

Special Council Meeting

7 September 2016

Agenda



Notice is hereby given of the Special Meeting of Council to be held in the Council Chambers, City of Kwinana Administration Centre commencing at 7:00pm.

Joanne Abbiss
Chief Executive Officer

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Agendas and Minutes are available on the City's website www.kwinana.wa.gov.au

Vision Statement

Kwinana 2030

***Rich in spirit, alive with opportunities,
surrounded by nature – it's all here!***

Mission

**Strengthen community spirit, lead
exciting growth, respect the environment
- create great places to live.**



We will do this by –

- providing strong leadership in the community;
- promoting an innovative and integrated approach;
- being accountable and transparent in our actions;
- being efficient and effective with our resources;
- using industry leading methods and technology wherever possible;
- making informed decisions, after considering all available information; and
- providing the best possible customer service.

Values

We will demonstrate and be defined by our core values, which are:

- Lead from where you stand – Leadership is within us all.
- Act with compassion – Show that you care.
- Make it fun – Seize the opportunity to have fun.
- Stand Strong, stand true – Have the courage to do what is right.
- Trust and be trusted – Value the message, value the messenger.
- Why not yes? – Ideas can grow with a yes.

Special Council Meeting

The purpose of this meeting is to consider:

Joint Development Assessment Panel Application – Petrol Filling Station and associated Eating House and Local Shop – Lot 116 Rockingham Road, Naval Base

Lease Agreement and Performance and Service Level Agreement 2016 – 2021 between the City of Kwinana and Koorliny Arts Centre (Incorporated) in relation to Koorliny Arts Centre, 10 Hutchins Cove, Kwinana

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1 Declaration of Opening:

Presiding Member to read the welcome

“IT GIVES ME GREAT PLEASURE TO WELCOME YOU ALL HERE AND BEFORE COMMENCING THE PROCEEDINGS, I WOULD LIKE TO ACKNOWLEDGE THAT WE COME TOGETHER TONIGHT ON THE TRADITIONAL LAND OF THE NOONGAR PEOPLE”

2 Prayer:

Councillor Bob Thompson to read the Prayer

“OH LORD WE PRAY FOR GUIDANCE IN OUR MEETING. PLEASE GRANT US WISDOM AND TOLERANCE IN DEBATE THAT WE MAY WORK TO THE BEST INTERESTS OF OUR PEOPLE AND TO THY WILL. AMEN”

3 Apologies/Leave(s) of Absence (previously approved)

Apologies

Leave(s) of Absence (previously approved):

4 Public Question Time:

In accordance with the Local Government Act 1995 and the Local Government (Administration) Regulations 1996, any person may during Public Question Time ask any question.

In accordance with Regulation 6 of the Local Government (Administration) Regulations 1996, the minimum time allowed for Public Question Time is 15 minutes.

A member of the public who raises a question during Question Time is to state his or her name and address.

5 Applications for Leave of Absence:

Moved Cr Seconded Cr..... that Cr be granted a leave of absence from to inclusive.

6 Declarations of Interest by Members and City Officers:

Section 5.65(1) of the Local Government Act 1995 states:

A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Section 5.66 of the Local Government Act 1995 states:

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

7 Reports

7.1 Joint Development Assessment Panel Application – Petrol Filling Station and associated Eating House and Local Shop – Lot 116 Rockingham Road, Naval Base

SUMMARY:

Council has received an application for a Petrol Filling Station and associated Eating House and Local Shop uses for consideration under the City of Kwinana Town Planning Scheme No. 2 (Scheme). The proponent – BP Australia Pty Ltd proposes to construct and operate a Petrol Filling Station and associated Eating House (Wildbean Café) and Local Shop on Lot 116 Rockingham Road, Naval Base. (Refer to Attachment A - Responsible Authority Report (RAR)). Lot 116 Rockingham Road, Naval Base is the former location of the Naval Base Hotel which was demolished in November 2015. The site was also the subject of a Scheme Amendment process which was approved for final adoption by the City of Kwinana in March 2016, and subsequently approved by the Minister for Planning on the 8 August 2016 and gazetted on 2 September 2016.

The proposed petrol filling station will operate 24 hours per day; seven days per week to provide a range of services and facilities for the Naval Base Industrial area and for traffic travelling along Rockingham Road.

The proposed Petrol Filling Station and Local Shop land uses represent a “P” use, whilst the Eating House use represents an “AA” use under the City of Kwinana’s Town Planning Scheme No.2 (TPS2). The Eating House (Wildbean Café) use has been considered on its merits in respect to the development and it is considered that it should not generate large volumes of customers as only a limited number of tables and seats are proposed (12 seats in total are proposed). In the context of the development within the Kwinana Industrial Area (and the issue of societal risk), the proposed Eating House use within this proposal is considered acceptable.

The proposed station will include car fuelling and truck fuelling areas. No maintenance or wash down will be carried out onsite as part of this application.

The development proposes the following:

- Retail building for Petrol Filling Station.
- Four underground Fuel tanks.
- One underground LPG tank.
- Car Fuelling Canopy.
- Truck Fuelling Canopy.
- Four fuel bowsers and eight designated refuelling car bays.
- Five fuel bowsers designated for trucks.
- Sixteen shop front parking bays.
- Extensive landscaping.
- 2 Pylon Signs for the Petrol Filling Station.

As the estimated development cost of this application is in excess of \$10 million, the City does not have delegation to determine the application. The application is therefore required to be referred to the South West Metropolitan Joint Development Assessment Panel (JDAP) for determination. The application is to be considered by the JDAP at a meeting that is tentatively scheduled for 15 September 2016. City officers have prepared the attached RAR in accordance with the Development Assessment Panel Regulations and it is attached for Council's consideration and determination.

7.1 JOINT DEVELOPMENT ASSESSMENT PANEL APPLICATION – PETROL FILLING STATION AND ASSOCIATED EATING HOUSE AND LOCAL SHOP – LOT 116 ROCKINGHAM ROAD, NAVAL BASE

The City is required to submit the RAR to the DAP Secretariat on 8 September 2016. Should the City not submit this report to the DAP Secretariat within the required timeframe, the Minister for Planning may direct the City to submit any information it has and provide it to the DAP directly.

The application has been referred to Council as the City has received legal advice informing the City that officers do not have delegation to prepare the RAR under the DAP Regulations. Council should note that if it wishes to modify or make an alternative recommendation to that contained with the RAR this should be in the form of a separate recommendation which will be forwarded to the JDAP for consideration at its meeting.

OFFICER RECOMMENDATION:

That Council consider and adopt the recommendation of the Responsible Authority Report (Attached to this report) to the South West Metropolitan Joint Development Assessment Panel for the proposed Petrol Filling Station and associated Eating House and Local Shop on Lot 116 Rockingham Road, Naval Base.



Form 1 - Responsible Authority Report

(Regulation 12)

| | |
|--|---|
| Property Location: | Lot 116 Rockingham Road, Naval Base |
| Application Details: | Proposed Petrol Filling Station |
| DAP Name: | METRO SOUTH – WEST |
| Applicant: | Rowe Group |
| Owner: | BP Australia Pty Ltd |
| LG Reference: | DA8617 |
| Responsible Authority: | City of Kwinana |
| Authorising Officer: | Brenton Scambler – Coordinator Statutory Planning |
| Department of Planning File No: | DAP/16/01043 |
| Report Date: | 14 September 2016 |
| Application Receipt Date: | 2 May 2016 |
| Application Process Days: | 60 Days |
| Attachment(s): | 1: Location Plan 2: Master Site Location Plan – A100 - REV 7 3: Site Plan Overall – A102 – REV 11 4: Site Plan A – A103 – REV 1 5: Site Plan B – A104 – REV 1 6: Truck Swept Paths – A106 – REV 3 7: Floor Plans – A201 – REV 10 8: Roof Plans – A241 – REV 3 9: Truck Canopy/ Roof Plan – A242 – REV 1 10: Elevations – A301 – REV 8 11: Elevations – A302 – REV 1 |

Officer Recommendation:

That the Metro South – West DAP resolves to:

Approve DAP Application reference DAP/16/01043 and accompanying plans A100 - REV 7, A102 – REV 11, A103 – REV 1, A104 – REV 1, A106 – REV 3, A201 – REV 10, A241 – REV 3, A242 – REV 1, A301 – REV 8, A302 – REV 1 dated all May 2016 in accordance with Clause 6.1 of the City of Kwinana Town Planning Scheme No.2, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.
2. Landscaping areas, vehicle parking spaces and accessways, and all other items and details as shown on the approved development plans shall be installed prior to occupying the proposed development and maintained thereafter to the satisfaction of the City of Kwinana.

3. The applicant shall implement dust control measures for the duration of the Site and Construction Works and for the ongoing operation of the site to the satisfaction of the City of Kwinana.
4. The land owner shall ensure the provision of a minimum of twenty eight (28) parking bays in accordance with Australian Standard AS2890, to be clearly marked on the ground and constructed of bitumen, brick or concrete and drained prior to occupation to the satisfaction of the City of Kwinana.
5. All vehicle parking to be accommodated within the boundaries of the subject lot.
6. A minimum of 622m² square metres (5%) of the subject site is to be landscaped prior to the occupation of the development and maintained to a high standard thereafter to the satisfaction of the City of Kwinana.
7. A detailed Landscaping Plan which outlines the proposed species and densities of plants to be used at the time of planting together with the anticipated height of each plant at maturity, spacing of each species and location of existing vegetation, the use of mature/advanced species between the existing security fence and the road boundary/verge, and the proposed reticulation layout is required to be submitted to the City of Kwinana for approval prior to lodgement of a building permit. The landscaping plan shall be implemented to the satisfaction of the City within 60 days of the practical completion of construction.
8. On-site effluent disposal systems shall be nutrient retentive to comply with the Health Act 1911 and Cockburn Sound Management Council requirements. Use of conventional septic systems is not permitted.
9. The development shall be connected to an adequate potable water supply in accordance with the standards required by the National Health and Medical Research Council Australian Drinking Water Guidelines, 2004.
10. Storage of chemicals and liquids shall be within bunded impervious areas capable of containing any spillages.
11. Permanent signage as shown on the plans shall be professionally designed, constructed, finished, installed and maintained thereafter, being kept clean and free from unsightly matter including graffiti at all times by the owner/occupier to the satisfaction of the City of Kwinana.
12. The signs shall not be constructed of reflective materials, glass, paper, cardboard, cloth or other readily combustible material. Illuminated signage shall not have a light intensity exceeding 300cd/m² and shall not flash, pulsate or chase.
13. No other signage to be erected other than signs exempted from Council Planning Approval pursuant to Clause 6.17.3 of the Town Planning Scheme No. 2.
14. Vehicle crossovers shall be constructed to the specifications and satisfaction of the City of Kwinana.
15. All trafficable areas are to be sealed and drained as per the City of Kwinana 'Trafficable Areas' Specifications to the satisfaction of the City of Kwinana.
16. The applicant shall provide a stormwater drainage plan for the site demonstrating how stormwater will be contained and disposed of on site in

accordance with the City of Kwinana's requirement of providing 1m³ soakwell capacity for every 45m² sealed or roofed area. An amended plan and details shall be submitted prior to the lodgement of a building permit application to the satisfaction of the City of Kwinana.

17. The intersection of Rockingham Road and Link Road being upgraded to make provision for a left turn slip lane into Link Road from Rockingham Road (north bound), including widening of the radius to enable B double trucks to turn left, lane correct. Details to be provided to the City and Main Roads WA for review and approval to the satisfaction of the City and Main Roads WA prior to development works commencing. All works and associated costs shall be at the applicant's expense with construction to be completed prior to the occupation of the site.
18. The entry crossover into the site from Link Road to be designed to accommodate B double trucks, including a left turn slip lane, entering lane correct. Details to be provided to the City for review and approval to the satisfaction of the City prior to development works commencing. All works and associated costs shall be at the applicant's expense with construction to be completed prior to the occupation of the site.
19. The truck exit crossover from the site into Burlington Street to be designed to accommodate B double left turn and right turn movements. Details to be provided to the City for review and approval to the satisfaction of the City prior to development works commencing. All works and associated costs shall be at the applicant's expense with construction to be completed prior to the occupation of the site.
20. Burlington Street to be widened to accommodate left and right turn B double truck movements out of the site exit crossover, and turning left into Rockingham Road and Brown Avenue lane correct. Details to be provided to the City and Main Roads WA (for Rockingham Road) for review and approval to the satisfaction of the City and Main Roads WA (for Rockingham Road) prior to development works commencing. All works and associated costs shall be at the applicant's expense with construction to be completed prior to the occupation of the site.
21. Brown Avenue/Link Road being widened at the intersection with Burlington Street to accommodate semi trailer truck movements in all directions, and B double left turn movements out of Burlington Street, lane correct. Details to be provided to the City for review and approval to the satisfaction of the City prior to development works commencing. All works and associated costs shall be at the applicant's expense with construction to be completed prior to the occupation of the site.
22. Brown Avenue and Beard Street intersection being upgrade to permit B double trucks to turn left out of Brown Avenue lane correct. Details to be provided to the City for review and approval to the satisfaction of the City prior to development works commencing. All works and associated costs shall be at the applicant's expense with construction to be completed prior to the occupation of the site.
23. All contaminated waste must be disposed of appropriately at an approved Department of Environmental Regulation approved facility.

2. Advice to Applicant

- 2.1 The applicant is advised that all future development must be submitted to the City of Kwinana prior to the commencement of works or alteration of land use.
- 2.2 Should the applicant be aggrieved by the decision or any condition imposed, then a right of review should be lodged with the State Administrative Tribunal within 28 days of the date of this decision.
- 2.3 The applicant is required to apply to the Department of Mines and Petroleum for a Dangerous Goods Site Licence.
- 2.4 The applicant is advised that this is not a building permit the City of Kwinana issues to enable construction to commence. A building permit is a separate Council requirement and construction cannot be commenced until a building permit is obtained.
- 2.5 The applicant is further advised that this is not a sign licence the City of Kwinana issues to enable construction to commence. A sign licence is a separate Council requirement and construction cannot be commenced until a sign licence is obtained.
- 2.6 The applicant should ensure the proposed development complies with all other relevant legislation, including but not limited to, the Environmental Protection Act 1986 and Regulations, Health Act 1911 and Regulations, Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974, WA Government Sewerage Policy and Cockburn Catchment Sound Policy, Dangerous Goods Safety Act 2004, Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007, Contaminated Sites Act 2003 and the National Construction Code.
- 2.7 The bin storage area shall be fitted with adequate ventilation, hose connection and graded floors to an industrial floor waste in accordance with the City of Kwinana Refuse Local Law.
- 2.8 The applicant shall ensure the proposed food business complies with the Food Act 2008, Food Regulations 2009 and Australian Food Standards Code. The applicant shall submit an application for notification/ registration of fixed food business and application for approval to construct to the City of Kwinana prior to lodgement of a building permit.
- 2.9 Details of the road upgrade conditions will be reviewed by the City in consultation with Main Roads WA to ensure works are suitable to achieve RAV 4 network route approval as requested by the applicant.
- 2.10 The applicant is advised that DBNGP (WA) Nominees Pty Limited (DBP) provide the following comments and advice on the development:
 - Pursuant to Section 41 of the *Dampier to Bunbury Pipeline Act 1997*, restrictions apply to land contained within the area identified as the DBNGP corridor. Any works (e.g. landscaping, installation of reticulation, boundary fencing etc) within the corridor area requires the prior approval from the DBNGP Land Access Minister.
 - Any proposed road upgrades that impact on the DBNGP corridor i.e. Link Road / Burlington Street will also require Section 41 approval and be subject to a DBP Engineering Assessment. The cost of the

investigation and any additional protection measures identified will be at the cost of the applicant.

- A Direct Current Voltage Gradient (DCVG) survey may have to be carried out at the proposed location of the road upgrades. The DCVG survey must be approved by the DBP Senior Corrosion and Protection Engineer. The survey will be at the cost of the applicant.
- A DBP Third Party Works Officer must supervise all works within the DBNGP corridor.
- There must be no vibrating rollers used within 20 metres of the pipeline and only static rollers or light walk behind plate compactors are to be used within 20 metres of the pipeline.
- Substantial hard barricading is to be installed along the boundary of the corridor to protect the pipeline during the construction / clearing of the site. The barricading must be in place prior to the clearing works commencing.
- The applicant is to provide to DBP the calculations that demonstrate that the risk to the DBNGP is not increased due to the installation of underground fuel tanks. This will include the identification of threats / hazards to the DBNGP pipeline from the proposed underground fuel tanks and suggest appropriate mitigation measures.

2.11 The applicant is advised that the Department of Lands provide the following comments and advice on the development:

- The applicant is advised that prior to the commencement of any on-ground development works within the DBNGP corridor, they must seek approval in writing from the DBNGP Land Access Minister. The application will be assessed as at the date of the application and approval, if granted, may be subject to conditions imposed by or on behalf of the DBNGP Land Access Minister.
- Pursuant to Section 41 of the *Dampier to Bunbury Pipeline Act 1997*, restrictions apply to the area of land that is contained in the DBNGP corridor. The proponent must apply for a Section 41 approval specifically for:
 - i. Any landscaping within the DBNGP corridor by the applicant;
 - ii. Any possible encroachment by construction personnel, equipment, excess building materials and spoils during construction;
 - iii. Access road construction and movements of heavy machinery across the DBNGP corridor.
- A section 41 form and other relevant information can be found on the following website: www.lands.wa.gov.au
- Any registration of a new interest in the DBNGP corridor is disallowed and considered contrary to the intention of the DBP Act 1997. Proponents may apply for access either by section 41 approval; or in cases of pipeline activities, a section 34 Access Right.
- The department reminds the proponent of restrictions under the relevant easement document D277733 registered to the benefit of the DBNGP Land Access Minister with Landgate.

Background:

| | |
|-----------------------|---|
| Property Address: | Lot 116 Rockingham Road, Naval Base |
| Zoning | MRS: Industry |
| | TPS: General Industry |
| Use Class: | Petrol Filling Station Eating House Local Shop |
| Strategy Policy: | City of Kwinana Local Planning Policy (LPP) - Development within Industrial Zones |
| Development Scheme: | City of Kwinana Town Planning Scheme No.2 |
| Lot Size: | 12,444m ² |
| Existing Land Use: | Vacant |
| Value of Development: | \$10.5million |

Proposal

BP Australia Pty Ltd proposes to construct and operate a new Petrol Filling Station and associated Eating House and Local Shop uses on Lot 116 Rockingham Road. The subject site is the former location of the Naval Base Hotel which was demolished in November 2015.

The proposed petrol filling station will operate 24 hours per day; seven days per week to provide a range of services and facilities to the Naval Base Industrial area and to traffic travelling along Rockingham Road.

The proposed Petrol Filling Station and Local Shop land uses represent a "P" use, whilst the Eating House use represents an "AA" use under the City of Kwinana's Town Planning Scheme No.2 (TPS2). The Eating House (Wildbean Café) use has been considered on its merits in respect to the development and it is considered that it should not generate large volumes of customers as only a limited number of tables and seats are proposed (12 seats in total are proposed). In the context of the development within the Kwinana Industrial Area (and the issue of societal risk), the proposed Eating House use within this proposal is considered acceptable.

The proposed station will include car fuelling and truck fuelling areas. No maintenance or wash down will be carried out onsite as part of this application.

The development proposes the following:

- Retail building for Petrol Filling Station.
- Four underground Fuel tanks.
- One underground LPG tank.
- Car Fuelling Canopy.
- Truck Fuelling Canopy.
- Four fuel bowsers and eight designated refuelling car bays.
- Five fuel bowsers designated for trucks.

- Sixteen shop front parking bays.
- Extensive landscaping.
- 2 Pylon Signs for the Petrol Filling Station.

Legislation and Policy:

Legislation

The proposed Petrol Filling Station is subject to a range of licences and regulations applying to industry in Western Australia. A summary of the key legislation, regulations or local laws relevant to the application is listed below:

- *Contaminated Sites Act 2003*
- *Dangerous Goods Safety Act 2004* and Regulations
- *Environmental Protection Act 1986* and relevant Regulations
- *Health Act 1911*
- Kwinana Environmental Protection (Atmospheric Waste) Policy 1992 as amended
- State Environmental (Cockburn Sound) Policy 2005
- *Planning and Development Act 2005*
- City of Kwinana, Local Planning Scheme No. 2 and Local Planning Policies

State Government Policies

State Planning Policy 4.1 – State Industrial Buffer Policy

Local Planning Policies

Local Planning Policy – Development within the Cockburn Sound Catchment

Local Planning Policy – Development within Industrial Zones.

Consultation:

The proposal represents a “P” use within the context of the requirements of TPS 2 and therefore is not required to be advertised. The application was however referred to a number of Agencies and Stakeholders for their comments due to the location of services and the Dampier to Bunbury Natural Gas Pipeline (DBNGP).

These Agencies include:

- Main Roads WA (MRWA)
- Department of Lands (DoL)
- DBNGP Nominees Pty Limited (DBP)
- Western Power

There were no objections to the proposal from any of the referred agencies, however both the Department of Lands and DBP provided support to the proposal subject to the inclusion of the following advice.

The Department of Lands provide the following comments and advice on the development:

- The applicant is advised that prior to the commencement of any on-ground development works within the DBNGP corridor, they must seek approval in writing from the DBNGP Land Access Minister. The application will be assessed as at the date of the application and approval, if granted, may be subject to conditions imposed by or behalf of the DBNGP Land Access Minister.
- Pursuant to Section 41 of the *Dampier to Bunbury Pipeline Act 1997*, restrictions apply to the area of land that is contained in the DBNGP corridor. The proponent must apply for a Section 41 approval specifically for:
 - i. Any landscaping within the DBNGP corridor by the applicant;
 - ii. Any possible encroachment by construction personnel, equipment, excess building materials and spoils during construction;
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- A section 41 form and other relevant information can be found on our website: www.lands.wa.gov.au
- Any registration of a new interest in the DBNGP corridor is disallowed and considered contrary to the intention of the DBP Act 1997. Proponents may apply for access either by section 41 approval; or in cases of pipeline activities, a section 34 Access Right.
- The department reminds the proponent of restrictions under the relevant easement document D277733 registered to the benefit of the DBNGP Land Access Minister with Landgate.

DBP provided the following comments and advice on the development:

- Pursuant to Section 41 of the *Dampier to Bunbury Pipeline Act 1997*, restrictions apply to land contained within the area identified as the DBNGP corridor. Any works (e.g. landscaping, installation of reticulation, boundary fencing etc) within the corridor area requires the prior approval from the DBNGP Land Access Minister.
- Any proposed road upgrades that impact on the DBNGP corridor i.e. Link Road / Burlington Street will also require Section 41 approval and be subject to a DBP Engineering Assessment. The cost of the investigation and any additional protection measures identified will be at the cost of the applicant.
- A Direct Current Voltage Gradient (DCVG) survey may have to be carried out at the proposed location of the road upgrades. The DCVG survey must be approved by the DBP Senior Corrosion and Protection Engineer. The survey will be at the cost of the applicant.
- A DBP Third Party Works Officer must supervise all works within the DBNGP corridor.
- There must be no vibrating rollers used within 20 metres of the pipeline and only static rollers or light walk behind plate compactors are to be used within 20 metres of the pipeline.
- Substantial hard barricading is to be installed along the boundary of the corridor to protect the pipeline during the construction / clearing of the site. The barricading must be in place prior to the clearing works commencing.

- The applicant is to provide to DBP the calculations that demonstrate that the risk to the DBNGP is not increased due to the installation of underground fuel tanks. This will include the identification of threats / hazards to the DBNGP pipeline from the proposed underground fuel tanks and suggest appropriate mitigation measures.

Planning assessment:

Town Planning Scheme No. 2 Implications

The proposal largely represents a 'Petrol Filling Station' use in the context of TPS 2 which is described under Appendix 4 (Interpretations) as: *"means land and buildings used for the supply of petroleum products and automotive accessories"*.

In the context of the General Industrial Zone, a Petrol Filling Station represents a "P" (Permitted) use, provided it complies with the relevant standards and requirements laid down in the Scheme and all conditions (if any) imposed by the Council in granting planning consent.

Development Requirements under Town Planning Scheme No.2

The following Table lists the relevant provisions under TPS 2 which apply to this application. Other elements of the application relevant to the determination of applications under Part 2.4 of the Scheme are also detailed following.

Table 1 – Town Planning Scheme Summary

| City Planning Scheme No.2 Clause | Requirements | Planning Comment |
|--|---|--|
| 6.8.1 – Outline Development Plans | Not Applicable | The Development is not subject to an Outline Development Plan. |
| 6.8.2, 6.8.3 – Minor Works not requiring planning approval | Not Applicable | The works proposed are substantial and do not fall within the works not requiring approval clauses of the Scheme. |
| 6.8.4 – Plot Ratio and Site Coverage | 0.8 Plot Ratio 65% Site Cover | The plot ratio and site coverage of the lot is well within the scheme requirements with approximately 7.8 % site cover in total. |
| 6.8.5 – Minimum Setbacks from Boundaries | Side – 6 metres Rear – 9 metres Front - 15 metres | Setbacks to the proposed development comply with the scheme requirements with a minimum of 37 metres from the front boundary (Burlington Street) for the retail building. Both the car and truck refuelling canopies are setback approximately 34 metres from the front boundary. All other setbacks are in excess of this distance. |

| | | |
|--|--|---|
| 6.8.6 – Appearance of Buildings | Buildings located, constructed and finished so as to not cause detriment to the locality | The proposed development is considered appropriate for the industrial zone and should not detrimentally affect the amenity of the locality. |
| 6.8.7 – Landscaping Areas | 5% of site area to be landscaped and maintained | The proponent has proposed landscaping to an area of approximately 4869m ² which equates to 39% of the property, well in excess of the required 5% under TPS2. A landscaping plan has not been submitted as part of the application and as such a condition has been recommended requiring the submission of a landscaping plan prior to the lodgement of a building permit application |
| 6.8.8 – Car Parking and Crossovers | Car Parking Spaces to be provided in accordance with Table III of the Scheme | The development requires the provision of 28 vehicle parking bays in accordance with the requirements of Table III of the Scheme. The proponent has indicated that a total of 42 parking bays will be provided inclusive of the car / truck canopy bays. In this regard the City's Planning staff are confident that there are sufficient car parking areas provided to support the development. Conditions have been recommended requiring trafficable and non-trafficable areas to be sealed and drained in accordance with the City of Kwinana's specifications. |
| 6.8.9 – Loading and Unloading | Loading / Unloading areas to be maintained in good order | The proposed loading/unloading areas of the development are proposed to be provided in an appropriate location and manner. |
| 6.8.10 – Waste Water and Effluent Disposal | Waste Water to be managed appropriately to preserve the environment and groundwater | Waste effluent water generated on-site is proposed and required to be disposed of through a nutrient retentive effluent disposal system. Stormwater collected on site is proposed to be piped and accommodated through the use of soakwells. |
| 6.8.11 – Recycled Water | Not Applicable | None required |
| 6.8.12 – Fencing | Not Applicable | There is no boundary fencing proposed as part of this development. In the event that boundary fencing is erected, it will need to comply with the requirements of TPS.2 and the City of Kwinana Fencing Local Law. |
| 6.8.13 – Private | Not Applicable | Not applicable. |

| | | |
|---------|--|--|
| Utility | | |
|---------|--|--|

City of Kwinana Local Planning Policies (LPP)

The proposed development complies with the requirements of both the *Development within the Cockburn Sound Catchment*, and *Development within Industrial Zones* local planning policies.

With respect to LPP – *Development within the Cockburn Sound Catchment*, the proposal is unlikely to generate large volumes of waste water from the operations carried out within the development. In this regard however, the proponent is required to capture all stormwater and dispose of it within the boundaries of the site, and all wastewater from ablutions will be required to be connected to an appropriate treatment system.

With regard to the provisions of LPP – *Development within the Industrial Zones*, the proposed development complies with all relevant requirements of this policy. The development is required to be connected to a nutrient retentive effluent disposal system which limits the amount of nutrient run-off from effluent disposal.

The proposed development complies with the requirements of TPS2 and its Policies. The development is considered appropriate for the intent and policy objectives for the General Industry Zone.

Traffic and Transport Considerations

The proposed traffic modelling, identified in the BG&E Traffic Impact Study prepared for the development, has indicated that under normal operating conditions the estimated total number of vehicular movements to and from the site is 720 vehicles per day. The traffic generated from the development is within a satisfactory service level of the surrounding road network.

In regards to the road network and the recommended conditions requiring road upgrades, the City's Engineering Staff have been in liaison with Main Roads WA and the applicant to ensure the appropriate engineering standards are met. In this regard, the development is proposed to be utilised by Restricted Access Vehicles (RAV) (in particular heavy oversize vehicles and 'B Doubles') and as such, in liaison with Main Roads, it has been identified that in order for these vehicles to utilise the surrounding road network a number of upgrades will be required. Main Roads requirement for large vehicles is that they must be able to turn corners "Lane Correct" which requires the vehicle to be wholly located within the lane it is travelling whilst turning a corner. In this regard, due to the length of the vehicles proposed to utilise the development, a number of corner truncations and additional slip lanes are required to be modified to ensure these large vehicles are able to turn lane correct.

The City's Engineering Department have reviewed the Traffic Impact Study submitted with the application and are satisfied with the traffic movements generated from the development subject to the imposition of the recommended conditions requiring the road network upgrades.

Waste Disposal

The effluent generated on the site is required to be treated via a nutrient retentive effluent disposal system. It is recommended that a condition of approval be that the development be connected to such a system.

It is intended that all stormwater from building and paved areas on site will be collected, treated and piped to a number of drainage sumps across the site.

Scheme Amendment

The subject site was recently subject to a Scheme Amendment (Scheme Amendment 149) which rezoned the lot from its previous 'Special Use – Hotel' zoning to 'General Industry' under the City of Kwinana Town Planning Scheme No.2. The City of Kwinana resolved to support the the Scheme amendment for final adoption on 9 March 2016.

On the 8th August 2016, the Minister for Planning granted final approval of the amendment and it was subsequently published in the Government Gazette on the 2 September 2016.

Council Recommendation:

As per the Officers recommendation.

Conclusion:

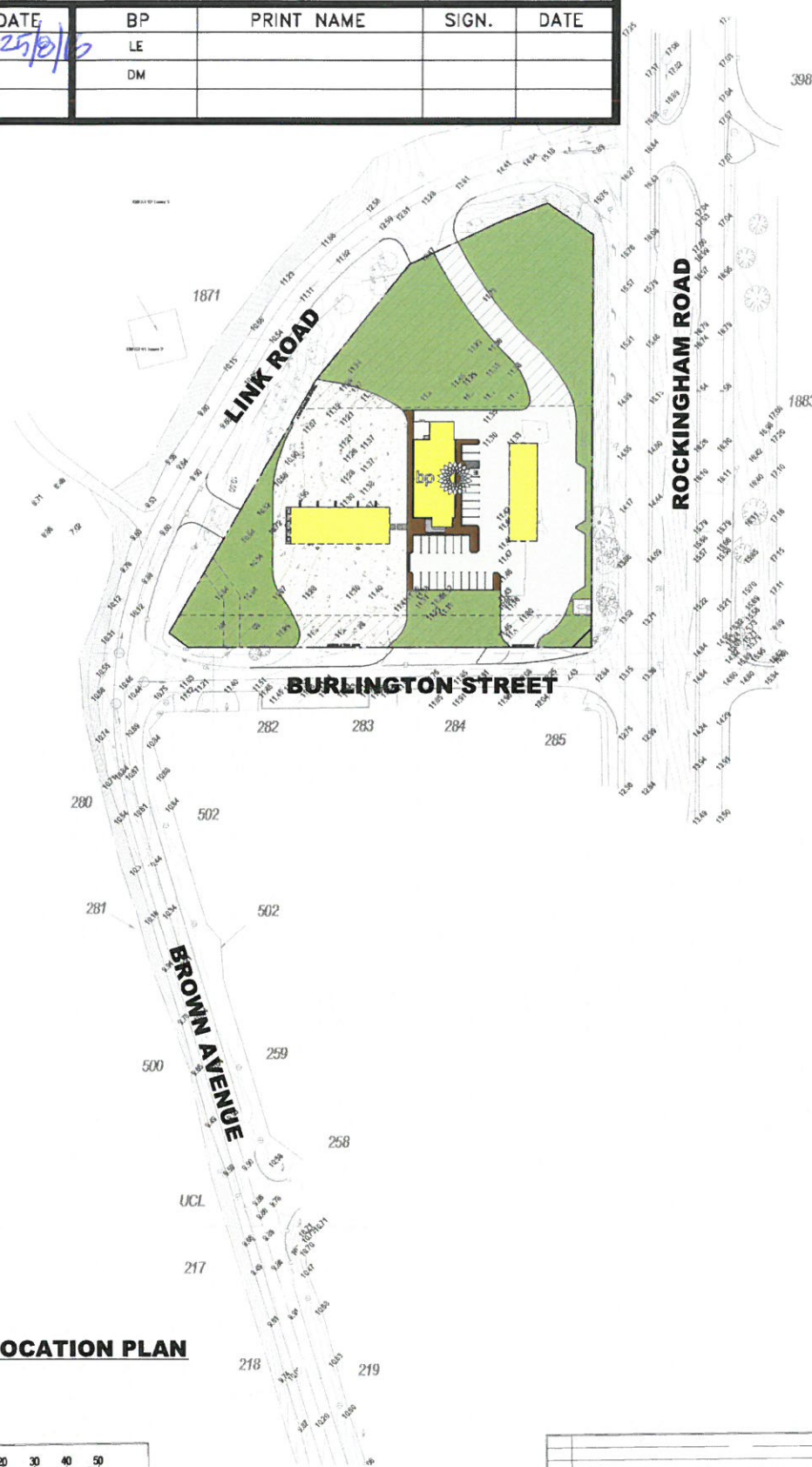
Upon assessment of the development against the objectives and requirements of TPS No.2, it is considered that the application can be approved subject to conditions. The development complies with the requirements of the Scheme and represents effective use of currently underutilised industrial land within Kwinana Industrial Area.

