

**2022**

**MINISTER FOR EDUCATION**

**AND**

**SHIRE OF JERRAMUNGUP**

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**LICENCE AGREEMENT FOR THE SHARED USE OF POOL  
AT JERRAMUNGUP DISTRICT HIGH SCHOOL**

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**STATE SOLICITOR'S OFFICE  
COMMERCIAL AND CONVEYANCING  
PERTH**

**TELEPHONE : (08) 9264 1176  
SSO : 3382-20**

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## SCHEDULE

### Item 1 (Clause 1.1) Land

Lot 500 on Deposited Plan 64935 and being the whole of the land in Qualified Certificate of Crown Land Title Volume LR3157 Folio 187 also known as Reserve 24772

### Item 2 (Clause 1.1) Facilities

That portion of the Land as is delineated and bordered red on the plan annexed hereto and including the car park, buildings, swimming pool and other fixtures thereon.

### Item 3 Classification of Aquatic Facilities

Table 1 as annexed hereto.

### Item 4 (Clause 1.1) School

Jerramungup District High School, 2 Lancaster Road Jerramungup

### Item 5 (Clause 1.1) Term

10 years commencing on the Commencement Date and expiring on the day before the tenth anniversary of the Commencement Date

### Item 6 (Clause 1.1) Commencement Date

1 July 2022 (being the date of Practical Completion of the Pool as defined in the Development Agreement)

### Item 7 (Clause 1.1) Further Terms

- (a) 10 years commencing on the 10th anniversary of the Commencement Date and expiring on the day before the 20th anniversary of the Commencement Date; and
- (b) 10 years commencing on the 20th anniversary of the Commencement Date and expiring on the day before the 30th anniversary of the Commencement Date

### Item 8 (Clause 1.1) Minister's Authorised Times of Use

- (a) The Minister shall be entitled to use the Facilities between the hours of 9 a.m. and 3 p.m. on all School days and/or such other times as are first agreed to by the Parties in writing.
- (b) The Local Government shall be entitled to use the Facilities at all times other than the times specified in item 7(a) of the Schedule and/or such other times as are first agreed to by the Parties in writing.

### Item 9 (Clause 24) Notices

Minister:           Asset Planning and Services Branch,  
                          Department of Education  
                          151 Royal Street  
                          EAST PERTH WA 6004

Email: [propertyleasing@education.wa.edu.au](mailto:propertyleasing@education.wa.edu.au)

Local Government: Chief Executive Officer  
Shire of Jerramungup  
P O Box 92,  
Jerramungup WA 6337

Item 10 (Clause 1.1) Cost Sharing Arrangement

	Minister	Local Government
Pool supervision and management during Local Government's Authorised Times of Use	0%	100%
Minor repairs up to \$20,000 including GST	40%	60%
Major repairs over \$20,000 including GST	40%	60%
Chemicals and water testing	40%	60%
Pool cleaning	40%	60%
Car park cleaning and maintenance	40%	60%
Cleaning other than ablution block	0%	100%
Cleaning Local Government's ablution block	0%	100%
Cleaning Minister's ablution block	100%	0%
Electricity	40%	60%
Water	40%	60%
Sewerage	40%	60%
Rubbish removal at all times other than School Holidays	40%	60%
Rubbish removal during School Holidays	0%	100%
Security call outs caused by a Party	Pay costs when caused by Minister	Pay costs when caused by Local Government
Security call outs not caused by a Party	40%	60%
Public Liability insurance	Pay own costs	Pay own costs
Building insurance	40%	60%
Contents insurance	Pay own costs	Pay own costs
Lighting (if applicable) operation, maintenance, consumption and repairs	0%	100%
Any other costs properly incurred in operating the Facilities that do not fall within the above	40%	60%

categories and are accepted by the Minister		
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All invoices to the Minister are to be addressed to:

Asset Planning and Services Branch  
Department of Education  
151 Royal Street  
EAST PERTH WA 6004  
Email: [propertyleasing@education.wa.edu.au](mailto:propertyleasing@education.wa.edu.au)

Item 11 (Clause 5) Screening Check

Contact for screening check:

Principal Screening Officer  
Department of Education  
151 Royal Street  
EAST PERTH WA 6004  
Ph 9264 4477  
Email: [screening@education.wa.edu.au](mailto:screening@education.wa.edu.au)

**THIS AGREEMENT** is made the                      day of                      2022

BETWEEN:

**SHIRE OF JERRAMUNGUP** a local government and body corporate under the *Local Government Act 1995* of 8 Vasey Street Jerramungup Western Australia (**Local Government**)

AND

**MINISTER FOR EDUCATION** a body corporate pursuant to the provisions of the *School Education Act 1999* of 151 Royal Street, East Perth Western Australia (**Minister**).

### **RECITALS**

- A. The Facilities are situated on the Land.
- B. The Minister has care, control and management of the Land.
- C. The Local Government has, in accordance with the Development Agreement, constructed the Facilities on the Land at a total cost of \$4,461,564.00 using the following funding:
  - (i) \$2,100,000 provided by the Department of Industry, Science, Energy and Resources through the Building Better Regions Fund;
  - (ii) \$1,400,000 provided by the Department of Education;
  - (iii) \$700,000 provided by the Department of Industry, Science, Energy and Resources through the Drought Communities Programme; and
  - (iv) \$261,564 provided by the Shire of Jerramungup.
- D. The Minister has agreed to grant to the Local Government a licence to use the Facilities on the terms and conditions contained in this Agreement.

### **OPERATIVE PART**

IT IS HEREBY AGREED:

#### **1. Definitions and Interpretation**

##### **1.1 Definitions**

In this Agreement unless the contrary intention appears:

**Authorisation** means any approval, agreement, certificate, authorisation, notification, code of conduct, government policy, consent, exemption, filing, licence, notarisation, permit, registration, waiver, compliance report or environmental consent by any Government Agency required under any Laws, and includes any renewal of, or variation to, any of them but does not include any act or omission by the Minister under this Agreement.

**Business Day** means any day other than a Saturday, Sunday or public holiday in Perth Western Australia.

**Car Park** means the car park forming part of the Facilities.

**Commencement Date** means the date specified in item 6 of the Schedule.

**Commonwealth** means Commonwealth of Australia.

**Cost Sharing Arrangement** means the arrangement reached between the Parties set out in clause 31 and item 10 of the Schedule to this Agreement by which each Party has agreed to contribute to costs in accordance with the list set out in item 9 of the Schedule.

**Decommission** means to decommission and remove and leave that part of the Land on which the Facilities are constructed in a clean tidy, level and vacant condition with all rubbish and debris removed.

**Department** means the Department of Education.

**Development Agreement** means the agreement between the Minister and the Local Government setting out the terms and conditions for construction of the Pool on the Land.

**Dispute** means any real or perceived conflict, difference of opinion, or unresolved issue arising in connection with this Agreement or the Parties' rights or obligations under this Agreement, or the Facilities.

