED AGAINST SOUND NATURAL GROUND TO THE LEVELS SHOWN ON THE DRAWING, THE DESIGN OF THE WALLS MAY NEED MODIFICATION. REFER TO ENGINEER

F IF OVER EXCAVATION IS REQUIRED TO ACHIEVE UNDISTURBED SOUND NATURAL GROUND TO THE UNDERSIDE OF THE POOL BASE, SEAT AND BENCH AREAS, THE OVER EXCAVATION SHALL BE BACKFILLED WITH 20mm SCREENINGS

**CONCRETE COVER**

A THE VERTICAL WALL REINFORCEMENT SHOWN ON THE "TYPICAL LONGITUDINAL SECTION" SHOULD BE NOMINALLY ON THE CENTRE LINE OF THE WALL AND SHOULD BE ACCURATELY BENT TO REMAIN CENTRAL AROUND THE CURVATURE AND INTO THE BASE

B THE MINIMUM COVER TO REINFORCEMENT ON BOTH FACES SHALL ALSO COMPLY WITH THAT SHOWN ON THE DRAWINGS

**SALT WATER POOL**

A IF SALT CHLORINATOR USED CONCENTRATION TO BE KEPT BELOW 10 000 P.P.M.

**200 WIDE COPING SECTION**  
(WHEN APPLICABLE REFER CONTRACT)  
150 THICK WALL -FOR 200 THICK WALL REFER SECTION BELOW

**300 WIDE COPING SECTION**

**POOL WALL SECTION WHERE OUT OF GROUND STRUCTURE EXCEEDS 1100 AND IS LESS THAN 3000**

**SECTION C-C**

**IMPORTANT NOTE:**  
WHERE SITE SPECIFIC STRUCTURAL DETAILING, SECTIONS AND REINFORCEMENT IS SHOWN TOGETHER WITH SHEET 1 THEN THOSE DETAILS TAKE PRECEDENCE AND THE STANDARD DRAWINGS ARE THERE FOR INFORMATION ONLY.

**REVISIONS**

SUFF	REVISION	DATE	DRAWN	CHECKED
B	SIGNATURE BLOCK REVISED	01/02/2016	RM	GH
A	ISSUE FOR CONSTRUCTION	04/11/2015	NJS	MY

**NEWPORT CONSULTING ENGINEERS**

PH: (07) 3252 9822  
FAX: (07) 3252 9844  
info@newportengineers.com.au

Ground Floor  
349 Coronation Drive  
Milton, QLD-4064

I certify that if constructed in accordance with these drawings, the project will be structurally adequate complying with all relevant Australian Standard and Codes of Practice.

M. S. YOURELL  
M.I.E. (AUST)  
R.P.E.Q. (8295)  
B.E Civil (EC-43863)

**STANDARD SWIMMING POOL STRUCTURAL DRAWING SHEET 2 OF 2**

DRAWN NJS DESIGNED MY APPROVED MY

JOB No **POOL**

DWG No **STD3**



QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 2 of 53

Title Reference 49101190

**TABLE OF CONTENTS**

<b>REFERENCE TABLE</b>	<b>4</b>
<b>PART A: INTERPRETATION</b>	<b>5</b>
1. Definitions	5
2. Interpretation	7
<b>PART B: LENGTH OF THE TRUSTEE LEASE</b>	<b>8</b>
3. Starting and ending	8
4. Not Used	8
<b>PART C: RENT</b>	<b>8</b>
5. Rent and other money	8
<b>PART D: OPERATING EXPENSES</b>	<b>8</b>
6. Payment of operating expenses	8
<b>PART E: OTHER PAYMENTS</b>	<b>9</b>
7. Services to premises	9
8. Trustee Lease and other costs	9
9. Interest on late payments	9
<b>PART F: SWIMMING POOL REQUIREMENTS</b>	<b>9</b>
10. Health and safety	9
11. Staff qualifications	10
12. Designated person in charge	11
13. Tests	12
14. Record keeping	12
15. Particular safety requirements	13
16. Opening hours	13
17. Admission Fees and Hourly Fees	14
18. Accidents	15
19. Lighting	15
20. Availability of Premises to Resident Swim Club	15
<b>PART G: RISKS AND INSURANCE</b>	<b>16</b>
21. The Trustee Lessee must have insurance	16
22. The Trustee Lessee releases and indemnifies the Trustee	16
<b>PART H: OBLIGATIONS GENERALLY</b>	<b>17</b>
23. Obey the law	17
24. Fire regulations	17
25. Using the Trustee Lease as security	18
26. The Trustee Lessee's behaviour	18
<b>PART I: THE TRUSTEE LESSEE'S OBLIGATIONS</b>	<b>18</b>
27. Using the PREMISES	18
28. Proper use of facilities	18
29. Uses with written consent	19
30. Prohibitions	19

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 3 of 53

Title Reference 49101190

<b>PART J: ALTERATIONS, REPAIRS, MAINTENANCE AND CLEANING</b>	<b>19</b>
31. Cleaning	20
32. Repairs and maintenance	20
<b>PART K: PERFORMANCE AND FINANCIAL MANAGEMENT</b>	<b>22</b>
33. Key performance indicators	22
34. Recording of revenue and expenditure	23
35. Inspection of books and accounts	24
36. Annual reporting	24
<b>PART L: ASSIGNMENT, SUBLETTING AND TRUSTEE LESSEE'S CORPORATE STATUS</b>	<b>25</b>
37. Consent	25
38. Deed of covenant	26
39. Formalities	26
40. Fees	26
41. Time for consent	26
42. Company Trustee Lessee	26
43. Association Trustee Lessee	26
<b>PART M: DEFAULT AND TERMINATION</b>	<b>27</b>
44. Remedy of breaches	27
45. Trustee may terminate	27
46. Power of attorney	28
<b>PART N: END DATE OBLIGATIONS</b>	<b>28</b>
47. When the Trustee Lease ends	28
48. Trustee Lessee's property at end of Trustee Lease	29
<b>PART O: THE TRUSTEE'S RIGHTS AND OBLIGATIONS</b>	<b>29</b>
49. The Trustee must obey the law	29
50. The Trustee Lessee's quiet enjoyment	29
51. The Trustee may enter onto the Trust Land	29
52. The Trustee may deal with the premises	29
53. Giving the Trustee's consent	30
54. Consent and Registration	30
<b>PART P: NOTICES</b>	<b>30</b>
55. Notices to be in writing	30
56. Serving notices	30
<b>PART Q: GENERAL MATTERS</b>	<b>30</b>
57. Queensland law applies	30
58. Property Law Act sections do not apply	31
59. Saturdays, Sundays and Public Holidays	31
60. No waiver	31
61. Additional Provisions	31
62. Special conditions	31
<b>SCHEDULES</b>	
Schedule 1 Maintenance schedule	32
Schedule 2 Key Performance Indicators	40
Schedule 3 Additional Provisions	41
Schedule 4 Special conditions	50
Schedule 5 Trustee's Assets	53

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

**Form 20** Version 2  
Page 4 of 53

**Title Reference 49101190**

**REFERENCE TABLE**

<b>Item 1:</b>	<b>Trustee Lessee</b> (clause 1.1)	AUSTRALIAN CRAWL (GOODNA) PTY LTD ACN 120 208 255
<b>Item 2:</b>	<b>land:</b> (clause 1.2)	LOT 39 ON CROWN PLAN 902321 TITLE REFERENCE 49101190
<b>Item 3:</b>	<b>starting date:</b> (clause 3)	01 DECEMBER 2021
<b>Item 4:</b>	<b>expiry date:</b> (clause 3)	30 NOVEMBER 2031
<b>Item 5:</b>	<b>rent:</b> (clause 5)	\$1.00 PER ANNUM (IF DEMANDED) EX <b>GST</b>
<b>Item 6:</b>	<b>use of land:</b> (clause 16)	THE PROVISION OF PUBLIC SWIMMING POOL AND KIOSK AND SPORTING GOODS OUTLET CONDUCTED INCIDENTALLY TO THE USE OF THE PREMISES AS A PUBLIC SWIMMING POOL
	<b>Caretaker's House:</b>	ONLY TO BE USED IN CONJUNCTION WITH THE GEORGIE CONWAY LEICHHART SWIM CENTRE
<b>Item 7:</b>	<b>bank guarantee amount:</b> (Schedule 3)	NOT APPLICABLE
<b>Item 8:</b>	<b>security bond amount:</b> (Schedule 3)	NOT APPLICABLE
<b>Item 9:</b>	<b>guarantor:</b> (Schedule 3)	JUSTIN WILLIAM LEMBERG

Title Reference 49101190

PART A: INTERPRETATION

1. DEFINITIONS

1.1 In the **Trustee Lease**:

- (a) **Trustee** means the person described in **item 1** of the Form 7 and its successors and assigns. Where relevant, it includes any manager, employee, or any person the **Trustee** authorises.
- (b) **Trustee Lessee** means the person described in **item 3** of the Form 7 and its successors and assigns. Where relevant, it includes the **Trustee Lessee's agents** and the **Trustee Lessee's** predecessor's in title under this **Trustee Lease**.

1.2 In the **Trustee Lease** words in the **reference table** have the meaning given to them in that table and words marked in bold have the following meaning:

- (a) **authority** includes the Ipswich City Council and any national, state, municipal or other governmental, statutory or other government approved **authority** or body having **authority** or jurisdiction over the **premises** or systems or services to which the **premises** are or will be connected.
- (b) **externally administered body corporate** means a body corporate:
  - (i) that is being wound up;
  - (ii) in respect of the property of which a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting;
  - (iii) that is under administration;
  - (iv) that has executed a deed of company arrangement that has not yet terminated; or
  - (v) that has entered into a compromise or arrangement with another person the administration of which has not been concluded.
- (c) **financial year** means 1 July to 30 June, or such other twelve (12) monthly period adopted by the **Trustee** from time to time for the purposes of the **premises**. Where applicable, it includes any lesser period between the start of the **Trustee Lease** and the end of a **financial year**, and between the start of the **financial year** and the end of the **Trustee Lease**.
- (d) **Good Neighbour Process** means the processes set out in **Schedule 3**, as varied or replaced by notification from the **Trustee** to the **Trustee Lessee** from time to time.
- (e) **GST** means a tax levied on a **supply**.
- (f) **item** means an **item** in the **reference table**.
- (g) **maintenance schedule** means the table of obligations and responsibilities of each **party** to this **Trustee Lease** relating to (amongst other matters) the inspection, cleaning, maintenance and repair of the **premises** (and, where the context permits, the **Trustee's property**), which is contained in **Schedule 1** of this **Trustee Lease**.
- (h) **minister** has the meaning given to it in the **prescribed terms**.
- (i) **operating expenses** means all money the **Trustee** pays or is obliged to pay concerning the **premises**, excluding **statutory charges**.
- (j) **party** means a **party** to this **Trustee Lease**.
- (k) **premises** means the **Trust Land** and all improvements on it and includes (where the context permits) the **Trustee's property**.

**SCHEDULE**

**Title Reference 49101190**

- (l) **prescribed terms** means the terms prescribed for **Trust Leases** under the *Land Act 1994* and/or the *Land Regulation 2020*.
- (m) **reference table** means the **reference table** forming part of this **Trustee Lease**.
- (n) **rent** means the yearly amount in **item 5**, as varied in accordance with this **Trustee Lease**.
- (o) **revenue** means the total of all amounts received or receivable for all goods or services sold, supplied or disposed of at or from the **premises** (whether cash, credit or otherwise and whether made by the **Trustee Lessee** or any other person other than where the **Trustee** receives the amount directly).
- (p) **schedule** means a **schedule** attached to and forming part of this **Trustee Lease**.
- (q) **special conditions** means the terms (if any) contained in **Schedule 4**
- (r) **statutory charges** means all rates (if levied), charges, duties, fees and taxes levied, imposed or otherwise payable now or in the future, by a or to any local government or **authority** relating to the **Trust Land** or the **premises**, including land tax. It includes the costs (exclusive of **GST**) incurred by the **Trustee** in making available to the **premises** any service for example, rubbish removal) which, if not made available by the **Trustee**, would be made available by a federal, state or local **authority** and would be subject to a rate, charge or tax levied by that federal, state or local **authority**.
- (s) **stipulated rate** a percentage interest rate per annum equal to the prime lending rate charged by the **Trustee's** bank plus five percent (5%).
- (t) **supply** means a **supply** of goods or services to the **Trustee Lessee** by the **Trustee**, including but not limited to the **supply** of the **premises** and other goods or services provided by the **Trustee** under this **Trustee Lease**.
- (u) **swimming club** means each of the following:
  - (i) a **swimming club**;
  - (ii) a school;
  - (iii) another body or group approved or specified by the **Trustee** from time to time
- (v) **trust land** means the **Trust Land** described in **item 2**
- (w) **trustee's property** means all assets identified in **Schedule 5** and all plant and equipment, fixtures, fittings, furniture, furnishings and decorations and other property in, on or fixed to the **premises** that are made available by the **Trustee** or that are (as between the **Trustee** and the **Trustee Lessee**) the property of the **Trustee**.
- (x) **trustee lease** means the Form 7 **Trustee Lease** and this **schedule** and includes the **prescribed terms**
- (y) **trustee's insurances** means any public liability, workers compensation, industrial special risks, personal injury and other insurances taken out by the **Trustee** in relation to the **premises** or this **Trustee Lease**.
- (z) **trustee lessee's agents** means the **Trustee Lessee's** employees, agents or any persons that the **Trustee Lessee** allows on the **premises**.
- (aa) **trustee lessee's business** means the business carried on from the **premises**.
- (bb) **trustee lessee's property** means all property on the **premises** except the **Trustee's property**, and includes all fixtures, fittings, signs, equipment and goods.

Title Reference 49101190

2. INTERPRETATION

2.1 Headings are for reference only and do not form part of this **Trustee Lease**.

2.2 In this **Trustee Lease**, unless the contrary intention appears:

- (a) the singular includes the plural, and the plural includes the singular;
- (b) reference to a gender includes any other gender;
- (c) other forms of defined words have corresponding meanings;
- (d) if an obligation is imposed on two or more parties, each **party** is liable for the obligation individually and together with each other person;
- (e) reference to a person includes any other entity or association;
- (f) reference to a **party** includes that **party's** personal representatives, successors and assignees;
- (g) reference to a document or law includes any variation or replacement of it;
- (h) reference to something which comprises more than one part or aspect includes a reference to each or any such part or aspect;
- (i) reference to a group of persons includes a reference to all of them collectively, any two or more of them collectively, and each of them individually; and
- (j) where the context permits, words used in this **Trustee Lease** have the same meaning as in the **prescribed terms**.

2.3 This **Trustee Lease** binds the **Trustee Lessee** and each guarantor from the starting date even if:

- (a) one or more of the parties has not executed this **Trustee Lease**; or
- (b) the execution of this **Trustee Lease** by any of the parties is or may become void or voidable.

2.4 This **Trustee Lease** does not bind the **Trustee** unless the **Trustee** and all other parties (or a lesser number as the **Trustee** shall consent to) have executed this **Trustee Lease**.

2.5 References to any right of the **Trustee** to have access to the **Trust Land** or **premises** are to be construed as extending to all persons authorised by the **Trustee** (including agents, professional advisers, contractors, workmen, prospective **Trustee Lessees** and purchasers of the **Trust Land** and others) and includes the right to take on to the **Trustee** Land all machinery, materials and appliances as the **Trustee** may deem necessary.

2.6 Unless application is mandatory by law, any law whether present or future, will not apply to this **Trustee Lease** so as to in any way prejudicially affect any of the rights of the **Trustee** under this **Trustee Lease**.

2.7 The waiver by the **Trustee** of any breach by the **Trustee Lessee** of any covenant must not in any circumstances be construed or operate as a licence to the **Trustee Lessee** to repeat or continue any such default or breach and no such waiver may be construed or operate as a waiver of any subsequent default or breach whether of a like nature or not. Any custom or practice which may grow between the parties in the course of administering this **Trustee Lease** must not be construed to waive or lessen the right of the **Trustee** to insist upon the performance by the **Trustee Lessee** of any covenant.

2.8 References to any authorities associations and bodies whether statutory or otherwise will in the event of such **authority**, association or body ceasing to exist or being reconstituted, renamed or replaced or the powers or functions thereof being transferred to any other **authority**, association or body be deemed to refer respectively to the **authority**, association, or body established or constituted in lieu thereof or, in the opinion of the **Trustee**, as nearly as may be succeeding to the powers or functions thereof.

Title Reference 49101190

- 2.9 Any reference to a law or statute includes all statutory provisions amending, consolidating or replacing the statute and all regulations, rules, by-laws, proclamations, orders and other authorities resulting from, contained in or pursuant to the statute.
- 2.10 Every obligation undertaken by any of the parties or arising from this **Trustee Lease** must, subject to any provisions of this **Trustee Lease** limiting the obligations of the **Trustee** and notwithstanding the form or context of the wording:
- (a) be deemed to be and be construed as a covenant by the **party** undertaking the obligation; and
  - (b) be construed as commencing on the starting date (whether or not this **Trustee Lease** is executed by all of the parties on or before that date) and continuing throughout the term and after that period, for so long as the obligation remains to be observed or performed.
- 2.11 In the event that any covenant for any reason whatsoever is acknowledged by the parties, or is adjudged by a court of competent jurisdiction or is held or rendered by any competent **authority** to be invalid, illegal or unenforceable, such covenant must be severed from the remainder of the covenants and the remainder of the covenants will subsist and remain in full force and effect unless the basic purpose or purposes of this **Trustee Lease** would be defeated.
- 2.12 Each person signing this **Trustee Lease**:
- (k) as attorney for any **party** warrants to the other **parties** that at the date of execution by him, he has not received any notice or information or the revocation of the power of attorney appointing him; and
  - (l) as an officer, agent or **Trustee** of any **party** warrants to the other **parties** that at the date of execution by him he has full **authority** to execute this **Trustee Lease** in that capacity.
- 2.13 To the extent of any inconsistency between this **Trustee Lease** and the **prescribed terms** the provisions of the **prescribed terms** shall prevail.

PART B: LENGTH OF THE TRUSTEE LEASE

3. STARTING AND ENDING

- 3.1 The **Trustee Lease** begins on the starting date in **item 3** and ends at midnight on the expiry date in **item 4**.

4. NOT USED

PART C: RENT

5. RENT AND OTHER MONEY

- 5.1 The **Trustee Lessee** must pay the **Trustee** the **rent** annually in advance, if demanded.

PART D: OPERATING EXPENSES

6. PAYMENT OF OPERATING EXPENSES

- 6.1 Unless specified elsewhere in this **Trustee Lease**, the **Trustee Lessee** is not required to contribute to the **operating expenses** of the **premises**. The **Trustee** must pay the **operating expenses**.

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

## SCHEDULE

Form 20 Version 2  
Page 9 of 53

Title Reference 49101190

### PART E: OTHER PAYMENTS

#### 7. SERVICES TO PREMISES

7.1 The **Trustee Lessee** must pay on time all rates (if levied), charges, duties, fees and taxes made directly against the **Trustee Lessee** for services separately supplied to the **premises**, for example telephone.

#### 8. TRUSTEE LEASE AND OTHER COSTS

8.1 The **Trustee Lessee** must pay all stamp duty and registration fees on this **Trustee Lease** (including the cost of preparing any plan of the **premises** in registrable form).

8.2 The **Trustee** may recover from the **Trustee Lessee**:

- (a) the **Trustee's** reasonable costs (including legal expenses) associated with any request for the **Trustee's** (and/or **Minister's**) consent to any assignment under this **Trustee Lease** or any other consent or approval from the **Trustee** (and/or **Minister**) required under this **Trustee Lease**; and
- (b) damages for the **Trustee's** loss (including legal expenses) associated with any actual or reasonably suspected breach of this **Trustee Lease**, other than a breach by the **Trustee**; and
- (c) any **GST** payable by the **Trustee** in relation to any **supply** (except to the extent that the **Trustee** is entitled to an input tax credit for such **GST**).

8.3 Unless expressly stated all amounts expressed in this **Trustee Lease** are **GST** exclusive amounts.

#### 9. INTEREST ON LATE PAYMENTS

9.1 If the **Trustee Lessee** is late in paying the **Trustee** any money, the **Trustee** may recover daily interest on the unpaid money at the **stipulated rate**, from the day after the unpaid money was due until the day it is paid in full.

9.2 On the last day of each month, the **Trustee** may add the interest to the unpaid money, and the **Trustee's** damages will include interest on the total amount.

### PART F: SWIMMING POOL REQUIREMENTS

#### 10. HEALTH AND SAFETY

10.1 The **Trustee Lessee** must:

- (a) at all times have in place a documented **Workplace Health and Safety Management System ("WHSMS")**; and
- (b) ensure that the WHSMS is at all times suitable for the nature of the activities carried on at or from the **premises** so as to ensure compliance with all applicable legal requirements relating to health and safety at the **premises**, including but not limited to:
  - (i) the **Trustee Lessee's** safety policy;
  - (ii) the identification of a responsible person for the **premises** and his or her responsibilities;
  - (iii) safety procedures;
  - (iv) training and induction;
  - (v) inspection and test plan and audit processes; and
  - (vi) safety records.

117307:8105096\_1

Title Reference 49101190

- (c) give the **Trustee** a full copy of the WHSMS whenever the **Trustee** asks for it; and
- (d) give the **Trustee** any evidence the **Trustee** requests to demonstrate whether the **Trustee Lessee** has complied with, or is complying with, the WHSMS; and
- (e) comply with a request under paragraph (c) or (d) promptly and in any event within seven (7) days.

**10.2** The **Trustee Lessee** must:

- (a) at all times have in place documented policies and procedures to comply, as a minimum, with the **Guidelines for Safe Pool Operations ("GSPO")** published from time to time by The Royal Life Saving Society Australia; and
- (b) give the **Trustee** a full copy of those policies and procedures whenever the **Trustee** asks for it; and
- (c) give the **Trustee** any evidence the **Trustee** requests to demonstrate whether the **Trustee Lessee** has complied with, or is complying with, those policies and procedures; and
- (d) comply with a request under paragraph (b) or (c) promptly and in any event within seven (7) days.

