

GOVERNANCE AND TRANSPARENCY COMMITTEE LATE REPORTS

Item No.	Item Title	Page No.
1	Business Outstanding – Matters Lying on the table to be dealt with **Cameron Park - Swifts Leagues Club Ltd	3

** Item includes confidential papers

GOVERNANCE AND TRANSPARENCY COMMITTEE NO. 1

20 AUGUST 2020

LATE REPORTS

BUSINESS OUTSTANDING – MATTERS LYING ON THE TABLE TO BE DEALT WITH

1. ****CAMERON PARK - SWIFTS LEAGUES CLUB LTD**

This is a report concerning the tenure of Swifts Leagues Club Ltd (Swifts) at Cameron Park and the consideration of possible options regarding the future of the facility. Swifts currently occupy part of the park under a lease with Council, which is described as Lease A in Lot 169 on RP24111 on SP147837. The lease commenced on 6 September 2001 for a twenty (20) year term with two (2) by ten (10) year options and Swifts have expressed an interest in purchasing the land and facility that they currently occupy from Council. This is a report requesting the repeal of a previous decision adopted at the Council Special Meeting of 27 June 2019.

RECOMMENDATION

This matter was laid on the table at the General Purposes Committee of 21 July 2020.

- A. That Council's previous decision adopted at the Council Special Meeting of 27 June 2019, be repealed.
- B. That Council receive this report and provide its direction on one of the options presented, being:
 - 1. Retain the Land
 - 2. Direct Disposal to Swifts
 - 3. Disposal to Swifts following Community Consultation

**** Item includes confidential papers**

and any other items as considered necessary.

Doc ID No: A6434329

ITEM: 1

SUBJECT: CAMERON PARK - SWIFTS LEAGUES CLUB LTD

AUTHOR: PROPERTY SERVICES MANAGER

DATE: 19 AUGUST 2020

EXECUTIVE SUMMARY

This is a report concerning the tenure of Swifts Leagues Club Ltd (Swifts) at Cameron Park and the consideration of possible options regarding the future of the facility. Swifts currently occupy part of the park under a lease with Council, which is described as Lease A in Lot 169 on RP24111 on SP147837. The lease commenced on 6 September 2001 for a twenty (20) year term with two (2) by ten (10) year options and Swifts have expressed an interest in purchasing the land and facility that they currently occupy from Council. This is a report requesting the repeal of a previous decision adopted at the Council Special Meeting of 27 June 2019.

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 - 3. Disposal to Swifts following Community Consultation

RELATED PARTIES

Mr Brett McGrath, Property Services Manager and author of the report, declares for the Committee's consideration that he has previously worked in the Swifts Leagues Club and played sport for the club in 2002. There is therefore potential for a perception of a conflict of interest. This potential perception of conflict of interest has been managed by ensuring that Mr Brett McGrath is not a decision-maker and his line managers have carefully reviewed the information being presented to the decision-makers.

ADVANCE IPSWICH THEME

Caring for the community

PURPOSE OF REPORT/BACKGROUND

Cameron Park is located at 95A Brisbane Road, Booval and is described as Lot 169 on RP24111 (5.729 ha). Swifts has a twenty (20) year lease with two (2) by ten (10) year options for Lease A in Lot 169 on RP24111 (1.119ha), which commenced on 6 September 2001 for the occupation of the land and facility as a sports and recreation club.

Swifts has expressed an interest in purchasing the land and facility that they currently occupy under lease from Council. A previous decision was adopted at the Council Special Meeting of 27 June 2019 to dispose of the proposed lot, described as part of Lot 169 on RP24111 (see attached map) to Swifts. The recommendation of the disposal included that Swifts prepare a master plan of their proposal for the site and undertake community consultation to satisfy that they have sufficient community support for the disposal.

Swifts undertook the community consultation in November/December 2019 and sent the results to Council for consideration. Upon review of the community consultation results provided by Swifts it was concluded that the process lacked the information required for the public to determine and articulate an informed position. Council advised Swifts that they need to address the uncertainties and inconsistencies raised through the community consultation by undertaking a more open and transparent process.

Swifts has not undertaken any further community consultation following the decision by Council and therefore has not met the requirements of the previous recommendation by Council. Additionally, Swifts has requested that the newly elected Council review and consider the previous decision and provide a direction on whether the disposal of the land is supported.

Therefore, the previous resolution adopted at the Council Special Meeting of 27 June 2019 is required to be repealed and the below options be considered for a new resolution by Council.

The options for Council to consider in this matter are as follows:

1. Retain the Land – Continue under the terms of the lease between Council and Swifts.
2. Direct Disposal to Swifts – Sell the land and facility to Swifts at market value.
3. Disposal to Swifts Following Community Consultation - Sell the land and facility to Swifts at market value after Council undertakes community consultation on disposal.

Option 1 – Retain the Land

Under this option, Swifts continue its occupation of the facility under the terms of the lease agreement until the end of the lease on 5 September 2041. The facility is nearing the end of its useful life and will require capital upgrades in the future to sustain the longevity of the asset. While the lease is based on non-commercial terms and provides a rent reflective of

that offered to community groups, the onus will be on Swifts to make aesthetic and functional upgrades to the facility. Council may have some obligation to rectify any safety issues and possibly some structural issues with the facility.

Option 2 – Direct Disposal to Swifts

Under section 236 of the *Local Government Regulations 2012* (Qld) (Regulations), Council can dispose of a valuable non-current asset without going through the tender and auction requirements under section 227, if the disposal is to a community organisation (refer to section 236(1)(b)(ii)), and Council (before the disposal) has decided by resolution that the exception contained in section 236(1) may apply.

In determining a Community Organisation, schedule 8 of the Regulations defines it as:

“Community Organisation” means—

(a) an entity that carries on activities for a public purpose; or

(b) another entity whose primary object is not directed at making a profit.

Swifts Leagues Club Ltd is a public company limited by guarantee registered with the Australian Securities and Investments Commission (ASIC). Swifts is a not-for-profit entity and under Rule 3(2) of the Swifts’ constitution it provides that the objects of the organisation is ‘for the benefit of the local or general community’.

Further, rules 5.1 and 6 provide that the organisation’s income must be applied to its objects and that the income and property of the organisation cannot be provided to its members. Further, upon a winding up, rule 112 provides that the property held by Swifts must be provided to an organisation with similar objects.

On the basis of the above, Swifts can be regarded as a Community Organisation for the purposes of the Regulation. Council can directly dispose of the land and facility to Swifts if by resolution the land is declared surplus to Council’s requirements and the exception for Swifts being a “community organisation” under the Regulation is applied.

Option 3 - Disposal to Swifts Following Community Consultation

As with Option 2, Council can dispose of the land and facility to Swifts if the land is declared surplus to Council’s requirements in accordance with the exception under 236 (1) (b) of the Regulation, that Swifts is a “community organisation”. With Option 3, the intent is to engage with the Ipswich community to determine its support prior to the disposal of the land and facility to Swifts. Council will coordinate the public consultation and Swifts will be required to provide a detailed proposal, inclusive of a master plan, which will form the basis of the consultation. This option will require Swifts to provide all essential information on their proposal upfront to ensure the community is fully informed of their intention with the land and facility to support the disposal.

The final determination of the public consultation is subject to Council being satisfied with the outcome of the community consultation process and that the sale to Swifts Leagues Club is, overall, in the best interests of the community.

LEGAL/POLICY BASIS

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

Local Government Act 2009

Local Government Regulation 2012

Planning Act 2016

RISK MANAGEMENT IMPLICATIONS

Option 1 – Given Swifts has made limited progress to develop the facility over the term of the lease, there is a low to moderate risk that they may not be able to sustain the management of the facility long-term.

Option 2 - Given that Swifts has undertaken community consultation and Council has determined the results of it as unsatisfactory, there is a low to moderate risk of community concern and adverse reaction to a direct sale of the asset, without further community consultation.

Option 3 – There is a moderate risk that at the conclusion of the community consultation led by Council, the support for the sale of the asset to Swifts may still be determined as not in the best interests of the community.

FINANCIAL/RESOURCE IMPLICATIONS

If option 2 or 3 are adopted, Council will need to dispose of the asset in accordance with the *Local Government Regulation 2012*. Under section 236 (3) of the Regulation, Council can only dispose of the asset at equal to, or more than, market value. This will require an assessment by a registered valuer to determine the market value at the time of the sale.

A previous market assessment was undertaken in 2019 and this is attached in the confidential documents, however a new assessment will be required to be reflective of the current market.






COMMUNITY AND OTHER CONSULTATION

Community consultation on the proposed sale was completed by Swifts. However, the results of this were unsatisfactory and not supported by Council. Swifts did not provide a master plan of their proposal as requested by Council and the majority of the feedback from the community was they had not been fully informed on the matter. Swifts were given an opportunity to redress the issues by undertaking a revised community consultation process but declined. The advice to Swifts is in the letter attached.

CONCLUSION

It is recommended that Council review the three options in this report and make an informed decision on the resolution concerning the tenure of Swifts Leagues Club Ltd (Swifts) at Cameron Park.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Lease - Council and Swifts Leagues Club - 95A Brisbane Road, Booval. ↓ 
2.	Amendment to Lease - Council and Swifts Leagues Club Limited - 95a Brisbane Road Booval ↓ 
3.	Proposed Disposal Land Area - Survey Plan SP310956 - Draft ↓ 
4.	Council Report 27 June 2019 - Disposal of Part of 95A Brisbane Road, Booval - Swifts Leagues Club Ltd (A5915100) ↓ 
5.	Letter to Swifts - Outcomes of Community Consultation Process ↓ 
	CONFIDENTIAL
6.	Valuation - 23 January 2019 - Part of 95a Brisbane Rd, Booval - Revaluation on 1.633ha

Brett McGrath

PROPERTY SERVICES MANAGER

I concur with the recommendations contained in this report.

Tony Dunleavy

MANAGER LEGAL AND GOVERNANCE (GENERAL COUNSEL)

I concur with the recommendations contained in this report.

Sonia Cooper

GENERAL MANAGER CORPORATE SERVICES

I concur with the recommendations contained in this report.

Brett McGrath

PROPERTY SERVICES MANAGER

I concur with the recommendations contained in this report.

Sean Madigan

GENERAL MANAGER - COORDINATION AND PERFORMANCE

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

Item 1 / Attachment 1.

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

LEASE/SUB LEASE

Form 7 Version 5
Page 1 of 34

Duty Imprint

708579898

ie authority of the Land
t 2000 and is used for the
isters in the land registry

Queensland Duty Paid \$...342.65
on Original Instrument
Lodgement No...012 585 186-9
Signed: ...A. CLARKE 07/12/04

1. Lessor IPSWICH CITY COUNCIL formerly COUNCIL OF THE CITY OF IPSWICH	Lodger (Name, address & phone number) Ipswich City Council 50 South Street Ipswich Qld 4305 Tel: (07) 3810 6666	Lodger Code 117
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2. Lot on Plan Description Lot 169 on RP 24111	County Stanley	Parish Ipswich	Title Reference 11285053
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3. Lessee Given names	Surname/Company name and number Swifts Leagues Club Ltd ACN 010 165 045	(include tenancy if more than one)
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4. **Interest being leased**
Fee simple

5. **Description of premises being leased**
Lease A in Lot 169 on RP 24111 on SP 147837

6. Term of lease Commencement date: 06/09/2001 *Expiry date: 05/09/2021 **Options on page 7 *not required for leases in a retirement village **insert nil if no option	7. Rental/Consideration See attached schedule
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8. **Grant/Execution**

The Lessor leases the premises described in item 5 to the lessee for the term stated in item 6 subject to the covenants and conditions contained in the attached schedule.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

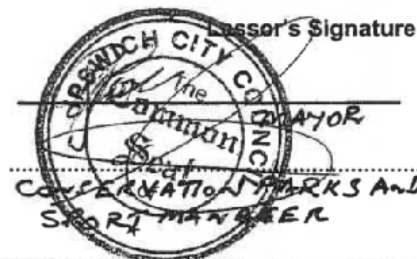
Witnessing Officer

Execution Date

Lessor's Signature

Lynette Therese O'Leary signature
LYNETTE THERESA O'LEARY full name
Justice of the Peace (Qualified) qualification
Registration No. 22634

23 / 11 / 04.