LOCATION PLAN



ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|---------------|-------------|----------|----|------------|-------|------|
| MSA | MALCOLM JONES | [Signature] | 25/10/15 | LE | | | |
| | | | | DM | | | |

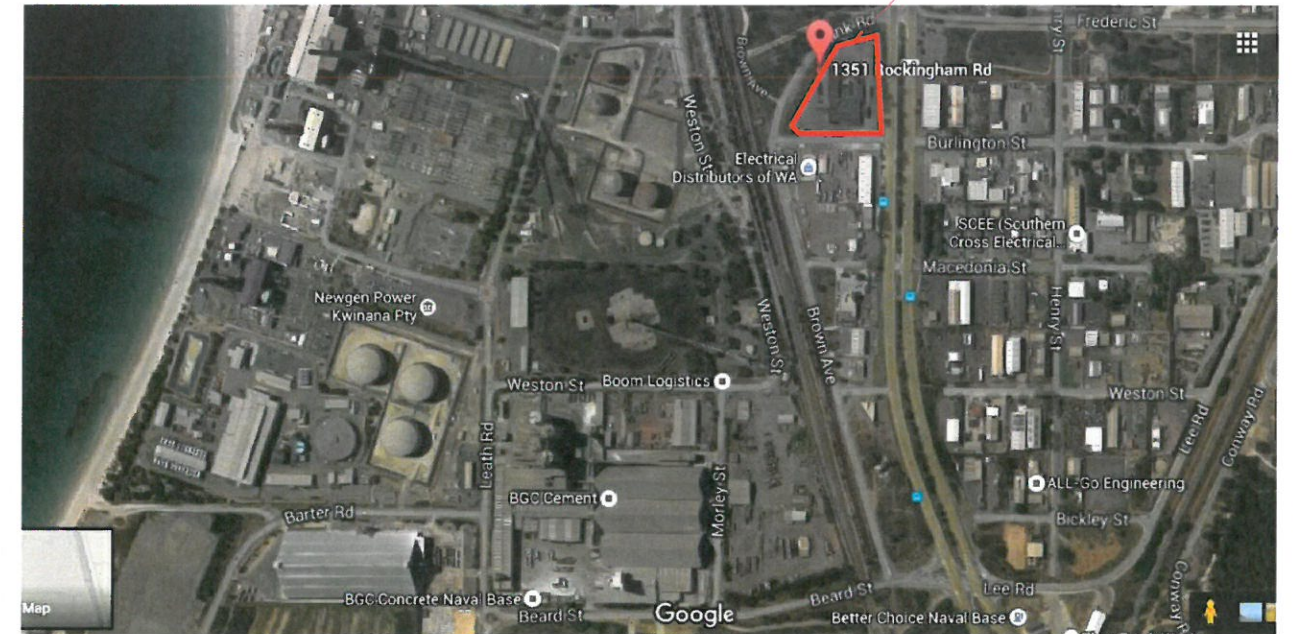


MASTER SITE LOCATION PLAN
SCALE: 1:1000

| | |
|--|---|
| DATUM HORIZONTAL - PCGS4 VERTICAL - AHD | SCALE 1:1000 0 10 20 30 40 50 All distances in metres unless stated otherwise |
| COPYRIGHT OF ALL THIS PLAN IS RESERVED BY BROWN McALLISTER SURVEYORS AND REMAINS THE PROPERTY OF THE AFORESAIDED AND SHALL BE RETURNED UPON REQUEST. USE OF ALL OR PART OF THIS PLAN IS RESTRICTED WITHOUT PRIOR WRITTEN PERMISSION. | ALL AREAS AND DIMENSIONS ARE SUBJECT TO SURVEY AND EXAMINATION. EXISTING BOUNDARY DIMENSIONS AND LOT AREAS HAVE BEEN TAKEN FROM LANDGATE RECORD DP171212. |
| | WERE NOT RE-ESTABLISHED BY SURVEY THEREFORE THIS GUARANTEES THEIR ACCURACY. WORK IS RECOMMENDED ON OF SERVICES PRIOR TO EXCAVATION. |
| Client | FY OF PORTION OF BROWN A/D LOT 116 ON DP171212 1351 ROCKINGHAM ROAD, NAVAL BASE P AUSTRALIA PTY LTD |

| | | | | |
|-------------------------|--|-----------------------|------------|---------|
| APPROVED AND ISSUED TO: | | DATE | DRAWN | CHECKED |
| DETAILS | | 04/09/2015 | R. COLELLA | BARNETT |
| VISIONS | | | | |
| SHEET | | A1 | | |
| SURVEYED | | B. BARNETT - 1/10/09 | | |
| FIELD NOTES | | R. COLELLA - 04/09/15 | | |
| DRAWN | | R. COLELLA - 04/09/15 | | |
| CHECKED | | 15660-1F | | |
| REFERENCE | | | | |

Brown McAllister
Licensed Surveyors (Land Development & State Control)
Email: admin@brownmcallister.com.au Tel: (08) 9386 9698
43 Broadway, Hadfields, Western Australia, 6009 Fax: (08) 9386 9677



SITE LOCATION

ATTACHMENT 2



| 7 | 25.08.2016 | 90% PROGRESS ISSUE |
|-------------------------------|-------------|--------------------------------------|
| 6 | 05.08.2016 | ISSUED FOR 60% CO-ORDINATION |
| 5 | 28.07.2016 | PROGRESS ISSUE |
| 4 | 15.07.2016 | ISSUED FOR AMENDED D.A. |
| 3 | 15.07.2016 | ISSUED FOR COMMENT |
| 2 | 07.06.2016 | REISSUED FOR DEVELOPMENT APPROVAL |
| 1 | 01.06.2016 | ISSUED FOR DEVELOPMENT APPROVAL |
| REV | DATE | DESCRIPTION |
| ISSUED FOR PRELIMINARY | | |
| MASTER PLAN | | |
| Date: | MAY 2016 | |
| Scale: | 1:1000 @ A1 | |
| Drawn by: | JK | |
| Checked: | MDJ | |
| | | 8085 |
| | | DWG No: A100 Rev No: 7 |

PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

Suite 2, Ground Floor,
437 Roberts Rd, WA 6008
1 08 9381 8511
2 08 9388 1339
3 msa@meyershircore.com.au
4 www.meyershircore.com.au
ACN 115 189 216
ABN 32 872 749 643

meyer shircore
and associates
ARCHITECTS
1963 | 2013
50 YEARS

ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|---------------|-------------|---------|----|------------|-------|------|
| M&A | MAURICE JONES | [Signature] | 25/8/16 | LE | | | |
| | | | | DM | | | |

AREA SCHEDULE

| | |
|--------------------------|----------------------|
| OVERALL SITE AREA | 12 447m ² |
| OVERALL FLOOR AREA (GFA) | 340m ² |
| CANOPY HARDSTAND AREA | 488m ² |
| CONCRETE PAVING AREA | 6470m ² |
| BRICK PAVED AREA | 243m ² |
| LANDSCAPED AREA | 4869m ² |

CARPARKING

| | |
|----------------------------|--------------|
| CARPARKING BAYS | 25 |
| CAR CANOPY BAYS | 8 |
| CAR & TRAILER/BOAT BAYS | 1 |
| CARAVAN BAYS | 1 |
| AIR & WATER BAY | 1 |
| TRUCK CANOPY BAYS | 6 (B-DOUBLE) |
| TOTAL BAYS PROVIDED | 42 |

LEGEND

| | |
|-----------------|---|
| [Yellow Box] | BP CONTROL BUILDING |
| [White Box] | ASPHALT PAVING |
| [Grey Box] | CONCRETE PAVING |
| [Dark Grey Box] | CONCRETE PAVING - BLACK |
| [Patterned Box] | CONCRETE PAVING - 200 THICK |
| [White Box] | LANDSCAPE REFER TO LANDSCAPE DRAWINGS |
| [White Box] | BRICK PAVING |
| [Patterned Box] | EXTENT OF EASEMENT |
| [Symbol] | MAIN SWITCH BOARD |
| [Symbol] | PROPOSED NEW LEVELS |
| [Symbol] | EXISTING LEVELS |
| [Symbol] | BOLLARD - REFER TO SPECIFICATION |
| [Symbol] | FIRE HYDRANT - REFER TO SERVICES DWGS |
| [Symbol] | BOOST |
| [Symbol] | FIRE BOOSTER CABINET REFER TO HYDRAULIC DWGS |
| [Symbol] | FIRE HYDRANT - REFER TO HYDRAULIC DWGS |
| [Symbol] | HOSE COCK - REFER TO HYDRAULIC DWGS |
| [Symbol] | SOAKWELL WITH GRATE WITH FALLS |
| [Symbol] | 120/120/120 FIRE RATED WALL |
| [Symbol] | SEMI-HAIRPIN CONCRETE KERBS UNLESS NOTED OTHERWISE |
| [Symbol] | MARKED CARBAYS |
| [Symbol] | COLUMN - STEEL |
| [Symbol] | COLUMN - CONCRETE |

NOTES

- FLOOR LEVELS SHOWN ARE PRELIMINARY. FINAL FLOOR LEVELS TO BE CONFIRMED DURING PERMIT STAGE.
- REFER TO SHEET A101 FOR SITE SURVEY LEGEND.
- STORMWATER DESIGN LAYOUT & LEVELS SHOWN INDICATIVE. REFER CIVIL DRAWINGS.

ATTACHMENT 3

OVERALL SITE PLAN

SCALE: 1:500

PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

Suite 2, Ground Floor,
437 Roberts Rd, WA 6008

1 08 9381 8511
2 08 9388 1339
3 msa@meyershircore.com.au
4 www.meyershircore.com.au
ACN 115 189 216
ABN 32 872 749 643

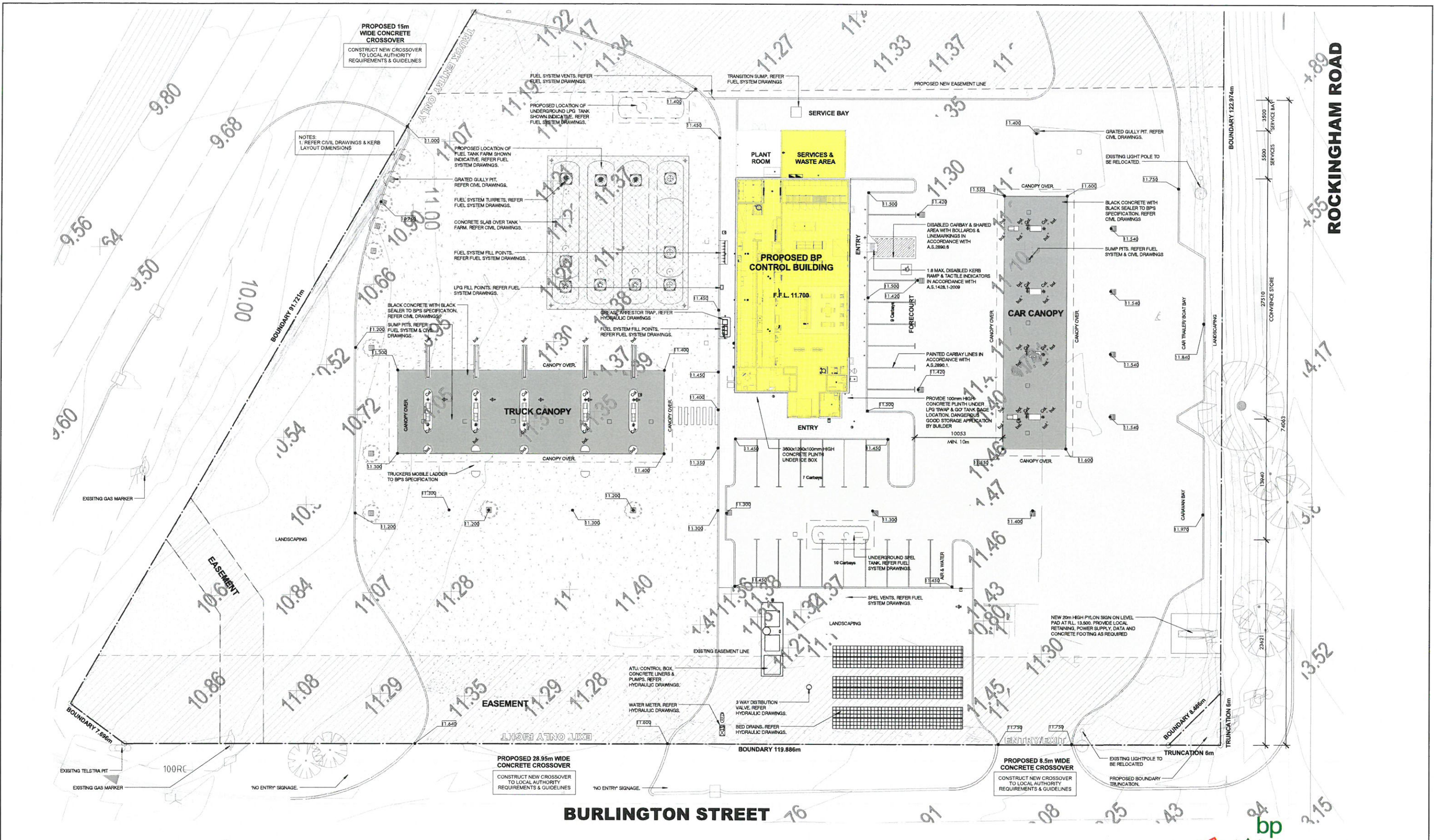


| 11 | 25.08.2016 | 90% PROGRESS ISSUE |
|-----|------------|---|
| 10 | 06.08.2016 | ISSUED FOR 60% CO-ORDINATION |
| 9 | 28.07.2016 | PROGRESS ISSUE |
| 8 | 13.07.2016 | ISSUED FOR AMENDED D.A. |
| 7 | 13.07.2016 | ISSUED FOR COMMENT |
| 6 | 13.07.2016 | ISSUED FOR CO-ORDINATION |
| 5 | 06.07.2016 | ISSUED FOR COMMENT |
| 4 | 07.06.2016 | REISSUED FOR DEVELOPMENT APPROVAL |
| 3 | 07.06.2016 | BP COMMENTS ADDED |
| 2 | 02.06.2016 | STORE ORIENTATION REVISED, CARPARKING AMENDED |
| 1 | 01.06.2016 | ISSUED FOR DEVELOPMENT APPROVAL |
| REV | DATE | DESCRIPTION |
| | | |

ISSUED FOR PRELIMINARY

SITE PLAN OVERALL

| | | |
|-----------|-------------------|------------|
| Date: | MAY 2016 | 8085 |
| Scale: | As indicated @ A1 | |
| Drawn by: | JK | |
| Checked: | MDJ | |
| DWG No: | A102 | Rev No: 11 |



SITE PLAN A
SCALE: 1:200
ATTACHMENT 4

| ISSUED FOR DEVELOPMENT APPROVAL | | | | | | | |
|---------------------------------|---------------|-------|---------|----|------------|-------|------|
| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
| MSA | MALCOLM JONES | | 25/6/16 | LE | | | |
| | | | | DM | | | |

PROPOSED SERVICE STATION & CONVENIENCE STORE
1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

PRELIMINARY

PERKINS

meyer shircore and associates ARCHITECTS

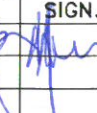
50 YEARS 1963|2013

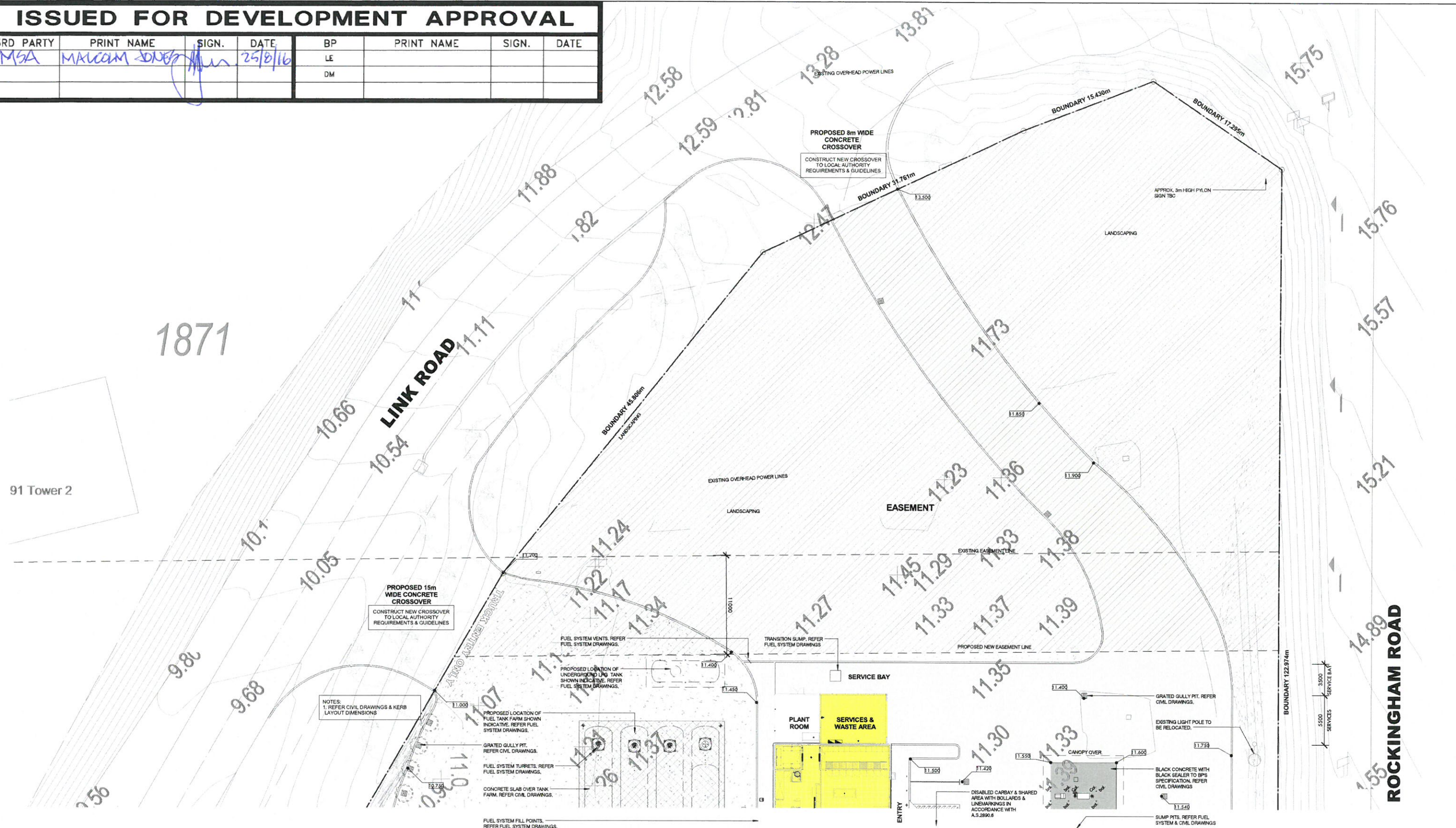
| 1 | 25.08.2016 | 90% PROGRESS ISSUE |
|------------------------|------------|--------------------|
| REV | DATE | DESCRIPTION |
| ISSUED FOR PRELIMINARY | | |
| SITE PLAN A | | |
| Date: | MAY 2016 | |
| Scale: | 1:200 @ A1 | |
| Drawn by: | JK | |
| Checked: | MDJ | |
| DWG No: | A103 | Rev No: 1 |
| 8085 | | |



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W www.meyer-shircore.com.au
ACN 115 189 216
ABN 32 672 749 643

ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|---------------|---|---------|----|------------|-------|------|
| MSA | MALCOLM JONES |  | 25/8/16 | LE | | | |
| | | | | DM | | | |



SITE PLAN B
SCALE: 1:200

ATTACHMENT 5

PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

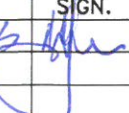
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08 9381 8511
08 9388 1339
msa@mayershircore.com.au
www.mayershircore.com.au
ACN 115 189 216
ABN 32 872 749 643

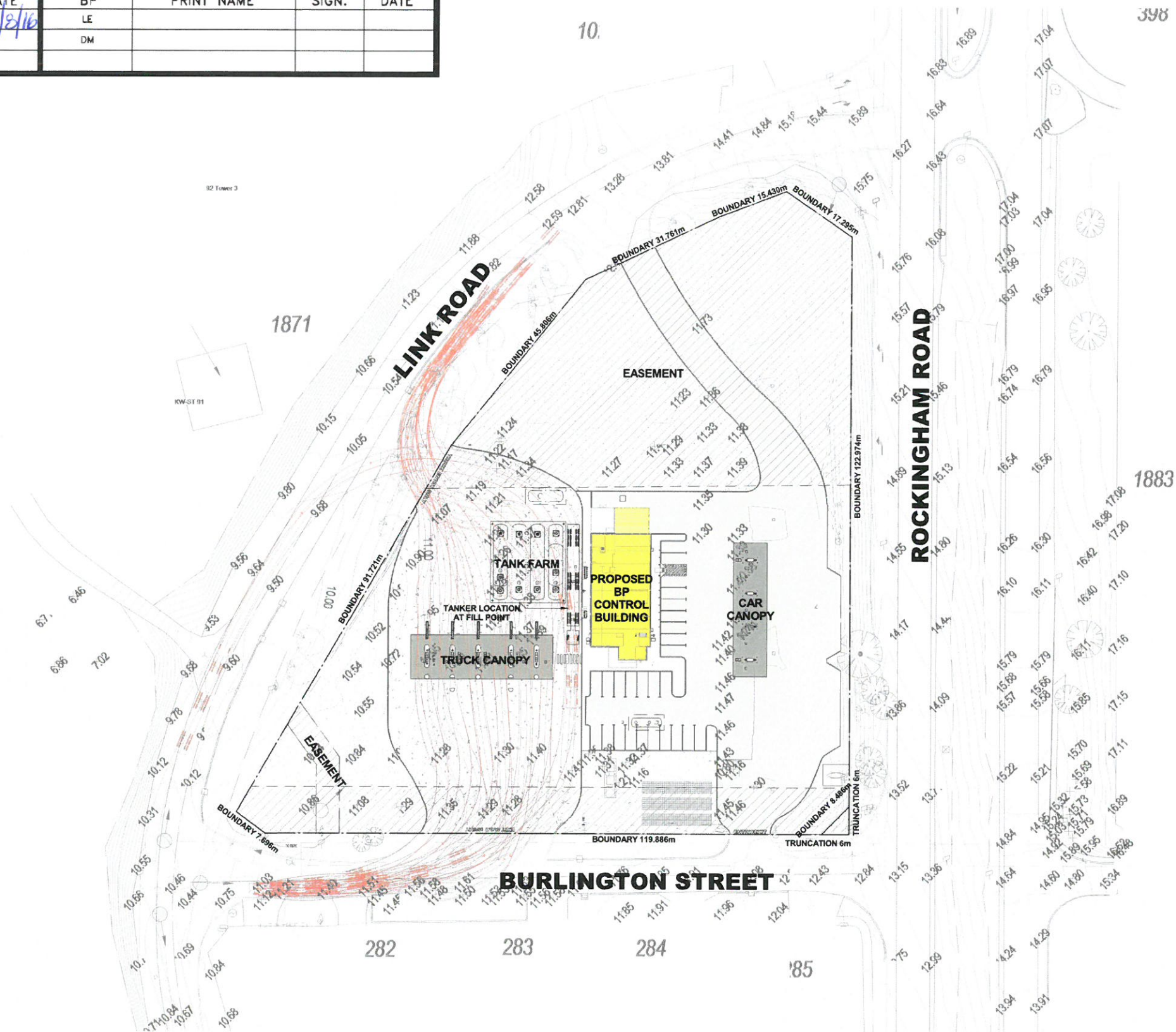


| REV | DATE | DESCRIPTION |
|-----|------------|--------------------|
| 1 | 25.08.2016 | 90% PROGRESS ISSUE |

| | |
|-------------------------------|------------------------|
| ISSUED FOR PRELIMINARY | |
| SITE PLAN B | |
| Date: MAY 2016 | 8085 |
| Scale: 1:200 @ A1 | |
| Drawn by: JK | |
| Checked: MDJ | DWG No: A104 Rev No: 1 |

ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|---------------|---|---------|----|------------|-------|------|
| MSA | Malcolm Jones |  | 25/8/16 | LE | | | |
| | | | | DM | | | |



TRUCK SWEEP PATH
SCALE: 1:500



PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

ATTACHMENT 6

PRELIMINARY

PERKINS

meyer
shircore
and associates
ARCHITECTS

50 YEARS
1963|2013

bp

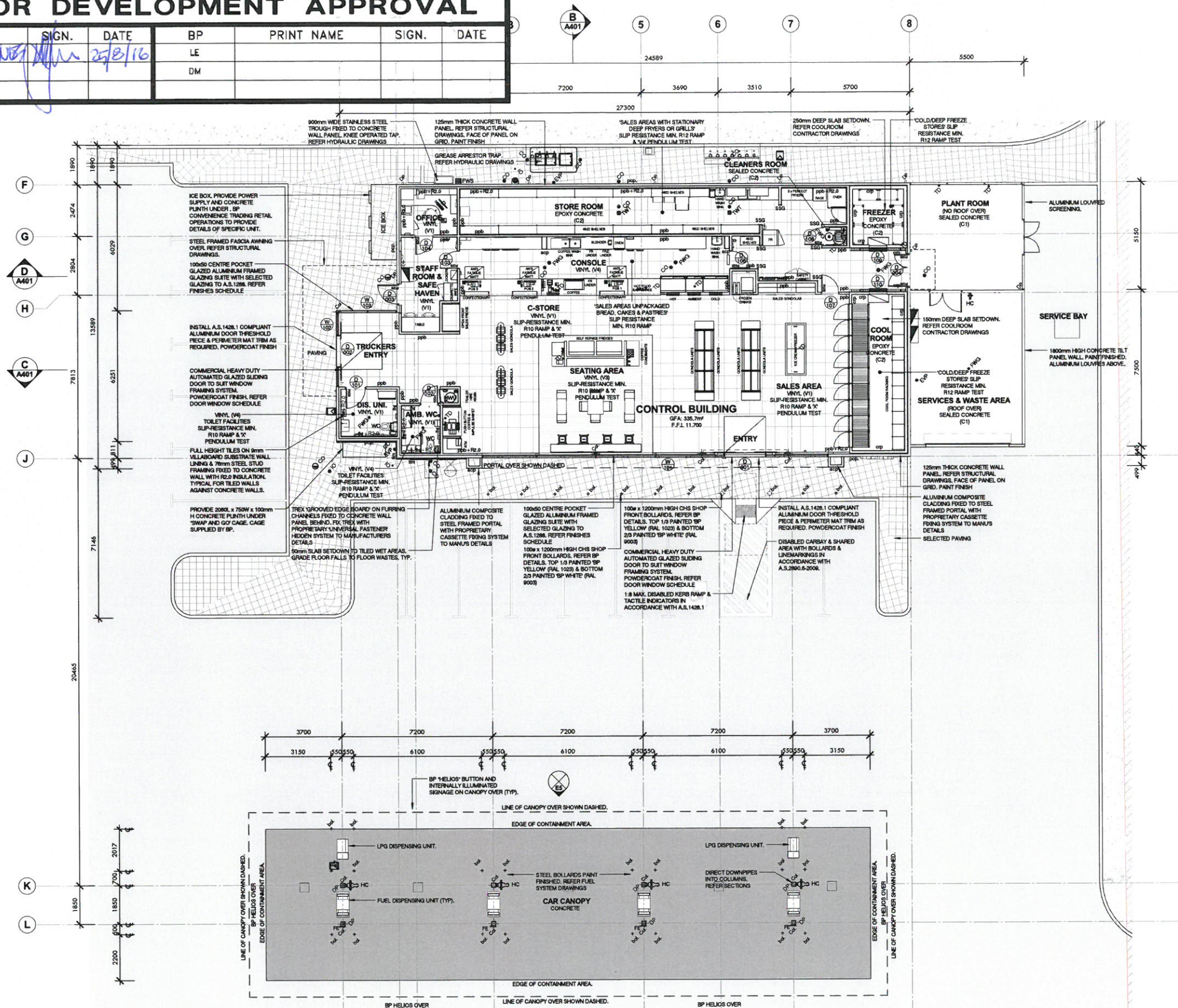
| 3 | 25.08.2016 | 90% PROGRESS ISSUE |
|---|------------|-----------------------------------|
| 2 | 07.06.2016 | REISSUED FOR DEVELOPMENT APPROVAL |
| 1 | 01.06.2016 | ISSUED FOR DEVELOPMENT APPROVAL |
| REV | DATE | DESCRIPTION |
| ISSUED FOR PRELIMINARY TRUCK SWEEP PATHS | | |
| Date: | MAY 2016 | |
| Scale: | 1:500 @ A1 | |
| Drawn by: | JK | |
| Checked: | MDJ | |
| DWG No: | A106 | Rev No: 3 |
| | | 8085 |



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ABN 32 872 749 643

ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|---------------|-------------|---------|----|------------|-------|------|
| MSA | MALCOLM JONES | [Signature] | 25/2/16 | LE | | | |
| | | | | DM | | | |



FLOOR PLAN - CONTROL BUILDING & CAR CANOPY

SCALE: 1:100

PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

BUILDING CLASSIFICATION
• CLASS 8
• CLASS 7A

GROSS FLOOR AREAS

| | |
|--------------------------------------|---------|
| BP CONTROL BUILDING GFA | 340.0m² |
| NCC/BCA TYPE C CONSTRUCTION | |
| CAR REFUELLING CANOPY (UNDERCOVER) | 270.8m² |
| TRUCK REFUELLING CANOPY (UNDERCOVER) | 355.8m² |

PERSONS ACCOMMODATED

| | | |
|-------------------------|---------|--------------------|
| PUBLIC NETT FLOOR AREAS | | |
| C-STORE | 130.1m² | 1/0m² = 44 PERSONS |
| SEATING AREA | 31.0m² | 1/1m² = 31 PERSONS |
| AMENITIES | 5.8m² | N/A |
| DISABLED UNISEX | 4.1m² | N/A |
| AMBIANT UNISEX | | |

ANCILLARY / SERVICE & BACK OF HOUSE NETT FLOOR AREAS

| | | |
|--------------------------|--------|--------------------|
| WILD BEAN CAFE & CONSOLE | 17.7m² | 1/10m² = 1 PERSONS |
| CIRCULATION AREAS ONLY | 18.5m² | N/A |
| COUNTER AREAS (APPROX.) | 53.2m² | 1/30m² = 2 PERSONS |
| STORE / BOH | 3.9m² | N/A |
| COMMS ROOM | 5.8m² | 1/10m² = 1 PERSONS |
| OFFICE | 10.7m² | 1/30m² = 1 PERSONS |
| STAFF ROOM & SAFE HAVEN | 18.8m² | N/A |
| COOLROOM | 6.5m² | N/A |
| FREEZER | | |

SANITARY FACILITIES PROVIDED

- DISABLED UNISEX
- 1 x CLOSET PAN
- 1 x WASH-BASIN
- AMBIANT UNISEX
- 1 x CLOSET PAN
- 1 x WASH-BASIN

LEGEND

- acp ALUMINUM COMPOSITE PANEL WALL CLADDING.
- bol. COMPRESSED FIBRE CEMENT SHEET WALL CLADDING. PAINT FINISHED.
- col. COOLROOM PANEL. REFER TO MECHANICAL DWGS.
- dp FULL HEIGHT TILES TO CEILING LEVEL. TILES AS SPECIFIED.
- ftm CONCRETE WALL PANELS. PAINT FINISH TO ALL VISIBLE SURFACES.
- ppb 125mm THICK CONCRETE WALL PANEL. REFER STRUCTURAL DRAWINGS. FACE OF PANEL ON GRID. PAINT FINISH.
- ppb+R2.0 ALUMINUM COMPOSITE CLADDING FIXED TO STEEL FRAMED PORTAL WITH PROPRIETARY CASSETTE FIXING SYSTEM TO MANUS DETAILS.
- SSG SELECTED TUMBER PANELLING.

