



New South Wales

## Section 102A Authorisation

under the

*Crown Lands Act 1989*

I, NIALL MARK BLAIR, MLC, the Minister for Primary Industries, and Minister for Lands and Water, authorise Shoalhaven City Council acting in its capacity as reserve trust manager to grant leases for the permitted use of surf life saving club and associated activities in pursuance of section 102A of the *Crown Lands Act 1989*, subject to the conditions outlined below in Schedule 1.

Dated this Twenty First day of January, 2016.

**NIALL MARK BLAIR, MLC**  
**Minister for Primary Industries**  
**Minister for Lands and Water**

### Schedule 1

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1. This instrument authorises council-managed reserve trusts to grant leases for the permitted use of “surf life saving clubs and associated activities”. The leases must comply with the terms of this instrument.
2. The council-managed reserve trust must ensure that:
  - (a) The lease is consistent with the standard surf life saving club lease, with only those changes that are permitted by the completion notes in the standard surf life saving club lease.
  - (b) The standard surf life saving club lease is consistent with the declared purpose of the Crown reserve.
  - (c) The standard surf life saving club lease complies with all requirements of the Act and all other relevant legislation (other than the requirement to obtain the Minister’s consent under section 102 of the Act).

- (d) The standard surf life saving club lease either does not affect native title or is a valid future act under native title legislation.
  - (e) The requirements of the native title legislation have been followed in the granting of the standard surf life saving club lease, including but not limited to any notification requirements.
  - (f) The standard surf life saving club lease is not granted on land affected by an unresolved land claim under the *Aboriginal Land Rights Act 1983*.
  - (g) In relation to a standard surf life saving club lease for a term exceeding 5 years (including any option), 14 days have elapsed since notice of intention to grant the standard surf life saving club lease has been published in a newspaper circulating in the locality in which the land is situated or in a newspaper circulating generally in the State.
3. An electronic copy of the negotiated standard surf life saving club lease must be provided to Crown Lands within 14 days of execution, but failure to do so will not be a failure to comply with the terms of this instrument.
4. In this instrument:
- a. “native title legislation” means the Commonwealth *Native Title Act 1993* and the *Native Title (New South Wales) Act 1994*;
  - b. “standard surf life saving club lease” means the lease in the form attached to this instrument at schedule 1;
  - c. “the Act” means the *Crown Lands Act 1989*;
  - d. “the Minister” means the Minister administering the Act.
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Department of  
Primary Industries

# Authorising surf life saving clubs' use of Crown land in NSW



*Authorising surf life saving clubs' use of Crown land in NSW*

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## Foreword from the Minister

NSW has some of the best beaches anywhere in the world and for more than 110 years surf life saving clubs and their members have been making sure they are also the safest.

Each year more than 129 clubs and 77,000 volunteers keep their eyes on the water and the NSW Government is determined to support the incredible work they do right up and down the coast.

Because most of the state's beaches and around 80 per cent of surf clubs are located on Crown land, the NSW Government is providing streamlined access and lease arrangements to make it easier for these iconic clubs to get on with what they do best and not tied up in red tape.

Surf Life Saving NSW and the NSW Government have been working together, with valuable input from a range of councils along the NSW coast to simplify the way clubs get access to Crown land. To assist surf clubs and councils to understand the new approach, we have developed a position statement entitled *Authorising Surf Life Saving clubs' use of Crown land in NSW*.

On behalf of the NSW Government, I thank the surf life saving clubs of NSW for their valuable contribution to creating this template.

Our surf clubs are a permanent fixture on our beaches and the NSW Government is determined to make it easier for these clubs to grow and prosper and remain the institutions that they are – and these changes to the leasing arrangements go a long way in doing that.



Niall Blair MLC

Minister for Lands and Water

Minister for Primary Industries



## Foreword

On behalf of the members of Surf Life Saving NSW (SLSNSW), I would like to extend my thanks to the NSW Department of Primary Industries - Lands who have worked tirelessly with our organisation over the last four years to bring in a standardised lease template for affiliated Surf Life Saving Clubs (SLSCs) in NSW that are located on Crown land.

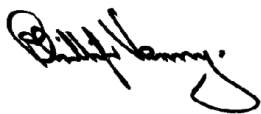
Volunteer surf lifesavers have been an iconic sight on Australian beaches for more than a century and are recognised world-wide for the unique community service they provide. This is the first time in NSW that a standardised lease template for facilities on Crown land has been created, which recognises the vital community service lifesavers provide in protecting beach goers along our coastline.

Importantly, the standardised lease template provides secure tenure for our SLSCs by offering a 20 year minimum lease term, which alleviates SLSCs from having to renegotiate short-term leases and licence agreements. This enables our SLSCs to focus on conducting lifesaving activities to meet their core purpose which is to provide a safe beach and aquatic environment throughout NSW.

The standardised lease template acknowledges that SLSCs are not-for-profit organisations and that the costs associated with the maintenance and improvement of SLSCs is a significant issue for SLSCs and reserve managers, particularly due to the harsh coastal environment. This template provides for affordable access to Crown land for SLSCs by offering the minimum statutory rent under the *Crown Lands Act 1989* and enables SLSCs to conduct fundraising activities relating to the permitted use for revenue generating purposes.

Whilst it is recognised that there will be differences across the state due to localised issues, this lease template has been devised with the majority of SLSCs and their needs in mind. It ensures that there is a level of consistency across the state; and provides secure and affordable access to SLSCs that are on Crown land.

Our SLSCs are at the heart of coastal communities. They are uniquely placed to provide supervision and easy access to rescue equipment to ensure that our beaches are safe and enjoyable destinations for all to enjoy. It is thanks to the dedication and professionalism of our volunteers that NSW beaches are amongst the safest in the world and providing secure tenure for the majority of our SLSCs will ensure surf lifesavers are able to continue to protect the public well into the future.



Mr Phillip Vanny AM  
Chief Executive Officer  
Surf Life Saving NSW

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## Authorising surf life saving clubs' use of Crown land in NSW

The NSW Government is committed to supporting a strong and sustainable surf life saving movement in NSW.

Surf life saving clubs (surf clubs) provide surf life saving services to local communities throughout NSW. There are currently 129 affiliated surf clubs in NSW with more than 77,000 members.

Surf clubs facilities are also important community assets that are often available for use by the general public for meetings, training, functions and events.

The vast majority of surf club facilities are located on Crown land, which is mostly reserved for public recreation. The management and administration of Crown land in NSW is governed under the provisions of the *Crown Lands Act 1989* (the Act). Under the Act, Crown land resources are to be shared equitably in accordance with the principles of environmental protection, conservation and ecological sustainability, public use and enjoyment as well as encouraging multiple use of the land.

This document has been developed to provide guidance for the occupation of Crown land in NSW by affiliated SLS Clubs. It outlines the principles and requirements to enable ongoing and lawful occupation of Crown land by the surf life saving movement. The roles and responsibilities of surf clubs operating on Crown reserves, Crown reserve managers and the government are also described.

## Roles and responsibilities

### Surf clubs

- exist to provide a safe beach and aquatic environment throughout NSW
- have their buildings, equipment and facilities located on Crown land and use Crown land for their lifesaving, sporting, training and education, member services, events, programs and fund-raising activities
- are the tenants of reserve managers on Crown land
- are responsible for maintaining their buildings, equipment and facilities, and to support the reserve manager in the maintenance and upkeep of the Crown land assets.

### Reserve managers

- are appointed under the *Crown Lands Act 1989* to care, control and manage public land (including the uses and assets on those lands)
- plan for the use of public land in conjunction with local councils and their local communities (in most, if not all, cases the reserve manager for coastal Crown land that surf clubs are located on is the local council)
- authorise surf clubs to occupy and use public land for their surf life saving activities
- are landlords for surf clubs on Crown land
- work with surf clubs to manage commercial leasing of Crown land in an open and transparent and competitively neutral way.

### Department of Primary Industries – Lands

- is a division of the NSW Department of Primary Industries
- is a regionally-based government agency that focuses on the administration and management of the Crown estate in accordance with the Act

- appoints reserve managers to care, control and manage public land on its behalf
- assists, monitors and regulates reserve managers in their role of managing Crown reserves
- may be delegated ministerial functions under the Act and authorises leases and commercial uses on behalf of the Minister.

### **The Minister for Lands and Water**

- acts as the owner of Crown land on behalf of the NSW Government and is responsible for administration of the *Crown Lands Act 1989*
- assists and can direct reserve managers in their management of Crown land
- is generally responsible for authorising many uses of a reserve including by surf club.

### **The NSW Government**

- gains benefits from a healthy and sustainable surf life saving movement
- supports surf clubs through grant funding, exemptions, levies and rental rebates
- regulates the activities of surf clubs through a range of licences, approvals and permits.

## What we know

1. Surf clubs exist to save lives and reduce drowning in the NSW community. Surf clubs undertake rescues, preventative actions, perform first aid and educate the community about water safety. Surf clubs save lives, support the community through voluntary effort and free advice, educate our communities about water safety and are an important part of our coastal culture.
2. Affordable access to land is critical to the viability of the surf life saving movement in NSW.
3. Security of tenure supports a sustainable surf life saving movement.
4. Commercial uses of surf club buildings can be important sources of revenue to help with the maintenance of the property and the Crown reserve.
5. Appropriate commercial uses of surf club buildings can provide opportunities for small businesses, and add value to the local economy.
6. Space on our coastal lands is at a premium and surf club buildings often occupy special locations on the coast. Surf clubs require premises which are able to store rescue equipment for patrolling duties and out-of-hours emergency callouts along the coast to be able to respond efficiently in a rescue or emergency situation.
7. Local communities and their councils are best placed to decide the use of local public land.
8. Reserve managers need to allocate land for the future needs of their local communities.

### **1. Surf clubs save lives, educate our communities about water safety and are an important part of our coastal communities.**

The NSW Government recognises that surf clubs provide a vital service to their local communities and its visitors, and the government is committed to a strong and sustainable surf life saving movement in NSW.

