

## PREAMBLE

The following preamble provides the context for the grant of this Licence.

- a. Wedge and Grey Reserves are unmanaged Crown reserves placed under the management of The Department of Biodiversity, Conservation and Attractions (DBCA) by order of the Governor and with powers delegated to the Director General, by the Minister for Lands to manage the said Reserves.
- b. As a consequence of changes to the *Conservation and Land Management Act 1984* (CALM Act) in 2012, DBCA no longer has the power to issue leases on land managed on behalf of other bodies. DBCA has the power to issue contractual Licences on such lands.
- c. Licences replaced the Original Lease issued for each Shack at Wedge and Grey which commenced on 1 July 1995 and were subsequently extended until the lease Term expired on 30 June 2013. Between 30 June 2013 and 1 July 2014, Licensees occupied their Shacks by holding over the Terms of the Original Lease. Since 1 July 2014 Shack owners have occupied their Shacks by way of a contractual Licence, the terms of which are revised from time to time.
- d. On the basis that Licensees are committed to the maintenance of Shacks within a framework for appropriate management of the Reserve, the Director General is prepared to grant a licence with a longer term from 1 July 2019, on revised conditions.
- e. As yet undefined portions of Wedge and Grey Reserves are being contemplated for inclusion in the Noongar Land Estate as defined in the Land Administration (South West Native Title Settlement Act 2016 and it is contemplated that upon the coming into operation of the settlement, such lands as have been defined, if any, will be transferred and held by the Noongar Boodja Trust for the traditional owners the Yued Native Title Agreement Group in accordance with the Indigenous Land Use Agreement entered into between the State and the Yued Native Title Agreement Group. In the event that the portion of the Reserve the subject of this Licence is included in the lands to be so conveyed, the Licence will automatically cancel in the manner set out herein.

## DEFINITIONS

In this Schedule 2 Licence Conditions, unless the context otherwise requires:

**Aboriginal Site** means an Aboriginal Heritage Site as defined at s5 of the *Aboriginal Heritage Act 1972 (AHA)*

**Asbestos Management Plan** means the plan entitled *\*\*\*: Wedge Reserve No. 43283 prepared by \*\*\* dated \*\*\** in relation to [Wedge/Grey], which considerations and standards will be taken into account by the Moora District Manager to the extent relevant in managing Wedge and Grey. A copy of the Asbestos Management Plan is held by each Wedge Island Protection Association, Grey Community and Conservation Association and the District Office of DBCA at Jurien Bay.

**Associated Structures** means any shed, hut or building within the Occupancy Area excluding the Shack.

**AHA** means the *Aboriginal Heritage Act 1972*

**AHR** means the *Aboriginal Heritage Regulations 1974*

**CALM Act** means the *Conservation and Land Management Act 1984*.

**Commencement Date** means the date specified in Schedule 1 of the Licence.

**DBCA** means the Department of Biodiversity, Conservation and Attractions being the department assisting the Minister and the Director General in the administration of the CALM Act and any reference to DBCA includes its predecessors, the Department of Environment and Conservation, the Department of Conservation and Land Management and the Department of Parks and Wildlife.

**DBCA Officer** in this Licence means the District Manager and any person whether or not an officer of DBCA who is authorised by means of a delegation to act for the purposes of this Licence by the Director General.

**Delegate** means in this Licence means the District Manager and any person whether or not an officer of DBCA who is authorised to act for the purposes of this Licence by the CEO.

**Director General** means the chief executive officer (CEO) of DBCA or a Delegate of the CEO and all references to the Director General for operational purposes shall include the actions of DBCA on the Director General's behalf.

**District Manager** means the DBCA officer in charge of the Moora District (Jurien Bay) or the person acting in that position from time to time.

**DPLH** means the Department of Planning, Lands and Heritage and includes its predecessors, the Department of Lands, Department of Aboriginal Affairs, Department of Indigenous Affairs and the Sites Department.

**Fire Management Plan** means the plan entitled *Fire Plan: Wedge Reserve No. 43283 prepared by Strategen* dated January 2014 in relation to Wedge, which considerations and standards will be taken into account by the Moora District Manager to the extent relevant in managing Grey. A copy of the Fire Management Plan is held by each

Wedge Island Protection Association, Grey Community and Conservation Association and the District Office of DBCA at Jurien Bay.

