

DRAFT

LEASE

**Between SHIRE OF DENMARK &
The Returned & Services League
of Australia WA Branch Inc.
for Whole of Reserve 23631**

WESTERN AUSTRALIA
LAND ADMINISTRATION ACT 1997
TRANSFER OF LAND ACT 1893 AS AMENDED

LEASE OF CROWN LAND (L)

DESCRIPTION OF LAND (Note 1)

	EXTENT	VOLUME	FOLIO
Whole of Reserve 23631, Lot 40 on Deposited Plan 222379	Whole	LR3002	180

LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS (Note 2)

LESSOR/LESSORS (Note 3)

SHIRE OF DENMARK OF 953 SOUTH COAST HIGHWAY DENMARK

LESSEE/LESSEES (Note 4)

THE RETURNED & SERVICES LEAGUE OF AUSTRALIA WA BRANCH INC.

TERM OF LEASE (Note 5)

FIVE Years ZERO Months ZERO Days

Commencing from the 1ST day of DECEMBER in the year 2014

THE LESSOR HEREBY LEASES TO THE LESSEE the land above described subject to the encumbrances as shown hereon (Note 6)

Nil

for the above term for a rental of \$1.00, which shall be deemed to have been paid by the Lessee to the Lessor

**Shire of Denmark
("the Lessor")**

and

**The Returned & Services League of
Australia WA Branch Inc.
("the Lessee")**

LEASE

RESERVE 23631 IS VESTED IN THE LESSOR FOR THE PURPOSE OF Hall Site WITH POWER TO LEASE FOR ANY TERM NOT EXCEEDING TWENTY-ONE (21) YEARS SUBJECT TO THE CONSENT OF THE MINISTER FOR LANDS AND THIS LEASE IS SUBJECT TO THE COVENANTS AND POWERS IMPLIED UNDER THE *LAND ADMINISTRATION ACT 1997* AND THE *TRANSFER OF LAND ACT 1893* AS AMENDED (UNLESS HEREBY NEGATIVED OR MODIFIED) AND TO THE COVENANTS AND CONDITIONS CONTAINED HEREIN.

THIS LEASE is made the 1st day of December 2014 BETWEEN the Lessor named in Item 1 of the Schedule hereto and the Lessee named in Item 2 of the Schedule hereto.

WHEREAS:

The Lessor has agreed to lease and the Lessee has agreed to take on lease, the land described in Item 3 of the Schedule hereto (which together with the buildings erections improvements fixtures and fittings thereon are collectively hereinafter "the Leased Premises") for the Term and on commencement date stated in Item 4 of the Schedule hereto.

1. THE LESSEE COVENANTS WITH THE LESSOR:

TO PAY RENT

To pay on or before the due date for payment the rent reserved at the times and in the manner stated in Item 5 of the Schedule hereto.

TO PAY OUTGOINGS

To pay and discharge on or before the due date for payment all present and future outgoings including all rates and taxes, charges, assessments, licence fees, duties, impositions, penalties and other outgoings whatever which now or at any time during the Term are assessed and charged upon or in respect of the Leased Premises or the use or occupation of the Leased Premises or any part of the Leased Premises and any amount for water, electricity or gas consumed in the Leased Premises.

COMPLY WITH LEGISLATION

At all times during the Term to duly and punctually comply with, observe and carry out and conform to the provisions of all statutes (State or Federal) and all subsidiary legislation now or hereafter in force and all requirements and orders of any authority, statutory or otherwise, which affect the leased premises or the use of the Leased Premises or which impose any duty or obligations upon the owner or occupier of the Leased Premises.

TO REPAIR AND MAINTAIN

At the Lessee's own expense other than structural building repairs which shall be at the expense of the Lessor to keep and maintain the Leased Premises in good repair, order and condition including painting of internal surfaces, pest control and clean and free of refuse and vermin.

"*Structural Building Repairs*" means substantial and major repairs or replacement of essential structures relating to all loads, internal actions, material properties and foundation conditions that significantly affect structural sufficiency or serviceability including but not limited to:

- Floors
- Concrete Slab
- Masonry
- Roof Covering and Roof Structure
- Footings and Foundations
- Painting of External Surfaces
- Outer Walls of any construction but does not include windows, doors, doorframes and door furniture
- Ceilings
- Sewerage, drainage and water supply but does not include taps and other visible water fittings.