**Dispute Notice** means a notice given under clause 35.2.

**Facilities** means the facilities specified in item 2 of the Schedule and includes all improvements to and natural features on or comprising the land which the Facilities are on or part of.

**Further Term** means each further term specified in item 7 of the Schedule.

**Government Agency** means any government or any governmental, semi governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, Minister of the Crown, agency, entity or Parliament and includes any part of, or entity comprising, the State.

**GST** has the same meaning and usage as that contained in the GST Act.

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

**Input Tax Credit** has the meaning given in section 195-1 of the GST Act.

**Land** means the land specified in item 1 of the Schedule.

**Law** means all applicable present and future laws including:

- (a) all acts, ordinances, regulations, by-laws, orders, awards and proclamations of the State of Western Australia or the Commonwealth;



- (b) Authorisations;
- (c) principles of the common law or equity;
- (d) standards, codes, policies and guidelines;
- (e) the Australian Securities Exchange listing rules; and
- (f) fees, rates, taxes, levies and charges payable in respect of those things referred to in paragraphs (a), (b), (c) and (d) of this definition,

whether or not existing at the date of execution of this Agreement.

**Licence** means the licence referred to in clause 2.

**Local Government's Authorised Times of Use** means the times of use of the Facilities by the Local Government specified in item 7(b) of the Schedule.

**Local Government's Visitors** means all officers, employees, agents, contractors, licensees, invitees or representatives of the Local Government and includes members of the public.

**Loss** means any loss, cost (including legal costs), expense, liability (whether arising in negligence or otherwise) or damage whether direct, indirect or consequential (including pure economic loss), present or future, ascertained, unascertained, actual prospective or contingent or any fine or penalty.

**Minister's Authorised Times of Use** means the times of use of the Facilities by the Minister specified in item 8(a) of the Schedule.

**Motor Vehicle** any motor car or other vehicle weighing less than 2 tonnes.

**Operating Costs** means the costs incurred in respect of the operation and maintenance of the Facilities as set out in item 9 of the Schedule.

**Party** depending on the context means the Local Government or the Minister and

**Parties** means both of them.

**Permitted Use** means the use of the Pool as a swimming pool for recreational use and the Car Park for parking of Motor Vehicles by persons attending the Pool.

**Pool** means the swimming pool and associated plant, equipment and structures forming part of the Facilities.

**Pool Operations Officer** means the pool operations officer appointed by the Local Government under clause 14.

**PPS Law** means the PPSA and any amendment made at any time to the Corporations Act or any other legislation as a consequence of the PPSA.

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**Primary Payment** means any payment by one Party to the other Party under this Agreement.

**Principal** means the principal or acting principal of the School.

**Regulations** means the *Health (Aquatic Facilities) Regulations 2007*.

**Representatives Group** means the group created pursuant to clause 32.

**Schedule** means the schedule annexed to this Agreement.

**School** means the School specified in item 4 of the Schedule.

**School days** means all days on which students are required to attend the School for instruction in accordance with the provisions of the *School Education Act 1999*.

**School Holidays** means those periods determined by the Department or the Minister as holiday periods where students or staff are not required to attend the School.

**Security Interest** means any one or more of:

- (a) a mortgage, charge, sub-demise, lien, trust or power, which is a security for the payment of money or the compliance with any other obligation; and
- (b) a "security interest" within the meaning of the PPSA.

**State** means the State of Western Australia and includes any department, agency or instrumentality of the State of Western Australia, the Parliament and any Minister (including the State), whether body corporate or otherwise and their respective employees, agents, contractors and consultants.

**Taxable Supply** has the meaning given in section 195-1 of the GST Act.

**Tax Invoice** has the meaning given in section 195-1 of the GST Act and in the *A New Tax System (Goods and Services Tax) Regulations 1999*.

**Term** means the term specified in item 5 of the Schedule and where the context so permits includes any extended or renewed term.

## 1.2 Interpretation

In this Agreement unless a contrary intention appears:

- (a) **(person)**: references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) **(includes)**: the words "including", "includes" and "include" will be read as if followed by the words "without limitation";

- (c) **(or)**: the meaning of "or" will be that of the inclusive "or", that is meaning one, some or all of a number of possibilities;
- (d) **(party)**: a reference to a "party" is to a party to this Agreement;
- (e) **(other persons)**: a reference to any party or person includes their and each of their legal representatives, executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (f) **(authority)**: a reference to any authority, institute, association or body is:
  - (i) if that authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as applicable; and
  - (ii) if that authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that authority, institute, association or body;
- (g) **(this Agreement)**: a reference to this Agreement or to any other deed, agreement, document or instrument is deemed to include a reference to this Agreement or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (h) **(legislation)**: a reference to any legislation or to any section or provision of it includes any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision;
- (i) **(rights)**: a reference to a right includes any benefit, remedy, discretion, authority or power;
- (j) **(obligations)**: a reference to an obligation includes a warranty and a reference to a failure to observe or perform an obligation includes a breach of warranty;
- (k) **(singular)**: words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (l) **(headings)**: headings are for convenience only and do not affect the interpretation of this Agreement;
- (m) **(clauses)**: a reference to:
  - (i) a clause, schedule or attachment is a reference to a clause, schedule or attachment of this Agreement; and

- (ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;
- (n) **(inclusive)**: a reference to this Agreement includes all schedules and attachments to this Agreement, including the Schedule;
- (o) **(defined meaning)**: where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (p) **(\$)**: a reference to "\$" is to Australian currency and any amounts in this Agreement are exclusive of GST, unless otherwise specified;
- (q) **(time)**: a reference to time is a reference to Western Australian Standard Time;
- (r) **(language)**: all information and documentation prepared or delivered by the parties under this Agreement will be in English;
- (s) **(form)**: writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions and communication by email;
- (t) **(construction)**: no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Agreement or any part;
- (u) **(information)**: any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, designs, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;
- (v) **(policies)**: any reference to a State of Western Australia policy or scheme is deemed to include a reference to such policy or scheme as amended, varied or replaced by the State from time to time;
- (w) **(thing)**: a reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them but this is not to be taken as implying that performance of part of an obligation is the performance of the whole;
- (x) **(consortium)**: if a party consists of a consortium of two or more persons whether by way of partnership or joint venture or otherwise, then:
  - (i) an obligation imposed on a party under this Agreement binds each person who comprises that party jointly and severally;
  - (ii) each person who comprises a party agrees to do all things necessary to enable the obligations imposed on that party

under this Agreement to be undertaken; and

- (iii) the act of one person who comprises a party binds the other person or persons who comprise that party;
- (y) **(jointly and severally)**: an agreement, representation or warranty on the part of or in favour of two or more persons binds, or is for the benefit of, them jointly and severally;
- (z) **(electronic address)**: a reference to a document published at an electronic address is to the document as published at that electronic address on the date of execution of this Agreement;
- (aa) **(liability)** a reference to a liability includes all obligations to pay money and all other losses, costs and expenses of any kind;
- (bb) **(contractor)** a reference to a contractor is to a contractor or consultant at any tier;
- (cc) **(year)** a reference to a year is to a calendar year;
- (dd) **(month)** a reference to a month is to a calendar month; and
- (ee) **(reference to parties)** reference to the Local Government using the Facilities means and includes use of the Facilities by the Local Government or any of the Local Government's Visitors.