(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

9. **Acceptance**

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

Witnessing Officer

Execution Date

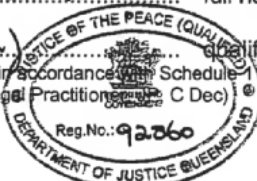
Lessee's Signature

Therese Marie Young signature
THERESA MARIE YOUNG full name
J.P. (Qual.) qualification
Reg. No. 92360

15 / 10 / 04

Chairman of Directors
CHAIRMAN OF DIRECTORS
Secretary
SECRETARY
SWIFTS LEAGUES CLUB LTD
A.C.N. 010 165 045

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)



Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 2 of 34

Title Reference 11285053

ITEMS SCHEDULE

Item 1	Lessor:	Ipswich City Council
	Address for service:	50 South Street Ipswich Qld 4305
	Trust Deed:	Not Applicable
Item 2	Lessee:	Swifts Leagues Club Ltd
	Address for service:	95 Brisbane Road Booval Qld 4304
Item 3	First year's Rent:	\$4,450.00
Item 4	Period of Option:	10 years
Item 5	Rent Increase:	As provided in clause 3.2
Item 6	Review Date:	Each anniversary of the Commencement Date
Item 7	Amount of Bank Guarantee:	Not applicable
Item 8	Permitted Use:	Sports and Recreation Club
Item 9	Times of Use of Premises:	8:00am - 2:00 am
Item 10	Amount of Public Liability Insurance:	\$10 000 000.00

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 3 of 34

Title Reference 11285053

The following are provisions which are capable of being covenants and conditions in the Lease

CONTENTS

- | | |
|--|---|
| <p>1. Definitions</p> <p>1.1 Items</p> <p>1.2 Building</p> <p>1.3 Council</p> <p>1.4 Council Property</p> <p>1.5 CPI</p> <p>1.6 GST</p> <p>1.7 Input Tax Credit</p> <p>1.8 Insolvent</p> <p>1.9 Insured Risks</p> <p>1.10 Land</p> <p>1.11 Lease</p> <p>1.12 Lessee's Property</p> <p>1.13 Manager</p> <p>1.14 Premises</p> <p>1.15 Services</p> <p>2. Duration of Lease</p> <p>2.1 Duration</p> <p>2.2 Option for Further Lease</p> <p>2.3 Monthly Tenancy when Lease Expires</p> <p>3. Lessee's Payments</p> <p>3.1 Rent</p> <p>3.2 Increase in Rent</p> <p>3.3 Specific Tenancy Charges</p> <p>3.4 Stamp Duties and Costs</p> <p>3.5 GST</p> <p>3.6 Bank Guarantee</p> <p>4. Use of Premises</p> <p>4.1 Permitted Use</p> <p>4.2 Uses with Written Consent</p> <p>4.3 Alcohol and/or Gambling</p> | <p>4.4 Compliance</p> <p>4.5 Management</p> <p>4.6 Proper Use of Facilities</p> <p>4.7 Prohibitions</p> <p>4.8 Signs and Installations</p> <p>4.9 Cleaning</p> <p>5. Repairs and Alterations</p> <p>5.1 Structural Work</p> <p>5.2 Specific Repairs and Maintenance</p> <p>5.3 Alterations Equipment and Partitions</p> <p>5.4 Carrying out of Works</p> <p>5.5 Council's Inspection</p> <p>5.6 Notice of Repair</p> <p>5.7 Council's Repair</p> <p>5.8 Repair at the End of the Lease</p> <p>5.9 Lessee's Property at the End of the Lease</p> <p>6. Fencing</p> <p>6.1 Fencing</p> <p>6.2 Development</p> <p>6.3 Town Planning Applications</p> <p>6.4 Maintenance Standards</p> <p>6.5 Lessee's Notification of Required Maintenance</p> <p>7. Good Neighbour Processes</p> <p>7.1 Community Liaison Officer</p> <p>7.2 Good Neighbour Process</p> <p>7.3 Minor Breaches</p> <p>8. Insurance</p> <p>8.1 Lessee's Insurance</p> <p>8.2 Lessee's Insurance Policy</p> <p>8.3 Additional Premiums</p> <p>8.4 Inflammable Substances</p> |
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Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 4 of 34

Title Reference 11285053

- | | |
|---|--|
| 8.5 Fire Regulations | 13.1 Resumption |
| 8.6 Prejudice of Insurance | 13.2 Destruction or Damage |
| 9. Release of Indemnity and Trustee Liability | 13.3 No obligation to Rebuild |
| 9.1 Exemption of Council from Liability | 13.4 No Rebuilding |
| 9.2 Indemnity | 13.5 Lessee's Damage |
| 9.3 Council Released | 13.6 Continuing liability of Lessee |
| 9.4 Lessee a Trustee | 13.7 Adjustment for Unusable Premises |
| 10. Assignment and Subletting | 14. Council's Rights |
| 10.1 Consent | 14.1 Reservations to Council |
| 10.2 Consent to Assignment | 14.2 Availability to Other Organisations |
| 10.3 Assignee | 15. Power of Attorney |
| 10.4 Formalities | 15.1 Appointment |
| 10.5 Fees | 16. General |
| 10.6 Time for Consent | 16.1 Interpretation |
| 10.7 Corporation Lessee | 16.2 Notices |
| 10.8 Mortgage of Lease | 16.3 Consent or Approval of Council |
| 11. Quiet Enjoyment | 16.4 Lessee not to Prejudice Head Lease |
| 11.1 Quiet Enjoyment | 16.5 Saturdays Sundays and Public Holidays |
| 12. Default | 16.6 Law |
| 12.1 Essential Terms | 16.7 Notice before Council Liable |
| 12.2 Council's Right to Terminate | 16.8 Council's Powers |
| 12.3 Amount recoverable by Council | 16.9 Lessee's Cost |
| 12.4 Carry out Lessee's obligation | 16.10 Lessee's Actions |
| 13. Resumption Destruction or Damage to the Premises | 16.11 Money payable on demand |
| | 16.12 Dispute Resolution |

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

SCHEDULE

Form 20 Version 2
Page 5 of 34

Title Reference 11285053

1. DEFINITIONS

In this Lease:

1.1 Items

Are the items in the Items Schedule.

1.2 Building

Means the improvements contained in the premises.

1.3 Council

Means the Ipswich City Council, its successors and assigns and any Officer of the Ipswich City Council authorised to administer the relevant provisions of the Lease.

1.4 Council Property

Means 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 Council.

1.5 CPI

Means the Consumer Price Index for Brisbane (All Groups) published by the Australian Bureau of Statistics. If the CPI no longer exists it means an index that the President of the Law Society of Queensland decides reflects changes in the cost of living in South East Queensland.

1.6 GST

Means any goods and services or similar tax imposed at the point of sale or time of supply on the supply of goods, services or other things in Australia.

1.7 Input Tax Credit

Means any GST paid on the supply of goods, services or other things for which the recipient of the supply is entitled to a refund or a credit against other GST otherwise payable by the person.

1.8 Insolvent

Means:

- (a) for a natural person
 - (i) the committing of an act of bankruptcy;
 - (ii) being made bankrupt; or
 - (iii) being subject to an arrangement under Part IV of the Bankruptcy Act 1966; and
- (b) for a corporation:
 - (i) being wound up;
 - (ii) having an official manager appointed;
 - (iii) being subject to an order for winding up or reconstruction; or

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 6 of 34

Title Reference 11285053

- (iv) having a receiver a receiver and manager an agent in possession a trustee or guardian appointed to the property of the corporation.
- (c) for an incorporated association:
 - (i) being wound up pursuant to section 89 of the Associations Incorporation Act 1981;
 - (ii) being wound up pursuant to section 90 of the Associations Incorporation Act 1981;
 - (iii) incorporation being cancelled pursuant to section 93 of the Associations Incorporation Act 1981.

1.9 Insured Risks

Means those disabling causes against which the Lessor insures

1.10 Land

Means the land in Item 2 of the Form 7

1.11 Lease

Includes a tenancy arising:

- in contract, by operation of law, in equity or by other means;
- from the Lessee entering into occupation of the **Premises**;
- from the Lessee paying the whole or part of the rent; or

from the execution of the Form 7.

1.12 Lessee's Property

Means all plant and equipment, fixtures, fittings, furniture, furnishings and decorations and other property in, on or fixed to the Premises that are not Council's Property.

1.13 Manager

Means the Manager of the Conservation, Parks and Sport Department of Council.

1.14 Premises

- the land in Item 5 of the Form 7;
- all improvements on that land; and

The Council's property installed in or on the land or improvements

1.15 Services

Means the services provided by Council or other authorities to the Land, including but not limited to, electricity, gas, water, sewerage, air conditioning, fire control and communications together with all plant and equipment relating to those services.

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 7 of 34

Title Reference 11285053

2. DURATION OF LEASE

2.1 Duration

The **Lease** commences on the Commencement Date in Item 6 of the Form 7 and expires at midnight on the Expiry Date in Item 6 of Form 7.

2.2 Option for Further Lease

If a further period is stated in **Item 4** and the Lessee:

- (a) gives the Council not more than six months but not less than three months notice before the Expiry Date;
- (b) is not in breach of the Lease in respect of which the Council has given to the Lessee notice at the time:
 - (i) when the Lessee gives notice; or
 - (ii) on the Expiry Date;

the Council must grant the Lessee a **Lease** for the period in **Item 4** on the terms of this **Lease**,

But:

- the rent for the first year of the new **Lease** must be 10% of the unimproved value of the Land as at 6/9/2021, or the rent for the last year of this **Lease**, whichever is the greater.
- the Council may make other amendments which it reasonably considers necessary to reflect any changes in the Premises or the management of the Building; and
- the new Lease will not contain this option.
- on each review date the rent increases to 10% of the unimproved value of the Land as at the review date or the rent of the previous lease year, whichever is the greater.

For the purposes of this clause, the "unimproved value of the Land" has the same meaning as in the Valuation of Land Act 1944 and, if the amount of the unimproved value of the Land has been determined under that Act under a valuation current as at 6/9/2021, will as at that date be that amount.

2.3 Monthly Tenancy when Lease Expires

If the Lessee occupies the **Premises** after the Expiry Date or earlier termination of the **Lease** with the consent of the Council, it does so as a monthly tenant on the following terms:

(a) Term

The conditions of the tenancy are the conditions in the **Lease** which apply on the Expiry Date save and except the Lessee must pay on twelfth of the rent in **Item 3** per month without demand.

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 8 of 34

Title Reference 11285053

(b) Termination

The Council or the Lessee may terminate the monthly tenancy on any day by giving one month written notice to the other.

3. LESSEE'S PAYMENTS

3.1 Rent

Each lease year, the Lessee must pay the rent in **Item 3** annually in advance on the Review Dates without demand.

3.2 Increase in Rent

On each of the first five review dates the rent increases to 5% of the unimproved value of the Land as at the review date or the rent for the previous lease year, whichever is the greater, and on each other review date the rent increases to 10% of the unimproved value of the Land as at the review date or the rent for the previous lease year, whichever is the greater.

For the purposes of this clause, the "unimproved value of the Land" has the same meaning as in the Valuation of Land Act 1944 and, if the amount of the unimproved value of the Land has been determined under that Act under a valuation current at a particular review date, will as at that review date be that amount.

3.3 Specific Tenancy Charges

The Lessee must

- (a) pay the Council within 30 days of receipt of invoice:
 - (i) all local authority rates and charges for the **Premises**; and
 - (ii) all premiums for the insurances which the Council has in respect of the **Premises**;
- (b) Pay on time all assessments it receives for services supplied to the **Premises**, including water, electricity, gas and telephone.

3.4 Stamp Duties and Costs

The Lessee must pay:

(a) Stamp Duties

stamp duties, which include duties payable on:

- the **Lease**;
- an assignment of **Lease** (including a deed of consent);
- a subletting (including a deed of consent);
- a licence (including a deed of consent); and
- the surrender or termination of the **Lease** other than at the Expiry Date;

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 9 of 34

Title Reference 11285053

(b) Costs

costs, which include the Council's reasonable legal and other costs, charges and expenses incidental to:

- preparing negotiating, stamping and registering the **Lease**;
- preparing a plan to include in the **Lease**;
- an application for consent even if consent is not given;
- an assignment subletting or dealing with the **Lease** even if the dealing does not proceed;
- a surrender, termination or attempted termination of the **Lease**;
- any lawful notice given to the Lessee pursuant to the **Lease**;
- the Council re-entering or attempting to re-enter the **Premises**;
- any proceedings which the Council brings to enforce the Lessee's performance of the **Lease**; and
- any other costs which the Council incurs because the Lessee breaches the **Lease**; and

(c) Registration Fees

- registration fees, including those payable on:
- the **Lease**;
- any plan necessary for its registration;
- any amendment or variation;
- any assignment or transfer;

a surrender.

3.5 GST

(a) Payments exclusive of GST

All amounts which the Lessee is required to pay to the Council under this **Lease** (including but not limited to rent) are exclusive of GST.

(b) Gross up for GST

If the Council is required to pay GST for a supply by the Council under this Lease, the Lessee must pay an additional amount to the Council equal to the GST payable. Any such additional amount must be paid by the Lessee to the Council on the due date for payment of the supply on which the GST is payable.

(c) Tax Invoice

The Council must not later than seven days before the date the Lessee is required to pay to Council the increased amount for GST (or such other period as may be prescribed by law) provide to the Lessee a tax invoice.

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 10 of 34

Title Reference 11285053

(d) Recovery of Outgoings

If a payment to a party under this Lease is a reimbursement or indemnification calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any Input Tax Credit to which that party is entitled for that loss, cost of expense.

3.6 Bank Guarantee

(a) Giving a Bank Guarantee

Before the **Lease** starts, the Lessee must give to the Council a bank guarantee.