**Footprint** means the total area and location occupied by an existing shack and individual associated structures (as at 16 August 2016) which are defined by the perimeter of the external walls of each individual structure.

**Licence** means a Licence granted by the Director General under section 101 of the CALM Act for access to and use of the Occupancy Area, and other parts of the Reserve appending:

- a) Licensee and Shack details set out in Schedule 1;
- b) the Licence Conditions set out herein as Schedule 2; and
- c) the Policy Manual as Schedule 3.

**Licensee** is the person or persons described on this Licence

**Licence cost** means the costs associated with the Licensee's use of the Shack, Occupancy Area and the Reserve and includes

- a) administration costs;
- b) operational costs;
- c) the cost of waste removal; and
- d) an allowance for the anticipated cost of removal of the shack, its associated structures and site remediation (**Remediation Levy**).

**Licence Conditions** means the conditions set out in Schedule 2 to this Licence.

**Occupancy Area** means the area of Reserve No 43283 at Wedge or as applicable Reserve No 43284 at Grey occupied by the Shack including an area of two metres from the perimeter of the Shack; or ten metres from the perimeter of the Shack for the purpose of liquor consumption, and any other areas within the Reserve used by the Licensee for the purpose of the activities allowed by this Licence and as determined and permitted by the Director General.

**Original Lease** means the lease first issued for the Shacks at Wedge and Grey by DBCA.

**Permanent Occupation** means the main place of residence used for the majority of time throughout the year.

**Policy Manual** means the Wedge and Grey Policy Manual and Maintenance Guidelines dated March 2019 appended to these Licence Conditions which set out the guidance to be taken into account by the Director General when

- a) Applying government policy in relation to the Reserve, including but not limited to the Occupancy Areas;

- b) Considering Licensee compliance with commitments made by the Licensee pursuant to this Licence; and
- c) Exercising a discretion on matters identified for that purpose where relevant in relation to Licensee requests in connection with this Licence.

**Recreational Purposes** means use of the Shack and Occupancy Area occasionally for purposes of enjoyment when one is not working.

**Registrar** means the person appointed Registrar of Aboriginal Sites under s37(1) of the AHA.

**Regulations** means the *Conservation and Land Management Regulations 2002*.

**Reserve** means Reserve No. 43283 comprising Melbourne Location 4153 as depicted on Land Administration Reserve Diagram 1283 ("**Wedge**")

**OR**

Reserve No 43284 comprising Melbourne Location 4152 as depicted on Land Administration Reserve Diagram 1277 ("**Grey**").

**Shack** means the Shack or cottage used for habitation erected on the Occupancy Area and is owned by the Licensee, as shown in Schedule 3. Only one Shack per Licence is permitted.

**Schedule of Works** means the works described in Schedule 4 attached to the Licence, which are required to be carried out by the Licensee.

**Shire** means the Shire of Dandaragan.

**Term** for the Term set out in Schedule 1 commencing from the Commencement Date set out in Schedule 1.

**Unauthorised Property** in the context of this Licence, means that the ownership in the structures on the Occupancy Area are divested from the Licensee upon termination of the Licence to enable the a DBCA Officer to take steps to secure and/or if necessary, to dispose of the structures.

## INTERPRETATION

1. A reference to anything that the Licensee will or will not do include, where the context permits, the Licensees guests, employees, agents and contractors.
2. The singular includes the plural and vice versa.
3. A reference to anything 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.
4. If the Licensee consists of a partnership or joint venture, then:
  - a) an obligation imposed on the Licensee binds each person who comprises the Licensee jointly and severally;
  - b) the act of one person who comprises the Licensee binds the other persons who comprise the Licensee; and
  - c) a breach by one person who comprises the Licensee constitutes a breach by the Licensee.
5. A reference to the approval of the Director General means a written approval.
6. A reference to a statute, ordinance, code or other law includes Regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
7. If a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning.
8. If the word "including" or "includes" is used, the words "without limitation" are taken to immediately follow.