### 1.3 Time

- (a) **(Business Day)**: Where the day on or by which an act is required to be done under this Agreement is not a Business Day, the time for doing that act will be taken to be the next Business Day.
- (b) **(day of event)**: Where time is to be reckoned by reference to a day or event, that day or the day of the event is excluded.
- (c) **(month)**: Where time is to be counted in months and the period commences on the 29th, 30th or 31st day of a month and the month at the end of the period does not have a 29th, 30th or 31st day (as applicable), then the period will end on the last day of that month (for example, a period of 2 months which begins on 31 July will end on 30 September; and a period of 2 months which begins 30 July will end on 30 September).

### 1.4 State's interests and Statutory Functions

- (a) **(State's rights)**: Any right of the Minister may be exercised for the benefit of any other part of the State and any reference in this Agreement to the Loss of, or costs incurred by, the Minister includes direct Losses of, and direct costs incurred by, any other part of the State.
- (b) **(State's interests)**: Except where this Agreement expressly provides otherwise, to the extent permitted by Law nothing in this Agreement

gives rise to any duty on the part of the Minister to consider interests other than the Minister's interests (including the public interest) when exercising any of its rights or performing any of its obligations.

- (c) **(fetter)**: Nothing contained in this Agreement or contemplated by this Agreement has the effect of constraining the Minister or any other part of the State or placing any fetter on the Minister's or any other part of the State's statutory rights, duties, powers or functions including any statutory rights, duties, powers or functions conferred or imposed upon the Minister for Education under the *School Education Act 1999* (WA).
- (d) **(Minister's powers, functions and duties)**: Notwithstanding anything contained or implied in this Agreement to the contrary, the parties agree that the Minister is not obliged to exercise a power, function or duty which is granted to or within the responsibility of any Government Agency, or to influence, over-ride or direct any Government Agency in the proper exercise and performance of its legal duties and functions.
- (e) **(no Claim)**: The Local Government is not entitled to make any Claim against the Minister for any Loss relating to any exercise or failure by the Minister to exercise its statutory rights or duties.

## 1.5 Standards

- (a) (provisions **limiting or excluding liability**): Any provision of this Agreement which seeks either expressly or by implication to limit or exclude any liability of a party is to be construed as doing so only to the extent permitted by Law.
- (b) **(standards)**: Unless agreed or notified in writing by the Minister, a reference to Standards Australia standards, overseas standards or other similar reference documents in this Agreement is a reference to the edition last published prior to the preparation of the relevant documentation.

## 2. Grant of Licence

2.1 The Minister hereby grants to the Local Government a licence to use the Facilities for the Permitted Use during the Local Government's Authorised Times of Use for the Term or until such time as the Minister divests itself or is divested of its rights over or in the Land (whichever occurs sooner). Nothing expressed or implied in this Agreement shall confer a right of exclusive possession of the Facilities to the Local Government and the Minister may at any time and at all times and from time to time exercise all of its rights in respect of the Facilities except where such rights shall:

- (a) prevent the operation of the Licence granted in respect of the Facilities and rights with respect to the Facilities granted pursuant to this Agreement; or
- (b) be inconsistent with the express provisions of this Agreement.

- 2.2 The Local Government acknowledges and agrees that in the case of an emergency (as reasonably determined by the Minister) the Local Government's rights under this Agreement may be temporarily suspended during that emergency.

### **3. Local Government Responsibilities**

The Local Government must at its own cost:

- (a) manage the Facilities during the Local Government's Authorised Times of Use;
- (b) provide adequate and qualified supervision during the Local Government's Authorised Times of Use;
- (c) ensure that all plant and equipment in or comprising the Facilities including without limitation the pool pumps and chlorination plant are operating satisfactorily at all times and in the event that any such plant or equipment fails to operate satisfactorily shall immediately make the necessary arrangements for repairs and replacements to be effected at the earliest opportunity;
- (d) implement a winter maintenance and cleaning program including without limitation the servicing of pool pumps filters chlorination equipment and all other equipment in or comprising the Facilities;
- (e) shall (subject to clause 31.1) ensure that the lawns, trees and shrubs planted or growing on the Facilities are kept in a healthy neat and tidy condition and to that end the Local Government shall ensure that the same are properly cut, watered and maintained; and
- (f) do all things and perform all acts that are reasonable to ensure the physical safety of all persons situated on or near the Facilities during the Local Government's Authorised Times of Use;

### **4. Conditions of Use**

The Local Government agrees:

- (a) during the Local Government's Authorised Times of Use, to use the Facilities:
  - (i) in accordance with the Regulations and all other Laws;
  - (ii) only as specified in this Agreement.
- (b) to administer all chemicals required to maintain the water quality forming part of the Facilities to a safe level for swimming in accordance with the Regulations;
- (c) to remove all rubbish and clean the Facilities daily at the end of each period of the Local Government's Authorised Times of Use including

but not limited to the Local Government leaving the Facilities and all routes of access and exit used by the Local Government in a clean and tidy condition;

- (d) to arrange regular water testing of the Facilities during the Local Government's Authorised Times of Use in accordance with the Regulations;
- (e) not to interfere in any way with the operation of the School, with records, materials or equipment of the School, with its staff or students and in particular not to use any machinery or equipment other than the equipment associated with the operations of the Facilities.
- (f) not to remove any part of the Facilities or any other property of the Minister from the Facilities;
- (g) to meet the costs of call out to security alarms at the Facilities and replacement of locks and keys for the Facilities in the event of loss or theft with the exception of any costs arising from the negligence of the Minister;
- (h) to carry out any minor maintenance or repairs within a time frame and to a standard, which is acceptable to the Minister, acting reasonably;
- (i) other than minor maintenance or repairs undertaken pursuant to paragraph (f), not to make or permit any alteration to the Facilities, including the attaching of nails, screws or other fastenings to walls or fittings forming part of the Facilities or any other property of the Minister without the prior written consent of the Minister (which consent shall not be unreasonably withheld but may be given subject to conditions);
- (j) to comply with any reasonable request by the Principal or the Minister consistent with the terms of this Agreement and with all Laws and Department policy concerning the use of the Facilities including, without limitation, regulations which prohibit smoking on the Facilities and Laws relating to the sale or consumption of alcohol;
- (k) not to permit any alcohol to be brought upon or remain on the Facilities or the Land;
- (l) to produce on request evidence of the Local Government's ability and qualifications to supervise activities, on the Facilities, which may result in risk of injury and death;
- (m) during the Local Government's Authorised Times of Use to limit the maximum number of swimmers and non-swimmers allowed in the Facilities at any one time to 107;
- (n) during the Local Government's Authorised Times of Use to limit the consumption of food and drinks to approved locations within the Facilities and maintain and apply appropriate rules about clothing and footwear for persons using the Facilities;