**10.3** In **clause 10.2**:

- (a) a reference to The Royal Life Saving Society Australia includes a reference to any organisation that succeeds to the functions or role of The Royal Life Saving Society Australia if the latter organisation is disbanded or otherwise ceases to exist; and
- (b) a reference to the GSPO includes a reference to any substitute document, or set of guidelines, dealing with the same or substantially the same subject matter as is dealt with by the GSPO as at the Commencement Date.

**11. STAFF QUALIFICATIONS**

**11.1** The **Trustee Lessee** must ensure that any employee or person working at the **Premises** at any time holds a current award or certificate in resuscitation and emergency care issued by at least one of:

- (a) The Royal Life Saving Society Australia;
- (b) Surf Life Saving Australia;
- (c) St John Ambulance Australia;
- (d) Queensland Ambulance Service;
- (e) the Red Cross Society Australia; and
- (f) an Australian state or territory constituent body of one of the above organisations.

**11.2** The **Trustee Lessee** must employ or engage efficient, competent and appropriately qualified attendants to:

- (a) supervise and monitor the use of each swimming pool on the **Premises**;
- (b) ensure the safety of people at or using the **Premises**; and
- (c) protect the **Premises** and the **Trustee's Assets**.

**11.3** For **clause 11.2**, a person is an appropriately qualified attendant only if he or she:

- (a) currently holds the award or certificate "**Pool Lifeguard**" issued by The Royal Life Saving Society Australia (or any equivalent course offered by that Society from time to time, with the Society's certification of what is an equivalent course being final and determinative);
- (b) is a competent swimmer;

Title Reference 49101190

- (c) satisfies **clause 11.1**; and
- (d) holds any further or other relevant qualifications specified by the **Trustee** from time to time.

**11.4** The **Trustee Lessee** must ensure that:

- (a) a specified person is always in charge of the swimming pools on the **Premises** whenever the **Premises** are open to the public; and
- (b) the specified person in charge is someone who:
  - (i) currently holds the award or certificate "Pool Lifeguard" issued by The Royal Life Saving Society Australia (or any equivalent course offered by that Society from time to time, with the Society's certification of what is an equivalent course being final and determinative);
  - (ii) currently holds an award or certificate mentioned in **clause 11.1**;
  - (iii) holds a current certificate of the qualifications covered by subparagraphs (i) and (ii) from a qualified examiner who is acceptable to the **Trustee** (acting reasonably);
  - (iv) is a competent swimmer; and
  - (v) holds any further or other relevant qualifications specified by the **Trustee** from time to time.

**11.5** The **Trustee Lessee** must keep a record of the names of the staff and workers who are from time to time, or who have been, employed or engaged at the **Premises**. The **Trustee Lessee** must include in that record:

- (a) the details of the qualifications, swimming and lifesaving ability, records and qualifications to show whether the **Trustee Lessee** has complied with the requirements of this **clause 11**;
- (b) the details of the days and hours worked by that person; and
- (c) any other details that the **Trustee** lawfully directs the **Trustee Lessee** to include.

**12. DESIGNATED PERSON IN CHARGE**

**12.1** The **Trustee Lessee** must ensure that an individual is continuously appointed by the **Trustee Lessee** as the person who is primarily responsible for the day-to-day running, maintenance, lubrication and cleanliness of all swimming pool and water treatment plant at the **Premises**. This person is called the "designated person".

**12.2** The **Trustee Lessee** must, on request, notify the **Trustee** of the name of the designated person.

**12.3** The **Trustee Lessee** must ensure that the designated person:

- (a) is a person who is acceptable to the **Trustee**; and
- (b) is not a person who the **Trustee** has decided, on reasonable and lawful grounds, is not suitable to be the designated person.

**12.4** The **Trustee Lessee** must ensure that the designated person has successfully completed or enrolls in, undertakes and successfully completes the first of the following courses available after the Commencement Date or the person's appointment as a designated person:

- (a) the Swimming Pool Plant Operators Course or an equivalent course conducted by an accredited trainer acceptable to the **Trustee**; or
- (b) another course acceptable to the **Trustee** in its discretion.

**12.5** The **Trustee Lessee** must give the **Trustee** a certificate of the successful completion of the course promptly after the appointment of the designated person or the end of the course,

Title Reference 49101190

**12.6** If the designated person ceases to be appointed by the **Trustee Lessee** to be primarily responsible for the day-to-day running, maintenance, lubrication and cleanliness of all swimming pool and water treatment plant at the **Premises**, the **Trustee Lessee** must within seven (7) days:

- (a) notify the **Trustee** of that fact;
- (b) appoint a new designated person; and
- (c) notify the **Trustee** of the appointment.

**13. TESTS**

**13.1** The **Trustee Lessee** must ensure that a free chlorine, total chlorine and pH test of the water in each swimming pool on the **Premises** is taken:

- (a) at the time on each day when the pool is first opened for use by members of the public;
- (b) at least once every two (2) hours from that time until the pool is closed; and
- (c) at further or other times the **Trustee** specifies.

**13.2** The **Trustee Lessee** must keep records of those tests.

**13.3** Whenever the pool is open to the public, the **Trustee Lessee** must ensure that the chlorine and pH test readings are always within the range required under:

- (a) any applicable law, regulation, local law or policy; or
- (b) the range specified by the **Trustee** from time to time.

**13.4** Subject to clause 13.5, the **Trustee** will supply the **Trustee Lessee** with the chemicals reasonably required to enable the **Trustee Lessee** to comply with its obligations under clause 13. For the avoidance of doubt, any equipment required by the **Trustee Lessee** to comply with its obligations under clause 13 is to be supplied by the **Trustee Lessee** at the **Trustee Lessee's** cost.

**13.5** The obligations of the **Trustee** under clause 13.4 are subject to the following:

- (a) the chemicals will remain the property of the **Trustee** until they are used by the **Trustee Lessee** to comply with its obligations under clause 13.
- (b) the **Trustee** gives no warranty about the chemicals, and the **Trustee Lessee** must satisfy itself that the chemicals are fit for their intended purpose and are of merchantable quality before using them;
- (c) the **Trustee Lessee** cannot require the **Trustee** to acquire chemicals:
  - (i) from any particular supplier; or
  - (ii) that are a particular brand or make.
- (d) the **Trustee Lessee** must give the **Trustee** reasonable advance notice before the **Trustee Lessee** runs out of the chemicals held by the **Trustee Lessee** and previously supplied to the **Trustee Lessee** by the **Trustee**.

**14. RECORD KEEPING**

**14.1** The **Trustee Lessee** must keep a record containing details, on a daily basis, of:

- (a) all chemicals used in connection with the purification of water in or for any swimming pool on the **Premises**;

Title Reference 49101190

- (b) the number of persons entering the pool (showing separate daily totals for adults and children under seventeen (17) years of age);
  - (c) the time when the filters have been backwashed; and
  - (d) any other particulars or information that the **Trustee** requires from time to time.
- 14.2** The **Trustee Lessee** must keep any record given to or obtained by the **Trustee Lessee** of any test or analysis of water in or for the pool.
- 15. PARTICULAR SAFETY REQUIREMENTS**
- 15.1** The **Trustee Lessee** must ensure that no person, other than staff employed or engaged by the **Trustee Lessee**, is at the **Premises** when any swimming pool is being emptied or filled.
- 15.2** The **Trustee Lessee** must ensure that no springboard, diving board, trampoline or similar implement or thing is placed or installed at any time in, next to or near any swimming pool on the **Premises**.
- 15.3** The **Trustee Lessee** must ensure that at all times, except to the extent necessary for the **Trustee Lessee** to comply with its other obligations under the **Trustee Lease**, a minimum of two (2) lanes in the main swimming pool on the **Premises** are kept open for use by the general public. If there is more than one swimming pool on the **Premises**, the **Trustee** may designate which one is the main swimming pool and the **Trustee's** designation is determinative.
- 16. OPENING HOURS**
- 16.1** The **Trustee Lessee** must ensure that the **Premises** are kept open to the general public on every day except:
- (a) Christmas Day and Good Friday; and
  - (b) any day during a period of closure under **clauses 16.3, 16.4 or 16.5**;
- during the hours:
- (c) specified or approved from time to time by the **Trustee** (which may revoke the specification or approval at any time); or
  - (d) if there are no hours specified or approved — from 7am to 6pm
- 16.2** The **Trustee Lessee** does not breach **clause 16.1** by closing the **Premises** in an emergency or during hours during which the **Trustee Lessee** cannot lawfully comply with **clause 16.1**.
- 16.3** If the main swimming pool on the **Premises** is not heated or in the opinion of the **Trustee** is not suitable for use during winter months, the **Trustee Lessee** may (and must if required by the **Trustee**) close the **Premises** to the general public during the official winter closure period specified or approved by the **Trustee**.
- 16.4** If the **Trustee Lessee** requires the main swimming pool on the **Premises** to be closed temporarily for the purpose of carrying out maintenance on the pool, the **Trustee Lessee**:
- (a) may close the **Premises** to the general public for a reasonable period to allow that maintenance to be carried out; and
  - (b) must notify the **Trustee** as soon as practicable of the **Trustee Lessee's** decision to close the **Premises** and for how long the **Trustee Lessee** intends to close the **Premises** and, after the closure, of the period for which the **Premises** were closed.
- 16.5** If the **Trustee** requires the main swimming pool on the **Premises** to be closed temporarily for the purpose of carrying out any work on the pool, the **Trustee Lessee** must close the **Premises** to the general public for a period specified by the **Trustee** to allow that work to be carried out.

Title Reference 49101190

- 16.6** With respect to the Caretaker's House on the Premises:
- (a) The **Trustee Lessee** must, at its own cost, maintain the Caretaker's House in a clean and tidy condition.
  - (b) The **Trustee Lessee** is responsible for its personal property within the Caretaker's House and only the directors and employees of the **Trustee Lessee** are entitled to occupy the Caretaker's House.
  - (c) If the Caretaker's House is used as a place of residence or mainly as a place of residence, then the provisions of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) will:
    - (i) apply to the Caretaker's House; and
    - (ii) prevail (to the extent of any inconsistency) over this **Trustee Lease** with respect to the **Caretaker's House** only.
- 17. ADMISSION FEES AND HOURLY FEES**
- 17.1** The **Trustee Lessee** may from time to time charge Admission Fees and Hourly Fees.
- 17.2** On or around 30 January in each year, the **Trustee** may give the **Trustee Lessee** a set of median figures for proposed Admission Fees or Hourly Fees or both. The median figures will be generated by the **Trustee** from benchmarking corresponding fees of similar facilities within South East Queensland.
- 17.3** The **Trustee Lessee** must, on or before 31 March in each year, give the **Trustee** a proposed **schedule** of Admission Fees and Hourly Fees to take effect on the next 1 July.
- 17.4** After the **Trustee Lessee** has given the **Trustee** a proposed **schedule**, the **Trustee** must notify the **Trustee Lessee** whether or not the **Trustee** approves it. The **Trustee** will not unreasonably withhold approval if each **item** in the proposed **schedule** does not exceed the median figures by more than five percent (5%). The **Trustee** may approve, or decide not to approve, the proposed **schedule** in whole or in part.
- 17.5** The **Trustee Lessee** must not charge to or recover from any person any fee, charge or other payment for:
- (a) entering or being on the **Premises**; or
  - (b) using any swimming pool or other facility at the **Premises**; or
  - (c) any service supplied at the **Premises**,
- unless the fee, charge or payment is an Admission Fee or an Hourly Fee. For the purposes of the **Trustee Lease**, an "Admission Fee" is a fee which:
- (a) is charged to a person for the right to enter the **Premises** and use any swimming pool on the **Premises**;
  - (b) is in an amount which is, or which is calculated in accordance with:
    - (i) the **Trustee Lessee's** tender for this Lease; or
    - (ii) a proposed **schedule** approved by the **Trustee** under **clause 17.4**; or
    - (iii) an approval given to the **Trustee Lessee** by the **Trustee**; and
  - (c) is charged in circumstances provided in or necessarily contemplated by:
    - (i) the **Trustee Lessee's** tender for this Lease; or
    - (ii) a proposed **schedule** approved by the **Trustee** under **clause 17.4**; or
    - (iii) an approval given to the **Trustee Lessee** by the **Trustee**.
- 17.6** For the purposes of the **Trustee Lease**, an "Hourly Fee" is a fee which:

**SCHEDULE**

**Title Reference 49101190**

- (d) is charged to a **Swimming Club** for a club swim, carnival or similar event; and
- (e) is in an amount which is, or which is calculated in accordance with:
  - (i) the **Trustee Lessee's** tender for this Lease; or
  - (ii) a proposed **schedule** approved by the **Trustee** under **clause 17.4**; or
  - (iii) an approval given to the **Trustee Lessee** by the **Trustee**; and
- (f) is charged in circumstances provided in or necessarily contemplated by:
  - (i) the **Trustee Lessee's** tender for this Lease; or
  - (ii) a proposed **schedule** approved by the **Trustee** under **clause 17.4**; or
  - (iii) an approval given to the **Trustee Lessee** by the **Trustee**.

**18. ACCIDENTS**

**18.1** If an accident occurs at the **Premises** and a person is injured or appears to have suffered an injury or potential injury, the **Trustee Lessee** must:

- (a) immediately notify the nearest ambulance centre; and
- (b) then notify the **Trustee's** delegate responsible for the administration of the **Trustee Lease** by the quickest available method.

**18.2** If a danger or misadventure affecting or potentially affecting any person or property occurs at or affects the **Premises** (including any incident involving a water pipe or electrical light wirings or filings), the **Trustee Lessee** must immediately notify the **Trustee's** delegate responsible for the administration of the **Trustee Lease**.

**18.3** If a major theft or loss of property occurs or is alleged to have occurred at or from the **Premises**, the **Trustee Lessee** must:

- (c) immediately notify the nearest police station; and
- (d) then notify the **Trustee's** delegate responsible for the administration of the **Trustee Lease** by the quickest available method.

**18.4** The **Trustee Lessee** must keep records of any matters referred to in this **clause 18**.

**19. LIGHTING**

**19.1** The **Trustee Lessee** must ensure that any swimming pool, administration building and other area used or able to be used by swimmers, spectators and other members of the public at the **Premises** are lit by adequate electric lighting during times when the **Premises** are open to the public if:

- (a) it is dark; or
- (b) there is insufficient natural light for the safety and convenience of swimmers, spectators and members of the public.

**19.2** The **Trustee Lessee** must promptly replace all broken, burnt out or unserviceable lamps, bulbs or fluorescent tubes with lamps, bulbs or tubes of at least an equivalent quality and intensity.

**20. AVAILABILITY OF PREMISES TO RESIDENT SWIM CLUB**

**SCHEDULE**

**Title Reference 49101190**

- 20.1** The **Trustee Lessee** must allow the Resident Swim Club and all members and guests of the Resident Swim Club to use the **Premises** during the Designated Hours.
- 20.2** The **Trustee Lessee** must not allow people who are not members or guests of the Resident Swim Club to use the swimming pools at the **Premises** during the Designated Hours unless the Resident Swim Club agrees.
- 20.3** The **Trustee Lessee's** obligations under the **Trustee Lease** continue during the Designated Hours. Nothing in this **clause 20** prevents the **Trustee Lessee** from charging the Resident Swim Club, or members or guests of the Resident Swim Club, Admission Fees or Hourly Fees if the **Trustee Lessee** could otherwise charge them under the **Trustee Lease**,
- 20.4** The "Resident Swim Club" is:
- (a) the Railway **Swimming Club**; or
  - (b) if the **Trustee** specifies a different entity or group to be the Resident Swim Club by notice to the **Trustee Lessee** - that specified entity or group.
- 20.5** The "Designated Hours" are:
- (a) the hours that are agreed between the **Trustee Lessee** and the Resident Swim Club from time to time; or
  - (b) if the **Trustee** specifies a period not exceeding half a day in each week that will be the Designated Hours (for example, between specified hours on a set day in every week) by notice to the **Trustee Lessee** - each of those specified periods.

**PART G: RISKS AND INSURANCE**

**21. THE TRUSTEE LESSEE MUST HAVE INSURANCE**

- 21.1** The **Trustee Lessee** must take out on or before the starting date and keep current during the term of this **Trustee Lease** the following insurance policies:
- (a) a public liability insurance policy for at least twenty million dollars (\$20,000,000.00) (in respect of any single event) or such higher amount as the **Trustee** advises the **Trustee Lessee**;
  - (b) an insurance policy for the **Trustee Lessee's property** for its full replacement value;
  - (c) workers' compensation;
  - (d) any other insurance required by law or by the **Trustee** (acting reasonably).
- 21.2** The **Trustee Lessee** must ensure that the **Trustee Lessee's** insurance policies note the interest of the **Trustee**.
- 21.3** The **Trustee Lessee** must give the **Trustee** evidence of the **Trustee Lessee's** insurance policies at the commencement of this **Trustee Lease**, upon the renewal of the relevant insurance policy and at any other time the **Trustee** reasonably asks.
- 21.4** The **Trustee Lessee** must not do anything that will invalidate the **Trustee's insurances**, reduce the amount of cover or increase any premium.
- 21.5** If the provisions of this **clause 10** are inconsistent with the **prescribed terms**, for the avoidance of doubt, the **prescribed terms** will prevail.

**22. THE TRUSTEE LESSEE RELEASES AND INDEMNIFIES THE TRUSTEE**

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 17 of 53

**Title Reference 49101190**

- 22.1** The **Trustee Lessee** occupies and uses the **premises** and the **Trustee Lessee's property** at the **Trustee Lessee's** own risk. The **Trustee Lessee** also carries out any works to the **premises** (where permitted under this **Trustee Lease**) at the **Trustee Lessee's** own risk.
- 22.2** The **Trustee Lessee** indemnifies the **Trustee** against any cost, expense action or demand due to any damage, loss, injury or death caused by any of the following (except to the extent caused or contributed to by the **Trustee's** negligent act or omission):
- (a) the **Trustee Lessee's** act, omission or negligence;
  - (b) the **Trustee Lessee's** use or occupation of the **premises**;
  - (c) the **Trustee Lessee's** use or occupation of the **Trustee Lessee's property**;
  - (d) services to the **premises**;
  - (e) a breach of this **Trustee Lease** by the **Trustee Lessee**;
  - (f) anything done by the **Trustee** under **clause 44.2**.
- 22.3** The **Trustee Lessee** releases the **Trustee** from any action or demand due to any damage, loss, injury or death arising from anything occurring on or in the **premises** unless caused by or contributed to the **Trustee's** negligent act or omission.

**PART H: OBLIGATIONS GENERALLY**

**23. OBEY THE LAW**

- 23.1** The **Trustee Lessee** must obey any law that requires the **Trustee Lessee** to do anything, or not to do anything concerning the **premises**, the **Trustee Lessee's** use of the **premises**, the **Trustee Lessee's property**, the **Trustee Lessee's business** or the **Trustee Lease**.
- 23.2** Without limiting **clause 23.1**, the **Trustee Lessee** must comply with all notices, orders, requisitions and requirements issued under any laws or by any **authority** which relate to:
- (a) the **premises**;
  - (b) the **Trustee's property**; and
  - (c) the **Trustee Lessee's** use and occupation of the **premises**.
- 23.3** Without limitation, the obligations imposed on the **Trustee Lessee** under this **clause 23** include an obligation to comply with all local laws made by Ipswich City Council. If there is any inconsistency between a provision of this **Trustee Lease** and a provision of any local laws, the provision of the local law prevails to the extent of the inconsistency. However, there is no inconsistency just because of the provisions is more onerous on the **Trustee Lessee**.

**24. FIRE REGULATIONS**

- 24.1** Without limiting **clause 23**, the **Trustee Lessee** must:
- (a) comply with insurance, sprinkler and fire alarm regulations and any lawful directions given by the **Trustee** or any relevant **authority**;
  - (b) pay to the **Trustee** the cost of any alterations to the sprinklers or fire alarm installation which is necessary because the **Trustee Lessee** has not completed with the regulations and requirements of the **Trustee**, any relevant **authority**, the Insurance Council of Australia or the **Trustee's** insurer;
  - (c) carry out fire drills when required;

117307:8105096\_1

Title Reference 49101190

- (d) comply with emergency evacuation procedures;
- (e) appoint fire controllers and fire wardens;
- (f) install and maintain first response fire equipment in the **Premises**;
- (g) give to the **Trustee** from time to time when reasonably required by the **Trustee** (but at least annually) a written testing plan satisfactory to the **Trustee** for the regular testing and maintenance of all electrical equipment in or on the **premises** (including portable equipment that is not permanently installed in the **premises**);
- (h) comply with those testing plans; and
- (i) give the **Trustee** written reports or other evidence as and when required by, and satisfactory to, the Council to show that the **Trustee Lessee** has complied with its obligations under this **clause 24.1**.

25. USING THE TRUSTEE LEASE AS SECURITY

- 25.1 The **Trustee Lessee** must get the **Trustee's** (and, where required, the **Minister's**) consent before the **Trustee Lessee** uses the **Trustee Lease** or the **Trustee Lessee's property** as security.

26. THE TRUSTEE LESSEE'S BEHAVIOUR

- 26.1 The **Trustee Lessee** must not do anything that is, or may be, dangerous or unreasonably annoying or offensive or that may interfere with other **Trustee Lessees** or people in any adjacent property.

PART I: THE TRUSTEE LESSEE'S OBLIGATIONS

27. USING THE PREMISES

- 27.1 The **Trustee Lessee** may only use the **premises** for the purpose set out in **item 6**.
- 27.2 The **Trustee Lessee** must comply with the **prescribed terms**.
- 27.3 The **Trustee Lessee** represents and warrants that it has relied exclusively on its own enquiries in connection with this **Trustee Lease** and not on any representation or warranty made or given by the **Trustee** or on the **Trustee's** behalf except as set out in this **Trustee Lease** and that the **Trustee** has not represented and warranted that the **premises** are suitable or may be used for the purpose set out in **item 6**.
- 27.4 The **Trustee Lessee** acknowledges that the principal purpose for which this **Trustee Lease** has been granted is to facilitate the use of the **premises** for the benefit of the community. It is an essential condition of this **Trustee Lease** that the **Trustee Lessee** take reasonable steps to ensure that this objective is achieved.
- 27.5 The **Trustee Lessee** must carry on the **Trustee Lessee's business** and use the **premises** to the best of its ability and in a professional and competent way.
- 27.6 Without limiting any other provision of this **Trustee Lease**, the **Trustee Lessee** must comply with the reasonable requirements of the **Trustee** in relation to the proper management of the **premises**, including (but not limited to) in relation to cleanliness, control of vermin, emergency drills and procedures, and installation, operation and maintenance of equipment.

