



8.4.4 DENMARK HERITAGE RAIL WAY PRECINCT – AMENDMENT TO CONCEPT PLAN AND SPIRIT OF PLAY COMMUNITY SCHOOL – REQUEST FOR LEASE EXTENSION

File Ref:	A5598 & LEA.41
Applicant / Proponent:	Spirit of Play Community School
Subject Land / Locality:	Reserve No. 30277, No. 2 (Lot 952) Inlet Drive, Denmark
Disclosure of Officer Interest:	Nil
Date:	10 September 2018
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Bill Parker, Chief Executive Officer
Attachments:	8.4.4a – Initial stakeholder feedback 8.4.4b – Response to feedback from Spirit of Play 8.4.4c – Adopted Heritage Precinct Concept Plan 8.4.4d – Draft amended Heritage Precinct Concept Plan

Summary:

The Spirit of Play Community School have requested an extension to their lease term and area to provide them with sufficient space to meet their educational requirements and provide them with security of tenure to ensure continuity of operations and a realistic return on forecasted investment in the site.

Background:

The Spirit of Play Community School have leased a portion of Shire of Denmark managed Reserve 30277 since 2003. The initial lease was for five (5) years.

At its meeting held on 24 June 2008, Council approved a new lease for a period of five (5) years (Resolution No. 130608), which resulted in a new expiration date of 2013.

At its meeting held on 25 September 2012, Council approved an extension to the lease area to incorporate an approved additional storage building, existing septic tanks and adequate area for sufficient soft fall sand under the swing set (Resolution No. 160912).

In 2013, under clause 4.6 (Further Term) of the Lease, the Lessee exercised their option for a further five (5) year term by written request to the Chief Executive Officer. A new valuation was undertaken in October 2013 which formed the basis of their annual lease fee from 1 December 2013 to 30 November 2018.

At its meeting held on 27 May 2014, Council adopted the Denmark Historic Railway Precinct Concept Plan with respect to Reserve No. 30277 (Resolution No. 240514). Part 6 of the resolution stated,

“Advise the Spirit of Play that it has amended the plan such that the label of the building that they currently lease is titled “Old Post Office Building” so as to provide clarity that it is Council’s view that an expanded community school at the site is not a long term complementary use at the Heritage Precinct.”

At its meeting held on 22 March 2016, Council approved the addition of a temporary classroom which involved an extension of the lease area (Resolution No. 160316). This resulted in a relative increase in the annual lease fee, based on the 2013 valuation.

In 2017, the Spirit of Play approached Council advising that whilst they had identified an appropriate alternative site for the School, they would require a 12 month extension to give them sufficient time to relocate to the new site. At its meeting held on 18 July 2017, Council granted permission for the Spirit of Play to continue occupation of the Leased Premises as a monthly tenant until 21 December 2019 (Resolution No. 120717).

Consultation:

The following stakeholders have been consulted in relation to the proposal;

- Denmark Lions Club
- Denmark Machinery Restoration Group
- Denmark Men's Shed
- Denmark Woodturners
- Denmark Historical Society
- Denmark Yacht Club

A letter detailing the proposal was sent to all stakeholders requesting their comments on 4 July 2018 and responses were received from all except the Denmark Yacht Club (who utilise a shed within the Denmark Lions Club lease area).

The common themes of the concerns expressed were as follows (copies of the individual responses are attached – see Attachment 8.4.4a);

1. The proposal, given substantial investment, can be viewed as a permanent solution rather than a temporary one;
2. Would result in substantial leased area of northern section of reserve, essentially taking over the reserve;
3. Area was designated as a heritage precinct and is not compatible with school;
4. Public / shared access to historical relics, namely the ash pit, turntable and old post office - concern that the public would feel uncomfortable entering a "school site".
5. Removal of vegetation required for access road and additional car parking;
6. Parking at Lions Lair would be restricted and limited area to manoeuvre trailers and the like;
7. Limits future development of the site to attract visitors;
8. Proposed access road cuts across DMRG lease area, limiting plans of joint development between DMRG and Men's Shed;
9. Traffic conflict with trail users;
10. Shared use could initiate problems associated with "working with children" and "police clearances";
11. The site is a key historical precinct and should be developed as a tourist attraction.

The Spirit of Play were provided an opportunity to respond to the stakeholder concerns and a copy of their response is attached (see Attachment 8.4.4b). This response was forwarded to all stakeholders and a meeting was scheduled between all parties and Shire Officers to discuss a mutually agreeable way forward.

At the meeting the Denmark Historical Society reiterated that they were not comfortable with a school being located at the Heritage Precinct as they consider the use incompatible with the development of a historical and tourist precinct.

Following the meeting, the DMRG, Denmark Men's Shed, Denmark Woodturners, Denmark Lions and the Spirit of Play met with Council Officers on site to discuss the proposed entrance / internal road and parking. The attached draft Concept Plan has been developed following the above consultations and, from the Officer's perspective, is considered to be acceptable to the stakeholders.

The Denmark Historical Society and the Denmark Machinery Restoration Group have indicated that whilst they are prepared to compromise, their preference would still be for the School to relocate to an alternative site as they do not believe that the use is compatible with precinct.

The Denmark Weed Action Group assist the Shire with weed and bushland management on the Reserve and have expressed support for the Spirit of Play's proposal and expressed no concerns.

Statutory Obligations:

Pursuant to Regulation 30 (2) (b) (i) of the Local Government (Functions and General) Regulations 1996, Council are not required to comply with the disposition of property

requirements under Section 3.58 of the Local Government Act 1995. Regulation 30 excludes disposition of property to a body whose objects of which are of an educational nature.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The annual rental from the Spirit of Play's existing lease area for 2018/19 is \$11,642.40. A new valuation would need to be sought for any increase in lease area.

The School pays approximately \$890,000 in wages per annum and expends approximately \$100,000 in the community through hiring local tradespeople and local shop accounts.

With the annual rent from Spirit of Play, the Council could place some of the funds aside to be used for future heritage projects in the Shire or the Council could use the funds as additional annual general revenue.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

E1.0 Our Economy

We are an attractive location to live, invest, study, visit and work.

E1.3 To have diverse education and employment opportunities.

C4.0 Our Community

We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit.

C4.3 To create a community nurtures and integrates natural, cultural and historical values.

C4.4 To recognise and respect our local heritage and Aboriginal history.

Corporate Business Plan

SOCIAL ACTIONS

1.1.1 Advocate for the provision and promotion of services and facilities that meet the needs of the community.

1.2.4 Acknowledge and support the European heritage and Aboriginal roles in the future development of Denmark.

EDUCATION GOAL – work with relevant authorities and organisations that encourage the growth and diversity of educational opportunities and facilities for all age groups both in the town of Denmark and in its outlying communities.

1.3.1 Development partnerships with educational institutions to create an 'environment of learning'.

1.10.18 Identify opportunities for co-hosting and rationalisation of recreation facilities.

3.3.5 Promote the long term growth of the district by encouraging diverse, profitable and sustainable business.

3.7.3 Continue to engage in the management of local natural areas with associated recreation and tourism uses.

3.7.5 Promote and support local and regional tourism initiatives.

Sustainability Implications:

➤ **Governance:**

It is unlikely that the Council would spend any significant funds on the historical precinct in the foreseeable future. The Officer suggests that it could be in the Council's and community's best interest to gain some revenue from the leasehold area in the interim.

➤ **Environmental:**

The Denmark Weed Action Group (DWAG) work together with the School to undertake manual weeding and bushland maintenance at the site. The DWAG have expressed no concerns about the proposal. Some clearing may be required in the shared use area however this would be done in liaison with the DWAG and Shire Officers.

➤ **Economic:**

As detailed under budget implications, the School contributes significantly to the local economy.

➤ **Social:**

There are significant social considerations with respect to the precinct and its current users. The heritage assets provide tourism and educational attractions, the School provides social, educational and economic benefits and the DMRG and the Denmark Lions are both active community groups with energetic memberships.

The School teaches the students about the history of the precinct and would like to encourage more intergenerational activities by utilising the experience and expertise of local individuals, community groups and the members of the community groups who occupy the site.

The Spirit of Play have proposed to maintain the shared use public area, create nature play areas for the public and the install interpretative signs to highlight the history of the precinct and the heritage assets it holds.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not agree to extend the lease.	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Engagement - Community / Stakeholders / Crs	Manage by undertaking further consultation with Lessee and stakeholders to find a suitable alternative for the Lessee and/or stakeholders.

Comment/Conclusion:

DENMARK HERITAGE RAILWAY STATION NO. 3 RESERVE

The Shire of Denmark has management order for Reserve No. 30277 and power to lease for up to 21 years. The designated purpose of the reserve is “Historical Precinct, Recreation and Community Purposes”.

The Council's adopted Municipal Heritage Inventory (MHI) includes the following Place Records which relate to the reserve;

- Railway Precinct (including the Bridge, Ashpit and Turntable);
- Denmark River Railway Bridge;
- Old Post Office (currently in the Spirit of Play lease area);
- Station Master House (current Lions Lair); and
- Old Railway Station (former Bowling Club on Reserve 20403).

History

The railway precinct became the centre of railway operations in Denmark at the opening of the Denmark-Nornalup line in 1929, the bridge over the Denmark River was constructed at the same time when the line from Albany was realigned to connect with Nornalup.

The 60 foot turntable (pictured below) was constructed in 1896 and was used to turn locomotives at the site between 1929 and 1957. It is rare and is the oldest and only remaining example of its type in Western Australia.



Picture 1 - Turntable



Picture 2 - Turntable

The ashpit's purpose was to contain the ash from the steam engines. The fireman on the engine would clean out the 'clinkers' into the ashpit to maximise the power that a clean firebox could generate. (pictured right and below)



Picture 3 - Ashpit

The MHI notes that the Railway Bridge, the turntable and the ashpit all have considerable historic value and also notes the significant social value in the site which relates to the town and outlying region and beyond, particularly given the important link that it provided with isolated Group Settlements in Denmark. The MHI records the significance of the Precinct as "Exceptional" stating that "*..the place should be retained and conserved unless there is no feasible and prudent alternative to doing otherwise and any alterations or extensions should reinforce the significance of the place..*".



Picture 4 - Ashpit with carriages

Constructed in 1926, the Old Post Office was moved from Strickland Street to the Reserve in 1987 when a new post office building was proposed. The MHI records the Old Post Office as of "Considerable" significance as it is a good example of quality architecture erected in country towns and acknowledges the importance of the post office for life in Denmark. It also states that "*Conservation of the place is highly desirable. Any alterations or extensions should reinforce the significance of the place*".

DENMARK HISTORICAL RAIL WAY STATION PRECINCT CONCEPT PLAN

In 2011 Council considered the Denmark Bowling Club's request to demolish their, then, clubhouse which was the Old Railway Station building, formerly located on Reserve 30277. Community feedback received at the time, indicated the community's desire for the building to be relocated back to the reserve which prompted the Council to request Staff prepare a draft concept plan for the reserve. The concept plan was adopted by the Council in May 2014 following an extensive consultation process (see Attachment 8.4.4c).

The Concept Plan guides development and use of the reserve into the future, portraying the rich and interesting history through the development of exhibition spaces for historical machinery and artefacts, the relocation of the old railway station building for community use, nature play areas and the development of an historical interpretation system throughout the precinct, extending along the Heritage Railway Trail.

SPIRIT OF PLAY

The School has operated at the site since 2003 and, following the adoption of the Heritage Concept Plan in 2014, had made significant progress and investment in securing an alternative site. In 2017 Council acknowledged that the School had found a new location and agreed to grant a 12 month extension to allow them sufficient time to relocate however, the development fell through which left them, once again, without a suitable site.

They currently have 73 students (67 families including their affiliated playgroup) and 19 members of staff. The Spirit of Play wants to remain small by design and believes that this model has, and will, contribute to its success. They have advised that taking on too many children could negatively impact their ability to provide a specialised learning environment for their students.

The School offers an alternative to the Denmark Primary School with smaller size class rooms, nature based learning and delivers the WA Curriculum.

Spirit of Play has contributed to the cost of maintenance of the Old Post Office building, including asbestos removal, regular maintenance, electrical and plumbing upgrades. Students regularly assist the Denmark Weed Action Group with weeding the precinct area, surrounding bushland and trails.