NOTICE OF DAMAGE

To inform the Lessor in writing of any damage to or defect in the Leased Premises likely to cause any injury to any persons thereon immediately the Lessee becomes aware of it.

USE OF LEASED PREMISES

To use the Leased Premises only for the purpose of carrying on in a proper manner the objects of the Lessee as set out in its constitution or Articles of Association as at the date of signing of this lease. Such uses may include an administration office, meeting and work rooms for the Association, a caretakers residence and or short term artists in residence program but not crisis or other forms of accommodation relating to relief of the aged or the poor.

NUISANCE

Not to allow anything to be done or to occur in or about the Leased Premises which is noxious, offensive or audibly or visually a nuisance.

NOT DAMAGE TREES

Not to destroy, cut down, prune or damage any living tree on the Leased Premises without the Lessor's consent.

PAY LESSOR'S EXPENSES

To pay to the Lessor on demand all sums of money which the Lessor may pay or expend in connection with performing, discharging or executing any requisition or works or abating any nuisance referred to in the preceding provisions of this Lease and which the Lessee fails to perform, discharge, execute or abate.

NO ASSIGNMENT

Not to assign, mortgage, sub-let or part with the possession of or dispose of the Lease Premises or any part of the Leased Premises or the benefit at law or in equity of this Lease without the prior written consent of the Lessor and, if required by law, of the Minister for Lands having first being obtained.

INDEMNITY

The lessee shall indemnify and shall hold indemnified the Minister for Lands and the Lessor from and against all actions claims demands losses costs and expenses which the Minister for Lands or Lessor sustains or incurs or for which the Minister for Lands or Lessor becomes liable whether during or after the Term in respect or arising from:

Breach of Covenant

Loss, damage or injury from any cause to property or person upon the Demised Premises occasioned or contributed to by the neglect or default of the Lessee or its servants agents sub-tenants or other person claiming through or under the Lessee to observe or perform any covenant condition, regulation or restriction on the part of the Lessee hereunder whether positive or negative expressed or implied.

Misuse

The negligent or wilful misuse waste or abuse by the Lessee or its servants agents or other persons claiming through or under the Lessee of any water, gas, electricity or other services to the Demised Premises.

Escape of Harmful Agent

The overflow leakage or escape of water, fire, gas, electricity, any other harmful agent or contamination within the meaning of that term under the Contaminated Sites Act 2003 in or from the Demised Premises caused by or contributed to by any act or omission on the part of the Lessee or its servant's agents or any other person in the Demised Premises with the express or implied consent of the Lessee.

Failure to Notify

The failure of the Lessee to notify the Lessor of any known danger in or about the Demised Premises.

Use of Demised Premises

Loss (including loss of life), damage or injury from any cause to property or person caused or contributed to by the use of Demised Premises by the Lessee or its servant's agents or any other persons in the Demised Premises.

Personal Injuries

Loss, damage or injury sustained by the Lessee or any servant, workman, employee, client, customer, visitor, invitee or licensee of the Lessee or any member of the public in, upon or about the Demised Premises.

PROPERTY INSURANCE

The Lessor will insure and keep insured the Leased Premises under its own policies of insurance and the Lessee shall pay to the Lessor the sum of \$500 excess for each claim and the Lessor shall at its own cost meet all other costs not met by the insurer. The Lessor may determine to not seek reinstatement or replacement of any structure so insured.

PUBLIC LIABILITY INSURANCE

To effect and keep effected in respect of the Leased Premises adequate public risk insurance in the names of the Lessor and the Lessee for their respective rights and interests in any amount not less than \$10,000,000 in respect of any one claim with an insurance company approved by the Lessor.

NOT TO INVALIDATE INSURANCES

Not to do or permit or suffer to be done in, about or upon the Leased Premises any act or thing whereby any policy of insurance may become void or voidable.

PROOF OF INSURANCE

To deliver to the Lessor on or before the expiration of each year of the Term and at any other time upon the request of the Lessor valid certificates of currency in respect of all such insurance policies issued by the insurance companies with which the policies have been effected by the Lessee.