### **2. Affordable access to land is critical to the viability of the surf life saving movement in NSW**

Surf clubs - like many other community organisations, sporting and recreation clubs - need affordable access to Crown land. The majority of surf club buildings in NSW are located on Crown land which mostly reserved for public recreation or similar purposes.

The NSW Government, as the owner of those Crown lands, is keen to ensure Crown land is made available for the use of surf clubs at an affordable rate.

It is recognised that the costs associated with the maintenance and improvement of surf clubs and their facilities is a significant issue for the surf clubs and reserve managers.

This position statement provides for affordable access to Crown land for surf clubs conducting their surf life saving activities.

### **3. Secure tenure is beneficial for a sustainable surf life saving movement**

This position statement provides reserve managers and surf clubs with certainty on the appropriate form of tenure for surf clubs on Crown land. Security of tenure enables surf clubs to focus their efforts on surf life saving activities.

It is desirable for all surf clubs to have tenure. Where surf clubs have no tenure, it is important that those occupations migrate to a tenure that is consistent with this position statement.

Existing leases could be progressively migrated to the form of lease proposed by this position statement at the point of renewal or by agreement, including when another trigger arises such as a request for expansion or re-development.

#### **4. Revenue generating uses of surf club buildings can be important to help with the maintenance of the property**

Crown land set aside for public recreation generally should be open for the public to use as of a right, and should not be a source of private profit. Revenue earned from Crown land should benefit those Crown lands.

This position statement provides for the use of surf club buildings to conduct fundraising activities relating to the permitted use (surf life saving activities) for revenue generating purposes and, with prior written consent and under a separate written agreement, for profit making purposes which are not part of the permitted use or fundraising.

The profit-making purposes must be conducted as a separate standalone occupation of part of the surf club buildings and conducted by a for-profit entity which is completely legally separate from the surf club.

#### **5. Commercial uses of the lease premises must be achieved through a genuine competitive process, with rental set at market rates.**

Commercial uses will be considered in appropriate circumstances. Any revenues from the commercial use, raised by the surf club, must be used by the surf club to fund its obligations under its lease of the premises.

If commercial uses are proposed, those uses should be in the public interest and must not:

- be the most substantial or significant use of the premises
- conflict with the use for surf life saving activities
- materially adversely affect the carrying of surf life saving activities on the remainder of the surf club buildings.

Commercial uses should not unreasonably exclude the public.

#### **6. Space on our coastal lands is at a premium**

There are many and varied uses and pressures on coastal Crown land. It is the role of the reserve manager to care for, control and manage the reserve for the benefit of the people of NSW.

A key principle of Crown land management is to encourage multiple use of Crown land. In keeping with this principle, multiple uses of surf club buildings should be encouraged wherever possible.

To make best use of the space available, where possible surf club buildings should be available for compatible uses like functions, meetings, training and other similar uses.

The standard surf club lease provides for the surf clubs to consider granting a short-term licence to a third party community user, specified by the reserve manager as landlord, wherever reasonable. This is to ensure multiple uses of buildings occur consistent with the reservation or dedication of the land.



## **7. Local communities and their councils are best placed to decide the use of local public land**

Decisions about the best ways to use and manage Crown land are often best made at the local level by those who know the land and understand the needs of the local community.

Crown reserves should be managed by local councils where important local facilities and assets exist.

## **8. Reserve managers need to allocate land for the future needs of their local communities**

It is for councils as local planning authorities and reserve managers to plan for the wise use of Crown land to meet the needs of their communities.

There are many issues that must be taken into consideration when considering the use of Crown land. Use of Crown land by surf clubs must consider the cost of maintenance or replacement of surf club buildings and other assets, and in particular the forces of coastal erosion and sea level rise.

Provision of Crown land for use by surf clubs should be balanced against the environmental, social and economic conditions that prevail within a local government area. In the main, these are issues for reserve managers, local communities and surf clubs to address.

The NSW Government can play a role in providing a framework to provide secure tenure over existing sites or assisting with the identification of alternative sites where longer term forces might threaten the future of club facilities and access.

Where surf club buildings are at imminent threat from natural forces like coastal erosion, reserve managers must take action to protect the safety and well-being of the community.

## Directions for occupation of Crown land by surf life saving clubs

### 1. Leases give surf clubs lawful use and occupation

Surf clubs occupying Crown land must be authorised through an appropriate and lawful tenure arrangement.

A standard lease agreement (lease) has been developed for use by reserve managers for surf clubs on Crown land. The lease is designed to facilitate the majority of surf life saving clubs and their surf life saving needs.

Where surf clubs wish to conduct activities beyond those that are considered to be essential or ancillary to their surf life saving activities, it may be necessary for additional consideration and special conditions to be included in any lease.

### 2. Encourage multiple use by the community

Crown land reserved for public recreation should be open to the public generally as a right, and generally must not be a source of private profit.

It is recognised that members of the public may not have free access to all parts of Crown land occupied by surf clubs at all times. Surf clubs, as lessees of the premises, may restrict members of the public where the building is being used by the surf club for the permitted use or for other important safety and security reasons.

Where appropriate, multiple uses of surf club buildings on Crown land, including public access will be encouraged.

Reserve managers are to work with surf clubs to ensure there is an equitable regime for access to surf clubs on Crown land.

### 3. Surf clubs may continue to fundraise to support their clubs

It is important that surf clubs are able to raise funds to assist in undertaking their surf life saving activities and support the management of their facility, including obligations as tenant under a lease. It is in the interests of the landlord (the reserve manager) and tenant (surf club) that surf clubs are able to generate revenue to contribute toward the upkeep of the asset and to improve the facility and reserve.

Surf clubs will be authorised, through the lease, to conduct fundraising activities in accordance with the framework set out in the *Charitable Fund Raising Act 1991*.

Activities that solicit money, property or other benefit from the use of the premises and are not undertaken as an authorised fundraising appeal will not be permissible without the prior consent of the reserve manager.

Surf clubs wishing to conduct fundraising activities can find out more information from the Government Licensing Service website at [www.licence.nsw.gov.au/new/categories/charities-not-for-profit](http://www.licence.nsw.gov.au/new/categories/charities-not-for-profit).

### 4. There are circumstances when commercial use of a surf club facility is appropriate

The standard surf club lease for surf clubs on Crown land will permit a surf club building to be used for commercial purposes, but only with the prior written approval of the lessor (reserve manager) and under a separate written agreement.

Most surf clubs have been granted a lease to occupy Crown land without having been through a competitive process. It is important that there are no commercial or competitive advantages that result from the surf club's use of Crown land.

The use of Crown land for commercial gain must be achieved in a competitively neutral environment. Any commercial use of a surf club building must be let through an open, transparent and competitive process and must be let at a market rate.

In accordance with the standard surf club lease, the commercial use must be a separate, stand-alone occupation of part of the surf club buildings and be conducted by a for-profit entity which is legally separate from the surf club.

All revenue raised by a surf club from a commercial operation being carried out from premises must be used by the surf club to fund its obligations under the lease.

Reserve managers should work with the surf club to agree on how such commercial uses will occur. The standard surf club lease conditions require that a proposed commercial use of surf club buildings must not:

- be the most substantial or significant use of the building
- conflict with the permitted use of surf club
- materially adversely affect the carrying out of surf life saving activities on the remainder of the premises.

Direct dealings, where the surf club negotiates directly with one party about a commercial use of a surf club building on Crown land, are not allowed unless exceptional circumstances exist.

Surf clubs wishing to find out more information about direct negotiations can visit the Independent Commission Against Corruption (ICAC) website at <http://www.icac.nsw.gov.au/publications-and-resources/corruption-prevention>

## **5. Caretakers in residence need a tenancy lease**

It is an offence to reside on Crown land without lawful authority, and Crown land set aside for public recreation generally should not be a place of private profit.

It is recognised that, due to the nature of surf life saving activities where access to the surf clubs out-of-business hours is required for training and out-of-patrol hour rescues and for responding in emergency situations, that it may be necessary for surf clubs to appoint caretakers to manage their properties. This option is available to surf clubs only where no other option is reasonable.

The standard surf club lease does not permit a surf club to allow a person to reside within surf club buildings as caretaker and to retain rental paid by the caretaker unless the caretaker arrangement is genuine, related to the use of the buildings for surf life saving purposes and prior written approval is obtained from the reserve manager. The surf club and the caretaker must enter into an agreement that complies with all relevant law and under which the caretaker must provide services to and for the surf club related to or in support of surf club purposes and in consideration of the licence to reside at the surf club. Surf clubs must obtain any necessary approvals from authorities to allow a caretaker to lawfully reside at the surf club and provide copies of these approvals to the reserve manager if requested to do so.

## **6. The lease gives limited liquor and no gaming licence concessions**

The standard surf club lease allows surf clubs to hold a liquor licence under the *Liquor Act 2007*. A liquor license authorises the licensee to sell or supply liquor on the licensed premises for consumption on the premises only and only as part of, or in connection with, a function or at any gathering of the members of surf clubs and their guests in association with or following surf club activities.

The standard surf club lease also allows surf clubs holding an 'on-premises' liquor licence under the *Liquor Act 2007*. This licence authorises the sale or supply of liquor only if the liquor is sold or supplied for consumption on the licensed premises with, or ancillary to, another product or service that is sold, supplied or provided to people on the licensed premises. For example, a surf

club letting the premises for others to hold functions that involves the sale and consumption of alcohol would not be prevented under this lease.

The standard surf club lease prohibits surf club premises from being used in conjunction with a hotel liquor licence, general bar licence or small bar licence.

The standard surf club lease also prohibits the use of surf club premises in conjunction with any form of gambling licence.

### **7. The standard lease term offered is 20 years**

The reserve manager will offer a standard 20 year term. The reserve manager will not agree to option terms taking the lease beyond 20 years where surf clubs present an imminent risk of danger to life or property.

### **8. Minimum rent will be charged under the standard lease and paid to the reserve manager**

Surf clubs operating under the standard surf club lease will pay the reserve manager statutory minimum rent as it is determined from time to time, or any greater number agreed between the surf club and the reserve manager.