ATTACHMENT 7

| REV | DATE | DESCRIPTION |
|-----|------------|-----------------------------------|
| 10 | 25.08.2016 | 90% PROGRESS ISSUE |
| 9 | 05.08.2016 | ISSUED FOR 80% CO-ORDINATION |
| 8 | 03.08.2016 | ISSUED FOR CO-ORDINATION |
| 7 | 28.07.2016 | PROGRESS ISSUE |
| 6 | 15.07.2016 | ISSUED FOR AMENDED D.A. |
| 5 | 15.07.2016 | ISSUED FOR COMMENT |
| 4 | 13.07.2016 | ISSUED FOR CO-ORDINATION |
| 3 | 06.07.2016 | ISSUED FOR COMMENT |
| 2 | 07.06.2016 | REISSUED FOR DEVELOPMENT APPROVAL |
| 1 | 01.06.2016 | ISSUED FOR DEVELOPMENT APPROVAL |

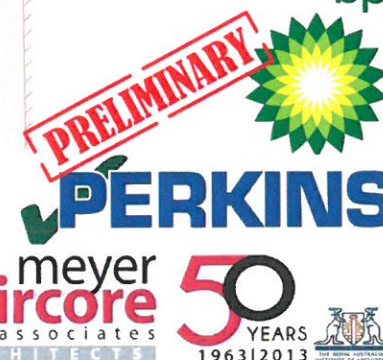
ISSUED FOR PRELIMINARY

FLOOR PLANS

Date: MAY 2016
Scale: 1:100 @ A1
Drawn by: JK
Checked: MDJ

8085

DWG No: A201 Rev No: 10



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e msa@meyershircore.com.au
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ABN 52 872 749 643

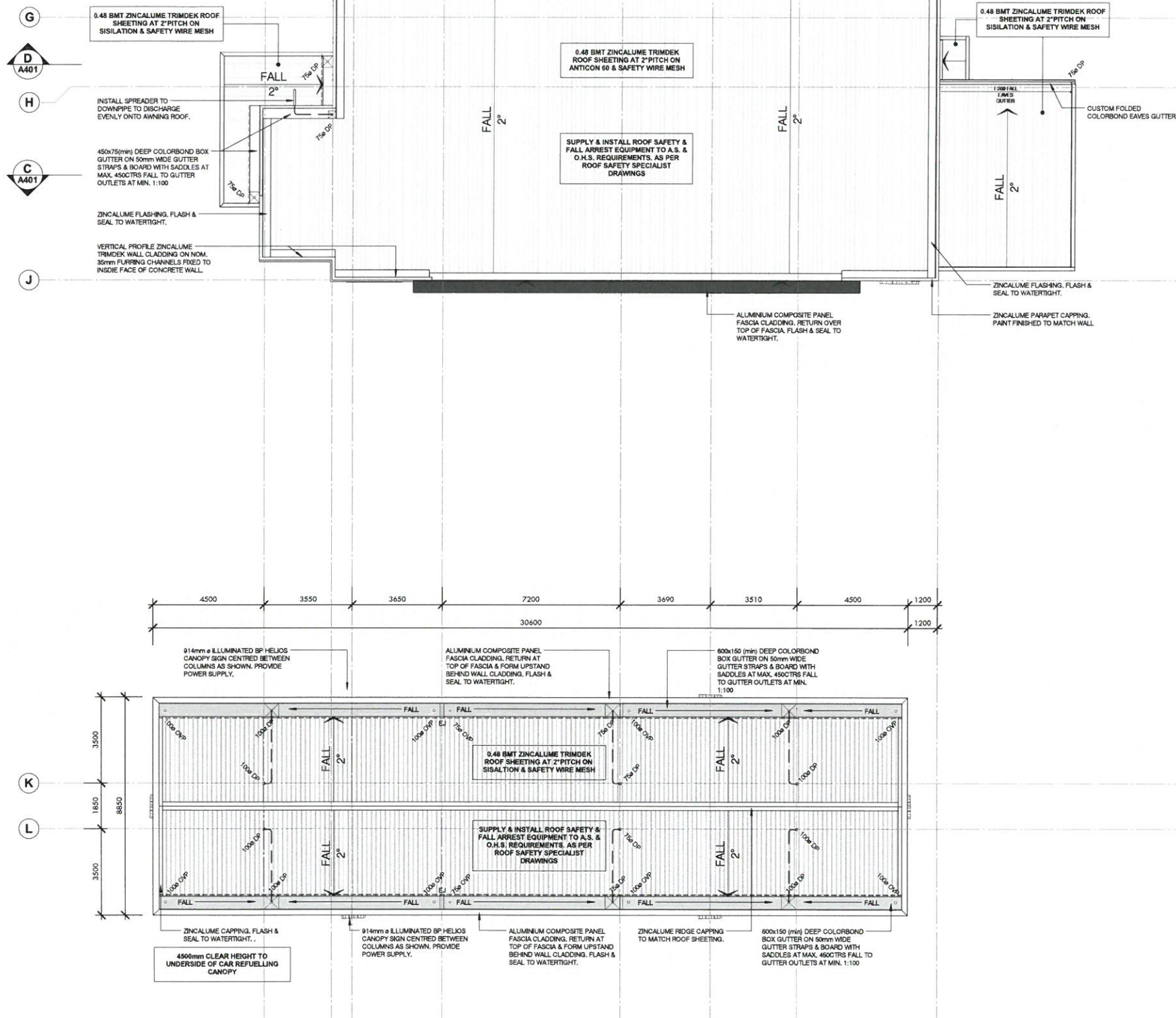
ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|--------------|-------------|----------|----|------------|-------|------|
| M&A | MAXIM - BONE | [Signature] | 25/10/16 | LE | | | |
| | | | | DM | | | |

LEGEND

| | |
|--|--|
| | ZINCALUME TRIMDEK ROOF SHEETING |
| | COLORBOND CUSTOM O/B ROOF SHEETING |
| | ALUMINUM COMPOSITE CLADDING, PROFILE AND FINISH AS SPECIFIED, COLOUR: BP GREEN |
| | ALUMINUM COMPOSITE CLADDING, PROFILE AND FINISH AS SPECIFIED, COLOUR: BP WHITE |

NOTES:
1. SUPPLY & INSTALL ROOF SAFETY EQUIPMENT TO SPECIALIST DESIGN, ROOF SAFETY & FALL ARREST EQUIPMENT & SYSTEM TO COMPLY WITH ALL APPLICABLE AUSTRALIAN & BUILDING CODE STANDARDS.



ROOF PLAN - CONVENIENCE STORE / CAR CANOPY
SCALE: 1:100

ATTACHMENT 8

PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

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ACH 115 189 216
ASN 32 872 749 643

PRELIMINARY

PERKINS

meyer shircore
and associates
ARCHITECTS

50 YEARS
1963|2013

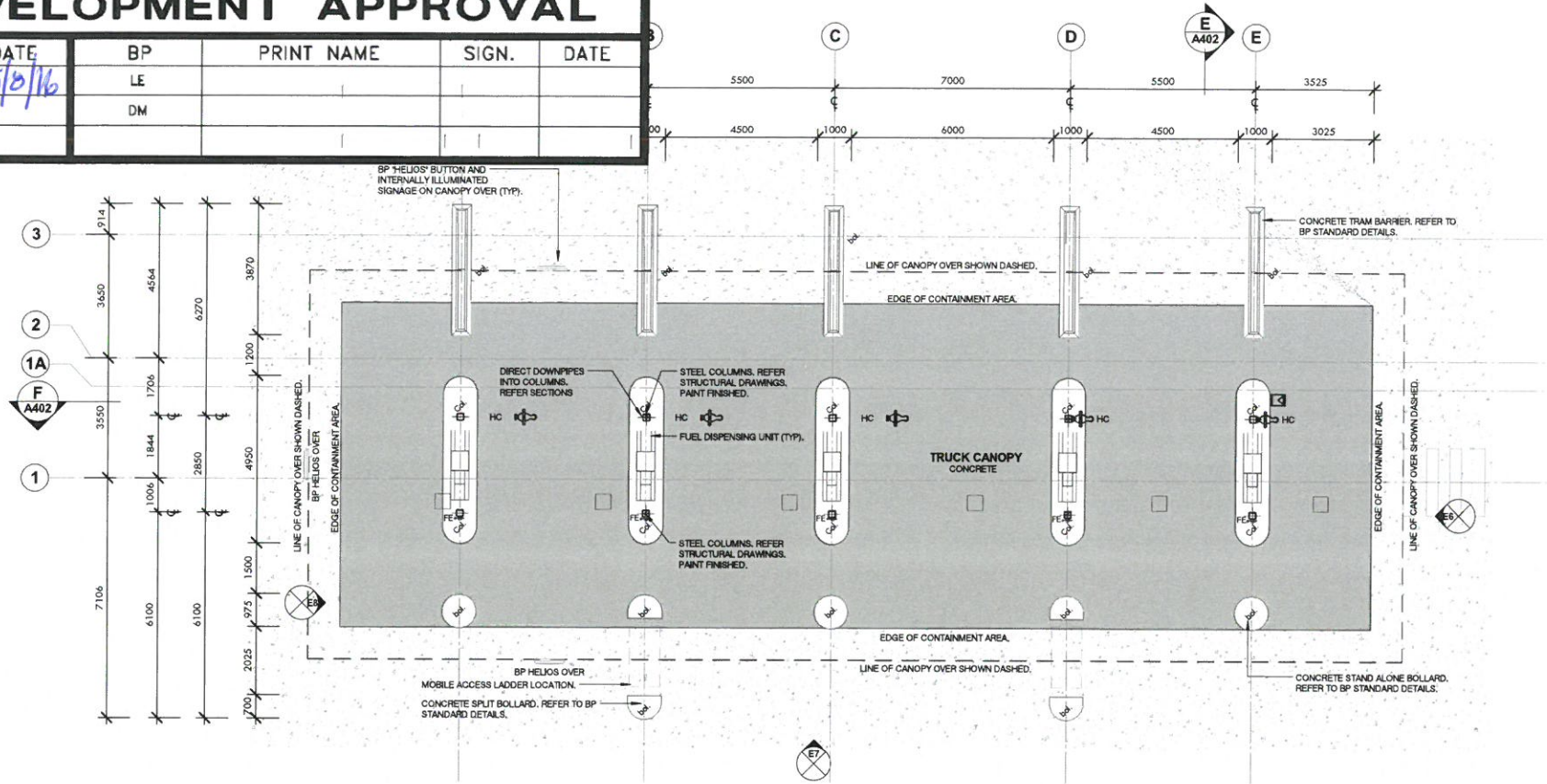
| REV | DATE | DESCRIPTION |
|-----|------------|------------------------------|
| 3 | 25.08.2016 | 90% PROGRESS ISSUE |
| 2 | 05.08.2016 | ISSUED FOR 60% CO-ORDINATION |
| 1 | 28.07.2016 | PROGRESS ISSUE |
| P1 | 09.06.2016 | ISSUED FOR PRELIMINARY |

| | |
|-----------|-------------------|
| Date: | MAY 2016 |
| Scale: | As indicated @ A1 |
| Drawn by: | JK |
| Checked: | MDJ |

| |
|--------------------------------------|
| ISSUED FOR PRELIMINARY |
| ROOF PLANS |
| 8085 |
| DWG No: A241 Rev No: 3 |

ISSUED FOR DEVELOPMENT APPROVAL

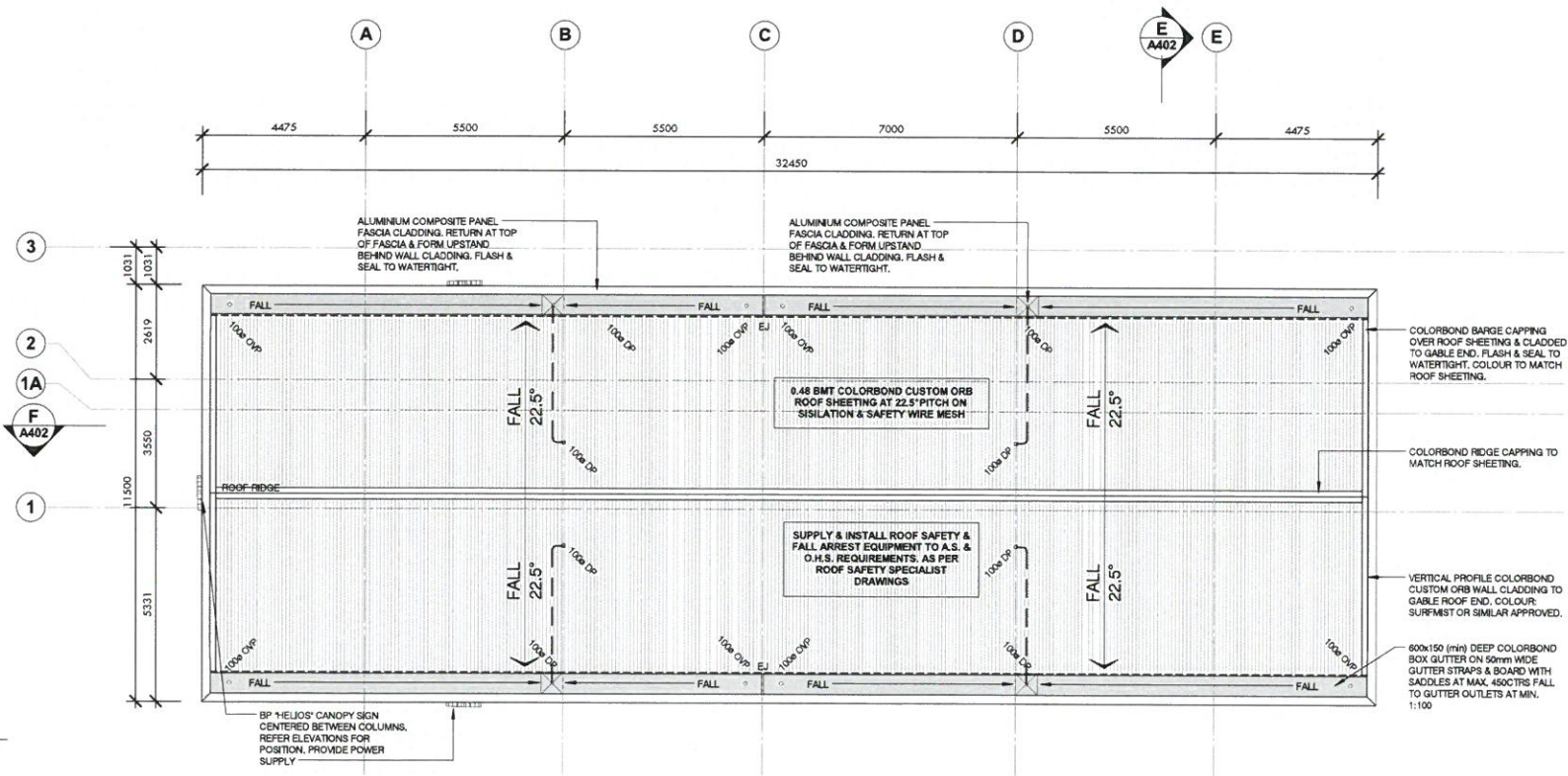
| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|-----------------|-------|----------|----|------------|-------|------|
| MSA | MAURICE MESSIAH | | 25/01/16 | LE | | | |
| | | | | DM | | | |



FLOOR PLAN - TRUCK CANOPY
SCALE: 1:100

- LEGEND**
- ZINCALUME TRIMDEK ROOF SHEETING
 - COLORBOND CUSTOM ORB ROOF SHEETING
 - ALUMINUM COMPOSITE CLADDING, PROFILE AND FINISH AS SPECIFIED, COLOUR: BP GREEN
 - ALUMINUM COMPOSITE CLADDING, PROFILE AND FINISH AS SPECIFIED, COLOUR: BP WHITE

NOTES:
1. SUPPLY & INSTALL ROOF SAFETY EQUIPMENT TO SPECIALIST DESIGN, ROOF SAFETY & FALL ARREST EQUIPMENT & SYSTEM TO COMPLY WITH ALL APPLICABLE AUSTRALIAN & BUILDING CODE STANDARDS.



ROOF PLAN - TRUCK CANOPY
SCALE: 1:100

ATTACHMENT 9



PROPOSED SERVICE STATION & CONVENIENCE STORE
1351 ROCKINGHAM ROAD, NAVAL BASE
FOR: CLIENT

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08 9388 1339
msa@meyershircore.com.au
www.meyershircore.com.au
ACN 115 189 216
ABN 32 872 749 643

PRELIMINARY

PERKINS

meyer shircore
and associates
ARCHITECTS

50 YEARS
1963|2013

| REV | DATE | DESCRIPTION |
|-----|------------|--------------------|
| 1 | 25.08.2016 | 90% PROGRESS ISSUE |
| 2 | MAY 2016 | As indicated @ A1 |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |

ISSUED FOR PRELIMINARY

TRUCK CANOPY & ROOF PLAN

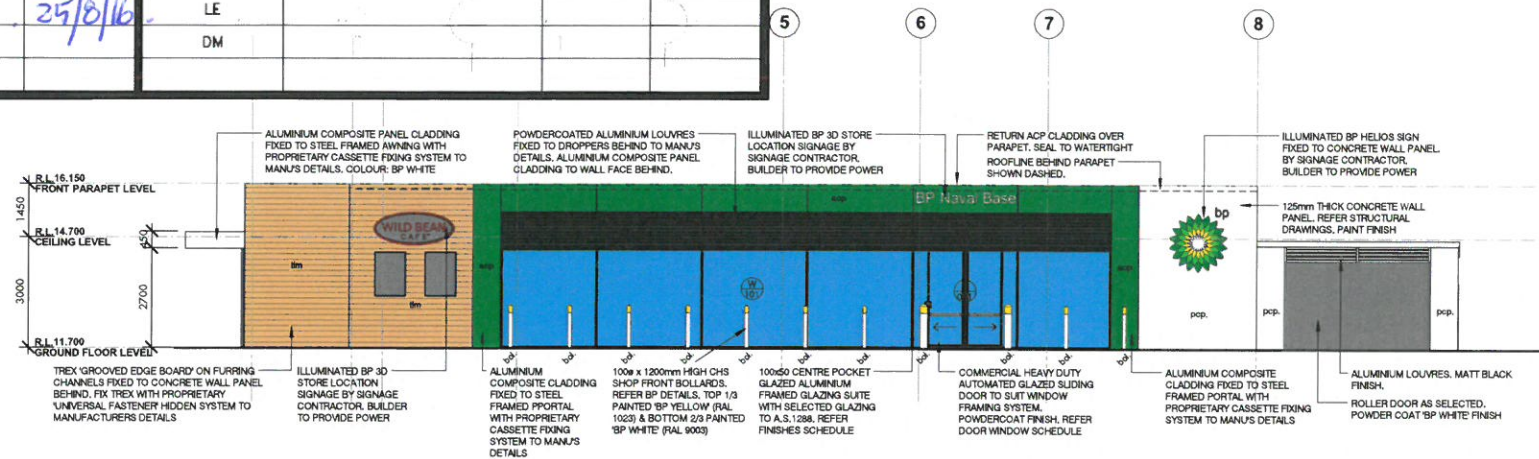
Date: MAY 2016
Scale: As indicated @ A1
Drawn by: JK
Checked: MDJ

8085

DWG No: **A242** Rev No: **1**

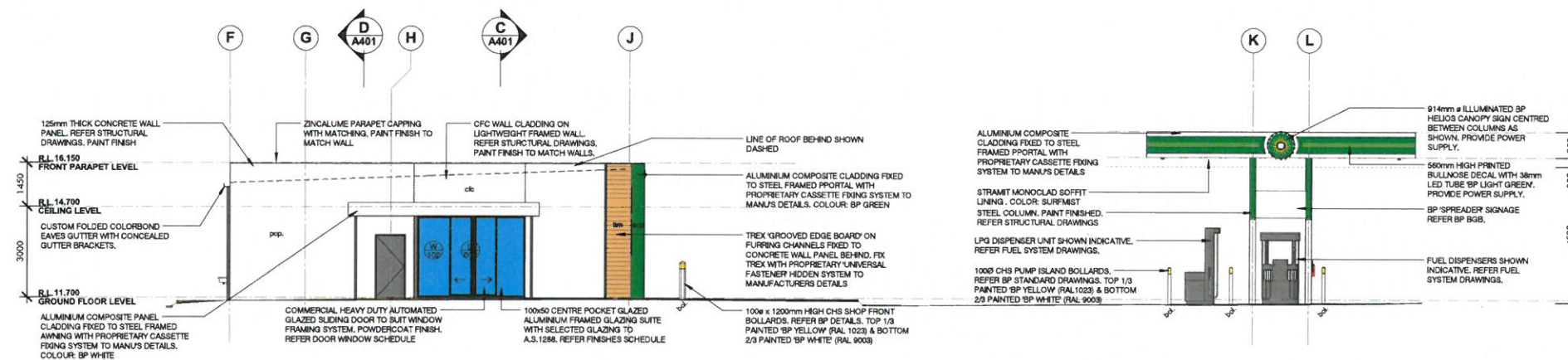
ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|---------------|-------|---------|----|------------|-------|------|
| M&A | MALCOLM JONES | | 25/8/16 | LE | | | |
| | | | | DM | | | |



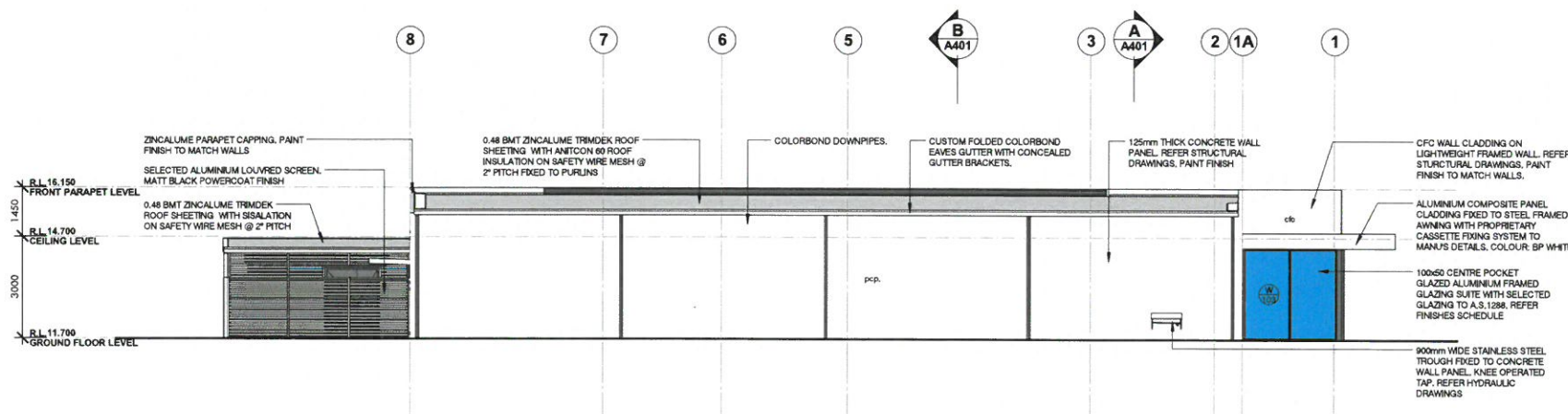
CONTROL BUILDING - ELEVATION E1

SCALE: 1 : 100



CONTROL BUILDING & CAR ACANOPY - ELEVATION E2

SCALE: 1 : 100



CONTROL BUILDING - ELEVATION E3

SCALE: 1 : 100

LEGEND

| | |
|-----|---|
| acp | ALUMINUM COMPOSITE PANEL WALL CLADDING |
| bol | COMPRESSED FIBRE CEMENT SHEET WALL CLADDING, PAINT FINISHED |
| pcp | CONCRETE WALL PANELS, PAINT FINISH TO ALL VISIBLE SURFACES |
| tm | SELECTED TUMBER PANNELLING |

MATERIALS LEGEND

| | |
|-------|--|
| PCP | PRECAST CONCRETE PANEL WITH FINISH AS SPECIFIED EXTERNALLY |
| TM | COMPOSITE TUMBER LOOK CLADDING AS SPECIFIED |
| ACP | ALUMINUM COMPOSITE SHEETING AS SPECIFIED, COLOUR GREEN |
| FCC-1 | DECORATIVE FACADE LOUVRES, POWDERCOATED ALUMINUM COMPOSITE PANEL TO WALL FACE BEHIND |
| FCC-2 | PAINTED CFC CLADDING TO SIGNAGE ZONE |
| G1 | CLEAR GLAZING AS SPECIFIED AND SCHEDULED |
| G2 | SOLAR CONTROLLED GLAZING AS SPECIFIED AND SCHEDULED |
| CWC | PROFILED CORRUGATED SHEETING WITH FINISH AS SPECIFIED |

ATTACHMENT 10

| REV | DATE | DESCRIPTION |
|-----|------------|-----------------------------------|
| 8 | 25.08.2016 | 90% PROGRESS ISSUE |
| 7 | 25.08.2016 | ISSUED FOR 60% CO-ORDINATION |
| 6 | 28.07.2016 | PROGRESS ISSUE |
| 5 | 21.07.2016 | ISSUED FOR AMENDED D.A. |
| 4 | 15.07.2016 | ISSUED FOR AMENDED D.A. |
| 3 | 15.07.2016 | ISSUED FOR COMMENT |
| 2 | 07.06.2016 | REISSUED FOR DEVELOPMENT APPROVAL |
| 1 | 01.06.2016 | ISSUED FOR DEVELOPMENT APPROVAL |

ISSUED FOR PRELIMINARY

ELEVATIONS

Date: MAY 2016

Scale: 1 : 100 @ A1

Drawn by: JK

Checked: MDJ

8085

DWG No: **A301** Rev No: **8**

PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE

FOR: CLIENT

Site 2, Ground Floor,
437 Roberts Rd, WA 6008

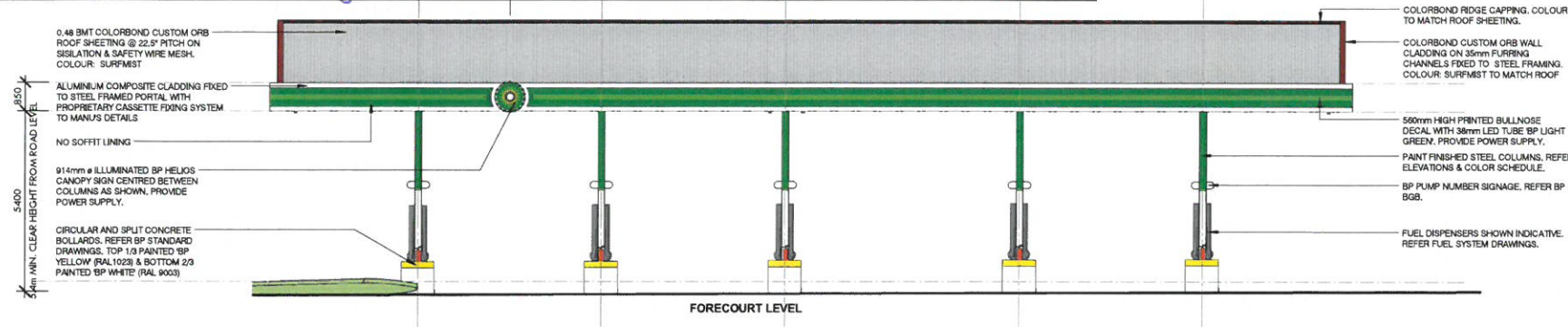
1 08 9381 8511
2 08 9388 1339
3 msa@meyershircore.com.au
4 www.meyershircore.com.au

ACN 115 189 216
ABN 32 872 749 643



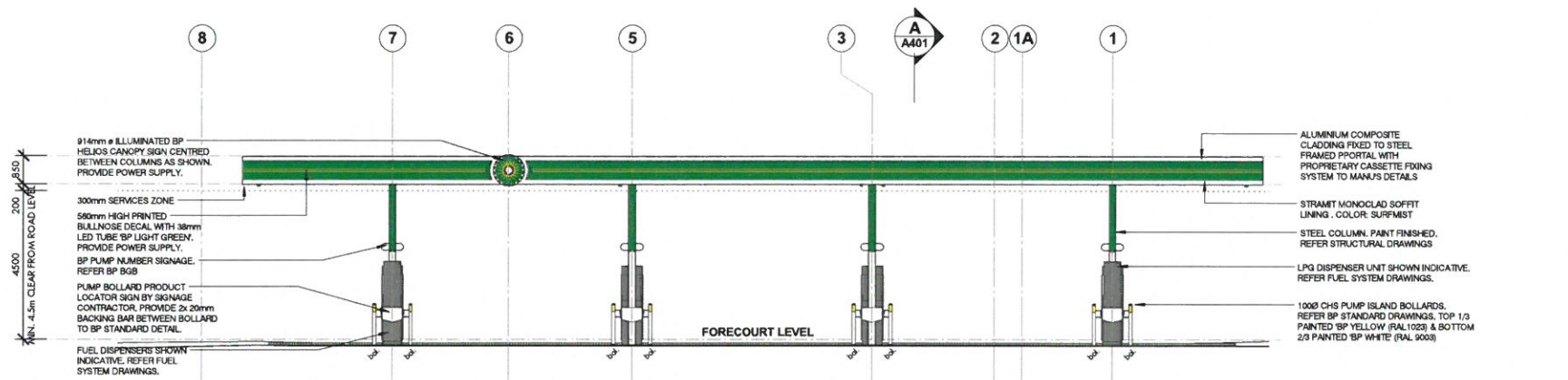
ISSUED FOR DEVELOPMENT APPROVAL

| 3RD PARTY | PRINT NAME | SIGN. | DATE | BP | PRINT NAME | SIGN. | DATE |
|-----------|----------------|-------------|---------|----|------------|-------|------|
| M&A | Malcolm Bishop | [Signature] | 25/8/16 | LE | | | |
| | | | | DM | | | |



TRUCK CANOPY - ELEVATION E7

SCALE: 1:100

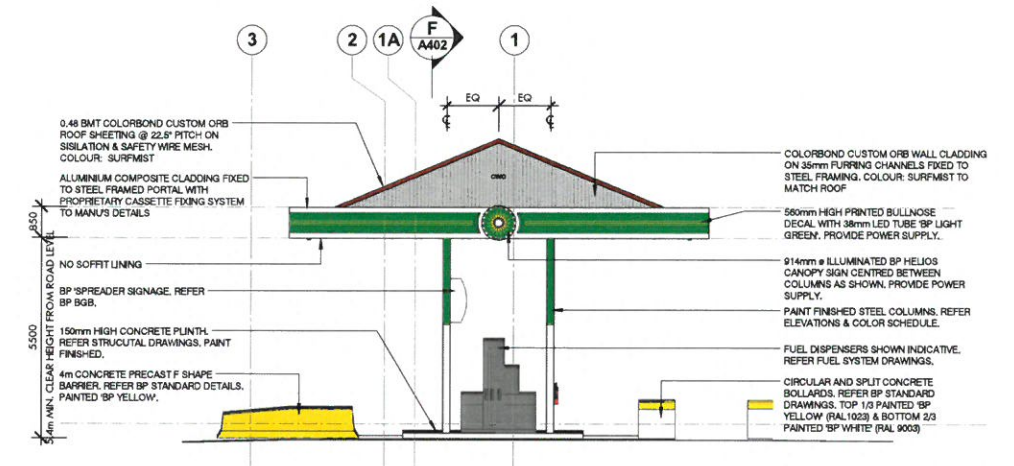


TRUCK CANOPY - ELEVATION E6

SCALE: 1:100

CAR CANOPY - ELEVATION E5

SCALE: 1:100



TRUCK CANOPY - ELEVATION E8

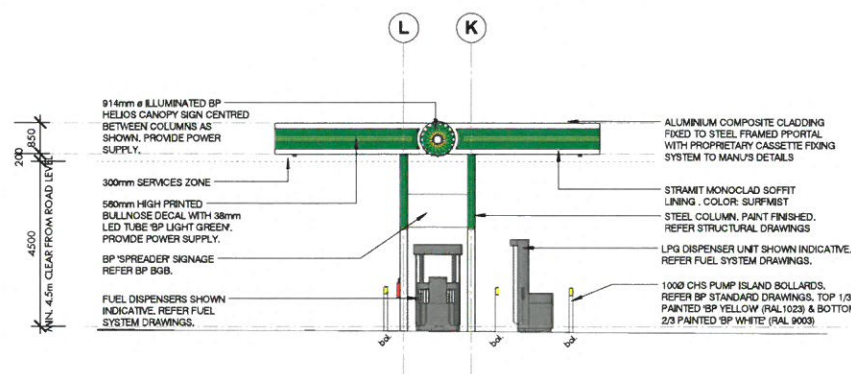
SCALE: 1:100

LEGEND

- acp ALUMINUM COMPOSITE PANEL WALL CLADDING.
- bcw COLORBOND WALL CLADDING.
- pcp CONCRETE WALL PANELS. PAINT FINISH TO ALL VISIBLE SURFACES.