## **LICENCE CONDITIONS**

### **1. NATURE OF INTEREST CREATED BY THIS LICENCE**

#### **1.1. Consent**

The Licensee acknowledges and accepts the rights conferred by the Licence shall rest in contract only and shall not create or confer upon the Licensee any tenancy or any estate whatsoever in or over the Occupancy Area occupied by the Shack and the rights of the Licensee shall be those of a Licensee only and shall be subject to the conditions set out herein. For the avoidance of any doubt, this Licence does not compromise any further or other rights of the Licensee.

#### **1.2. Rights Reserved**

(a) In addition to the circumstances in which this Licence shall expire or otherwise cancel automatically as set out in paragraph 11 of these Licence Conditions and Schedule 1, the Director General Reserves the right to

- i. decline to renew this Licence or,
- ii. cancel this licence

in accordance with paragraphs 13, 14 & 15 of these Licence Conditions. To the extent that they would otherwise have guided the termination process in the event of a default, Regulations 85 to 88 of the Regulations shall not apply to this Licence.

(b) To the extent that they would otherwise have guided the process of shack removal upon the expiration or sooner determination of the Term, section 108A of the CALM Act and Regulations 77 to 80 of the Regulations shall not apply and the process set out in paragraphs 18 will be applied to the management of shack and ancillary building materials. Collection of personal property within the Occupancy Area or disposal of unclaimed personal property will be dealt with in accordance with the process set out in paragraph 18.

(c) No compensation or other consideration shall be payable to or claimable by the Licensee from the Director General for or arising out of the expiry or sooner determination of the Licence.

(d) The Licensee acknowledges and agrees that the provisions of Part VII of the *Property Law Act 1969* do not apply to this Licence and that the Director General is entitled to refuse any renewal or re-grant of this Licence.

### **2. LICENCE RELATED PAYMENTS**

#### **2.1 Licence cost**

(a) In consideration of the grant of this Licence, the Licensee agrees to pay to the Director General a total annual payment to reflect the Licensee's proportionate share of the estimated cost of administering the Reserve including the Shack and

Occupancy Area, such sum being \$XXX per annum during the initial year of the Term (Licence cost) and reviewable in the manner set out in paragraph 2.5.

(b) The Licensee agrees to pay the Licence cost either

i) in full within 30 days of the date of invoice, or

ii) in two (2) equal instalments on or before 31 August and 31 January in the relevant financial year or the Licence term the subject of the Licence cost invoice.

## **2.2 Rubbish levy cost**

The amount of the payment includes a component for rubbish removal.

## **2.3 Remediation levy cost**

The payment includes a component for the potential cost of site remediation, accumulated each year during the term of the licence, which may be refunded or returned to the current Licensee as per preconditions set out in clause 18.1 (b)

## **2.4 Licence cost components**

Any costs incurred by the Director General associated with the management of Shacks or Shack Licensees will be form part of the assessment of the Licence Fee payable by the Licensee. This includes but is not limited to:

- i. The cost of remedying any breach of the Licensee obligations;
- ii. The cost of the preparation and service of a notice to remedy a breach; and
- iii. The cost of any actions or proceedings arising out of any disputes relating to this Licence.

## **2.5 Review of Licence cost**

The Licence cost may vary from time to time. A cost recovery analysis may be undertaken at the discretion of the Director General to determine the annual Licence cost to be invoiced in the following year of the License term.

# **3. OCCUPANCY AND USE OF OCCUPANCY AREA**

## **3.1 Use of Occupancy Area**

- (a) The Licensee are granted use of the Occupancy Area for Recreational Purposes. If the Licensee authorises any other person to use or gain access to the Occupancy Area, then the Licensee remains responsible for those such persons, and their conduct will be attributed to the Licensee.
- (b) The Licensee shall not make, do or permit any act, matter or thing upon the Occupancy Area that may be or become a nuisance or annoyance to the Director General or a DBCA officer or occupiers of other shacks and visitors to the Reserve.