The School has stated that they are *".. highly compatible with the explicit objectives of the Western Australia Heritage Bill 2017, particularly relating to promoting the understanding and appreciation and facilitation of continuing use and adaptive reuse of places of cultural significance. Spirit of Play is keen to continue its current promotion of the heritage area and to try to bring more people to the site. There are over 100 people accessing the site every school day providing unprecedented opportunity to provide place-conscious education and knowledge to not just students, but parents and families."*

THE PROPOSAL

The Spirit of Play have advised that even if they find another site now, it could take up to two years for them to go through the processes required in order to relocate. At this stage, the School is seeking to achieve a long-term stable outcome which means requesting Council to allow them to remain at their current site. As from November 2018, pursuant to Resolution No. 120717, the School will be operating under a monthly tenancy until December 2019.

The School is seeking a 21 year lease (preferably) and additional lease area, including an area of shared use, so that they can build two new classrooms and continue to offer an alternative education model for Denmark. Spirit of Play has advised that a lease term of less than 10 years would leave the school in a non-viable position and they would most likely cease operation. The maximum number of students they are aiming for is 92.

The proposal in summary (refer also Attachment 8.4.4d);

- Close the existing entrance off Inlet Drive and install removable bollards, to minimise conflict with pedestrians, bus and traffic;
- Extend the lease area to the south to incorporate two additional classrooms;
- Relocate the classroom out of the Old Post Office making this the front office and entrance to the School;
- Assist the Denmark Historical Society to restore the photographs on display in the Old Post Office entrance way and install signage clearly stating that the area is for public access;
- Extend the lease area to the north, incorporating the turntable and the ashpit as a shared public use area noting that the;
 - Area would be unfenced;
 - School would be responsible for maintenance;
 - School would be willing to support other groups, such as the Denmark Historical Society, to refurbish the heritage assets;
 - Upgrade and add interpretive signage highlighting the history of the area and the heritage assets;
 - Install signage clearly stating that the area is for public access;
 - Creation of nature play elements shared with the general public, maintained by the School.
- Extend carpark area for the Denmark Lions Club to allow additional car parks and an area big enough for manoeuvring trailers;
- A new access road between the DMRG and Lions Club which links up with the DMRG and Lions lease areas;
- Extend car park adjacent to Crellin Street for staff, parents and visitors to the school;
- Possibility of creating a shared woodwork/Woodturners centre on common ground which the School would be happy to contribute financially to;
- Increased opportunity for intergenerational cooperation and learning around Denmark's rich history and natural and cultural heritage (both pioneers and indigenous) with the School expanding their volunteer program to activity seek out community members who are willing to share their expertise with their students.

The School have advised that they would fund the internal road and carparks and the works would be done to the satisfaction of the Shire. Any development (ie. school buildings) on the site would be subject to a development application. The Shire would need to consent to any development, as the landowner.

The additional purpose of closing the entrance road from Inlet Drive is to clearly delineate the School from the Lions Club carpark. There would also be no access to the School from the southern side and by increasing the car parking area off Crellin Street, it is predicted that parents and teachers will use this car park rather than take up parking bays used by the Lions or other visitors to the site.

SUMMARY

As seen under Strategic Implications, the proposal is consistent with a number of elements in the Strategic Community Plan, namely, heritage, education and economy which, in this situation can be seen as competing particularly when you put heritage against education and economy.

The request is for a 21 year lease, the maximum permissible under the reserve management order. Following consultation with all stakeholders and weighing up the pros and cons it is considered that the best compromise for the Council and the community would be to consent to a 15 year lease, allowing the Spirit of Play;

- Security of tenure ensuring that they keep their licence and can continue operating;
- to undertake the internal road and car parking works, at their cost; and
- work with the Denmark Historical Society to preserve and display the historical relics on site.

The Long Term Financial Plan, currently being developed is for 15 years. The draft document has already identified that the Council will not have significant capacity in the next 10-15 years

to invest heavily in the reserve. A 15 year lease would be a comfortable, synchronised timeframe and would still allow the School to remain open at the site.

Officers have acknowledged that whilst the Denmark Historical Society and the Denmark Machinery Restoration Group have agreed to compromise, they wanted to make it clear that this is not to be seen as them being agreeable to a school being located on the historical precinct and that ideally they would prefer the school to relocate.

Should Council wish to encourage the applicant to still actively pursue an alternative site, given the 2014 Resolution where Council noted that a “school” was not a compatible use for the heritage site, a notation could be included in the draft lease. Alternatively, the lease could contain a provision whereby the lease could be broken, without financial penalties applying if an alternative site is identified.

Officers have also acknowledged the heritage of the site and the long term aspiration to revitalise it into a heritage tourist attraction. This notwithstanding, with the likelihood of funding not being available in the foreseeable future, the additional revenue the Council can generate from the lease, the benefit of retaining an alternative education option in Denmark, the benefits the school brings to the local economy and the offer from the Spirit of Play to assist the Historical Society to bring the turntable (particularly) and the ashpit “back to life” either by restoration or adaptive reuse, seems to be a reasonable argument for the Council to support the proposal.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.4
MOVED: CR ALLEN	SECONDED: CR CARON
That with respect to the request from the Spirit of Play Community School, Council;	
<ol style="list-style-type: none"> 1. Advertise the modified draft Denmark Historical Rail Way Station Precinct Concept Plan, as per Attachment 8.4.4d, for a period of 28 days, subject to the culvert near the school carparking being labelled as ‘vehicle accessible’; 2. Agree in principle to a 15 year lease for a portion of the Reserve 30277, No 2 (Lot 952) Crellin Street, Denmark; 3. Agree in principle to an extension to the lease area to approximately 3,950sqm, including an a share public use area (unfenced) of approximately 1,550sqm, as shown on the attached draft plan; 4. Authorise the Chief Executive Officer to commence preparation of a draft lease for Council consideration, including; <ol style="list-style-type: none"> a. Including the Lessee’s obligation to; <ol style="list-style-type: none"> i. liaise with the Denmark Historical Society and the Shire regarding any works or modifications to any historical relics on the site; ii. ensure the shared use area is not fenced; iii. to maintain the shared use area to the satisfaction of the Shire; iv. erect clear signage near the shared public use area and the Old Post Office stating that the area is for public access; and v. fund improvements in the precinct including relocation of access road from Inlet Drive, carparking surrounding Lions Lair, carparking adjacent to Crellin Street with culvert to be constructed to allow vehicle access, establishment of nature play areas within the shared use area and any servicing requirements as a result of school activities. b. No penalty for the Lessee terminating the lease early if an alternate site for the School is identified. 	
AMENDMENT	
MOVED: CR OSBORNE	SECONDED: CR SEENEY
That part 2 be amended to replace the number “15” with the number “10”.	
LOST: 2/6	Res: 130918

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Seeneey and Cr Osborne.

AGAINST: Cr Allen, Cr Caron, Cr Gibson, Cr Gearon, Cr Phillips and Cr Whooley.

AMENDMENT

MOVED: CR SEENEY

SECONDED: CR OSBORNE

Include the following conditions in the lease documentation;

- vi. Upgrade of main switch board and consumer mains on site to accommodate for an individual metered supply for all lease holders.
- vii. Upgrade of water main to accommodate for individual water meters for all leaseholders.
- viii. Upgrade of ablutions and all waste systems to comply with Department of Health and Regulations and Shire requirements.
- ix. All new constructions on site to be of transportable design to facilitate removal at expiration of lease.
- x. At expiry or termination of lease agree to the rehabilitation of the site after the school buildings have been removed.

LOST: 2/6

Res: 140918

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Seeneey and Cr Osborne.

AGAINST: Cr Allen, Cr Caron, Cr Gibson, Cr Gearon, Cr Phillips and Cr Whooley.

AMENDMENT

MOVED: CR GIBSON

SECONDED: CR PHILLIPS

Include the following conditions in the lease documentation;

- vi. Any new buildings constructed on site shall be sympathetic to the natural and heritage values of the site.

LOST: 3/5

Res: 150918

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Gibson, Cr Phillips and Cr Whooley.

AGAINST: Cr Allen, Cr Caron, Cr Seeneey, Cr Gearon and Cr Osborne.

THE ORIGINAL MOTION WAS THEN PUT AND CARRIED UNANIMOUSLY: 8/0

Res: 160918

**SCHEDULE OF SUBMISSIONS:
DENMARK HERITAGE RAILWAY PRECINCT CONCEPT PLAN
SPIRIT OF PLAY LEASE EXTENSION PROPOSAL**

Submission Number	Name	Submission	Officer Comment
S1	Denmark Historical Society	The Historical Society is extremely concerned about the turntable and ash pit and exactly what will happen as nothing has been explained or documented. The turntable is unique in that it is the only one left in Australia of that make.	Item 9 of the Lease Schedule stipulates that any proposed works to the historical relics on site must be undertaken in liaison with the Denmark Historical Society. The detail of any such works would be the subject of that consultation.
S2	Denmark Machinery Restoration Group	The Denmark Machinery Restoration Group is concerned that the plan presented for comment does not reflect the agreed position reached at an on-site meeting. Members of the DMRG present at the inspection and participating in the process did not discuss nor agree to the extension of hard stand parking in the DMRG lease area. Nor was the removal of the windmill on our lease spoken about, nor agreed to. The apparent removal of the old oak tree on our lease also is of concern. The DMRG members have endeavoured to protect and enhance this specimen by the provision of a garden area. The plan presented did not show either the tree or our garden area. A number of the trees planted on our lease are memorials to past members and we have no wish to see them removed.	<p>Council Officers have met with the DMRG to discuss their concerns. The Concept Plan is proposed to be amended to show the existing grass area to the north of the DMRG lease area and the correct location of the windmill (which was an error on the draft concept plan). It is also recommended that the old railway crane location be moved slightly to the south to depict its correct location on site.</p> <p>With respect to the trees, there are no trees flagged for removal in the common area of the reserve. The nature of the concept plan is that it is generally conceptual and does not show the detailed location of trees or significant shrubs on site.</p>
S3	Name withheld – pursuant to	I consider the plan improves the precinct in the following ways: 1. The proposed access road is a vast improvement over the current	Comments on improvements noted.

	<p>Council Policy P100602 – Community Consultation Policy.</p>	<p>location as it moves it away from its current dangerous position on a corner.</p> <ol style="list-style-type: none"> 2. The provision of significant parking along Crellin St will make school parking easier and more appropriately located. 3. The plan to restore vegetation in the area to plants native to the area is excellent. <p>Concerns about the plan:</p> <ol style="list-style-type: none"> 1. There seems to be an extraordinarily large area set aside for parking around the DMRG shed. It is not clear how this will be finished. It would be better if DMRG parking remain as it is and the area shown as parking remained mostly grassed as it is now. 2. Having consulted with the WA State Planning Commission’s guidelines for school sites (Policy No. DC 2.4), the site set aside for “Spirit of Play’ appears far smaller than recommended, even including the shared space. How will this issue (if it is one) be resolved? 3. I would prefer the old Denmark Post office be removed from the school precinct. It contains significant historic photos and could be used to showcase more historic artefacts. Its use by the school discourages entry by visitors. If excised it could be used as a historic display and used by community groups (and Spirit of Play) for other purposes. 4. The plan does not include extensions to the DMRG and a shed for the Men Shed, which I believe have been proposed to the Council. 	<p>Comments on concerns as follows;</p> <ol style="list-style-type: none"> 1. As per comments above, the concept plan is proposed to be amended to show the existing grass area to the north of the DMRG lease area. 2. This concern has been raised with the Spirit of Play during initial discussions on their proposal and the School have advised that the lease area proposed (with or without the public shared use area) is sufficient for the education model and to maintain their licence with the Department of Education. 3. Noted. The Old Post Office building has been in the School’s lease area since their initial lease in 2003. It contains a small kitchenette and lavatory facilities, the power box for the site and the server for their computers. The School will no longer be using the Old Post Office building as a day to day classroom so that it minimises conflict with visitors who wish to view the historical photo display. The School have indicated that they would like to allow community groups and individuals to
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			<p>use the Old Post Office. Clause 11.9 of the Lease requires the Lessee to paint the internal area of the Old Post Office, in consultation with the Denmark Historical Society, at the end of the lease term.</p> <p>4. The Officer has recommended that the concept plan be amended to include the proposed location of the Denmark Men’s Shed.</p>
S4	Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.	<p>I frequently walk along the Heritage Rail Trail from Ocean Beach Road to the river and so pass through the precinct. It is important to retain the historic and public amenity of the site for both locals and visitors.</p> <p>The plan is light on detail, so it is difficult to properly assess and comment on the proposal. In particular, the size of the school can’t be assessed because there is no information available about the number of pupils and the proposed growth of numbers. From other information I understand that that allocated area for the school is much smaller than that required by the Education Department. Does the school intend to use more than the indicated shared space (around the turntable and towards Hollings Road) to meet its space requirements? If so this should be clearly indicated on the plan. It is also not clear if the Old Post Office will continue to be available for people to access or if the school wants to have exclusive use. How does the Council propose to balance the expectations of the private school with access and amenity for the public?</p> <p>It is not clear from the plan what type of car parking surface is proposed for the area outside DMRG and Denmark Lions (marked as a total of approximately 2400m²). Will it be bituminised? Given the additional parking for the school that is proposed off Crellin St and the increased school area (with tree removal) it is important that the space keep a ‘green/natural’ amenity by having a minimum of any bituminised surfaces.</p>	<p>The concept plan is conceptual only and does not include a lot of detail. The size of the school is proposed to be 5,500m², which includes a 1,550m² unfenced <i>Shared Public Use Area</i>. The total lease area proposed represents 14.78% of the entire reserve. The School is proposing 92 as their maximum number of students.</p> <p>The Spirit of Play have advised that the lease area proposed (with or without the public shared use area) is sufficient for the education model and to maintain their licence with the Department of Education.</p> <p>The Old Post Office will continue to be available for people to access and the School will no longer be using the space as a day to day classroom to minimise conflict with visitors. Clause 11.1 (1) (c) of the Lease requires the Lessee to erect clear signage on the Old Post Office stating that the area is for public access.</p>