28. PROPER USE OF FACILITIES

Title Reference 49101190

**28.1** The **Trustee Lessee** must:

- (a) use the toilets, sinks, drainage and plumbing facilities in the **premises** only for the purpose for which they were constructed or provided and must not deposit any rubbish in those facilities;
- (b) only prepare or cook food in an area installed and properly equipped for those purposes;
- (c) prohibit smoking within all buildings on the **premises**.

**29. USES WITH WRITTEN CONSENT**

**29.1** The **Trustee Lessee** must not, without the prior written consent of the **Trustee** (and, where required, the **Minister**):

- (a) display any signs or place any installations on the **premises**;
- (b) fence the **premises** or any part of them;
- (c) use the **premises** at any hours other than those permitted by law or advised by the **Trustee** from time to time; or
- (d) use any form of light, power or heat other than electrical current or gas supplied through meters (except auxiliary power or lighting, other than an exposed flame, during power failures or restrictions) on the **premises**; or
- (e) keep or use any inflammable explosive or volatile materials on the **premises**; or
- (f) interfere with any services to the **premises**.

**30. PROHIBITIONS**

**30.1** The **Trustee Lessee** must not:

- (a) obstruct access to, overload or damage the services to the **premises**; or
- (b) damage or destroy anything on the **premises**; or
- (c) do anything dangerous, noxious, annoying, offensive, immoral or illegal on the **premises**; or
- (d) do anything to pollute the **premises** or its environment; or
- (e) lodge a caveat against the title to the **premises** unless this **Trustee Lease** must be registered to protect the **Trustee Lessee's** interests under it and the caveat protects those interests until registration.

**30.2** The **Trustee Lessee** must not destroy, cut down, deface, mutilate, remove or damage any tree, shrub, bush, hedge, plant or landscaping which may now or at any time be growing, planted or constructed upon the **Trust Land** without the prior approval of the **Trustee** and, where required, the **Minister**.

**30.3** The **Trustee Lessee** must not sell or dispose of any earth, clay, gravel or sand from the **Trust Land** except in accordance with the directions of the **Trustee** (and, where required, with the consent of the **Minister**).

**30.4** Nothing in **clauses 30.2** or **30.3** limits the obligations of the **Trustee Lessee** under the **prescribed terms** in relation to the clearing of vegetation.

**PART J: ALTERATIONS, REPAIRS, MAINTENANCE AND CLEANING**

Title Reference 49101190

31. CLEANING

31.1 The **Trustee Lessee** must:

- (a) keep the **premises** thoroughly clean;
- (b) keep the **premises** free from weeds (subject to **clause 30.2**) and pests;
- (c) remove any useless property from the **premises**;
- (d) remove all wet refuse daily and all other refuse periodically from the **premises**; and
- (e) store all refuse in proper receptacles located in the **premises**.

32. REPAIRS AND MAINTENANCE

32.1 **General Repair and Maintenance Obligations**

- (a) Without limiting any other provision of this **Trustee Lease**, the **Trustee Lessee** must:
  - (i) maintain and repair and keep the **Trustee Lessee's property** in good condition, and repair all damage caused to the **Trustee Lessee's property** (including structural repairs) regardless of the cause of the damage;
  - (ii) keep the **premises** in good repair;
  - (iii) repair or replace all broken glass that is damaged by the wilful or negligent act of the **Trustee Lessee**, the **Trustee Lessee's** employees, agents, members, guests or invitees, with glass of the same or substantially similar quality;
  - (iv) promptly make good any damage to the **premises** that it causes or is caused by the **Trustee Lessee's** employees, members, guests or invitees to the reasonable satisfaction of the **Trustee**;
  - (v) comply in all respects with the obligations specified as being the responsibility of the **Trustee Lessee** in the **maintenance schedule**.
- (b) For the purposes of subparagraph (a) '**good repair**' is to be assessed having regard to the condition of the **premises** at the **starting date** (or an earlier date, being the date that the **Trustee Lessee** first took possession or entered into occupation of the **premises**).

32.2 **Maintenance schedule**

- (a) Both **parties** agree to comply in all respects with the obligations and responsibilities outlined in the **maintenance schedule**.
- (b) If there is any inconsistency between the terms of this **Trustee Lease** and the **maintenance schedule**, the **maintenance schedule** will prevail to the extent of the inconsistency.

32.3 **Trustee Lessee Repair Obligations**

- (a) The **Trustee Lessee** must repair or reinstate any part of the **premises** that are damaged or destroyed by:
  - (i) vandalism, wilful destruction, wilful damage and graffiti where such damage was caused or contributed to by the **Trustee Lessee** and/or the **Trustee Lessee's agents**;
  - (ii) a risk for which the **Trustee Lessee** is required by this **Trustee Lease** to hold insurance (regardless of whether the **Trustee Lessee** actually holds that insurance or can recover under that insurance);
  - (iii) an **insured risk** if the **Trustee Lessee** caused or contributed to the damage or destruction such that the **Trustee** is either unable to make an insurance claim or recover the full amount that would otherwise have been recoverable from the insurer,

Title Reference 49101190

but otherwise, the **Trustee Lessee** does not have to repair or reinstate a part of the **premises** damaged or destroyed by an **insured risk**.

- (b) **This clause** is to be read subject to each **party's** responsibilities outlined in the **maintenance schedule**.
- (c) In this **clause 32**, an "**insured risk**" means a risk for which the **Trustee** insures in respect of the **premises** from time to time.

**32.4 Structural Repairs and Maintenance**

Subject to the obligations and responsibilities outlined in the **maintenance schedule** and special conditions 2 and 3 in **Schedule 4**, the **Trustee Lessee** is not required to undertake maintenance or repairs of a structural nature, unless required as a result of:

- (a) failure by the **Trustee Lessee** to comply with its obligations under this **Trustee Lease**;
- (b) the **Trustee Lessee's** act, neglect or default;
- (c) a requirement under a law or a requirement of an **authority** arising from or relating to the **Trustee Lessee's** particular use of the **premises**;
- (d) a requirement under a law or a requirement of an **authority** arising from or relating to the characteristics of people at or using the **premises**; or
- (e) a requirement reasonably imposed by the **Trustee** to do such work in order to eliminate or reduce danger to the **premises**, people at or who may enter or use the **premises** or any neighbouring land or people at or who may enter the neighbouring land.

**32.5 Alterations or Additions**

- (a) The **Trustee Lessee** must not:
  - (i) make any structural alteration or addition to the **premises** (regardless of whether the **Trustee Lessee** is required to do so under **clause 32.4**);
  - (ii) install any electrical wiring, equipment or appliance to provide water, gas, lighting, air-conditioning, heating, cooling or ventilation to the **premises**;
  - (iii) install any partitions; or
  - (iv) carry out any other works to the **premises** (other than in compliance with its obligations under this **Trustee Lease**),without first obtaining the **Trustee's** approval.
- (b) The **Trustee Lessee** must ensure that any work it does at or to the **premises** under **clause 32.5** or otherwise in compliance with its obligations under this **Trustee Lease** is done:
  - (i) in a proper and workmanlike manner;
  - (ii) by contractors approved by the **Trustee** (the **Trustee** must not unreasonably withhold its approval);
  - (iii) without causing unreasonable disturbance to neighbouring property owners; and
  - (iv) in accordance with:
    - (A) any conditions imposed by the **Trustee** (including about what parts of the works are to remain or be removed and what is to be reinstated and to what condition when this **Trustee Lease** ends);

Title Reference 49101190

- (B) any plans or specifications or **schedule** of finishes approved by the **Trustee** (the **Trustee** must not unreasonably withhold its approval);
- (C) all laws and the requirements of all relevant **authorities**; and
- (D) the **Trustee** other reasonable requirements and directions.

**32.6 Notice to Repair**

- (a) The **Trustee** may serve the **Trustee Lessee** with a notice requiring the **Trustee Lessee** to repair or maintain, within a reasonable time, a defect, **item** or matter which is the **Trustee Lessee's** responsibility under this **Trustee Lease**.
- (b) If the **Trustee Lessee** does not comply with a notice given to the **Trustee Lessee** under subparagraph (a) within the time specified in the notice, the **Trustee** may carry out the repair to the defect or maintain the **item** or complete the matter, at the **Trustee Lessee's** expense.
- (c) The **Trustee Lessee** must advise the **Trustee** of any repair or maintenance work required at the **premises** or to the **Trustee's property** which is not the responsibility of the **Trustee Lessee** under this **Trustee Lease** as soon as the **Trustee Lessee** becomes aware that the work is required.

**32.7 Signage**

- (a) The **Trustee Lessee** must obtain the written consent of the **Trustee**, and (where required) the **Minister**, before erecting any signs or advertising devices on the **premises**.
- (b) The **Trustee Lessee** must comply with all relevant laws in relation to any approved signs or advertising devices.
- (c) When this **Trustee Lease** ends, the **Trustee Lessee** must remove all signage and advertising devices erected by the **Trustee Lessee** and make good any damage to the **premises** caused by the erection or removal of such signage and advertising devices.

**32.8 Prescribed terms to prevail**

Nothing in **clause 32** limits the obligations of the **Trustee Lessee** under the **prescribed terms** as they apply to the **Trustee Lessee's** duty of care for the **Trust Land**.

**PART K: PERFORMANCE AND FINANCIAL MANAGEMENT**

**33. KEY PERFORMANCE INDICATORS**

**33.1** The **Trustee** may from time to time notify the **Trustee Lessee** (in writing) of:

- (a) key performance indicators ('**KPI's**') against which the **Trustee** proposes to assess the standard and quality of performance by the **Trustee Lessee** in carrying out its obligations under this **Trustee Lease**; and
- (b) the quantitative data or qualitative criteria to which the **Trustee** proposes to have regard in making that assessment.

**33.2** Unless and until the **Trustee** notifies the **Trustee Lessee** of any replacement, amended, altered or new **KPI's** (and, if relevant, the data or criteria to which the **Trustee** proposes to have regard) the **KPI's** are those set out in **Schedule 2**.

**33.3** The **Trustee Lessee** acknowledges that it is a condition of this **Trustee Lease** that the **Trustee Lessee** meets the **KPI's**, and must, during the term, achieve the **KPI's** to the **Trustee's** satisfaction.

**33.4** If a **KPI** or a performance indicator corresponding to a **KPI** is expressed as an obligation or expectation:

- (c) the **Trustee Lessee** must fulfil that obligation or achieve that expectation;

Title Reference 49101190

- (d) the **Trustee** must act reasonably in determining whether the obligation has been fulfilled or the expectation has been met; and
- (e) if the **Trustee** decides that the **Trustee Lessee** has not fulfilled an obligation or achieved an expectation, then the **Trustee Lessee** has committed a breach of this **Trustee Lease**.

**33.5** Neither the KPI's, nor anything done in administering the KPIs, reduces or abrogates any other obligation of the **Trustee Lessee** under this **Trustee Lease** or relieves the **Trustee Lessee** from its obligations to comply with this **Trustee Lease**.

**34. RECORDING OF REVENUE AND EXPENDITURE**

**34.1** The **Trustee Lessee** must maintain detailed records recording the **Revenue** of the **Trustee Lessee's business**, including the following categories of that **Revenue**:

- (a) income received from third parties who may pay to use or hire any of the areas or facilities within the **premises**, and including income received from any sublessee, licensee, concessionaire or other occupier of any part or parts of the **premises**;
- (b) income or funds received as a result of any grant or other funding provided to the **Trustee Lessee** by an **authority** or otherwise;
- (c) other sundry income;
- (d) any further or other categories that the **Trustee** notifies to the **Trustee Lessee** from time to time.

**34.2** The **Trustee Lessee** must maintain detailed records recording expenditure in relation to the management and operation of the **Trustee Lessee's business**.

**34.3** The **Trustee Lessee** must ensure that the records required to be maintained under this **Trustee Lease** are:

- (a) prepared and compiled according to:
  - (i) any standards that the **Trustee** decides and notifies to the **Trustee Lessee** from time to time; and
  - (ii) except to the extent that those standards otherwise require, the accounting standards applying from time to time under the *Corporations Act 2001*(Cth),
- (b) of sufficient detail to comply with any reasonable requirements of the **Trustee**;
- (c) kept in a format that the **Trustee** reasonably specifies from time to time;
- (d) kept at the **premises** (unless the **Trustee** otherwise consents);
- (e) readily accessible and retrievable (so that the **Trustee Lessee** can comply with its obligations under this **Trustee Lease**, including under **clause 34**).

**34.4** Unless the **Trustee** has specified otherwise, the records must be kept in the form of a document or book on paper, or electronically on a computer; and may consist of more than one document.

**34.5** The **Trustee Lessee** must give copies of all records to the **Trustee** at the end of the **Trustee Lease**, if requested by the **Trustee**.

**34.6** The **Trustee Lessee**:

- (a) warrants and represents to the **Trustee** that each of the reports will be accurate, up-to-date, not incomplete in any material particular and not misleading; and
- (b) is taken to repeat that warranty and representation every time the **Trustee Lessee** gives the **Trustee** one of those reports.

Title Reference 49101190

**35. INSPECTION OF BOOKS AND ACCOUNTS**

- 35.1** The **Trustee** may at any time after giving the **Trustee Lessee** at least five (5) days' notice, inspect the **Trustee Lessee's** books and accounts recording or relating to the **Revenue** and expenditure of the **Trustee Lessee's** business.
- 35.2** The **Trustee's** notice must describe, in general terms, the books and accounts that the **Trustee** wishes to inspect.
- 35.3** Following receipt of the **Trustee's** notice, the **Trustee Lessee** must:
- (a) notify the **Trustee** of the location of the books and accounts described in the **Trustee's** notice;
  - (b) ensure that on the date appointed for the inspection, those books and accounts are at the place that the **Trustee Lessee** notifies the **Trustee**;
  - (c) let the **Trustee** enter that place on the nominated date;
  - (d) let the **Trustee** inspect, copy and make reproductions of or take extracts from the books and accounts; and
  - (e) give any assistance, and provide any facilities, that the **Trustee** reasonably requests in order to exercise its rights to inspect, copy and make reproductions of or take extracts from the books and account.
- 35.4** For the purposes of this **Trustee Lease**, "books and accounts" includes:
- (a) invoices, receipts, orders for payment of money, bills of exchange, cheques, promissory notes and vouchers;
  - (b) documents of prime entry;
  - (c) working papers and other documents needed to explain the methods by which any document or report the **Trustee Lessee** is required to give the **Trustee** under this **Trustee Lease** is, has been or will be made up;
  - (d) returns, financial statements and other documents that the **Trustee Lessee** is required to lodge, or has lodged under any law; and
  - (e) registers, records or information and documents (including those in electronic form).

**36. ANNUAL REPORTING**

- 36.1** The **Trustee Lessee** must, within three (3) months of the end of each **financial year**, give the **Trustee** a report containing:
- (a) the details of the records kept by the **Trustee Lessee** under **clause 34.1** and **34.2**;
  - (b) a copy of its annual financial statements (as at the preceding 30 June), including profit and loss statement and balance sheet, certified as correct by a registered auditor; and
  - (c) written details (in a form reasonably acceptable to the **Trustee**) of the number of individuals registered as members of the **Trustee Lessee's** organisation as at the preceding 30 June.
  - (d) the measures taken by the **Trustee Lessee** during the **financial year** to achieve the principal purpose of the **Trustee Lease** as detailed in **clause 27.4** (for example, a report which details how members or other groups in the community have benefited from the use of the **premises** during the **financial year**);
  - (e) the measures taken by the **Trustee Lessee** during the **financial year** to achieve **KPI's**;
  - (f) the **Trustee Lessee's** assessment of its performance against the **KPI's** during the **financial year**;
  - (g) details of repairs, maintenance and any other work carried out to or at the **premises** during the **financial year**;

Title Reference 49101190

- (h) any other matter or information that the **Trustee** notifies the **Trustee Lessee** that it requires be included in the report from time to time.
- 36.2** Without limiting **clause 36.1**, whenever the **Trustee Lessee** is required to lodge with its regulator a document, return or report that is:
- (a) an annual or other periodic return or report; or
- (b) a notification of a change in the governing body of the **Trustee Lessee**,
- the **Trustee Lessee** must give a copy of that document, return or report to the **Trustee**.
- 36.3** In **clause 36.2**:
- (a) '**governing body**' means the governing body of the **Trustee Lessee** whatever called, including a board of directors if the **Trustee Lessee** is a company and a management committee if the **Trustee Lessee** is an incorporated association; and
- (b) '**regulator**' means the body or office responsible for administering the *Corporations Act 2001* (Cth), *Associations Incorporation Act 1981* (Qld) or any other law under which the **Trustee Lessee** is incorporated from time to time.

**PART L: ASSIGNMENT, SUBLETTING AND TRUSTEE LESSEE'S CORPORATE STATUS**

**37. CONSENT**

- 37.1** The **Trustee Lessee** must not assign part of the **Trustee Lease**.
- 37.2** The **Trustee Lessee** must not:
- (a) assign the whole of the **Trustee Lease**; or
- (b) give a sublease, licence or concession of, or share or part with possession of, any part of the **premises**, without first obtaining the **Trustee's** and the **Minister's** written consent.
- 37.3** The **Trustee** must not unreasonably withhold its consent to a dealing mentioned in **clause 37.2** if:
- (c) The **Trustee Lessee**:
- (i) gives the **Trustee** written notice of its intention detailing full particulars of the proposed assignee, sublessee, licensee or concessionaire; and
- (ii) pays the **Trustee's** reasonable costs, whether or not the dealing proceeds;
- (iii) the written consent of the **Minister** is obtained; and
- (d) the proposed assignee, sublessee, licensee or concessionaire:
- (i) is a **community organisation**;
- (ii) satisfies the **Trustee** that it is a respectable and financially sound person, capable of performing the obligations of the **Trustee Lessee**; and
- (iii) gives the covenants, indemnities and bank and personal guarantees that the **Trustee** reasonably requires.
- (e) For the purposes of this **clause 37**, **community organisation** means an entity that is a non-profit entity or otherwise exists for a public purpose.

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

**Form 20** Version 2  
Page 26 of 53

**Title Reference 49101190**

**38. DEED OF COVENANT**

**38.1** The **Trustee Lessee** and the assignee, sublessee, licensee or concessionaire must enter into a deed with the **Trustee** before the assignment, sublease, licence or concession is effected in the form required by the **Trustee** containing:

- (a) a covenant that the assignee, sublessee, licensee or concessionaire will comply with the **Trustee Lessee's** obligations under the **Trustee Lease** (including the **prescribed terms**); and
- (b) a release by the **Trustee Lessee** (and its **guarantor**) of any claim they may then or subsequently have against the **Trustee**.

**39. FORMALITIES**

**39.1** The **Trustee Lessee** must ensure that (before the assignment, sublease, licence or concession is effected) the assignee, sublessee, licensee or concessionaire gives to the **Trustee**:

- (a) the indemnities and bank and personal guarantees that the **Trustee** reasonably requires; and
- (b) a copy of the executed and stamped (if applicable) document effecting and containing the terms of the assignment, sublease, licence or concession.

**40. FEES**

**40.1** The **Trustee Lessee** must pay to the **Trustee** a non-refundable fee to cover the administrative expenses and also its reasonable costs (including legal costs on a full indemnity basis) and disbursements for the matters referred to in this Part L (including costs associated with obtaining the consent of the **Minister**).

**41. TIME FOR CONSENT**

**41.1** The **Trustee** must not unreasonably delay in informing the **Trustee Lessee** whether or not it consents to the proposed assignment sublease, licence or concession.

**42. COMPANY TRUSTEE LESSEE**

**42.1** If the **Trustee Lessee** is a company, the **Trustee Lessee** must not:

- (a) pass a resolution to modify, amend or repeal its constitution; or
  - (b) pass a special resolution to change to a company of a **different** type under section 162 of the *Corporations Act 2001* (Cth); or
  - (c) enter into any scheme or arrangement; or
  - (d) call or convene a meeting at which such a resolution is to be considered,
- without first obtaining the **Trustee's** (and, if required, the **Minister's**) approval.

**43. ASSOCIATION TRUSTEE LESSEE**

**43.1** If the **Trustee Lessee** is an association incorporated under the *Associations Incorporation Act 1981* (Qld), the **Trustee Lessee** must not:

Title Reference 49101190

- (a) pass a special resolution to amalgamate with another incorporated association or to register as a cooperative under that Act; or
  - (b) pass a special resolution to amend its rules; or
  - (c) call or convene a meeting at which a special resolution is to be considered,
- without first obtaining the **Trustee's** (and, if required, the **Minister's**) approval.

**PART M: DEFAULT AND TERMINATION**

**44. REMEDY OF BREACHES**

**44.1** If the **Trustee Lessee** does not comply with any of the **Trustee Lessee's** obligations under this **Trustee Lease**, the **Trustee** may give the **Trustee Lessee** a notice that tells the **Trustee Lessee**:

- (a) what obligation has not been complied with; and
- (b) what the **Trustee** requires the **Trustee Lessee** to do in order to remedy the non-compliance.

**44.2** If the **Trustee Lessee** does not comply with the **Trustee's** notice within a reasonable time, or if the **Trustee Lessee** does not comply with an obligation under this **Trustee Lease** and the **Trustee** reasonably considers that the non-compliance cannot be remedied, the **Trustee** may:

- (a) do anything reasonably necessary to remedy (or to remedy as far as possible) the **Trustee Lessee's** non-compliance; and
- (b) recover from the **Trustee Lessee**, as a liquidated debt, the costs and expenses incurred by the **Trustee** (including costs and expenses attributable to the use of the **Trustee's** facilities and people) in doing so.

**44.3** Without limiting **clause 44.2**, the **Trustee** may do any one or more of the following:

- (a) if the **Trustee Lessee's** breach is a breach of an essential term, re-enter and take possession of the **premises**;
- (b) if the **Trustee Lessee's** breach is a breach of an essential term, terminate the **Trustee Lease**;
- (c) recover from the **Trustee Lessee** any loss the **Trustee** suffers, due to the **Trustee Lessee's** breach;
- (d) use any **Security Bond** or claim under any **bank guarantee** to recover any loss the **Trustee** suffers, due to the **Trustee Lessee's** breach;
- (e) exercise any of the **Trustee's** other legal rights.