TO YIELD UP

At the expiration or sooner determination of the Term of the Lease to yield up the Leased Premises in such state of repair and condition as is consistent with the proper performance by the Lessee of the covenants contained in this Lease and to remove from the Leased Premises such fixture, fitting, plant, equipment or other property in or upon the Leased Premises as the Lessor shall require the Lessee to remove and the Lessee must on such removal forthwith make good any damage which is occasioned by such removal.

2. THE LESSOR HEREBY COVENANTS WITH THE LESSEE:

NO INTERFERENCE BY LESSOR

That subject to the terms and conditions of this lease the Lessee may use and occupy the Leased Premises during the term of the Lease without any interference from the Lessor or any person claiming any interest in the Leased Premises through the Lessor.

LEASE COSTS

The Lessor shall at its own expense pay for all costs for the preparation stamping and registration of this Lease.

3. THE LESSOR AND THE LESSEE AGREE THAT:

DEFAULT BY LESSEE

If during the Term the Lessee makes default in the due performance or observance of any of the Lessee's Covenants and such default is not remedied within 30 days after notice thereof is given by the Lessor or if the Lessee is wound up or ceases to operate then the Lessor may terminate this lease and the rights of the Lessee under this lease provided that if the default is capable of being remedied by the Lessor, then the Lessor may in its discretion itself remedy the default or cause it to be remedied (for which purpose the Lessor by agents, workmen or otherwise has full power to enter upon the Leased Premises) and the costs and expenses incurred by the Lessor in remedying the default or causing it to be remedied are a debt payable by the Lessee to the Lessor on demand.

TERMINATION OF LEASE

The Lessor may terminate this Lease by giving six (6) months' written notice to the Lessee, notwithstanding that the Lessee is not in default and notwithstanding that the term of the Lease has not expired and the Lessee may terminate this Lease by giving three (3) months written notice to the Lessor notwithstanding that the term of the Lease has not expired. Such termination by either party does not waive the rights of the Lessor and/or the Lessee to seek a payment for compensation.

HOLDING OVER

If the Lessee remains in possession of the Leased Premises with the permission of the Lessor after the expiration or sooner determination of the Term the Lessee will hold the Leased Premises as a monthly tenant subject to all the covenants and conditions contained in this Lease as far as they are applicable to a monthly tenancy and the tenancy so constituted may be terminated by one month's notice given by either party which notice may be given so as to expire at any time.

ARBITRATION

Any dispute or difference arising between the parties in respect of any of the matters referred to in this Lease shall be referred to arbitration under the provisions of the Commercial Arbitration Act 1985.

NOTICES

Any notice to be served on the Lessee under this Lease is to be served by the Lessor by delivery to the Lessee at the Leased Premises.

SPECIAL TERMS

The Lessor and the Lessee will each comply with and observe and perform their respective obligations under any special term or condition shown at Item 6 of the Schedule hereto.

The Schedule

1. Lessor Shire of Denmark of 953 South Coast Highway
Denmark WA 6333
2. Lessee The Returned & Services League of Australia WA Branch Inc.
3. Leased Premises Reserve 23631, Lot 40, 54 Strickland Street, Denmark being the 1,023m² area denoted in red on Appendix 1.
4. Term of Lease Five (5) years commencing on 1 December 2014 and expiring on 30 November 2019.
5. Annual Rent One Dollars (\$1.00) per annum plus GST for each year of the Term of Lease
6. Special Conditions
 - a) The Lessee should note that the property has been declared exempt from rates by the Minister for Local Government, following a request by the Lessor, pursuant to Section 6.26 (2) (k) of the Local Government Act 1995. This notwithstanding, the Lessee is still required to meet the cost of ESL, refuse, administration and interest (if any) charges payable on the land.
 - b) Council's Principal Building Surveyor shall, at least on an annual basis (in conjunction with the Lessee), inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease to determine the priority for future and long term maintenance to be undertaken by the Lessee.
 - c) Notwithstanding clause 6 (b) & the Lease the Lessor, reflecting the non 'exclusive club' usage and fact that the Hall performs a valuable service for wider community benefit, the Lessor shall annually (subject to its annual budget considerations) contribute to the maintenance of the Leased Premises and the Lessee will forward to the Lessor a tax invoice for that contribution amount.
 - d) The Lessee prior to undertaking any development shall first obtain the written permission of the Lessor with respect to landowner, planning (development) and building or demolition approvals. The Shire of Denmark will not be fettered in its assessment by virtue of this lease or in its role as Lessor, and subject to it not being in conflict with the Plane Tree Precinct Development Plan (as described in Appendix 2).
 - e) The Lessee agrees that the Lessor has permission to undertake development in accordance with the principles of the adopted Plane Tree Precinct Development Plan (as described in Appendix 2), subject to the Lessor providing the Lessee a minimum of 90 days written notice.