(b) Form

The bank guarantee must:

- (i) be given by a bank and be in a form, approved by the Council;
- (ii) not have an expiry date;
- (iii) undertake to pay unconditionally to Council and without notice to the Lessee; and
- (iv) be for an amount not less than the sum specified in Item 7.

(c) Demanding Payment

If the Lessee does not comply with any of its obligations under this Lease, the Council may demand payment under the bank guarantee without notice to the Lessee. The Council must put any sum paid to it under the bank guarantee towards complying with those obligations.

(d) Additions or Replacements

If the Council receives payment under the bank guarantee under this clause 3.6, the Lessee must give the Council an additional or replacement bank guarantee on demand so that the amount of the bank guarantee is always the amount in Item 7.

(e) Assignment

The Council may assign the bank guarantee to any person to whom it assigns its interest in this Lease. If the bank guarantee is not assignable, or if the Council otherwise reasonably requires a replacement bank guarantee for the benefit of that person, the Lessee must promptly give a replacement guarantee to that person when asked by the Council.

(f) Lessee's Actions

The Lessee must not do anything that could delay or prevent the Council from demanding payment under the bank guarantee.

(g) Returning bank guarantee

After this **Lease** expires or is terminated and all of the Lessee's obligations under this

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

SCHEDULE

Form 20 Version 2
Page 11 of 34

Title Reference 11285053

Lease have been complied with, the Council must return to the Lessee the Bank Guarantee (or the part of the Bank Guarantee not drawn down).

4. USE OF PREMISES

4.1 Permitted Use

- (a) The Lessee must use the premises only for the purposes in **Item 8** and associated storage;
- (b) The Lessee represents and warrants that it has relieved exclusively on its own enquiries in connection with this Lease and not on any representation or warranty made by the Council or on the Council's behalf except as set out in the **Lease** and that the Council has not represented and warranted that the **Premises** are suitable or may be used for the use in **Item 8**.

4.2 Uses with Written Consent

The Lessee must not, without the prior written consent of Council:

- use the Premises at any times other than those specified in **Item 9**;
- 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**;
- interfere with any services to the **Premises**.

If the Lessee wishes to seek the **Council's** consent under this clause, the Lessee must apply to the **Council** for the consent at least 3 months prior to the date on which the Lessee wants the consent to be given.

4.3 Alcohol and/or Gambling

- (a) If the Lessee wishes to sell liquor and/or allow the conduct of gaming on the **Premises**, the Lessee must first apply in writing to the **Council** for the **Council's** consent and must not do so unless and until the Lessee has the **Council's** consent.
- (b) In the event that the **Council** consents to the sale of liquor on the **Premises**, the Lessee will only allow the sale of liquor on the **Premises**:
 - during the permitted hours of use of the **Premises** in **Item 6**; and
 - in accordance with a licence or permit issued under the Licensing Laws.
- (c) In the event that the **Council** consents to allow the conduct of gaming on the **Premises** (including but limited to the installation and operation of gaming machines), the Lessee will only allow gambling on the **Premises**:
 - during permitted hours of use of the **Premises** in **Item 6**; and
 - if authorised by law and in accordance with any licence or permit required under the Licensing Laws.
- (d) The Lessee will pay all fees associated with liquor and/or the conduct of gaming on the **Premises** including any fees payable by the **Council**.

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 12 of 34

Title Reference 11285053

- (e) If required by the **Council** and to the extent permitted by the Licensing Laws, the Lessee must on the Expiry Date (or the earlier termination of the **Lease**) or any later date required by the **Council**:
- (i) appoint the **Council** (or a person nominated by the **Council**) to be the Lessee's agent to manage, superintend and conduct the business at the **Premises** under any licence or permit under the Licensing Laws relating to the **Premises** until the earliest of:
- the date on which any such licence or permit is transferred from the Lessee to the **Council** or any other person;
 - the date on which the **Council** or any other person obtains an equivalent licence or permit relating to the **Premises**; and
 - the date specified by the **Council**; and
- (ii) must apply for permission under the Licensing Laws covering the absence of the Lessee or its nominee from the **Premises** during the period to which paragraph (i) applies.
- (f) If required by the **Council** and to the extent permitted by the Licensing Laws, the Lessee must on the Expiry Date (or earlier termination of the **Lease**) or at any subsequent time immediately do everything required by the **Council** in order to enable or apply for the transfer of any licence or permit under the Licensing Laws relating to the **Premises** from the Lessee to the **Council** or any other person nominated by the **Council**.
- (g) Unless the Lessee has the **Council's** prior consent, the Lessee must not seek or allow, and must do everything within its power to prevent:
- the lapsing, surrender or termination;
 - the extension or application to any other premises;
 - the endorsement of any condition; or
 - any transfer, removal or variation,
- of any licence or permit under the Licensing Laws relating to the **Premises**.
- (h) If the **Council** asks, the Lessee must within 7 days:
- give to the **Council** copies of any returns or declarations relating to any licence or permit under the Licensing Laws relating to the **Premises** and that the Lessee is required to lodge, give or make; and
 - give to the **Council** any other documents, and do any other things, required by the **Council** to allow or assist the **Council** in complying with its obligations under the Licensing Laws in relation to the **Premises**.
- 4.4 In this clause 4.3, a reference to the "Licensing Laws" is to any law relating to the sale of liquor and/or the conduct of gaming, including the Liquor Act 1992 and the Gaming Machine Act 1991.**Compliance**

The Lessee must comply with all laws and local government requirements which relate to:

- The **Premises**;
- The **Council's Property**; and

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

SCHEDULE

Form 20 Version 2
Page 13 of 34

Title Reference 11285053

The Lessee's use and occupation of the **Premises**.

4.5 Management

The Lessee must comply with the reasonable requirements of the Council or the **Manager** in relation to the proper management of the **Premises**, for example cleanliness, control of vermin, emergency drills and procedures, and installation, operation and maintenance of equipment.

4.6 Proper Use of Facilities

- (a) The Lessee must 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) The Lessee must promptly make good any damage it causes or caused by the Lessee's employees, members, guests or invitees to the reasonable satisfaction of the Council.
- (c) The Lessee must only prepare or cook food in an area installed for those purposes.
- (d) The Lessee must comply with all current state and federal government legislation and requirements.

4.7 Prohibitions

The Lessee must not:

- (a) obstruct access to, overload or otherwise interfere with or damage Services;
- (b) damage or destroy anything on the Land;
- (c) do anything dangerous, noxious, annoying, offensive, immoral or illegal on the Land;
- (d) do anything to pollute the Land or its environment;
- (e) without the Council's approval, keep or use inflammable explosive or volatile materials on the **Premises**; or
- (f) lodge a caveat against the title to the Land unless this Lease must be registered to protect the Lessee's interests under it and the caveat protects those interests until registration.

4.8 Signs and Installations

- (a) Display

The Lessee must not display any signs or place any installations on the exterior of the **Premises** without the prior written consent of the Council.

- (b) Consent

The Council will consent to signs and installations which are of a standard and quality in keeping with the **Premises**.

4.9 Cleaning

The Lessee must:

- (a) keep the **Premises** thoroughly clean;

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 14 of 34

Title Reference 11285053

- (b) keep the **Premises** free from weeds 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 in the **Premises**.

5. REPAIRS AND ALTERATIONS

5.1 Structural Work

The Lessee is not obliged to do structural work unless that work is needed because of:

- (a) the Lessee's act, neglect or fault;
- (b) the Lessee's particular use of the **Premises**;
- (c) the number and sex of the Lessee's employees or members;
- (d) damage caused by vandalism, wilful destruction, wilful damage or graffiti (regardless of who does it) or by a risk for which the Lessee is required to hold insurance under the **Lease** (regardless of whether the Lessee actually holds insurance against the risk or can recover on any insurance and regardless of whether the risk also happens to be an **Insured Risk**);
- (e) an express requirement in this **Lease** to do structural work; or
- (f) risk management issues.

5.2 Specific Repairs and Maintenance

The Lessee must promptly and at its expense;

- (a) Paint and Internal Finishes

restore the finishes of the interior of the **Premises** to their original condition in a proper and workmanlike manner to the satisfaction of the Council as often as the Council reasonably requires; and

- (b) Replace Breakages

Repair and replace all:

- (i) broken glass (irrespective of the cause) with glass of the same or substantially similar quality
- (ii) damaged or broken heating, lighting and electrical equipment (including light globes, fluorescent tubes and field lighting); and
- (iii) damaged, broken or blocked plumbing on the **Premises**;

- (c) Landscape

- (i) properly maintain the grounds which comprise part of the Premises, and keep them tidy;

SCHEDULE

Title Reference 11285053

- (ii) not without written consent of Council destroy, damage or remove any tree or shrub on the Premises.

5.3 Alterations Equipment and Partitions

The Lessee must not:

- (a) make any structural alteration or addition to the **Premises**;
- (b) install any electrical wiring, equipment or appliance to provide water, gas, lighting, air-conditioning, heating, cooling or ventilating to the **Premises**;
- (c) install any partitions; or
- (d) carry out any other works to the **Premises** (other than minor repairs or maintenance) without the Council's approval.

5.4 Carrying out of Works

The Lessee must ensure that the work it does is done:

- (a) in a proper and workmanlike manner;
- (b) by contractors approved by the Council (which must not unreasonably withhold its approval);
- (c) without causing unreasonable disturbance to neighbouring property owners; and
- (d) in accordance with:
 - (i) any conditions imposed by the 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 the Lessee vacates the **Premises**);
 - (ii) any plans, specifications or schedule of finishes approved by the Council (which must not unreasonably withhold its approval);
 - (iii) all laws and the requirements of all authorities; and
 - (iv) the Council's other reasonable requirements and directions.

5.5 Council's Inspection

The Council may enter the **Premises**:

- (a) at reasonable times after giving the Lessee reasonable notice; or
 - (b) if there is an emergency, without notice;
- and view their state of repair.

5.6 Notice of Repair

- (a) The Council may serve the Lessee with a written notice requiring the Lessee to repair, within a reasonable time, a defect which is the Lessee's responsibility.

If the Lessee does not carry out those repairs within a reasonable time, the Council may enter the **Premises** at reasonable times and carry out those repairs, at the Lessee's expense, after giving the Lessee reasonable notice.

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

SCHEDULE

Form 20 Version 2
Page 16 of 34

Title Reference 11285053

5.7 Council's Repair

- (a) The Council may enter the **Premises** to carry out repairs, renovations, maintenance or alterations to the **Premises** which are the Council's responsibility and which are reasonably necessary:
- At reasonable times after giving the Lessee reasonable notice; or
 - If there is an emergency, without notice.
- (b) The Council must cause as little inconvenience to the Lessee as is practicable in the circumstances.

5.8 Repair at the End of the Lease

The Lessee must, at the end of **Lease**:

- (a) give the **Premises** back to the Council in good repair and working order, except for reasonable wear and tear and having regard to their condition at the commencement of this **Lease**, and clean and free from rubbish;
- (b) carry out any necessary repairs to the reasonable satisfaction of the Council;
- (c) remove any signs which are outside or inside the **Premises** and repair any damage caused by their installation or removal to the reasonable satisfaction of the Council.

5.9 Lessee's Property at the End of the Lease

(a) Removal of Equipment

The Lessee must on or immediately before the expiration date or if the **Lease** is terminated earlier than the expiration date, within 48 hours of such earlier termination of the **Lease**;

- Remove all third party equipment
- Remove all of the Lessee's Property which have not in any way been affixed to the **Premises**
- Remove all signs
- Remove all those items of the Lessee's Property affixed to the **Premises** which the Council has notified to the Lessee that it requires to be removed from the **Premises** (referred to as 'removable fixtures').

(b) Removable Fixtures

The Lessee shall not be required to remove the removable fixtures at the expiry date of the term where:

- the term is extended for a further lease granted to the Lessee in which case removal of the removable fixtures is postponed to the last day of the further lease; or
- the Lessee occupies the **Premises** after the expiration date with the consent of the Council, in which case the removal of the removable fixtures is postponed to the last day of occupation by the Lessee.

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 17 of 34

Title Reference 11285053

(c) Make Good

The Lessee must repair, at the Lessee's cost, any damage caused to the **Premises** by that removal to the reasonable satisfaction of the Council.

(d) Property of Council

Any of the Lessee's Property which is affixed to the **Premises** becomes the property of the Council when such property is affixed to the **Premises**. The Lessee may not remove such property unless the Council gives the Lessee a notice to remove it.

(e) Removal by Council

If the Lessee does not remove any of the Lessee's Property in accordance with this clause 5, then the Council may treat it as abandoned and the Council may, at the Lessee's expense, remove, store and dispose of it as the Council sees fit.

6. LESSEE'S MAINTENANCE AND DEVELOPMENT OBLIGATIONS

6.1 Fencing

The Lessee must not, without the prior written consent of the Council fence the **Premises**.

6.2 Development

The Lessee must comply with its five year development plan contained in Attachment A and any subsequent or amended development plan drawn up by the Lessee annually and approved by the Council to replace the development plan in Attachment A.