**44.4** The essential terms of the **Trustee Lease** are **clauses 5, 7, 8, 9, 21, 22, 23, 24, 27, 32, 33, 34, 36, 37, 42, 43** and **57**, and any other term of this **Trustee Lease** that is expressed to be an essential term or that the **Trustee** notifies the **Trustee Lessee**, in writing, is an essential term.

**45. TRUSTEE MAY TERMINATE**

**45.1** The **Trustee** may terminate this **Trustee Lease** if:

- (a) the **Trustee Lessee**, being an individual, becomes bankrupt;
- (b) the **Trustee Lessee**, being a corporation, becomes an **externally administered body corporate**;
- (c) the **Trustee Lessee**, being an incorporated association under the *Associations Incorporation Act 1981* (Qld) (the '**Act**');

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 28 of 53

**Title Reference 49101190**

- (i) is wound up under the **Act**; or
  - (ii) any resolution, proceeding or step is taken for the winding up of the **Trustee Lessee** (regardless of whether it culminates in the winding up of the **Trustee Lessee**); or
  - (iii) has its incorporation under the **Act** cancelled.
- (d) all or any part of the **premises** is compulsorily acquired or otherwise taken, given or dedicated for any other public purpose;
- (e) any form of tenure under which **Trustee** holds all or any part of the **premises** is resumed, cancelled or forfeited, expires or otherwise comes to an end;
- (f) the **premises** are destroyed; or
- (g) the **premises** are damaged to the extent that the **Trustee** considers the **premises** to no longer be fully usable and the **Trustee** decides not to fix the damage.
- 45.2** If the **Trustee** exercises its right to terminate this **Trustee Lease**, the **Trustee** can still exercise any other right or power against the **Trustee Lessee** arising from any conduct, act or omission that happened before the termination.
- 45.3** The **Trustee** is not liable to pay the **Trustee Lessee** any compensation if the **Trustee** terminates the **Trustee Lease**.
- 46. POWER OF ATTORNEY**
- 46.1** This **clause 46** applies subject to the mandatory standard terms (which shall prevail to the extent of any inconsistency).
- 46.2** After the **Trustee Lease** ends or after a breach of the **Trustee Lease** by the **Trustee Lessee**, the **Trustee Lessee** appoints the **Trustee** and any one or more of the **Trustee's** officers, directors and secretaries from time to time as the **Trustee Lessee's** attorney to:
- (a) sign a surrender of this **Trustee Lease** and register that surrender on the **Trustee Lessee's** behalf;
  - (b) do anything else and sign any other document on the **Trustee Lessee's** behalf relating to the **Trustee Lessee's property**, the **premises** or the **Trustee Lease**.

**PART N: END DATE OBLIGATIONS**

**47. WHEN THE TRUSTEE LEASE ENDS**

- 47.1** When the **Trustee Lease** ends, the **Trustee Lessee** must:
- (a) ensure that the **premises** (including the **Trustee's property**) are in **good repair** (as that term is defined in **clause 32.1** of this **Trustee Lease**) and in a condition consistent with the **Trustee Lessee** having complied with its obligations under this **Trustee Lease**;
  - (b) carry out any repairs and make good any damage to the **premises** or the **Trustee's property** which are the responsibility of the **Trustee Lessee** under this **Trustee Lease**;
  - (c) ensure that all of the obligations specified as being the responsibility of the **Trustee Lessee** in the **maintenance schedule** have been fully complied with;
  - (d) if requested by the **Trustee**, reinstate the **premises** or the **Trustee's property** to their configuration, layout or condition (to the reasonable satisfaction of the **Trustee**) prior to the **Trustee Lessee** having made any approved alterations or additions in accordance with **clause 32.5** of this **Trustee Lease**;

Title Reference 49101190

- (e) if requested by the **Trustee**, remove any of signs which have been installed by or at the request of the **Trustee Lessee**, which are outside or inside the **premises**, and repair any damage caused by their installation or removal to the reasonable satisfaction of the **Trustee**;
- (f) ensure that the **premises** and the **Trustee's property** are clean and free from rubbish; and
- (g) give the **Trustee** all keys and access devices that the **Trustee Lessee** has for the **premises**.

**48. TRUSTEE LESSEE'S PROPERTY AT END OF TRUSTEE LEASE**

**48.1** When the **Trustee Lease** ends, the **Trustee Lessee** must:

- (a) remove all of the **Trustee Lessee's property** and any third party equipment (which is plant, equipment and goods belonging to anyone other than the **Trustee** and not **Trustee's property**); and
- (b) repair any damage caused by the installation or removal such equipment the reasonable satisfaction of the **Trustee**.

**48.2** If the **Trustee Lessee** does not remove any of the **Trustee Lessee's property** or third party equipment in as required by **clause 48.1**, then the **Trustee** may (without liability to the **Trustee Lessee** or any third party) treat the property or equipment as abandoned and the **Trustee** may, at the expense of the **Trustee Lessee**, remove, store and dispose of the equipment as the **Trustee** sees fit.

**48.3** If the provisions of this Part N (**clauses 47 and 48**) are inconsistent with the **prescribed terms**, for avoidance of doubt, the **prescribed terms** will prevail.

**PART O: THE TRUSTEE'S RIGHTS AND OBLIGATIONS**

**49. THE TRUSTEE MUST OBEY THE LAW**

**49.1** The **Trustee** must obey any law relating to or that requires the **Trustee** to do anything concerning the **premises** (except where that thing is the **Trustee Lessee's** responsibility under this **Trustee Lease**) excluding paying any **statutory charges**.

**49.2** The **Trustee** must comply with the **prescribed terms**.

**50. THE TRUSTEE LESSEE'S QUIET ENJOYMENT**

**50.1** If the **Trustee Lessee** complies with the **Trustee Lease** (including, for avoidance of doubt, the prescribed terms), the **Trustee** must allow the **Trustee Lessee** to occupy and use the **premises** without the **Trustee** unreasonably interrupting or disturbing the **Trustee Lessee**, except where the **Trustee Lease** allows the **Trustee** to do so.

**51. THE TRUSTEE MAY ENTER ONTO THE TRUST LAND**

**51.1** The **Trustee** may enter the **premises** (with or without notice):

- (a) at all reasonable times; and
- (b) if there is an emergency, at any time (and specifically without the need for any notice),

and may inspect and view the **premises** (to ascertain their condition and state of repair), to comply with its obligations under the **maintenance schedule** or otherwise under this **Trustee Lease**, to exercise its rights under this **Trustee Lease** (including any right to inspect records required to be kept by the **Trustee Lessee**), or to show the **premises** to any prospective purchaser or **Trustee Lessee**.

**52. THE TRUSTEE MAY DEAL WITH THE PREMISES**

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 30 of 53

**Title Reference 49101190**

- 52.1** Subject to this **Trustee Lease**, the **Trustee** may deal with the **premises** in any way the **Trustee** sees fit (for example, subdividing the **Trust Land**, amalgamating title to the **Trust Land**, granting easements in relation to the **Trust Land**, transferring title to the **Trust Land**).
- 52.2** If this **Trustee Lease** is not registered and the **Trustee** transfers the **premises** the **Trustee** must ensure that the new owner signs a deed in the **Trustee Lessee's** favour binding the new owner to the terms of this **Trustee Lease**.
- 52.3** Without limiting **clause 52.1**, the **Trustee** may for the purpose of the provision of public or private access to or over the **Trust Land** or for the provision of any services for any matters for which it is responsible as an **authority** or for public purposes generally dedicate part of the **Trust Land** or transfer, grant or create any easement or other right in its favour or in favour of any other **authority** or person as the **Trustee** thinks fit. This **Trustee Lease** will be taken to be subject to any such dedication, easement or other right.

**53. GIVING THE TRUSTEE'S CONSENT**

If the **Trustee Lessee** requires the **Trustee's** consent or approval, the **Trustee Lessee's** request for such consent or approval must be in writing.

- 53.1** Where the consent or approval of the **Minister** is required, any consent or approval of the **Trustee** is subject to the **Minister's** consent also being obtained.
- 53.2** The **Trustee** may withhold its consent or approval as the **Trustee** sees fit (unless this **Trustee Lease** says otherwise) and the **Trustee** may give such consent or approval subject conditions.
- 53.3** The consent or approval of the **Trustee** and/or the **Minister** is only effective where it is given in writing.

**54. CONSENT AND REGISTRATION**

- 54.1** The **Trustee** will obtain the **Minister's** consent to this **Trustee Lease** and the consent of any mortgagee of the **Trust Land** registered in priority to this **Trustee Lease**.
- 54.2** The **Trustee Lessee** must pay the **Trustee's** costs of obtaining such consents and comply with any conditions of such consents.
- 54.3** If requested by the **Trustee Lessee** the **Trustee** will register this **Trustee Lease** on the title to the **Trust Land** within a reasonable time after the starting date.

**PART P: NOTICES**

**55. NOTICES TO BE IN WRITING**

- 55.1** A notice required by this **Trustee Lease** must be in writing.

**56. SERVING NOTICES**

- 56.1** The **Trustee** may serve a notice on the **Trustee Lessee** by leaving it at, or posting or faxing it to, the **premises**, the **Trustee Lessee's** registered office or the **Trustee Lessee's** business address as last known to the **Trustee**.
- 56.2** The **Trustee Lessee** may serve a notice on the **Trustee** by leaving it at, or posting it or faxing it to the **Trustee's** registered office or the **Trustee's** business address as last known to the **Trustee Lessee**.

**PART Q: GENERAL MATTERS**

**57. QUEENSLAND LAW APPLIES**

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 31 of 53

**Title Reference 49101190**

**57.1** The **Trustee Lease** is governed by Queensland law. The **Trustee Lessee** and the **Trustee** submit to the non-exclusive jurisdiction of the Courts of Queensland.

**58. PROPERTY LAW ACT SECTIONS DO NOT APPLY**

**58.1** The following obligations or powers in the *Property Law Act 1974* (Qld) are separately covered in the **Trustee Lease** and excluded from it: section 105 (**Trustee Lessee's** Covenants to pay **Rent** and Repair), section 107 (**Trustee's** Powers to Enter and View, Repair and Retake Possession) and section 109 (Short forms of Covenants).

**59. SATURDAYS, SUNDAYS AND PUBLIC HOLIDAYS**

**59.1** Anything to be done on a Saturday, Sunday or a Public Holiday in the place where the **premises** are located may be done on the next day, except the **Trustee Lessee's** obligations (if any) concerning trading hours.

**60. NO WAIVER**

**60.1** A term of this **Trustee Lease** cannot be waived by the **Trustee** except in writing, even if the **Trustee** allows the **Trustee Lessee** time or some other indulgence and even if the **Trustee** accepts **rent** or other money under this **Trustee Lease**.

**61. ADDITIONAL PROVISIONS**

**61.1** The additional provisions contained in **Schedule 3** (if any) form part of this **Trustee Lease**.

**61.2** To the extent of any conflict with the provisions of this **Trustee Lease**, the additional provisions in **Schedule 3** prevail.

**62. SPECIAL CONDITIONS**

**62.1** The **Special Conditions** (if any) apply as terms of this **Trustee Lease**. If there is any inconsistency between a Special Condition and a provision elsewhere in this **Trustee Lease** (including but not limited to the additional provisions in Schedule 3), the Special Condition prevails to the extent of the inconsistency.

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 32 of 53

Title Reference 49101190

**SCHEDULE 1**

**MAINTENANCE SCHEDULE**

(Clause 32.2)

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
Building Structures - Lease Area	General cleaning requirements for the building and structures	Trustee Lessee	Weekly and as required
Building Structures - External	General cleaning requirements for the building and structures	Trustee	12 Monthly or as required
Building Structures	Inspection and audit	Trustee	12 Monthly
	General repair breakage or damage - except in instances of wilful or intentional damage, misuse or neglect	Trustee	As required
	Repair structural damage due to normal wear and tear	Trustee	As required
	Asset end of life replacement	Trustee	As required
	Register and maintain asbestos and hazardous material report	Trustee	As required
Pest Control (termites)	Pest control services termite control	Trustee	As required
Pest Control (general)	General Pest control services	Trustee Lessee	12 Monthly
<b>Fire Services</b>			
Fire safety installations and features	Inspect, service and maintain fire safety installations in accordance with Fire and Rescue Service Act 1990 and the Building Fire Safety Regulations 2008 requirements including but not limited to the Fire Board/Panel, Sprinklers and Smoke Alarms. Fire Brigade Call Outs resulting from false alarms exceeding one (1) per month will be on charged to the Trustee Lessee. Any unnecessary call outs as a result of the Trustee Lessee's business (such as damage to fire equipment, inappropriate use of the building etc.) may be oncharged to the Trustee Lessee.	Trustee	In accordance with legislative requirements

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 33 of 53

**Title Reference 49101190**

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
Fire safety installations and features	Fire Safety Installations and Features including but not limited to Emergency Exit, Fire Extinguishers, Fire Blankets, Fire Hose Reels and Evacuation Diagrams and Plans. Any unnecessary call outs as a result of the Trustee Lessee's business (such as missing extinguishers, damaged exit lights etc.) may be on charged to the Trustee Lessee.	Trustee	In accordance with legislative requirements
Wardens and Fire Evacuation Training	Emergency Control Organisation and General Evacuation First Response	Trustee Lessee	In accordance with legislative requirements
<b>Electrical</b>			
External Lighting	Clean and re-lamp light fittings	Trustee	As required
Internal Lighting	Clean and re-lamp light fittings	Trustee Lessee	As required
Electrical Switchboards	Thermal scan/repair of switchboards	Trustee	12 Monthly
Power poles and cables	Maintenance of all poles carrying light and power cable	Trustee	12 Monthly
Electrical safety switch	Annual performance electrical leakage test	Trustee	12 Monthly
Appliance electrical safety testing	Appliance electrical safety testing for portable appliances by qualified electrician	Trustee Lessee	12 Monthly or as required
Pool Electrical Fittings	Inspection of Heat Pumps, Gas heaters and Solar panel fittings and fixtures	Trustee Lessee	Daily
	Servicing, maintenance and upgrade of Heat Pumps, Gas Heaters and Solar Fittings and fixtures	Trustee	12 Monthly or as required
General repairs and maintenance	General repairs and maintenance except in cases where the Trustee Lessee has not performed any Statutory or Manufacturers recommended servicing requirements. If this is the case, the Trustee will not be responsible.	Trustee	As required
<b>Mechanical Services</b>			
Circulating Fans	Repairs, maintenance and upgrade	Trustee	As required
Lifts	Inspect, service and maintain lifts	Trustee	As required
Automatic Doors	Service automatic door	Trustee	As required

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 34 of 53

**Title Reference 49101190**

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
Cold & Freezer Rooms – if installed by Council	Inspect and service freezer and cold-rooms plant and equipment	Trustee	As required
A/C Unit	Inspect and service A/C unit includes filter cleaning	Trustee	As required
Temperature Control Valves – if installed by Council.	Inspect, service and clean thermostatic mixing & tempering valves	Trustee	As required
<b>Windows and Doors</b>			
Roller doors – Internal	Inspect and service roller doors	Trustee Lessee	As required
Roller doors – External	Inspect and service roller doors	Trustee	As required
Sliding windows – Internal	Inspect and service window rollers	Trustee Lessee	As required
Sliding windows – External	Inspect and service window rollers	Trustee	As required
Sliding doors – Internal	Inspect and service door rollers	Trustee Lessee	As required
Sliding doors - External	Inspect and service door rollers	Trustee	As required
Retractable Acoustic Petitions	Inspect, service, clean and maintain petitions.	Trustee Lessee	As required
Hollow core doors	Restore painted surfaces	Trustee Lessee	As required
Windows and Doors	Inspect and service hardware in accordance with ICC key and locking system	Trustee	As required
	Glass Breakage unless breakage results from wilful damage and cost will be recovered from the Trustee Lessee	Trustee	As required
<b>Landscaping</b>			
Trees and Shrubs	Prune trees and shrubs, depending upon growth conditions	Trustee Lessee	As Required
Grassing and Turfing	General Landscape Maintenance	Trustee Lessee	As required
Irrigation System Pumps	Inspect/ Service Pump	Trustee Lessee	In accordance with Manufactures Recommended specifications
Irrigation System Pumps	Replacement of Pumps	Trustee	As required

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 35 of 53

Title Reference 49101190

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
Irrigation System	Inspect, Repair and Maintenance of Irrigation for Leaks (valves etc.)	Trustee Lessee	In accordance with Manufactures Recommended specifications
	Renewal of Irrigation System	Trustee	As required
<b>Exterior Works</b>			
External Gate	Inspect and service gate and fittings	Trustee Lessee	Daily
	Repairs and maintain gates and fittings	Trustee	As required
Pool Gates	Inspect and service self-closing mechanism	Trustee Lessee	Daily
	Repair self-closing mechanism	Trustee	As required
External Fence	Inspect and service fences and fittings	Trustee Lessee	Daily
	Repair and maintain fences and fittings	Trustee	As required
Seats and Benches	Inspect, clean & ensure seat fitted securely. This applies to fixed seating only	Trustee	As required
Shade Structures	Inspect and identification of repairs and maintenance	Trustee Lessee	Daily
	Cleaning, repairs and maintenance, except in cases of wilful damage	Trustee	As required
Concrete/ Pavement	Pressure clean surface	Trustee Lessee	Daily
Hardstand Areas	Pressure clean surface	Trustee Lessee	Daily
Roof	Clean and inspect and spot seal roof	Trustee	5 Yearly
Gutter	Clean and inspect and spot seal gutter	Trustee	As required
Downpipes	Restore protective coatings	Trustee	As required
External taps	Service tap-ware washers, seats and O rings	Trustee Lessee	As required
Stormwater Drains	Inspect/Clean S/water Drains in pathways	Trustee	As required

117307:8105096\_1

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 36 of 53

**Title Reference 49101190**

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
Water Storage Tank	Inspect, service and clean first flush system	Trustee	As required
Business Signage	Repairs, maintenance and upgrades	Trustee Lessee	As required, but no less than 5 yearly
External Wall	Clean surfaces	Trustee Lessee	As required
	Exterior wall painting	Trustee	As required
Pools	Test and maintain water quality to installer instructions. This includes the provision of all equipment necessary to conduct testing	Trustee Lessee (except for the chemicals, which will be provided by the Trustee)	In accordance with legislative requirements
	Repairs and maintenance, except in cases of wilful damage or neglect caused by the Trustee, the Trustee is responsible	Trustee Lessee	As required
	Subject to special conditions 2 and 3, Upgrade pool in accordance with asset lifecycle plan	Trustee (except for in accordance with special conditions 2 and 3, which is the Trustee Lessee's responsibility)	As required
Hot Water System	Inspect, test and service pressure relief valve	Trustee Lessee	As Required
	Replace hot water system	Trustee	As required
Regulatory Signage	Inspect, service and maintain regulatory signage	Trustee	As required
Pool Tiles	Inspection and identification of repairs and maintenance	Trustee Lessee	Daily
	Repairs and maintenance, except in cases of wilful damage or neglect caused by the Trustee Lessee, the Trustee Lessee is responsible	Trustee	As required
Pool Blankets	Supply, repair, maintain and upgrade, except in cases of wilful damage, misuse or neglect by the Trustee Lessee, the Trustee Lessee is responsible	Trustee	As required
Pool Blanket Rollers	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Trustee Lessee, the Trustee Lessee is responsible	Trustee	As required
Lane Ropes	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the	Trustee	As required

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 37 of 53

**Title Reference 49101190**

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
	Trustee Lessee, the Trustee Lessee is responsible		
Lane Rope Reels	Supply, repair, maintenance and upgrade, except in cases of wilful damage, misuse or neglect by the Trustee Lessee, the Trustee Lessee is responsible	Trustee	As required
Pool Autovac	Initial supply by the Trustee. Service, maintenance, repair and replacement	Trustee Lessee	As required
Manual Pool Vacuum	Initial supply by the Trustee. Service, maintenance, repair and replacement	Trustee Lessee	As Required
Two way radio communication	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Rescue Boards	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Rescue Tubes	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Binoculars	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Whistle	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Spinal Boards	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
First Aid Kits	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Automated External Defibrillator	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Air Bag Oxygen Resuscitator	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Oxygen For Air Bag Oxygen Resuscitator	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
Stiff Neck Collars	Supply, repair, maintenance and upgrade	Trustee Lessee	As Required
<b>Interior Finishes</b>			
Internal ceilings and walls	Restore painted surfaces ceilings and walls	Trustee Lessee	As Required
Drinking Fountains	Inspect and service Zip Chillmaster	Trustee	As required

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 38 of 53

**Title Reference 49101190**

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
Tap Water Heater	Inspect and service Zip Hydroboil	Trustee	As required
Grease Traps	Pump out and maintain grease traps	Trustee Lessee	In Accordance with legislative requirements
Floor – Tile	Heavy duty scrub clean floor surfaces	Trustee Lessee	As required but no less than annually
Floor – Vinyl	Inspect, repair and buff floor surfaces	Trustee Lessee	As required
	Replacement of vinyl, except in cases of wilful damage, misuse or neglect caused by the Trustee Lessee, the Trustee Lessee is responsible	Trustee	As required
Floor – Carpet	Heavy duty deep pile special cleaning	Trustee Lessee	As required
	Replacement of carpet, except in cases of wilful damage or neglect caused by the Trustee Lessee, the Trustee Lessee is responsible	Trustee	As required
Kitchen Exhaust System - Exhaust	Clean, inspect and service kitchen exhaust	Trustee Lessee	As required
Kitchen Exhaust System - Commercial Exhaust	Heavy Duty Deep Clean kitchen exhaust	Trustee Lessee	In accordance with manufactures specifications and recommended requirements
General Internal Repairs	General repairs except in cases of wilful damage, neglect or misuse	Trustee	As required
<b>Plumbing</b>			
WC Toilet/cistern and Urinal	Inspect and service flushing mechanisms	Trustee Lessee	As required
	Clearing of blockages	Trustee Lessee	As Required
	Repair and Maintenance, except in cases of wilful damage or neglect caused by the Trustee Lessee, the Trustee Lessee is responsible	Trustee	As required
Tap ware	Service Taps, rewasher, reseal, replace as necessary	Trustee Lessee	As Required
Pipe-works	Service and maintain internal and external plumbing network, except in the case of wilful damage and ICC has the right to recover the cost from the Trustee Lessee	Trustee Lessee	As Required
	Repair and Replace internal and external plumbing pipe-works	Trustee	As required