ATTESTATION SHEET

Executed by the parties as a Deed on the _____ day of _____ in the year _____

LESSOR SIGNS HERE

The Common Seal of)
SHIRE OF DENMARK)
was hereunto affixed)
in the presence of)

Cr Ross Thornton
Shire President

Dale Stewart
Chief Executive Officer

LESSEE SIGNS HERE

Signed _____

Signed _____

Name _____
PLEASE PRINT

Name _____
PLEASE PRINT

President / Chairperson

Secretary / Treasurer

INSTRUCTIONS

1. If insufficient space in any section, Additional Sheet, Form B1 should be used with appropriate headings. The boxed sections should only contain the words "see page..."
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.
4. Where issued, the Duplicate Certificate of Title is required to be produced or if held by another party then arrangements must be made for its production.

NOTES

1. **DESCRIPTION OF LAND**
Lot and Diagram/Plan/Strata/Survey-Strata Plan number or Location name and number to be stated.
Extent - Whole, part or balance of the land comprised in the Certificate of Title to be stated. If part, define by recital and/or sketch.
The Volume and Folio number to be stated.
2. **LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS**
In this panel show (subject to the next paragraph) those limitations, interests, encumbrances and notifications affecting the land being leased that are recorded on the certificate(s) of title:
 - a) In the Second Schedule;
 - b) If no Second Schedule, that are encumbrances.
(Unless to be removed by action or document before registration hereof)

Do not show any:

 - (a) Easement Benefits or Restrictive/Covenant Benefits; or
 - (b) Subsidiary interests or changes affecting a limitation, etc, that is to be entered in the panel (eg, if a mortgage is shown, do not show any partial discharges or any document affecting either).
The documents shown are to be identified by nature and number. The plan/diagram encumbrances shown are to be identified by nature and relevant plan/diagram. Strata/survey-strata plan encumbrances are to be described as "Interests on strata/survey-strata plan".
If none show "nil".
3. **LESSOR**
State the full name of the Lessor/Lessors (REGISTERED PROPRIETOR) as shown in certificate of title and the address/addresses to which future notices can be sent.
4. **LESSEE**
State full name of the Lessee/Lesseees and the address/addresses to which future notices can be sent. If two or more state tenancy e.g. Joint Tenants, Tenants in Common. If Tenants in Common specify shares.
5. **TERM OF LEASE**
Must exceed 3 years.
Term to be stated in years, months and days or as the case may be. Commencement date to be stated. Options to renew to be shown.
6. **RECITE ANY EASEMENTS TO BE CREATED**
Here set forth any Easements to be created as appurtenant to the lease commencing with the words "together with" and/or any Reservations hereby created encumbering the lease commencing with the words "reserving to".
7. State amount of yearly rental in figures.
8. State term of payment.
9. Insert any Covenants required.
10. **LESSOR/LESSEE EXECUTION**
A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The address and occupation of the witness must be stated.

OFFICE USE ONLY

LEASE OF CROWN LAND (L)

LODGED BY
Shire of Denmark

ADDRESS
953 South Coast Highway (PO Box 183)
DENMARK WA 6333

PHONE No. (08) 9848 0300

FAX No. ((08) 9848 1985

REFERENCE No.

ISSUING BOX No.

PREPARED BY
Shire of Denmark

ADDRESS
953 South Coast Highway (PO Box 183)
DENMARK WA 6333

PHONE No. (08) 9848 0300

FAX No. ((08) 9848 1985

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

1. _____	Received Items
2. _____	Nos.
3. _____	
4. _____	
5. _____	Receiving Clerk
6. _____	

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.