Where a surf club derives additional income from the premises for commercial uses that are not authorised fundraising activities, the surf club must achieve a market rent for that commercial use.

### **9. Keeping the asset actively managed over its lifecycle**

Surf club buildings are important community assets. In many cases, funds for their construction and operations come from local, state and/or federal government sources along with contributions from local communities.

SLS Clubs are facilities that should be used and enjoyed by the public, and wherever possible should perform multiple use roles and contribute to broader community needs.

It is important that surf club buildings and improvements are well maintained and managed. Reserve managers and surf clubs are to ensure appropriate approaches are implemented to manage the asset over its useful life, and ensure funds are put aside to cover future repair, upgrade or replacement.

The standard surf club lease provides that surf clubs must keep the premises in good condition and repair, and must bear all costs of maintaining and repairing the interior of the premises.

The standard surf club lease provides that the reserve manager must (unless agreed otherwise) undertake all structural repairs that are required to keep surf club buildings in good repair and condition.

The standard surf club lease also provides that all buildings and structures erected on the Crown reserve, including surf club improvements, are and will remain the property of the reserve manager.

### **10. Other matters**

Crown land in NSW is subject to the *NSW Aboriginal Land Rights Act 1983* and the *Commonwealth Native Title Act 1993*. Native title is the name Australian law gives to the traditional ownership of land and waters that have always belonged to Aboriginal people according to their traditions, laws and customs. These rights are different to, and separate from, the statutory right of Aboriginal Land Councils to make claims for Crown land under the *NSW Aboriginal Land Rights Act 1983*.

Leases for surf clubs on Crown land must be cognisant of these Acts, especially where native title is found to exist or an Aboriginal land claim is granted.



## Monitoring and evaluation

DPI Lands, reserve managers and Surf Life Saving NSW will actively monitor the transition to the new standard lease arrangements and report to the Minister as required.

### More information

Contact DPI Lands on 1300 886 529 or visit [www.crownland.nsw.gov.au](http://www.crownland.nsw.gov.au)

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	provisions of this Lease, and may include but are not limited to Further Obligations.....	27
21.	EARLY TERMINATION RIGHT .....	27
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**THIS LEASE** is made on \_\_\_\_\_ and commences on the Commencement Date.

**BETWEEN: THE LESSOR** whose name, address and ABN appear in **Item 1 (Lessor)**

**AND: THE LESSEE** whose name, address and ABN appear in **Item 2 (Lessee)**

## RECITALS

- A. The Land is reserved or dedicated under the Act by virtue of the Gazette notification specified in Item 11 for the purpose or purposes set out in Item 11.
- B. The Lessor is established as a reserve trust under section 92 of the Act and has been appointed under that section as Trustee of the Land. .
- C. The Council is appointed as the manager of the Lessor under section 95 of the Act.
- D. The Minister has issued an authorisation under section 102A of the Act.
- E. The Lessor has power to enter into this Lease in accordance with section 102A of the Act without the Approval of the Minister but subject to compliance with the conditions of the authorisation.
- F. The Lessor has agreed to lease the Land to the Lessee on the terms and conditions set out in this Lease.

## OPERATIVE PROVISIONS

### 1. PART 1 - DEFINITIONS AND INTERPRETATION

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#### 1.1 Definitions

In this Lease:

**Act** means the *Crown Lands Act 1989*.

**Affiliation** means a Surf Life Saving Club which has complied with the requirements for membership of Surf Life Saving NSW

**Approval** means authorisation, approval, consent, licence, permission and the like.

**Authority** includes any government, local government, statutory, public or other Person, authority, instrumentality or body having jurisdiction over the Land, the Premises or any part of it or anything in relation to it.

**Business Day** means any day (except a Saturday, Sunday or public holiday) on which banks are open for business in Sydney, New South Wales.

**Claim** includes any claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding and right of action.

**Clause** means a clause of this Lease, and Sub-Clause has a similar meaning.

**Commencement Date** means the date set out in Item 4.

**Commercial Parameters** means whether the proposed operation:

- (a) is a separate, standalone occupation of part of the Premises;

- (b) is conducted by a for-profit entity which is completely legally separate from the Lessee;
- (c) limits, inhibits or restricts the access or enjoyment of the Premises by the public.

**Cost** includes any cost, charge, expense, outgoing, payment or other expenditure of any nature whatever.

**Council** means the council of an area, and includes an administrator.

**Crown** means the Crown in right of the State of New South Wales.

**Default Rate** means the interest rate set by the Lessor's Bank for the time being as its benchmark rates for overdrafts of one hundred thousand dollars (\$100,000.00) or more.

**Fundraising** means means a fundraising appeal as defined by section 5 of the Charitable *Fundraising Act 1991*, which is conducted in accordance with the requirements of that Act applicable to a fundraising appeal.

**Further Obligations** means any obligations of the Lessee set out in Item 15 in Schedule 1.

**Further Term** means the further term or terms set out in Item 8.

**GST** means any consumption, goods and services or value added tax, by whatever name called, imposed, levied or collected by any Federal or State Government which operates at any time or times during the Term or any renewal or overholding of the Lease including, without limitation, GST as defined in the GST Act and any replacement tax.

**GST Act** means *A New System (Goods and Services Tax) Act 1999*.

**Hazardous Materials** includes any substance, material, thing, component or element which is hazardous, a contaminant or a pollutant to persons or property.

**Improvement** means any building, structure, fixture, fitting, plant, equipment, partition, sign or other material, or article or chattel, which is erected, installed or put in or on the Land.

**Insured Sum** means the amount set out in Item 10.

**Item** means the relevant item in Schedule 1.

**Land** means the land described in Item 3 to a depth of 15 metres below the surface and all rights, easements and appurtenances usually and normally enjoyed with that land and all Lessor's Improvements.

**Law** includes any requirement of any statute, rule, regulation, proclamation, ordinance or local law, present or future, and whether State, Federal or otherwise.

**Lessee** means the Lessee named in this Lease and includes in the case of a:

- (a) corporation the Lessee, its successors and permitted assigns;

- (b) natural person the Lessee, his executors, administrators and permitted assigns.

**Lessee's Employees** means each of the Lessee's employees, agents, contractors, invitees or others (whether with or without invitation), sublessees, licensees and concessionaires or others (whether expressly or impliedly) who may at any time be in or upon the Land.

**Lessee's Improvements** means any Improvements undertaken by the Lessee in accordance with this Lease but does not include those Improvements listed in Item 14.

**Lessor** means the Lessor named in this Lease and the person for the time being entitled to the Lease reversion when the Lease ends.

**Lessor's Agents** means the employees, contractors, agents and any other Person appointed from time to time by the Lessor as agent of the Lessor.

**Lessor's Improvements** means the Improvements listed in Item 13.

**Minister** means the Minister having responsibility for the administration of the Act or such other Minister of the Crown or Authority to whom responsibility for this Lease may at any time be given.

**Minister's Agents and Officers** includes any person, committee or delegate (including any statutory authority or statutory body corporate or committee for the time being responsible for the administration, care and management of the Land) from time to time responsible for carrying out functions, including the functions of the Minister, under this Lease.

**Name and Notice Address** means the name and address in Item 9 as it may be changed from time to time.

**Notice** means any notice or other written communication.

**Party** means a party to this Lease.

**Permitted Use** means the permitted use of the Land set out in Item 7.

**Person** includes any corporation and vice versa.

**Premises** means the Land and the Lessee's Improvements.

**Proposed Work** means any renovation, demolition, construction of or to any Improvement on the Land and any activity which physically alters the structure of the Premises.

**Rates and Taxes** means all existing and future rates (including any special rates or levies) taxes (including land tax on a single holding basis), duties, charges, assessments, impositions and outgoings whatsoever now or at any time imposed, charged or assessed on or against the Land or the Lessor or the Lessee or payable by the owner or occupier of the Land.

**Rent** means the amount of the minimum rent calculated in accordance with section 141A of the Act on the basis that the due date referred to in section 141A is the Commencement Date and each anniversary of that date during the term, or alternatively, the annual Rent (if any) set out in Item 6.

**Requirement** includes any lawful Notice, order or direction received from or given by any Authority or under any Law, in writing or otherwise, and notwithstanding to whom such Requirement is addressed or directed but if not addressed to the Lessee then the Lessee must be given a copy.

**Services** means all services installed or to be installed and connected to the Premises including, without limitation, gas, electricity, telephone and telecommunication, water, sewerage and drainage.

**Supply** means the supply of any good, service or thing by either Party under this Lease.

**Term** means the term of this Lease in Item 5 commencing from and including the Commencement Date.

**this Lease** or **the Lease** means this lease and includes all schedules, appendices, attachments, plans and specifications, annexures and exhibits to it.