- (o) during the Local Government's Authorised Times of Use to ensure that no illegal activity is carried out upon the Facilities by persons on the Facilities;
- (p) to ensure appropriate supervision of and accept responsibility for the behaviour of persons using the Facilities;
- (q) to prepare a Facilities condition report when required to do so by the Minister for approval by the Principal;
- (r) not to duplicate any keys to the Facilities and not to pass any keys for the Facilities to third parties;
- (s) to have in written form (and to provide a copy to the School) a set of procedures including evacuation procedures to be carried out in case of emergency and to practice and be able to implement those procedures;
- (t) to advise the Principal of a person to contact in case of emergency;
- (u) to repair or make full restitution to the Minister's satisfaction for any damage to the Facilities occurring during the Local Government's Authorised Times of Use;
- (v) to notify the Principal, or, in his absence or unavailability, to the Principal's authorised representative, by the most immediate means before the commencement of a School Day or the next School Day (whichever is the earlier) and then in writing when:
  - (i) the Facilities are found to be unsafe, and to immediately cease use of the same; or
  - (ii) the Facilities are not working or are damaged, broken or missing.
- (w) to notify the Principal immediately in writing of any injury to any person during use of the Facilities and to provide such statements from witnesses and the injured person as the Principal may require;
- (x) to at all times duly and punctually comply with observe and carry out and conform with the provisions of any Statute now or hereafter in force including the *Health (Aquatic Facilities) Regulations 2007* and the Code of Practice for the Design, Construction, Operation, Management & Maintenance of Aquatic Facilities and all requirements and orders of any Government Agency which affect the Facilities or the use thereof or which impose any duty or obligation upon the owner or occupier thereof;
- (y) to at all times ensure that the Facilities comply with the provisions of any Statute now or hereafter in force including the *Health (Aquatic Facilities) Regulations 2007* and the *Code of Practice for the Design, Construction, Operation, Management & Maintenance of Aquatic Facilities 2020* and to obtain and maintain any required Authorisations for the Facilities;

- (z) not without the prior written permission of the Minister to store or use, or permit or suffer to be stored or used any chemical, inflammable gas or liquid, or other dangerous substance, in or upon the Facilities except those required for use in or maintenance of the Facilities and then only in accordance with ordinary and reasonable trade or professional practices;
- (aa) if required by the Minister to institute a security key system for access to the Facilities which has first been approved by the Minister; and
- (bb) to manage bookings for use of the Facilities during the Local Government's Authorised Times of Use.

## **5. Entry by Local Government's Visitors**

- 5.1 Where any Local Government's Visitor (excluding any person who only goes on the Facilities once) wishes to enter the Facilities on a School Day during School Hours those Local Government's Visitors will be required to consent to a Nationally Coordinated Criminal History Check being conducted by the Department's Screening Unit, and be issued a Screening Clearance Number, before entering the Facilities.
- 5.2 A Local Government's Visitor cannot enter the Facilities until screening process is finalised and a Screening Clearance Number has been issued to that person. That person must enter the Facilities within six (6) months after the date the Screening Clearance Number has been issued.
- 5.3 The Screening Clearance Number is valid for three (3) years from the date of issue unless there is a break in attending the Facilities of longer than 6 months. Any person who has a break in entering the Facilities of more than six (6) months has to go through the process set out in clause 5.2 again prior to entering the Facilities.
- 5.4 The Nationally Coordinated Criminal History Check can be arranged by contacting the person named in item 11 of the Schedule.

## **6. Minister to Leave Facilities' clean and tidy**

On expiration of a period of use of the Facilities by the Minister or any of the Minister's employees agents or invitees (whichever the case may be) the Minister shall leave the Facilities in a clean sanitary and tidy condition free from litter waste and rubbish and ready for immediate use by the Local Government and other persons duly permitted to use the Facilities.

## **7. Car Park**

During the Local Government's Authorised Times of Use, the Local Government and the Local Government's Visitors shall not:

- (a) use the Car Park for any purpose other than parking Motor Vehicles owned or used by the Local Government or the Local Government's Visitors;

- (b) wash or clean their Motor Vehicle within the Car Park nor permit any mechanical work to be carried out, except in cases of emergency;
- (c) permit or allow any Motor Vehicle to tow or push any other motor vehicle on the Car Park;
- (d) permit any breakdown vehicle to enter the Car Park without the prior consent of the Minister;
- (e) park their Motor Vehicle outside the limits of the car bays as defined by lines painted on the surface of the Car Park or by signs erected;
- (f) interfere with or obstruct the movements of any other Motor Vehicle in the Car Park or the access ways leading to the Car Park;
- (g) store nor keep any petrol liquid petroleum gas or other inflammable fuel except that which is contained in petrol or other fuel feed tanks or lines forming a permanent part of a Motor Vehicle;
- (h) leave any Motor Vehicle with its engine running upon the Car Park;
- (i) permit nor place refuse or rubbish in the Car Park; or
- (j) allow oil grease or petrol from any Motor Vehicle to spill or leak onto any part of the Car Park, and if there is any spillage or leakage of oil grease or petrol onto any part of the Car Park occurring during the Local Government's Authorised Times of Use, the Local Government shall promptly at its expense clean up make good or otherwise eliminate the spillage or leakage of oil grease or petrol.

## **8. Alterations and additions**

The Local Government may not make any alteration or addition to the Facilities unless the Minister consents and must:

- (a) obtain any Authorisations required for the work;
- (b) comply with those Authorisations and any other requirements of any Government Agency and all Laws and standards which apply to the work;
- (c) before carrying out any building work, obtain the Minister's approval to the plans and specifications for the work;
- (d) pay any costs incurred by the Minister to provide its approval including architects and engineers fees; and
- (e) carry out the work in a safe and proper manner and strictly in accordance with the plans and specifications for the work approved by the Minister.

**9. Maintenance**

- 9.1 The Local Government will arrange for any repairs or maintenance to the Facilities that cost less than \$20,000 (inclusive of GST).
- 9.2 The Minister will arrange for any repairs or maintenance to the Facilities that cost \$20,000 (inclusive of GST) or more.

**10. Not to obstruct or cause nuisance**

The Local Government shall not do or leave undone or allow or suffer to be done or left undone any act matter or thing whereby a nuisance or anything in the nature of or which may be deemed to be a nuisance by any Government Agency or within the meaning of any Law (State or Commonwealth) now or hereafter in force may exist arise or continue upon or in connection with the Facilities or any business carried on upon the same or the use thereof by the Local Government during the Local Government's Authorised Times of Use and shall forthwith abate any such nuisance or alleged nuisance and shall carry out and comply with all the provisions of every such Law and of every requisition and order of any Government Agency in reference thereto.

**11. Comply with Laws**

The Local Government shall and shall ensure that the Local Government's Visitors shall at all times duly and punctually comply with observe and carry out and conform with the provisions of any Law now or hereafter in force including the Regulations and the Code of Practice for the Design, Construction, Operation, Management & Maintenance of Aquatic Facilities) and all requirements and orders of any Government Agency which effect the Facilities or the use thereof.