EXAMINED

Appendix 1 – Reserve 23631, Lot 40, 54 Strickland Street, Denmark



Appendix 2 – Adopted Plane Tree Precinct Development Concept Plan

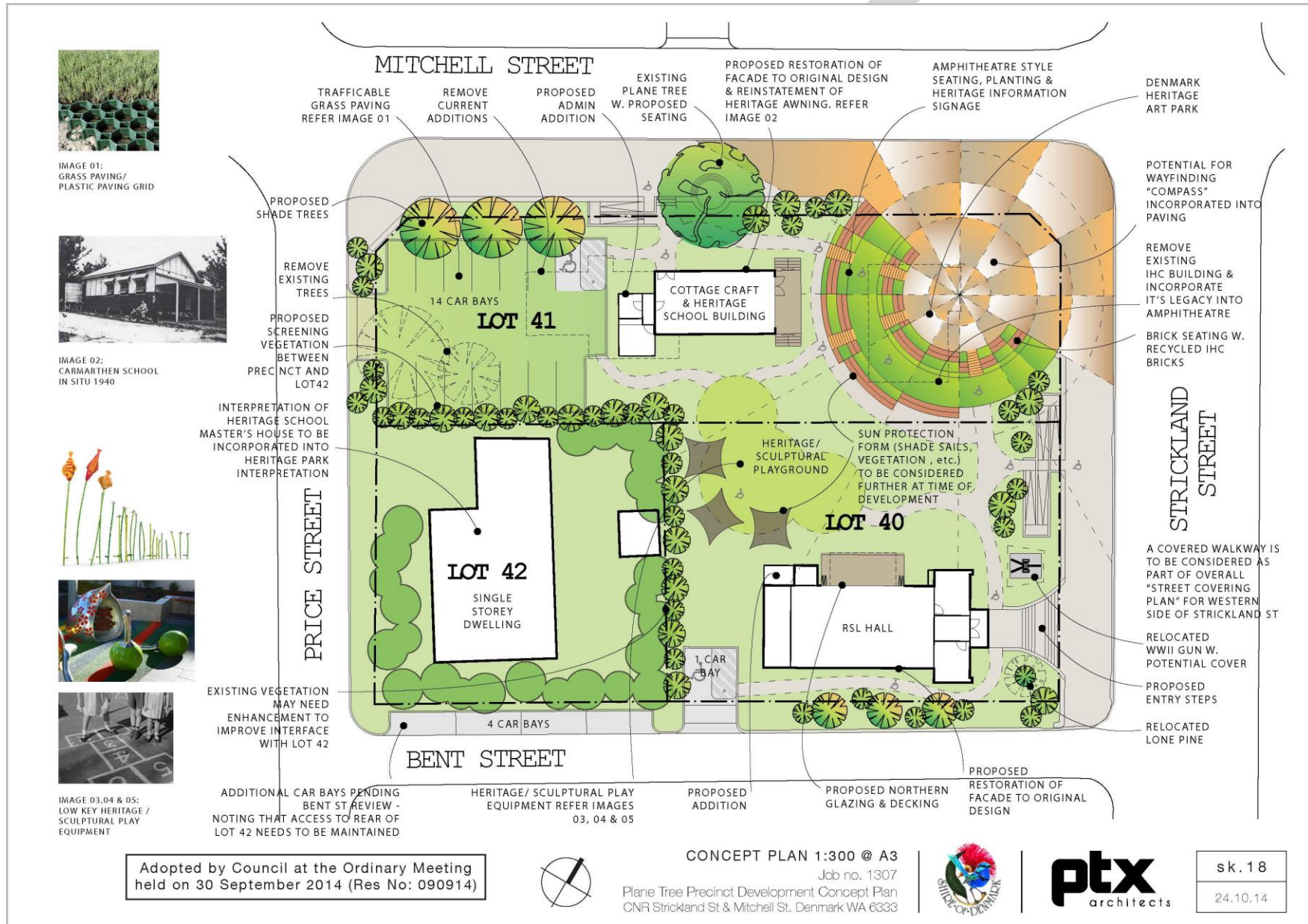


IMAGE 01: GRASS PAVING/ PLASTIC PAVING GRID



IMAGE 02: CARMARTHEN SCHOOL IN SITU 1940



IMAGE 03,04 & 05: LOW KEY HERITAGE / SCULPTURAL PLAY EQUIPMENT

Adopted by Council at the Ordinary Meeting held on 30 September 2014 (Res No: 090914)



CONCEPT PLAN 1:300 @ A3

Job no. 1307
Plane Tree Precinct Development Concept Plan
CNR Strickland St & Mitchell St, Denmark WA 6333



sk. 18

24.10.14