## 1.2 Interpretation

- (a) The singular includes the plural and vice versa.
- (b) A gender includes all genders.
- (c) An obligation imposed by this Lease on more than one Person binds them jointly and severally.
- (d) Every covenant by the Lessee includes a covenant by the Lessee to procure compliance with the covenant by each of the Lessee's Employees.
- (e) A reference to legislation includes a modification or re-enactment of it, a legislative provision substituted for it or amendment of it and a regulation, rule or statutory instrument issued under it.
- (f) This Lease must be interpreted so that it complies with all Laws applicable in New South Wales. Any provision must be read down so as to give it as much effect as possible. If it is not possible to give a provision any effect at all, then it must be severed from the rest of the Lease. If any provision or part of it cannot be so read down, such provision or part shall be deemed to be void and severable and the remaining provisions of this Lease shall not in any way be affected or impaired.
- (g) Unless otherwise stated, no provision of this Lease limits the effect of any other provision of this Lease. "Including" and similar expressions are not and must not be treated as words of limitation.
- (h) A reference to the Land, Premises or anything includes the whole and each part of it.
- (i) The Lessor and the Lessee agree that:
  - (i) the terms contained in this Lease constitute the whole of the agreement in respect of the Land and Premises between the Lessor and the Lessee and all previous negotiations and agreements are negated;

- (ii) no further terms are be implied or arise between the Lessor and the Lessee by way of collateral or other agreement made by or on behalf of the Lessor or by or on behalf of the Lessee on or before or after the execution of this Lease, and any implication or collateral or other agreement is excluded and negated;
  - (iii) no information, representation or warranty by the Lessor or the Lessor's agents was supplied or made with the intention or knowledge that it would be relied on by the Lessee in entering into this Lease; and
  - (iv) no information, representation or warranty has been relied on by the Lessee in entering into this Lease.
- (j) Headings and the index to this Lease are for guidance only and do not affect the interpretation of this Lease.
- (k) If a reference is made to any Person, body or Authority and that Person, body or Authority has ceased to exist, then the reference is deemed to be a reference to the Person, body or Authority that then serves substantially the same or equivalent objects as the Person, body or Authority that has ceased to exist.
- (l) Reference to the President of a Person, body or Authority must, in the absence of a President, be read as a reference to the senior officer or equivalent employee for the time being of the Person, body or Authority or such other Person fulfilling the duties of President.
- (m) A reference to "writing" or "written" and any words of similar import include printing, typing, lithography and any other means of reproducing characters in tangible and visible form, including any communication effected through any electronic medium if such communication is subsequently capable of reproduction in tangible or visible form.
- (n) A reference to "corporation" and any other words or expressions used or defined in the *Corporations Act 2001 (Cth)*, unless the context otherwise requires, has the same meaning that is given to them in the *Corporations Act 2001 (Cth)*.
- (o) This Lease is governed by New South Wales law. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of that State and courts of appeal from them. Except as expressly agreed in writing by both Parties or for an action required at a federal level, each Party waives any right it has to object to an action being brought in any court outside New South Wales including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.
- (p) If the day or last day for doing anything or on which an entitlement is due to arise is not a Business Day, the day or last day for doing the thing or date on which the entitlement arises for the purposes of this Lease shall be the next Business Day.
- (q) Each provision of this Lease continues to have full force and effect until it is satisfied or completed.
- (r) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

- (s) A reference to an agreement or a document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time except to the extent prohibited by this Lease.
- (t) A reference to a Clause or Sub-Clause followed by a number refers to the relevant numbered Clause or Sub-Clause in this Lease.

### **1.3 Minister's delegations**

- (a) If this Lease refers to an action, Approval or other thing to be done by, or matter to be considered by the Minister, the reference to the Minister shall be deemed to include a reference to the Minister's Agents and Officers.
- (b) The Minister may appoint any person as the Minister's delegate to exercise all powers conferred by this Lease on the Minister expressly, including without limitation, the power to give any Approval under this Lease.
- (c) The Minister may change the appointment at any time.

## **2. PART 2 - EXCLUSION OF STATUTORY PROVISIONS**

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### **2.1 Moratorium**

To the extent permitted by law, the application to this Lease or to any Party of any Law or any Requirement or any moratorium having the effect of extending or reducing the Term, reducing or postponing the payment of Rent or any part of it or otherwise affecting the operation of the terms of this Lease or its application to any Party is excluded and negated.

### **2.2 Exclusion of statutory provisions**

- (a) The covenants, powers and provisions implied in leases by virtue of sections 84, 84A, 132, 133, 133A and 133B of the *Conveyancing Act 1919* do not apply or are not implied in this Lease and are expressly negated except in so far as the same or some part or parts of it are included in the covenants contained in this Lease. The use in this Lease of any words in any of the forms of words contained in the first column of Part II of the Fourth Schedule to the *Conveyancing Act 1919* shall not imply any covenant under section 86 of that Act.
- (b) Part 4 of the *Civil Liability Act 2002 (NSW)* does not apply to this Lease.

## **3. PART 3 - LEASE OF LAND**

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### **3.1 Lease of Land for Term**

The Lessor leases the Land to the Lessee for the Term.

### **3.2 Lessor's reservations**

The Lessor reserves the right for the Lessor and the Lessor's Agents to:

- (a) enter the Land as expressly provided for in this Lease; and
- (b) create any registered or unregistered easement or other right over the Land;



as long as such entry and/or easement does not materially adversely affect the Lessee's rights under this Lease including the right to use the Premises for the Permitted Use.

### **3.3 Lessor's exercise of rights**

In exercising its rights reserved under clause 3.2, the Lessor must use reasonable endeavours (including where possible providing reasonable notice to the Lessee of a proposed exercise of those rights) to minimise interference to the Lessee and to the Permitted Use.

### **3.4 Ownership of Lessee's Improvements**

Despite anything else in this Lease and without affecting the Lessee's obligations under this Lease, all buildings and structures erected on the Land, including the Lessee's Improvements are and will remain the property of the Lessor.

## **4. PART 4 - RENT**

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### **4.1 Lessee to pay Rent**

The Lessee covenants to pay the Rent:

- (a) at the times and in the manner set out in Item 6 without demand by the Lessor;
- (b) without any abatement, deduction or right of set-off; and
- (c) to the Lessor at the address set out in Item 12 or to any other address or in any other way the Lessor directs the Lessee by Notice.

### **4.2 Apportionment of Rent**

If the Commencement Date is not the first day of a rent period, the first and last instalments of Rent will be apportioned on a pro-rata daily basis for the periods from:

- (a) the Commencement Date to the first day of the next rent period;
- (b) the first day of the last rent period of the Term until the date on which the Term expires.

## **5. PART 5 - RATES AND TAXES AND GST**

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### **5.1 Lessee to pay Rates and Taxes**

If payable and subject to any exemption applied for and provided under **clause 5.5**, the Lessee must pay the Rates and Taxes to:

- (a) the assessing Authority on time if assessed directly against the Lessee or the Land; but otherwise;
- (b) the Lessor by the date which is 10 Business Days before the due date for payment if the Lessor must pay the Rates and Taxes and has given the Lessee a copy of the notice at least 10 Business Days before then.

**5.2 Lessee to produce receipts**

If requested by the Lessor, the Lessee must produce receipts to the Lessor evidencing payment of the Rates and Taxes by the due date for payment if the Lessee is required to pay them to the assessing Authority.

**5.3 Pro-rata apportionment**

If necessary, the Rates and Taxes will be apportioned on a pro-rata daily basis at the beginning and at the end of the Term.

**5.4 Goods and Services Tax**

- (a) If GST is or will be or is purported to be payable on any Supply the Party receiving the Supply must pay the Party making the Supply a sum equal to any GST payable by the supplier for that Supply.
- (b) To the extent that one Party is required to reimburse the other Party for costs incurred by the other Party, those costs do not include any amount in respect of GST for which the Party is entitled to claim an input tax credit.
- (c) A Party's obligation to pay an amount under this Clause is subject to a valid tax invoice being delivered to that Party. For the avoidance of any doubt, the Rent and all other payments under this Lease are exclusive of GST.

**5.5 Exemption**

The Lessee may apply for exemption from payment of Rates and Taxes under any relevant policy of the assessing Authority.

**6. PART 6 - COST OF SERVICES**

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Unless otherwise agreed with the Lessor, the Lessee must pay Costs for all Services (including any special, additional or unusual Services separately supplied, metered, consumed or connected as appropriate in, to or on the Land or the Premises):

- (a) by direct payment on or before the due date if assessed directly against the Land or the Premises; but otherwise
- (b) by reimbursing the Lessor by the date which is 5 Business Days before the due date for payment if the Lessor has given a copy of the Notice to the Lessee at least 10 Business Days before then.

**7. PART 7 - COSTS**

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**7.1 Costs to be borne by each party**

Each party will bear their own reasonable legal and other Costs including the costs of valuers, quantity surveyors and other consultants engaged by a party of and incidental to:

- (a) the negotiation, preparation and execution of this Lease;
- (b) any variation, extension, surrender or termination of this Lease otherwise than by effluxion of time.

## **7.2 Costs of Lessor to be borne by Lessee**

Without limiting any other provision of this Lease, and unless otherwise agreed in writing between the parties, the Lessee is to bear the Lessor's reasonable costs of and incidental to:

- (a) any Approval required under this Lease;
- (b) any assignment or subletting for which the Lessor's Approval is required by this Lease; and
- (c) any default by the Lessee or the Lessee's Employees in observing or performing any covenants contained or implied in this Lease.

## **8. PART 8 - INTEREST**

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### **8.1 Payment**

The Lessee must pay to the Lessor on demand as a debt due interest at the Default Rate on any Rent or other moneys which the Lessee has not paid on and from the due date for payment.

### **8.2 Calculation**

Interest is to be calculated daily from the due date and is to continue until the overdue money is paid. The interest will be capitalised on the last day of each month and may be recovered in the same way as Rent in arrears.

### **8.3 No prejudice**

If the Lessor requires the Lessee to pay interest, it is without prejudice to any other rights, powers and remedies which the Lessor may have under this Lease or at law.