		<p>The proposed access road is in a much safer position on Inlet Drive than the current road, which is too close to the corner.</p> <p>The proposed pedestrian crossing over Hollings Road with traffic calming would also be an improvement.</p> <p>I also welcome the improvement to the turntable, tracks and development of a historic machinery walk and nature play areas.</p>	<p>It is not proposed that the carpark, or any other areas be bituminised. Clause 11.6 requires the Lessee to maintain existing flora and not to remove any trees, shrubs or hedges without first consulting and obtaining approval from the Shire.</p>
S5	Woodbury Boston Primary School Governing Body	<p>As you may be aware, Woodbury Boston is an independent primary school located in Kronkup, which has been operating for 30 plus years. One of the key components of being a successfully operational independent school is certainty and availability of land for school operations, i.e. classrooms, play area etc.</p> <p>I understand Spirit of Play is a growing independent school within the Denmark townsite. Upon reviewing the Concept Plan, I note Spirit of Play is seeking an extension to their lease area within the precinct. Woodbury Boston hereby provides full support to the Concept Plan being advertised, with particular items as follows;</p> <ol style="list-style-type: none"> 1. The provision of a shared use area, which will provide the opportunity for the public to utilise a facility when not in use by the school. This will also provide the opportunity for great public interaction with the school. 2. The proposed expansion of the school buildings in the location identified. This will help to ensure the key historical features within the school lease area (i.e. the post office and turntable) are maintained as a key focal point at the entrance of the historical precinct. 3. The strategically placed school car parking off Crellin Street, which provides necessary infrastructure in close proximity to the school and does not provide a visual barrier between the school and Hollings Road. 	<p>Noted.</p> <p>The Public Shared Use Area will be available for public access at all times.</p>
S6	Name withheld – pursuant to Council Policy P100602 – Community	<p>I have read through the plan and I have no particular concerns. A general request would be to minimise the impact on native vegetation and mature trees where possible. I would ask that the Shire continue to work with all affected parties by promoting discussion and consensus.</p>	<p>Noted.</p> <p>Clause 11.6 requires the Lessee to maintain existing flora and not to remove any trees, shrubs or hedges without first</p>

	<p>Consultation Policy.</p>	<p>I support a multi use site and believe that having a school at the site has many benefits. I believe that historical buildings are best maintained and enjoyed when in use. The proposed concept I believe is a win win, as many people daily frequent the site and buildings and lease revenue helps with their upkeep. Also the regular usage keeps the site free from vandalism, and is improved by having parents, children, lions club and machinery restorers on site regularly. Activity also would encourage visitors to enjoy the various planned displays.</p>	<p>consulting and obtaining approval from the Shire.</p>
S7	<p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>I am writing to fully support the existing modified draft Concept Plan for the Denmark Railway Historical Precinct.</p> <p>I am an engaged parent of two children, as well as a primary teacher and volunteer at Spirit of Play Community School. I also operate a private local tuition business in Denmark, am an active member and volunteer in local sporting groups, participate in local arts events, and am a Denmark ratepayer.</p> <p>I believe extending the current lease area is crucial for our thriving school and an exciting opportunity to integrate education, heritage, nature and community.</p> <p>I fully support:</p> <ul style="list-style-type: none"> • including the turntable and area in front of the turntable to allow the school to develop this area for the Denmark community. • including the assets above to ensure they are no longer left undeveloped. • not fencing this area (as is the current arrangement) and making it accessible to the public. • improving the parking on Crellin Street to reduce parking conflicts and improve parking for trail-hub users. • improving signage at the site to let the public know what the site is, its history and the nearby trails. • building a culvert over the creek to improve fire access and disability access. 	<p>Noted.</p>

		<ul style="list-style-type: none"> • constructing a new internal access road so it will be in a safer location away from the corner. • constructing a new internal access road so it will be better for future development at the other end of the site. • increasing the Lion's parking area so there will be less competition for parking. • the school continuing to care for the new lease area between the Old Post office and Inlet Drive. <p>I hope you will consider all the positives and gains that the modified draft Concept Plan will bring for the future of the children, teachers and families of Spirit of Play Community School, and the dynamic Denmark community.</p>	
S8	Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.	<p>I would like to express my support for the current version of the Denmark Historical Railway Station Precinct Concept Plan, particularly in relation to the increased lease area for Spirit of Play (both fenced and unfenced), and the altered car-parking areas and access near the school.</p> <p>Firstly, I believe that Spirit of Play is a wonderful community asset which offers a fantastic primary education option to families in Denmark. Spirit of Play both promotes the significance of the Heritage Precinct it is fortunate to be situated on, and increases the attractiveness of Denmark as a place for families to live.</p> <p>I love the way that students and the school community at Spirit of Play engage with the local community, local environment and local history. My children NAME WITHHELD and NAME WITHHELD attend Spirit of Play. As a result of their classes' engagement with the local area, NAME WITHHELD and NAME WITHHELD have been able to teach myself and our broader acquaintance a great deal about the natural and cultural history of Denmark. Spirit of Play is in the valuable and unique position of being able to enhance and promote the natural and cultural values (ecological and historical knowledge) and physical features of the Denmark Historical Railway Station Precinct through:</p>	Noted.

1. direct engagement with these features and the ecology and history of the site,
2. students and school community members sharing their knowledge with the community and visitors,
3. exposure of the immediate and extended families and friends of students to these features and the students' knowledge when visiting the school
4. exposure of the broader community, including visitors to the region, to these features and this knowledge when engaging in community events at the school,
5. stewardship and care of these features and the immediate environment by the Spirit of Play school students, staff and community, and
6. being in the position to enhance these features if granted tenure of an area and a period affording the school stability.

I am particularly excited to be part of the process of enhancing and developing the unfenced, shared use area so that the community and visitors to the region can have improved access and improved understanding of the significance of the site and its features, including the Turntable and Ash Pit. I have strong hopes that interested groups could work together to make this vision a reality. The elders and historians of Denmark have much to offer our community, and I see Spirit of Play as leaders in carrying this legacy to future generations.

Denmark offers an appealing lifestyle to people of all ages and particularly families, and the Denmark community has a diverse range of backgrounds and values, which is why several models of education can thrive here. A diverse range of education options is one factor that attracts new families to Denmark – I have met several families who moved here for that reason. While recently travelling in the Kimberley, our family met a family who had strongly considered moving to Denmark from NSW on the strength of their interest in sending their children to Spirit of Play, before changing their inclination only because one parent was offered an excellent job in the Kimberley.

		<p>Secondly, I have a strong family motive to protect the ability of Spirit of Play to continue operating, for which it requires increased area and a lease of not less than ten years. NAME WITHHELD and NAME WITHHELD are sensitive children and it took my partner, NAME WITHHELD, and I some time to find the right school for them. We were very pleased when Spirit of Play began to offer continuing education beyond Early Childhood. Increasing the fenced area of the school will allow Spirit of Play space to build the new classrooms needed to cater for its three primary and two early childhood classes and provide adequate outdoor play-space for these students. We hope that this will ensure that Spirit of Play can continue to offer education for both our children throughout their primary schooling. We would be devastated if Spirit of Play was forced to close its doors due to inadequate tenure. Although the other schools in and near Denmark are excellent schools, none of them is right for our children.</p> <p>Thirdly, I can see that the changes to vehicle access and car parking areas, which would separate Spirit of Play school parking, parking for the Lions Club, and the school bus drop-off area will enhance pedestrian safety throughout the whole precinct for all users. When I consider the vulnerable children and older community members who require access into and around the precinct, this seems a vital step.</p> <p>I think it is worth mentioning that I have no concerns about safety when it comes to the proximity of Spirit of Play to the areas used by other community groups – quite the reverse. The greater the engagement between the school and other community groups, the more all members of our community can look out for each other, and the safer our community becomes for all.</p>	
S9	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld –</p>	<p>My name is NAME WITHHELD and I have been at Spirit of Play Community School for seven years. I would firstly like to thank you for giving the school another 15 years at this site.</p> <p>My favorite things about Spirit of Play is “Walkabout”. Walkabout is a day</p>	Noted.

	<p>pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>when we learn how to care for the environment and about Aboriginal culture. We have been caring for the environment around school for a long time. My favourite thing about my school is the location. It is near the inlet and the karri forest. I would like to add that I also have lots of great friends and teachers to help me through all the hard work.</p> <p>It would be great to have some more space to run around without colliding into the younger children! At the moment our school is very crowded with so many students and buildings in a small space. Other schools have space, ovals, basketball courts and multiple playgrounds. They also have equipment beyond imagine, such as soccer goals, cricket wickets and play equipment.</p> <p>At the moment we are having to share a class space. Sharing a classroom is hard very hard because there is noise from the other class when we are trying to concentrate. In my view students need a quiet learning environment.</p> <p>I think some more space would be great given that the school is steadily growing. Furthermore, the extension would be great for future students.</p>	
S10	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>My name is NAME WITHHELD and I have been at Spirit Of Play for one year. Thank you for giving us more space for 15 years.</p> <p>We have a very good location amongst the karri forest. We also have a thing called WalkAbout. We normally look after the school's environment, and sometimes we go on extensions to beaches and forests.</p> <p>The extension will be great. At the moment our school playground is very small. So the year 5's sometimes run into other students when they run around the buildings. Also there isn't enough space for us to play games like basketball and soccer.</p> <p>And we don't have our own classroom. Sometimes The year 4 and 3's are very noisy and it is very hard to concentrate. But overall thank you for giving us a 15 year extension.</p>	Noted.