**12. Report Damage etc**

The Local Government shall promptly report any theft of, damage to, deficiency in, destruction of, or other fault in relation to the Facilities to the Minister upon the happening of the same and do all things and take all steps that are reasonable so as to minimise and mitigate any loss caused or occasioned thereby.

**13. Local Government Responsible**

The Local Government will be responsible for any Loss incurred or suffered by the Minister or any officer, employee, agent, contractor, licensee, student, invitee or representative of the Minister during the Minister's Authorised Times of Use of the Facilities as set out in this Agreement to the extent caused or contributed to by the Local Government not carrying out any necessary repairs to or maintenance of the Facilities or otherwise not complying with this Agreement.

**14. Pool Operations Officer**

The Local Government, at its own cost and expense, shall provide a Pool Operations Officer and such numbers of additional staff as are necessary to

ensure the proper performance of the Local Government's obligations pursuant to this Agreement.

**15. Charge Fee**

The Local Government shall be entitled to charge members of the public fees to use the Facilities during the Local Government's Authorised Times of Use and all monies so paid to the Local Government shall belong to it absolutely and without abatement.

**16. Signs**

- (a) The Local Government may at its cost install any signage on the Facilities or name any building or improvement on the Facilities with the approval of the Minister.
- (b) The Minister has the right to reject any name or signage at its sole discretion if the Minister believes that it is any way offensive or contrary to the public interest or which may bring the Minister or the State Government into disrepute.
- (c) The Local Government shall be responsible for obtaining any required Authorisations to install the name or signage.
- (d) Subject to clauses 16(a) and (b), the location and extent of the signage on the Facilities is to be at the Local Government's sole discretion.
- (e) The Local Government must maintain any names or signs in good repair, order and condition during the Term and promptly remove them on termination of the Term and make good any damage caused by their removal.

**17. Assignment**

- 17.1 The Local Government must not without the prior written consent of the Minister (which consent may be arbitrarily withheld) sublicence the Facilities or any part thereof.
- 17.2 Subject to clause 17.1, the Local Government must not assign, transfer, encumber or otherwise dispose of the Facilities or any part thereof or the rights, liberties or authorities granted under this Agreement

**18. Use by School**

- 18.1 Students and teachers of the School shall be permitted to use the Facilities for the purpose of attending and/or participating in sporting activities organised by or on behalf of the Minister during the Local Government's Authorised Times

of Use provided that the necessary prior arrangements for such use by the School have first been made between the Parties.

- 18.2 The Local Government may charge a fee to any student or teacher of the School in respect of the use of the Facilities by that student or teacher for the purpose of attending and/or participating in sporting activities organised by or on behalf of the Minister where those activities fall within the Local Government's Authorised Times of Use.

## **19. Booking of Facilities**

The Minister is not responsible for the supervision and management of bookings for groups using the Facilities during the Local Government's Authorised Times of Use.

## **20. Option to Renew**

This Agreement shall be extended for each Further Term (on the same terms and conditions as this Agreement with the exception of this clause 20 in respect of the last Further Term) if:

- (a) prior to the expiration of the Term this Agreement has not been terminated; and
- (b) both Parties desire to extend this Agreement for the next Further Term; and
- (c) the Local Government gives to the Minister written notice of its desire to extend the Agreement for the next Further Term such notice being received by the Minister not more than 6 or less than 3 months prior to the expiration of the Term; and
- (d) during the Term there had been no breach of any term of this Agreement by the Local Government which was not rectified strictly in accordance with a notice of breach being given by the Minister.

## **21. Request information**

- 21.1 If a Party requests information, relating to any aspect of this Agreement, from the other Party, the second mentioned Party will use all reasonable endeavours:

- (a) promptly to provide that information; and
- (b) to ensure that any information so provided is accurate, complete, up-to-date, and sufficiently detailed, and in no way misleading or deceptive.

- 21.2 Each Party will provide the other with details of that Party's expenditure relating to the Facilities on an annual basis within 6 months after each anniversary of the Commencement Date.

## **22. Debts**

If under this Agreement a Party is claiming monies owing as a debt from the other Party, the claiming Party will provide the other Party with an invoice and true copies of all documentation in support of the debt being claimed.

## **23. Termination**

### **23.1 If the Local Government:**

- (a) assigns this Agreement or grants a Security Interest in respect of the Facilities other than with the prior consent of the Minister;
- (b) abandons the Facilities; or
- (c) fails to perform its repair or maintenance obligations under this Agreement and which, in the Minister's reasonable opinion, has the potential to create a material safety issue; or
- (d) fails to obtain or maintain the insurances required under this Agreement; or
- (e) does not pay any moneys payable under this Agreement within 28 days of a valid tax invoice being provided; or
- (f) permits the Facilities to be used for any purpose other than the Permitted Use; or
- (g) commits any other breach of this Agreement,

and after having been served with a written notice:

- (h) specifying the breach or failure; and
  - (i) requiring that breach or failure to be rectified within a reasonable period specified in the notice (being not less than 28 Business Days),
- fails or refuses to so rectify that breach or failure within that period, then the Minister shall be entitled to terminate this Agreement and such termination shall take effect immediately upon the Local Government being served with notice of termination.

- 23.2 The Minister may also terminate this Agreement if the Local Government persistently breaches this Agreement.
- 23.3 Each Party's rights to terminate this Agreement under the common law are hereby preserved.
- 23.4 On termination of this Agreement the Local Government agrees to pay to the Minister within 28 days after demand, 50% of the cost incurred by the Minister to Decommission the whole or any part of the Facilities, if the Minister chooses to Decommission the whole or any part of the Facilities following such termination.

## **24. Notices**

- 24.1 Notices that may or must be sent under or in connection with this Agreement shall be in writing, signed by the Party or representative of the Party giving notice, and may be delivered by pre-paid post or by hand to the other Party at the relevant address or sent by email to the address of the recipient set out in item 9 of the Schedule. Any such email must be sent with automatic receipt notification.
- 24.2 Notices shall be deemed to be received:
  - (a) (in the case of delivery by pre-paid post) six Business Days after deposit in the mail;
  - (b) immediately upon delivery by hand; or
  - (c) in the case of email, at the time in the place to which it is sent equivalent to the time shown on the automatic receipt notification received by the Party sending the email from the recipient.
- 24.3 With respect to a notice sent by email, the Parties agree that the following applies:
  - (a) any text in the body of the email or the subject line will not form part of the notice; and
  - (b) an attachment to the email will only form part of the notice if it is in .pdf format or such other format as may be agreed between the Parties from time to time,

and with respect to any notice sent by email under or in connection with this Agreement, each Party must ensure that:

- (c) its firewall and/or email server (as applicable):
  - (i) allows messages of up to 6MB to be received;
  - (ii) automatically sends a receipt notification to the sender upon receipt of a message; and



- (d) its systems automatically send a notification message to each of the sender and the recipient when a message is received by the recipient's domain that cannot or will not be delivered to the recipient.