## **9. PART 9 - USE OF PREMISES**

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### **9.1 Permitted Use and negative covenants**

The Lessee must not:

- (a) use the Premises for any purpose other than the Permitted Use;
- (b) except as provided for in clause 9.5, use or allow the Premises to be used for any commercial or profit-making purpose which is not Fundraising;
- (c) do anything in or on the Premises which in the reasonable opinion of the Lessor causes or may cause nuisance, damage, disturbance or danger to the Lessor or members of the public using the Reservation referred to in Item 11 of Schedule 1;
- (d) other than as necessary for the Permitted Use, use or allow the use of any radio, television or other sound producing equipment at a volume that can be heard outside the Premises except with the prior written Approval of the Lessor which is not to be unreasonably withheld but may be given conditionally;
- (e) other than as necessary for the Permitted Use, affix any television or radio mast or antennae, satellite dish or any other communication device to any

part of the Premises except with the prior written Approval of the Lessor which is not to be unreasonably withheld but may be given conditionally;

- (f) other than for the Permitted Use, write, paint, display, hang or affix any sign, advertisement, placard, name, flagpole, flag or notice on any part of the Premises except with the prior written Approval of the Lessor which is not to be unreasonably withheld but may be given conditionally. The Lessee acknowledges that it will be reasonable for the Lessor to withhold approval for any sign, advertisement, placard, name, flagpole, flag or notice that does not directly relate to the Permitted Use;
- (g) overload the floor, walls, roof or any other part of the Premises, or, bring onto or remove from the Premises any plant or heavy equipment which by reason of its weight or vibration in its operation or in any way is likely in the reasonable opinion of the Lessor to cause damage to any part of the Premises or the Services;
- (h) except to the extent that they are necessary for the Permitted Use and then only in compliance with any Law or Requirement and in such quantities as are reasonably appropriate, store Hazardous Materials on or in the Premises;
- (i) install any equipment or system in the Premises that overloads or may overload the electrical or other Services to the Premises;
- (j) allow a person to reside on the Premises as caretaker of the Premises and retain rental paid by the caretaker unless:
  - (i) the caretaker arrangement is bona fide and related to the Permitted Use;
  - (ii) the prior written Approval of the Lessor is obtained;
  - (iii) the Lessee and the caretaker enter into an agreement that complies with all relevant Law and under which the caretaker must provide services to and for the Lessee in consideration of the licence to reside on the Premises. Such services must be related to or in support of the Permitted Use;
  - (iv) the Lessee obtains all necessary Approvals from all Authorities which are necessary to enable a caretaker to lawfully reside on the Premises, and
  - (v) the Lessee produces copies of all such Approvals to the Lessor upon demand by the Lessor;
- (k) use the Premises for an illegal purpose;
- (l) burn any rubbish or waste on the Premises other than the burning of vegetation in accordance with all necessary permits;
- (m) use the Premises in conjunction with a hotel liquor licence, general bar licence or small bar licence within the meaning of the *Liquor Act 2007*. Nothing in this Lease otherwise prevents the Lessee from selling or providing liquor (within the meaning of the *Liquor Act 2007*) in connections with the Permitted Use or Fundraising activities; or

- (n) use the Premises for any type of gambling, other than where the gambling is conducted as part of Fundraising events.

## **9.2 Lessee's positive covenants**

The Lessee at its Cost must:

- (a) at all times carry out the Permitted Use in a business-like and reputable manner;
- (b) keep the Premises clean and not permit any accumulation of useless property or rubbish on them;
- (c) keep the Premises free of pests, insects and vermin;
- (d) provide the Lessor (and keep updated when it changes) with the name, postal address, e-mail address, telephone and facsimile transmission numbers of a person or persons to contact during and after business hours if an emergency arises which affects the Premises;
- (e) obtain, maintain and comply with all Approvals from all Authorities which from time to time are necessary or appropriate for the Lessee's occupation and use of the Premises;
- (f) maintain documented risk management identification and treatment programs for the Premises and the Services, which must be produced to the Lessor upon demand;
- (g) arrange for the regular and efficient removal from the Premises of its refuse and rubbish;
- (h) if a notifiable infectious illness occurs in the Premises, promptly give Notice to the Lessor and all relevant Authorities and thoroughly fumigate and disinfect the Premises to the satisfaction of the Lessor and all relevant Authorities;
- (i) undertake all fire protection works on the Land required by Law to the satisfaction of the Lessor and all relevant Authorities;
- (j) permit the Lessor or the Lessor's servants or agents with or without vehicles and equipment, workmen or others at all times to enter the Land for fire protection and suppression purposes; and
- (k) comply with the Further Obligations.

## **9.3 No warranty as to use**

- (a) The Lessor gives no warranty (either present or future) that the Land or the Premises are fit for the Permitted Use.
- (b) The Lessee has entered into this Lease with full knowledge of and subject to any prohibitions or restrictions contained in any Law or any Requirement on how the Land or the Premises may be used.

## **9.4 Fundraising activities**

The Lessee may conduct Fundraising activities as part of and relating to the Permitted Use.

## 9.5 Commercial operation

- (a) Where:
- (i) the Lessor and the Minister have provided prior consent in writing to the use of the Premises for a profit making purpose which is not part of the Permitted Use or Fundraising (**Commercial Operation**); and
  - (ii) the profit making purpose of the Commercial Operation falls within the Commercial Parameters;

the parties may enter into a separate written agreement in respect to that Commercial Operation to allow that Commercial Operation to be undertaken from the Premises. The Parties agree:

- (1) that the agreement must provide that all revenue raised from the Commercial Operation must be used by the Lessee to fund its obligations under this Lease; and
  - (2) to negotiate such agreement in good faith.
- (b) Despite anything else in this Lease, the Lessee must not use the Premises or any part of them for a Commercial Operation unless the parties have entered into an agreement of the type contemplated in clause 9.5(a).
- (c) A proposed Commercial Operation must not:
- (i) be the most substantial or significant use of the Premises;
  - (ii) conflict with the Permitted Use; and/or
  - (iii) materially adversely affect the carrying out of the Permitted Use on the remainder of the Premises by the Lessee.
- (d) If the parties enter into an agreement of the type contemplated in clause 9.5(a), then the Lessee must, whenever reasonably requested by the Lessor, demonstrate to the Lessor's reasonable satisfaction that all revenue raised from the Commercial Operation is being used to fund the Lessee's obligations under this Lease. Without limiting the preceding sentence, the Lessor may audit the Lessee to ensure compliance in this regards and the Lessee must produce all relevant documents and items to enable the Lessor to do so.
- (e) Nothing in this clause 9.5 affects the Lessee's obligation to comply with clause 17.1.

## 9.6 Uses required by Lessor for other reservation purposes

- (a) The Lessee must, if requested to do so by the Lessor, consider granting a short-term licence to a third party community user specified by the Lessor (which may but need not be the Lessor) for any purpose that is consistent with the reservation or dedication of the Land under the Act.
- (b) The Lessee is not obliged to grant a licence under clause 9.6(a) but must reasonably consider any such request.

- (c) Despite clause 9.6(b), the Lessee and the Lessor acknowledge that the Lessee need only grant a licence under clause 9.6(a) if the licence does not, in the reasonable opinion of both the Lessor and the Lessee having consulted with each other in good faith, materially adversely affect the reasonable use of the Premises by the Lessee for the Permitted Use.

### **9.7 Cost incurred by Lessor**

Without limiting clause 10.2, unless otherwise agreed with the Lessor, the Lessee must pay to the Lessor on demand as a debt due the Cost incurred by the Lessor of doing any work or other thing to the Premises which may become necessary because of the non-compliance of the Lessee or of the Lessee's Employees with any Law or Requirement or any provision of this Lease.

## **10. PART 10 - COMPLIANCE WITH LAWS AND REQUIREMENTS**

---

### **10.1 Compliance with Laws**

- (a) The Lessee at its Cost must comply with all Laws and Requirements relating to the Land, the Premises, the Services, the Permitted Use, and the Lessee's occupation and use of the Premises. If the Lessee receives any Notice from an Authority, the Lessee must immediately provide a complete copy of it to the Lessor.
- (b) Before complying with any Law or Requirement, the Lessee must (if required by that Law or Requirement):
- (i) obtain the written Approval of the Lessor which is not to be unreasonably withheld; and
  - (ii) observe the provisions of this Lease.

### **10.2 Lessor may comply with Laws if Lessee defaults**

If the Lessee fails to do so, the Lessor may comply with any Law or Requirement referred to in this clause 10 either in part or whole. If the Lessor does this:

- (a) any Costs incurred by the Lessor must be paid or reimbursed to the Lessor by the Lessee as a debt due;
- (b) it is without prejudice to any of the Lessor's other rights in respect of non-compliance by the Lessee with its obligations under this Lease.

## **11. PART 11 - MAINTENANCE REPAIRS ALTERATIONS AND ADDITIONS**

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### **11.1 General repairing obligation**

- (a) Unless otherwise agreed in writing between the parties and subject to clause 11.1(b), the Lessee must at its Cost during the Term, any extension of the Term, and any holding over period, keep the Premises in good repair and condition and clean and tidy as if it were the fee simple owner of the Premises, and must bear all costs of maintaining and repairing the interior of the Premises and the Services.
- (b) Unless otherwise agreed in writing between the parties, the Lessor must at its Cost during the Term, any extension of the Term, and any holding over period



undertake all structural repairs that are required to keep the Premises in good repair and condition.

- (c) Before carrying out any repairs or maintenance to the Premises of a structural nature, the Lessee must obtain the written Approval of the Lessor and all relevant Authorities.

### **11.2 Lessor's right of entry**

The Lessor or the Lessor's Agents may enter the Premises in the following circumstances:

- (a) at reasonable times on giving to the Lessee reasonable prior notice in writing, and in the presence of the Authorised Officer of the Lessee if required by the Lessee:
  - (i) to view the state of repair and condition of the Premises and Services
  - (ii) to determine compliance with this Lease by the Lessee; or
  - (iii) in accordance with clause 11.4, to carry out works and repairs; and
- (b) at any time and for any purpose if the Lessor reasonably considers entry is required in the case of an emergency.

### **11.3 Enforcement of repairing obligations**

The Lessor may serve on the Lessee a Notice:

- (a) specifying any failure by the Lessee to carry out any repair, replacement or cleaning of the Premises or the Services which the Lessee is required to do under this Lease; and
- (b) requiring the Lessee to carry out the repair, replacement or cleaning within a reasonable time specified in the Notice.

If the Lessee does not comply with the Notice, the Lessor may elect to carry out such repair, replacement or cleaning and any Costs incurred must be paid by the Lessee when demanded by the Lessor.

### **11.4 Lessor may enter to repair**

- (a) The Lessor, the Lessor's Agents and others authorised by the Lessor may at all reasonable times after giving the Lessee reasonable written notice enter the Land and the Premises to carry out any works and repairs in the circumstances set out below. In doing so, the Lessor must endeavour not to cause undue inconvenience to the Lessee.
- (b) The circumstances for entry are any one or more of the following:
  - (i) to carry out any repairs on or to the Premises or the Services, which the Lessor considers necessary or desirable or which relate to anything which the Lessor is obliged or entitled to do under this Lease;
  - (ii) if an Authority requires any repair or work to be undertaken on or to the Premises or the Services which the Lessor is either required or in

the Lessor's discretion elects to do and for which the Lessee is not liable under this Lease; or

- (iii) if the Lessor elects to carry out any repair work which the Lessee is required or liable to do under this Lease by any Law or by any Requirement but fails to do so within the time specified or otherwise allowed for that work to be done.