6.3 Town Planning Applications

The Lessee will pay all fees and costs, including Council fees, associated with any approval, including any Council approval, required for the use of the **Premises** pursuant to this **Lease**.

6.4 Maintenance Standards

The Lessee must repair and maintain the **Premises** according to the Maintenance Standards in Attachment B, as amended or replaced by the Council from time to time.

6.5 Lessee's Notification of Required Maintenance

The Lessee must advise the Council of any repair or maintenance work required on the **Premises** which is the responsibility of the Council under this **Lease** as soon as the Lessee becomes aware that the work is required.

7. GOOD NEIGHBOUR PROCESSES

7.1 Community Liaison Officer

The Lessee will appoint a Community Liaison Officer to represent the dealings with the public and will notify the Council of the name and phone numbers of this person within seven days of signing the **Lease**. The Lessee will keep this information current.

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

SCHEDULE

Form 20 Version 2
Page 18 of 34

Title Reference 11285053

7.2 Good Neighbour Process

The Lessee agrees to observe the Good Neighbour Processes Act set out in Attachment C, as varied or replaced from time to time by the Council.

7.3 Minor Breaches

The Lessee acknowledges that:

- (a) any breach of the Good Neighbour Processes will be a minor breach of this **Lease**; and
- (b) three or fewer notifications under the Good Neighbour Processes within any twelve month period will be a minor breach of this **Lease**;
- (c) three or fewer resident disputes under the Good Neighbour Processes within any twelve-month period will be a minor breach of this **Lease**.

8. INSURANCE

8.1 Lessee's Insurance

The Lessee must:

- keep a public liability policy current in relation to the **Premises** for a sum not less than that stated in **Item 10** for a single claim, or for another minimum sum that the Council may reasonably require;
- insure all plate and other glass in the **Premises** against breakages;
- insure against any other risk reasonably required by the Council;
- have other insurances which are required by law;

at all time during the **Lease**.

8.2 Lessee's Insurance Policy

The Lessee must:

- effect each policy with an insurer of good repute and apparently sound financial backing;
- give the Council a certificate of currency issued by the insurer before the **Lease** starts, before each renewal date of the policy, and at any other time which the Council notifies to the Lessee in writing.

8.3 Additional Premiums

The Lessee must pay any extra premiums incurred by the Council for any extra risk caused by the use of the **Premises** by the Lessee.

8.4 Inflammable Substances

The Lessee must not store or use inflammable or explosive liquids or substances on the **Premises** unless they are:

- needed in the normal course of the Lessee's business; and
- stored in appropriate containers which are required by law.

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

SCHEDULE

Form 20 Version 2
Page 19 of 34

Title Reference 11285053

8.5 Fire Regulations

As reasonably required by the Council and by law, the Lessee must:

- comply with insurance, sprinkler and fire alarm regulations;
- carry out and take part in fire drills and emergency evacuations;
- appoint fire controllers and fire wardens; and
- install and maintain First Response fire equipment in the Premises.

8.6 Prejudice of Insurance

The Lessee must not do nor omit to do anything which may:

- increase the insurance premium; or
- allow the insurer to refuse a claim;

of or under any insurance policy taken out by the Council in relation to the **Premises**.

9. RELEASE OF INDEMNITY AND TRUSTEE LIABILITY

9.1 Exemption of Council from liability

- (a) The Lessee occupies and uses the **Premises** at its own risk (except for personal injuries to the extent that the Council, its servants or contractors causes them).
- (b) The Council is not liable to the Lessee for damage to the Lessee's Property or for loss of profits, nor matter how it is caused, including that caused by:
- any defect in the **Premises**;
 - any defect in the operation of facilities or Services to the **Premises**; and
 - water, fire or other like cause.

9.2 Indemnity

- (a) The Lessee indemnifies the Council from all actions and demands which arise during or after the Lease from:
- the Lessee not complying with the obligations imposed by the **Lease**;
 - the Lessee's use of the facilities or services to the **Premises**;
 - the escape of any substance from the **Premises** through the Lessee's act or omission; or
 - the Lessee occupying and using the **Premises**.
- (b) This indemnity:
- includes penalties and legal and other costs incurred by the Council; and

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 20 of 34

Title Reference 11285053

- does not apply to personal injuries to the extent that they are caused by the Council, its servants and contractors.

The Council's exemption from liability and indemnity extends to its servants and contractors.

9.3 Council Released

If a person other than the Council becomes the lessor under this **Lease**, then the Council is released from all obligations under this **Lease** after the other person becomes lessor.

9.4 Lessee a Trustee

If the Lessee has entered into or holds the **Lease** in the capacity of trustee of agent (any trust is referred to as the "Trust"), whether or not the Council has notice of the Trust;

(a) the Lessee:

- accepts the **Lease** both as trustee of the Trust or as agent and in its personal capacity;
- acknowledges that it is personally liable for the performance and observance of the Lessee's obligations;
- covenants with the Council that if there is any unremedied breach, the Lessee will take those steps and proceedings necessary to ensure that the assets of the Trust are made available for the purpose of rectifying that breach; and
- upon demand by the Council, must assign to the Council all rights of indemnity which the Lessee may have against the assets of the Trust; and

(b) the Lessee warrants that the Lessee has power and authority under the Trust to enter into the **Lease** and that it enters into the **Lease** in the due administration of the Trust.

10. ASSIGNMENT AND SUBLETTING

10.1 Consent

(a) The Lessee must not assign part of the **Lease**.

(b) The Lessee must not:

- assign the whole of the **Lease**;
- give a sub-lease licence or concession of, or share or part with possession of any part of the **Premises**;

without first obtaining the Council's consent.

10.2 Consent to Assignment

The Council must consent to a dealing mentioned in paragraph (b) of the preceding clause if:

(a) the Lessee:

- gives the Council written notice of its intention detailing full particulars of the proposed assignee, sub-lessee, licensee or concessionaire and its guarantor's (if it is a private company); and

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 21 of 34

Title Reference 11285053

- pays the Council's reasonable fees, whether or not the dealing proceeds;
- (b) the proposed assignee, sub-lessee, licensee or concessionaire:
 - satisfies the Council that it is a respectable and financially sound person, capable of performing the obligations of the Lessee; and
 - gives the covenants, indemnities and bank and personal guarantees that the Council reasonably requires; and
- (c) the proposed sub-lease requires the sub-lessee to always pay at least the same rent as this **Lease** requires.

10.3 Assignee

The Lessee and the assignee must enter into a Deed with the Council before the assignment in the form required by the Council containing;

- a covenant that the assignee will comply with the Lessee's obligations under the **Lease**; and
- a release by the Lessee and its guarantor of any claim they may then or subsequently have against the Council.

10.4 Formalities

The Lessee must ensure that (before the assignment) the assignee gives to the Council:

- the indemnities and bank and personal guarantees that the Council reasonably requires; and
- a copy of the executed and stamped Transfer of the **Lease** or Deed of Assignment of the **Lease**.

10.5 Fees

The Lessee must pay to the Council a non-refundable fee to cover administrative expenses and also its reasonable costs (including solicitor and own client legal costs) and disbursements for the matters referred to in this clause 10.

10.6 Time for Consent

The Council must not unreasonably delay in informing the Lessee whether or not it consents to the proposed assignment.

10.7 Corporation Lessee

If the Lessee is a corporation (other than a corporation whose shares are listed on the official list of the Australian Stock Exchange Limited ACN 008 629 691) a change in the effective control of the Lessee is deemed to be an assignment of this **Lease**.

10.8 Mortgage of Lease

The Lessee must not use the **Lease** or the Lessee's fixtures as security or permit any sublessee or licensee to do the same in respect of:

- any sublease or licence; or
- any interest of the sublessee in the sublease or licence or in any part of the **Premises**.

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

SCHEDULE

Form 20 Version 2
Page 22 of 34

Title Reference 11285053

11. QUIET ENJOYMENT

11.1 Quiet Enjoyment

The Lessee may peacefully occupy the **Premises** without interruption or disturbance from the Council or any other person lawfully claiming under it, but only if the Lessee punctually:

- pays the rent and other money payable; and
- complies with the Lessee's obligations under the **Lease**.

12. DEFAULT

12.1 Essential Terms

The obligations of the Lessee:

- to pay rent, specific tenancy charges, services, stamp duty costs and registration fees, and interest;
- to use the **Premises** only for the permitted use;
- to comply with all laws and requirements of authorities;
- to comply with the development plan in Attachment A;
- to repair and maintain the Premises according to the Maintenance Standards in Attachment B;
- not to make alterations or installations without consent;
- to maintain insurances;
- not to prejudice the Council's insurance;
- not to assign part of the **Lease**;
- not to assign or sub-let without consent; and
- not to mortgage the **Lease**;

(more specifically described in the clauses of this **Lease**) are essential terms. Other obligations under the **Lease** may also be essential terms.

12.2 Council's Right to Terminate

The Council may terminate the **Lease** by giving the Lessee notice or by re-entry if the Lessee:

- (a) is Insolvent;
- (b) repudiates its obligations under the **Lease**;
- (c) does not comply with an essential term of the **Lease**; or
- (d) does not comply with an obligation under the **Lease** (which is not an essential term) and (in the Council's reasonable opinion);

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 23 of 34

Title Reference 11285053

- (h) the non-compliance can be remedied but the Lessee does not remedy it within a reasonable time after the Council gives the Lessee notice to do so;
- (i) the non-compliance cannot be remedied or compensated for; or
- (j) the non-compliance cannot be remedied, but the Council can be compensated and the Lessee does not pay compensation to the Council within a reasonable time after the Council gives the Lessee notice to do so.

12.3 Amount recoverable by Council

(a) Indemnity

If the Council terminates the **Lease**, the Lessee indemnifies the Council against any liability or loss arising and any costs (including reasonable solicitor and own client legal costs) incurred (whether before or after termination) in connection with:

- (i) the Lessee's breach of the **Lease**; or
- (ii) the termination of the **Lease**;

including the Council's loss of the benefit of the Lessee performing its obligations under the **Lease** from the date of termination until the Expiry Date.

The Council must take reasonable steps to mitigate its loss if the **Lease** is terminated.

(b) Liquidated Damages

In addition to its other rights and remedies, if the Council re-enters the **Premises** because the Lessee breaches a fundamental or essential condition (whether or not specified as such) the Lessee must pay to the Council, as liquidated damages for loss of tenancy, the difference between:

- (i) the money which the Lessee should have paid under the **Lease** until the Expiry Date; and
- (ii) the money which the Council receives, or reasonably anticipates that it will receive, from other lessees or occupiers of the **Premises** during that period,

rebated, to the extent that the sum represents an acceleration of payments, at 3 % less than the Contract Rate fixed from time to time by the Queensland Law Society Incorporated for the Standard Residential and Commercial Contracts. If the fixing of that interest rate is discontinued, the interest rate is 3 % less than the last Contract Rate fixed by the Queensland Law Society Incorporated.

That rebate must be calculated from the day after the Council receives full payment of the rebated liquidated damages.

12.4 Carry out Lessee's obligation

If the Lessee does not do something that it is obliged to do under the **Lease**, or, in the Council's reasonable opinion, the Lessee does not do it properly, the Council may do that thing at the Lessee's expense after giving reasonable notice to the Lessee.

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

SCHEDULE

Form 20 Version 2
Page 24 of 34

Title Reference 11285053

13. RESUMPTION DESTRUCTION OR DAMAGE TO THE PREMISES

13.1 Resumption

The Council or the Lessee may terminate the **Lease** by giving a written notice to the other if a substantial part of the **Premises** or any part of it is taken for public purposes by a competent authority.

13.2 Destruction or Damage

If the whole or any part of the building on the **Premises** is destroyed or damaged causing the **Premises** to be unusable or inaccessible, then the Lessee may give a notice to the Council requesting that it rebuild it.

13.3 No obligation to Rebuild

The Council does not have an obligation to rebuild or to make the building fit for occupation.

13.4 No Rebuilding

If the Council decides that it is impractical or undesirable to rebuild, it must notify the Lessee of that decision within seven days of making it. The Council or the Lessee may terminate the **Lease** by seven days' notice to the other if the Council:

- does not start rebuilding within a reasonable time after receiving the Lessee's request; or
- notifies the Lessee of its decision not to rebuild.

13.5 Lessee's Damage

The Lessee cannot terminate the **Lease** under this Part and must pay rent and other money under the **Lease** if:

- the Lessee caused or contributed to (other than in a nominal way) the destruction or damage; or
- the Council's insurer refuses to indemnify the Council for the destruction or damage because of the actions or default of the Lessee.

13.6 Continuing liability of Lessee

- (a) This termination does not affect either party's rights arising from any previous breach or matter.
- (b) The Lessee remains liable for rent and other money under the **Lease** up to the date of destruction or damage.

13.7 Adjustment for Unusable Premises

When the **Premises** is destroyed or damaged and becomes unusable or inaccessible, all rent and other money payable under the **Lease**, or a part of the rent and money proportional to the nature and extent of the damage, abates. The abatement ceased when:

- the building is rebuilt; and
- the **Premises** are made accessible and fit for occupation;

or when the **Lease** is terminated under this Part.