117307:8105096\_1

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 39 of 53

**Title Reference 49101190**

Asset Description	Task Description	Default Maintenance Responsibility	Frequency
General repairs and maintenance	General repairs and maintenance except in cases where the Trustee Lessee has not performed any Statutory or Manufacturers recommended servicing requirements or there has been wilful damage. If this is the case, the Trustee will not be responsible for the works	Trustee	As required
Temperature Control Valves	Inspect, service and clean thermostatic mixing & tempering valves	Trustee	As required
	Deep clean thermostatic mixing & tempering valves.	Trustee	As required
<b>Security</b>			
CCTV & Security Systems (if applicable)	Test and service Security Systems. Any editing or addition of alarm codes for the Trustee Lessee, and any damage caused to the security system will be at the Trustee Lessee's cost.	Trustee	As required
	CCTV Monitoring, Maintenance and Upgrades	Trustee Lessee	Ongoing
	Security Patrols. Patrol call outs that result from false alarms exceeding one (1) per month will be payable by the Trustee Lessee.	Trustee	As required
	Access Cards, Keys, Locking Systems. Access Cards/Keys are the Trustee Lessee's responsibility however, if the access cards/keys are lost, damaged or stolen, replacements will be issued by the Trustee with the cost payable by the Tenant.	Trustee	As required

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 40 of 53

Title Reference 49101190

**SCHEDULE 2**

**KEY PERFORMANCE INDICATORS**

(Clause 33)

Objective	Performance indicator	Minimum performance requirement
Maintenance operation responsibilities	The number of defaults reported to or noted by the Trustee or the Trustee's appointed inspector during random quality inspections	Number of defaults not rectified in a specified period: no more than two (2) per annum
Customer satisfaction	Number of complaints received and number of complaints not dealt with to the Trustee's satisfaction	Number of complaints received: no more than ten (10) per annum Number of unresolved complaints: no more than three (3) per season
Programs	The range of programs offered at the Premises	Increased programs or participation
Maintenance	Minor maintenance to be repaired by Trustee Lessee	Number of repairs not rectified: number of unresolved repairs: no more than three (3) per season
Community access	Opening hours to meet community needs and as such to be similar to other comparable facilities	A minimum of eighty-four (84) hours per week in summer season. (These hours may differ depending on community need and facilities available)
Administration responsibilities	Attendance figures	Monthly report two (2) days after end of month
Administration responsibilities	Water testing (as per current Trustee policy)	Monthly report two (2) days after end of month
Administration responsibilities	Schedule of works	Monthly report two (2) days after end of month
Administration responsibilities	Financial report showing liquidity ratios to demonstrate ongoing viability	Within sixty (60) days after end of each financial year
Administration responsibilities	Operational / business plan	Within one (1) month prior to start of summer season
Administration responsibilities	Insurance / qualifications / licence requirements	Within seven (7) days of receipt of certificate / licence / qualifications renewal to provide copy to Trustee
Administration responsibilities	WH&S requirements	Supplied one (1) month prior to start of summer season

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 41 of 53

**Title Reference 49101190**

**SCHEDULE 3**

**ADDITIONAL PROVISIONS**

(Clause 61)

**1. GAMING AND LIQUOR**

**1.1.** The **Trustee Lessee** must not allow the conduct of gaming on the **premises** except:

- (a) with the prior written consent of the **Trustee** and the **Minister**;
- (b) in accordance with a **Licensing Act**; and
- (c) in accordance with the requirements set out in the **prescribed terms**.

**1.2.** The **Trustee Lessee** must not allow the sale or consumption of liquor on the **premises** except:

- (d) with the prior written consent of the **Trustee** and the **Minister**;
- (e) in accordance with a **Licensing Act**; and
- (f) in accordance with the requirements set out in the **prescribed terms**.

**1.3.** The **Trustee Lessee** must not at any time during the term of the **Trustee Lease** allow any of the following to occur:

- (a) the expiry, suspension, forfeiture, termination or avoidance of any **Relevant Licence** either temporarily or permanently;
- (b) the disqualification of the **Trustee Lessee** or the holder of a **Relevant Licence** from holding, maintaining or receiving a **Relevant Licence** or any renewal of it according to a **Licensing Act** in respect of the **premises**, either temporarily or permanently;
- (c) the disqualification of the **premises** or any part of the **premises** from having a **Relevant Licence** according to a **Licensing Act** granted, maintained or received in respect of it either temporarily or permanently.

**1.4.** The **Trustee Lessee** must not during the term of this **Trustee Lease** apply for or be a **party** to, privy to or directly or indirectly be concerned with or assist in any application for the removal or transfer of a **Relevant Licence** from the **premises** to another person or another location without the prior written consent of the **Trustee**.

**1.5.** In respect of each and every period requiring renewal of the **Relevant Licence** during the term of the **Trustee Lease**, the **Trustee Lessee** must apply for and endeavour to procure its renewal and ensure the doing of all things and pay all fees and charges which may be required in respect of it.

**1.6.** Upon termination or expiry of this **Trustee Lease**, and if requested to do so by the **Trustee**:

- (a) the **Trustee Lessee** must (at the cost of the **Trustee**) do all things necessary to transfer any **Relevant Licence** relating to the **premises** to the **Trustee** or any person nominated by the **Trustee**; and
- (b) the **Trustee Lessee** must where necessary continue in occupation of the **premises** for such reasonable time as required to effect such transfer (subject always to compliance with the **prescribed terms**).
- (c) The **Trustee Lessee** must hold any **Relevant Licence** relating to the **premises** in its own name and must not without the prior written consent of the **Trustee** and the **Minister**:
  - (i) transfer, assign, part with the possession or mortgage, pledge or apply for a transfer of any **Relevant Licence** or sign or give any notice of intention to apply for such transfer; or
  - (ii) by any act or deed, procure, permit or allow the **Relevant Licence** to be so dealt with.

117307:8105096\_1

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

## SCHEDULE

Form 20 Version 2  
Page 42 of 53

### Title Reference 49101190

- (d) The **Trustee Lessee** must perform and at its cost observe the provisions of the **Licensing Acts**.
- (e) The **Trustee Lessee's** obligations under this additional provision do not include:
  - (i) any obligation to perform matters which are in this **Trustee Lease** expressly excluded from the obligations of the **Trustee Lessee**;
  - (ii) any obligation to make repairs or alterations or additions to the **premises** of a structural nature except where they are attributable to any act or omission of the **Trustee Lessee** or required because of the nature of the **Trustee Lessee's business**.
- (f) Within 24 hours of receiving it, the **Trustee Lessee** must give written notice to the **Trustee** of each of the following:
  - (i) all notices and directives or requests made under the provisions of the **Licensing Act** and given, notified or served upon the **Trustee Lessee** or the holder of a **Relevant Licence** relating to the **premises**; and
  - (ii) any and all summonses, convictions or orders issued or made in respect of the **Trustee**, the **Trustee Lessee** or the holder of a **Relevant Licence** relating to the **premises** and relating to the **premises** or a **Relevant Licence** relating to the **premises**.
- (g) If the **Trustee Lessee** does not comply with any obligations contained in this **clause 1**, the **Trustee** may, without prejudice to all other rights do all things necessary to comply and recover from the **Trustee Lessee** all costs, expenses and outlays occasioned as a result of the non-compliance and the things done by the **Trustee** to comply.
- (h) In this **clause 1**:
  - (i) **Licensing Act** means the *Liquor Act 1992* (Qld), the *Gaming Machine Act 1991* (Qld) and any other Act or Regulation which regulates, deals with or prohibits gaming or the sale or consumption of liquor.
  - (ii) **Relevant Licence** means a licence, permit, consent, approval or permission under a **Licensing Act**.

## 2. GOOD NEIGHBOUR PROCESSES

### 2.1 Introduction

The **Trustee** and the **Trustee Lessee** wish to work together to minimise inconvenience to, and complaints from, residents in the neighbourhood of the **premises** who are affected by the **Trustee Lessee's** use of the **premises** ('**residents**'), including **residents** affected by noise coming from, or traffic connected with, the **Trustee Lessee's** use of the **premises**, and to follow a procedure to resolve resident complaints in a way which satisfies the **Trustee**, the **Trustee Lessee** and the **residents**.

### 2.2 General Good Neighbour Processes

- (a) The **Trustee Lessee** will use its best endeavours to work together with **residents** to minimise inconvenience to **residents** caused by the **Trustee Lessee's** use of the **premises**, and to develop close links between **residents** and the **Trustee Lessee**.
- (b) The **Trustee Lessee** will appoint an officer to represent the **Trustee Lessee** in dealings with the **residents** (a **Community Liaison Officer**) and will notify the **Trustee** of the name and contact phone number of the **Community Liaison Officer** within seven (7) days of signing this **Trustee Lease**. The **Trustee Lessee** must keep this information **current**.
- (c) The **Trustee Lessee** agrees to comply with the processes outlined in this additional provision (the **Good Neighbour Processes**). The **Trustee** may vary or replace the **Good Neighbour Processes** from time to time. All variations bind the **Trustee Lessee** when notice of such variation is given to the **Trustee Lessee** in writing by the **Trustee**.

117307:8105096\_1

Title Reference 49101190

- (d) Examples of the way in which the **Trustee Lessee** will put **Good Neighbour Processes** into practice include:
- (i) notifying **residents** in the neighbourhood of the **premises** of the activities of the **Trustee Lessee**, especially of any major events to be held at the **premises**;
  - (ii) appointing parking monitors to ensure that the **Trustee Lessee's** members, invitees and licensees do not create undue noise when entering and leaving the **premises**, or in neighbouring streets, and to ensure that **resident** access to driveways etc. is not obstructed;
  - (iii) circulating details of the **Community Liaison Officer** to **residents** and asking them to contact that person with any concerns or questions;
  - (iv) attending any seminars or meetings organised by the **Trustee** about community leasing (or other occupancy rights) generally.

**2.3 Complaint Handling Procedures**

- (a) The **Trustee Lessee** agrees to participate in any course of action proposed by the **Trustee** under this additional provision.
- (b) If any person (the **complainant**) makes a complaint to the **Trustee** which arises from the **Trustee Lessee's** use of the **premises**, the **Trustee** will refer the **complainant** to the **Trustee Lessee's Community Liaison Officer** and will record that a "**resident notification**" has been made in relation to the **Trustee Lessee**.
- (c) The **Trustee** will contact the **complainant** to find out the result of the referral.
- (d) If, in the reasonable opinion of the **Trustee**, the complaint has not been resolved by the **Trustee Lessee's Community Liaison Officer** within fourteen (14) days of the **complainant** contacting the **Community Liaison Officer**, the **Trustee** will record that a "**resident dispute**" has arisen and may propose a method of solving the **resident dispute** to the **complainant** and the **Trustee Lessee**.

(For example, the method chosen may involve:

- a meeting between the **Trustee Lessee**, the **complainant** and the **Trustee**;
  - mediation (including a programme provided by the Community Justice Programme of the Department of Justice and Attorney General);
  - referral of the **resident dispute** to the appropriate **authority** (for example, in the case of a **resident dispute** in relation to lights used on the **premises**, to the Community Health Branch of the Ipswich City Council); or
  - any other method determined by the **Trustee**).
- (e) The **Trustee Lessee** agrees to be bound by the outcome of any method of solving the **resident dispute** chosen by the **Trustee**.
  - (f) If, in the reasonable opinion of the **Trustee**, the method does not resolve the **resident dispute**, the **Trustee** may require the **Trustee Lessee** to participate in further attempts to resolve the **resident dispute**.
  - (g) If, in the reasonable opinion of the **Trustee**, the **resident dispute** is resolved, the **Trustee** may require the **Trustee Lessee** to enter into a legally enforceable agreement in a form satisfactory to the **Trustee**.
  - (h) Nothing in this additional provision affects any rights of the **Trustee** under this **Trustee Lease** to terminate the **Trustee Lease** or take any other action.

**2.4 Non-compliance with processes**

- (a) The **Trustee Lessee** acknowledges that the following will constitute a breach of the terms of this **Trustee Lease**:
  - (i) any breach of the **Good Neighbour Processes**;
  - (ii) three (3) **resident notifications** under the **Good Neighbour Processes** within any 12 month period;

Title Reference 49101190

(iii) three (3) **resident disputes** under the **Good Neighbour Processes** within any 12 month period.

3. **DISPUTE RESOLUTION PROCEDURE**

- (a) If the **Trustee Lessee** or the **Trustee** believes that a dispute (other than a resident dispute under the **Good Neighbour Processes** in additional provision 2) has arisen under this **Trustee Lease**, that **party** may serve a notice upon the other **party** (a **Dispute Notice**) requiring it to follow the procedure outlined in this additional provision and nominating a representative of that **party** with **authority** to settle the dispute.
- (b) Within seven (7) days of receiving the **Dispute Notice**, the **party** receiving the **Dispute Notice** must serve a notice on the other **party** (a **Reply Notice**), nominating a representative with **authority** to settle the dispute.
- (c) The representatives of each **party** will meet within seven (7) days of the receipt of the **Reply Notice** and will use their best endeavours to resolve the dispute.
- (d) If the dispute is not resolved to the satisfaction of both **parties** within fourteen (14) days of the receipt of the **Reply Notice**, the **parties** will refer the dispute to the **Trustee**.
- (e) The **Trustee** will decide the method of dispute resolution and the procedure to be adopted to resolve the dispute. For example, without limitation, the **Trustee** may decide to:
  - (i) refer the dispute to arbitration under the *Commercial Arbitration Act 2013* (Qld);
  - (ii) refer the matter to the Community Justice Programme of the Department of Justice and Attorney General;
  - (iii) appoint an expert (whose decision will be final and binding on the parties) to decide the dispute; or
  - (iv) refer the dispute to mediation.
- (f) Each **party** will continue to perform its obligations under this **Trustee Lease** during any dispute.

4. **TRUSTS**

4.1 If the **Trustee Lessee** is at any time acting in the capacity of **Trustee** of any trust (the Trust) then whether or not the **Trustee** may have notice of the Trust the **Trustee Lessee** covenants with the **Trustee** as follows:

- (a) this **Trustee Lease** extends to all rights of indemnity which the **Trustee Lessee** has against the **Trust**;
- (b) the **Trustee Lessee** has power and **authority** to enter into this **Trustee Lease** and the provisions of the **Trust** do not purport to exclude or take away the right of indemnity of the **Trustee Lessee** against the **Trust** and the **Trustee Lessee** will not breach that right of indemnity or commit any breach of trust or be a **party** to any other action which might prejudice that right of indemnity;
- (c) the **Trustee Lessee** will be and at all times remain personally liable to the **Trustee** for the due performance fulfilment and observance of the obligations in this **Trustee Lease**;
- (d) the **Trustee Lessee** will not without the consent in writing of the **Trustee** allow any of the following events to happen:
  - (i) the removal replacement or retirement of the **Trustee Lessee** as sole **Trustee** of the **Trust**;
  - (ii) any alteration to or variation of the terms of the **Trust**;
  - (iii) any advancement or distribution of capital of the **Trust**;
  - (iv) any resettlement of the trust property.

Title Reference 49101190

4.2 It will be a breach of the **Trustee Lease** if the **Trustee Lessee** is guilty of any breach of trust in respect of the Trust or ceases to be the sole **Trustee** of the Trust.

5. **REPORTING**

(a) The **Trustee Lessee** must give to the **Trustee** within three (3) months after the end of each **financial year**:

- (i) a copy of its annual financial statements (as at the preceding 30 June), including profit and loss statement and balance sheet, certified as correct by a registered auditor; and
- (ii) written details (in a form reasonably acceptable to the **Trustee**) of the number of individuals registered as members of the **Trustee Lessee's** organisation as at the preceding 30 June.

(b) Compliance with this additional provision is an essential term of this **Trustee Lease**.

6. **DEMOLITION**

6.1 If the **Trustee** wants to demolish, refurbish, redevelop or extend the **premises**, or part thereof, and as a result requires vacant possession of the **premises**, the **Trustee** may terminate this **Trustee Lease** by giving the **Trustee Lessee** at least six (6) months' notice of termination ('termination notice') and that notice must state:

- (a) sufficient details of the proposed demolition to indicate a genuine proposal to demolish, refurbish, redevelop or extend the **premises**, or part thereof, within a reasonably practicable time after this **Trustee Lease** is terminated; and
- (b) the day on which the **Trustee Lease** terminates.

6.2 After the **Trustee** has given a termination notice under additional provision 6.1, the **Trustee Lessee** may terminate this **Trustee Lease** at any time within six (6) months before the termination date in the termination notice by giving the **Trustee** at least seven (7) days' notice of termination.

6.3 Where the **Trustee Lease** is terminated under this additional provision the **Trustee** must pay to the **Trustee Lessee** reasonable compensation for the fitout of the **premises** to the extent the fitout was not provided by the **Trustee**.

7. **LICENSOR'S RIGHT TO RELOCATE**

7.1 **If:**

- (a) the **Trustee** proposes refurbishing, redeveloping or extending the **premises** (the **works**) during the term of the **Trustee Lease**; and
  - (b) the **works** cannot be carried out practicably without vacant possession of the **premises**,
- the **Trustee** may require the **premises** to be relocated in accordance with this additional provision.

7.2 The **Trustee** must give to the **Trustee Lessee** at least three (3) months' notice of relocation ('relocation notice') and that notice must state:

- (a) sufficient details of the **works** to indicate a genuine proposal that:
  - (i) is to be carried out within a reasonably practicable time after relocation of the **premises**; and
  - (ii) cannot be carried out practicably without vacant possession of the **premises**;
- (b) details of the reasonably comparable alternative **premises** to be made available to the **Trustee Lessee** on the **Trustee Land**; and

Title Reference 49101190

- (c) the day by which the **Trustee Lessee** must cease to use the **premises** and remove its property from the **premises**.
- 7.3 By giving the relocation notice the **Trustee** is taken to have offered to the **Trustee Lessee** a new **Trustee Lease** of the alternative **premises** on the same terms and conditions as this **Trustee Lease** except that the term of the new **Trustee Lease** is to be for the remainder of the term of this **Trustee Lease**.
- 7.4 If a **relocation notice** is given to the **Trustee Lessee**, the **Trustee Lessee** may terminate this **Trustee Lease** within one (1) month after the **relocation notice** is received by giving written notice of termination to the **Trustee**, in which case this **Trustee Lease** is terminated three (3) months after the **relocation notice** was given unless the **parties** agree that it is to terminate at some other time, and that date is the '**relocation termination date**' for the purposes of this additional provision.
- 7.5 If the **Trustee Lessee** does not give a notice of termination as referred to in additional provision [7.4] the **Trustee Lessee** is taken to have accepted the offer of a new **Trustee Lease** as referred to in additional provision [7.3] unless the **parties** have agreed to a **Trustee Lease** on some other terms.
- 7.6 Where the **Trustee** has given a valid **relocation notice** and the **Trustee Lessee** has not terminated this **Trustee Lease** under additional provision [7.4], this **Trustee Lease** terminates on the date of relocation specified in the **relocation notice** and that date is the '**relocation termination date**' for the purposes of this additional provision.
- 7.7 The **Trustee Lessee** must:
- (a) cease using the **premises**;
  - (b) remove its property from the **premises**; and
  - (c) otherwise comply with its obligations under **clause 37** of this **Trustee Lease** relating to vacating the **premises**,
- on or before the **relocation termination date**.
- 7.8 Where the **Trustee Lessee** accepts or is deemed to accept the offer of a **Trustee Lease** referred to in additional provision 7.3 the **Trustee Lessee** must execute (and ensure any **guarantor** executes) the new **Trustee Lease** within 14 days of the **Trustee** submitting the new **Trustee Lease** to the **Trustee Lessee**.
- 7.9 The **Trustee Lessee** is entitled to payment by the **Trustee** of the **Trustee Lessee's** reasonable costs of the relocation, being the costs of:
- (a) dismantling and reinstalling any fixtures and fittings; and
  - (b) modifying or replacing any fixtures and fittings to the standard existing immediately before the relocation; and
  - (c) the **Trustee Lessee's** legal costs.
- 7.10 Subject to additional provision 7.9, the **Trustee** is not liable for any costs, loss or damage (including economic loss) suffered by the **Trustee Lessee** in relation to a relocation under this additional provision.
- 7.11 This additional provision applies without prejudice to the rights of either **party** in respect of any prior breach.
- 7.12 Noting in this additional provision limits the obligations of the parties under the **prescribed terms** in respect of the use or development of the **premises**.

Title Reference 49101190

**8. BANK GUARANTEE**

**8.1** This additional provision applies if **item 7** nominates a **bank guarantee amount**.

**8.2** The **Trustee Lessee** must:

- (a) on or before executing this **Trustee Lease** arrange for the issue of an unconditional Australian bank guarantee in favour of the **Trustee**, on terms and issued by a bank acceptable to the **Trustee**, for the amount stated in **item 7** ('**bank guarantee**') to secure performance by the **Trustee Lessee** of its obligations under this **Trustee Lease**;
- (b) ensure that the **bank guarantee** is kept **current** and enforceable and that it has no expiry date; and
- (c) if the **Trustee** is paid an amount under the **bank guarantee** following a demand provide the **Trustee** with a replacement or additional **bank guarantee** for the amount paid out.

**8.3** If the **Trustee Lessee** does not comply with any of its obligations under this **Trustee Lease** the **Trustee** may call on the **bank guarantee** to the extent of the **Trustee Lessee's** default.

**8.4** The **Trustee** must return the **bank guarantee** to the **Trustee Lessee** within one (1) month after the later of the following:

- (a) if there is a dispute between the **Trustee** and **Trustee Lessee** pertaining to this **Trustee Lease** when this **Trustee Lease** ends - the date when that dispute is resolved or determined; or
- (b) otherwise - when all the **Trustee Lessee's** obligations under this **Trustee Lease** have been fulfilled.

**8.5** If the **Trustee** sells or transfers the **premises**, it may:

- (a) assign the **bank guarantee** to the transferee; or
- (b) require the **Trustee Lessee** to provide a replacement **bank guarantee** in favour of the transferee.