### **11.5 Alterations to Premises**

- (a) Subject to this Lease, the Lessee must not and must not permit any other person to carry out any Proposed Work without the Lessor's prior written Approval which must not be unreasonably withheld or delayed.
- (b) In seeking the Lessor's Approval the Lessee must submit plans and specifications of the Proposed Work for the Approval of the Lessor and such other information relating to the Proposed Work as is reasonably required by the Lessor.
- (c) Any Approval given by the Lessor to the Lessee for the Proposed Work is subject to the Lessee satisfying conditions of the Approval and the following requirements:
  - (i) any Proposed Work must be supervised by a Person approved by the Lessor;
  - (ii) any Proposed Work must be executed promptly and continuously in a proper and workmanlike manner, using the materials and by contractors or tradesmen approved by the Lessor, in accordance with all Laws and Requirements;
  - (iii) the Lessee must pay on demand all reasonable Costs incurred by the Lessor in considering or inspecting the Proposed Work and its supervision, including the reasonable fees of architects, engineers or other building consultants reasonably engaged by or on behalf of the Lessor;
  - (iv) the Lessee must obtain and keep current and comply with all necessary Approvals from all Authorities necessary to enable any Proposed Work to be lawfully effected, and must on request by the Lessor produce for inspection by the Lessor copies of all such Approvals; and
  - (v) on completion of the Proposed Work the Lessee must immediately obtain and produce to the Lessor, any unconditional certificates of compliance or of satisfactory completion issued by relevant Authorities and, a certificate by a consultant approved by the Lessor that the Proposed Work has been carried out in accordance with the plans and specifications approved by the Lessor.

### **11.6 Notice to Lessor of damage, accident etc**

The Lessee must immediately give Notice to the Lessor of any:

- (a) of the following of which the Lessee has actual or constructive notice:
  - (i) damage however caused;

- (ii) accident to or defects in the Premises or the Services; or
  - (iii) circumstances likely to cause any damage or injury occurring within the Premises;
- (b) fault in the Services; or
  - (c) Notice from any Authority.

## **12. PART 12 - ASSIGNMENT AND SUBLETTING**

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### **12.1 No disposal of Lessee's interest**

- (a) The Lessee may not assign, transfer, sub-let, grant any licence, mortgage, encumber, charge or part with or share the possession of or otherwise deal with or dispose of the Lessee's estate or interest in the Land, or any part of the Land or the Premises, otherwise than in accordance with this clause 12.1 or as otherwise expressly permitted by this Lease.
- (b) Clause 12.1(a) does not prevent an assignment or transfer to another surf lifesaving club with the Approval of the Lessor, which Approval may not be withheld if:
  - (i) the Lessee can reasonably satisfy the Lessor that the proposed assignee or transferee is responsible, solvent, and can carry out the obligations of the Lessee under this Lease, and
  - (ii) the Lessor's reasonable costs relating to the assignment or transfer are met.
- (c) Clause 12(1)(a) does not prevent the granting of a sublease or licence, or the sharing of possession of the Premises, by the Lessee with a person or body involved in assisting the Lessee in relation to conducting the Permitted Use.

### **12.2 Deemed assignment on change of shareholding**

For the purposes of **clause 12.1**, there is a deemed assignment if the Lessee is a Corporation (other than an incorporated association) and there is any change in any of the following which results in a change in the effective control of the Lessee:

- (a) the membership of the Corporation or any holding Company of the Corporation;
- (b) the beneficial ownership of any shares in the capital of the Corporation or any holding Company of the Corporation; or
- (c) the beneficial ownership of the business or assets in the Corporation or part of it.

### **12.3 Acceptance of Rent by Lessor**

The acceptance by the Lessor of any Rent or other payment from any Person other than the Lessee does not constitute an acknowledgment by the Lessor that it recognises that person as the authorised assignee or sub-lessee.

**13. PART 13 - INSURANCE AND INDEMNITIES**

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**13.1 Insurances to be taken out by Lessee**

The Lessee must effect and maintain at the Lessee's Cost:

- (a) a standard public liability insurance policy endorsed to extend the indemnity under the policy to include the Lessee's liability under Clause 13.5. The policy must:
  - (i) be for an amount of not less than the Insured Sum or such higher amount as the Lessor may reasonably require in respect of any single occurrence; and
  - (ii) be on terms that the insurer waives all rights of subrogation against the Lessor;
- (b) insurance for all Lessee's property and Lessee's Improvements; and
- (c) any other insurance reasonably required by the Lessor or as set out in Schedule 2.

**13.2 Lessee's insurance obligations**

The Lessee must:

- (a) ensure that all policies of insurance effected by the Lessee under this clause 13 are taken out with an insurance office or company authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia including policies underwritten by Lloyd's of London or otherwise approved by the Lessor;
- (b) on the Commencement Date and on request from the Lessor, produce to the Lessor a certificate of currency; and
- (c) pay all premiums and other money payable in respect of the insurance policies when they become due and payable.

**13.3 Lessor's insurance obligations**

The Lessor must effect and maintain at the Lessor's Cost building insurance for the Premises and the Lessor's Improvements.

**13.4 Non-vitiating of policies**

The Lessee must not do anything, in, to or on the Premises and must use its best endeavours not to allow anything to be done, which may vitiate or render void or voidable any Lessee's insurances or any condition of any insurance taken out by the Lessor of which the Lessee has been made aware in respect of the Premises or any property in or on it.

**13.5 Exclusion of Lessor's liability**

- (a) The Lessee acknowledges that all property which may be in or on the Premises will be at the sole risk of the Lessee and the Lessor will not be liable for any Claim that the Lessee or the Lessee's Employees or any Person

claiming by, through or under the Lessee may incur or make or any which arises from:

- (i) any fault in the construction or state of repair of the Premises or any part of it; or
  - (ii) the collapse of the Premises irrespective of the cause; or
  - (iii) any defect in any Services; or
  - (iv) the flow, overflow, leakage, condensation or breakdown of any water, air-conditioning, gas, oil or other sources of energy or fuel, whether from the roof, walls, gutter, downpipes or other parts of the Premises.
- (b) The Lessee agrees that the Lessor will not be responsible for and releases the Lessor, the Crown and the Lessor's Agents from liability in respect of any:
- (i) Claim relating to any property of the Lessee or any other Person in or on the Premises or any part of it however occurring; or
  - (ii) death, damage or injury to any Person or property in on or under the Premises or on any land near it suffered as a direct consequence of the construction, operation, presence or maintenance of the Premises and including, without limitation, damage or injury to any person or property resulting from any collision with or the collapse of the Premises.

### 13.6 Indemnities

Despite:

- (a) any Claims having resulted from anything which the Lessee may be authorised or obliged to do under this Lease; and/or
- (b) at any time any waiver or other indulgence having been given to the Lessee in respect of any obligation of the Lessee under this clause 13,

the Lessee will indemnify and keep indemnified the Lessor, the Lessor's Agents, the Minister and the Crown from and against all Claims for which any of them will or may be or become liable, during or after the Term, in respect of or arising from:

- (c) any breach of this Lease by the Lessee;
- (d) any cause whatever in respect of damage or injury to the Premises, to any property or to any Person or the death of any Person inside or outside the Premises caused or contributed to by any neglect or default of the Lessee or the Lessee's Employees under this Lease or by the use of the Premises by the Lessee or by the Lessee's Employees including, without limitation, injury or death to any Person or property resulting from any collision with or collapse of the Premises;
- (e) the negligent or careless use or neglect of the Services and facilities of the Premises by the Lessee or the Lessee's Employees or any other Person claiming through or under the Lessee or of any trespasser while such trespasser is in or on the Premises caused or contributed to by any default or negligent act or omission of the Lessee;

- (f) overflow or leakage of water (including rain water) or from any Services whether originating inside or outside the Premises caused or contributed to by any act or omission on the part of the Lessee or the Lessee's Employees or other Person claiming through or under the Lessee;
- (g) failure of the Lessee to give Notice to the Lessor of any defect in any of the mechanical or any other Services in the Premises within a reasonable time of the Lessee becoming aware of it; and
- (h) damage to plate, float and other glass caused or contributed to by any act or omission on the part of the Lessee or the Lessee's Employees.

#### **14. PART 14 - DAMAGE AND DESTRUCTION**

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##### **14.1 Lessee to reinstate Premises**

If the Premises or any part of them are at any time damaged or destroyed by any disabling cause then the Lessee must subject to this Lease expeditiously re-instate the Premises and make them fit for the occupation and use by the Lessee as if it was Proposed Work.

##### **14.2 Obligation to reinstate is absolute**

The Lessee's obligation under clause 14.1 to reinstate the Premises applies irrespective of how the damage and destruction occurred and irrespective of whether any policy of insurance required or effected for the Premises not taken out or is avoided or payment refused or reduced.

##### **14.3 Rent and Rates and Taxes**

Unless otherwise agreed between the parties in writing the Lessee must continue to pay the Rent and the Rates and Taxes even if the Premises are destroyed or damaged.

#### **15. PART 15 - LESSOR'S COVENANT**

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If the Lessee pays the Rent and observes and performs in a timely fashion the covenants and conditions on its part contained in this Lease, the Lessee may occupy and enjoy the Land during the Term without any interruption by the Lessor or by any Person claiming through the Lessor except as provided in this Lease.

#### **16. PART 16 - TERMINATION AND DEFAULT**

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##### **16.1 Termination under section 109 of the Act**

- (a) The Lessor and Lessee acknowledge that, subject to clause 16.1(b), this Lease will terminate under section 109 of the Act if the Reserve is revoked or that part of the Reserve is revoked that comprises the whole or part of the Premises unless the revocation notification otherwise provides.
- (b) Where only part of Premises is affected by a revocation or proposed revocation the parties undertakes to consult with each other to determine if an agreement under section 109(3) can be reached for the continuation of this Lease in respect to that part of the Premises not affected by the revocation.