S11	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>My name is NAME WITHHELD, I have been at Spirit of Play for seven years (all my school life). Firstly, I would like to thank you for letting us stay at this site for another 15 years.</p> <p>I believe that Spirit of Play is an excellent school, in many ways I have enjoyed going to this school for the last couple of years. “Walkabout” is one of my favourite things about this school, it is a program in which we go into the bush and learn about Noongar culture and the wider world. Also I enjoy having lots of my friends here, it is nice to play with them at lunch and morning tea. Thankfully the school is full of good people and enthusiastic staff. Furthermore, I like having people that I know and trust to teach me. In addition, the school is at a nice location, which is on the edge of the Denmark River and a karri forest.</p> <p>Having this extension will mean we will get more room to play at lunchtime and for sport lessons. At this point in time we can’t run around without knocking over little kids. Also, we don't have the room for courts and ovals for sport. Since we can't run without knocking people over, we are forced to have a boring lunch talking, instead of playing basketball or soccer.</p> <p>If we get the extension it'll mean we'll get room for our own classroom. At the moment we constantly have to move classrooms to get some peace and quiet. Sometimes when we move like this it is easy to forget which classroom you’re in and waste learning time. As well it is also hard for our teacher Tash who has to stay up late at night and get up early in the morning moving books from classroom to classroom. When we get our own classroom we can set it up how we want it, we can put our work on the walls, get some peace and quiet, also Tash won't to stay up as late moving books.</p> <p>Once again, thank you. I would like to add I am so glad I can experience the new extension to the school before I’m off to high school in 2020.</p>	Noted.
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S12	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>My name is NAME WITHHELD and I've been at Spirit of Play for two years. I would like to thank you for granting our school a further 15 year lease at this site.</p> <p>I like this school because of the outdoor activities we participate in. For instance, on Monday it is “walkabout” day, where we get out into the fresh air and care for the land.</p> <p>This extension will mean great changes for our school. We will be able to play sports like basketball or soccer. At the moment the playground is too small to play games we enjoy. We currently have very little room for playing, which is difficult for a bunch of year 5 boys to play running games and the court is too small to have more than four people.</p> <p>This new classroom will mean a lot to us. We have to move around every day for peace and quiet these days. Which make it hard for us to have everything we need for the day. Having this new classroom will help us a lot. What's more we'd be able to have our own desk and a place for everything we need.</p> <p>This extension is probably the best thing that had ever happened at Spirit of Play while I have been here and will change everything for the younger students.</p>	Noted.
S13	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation</p>	<p>My name is a NAME WITHHELD I have been at spirit of play for 2 years. I would like to firstly thank you for granting our school a further 15 years lease.</p> <p>Spirit of play is a great educational opportunity for children all alike. Walkabout is a fun way to learn because we get out and learn about Denmark and its environment. At Spirit of Play we get to go on fun and amazing camps, such as surf camp. Sometimes we go on beach cleanups and pick up rubbish that has been washed up from the ocean.</p>	Noted.

	<p>Policy.</p>	<p>It will be great to have an extension on the whole school. At the moment our class always moves rooms because the year fours and the year threes are so loud. My friends and I sometimes get half of the amount of work done than usual, so it will be nice to get a new quite classroom. When the extension happens we would have a nice big playground and no more hurting and running into little children. Again because there would have more space to run around the corner.</p> <p>Once again, we are really excited about being granted time to extend our school.</p>	
<p>S14</p>	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>My name is NAME WITHHELD I have been at this school for 6 or 7 years. I would like to thank you for granting our school 15 more years.</p> <p>I really enjoy going to this school.</p> <p>Here are some thing I really enjoy about spirit of play: walkabout the friendly staff and people how come to school heaps of awesome friends, seasonal gathering, the best location in Denmark, near the lion’s den near the river mouth the teachers are awesome and nice. We learn about indigenes culture and the environment. We do camps and excursions it’s the best!!!</p> <p>It would be awesome to have a bigger school grounds at the moment we collide into other students while playing running games. Then normally we can’t play that game ever again because we hit other students which really sad at the moment. When we run around the school we often get stopped and sometimes trip over people because there are too many people bunched up in one area. Nowadays we sit and talk the whole lunch and morning tea play because we can’t run in the playground.</p> <p>In our classroom we must frequently move to other classrooms and rooms which is really annoying because the year 4 are too noisy. plus it’s extremely hard to concentrate.</p>	<p>Noted.</p>

		<p>When we come out to eat morning tea the other kids from the other class are practically on our bags it's really hard.</p> <p>With our new classroom it will be less noisy easy to concentrate we do not have to move almost every day we get our own desk there, the area is bigger to play soccer, football, basketball, tag and many many many many many more games to do. We won't hit into other students while playing games. We can eat food in peace and quiet without disturbance by other students, life would be much simpler.</p> <p>Other schools have multiple playgrounds, big oval to play games like soccer football chasey and a lot more that we cannot play so I definitely think that we should have a bigger classroom so we do not have so many problems.</p>	
S15	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>My name is NAME WITHHELD and I have been a student at Spirit of Play for 8 years. Spirit of Play would like to thank you for our 15 year lease.</p> <p>Spirit of Play is a very educational place. We make friends which are helpful and fun. The staff are friendly and positive. The teachers here are encouraging and are great at their job.</p> <p>I believe that this extension will mean a lot to the future generations of this school. We enjoy our basketball and soccer but barely get to play them due to the insufficient space. When the extension takes place we will be playing basketball and soccer “all the time.”</p> <p>Another problem is while we play tag (or any other type of chasey/running game) we constantly have to dodge other students to make sure there are no collisions. Everybody will love it when the new space is here and won't have to worry about bumping into each other.</p> <p>In many ways it will be great to have our own classroom. Sharing a classroom with another class can be a real pain. We also have to</p>	Noted.

		<p>constantly keep on moving classrooms. When we have our own classroom we will be able to think properly without being distracted by the other class and not constantly have move.</p> <p>In conclusion I think that I am very lucky to be part of the schools expansion before I move to high school. It would help the school to have a better future.</p>	
S16	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>My name is NAME WITHHELD I have been at Spirit of Play for four years. Firstly I want to thank you for your kind grant of a further fifteen years at this site.</p> <p>The things I like most about Spirit of Play are:</p> <ul style="list-style-type: none"> • How we plays lots of sport and go on excursions • I love the walkabout program because it is a really good way to learn about nature • Lastly, we are located in the bush and close to the Bibbulman track and other trials. <p>An extension will be awesome. It will mean we can our own classroom. At the moment we tend to move rooms every day, sometimes even in with another class! It can get really loud and crowded. I think our own classroom would be the best!</p> <p>An extension would mean a bigger playground now who doesn't want that? A bigger playground will mean we will not run into each other all the time. We can play sport properly and we can hide. I think an extension will bring great pleasure to everyone.</p> <p>I would like thank you again for your generous lease and kind extension the school grounds. I see it as a great thing for all and we will get a lot out of it.</p>	Noted.

S17	<p>Year 5 Student from the Spirit of Play</p> <p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>My name is NAME WITHHELD and I have been at Spirit of Play for seven years. Firstly, I would like thank you for giving the school another fifteen years at this location.</p> <p>I really like Spirit of Play community School for several reasons. Firstly, because of the location. It is not right in the centre of town with all the traffic and loud noise but it is not too far away. Secondly, I like that we have excursions rather than staying at school every day.</p> <p>Having more space would mean having more fun. Most schools have lost of space and play equipment but not this school. I think that this will help the school to become bigger.</p> <p>The extension means that this school could get another class room and getting another classroom would mean we wouldn't have to move around so much. When we move to a different classroom it disrupts our focus and we can't work as well so, we don't get as much work done.</p> <p>In conclusion, I think that it is the best thing that has ever happened to this school and future pupils will be able to experience more space. I would also like to thank you again.</p>	Noted.
S18 & S19	<p>Tony Pedro</p> <p>(name provided as it is also included in the attachment which Mr Pedro has included with his submission – see Appendix 1 to this Submission Table)</p>	<p>SUBMISSION 18</p> <p>You may be aware of my involvement in the development of the Denmark to Nornalup Heritage Trail in 1987 and the relocation of the Post Office as part of that community project. I was the project manager with Alex Syme and Mary Rose O'Connor as the prime committee members.</p> <p>We managed with the help of 12 unemployed locals to open 10km of the old railway line from Ocean Beach Road to South Coast Highway at Hay River as a walk & cycle trail with rest and information shelters. Along the way the work took 6 months with much planning prior to the start to gain the \$112,000 of federal funds. Mary Rose O'Conner paid the \$5,000 cost of</p>	Noted. Officers are confident that Clauses 11.2 & 11.6 and Items 9 and 11.1 address the concerns relating to the management and preservation of the history associated with the site and keeping the significant areas, including the Old Post Office, open to the public.

		<p>relocating the Post Office to be repaid by Council some year's later.</p> <p>As this project was the beginning of saving the Historical Railway Station Precinct it is of most importance that the entrance to the Post Office, railway turntable and carriages remain open and free to the public, preferably in a state that exists currently.</p> <p>SUBMISSION 19</p> <p>Following my meeting the Carl Heslop on site I feel the Spirit of Play School is committed to preserving the character of the Old Post Office, the turntable and its surrounds.</p> <p>And of most importance allowing this part of Denmark's history remaining open to the public as an information and picnic area. I believe the entrance to the Old Post Office currently displaying the history of the Denmark & Nornalup Railway should become part of the "shared use area" or this be noted in the final lease agreement. Also that the shared use area remain public open space into the future.</p> <p>Much effort and work was provided by the Denmark Community to establish this Railway Precinct and the Old Post Office relocation, primarily to improve Denmark's attractiveness to its local population and tourists and it is important that the development plan for this important area does not hinder this opportunity. In time when our population is much greater these areas of public open space with historic value will become more and more popular I believe.</p> <p>I include with my submission a copy of the beginning of this precinct.</p> <p>In regard to the planned removal of trees, there appears to be a difference with the desire and information provided to me by Carl Heslop at our site visit and what is displayed on the Precinct Plan.</p>	<p>Noted.</p> <p>Officers are confident that Clauses 11.2 & 11.6 and Items 9 and 11.1 address the concerns relating to the management and preservation of the history associated with the site and keeping the significant areas, including the Old Post Office, open to the public.</p> <p>See Appendix 1.</p> <p>A Tree Assessment is currently being undertaken by a consultant which will inform any applications for tree removal.</p>
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		<p>The carparking area between Lions Club and walk trail notes the removal of 3 large and healthy marri trees also the removal of many of the Karri and Yate trees planted by myself and work crew in 1987 between the dry creek bed and rail trail this contradictory to the information provided by [NAME WITHHELD] and an abuse of this landscape I believe.</p> <p>As I am sure you all are aware the Rivermouth area was not long ago a unique habitat of yate trees most of these have now been removed with the approval of Council. It would be a great shame if this policy was applied within the Railway Station Precinct.</p> <p>The trees we planted back in 1987 were chosen to suit the area by an experienced arborist. Surely there is an opportunity to provide parking space without smashing down these healthy trees.</p> <p>If trees are to be removed I think it is only fair that [NAME WITHHELD] and myself be invited to a site meeting to explain why this is necessary.</p> <p>I hope this submission is of use and a sensible compromise can be found from an environmental and social perspective.</p>	<p>Any application for clearing permit is subject to consultation undertaken by the Department of Environment Regulation.</p> <p>It is uncertain whether the trees to the east of the Lions Lair will need to be removed to accommodate the extended carpark area. The detail of the proposed <i>Common Area Works</i> as reference in Clause 11.2 of the draft Lease has not been discussed or finalised.</p>
S20	Lions Club of Denmark	<p>The Denmark Lions members request that;</p> <ol style="list-style-type: none"> 1. There be a minimum of 1.4metres of grass area around the Lions Lair and around the Lions/Denmark Yacht Club Shed. 2. The grass area in front of the Lair extends to the base of the current paper bark tree. 3. The grasses areas as described above (other than in front of the shed) are protected by bollards to prohibit vehicle access. 	<p>The proposed grassed areas are proposed to be included in the draft concept plan for adoption.</p>
S21	Name withheld – pursuant to Council Policy P100602 – Community Consultation	<p>I am writing in support of the proposed concept plan for the heritage railway precinct. This plan will provide much needed improvements to the parking area on Crellin street which is long needed not only for the school community but for users of the karri and rail trail and overflow for those using the gazebo by the river. The current access road from Inlet drive is at present close to a bend and would be much safer in the proposed position.</p>	<p>Noted.</p>

	<p>Policy.</p>	<p>The school has been caring for the bushland in the proposed area independently and alongside the Denmark Weed Action Group for many years and will continue to do so. Access for the public to the precinct has never been limited by the presence of the school in fact the opposite is true in that school staff and children often welcome visitors to the area and in particular the photo display in the old Post Office foyer.</p> <p>It is great for this site to be used and cared for on a daily basis. The children at the school are living history and have good relationships with the machinery restoration group and other users in the area. They also have a good knowledge and appreciation of local history from simply being surrounded by it.</p> <p>Given the success of the school expansion there is obviously a demand for alternative education within Denmark and this site provides the ideal location for a nature based school where the children are taught to care for their surroundings.</p> <p>The support of the Shire is appreciated to enable this area to be improved upon for all users of the precinct.</p>	
<p>S22</p>	<p>Name withheld – pursuant to Council Policy P100602 – Community Consultation Policy.</p>	<p>I am writing to express my views of the plan currently open to public comment regarding the Historical precinct and extension of the lease area of the Spirit of Play Community School. I have closely considered the proposed plan. It is well thought out and will greatly enhance the historical precinct, making a wonderful community space for the schools students, community groups and visitors alike. I am whole heartedly in favour of the proposed plan.</p> <p>The new access for the Lions club and Trackside Museum will make access easier, more streamlined and practical. At the moment the historical side of the site is a bit lost amongst the scrub. With new pathways and access around the pit, turntable and rail carriages the new plan will greatly</p>	

		<p>enhance the public appreciation of the area. Having the schools lease area around the carriages and turntable formalised will allow the school to contribute to the care of the area making it an improved site for the whole of the Denmark community. The new car park on Crellin street will diffuse current traffic issues making access easier and safer. It will also provide parking for trail users and make the site more obvious and user friendly for both tourists and locals.</p> <p>I am aware that to some the school is seen by some as not fitting into the scheme of the historical precinct. To the contrary I consider the school an asset to the area adding something vibrant and contemporary, enlivening our perceptions of how history is viewed. History comes alive against the backdrop of the new. The new and old can enhance each other. I think the multi age, multi use idea of the site is really wonderful and is in line with progressive ideas around building strength in communities by creating opportunities for people to connect across generations. The opportunities for the school students to connect with the other groups using the area are many and would greatly benefit all groups.</p> <p>I look forward to seeing this very special site in our town develop, becoming an inspirational model of a place holding a site of historical significance alongside an educational institution interwoven with a multi generational sharing of ideas and space.</p>	
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1/10 Shire of Denmark Part 2 of my Submission regarding the development of RAILWAY Precinct by AJ Pedro.