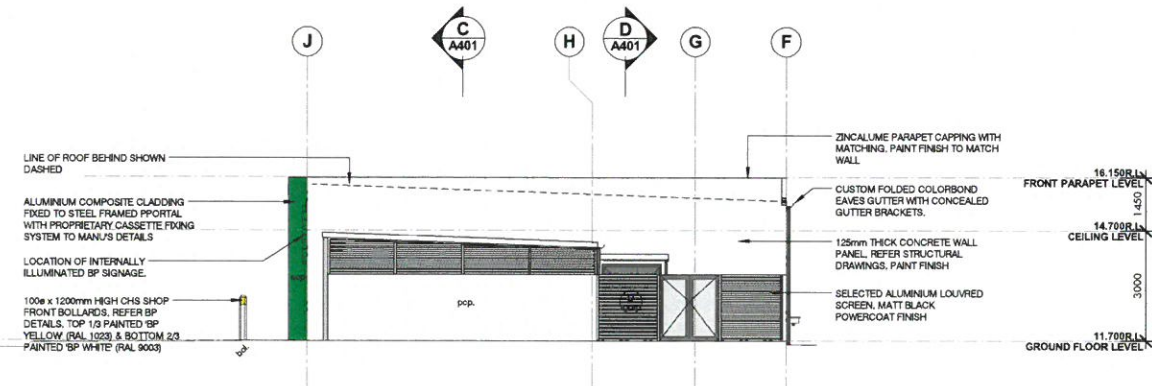
MATERIALS LEGEND

- PCP PRECAST CONCRETE PANEL WITH FINISH AS SPECIFIED EXTERNALLY.
- TM COMPOSITE TIMBER LOOK CLADDING AS SPECIFIED.
- ACP ALUMINUM COMPOSITE SHEETING AS SPECIFIED. COLOUR GREEN.
- FCC-1 DECORATIVE FACADE LOUVRES. POWDERCOATED ALUMINUM COMPOSITE PANEL TO WALL FACE BEHIND.
- FCC-2 PAINTED CFC CLADDING TO SIGNAGE ZONE.
- G1 CLEAR GLAZING AS SPECIFIED AND SCHEDULED.
- G2 SOLAR CONTROLLED GLAZING AS SPECIFIED AND SCHEDULED.
- CWC PROFILED CORRUGATED SHEETING WITH FINISH AS SPECIFIED.



CONTROL BUILDING & CAR CANOPY - ELEVATION E4

SCALE: 1:100



ATTACHMENT 11

PROPOSED SERVICE STATION & CONVENIENCE STORE

1351 ROCKINGHAM ROAD, NAVAL BASE

FOR: CLIENT

Suite 2, Ground Floor,
437 Roberts Rd, WA 6008

08 9381 8511
08 9388 1339
msa@meysershire.com.au
www.meysershire.com.au

ACN 115 189 215
ABN 52 872 749 643



| REV | DATE | DESCRIPTION |
|-----|------------|---------------------------------|
| 1 | 25.08.2016 | 90% PROGRESS ISSUE |
| 2 | 08.09.2016 | ISSUED FOR DEVELOPMENT APPROVAL |

| | | |
|----------------|-------------------|------------------------|
| Date: MAY 2016 | Scale: 1:100 @ A1 | 8085 |
| Drawn by: JK | Checked: MDJ | DWG No: A302 Rev No: 1 |

7.2 Lease Agreement and Performance and Service Level Agreement 2016 – 2021 between the City of Kwinana and Koorliny Arts Centre (Incorporated) in relation to Koorliny Arts Centre, 10 Hutchins Cove, Kwinana

SUMMARY:

This report seeks Council approval to enter into a new lease agreement (Attachment A) and Performance and Service Level Agreement 2016 – 2021 (Attachment C) between the City of Kwinana and Koorliny Arts Centre (Incorporated) (KAC Inc) in relation to Koorliny Arts Centre, 10 Hutchins Cove, Kwinana.

The Performance and Service Level Agreement 2016 – 2021 (the Agreement) outlines the expectations of Council with regard to the granting of operational funding to the KAC Inc. The Agreement commits Council to maintaining operational funding at the 2015/16 level (\$407,212 per annum) for the next five financial years, and includes key performance indicators (KPIs) for the KAC Inc relating to: governance; performance; marketing and engagement; accessibility; risk management; collaboration and partnerships; financial planning; and strategic planning.

With regard to the proposed new lease, the City advertised the proposed disposition by way of lease in the local public notice section of the Weekend Courier on Wednesday, 25 May 2016. Submissions were invited to be made in writing by Friday, 3 June 2016. There were no submissions received.

OFFICER RECOMMENDATION:

That Council enter into and authorise the Mayor and the Chief Executive Officer to sign:

- 1. The lease agreement between the City of Kwinana and the Koorliny Arts Centre (Incorporated) in relation to Koorliny Arts Centre, 10 Hutchins Cove, Kwinana, as detailed in Attachment A.**

Note: That there were no submissions received during the submission period.

- 2. The Performance and Service Level Agreement 2016 – 2021 between the City of Kwinana and the Koorliny Arts Centre (Incorporated) as detailed in Attachment C.**
- 3. Make any modifications or variations to the lease agreement and Performance and Service Level Agreement between the City of Kwinana and the Koorliny Arts Centre that does not alter the purpose of the agreements.**

DISCUSSION:

The Koorliny Arts Centre is the City of Kwinana's single most significant investment in the cultural development of the City. Built in 1990 and owned by the City, the Centre has been leased to the KAC Inc since 1991. In 2011, as part of the lease renewal negotiations at that time, a Performance and Service Level Agreement was entered into. Both the lease and the Performance and Service Level Agreement expired on 30 and 31 January 2016, respectively.

Lease Agreement

The lease between the City and KAC Inc for the period 31 January 2011 – 30 January 2016 allowed for an option to extend the lease for a further 5 year period and the KAC Inc did request to exercise its option in a letter dated 9 April, 2015.

7.2 LEASE AGREEMENT AND PERFORMANCE AND SERVICE LEVEL AGREEMENT 2016 – 2021 BETWEEN THE CITY OF KWINANA AND KOORLINY ARTS CENTRE (INCORPORATED) IN RELATION TO KOORLINY ARTS CENTRE, 10 HUTCHINS COVE, KWINANA

Co-incidentally at around the same time, LGIS undertook an Occupational Health and Safety audit of the Centre and identified a number of anomalies in the existing lease, principally where responsibility for the management of particular areas had been assigned to the City, but were in actual fact the responsibility of the KAC Inc as operators of the facility.

The market rent valuation was carried out on the premises by Pember Wilson & Eftos (PWE), and received on 21 April 2016, which is within six months of the proposed disposition, as at the commencement date of 1 July 2016. The advice from the City's solicitors in relation to retrospectively dating the lease 1 July 2016, is acceptable.

With the KAC Inc wishing to exercise the option to extend the lease for a further 5 year term, the opportunity was taken to enter into a new lease, thereby dealing with the anomalies identified by LGIS and also giving the KAC Inc exclusive use of the facility, a requirement for a liquor licence application which the KAC Inc had requested.

The City then subsequently advertised the proposed disposition by way of lease in the local public notice section of the Weekend Courier on Wednesday, 25 May 2016. Submissions were invited to be made in writing by Friday, 3 June 2016. There were no submissions received.

The proposed lease (Attachment A) is for a term of five years, it is proposed to be a peppercorn lease with KAC Inc to pay \$100 per annum.

| Category | Annual Rent | Eligibility |
|--------------------|---|---|
| A: Peppercorn Rent | As determined annually in the City's Schedule of Fees and Charges | Use approved by Council; Meets all relevant eligibility criteria; Provides significant community benefit; and Has limited revenue-raising ability (net of cost of service) e.g. community play groups, neighbourhood house |

KAC Inc is a community facility and in accordance with Council's Leasing of Community Facilities Policy, KAC Inc must meet the compulsory organisational criteria:

| Organisation Criteria | Lessee Category | |
|--|-----------------|-----------------|
| | KAC Inc | Peppercorn Rent |
| 1. The organisation must be an organisation, which applies any surpluses towards its purposes, prohibits any dividends or profits from being paid to its members and is exempt from paying income tax; | Yes | E |
| 2. The organisation is a legal entity incorporated under appropriate legislation (such as the Associations Incorporation Act 1987); | Yes | E |
| 3. The organisation is financially viable and able to demonstrate good financial management and record-keeping practices to the satisfaction of the City; | Yes | E |

7.2 LEASE AGREEMENT AND PERFORMANCE AND SERVICE LEVEL AGREEMENT 2016 – 2021 BETWEEN THE CITY OF KWINANA AND KOORLINY ARTS CENTRE (INCORPORATED) IN RELATION TO KOORLINY ARTS CENTRE, 10 HUTCHINS COVE, KWINANA

| | | | |
|-----|--|-----|---|
| 4. | The organisation complies with relevant legislation governing its activities and holds any licences or registration certificates required for it to operate; | Yes | E |
| 5. | The organisation has a committee of management and appropriate governance arrangements, with established accountability and reporting methods to members of the organisation and / or to the community, including the capacity to maintain appropriate financial records for audit purposes; | Yes | E |
| 6. | The organisation adheres to all relevant Council local laws including the Local Government Property Local Law, Council policies and has complied with the terms of any previous lease or licence and/or grant from the City; | Yes | E |
| 7. | Demand exists for the service or activity to be provided through the facility; | Yes | E |
| 8. | Facility use is consistent with City objectives and current Business Plan; | Yes | E |
| 9. | Use of the facility will increase social engagement and promote health and wellbeing of the Kwinana community; | Yes | E |
| 10. | The service or activity is non-discriminatory. It will be open to all residents who meet the criteria for participation that are directly related to the nature of the service or activity or geographic catchment area; and | Yes | E |
| 11. | Disadvantaged groups can access the service or activity and strategies are in place to review and remove any barriers to participation. | Yes | E |

| Facility Management and Development Criteria | Lessee Category | |
|--|-----------------|-----------------|
| | KAC Inc | Peppercorn Rent |
| 1. Proposed use of the facility is suitable for the nature of the site and the neighbourhood. | Yes | E |
| 2. The organisation is prepared to maximise utilisation of the facility as requested by the City. | Yes | E |
| 3. The organisation agrees to provide the City with requested information including current and projected opening hours and participant and/or membership numbers. | Yes | E |

“E” in the column under the lessee category indicates that this is an essential criterion for that category of lessee to meet.

Performance and Service Level Agreement

In the lead up to the expiration of the Performance and Service Level Agreement in January 2016, the City commissioned a review report (the Report) (Attachment B) to assess the KAC Inc's outcomes against the Agreement's KPIs, and to make recommendations for the future strategic direction of the facility.

7.2 LEASE AGREEMENT AND PERFORMANCE AND SERVICE LEVEL AGREEMENT 2016 – 2021 BETWEEN THE CITY OF KWINANA AND KOORLINY ARTS CENTRE (INCORPORATED) IN RELATION TO KOORLINY ARTS CENTRE, 10 HUTCHINS COVE, KWINANA

The report states that the KAC Inc has met or exceeded the Agreement's KPIs, and notes the following achievements:

- *"Increase in overall attendance from 30,000 in the 2012/13 financial year to 41,000 in 2014/15;*
- *Increase in paid attendance from 23,093 in 2013 to 29,236 in 2015; and*
- *Increase in number of performances presented each year from 62 in 2012 to 92 in 2015."*

The Report gives an overview of the current strengths and weaknesses of the Centre, talks about contemporary best practice with regard to local government incorporating arts facilities into their broader cultural planning processes, the relationship the Centre has with other community facilities within the City Centre precinct and long term sustainability issues.

It touches on the role of performing arts centres in community:

"The CircuitWest conference in 2015 conducted a strategic planning session with stakeholders across the sector, from local government representatives, venue managers, tour operators, funders and arts product producers. The discussions highlighted a need for performing art centres to begin to see themselves as "Creative and Community Hubs", to encourage audience development through knowing your community and your audience, programming different activities to attract and re-attract them, making the Centre a "home" for them as well as working with tour operators and arts producers to co-commission work in partnership, work that is suitable for the Centre's specific audiences. It is interesting that The KAC Inc's direction already seems to acknowledge this approach."

The Report also notes many potential opportunities for the Centre including:

"Arts industry stakeholder interviews reveal the growth of The KAC Inc's reputation in producing quality community musical shows with a strong sense of community participation. It has even been intimated that the shows may be able to tour to surrounding regional centres. Quality musical productions are popular with audiences, and difficult to find within the State. This may be an entrepreneurial opportunity for future shows."

Based on comprehensive consultation (including with Council at the Elected Members' Forum of 4 May), data analysis and industry benchmarking, the report makes the following recommendations for the future strategic direction of the facility:

1. *"City of Kwinana and The Koorliny Arts Centre Inc (The KAC Inc) to enter into a new five year Performance Service Level Agreement, with operational funding levels kept at the current level;*
2. *The relationship to be formally recognized in the City and the Centre's publications, and on web/social media, as a vital contribution to the growth and well-being of the Kwinana residents (particularly if productions to tour to other centres);*
3. *The KAC Inc explore income diversification opportunities through activation of amphitheatre and courtyard spaces. City of Kwinana to work closely with The KAC Inc to overcome capital and environment barriers to programming in these spaces including:*
 - a. *a re-facing of the public access towards the new Town Centre;*
 - b. *Access and safety issues addressed through railing and ramps in areas;*
 - c. *Establish an agreement across residents to gain approval for an outdoor program;*
 - d. *Increase lighting, signage and safety measures around the Centre to increase patron comfort.*
4. *Further diversification of income to be explored from licensing and food preparation at events on the expanded site;*

7.2 LEASE AGREEMENT AND PERFORMANCE AND SERVICE LEVEL AGREEMENT 2016 – 2021 BETWEEN THE CITY OF KWINANA AND KOORLINY ARTS CENTRE (INCORPORATED) IN RELATION TO KOORLINY ARTS CENTRE, 10 HUTCHINS COVE, KWINANA

5. *New programming policy to balance in-house productions and external hirers and presentations to maximize audience potential, ticketing and hirer income, and to reduce dark nights.*
6. *The KAC Inc Board to review the roles of the Centre General Manager and the Administration/Media to create a Marketing Manager role responsible for a more strategic approach to marketing and audience development, relieving the Centre General Manager to participate in national and State Performing Arts Centre networks and markets and the City of Kwinana's Arts Advisory group;*
7. *The KAC Inc Board to form an appropriately skilled subcommittee to assist the development of the marketing and audience development plan and implementation;*
8. *Development of key partnerships with key stakeholders in the arts sector for future audience and program development including FRINGE WORLD Festival, Barking Gecko, Spare Parts Puppet Theatre, Country arts WA, Performing Lines WA, and CAN;*
9. *To explore a multi-cultural programming stream to engage with Kwinana's migrant and Aboriginal population;*
10. *The KAC Inc to negotiate formal Memorandums of Understanding with the co-located groups in the Centre: Wellard School of Music and Instep Dance, outlining a stable time-frame for hiring, joint promotional strategies, and collaborations on programming and events at the Centre."*

Based on the above recommendations, the report proposes revised KPIs for the KAC Inc relating to: governance; performance; marketing and engagement; accessibility; risk management; collaboration and partnerships; financial planning; and strategic planning. Those KPIs have been included in the 2016-2021 Agreement (Attachment C) and this report seeks a Council resolution on the endorsement of that Agreement.

LEGAL/POLICY IMPLICATIONS:

Local Government Act 1995

Section 3.58. Disposing of property

- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
 - and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

FINANCIAL/BUDGET IMPLICATIONS:

There are financial/budget implications identified as a result of this report.

If entered into, the Agreement will commit Council to maintaining operational funding of KAC Inc at the 2015/16 level of \$407,212 per annum, without indexation, for the next five financial years.

7.2 LEASE AGREEMENT AND PERFORMANCE AND SERVICE LEVEL AGREEMENT 2016 – 2021 BETWEEN THE CITY OF KWINANA AND KOORLINY ARTS CENTRE (INCORPORATED) IN RELATION TO KOORLINY ARTS CENTRE, 10 HUTCHINS COVE, KWINANA

The City will also lose \$159,900 per annum of potential lease revenue, if entering into a peppercorn lease agreement.

The Performance and Service Level Agreement states that the City and KAC Inc will collaborate in relation to planning for and implementation of agreed capital works which will have financial implications. The KAC Inc Financial Plan is due by 31 January 2017 however the Council will consider all capital works in conjunction with the City of Kwinana Long Term Financial Plan and KAC Strategic Plan.

ASSET MANAGEMENT IMPLICATIONS:

The Koorliny Arts Centre was built in 1990, and is owned by the City. If entered into, the Agreement will require that KAC Inc allocate sufficient funds in their annual budget to maintain the venue in accordance with the lease for the next five financial years.

ENVIRONMENTAL IMPLICATIONS:

There are no environmental implications.

STRATEGIC/SOCIAL IMPLICATIONS:

The Agreement aligns with the following Strategic Community Plan aspiration, objective and strategy:

- Aspiration 1. Rich in Spirit
- Objective 1.7: Develop and celebrate arts and culture in Kwinana
- Strategy 1.7.1 Implement the City of Kwinana's Cultural Plan in order to build the capacity of local artists, encourage awards and exhibitions, facilitate the installation of public art, as well as provide opportunities for the community to engage in arts and cultural activities.

RISK IMPLICATIONS:

The Koorliny Arts Centre is Kwinana's primary cultural facility, presenting upward of 90 performances annually to more than 40,000 attendees, in line with community expectation. If entered into, the 2016-2021 Agreement will address the risk of the Centre failing to operate in line with community expectation.

Lease - Koorliny Arts Centre, 10 Hutchins Way, Kwinana Town Centre

City of Kwinana

The Koorliny Arts Centre (Incorporated)



McLEODS

Barristers & Solicitors

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

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

Email: mcleods@mcleods.com.au

Ref: DFN:KWIN-37084

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Details

Parties

City of Kwinana

of Corner Gilmore Ave & Sulphur Rd, Kwinana, Western Australia
(**Lessor**)

The Koorliny Arts Centre (Incorporated)

of 10 Hutchins Way, Kwinana Town Centre Kwinana, Western Australia
(**Lessee**)

Background

- A The Lessor is the proprietor of an estate in fee simple in the land described in **Item 1(a)** of the Schedule (**Land**), subject to the interests and encumbrances noted in Certificate of Title Volume 2615 Folio 984.
- B The Lessee has requested that the Lessor grant it a lease of that portion of the Land described in **Item 1(b)** of the Schedule (**Premises**), and the Lessor has agreed subject to the Parties entering into this agreement.

Agreed terms

1. Surrender of Former Lease and Grant of Lease

1.1 Surrender of Former Lease

- (1) At the expiration of the day preceding the Commencement Date (**Surrender Date**) the Lessee surrenders the Former Lease and all rights, powers and privileges contained in the Former Lease.
- (2) The Lessor accepts the Lessee's surrender of the Former Lease made pursuant to **clause 1.1(1)** of this Deed.
- (3) The Lessor releases the Lessee from the Lessee's Covenants under the Former Lease in respect of the Premises arising after the Surrender Date.
- (4) The Lessee releases the Lessor from its obligations under the Former Lease in respect of the Premises arising after the Surrender Date.
- (5) The surrender referred to in **clause 1.1** shall not include a release by the Lessor of the Lessee's liability for any breaches of the Former Lease that may have occurred or may occur on or prior to the Surrender Date.

1.2 Grant of Lease

The Lessor leases to the Lessee the Premises for the Term subject to:

- (a) any Encumbrances and the Reservations;
- (b) the payment of the Amounts Payable;
- (c) the performance of the Lessee's Obligations; and
- (d) the Lessee complying at all times with the Performance and Service Level Agreement in accordance with paragraph 1 of Item 9 of the Schedule.

2. Quiet enjoyment

Except as provided in the Lease and subject to the performance of the Lessee's Obligations, the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

LESSEE'S RIGHTS AND OBLIGATIONS

3. Rent and other payments

The Lessee AGREES with the Lessor:

(1) Rent

To pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule and subject to review in accordance with **clause 4** from the Commencement Date clear of any deductions or abatement (except as provided in **clause 22**).

(2) **Outgoings**

- (a) To pay punctually to the Lessor, or to such person as the Lessor may from time to time direct, all the following outgoings or charges (if applicable), assessed or incurred in respect of the Premises:
- (i) electricity charges including meter rents;
 - (ii) water consumption charges including meter rent and excess water charges;
 - (iii) gas consumption charges including meter rents;
 - (iv) telephone charges including line rental and the installation cost of any telephone connection;
 - (v) refuse removal;
 - (vi) subject to subclauses (viii) to (xi), any other consumption charge or cost, statutory impost or other obligation reasonably incurred or payable by reason of the Lessee's use and occupation of the Premises;

but not including:

- (vii) local government rates;
 - (viii) water rates;
 - (ix) State land tax.
- (b) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 3(2)(a)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.
- (c) To pay punctually to the Lessor, or to such person as the Lessor may from time to time direct, all the following operating expenses, assessed or incurred by the Lessor in respect of the Building or the Land (and not otherwise payable by the Lessee pursuant to **clause 3(2)(a)**):
- (i) administration costs and operation of the Building including the auditing of statements relating to outgoings and operating expenses;
 - (ii) cleaning and keeping the Building or Land free of waste and vermin and pests;
 - (iii) gardening and maintenance of landscaping;
 - (iv) cleaning and maintenance of toilets, restrooms and other similar public amenities in the Building;
- but not including:
- (v) any capital costs (including the replacement of parts, except for minor replacements required in the course of normal maintenance and repair) or any expenditure for structural work.

(3) **Interest**

Without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 35 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

(4) **Costs**

- (a) To pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
- (i) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
 - (ii) any breach of an obligation or agreement by the Lessee or an Authorised Person;
 - (iii) the preparation and service of a notice under Section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
 - (iv) any work done by the Lessor at the request of the Lessee as a result of the Permitted Use of the Premises by the Lessee and does not include any works of a capital nature; and
 - (v) any action or proceedings arising out of or incidental to any matters referred to in this **clause 3(4)** or any matter arising out of this Lease.

4. Rent review

4.1 Rent to be reviewed

Not Applicable

4.2 Methods of review

Not Applicable

4.3 CPI review

Not Applicable

4.4 Market rent review

Not Applicable

4.5 Lessor's right to review

5. Not Applicable Accrual of amounts payable

Amounts Payable accrue on a daily basis.

6. Payment of money

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

7. Insurance

7.1 Insurance required

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

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

7.2 Details and Receipts

In respect of the insurances required by **clause 7.1** the Lessee must:

- (a) on demand supply to the Lessor details of the insurances and give to the Lessor copies of the certificates of currency in relation to those insurances;
- (b) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums or certificate of currency issued by the insurers; and
- (c) notify the Lessor immediately:
 - (i) when an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
 - (ii) when a policy of insurance is cancelled.
- (d) apply the proceeds of any claim made under any of such policies to the purpose for which the insurance was effected on terms first approved by the Lessor in writing.

7.3 Not to Invalidate

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

- (a) render any insurance effected under **clause 7.1** or **clause 21** void or voidable;
- (b) cause the rate of a premium on any insurance effected under **clause 7.1** or **clause 21** to be increased for the Premises or any adjoining premises (except insofar as an approved development may lead to an increased premium).

7.4 Reports

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

- (a) any damage to the Premises of which they are or might be aware; and

- (b) any circumstances of which they are aware and which are likely to be a danger or cause any damage or danger to the Premises or to any person who is lawfully using or may lawfully use the Premises.

7.5 Lessee to pay excess on insurances

The Lessee AGREES with the Lessor that it shall be responsible to pay any excess payable in connection with the insurances referred to in **clause 7.1**.

7.6 Lessee's equipment and possessions

Subject to **clause 21**, the Lessee ACKNOWLEDGES it is responsible to obtain all relevant insurances to cover any damage and/or theft to its property. The Lessor does not take any responsibility for the loss or damage of the Lessee's property.

8. Indemnity

8.1 Indemnity

The Lessee indemnifies the Lessor against any liability or loss arising from and any costs, charges and expenses incurred in connection with:

- (a) any damage to the Premises, or any loss of or damage to anything on it; and
- (b) any injury to or death of any person on the Premises,
caused by, contributed to or arising out of, or in connection with, whether directly or indirectly
- (c) the Lessee's use and occupation of the Premises;
- (d) something the Lessee does or fails to do and is required to do or not do pursuant to this Lease,
- (e) any work carried out by or on behalf of the Lessee under this Lease;
- (f) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
- (g) any negligent or other tortious act or omission of the Lessee

and for which the Lessor becomes liable, except to the extent that such damage, loss or injury results from an act, omission or the negligence of the Lessor or its servants, agents, contractors or invitees, and that in the absence of any such negligence, the Lessor shall not be liable for any loss of or damage to the fixtures, fittings or other property of the Lessee.

8.2 Indemnity unaffected by insurance

- (1) The Lessee's obligation to indemnify the Lessor under this Lease or at law is not affected by any insurance maintained by the Lessor in respect of the Premises and the indemnity under **clause 8.1** is paramount; and
- (2) If insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 8.1** will be reduced by the extent of such payment.

9. Use

9.1 Restrictions on use

(1) Generally

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

- (a) use the Premises or any part of it for any purpose other than for the purpose for which the Premises are held by the Lessee, as set out at **Item 7 and Item 9** of the Schedule; or
- (b) use the Premises for any purpose which is not permitted under any local planning scheme, local laws, acts, statutes or any law relating to health.

(2) No offensive or illegal acts

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

(3) No nuisance

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

(4) No dangerous substances

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

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

(5) No harm or stress

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

(6) No signs

The Lessee must not and must not suffer or permit a person to display from or affix any signs, notices or advertisements on the external walls, doors or windows of the Premises or on the Land external to any building without the prior written consent of the Lessor, which shall not unreasonably be withheld.

(7) No smoking

The Lessee must not suffer or permit a person to smoke in any building on the Premises.

(8) **Consumption of alcohol**

The Lessor consents to the Lessee obtaining a liquor licence for the Premises.

(9) **Sale of alcohol**

The Lessee must only sell or supply liquor from the Premises or allow liquor to be sold or supplied from the Premises in accordance with the provisions of the *Liquor Control Act 1988*, *Health (Food Hygiene) Regulations 1993*, *Liquor Licensing Regulations 1989* and any other relevant written laws that may be in force from time to time.

(10) **Removal of rubbish**

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

(11) **No pollution**

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

(12) **No breach of copyright**

The Lessee shall not do any act, nor authorise or permit any person to do any act, that constitutes a breach or infringement of copyright under the *Copyright Act 1968* (Cth).

(13) **Toilets**

The Lessee must not use or permit toilets or other sanitary appliances on the Premises to be used for any purpose other than that for which they were constructed and must not allow any act or thing to be done that might obstruct or otherwise affect or damage the same.

9.2 No warranty

The Lessor gives no warranty:

- (a) as to the suitability of the Premises for the Permitted Use;
- (b) compliance of the Premises within the Building Code of Australia, however, in the event that the Premises is not compliant, any costs to ensure its compliance with the Building Code of Australia will be the responsibility of the Lessor; or
- (c) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Premises.

9.3 Premises subject to restriction

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

9.4 Indemnity for costs

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, incurred by the Lessor by reason of any claim in relation to any matters set out in clause 9.1 and which were caused by the Lessee or an Authorised Person.

10. Keys and access

10.1 No additional copies without approval

Unless otherwise approved by the Lessor in writing, the Lessee must not have additional sets of keys copied or cut.

10.2 Notify the Lessor of lost keys

- (1) The Lessee must notify the Lessor of any loss of keys immediately.
- (2) To ensure all keys conform with the Lessor's master keys, the Lessor will arrange for replacement keys to be issued to the Lessee at the Lessee's cost.

10.3 No change of locks without approval

- (1) The Lessee must not change any of the Premises' locks, without the prior approval of the Lessor.
- (2) If the locks are changed the Lessee must provide the Lessor with keys to access all areas of the Premises.

10.4 Cost of re-entry

If the Lessor requires access to the Premises pursuant to its powers under this Lease, and is unable to access the Premises due to an unauthorised change in locks, the Lessor may take all such measures to enter the Premises and to re-secure the Premises, and the Lessee will bear all costs associated with such measures.

11. Maintenance, repair and cleaning

11.1 General maintenance and repair

- (1) Subject to the Responsibility Schedule, the Lessee AGREES during the Term and for so long as the Lessee remains in possession or occupation of the Premises to:
 - (a) maintain, replace, repair, clean and keep the Premises (which for the avoidance of doubt includes the Lessor's fixtures and fittings) clean and in Good Repair having regard to the age of the Premises at the Commencement Date PROVIDED THAT this subclause shall not impose on the Lessee any obligation:
 - (i) to carry out repairs or replacement that are necessary as a result of fair and reasonable wear and tear, EXCEPT when such repair or replacement is necessary because of any action or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or the Lessor's insurances are invalidated by any act, neglect or default by the Lessee (or its servants, agents, contractors or invitees); and
 - (ii) in respect of any structural maintenance, replacement or repair EXCEPT when such maintenance, repair or replacement is necessary because of any action or omission of or on the part of the Lessee (or its servants, agents, contractors or invitees), or by the Lessee's particular use or occupancy of the Premises;
- (2) In discharging the obligations imposed on the Lessee under this subclause, the Lessee shall where maintaining, replacing or repairing:
 - (a) any electrical fittings and fixtures;

- (b) any plumbing;
- (c) any air-conditioning fittings and fixtures; and
- (d) any gas fittings and fixtures, in or on the Premises

use only licensed trades persons, or such trades persons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.

11.2 Cleaning of Premises

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

11.3 Repair damage

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

11.4 Pest control

The Lessee must keep the Premises free of any vermin or any other recognised pests and the cost of extermination will be borne by the Lessee. For the avoidance of doubt pests and vermin do not include termites or white-ants.

11.5 Responsibility for securing the Premises

(1) Securing Premises

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

(2) Security system

The Lessor acknowledges that it has installed a security system to the Premises, and that it will:

- (a) pay for all costs associated with the ongoing monitoring of the security system.

11.6 Paint Premises

The Lessee must prior to expiration of the Term and each Further Term paint, paper or otherwise treat all such parts of the Premises as have been previously painted, or otherwise treated in a good and workmanlike manner and with good quality and suitable materials so that the Premises is in a similar condition as at the commencement of the Lease.

11.7 Acknowledgement of state of repair of Premises

The Lessee acknowledges that it has inspected the Premises internally and externally prior to the execution of this Lease and enters into the Lease with full knowledge of the condition and state of repair of the Premises.

12. Alterations

12.1 Restriction

The Lessee must not without prior written consent from the Lessor or any other person from whom consent is required under this Lease or required under statute in force from time to time, including but not limited to the planning approval of the Lessor under a local planning scheme of the Lessor:

- (a) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises; or
- (b) remove, sell or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

12.2 Consent

- (1) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 12.1** the Lessor may:
 - (a) give such consent subject to conditions; and
 - (b) require that the works be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
 - (c) require that any works be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
- (2) If the Lessor consents to any matter referred to in **clause 12.1**:
 - (a) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
 - (b) the Lessee must apply for and obtain all such consent approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

12.3 Cost of works

All works undertaken under this **clause 12** will be carried out at the Lessee's expense.

12.4 Conditions

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

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

13. Report to Lessor

The Lessee must immediately report to the Lessor:

(a) **Vandalism**

Any act of vandalism or any incident which occurs on the Premises which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should, acting reasonably be aware;

(b) **Pollution**

Any occurrence or circumstances in or on the Premises of which it becomes aware, which might reasonably be expected to cause, in or on the Premises, pollution of the environment;

(c) **Notices, etc**

All notices, orders and summonses received by the Lessee and which affect the Premises and immediately deliver them to the Lessor;

(d) **Defects**

Any accident to or defect or want of repair in any services or fixtures, fittings, plant or equipment in the Premises and of any circumstances known to the Lessee that may be or may cause a risk or hazard to the Premises or to any person on the Premises.

14. Assignment, subletting and charging

14.1 No assignment or subletting

The rights in this Lease are personal to the Lessee, and Lessee may not transfer, assign, sublet, assign or otherwise part with possession or any way dispose of any of its rights or obligations under this Lease without the prior written consent of the Lessor.

14.2 *Property Law Act 1969*

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

14.3 No mortgage or charge

The Lessee must not mortgage nor charge the leasehold interest in the Premises.

15. No caveat or other interest

15.1 No caveat or other interest

The Lessee nor any person on behalf of the Lessee must not lodge any absolute caveat, subject to claim or any other interest including any lease, sublease, mortgage, charge over the Land or Premises or part thereof, without the prior written consent of the Lessor.

15.2 Removal of interest

If any caveat or other interest is lodged without the consent of the Lessor, the Lessee irrevocably appoints the Lessor (or any person authorised by the Lessor for that purpose) jointly and severally:

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

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

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

15.3 Costs of removal, indemnity and ratification

- (1) The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under this clause; and
- (2) The Lessee indemnifies the Lessor against:
 - (a) any loss arising from any act done under **clause 15**; and
 - (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee including the withdrawing of any caveat effecting the Land the registration of this Lease to exercise the power of attorney set out in **clause 15**.

16. Statutory obligations and notices

16.1 Comply with statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Lessee's use of the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises specified at **clause 9**;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the business the Lessee carries on at the Premises.

16.2 Indemnity if fails to comply

The Lessee indemnifies the Lessor against:

- (a) failing to perform, discharge or execute any of the items referred to in **clause 16.1**; and
- (b) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clause 16.1**.

17. Obligations on expiry or termination of Lease

17.1 Make good

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

17.2 Remove Lessee's property prior to termination

Prior to Termination, the Lessee must, unless otherwise approved by the Lessor, remove from the Premises all property of the Lessee including the Lessee's signs, fixtures, fittings, plant, equipment and other articles upon the Premises in the nature of trade or tenant's fixtures brought upon the Premises by the Lessee (other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which in the opinion of the Lessor form an integral part of the Premises) and make good any damage caused by such removal and if required by the Lessor must re-alter any alterations made by the Lessee so that the Premises are restored to the original condition.