**8.6** If the **Trustee Lessee** does not comply with a request to provide a replacement **bank guarantee** within fourteen (14) days, the **Trustee** may present the **bank guarantee** and deliver the proceeds to the transferee to hold as a security deposit until the **Trustee Lessee** provides a **bank guarantee** to the transferee and on doing so, the **Trustee** will be discharged from any legal responsibility to the **Trustee Lessee** or any other person in relation to the **bank guarantee**.

**9. SECURITY BOND**

**9.1** This additional provision applies if **item 8** nominates a **Security Bond amount**.

**9.2** The **Trustee Lessee** must on or before executing this **Trustee Lease** pay a **Security Bond** to the **Trustee** for the amount stated in **item 8** ('**Security Bond**') to be held by the **Trustee** as security for the performance of the **Trustee Lessee's** obligations under this **Trustee Lease**.

**9.3** The **Security Bond** will, at the **Trustee** discretion, be held by the **Trustee** or in the **Trustee** solicitor's or managing agent's trust account.

**9.4** The **Trustee Lessee**:

- (a) charges of **Security Bond** in favour of the **Trustee** for the term of this **Trustee Lease** with the performance by the **Trustee Lessee** of all its obligations under this **Trustee Lease**;
- (b) authorises the **Trustee** to make withdrawals from the **Security Bond**; and
- (c) must sign any documents that the **Trustee** requires to enable the **Trustee** to be paid any part of the **Security Bond**.

Title Reference 49101190

- 9.5** The **Trustee** may apply the **Security Bond** towards the payment of any money payable by the **Trustee Lessee** to the **Trustee** under this **Trustee Lease**.
- 9.6** If the **Trustee** applies the **Security Bond** under additional provision 9.5, the **Trustee Lessee** must within fourteen (14) days of being so requested pay any deficiency so that the **Security Bond** is reinstated to its full amount.
- 9.7** The application of the **Security Bond** by the **Trustee** does not prejudice the **Trustee's** other rights under this **Trustee Lease** or by law. The **Trustee's** failure to apply the **Security Bond** does not constitute a waiver.
- 9.8** The **Trustee** is not legally responsible for any bank fees or charges **GST** or other tax on any interest bearing account in which the **Security Bond** is deposited. Any bank fees or charges **GST** or other taxes will be deducted from the **Security Bond**. If requested by the **Trustee**, the **Trustee Lessee** will provide its tax file number for disclosure to the relevant bank. Nothing in this additional provision obliges the **Trustee** to invest the **Security Bond** in an interest bearing account.
- 9.9** The **Trustee** must pay the balance of the **Security Bond** to the **Trustee Lessee** (including any interest) within one (1) month after the later of the following:
- (d) if there is a dispute between the **Trustee** and **Trustee Lessee** pertaining to this **Trustee Lease** when this **Trustee Lease** ends - the date when that dispute is resolved or determined; or
  - (e) otherwise - when all the **Trustee Lessee's** obligations under this **Trustee Lease** have been fulfilled.
- 9.10** If the **Trustee** sells or transfers the **premises**, it may pay the **Security Bond** or assign its interest in it to the transferee and on doing so, the **Trustee** will be discharged from any legal responsibility to the **Trustee Lessee** or any other person in relation to the **Security Bond**.
- 10. GUARANTEE AND INDEMNITY**
- 10.1** This additional provision 10 applies if **item 9** nominates a **guarantor**.
- 10.2** In consideration of the **Trustee** at the request of the **guarantor** entering into this **Trustee Lease** with the **Trustee Lessee**, the **guarantor** covenants and agrees with the **Trustee** that:
- (a) it will be legally responsible jointly and separately with the **Trustee Lessee** for the due performance by the **Trustee Lessee** of all the obligations terms and conditions of this **Trustee Lease** on the part of the **Trustee Lessee** to be performed;
  - (b) the **guarantor** indemnifies the **Trustee** against all losses damages costs and expenses which the **Trustee** may incur from any breach or non-observance of this **Trustee Lease** by the **Trustee Lessee**;
  - (c) the legal responsibility of the **guarantor** is not affected by:
    - (i) the **Trustee** exercising any rights under this **Trustee Lease**;
    - (ii) the **Trustee** terminating this **Trustee Lease**;
    - (iii) the **Trustee Lessee** that is a corporation or incorporated association being wound up or dissolved;
    - (iv) the **Trustee Lessee** who is a natural person being declared bankrupt;
    - (v) a transfer of the **Trustee Lessee's** interest in this **Trustee Lease**;
    - (vi) a variation of this **Trustee Lease**;
    - (vii) any failure by the **Trustee** to exercise its rights or any delay in doing so;
  - (d) the **guarantor** is treated as a primary debtor and contractor together and separately with the **Trustee Lessee**;

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

**Form 20** Version 2  
Page 49 of 53

**Title Reference 49101190**

- (e) this guarantee and indemnity does not depend upon the enforceability of the obligations and agreements of any other person and remains binding even if another person does not sign this **Trustee Lease** or this guarantee and indemnity;
  - (f) if the **Trustee Lessee** enters into liquidation (or being a natural person enters into bankruptcy) and the liquidator or **Trustee** in bankruptcy disclaims this **Trustee Lease** the **guarantor** must accept from the **Trustee** a **Trustee Lease** of the **premises** for a period equal to the remaining unexpired period of this **Trustee Lease**, the new **Trustee Lease** to contain the same conditions as are in this **Trustee Lease**;
  - (g) if the **Trustee Lessee** or its successors or assigns exercises an option to renew this **Trustee Lease** this guarantee and indemnity will be treated as extending to the further **Trustee Lease** and will be read and understood as if the further **Trustee Lease** were this **Trustee Lease** and the **Trustee Lessee** holding under it were the **Trustee Lessee** referred to in this **Trustee Lease**;
  - (h) notices to be given to the **guarantor** may be signed by the solicitors for the **Trustee** or any officer of the **Trustee** and may be given by post at the **guarantor's** last known address;
  - (i) if any part of this guarantee and indemnity is unenforceable that will not affect the enforceability of any other part of this guarantee and indemnity;
  - (j) if the **guarantor** is more than one person the liabilities of each of those persons are joint and separate;
  - (k) this guarantee and indemnity takes effect immediately upon its signing and continues to be of full effect.
- 10.3** References to this **Trustee Lease** include any agreement for **Trustee Lease** or periodic **Trustee Lease** arising upon signing or acceptance by the **Trustee Lessee** of the document to which this guarantee and indemnity is attached or forms part.
- 10.4** If the **Trustee** transfers the **premises** or otherwise transfers the **Trustee's** rights under this **Trustee Lease** the **Trustee's** rights under this guarantee and indemnity will be treated as transferred to any future owner of the **premises** or other transferee.

Executed by the **guarantor** as a deed.

**SIGNED SEALED AND DELIVERED** by Justin Lemberg in the presence of:

_____ Signature of witness	_____ Signature of <b>party</b>
_____ Name of witness (BLOCK LETTERS)	_____ Date signed

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 50 of 53

Title Reference 49101190

**SCHEDULE 4**

**SPECIAL CONDITIONS**

**1. AVAILABILITY OF CENTRE TO THE TRUSTEE**

- (a) The **Trustee** may notify the **Trustee Lessee** that the **Trustee** requires the **Trustee Lessee** to make the Centre (or any part of the Centre) available to the **Trustee** (free of charge) for an event that the **Trustee** wishes to hold or allow to be held at the Centre.
- (b) The **Trustee** may exercise its rights under this special condition no more than twice in each calendar year and for no more than 2 days in each calendar year.
- (c) If the **Trustee** exercises its rights under this special condition, the **Trustee Lessee** must make the Centre (or part of the Centre) available (free of charge) on the date or dates designated by the **Trustee** for the event.
- (d) The **Trustee Lessee** is not released from its obligations under this Agreement on the designated date or dates, unless the **Trustee** specifically specifies or agrees in writing.
- (e) A reference in this special condition to making the Centre available 'free of charge' does not apply to any kiosk or sporting goods outlet in the Centre.

**2. CAPITAL WORKS**

**2.1 Trustee Lessee Capital Works**

- (a) The **Trustee Lessee** must undertake the **Trustee Lessee** Capital Works at the Centre;
  - (i) in accordance with and without breaching the requirements of **clause 32.5** of this Agreement;
  - (ii) after obtaining the **Trustee's** approval to the scope of works and the manner of undertaking the **Trustee Lessee** Capital Works; and
  - (iii) in accordance with any conditions imposed by the **Trustee** when giving that approval.
- (b) The **Trustee Lessee** will hand over the **Trustee Lessee** Capital Works in good repair to the **Trustee** at the end of the Term.
- (c) Ownership of the **Trustee Lessee** Capital Works shall remain with the **Trustee Lessee** during the Term.
- (d) The **Trustee** may request for the **Trustee Lessee** to remove or deconstruct the **Trustee Lessee** Capital Works at the end of the Term.
- (e) If the **Trustee Lessee** does remove or deconstruct the **Trustee Lessee** Capital Works at the end of the Term, it must obtain written consent from the **Trustee** and, repair any damage caused by such removal or deconstruction, to the reasonable satisfaction of the **Trustee**.

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 51 of 53

**Title Reference 49101190**

- (f) **"Trustee Lessee's Capital Works"** means capital improvements made or to be made to the Centre by the **Trustee Lessee** during the Term including but not limited to:

<b>Manage Capital Works</b>	<b>Estimated Cost</b>
Indoor Heated Pool	\$110,000.00
Pool Operations Equipment	\$ 19,500.00
Additional Works	\$ 44,000.00
Shed over Pool	\$ 32,500.00
Concrete & Pathway	\$ 15,000.00
Sundry Construction Expenses	\$ 20,000.00
Subtotal	\$241,000.00
<b>GST 10%</b>	\$ 24,100.00
<b>TOTAL AUD</b>	<b>\$265,100.00</b>

**3. CAPITAL WORKS PROCEDURE**

- (a) The **Trustee Lessee** must submit a written proposal (including a scope of works, draft design brief, draft plans and specifications, draft schedule of finishes, proposed time line and indicative costings) to the **Trustee** outlining the **Trustee Lessee's** proposed capital improvements to the Centre (including but not limited to the **Trustee Lessee Capital Works** outlined in special condition 2(f)) during the Term (the "Capital Works Proposal") on or before **31 March 2022**.
- (b) The **Trustee** will review the **Trustee Lessee's Capital Works** Proposal and provide a response on the proposal to the **Trustee Lessee** within 30 days of receipt of the proposal.
- (c) The parties agree to act in good faith in relation to the proposed capital improvements and the Capital Works Proposal. The **Trustee Lessee** acknowledges that the **Trustee** has a masterplan for the Centre and may be desirous to undertaking additional or other capital improvements to the Centre.
- (d) The **Trustee** may (acting reasonably):
- (i) approve the **Trustee Lessee's Capital Works** Proposal;
  - (ii) require amendments to the **Trustee Lessee's Capital Works** Proposal;
  - (iii) impose conditions on any approval of the **Trustee Lessee's Capital Works** Proposal (including on any amended Capital Works Proposal); or
  - (iv) not approve the **Trustee Lessee's Capital Works** Proposal.
- (e) If the **Trustee** approves the **Trustee Lessee's Capital Works** Proposal (including any amended Capital Works Proposal):
- (i) the **Trustee Lessee's** proposed capital improvements (as per the Capital Works Proposal) will be the "Agreed Capital Works" for the purposes of this **special condition**;
  - (ii) the **Trustee Lessee** must undertake the Agreed Capital Works at the Centre during the Term:
    - (A) to a minimum guaranteed spend amount of \$100,000 (exclusive of **GST**). In this regard, the **Trustee Lessee** must provide to the **Trustee**, as and when requested, evidence of the expenditure of funds, including for example, copies of invoices and receipts for payment;

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

**Form 20** Version 2  
Page 52 of 53

**Title Reference 49101190**

- (B) in accordance with and without breaching the requirements of **clause 32.5** of this Agreement; and
  - (C) in accordance with any conditions imposed by the **Trustee** when giving that approval.
  - (iii) the ownership of the Agreed Capital Works shall be with the **Trustee Lessee** during the Term, but shall vest in the **Trustee** on termination of this Agreement. The **Trustee Lessee** must do all things reasonably possible to ensure that the **Trustee** obtains the benefit of any warranties relating to the Agreed Capital Works; and
  - (iv) the **Trustee Lessee** will not be permitted to remove or deconstruct the Agreed Capital Works at the end of the Term. For the purpose of **clause 16** of this Agreement, the Agreed Capital Works will form part of the Centre and/or the **Trustee's Assets** at the end of the Term.
- (f) If:
- (i) The **Trustee** does not approve the **Trustee Lessee's Capital Works** Proposal; or
  - (ii) The **Trustee** approves the **Trustee Lessee's Capital Works** Proposal but the **Trustee Lessee** does not carry out and complete the Agreed Capital Works in the manner required by this special condition by **1 October 2022**:
- the **Trustee Lessee** must pay to the **Trustee** the sum of \$100,000 plus **GST** within 30 days of receipt of a valid tax invoice from the **Trustee**.
- (g) Nothing in this special condition prohibits the **Trustee** from undertaking its own capital improvements to the Centre and/or utilising the funds received from the **Trustee Lessee** in accordance with special condition 4.2(f) towards its capital improvements to the Centre.

**4. DISPUTES**

If a dispute arises between the parties in relation to the operation of this special condition 2, such dispute shall be managed in accordance with **clause 2.3** of **Schedule 2** of this Agreement

QUEENSLAND TITLES REGISTRY  
Land Title Act 1994, Land Act 1994 and Water Act 2000

**SCHEDULE**

Form 20 Version 2  
Page 53 of 53

Title Reference 49101190

**SCHEDULE 5**

**TRUSTEE'S ASSETS**

Description	Quantity
Large Filter Tank	1
Pool Blanket Roller	1
P.A. Equipment	1
Ropes Assembled	5
Storreel	1
Aquatic Machinery Leichhart Swimming Pool	1
Heat Exchanger - Part of Gas Heaters Vacuum Cleaner	1
Pool Blanket	1
Mushrooms -Within Pool	3
Water Cannons - Within Pool	2
Air Blower - Within Pool	1
Lazy River-Within Pool	1
Pool Vacuum Auto	1
Thermal Blanket	1
Solar Collector System	1
Gas Heaters	2
Filtration System	1
Lane Ropes	1
Leichhardt Pool Kiosk	1
Change Room	1
Demountable Building First Aid	1
25x13m Pool	1
Wading Pool - Fountain	1
Chlorine System	1
Pool Cleaner	1
Submarine Play unit with Staircase and Tunnel	1
4 Way Rocker	1
Surfboard Rocker	1
Fish Rocker	1

Doc ID No: A7636306

ITEM: 4  
SUBJECT: PROCUREMENT: TCP - 10590 SUPPLY AND DELIVERY OF LIGHT VEHICLES  
AUTHOR: CATEGORY SPECIALIST  
DATE: 19 OCTOBER 2021

### EXECUTIVE SUMMARY

This is a report concerning extending the term of contract 10590 – Supply and Delivery of Light Vehicles for up to a further two (2) x one (1) year extension periods, through the adoption of the attached Tender Consideration Plan.

Contract 10590 commenced 1 January 2018 and was put in place for a period of four (4) years (two (2) years with two (2) x one (1) year options). Both available extensions have been exercised and the contract will expire 31 December 2021. The forecasted contract value at commencement was \$8M with the current spend to date just under \$7M.

This extension of time is requested for Fleet and the business to determine the long-term strategy for light fleet vehicles across Council following the completion of the Low Emissions Vehicle Transitioning Plan.

### RECOMMENDATION

- A. That pursuant to Section 230(1)(a) of the *Local Government Regulation 2012* (Regulation), Council resolve to prepare Tender Consideration Plan number 10590 for the provision of Supply and Delivery of Light Vehicles.
- B. That pursuant to Section 230(1)(b) of the *Local Government Regulation 2012* (Regulation), Council resolve to adopt Tender Consideration Plan number 10590 that was prepared for the provision of Supply and Delivery of Light Vehicles. as detailed in the report by the Category Specialist dated 19 October 2021.
- C. That in accordance with the Tender Consideration Plan, Council extend the current contractual arrangement with Q Automotive – Trading as Bremer Ford (ABN 47 010 489 460), Blue Ribbon Motors (ABN 31 458 735 262) and Ross Llewellyn Motors (ABN 81 010 428 841) at an approximate value of \$2,400,000.00 excluding GST over the additional term, being a further two (2) x one (1) year options.
- D. That pursuant to Section 257(1)(b) of the *Local Government Act 2009*, Council resolve to delegate to the Chief Executive Officer the power to take “*contractual action*” pursuant to section 238 of the Regulation, in order to implement Council’s decision.

## **RELATED PARTIES**

- Q Automotive – Trading as Bremer Ford;
- Blue Ribbon Motors; and
- Ross Llewellyn Motors.

There was no declaration of conflicts of interest

## **IFUTURE THEME**

A Trusted and Leading Organisation

## **PURPOSE OF REPORT/BACKGROUND**

Council are currently actively engaged with consultants in the development of a Low Emissions Vehicle (LEV) Transition Plan. The LEV Transition Plan will provide a clear path for optimizing and phasing capital investment to integrate LEVs into Council's fleet. In developing the LEV Transition Plan, the consultants will be required to consider Council's existing fleet, future fleet needs/demand, as well as current and future technology advancements. This work is planned to be completed and presented to the business by December 2021 for consideration.

Council currently operate and manage a light vehicle fleet made up of over 180 vehicles with over 95% of these serviced and maintained internally. The majority of the fleet is standardized and made up of Ford Rangers in various types, however all share common parts which are held in stock for servicing and breakdowns.

The attached Tender Consideration Plan has been prepared due to the work currently underway with the Low Emissions Vehicle Transition Plan, and there is not currently a clear long-term strategy for light fleet vehicles until this is completed.

It would be disadvantageous for Council to return to market at this stage for a short-term arrangement that may result in a change of vehicle brand, which could potentially change again once the long-term strategy is developed. Due to Council having a predominately standardized light vehicle fleet, the transition to another brand for a short term would result in additional costs for spare parts that would need to be held to support the fleet along with training for service staff.

By adopting this Tender Consideration Plan Council will be able to develop a long-term strategy for the replacement of light fleet vehicles following the completion of the Low Emissions Vehicle Transition Plan.

## **LEGAL/POLICY BASIS**

This report and its recommendations are consistent with the following legislative provisions:

*Local Government Act 2009*  
*Local Government Regulation 2012*

**RISK MANAGEMENT IMPLICATIONS**

A risk analysis has been undertaken in the attached Tender Consideration Plan.

**HUMAN RIGHTS IMPLICATIONS**

HUMAN RIGHTS IMPACTS	
<b>OTHER DECISION</b>	
(a) What is the Act/Decision being made?	Recommendation C states that Council extend the current contractual arrangement with Q Automotive – Trading as Bremer Ford, Blue Ribbon Motors and Ross Llewellyn Motors at an approximate value of \$2,400,000.00 excluding GST over the additional term, being a further two (2) x one (1) year options.
(b) What human rights are affected?	N/A
(c) How are the human rights limited?	There will be no impact to human rights as the proposed recommendation is to extend an existing contract with companies and companies are not subject to human rights.
(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	N/A
(e) Conclusion	The decision is consistent with human rights.

**FINANCIAL/RESOURCE IMPLICATIONS**

There is an approved Capital replacement program/budget for light fleet vehicles.

**COMMUNITY AND OTHER CONSULTATION**

The Asset Services Branch and Environment and Sustainability Branch were consulted in the preparation of this report. There was no community consultation required.

**CONCLUSION**

Due to the work currently underway with the Low Emission Vehicle Transition Plan the attached Tender Consideration Plan has been compiled in preparation for its adoption under s230 of the *Local Government Regulation 2012*. The Tender Consideration Plan recommends the extension of contract 10590 – Supply and Delivery of Light Vehicles for a further one (1) + one (1) year term.

**ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS**

1.	CONFIDENTIAL Tender Consideration Plan - 10590 Supply and Delivery of Light Vehicles
----	---

Cory Cavanagh  
**CATEGORY SPECIALIST**

I concur with the recommendations contained in this report.

Lee-Ann Kahl  
**FLEET AND FABRICATION MANAGER**

I concur with the recommendations contained in this report.

Juliana Jarvis  
**GOODS AND SERVICES CATEGORY MANAGER**

I concur with the recommendations contained in this report.

Richard White  
**MANAGER, PROCUREMENT**

I concur with the recommendations contained in this report.

Wesley Davis  
**ACTING MANAGER, ASSET SERVICES**

I concur with the recommendations contained in this report.

Sean Madigan  
**ACTING GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT**

*“Together, we proudly enhance the quality of life for our community”*

Doc ID No: A7573764

ITEM: 5  
SUBJECT: COMMUNITY PANELS  
AUTHOR: ACTING ENGAGEMENT MANAGER  
DATE: 17 SEPTEMBER 2021

### **EXECUTIVE SUMMARY**

Council's five Community Reference Groups (CRG's) have been operating since June 2019, and the two-year membership period has ended for members on each of the five CRG's. The Community Engagement section have supported Council to develop a new community engagement model that is in line with Council's strategic priorities and based on feedback from all involved with the CRG's over the last two years. A community panel model delivered online through Council's community engagement platform - Shape Your Ipswich – is proposed as a more inclusive, timely and contemporary approach to community engagement.

### **RECOMMENDATION/S**

- A. That the community panel program be implemented and included as part of council's suite of community engagement approaches commencing February 2022.**
- B. That the Community Reference Groups' come to an official close as the two (2) year term has ended, and members be acknowledged for their contribution to community.**
- C. That the Manager, City Design arrange a Heritage Forum for the first half of 2022. The agenda and scope of the Forum is to be the subject of consultation with the Mayor and Councillors.**
- D. That the Heritage and Monument Advisory Committee be formally ceased and the immediate previous members be acknowledged and thanked for their past participation and contribution to the community.**
- E. That bi-annual community meetings be held for the following commencing in 2022: Seniors, and Access and Inclusion.**

### **RELATED PARTIES**

There are no declared conflicts of interest.