Denmark: river, town, shire and community

1987: The Rail Trail

From Tony Pedro



In early 1987 Mary Rose O'Connor and myself, members of the then Coalition for Denmark's Environment (CDE), saw an opportunity to expand Denmark's tourist and employment opportunities by re-opening a section of the old railway line from Ocean Beach Road past the old railway station through to Crusoe Beach as a walk trail,

A grant of \$105,000 was successfully obtained from the Community Employment Program (CEP) to employ ten local people with the aim of increasing their skill base in bridge making, landscaping, road and trail building and general labouring, with the site planning and supervision carried out by me.

Work started in the beginning of June 1987 with the group utilising the expertise of a wonderful local Ernie Plozza who had operated a steam shovel in the 1920's building the same railway line. He was able to give them inside information such as where the culverts were located and how best to widen and reinforce the railway bridge, so that it could carry fire trucks or an emergency vehicle.

Wooden huts were constructed along the railway line using recycled or reject timbers, seats and picnic benches were erected at each hut, with most having spectacular views of the Wilson Inlet and the bird life. The rail trail itself was re constructed to be bicycle, walker and equine friendly

By late October the Denmark Post Office was to be demolished, and the opportunity arose to purchase the building for \$5,000. Initially I approached the Shire with the hope that they would purchase the building but this was unsuccessful, so Mary Rose and I applied for a bank loan and I had a conversation with Ray Pomery a highly skilled house transport company from Albany, who were themselves a Denmark group settlement family, he was really keen to help and came up with a plan that the house transport company had never used before, to transport the Post Office in its entirety using two trucks in tandem beneath the building. It could not be split in half as it had no internal walls and the lining was a masonry cement, Ray Pomery and his drivers did a brilliant job relocating the Post Office building to where it stands today on the site of the original Railway Station next to the turn table which now houses The Spirit of Play School

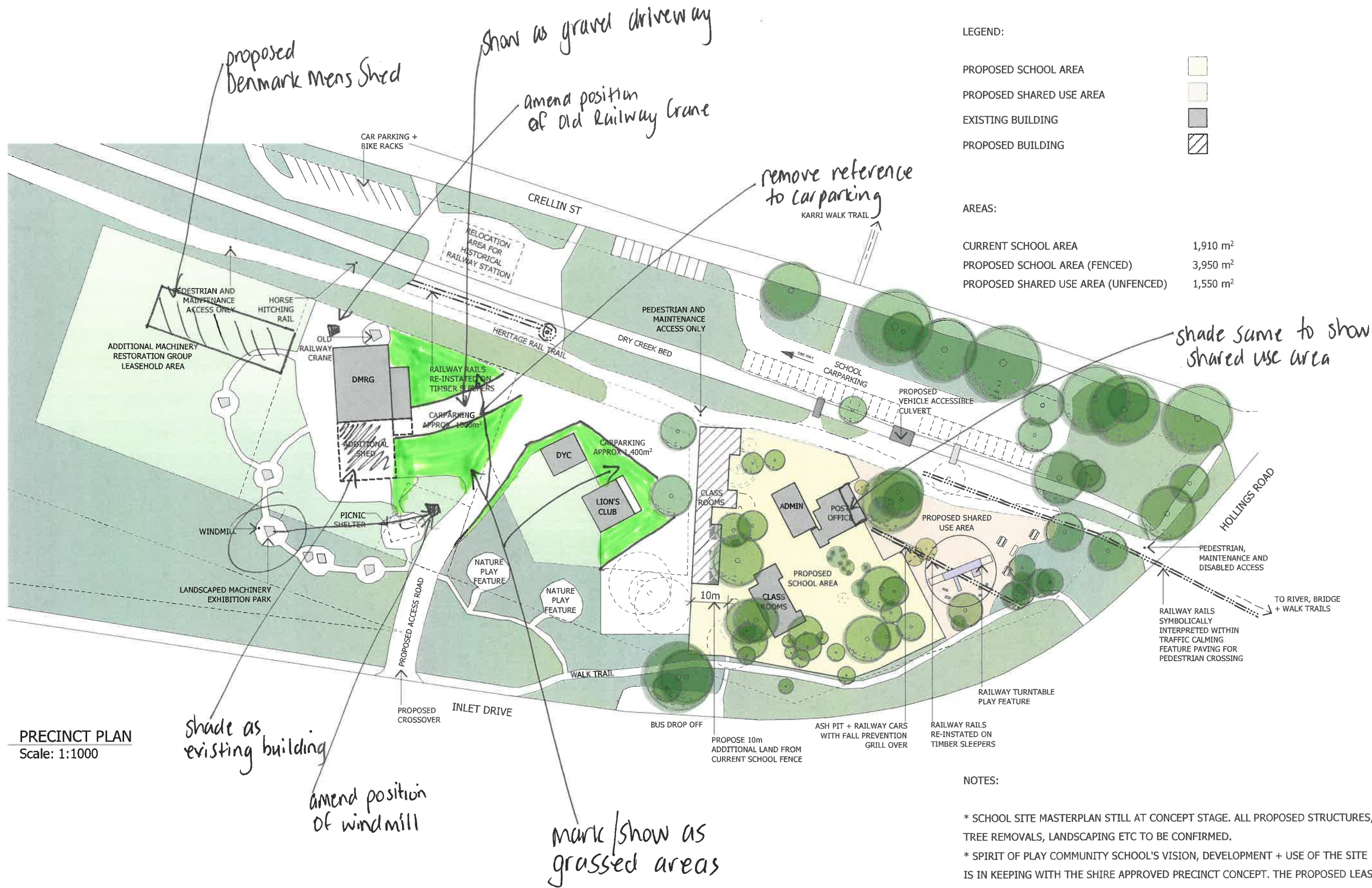
With it being the bicentennial year there was the opportunity to apply for a grant through the Heritage Trails Commission, the funding gained through this was used to establish interpretive signage and information displays both along the railway line, in the huts and in the Old Post Office building. Barbara Bennett took on the roll of gathering all the historic information and photo's that are displayed in the Old Post Office, and local expertise was sourced to create the interpretive display boards which denote each of the huts individual theme and focus.

The ten local employees did a magnificent job of constructing the huts; widening the bridge and creating the walk trail that so many people enjoy today.

In an amazing stroke of good fortune the day after the project had been completed, I was clearing up around the Old Post Office when a Back Packer from the UK turned up and was fascinated with the historic photos the reconstruction of the railway line and the insight it provided into Denmark's past pioneering history.

I promised to send her some prints of the old photos and this led to further contact and letters. A year later we were married and their three beautiful children attended the Old Post Office building in its role as a Kindergarten'. (And I was lucky to teach them. Ed.)

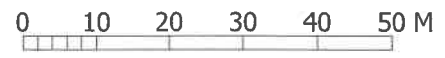




PRECINCT PLAN
Scale: 1:1000

NOTES:

- * SCHOOL SITE MASTERPLAN STILL AT CONCEPT STAGE. ALL PROPOSED STRUCTURES, TREE REMOVALS, LANDSCAPING ETC TO BE CONFIRMED.
- * SPIRIT OF PLAY COMMUNITY SCHOOL'S VISION, DEVELOPMENT + USE OF THE SITE IS IN KEEPING WITH THE SHIRE APPROVED PRECINCT CONCEPT. THE PROPOSED LEASE EXPANSION WILL STILL ALLOW FOR THE VAST MAJORITY OF THE PRECINCT TO BE DEVELOPED AS PER THE APPROVED MASTERPLAN.



Lease of Portion of Reserve 30277, Lot 952 (No. 2) Crellin Street, Denmark

Shire of Denmark

Spirit of Play Community School (Inc)



McLEODS

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | CLAREMONT WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: mcleods@mcleods.com.au

Ref: JL:DENMARK

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Details

Parties

Shire of Denmark

Of PO Box 183, Denmark, Western Australia
(Lessor)

Spirit of Play Community School (Inc)

of Old Post Office Building, Inlet Drive, Denmark, Western Australia
(Lessee)

Background

- A The Lessor is the management body of the Land under the Management Order.
- B Under the Management Order, the Lessor has the power to lease the Land for any term not exceeding 21 years, subject to the approval of the Minister for Lands being first obtained.
- C The Lessor has agreed, subject to the prior approval of the Minister for Lands, to grant the Lessee a lease of the portion of the Land, more particularly the Premises, on the terms and conditions contained within this agreement.

Agreed terms

1. Definitions

In this Lease, unless otherwise required by the context or subject matter:

Amounts Payable means the Rent and any other money payable by the Lessee under this Lease;

Authorised Person means:

- (a) an agent, employee, licensee or invitee of the Lessor; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a);

Car Park means those parts of the Common Areas from time to time set aside by the Lessor or made available for the purposes of parking of motor vehicles by the tenants or licensees of the Land, and any other car park provided in addition or substitution thereof;

CEO means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

Commencement Date means the date of commencement of the Term specified in **Item 4** of the Schedule;

Common Areas means all those areas of the Land not leased to any lessee but made available from time to time by the Lessor for use by the tenants and visitors to the Land in common with each other including the Car Park, footpaths, accessways, roads, entrances, stairs, playground, toilets and washrooms;

Common Area Works means the following works and improvements:

- (a) relocation of access road from Inlet Drive;
- (b) construction of carparking surrounding Lions Lair;
- (c) construction of carparking adjacent to Crellin Street and a culvert to allow vehicle access;
- (d) construction/installation of nature play areas Public Shared Use Area; and
- (e) any servicing requirements as a result of school activities,

and includes any ancillary works required to undertake or complete such works.