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

If the Lessee fails to remove any such fixtures or fittings and any other chattels, stock or goods belonging to the Lessee in accordance with **clause 17.2** within fourteen (14) days from the determination of the Term, the Lessor may at its option:

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

17.4 Peacefully surrender

On Termination the Lessee must:

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

17.5 Obligations to continue

The Lessee's obligations under this clause will continue, notwithstanding the end or Termination of this Lease.

LESSOR'S RIGHTS & OBLIGATIONS

18. Provide keys

The Lessor will provide the Lessee with one (1) set of keys for access to the Premises upon the signing of the Lease, but only if keys to the Premises have not previously been provided by the Lessor to the Lessee.

19. Lessor's right of entry

19.1 Entry on reasonable notice

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

- (a) at all reasonable times;
- (b) with or without workmen and others;
- (c) with or without plant, equipment, machinery and materials; and
- (d) for each of the following purposes:
 - (i) to undertake property inspections to inspect the state of repair of the Premises and to ensure compliance with the terms of this Lease;
 - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
 - (iii) to comply with the Lessor's Obligations or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
 - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any rectification under this clause is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

19.2 Costs of rectifying breach

All costs and expenses incurred by the Lessor as a result of any breach referred to at **clause 19.1(d)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

20. Limit of Lessor's liability

20.1 No liability for loss on Premises

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring, except to the extent that such loss, damage or injury has been caused or contributed to by the negligence, recklessness or default of the Lessor or its servants, agents, contractors or invitees.

20.2 Limit on liability for breach of Lessor's obligations

- (1) The Lessor is only liable for breaches of the Lessor's Obligations set out in this Lease which occur while the Lessor is registered as the proprietor in fee simple of the Premises.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Obligations due to any cause beyond the Lessor's control.

21. Building insurance

The Lessor shall effect and keep effected policies of insurance in relation to any risk relating to the Lessor's ownership or interest in the Land and the Premises including, without limitation, insurance for fire, Lessor's fixtures and fittings, and the Lessee will reimburse the Lessor for any premiums or other costs arising therefrom in accordance with **clause 3(2)(c)**. The Parties agree that the Lessee will only be responsible for any excess associated with a claim on the Lessor's insurance policy to the extent that the damage was caused or contributed to by the Lessee.

MUTUAL AGREEMENTS

22. Damage or destruction of premises

22.1 Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee.

22.2 Dispute as to Abatement of Rent

Any dispute arising in relation to the abatement of rent pursuant to **clause 22.1** shall be referred to arbitration under the provisions of the *Commercial Arbitration Act 2012* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the award appears to have been overpaid.

22.3 Termination

In the event that fifty per cent (50%) or more of the gross lettable area of the Centre or of the building in which the Premises are situated, or any part of the Building which is material to the operation of the business by the Lessee, are damaged or destroyed by fire or any like casualty, not arising from an act, omission or negligence of the Lessee, then either the Lessor or the Lessee will have the option to be exercised by notice in writing delivered to the other party within sixty (60) days of such occurrence, to elect to cancel and terminate this Lease. The Term will terminate upon such notice being given and the Lessee must vacate the Premises and surrender the same to the Lessor but such termination will be without prejudice to the Lessor's rights in respect of any antecedent breach of this Lease.

23. Option to Renew

23.1 First further term

If:

- (a) there is a First Further Term specified in **Item 3** of the Schedule;
- (b) at the date of exercise of the option in this clause and at the date of expiration of the Term the Lessee is not in arrears of payment of the Rent and there is no outstanding breach or non-observance of any of the Lessee's Covenants of which there has been written notice; and

- (c) the Lessee serves notice in writing on the Lessor not more than six (6) months nor less than three (3) months prior to the expiration of the Term of the Lessee's desire to renew the Term,

the Lessor will at the cost of the Lessee grant to the Lessee a further lease of the premises for the further period specified in **Item 3** of the Schedule upon and subject to the same terms, covenants and conditions as are contained or implied in this Lease except this **clause 23.1** and the Rent payable during such further term will be calculated in accordance with **clause 3(1)**.

23.2 Second further term

If:

- (a) there is a Second Further Term specified in **Item 3** of the Schedule;
- (b) at the date of exercise of the option in this clause and at the date of expiration of the First Further Term the Lessee is not in arrears of payment of the Rent and there is no outstanding breach or non-observance of any of the Lessee's Covenants of which there has been written notice; and
- (c) the Lessee serves notice in writing on the Lessor not more than six (6) months nor less than three (3) months prior to the expiration of the First Further Term of the Lessee's desire to renew the Lease for the Second Further Term,

the Lessor will at the cost of the Lessee grant to the Lessee a further lease of the premises for the Second Further Term upon and subject to the same terms, covenants and conditions as are contained or implied in this Lease except this **clause 23.2** and the Rent payable during such further term will be calculated in accordance with **clause 3(1)**.

24. Holding over

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

25. Default

25.1 Events of default

A default occurs if:

- (a) any Amounts Payable remain unpaid for 30 days after a Notice has been given to the Lessee that an amount is outstanding;
- (b) the Lessee is in breach of any of the Lessee's Obligations (other than an obligation to pay any Amounts Payable) for 30 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (c) where the Lessee is an association which is incorporated under the *Associations Incorporations Act 1987*, the association is wound up whether voluntarily or otherwise;
- (d) where the Lessee is an association which is incorporated under the *Associations Incorporations Act 1987*, the Lessee passes a special resolution under the *Associations Incorporation Act 1997* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;

- (e) a mortgagee takes possession of the property of the Lessee under this Lease;
- (f) any execution or similar process is made against the Premises on the Lessee's property;
- (g) the Premises are vacated; or
- (h) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of a rent and profits.

25.2 Forfeiture

On the occurrence of any of the events of default specified in **clause 25.1** the Lessor may:

- (a) without notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (b) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (c) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 24**,

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

25.3 Lessor may remedy Lessee's default

If the Lessee:

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

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

25.4 Acceptance of amount payable by Lessor

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

25.5 Essential terms

Each of the Lessee's Obligations in **clauses 3** (Rent and Other Payments), **7** (Insurance), **8** (Indemnity), **9** (Use), **11** (Maintenance, Repair and Cleaning), **14** (No Assignment, Subletting and Charging) and **28** (Goods and Services Tax) is an essential term of this Lease but this **clause 25.5** does not mean or imply that there are no other essential terms in this Lease.

25.6 Breach of essential terms

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

- (a) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (b) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and
- (c) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Premises at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

26. Disputes

26.1 Appointment of Arbitrator

Except as otherwise provided or agreed by the parties, any dispute arising out of this Lease is to be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* and the Lessor and the Lessee may each be represented by a legal practitioner.

26.2 Payment of amounts payable to date of award

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

27. Consents

27.1 Western Australian Planning Commission's consent

If for any reason whatsoever this Lease requires the consent of the Western Australian Planning Commission or other consent under the *Planning and Development Act 2005*, then this Lease is made expressly subject to and conditional on the granting of that consent in accordance with the provisions of the *Planning and Development Act 2005*.

27.2 Minister for Land's consent

In the event that the Land is subject to the provisions of the *Land Administration Act 1997* the grant of this Lease is made expressly subject to and is conditional on the consent of the Minister for Lands to this Lease.

28. Goods and Services Tax

28.1 Lessee must pay

If GST is payable on the Basic Consideration or any part thereof or if the Lessor is liable to pay GST in connection with the lease of the Premises or any goods, services or other Taxable Supply supplied under this Lease then, unless the Lessor is liable for the payment of a given Taxable Supply, as from the date of any such introduction or application:

- (a) the Lessor may increase the Basic Consideration or the relevant part thereof by an amount which is equal to the GST Rate; and
- (b) the Lessee shall pay the increased Basic Consideration on the due date for payment by the Lessee of the Basic Consideration.

28.2 Increase in GST

If, at any time, the GST Rate is increased, the Lessor may, in addition to the GST Rate, increase the Basic Consideration by the GST Adjustment Rate and such amount shall be payable in accordance with **clause 28.1**.

28.3 GST invoice

Where the Basic Consideration is to be increased to account for GST pursuant to **clause 28.2**, the Lessor shall in the month in which the Basic Consideration is to be paid, issue a Tax Invoice which enables the Lessee to submit a claim for a credit or refund of GST.

29. Commercial Tenancy Act

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

30. Additional terms and conditions

Each of the terms and conditions (if any) specified in Item 9 of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

GENERAL PROVISIONS

31. Notice

31.1 Form of delivery

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

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

31.2 Service of notice

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

- (a) if by personal delivery, when delivered;
- (b) if by leaving the Notice at an address specified in **clause 31.1**, at the time of leaving the Notice provided the Notice is left during normal business hours; and
- (c) if by post to an address specified in **clause 31.1**, on the second business day following the date of posting of the Notice.

31.3 Signing of notice

A Notice to a person may be signed:

- (a) if given by an individual by the person giving the Notice;
- (b) if given by a corporation by a director, secretary or manager of that corporation; or
- (c) if given by a local government, by the CEO or a person authorised to sign on behalf of the local government; or
- (d) by a solicitor or other agent of the person, corporation or local government giving the Notice.

32. Amendments to Lease

Subject to such consents as are required by this Lease or at law, this Lease may be varied by the agreement of the parties in writing.

33. Waiver

33.1 No general waiver

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

33.2 Partial exercise of right power or privilege

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

34. Acts by agents

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

35. Statutory powers

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

36. Further assurance

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

37. Severance

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

38. Moratorium

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

39. Governing law

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

DEFINITIONS & INTERPRETATION

40. Definitions

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

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

Authorised Person means:

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

Basic Consideration means all consideration (whether in money or otherwise) to be paid or provided by the Lessee for any supply or use of the Premises and any goods, services or other things provided by the Lessor under this Lease (other than tax payable pursuant to this clause);

Building means the building known as The Arts Centre situated on the Land;

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

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

Performance and Service Level Agreement means the agreement between the Lessor and the Lessee annexed to this Lease as **Annexure 2**;

CPI means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics or its equivalent determined in accordance with **clause 0**;

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

Former Lease means a lease between the Town of Kwinana and The Koorliny Arts Centre (Incorporated) dated 1 March 2012;

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

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

GST has the meaning that it bears in the GST Act;

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any legislation substituted for, replacing or amending that Act;

GST Adjustment Rate means the amount of any increase in the rate of tax imposed by the GST Law;

GST Law has the meaning that it bears in section 195-1 of the GST Act;

GST Rate means 10%, or such other figure equal to the rate of tax imposed by the GST Law;

Input Tax Credit has the meaning that it bears in section 195-1 of the GST Act.

Interest Rate means the rate at the time the payment falls due being 2% greater than the Lessor's general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00, which rate cannot exceed the rate prescribed by, and imposed in accordance with, section 6.13 of the *Local Government Act 1995*;

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

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

Lessee's Obligations means the agreements and obligations set out or implied in this Lease or imposed by law to be performed by the Lessee;

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

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

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

Permitted Use means the use described in **Item 7** of the Schedule;

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

Rent means the rent specified in Item 5 of the Schedule, subject to review in accordance with **clause 4**;

Rent Review Date means a date identified in Item 6 of the Schedule;

Reservations means the right of the Lessor to install maintain use repair alter and replace pipes ducts conduits and wires leading through the Premises and to pass and run gas water heat oil electricity and other power telephone lines and airconditioning through such pipes ducts and conduits and wires, and to enter and remain on the Premises with or without workmen, contractors, employees and materials, plant and equipment for such purposes;

Schedule means the Schedule to this Lease;

Tax Invoice has the meaning which it bears in section 195-1 of the GST Act;

Taxable Supply has the meaning which it bears in section 195-1 of the GST Act.

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

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

41. Interpretation

In this Lease, unless expressed to the contrary:

- (a) Words using:
 - (i) the singular include the plural;
 - (ii) the plural include the singular; and
 - (iii) any gender includes each gender;
- (b) A reference to:
 - (i) a natural person includes a body corporate or local government; and
 - (ii) a body corporate or local government includes a natural person;
- (c) A reference to a professional body includes a successor to or substitute for that body;
- (d) A reference to a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
- (e) A reference to a statute, ordinance, code, regulation, award, town planning scheme or other law includes a regulation, local law, by-law, requisition, order or other statutory instruments under it and any amendments to re-enactments of or replacements of any of them from time to time in force;
- (f) A reference to a right includes a benefit, remedy, discretion, authority or power;
- (g) A reference to an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
- (h) A reference to this Lease or provisions or terms of this Lease or any other deed, agreement, instrument or contract include a reference to:
 - (i) both express and implied provisions and terms; and
 - (ii) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
- (i) A reference to writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
- (j) A reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (k) If a Party comprises two or more persons the obligations and agreements on their part bind and must be observed and performed by them jointly and each of them severally and may be enforced against any one or more of them;

- (l) The agreements and obligations on the part of the Lessee not to do or omit to do any act or thing include:
 - (i) an agreement not to permit that act or thing to be done or omitted to be done by an Authorised Person; and
 - (ii) an agreement to do everything necessary to ensure that that act or thing is not done or omitted to be done;
- (m) Except in the Schedule headings do not affect the interpretation of this Lease.

Schedule

Item 1 Land and Premises

(a) Land

Lot 3 on Deposited Plan 34151 being the whole of the land comprised in Certificate of Title Volume 2615 Folio 984.

(b) Premises

That portion of the Land, together with all buildings and improvements erected thereon, known as the Arts Centre and as depicted in the plan annexed hereto as **Annexure 1**

Item 2 Term

Five (5) years commencing on 1 July 2016 and expiring on 30 June 2021

Item 3 Further terms

Not applicable

Item 4 Commencement Date

1 July 2016

Item 5 Rent

One hundred dollars (\$100) per annum

Item 6 Rent Review Dates

Not applicable

Item 7 Permitted Use

Community Arts and Cultural Centre

Item 8 Public liability insurance

\$20,000,000 (Twenty Million Dollars)

Item 9 Additional terms and conditions

1. **Compliance with Performance and Service Level Agreement**

- (1) The Lessee shall comply at all times with the Performance and Service Level Agreement, a copy of which is annexed hereto as **Annexure 2**.

- (2) The Lessee's failure to comply with a provision of the Performance and Service Level Agreement shall constitute a breach of the Lessee's Obligations for the purposes of cl. 25.1(b).

2. Community use of Premises

- (1) Lessee shall ensure the Premises, or parts of the Premises, is made available (by way of casual licence/hire arrangement) for use by such community, recreational and charitable groups during times when the Premises is not required by the Lessee.
- (2) Lessee shall be responsible for managing all matters relating to the hire of the Premises and will be responsible for bookings including the receipt and co-ordination of all requests to hire the Premises.
- (3) Lessee may charge a hire fee for use of the Premises by a community group, at a rate consistent with rates charged for similar venue hire by the Lessor (as published on the City of Kwinana website from time to time).
- (4) Hire of the Premises on a casual basis to community groups shall be consistent at all times with the Permitted Use.
- (5) Any hirer shall comply strictly with the relevant terms of this Lease and the Lessee shall be liable for any breach of a provision of this Lease by the hirer.
- (6) The Lessee acknowledges and agrees that at all times, including when the Premises is hired to a third party, it remains responsible for the Premises, including without limitation any damage that may be caused or occurs during any hire period, and shall continue to be subject to all covenants, terms and conditions contained in this Lease at all times during which the Premises is being hired to a third party.
- (7) Despite any of the provisions above, the Lessee will maintain exclusive possession of the Premises at all times.

3. Responsibility Schedule

The Responsibility Schedule in Annexure 3 will be treated as incorporated in this Lease as if fully set out in it. If there is any inconsistency between the terms of this Lease and the Responsibility Schedule, then the Responsibility Schedule shall prevail

Signing page

EXECUTED on the day of 2016

THE COMMON SEAL of the **City of Kwinana**
was hereunto affixed in the presence of:

Signature of Mayor

Full name of Mayor

Signature of Chief Executive Officer

Full name of Chief Executive Officer

THE COMMON SEAL of **The Koorliny Arts Centre Incorporated** ("the Association") was hereunto affixed pursuant to the constitution of the Association in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or her holds the office in the Association indicated under his or her name:

OFFICE HOLDER SIGN

Office Held:
Full Name
Address

OFFICE HOLDER SIGN

Office Held:
Full Name
Address

Annexure 1 – Plan of Premises



Annexure 2 – Performance and Service Level Agreement

Annexure 3 – Responsibility Schedule

| | Lessor | Lessee |
|---|--------|--------|
| Fees and charges | | |
| Telephone (calls, line rental, internet, fax) | | ✓ |
| Electrical supply charges and use including security lighting | | ✓ |
| Water use | | ✓ |
| Insurance – public liability | | ✓ |
| Insurance cover for the building and permanent fixtures and fittings | ✓ | |
| External areas | | |
| Maintenance of gardens | | ✓ |
| Maintenance of trees | ✓ | |
| Maintenance of car parks and car park lighting | ✓ | |
| Car parking control in association with fixtures (signs) | ✓ | |
| Maintenance to outdoor sheds (Council built) | ✓ | |
| Other | | |
| Acquisition of liquor license and submission to Council (if applicable) | | ✓ |
| Acquisition of appropriate food handling permits | | ✓ |

Review of Koorliny Arts Centre

2016

Commissioned by City of Kwinana

Consultant: Ricky Arnold

Review of Koorliny Arts Centre

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Executive Summary

The Koorliny Arts Centre was built in 1990, and is owned by the City of Kwinana. The building is leased to The Koorliny Arts Centre Inc (The KAC Inc).

In 2011, as part of the lease negotiations, a Performance and Service Level Agreement was entered into. This review comes at the end of the 2012-2015 Service Level Agreement:

- assesses the outcomes against Key Performance Indicators, and
- makes recommendations for the strategic future of the relationship.

In 2014/15 the City of Kwinana provided \$407,212 in operational funding.

Koorliny Arts Centre is reported in national APACA surveys as having three major performance spaces: a 1000 seat outdoor amphitheatre, a 244 capacity main theatre space and a secondary 72 capacity theatre/rehearsal space. The Centre also has a box office/bar/café function area, boardroom and studio/workshop spaces, dressing rooms and a courtyard area.

Local Government and Culture:

CACWA published a research study in March 2015: “Arts and Culture in Western Australian Local Government”. The 2012/13 ABS figures of cultural funding by Government reported that \$155million was provided by 140 local government authorities in Western Australia, the third highest investment per capita nationally. The State’s contribution for that same period was \$128million.

90% of local governments held a strong belief that arts and culture have a key role to play in the development of community vibrancy, cultural identity and social cohesion. 79% were actively supporting arts and cultural activities. Of this 79%:

- 99% were providing arts and cultural facilities: majority of these included library facilities, 44% provided halls with evident performance capability; 20% multi-purpose facilities; 13% facilities dedicated to performing arts, 14% dedicated to visual arts and only 9% had an amphitheatre or soundshell facility.
- 79% provided support for arts and cultural groups: 84% of these through grants, 13% through discounted or free facility access;
- 67% provided arts and cultural programs;

- 56% provided arts and cultural events: 85% of these were civic focused events such as Australia Day, Harmony or NAIDOC ceremonies, 41% presented arts and cultural focused festivals, 28% provided concerts and 8% provided youth events.
- 40% provided public art programs.

The City of Kwinana is one of only 18 local government authorities which as a Cultural Plan that guided its investments in arts and cultural activities for its community. Developed in 2008/9, through consultation with a Community Cultural Planning Group, facilitated by Community Arts Network WA, the plan covered a period from 2010-14, and is due for realignment with the City's new Strategic Community Plan 2015-2025.

The City of Kwinana's "Plan for the future – Strategic Community Plan 2015-2025" states a Vision for 2030 where Kwinana is "Rich in spirit, alive with opportunities, surrounded by nature. Its all here!".

Where does The Koorliny Arts Centre fit?

This Vision translates into four policy areas, and arts and cultural development sits majorly within the "Rich in spirit" section, related to the strong community spirit, alive with community events, civic participation and multi-culturalism, working with families, youth and seniors, including the vulnerable and disabled, with a network of volunteers and community leaders, recreation facilities activated by services and programs meeting the community need, promoting arts and heritage and providing homes for community groups.

Relevant objectives and strategies:

- Identity: Protect and enhance community identity
- Community Activities and Events: Inspire and strengthen community spirit
- Safety: Facilitate improved community safety and reduced crime levels
- Programs and Services: All sections of the community are supported by the provision of relevant community and human services
- Capacity Building: Actively work with the community to build local capacity
- Volunteers: Increase the prevalence of volunteers
- Arts and Cultural development: Develop and celebrate arts and culture in Kwinana

Performance results:

Increase in overall attendance rates at the Koorliny Arts Centre from 30,000 in 2012/13 financial year to 41,000 in 2014/15

Paid ticketed attendance rose from 23,093 in 2013 to 29,236 in 2015

Over the four years 2012-2015 a total of 107,385 tickets were sold

The Koorliny Arts Centre is 40 kms from the Perth CBD, and regularly attracts an audience and participants from its surrounding catchment.

The 2015 season attracted audiences from:

- 18% Kwinana
- 34.6% Rockingham
- 14.7% Mandurah
- 8.8% City
- 4.8% East
- 5.5% North
- 13.4% South (including Fremantle)

The target set in the Service Level Agreement of at least 15 performances each year entrepreneurship by The KAC Inc has been surpassed each year, growing from 62 in 2012 to 92 in 2015. This measure includes in-house productions and touring shows negotiated by The KAC Inc.

At least 6 performances by external hirers has also been surpassed each year, however as the entrepreneurial performances have increased, conversely external hirer performances has decreased, from 67 in 2012 to 37 in 2015.

Performances by community groups also decreased, though reaching the target of at least 10 per year.

The number of “dark nights” represents the number of times the two theatre spaces are not booked and active. There was a peak of dark nights in 2014 following the demise of the Kwinana Theatre Workshop, 198, which reduced in 2015 to 153.

APACA 2013 stats indicate of an average 320 days availability for 272 seat venues, an average of 127 days are unused.

The KAC Inc hires out studio and workshop spaces and has established some core relationships with the Wellard Music School and Instep Dance Service Level Agreement KPIs require at least 25 arts and cultural related classes and/or workshops hosted. When counted as “ongoing classes” 2015 saw 43 classes and workshops. However, these classes meet

twice-daily, daily, weekly and monthly, the actual number of events would be closer to at least 10,800 in 2015.

There have been no visual arts exhibitions over the period reviewed. The current building fabric restricts professional exhibition installation.

Increasing the number of grants and sponsors through collaboration with the City of Kwinana has not been progressed in this time period. The KAC Inc's key cash sponsorship partnership (outside of operational support from the City) remains with the Kwinana Industries Council (due for review in 2017), and in-kind sponsorships with media partners.

National benchmarks:

The national APACA Economic Activity Report in 2013 provides some relevant statistics for consideration:

- 63% of performing arts centres are owned by local government authorities, and 80% of those are managed directly by the local government authority; 10% are statutory authorities;
- 37% have only one performance space, 66% have 1-2 performance spaces and 9% have 4 or more;
- Turnover ranges from \$53,000 to \$10.39million per annum;
- 0-261 seats: \$464,760 average income, 261-550 seats: \$1.1 million, and 551-1100 seats: \$1.9 million per annum average;
- Without the amphitheatre space, Koorliny's 316 seat capacity, across two venues, raised ticket sales of \$256,718.
- Earning capacity maximizes at three spaces: 1 space: average: \$2,535,377; 2 spaces: \$1,265,549 and 3 spaces: \$3,647,459;
- Performing Art Centre's income is 34.8% Government subsidy (including 78.9% of this from Local Government), Box Office: 13.8%, Venue hire: 12%, Food and Beverage: 6.1%, Recoverables: 8.2% and Ticketing Services: 6.1% .
- In 2015, Koorliny Art Centre's income is 55.3% Government subsidy, 30.8% Ticketing and Production income, 6.1% room hire and 5.7% from Other Income.

Koorliny Art Centre Strengths:

- Increasing ticket sales and audiences;
- In-house productions gaining a reputation for excellence and high quality;

- Increasing reputation as quality cultural destination in national and State arts sector and touring networks;
- Co-located community enterprises
- Ownership of ticketing system and data for analysis
- New digital and social media strategies implemented

Koorliny Arts Centre Weaknesses:

- Noise and environmental restrictions on maximising use of amphitheatre and courtyard spaces
- Low capacity and price point on tickets reduces earned income potential from performance seasons
- Poor ticket sales to touring productions
- Lack of exhibition and storage
- Audience lacks diversity/Audience development needed, and stronger marketing emphasis

Koorliny Arts Centre Opportunities:

- Touring of in-house productions to other regional centres
- Partnerships with arts organisations and touring managers to host “remounts” and residencies
- MOUs of mutual benefit and strategic development with co-located groups
- Diversification of income will benefit from licensing and opportunities for outdoor events
- Connections with other programming brands eg FRINGE WORLD Festival
- Play stronger role in City-wide long term cultural and community planning

Koorliny Arts Centre Threats

- Shift of focus of Town Centre physically from current position of Arts Centre
- Low collaboration with other cultural and community facilities
- Plans for future development of performing arts centre in local Anglican school;
- Mandurah Performing Arts Centre’s larger capacity
- Long term Financial viability

Recommendations

1. City of Kwinana and The Koorliny Arts Centre Inc (The KAC Inc) to enter into a new five year Service Level Agreement, with operational funding levels kept at current levels;
2. This relationship to be formally recognized in the City and the Centre's publications, and web/social media, as a vital contribution to the growth and well-being of the Kwinana residents (particularly if productions to tour to other centres);
3. The KAC Inc explore income diversification opportunities through activation of amphitheatre and courtyard spaces. City of Kwinana to work closely with The KAC Inc to overcome capital and environment barriers to programming in these spaces including:
 - a. a re-facing of the public access towards the new Town Centre;
 - b. Access and safety issues addressed through railing and ramps in areas;
 - c. Establish an agreement across residents to gain approval for an outdoor program;
 - d. Increase lighting, signage and safety measures around the Centre to increase patron comfort.
4. Further diversification of income to be explored from licensing and food preparation at events on the expanded site;
5. New programming policy to balance in-house productions and external hirers and presentations to maximize audience potential, ticketing and hirer income, and to reduce dark nights.
6. The KAC Inc Board to review the roles of the Centre General Manager and the Administration/Media to create a Marketing Manager role responsible for a more strategic approach to marketing and audience development, relieving the Centre General Manager to participate in national and State Performing Arts Centre networks and markets and the City of Kwinana's Arts Advisory group;
7. The KAC Inc Board to form an appropriately skilled subcommittee to assist the development of the marketing and audience development plan and implementation;
8. Development of key partnerships with key stakeholders in the arts sector for future audience and program development including FRINGE WORLD Festival, Barking Gecko, Spare Parts Puppet Theatre, Country arts WA, Performing Lines WA, and CAN;

9. To explore a multi-cultural programming stream to engage with Kwinana's migrant and Aboriginal population;
10. The KAC Inc to negotiate formal Memorandums of Understanding with the co-located groups in the Centre: Wellard School of Music and Instep Dance, outlining a stable time-frame for hiring, joint promotional strategies, and collaborations on programming and events at the Centre;

- **Revised key performance Indicators for The KAC Inc:**

- **Governance**

- To achieve core elements of good governance and accountability through:
 - Holding an annual general meeting;
 - Publically publishing an annual report;
 - Providing audited financial statements;
 - Ensuring the skills of the Board match the needs of implementation of the organisation's Strategic Plans (including Marketing, Audience Development and Programming plans);
 - Commencement of a review of performance against these KPIs by 1 January 2020, with the City of Kwinana;
 - Identifying and allowing for potential risk to the organization through the annual review of a Risk Management Plan, and to ensure all appropriate certificates of insurance are held, including those of external subcontractors or providers.

- **Strategic planning**

- To identify the long term vision and aims of the organization by:
 - Adopting the Strategic Plan by 31st January 2017; and reviewing annually;
 - Collaborating with the city of Kwinana regarding capital works planning and implementation to achieve the Strategic Plan.

- **Financial planning**
- Ensure the long term financial viability of the organization by::
 - Diversifying earned income bases to ensure the city of Kwinana operating subsidy constitutes a maximum of 45% of total income by end of the service level agreement;
 - Developing and reviewing annually a Board endorsed five year financial projection, to be completed by 31 January 2017.

- **Performance**
- To operate Koorliny Arts Centre as an active creative and cultural hub for the region:
 - Total attendance over all programs: Target 35,000 pa;
 - Total ticket sales: Target: 25,000 pa;
 - Number of internal performances/events (includes presentations of touring shows): Target 80 pa;
 - Number of external hirer performances: Target 40 pa;
 - Number of workshops: Target ongoing classes, 6000 events;
 - Number of dark nights: Target 130;

- **Collaboration and partnerships**
- To increase strategic partnership approaches to achieve strategic aims by meeting the following:
 - Number of community groups using the centre: Target 10 minimum;
 - Number of partnerships with arts organisations for programming: 3 per year minimum;
 - Number of formalized MOUs for co-located, long term community enterprises Target: Minimum 1 per annum;
 - Participation in City of Kwinana cultural and community planning activities; Number of Arts Advisory (or similar) Group meetings attended by Koorliny Arts Centre Inc representative: 100%.

- **Marketing and Engagement**

- To maximize exposure and reach of the organization in the Kwinana and surrounding areas to engage with the various community segments by:
 - The creation of Board endorsed Marketing, Audience Development and Programming policies and plans by 31st January 2017. Plans to identify resource allocation relating to skill, training, technological and governance support and budget to achieve targets.
 - Inclusion of Indigenous and multicultural groups in the above plans to align with City cultural plans;
 - Continued multi-faceted promotion of the organization through digital and social media in line with Marketing and audience development plans.

- **Accessibility**

- To explore increased disability access involvement through:
 - In collaboration with City of Kwinana, undertaking a study to identify options for the physical changes to the entrances to the building from the City centre approach by 1 January 2018;
 - Explore increased accessibility through programming and access enhancements.

Full Report:

- **Background and Methodology of the review including history of Koorliny**

The Koorliny Arts Centre (the Centre) was built in 1990, owned by the City of Kwinana. Since 1993, the Centre has been leased to a community based incorporated committee, originally Kwinana Community Arts Centre Incorporated, now The Koorliny Arts Centre Incorporated (The KAC Inc). The KAC Inc receives operational funding from the City of Kwinana (\$407,212 in 2015/16).

Historical records note key infrastructure developments in 1995: stage in main theatre and air conditioning completed; in 1996, new seating and cinema installed in main theatre; in 2001, Federation Amphitheatre constructed and opened.

Koorliny Community Arts Centre Inc devolved operational management of Centre to a commercial independent venue manager; Starlight Theatre.

A review of the Centre in 2005 by John Aquino suggested the Centre had been used largely as a “hall for hire” with little provision for the community to participate in and enjoy arts and cultural activities – particularly performing arts product. A relationship with the High School limited the utilization of the main auditorium space and studio spaces. This was due for completion in 2007. He also recommended a management model that would essentially be a business unit of the City of Kwinana, with an Advisory Committee established under Local Government legislation. This model was not adopted, and as a result a strengthened Governance model was proposed. This included:

- Ex-officio membership from the City of Kwinana on the board of the KCAC Inc;
- Increased arts/cultural industry representation on the Board of the KCAC Inc;
- Formal and ex-officio participation by the Manager of the KCAC in City of Kwinana policy and program development bodies dealing with community development and services including cultural planning;
- Formal Service Level Agreement to be developed.

Following a new constitution, Board structure and the instigation of new capital renovations, and a tender process for the management of the Centre, Peter Alexander conducted a review of the Centre's operations and their value for money. He found that the Centre was well-positioned to be a hub of creativity and a place that appeals to diverse age groups and segments in the community, a key asset for the City of Kwinana in relation to its community service and community development policies; programs and objectives. He identified a range of economic and social benefits that can flow from the Centre, including civic pride, a positive image of Kwinana, an improvement in the community's quality of life, increased levels of creativity and engagement within the community, the building of social capital, entertainment and recreation opportunities which complement the City's educational institutions, and establishment of a vibrant meeting place within the community.

Increased funding was proposed to address marketing, programming and administration through increase of staff hours, with a redirection of resources to participating in an entrepreneurial/commercial way with appropriate arts industry/producers in developing appropriate programming. This predicted a 275% increase in amphitheatre activity with 15 performances and a 20% overall increase in income from theatre hire.

In 2011, as part of new lease negotiations a Performance and Service Level Agreement was entered into between the City and The KAC Inc. This coincided with a change in the management model, the contracted venue manager was replaced with in-house staff employed directly by the Board. Given that most of the equipment, systems and processes were the property of the venue manager, a change period allowed for low KPI outcomes for a re-building period.

This review comes at the end of the 2012-15 Service Level Agreement period, and assesses the Centre's position and strategic future.

The Constitutional objectives of The KAC Inc are:

- To promote, encourage and extend activities of an artistic or cultural nature;
- To promote and encourage the use of Koorliny Arts Centre as a venue for the arts and the hub for artistic opportunity;
- To establish and maintain on-going relationships with external, geographically disbursed, like minded community non-profit

organizations with the intention of developing opportunities for those participating in the Koorliny Arts Centre;

- To develop and provide educational, training and other community development opportunities as directed by the Management Committee;
 - To produce, promote and administer performances, productions and exhibitions all of which may also tour other venues within and external to the Town of Kwinana;
 - To undertake the business of an Arts Centre inclusive of all retail, licensing and other activities as determined by the Management Committee from time to time;
 - To manage and administer the Koorliny Arts Centre;
 - To apply all funds and surpluses generated to these objectives.
-
- **Overview of the Performance and Service Level Agreement 2012-2016**

The Agreement is between the City of Kwinana and The Koorliny Arts Centre Incorporated, providing a grant for the operating costs associated with Koorliny Art Centre. Financial contribution has grown from \$376,481 in 2011/12 to \$407,212 in 2015/16.