**25. School Education Act 1999 remains unaffected**

Nothing in this Agreement shall affect or be deemed to affect any right power authority or duty conferred or imposed upon the Minister under any Law including the *School Education Act 1999*.

**26. Damage or destruction**

- 26.1 If the Facilities are at any time damaged by fire storm tempest or other insurable event or accident so as to render the Facilities or any part thereof unfit for use, the Minister shall not be liable for any inconvenience or damage suffered by the Local Government or any of the Local Government's Visitors and the Minister is under no obligation to cause the Facilities to be reinstated.
- 26.2 The Parties shall, in the event of major damage to the Facilities caused by fire impact earthquake flood or any other form of natural disaster or the malfunction of or damage to plant or equipment or any other occurrence or accident which may affect the normal operation of the Facilities or in any way would jeopardise the safety of persons using or in the vicinity of the Facilities, cooperate to effect closure of the Facilities.

**27. Local Government to Promote Community Awareness**

The Local Government shall, at its own cost and expense, be responsible for advertising the Facilities and otherwise promoting community awareness of and interest in the same from time to time.

**28. Insurance**

- 28.1 Each Party must at its own expense during the Term (and each Further Term if applicable) effect, maintain and keep current the following insurances with its self insurance fund or an insurer authorised by the Australian Prudential Regulation Authority to conduct insurance business in Australia to the reasonable satisfaction of the other Party:
  - (a) public liability insurance in an amount of not less than TWENTY MILLION DOLLARS (\$20,000,000.00) in respect of any one occurrence, unlimited in the aggregate or such amount as shall be determined at the reasonable discretion of the other Party from time to time to reflect prudent commercial practices. The Local Government must ensure that its public liability insurance includes a cross liability endorsement and notes the Minister's interests;
  - (b) property insurance covering loss of or damage to any equipment that a Party provides for use on the Facilities for its full replacement value; and
  - (c) workers compensation insurance in accordance with the provisions

of the *Workers' Compensation and Injury Management Act 1981* including cover for common law liability for an amount of not less than FIFTY MILLION DOLLARS (\$50,000,000.00) for any one event in respect of that Party's workers.

- 28.2 The Local Government must notify the Minister:
- (a) before the policy is allowed to be cancelled, or lapsed, materially altered or voided; and
  - (b) of any claims which may materially erode the Licensee's cover under the policy
- 28.3 As and when requested either Party must give to the other Party sufficient evidence of the existence of the insurances set out in clause 28.1 or provide certificates of currency in respect of those insurances.
- 28.4 The Minister will effect and maintain insurance for the full replacement value in respect of all buildings and improvements erected on the Facilities.

## **29. Indemnity**

- 29.1 Each Party shall indemnify and keep indemnified the other Party (including its officers, employees, agents, contractors, licensees, invitees or representatives) from and against all Loss incurred or suffered by or brought against any of those indemnified to the extent that the same was caused or contributed to by any tortious or other wrongful act or omission (including breach of a contractual term, condition or warranty) by the first mentioned Party or any of its officers, employees, agents, contractors, licensees, invitees or representatives.
- 29.2 In clause 29.1 Loss includes Losses or Claims arising from or in connection with:
- (a) any aspect of this Agreement (including the Licence and the Facilities); or
  - (b) any damage to the Facilities or other property of any person whatsoever; or
  - (c) the death of, or injury or illness to, any person whatsoever.
- 29.3 For the purposes of clause 29.1, neither the Local Government nor any of the Local Government's Visitors is, or shall be considered or deemed to be, a licensee or invitee of the Minister.
- 29.4 The indemnity contained in this clause 29 is a continuing obligation and remains in force and effect notwithstanding the expiry of the Term or the early termination of this Agreement irrespective of how it is terminated or which Party terminated it.

**30. Costs**

- 30.1 Each Party shall pay its own legal costs in connection with the negotiation and preparation of this Agreement.
- 30.2 The Local Government shall pay on demand 100% of all costs charges and expenses which the Minister incurs in consequence of or in connection with any default by the Local Government in performing or observing any covenants conditions or stipulations herein contained or implied and on the part of the Local Government to be performed or observed except to the extent that the same was caused or contributed to by any tortious or other unlawful act or omission (including breach of a contractual term, condition or warranty) by the Minister.

**31. Cost Sharing Arrangement**

- 31.1 The Local Government and the Minister shall contribute to the Operating Costs in accordance with the Cost Sharing Arrangement.
- 31.2 The Minister shall reimburse the Local Government for its portion of the Operating Costs that the Local Government pays for within 28 days of having received an invoice from the Local Government. Invoices shall be provided by the Local Government at six (6) monthly intervals.
- 31.3 The Local Government shall reimburse the Minister for its portion of the Operating Costs that the Minister pays for within 28 days of having received an invoice from the Minister. Invoices shall be provided by the Minister at six (6) monthly intervals
- 31.4 The Minister is not required to contribute to the costs of the Local Government's staff or depreciation or any other thing that is not specified in the Cost Sharing Arrangement.
- 31.5 The Cost Sharing Arrangement shall be subject to a review by the Local Government and the Minister upon the expiry of a period of 1 year from the Commencement Date and thereafter every two years. During such review the Parties agree to meet together and negotiate in good faith.
- 31.6 If, after a review between the Local Government and the Minister pursuant to clause 31.5, no agreement has been reached as to their respective future contributions to the Operating Costs, future contributions shall remain as per Item 9 of the Schedule.

**32. Representatives Group**

- 32.1 The Parties shall appoint a Representatives Group. Membership of the Representatives Group shall consist of up to 8 members (or such other number

as the Parties may from time to time agree) who, subject to this Agreement and any direction from the Parties, shall exercise the purpose set out in Annexure A.

32.2 Membership of the Representatives Group shall be comprised the following members:

- Local Government appointees;
- Minister appointees; and
- community representatives

32.3 The presiding member of the Representatives Group shall be selected by the members of the Representatives Group from the members of the Representatives Group.

### **33. GST**

33.1 The amount of all Primary Payments specified in this Agreement are exclusive of GST except where stated otherwise.

33.2 If GST is payable by a supplier (**Supplier**) in respect of a Primary Payment or any part in connection with a Taxable Supply provided under this Agreement:

- (a) the Primary Payment is increased by an amount equal to the applicable GST; and
- (b) the recipient (**Recipient**) must pay the amount of the increase in the same manner and on the same date as the Recipient is required to pay the Primary Payment.

33.3 If the Primary Payment consists (wholly or partly) of the recovery by the Supplier of all or a portion of the Supplier's costs, the Primary Payment is to be reduced by the amount (or corresponding proportion) of the Input Tax Credits available to the Supplier in respect of these costs and then increased by any applicable GST payable under clause 33.2.

33.4 If a Primary Payment is to be increased to account for GST under clause 33.2 the Supplier must, at least one month before the date on which the increased Primary Payment is to be paid, issue a Tax Invoice to the Recipient.