Contaminated Sites Act means the *Contaminated Sites Act 2003 (WA)*;

CPI means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

DEC means the Department of Environment and Conservation of Western Australia;

Environmental Contamination has the same meaning as the word “contaminated” in the Contaminated Sites Act;

EPA means the Environment Protection Agency of Western Australia;

Encumbrance means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat or anything described as an encumbrance on the Crown Land Title for the Land;

Further Term means each further term specified in **Item 3** of the Schedule;

Good Repair means good and substantial tenantable repair and in clean, good working order and condition;

Interest Rate means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

Land means the land described at **Item 1** of the Schedule;

Lease means this deed as supplemented, amended or varied from time to time;

Lessee’s Agents includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Leased Premises by the authority of a person specified in paragraph (a);

Lessee’s Covenants means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

Lessee’s Property includes the School Buildings and all other associated improvements on the Premises and any other property of the Lessee;

Lessor's Covenants means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be observed and performed by the Lessor;

Lessor's Fixtures and Fittings are outlined in **Annexure 2** of this Lease;

Management Order means the Management Order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Lessor to be held for the purpose of "*Historical Precinct, Recreation and Community Purposes*";

Notice means each notice, demand, consent or authority given or made to any person under this Lease;

Old Post Office means the old post office building located on the Premises;

Other Tenants means the tenant or tenants of the Denmark Heritage Railway Precinct on Reserve 30277;

Party means the Lessor or the Lessee according to the context;

Permitted Purpose means the purpose set out in **Item 7** of the Schedule;

Public Shared Use Area means the public shared use area shown on the plan annexed hereto as **Annexure 1**;

Premises means the premises described at **Item 1** of the Schedule;

Rent means the rent specified in **Item 5** of the Schedule;

Schedule means the Schedule to this Lease;

School Buildings means all buildings and improvements constructed or installed on the Premises by the Lessee or at the request of the Lessee, except the Old Post Office;

Term means the term of years specified in **Item 2** of the Schedule and any Further Term; and

Termination means expiry by effluxion of time or sooner determination of the Term or any period of holding over.

2. Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
 - (i) the singular includes the plural and vice versa; and
 - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
 - (i) a natural person includes a body corporate or local government;
 - (ii) a body corporate or local government includes a natural person;

- (iii) a professional body includes a successor to or substitute for that body;
 - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
 - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
 - (vi) a right includes a benefit, remedy, discretion, authority or power;
 - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
 - (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
 - (A) both express and implied provisions; and
 - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
 - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
 - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
 - (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
- (i) covenants not to permit that act or thing to be done or omitted to be done by a Lessee's Agent; and
 - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

3. Minister for Lands Consent

This Lease is subject to and conditional on the prior approval of the Minister for Lands under the *Land Administration Act 1997*. A copy of the Minister for Lands consent is annexed hereto as **Annexure 2**.

4. Grant of lease

The Lessor, subject to **clause 3** of this Lease, leases to the Lessee the Premises for the Term subject to:

- (a) all Encumbrances and any reservations;
- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants,

together with the non-exclusive right for the Lessee and the Lessee's Agents to use the Common Areas for the purpose for which they are intended.

5. Quiet enjoyment

Except as provided in the Lease, for so long as the Lessor is the management body of the Premises under a management order, and subject to the performance and observance of the Lessee's Covenants the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

6. Rent and other payments

The Lessee covenants with the Lessor:

6.1 Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

6.2 Outgoings

- (1) To pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Premises:
 - (a) local government rates, specified area rates, taxes, service and other charges and including but not limited to rubbish collection charges and the emergency services levy;
 - (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
 - (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring, internet connections or telephone connection;
 - (d) land tax and metropolitan regional improvement tax on a single ownership basis;
 - (e) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Premises.
- (2) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 6.2(1)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

6.3 Interest

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

6.4 Costs

- (1) To pay to the Lessor on demand:
 - (a) all duty, fines and penalties payable under the *Duties Act 2008* and other statutory duties or taxes payable on or in connection with this Lease;
 - (b) all registration fees in connection with this Lease; and
 - (c) all legal costs of and incidental to the instructions for the preparation, execution and stamping of this Lease and all copies.
- (2) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
 - (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
 - (b) any breach of covenant by the Lessee or the Lessee's Agents;
 - (c) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
 - (d) any work done at the Lessee's request which the Lessor is not responsible for under the terms of this Lease; and
 - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 6.4** or any matter arising out of this Lease.

6.5 Accrual of amounts payable

Amounts Payable accrue on a daily basis.

7. Rent Review

7.1 Rent to be Reviewed

The Rent will be reviewed on and from each Rent Review Date to determine the Rent to be paid by the Lessee until the next Rent Review Date.

7.2 Methods of Review

The review will be either based on CPI or a Market Review. The basis for each rent review is as identified for each Rent Review Date in **Item 6** of the Schedule.

7.3 CPI Review

A rent review based on CPI will increase the amount of Rent payable during the immediately preceding period by the percentage of any increase in CPI having regard to the quarterly CPI published immediately prior to the later of the Commencement Date or the last Rent Review Date

as the case may be and the quarterly CPI published immediately prior to the relevant Rent Review Date. If there is a decrease in CPI having regard to the relevant CPI publications the Rent payable from the relevant Rent Review Date will be the same as the Rent payable during the immediately preceding period. Should the CPI be discontinued or suspended at any time or its method of computation substantially altered, the parties shall endeavour to agree upon the substitution of the CPI with an equivalent index, or failing agreement by the parties, the substitution shall be made by a Valuer appointed in accordance with **clause 7.4**.

7.4 Market Rent Review

- (1) A rent review based on market rent will establish the current market rent for the Premises (which will not be less than the Rent payable in the period immediately preceding the Rent Review Date) by agreement between the parties and failing agreement, will be determined in accordance with the following provisions.
- (2) If agreement as to the substitution of the CPI with an equivalent index for the Premises is not reached at least one (1) month prior to the relevant Rent Review Date then the current market rent for the Premises will be determined at the expense of the Lessee by a valuer (**Valuer**) licensed under the *Land Valuers Licensing Act 1978*, to be appointed, at the request of either party, by the President for the time being of the Australian Property Institute (Western Australian Division) (or if such body no longer exists, such other body which is then substantially performing the functions performed at the Commencement Date by that Institute).
- (3) The Valuer will act as an expert and not as an arbitrator and his or her decision will be final and binding on the parties. The parties will be entitled to make submissions to the Valuer.
- (4) In this **clause 7**, “current market rent” means the rent obtainable for the Premises in a free and open market if the Premises was unoccupied and offered for rental for the use for which the Premises is permitted pursuant to this Lease and on the same terms and conditions contained in this Lease, BUT will not include:
 - (a) any improvements made or effected to the Premises by the Lessee; and
 - (b) any rent free periods, discounts or other rental concessions.

7.5 Rent will not decrease

Notwithstanding the provisions in this clause, the Rent payable from any Rent Review based on CPI Review will not be less than the Rent payable in the period immediately preceding such Rent Review Date.

7.6 Lessor’s right to review

The Lessor may institute a rent review notwithstanding the Rent Review Date has passed and the Lessor did not institute a rent review on or prior to that Rent Review Date, and in which case the Rent agreed or determined shall date back to and be payable from the Rent Review Date for which such review is made.

8. Insurance

8.1 Insurance required

The Lessee must effect and maintain with insurers approved by the Lessor (noting the Lessor’s and the Lessee’s respective rights and interest in the Premises) for the time being:

- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 8** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value;
- (c) insurance to cover the Lessee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a Lessee can and does ordinarily insure in their full replacement value, and loss from theft or burglary;
- (d) employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or on the Premises; and
- (e) any other policy of insurance which the Lessor may reasonably require or specify from time to time.

8.2 Building Insurance for School Buildings to be effected by Lessee

The Lessee shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the School Buildings on the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks.

8.3 Building Insurance for Old Post Office to be effected by Lessor

The Lessor shall effect and keep effected insurance to the full insurable value on a replacement or reinstatement value basis of the Old Post Office on the Premises against damage arising from fire, tempest, storm, earthquake, explosion, aircraft, or other aerial device including items dropped from any device, riot, commotion, flood, lightning, act of God, fusion, smoke, rainwater, leakage, impact by vehicle, machinery breakdown and malicious acts or omissions and other standard insurable risks.

8.4 Details and receipts

In respect of the insurances required by **clause 8.1** the Lessee must:

- (a) upon renewal of any insurance policy immediately forward to the Lessor copies of Certificates of Currency and details of the insurances as held by the Lessee;
- (b) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (c) notify the Lessor immediately:
 - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
 - (ii) when a policy of insurance is cancelled.

8.5 Lessee May be Required to Pay Excess on Insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 8.1** and **clause 8.2**.

8.6 Not to invalidate

The Lessee must not do or omit to do any act or thing or bring or keep anything on the Premises which might:

- (a) render any insurance effected under **clause 8.1**, **clause 8.2** and **clause 8.3** on the Premises, or any adjoining premises, void or voidable; or
- (b) cause the rate of a premium to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

8.7 Report

Each Party must report to the other promptly in writing and in an emergency verbally:

- (a) any damage to the Premises of which they are or might be aware; and
- (b) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person in or on the Premises.

8.8 Settlement of claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **clauses 8.1(a)** and **(b)** and **clause 8.3**.

8.9 Lessor as attorney

In relation to any insurances required by **clauses 8.1(a)** and **(b)** and **clause 8.3**, the Lessee irrevocably appoints the Lessor as the Lessee's attorney during the Term:

- (a) in respect to all matters and questions which may arise in relation to the insurance;
- (b) with full power to demand, sue for and recover and receive from any insurance company or society or person liable to pay the insurance money as are payable for the risks covered by the insurance ;
- (c) to give good and effectual receipts and discharges for the insurance; and
- (d) to settle, adjust, arbitrate and compromise all claims and demands and generally to exercise all powers of absolute owner.

9. Indemnity

9.1 Lessee responsibilities

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Premises and for any breach by them of any covenants or terms in this Lease required to be performed or complied with by the Lessee.

9.2 Indemnity

(1) The Lessee indemnifies, and shall keep indemnified, the Lessor and the Minister for Lands from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor or the Minister for Lands, or brought, maintained or made against the Lessor, in respect of:

- (a) any loss whatsoever (including loss of use);
- (b) injury or damage of, or to, any kind of property or thing; and
- (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (i) the use or occupation of the Premises or Common Areas by the Lessee or the Lessee's Agents;
- (ii) any work carried out by or on behalf of the Lessee or Common Areas on the Premises;
- (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Premises;
- (iv) the presence of any Contamination, Pollution or Environmental Harm in on or under the Premises or adjoining land caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agents;
- (v) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
- (vi) an act or omission of the Lessee.

9.3 Obligations Continuing

The obligations of the Lessee under this clause:

- (a) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 9.2** will be reduced by the extent of such payment.
- (b) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

9.4 No indemnity for Lessor's negligence

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

9.5 Release

(1) The Lessee:

- (a) agrees to occupy and use the Premises at the risk of the Lessee; and

- (b) releases to the full extent permitted by law, the Lessor and the Minister for Lands from:
- (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person, occurring on the Premises or arising from the Lessee's use or occupation of the Premises by;
 - (ii) loss of or damage to the Premises or personal property of the Lessee; and
 - (iii) all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Premises or surrounding area

except to the extent that such loss or damage arises out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

- (2) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

10. Limit of Lessor's liability

10.1 No liability for loss on Premises

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring.

10.2 Limit on liability for breach of Lessor's covenants

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is the management body for the Land.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

11. Maintenance, repair and cleaning

11.1 Generally

- (1) The Lessee agrees during the Term and for so long as the Lessee remains in possession or occupation of the Premises to maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's Fixtures and Fittings) and Appurtenances in Good Repair having regard to the age of the Premises at the Commencement Date provided that this subclause shall not impose on the Lessee any obligation:
 - (a) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, except when such repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
 - (b) in respect of any structural maintenance, replacement or repair except when such maintenance, repair or replacement is necessary because of any act or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises.

- (2) The Lessee must at all times comply with any heritage requirements and all reasonable conditions that may be imposed by the Lessor from time to time in relation to the Lessee's maintenance of the Premises.
- (3) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing, repairing or cleaning:
- (a) any electrical fittings and fixtures;
 - (b) any plumbing;
 - (c) any air-conditioning fittings and fixtures;
 - (d) any gas fittings and fixtures,
- in or on the Premises use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.
- (4) The Lessee must take such reasonable action as is necessary to:
- (a) prevent, if it has occurred as a result of the Lessee's use of the Premises; and
 - (b) rectify or otherwise ameliorate,
- the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.

11.2 Heritage Acknowledgments

The Lessee acknowledges that the Premises:

- (a) are subject to the heritage listings in **Item 9** of the Schedule;
- (b) any works, any development or alteration to the Premises must be in accordance with any applicable heritage requirements and any conservation plan/s; and
- (c) any development application requires advertising in accordance with the provisions of the Shire of Denmark Town Planning Scheme No.3.

11.3 Cleaning

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from dirt and rubbish.