Objectives of the funding are:

- Increase the quality of life experienced by Kwinana residents;
- Act as a meeting place for individuals and arts based community groups, providing consistent venue availability for the community to gather, interact socially, develop skills and generate networks;
- Act as the first point of contact for information and enquiries in regard to art based activities and events;
- Work in partnership with the City of Kwinana's Cultural Development Coordinator in presenting a range of cultural programs;
- Attract a diverse range of exhibitions and presentations including visual, fine and performing arts to Kwinana;
- Provide opportunities for Kwinana residents to participate in community based cultural development practice across all art forms;
- Facilitate the development of local artists including a comprehensive database of artists, art workers, performers and

community groups across all art related mediums and arts based activities;

- Enhance civic pride, community confidence and wellbeing and the image of Kwinana as a “lifestyle” centre through the promotion of the various artistic and cultural innovation, creativity, entertainment and recreation that occurs at the Centre;
- Ensure that tolerance of all cultures is fostered through a program of events and activities especially representing Indigenous Australian cultures thereby creating inclusive, culturally appropriate activities for Indigenous residents;
- Contribute to the development of a vibrant town centre;
- Deliver economic benefits to the community by leveraging additional grant funding and sponsorship to ensure extensive low cost opportunities to participate in a diverse range of arts opportunities;
- Create opportunities for residents and others to spend their disposable income on recreation and entertainment within the Town of Kwinana.

Services to be provided consistent with these objectives and the following Principles:

- Excellence;
- Access;
- Diversity;
- Participation;
- Partnerships.

In addition The KAC Inc agrees to provide:

- quarterly and annual reports,
- information about the operations by managing enquiries,
- establish a complaints procedure, an assets register,
- ensure a safe working environment
- promote equal opportunity principles
- Strategic Plan, Business Plan including financial and marketing strategy;
- Self evaluation of activities and performance
- Qualification, suitability and performance evaluation of any persons engaged to provide event management or other ongoing services.
- Hold all relevant insurance policies, and ensure sub-contractors hold requisite policies.

- Acknowledge City of Kwinana's contribution through logo placement and wording: "Koorliny Arts Centre is proudly supported by the City of Kwinana".

Schedule A and B of the Agreement outline specific Annual Objectives and Key performance Indicators for reporting. The table below aligns these two schedules:

| Annual Objectives: | Annual KPIs for reporting |
|--|---|
| Governance | Governance |
| Hold an annual general meeting as per the provisions of the KAC Inc constitution | One annual general meeting annually |
| Publish an annual report each financial year of the funded period | Annual report including audited financial statements Annual acquittal comprising of report on KPIs and objectives of the funding agreement |
| Develop/Implement a "whole of venue" customer service charter | Koorliny Strategic Plan and any other relevant plans |
| Develop/implement a sponsorship and marketing plan | Annual budget Copies of Certificates of Currency for all insurances held including those held by subcontractors |
| Develop/implement a contract and risk management plan | Provision of copies of the current strategic and business plans which reflect the objectives |
| Keep an updated comprehensive policy and procedures manual | |
| Ensure KAC Inc ownership of all intellectual property including software | |
| Recognise City of Kwinana as a key funding organisation | Evidence of acknowledgement |
| Encourage representation by local Kwinana residents on the Board of Association | Notification of any changes to Board membership within one month of change occurring |
| Performance | Performance NB: levels of activity by artform category (dance, drama, concerts, exhibitions) and general KPIs: Attendance based on ticketed events Attendance based on head count No of 'dark' nights in both theatres The frequency and nature of promotional activities undertaken. No of staff, volunteers and members. |

| | |
|--|---|
| At least 15 performances in each year entrepreneured by KAC Inc (in addition to KTW presentations) | No of performances entrepreneured by KAC Inc |
| At least 6 performances in each year where the venue has been hired to an external professional provider of performing and/or other art form activities; | No of performances where the venue has been hired to an external provider |
| At least 10 performances in each year provided by community groups; | No of performances hired out to community groups |
| At least 10 visual arts, crafts exhibitions hosted | No and type of exhibitions hosted |
| At least 25 arts or culture related classes and/or workshops hosted in studio spaces at the centre; | No of ongoing arts and culture related classes and workshops hosted in studio space |
| Development of a collaborative plan for grant submissions, performances and CCD activities with the CoK Cultural Development Co-ordinator | No and type of community cultural development activities hosted Number and type of community based and other groups using the venue on a casual and permanent basis No of cooperative arrangements entered into with other agencies or organisations to enhance the achievement of objectives The dollar value of additional sponsorship and grant funding attracted |
| Venue | Venue |
| Complete an asset inventory identifying objects, cataloguing and noting condition | Achievement of capital works, maintenance and improvement targets as jointly agreed each financial year. |
| Update venue signage including promotional and directional including recognition of CoK | |
| Allocated sufficient funds in the annual budget to maintain the venue as specified in the Lease between CoK and KAC Inc dated 1 March 2012. | |

With reference to the responsibilities for the maintenance of the building the lease outlines:

| | |
|--|--|
| The KAC Inc responsible for: | CoK responsible for |
| All costs for gas, water, telephone, refuse/pest/vermin/insect removal, safety and security, gardening and landscaping (in building footprint) | Maintenance of roof/structure/electrical wiring/water/sewerage pipes and drains/ must deal with any asbestos or bacterial issues |
| Get approval for all electrical | Light switches, powerpoints, quarterly |

| | |
|---|---|
| changes/must not overload cables, switchboards etc /obstruct air conditioning or fire alarm/prevention system | aircon testing, providing certificates of clearance to KAC Inc |
| Acquire liquor license and food handling permits | |
| Keep and maintain all parts of the premises not structural in nature, internal lighting and electrical installations, drainage, fixtures and fittings, carpet, glass (except for fire/storm damage which is covered by insurance unless negligence) | Driveway, carparking, crossovers, stairs, passgeways, keeping safely lit. |
| Paint interior every 5 years (inc 3 months prior to end of lease) | Maintenance and painting of exterior surface and core walls |
| Not structural except if caused by Lessee or employee or by unpermitted use | |
| <p>NB: The lease ending in 2016 has two extension options CoK can occupy land/building for emergency situation management to accommodate displaced residents and must</p> <ul style="list-style-type: none"> • Take reasonable action to ensure no disruption to activities; • Make good any damage. | |

- **The Review Project Team**

- City of Kwinana Community Development: Chris Budhan:
- City of Kwinana Cultural Development Coordinator: Pascal Verydier
- Chairperson, The KAC Inc: Ms Lynne Woolfenden
- Deputy Chair The KAC Inc: Chris Oughton
- General Manager The KAC inc: Kate McIntosh

- **Who has been consulted?**

- **City of Kwinana staff:**
 - Chris Budhan, Manager Community Development
 - Pascal Verydier, Cultural Development Coordinator
 - Brett Hatwell: Manager Library Services
 - Caroline Henning: Manager Community Centres
 - Vikki Barlow; Manager Youth Development
- **City of Kwinana Mayor and councilors**
- **Board and staff of The KAC Inc including:**

- Lynne Woolfenden: Chair
- Mike Winchester, Executive Secretary
- Chris Oughton, Deputy Chair
- Kate McIntosh, General Manager
- Monique Mulligan, Marketing and Administration Officer
- **Funding bodies, sponsors and partners:**
 - Annie Thomson Senior Policy Officer DCA
 - Fish Gill: Project Officer Grants, DCA
 - Kate Grosso, LotteryWest
 - Phillippa Maughan, Country Arts WA?
 - Chris Oughton, Director, Kwinana Industries Council
- **Associations of Performing Arts Centres Australia**
 - Rick Heath, APACA
 - Guy Boyce, CircuitWest Chair and Manager of Mandurah Performing Arts Centre
 - Ryan Taaffe, CircuitWest Executive Officer
- **Other**
 - Fiona de Garis and Thom Smyth, Performing Lines WA
 - Ian Ashton, Starlight
 - Megan Roberts , Business Manager, Spare Parts Puppet Theatre
 - Cassandra Lake; West Australian Symphony Orchestra
 - Jessica Darlow, Program Manager, FringeWorld
- **An overview of the current strengths and weaknesses of Koorliny in relation to:**
 - **Current physical infrastructure**

The Koorliny Arts Centre is reported in national APACA surveys as having three major performance spaces: a 1000 seat outdoor amphitheatre, a 244 capacity main theatre space and a secondary 72 capacity theatre/rehearsal space. The Centre also has a box office/bar/café function area, boardroom and studio/workshop spaces, dressing rooms and a courtyard area.

In reality the amphitheatre lies dormant all year due to noise restrictions and a lack of equipment restricting its use, and The KAC Inc maximizing a financial return from it. The stage for the amphitheatre directly backs onto the rear wall of the main theatre stage inside, and has no sound

insulation, therefore restricting both spaces from operating at once (in addition to there being only enough sound and lighting equipment at the Centre for one space to operate at any one time). Noise restrictions are exasperated by the building of new housing around the Centre in an urban renewal program. Discretion of the City's Chief Executive Officer allows for two events per annum and in 2015 the City is trialling film screenings in 2016.

Interviews with Country Arts WA and Performing Lines WA who organize tours of performing arts product around WA indicate the main 244 seat theatre at the Centre as a suitable stage for most small community touring product. The KAC Inc is restricted from presenting more commercially driven performances where profit is generated from larger capacity houses and higher ticket pricing capabilities. Mandurah Performing Arts Centre's main theatre space has an 800-seat capacity providing touring performers with much more opportunity for profit from each performance.

The secondary "black box" theatre space is a flexible space for presentations, rehearsals, conference type dinner presentations and comedy evenings, however The KAC inc report it is restricted for more use by the need to store equipment in it, essentially cutting available space by at least a third. Old containers and sheds on site are at capacity for storage, and future capital developments will need to address this so that the spaces available can be maximized for use.

The courtyard has a lot of potential for outdoor programming, aligning classical music presentations with the co-located Wellard School of Music, attracting the community to enjoy outdoor performance and dining experiences. Protective rails around raised garden beds and pathways, plus sails to provide shade would increase the opportunity for community participation in this outdoor space.

Whilst not a "physical infrastructure" element, the lack of a liquor license at the Centre prevents an important income stream assisting in financial sustainability, particularly if there could be an increase in the outdoor amphitheatre and courtyard programming.

Directional signage to and for the Centre is extremely poor, an upgrade in branding and new signage is vitally needed. The Centre's entry faces away from the newly constructed town centre area, physical connection

blocked by the high walls of the amphitheatre. New pedestrian access to the Centre should be encouraged from the Recquatic and Darius Wells Library.

- **Usage patterns over past four years;**

Review of The KAC Inc annual reports show an increase in overall attendance rates at the Centre from 30,000 in 2012/13 financial year to 41,000 in 2014/15. These figures are based on ticketing sales and workshop attendance, not on “head count” attendance. Door entrance technologies were dis-engaged, this methodology is not accurate due to multiple entries and exits in door traffic exaggerating attendance numbers.

Paid ticketed attendance rose from 23,093 in 2013 to 29,236 in 2015. Over the four years 2012-2015 a total of 107,385 tickets were sold.

The target set in the Service Level Agreement of at least 15 performances each year entrepreneured by The KAC Inc has been surpassed each year, growing from 62 in 2012 to 92 in 2015. This measure includes in-house productions and touring shows negotiated by The KAC Inc.

In-house productions have focused on musical and theatre productions, gaining in reputation as high quality experiences, combining guest directors, semi-professional performers with community participation, and achieving a growing audience. In-house productions regularly return a profitable income (though full profit would be less if venue hire costs were included fully), the highest return is from the Kwinana Dance Festival.

The KAC Inc has also grown the Centre’s participation in the regional and national professional performing arts touring networks, playing a role in the CircuitWest and MetroWest networks, attending professional touring product markets and conferences, and programming professional productions by Western Australian and national arts companies. These presentations have not been hugely successful in terms of audience numbers, nor profitable return. These productions cost on average between \$3-6,000 and rarely return more than 50% of

the cost. Only the Melbourne International Comedy Festival has reached perhaps over 60% of its cost.

This programming has perhaps been successful in The KAC Inc establishing Kwinana as a serious cultural destination and supporter of theatre and performance activities at a national level. Feedback from stakeholders in this sector encourages The KAC Inc to continue in this programming approach, but with a stronger sense of what product will suit the Kwinana audiences, to attract and retain audiences whilst developing and challenging their tastes and experiences in a more gradual manner. Marketing and promotion will be discussed further in this report.

The target of at least 6 performances by external hirers has also been surpassed each year, however as the entrepreneurial performances have increased, conversely external hirer performances has decreased, from 67 in 2012 to 37 in 2015.

| Major Income stream | 2012 amount | % of total budget | 2015 amount | % of total budget | National average |
|----------------------------|--------------------|--------------------------|--------------------|--------------------------|-------------------------|
| Gov grants | \$394,438 | 57% | \$416,150 | 55.3% | 34.8% |
| Ticket/ Production | \$147,740 | 21.5% | \$256,718 | 30.8% | 13.8% |
| Room hire | \$98,110 | 14% | \$51,338 | 6.1% | 12% |
| Other income | \$29,256 | 4.2% | \$47,560 | 5.7% | Non comparable |

Performances by community groups has also decreased, though reaching the target of at least 10 per year.

The number of “dark nights” represents the number of times the two theatre spaces are not booked and active. The theatre spaces are not always open to the public and an audience, and are used for devising and rehearsing theatre shows. These times are not included in the “dark nights” definition. There was a peak of dark nights in 2014 following the demise of the Kwinana Theatre Workshop, 198, which reduced in 2015 to 153. APACA 2013 stats indicate of an average 320 days availability for 272 seat venues, an average of 127 days are unused.

The KAC Inc hires out studio and workshop spaces and has established some core relationships with the Wellard Music School and Instep Dance for example. Service Level Agreement KPIs require at least 25 arts and cultural related classes and/or workshops hosted. When counted as “ongoing classes” 2015 saw 43 classes and workshops. However, these classes meet twice-daily, daily, weekly and monthly, the actual number of events would be closer to at least 10,800 in 2015.

There have been no visual arts exhibitions over the period reviewed. The current building fabric restricts professional exhibition installation.

There seems to be a disconnect between the City of Kwinana and The KAC Inc’s understanding of community cultural development activities. This will need more definition if this is to continue to be an expectation of future Service Level Agreements. Accordingly, “co-operative arrangements” are also perhaps misunderstood, and this consultant would argue the long term arrangements with groups such as the Wellard Music School and the Instep Dance program are co-location partnerships worthy of more strategic relationship management perhaps through formal Memorandums of Understanding.

Increasing the number of grants and sponsors through collaboration with the City of Kwinana has not been progressed in this time period. The KAC Inc’s key cash sponsorship partnership (outside of operational support from the City) remains with the Kwinana Industries Council (due for review in 2017), and in-kind sponsorships with media partners. Low use of the full physical capacity (including amphitheatre and courtyard), and lack of bar license restricts the earned income capacity of The KAC Inc.

In terms of the broader objectives of the City and The KAC Inc’s Service Level Agreement, this consultant finds evidence that the Centre is providing the “creative hub and meeting place” for the community, and through its programming, could be improving the image of Kwinana and building its confidence as a cultural venue. More connection to the Kwinana community, including the changing demographics of the area, growing multi-cultural settlers and the indigenous population will enrich the programming in the future.

- **Current activities in relation to infrastructure and opportunistic and entrepreneurial opportunities;**

The national APACA Economic Activity Report in 2013 provides some relevant statistics for consideration:

- 63% of performing arts centres are owned by local government authorities, and 80% of those are managed directly by the local government authority;
- 10% are statutory authorities;
- 37% have only one performance space, 66% have 1-2 performance spaces and 9% have 4 or more;
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- 0-261 seats: \$464,760 average income, 261-550 seats: \$1.1 million, and 551-1100 seats: \$1.9 million per annum average;
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- Earning capacity maximizes at three spaces: 1 space: average: \$2,535,377; 2 spaces: \$1,265,549 and 3 spaces: \$3,647,459;
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- 58% of programming utilization for primary purpose (ie theatre/orchestral performances);
- 65% utilisation for community events (amateur groups performances, dance schools etc) a growth from 55 in 2011;
- Nationally Musical Theatre accounted for 18.6% attendance and 28.8% of gross box office; Dance: 15.8% attendance and 15.6% of box office, and non-classical music: 11.7% attendance and 14.4% gross box office.

Arts industry stakeholder interviews reveal the growth of The KAC Inc's reputation in producing quality community musical shows with a strong sense of community participation. It has even been intimated that the shows may be able to tour to surrounding regional centres. Quality musical productions are popular with audiences, and difficult to find within the State. This may be an entrepreneurial opportunity for future

shows. If a tour can be devised of two or more regional venues then Koorliny and/or City of Kwinana would be eligible to apply for Department of Culture and the Arts Regional and Remote Touring Funds. These applications can be made at any time and have a twelve week turnaround.

The KAC Inc could also benefit from this Regional and Remote Touring Fund through presenting the Centre as the venue for the “re-mounting” of touring productions. The Centre has already begun playing this role, in 2016 hosting the re-mounting of Sensorium Theatre’s *Odyssey* production ahead of its Western Australian regional tour. The “re-mounting” aspect covers the rebuilding of sets, rehearsals (sometimes with new performers), testing of new technologies etc ahead of the tour going on the road. This opportunity comes from partnering tour-coordinators such as Performing Lines WA and Country Arts WA, or with Western Australia arts companies such as Barking Gecko, Spare Parts Puppet Theatre, Last Great Hunt, Yirra Yaakin, and the Blue Room Theatre membership groups. These partnerships can be built through offering residency opportunities during “dark night” periods in the theatre and studio spaces. This sort of support is invaluable to theatre companies and performers, provision of low-cost rehearsal space assists new projects emerge, and the Centre’s connection to community can provide important points for collaboration, criticism and audience development.

The Centre has opportunities to present work that is in development in surrounding schools and organisations across the region. For example, Perth Institute of Contemporary Arts have implemented Spark Lab contemporary dance artists residencies at Warnbro Community High School in recent years, and the West Australian Symphony Orchestra’s Community development team have been providing free music lessons to all pre-primary and primary aged school children in the Kwinana area. Future joint project opportunities could be developed. The Department of Culture and the arts has changed its grant categories and a new “Community Engagement” category is available for The KAC Inc to apply for funds to engage professional arts practitioners within the community engagement environment. Applications are assessed on their quality and reach, and there are monthly application rounds for under \$15,000 and one annual round for projects above \$15,000. This may be a good

source of funding for community cultural development focused theatre production.

The KAC Inc's participation in the arts sector is therefore vital to grow partnerships, both with the Western Australian venues network, and with the producers and arts companies making appropriate work. The environment for performing arts touring is changing rapidly. The Australian Performing Arts Centre's Association is currently developing a Performing Arts exchange alongside its annual conference, where arts companies will showcase potential touring product nationally. The CircuitWest network is now presenting a Western Australian Showcase in May each year, focusing on presenting product for touring from local Western Australian companies. Country Arts WA continues to provide touring shows through its "Shows on the Go" menu, as well as through schools based touring projects, and as previously mentioned, there are increased funds available for touring the State through the Department of Culture and the Arts.

There is also an increase focus on community engagement as an audience development strategy, with attached funding available. This requires a "deeper" audience engagement, with artists and arts companies connecting with target audiences in the local community through active participation and repeated visits ahead of the show arriving in their community. This often takes place in the form of workshops, or joint performances, with local community groups being engaged in the show, attracting an audience of connected family members, similarly minded interest groups etc. This is particularly effective in school audiences, as well as cross-cultural works.

Current growth in disability audience access strategies such as tactile tours, audio description services and captioning through DADAA and the Perth International Arts Festival projects is changing the way the make-up of an audience from the community is viewed.

In broader cultural development terms, the largest development has been the growth of the FRINGE WORLD Festival. FRINGE WORLD Festival is a summer celebration in Perth, Western Australia held annually over 31 days in January/February. It's reported to be the third largest Fringe in the world and the largest annual performance platform in Western Australia.

The program of events includes comedy, circus, free and family entertainment, theatre, visual arts, music and musicals, dance and cabaret presented by Western Australian artists along with performers from all over the world. Events are presented at venues all over the Perth metropolitan area.

The 2016 FRINGE WORLD Festival played host to 700 shows at over 150 venues and performance spaces spread across Perth and further afield in local communities and neighborhoods. Over 350,000 tickets were sold at the 2016 Festival, valued at more than \$9 million. Attendance at free and ticketed events topped 900,000.

FRINGE WORLD Festival will take place from 20 January to 19 February 2017.

FRINGE WORLD Festival has formed a number of relationships with Local Governments to stage satellite events. The nature of the management relationships differ, some Local Governments organize their own festivals completely, others tender out the running of the festival to independent programming and event companies. Satellite events that are at a reasonable distance from the CBD can access FRINGE WORLD shows to supplement their local community programming through negotiation with FRINGE WORLD Festival production team. Satellite events tend to run a couple of weekends over the festival, and avoid the opening weekend where activities are focused on the CBD. Programming is started in July each year, and finalized in October.

Satellite partners are obliged to set up their events programming and ticketing through the FRINGE WORLD ticketing management system with a \$300 registration for events or \$150 for free events. FRINGE WORLD reserve the right to sell tickets up to two hours before the event, at which point unsold tickets are provided to the partner to sell on the door of the venue or event. There is a ticket fee on a sliding scale (from a \$3 fee for tickets up to \$15 to \$5 fee for tickets above \$50) for FRINGE WORLD ticketing costs, and the rest of ticketing income is provided to the partner for split between presenter/venue and the artist (negotiated between them).

Branding and signage is available for FRINGE WORLD events, and included in the widely distributed program. Media covers the entire FRINGE WORLD Festival, and local enquiries are referred to the partner/venue or artist for follow up.

In a multicultural program development sense, The KAC Inc may be able to engage with musicians and performers through WA Music Industry Association, TURA New Music or in the future, Community Arts Network. Since the closure of KULCHA in 2013, there has been a gap in programming in this area. It is essential that The KAC Inc consult the Kwinana multi-cultural community groups in the area to ascertain support for a multi-cultural stream of programming. Relationship building with leaders of multicultural communities is crucial to strengthen the links to these communities. Involvement in all levels of The KAC Inc's activities will grow a sense of ownership and belonging with the Centre.

○ **Current practices, policies and procedures: management;**

The Australian Performing Arts Centre Association's 2013 report examining staff and salaries structures gives some useful comparisons for management structures. Of the 195 centres, there was a 55% return rate:

- 24% of respondents had an annual turnover of 0-\$1 million (The KAC inc report a \$838,971 turnover in 2014/15), 32% had \$1-2million, 32% had \$2-5million, 8% had \$5-10 million and 5% over \$10million per annum;
- Audience capacity by primary space: 38% had 0-500 seats; 48% had 500-999 seats and 14% had 1000-2000 seats;
- Average Manager weekly hours: 4% below 35hrs; 21% between 35-40 hrs; 41% between 40-45 hrs and 34% above 50 hrs;
- In the 0-\$1million turnover category the following staff breakdowns:
 - Operational Management: 14% - 2.5FTE; 29% -1.5FTE; 57% - 1 FTE;
 - Technical Management: 14% - 2.5 FTE; 14% - 2 FTE; 36% - 1.5 FTE; 29% - 1 FTE and 7% - 0.5%;
 - Box Office Management: 23% - 2.5%; 8% - 2FTE; 15% - 1.5FTE; 38% - 1 FTE and 15% - 0.5FTE;

- Marketing management: 100% - 0.5FTE;
- Administration: 17% - 2FTE; 17% - 1.5FTE; 33% - 1FTE and 33% - 0.5FTE.

The KAC Inc currently operate the Centre with a staffing structure of 2 Full time staff, 5 Part-time and 7 Casual staff. Aligned with the staff categories above, The KAC Inc has approximately:

- Operational Management: 2FTE
- Technical Management: 0.6FTE
- Box Office Management: No dedicated staff
- Marketing Management: 0.3FTE
- Administration: 1.2FTE
- Building Maintenance and cleaning: 0.8 FTE

Currently all staff multi-task, sharing box-office duties, double as Duty and Front of house managers on performance nights, and the marketing and promotions work is split across three different positions. Since the departure of the previous Centre Manager, there is a shortfall in the management positions, a bookkeeper filling the Accounts role in a part-time basis.

The KAC Inc Board and staff have undertaken a new strategic planning process in 2015, and a draft three year Strategic Plan is yet to be adopted by the Board, awaiting the outcomes of this review process.

The plan is fairly comprehensive, identifying potential growth of audiences and programs based on the changing demographics of the region. It identifies issues relating to low socio-economic population groups and ticket affordability, of new migrant populations and a large percentage of residents being in the 0-40 age group. It also identifies the need for new marketing, audience development and programming strategies. The high level strategies and actions now need operationalizing.

Building on the work already achieved, it is crucial for The KAC Inc to activate marketing and audience development strategies.

The Service Level Agreement KPIs list “the frequency and nature of promotional activities” as a required measure. Reporting on this has listed that seven promotional types of activity are undertaken:

- Paid advertising (weekly);

- Editorial content in newspapers (weekly);
- External websites (on-going);
- Internal websites (ongoing);
- Social media (daily);
- E newsletter (weekly);
- External performances at local events (occasionally)

The marketing and promotional work is currently divided across a number of staff, the Operational Manager updates websites and designs all flyers and posters, the Administrator places newspaper advertisements and the 0.5 Administration and Media/Marketing officer focus' two thirds of her time on publicity for the Centre and the program.

This means there is a lack of connection between the box office and ticket sales information and the promotional strategies to sell tickets. The KAC Inc implemented a new ticketing system approach at the outset of the new Service Level Agreement and now have four years of ticket buying data to analyse for trends, repeat and loyal customers, geographic location, and to find out how the purchaser heard of the show they are buying a ticket for. This information will inform a strategic marketing approach. An evaluation at the end of each season and show will inform the way in which future shows are promoted. Currently there is little time or responsibility allocated in the duties across the team for this strategic approach. Full knowledge of the buying patterns of the Kwinana community would inform programming decision-making, and reduce risk of losses. It would be beneficial to The KAC Inc Board and management to align duties to a more strategic approach. This is also true of Board make-up and Centre management responsibilities. It is possible that a sub-committee system on the Board, aligning skill sets from the Board to support marketing and audience development with management may provide the strategic focus needed to improve this area.

This low resource focus has however made some good improvements in the digital presence of the Centre in recent years. The Koorliny Arts Centre website has been restructured and online ticketing purchases have increased. Direct mail-outs have ceased, however, the new monthly E newsletter has 1000 subscribers, with a 35% open rate. A new Facebook page has been overhauled and currently has 2,677 likes/followers. A Twitter account has 570 followers. A focused

Marketing Manager would need knowledge of Google Analytics and ways of interpreting the social media usage data to assist maximizing commercial outcomes these tools.

Strategic targeting of key groups for audience development requires time investment for relationships and database development. It will be useful for The KAC Inc Board and management to set the long term audience development strategic direction for this area, if the focus is to be young audiences, then a database of drama and music teachers in the area should be established, appropriate programming put in place, ticket price strategies communicated, subsidized ticket practices developed, underwriting funding achieved, companion activities to attract families developed etc. Current relationships with co-located music and dance schools could be exploited for cross-promotions, joint presentations and promotion of the Centre achieved together by linking websites, Facebook pages and Twitter strategies. This could be explored in an MOU negotiation.

The Marketing Manager would also be vital in revitalising sponsor relationships. The Kwinana Industries Council is currently key sponsors of the Performance Season and receive naming rights acknowledgement through announcements at the Season Launch, and logo placement on all print and digital promotional materials, placement of banners in the venue, as well as a discount ticket rate for all Industry employees. Contemporary sponsorship relationships include relationship development strategies that seek to maximize the potential of interactions between the partners. Kwinana Industries Council has 11 full and 25 associate member companies who between them employ over 5000 industrial workers in the region. This is an exciting opportunity for The KAC Inc to link to a large potential audience and subscriber base. Offering access to meet directors and performers of shows in a private VIP setting, special functions for industries' staff or Boards introducing them to the Centre, external performances at the industries functions all create a sense of belonging and ownership of the stakeholders, and future audience members who may bring their whole family to the next performance.

This relationship development approach is also useful for attracting new audiences from the multi-cultural and migrant communities in Kwinana, and the development of relationships with community leaders comes

from inclusion, special access to the venue for community group events and annual general meetings, growing to include programming advice which in turn attracts this community as an audience. Donna Walker-Kuhne in her book: *Invitation to the Party: Building bridges to the arts, culture and community*” argues that awareness of diversity is essential at all levels of the organisation, from membership on the Board, feeling welcome in the building at all times, being reflected in the marketing and on the stage and in the program. These strategies take time, and resource focus.

The KAC Inc has taken important steps in the last five years of connecting with the professional presentation networks for touring performing arts product. Currently, the programming policy is quite broad and needs more refining. Support for this is being provided through CircuitWest and key mentors. It requires the knowledge of the community needs, the identification of the risks The KAC Inc Board is prepared to take for long-term audience development, that will focus the strategic approach.

○ **Current positioning within the City Centre cultural/community precinct:**

The shift of the geographical focus of the Town Centre, redevelopment of affordable housing estates, and new cultural facilities has left the Centre somewhat isolated from everyday public traffic. It will be useful to examine shifting the entrance ways and main traffic to the back of the building, and increasing awareness of the Centre’s location through directional signing, branding on the wall of the amphitheatre, and a more active courtyard area.

The Koorliny Arts Centre is 40 kms from the Perth CBD, and regularly attracts an audience and participants from its surrounding catchment. The 2015 season attracted audiences from:

- 18% Kwinana
- 34.6% Rockingham
- 14.7% Mandurah
- 8.8% City
- 4.8% East
- 5.5% North

- 13.4% South (including Fremantle)

It should be noted that initial breakdown of postcodes could indicate a growth of audience in the Baldivis area which could be developed further.

- **Long term sustainability (including financial viability; and funding).**

| Major Income stream | 2012 amount | % of total budget | 2015 amount | % of total budget | National average |
|-----------------------------------|--------------------|--------------------------|--------------------|--------------------------|-------------------------|
| Gov grants | \$394,438 | 57% | \$416,150 | 55.3% | 34.8% |
| Ticket/ Production | \$147,740 | 21.5% | \$256,718 | 30.8% | 13.8% |
| Room hire | \$98,110 | 14% | \$51,338 | 6.1% | 12% |
| Other income | \$29,256 | 4.2% | \$47,560 | 5.7% | Non comparable |
| | | | | | |
| Major Expense | | | | | |
| Salaries and wages | \$380,092 | 57.7% | \$411,971 | 49% | 44% |
| Admin | \$32,567 | 5% | \$66,727 | 8% | NA |
| Building | \$40,127 | 6% | \$40,884 | 4.9% | NA |
| Utilities | \$49,580 | 7.5% | \$38,154 | 4.5% | NA |
| Production and performance | \$130,385 | 19.8% | \$257,265 | 30.6% | NA |

The conclusions from the table above are:

- The Local Government grant increases are barely keeping up with the salaries and wage costs of operating the Centre.
- Whilst income from ticketing and productions has increased 74% in this period, the expense and cost of the productions has increased by 97%. In 2015, the income and expenditure offset any profitable return;
- Income from Room hire has dropped by 47% whilst costs of running the Centre (Admin, building and utilities) have increased by 19% (\$122,274 in 2012 to \$145,765 in 2015).

- Audit records show no surplus has been achieved since 2012/13 where production income increased to \$227,487 offset by production costs of \$166,270.
- Analysis of individual show income and expense regularly show the profitability of the in-house productions, in particular the Kwinana Dance Festival (returning a profit of \$56,000 in 2015), as well as children/family based musical productions such as Cinderella, Beauty and the Beast and Evita. However, the budgets do not include cost of the theatre spaces used for rehearsal or performance. This is an opportunity cost and should be factored into the costs of producing in-house. (Management reported external hirers take precedence if clash of bookings for rehearsal times). Analysis also shows consistent losses on external productions, touring to the Centre. These cost on average between \$3,000-\$6,000 and return only 20%-50% of costs.

NB: It is not unusual for a performing arts centre to redirect earned income from programming into future programming, offsetting the more risky parts of the program with the more popular. One subsidises the other, programming risks are taken for audience development outcomes with long-term growth the strategy. However, it would be timely to review the programming approach being undertaken, regular low-ticket sales, and high financial loss point to poor audience connection. If The KAC Inc wishes to continue this approach it requires more knowledge of the Kwinana audience, what programming is relevant to them, whilst challenging them, how to market and promote the shows to them, plus how the long term strategy will be measured.

- **Contemporary best practice with regard to Local Government incorporation of arts facilities into their broader cultural planning processes:**

The Chamber of Culture and the Arts Western Australia (CACWA) is the peak policy and advocacy body representing the arts and the cultural sector in Western Australia. The Chamber believes that a vibrant and diverse arts and cultural scene is essential for economic, political and social well-being.