### **IFUTURE THEME**

Safe, Inclusive and Creative

**PURPOSE OF REPORT/BACKGROUND**

Community Reference Group review

Council established five Community Reference Groups (CRG’s) in 2019 following a review of Council’s Community Consultative Committees in 2018. The CRGs aligned with the five standing committees of council at that time. Recruitment of CRG members was conducted through a public Expression of Interest process. The groups were governed by a set of Guidelines and Terms of Reference (TOR). Members provide feedback to council at regular meetings, acting as advisors and representatives of their community. The term of membership is two (2) years. Under the TOR, Council has a responsibility to review the TOR and the group’s efficacy every two years. A review of the program has now been undertaken.

A reminder that the objectives of the CRGs are to:

- Provide a deliberative forum for members to discuss issues of community interest,
- Draw on local knowledge and enhance community voice in decision-making processes and outcomes, and
- Build community understanding of council core business functions and specific projects and activities.

A summary of the review findings is outlined below.

Benefits	<ul style="list-style-type: none"> <li>• Generally, council has increased and improved its engagement with the community through the program.</li> <li>• A variety of topics were presented to CRG members for their feedback.</li> <li>• The program was well administered and supported by good governance and process.</li> </ul>
Areas for improvement	<ul style="list-style-type: none"> <li>• Some scepticism remains regarding council’s approach to engagement. There is still a feeling that council is not utilising community feedback when making decisions.</li> <li>• More opportunities to engage meaningfully need to be provided to CRG members.</li> <li>• More regular engagement and communications with CRG members is required.</li> <li>• Project schedules (eg policy and strategy development) for community engagement often did not align with CRG meeting dates and aligning schedules would have an impact to project delivery.</li> <li>• Engagement requirements for projects need to be better planned to get the most benefit from community engagement.</li> <li>• Attendance at CRG meetings decreased over time, particularly towards the end of 2020.</li> <li>• Overall, the purpose and objectives of the CRG program is only being achieved to a low level.</li> </ul>

### Community panel

As part of the review, Council conducted secondary desktop research on the broad suite of best-practice community engagement models, case studies and approaches for local governments across Australia. The research also included an analysis of recent and relevant community engagement sentiment data, related to community engagement delivery, received from the community.

The CRG review findings, research and specialist advice was presented to elected representatives and staff over a series of internal workshops. Through these workshops a preference for online community panels was indicated and shown to be a way to progress the areas of improvement identified in the CRG review.

Online community panels are a contemporary form of community engagement where community members sign-up via a digital engagement platform (Shape Your Ipswich) to be part of an ongoing discussion with council on strategic issues and projects. The purpose of the community panel is to provide an inclusive opportunity by which broad community sentiment on strategic issues can be understood and considered in council's decision making.

The panel is open to all community members who are above 16 years and there is no cap on participant numbers. As part of registration, members select topics that correspond to their interest areas. As and when engagement opportunities arise, members are invited to participate in pre-planned community engagement forums. Members can opt in or out of participating at their discretion. Engagement can be delivered online and/or in-person and will vary from basic consultation to more intensive deliberation.

Council will close-the-loop with members, the wider community and decision makers within council by disclosing aggregated transcripts of community sentiment after engagement occurs. Council will also inform members of how their contribution influenced decision making.

Broadly speaking, the sign-up process for the community panels includes:

1. Community members over the age of 16 sign up to the program via Shape Your Ipswich.
2. As part of sign-up, community members select their categories of interest. This will guide what engagement opportunities they will be invited to participate in.
3. Panels will be convened as and when needed for strategic projects/issues (predominantly linked to iFuture). There is no set meeting schedule however an 'engagement calendar' will be developed and used as a communications tool (to provide an indication as to what projects will be seeking community engagement and when).
4. Engagement opportunities will include a hybrid of digital and face-to-face (where possible).
5. Council will close-the-loop with panel members, the wider community and decision makers within council in a timely manner after an engagement opportunity is delivered.

A city-wide marketing and communications campaign for the program will launch in February 2022 to generate widespread interest and uptake. It is proposed that the campaign be re-run annually to ensure new membership and 'fresh' sentiment is captured in conversations with the community.

#### Other community meetings

In addition to the community panels Council also indicated a preference for bi-annual community meetings, commencing in 2022, to be held for:

- Seniors, and
- Access and Inclusion.

The development of such a community engagement mechanism needs to be explored further with elected representatives, council officers and relevant community stakeholders.

#### Targeted engagement forum

In addition to the above, it is recommended that a Heritage Forum be arranged in lieu of the previous 'Heritage and Monuments Advisory Committee'. The agenda for the forum is anticipated to include general heritage matters and the heritage aspects of the New Ipswich Planning Scheme. Those members of the previous committee shall be contacted and invited to join the community panels, and also to consider attendance at the planned Heritage Forum.

#### Links to existing community engagement structures

Council has in place, or is a participant of, a plethora of other community and stakeholder engagement forums and networks within and outside the city. The community panels are intended to **complement** existing forums/networks. They should be viewed as one avenue to strengthen community engagement and the quality of decision making.

The community engagement planning process, which is undertaken for major strategic projects (e.g. iFuture catalyst projects), will determine the interplay between existing forums/networks and the new community panel model. It should be noted that Council has already committed to further community engagement in respect to certain major projects, including the New Ipswich Planning Scheme and the Waste and Circular Economy Transformation Directive. The community panels model will be considered as part of specific engagement strategies for these and other relevant Council projects.

### **LEGAL/POLICY BASIS**

This report and its recommendations are consistent with the following legislative provisions:  
*Local Government Act 2009*

### **RISK MANAGEMENT IMPLICATIONS**

Risks and proposed mitigation methods for the proposed online community panel model are outlined in the table below.

<i>Risk</i>	<i>Mitigation method</i>
Children and young people under 16 years cannot participate.	Continue to collaborate with internal business areas which focus on working with children and young people when planning for and delivering community engagement.  Targeted child and youth engagement strategies in engagement planning and delivery.
Uptake limited to residents with time, access to a device and internet connection.	Continue to collaborate with internal business areas that work with communities that don't have 'easy' access to Shape Your Ipswich.  Where possible, continue mixed-method approaches to community engagement, including face-to-face opportunities in frequented public places such as libraries & shopping centres e.g. pop-ups, drop-in sessions.
Panels not utilised to their potential. Program does not meet community expectations.	Communications campaign will employ strategies to manage expectations e.g. key messaging, community engagement 'calendar'.  Early welcome sessions with panel members will clarify purpose and frequency of engagement.  Digital forums/activities on Shape Your Ipswich can be run in between more resource intensive events, such as webinars and focus groups.

## HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	A. That the community panel program be implemented and included as part of council's suite of community engagement approaches.
(b) What human rights are affected?	No human rights are affected by this decision. Community panels will provide council with a further method to engage with community on matters of interest and strengthen human rights.
(c) How are the human rights limited?	Not applicable

(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Not applicable
(e) Conclusion	The decision is consistent with human rights and may strengthen human rights within the community.

### **FINANCIAL/RESOURCE IMPLICATIONS**

A small marketing budget (approximately \$10,000) will be required for city-wide promotion of the program annually. Administration and delivery of the program will be via a partnership between the Community Engagement Team and project owners. Council’s digital community engagement platform, Shape Your Ipswich, will act as the central tool to recruit, manage and engage with panel members.

### **COMMUNITY AND OTHER CONSULTATION**

All CRG members were invited to participate in the CRG review via an online survey in July 2021. Within council, relevant staff (including the Executive Leadership Team) were consulted as part of the CRG review via an online survey and key informant interviews.

Past and relevant community engagement sentiment data was also analysed and considered in developing the new program. Four workshops were undertaken between May – October 2021 involving elected representatives and staff to discuss community engagement model options.

Engagement with community engagement specialists from other local governments was also undertaken as part of the desktop research. Expert community panel advice was also sought from the provider of Shape Your Ipswich.

Business areas affected by the ‘regular’ community engagement groups (City Design and Economic & Community Development) were also consulted in the development of this report and the recommendations. These business areas concur with the content and recommendations of this report.

### **CONCLUSION**

A review of the CRG program, was undertaken as part of council’s commitment to continuous improvement and meaningful community engagement. The review has identified that community seeks more meaningful engagement opportunities with council, wants to feel heard by council, and to better understand how their feedback influences decision making.

Research was been undertaken by the Community Engagement section to identify best practice community engagement models available to local government. Through a series of internal workshops, Council indicated their preference for online community panels. This contemporary, inclusive, and resource-efficient model of community engagement is

intended to provide a more meaningful engagement program for the community, ultimately improving the sustainability of decision making.

Melanie Rippon  
**ACTING ENGAGEMENT MANAGER**

I concur with the recommendations contained in this report.

Laura Bos  
**MANAGER, COMMUNICATION AND ENGAGEMENT**

I concur with the recommendations contained in this report.

Barbara Dart  
**ACTING GENERAL MANAGER COORDINATION AND PERFORMANCE**

*“Together, we proudly enhance the quality of life for our community”*

Doc ID No: A7634520

ITEM: 6

SUBJECT: COUNCIL, COMMITTEE MEETINGS AND BRIEFINGS/WORKSHOP DATES FOR 2022 AND JANUARY 2023

AUTHOR: MEETINGS COORDINATION MANAGER

DATE: 18 OCTOBER 2021

### EXECUTIVE SUMMARY

This is a report concerning the proposed 2022 Ipswich City Council – Council, Committee Meetings and Briefings/Workshop schedule.

The schedule has been prepared on a 4-weekly cycle where possible with the exception of June, September and December. This is due to a special council meeting on 30 June 2022 for the adoption of the budget, a meeting later in September to allow for a break over the majority of the September school holidays and a shorter timeframe at the end of November/December to allow a good break over the Christmas period.

Informal meetings including briefings and workshops have been proposed to occur generally on the first week of the month and run from 9.00 am to 4.00 pm on these days.

Allowance has also been made within the overall schedule for strategic workshops related to the annual budget and the new Planning Scheme.

### RECOMMENDATION/S

- A. That the Council, Committee Meetings and Briefings/Workshop dates for 2022 and January 2023 be held as detailed in Attachment 1 and as outlined below:

COUNCIL/COMMITTEE	MEETING DAY AND TIME	MEETING DATES
Council Ordinary Meeting  **includes Special Budget Meeting	Thursday - 9.00 am	27 January 2022 24 February 2022 24 March 2022 21 April 2022 19 May 2022 **30 June 2022 28 July 2022 25 August 2022 29 September 2022 27 October 2022 24 November 2022 8 December 2022 19 January 2023

<p><b>Growth, Infrastructure and Waste</b></p>	<p><b>Thursday - 9.00 am</b> <b>**Tuesday – 9.00 am</b></p>	<p><b>10 February 2022</b> <b>10 March 2022</b> <b>7 April 2022</b> <b>5 May 2022</b> <b>16 June 2022</b> <b>14 July 2022</b> <b>11 August 2022</b> <b>15 September 2022</b> <b>13 October 2022</b> <b>10 November 2022</b> <b>**29 November 2022</b></p>
<p><b>Governance and Transparency</b></p>	<p><b>Thursday - 9.00 am</b> <b>**Tuesday – 9.00 am</b></p>	<p><b>10 February 2022</b> <b>10 March 2022</b> <b>7 April 2022</b> <b>5 May 2022</b> <b>16 June 2022</b> <b>14 July 2022</b> <b>11 August 2022</b> <b>15 September 2022</b> <b>13 October 2022</b> <b>10 November 2022</b> <b>**29 November 2022</b></p>
<p><b>Community, Culture, Arts and Sport</b></p>	<p><b>Thursday - 10 minutes after the conclusion of the Governance and Transparency Committee</b> <b>**Tuesday – 9.00 am</b></p>	<p><b>10 February 2022</b> <b>10 March 2022</b> <b>7 April 2022</b> <b>5 May 2022</b> <b>16 June 2022</b> <b>14 July 2022</b> <b>11 August 2022</b> <b>15 September 2022</b> <b>13 October 2022</b> <b>10 November 2022</b> <b>**29 November 2022</b></p>
<p><b>Economic and Industry Development</b></p>	<p><b>Thursday - 10 minutes after the conclusion of the Community, Culture, Arts and Sport Committee</b> <b>**Tuesday – 9.00 am</b></p>	<p><b>10 February 2022</b> <b>10 March 2022</b> <b>7 April 2022</b> <b>5 May 2022</b> <b>16 June 2022</b> <b>14 July 2022</b> <b>11 August 2022</b> <b>15 September 2022</b> <b>13 October 2022</b> <b>10 November 2022</b> <b>**29 November 2022</b></p>

<p><b>Environment and Sustainability</b></p>	<p><b>Thursday - 10 minutes after the conclusion of the Economic and Industry Development Committee</b></p> <p><b>**Tuesday – 9.00 am</b></p>	<p><b>10 February 2022</b>  <b>10 March 2022</b>  <b>7 April 2022</b>  <b>5 May 2022</b>  <b>16 June 2022</b>  <b>14 July 2022</b>  <b>11 August 2022</b>  <b>15 September 2022</b>  <b>13 October 2022</b>  <b>10 November 2022</b>  <b>**29 November 2022</b></p>
<p><b>Ipswich Central Redevelopment Committee</b></p>	<p><b>Thursday - 10 minutes after the conclusion of the Environment and Sustainability Committee</b></p> <p><b>**Tuesday – 9.00 am</b></p>	<p><b>10 February 2022</b>  <b>10 March 2022</b>  <b>7 April 2022</b>  <b>5 May 2022</b>  <b>16 June 2022</b>  <b>14 July 2022</b>  <b>11 August 2022</b>  <b>15 September 2022</b>  <b>13 October 2022</b>  <b>10 November 2022</b>  <b>**29 November 2022</b></p>
<p><b>Briefings/Workshops</b></p>	<p><b>Tuesday - 9.00 am to 4.00 pm</b></p>	<p><b>1 February 2022</b>  <b>1 March 2022</b>  <b>29 March 2022</b>  <b>26 April 2022</b>  <b>24 May 2022</b>  <b>7 June 2022</b>  <b>5 July 2022</b>  <b>2 August 2022</b>  <b>6 September 2022</b>  <b>4 October 2022</b>  <b>2 November 2022</b>  <b>22 November 2022</b></p>

**RELATED PARTIES**

- Mayor and Councillors
- Chief Executive Officer
- Executive Leadership Team
- Meetings Coordination Manager

**IFUTURE THEME**

A Trusted and Leading Organisation

## PURPOSE OF REPORT/BACKGROUND

In order to meet its legislative commitments the local government (council) must set a date and time of future meetings. This report outlines the proposed schedule for council and committee meetings for 2022 and January 2023.

The *Local Government Regulation 2012* states that a council must meet at least once in each calendar month.

## LEGAL/POLICY BASIS

This report and its recommendations are consistent with the following legislative provisions:

*Local Government Act 2009*

*Local Government Regulation 2012*

## RISK MANAGEMENT IMPLICATIONS

Council is required to adopt a meetings schedule and publish at least once per year the meetings schedule.

## HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	Adoption of council and committee meeting dates
(b) What human rights are affected?	Nil
(c) How are the human rights limited?	Not applicable
(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Not applicable
(e) Conclusion	The decision is consistent with human rights.

## FINANCIAL/RESOURCE IMPLICATIONS

The proposed schedule presents no additional resourcing or financial implications.

## COMMUNITY AND OTHER CONSULTATION

A draft meetings calendar was sent to all councillors on 23 September 2021 for consideration and any feedback. The draft calendar for 2022-2023 (to January 2023) is largely similar in arrangements to the current year. Minor feedback has been received at the time of writing this report.

## CONCLUSION

In order to meet its legislative commitment, the Council must set a date and time of future meetings. The 2022-2023 Ipswich City Council – Council, Committee Meetings and Briefings/Workshops Calendar has been prepared in accordance with section 257(1) of the *Local Government Regulation 2012* to ensure there is a meeting of the local government held at least once in each month.

## ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Draft Ipswich City Council - Council and Committee Meeting Calendar for 2022-2023  
----	---

Vicki Lukritz

**MEETINGS COORDINATION MANAGER**

I concur with the recommendations contained in this report.

Wade Wilson

**MANAGER, EXECUTIVE SERVICES**

I concur with the recommendations contained in this report.

Sonia Cooper

**ACTING CHIEF EXECUTIVE OFFICER**

*“Together, we proudly enhance the quality of life for our community”*

CALENDAR - 2022-2023 - IPSWICH CITY COUNCIL - COUNCIL AND COMMITTEE MEETING CALENDAR (As at CI Ord Mtg of ?????)

	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue								
JAN 2022						1 New Year's Day	2	3 New Year's Day Holiday	4						10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26							
FEB	1 B/W 9-4	2	3	4	5	6	7	8 Ctee report review	9 Planning Scheme Discussion	10 Committee	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28										
MAR	1 B/W 9-4	2	3 Budget Workshop	4	5	6	7	8 Ctee report review	9 Planning Scheme Discussion	10 Committee	11	12	13	14	15 Budget Workshop	16	17	18	19	20	21	22	23	24	25	26	27	28	29 B/W 9-4	30	31 Budget Workshop							
APR					1	2	3	4 Ctee report review	5 Planning Scheme Discussion	6 Committee	7 Budget Workshop	8	9	10	11	12	13	14	15 Good Friday	16	17	18	19	20	21	22	23	24	25 ANZAC Day	26 B/W 9-4	27	28 Budget Workshop	29	30				
MAY						1	2	3 Labour Day	4 Ctee report review	5 Planning Scheme Discussion	6 Committee	7	8	9	10	11	12	13	14 Ipswich Show Holiday	15	16	17	18	19	20	21	22	23	24 B/W 9-4	25	26	27	28	29	30	31 Budget Workshop		
JUN			1 Planning Scheme Discussion	2	3	4	5	6	7 B/W 9-4	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31					
JUL																																						
AUG	1	2 B/W 9-4	3	4	5	6	7	8	9 Ctee report review	10 Planning Scheme Discussion	11 Brisbane Exhibition Holiday	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31							
SEP																																						
OCT																																						
NOV	1	2 B/W 9-4	3	4	5	6	7	8 Ctee report review	9 Planning Scheme Discussion	10 Committee	11 Remembrance Day	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31							
DEC																																						
JAN 2023								1 New Year's Day	2 New Year's Day Holiday	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

GIW Growth Infrastructure and Waste Committee  
G&T Governance and Transparency Committee  
CCAS Community, Culture, Arts and Sport Committee  
EID Economic and Industry Development Committee  
E&S Environment and Sustainability Committee  
ICRC Ipswich Central Redevelopment Ctee  
B/W Councillor Briefing Session/Workshop

9.00am  
10 minutes after conclusion of GIW  
10 minutes after conclusion of G&T  
10 minutes after conclusion of CCAS  
10 minutes after conclusion of EID  
10 minutes after conclusion of E&S

PIA Conf - Planning Institute of Australia National Congress - TBA  
LGAQ Conf - Local Government Association of Queensland Inc - 17-19 October 2022 - Cairns  
ALGA Conf - Australian Local Government Association National General Assembly - 19-22 June 2022 - Canberra

Council Ordinary Meetings - 9.00 am  
Committee Meetings - 9.00 am  
Briefings/Workshops - 9.00 am  
Morning Tea = 10.00 am (Committee/Council)  
Lunch = 12.00 pm (Committee/Council)  
All other meetings = as determined

Council Ordinary Meetings 9.00 am  
Council Ordinary Meetings are held in the Council Chambers at 1 Nicholas Street, Ipswich unless otherwise determined

- School Holidays
- Public Holidays
- Committee meetings - 9am
- Council meetings - 9am
- Audit & Risk Mgmt Ctee - 9.30 - 12.30 pm
- Planning scheme sessions - 8.30 - 10am
- Budget briefings TBC
- Briefings/Workshops - 9-4pm
- Ctee/Council Reports review - 9-10am

Doc ID No: A7631553

ITEM: 7  
SUBJECT: DRUG AND ALCOHOL (COUNCILLORS) POLICY  
AUTHOR: MANAGER, EXECUTIVE SERVICES  
DATE: 22 OCTOBER 2021

### **EXECUTIVE SUMMARY**

This is a report outlining the proposal for a Drug and Alcohol Policy for the elected representatives of Ipswich City Council and follows the presentation of two (2) reports to Council previously in December 2020 and March 2021. If adopted, Council voluntarily choosing to implement a policy that goes over and above the requirements of the Code of Conduct for Councillors in Queensland further demonstrates its commitment to good governance.

A draft policy is now attached having been circulated to Councillors in July 2021 and being discussed at a meeting in October 2021.

### **RECOMMENDATION/S**

**That the Drug and Alcohol (Councillors) Policy as detailed in Attachment 1, be adopted.**

### **RELATED PARTIES**

There was no declaration of conflicts of interest.

### **IFUTURE THEME**

A Trusted and Leading Organisation

### **PURPOSE OF REPORT/BACKGROUND**

At the 10 December 2020 Ordinary Council meeting Council resolved:  
*That the Chief Executive Officer provide a report to council in March for consideration which outlines all procedures including a draft of the proposed drug and alcohol testing policy to test elected officials for drugs and alcohol in line with the proposed testing of council officers.*

The role of a Councillor is clearly different to that of Council officers being that it includes significant interaction with a range of stakeholders outside of regular office business hours, including weeknights and weekends. A Councillor's workplace is not confined to the 1 Nicholas Street Administration Building office base nor to standard hours each week or the

ordinary business hours of Council. Work is commonly and frequently performed in many and diverse locations and environments.

The initial intent for the policy for Councillors to align with that of staff presented substantial challenges primarily due to the fact that Councillors are not staff and operate under different legislative provisions.

Following initial consultation, it was recognised that any regime to be implemented needs to be both legal and practical and more research was needed to be undertaken to develop an effective regime. A proposal that included a component of random, mandatory testing without cause presented some challenges with potential Human Rights Act implications.

The overarching behavioural standard for Councillors is outlined in the Code of Conduct for Councillors in Queensland. Specifically, behavioural standard 1.5:

*Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/non-prescribed and/or restricted substances)*

This standard does not specify a particular blood alcohol concentration (BAC) that is different to that which is already set down in applicable legislation (for example for driving a motor vehicle) and remains a requirement regardless of any policy position that the Council chooses to adopt.