- (c) The Lessee expressly acknowledges that as provided by section 109(5) of the Act no compensation is payable in respect of the termination of this Lease by the operation of section 109 and no compensation shall be payable.

## 16.2 Events of default

The following are events of default:

- (a) if the Rent or any other money payable under this Lease is not paid within 30 days of the due date for payment whether legally demanded or not;
- (b) if the Lessee at any time fails to perform or observe any of its obligations under this Lease;
- (c) if the Lessee is a company then if the Lessee:
- (i) enter into any compromise or arrangement with any of its creditors or if an application is made to any court for an order summoning a meeting of creditors;
  - (ii) has a receiver or receiver and manager or administrator or controller appointed of any of its assets;
  - (iii) is wound up or dissolved or notice is given of intention to propose a resolution for winding up or an order is made or resolution passed or an application is made for winding up or dissolution;
  - (iv) has a resolution passed by the directors that in their opinion the company can no longer continue its business;
  - (v) calls a meeting of its creditors under the *Corporations Act 2001*;
  - (vi) is placed under official management or if the members determine to convene a meeting of creditors for the purpose of placing the company under official management;
  - (vii) has an inspector appointed under the *Australian Securities and Investments Commission Act 1989*;
  - (viii) is unable to pay its debts as and when they fall due;
  - (ix) makes an assignment for the benefit of or enters into an arrangement or composition or a moratorium whether formal or informal with its creditors or financiers; or
  - (x) has a provisional liquidator or a liquidator by any means appointed;
- (d) if any execution exceeding ten thousand dollars is issued, levied or enforced against the Lessee or on any of the assets of the Lessee unless such execution is fully paid or satisfied within seven days from the date of the issue, levy or enforcement, or appropriate legal proceedings to invalidate the execution are taken within seven days of the issue, levy or enforcement; and
- (e) if the Lessee is a natural person and becomes or is made bankrupt or makes any assignment of his estate or any part of it for the benefit of creditors or otherwise seeks relief under or takes advantage of any Law for the time being



in force relating to bankruptcy or insolvent debtors or causes or permits his goods to be levied on or under any execution or other legal process.

### **16.3 Forfeiture of Lease**

If an Event of Default occurs the Lessor may, without prejudice to any other Claim which the Lessor has or may have against the Lessee or any other Person at any time re-enter into and upon the Land or any part of it in the name of the whole and thereupon this Lease will be absolutely determined.

### **16.4 Lessor may rectify**

If the Lessee is in default under this Lease and fails to commence to rectify that default within 7 days of the Lessor notifying the Lessee in writing of that default and requiring its rectification or, having commenced, fails to expeditiously complete that rectification within a reasonable time, the Lessor may, but will not be obliged to, remedy at any time without further notice any default by the Lessee under this Lease. If the Lessor so elects all reasonable Costs incurred by the Lessor (including legal costs and expenses) in remedying the default will constitute a liquidated debt and must be paid by the Lessee to the Lessor on demand.

### **16.5 Waiver**

- (a) The Lessor's failure to take advantage of any default or breach of covenant by the Lessee will not be or be construed as a waiver of it, nor will any custom or practice which may grow up between any of the Parties in the course of administering this Lease be construed to waive or to lessen the right of the Lessor to insist upon the timely performance or observance by the Lessee of any covenant or condition of this Lease or to exercise any rights given to the Lessor in respect of any such default.
- (b) A waiver by the Lessor of a particular breach is not deemed to be a waiver of the same or any other subsequent breach or default.
- (c) The demand by the Lessor for, or subsequent acceptance by or on behalf of the Lessor of, Rent or any other money payable under this Lease will not constitute a waiver of any earlier breach by the Lessee of any covenant or condition of this Lease, other than the failure of the Lessee to make the particular payment or payments of Rent or other moneys so accepted, regardless of the Lessor's knowledge of any earlier breach at the time of acceptance of such Rent or other moneys.

### **16.6 Tender after determination**

If the Lessor accepts money from the Lessee after the Lessor ends this Lease the Lessor may (in the absence of any express election of the Lessor) apply it:

- (a) firstly, on account of any Rent and other moneys accrued and due under this Lease but unpaid at the date the Lease is ended; and
- (b) secondly, on account of the Lessor's Costs of re-entry.

### **16.7 Essential terms**

The Lessor and the Lessee agree that each of the following covenants by the Lessee are essential terms of this Lease:

- (a) pay the Rent;
- (b) keep the Premises open for use;
- (c) carry on the Permitted Use;
- (d) comply with Laws and Requirements;
- (e) subject to this Lease, repair and maintain and, if necessary, reinstate or demolish the Lessee's Improvements;
- (f) not assign this Lease or sub-let the Land or any part of it;
- (g) take out and keep current those insurances required to be taken out by the Lessee;
- (h) hold affiliation with Surf Life Saving NSW;
- (i) pay or reimburse Rates and Taxes, and
- (j) remove the Lessee's Improvements at the end of this Lease unless the Lessor specifically requires otherwise by notice in writing to the Lessee.

#### **16.8 Damages for breach**

The Lessee covenants to compensate the Lessor for any breach of this Lease and the Lessor may recover damages from the Lessee for any breach. The Lessor's entitlement under this Clause is in addition to any other remedy or entitlement to which the Lessor is entitled (including the right to terminate this Lease).

#### **16.9 Repudiation by Lessee**

Without limiting clause 16.8 or any other provision of this Lease, the Lessee covenants to compensate the Lessor for any loss or damage suffered by the Lessor by reason of the Lessee's conduct (whether acts or omissions) constituting a repudiation of this Lease or of the Lessee's obligations under this Lease.

#### **16.10 Acts by the Lessor not to constitute forfeiture**

The Lessor's entitlement to recover damages shall not be affected or limited if any of the following events occur:

- (a) the Lessee abandons or vacates the Land;
- (b) the Lessor elects to re-enter the Land or to terminate the Lease;
- (c) the Lessor accepts the Lessee's repudiation; or
- (d) the Parties' conduct (or that of any of their servants or agents) constitutes a surrender by operation of law.

#### **16.11 Mitigation**

Nothing in this Clause will operate to relieve the Lessor of any obligation which would otherwise apply to mitigate any loss or damage suffered by the Lessor.

## **17. PART 17 - DETERMINATION OF TERM**

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### **17.1 Lessee to yield up**

- (a) When this Lease ends, the Lessee, at its Cost, must:
  - (i) unless otherwise required by the Lessor, remove the Lessee's Improvements in a proper and workmanlike manner in compliance with the requirements of all Authorities and to the satisfaction of the Lessor; and
  - (ii) remove all loose items from the Premises.
- (b) If the Lessor does not require the Lessee to remove the Lessee's Improvements or particular Improvements specified by the Lessor, those improvements that have not vested in the Lessor by operation of Law will revert to and become the absolute property of the Crown (except for the Lessee's trade fixtures, fittings and chattels) without any payment or compensation.

### **17.2 Lessee not to cause damage**

- (a) The Lessee must not cause or contribute to any damage to the Land in the demolition and removal of the Lessee's Improvements.
- (b) If the Lessee causes any such damage in the demolition and removal of the Lessee's Improvements, the Lessee must make good any such damage and must leave the Land in a condition that is acceptable to the Lessor and all Authorities.
- (c) If the Lessee fails to do so within a reasonable time, the Lessor may make good any such damage at the Cost of and as agent for the Lessee and recover from the Lessee the reasonable cost to the Lessor of doing so as a debt due payable on demand.

### **17.3 Failure by Lessee to remove the Lessee's Improvements**

If the Lessee fails to remove the Lessee's Improvements and loose items in accordance with this clause 17 or if the Lessor re-enters the Land, the Lessor at the Lessor's option (without prejudice to any action or other remedy which the Lessor has) may do any one or more of the following:

- (a) demolish and remove the Lessee's Improvements and remove the Lessee's loose items;
- (b) without being guilty of any manner of trespass, cause any of the Lessee's property to be removed and stored in such manner as is reasonable at the risk and at the Cost of Lessee and/or at the option of the Lessor sell it as the attorney of the Lessee and appropriate the proceeds of sale in payment of any Rent or other money owing by the Lessee to the Lessor and pay any residue without interest to the Lessee;
- (c) treat the Lessee's property as if the Lessee had abandoned its interest in it and it had become the property of the Lessor, and deal with it in such manner as the Lessor thinks fit without being liable in any way to account to the Lessee for them;

- (d) recover its costs from the Lessee on demand as a debt due.

#### **17.4 Lessee to indemnify and pay Lessor's Costs**

Without limiting clause 13.5, the Lessee must indemnify and keep indemnified the Lessor in respect of any reasonable Costs incurred by the Lessor under **clause 17.3** and also in respect of all Claims which the Lessor may suffer or incur at the suit of any Person (other than the Lessee) claiming an interest in the Premises or the Lessee's property by reason of the Lessor acting in any manner permitted in this clause 17.

#### **17.5 Earlier breaches**

The ending of this Lease does not prejudice or affect any rights or remedies of the Lessor against the Lessee in respect of any earlier breach by the Lessee of any Lease covenants and conditions.

### **18. PART 18 - MISCELLANEOUS**

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#### **18.1 Notices**

- (a) Any Notice served or given by either Party under this Lease will be valid and effectual if signed by either Party or by any director, alternate director, secretary, executive officer, attorney, managing agent, Authorised Officer or solicitors for the time being of that Party or any other Person nominated from time to time by that Party.
- (b) Each Party must immediately provide the other Party with a Notice containing full particulars of the address and facsimile information of the Party giving the Notice and must update such notice in the event of any change.
- (c) Any Notice required to be served or which the Lessor may elect to serve on the Lessee shall be sufficiently served if:
- (i) served personally;
  - (ii) sent by facsimile transmission; or
  - (iii) forwarded by prepaid security post to the Lessee at its address in this Lease.
- (d) Any Notice required to be served on the Lessor shall be sufficiently served if:
- (i) served personally;
  - (ii) sent by facsimile transmission; or
  - (iii) forwarded by prepaid security post addressed to the Lessor to the Name and Notice Address.