CACWA published a research study in March 2015: "Arts and Culture in Western Australian Local Government". The 2012/13 ABS figures of

cultural funding by Government reported that \$155million was provided by 140 local government authorities in Western Australia, the third highest investment per capita nationally. The State's contribution for that same period was \$128million.

The report found that only 18 of the 140 local government authorities had a cultural plan to strategically guide this arts and cultural investment.

90% of local governments held a strong belief that arts and culture have a key role to play in the development of community vibrancy, cultural identity and social cohesion. 79% were actively supporting arts and cultural activities. Of this 79%:

- 99% were providing arts and cultural facilities: majority of these included library facilities, 44% provided halls with evident performance capability; 20% multi-purpose facilities; 13% facilities dedicated to performing arts, 14% dedicated to visual arts and only 9% had an amphitheatre or soundshell facility.
- 79% provided support for arts and cultural groups: 84% of these through grants, 13% through discounted or free facility access;
- 67% provided arts and cultural programs;
- 56% provided arts and cultural events: 85% of these were civic focused events such as Australia Day, Harmony or NAIDOC ceremonies, 41% presented arts and cultural focused festivals, 28% provided concerts and 8% provided youth events.
- 40% provided public art programs.

Only 10% of local governments employed an arts and cultural focused officer, 31% joined the role in a Community Development type role and 41% had no identifiable position with a responsibility for arts and cultural development.

This report features five case studies across Western Australian local government arts and cultural investments. Koorliny Arts Centre is one of them. It is described as being “considered one of the jewels in Kwinana’s cultural crown”, and a meeting place for self-expression and engagement in community arts practices. In 2013/14 it is reported as selling “26,000 tickets to performances, equivalent to the entire population of Kwinana”.

The City of Kwinana is one of the 18 local government authorities which as a Cultural Plan that guided its investments in arts and cultural activities for its community. Developed in 2008/9, through consultation with a Community Cultural Planning Group, facilitated by Community Arts Network WA, the plan covered a period from 2010-14, and is due for realignment with the City's new Strategic Community Plan 2015-2025.

The Cultural Plan states: "Culture is simply the way people live their lives, express themselves and interact with each other", and focus' on arts and cultural development, with other aspects delivered via inter-related policy documents across local government.

The Cultural Plan has five policy statements:

1. Cultural diversity and local identity;
2. Cultural heritage and a sense of place;
3. Culture and the local economy;
4. Culture and the local environment;
5. Cultural activity and the built environment.

The Plan identifies Koorliny Arts Centre as a key partner in arts and cultural development, and the City's largest financial investment, however notes two main areas of limitation:

- A focus on the community as consumers and not creators;
- A focus on the performing arts to the exclusion of the visual arts.

The Plan calls for change, for Koorliny Art Centre to increase its focus on engaging the local community, to foster and showcase local creativity, and to play a role as a creative hub for both the performing and visual arts community.

Koorliny Arts Centre is identified as having a key role to play in the following actions, the majority of which fall under the first policy statement: Cultural diversity and local identity:

1.1 Building community capacity and participation

- 1.1.1 Encourage public participation in development and practice of cultural activities: events, calendar, expand Festivals, links to State and national cultural events

Develop strategic partnerships with local community groups, business and industry to create community cultural development projects;

Encourage community to organize and apply for funding for projects.

1.1.2 To increase the opportunities for artists to be involved in the cultural life of Kwinana;

- Facilitate professional development opportunities for local artists (\$2000 grants)
- Maximise local artist participation in local community and public art projects and activities;
- Identify and source funding for artist in residence exchanges; (\$5000 grants)
- Develop up-to-date local artist/group register;
- Develop a program of community cultural development activities at Koorliny Arts Centre;
- Koorliny Arts Centre as creative hub and central meeting place;
- Attract touring exhibition and performances to Koorliny Arts Centre;
- Investigate feasibility and opportunities to develop visual art workshop space for artists;
- Funds for capital to upgrade Koorliny Arts Centre.

1.2 Celebrating cultural diversity in our community;

1.2.1 To celebrate Kwinana's cultural diversity through commissioning artworks in range of mediums that engage Kwinana's unique cultural diversity – performance, sound, visual arts. (\$10,000 grants)

1.2.2 Celebrate Indigenous culture through NAIDOC Week and Indigenous art exchange.

1.3 Further enhance the distinctive local identity of Kwinana through developing and supporting cultural activities that enliven and express the local identity of Kwinana.

3.1 Promoting Cultural Tourism:

3.1.1 Identify and utilize Kwinana's assets for tourism development, through researching opportunities and submit applications to attract regional events to Kwinana.

This is an extensive list of actions that the Koorliny Arts Centre is attached to, and these can be directly seen attributed to the outcomes and objectives of the Service Level Agreement that was established and signed in 2012.

Discussions with key stakeholders indicate a consultation process for the Cultural Plan that focused on contributions from management of the Koorliny Arts Centre, and did not consult the Board. The commentary around the Cultural Plan indicates a strong focus on community cultural development (CCD) philosophies and practices, possibly from the facilitation of the planning process by the Community Arts Network WA, a strong advocate for the value of this approach in local government. This is not a problem in and of itself, however, this consultant would note a distinct lack of acknowledgment and awareness of the important role a performing arts centre can have in a community, and the achievements of the Koorliny Arts Centre in this area. It is important to note the different skill sets needed to undertake effective community cultural development projects, and those needed to successfully program and entrepreneur audience development activities in a performing arts sector, often dependent on regional and national touring networks and markets.

The CircuitWest conference in 2015 conducted a strategic planning session with stakeholders across the sector, from local government representatives, venue managers, tour operators, funders and arts product producers. The discussions highlighted a need for performing art centres to begin to see themselves as “Creative and Community Hubs”, to encourage audience development through knowing your community and your audience, programming different activities to attract and re-attract them, making the Centre a “home” for them as well as working with tour operators and arts producers to co-commission work in partnership, work that is suitable for the Centre’s specific audiences. It is interesting that The KAC Inc’s direction already seems to acknowledge this approach.

Following desktop review of the City of Kwinana’s Annual Reports from 2009 to present day, the consultant notes the absence of any reference to the Koorliny Arts Centre, its activities, its role in the community or the participation in delivery of the Strategic or Cultural Plan objectives or actions. This highlights a disconnect between the expectations placed on

the funding provided to The KAC Inc outlined more clearly from 2012 in the Service Level Agreement, and the City's ownership of a key cultural asset in its area. This represents a missed opportunity for acknowledging the impact the Centre has in the performing arts sector, both in the local community and in the sector more broadly.

The current City of Kwinana's website mentions the following for "arts and culture":

Kwinana is entering into a very significant growth phase and more people will be looking for high quality cultural experiences in their local area without having to travel great distances. The City of Kwinana is committed to working with the community members to bring a spirit of creativity, innovation and collaboration to your City.

Koorliny Art Centre is only mentioned as a facility in the area, with a link to the Centre's website. There is no other connection to the activities at the Centre, or the Council's relationship as facility owner and funder of The KAC Inc.

- **Benchmarking models of operation of similar regional/metropolitan arts facilities to ascertain acceptable benchmarks and examples of best practice.**

See Appendix C

- **Alignment with City of Kwinana Strategic Community Plan and cultural policy?**

The City of Kwinana's "Plan for the future – Strategic Community Plan 2015-2025" states a Vision for 2030 where Kwinana is "Rich in spirit, alive with opportunities, surrounded by nature. It's all here!".

This Vision translates into four policy areas, and arts and cultural development sits majorly within the "Rich in spirit" section, related to the strong community spirit, alive with community events, civic participation and multi-culturalism, working with families, youth and

seniors, including the vulnerable and disabled, with a network of volunteers and community leaders, recreation facilities activated by services and programs meeting the community need, promoting arts and heritage and providing homes for community groups.

Key relevant objectives and strategies:

- 1.1 Identity: Protect and enhance community identity
- 1.2 Community Activities and Events: Inspire and strengthen community spirit
- 1.3 Safety: Facilitate improved community safety and reduced crime levels
- 1.4 Programs and Services: All sections of the community are supported by the provision of relevant community and human services
- 1.5 Capacity Building: Actively work with the community to build local capacity
- 1.6 Volunteers: Increase the prevalence of volunteers
- 1.7 Arts and Cultural development: Develop and celebrate arts and culture in Kwinana

- **Relationships with other community facilities within the City Centre precinct? Including synergies and economies of scale?:**
 - **Darius Wells Library and Resource Centre;**

The Darius Wells Library and Resource Centre is a new purpose built community hub in the Kwinana City Centre. It houses the Kwinana Public Library that includes meeting spaces, learning centres, wifi access and a range of community engagement programs. The Library currently has no relationship with the Koorliny Arts Centre, however, before moving to its new space, regularly co-programmed book club and author presentations at Koorliny Arts Centre. The appetite to continue a relationship is clear.

The building houses community agencies, as well as training and meeting rooms complete with new technologies such as computer labs and Smartboard technologies in meeting spaces. Both Library and Resource Centre have a room each for art based activities (visual arts based). The Ken Jackman Function Hall has a capacity of 300, and is

used for large-scale public gatherings, consultation sessions and meetings. The rooms are dividable by retractable screens that allow for two activities to take place at once.

○ **Recquatic**

The Recquatic Centre is a fitness and swimming centre with recently upgraded facilities. These include a Sports Stadium for hire, a 25m, 10 lane pool with eight lanes available for hire, a Hydrotherapy Pool for rehabilitation, exercise and health programs.

Kwinana Recquatic has a variety of rooms and facilities available for community access:

- The Multipurpose Room is the largest room available at Kwinana Recquatic. It caters for up to 80 people and is commonly used for large meetings, inductions and training programs.
- An ideal location for a smaller sized meeting, the Recquatic Meeting Room holds a maximum of 25 people. The room has an intimate setting and is often utilised by parenting groups around the City.

○ **Zone Youth Space**

The Zone is a two story youth space catering for young people in Kwinana aged 12 to 24. The facility offers a large range of youth oriented programs, workshops, events and activities every week and throughout the year.

Featuring a multipurpose sports stadium, multimedia facilities, an art area and music rehearsal/performance spaces, the Zone is a youth friendly, safe place where young people can develop new skills, enhance existing abilities and socialise with peers.

The facility is home to a variety of practical and helpful information and support, a setting where young people can link in with positive services, as well as a social hub in which to relax or play games.

Currently there is no relationship with the Koorliny Arts Centre.

Interestingly the plans for the new skatepark and outdoor performance area may have an impact for both stakeholders.

- **Long term sustainability:**
 - **Financial**

| Major Income stream | 2012 amount | % of total budget | 2015 amount | % of total budget | National average |
|----------------------------|--------------------|--------------------------|--------------------|--------------------------|-------------------------|
| Gov grants | \$394,438 | 57% | \$416,150 | 55.3% | 34.8% |
| Ticket/ Production | \$147,740 | 21.5% | \$256,718 | 30.8% | 13.8% |
| Room hire | \$98,110 | 14% | \$51,338 | 6.1% | 12% |
| Other income | \$29,256 | 4.2% | \$47,560 | 5.7% | Non comparable |

The national average figures in the table above are based upon the APACA stats collected in 2013 across its 195 national membership of performing arts centres. The KAC Inc relies on the City of Kwinana's financial support, which provides a large percentage of its annual operational income. Whilst the ticket and production income is also a higher percentage than the national average, the income is invested totally in the programming of the Centre. Other income streams for the Centre have reduced, and are lower than the national average, other performing arts centres achieve a wider diversification of income streams, earning more from venue hire, ticketing services and food and beverage provision.

The KAC Inc's in-house productions sell well, however, the low capacity of the main theatre at 244 seats, and the low price point of tickets aimed at the low socio-economic population base result in low yield. More in-house productions have led to more time in the main theatre spaces for the devising and rehearsing of shows, and less external hirers and presentations and potential audience ticket income.

For financial sustainability, it will be necessary for The KAC Inc Board and management to balance the in-house production activities with the external hirers, as well as diversify the income earning capacity through licensing the bar and exploring food and beverage event operations.

It should be noted that a future risk to the external hire and income streams could be the planned cultural precinct development at Peter Carnley Anglican Community School. The masterplan on their website includes a performing arts facility. Further information on size, capacity, timeline for implementation and intended use are still awaited.

The current lack of use in the large capacity open-air amphitheatre and the courtyard spaces is a lost earned income opportunity. These spaces would be excellent daytime venues for music and performances. There is a large capital works upgrade program that will be needed to increase access and re-direct the flow of traffic to face the new Kwinana Town Centre. This will require changing the storage facilities currently being used, and freeing up interior spaces currently used for storage.

It will be essential the City of Kwinana Community teams and The KAC Inc to work together to consult neighboring property residents to agree a suitable program approach, number and style of presentations annually, benefits to the residents, management of noise levels, patrons and events. These agreements have been achieved at the Fremantle Arts Centre, in the City of Perth's Russell Square, Claremont Showgrounds etc.

○ **Cultural**

Culturally, The KAC Inc is forging an interesting place in the creative sector of Western Australia's performing arts sector.

The in-house production model is developing a unique identity for the Centre in Western Australia. The musicals and theatre produced have gained an increasing reputation for quality and popularity, to the point where it is possible that these shows could tour to other regional venues, carrying the Kwinana name with them.

The programming policy however needs more defining. The KAC Inc and the Centre can play an important role in the devising and touring of Western Australian and national product, through providing spaces for residencies for the devising of new work and co-commissioning, for the metropolitan "re-mounting" of shows about to tour the regions, and for presenting shows on national tours. However, a stronger programming purpose is needed, based on a stronger understanding of the audience demographic, the barriers the population face for attendance, as well as

a strategic focus for long-term audience development work. It is essential the presentations of touring product are appropriate to the audience desires, are promoted well, and the allowance in the program for challenging and more risky presentations is based on audience development outcomes, underwritten by financial risk strategies such as other high performing parts of the program.

New partnerships will assist this programming, and it is recommended the City of Kwinana and The KAC Inc explore other already successful approaches and brand alignments, such as presentations as part of FRINGE WORLD Festival, and partnering other cultural and community activities. This has already begun, through the inclusion of the Koorliny Centre General Manager on the City of Kwinana's Arts Advisory group. With longer term planning The KAC Inc and the Centre can contribute to the City's events and civic celebrations through its commissioning of aligned performances. This programming happens 18-24 months in advance for national touring product, so long term planning is essential to achieve this objective.

It is recommended that the Centre General Manager's role be reviewed to focus its duties more strategically and less operationally. It is vital the General Manager continues to participate in the national and State touring and Performing Arts Centre support networks such as APACA and CircuitWest, both for professional development and partnership development opportunities. It is recommended a Marketing Manager role be established, with responsibilities for box office, ticketing and digital traffic and usage data analysis, audience development strategy development, and sponsorship management. This may relieve some of the operational burden for the Centre General Manager role.

The KAC Inc Board should explore a sub-committee being formed with appropriate skills and expertise to support the development of programming approaches and a marketing/audience development plan. It is recommended a multi-cultural programming stream aimed at engaging migrant and Aboriginal populations be established.

○ **Community development**

With the signing of a new five-year Service Level Agreement between The KAC Inc and the City of Kwinana, the Board of The KAC Inc could explore a more formalized Memorandum of Understanding with key

hirers in the space. The co-located , long term cultural and community enterprises such as Wellard School of Music and Instep Dance play an important role in the activation of the Centre, and for the income to The KAC Inc. This should be recognized by a long term agreement on hiring spaces, joint approaches to promotional activities and collaborative programming for events. The families and children attending music, dance and visual art classes are potential future audiences, and their input to what they'd like to see happen at the Centre in the program could increase attendance.

The Centre has an important role to play in the City of Kwinana's cultural and community aspirations, and the relationship should be acknowledged in publications and articles as a collaborative approach to increasing the well-being of Kwinana residents. The inclusion of the Centre General Manager on the Arts Advisory Group is a good first step, and a Community Cultural Development planning focus, bringing together staff from all the facilities working in this area could increase potential for long term planning and collaborative approaches.

As previously outlined, The KAC Inc and the Centre's contribution sits firmly within the "Rich in spirit" section, related to the strong community spirit, alive with community events, civic participation and multiculturalism, working with families, youth and seniors, including the vulnerable and disabled, with a network of volunteers and community leaders, recreation facilities activated by services and programs meeting the community need, promoting arts and heritage and providing homes for community groups.

Recommendations

1. City of Kwinana and The Koorliny Arts Centre Inc (The KAC Inc) to enter into a new five year Service Level Agreement, with operational funding levels kept at current levels;
2. This relationship to be formally recognized in the City and the Centre's publications, and web/social media, as a vital contribution to the growth and well-being of the Kwinana residents (particularly if productions to tour to other centres);
3. The KAC Inc explore income diversification opportunities through activation of amphitheatre and courtyard spaces. City of Kwinana

to work closely with The KAC Inc to overcome capital and environment barriers to programming in these spaces including:

- a. a re-facing of the public access towards the new Town Centre;
 - b. Access and safety issues addressed through railing and ramps in areas;
 - c. Establish an agreement across residents to gain approval for an outdoor program;
 - d. Increase lighting, signage and safety measures around the Centre to increase patron comfort.
4. Further diversification of income to be explored from licensing and food preparation at events on the expanded site;
 5. New programming policy to balance in-house productions and external hirers and presentations to maximize audience potential, ticketing and hirer income, and to reduce dark nights.
 6. The KAC Inc Board to review the roles of the Centre General Manager and the Administration/Media to create a Marketing Manager role responsible for a more strategic approach to marketing and audience development, relieving the Centre General Manager to participate in national and State Performing Arts Centre networks and markets and the City of Kwinana's Arts Advisory group;
 7. The KAC Inc Board to form an appropriately skilled subcommittee to assist the development of the marketing and audience development plan and implementation;
 8. Development of key partnerships with key stakeholders in the arts sector for future audience and program development including FRINGE WORLD Festival, Barking Gecko, Spare Parts Puppet Theatre, Country arts WA, Performing Lines WA, and CAN;
 9. To explore a multi-cultural programming stream to engage with Kwinana's migrant and Aboriginal population;
 10. The KAC Inc to negotiate formal Memorandums of Understanding with the co-located groups in the Centre: Wellard School of Music and Instep Dance, outlining a stable time-frame for hiring, joint promotional strategies, and collaborations on programming and events at the Centre;

- **Revised key performance Indicators for The KAC Inc:**
 - **Governance**
 - To achieve core elements of good governance and accountability through:
 - Holding an annual general meeting;
 - Publically publishing and annual report;
 - Providing audited financial statements;
 - Ensuring the skills of the Board match the needs of implementation of the organisation's Strategic Plans (including Marketing, Audience Development and Programming plans);
 - Commencement of a review of performance against these KPIs by 1 January 2020, with the City of Kwinana;
 - Identifying and allowing for potential risk to the organization through the annual review of a Risk Management Plan, and to ensure all appropriate certificates of insurance are held, including those of external subcontractors or providers.
 - **Strategic planning**
 - To identify the long term vision and aims of the organization by:
 - Adopting the Strategic Plan by 31st January 2017; and reviewing annually;
 - Collaborating with the city of Kwinana regarding capital works planning and implementation to achieve the Strategic Plan.
 - **Financial planning**
 - Ensure the long term financial viability of the organization by::
 - Diversifying earned income bases to ensure the city of Kwinana operating subsidy constitutes a maximum of 45% of total income by end of the service level agreement;
 - Developing and reviewing annually a Board endorsed five year financial projection, to be completed by 31 January 2017.

- **Performance**
- To operate Koorliny Arts Centre as an active creative and cultural hub for the region:
 - Total attendance over all programs: Target 35,000 pa;
 - Total ticket sales: Target: 25,000 pa;
 - Number of internal performances/events (includes presentations of touring shows): Target 80 pa;
 - Number of external hirer performances: Target 40 pa;
 - Number of workshops: Target ongoing classes, 6000 events;
 - Number of dark nights: Target 130;
- **Collaboration and partnerships**
- To increase strategic partnership approaches to achieve strategic aims by meeting the following:
 - Number of community groups using the centre: Target 10 minimum;
 - Number of partnerships with arts organisations for programming: 3 per year minimum;
 - Number of formalized MOUs for co-located, long term community enterprises Target: Minimum 1 per annum;
 - Participation in City of Kwinana cultural and community planning activities; Number of Arts Advisory (or similar) Group meetings attended by Koorliny Arts Centre Inc representative: 100%.
- **Marketing and Engagement**
- To maximize exposure and reach of the organization in the Kwinana and surrounding areas to engage with the various community segments by:
 - The creation of Board endorsed Marketing, Audience Development and Programming policies and plans by 31st January 2017. Plans to identify resource allocation relating to skill, training, technological and governance support and budget to achieve targets.

- Inclusion of Indigenous and multicultural groups in the above plans to align with City cultural plans;
 - Continued multi-faceted promotion of the organization through digital and social media in line with Marketing and audience development plans.
- **Accessibility**
- To explore increased disability access involvement through:
 - In collaboration with City of Kwinana, undertaking a study to identify options for the physical changes to the entrances to the building from the City centre approach by 1 January 2018;
 - Explore increased accessibility through programming and access enhancements.
- **Appendices:**
 - **Appendix A: KAC Inc Service Level Agreement KPI results**
 - **Appendix B: Financial performance summary spreadsheet**
 - **Appendix C : National benchmark organisations overview**

| Appendix A: KAC Inc Service Level Agreement KPI results | | | | | | | |
|--|--|--|--------------------------|--------------------------|--------------------------|----------------------|---|
| Annual Objectives: | Annual KPIs for reporting | 2012 | 2013 | 2014 | 2015 | Total for four years | Comments |
| Governance | | | | | | | |
| Hold an annual general meeting as per the provisions of the KAC Inc constitution | One annual general meeting annually | Oct 2012 | | | | | |
| Publish an annual report each financial year of the funded period | Annual report including audited financial statements Annual acquittal comprising of report on KPIs and objectives of the funding agreement | | 2012/13 report published | 2013/14 report published | 2014/15 report published | | |
| Develop/Implement a “whole of venue” customer service charter | Koorliny Strategic Plan and any other relevant plans Annual budget Copies of Certificates of Currency for all insurances held including those held by subcontractors Provision of copies of the current strategic and business plans which reflect the objectives | | | | | | NB: Marketing and audience development plans were developed for Lotteries application and including in OIP application to DCA |
| Develop/implement a sponsorship and marketing plan | | | | | | | |
| Develop/implement a contract and risk management plan | | | | | | | New Strategic Plan developed for 2016-19 |
| Keep an updated comprehensive policy and procedures manual | | Annual report refers to new policy and prc system in development | | | | | |
| Ensure KAC Inc ownership of all intellectual property including software | | | | | | | Ticketing system was licensed to previous operator so all new system at start of this agreement (as was bar license) This IP ownership appears as clauses in employment contracts. (External HR support: Employsure) |

| | | | | | | | |
|---|---|---|---|--|--|--|--|
| | | | | | | | |
| Recognise City of Kwinana as a key funding organisation | Evidence of acknowledgement | | | | | | |
| Encourage representation by local Kwinana residents on the Board of Association | Notification of any changes to Board membership within one month of change occurring | | 11 board members through 2012/13 One retire: Colin Kerr August Friends wind up | 11 listed in annual report: Pat Egan and John Watson did not stand at 2013 AGM. John Loughton elected. Gillian Peebles also steps down | 8 core members | | Aim for 11 constitutionally. 3 more in negotiation. Some local level, but require professional arts, financial, legal, strategic.... |
| Performance | Performance NB: levels of activity by artform category (dance, drama, concerts, exhibitions) and general KPIs: Attendance based on ticketed events Attendance based on head count No of 'dark' nights in both theatres | No of tix: 27,380 No data 116 | 2012/13 annual report: 142 ticketed performances 2.9 per week 30,000 attend No of tix: 23,093 No data 101 7 | 2013/14 annual report: 118 tick perf, average 2.5 per week. 32,000 attend No of tix: 27,676 No data 198 | 2014/15 annual report: 160 tick perf, average 3.1 p wk, 41,000 attend No of tix: 29,236 No data 153 | Total no of tix: 107,385 No data 568 | Note capacity: 1000 seat amphitheatre (NB: noise restrictions 6 decibels, only two CEO exemptions per year: in 2016 movie nights) Theatre 1 Capacity: 244 Theatre 2 capacity: 72 Courtyard:? \$461,150 funds from City of Kwinana and 41,000 attendances: \$10.15 per head Use Seat Advisor software ticketing system. Training available Can gather ticket history, types of purchase, geographic spread. Ticket price. What performances sell best? Cant see how customer found out about performance. No data Dark nights are unbooked times in two theatre spaces. Dark nights doubled in 2014 and start to reduce in 2015. Why? |

| | | | | | | |
|--|---|--|--|--|--|---|
| | <p>The frequency and nature of promotional activities undertaken.</p> <p>No of staff, volunteers and members.</p> | <p>7</p> <p>Staff: 8 Vol: 25 Mem: 10</p> | <p>Staff: 8 Vol: 96-106 Mem: 9</p> | <p>7</p> <p>Staff: 8 Vol: 106 Mem: 9</p> | <p>7</p> <p>Staff: 8-7 Vol: 106-139 Mem: 9</p> | <p>7</p> <p>There still seem to be the same amount of performances? How does this spread across the two spaces? 2015 schedule will be provided to see where dark nights are.</p> <p>This figure doesn't reflect the activity at all. It reflects type of promotion:</p> <ul style="list-style-type: none"> • Paid advertising: weekly (\$45,000 pa with 50% discount from Courier so \$25,000 cash) • Editorial content in newspapers: weekly • External websites: ongoing • Internal websites: ongoing • Social media: Daily • E Newsletter: Weekly • External performances at local event: Occasional <p>Staff remains consistent until 2015. Volunteers increase dramatically: closure of Friends in 2013: become Production Volunteers: New Production schedule, includes all performers etc Membership reflects Board members only</p> <p>2012/13 Ryan Taaffe was employed as Centre Manager. 2012/13, 14,15 resigned end of 14/15 financial year. Kate McIntosh provided administration and accounts services. 2012/13/14/15 became Centre Manager end of 2014/15 financial year. Jon Lambert is the Centre's Production Coordinator, Web Master and Graphic Artist 2012/13 became Operations Manager in 2013/14</p> |
|--|---|--|--|--|--|---|

| | | | | | | | |
|--|---|------|--|----|----|------|---|
| | | | | | | | <p>Monique Mulligan provided administration and media/marketing services.</p> <p>Alex Coutts-Smith is the Centre's Technician.</p> <p>Stuart Lewis is the Centre's cleaner and gardener, assisted on a part time basis by Bryan Martin.</p> <p>Ruth Alexander provided administration services.</p> <p>These were augmented on an as needs basis by Peter Carr, Stephen Carr, Kimberley Harris, Nicole George and Tom Sutton, Chelsea Lawrence and Jayden Lyon, designated casuals. (Cathy Howard, Alan Blatchford and Geoff Leeder in 2013/14)</p> |
| At least 15 performances in each year entrepreneured by KAC Inc (in addition to KTW presentations) | No of performances entrepreneured by KAC Inc | 62 | 85 | 80 | 92 | 247 | <p>Entrepreneured includes in house productions and touring shows.</p> <p>Measure is number of individual performances, not number of productions. Need to check on the original measures intention as 15 is very low.</p> |
| At least 6 performances in each year where the venue has been hired to an external professional provider of performing and/or other art form activities; | No of performances where the venue has been hired to an external provider | 67 | 41 | 49 | 37 | 194 | <p>Figures show a growth of in-house and touring shows, and reduction of external hirers.</p> |
| At least 10 performances in each year provided by community groups; | No of performances hired out to community groups | 17 | 3 | 12 | 10 | 42 | |
| At least 10 visual arts, crafts exhibitions hosted | No and type of exhibitions hosted | 0 | 0 | 0 | 0 | 0 | <p>None. no suitable exhibition facilities....discussions about theatre 2 becoming multi use. Storage issues.</p> |
| At least 25 arts or culture related classes and/or workshops hosted in studio spaces at the centre; | No of ongoing arts and culture related classes and workshops hosted in studio space | 1056 | 52 (2013/14 annual report quotes 21668 as no) | 36 | 43 | 1187 | <p>There seems to be a change in the way this is measured. For example the 2015 Jan-March figure is 10, but this actually reflects the no of groups running the classes/workshops, some meet daily, some weekly, some monthly. If this</p> |

| | | | | | | | |
|---|--|---|--|--|--|---------------------------------|---|
| | | | | | | | quarter was measured by no of actual events it would be: approx. 2700 giving a figure closer to 10,800 for the 2015 year. |
| Development of a collaborative plan for grant submissions, performances and CCD activities with the ToK Cultural Development Co-ordinator | <p>No and type of community cultural development activities hosted</p> <p>Number and type of community based and other groups using the venue on a casual and permanent basis</p> <p>No of cooperative arrangements entered into with other agencies or organisations to enhance the achievement of objectives</p> <p>The dollar value of additional sponsorship and grant funding attracted</p> | <p>186</p> <p>82</p> <p>3</p> <p>\$42,825</p> | <p>90</p> <p>77</p> <p>1</p> <p>\$14,000</p> | <p>20</p> <p>49</p> <p>2</p> <p>\$44,000</p> | <p>24</p> <p>61</p> <p>4</p> <p>\$15,000</p> | <p>320</p> <p>269</p> <p>10</p> | <p>I think there may be a difference of opinion on what community cultural development activities are? Need to look at the mechanisms in place for collaborative work with City?</p> <p>A growth in entrepreneurial leaves less room for community? Not only in theatres but perhaps in active contact?</p> <p>Not sure of the definition here. Measures currently include partnerships in programming, box office split relationships for example. Previous manager mentions issues of sub-letting lead to groups being treated as hirers. I would argue that the dance and music schools are cooperative arrangements enhancing the Centres purpose and may need MOUs in place that give 3-5 year stability. A strategic decision for the Board and Management. Note the Strategic Plan includes a \$100,000 DCA OIP application that was unsuccessful.</p> |
| Venue | Venue | | | | | | |
| Complete an asset inventory identifying objects, cataloguing and noting condition | Achievement of capital works, maintenance and improvement targets as jointly agreed each financial year. | | | | | | City of Kwinana must undertake 10 year planning of asset depreciation values, so perhaps reports available. Previous manager indicates a risk assessment completed by City of Kwinana, plus an engineers report which may give more information on this area. |

| | | | | | | | |
|---|--|--|--|--|--|--|----------------------|
| Update venue signage including promotional and directional including recognition of ToL | | | | | | | Requires more input. |
| Allocated sufficient funds in the annual budget to maintain the venue as specified in the Lease between ToK and KAC Inc dated 1 March 2012. | | | | | | | |
| <p>Notes:</p> <p>Quarterly attendance figures measured by quarter show:</p> <ul style="list-style-type: none"> • Low attendance in Jan-March (1,769 in 2014 to 2512 in 2012), • Large variation in April-June (2012 and 2013 figures are reported around 5200, in 2014 jump to 7042 but in 2015 drop to 2418) • Large variations for July- September (2012 and 2014 approx 7800, a drop in 2013 to 4451 and a huge increase for 2015 to 12,810) • Consistently high figures for final quarter October- December (from 11,023 in 2014 to 11,714 in 2015) <p>Programming Policy? Perhaps needs more work: Touring shows are sourced through APACA/Long Paddock/CircuitWest etc.</p> <p>CircuitWest report a change in this sector with APACA beginning a new Performing Arts Exchange event in 2016, with local shows being included at the CircuitWest showcase in May 2016. Booked over a year/18 months in advance. Then program in-house productions then offer to other hirers. Know dark nights 6 month out: how program?</p> | | | | | | | |

Appendix B: Financial performance summary spreadsheet

| | 2012 | 2013 | 2014 | 2015 |
|---|----------------|----------------|----------------|----------------|
| INCOME | | | | |
| Operating grant | 394,438 | 402,422 | 417,446 | 461,150 |
| Capital grant (deferred income) | 17,451 | 26,124 | 19,416 | 15,670 |
| Trading and Production income | 147,740 | 227,487 | 205,869 | 256,718 |
| Room hire income | 98,110 | 71,862 | 77,773 | 51,338 |
| Interest income | 1,288 | 1,231 | 1,004 | 1,510 |
| Other income | 29,256 | 36,849 | 48,528 | 47,560 |
| Total | 688,283 | 765,975 | 770,035 | 833,946 |
| EXPENDITURE | | | | |
| Salaries and wages | 380,092 | 387,389 | 421,856 | 411,971 |
| Depreciation expenses | 26,191 | 26,143 | 25,828 | 23,357 |
| Administration Expenses | 32,567 | 57,223 | 37,282 | 66,727 |
| Building Expense | 40,127 | 34,676 | 36,719 | 40,884 |
| Production and Performance expense | 130,385 | 166,270 | 198,966 | 257,265 |
| Utility Expense | 49,580 | 43,116 | 47,275 | 38,154 |
| Bad debt expense | | | | 613 |
| Total | 658,942 | 714,817 | 770,623 | 838,971 |
| Current year surplus before income tax | 29,341 | 51,158 | -588 | -5,025 |
| Income tax expense | | | | |
| Net current year surplus after income tax | 29,341 | 51,158 | -588 | -5,025 |
| Retained surplus/(deficit) at beginning of financial year | -14,094 | 15,247 | 66,405 | 65,817 |
| Retained Surplus at the end of the financial year | 15,247 | 66,405 | 65,817 | 60,792 |
| ASSETS | | | | |
| CURRENT ASSETS | | | | |
| Cash on hand | 123,960 | 92,455 | 79,994 | 74,350 |
| Accounts receivable and other debtors | 5,846 | 47,925 | 116,782 | 121,020 |
| Prepayments | 7,963 | 7,828 | 25,445 | 15,542 |
| TOTAL CURRENT ASSETS | 137,769 | 148,208 | 222,221 | 210,912 |
| NON-CURRENT ASSETS | | | | |
| Property, plant and equipment | 169,880 | 151,416 | 133,009 | 138,935 |
| TOTAL NON-CURRENT ASSETS | 169,880 | 151,416 | 133,009 | 138,935 |
| TOTAL ASSETS | 307,649 | 299,624 | 355,230 | 349,847 |
| LIABILITIES | | | | |
| CURRENT LIABILITIES | | | | |
| Accounts payable and other payables | 82,825 | 94,059 | 62,616 | 80,584 |
| Income received in advance | 104,445 | 3,196 | 108,061 | 106,184 |
| Capital grants in advance | 88,172 | 19,417 | 15,670 | 15,670 |
| Employee provisions | 16,960 | 27,792 | 29,980 | 29,201 |
| TOTAL CURRENT LIABILITIES | 292,402 | 233,219 | 216,327 | 231,639 |
| NON-CURRENT LIABILITIES | | | | |
| | see | | | |
| Capital Grants in advance | above | 88,755 | 73,086 | 57,416 |
| TOTAL LIABILITIES | 292,402 | 233,219 | 289,413 | 289,055 |
| NET ASSETS | 15,247 | 66,405 | 65,817 | 60,792 |
| MEMBERS FUNDS | | | | |
| Retained surplus | 15,247 | 66,405 | 65,817 | 60,792 |
| TOTAL MEMBERS FUNDS | 15,247 | 66,405 | 65,817 | 60,792 |

Appendix C: Benchmarking Research for Koorliny Arts Centre.