11.4 Repair

Unless such damage is the Lessor's responsibility pursuant to the terms of the Lease, the Lessee must promptly repair at its own expense to the satisfaction of the Lessor, any damage to the Premises, regardless of how the damage is caused and replace any of the Lessor's fixtures and fittings which are or which become damaged.

11.5 Responsibility for Securing the Premises

The Lessee must ensure the Premises, including Lessor's and Lessee's fixtures and fittings, are appropriately secured at all times.

11.6 Maintain surroundings

- (1) The Lessee must regularly inspect and maintain in good condition any part of the Premises which surrounds any buildings, including but not limited to any flora, gardens, lawns, shrubs, hedges and trees.
- (2) The Lessee agrees that any pruning of trees must be undertaken by a qualified tree surgeon or suitably qualified contractor.
- (3) If any flora, trees or lawn dies the Lessee must replace the flora, trees or lawn at its own expense.
- (4) The Lessee must plant and care for such trees on the Premises as the Lessor may from time to time reasonably require.
- (5) The Lessee may not remove any trees, shrubs or hedges without first consulting with and obtaining the approval of the Lessor, except where necessary for urgent safety reasons.

11.7 Lessor's Fixtures and Fittings

The Lessee covenants and agrees that the Lessor's Fixtures and Fittings will remain the property of the Lessor and must not be removed from the Premises at any time.

11.8 Pest control

The Lessee must keep the Premises free of any pests and vermin and the cost of extermination will be borne by the Lessee.

11.9 Painting and Decorate

- (1) The Lessee must at the end of the Term paint with at least 2 coats of paint those parts of the Old Post Office usually painted internally.
- (2) All painting carried out on the Old Post Office must be carried out by a registered painting contractor; and the registered painting contractor or other person engaged by the Lessee to paint the Premises must:
 - (a) do so in a proper manner using good quality materials;
 - (b) have the colour and quality of the materials for the Old Post Office approved in writing by the Lessor and the Denmark Historical Society before the work commences;
 - (c) comply with all reasonable directions given or requests made by the Lessor; and
 - (d) be finished in a proper and workmanlike manner.
- (3) The Lessee must at all times keep the walls and ceilings clean and washed to the satisfaction of the health authorities and the Lessor.

11.10 Drains

- (1) The Lessee must keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto in a clean clear and free flowing condition and must pay to the Lessor upon demand the cost to the Lessor of clearing any blockage which may occur in such

waste pipes, drains and conduits between the external boundaries of the Premises and the point of entry thereof into any trunk drain unless such blockage has been caused without neglect or default on the part of the Lessee.

- (2) The Lessee must not permit the drains, toilets, grease traps (if any) and other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any foreign matter or substance to be thrown therein.

12. Use

12.1 Restrictions on use

(1) Generally

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises or any part of it for any purpose other than the Permitted Purpose; or
- (b) use the Premises for any purpose which is not permitted under any local or town planning scheme, local laws, acts, statutes or any law relating to health.

(2) No offensive or illegal acts

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any harmful, offensive or illegal act, matter or thing.

(3) No nuisance

The Lessee must not and must not suffer or permit a person to do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties.

(4) No dangerous substances

The Lessee must not and must not suffer or permit a person to store any dangerous compound or substance on or in the Premises, otherwise than in accordance with the following provisions:

- (a) any such storage must comply with all relevant statutory provisions;
- (b) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;
- (c) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Premises; and
- (d) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Premises.

(5) No harm or stress

The Lessee must not and must not suffer or permit a person to do any act or thing which might result in excessive stress or harm to any part of the Premises.

(6) No signs

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on:

- (a) the Old Post Office, without the prior written consent of the Lessor; and
- (b) any other building or improvement on the Premises, unless the sign directly relates to school operations and/or educational programs.

(7) No smoking

The Lessee must not suffer or permit a person to smoke inside any building or other enclosed area on the Premises.

(8) Consumption of alcohol

The Lessee covenants and agrees:

- (a) not to use or allow the Premises to be used for the consumption or sale of alcohol without first obtaining the written consent of the Lessor, and the Lessor shall determine any such application in its absolute discretion; and
- (b) that it shall not make an application for a licence or permit under *the Liquor Control Act 1988* (or any other relevant written laws that may be in force from time to time) for the Premises, without first obtaining the written consent of the Lessor.

(9) Removal of rubbish

The Lessee must keep the Premises free from dirt and rubbish and to store and keep all trade waste and garbage in proper receptacles.

(10) No pollution

The Lessee must do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

(11) No Animals

The Lessee must not keep on or bring into the Premises any live animal or bird, other than:

- (a) any animal or bird related to curriculum delivery; and
- (b) domesticated animals (excluding cats) which are suitably restrained and confined to designated areas.

(12) Non-Indigenous Plants

The Lessee must not plant in or otherwise introduce to the Premises any exotic plant or any plant not indigenous to the locality of the Premises, without the Lessor's prior written consent, unless such plant is related to curriculum delivery or a school program and is adequately confined to prevent spreading risk of invasive non-indigenous plants.

12.2 No warranty

The Lessor gives no warranty:

- (a) as to the use to which the Premises may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

12.3 Lessee to Observe Copyright

In the event that the Lessee or any person sub-leasing, hiring, or in temporary occupation of the Premises provides, contracts for, or arranges for the performance, exhibition or display of any music or work of art the copyright of which is not vested in the Lessee or that person, the Lessee shall ensure that all obligations in regard to payment of copyright or licensing fees with the owner or licensor of the copyright are met before any such performance, exhibition or display is held.

12.4 Premises Subject to Restriction

The Lessee accepts the Premises for the Term subject to any existing prohibition or restriction on the use of the Premises.

12.5 Indemnity for Costs

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, reasonably incurred by the Lessor by reason of any claim in relation to any matters set out in this **clause 12**.

13. Common Areas

13.1 Lessee's covenants and acknowledgements

- (1) The Lessee may use the Common Areas in common with the Other Tenants.
- (2) The Lessee shall not use the Common Areas, or any facility, item of plant and equipment or Lessor's fixture for a purpose other than that for which was designed or for which it is designated by the Lessor.
- (3) The Lessee shall not do or omit to do any act or thing which might cause or allow the Common Areas:
 - (a) to deteriorate or become impaired except for fair wear and tear;
 - (b) to be in a condition other than a good and sanitary condition; or
 - (c) to be obstructed, except where the Lessor has approved any temporary obstruction in writing to enable the Lessee to carry out any approved works or improvements.

13.2 Lessor's reservations

The Lessor may cancel, suspend, vary or restrict the Lessee's rights in relation to the Common Areas:

- (a) to enable work to be carried out; or
- (b) to comply with the law or with the Lessor's obligations to any third party;

but in so doing, the Lessor must not prevent access to the Premises or otherwise materially impair the Lessee's use and enjoyment of the Premises during the Lessee's normal hours of use of the Premises.

13.3 Lessee to comply with Lessor's directions

The Lessee must:

- (a) comply with and observe the reasonable requirements of the Lessor in relation to the use, maintenance and handling of the plant and equipment or any amenity or facility; and

- (b) not do anything which might interfere with or impair the efficient operation of the plant and equipment or any amenity or facility, unless as otherwise agreed between the parties.

13.4 Comply with Rules and Regulations in relation to Common Areas

The Lessee must comply with all rules and regulations made by the Lessor with respect to the Common Areas provided that such rules and regulations are not inconsistent with the express terms of this Lease.

13.5 Damage to Common Areas

The Lessee must make good any breakage defect or damage to the Common Areas or to any other part of the Land or any appurtenance or equipment of facility therein caused by want of care misuse or abuse on the part of the Lessee or the Lessee's Agents or by any breach of this Lease by the Lessee.

14. Minimise nuisance to neighbours

- (1) The Lessee must take all reasonable action to minimise and prevent disruption, nuisance and disturbance to surrounding residential premises and Other Tenants, particularly during and following social events held at the Premises.
- (2) The Lessee must comply with all reasonable conditions and directions that may be imposed by the Lessor from time to time in relation to the minimisation and prevention of disruption, nuisance and disturbance to surrounding residential premises and Other Tenants.

15. Alterations

15.1 Restriction

- (1) Unless otherwise provided by this Lease, the Lessee must not:
 - (a) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
 - (b) subject to the performance of the Lessee's obligations in **clause 11**, remove any flora or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises,

without the prior written consent from the Lessor and any other person from whom consent is required under this Lease and any consent required under statute in force from time to time, including but not limited to the planning approval of the Lessor under a local or town planning scheme of the Lessor and the consent of the Heritage Council.

15.2 Consent

- (1) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 15.1** the Lessor may:
 - (a) consent subject to conditions; and
 - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
 - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and

- (b) if the Lessor consents to any matter referred to in **clause 15.1**:
 - (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
 - (ii) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

15.3 Cost of Works

All works undertaken under this **clause 15** will be carried out at the Lessee's expense.

15.4 Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (a) carry out those other works at the Lessee's expense; or
- (b) permit the Lessor to carry out those other works at the Lessee's expense, in accordance with the Lessor's requirements.

15.5 Compliance with Plans

The Lessee acknowledges that:

- (a) it shall not carry out any works on the Premises without first obtaining the consent of the Lessor to such works; and
- (b) any works approved by the Lessor on the Premises shall be carried out in accordance with plans or requirements or other restraints which relate to the Premises.

16. Lessor's right of entry

16.1 Entry on Reasonable Notice

The Lessee must permit entry by the Lessor or any Authorised Person onto the Premises without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a) (i) at all reasonable times;
 - (ii) with or without workmen and others; and
 - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
 - (i) to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
 - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;

- (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
- (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this **clause 16.1(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

16.2 Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 16.1(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

17. Statutory obligations and notices

17.1 Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Premises, including without limitation all relevant laws relating to occupational health and safety and the health and safety of all persons entering upon the Premises;;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 12**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on at the Premises.

17.2 Indemnity if Lessee Fails to Comply

The Lessee indemnifies the Lessor and the Minister for Lands against:

- (a) failing to perform, discharge or execute any of the items referred to in **clause 17.1**; and
- (b) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 17.1**.

18. Report to Lessor

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee becomes aware;
- (b) any occurrence or circumstances in or near the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor.

19. Termination and Default

19.1 Events of Default

A default occurs if:

- (a) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (b) the association is wound up whether voluntarily or otherwise;
- (c) the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (d) a mortgagee takes possession of the property of the Lessee under this Lease;
- (e) any execution or similar process is made against the Premises on the Lessee's property;
- (f) the Premises are vacated, or otherwise not used, in the Lessor's reasonable opinion, for the Permitted Purpose for six month period; or
- (g) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

19.2 Forfeiture

On the occurrence of any of the events of default specified in **clause 19.1** the Lessor may:

- (a) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (b) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (c) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 20**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

19.3 Lessor may remedy breach

If the Lessee:

- (a) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (b) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

19.4 Acceptance of Amount Payable By Lessor

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

19.5 Essential Terms

Each of the Lessee's Covenants in **clauses 6** (Rent and Other Payments), **8** (Insurance), **9** (Indemnity), **11** (Maintenance, Repair and Cleaning), **12** (Use), **24** (Assignment, Subletting and Charging) and **30** (Goods and Services Tax), is an essential term of this Lease but this clause **19.5** does not mean or imply that there are no other essential terms in this Lease.

19.6 Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (a) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (b) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (c) the Lessee covenants with the Lessor that if the Term is determined:
 - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
 - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Premises;

- (d) the Lessee agrees that the covenant set out in this **clause 19.6(c)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (e) the Lessee may deduct from the amounts referred to at **clause 19.6(c)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (f) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

20. Damage or destruction of Premises

20.1 Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for

the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee.

20.2 Dispute as to Abatement of Rent

Any dispute arising in relation to the abatement of rent pursuant to **clause 20.1** shall be referred to arbitration under the provisions of the *Commercial Arbitration Act 2012* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the award appears to have been overpaid.

20.3 Total Damage or Destruction

If the premises are at any time during the Term destroyed or damaged to an extent as to be wholly unfit for the occupation and use of the Lessee, either party may by notice in writing delivered to the other party within sixty (60) days of such occurrence, elect to cancel and terminate this Lease. The Term will terminate upon such notice being given and the Lessee must vacate the Premises and surrender the same to the Lessor, but such termination will be without prejudice to the Lessor's rights in respect of any antecedent breach of this Lease.

21. Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

22. Obligations on Termination

22.1 Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease fair wear and tear excepted.