All such Notices must be addressed to the Lessor at that address or at such other address as the Lessor from time to time nominates.

- (e) Any Notice is deemed to have been duly served if given:
- (i) by post, two Business Days after the day it was posted;

- (ii) by facsimile, at the time of transmission to the Party's facsimile number unless the time of dispatch is later than 5.00 p.m. at the place to which the facsimile transmission is sent in which case it shall be deemed to have been received at the commencement of business on the next Business Day in that place. A copy of any Notice sent by facsimile transmission must also on the date of dispatch be sent by mail to the Party to whom it was sent by facsimile transmission;
- (iii) personally, on the date of service.

## **18.2 Overholding**

If the Lessee continues in occupation of the Land after the Term has expired without objection by the Lessor:

- (a) the Lessee will be deemed a Lessee on the terms of this Lease from month to month for a period not exceeding the period permitted by the Act (if any) at a rent to be agreed and failing agreement at a rent to be determined by a qualified valuer acting as an expert and not as an arbitrator and his costs must be paid equally by the Parties;
- (b) either Party may end the Lease by giving to the other Party at any time one month's Notice.

## **18.3 Set-Off**

If the Lessee defaults in the payment of the Rent, the Rates and Taxes or any other money payable under this Lease to the Lessor or any Authority, the Lessor may set-off that amount against any moneys which may from time to time be payable by the Lessor to the Lessee on any account whatsoever but any set-off will not relieve the Lessee from its default for any non-payment of the Rent, the Rates and Taxes or other moneys under this Lease.

## **18.4 Easements**

The Lessor may grant rights of support and enter into any arrangement or agreement with any party with an interest in any adjacent land or with any Authority as the Lessor thinks fit for the purpose of:

- (a) public or private access to the Land;
- (b) support structures erected on adjoining land; or
- (c) the provision of Services.

The Lessor must not exercise any rights under this Clause if it substantially and permanently derogates from the enjoyment of the rights of the Lessee under this Lease.

## **18.5 Waiver**

No waiver by one Party of a breach by or on behalf of the other Party of any obligation, provision or condition of this Lease expressed or implied shall operate as a waiver to or of any other breach of the same or any other obligation, provision or condition of this Lease expressed or implied.

**19. PART 19 - FURTHER TERM**

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**19.1 New lease**

The Lessor must grant the Lessee and the Lessee must take a new lease for the next Further Term if:

- (a) the Lessee gives the Lessor a renewal Notice not more than six months or less than three months before the Term expires;
- (b) there is no unremedied default of which the Lessor has given the Lessee written notice;
- (c) the Lessee has not persistently defaulted under this Lease throughout its Term and the Lessor has not given the Lessee Notices of the defaults; and
- (d) the Lessee does not default under this Lease after giving the Lessor the renewal Notice.

**19.2 Terms of new lease**

The new lease will:

- (a) commence on the day after the Term expires;
- (b) if the Rent is greater than the minimum required under the Act, specify in Item 6 in Schedule 1 an initial annual Rent from the commencement of the Further Term that is agreed between the parties or, failing agreement, determined by expert determination by a suitably qualified expert appointed by the President of the Real Estate Institute of New South Wales whose expert determination is final and binding on the Parties;
- (c) specify in Item 10 in Schedule 1 an Insured Sum which is an amount greater than the Insured Sum specified for the initial term of this Lease and which, in the reasonable opinion of the Lessor, reflects the industry standard at the time of the commencement of the Further Term;
- (d) specify in Item 13 in Schedule 1 any Lessor's Improvements added during the Term of this Lease;
- (e) otherwise be on the terms and conditions contained in this Lease including any provision for the review of Rent but not including any provision for renewal if there is no Further Term.

**19.3 Execution of extension of lease**

The Lessor and the Lessee must execute a new lease for the next Further Term at the Lessee's Cost.

**20. Special Conditions**

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The Special Conditions set out in **Item 15** only form part of this Lease to the extent to which they are additional to and are not inconsistent with the other provisions of this Lease, and may include but are not limited to Further Obligations.

**21. EARLY TERMINATION RIGHT**

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- (a) Despite anything else in this Lease, if the Lessor after consultation with the Lessee reasonably and in good faith considers the location of the Premises represents a danger to persons or property, then the Lessor may by written notice to the Lessee terminate this Lease on a date specified in the notice, which date must not be less than 6 months after the date of the notice.
- (b) No compensation is payable from the Lessor to the Lessee as the result of termination of this Lease under clause 21(a).
- (c) For the avoidance of doubt:
  - (i) if the Lessor issues a notice in compliance with clause 21(a), this Lease terminates on the date specified in the notice; and
  - (ii) the issue of the notice and the termination of this Lease under clause 21(a) does not affect any of the rights or obligations of the parties under this Lease that arise prior to the termination.



**SCHEDULE 1**

- 1 LESSOR:** [Completion Note. Insert Appropriate Details]  
 Address  
 ABN
- 2 LESSEE:** [Completion Note. Insert Appropriate Details]  
 Surf Life Saving Club Inc.  
 Address  
 ABN
- 3 LAND:** The area shown hatched on the plan attached to this Lease in Appendix 1 and known as the [Completion Note. Insert Appropriate Details] Surf Life Saving Club Inc.
- 4 COMMENCEMENT DATE:** [Completion Note. Insert Appropriate Details]
- 5 TERM:** 20 years
- 6 RENT:** \$[Completion Note. insert the minimum statutory rent pursuant to section 141A of the Act or any greater number agreed between the parties] per annum plus GST payable annually in advance.
- 7 PERMITTED USE:** Surf Life Saving Club and associated activities including Fundraising and any Commercial Operations that are the subject of a written agreement as contemplated by clause 9.5(a).
- 8 FURTHER TERM:** One further term of 20 years commencing on [Completion Note. Insert Date]
- 9 NAME AND NOTICE ADDRESS:** **Lessor:**  
 [Completion Note. Insert Appropriate Details]  
  
**Lessee:**  
 [Completion Note. Insert Appropriate Details]  
 Surf Lifesaving Club Inc.
- 10 INSURED SUM & INSURANCES:** \$20 million  
 [Completion Note. Specify insurances required to be taken out by the Lessee additional to those required by Clause 13.1(a) and (b).]

- 11 **RESERVATION/DEDICATION:** [Completion Note: insert title details of the reserve/dedicated land] being the land the subject of [Completion Note. Refer to the Gazette notice under the Act reserving or dedicating the Land, and specify the purpose of the reservation/dedication as described in the Gazette notice].
- 12 **PAYMENT ADDRESS:** [Completion Note. Specify address].
- 13 **LESSOR'S IMPROVEMENTS:** [Completion Note. Specify any Improvements that are not Lessee's Improvements on the Commencement Date].
- 14 **EXCLUDED LESSEE'S IMPROVEMENTS:**
- 15 **SPECIAL CONDITIONS:** [Completion Note. The special conditions may include but are not limited to Further Obligations of the Lessee and must be additional to and not inconsistent with the other provisions of this Lease.]
- :

**APPENDIX 1  
(PLAN OF LAND)**

[Completion Note. Insert plan here]

## CHARITABLE FUNDRAISING ACT 1991 - SECT 5

### Meaning of “fundraising appeal”

#### 5 Meaning of “fundraising appeal”

(1) For the purposes of this Act, the soliciting or receiving by any person of any money, property or other benefit constitutes a [fundraising appeal](#) if, before or in the course of any such soliciting or receiving, the person represents:

- (a) that the purpose of that soliciting or receiving, or
- (b) that the purpose of an activity or enterprise of which that soliciting or receiving is a part, is or includes a [charitable purpose](#).

(2) It does not matter whether the money or benefit concerned is solicited or received:

- (a) in person or by other means (such as by post, telephone or facsimile transmission), or
- (b) as a donation or otherwise (such as by participation in a lottery, art union or competition; by sponsorship in connection with a walkathon, telethon or other similar event; in connection with the supply of food, entertainment or other goods or services; or in connection with any other commercial undertaking).

(3) The following do not, however, constitute a [fundraising appeal](#) for the purposes of this Act:

- (a) a request for, or the receipt of, an amount required in good faith as the fee for renewal of membership of an [organisation](#),
- (b) an appeal by an [organisation](#) to (or the receipt of money or a benefit from) members of the [organisation](#),
- (c) a request that any property be devised or bequeathed, or the giving of any information as to the means by which any property may be devised or bequeathed,
- (d) an appeal conducted exclusively or predominantly among persons sharing a common employer or place of work by one of those persons (being an appeal for a [charitable purpose](#) connected directly with another of those persons or any such other person’s immediate family) and the receipt of money or a benefit from any such appeal,
- (e) an appeal to (or the receipt of money or a benefit from) any Commonwealth, State or local government [authority](#),
- (f) anything prescribed by the regulations.

**STRATEGY AND ASSET COMMITTEE  
RESOLUTIONS / ACTIONS – PROJECTS TO BE COMPLETED – as at 22 January 2016**

Item No.	Subject	Council Resolution	Date	Remarks	Meeting Outcome 19 <sup>st</sup> January 2016
1.	Council Land – Lot 1 DP 1021332 George Evans Rd, Mundamia  File: 35343E	MIN10.857  MIN12.1302	16/2/15  Aug 2015	NALC involvement, bio-diversity offsets, APZ to be further investigated. Meeting with NALC to discuss adjoining land required.  The part 3A application has been withdrawn to allow time to negotiate with the adjoining landowners, Nowra Local Aboriginal Land Council, and make arrangements to resolve bushfire protection measures associated with the subdivision layout.	
2.	Council Land – Lot 23 and 24 Section 5A. DP9063, Chisholm Street, Callala Bay  File: SF10418, 48516E	MIN15.788	13/11/15	Works underway. Completion expected mid March 2016 due to adverse weather delays (approximately 2 weeks)  Marketing expected to commence late March 2016.	