Key benchmarking information has been included in the report, based on APACA Economic Activity Report 2014.

The following are interesting examples nationally which have some value in comparison, and interesting activities to learn from:

| Performing Arts Centre | Management | Population served | Distance from Capital City | No of performance spaces | Capacity |
|--|---|-------------------|----------------------------|--|--|
| Koorliny Arts Centre, Kwinana, WA | Stat Authority funded by local government | 100,000 | 37 kms | 3 (though amphitheatre is not in operation) | 1304 (304 without amphitheatre) |
| Redland Performing Arts Centre, Queensland | Local Gov | 146,000 | 30 Kms | 3 | 949 |
| Playford Civic Centre, South Australia | Local Gov | 150,000 | 35 kms | 3 | 1,197 |
| Frankston Arts Centre, Victoria | Local Gov | 250,000 | 40 kms | 3 | 1500 |
| Casula Powerhouse NSW | Local Gov | 191,142 | 40kms | 2 | 426 |

Redlands Performing Arts Centre, Queensland

<http://www.rpac.com.au/Pages/Home.aspx>

The Redland Performing Arts Centre (RPAC) is in Cleveland operated by the Redland City Council. RPAC provides local opportunities for community participation in arts and cultural life and encourages local creative industries and cultural entrepreneurship.

Redland City is 30kms east of Brisbane City on Moreton Bay. The Redlands consists of mainland and bay islands, enhanced by a rich diversity of cultural and artistic

communities. RPAC's programming recognises its traditional Aboriginal heritage and history.

Programming crosses classical music, seniors programs including cover bands and tribute artists, national touring. Has interesting visual arts capacity through an open expression of interest process for an "art wall" and display cabinets. Fairly simple set-up and openly advertised for community use.

Playford Civic Centre, Queensland

<http://www.theshedley.com.au>

The Playford Civic Centre is home to the Shedley Theatre and the newly developed Shedley Café and Bar. Located on Playford Boulevard in Elizabeth, the facility is also home to the multi-purpose Playford Function rooms and Meeting rooms.

Each year the Shedley Theatre programs a number of high-profile acts, long-time resident theatre groups and local schools while the Shedley Café and Bar provides fresh, healthy lunch options and a vibrant atmosphere on show nights and during special events.

The Playford Function and Meeting rooms offer a professional space with all the necessary requirements for any type of function.

The iconic Shedley Theatre was opened on August 21, 1965 and has been home to numerous resident theatre groups since. With a capacity of 380, the Shedley Theatre boasts a large stage with enormous depth. An orchestra pit not visible from the house sits below stage level and can accommodate a 12 piece band. The design of the stage has earned the reputation for giving its audience the illusion of being part of the production. The Shedley Theatre is home to the Out of the Square Matinee Series, school holiday productions and annual performances from local amateur theatre groups and schools.

Frankston Arts Centre, Victoria:

<http://artscentre.frankston.vic.gov.au/Home>

Established in 1995, the Frankston Arts Centre (FAC) has a long history and commitment to community, cultural development and increasing access opportunities to promote mental health and wellbeing through the arts.

The FAC is a purpose-built performing and visual arts venue designed by renowned Australian Architect, Daryl Jackson, it was opened in 1995 by then Prime Minister, the Hon. Paul Keating. The FAC incorporates an 800 seat theatre, 2 exhibition gallery spaces, a function centre, a 192 seat black box theatre and creative arts hub.

The FAC's annual theatre program consists of approximately 20 high quality touring productions to appeal to a wide range of interests generally including; drama, dance, opera, music, comedy and family events. The FAC plays host to approximately one quarter of a million visitors annually; attracted to artistic offerings which range from

community and school productions to performances by touring national and international artists including; Bell Shakespeare, the Australian Ballet, Melbourne Symphony Orchestra, Oz Opera and Melbourne International Comedy Festival

The FAC is an Inclusive venue, providing arts opportunities for all abilities and is unique in its field having a dedicated Arts Access Officer and program including live theatre captioning, ticket subsidy scheme, educational pathways and specialised workshops.

Local schools, theatre companies, community arts groups and artists use the facility: a subsidised community rate is provided to all community hirers.

Key programming focus:

FAC Musical Matinee Program: consisting of 10 light entertaining musical performances, delivered in the morning and afternoon on the same day, once a month, generally excluding January and July. With popular productions ranging from The Mikado to renowned baritone Ian Stenlake, the Program attracts FAC's more mature patrons including groups, and often grandchildren to our dance performances.

FAC Education Program: delivered as part of our theatre programming, FAC's Ed Program includes; attending performances, Q+A's with cast and directors, full backstage tours, participation in workshops and career talks. The FAC also markets school-only productions, working with renowned theatre companies including Malthouse Theatre with its Suitcase Series for Senior students and Polyglot Theatre with a number of its interactive productions for Primary students. The FAC has also developed an Incursion for Primary Schools – Go Away Mr Worrythoughts! Based on Nicky Johnston's best selling book of the same name, the production assists children to cope with anxiety.

Mental Health Programs: The FAC programs a number of health related plays each year. In October 2013, Telling Tales by Evelyn Krape is an amusing play about ageing. Previous plays have included; The Wicked Widows and The Empty Chair by Alan Hopgood. The Choir of Hard Knocks also appeared to a sell out audience. Programs for students include the Primary School incursion Go Away Mr Worrythoughts! and Senior Student play, Hard Rubbish Day September 2013, which deals with teenage social issues. The FAC is also involved with many not-for-profit programs and initiatives. See Arts Access for more information.

Cube Performances: Adjacent to the main FAC building, Cube programs a number of intimate performances ranging from energetic dance for a maximum audience of 190, to sultry jazz; children's performances and comedy.

900+ Annual Events: There's always something happening at the FAC and not everything is programmed by us ... the remaining activities and events are presented by National and International touring companies, local theatre groups, schools, community groups, businesses and local organisations who hire the venue. To see the full range of performances, events and activities check out What's On and Arts to See + Do... and sign up to receive our weekly E-news – so you don't miss a thing!

Arts Access programs, including **Art in Dialysis** at Frankston Hospital Haemodialysis Unit and **Cirque Sur Roues (Circus on Wheels)** – circus classes for people with an

intellectual disability or acquired brain injury.

Ticket Subsidy Scheme

An opportunity for individuals facing disadvantage to apply for reduced rate tickets to attend a performance or workshop at Frankston Arts Centre

"Because of my current financial situation I cannot afford to attend the FAC at the normal ticket prices. I am therefore very grateful for the ticket subsidy scheme, as I love theatre/musicals etc and this gives me a chance to get my children hooked too! Thank you"

Casula Powerhouse , NSW

<http://www.casulapowerhouse.com>

Casula Powerhouse is a multi-disciplinary arts centre, located on Tharawal country, the banks of the Georges River within the City of Liverpool. The Centre boasts:

- 6 galleries with a year round exhibition program of changing exhibitions produced and presented by Casula Powerhouse
- 321 seat theatre with full seasons of touring productions from some of Australia's most renowned companies
- 2 artist studios including the Clayhouse Ceramics Studio
- A series of permanent public artworks
- Climate controlled storage facilities for the collection of over 30, 000 items
- Green open spaces: Weaving Garden, Alice Klaphake Amphitheatre, and 20 hectares of parklands

A facility of the Liverpool City Council, and funded by Arts Council NSW, the Casula Powerhouse aims to draw on the strengths of its community, to make work that speaks to people everywhere. With over 150 languages spoken in the local area, Casula represents culturally diverse stories that allow audiences to reflect on the world. As both a producer and presenter of work, Casula offers professionalism and expertise in the development of both contemporary art and community based practice.

Artistic Vision:

A vibrant space where ideas, art forms and philosophies fuse- we celebrate cultural diversity.

Staffing: The Centre is a cultural facility of Liverpool City Council. All staff are Council employees. The Centre has a Board composed of Councillors, community members and key Council staff who advise on operations.

The Director is responsible for the development and implementation of policies and programs to build and promote all levels of the Casula Powerhouse Arts Centre. The role's purpose is to develop and implement sustainable entrepreneurial strategies that strengthen the Casula Powerhouse Arts Centre's position.

The Assistant Director is responsible for the operational and administrative management of the Casula Powerhouse Arts Centre's infrastructure, strategic planning, business development and audience engagement. The role's purpose is to assist the Director in developing the future vision for CPAC in delivery of cultural plans and creative industry strategy.

The Producer, Centre Programs manages and maintains the Casula Powerhouse program schedule and event management booking system. The position is responsible for delivering logistical plans for the Centre's programs as well as producing festivals, events and productions.

The Curator sources and manages the artworks of an exhibition. The Curator also works with the artists to develop the accompanying catalogue.

The Public Programs and Education Officer plans, coordinates and presents a variety of education and public programs including multi-disciplinary Access, School Holidays, Adult workshop and schools education programs and public events. The role also involves assisting the Producer, Public Programs and Education in various capacities such as developing education material.

The Front of House Supervisor is responsible for the operation of all Front of House areas including reception and foyer, theatre, café/bar areas and galleries.

The Box Office Supervisor provides a welcoming and efficient service to visitors and clients of the Casula Powerhouse Arts Centre seeking ticketing, memberships and related services.

The Theatre Producer is responsible for sourcing, producing and evaluating theatre programs including dance, music and special events and in-house resident/partnership/external events which contribute to the Centre's theatre program.

The Assistant Technical Producers work closely with the Technical Producer to provide services and technical support to presenters and clients. These services include the management and maintenance of all theatrical and gallery technical equipment including lighting, sound and audio visual

The Producer, Public Programs is responsible for developing a range of innovative interpretive education and public programs and events that will cultivate the interests of new and existing audiences who visit the Casula Powerhouse Arts Centre. The role also develops, implements and evaluates community educational programs relating to the visual arts, crafts and performing arts. The Assistant Curator assists the curators in developing exhibitions, as well as curating the Kids Gallery.

The Technical Manager is responsible for all technical support to presenters and clients to meet production requirements and to support a range of small and live performances and events. The position is also responsible for the management,

maintenance and security of all centre technical equipment including lighting, sound and audio visual.

The Creative Producer, Community Cultural Engagement in line with the Community Cultural Engagement Strategy vision, objectives, strategies, actions and KPIs assists Liverpool communities to create viable and sustainable cultural industries. The position also facilitates access and understanding of the communities of South Western Sydney through the development and implementation of specific community and cultural projects within Western Sydney.

Casula Powerhouse has a number of spaces available for hire for your next conference, meeting, function, or community event.

Spaces available for hire include:

Performance Space – ideal for workshops, meetings and presentations. Includes audio visual equipment. Seats up to 100 people (lecture style)

Turbine Hall – ideal for cocktail functions, expos and launches. Can hold up to 300 people comfortably for cocktail functions.

Theatre – 326 seat professional theatre, ideal for performance, cultural showcases, conferences and dance concerts.

Studio Spaces – ideal for small, hands-on art/craft workshops or as a small breakout space for conferences/meetings.

Visitors with restricted mobility can enjoy all public areas of Casula Powerhouse Arts Centre. The theatre is fitted with a hearing loop, and has provision for restricted mobility access. Guide and Hearing Dogs are welcome.

Performance and Service Level Agreement – Koorliny Arts Centre

City of Kwinana

The Koorliny Arts Centre (Incorporated)



McLEODS

Barristers & Solicitors

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

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

Email: mcleods@mcleods.com.au

Ref: DFN:KWIN: 37084

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Details

Parties

City of Kwinana

of Corner Gilmore Ave & Sulphur Rd, Kwinana, Western Australia
(**City**)

The Koorliny Arts Centre (Incorporated)

of 10 Hutchins Way, Kwinana Town Centre Kwinana, Western Australia
(**KAC**)

Background

- A The City is the registered proprietor of the land described in Item 1 of the Schedule (**Land**) on which the Koorliny Arts Centre (**Centre**) is situated.
- B KAC occupies the Centre pursuant to the Lease and is responsible for operation and management of the Centre.
- C The Centre is intended to be a hub for cultural and creative activity within the City of Kwinana and to provide the required leadership to ensure the community in the City of Kwinana participate in a broad range of cultural experiences and have access to diverse opportunities across all art forms.
- D The City has agreed to provide funding to support the operation of the Centre and the parties enter into this agreement to set out the terms and conditions upon which the City's funding is to be provided.

Agreed Terms

1. Payment of Grant

- (1) Subject to the terms and conditions of this Agreement, the City agrees to pay to KAC the grant in the amount and in the manner as set out in **Item 2** of the Schedule (**Grant**).
- (2) For the sake of clarity, the parties acknowledge that:
 - (a) the Grant is not subject to indexation and does not include funding from parties other than the City, other sponsorships received or other third party grants made to KAC;
 - (b) payment of the Grant is conditional upon KAC:
 - (i) implementing the Agreement Objectives in accordance with **clause 3(2)**;
 - (ii) complying with the Key Performance Indicators as set out in **clause 4**; and
 - (iii) complying with the Principles of Service set out in **clause 5**;
 - (iv) complying with the reporting obligations set out in **clause 7**; and
 - (v) otherwise complying with the provisions of this Agreement, to the satisfaction of the City.

2. Term of Agreement

This Agreement has effect for the term stipulated in **Item 3** of the Schedule.

3. Agreement Objectives

- (1) The objectives of this Agreement are to ensure that the Centre:
 - (a) enhances civic pride, the quality of life experienced by Kwinana residents, community confidence and wellbeing and the image of Kwinana as a 'lifestyle' centre through the promotion of artistic and cultural innovation and creativity, and the provision of a range of entertainment and recreation opportunities;
 - (b) provides a creative hub for individuals and arts based groups, providing consistent venue availability for the community to gather, interact socially, develop skills and generate networks;
 - (c) is the first point of contact for information and enquiries in regard to art based activities and events;
 - (d) attracts a diverse range of cultural experiences to Kwinana;
 - (e) works in partnership with the City in presenting a range of cultural programs and activities;

- (f) provides opportunities for Kwinana residents to participate in cultural development practice across all art forms;
- (g) facilitates the development of local artists including developing a comprehensive database of artists, art workers, performers and community groups across all art related mediums and arts based activities;
- (h) promotes tolerance of all cultures through a program of events and activities that reflect and are relevant to the culturally diverse composition of the community;
- (i) contributes to the development of a vibrant city centre;
- (j) delivers economic benefits to the community by leveraging additional grant funding and sponsorship to ensure extensive low cost opportunities are created, enabling residents to participate in a diverse range of arts opportunities;
- (k) creates opportunities for residents and others to spend their disposable income on recreation and entertainment within the City of Kwinana.

(Agreement Objectives)

- (2) KAC agrees to:
 - (a) provide services and to manage and operate the Centre in a manner consistent with the Agreement Objectives; and
 - (b) use its best endeavours to achieve all Agreement Objectives.

4. Key Performance Indicators

KAC COVENANTS and AGREES:

4.1 Governance

- (1) To achieve core elements of good governance and accountability by:
 - (a) holding an annual general meeting;
 - (b) making an annual report on the Centre's activities available on KAC's website;
 - (c) providing annual audited financial statements on all Centre operations to the City by 30 September in each year of the Term;
 - (d) providing appropriate expertise on the KAC Committee to enable satisfactory implementation of the Strategic Plan and Marketing, Audience Development and Programming Plans;
 - (e) commencing the undertaking of a formal review of performance against the Key Performance Indicators by 1 January 2020, in conjunction with the City of Kwinana; and
 - (f) undertaking an annual review of its risk management plan and ensuring all appropriate certificates of insurance are held, including those of external subcontractors or providers.

- (2) To provide information about the operation of the Centre by providing:
 - (a) a telephone line for community enquiries about the Centre during normal business hours; and
 - (b) a mechanism for enquiries to be made via the Centre's website, such enquiries to be responded to within 24 hours.
- (3) To maintain and implement a complaints procedure to receive and deal with complaints regarding the Centre from any member of the public. A copy of the complaints procedure shall be made available on KAC's website.
- (4) To maintain a safe working environment for employees and contractors of KAC; and
- (5) To adhere to equal opportunity principles and the *Equal Opportunity Act 1984* in its operation of the Centre.

4.2 Strategic planning

To identify the long term vision and aims of KAC by:

- (a) adopting the Strategic Plan by 31st January 2017;
- (b) reviewing the Strategic Plan, Financial Plan and Marketing, Audience Development and Programming Plans annually;
- (c) collaborating with the City regarding planning for and implementation of agreed capital works to achieve the outcomes of the Strategic Plan.

4.3 Financial planning

Ensure the long term financial viability of KAC by:

- (a) diversifying KAC's income bases to ensure the Grant constitutes a maximum of 45% of total income by expiration of the Term of this Agreement;
- (b) developing and reviewing annually a five year financial projection endorsed by the KAC Committee (**Financial Plan**), to be completed by 31 January 2017.

4.4 Performance Targets

To operate Koorliny Arts Centre as an active creative and cultural hub for the region and use its best endeavours to achieve the following performance targets:

- (a) total attendance over all programs: 35,000 per annum;
- (b) total ticket sales: 25,000 per annum;
- (c) number of internal KAC performances or events including presentations of touring shows: 80 per annum;
- (d) number of external hirer performances: 40 per annum;
- (e) number of workshops and ongoing classes: 6,000 events; and

- (f) number of dark nights (no use of theatres): 130.

4.5 Collaboration and partnerships

To increase strategic partnership approaches to achieve strategic aims by meeting the following targets:

- (a) number of community groups using the Centre on a regular weekly or monthly basis: minimum of 10;
- (b) number of partnerships with arts organisations for programming a show, event, workshop or other activity: minimum of 3 per year;
- (c) number of formal memorandums of understanding for co-located, long term community enterprises: minimum of 1 per annum; and
- (d) participation in City of Kwinana cultural and community planning activities through attendance by KAC representative at City of Kwinana Arts Advisory Group (or similar) meetings: 100% attendance.

4.6 Marketing and Engagement

To maximize exposure and reach of KAC in the Kwinana and surrounding areas through engagement with various sections of the community by:

- (a) preparation of Marketing, Audience Development and Programming Plans that:
 - (i) identify resource allocation relating to skill, training, technological and governance support and specify a budget to achieve relevant targets;
 - (ii) provide for inclusion of indigenous and multicultural groups to align with the City's cultural plans
 - (iii) such policies and plans to be endorsed by the KAC Committee by no later than 31 January 2017;
- (b) satisfactory implementation of the policies and plans referred to in subclause (a) including continued multi-faceted promotion of KAC through digital and social media in line with Marketing and Audience Development plans.

4.7 Accessibility

To explore increased accessibility to the Centre through:

- (a) in collaboration with City, undertaking a study by 1 January 2018 to identify the benefits of and options for physical changes to the entrances to the Centre from the City Centre approach; and
- (b) programming and access enhancements to make shows accessible to people with a disability.

5. Principles of Service

- (1) KAC will use its best endeavours to ensure that the activities of the Centre are undertaken in a manner which generally seek to encourage:
 - (a) creativity;
 - (b) innovation and excellence;
 - (c) access, equity and inclusion;
 - (d) diversity;
 - (e) participation;
 - (f) partnerships and collaboration; and
 - (g) value for money.

6. Application of Funding

The Funding shall be applied by KAC to the costs of operating and managing the Koorliny Arts Centre in accordance with the:

- (a) Agreement Objectives;
- (b) Key Performance Indicators;
- (c) Principles of Service; and
- (d) KAC Strategic Plan.

7. Reporting

- (1) Within three months from the end of each financial year during the Term, KAC shall provide the City with a report on the activities of KAC and operations of the Centre that includes:
 - (a) annual audited financial statements (that identify funds provided by the City) in relation to the activities of KAC and operation of the Centre certified by a licensed company auditor or a qualified accountant who is not a member or employee of KAC;
 - (b) a management report on KAC's activities and evaluating/demonstrating KAC's compliance with the Key Performance Indicators;
 - (c) advice of any changes in the office holders or rules of association of KAC; and
 - (d) the results of the annual review of Plans undertaken pursuant to clause 9.
- (2) KAC shall additionally provide on request by the City any information in relation to the management, activities or membership of KAC requested by the City to determine KAC's compliance with the Key Performance Indicators or the provisions of this Agreement.

8. Asset register

A register of current assets in the Centre (including both assets of the City and assets of KAC) is to be established by the City and maintained by KAC as a condition of funding.

9. Strategic planning and evaluation

- (1) KAC will evaluate and review on an annual basis the following Plans:
 - (a) the Strategic Plan;
 - (b) the Marketing, Audience Development and Programming Plans; and
 - (c) the Financial Plan.
- (2) KAC will additionally undertake on an annual basis:
 - (a) a self evaluation of its compliance with the Key Performance Indicators, which shall be incorporated into the management report referred to in **clause 7(1)(b)**;
 - (b) a performance evaluation of any persons engaged to provide event management or other ongoing services.

10. Reviews

- (1) The City in conjunction with KAC will commence a formal review of KAC's performance against the Key Performance Indicators by 1 January 2020. KAC will provide the City with any information and assistance required by the City to undertake the formal review of KAC's performance.
- (2) The City may at any other time carry out a review in conjunction with KAC to determine the extent to which KAC is operating in compliance with this Agreement.

11. Confidentiality

KAC shall preserve the confidentiality of information collected from the members of public and ensure compliance with privacy legislation and other applicable legislation. Ownership of all business and operational records must not be transferred by KAC to any third party without consent of the City, which may be withheld in its absolute discretion.

12. Rules of association

Notwithstanding clause 7(c), KAC must not amend its rules of association at any time during the Term of this Agreement without the prior notification to the City.

13. Staffing and subcontracting

- (1) KAC shall ensure that any persons engaged as employees, volunteers, contractors or subcontractors in relation to the operation of the Centre (**KAC Personnel**) are appropriately qualified, insured, experienced and trained for the task/s they are required to perform.

- (2) The parties acknowledge and agree that all KAC Personnel are engaged solely by KAC and that no relationship of employment, contract or other relationship at law exists between KAC Personnel and the City.
- (3) KAC shall ensure in its engagement of any KAC Personnel that it:
 - (a) retains ownership and control of any intellectual property of KAC including but not restricted to membership and patron details, software licences and all financial records;
 - (b) retains ownership and has control of assets accrued under funding granted by the City or any other third party to KAC;
 - (c) does not enter into any contract to engage any KAC Personnel for a term that extends beyond the term of the Lease; and
 - (d) does not enter into any contract the terms and conditions of which are in whole or part inconsistent with the provisions of this Agreement.
- (4) KAC shall undertake annual reviews of all KAC Personnel.

14. Compliance with laws

KAC shall:

- (a) operate the Centre and conduct all its activities; and
 - (b) ensure all KAC Personnel act in the performance of their duties,
- in accordance with all applicable written laws and regulations.

15. Default

- (1) If a party breaches a provision of the Agreement the other party may serve notice in writing to the party in breach (Notice of Breach) requiring it to rectify the breach within 30 days of the Notice of Breach being served.
- (2) If a party in breach of a provision of the Agreement fails to comply with a Notice of Breach served under subclause (1), the other party may terminate the Agreement on further written notice to the party in breach.

16. Early termination

Either party may terminate this Agreement by 90 days written notice to the other party without giving reasons.

17. Repayment of Grant not expended

In the event this Agreement is terminated by any party pursuant to **clause 15** or **clause 16** KAC shall repay to the City within 30 days of the date of termination any portion of the Grant that has not been expended and which KAC is not contractually committed to a third party to expend.

18. Dispute Resolution

Except as otherwise provided or agreed by the parties, any dispute arising out of this Agreement is to be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 2012* and the City and KAC may each be represented by a legal practitioner.

19. Acknowledgement of City

KAC and KAC Personnel will formally acknowledge the relationship between the City and KAC in a form required by the City in all relevant promotion and advertising material and any other written publications of KAC or the Centre.

20. Further assurance

Each party shall promptly execute all documents and do all things that any other party from time to time reasonably requires of it to effect, perfect or complete the provisions of this Agreement and any transaction contemplated by it.

21. Discretion of City under written law not limited

Nothing in this Agreement is to fetter or limit, or is to be construed as an attempt to fetter or limit, the discretion or the powers of the City or the Council of the City under any written law.

22. GST

- (1) In this clause:

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

GST Law means the GST Act and any associated legislation including delegated legislation.

GST, Registered, supply, tax invoice and any other expression used that is defined in the GST Law has the same meaning as given to it in the GST Law.

- (2) Unless specifically described in this Agreement as 'GST-inclusive', any consideration to be paid or provided for a supply made under or in connection with this Agreement does not include an amount on account of GST and is 'GST-exclusive'.
- (3) Where, under the GST Law, any supply to be made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this Agreement is subject to GST (other than a supply the consideration for which is specifically described in this Agreement as GST-inclusive), then:
- (a) the consideration payable or to be provided for that supply under this Agreement will be increased by, and the Recipient will pay to the Supplier, an amount equal to the GST calculated according to the GST Law;
 - (b) the Recipient must pay that additional GST amount at the same time and in the same manner as the GST-exclusive consideration is paid or provided; and
 - (c) a reference to the consideration payable for a supply includes the value of any non-monetary consideration for the supply.

- (4) If the Supplier is Registered or required to be Registered, the Supplier must provide a GST compliant tax invoice in connection with any supply made by it under this Agreement, failing which the Recipient will not be obliged to make any payment for that supply until the invoice is provided.

23. Notices

Any notice, direction or other communication which must or may be given in connection with this Agreement:

- (a) must be in writing in order to be valid;
- (b) is sufficient if signed or executed by the party giving the notice or on its behalf by any director, secretary, duly authorised officer or solicitor of that party;
- (c) in order to be valid must be given to a party as follows:
 - (i) delivered or sent by prepaid post to, or left at, the address of that party as set out in this Agreement;
 - (ii) sent to the facsimile number of that party;
 - (iii) sent to the email address of that party; or
 - (iv) delivered or sent to another address or facsimile number as is notified in writing by that party to the other party from time to time; and
- (d) if given in accordance with paragraph (c), will be deemed to take effect:
 - (i) in the case of prepaid post, on the second business day after the date of posting;
 - (ii) in the case by email, on receipt of return email from the recipient acknowledging receipt of the email;
 - (iii) in the case of facsimile, on receipt of a transmission report from the sending machine confirming successful transmission; and
 - (iv) in the case of delivery by hand, on delivery.

24. Relationship of parties

The parties acknowledge and agree that no relationship of partnership agency or employment is expressly intended or to be implied into this Agreement.

25. Severability

In the event of part of this Agreement being or becoming void or unenforceable then that part is to be severed from this Agreement with the intention that the balance of this Agreement is to remain in full force and effect, unaffected by the severance.

26. Amendment and waiver

- (1) This Agreement may not be amended except by a document in writing signed by or on behalf of each of the parties.

- (2) Any waiver or relinquishment of the performance of any term or condition of this Agreement, will be effective only if made in writing and executed by or on behalf on the party granting the waiver.
- (3) No waiver of any one breach of any term or condition of this Agreement is to operate as a waiver of any other breach of the same or other term or condition of this Agreement.

27. Laws of Western Australia apply

This Agreement is to be construed and interpreted in accordance with the laws of the State of Western Australia and the parties agree to submit to the jurisdiction of the courts of that State and of courts competent to hear appeals from them.

28. Legal costs

Each party is to pay its own costs and expenses (including legal costs) of and incidental to the preparation, negotiations, completion and signing of this Agreement.

29. Interpretation and Definitions

29.1 Interpretation

In this Agreement, unless inconsistent with the context:

- (a) headings and bolding are for convenience only and do not affect the interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa;
- (c) a reference to a gender includes a reference to each other gender;
- (d) a reference to a person or individual includes a reference to a firm, corporation or other corporate body, authorities, governments and governmental agencies and vice versa;
- (e) where a term is assigned a particular meaning, other grammatical forms of that term have a corresponding meaning;
- (f) a reference to any written law includes:
 - (i) all written laws amending, consolidating or replacing that written law;
 - (ii) all regulations, proclamations, planning schemes or local laws made under that written law;
- (g) a reference to a party includes that party, its successors, permitted assigns, receivers, administrators, executors, substitutes and liquidators;
- (h) a reference to any document includes a reference to that document as amended, rectified or replaced from time to time and to any document so amending, rectifying or replacing the document;
- (i) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions;

- (j) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it;
- (k) an obligation, representation or warranty in favour of two or more persons:
 - (i) is for the benefit of them jointly and severally; and
 - (ii) binds them jointly and severally;
- (l) a reference to '\$' or 'dollars' is a reference to Australian dollars;
- (m) unless expressly stated otherwise, a reference to a party, clause, sub-clause, paragraph or part, is a reference a party, clause, sub-clause, paragraph or part of or in this Agreement;
- (n) where two or more persons comprise a party to the Agreement, the covenants and agreements on their part are to bind and be observed and performed by them jointly and each of them severally; and
- (o) anything in this Agreement which is expressed to be done or performed by the City, is to be properly and lawfully done and performed if so done and performed by an officer of the City.

29.2 Definitions

In this Agreement, unless inconsistent with the context:

Agreement Objectives means the objectives of this Agreement as stipulated in **clause 3(1)**;

Commencement Date means the date on which the Term of the Agreement commences, as stipulated in **Item 3** of the Schedule;

Financial Plan means the financial plan as defined in **clause 4.3(b)**;

Grant means the payment described in **Item 2** of the Schedule;

KAC Committee means the persons who under the rules of KAC have the power to manage the affairs of the association and who constitute the committee of KAC for the purposes of the *Associations Incorporation Act 1987*;

Key Performance Indicators means the requirements stipulated in **clause 4** of this Agreement;

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

Lease means the lease of that portion of the Land comprising the Centre entered into between KAC and the City on or about the date of this Agreement;

Marketing, Audience Development and Programming Plans means the marketing, audience development and programming plans required to be prepared by KAC and endorsed by the KAC Committee pursuant to **clause 4.6(a)**;

Strategic Plan means the strategic plan required to be adopted by KAC pursuant to **clause 4.2**;

Term means the term of this Agreement as stipulated in **Item 3** of the Schedule;

Schedule

Item 1: Land

Lot 3 on Deposited Plan 34151 being the whole of the land comprised in Certificate of Title Volume 2615 Folio 984

Item 2: Grant

\$407,212 exclusive of GST paid in quarterly instalments of \$101,803 exclusive of GST commencing on the Commencement Date

Item 3: Term

Five (5) years commencing on 1 July 2016 and expiring on 30 June 2021

Signing page

EXECUTED by the parties as a Deed on

2016.

The **COMMON SEAL** of the **CITY OF**)
KWINANA was hereunto affixed in the)
presence of:)

CHIEF EXECUTIVE OFFICER

(PRINT FULL NAME)

MAYOR

(PRINT FULL NAME)

The **COMMON SEAL** of **THE KOORLINY ARTS CENTRE**)
(INCORPORATED) ("Association") was hereunto affixed)
pursuant to the constitution of the Association in the)
presence of each of the undersigned each of who hereby)
declares by the execution of this document that he or she)
holds the office in the Association indicated under his or her)
name:

OFFICE HOLDER SIGN

OFFICE HOLDER SIGN

Office Held:

Office Held:

Full Name:

Full Name:

Address:

Address:

8 Councillor Reports

9 Mayoral Announcements (without discussion)

10 Matters Behind Closed Doors

11 Meeting Closure