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

SCHEDULE

Form 20 Version 2
Page 25 of 34

Title Reference 11285053

14. COUNCIL'S RIGHTS

14.1 Reservations to Council

The Council reserves the right to:

- install, maintain, use and replace any pipes, ducts, conduits and wires passing through the **Premises**;
- run water, air, electricity, sewerage and any other services through those pipes, ducts, conduits or wires; and
- grant easements or other rights over the **Premises**.

14.2 Availability to Other Organisations

- (a) The Council reserves the right to direct the Lessee by at least thirty days written notice to:
- (i) enter into a sub-lease of the **Premises** or part of the **Premises**; or
 - (ii) enter into a licence of the **Premises** or part of the **Premises**
- with a person nominated by Council, on terms and conditions approved in writing by the Council.
- (b) The Lessee may impose further reasonable conditions, including the charging of a reasonable fee, upon the sub-Lessee or licensee nominated by the Council under this Clause.
- (c) If any dispute arises between the Lessee and any sub-Lessee or licensee under this Clause, it must be referred by the tenant to the Council, whose decision on the matter will be final.
- (d) The Council will not use its powers under this Clause so as to substantially detract from the rights granted to the Lessee under this **Lease**.

15. POWER OF ATTORNEY

15.1 Appointment

- (a) The Lessee appoints the Council and the Manager jointly and severally to be its attorney.
- (b) The attorney may at any time after the Council has terminated the **Lease** (sufficient proof of which will be the statutory declaration of the attorney) do the following:
- surrender this **Lease**;
 - withdraw any caveat lodged by the Lessee affecting any part of the **Premises**; and
 - transfer or surrender any licence which release to the Lessee's business and is attached to the **Premises**;
- execute the documents needed to effect those dealings; register those dealings; and all things which the Lessee is required to do under this **Lease**.

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

SCHEDULE

Form 20 Version 2
Page 26 of 34

Title Reference 11285053

- (c) The Lessee must pay the Council the amount of any costs expenses or other liabilities which the Council incurs in exercising the powers in this Clause.

16. GENERAL

16.1 Interpretation

In this **Lease**:

- (a) a person includes the person's executors, administrators, successors, assigns, substitutes and persons who take by novation;
- (b) where a party is more than one person, each person is bound as an individual and they are all bound together;
- (c) headings have been inserted for guidance only and do not affect the interpretation of this **Lease**;
- (d) statute includes its amendments and replacements and the regulations under it;
- (e) defined words have the meanings given them in this **Lease**, whether written in the upper case, lower case, or both upper and lower case.

16.2 Notices

- (a) Requirements for Notice

A notice or approval must be:

- (i) in writing; and
- (ii) left at or posted to the address or sent to the facsimile number of the party in Queensland as set out in **Items 1, or 2**.

Any party may change its address for service to another address in Queensland by giving a written notice to all other parties.

- (b) Execution of Notices

A notice by the Council may be executed by the Council or the **Manager**.

- (c) Service of Notice

A notice or approval is taken to be given:

- (i) if sent by post on the second business day after posting; and
- (ii) if sent by facsimile by 4.00pm on a business day, on the same business day that it is sent, but otherwise on the next business day, unless the sender is aware that the transmission is impaired.

16.3 Consent or Approval of Council

Any consent or approval of the Council must be in writing and signed by the Council or the **Manager**.

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

SCHEDULE

Form 20 Version 2
Page 27 of 34

Title Reference 11285053

16.4 Lessee not to Prejudice Head Lease

The Lessee must not:

- prejudice the Council's rights under any agreement for lease or head lease relating to the **Premises**; or
- cause that agreement or head lease to be terminated.

16.5 Saturdays, Sundays and Public Holidays

Anything which is to be done on Saturday or a Sunday or a public holiday in Queensland may be done on the next day which is not a Saturday Sunday or public holiday.

16.6 Law

This **Lease** is governed by the laws of Queensland.

16.7 Notice before Council Liable

The Council is not in default of a remediable breach under this **Lease** unless:

- (a) the Lessee first gives notice to the Council of the breach; and
- (b) the Council fails to remedy the breach within a reasonable time after receiving the notice;

despite anything in the **Lease** to the contrary.

16.8 Council's Powers

The powers given to the Council in the **Lease** may be exercised by its agents and with any necessary machinery.

16.9 Lessee's Cost

Where the **Lease** imposes an obligation on the Lessee to do anything, the Lessee must pay the cost incurred.

16.10 Lessee's Actions

- (a) A reference to the acts and omissions of the Lessee includes the acts and omissions of its servants, agents and contractors.
- (b) Where the Lessee is prohibited from doing anything, the Lessee must not cause or allow any other person to do it either.

16.11 Money payable on demand

All money payable by the Lessee to the Council is, unless otherwise so specified, payable on demand.

16.12 Dispute Resolution

If any dispute, other than a resident dispute under the Good Neighbour Process in Attachment C, arises between the Lessee and the Council, the Lessee agrees to be bound by the dispute resolution process in Attachment D.

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 28 of 34

Title Reference 11285053

Land Title Act 1994; Land Act 1994
Form 21 Version 2

SURVEY PLAN

Sheet 1 of 1

BRISBANE ROAD

EASTON STREET

LEASE A

1.199 ha

GREEN STREET

GLEBE ROAD

196
RP24111

*Peg placed at all new corners
unless otherwise stated.*

PERMANENT MARKS

PM	ORIGIN	BEARING	DIST	NO	EASTING	NORTHING	ZONE	ORDER	CLASS
3-OPM	RP221453	53°44'20"	1.65	30734	478 810-858	6 945 542-931	58	3	C
6-OPM	IS94303	98°27'35"	131.52	32098	478 887-627	6 945 181-729	58	3	C

M.G.A. CO-ORDINATES (GDA-94)

STN	TO	ORIGIN	BEARING	DIST
1	OPM	RP108081	278°39'20"	0-603
2	OPM	IS8104	8°39'20"	0-603
3	OPM	RP98298	53°39'20"	1-982
3	Hill in Conc Flpth		85°23'55"	3-474
3	Screw in Kb Fd		346°03'10"	4-08
4	Pin		98°19'20"	1-453
5	Pin		181°47'20"	14-932
6	OPM	RP98298	8°39'20"	0-603
6	Rom Wall in Kb		188°55'50"	3-09
6	Rom Wall in Kb		92°01'20"	5-55
8	Pin		189°40'20"	3-5

Scale 1:1250 - Lengths are in Metres.

10 0 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180

10 50m 100m 150m

State copyright reserved.

Plan of Lease A in Lot 169 on RP24111

PARISH: **IPSWICH** COUNTY: **Stanley**

Meridian: **M.G.A.** FTM's: **No**

Scale: **1:1250**

Format: **STANDARD**

SP147837

Plan Status:

L. Thomas Wyatt SHANNON, I hereby certify that I have surveyed the land comprised in this plan personally and by Geoffrey Edgar Thomas JONES (Surveying Graduate) for whose work I accept responsibility, that the plan is accurate, that the said survey was performed in accordance with the Surveyors Act 1977 and the Surveyors Regulation 1982 and that the said survey was completed on 4/12/2001

L. Thomas Wyatt SHANNON
Licensed Surveyor

Date: **12/12/2001**

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

SCHEDULE

Form 20 Version 2
Page 29 of 34

Title Reference 11285053

**ATTACHMENT A
5 YEAR DEVELOPMENT PROGRAMME**

5 YEAR DEVELOPMENT PROGRAMME

SWIFTS LEAGUES CLUB LTD

**GREEN ST , BOOVAL
01/02/2002**

CLUBS VISION

Swifts Leagues Club Ltd will be trading as Booval Sports Club at the Green st facility. This Facility has been left in a poor state due to financial constraints of Booval Bowls Club Inc. Our vision is to get this Facility back to where it should be. Profitable, and supporting Ipswich sport and the community. A vital part of the Ipswich culture.

CLUBS MISSION

Our mission will be to create a new Club from Swifts RLFC and Booval Bowls Club and to provide a stimulating environment for all types of members. Swifts promote the essence of fun and fairplay, making the Swifts experience enjoyable for players, social members, parents, children and families alike.

CLUBS OBJECTIVE

Year 1. Create New Club .Make the transition as smooth as possible for Administration and Members.
Year 2. Refine and encourage Administrators . Build membership by 20%
Year 3. Encourage participation in Courses for Admin, Coaching etc. Build membership by 20%
Year 4. Encourage Coaches in all sports. Build membership by 20%
Year 5. Increase membership by 30%

FACILITIES and EQUIPMENT

Year 1. Upgrade 20% of poker machines. Provide meals 7 days a week. Paint Clubhouse.
Year 2. Upgrade 40% of poker machines. Investigate Indoor Bowls Centre.
Year 3. Upgrade 40% of poker machines. Construct Indoor Bowls Centre.
Year 4. Upgrade 40% of poker machines. Review kitchen equipment.
Year 5. Upgrade 40% of poker machines. Review first 5 years administration and facility operation.

CLUB STRUCTURE

Swifts RLFC inc
Sub committees ;Seniors - Juniors - Old Boys - Ladies - Golf.
One Constitution with each sub-committee having its own set of Rules.

Swifts Bowls Club inc.
Sub committees; Mens - Ladies.
One Constitution with each sub committee having its own set of Rules.

Swifts Leagues Club Ltd
T/A Booval Sports Club at Green St
Board of Directors , Seven (7). Five (5) elected by Swifts RLFC Inc
Two (2) elected by Swifts Bowls Club Inc

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 30 of 34

Title Reference 11285053

Attachment B
Maintenance Standards

Service	Cyclic	Daily	Weekly	Monthly	Quarterly	Bi-Annual	Annual
Appliance Testing and Tagging						X	
Fire Panel Test				X			X
Portable Fire Extinguisher Test	6 yearly hydrostatic test					X	X
Fire Hose Reel Test	3 yearly pressure test					X	X
Exit and Emergency Lighting Test						X	X
Air - Conditioning (HVAC) Filter change				X			
HVAC Service					X		X
HVAC duct inspection	2 yearly						
Cool room Service					X		X
Lift inspection and certification							X
Kitchen exhaust service						X	
Kitchen exhaust filter / hood clean			X	X			
Grease Trap				X			
Lighting	Ad hoc						
Painting Internal	6 yearly						
Painting External	5 yearly						
Window cleaning							X
Carpet Cleaning						X	
Parquetry floor strip and seal	4 yearly						
Pest control general internal					X		

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 31 of 34

Title Reference 11285053

<i>Pest control food preparation areas</i>				X			
<i>Pest control external</i>							X
<i>Gutter cleaning</i>						X	
<i>General cleaning</i>			X				
<i>Toilet cleaning</i>		X					
<i>Food preparation area cleaning</i>		X					
<i>Hot Water System Pressure Valve Easing</i>					X		
<i>Residual current Device Operation Test</i>					X		

The above standards stipulate the frequency of tests, inspections, cleaning and/or other maintenance pursuant to Clause 6.4.

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

SCHEDULE

Form 20 Version 2
Page 32 of 34

Title Reference 11285053

ATTACHMENT C GOOD NEIGHBOUR PROCESSES

Introduction

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

General Good Neighbour Processes

2. The Lessee will use its best endeavours to work together with residents to minimise inconvenience to residents caused by the Lessee's use of the **Premises**, and to develop close links between residents and the Lessee.
3. Examples of the way in which the Lessee will put Good Neighbour Processes into practice include:
 - 3.1 Notifying residents in the neighbourhood of the **Premises** of activities the Lessee especially of any major events to be held at the **Premises**;
 - 3.2 Appointing parking monitors to ensure that the Lessee's members, invitees and licensees do not create undue noise when entering or leaving the Premises, or in neighbouring streets, and to ensure that residents access to driveways etc is not obstructed;
 - 3.3 Circulating details of the Community Liaison Officer to residents and asking them to contact that person with any concerns or questions.
 - 3.4 Attending any seminars or meetings organised by the Council about community leasing generally.

Complaint Handling Procedures

4. The Lessee agrees to participate in any course of action proposed by the Council under this **Attachment**.
5. If any person ('the Complainant') makes a complaint to the Council which arises from the Lessee's use of the **Premises**, the Council will refer the complaint to the Lessee's Community Liaison Officer and will record that a 'resident notification' has been made in relation to the Lessee.
6. The Council will contact the complainant to find out the result of the referral.
7. If, in the reasonable opinion of the Council, the complaint has not been resolved by the Lessee's Community Liaison Officer within fourteen days of the complainant contacting the Community Liaison Officer, the Council will record that a 'resident dispute' has arisen and may propose a method of solving the resident dispute to the complainant and the Lessee.

(For example, the method chosen may involve:

Item 1 / Attachment 1.