### **34. Approvals**

34.1 If the approval of the Western Australian Planning Commission to this Agreement is required pursuant to section 136 of the *Planning and Development Act 2005*, then this Agreement is subject to and conditional upon that approval being obtained by the Local Government within 6 months after execution of this Agreement by the Parties.

34.2 If the approval of the Minister for Lands to this Agreement is required pursuant to section 18 of the *Land Administration Act 1997*, then this Agreement is subject to and conditional upon that approval being obtained by the Local Government

prior to the Commencement Date and a copy of that approval will be attached to this Agreement.

### **35. Dispute Resolution**

- 35.1 The Parties agree that unless and until a Party has complied with the formal requirements of this clause 35, a Party may not commence any court proceedings in respect of any Dispute except if the Party seeks urgent interlocutory injunctive or urgent interlocutory declaratory relief.
- 35.2 (a) If a Dispute arises then a Party may, by notice (**Dispute Notice**) to the other Party, refer that Dispute for resolution to the Principal or an officer from the Capital Works and Maintenance division of the Department and a nominated senior representative of the Local Government.
- (b) A Dispute Notice under this clause 35.2 must:
- (i) state that it is a Dispute Notice under this clause 35; and
  - (ii) include or be accompanied by detailed particulars of the Dispute.
- (c) If a Dispute is referred to the persons set out in clause 35.2(a), then these persons must meet within 10 Business Days after the date on which the Dispute Notice is received (or such later date as the Parties may agree) and endeavour in good faith to resolve (in whole or in part) and negotiate a settlement of the Dispute.
- (d) A Party in compliance with this clause 35.2 may (unless the Parties agree to submit the Dispute to mediation under clause 35.3) terminate the Dispute resolution process by notice to the other Party at any time after 30 Business Days following reference of the Dispute to the persons specified in paragraph (a) above, and following such termination either party may commence court proceedings in relation to the Dispute in accordance with clause 38.8 of this Agreement.
- 35.3 (a) The Parties may, if mutually agreed following the meeting required by clause 35.2(c), submit the Dispute to mediation in accordance with the Mediation Rules of the Institute of Arbitrators and Mediators Australia as applicable at the date of the Dispute.
- (b) The mediator will be a dispute resolution practitioner with legal qualifications and at least 10 years' experience in the legal profession, as agreed between the Dispute parties or, failing agreement, a mediator satisfying the requirements of this clause 35.3(b) will be appointed by the President of the Institute of Arbitrators and Mediators Australia.
- (c) Any mediation meetings and proceedings under this clause 35.3 must be held in Perth, Western Australia.

- (f) The costs of any mediation meetings and proceedings under this clause 35.3 will be shared equally between the Parties.

- 35.4 If the Dispute is submitted to mediation and 20 Business Days (or any other period agreed to in writing between the Parties) after the appointment of a mediator under clause 35.3 the Dispute remains unresolved (whether in whole or in part), either Party may commence court proceedings in relation to the Dispute in accordance with clause 38.8 of this Agreement.
- 35.5 The Parties must continue to perform their obligations under this Agreement despite the existence of any Dispute between the Parties. The Parties may exercise any rights under this Agreement, including any rights under clause 23, notwithstanding the existence of any Dispute between the Parties.

### **36. Waiver**

- 36.1 Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any Law or under this Agreement by a Party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any Law or under this Agreement.
- 36.2 A waiver given by a Party under this Agreement is only effective and binding on that Party if it is given or confirmed in writing by that Party.
- 36.3 No course of dealings between the Parties removes the requirement under clause 36.2 that a waiver must be in writing to be effective and binding upon the Parties.
- 36.4 No waiver of a breach of a term of this Agreement operates as a waiver of any other breach of that term or of a breach of any other term of this Agreement.

### **37. Variation**

Any variation of any term of this Agreement must be in writing and signed by the Parties.

### **38. Miscellaneous**

- 38.1 Whenever the consent of the Minister is required under this Agreement:
  - (a) that consent may be given or withheld by the Minister in the Minister's absolute discretion and may be given subject to such conditions as the Minister may determine. Each consent must be in writing and be given prior to the happening of the event for which the consent is required;
  - (b) the Minister is not required to provide a reason or reasons for giving or refusing its consent; and
  - (c) the Local Government agrees that any failure by it to comply with or perform a condition imposed under clause 38.1(a) will constitute a breach of this Agreement by the Local Government.

- 38.2 The Parties must do all things and execute all further documents necessary to give full effect to this Agreement.
- 38.3 Nothing in this Agreement may be construed to make the Local Government a partner, agent, employee or joint venturer of the Minister.
- 38.4 The Local Government must not represent that the Local Government or any of its employees, agents, contractors, licensees or representatives are the employees, agents, partners or joint venturers of the Minister.
- 38.5 The rights, powers and remedies in this Agreement are in addition to, and not exclusive of, the rights, powers and remedies existing at law or in equity.
- 38.6 This Agreement states all the express terms of the agreement between the Parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.
- 38.7 the Parties agree that Part IF of the *Civil Liability Act 2002* (WA) is excluded and does not apply to the Parties' liabilities under this Agreement.

38.8 (a)

This Agreement is governed by the Law in force in Western Australia.

- (b) Each Party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising in connection with this Agreement. Each Party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.
- 38.9 Each Party represents and warrants to the other that it has full power to enter into and perform its obligations under this Agreement and that when executed this Agreement will constitute legal, valid, and binding obligations under its terms.
- 38.10 The Local Government must immediately notify the Minister in writing if it forms the opinion that it will be unable to, or be unlikely to be able to, satisfy any of its obligations in relation to this Agreement from the financial resources available, or likely to be available, to it, at the time the obligation is due.
- 38.11 The provisions of the Schedule are terms of this Agreement and therefore are enforceable in accordance with their terms.

**ANNEXURE A**  
**ADVISORY GROUP TERMS OF REFERENCE**

**JERRAMUNGUP POOL REPRESENTATIVES GROUP**

**TERMS OF REFERENCE**

**1. NAME**

The name of the group is the Jerramungup Pool Representatives Group.

**2. DEFINITIONS**

“Group” means the Jerramungup Pool Representatives Group.

“Shire” means the Shire of Jerramungup

**3. PURPOSE**

3.1 To provide advice to the Shire on the management of the Jerramungup Pool.

3.2 To provide a venue for discussion between the Jerramungup District High School and the Shire with regard to the management of Jerramungup Pool.

3.3 To ensure the views of the community are reflected in the operation and management of the Jerramungup Pool.

**4. MEMBERSHIP**

The membership shall ideally consist of the following persons: –

- Department of Education staff member/s representing Jerramungup District High School
- Officer/s from Shire of Jerramungup
- Community representative/s
- 1 Shire of Jerramungup Councillor.

**5. MANAGEMENT OF BUSINESS**

5.1 The Group shall elect its own Presiding Member and determine its own procedures.

5.2 The Group shall meet bi-annually, or more frequently as required.

5.3 The Group may invite other persons to attend any meeting but such persons shall not be entitled to vote on any decision arising out of that meeting.