22.2 Peacefully surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease; and
- (b) surrender to the Lessor all keys and security access devices and combination for locks providing an access to or within the Premises held by the Lessee whether or not provided by the Lessor.

22.3 Remove property prior to termination

Prior to Termination, unless otherwise mutually agreed between the parties, the Lessee must remove from the Premises all of the Lessee's Property and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal.

22.4 Lessor can remove Lessee's property on re-entry

If the Lessee fails to remove any such fixtures or fittings and any other chattels, stock or goods belonging to the Lessee in accordance with **clause 22.3** within fourteen (14) days from the determination of the Term, the Lessor may at its option:

- (a) cause any such fixtures or fittings to be removed and stored at the cost of the Lessee and any such damage to be made good and any such alterations to be so re-altered and may recover the costs thereof from the Lessee as a liquidated debt payable on demand; or
- (b) elect to treat any such fixtures or fittings and any other chattels, stock or goods of the Lessee to be deemed abandoned by the Lessee and such property shall then be and become the property of the Lessor absolutely.

22.5 Obligations to Continue

The Lessee's obligations under this clause will survive termination.

23. Casual Hire of Premises

23.1 Casual Hire

- (1) The Lessee may hire out the Premises or any part thereof on a casual basis only provided:
 - (a) such use is consistent at all times with the Permitted Purpose;
 - (b) the Lessee ensures any hirer complies strictly with the relevant terms of this Lease; and
 - (c) the Lessee obtains the prior written consent for any hire arrangements, which consent may be withheld by the Lessor in its absolute discretion.
- (2) For the purposes of this Lease, "casual hire" means any hire of the Premises by the Lessee to a third party for a period of no more than 48 hours in any calendar month and does not include any formal transfer, assignment or sublease of the Premises.

23.2 Lessee remains responsible for Premises at all times

The Lessee ACKNOWLEDGES that at all times, including when the Premises are hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period.

24. Assignment, Subletting and Charging

24.1 No assignment or sub-letting without consent

The Lessee must not assign the leasehold estate in the Premises nor Sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor and any other persons whose consent is required under the terms of this Lease or at law.

24.2 Lessor's Consent to Assignment and Sub-letting

Provided all parties whose consent is required, under this Lease or at law, to an assignment or Sub-letting, give their consent and any assignment or sublease is for a purpose consistent with the use of the Premises permitted by this Lease then the Lessor may not unreasonably withhold its consent to the assignment or Sub-letting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing capable of continuing the permitted use for non-profit making community purposes;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
 - (i) the proposed assignee of a deed of assignment; or
 - (ii) the proposed sublessee of a deed of sublease,to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and
- (d) the assignment contains a covenant by the assignee or sublessee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants.

24.3 Where sublessee is a community group

If the proposed sublessee is a community group, whether or not a body corporate or unincorporated, the Lessor may not require a deed of sublease under **clause 24.2(c)**.

24.4 Consents of Assignee Supplementary

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

24.5 Property Law Act 1969

Sections 80 and 82 of the *Property Law Act 1969* are excluded.

24.6 Costs for assignment and sub-letting

If the Lessee wishes to assign or sub-let the leasehold estate created by this Lease the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (a) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
- (b) any consents required under this Lease or at law; and
- (c) all other matters relating to the proposed assignment or sub-letting,

whether or not the assignment or Sub-letting proceeds.

24.7 No mortgage or charge

The Lessee must not mortgage nor charge the Premises.

25. Disputes

25.1 Referral of Dispute: Phase 1

Except as otherwise provided any dispute arising out of this Lease is to be referred in the first instance in writing to the Lessor's Representative as nominated in writing by the Lessor from time to time (**the Lessor's Representative**) who shall convene a meeting within 10 days of receipt of such notice from the Lessee or such other period of time as is agreed to by the parties between the Lessor's Representative and an officer of the Lessee for the purpose of resolving the dispute (**the Original Meeting**).

25.2 Referral of Dispute: Phase 2

In the event the dispute is not resolved in accordance with **clause 25.1** of this Lease then the dispute shall be referred in writing to the CEO of the Lessor who shall convene a meeting within 10 days of the Original Meeting or such other date as is agreed to by the parties between the CEO and the President of the Lessee for the purpose of resolving the dispute.

25.3 Appointment of Arbitrator: Phase 3

In the event the dispute is not resolved in accordance with **clause 25.2** of this Lease then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* (as amended from time to time) and the Lessor and the Lessee may each be represented by a legal practitioner.

25.4 Payment of Amounts Payable to Date of Award

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee then the Lessor will refund to the Lessee the monies paid.

26. Prior notice of proposal to change rules

The Lessee agrees that it will not change its rules of association under the *Associations Incorporations Act 1987* without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

27. Provision of information

The Lessee agrees to provide to the Lessor upon request:

- (a) a copy of the Lessee's audited annual statement of accounts for each year;
- (b) advice of any changes in its office holders during the Term; and
- (c) any information reasonably required by the Lessor.

28. Right to terminate upon notice

- (1) Notwithstanding any other provision of this Lease, the Parties agree that either party may terminate this Lease for any reason upon two year written notice to the other party.
- (2) If this Lease is terminated in accordance with this clause, **clause 22** will apply.

29. No absolute Caveat or Other Interest

29.1 No absolute caveat or other interest

The Lessee nor any person on behalf of the Lessee must not lodge at Landgate any absolute caveat or any other interest including any lease, sublease, mortgage, charge over the Land or Premises or part thereof, without the prior written consent of the Lessor and the Minister for Lands.

29.2 Registration of Lease

This Lease is to be registered on the title to the Land at the Lessee's cost. The Lessor must do everything required of the Lessor to enable this Lease to be registered as soon as reasonably possible after the Commencement Date.

29.3 CEO & Lessor as attorney

In consideration of the Lessor having granted this Lease to the Lessee, the Lessee irrevocably appoints the Lessor and the CEO of the Lessor jointly and severally:

- (a) for the Term of this Lease;
- (b) for any holding over under this Lease; and
- (c) for a period of 6 months after Termination,

to be the agent and attorney of the Lessee in its name and on its behalf to sign and lodge at Landgate:

- (d) a withdrawal of any absolute caveat lodged by or on behalf of the Lessee;
- (e) a withdrawal of any caveat lodged by or on behalf of the Lessee and not withdrawn on Termination; and
- (f) a surrender of the estate granted by this Lease,

and the costs of withdrawing any caveat or surrendering this Lease (including the Lessor's solicitor's costs and registration fees) will be borne by the Lessee.

29.4 Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause.

29.5 Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under this clause. and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under this clause.

30. Goods and services tax

30.1 Definitions

The following definitions apply for the purpose of this clause:

- (a) **Act** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
- (b) **Consideration** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
- (c) **GST** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor for goods or services or property or any other thing under this Lease; and
- (d) **Supply** means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

30.2 Lessee to pay GST

- (1) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease.
- (2) The Lessee must pay any increase referred to at **clause 30.2(1)** whether it is the Lessee or any other person who takes the benefit of any Supply.
- (3) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

30.3 Consideration in Kind

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **clause 30.2(2)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

30.4 No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

30.5 Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

30.6 Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

30.7 Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

31. No Fetter

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any Written Law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

32. Commercial Tenancy Act

If at any time and for so long as the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

33. Acts by agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

34. Statutory powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

35. Notice

35.1 Form of delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

35.2 Service of notice

A Notice to a Party is deemed to be given or made:

- (a) if by personal delivery, when delivered;
- (b) if by leaving the Notice at an address specified in **clause 35.1(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and

- (c) if by post to an address specified in **clause 35.1(b)**, on the second business day following the date of posting of the Notice.

35.3 Signing of notice

A Notice to a Party may be signed:

- (a) if given by an individual, by the person giving the Notice;
- (b) if given by a corporation, by a director, secretary or manager of that corporation;
- (c) if given by a local government, by the CEO;
- (d) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (e) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

36. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

37. Variation

This Lease may be varied only by deed executed by the parties subject to such consents as are required by this Lease or at law.

38. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

39. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

40. Payment of money

Any Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in the Lease or as otherwise directed by the Lessor by Notice from time to time.

41. Waiver

41.1 No general waiver

Failure to exercise or delay in exercising any right, power or privilege in this Lease by a Party does not operate as a waiver of that right, power or privilege.

41.2 Partial exercise of right power or privilege

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

42. Additional Terms Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 11** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

43. Governing law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

Schedule

Item 1 Land and Premises

Land

Lot 952 on Deposited Plan 39348 being the whole of the land comprised in Certificate of Title Volume LR3128 Folio 653.

Premises

Those parts of the Land depicted as 'School Area' (comprising an area of 3,950sqm) and 'Public Shared Use Area' (comprising an area of 1,550sqm) on the plan annexed hereto as **Annexure 1**, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the Term.

Item 2 Term

15 years commencing on [insert date] and expiring on [insert date].

Item 3 Further Term

Nil.

Item 4 Commencement Date

[Insert date]

Item 5 Rent

\$16,300 per annum plus GST payable in advance by equal quarterly instalments.

Item 6 Rent Review

Market Review

Market reviews are to be undertaken every five years during the Term (including any Further Terms and any period of holding over, if applicable) on the anniversary of the Commencement Date.

CPI Review

CPI reviews are to be undertaken upon each anniversary of the Commencement Date for each year of the Term (including any Further Terms and any period of holding over, if applicable), except for years for which a market review is required pursuant to the provisions of this clause.

Item 7 Permitted purpose

School/Educational facility for children and uses reasonably ancillary thereto.

Item 8 Public liability insurance

Twenty million dollars (\$20,000,000.00).

Item 9 Heritage Requirements

Any works undertaken on Reserve 30277 must be consistent with the adopted Denmark Heritage Railway Station Precinct Concept Plan and be sympathetic to the heritage of the precinct. Any works or modifications to the historical relics at the site must be undertaken in liaison with the Denmark Historical Society.

Item 10 Additional terms and covenants

10.1 Public Shared Use Area

- (1) The Lessee must during the Term and for so long as the Lessee remains in possession or occupation of the Premises:
 - (a) at its cost, maintain, replace, repair, clean and keep the Shared Use Public Area or any appurtenance or equipment of facility therein in Good Repair to the satisfaction of the Lessor;
 - (b) at all times comply with any heritage requirements and all conditions that may be imposed by the Lessor from time to time in relation to the Lessee's maintenance of the Shared Use Public Area; and
 - (c) at its cost, erect clear signage on Public Shared Use Area and the Old Post Office stating that those areas are for public access.
- (2) The Lessee shall not erect any fence upon or along the boundary of the Public Shared Use Area and shall ensure that the Public Shared Use Area at all times remains open and freely accessible for use by the public.

10.2 Funding of Works and Improvements

The Lessee and the Lessor agree that:

- (a) the Lessee will fund the costs of the Common Area Works;
- (b) the Lessee will submit detailed plans and specifications for the Common Area Works to the Lessor by no later than 30 April 2019 for the Lessor's approval;
- (c) the Common Area Works shall be carried out in accordance with the plans and specification approved by the Lessor and shall be to the Lessor's satisfaction.
- (d) where required by the Lessor, the Lessor or a Contractor engaged by the Lessor will carry out the Common Area Works; and
- (e) upon receipt of any invoice for Common Area Works from the Lessor, the Lessee shall make payment of the amount/s payable to the Lessor within 10 days.

Signing page

EXECUTED

2019

THE COMMON SEAL of **SHIRE OF DENMARK** was hereunto affixed in the presence of:

President

(Print Full Name)

Chief Executive Officer

(Print Full Name)

THE COMMON SEAL of Spirit of Play Community School (Inc) was hereunto affixed pursuant to the constitution of the Lessee in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Lessee indicated under his or her name-

Office Holder Sign

Office Holder Sign

Name:

Name:

Address:

Address:

Office Held:

Office Held:

Annexure 1 – Sketch of Premises

Extract from adopted Concept Plan showing lease area

Annexure 2 – Lessor’s Fixtures and Fittings

Lessor’s Fixtures and Fittings means all fixtures, fittings and equipment installed in or provided to the Premises by the Lessor at the Commencement Date or at any time during the Term, including but not limited to those items listed below:

- Old Post Office building
- Historical Turntable
- Ash Pit

Annexure 2 – Consent

To be obtained.