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

SCHEDULE

Form 20 Version 2
Page 33 of 34

Title Reference 11285053

- A meeting between the Lessee, the complainant and the Council;
 - Mediation (including a program provided by the Community Justice Program 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 on the **Premises**, to the Community Health Branch of the Council); or
 - Any other method determined by the Council.)
8. The Lessee agrees to be bound by the outcome of any method of solving the resident dispute chosen by the Council.
9. If, in the reasonable opinion of the Council, the method does not resolve the resident dispute, the Council may require the Lessee to participate in further attempts to resolve the resident dispute.
10. If, in the reasonable opinion of the Council, the resident dispute is resolved, the Council may require the Lessee to enter into a legally enforceable agreement in a form satisfactory to the Council.
11. Nothing in this **Attachment** affects any rights of the Council under the **Lease** to terminate the **Lease** or take any other action.

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

SCHEDULE

Form 20 Version 2
Page 34 of 34

Title Reference 11285053

ATTACHMENT D

DISPUTE RESOLUTION PROCEDURE

1. If the Lessee or the Council thinks that a dispute – other than a resident dispute under the Good Neighbour Processes in **Attachment C** – has arisen under this **Lease**, that party may serve a notice upon the other party (a 'Dispute Notice') requiring it to follow this procedure and notifying a representative of that party with authority to settle the dispute.
2. Within seven days of receiving the 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.
3. The representatives of each party will meet within seven days of the receipt of the Reply Notice and will use their best endeavours to resolve the dispute.
4. If the dispute is not resolved to the satisfaction of both parties within fourteen days of the receipt of the Reply Notice, the parties will refer the dispute to the Council.
5. The Council will decide the method of dispute resolution and the procedure to be adopted to solve the dispute. For example, without limitation, the Council may decide to:
 - refer the dispute to arbitration under the *Commercial Arbitration Act 1990*;
 - refer the matter to the Community Justice Program;
 - appoint an expert (whose decision will be final and binding on the parties) to decide the dispute; or
 - refer the dispute to mediation.
6. Each party will continue to perform its obligations under this **Lease** during any dispute.

BR35-0015APB

AGREEMENT FOR LEASE

422289

AN AGREEMENT is made this *Seventh* day of September 2001

BETWEEN **IPSWICH CITY COUNCIL** of 50 South Street Ipswich in the State of Queensland

(the 'Council')

AND **SWIFTS LEAGUES CLUB LTD** (ACN 010 165 045) of 25 Joyce Street East Ipswich in the said State

(the 'Club')

WHEREAS

- A. The Council owns improved freehold land containing 5.7286 hectares in the County of Stanley Parish of Ipswich described as Lot 169 on RP 24111 contained in Certificate of Title 11285053.
- B. The Council desires to lease and the Club desires to accept a lease of part of the improved freehold land containing 1.352 hectares being the same land which was the subject of lease no. G798326 to Booval Bowls Club Inc registered in the office of the Department of Natural Resources (the 'land') which lease expired on 30 June 1999.
- C. The subsequent tenancy at will by Booval Bowls Club over the land was terminated at 5.00pm on Thursday 6 September 2001.
- D. The Council and the Club will subsequently enter into a formal lease of the land although the Club entered into possession of the land on and from 5.00pm on 6 September 2001.

IT IS AGREED AS FOLLOWS:

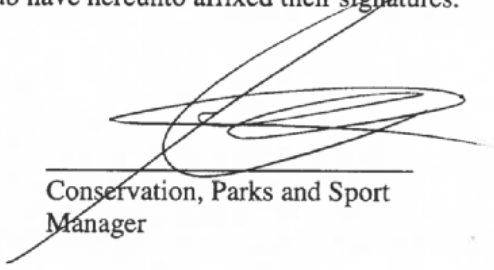
- 1. That commencement of the lease is from 5.00pm on 6 September 2001.
- 2. The term of the lease will be for an initial term of 20 years and (with the consent of both the Council and the Club) with a 10 year option in accordance with the term inserted in the formal lease mentioned in Clause 4.
- 3. The annual rental payable under the lease for the first five years is 5% of the unimproved value of the land (within the meaning of the Valuation of Land Act 1944) and 10% of such unimproved value thereafter.
- 4. The terms of the formal lease will be similar to those contained in the proforma lease in the attached schedule but the lessor may make amendments to the lease and insert other terms which are not unusual or unreasonable.
- 5. The Club will pay the Council's legal costs for the preparation of this Agreement ~~for~~

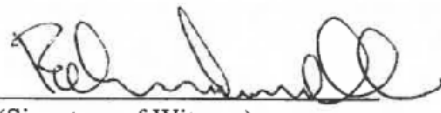
[Signature]


6. The Club will enter into and execute the formal lease (referred to in Recital D above) at a later date when requested, in writing, to do so by the Council. If the Club does not enter into and execute a formal lease within 28 days of being required to do so, or within any longer period of time allowed in writing by the Council, this agreement will forthwith terminate and the Club will immediately vacate and deliver up possession. Such termination shall be without prejudice to any rights which have already accumulated to either the Council or the Club under this agreement.
7. This agreement shall be governed and construed by the laws of the State of Queensland and any relevant Commonwealth legislation and the Council and the Club irrevocably and unconditionally submit to the exclusive jurisdiction of any court of competent jurisdiction within the State of Queensland.

IN WITNESS HEREOF the Council and the Club have hereunto affixed their signatures.

Signed by IPSWICH CITY COUNCIL by)
Craig Kelvin Maudsley Conservation,)
Parks and Sport Manager of Ipswich City)
Council under the power delegated under)
the Local Government Act 1993 (which)
power has not been withdrawn or revoked))
this day of September 2001)


Conservation, Parks and Sport
Manager


(Signature of Witness)

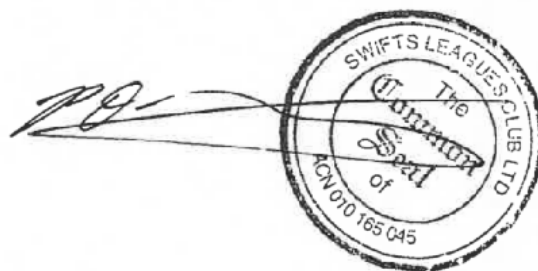

(Name of Witness)

Signed by SWIFTS LEAGUES CLUB LIMITED

(Insert sealing clause of Club)

WITNESS


MATTHEW CAMPBELL LLB
SOLICITOR



Your reference
Our reference I/F
Contact Officer TIM SHEEHAN
Telephone 07 3810 6626



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
Web www.ipswich.qld.gov.au

Doyle and Campbell Solicitors
PO Box 137
BOOVAL QLD 4304

25 November 2008

Dear Mr Campbell

**Re: Amendment to Lease – ICC to Swifts Leagues Club Limited
95A Brisbane Road Booval
Part of Lot 23 on RP22367**

I refer to your letter dated 17 November 2008 and advise that the amendment to lease at the above property land has now been registered at the Department of Natural Resources and Water.

For your records I have enclosed an original fully executed lease amendment document and a copy of the Registration Confirmation Statement which records the lease amendment.

I thank you for your assistance in this matter.

Yours faithfully

A handwritten signature in black ink, appearing to read 'T Sheehan'.

Tim Sheehan
Senior Property Officer



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

AMENDMENT

FORM 13 Version 6
Page 1 of 3

Dealing Number 712057647

Duty Imprint



OFFICE USE ONLY

Privacy Statement

Collection of this information is authorised by the Land Title Act 1994 the Land Act 1994 and the Water Act 2000 and is used to maintain the publicly searchable registers in the land registry and the water register. For more information about privacy in NR&W see the department's website.

1. Type/Dealing No of Instrument/Document being amended	Lodger (Name, address, E-mail & phone number)	Lodger Code
Type of Instrument Lease	Ipswich City Council	
Dealing Number 708579898	PO Box 191 Ipswich Q 4305	117
	tsheehan@ipswich.qld.gov.au	
	07 3810 6626	

2. Lot on Plan Description	County	Parish	Title Reference
Lot 169 on RP24111	Stanley	Ipswich	11285053

3. Lessor
Ipswich City Council

4. Lessee
Swifts Leagues Club Ltd ACN 010 165 045

5. Amendment of Lease Details

Expiry date: 05/09/2021 AND/OR Event:

Option/s#: 2 x 10 years

insert nil if no option or insert option period (eg 3 years or 2 x 3 years)

6. Request/Execution

The parties identified in items 3 and 4 agree that the instrument in item 1 is amended in accordance with:-
item 5 and attached schedule

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

Witnessing Officer

signature

full name Alicia Kerrin Rieck

qualification

(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner JP, C Dec)

Witnessing Officer

signature

full name Victor Kenneth Boettcher

qualification

F.P.

Witnessing Officer

signature

full name Victor Kenneth Boettcher

qualification

F.P.

(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Execution Date

30/10/08

Lessor's Signature

Mayor/Authorised Councillor
Chief Executive Officer/Delegated Officer
for IPSWICH CITY COUNCIL

Lessee's Signature

Swifts Leagues Club Ltd ACN 010 165 045

Director

Director/Secretary

Lessee's Signature

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

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

Page 2 of 3
FORM 20 Version 2

Title Reference 11285053

This is the schedule referred to in the attached Form 13 Amendment ("**Form 13**") of Lease No. 708579898 ("**Lease**").

The Lessor named in item 3 of the Form 13 ("**Lessor**") and the Lessee named in item 4 of the Form 13 ("**Lessee**") agree as follows.

1. RENT

1.1 After clause 3.2 of the Lease, a new clause 3.2A is inserted as follows:

"3.2A Rent from 6 September 2008

- (a) Clauses 3.1 and 3.2 do not apply after 5 September 2008.
- (b) For the **Lease Year** commencing on 6 September 2008, the '**Annual Rent**' is \$12,000 (plus GST).
- (c) For a subsequent **Lease Year**, the '**Annual Rent**' is calculated by applying the formula $\$12,000 \times \text{CPI2} \div \text{CPI1}$ (plus GST), where:
 - (i) CPI2 is the **CPI** for the quarter ended on 30 June last before the commencement of the **Lease Year** in question; and
 - (ii) CPI1 is the **CPI** for the quarter ended on 30 June 2008.
- (d) The Lessee must pay the **Annual Rent** for a **Lease Year** annually in advance on the first day of the **Lease Year** without demand.
- (e) A '**Lease Year**' is a period of 12 months commencing on 6 September in any year."

2. RENEWAL OPTIONS

2.1 In **Item 4** of the **Items Schedule** in the Lease, the words "10 years" are deleted and in their place the following words are inserted:

"10 years commencing on 6 September 2021
10 years commencing on 6 September 2031"

2.2 Clause 2.2 of the Lease is deleted and in its place the following clause is inserted:

"2.2 Renewal Options

- (a) If there is a period stated in **Item 4** which would commence on the day after the **Expiry Date** of the **Lease**, the Lessee has an option to take a further lease of the **Premises** in accordance with this clause.
- (b) The Lessee can exercise the option only by giving the **Council** not more than 6 months' notice and not less than 3 months' notice before the **Expiry Date**.
- (c) The **Council** will grant the Lessee a further lease of the **Premises** if:
 - (i) the Lessee exercises the option properly and on time; and
 - (ii) the Lessee is not in breach of this **Lease** when it exercises the option; and
 - (iii) the Lessee is not in breach of this **Lease** at the **Expiry Date**.
- (d) The further lease will be on the same terms as this **Lease** except:

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

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

Page 3 of 3
FORM 20 Version 2

Title Reference 11285053

- (i) *the term of the further lease will be the period stated in **Item 4** of this **Lease** which commences on the day after the Expiry Date of this **Lease**; and*
- (ii) *the **Council** may make any amendments which it reasonably considers necessary to reflect any changes in the **Premises** or the management of the **Building**; and*
- (iii) *the **Annual Rent** for the first **Lease Year** of the further lease will be calculated by applying the formula $\$12,000 \times \text{CPI2} + \text{CPI1}$ (plus GST), where:*
 - (1) *CPI2 is the **CPI** for the quarter ended on 30 June last before the commencement of the lease year in question; and*
 - (2) *CPI1 is the **CPI** for the quarter ended on 30 June 2008.*
- (iv) *any other necessary changes will be made; and*
- (v) *any period stated in **Item 4** of this **Lease** which coincides with the term of the further lease or which expired before the commencement of the term of the further lease will be deleted in the further lease."*

3. OTHER MATTERS

- 3.1 Words and phrases defined in the Lease have the same meanings when used in this instrument unless a contrary intention is apparent.