5.4 The Shire will provide administrative and executive support to facilitate the effective functioning of the Group.



- 5.5 A record of proceedings shall be prepared for each meeting and distributed to all group members within 10 working days after each meeting. The document shall be filed in the Shire's record management system.

6. NO EXPENDITURE

The Group cannot authorise any expenditure on behalf of the Minister for Education or the Shire of Jerramungup.

7. AMENDMENTS

The Group may amend these Terms of Reference from time to time (except for clause 6).



**Table 1 - Classification of Aquatic Facilities**

Patron Access Limitations	Activity	Technical Operator Requirements	Patron Supervision & Emergency Care Personnel	Classification
Public access with limited restrictions e.g. child <10 yrs accompanied by a person ≥16 yrs	Non-structured  <i>Typical examples;</i> leisure/free-play & lap-swimming	On-site at all times.	All patrons directly supervised.  Emergency care personnel on-site at all times.	<b>Group 1</b> <i>Facilities typically available to the general public for payment of an entry fee. Examples include; aquatic centres, waterslides &amp; water-parks.</i>
Restricted to discrete users and user groups	Structured  Qualified activity leader present  <i>Typical examples;</i> infant aquatics, learn-to-swim, swimming and lifesaving classes & aqua-exercise (See Sect 7.12, Table 9)	Not on-site at all times.	All patrons directly supervised.  Emergency care personnel on-site at all times.	<b>Group 2</b> <i>Facilities generally include; schools, learn-to-swim centres, learn-to-dive pools, nursing homes, hospitals &amp; hydrotherapy/physiotherapy use pools.</i>
Restricted to discrete users and user groups  <i>Typical examples;</i> club members, commercial guests and residents and their guests	Non-structured  No qualified activity leader present  <i>Typical examples;</i> leisure/free-play & lap-swimming	Not on-site at all times.	No direct supervision.  Emergency care personnel able to respond within a reasonable period of time (See Sect 6.2.5)	<b>Group 3</b> <i>Facilities generally include; discrete user access of group 1, 2, or 4 aquatic facilities (AF) by community/swimming groups, or; commercial developments for guests such as hotels, motels, resorts, serviced apartments, caravan parks, health clubs, mine sites, recreational camp-sites, lodging houses, staff/student accommodation complexes &amp; places restricted to adult only access.</i>
Restricted to owner/occupier residents and guests	Non-structured  No qualified activity leader present.  <i>Typical examples;</i> leisure / free-play & lap-swimming	Not on-site at all times.	No direct supervision  No emergency care personnel on-site.	<b>Group 4</b> <i>Facilities include; small temporary accommodation developments such as bed and breakfast and farm-stay facilities, and permanent/ semi-permanent residential developments with 30 or more dwelling units/apartments and retirement/lifestyle villages that do not allow non-residential based club/member access to AF.</i>

EXECUTED by the Parties.

SIGNED for and on behalf of the )  
**MINISTER FOR EDUCATION** by )  
**JAY TIMOTHY PECKITT** )  
Deputy Director General of the )  
Department of Education, )  
the officer delegated this authority )  
pursuant to section 230 of the )  
of the *School Education Act 1999* (WA) )  
in the presence of )

\_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness Full Name (Please print)

\_\_\_\_\_  
Witness address (Please print)

\_\_\_\_\_  
Witness occupation (Please print)

THE COMMON SEAL of the )  
SHIRE OF JERRAMUNGUP was )  
hereunto affixed in the presence of )

\_\_\_\_\_  
Shire President

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Print full name

\_\_\_\_\_  
Print full name

DUPLICATE

LRD ✓  
TRIM  
G.P. ✓

FORM LAA-1023

SECTION 46

WESTERN AUSTRALIA  
LAND ADMINISTRATION ACT 1997  
TRANSFER OF LAND ACT 1893 as amended

## MANAGEMENT ORDER (XE)

## RESERVE DESCRIPTION (NOTE 1)

24772

## EXTENT

Whole

## VOLUME

3157

## FOLIO

187

## MANAGEMENT BODY (NOTE 2)

Minister for Education care of Department of Education of 151 ROYAL STREET EAST PERTH  
WA 6004

## CONDITIONS (NOTE 3)

- i) To be used for the designated purpose of "For the purposes of the School Education Act 1999" only; and
- ii) Power to lease (or sub-lease or licence) for the designated purpose is granted for the whole or any portion thereof for any term not exceeding twenty one (21) years from the date of the lease (or sub-lease or licence).

THE MINISTER FOR LANDS (IN THE NAME OF AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA) ORDERS THAT THE CARE, CONTROL AND MANAGEMENT OF THE ABOVE RESERVE BE PLACED WITH THE MANAGEMENT BODY DESCRIBED ABOVE FOR THE PURPOSE FOR WHICH THE LAND COMPRISING THE RESERVE IS RESERVED UNDER SECTION 41 OF THE LAND ADMINISTRATION ACT 1997, AND FOR PURPOSES ANCILLARY OR BENEFICIAL TO THAT PURPOSE SUBJECT TO THE CONDITIONS ABOVE

Dated this

2<sup>ND</sup>

day of

MARCH

in the year

2022

## ATTESTATION (NOTE 4)

Name: MARK BAUER

Assistant Manager - Level 6

Land Use Management

Department of Planning, Lands &amp; Heritage



### INSTRUCTIONS

1. If insufficient space in any section, Additional Sheet Form B1 should be used with appropriate headings. The boxed sections should only contain the words "See Annexure".

2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by parties.

3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the person signing this document and their witnesses.

### NOTES

#### 1. RESERVE DESCRIPTION

Reserve number and details to be stated. The Volume and Folio numbers to be stated.

#### 2. MANAGEMENT BODY

State the full name and address of management body.

#### 3. CONDITIONS

Detail the conditions specified by the Minister to be observed by the management body in its care control and management of the Reserve.

#### 4. ATTESTATION

This document is to be executed by the Minister for Lands or a person to whom the power to grant a management order under section 46 of the Land Administration Act 1997 has been duly delegated under section 9(1) of the Act (if applicable).

EXAMINED

# P061913 XE

03 Mar 2022 09:04:54 Perth



**DUPLICATE**

### **MANAGEMENT ORDER (XE)**

LODGED BY Department of Planning Lands and Heritage

ADDRESS South West and Great Southern - Box 98C

PHONE No.

FAX No.

REFERENCE No. Ruth de Ridder 01256-1953 ph 6552  
4653 fax 6118 8116

ISSUING BOX No.

PREPARED BY Department of Planning Lands and  
Heritage

ADDRESS South West and Great Southern - Box 98C

PHONE No.

FAX No.

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

TITLES, LEASES, DECLARATIONS ETC LODGED  
HEREWITH

1. \_\_\_\_\_ Received Items
2. \_\_\_\_\_ Nos.
3. \_\_\_\_\_
- 4.. \_\_\_\_\_ Receiving Clerk
5. \_\_\_\_\_
6. \_\_\_\_\_

2200339-003



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