Recognising these unique circumstances, the follow up report provided at the March 2021 Council meeting outlined the difficulties that had presented in developing a suitable policy in line with the intent of the original motion. Council subsequently resolved at that meeting as follows:

*That a report be provided to a future meeting of council with a proposed Drug and Alcohol Policy for Councillors that outlines how Councillors can continue to comply with their legislated obligations under the Code of Conduct for Councillors in Queensland.*

During the discussion on the matter, it was suggested that Council write to the Office of the Independent Assessor (OIA) and the Local Government Association Queensland (LGAQ) to seek guidance on the policy settings in light of the relevant local government legislation. This action was taken and responses were received and considered during the policy development.

Concurrently, during this period, implementation of a Drug and Alcohol Procedure for Council officers has been finalised.

## **LEGAL/POLICY BASIS**

This report and its recommendations are consistent with the following legislative provisions:

*Local Government Act 2009*

*Local Government Regulation 2012*

*Code of Conduct for Councillors in Queensland*

## RISK MANAGEMENT IMPLICATIONS

Implementing a policy to further detail the compliance of councillors with the Code of Conduct reduces any ambiguity that may result from the current legislative provisions.

## HUMAN RIGHTS IMPLICATIONS

HUMAN RIGHTS IMPACTS	
OTHER DECISION	
(a) What is the Act/Decision being made?	The decision to implement a Drug and Alcohol Policy for Councillors.
(b) What human rights are affected?	<ul style="list-style-type: none"> <li>• Recognition and equality before the law (section 15)</li> <li>• Protection from torture and cruel, inhumane and degrading treatment (section 16)</li> <li>• Privacy and reputation (section 25)</li> </ul>
(c) How are the human rights limited?	<ul style="list-style-type: none"> <li>• <b>Recognition and equality before the law (section 15)</b> The Policy potentially discriminates against a particular group of persons i.e. persons with an impairment. Drug or alcohol addiction would arguably fall within the definition of 'impairment' under the Anti-Discrimination Act 1991.</li> <li>• <b>Protection from torture and cruel, inhumane and degrading treatment (section 16)</b> The policy requires councillors to submit to medical testing that invades bodily privacy in the event of a workplace incident. Councillors subjected to drug and alcohol testing may experience humiliation, either by being subjected to a test or through the testing process itself. Also being subjected to observations by general managers or other staff to assess whether they are under the influence may also result in humiliation. Information (observations check-lists and tests results) may also be provided to the Office of the Independent Assessor (although these disclosures are required by law)</li> <li>• <b>Privacy and reputation (section 25)</b> The policy impacts on councillor privacy in two ways. First, bodily privacy, through an invasive and mandatory (in particular situations) procedure. Secondly, by providing sensitive information (in the form of observation check-lists or test results) to the Office of the Independent Assessor (although this would not be considered a privacy breach as these disclosures are required by law). A Councillor's reputation could also be</li> </ul>

	damaged by misuse, loss or disclosure of medical/drug testing information by either Council or contracted third parties.
(d) Is there a good reason for limiting the relevant rights? Is the limitation fair and reasonable?	Testing Councillors after a workplace incident or at their request (i.e. voluntarily) is a reasonable approach to achieving the purpose of the policy. Testing after a workplace incident (where there is the suspicion of drug/alcohol impairment) is important to ensure that serious incidents can be investigated and prevented in the future. Likewise, the undertaking of observations and completion of check-lists by Council's Chief Executive Officer or General Managers in the event that a Councillor is believed to be under the influence. The completion of a check-list is a less intrusive option than reasonable suspicion testing. Safeguards have been incorporated into the policy to ensure that Councillors with a drug or alcohol dependency can get support and/or assistance.
(e) Conclusion	The decision is consistent with human rights.

#### FINANCIAL/RESOURCE IMPLICATIONS

The cost of testing is in the vicinity of \$70 per testing kit. An exact figure is unable to be provided at this time pending finalisation of the procurement process for staff testing kits.

Testing costs incurred where a test is undertaken on a voluntary basis will be attributed to the individual Councillor expenses. Where a test is required under the policy, the cost will be assigned to the relevant business unit of Council responsible for providing the test.

Existing resources that carry the responsibility for staff testing will be utilised to conduct any testing required under the proposed policy.

#### COMMUNITY AND OTHER CONSULTATION

Consultation has occurred with Mayor and Councillors, Council's legal team, the Office of the Independent Assessor and the Local Government Association of Queensland. The responses received informed the development of the proposed policy.

A briefing note was provided to the Mayor and Councillors following initial policy development with a workshop later scheduled to enable Councillors to better understand the proposal. Outcomes from this workshop included a practical variation to who can authorise testing and a clarification of the workplace that is now detailed in the policy definitions.

## CONCLUSION

Council voluntarily choosing to implement a policy that goes over and above the requirements of the Code of Conduct for Councillors in Queensland demonstrates its further commitment to good governance.

The proposed policy strikes a reasonable balance to enhancing the legislative requirements that are currently in place and provides a framework for Councillors to demonstrate their commitment to being fit for duty and performing their roles safely.

## ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Drug and Alcohol (Councillors) Policy <a href="#">↓</a> 
2.	Observations Checklist <a href="#">↓</a> 

Wade Wilson

**MANAGER, EXECUTIVE SERVICES**

I concur with the recommendations contained in this report.

Barbara Dart

**ACTING GENERAL MANAGER COORDINATION AND PERFORMANCE**

I concur with the recommendations contained in this report.

Sonia Cooper

**ACTING CHIEF EXECUTIVE OFFICER**

*“Together, we proudly enhance the quality of life for our community”*



IPSWICH CITY COUNCIL

## Drug and Alcohol (Councillors) Policy

<b>Version Control and Objective ID</b>	Version No:	Objective ID: A6859572
<b>Approved by Council on</b>		
<b>Date of Review</b>		

### Table of Contents

1. Statement .....	2
2. Purpose and Principles.....	2
3. Strategic Plan Links .....	2
4. Regulatory Authority.....	2
5. Human Rights Commitment .....	3
6. Scope.....	3
7. Roles and Responsibilities.....	3
7.1 Chief Executive Officer .....	3
7.2 General Managers.....	3
7.3 Workplace Safety & Wellbeing Manager .....	3
7.4 Councillors.....	4
8. Fitness for Duty.....	4
9. Identification and Testing .....	4
9.1 Identification of adversely affected councillor .....	4
9.2 Initial Discussion .....	5
9.3 Formal Action .....	5
9.4 Formal Complaints .....	5
9.5 Voluntary Testing .....	5
9.5.1 Testing Method.....	6
9.5.2 Tolerance Levels - Alcohol .....	6
9.5.3 Tolerance Levels - Drugs .....	6
9.5.4 Positive test result .....	6
9.6 Assistance .....	6
9.7 Prescription and Pharmacy Medication.....	6
9.8 Post-incident and mandatory testing.....	6

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

9.9	Testing Dispute.....	7
10	Endorsed Locations, Events and Social Functions .....	7
11	Awareness and Training.....	7
12	Key Stakeholders.....	7
13	Monitoring and Evaluation .....	8
14	Definitions .....	8
15	Policy Owner .....	9

**1. Statement**

Ipswich City Council is committed to ensuring that Councillors undertaking duties or representing the organisation can perform their role safely and not be under the influence of drugs and/or alcohol within the workplace.

Council has adopted this Drug and Alcohol Policy which prohibits Councillors from conducting Council business whilst under the influence of alcohol or illicit drugs.

**2. Purpose and Principles**

In the interest of Transparency and Accountability and to provide a safe, healthy and productive workplace, this policy focuses on eliminating risks associated with the adverse effects of alcohol and other drugs in the workplace by:

- preventing where possible drug and alcohol related incidents;
- ensuring Councillors are in a fit state to undertake their duties as a Councillor; and
- provide support and rehabilitation to affected Councillors under certain circumstances.

In addition, this policy provides for the appropriate framework for Councillors to comply with behavioural standard 1.5 as contained in the ‘Code of Conduct for Councillors in Queensland’:

*Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/nonprescribed and/or restricted substances)*

**3. Strategic Plan Links**

This policy aligns with the following iFuture 2021-2026 Corporate Plan theme:

- A Trusted and Leading Organisation

**4. Regulatory Authority**

- Local Government Act 2009
- Local Government Regulation 2012
- Code of Conduct for Councillors in Queensland
- Australian Standard 4760-2006
- Australian Standard 3547-1997
- Human Rights Act 2019

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

- *Information Privacy Act 2009*
- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation*

**5. Human Rights Commitment**

Ipswich City Council (Council) has considered the human rights protected under the Human Rights Act 2019 (Qld) (the Act) when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

**6. Scope**

This policy applies to the Mayor and Councillors of Ipswich City Council only.

Noting that the role of a Councillor does not have a defined start and finish times or designated place of work, this policy only applies when a Councillor is undertaking 'Official Duties'.

Where a Councillor is not undertaking Official Duties, this policy does not apply. However, Councillors, as the primary representative of the Council, are still required to comply with the 'Code of Conduct for Councillors in Queensland' and any other legislative provisions that are in place at all times.

**7. Roles and Responsibilities**

**7.1 Chief Executive Officer**

It is the role of the Chief Executive Officer to:

- Assume overall responsibility for the execution and operation of this policy;
- Distribute the necessary training and resources to ensure all Councillors have the necessary skills and knowledge to adhere to this policy;
- Authorise any voluntary or mandatory testing under this policy;
- Undertake any statutory obligations where breaches of this policy initiate a complaint against a councillor in accordance with Section 150P and 150R of the *Local Government Act 2009*;
- Initiate EAP counsellor services as required.

**7.2 General Managers**

It is the role of the General Managers to:

- Assist the CEO to undertake observations of councillors suspected of being under the influence as required;
- Assist with training and education as required.

**7.3 Workplace Safety & Wellbeing Manager**

It is the role of the Workplace Safety & Wellbeing Manager to:

- Assist with and co-ordinate the carrying out of drug and alcohol testing under this policy;
- Co-ordinate the collection and testing of drug and alcohol samples;

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

- Liaise with specialist providers for analysis and reporting on drug and alcohol samples; and
- Maintain confidential records of samples and ensure disposal in accordance with record keeping guidelines.

7.4 Councillors

It is the role of Councillors:

- Adhere to the principles set out within this policy;
- Attend training and education sessions as required;
- Act in a responsible manner consistent with public expectations and not undertake duties as a Councillor when under the influence of illicit drugs or alcohol.

8. Fitness for Duty

Councillors are always expected to undertake their official duties free from the impairment of drugs or alcohol. Councillors are not to present themselves for duty or to any workplace whilst under the influence of drugs and/or alcohol.

Alcohol and illicit drugs shall not be consumed at any workplace, in any Council owned vehicle or plant, or at any time as a Councillor whilst undertaking their official duties unless an exemption under this policy applies.

Councillors must not remain at the workplace if they are under the influence, or there is a risk of becoming under the influence of alcohol and/or other drugs.

9. Identification and Testing

9.1 Identification of adversely affected councillor

Alcohol or other drug related use may result in physical symptoms that may be very similar to the symptoms of a range of medical conditions including fatigue and stress.

**Annexure 1** provides an observation checklist to assist managers with recording observations where there is a suspicion that a Councillor is under the influence of drugs and/or alcohol while at the workplace. Staff are to notify their General Manager if they observe a councillor behaving in a way that indicates they are under the influence.

Only the CEO and General Managers will be permitted to complete an observations checklist. Where this is not practical (e.g. an external Council event), this task may be delegated to an officer.

Those assigned to undertake observations are usually not qualified to make clinical diagnoses of intoxication or dependency, nor are they qualified to provide treatment or counselling for, or judgements about, alcohol or other drug problems.

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

9.2 Initial Discussion

Where there is a reasonable suspicion that a Councillor is under the influence of drugs and/or alcohol while at the workplace following the completion of an observation checklist, it should be privately raised by the CEO (or delegate) directly with the councillor to determine if they should remain in the workplace based on the observations undertaken.

9.3 Formal Action

Where the reasonable suspicion remains that a Councillor is under the influence of drugs and/or alcohol following an initial discussion, the CEO in conjunction with the Mayor (Deputy Mayor where the subject Councillor is the Mayor) may instruct the Councillor to leave the workplace and stay away.

Arrangements will be made to safely transport the councillor to their place of residence. The councillor will not be permitted to return to the workplace until they can either demonstrate they are no longer impaired, or they return a negative result following a voluntary test.

In addition, where a reasonable suspicion has been established and/or the councillor has been instructed to leave or stay away from the workplace, council is required (in accordance of the provisions of the *Local Government Act 2009*) to notify the Office of the Independent Assessor about the suspected conduct of the subject councillor.

9.4 Formal Complaints

Where a complaint is made by any person that a councillor is under the influence of drugs or alcohol, it is required in accordance of the provisions of the *Local Government Act 2009* to refer any complaints about the conduct of a councillor to the Office of the Independent Assessor.

In conjunction with the requirement for referral of the matter, council will undertake an assessment in accordance with section 8.1 - 8.3 of this policy only to ensure the maintenance of a safe workplace. Any observations made or voluntary tests undertaken during this assessment are also required to be provided as part of the complaint.

9.5 Voluntary Testing

Councillors may choose voluntarily to undertake drug or alcohol testing:

- a. at any time where they may wish to demonstrate compliance with this policy and the 'Code of Conduct for Councillors in Queensland'; or
- b. where a reasonable suspicion has been established that they may be under the influence of alcohol or drugs.

Where a voluntary test is undertaken, a councillor shall be considered in breach of this policy if a sample collected and analysed in accordance with the guidelines set out below indicates the presence of a substance at or above the limits outlined in section 9.5.2 and 9.5.3.

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

9.5.1 Testing Method

Any required drug testing undertaken will comprise a saliva test. Saliva testing will be conducted in accordance with Australian Standard 4760-2006.

Alcohol testing will be conducted in accordance with current random breath testing procedures in Queensland (Australian Standard AS 3547-1997).

9.5.2 Tolerance Levels - Alcohol

All Councillors must provide, if tested, a blood alcohol concentration (BAC) of less than 0.05g/100ml (0.05%).

9.5.3 Tolerance Levels - Drugs

A confirmed drug test reporting levels of drug or metabolites that exceed designated cut-off levels constitutes a positive test. Cut-off levels will conform to the relevant Australian Standard/New Zealand Standard, where such a standard has been issued in relation to the drug concerned.

9.5.4 Positive test result

Where voluntary testing is carried out and a positive test result has been returned, arrangements will be made to safely transport the councillor to their place of residence. The councillor will not be permitted to return to the workplace until they can either demonstrate they are no longer adversely affected, or they return a negative result.

Council will also be required to notify the Office of the Independent Assessor about the suspected conduct of the subject councillor where a positive test result is returned.

9.6 Assistance

Council recognises drug and alcohol dependency as a treatable condition. Councillors who suspect they have an issue with drugs and/or alcohol are encouraged to seek advice regarding appropriate treatment options. Councillors can access the services of the Employee Assistance Program (EAP).

9.7 Prescription and Pharmacy Medication

Where a Councillor is taking Prescription and Pharmacy medications for a legitimate medical purpose, the Councillor will not breach this policy by attending the workplace. Where a Councillor is observed as being adversely affected by prescription medication, the same process will apply for a non-negative result to ensure the ongoing safety of the councillor and the workplace.

9.8 Post-incident and mandatory testing

Under certain circumstances Council may impose mandatory testing.

Where a councillor is involved in a workplace incident, Council may require that drug and/or alcohol testing be conducted in the following situations:

- where there is reasonable belief that drugs and/or alcohol may have been involved as a contributing factor;

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

- in situations where there has been a significant event;
- there is a requirement to be tested under legislation or regulations;
- an incident that is notifiable to the regulator;
- an incident causing the death of a person;
- an incident causing admission to hospital as an in-patient for an injury;
- injury incidents causing, or likely to cause, permanent injury to health; or
- a significant or repeated incident involving ICC vehicles/plant and a third party vehicle, plant or property.

9.9 Testing Dispute

A Councillor may, at their own expense, request a practitioner of their own choice to arrange an additional analysis of any sample provided by the Councillor at the time of testing by an approved laboratory that meets the Australian Standard. If this sample returns a negative result, the costs incurred by the Councillor for testing purposes shall be reimbursed by Council.

**10 Endorsed Locations, Events and Social Functions**

An exception for the consumption of alcohol will be made for:

- (a) special occasions or locations as determined by the CEO; or
- (b) where the provision of alcoholic beverages is within the bounds of normal customary hospitality (e.g., attendance at a conference, function or social event in their official capacity where alcoholic beverages are served, either held by council or another group or organisation).

**11 Awareness and Training**

Councillors will be provided with drug and alcohol awareness training. In addition, a range of information on drug and alcohol consumption will be made available to Councillors including the different types of drugs and the risks they pose to health.

Drug and alcohol awareness and training for Councillors will cover, but not be limited to, the points below:

- a. The importance of being able to perform their duty;
- b. The effects of the consumption of drugs and/or alcohol on health, safety and performance in the workplace;
- c. What constitutes unacceptable drug or alcohol consumption;
- d. Basic knowledge and understanding of the different types of drugs and their effects;
- e. Ways of dealing with the consumption of alcohol and other drugs, Counselling, treatment and rehabilitation services available to Councillors to enable those who have problems or concerns to seek effective solutions and suitable treatment of their choosing; and
- f. Council's Drug and Alcohol (Councillors) Policy.

**12 Key Stakeholders**

The following will be consulted during the review process:

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

- Mayor and Councillors
- Executive Leadership Team
- Legal and Governance Branch
- Executive Services Branch
- Workplace Safety and Wellbeing Section

**13 Monitoring and Evaluation**

Council recognises that it is important to develop a workplace culture, through awareness and training, where all parties are prepared to encourage each other to be safe and fit for work. Councillors shall be made aware of the components of this policy that may affect them whilst undertaking their duties for Council.

Success of this policy will be demonstrated by broad awareness of the effects of the consumption of drugs and/or alcohol on health, safety and performance in the workplace and adherence to this policy.

**14 Definitions**

Code of Conduct for Councillors in Queensland	The Code of Conduct sets out the standards of behaviour applying to all Councillors in Queensland. The behavioural standards relate to, and are consistent with, the local government principles and their associated values.
Councillors	All Councillors including the Mayor.
EAP – Employee Assistance Program	A confidential, professional counselling service available to Council employees and Councillors.
Impairment	A symptom of reduced quality, strength or effectiveness of a person because of drugs and / or alcohol consumption whilst performing official duties.
Official Capacity	Where a councillor is invited to an event or function to represent the Council and not in a personal capacity.
Official Duties	<p>Official Duties or Official Council Business is where a Councillor is undertaking their legislated role as a Councillor in accordance with the provisions of the <i>Local Government Act 2009</i>.</p> <p>The following non-exhaustive list provides examples of what would normally be considered Official Duties:</p> <ul style="list-style-type: none"> <li>• Attending formal or informal meetings including ordinary and special meetings, committee meetings, briefing sessions and workshops</li> <li>• Any meeting that directly has the primary purpose of discussing council or council business</li> <li>• Attendance at community meetings</li> <li>• Formal engagements where a councillor is representing council in an official capacity</li> <li>• Attendance at a conference</li> </ul>

IPSWICH CITY COUNCIL | Drug and Alcohol (Councillors) Policy

	<ul style="list-style-type: none"> <li>• Formal meetings between councillors about council business</li> <li>• Meeting with or undertaking discussions with residents either in the workplace or on-site</li> <li>• Travel to and from any official duties listed above.</li> </ul>
Office of the Independent Assessor(OIA)	Agency responsible for managing councillor conduct complaints.
Positive Test Result	<p>In relation to tolerance level for alcohol, a positive test result is a blood alcohol reading greater than 0.05g/100ml blood.</p> <p>In relation to a positive test result for drugs. Cut-off levels will conform to the relevant Australian Standard/New Zealand Standard, where such a standard has been issued in relation to the drug concerned.</p>
Under the influence	<p>A councillor who is adversely affected by alcohol or illicit drugs will be considered to be under the influence if they are unfit to perform their duties and responsibilities safely and productively. The effects of alcohol or drug consumption can lead to:</p> <ul style="list-style-type: none"> <li>• increased risk of incidents</li> <li>• impaired coordination</li> <li>• decreased ability to concentrate and communicate</li> <li>• lack of thoughtful decision making</li> <li>• impairment of memory and other cognitive functions</li> <li>• delayed reaction time.</li> </ul> <p>The term 'under the influence' includes impaired performance related to coming down from illicit drug use or experiencing the effects of a hangover.</p>
Workplace	<p>A workplace or work location includes any Ipswich City Council building, telecommuting, working from home, work endorsed events, work social functions and whilst operating Council owned vehicles.</p> <p>It also encompasses the definition of 'workplace' in the Work Health and Safety Act 2011.</p>
Workplace Incident	An incident in the workplace as defined by the Work Health and Safety Act 2011.

**15 Policy Owner**

The General Manager Coordination and Performance is the policy owner and the Manager, Executive Services is responsible for authoring and reviewing this policy.

## Annexure 1 - Observations Checklist

Name of person being observed in accordance with Drug and Alcohol (Councillors) Policy:

\_\_\_\_\_

Date of observation: \_\_\_\_\_ Time: \_\_\_\_\_ am / pm

Location: \_\_\_\_\_

Observations: Check all that apply:

### Behaviour

- Stumbling
- Drowsy, sleepy, lethargic
- Agitated, anxious, restless
- Hostile
- Unresponsive, distracted
- Clumsy, uncoordinated
- Tremors, shakes
- Flu-like illness complaints
- Suspicious, paranoid
- Hyperactive, fidgety
- Inappropriate, uninhibited behaviour
- Swaying, unbalanced on their feet
- Withdrawn

### Appearance

- Flushed complexion
- Sweating
- Cold, clammy
- Bloodshot eyes
- Tearing, watery eyes
- Dilated (large) pupils
- Constricted (pinpoint) pupils
- Unfocused, blank stare
- Poor personal hygiene
- Unkempt grooming, wearing inappropriate clothing

### Speech

- Slurred, thick
- Incoherent
- Exaggerated enunciation
- Loud, boisterous
- Rapid, pressured
- Excessively talkative
- Nonsensical, silly
- Cursing, inappropriate speech

Other observations: (may also include breath smell of alcohol)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above observations were made by the following

**Manager:**

\_\_\_\_\_  
Manager name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date