LAND TITLE ACT 1994

REGISTRATION CONFIRMATION STATEMENT

NATURAL RESOURCES AND WATER, QUEENSLAND

Title Reference : 11285053

This is the current status of the title as at 08:29 on 20/11/2008

REGISTERED OWNER

Dealing No: 708587737 15/04/2005

IPSWICH CITY COUNCIL

ESTATE AND LAND

Estate in Fee Simple

LOT 169 REGISTERED PLAN 24111
County of STANLEY Parish of IPSWICH
Local Government: IPSWICH

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 11242126 (POR 169)
2. LEASE No 708579898 13/04/2005 at 15:11
SWIFTS LEAGUES CLUB LTD A.C.N. 010 165 045
OVER LEASE A ON SP147837
3. AMENDMENT OF LEASE No 712057647 19/11/2008 at 15:00
LEASE: 708579898
TERM: 06/09/2001 TO 05/09/2021 OPTION 10 YEARS

ADMINISTRATIVE ADVICES

Dealing	Type	Lodgement Date	Status
AS14039V	HERITAGE SITE	10/09/1993 00:00	CURRENT
QUEENSLAND HERITAGE ACT 1992			

UNREGISTERED DEALINGS - NIL

CERTIFICATE OF TITLE ISSUED - No

DEALINGS REGISTERED

712057647 AMEND LEASE

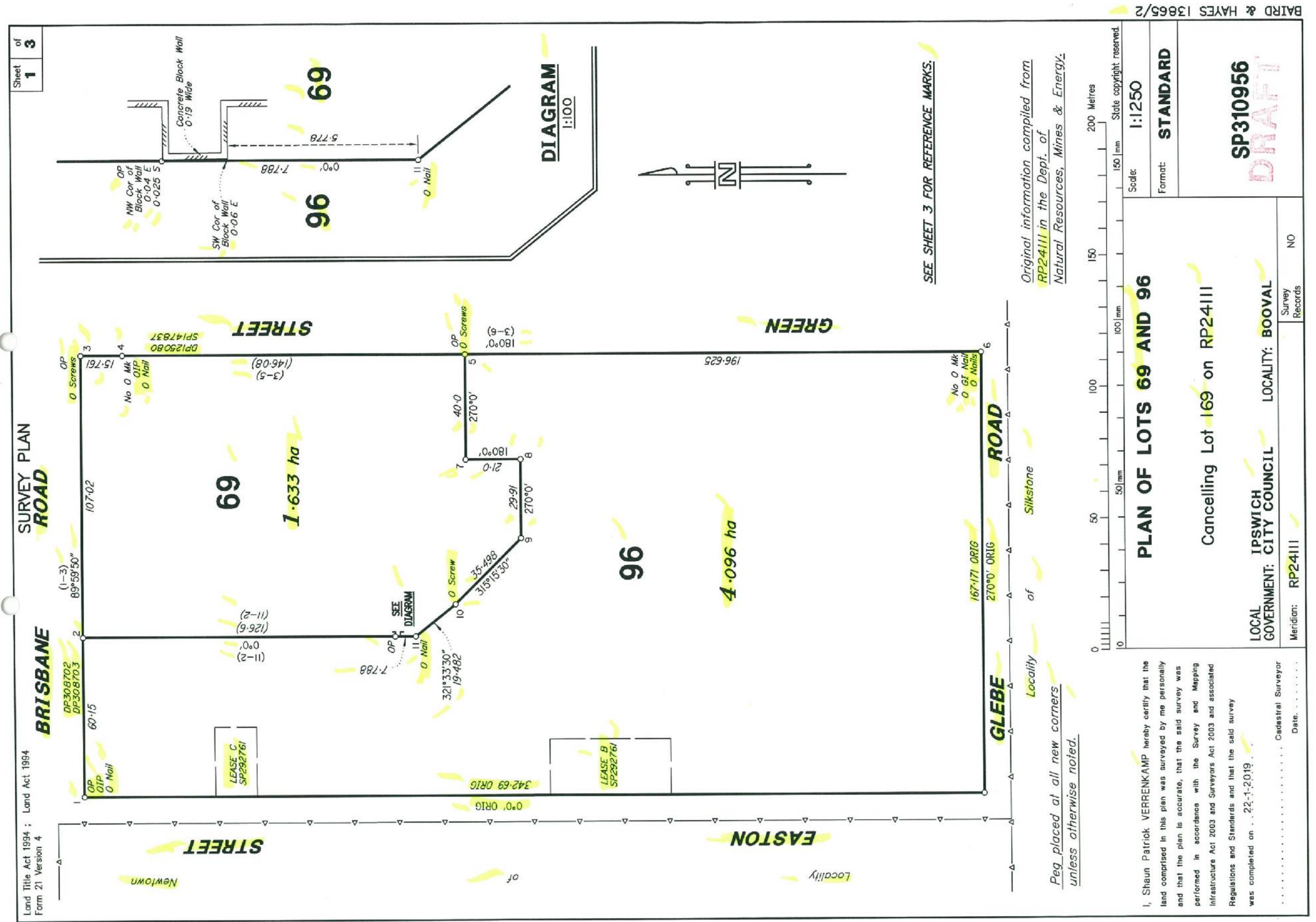
Caution - Charges do not necessarily appear in order of priority

** End of Confirmation Statement **

M G Locke

Registrar of Titles and Registrar of Water Allocations

Lodgement No: 2590916
Office: IPSWICH
Email: tsheehan@ipswich.qld.gov.au
IPSWICH CITY COUNCIL
SOUTH ST.
IPSWICH
Q 4305



Land Title Act 1994 ; Land Act 1994
Form 21B Version 1

(Dealing No.)

WARNING : Folded or Mutilated Plans will not be accepted.
Plans may be rolled.
Information may not be placed in the outer margins.

5. Lodged by

(Include address, phone number, reference, and Lodger Code)

6. Existing Description New Lots Road Secondary Interests

11285053 LOT 169 ON RP24111 69 & 96

ENCUMBRANCE LEASE ALLOCATIONS

Lease	Lots to be Encumbered
718851905 (Lease C on SP292761)	96
719167074 (Lease B on SP292761)	96

ADMINISTRATIVE ADVICES ALLOCATIONS

Dealing No.	Type	Lots to be Encumbered
ASI4039V	HERITAGE SITE QLD HERITAGE ACT 1992	96

LEASE A ON SPI47637 IS TO BE EXTINGUISHED PRIOR
TO THE REGISTRATION OF THIS PLAN.

REINSTATEMENT REPORT

- This survey agrees with previous Deposited Plans, DP308702 and DP308703.
- Brisbane Road was fixed by the original marks found at stations 1 and 3.
The distance from station 1 to station 3 is within 1mm of deed.
- Green Street was fixed by the original marks found at stations 3, 4, 5 and 6.
The distance from station 3 to station 6 is 15mm more than deed.
The angle from 1-3-6 is only 10" off the original right angle and agrees with previous surveys.

* Rule out whichever is inapplicable

2. Planning Body Approval.

*
hereby approves this plan in accordance with the :
%

Dated this day of

% Insert the name of the Planning Body.
Insert designation of signatory or delegation

3. Plans with Community Management Statement :
CMS Number :
Name :

4. References :
Dept File :
Local Govt :
Surveyor : 13865/2

% Insert applicable approving legislation.

69 & 96 Por 169

7. Orig Grant Allocation :
Orig

8. Passed & Endorsed :
By : Shaun Patrick Verrenkamp
Date :
Signed :
Designation : Cadastral Surveyor

9. Building Format Plans only.
I certify that :
* As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or roads.
* Part of the building shown on this plan encroaches onto adjoining * lots and road

10. Lodgement Fees :
Survey Deposit \$
Lodgement \$
New Titles \$
Photocopy \$
Postage \$
TOTAL \$

11. Insert Plan Number
SP310956

Land Title Act 1994 ; Land Act 1994
Form 21A Version 1

ADDITIONAL SHEET

Sheet 3 of 3

STN	TO	REFERENCE	MARKS	DIST
		ORIGIN	BEARING	
1	OIP	RPI08081	269°59'50"	0.604
1	0 Nail in Conc Footpath	DP308702	356°23'	1.53
2	Screw in Conc Footpath		3°02'	1.425
3	0 Screw in Conc Footpath	DP308702	39°41'	1.642
3	0 Screw in Conc Footpath	DP308702	64°05'	3.005
4	OIP	SPI47837	89°40'	1.453
4	0 Nail in Kerb	DP308702	169°05'20"	26.097
5	0 Screw in Kerb	SP308702	82°27'	4.413
5	0 Screw in Kerb	DP308702	276°0'	16.743
6	0 GI Nail in Conc	SP292761	168°46'50"	0.334
6	0 Nail in Kerb	SPI47837	178°16'30"	3.09
6	0 Nail in Kerb	SPI47837	83°22'	5.55
7	Screw in Kerb		293°50'	2.183
9	Screw in Conc Footpath		177°45'	3.435
10	0 Screw in Kerb	DP308702	93°02'30"	14.695
11	0 Nail in Conc Footpath	DP308702	217°55'30"	10.12

050100150

mmmmmmmm

State copyright reserved.

Insert Plan Number

SP310956

DRAFT

COUNCIL
SPECIAL MEETING AGENDA

27 JUNE
2019

Doc ID No: A5618278

ITEM: E.2

SUBJECT: DISPOSAL OF PART OF 95A BRISBANE ROAD, BOOVAL DESCRIBED AS PART OF
LOT 169 ON RP24111 TO SWIFTS LEAGUES CLUB LTD

AUTHOR: BUSINESS ACCOUNTING AND ASSET MANAGER

DATE: 25 JUNE 2019

EXECUTIVE SUMMARY

This is a report concerning the proposed disposal by Ipswich City Council (Council) of part of 95A Brisbane Road, Booval described as part of Lot 169 on RP24111 to the Swifts Leagues Club Ltd ACN 010 165 045 [ABN 58 010 165 045] (Swifts).

RECOMMENDATION

That the Interim Administrator of Ipswich City Council resolve:

- A. That part of Council-owned land at 95A Brisbane Road, Booval (part of Lot 169 on RP24111), being approximately 1.624 hectares, as identified in Attachment 1 as "Proposed Land Disposal" (the Land) to the report by the Business Accounting and Asset Manager dated 20 June 2019, is surplus to Council's future requirements.
- B. That the disposal of the Land and the improvements of the Land is a disposal of a valuable non-current asset.
- C. That pursuant to section 236(3) of the *Local Government Regulations 2012* (Qld) (Regulations), that the exemption available under section 236(1)(b)(ii) of the Regulations applies to the disposal of the Land and the improvements on the Land to Swifts as a 'Community Organisation' (as defined Schedule 8 of the Regulations).
- D. That the Land and improvements on the Land can be disposed of other than by tender or auction as required by section 227 of the Regulations.
- E. That Council request Swifts Leagues Club to prepare a proposed master plan for the site that reflects their proposal and undertake appropriate community consultation to satisfy Council that their proposal has sufficient community support. That subject to Council being satisfied with the outcome of the community consultation process and accordingly determining that the sale to Swifts Leagues Club is in the best interest of the community, that Council sell the Land and the improvements on the Land to Swifts Leagues Club Ltd at a purchase price equal to the market value of the Land (including the market value of the improvements on

COUNCIL
SPECIAL MEETING AGENDA

27 JUNE
2019

the Land), as determined by a registered valuer, in compliance with section 236(3) of the Regulations.

- F. That the Chief Executive Officer be authorised to negotiate and finalise the terms of the sale contract 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*.

RELATED PARTIES

Swifts Leagues Club Ltd (Swifts) may fund the purchase of the property through their own financial resources however there is a possibility they may be funded by a third party to purchase the Land from Ipswich City Council (Council). The President of the club has advised that they are currently in discussions with potential suitors who may be willing to fund the purchase.

ADVANCE IPSWICH THEME LINKAGE

Managing growth and delivering key infrastructure

PURPOSE OF REPORT/BACKGROUND

Cameron Park is Council freehold land located at 95A Brisbane Road, Booval and described as Lot 169 on RP24111 (5.729 ha). Swifts have a twenty (20) year lease with two (2) x ten (10) year options for Lease A in Lot 169 on RP24111 (1.119ha), which commenced on 6 September 2001 for the occupation of the land and facility as a sports and recreation club.

A report was originally presented to Council in relation to Cameron Park – Future Use of Parkland and Facilities on the 29 January 2019. The recommendation was for the disposal of the land directly related to the sports and recreation club to Swifts Leagues Club Ltd at market value. A further report was submitted to Council in May that repealed the previous decision of Council on the 29 January 2019, as there were a number of unresolved issues regarding the future use of the property and Cameron Park.

The proposal will result in Council surrendering 1.624 hectares (subject to the final survey plan) of current recreational land. The remaining land area of Cameron Park will be 4.105 hectares (subject to the final survey plan).

Communication and discussions with Swifts have continued in relation to the operations of the property, where a number of these issues have now been addressed.

The three key issues are:

- a) What are the options?

In essence, there are four options available:

- 1) Council can sell the property to Swifts, as has been requested by Swifts
- 2) Council can publicly offer the property for sale, with Swifts being the incumbent tenant as per their current lease
- 3) Council can retain the property, undertake any necessary upgrades to the property, and Swifts continue as is

Item 1 / Attachment 4.

COUNCIL
SPECIAL MEETING AGENDA

27 JUNE
2019

- 4) Council and Swifts may reach agreement for the lease to be terminated, Swifts cease operations and Council either publicly offer the property for lease to other entities or demolish the buildings and return the area to parkland

Option 2 is considered to be unrealistic. The property requires significant capital investment (further discussed below) which would not be recouped by any realistic rental stream. It is therefore highly unlikely to be a commercial proposition for any third party. The most likely purchaser would be Swifts, and option 1 provides a more effective approach for Council to undertake that transaction.

Options 3 and 4 are both possible, and are further discussed below in the context of exploring option 1; selling the property to Swifts as they have requested.

- b) Whether Council can lawfully sell the property to Swifts
This issue was addressed in the 29 January 2019 report to Council. The information presented in that report clearly showed that Swifts are a Community Organisation and Council is legally able to sell the property directly to Swifts, under section 236(3) of the *Local Government Regulations 2012* (Qld) (Regulations), that the exemption available under section 236(1)(b)(ii) of the Regulations applies to the disposal of the Land and the improvements on the Land to Swifts as a 'Community Organisation' (as defined Schedule 8 of the Regulations).

To further ensure that Council is able to sell the land to Swifts, it has been recommended to Council that the sale be made conditional on the following:

- I. Subject to a Council resolution being made by Council's Interim Administrator giving effect to the sale (once the Interim Administrator is satisfied the sale meets the requirement of the Regulations and subject to a satisfactory outcome of the community consultation process) ; and
- II. Swifts are to undertake community consultation and satisfy Council that the transaction is for the benefit of the community and has community support as demonstrated through the community consultation process.

- c) Whether Council should sell the property to Swifts.

This is a more complex question, with all the relevant key information either not being available or appropriately presented in the previous two reports to Council to enable this to be adequately and transparently addressed by Council.

There are two aspects to this question:

- What is the best financial outcome for Council? and;
- (More importantly) What is the best community outcome?

The best financial outcome for Council is to sell the property.

Council has recently undertaken a condition assessment of the buildings, which highlighted over \$1 million worth of refurbishment work to be undertaken over the

next 10 years and an additional \$800,000 of upgrades that are required to be undertaken on the kitchen and air-conditioning to keep the current operational requirements of the building. This expenditure however, is to maintain the current configuration of the building which does not meet the club's desired configuration for a growing club (this is discussed further below).

Council receives annual rent of over \$16,000 from Swifts, plus rates of approximately \$16,000. This revenue stream will not be sufficient to recoup over time the capital costs that Council would need to incur as identified in the condition assessment report.

An independent professional valuation of the property indicates a market value in the order of \$1.4m. In summary, sale of the property represents a financially better result for Council (and hence ratepayers) in the order of \$2.4m over retaining the property.

Whilst the financial analysis is important, the more critical question is what is the best community outcome.

Swifts have obtained independent advice from professional club management consultants that verifies that the current configuration of the Cameron Park facilities are inappropriate for the ongoing successful operation of a sports and recreation club with the objectives of delivering community services and facilities. A substantial reconfiguration of the premises is needed for the club to be able to continue to operate successfully.

This requires investment that the club agrees is beyond the scope and responsibility of Council. However, without security of property title, the club is unable to secure funding support needed to make the necessary investment to deliver a contemporary sports and recreation club. Even Council undertaking the \$1.8 million refurbishment cited in the condition assessment report will not meet the club's future operating needs. This is why option 3 above is not a feasible choice for Council.

Closure of the club would result in termination of the facilities and services delivered for Ipswich residents at the Cameron Park facility as well as termination of the financial support of junior rugby league through proceeds from the venue operations. This is not a favourable community outcome.

A key issue raised with Council in regard to community outcomes is whether Swifts would be seeking to substantially increase the number of gaming machines at the site as part of the reconfiguration. Council does not regulate gaming machines; that is the role of the State Government through the Office of Liquor and Gaming Regulation and the *Gaming Machine Act 1991* and the *Gaming Machine Regulation 2002*.

That state regulatory regime includes the need for a 'community impact statement' to be prepared for any increase of 20 gaming machines or more. The Office of Liquor and Gaming Regulation has issued Guidelines in regard to these matters; in essence a

substantial community consultation exercise would be required to be undertaken by Swifts before any significant increase in gaming machines would be possible. This is a matter for the state government regulators to determine at the time, although Council would be asked for its views as part of any decision by the Office of Liquor and Gaming Regulation.

Swifts representatives advised the Interim Administrator at a meeting on Thursday 20 June 2019 that there is no intention by the club to significantly increase the number of gaming machines as part of the reconfiguration at this stage, and they understood the need for extensive community engagement prior to this position changing.

Another issue raised with Council is, once sold to Swifts, how the community can be assured the site remains as a sport and recreation facility in the future. This is entirely within the decision-making powers of the Council. Any proposed change in use would require a development application under the Ipswich planning scheme and would be subject to the provisions of the planning law and framework. The site is currently zoned recreation and Council would have full authority to refuse any development application for any material change in use such as retail or commercial buildings.

In addition there is a recommendation to Council that any sale contract should contain a restriction on the buyer from selling the property to any "person" that is not a Community Organisation", and that any transferee is to enter into a deed of covenant obliging them to obtain a similar covenant from any further transferee.

FINANCIAL/RESOURCE IMPLICATIONS

If Council adopts the recommendation in this report, the operational and legal costs associated with the sale of property will form part of the project budget, and the net financial benefit to Council is estimated to be in the order of \$2.4 million.

RISK MANAGEMENT IMPLICATIONS

There are significant financial and operational risks associated with continuing with the maintenance and refurbishment of the current facility as it presently stands. If the property is sold to Swifts, these risks would be transferred to that organization.

The risk of the property, if sold, being subsequently changed from community services club to other uses (such as residential, retail or commercial developments) is within the control of Council through the development application process and the current zoning of the land as recreation.

The risk of the property, if sold, being converted to a more significant gaming machine venue is within the control of the state government through the Office of Liquor and Gaming Regulation, including the need for a community impact statement that Council would be invited to contribute to.

LEGAL/POLICY BASIS

COUNCIL
SPECIAL MEETING AGENDA

27 JUNE
2019

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

Land Act 1994

Planning Act 2016

Local Government Act 2009

Local Government Regulation 2012

COMMUNITY AND OTHER CONSULTATION

The report that previously repealed the sale to Swifts recommended that community consultation be undertaken for any future decisions to ensure transparency and accountability. Given this is public land and Swifts have requested to purchase the site, it is imperative that the management and development of the land aligns with the strategic focus for the area and supports the community's needs into the future. Swifts will be required to supply information outlining the future plans and how the club will continue to develop sport and recreation services for the benefit of the community.

Council may undertake community consultation to ensure that the proposed sale and future plans for the club by Swifts are supported by the community, or at Council's request Swifts will be required to undertake, manage and finalise the community consultation process.

CONCLUSION

Council's ongoing ownership and leasing of the facility to Swifts carries significant financial and operational risk from a future capital investment perspective. The current arrangements are unfavourable to Council and the Ipswich community from a financial perspective.

The current facilities do not meet the requirements of a contemporary sports and recreation club and reconfiguration to meet these demands is beyond the scope and role of the Council to deliver.

The proposal to dispose of the land and its associated improvements offers Council the opportunity to remove the financial burden of the maintenance of the facility, and more importantly will allow a local community sporting group to deliver a more contemporary facility and continue to provide positive community benefits.

ATTACHMENTS AND CONFIDENTIAL BACKGROUND PAPERS

1.	Survey Plan
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Shane Gillett

BUSINESS ACCOUNTING AND ASSET MANAGER

I concur with the recommendations contained in this report.

Charlie Dill

GENERAL MANAGER - INFRASTRUCTURE AND ENVIRONMENT

COUNCIL
SPECIAL MEETING AGENDA

27 JUNE
2019

"Together, we proudly enhance the quality of life for our community"

Your reference
Our reference
Contact Officer Mr Brett McGrath
Telephone 3810 7760
brett.mcgrath@ipswich.qld.gov.au



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Mr John Hughes
Chairman
Swifts Leagues Club Ltd
PO Box 401
BOOVAL QLD 4304

jhug2460@bigpond.net.au

9 January 2020

Dear John

Re: Outcomes of community consultation process

On 24 December 2018, Mr Paul Morris emailed the result of Swifts' public consultation process to council's Mr Brett McGrath. Brett was on leave at the time and passed that information onto me and others within council on 2 January 2020.

As you are aware, this process followed council's resolution on 27 June 2019 *"that subject to Council being satisfied with the outcomes of the community consultation process and accordingly determining that the sale to Swifts Leagues Club is in the best interest of the community, that Council sell the Land and the improvements on the land to Swifts Leagues Club"* at market value.

My 28 June 2019 email to you confirmed this decision and clearly advised that "under the Council resolution, Council will only proceed with the sale of the site if it is satisfied with the results of the community engagement program".

I have now had the opportunity to review the material provided. Unfortunately, the material provided does not support the sale proceeding.

This conclusion is based on two issues:

- The **process** of community engagement undertaken; and
- The **results** of the community engagement.

In terms of the community engagement **process**:

- a) My 5 December 2019 letter to you outlined some 13 concerns raised by community members to council. I have reviewed Mr Balzary's two page "JA response to the specific points..." and, whilst some of the responses assist council in better understanding the issues, that is of no assistance to the community members who expressed those concerns to council and my office. I accept that commercial motivation by some competitors exists, and that this is not a relevant issue for the council to consider (in my view). But the issues came to me from the community, and **the local community still doesn't have clarity on these important matters including building expansion (or otherwise), proposed number of poker machines, carparking, ownership arrangements and any third party management participation.**

- b) The engagement process had some fundamental flaws. Since my first community engagement process I participated in 1982, I have never observed a public meeting on a redevelopment proposal where a representative of the owner/developer wasn't in attendance. This is not a criticism of Mr Balzary but a consultant who responds to queries along the lines of "I have been advised by the club..." does not convey the level of certainty that the community has indicated to me is seeking.
- c) If the map included in the material does reflect the letterbox drop area, that is also flawed. It is not the required 400 metre radius of the club; it appears to be less than 300 metres. Therefore (calculating the respective areas less the Cameron Park area) **about 50% of the dwellings within the required 400 metre radius appear to have been missed in your letterbox drop.** This reflects the many nearby residents who commented to my office that they did not receive notification of the meeting.
- d) It is clear that the community consultation process lacked the information required for the public to determine and articulate an informed position. Both the feedback from community members and the observations of council officers at the public consultation evenings identified a lack of detail on Swifts proposal to purchase the land. Some of the information provided in the community consultation was inconsistent and questionable. This is evident in the proposed development of the site with increased poker machines which does not appear physically possible with the current building, as one example.

In terms of the **outcomes**:

- a) Attendance at both meetings was far lower than would be expected, with only 24 and 21 members of the public attending the two nights. The above comments regarding mailbox notification may have contributed to this. Similarly Mr Balzary's record of telephone enquiries from only three members of the public is a surprise. **Both these outcomes bring the effectiveness of the community consultation into some question.**
- b) Only 10 submissions appear to have been provided; again this is somewhat less than I would have anticipated given the significance of the issue for the local community.
- c) Of these 10 submissions:
 - **Eight (8) submitters opposed the sale proceeding at this stage** (Teresa Cavill-Jones, Maria Kelly, Peter Coultas, Greg Lyons, Brad Morgan, Clive Johnson, Karen Christensen and David Martin). There is a consistent theme across these submissions; that there is insufficient definitive information at this stage for the community to form a view and for council to make a decision to sell the site.
 - **One (1) submitter supported the sale** (Warren and Jodee Hutt)
 - **One petition** signed by some 137 members of Swifts Sports Club supported the sale
- d) These results cannot in any way be construed to providing to council with any supporting evidence that the local community believes – at this stage - that sale of the site to Swifts Leagues Club is in the best interest of the community.

I certainly understand the club will not be pleased with this conclusion, but the above facts speak for themselves. There is no way that a reasonable independent person could conclude from the evidence regarding the process and outcomes of the community consultation process that the local community support for the sale has been acceptably demonstrated.

A sale at this stage would be contrary to the requirements in council's resolution and I am therefore not in a position to proceed.

Moving forward, I make two comments:

- **None** of the eight submitters actually said they were totally opposed to the sale as a matter of fundamental principle. They did reflect the community sentiment that has been echoed in my office that Swifts need to provide more definitive information for the community to form a view and for council to make a decision. I think there is a way forward for Swifts in that regard.
- I understand that there is commercial competitive tension in this area, and I accept that some (but not all) of the concerns raised by some submitters may be based on that factor, which should not be a basis for council's consideration and decision.

In my view, Swifts now need to consider how best to address the uncertainties in the community through further engagement. As previously advised, it is imperative that an open and transparent community consultation process be undertaken to give the community every opportunity to be completely informed on the proposal and the ability to provide feedback.

John, under these circumstances and the fact that my tenure as council's Interim Administrator concludes this Friday, there is no material value in us meeting today.

Given the impending local government elections, council will be going into "caretaker" mode in the near future and will not be in a position to make any "major policy decisions" under the *Local Government Act 2009*.

The forthcoming elected council will only be able to progress the potential sale of the land if community consultation is revisited and completed satisfactorily; with outcomes that will actually enable the council to, as per council's resolution, "*determine that the sale to Swifts Leagues Club is in the best interest of the community*".

Yours sincerely



Greg Chemello
INTERIM ADMINISTRATOR