- (c) The Licensee shall keep a copy of this Licence including the Schedule 3 policies to which it refers on the Shack premises in the Occupancy Area at all times.
- (d) The Licensee must display the Shack number provided by DBCA on the main structure of the Shack above the entry closest to the road way. The Licensee must not obstruct, alter or cover up the Shack number in any way.
- (e) The Licensee shall not permit the Shack or any Associated Structure in the Occupancy Area to be used for business or commercial purposes without written approval from the Director General.
- (f) The Licensee shall not use any part of the Shack, Associated Structures or Occupancy Area for advertising purposes.
- (g) The Licensee shall only fly any flag within the Occupancy Area or the Reserve in line with Australian protocols
- (h) No camping is permitted on or within the Occupancy Area once public use has been established. This includes the use of caravans, campervans, camper trailers, tents, vehicles and swags. Until such time as public use is in place a maximum of one camping facility as listed above is permitted per occupancy area for a period not greater than 2 consecutive weeks.
- (i) Licence holders must abide by the Shire of Dandaragan fire restrictions.
- (j) No solid fuel fires are permitted during periods in which the Minister responsible for the *Bush Fires Act 1854* has declared a Total Fire Ban or during the Shire of Dandaragan's prohibited period.

### **3.2 Right of entry**

The Licensee shall permit the Director General, or any DBCA officer, or any DBCA agents or contractors to at all reasonable times enter upon the Occupancy Area and all buildings and improvements in the Occupancy Area without breaking a lock or other type of security device (except in the case of an emergency) to view the condition of the Occupancy Area and the Shack.

### **3.3 Rights to and for structures**

- (a) The Licensee shall not sell or assign any rights to the Shack (as distinct from the Licence) during the Term of this Licence, unless as set out in the Policy Manual and approved by the Director General.
- (b) The Licensee shall not sell, transfer, assign, mortgage, sublet, charge or otherwise dispose of or deal with any of its rights or obligations under this Licence unless approved by the Director General and subject to such conditions as the Director General may specify, having regard to the Policy for the grant and transfer of Licences set out in the Policy Manual Schedule .
- (c) The Licensee will be assumed to be familiar with the content of the Policy Manual in Schedule 3 and shall comply with reasonable directions of any DBCA Officer whether or not set out in a notice of default.

## **4. OCCUPANCY**



- (a) The Licensee must not and must not suffer or permit any other person to use the Occupancy Area for any activity other than Recreational Purposes.
- (b) The licensee shall not use any part of the Shack or its Associated Structures for Permanent Occupation.
- (c) The Licensee acknowledges and agrees that this clause is an **Essential Condition** of the Licence, and non-compliance will permit the Director General to commence termination of this Licence in accordance with the process set out in paragraph 14

## 5. COMPLIANCE WORKS AND MAINTENANCE OF SHACK, ASSOCIATED STRUCTURES AND OCCUPANCY AREA

- (a) The Licensee acknowledges that a pre-requisite for any renewal of a future Licence term is subject to the Licensee carrying out and completing the works and tasks described in the Schedule of Works attached as Schedule 4, at the Licensee's cost, for the purpose reducing the risks associated with maintaining an extended presence on the Reserve.
- (b) Accordingly, the Licensee is permitted to carry out necessary maintenance to the Shack without the approval of the Director General, providing the maintenance or works are carried out in accordance with the *Shack Maintenance Guidance Note Wedge and Grey* set out in the Policy Manual. The Licensee acknowledges and accepts that any works outside of the scope of the Guidance Note will require the written approval of the Director General, which will not necessarily be granted.
- (c) Accordingly, the Licensee shall apply in writing to the Director General for any structural modifications, including to the buildings or Associated Structures, or external works to the Shack and shall not commence or undertake any such works unless the written approval has been obtained.
- (d) The Licensee shall keep the Occupancy Area tidy and store equipment and materials carefully in order to avoid creating any hazard.
- (e) It is an **Essential Condition** of the Licence that the Licensee must not erect or permit any person to erect a fence, gate or similar structure or enclosure designed to obstruct access to the Occupancy Area.
- (f) It is an **Essential Condition** of the Licence all existing fences, gates or similar structures must be removed by the Licensee in the manner stipulated in – the Schedule of Works attached as Schedule 4, unless the Director General or his delegate has approved such fences, gates or structures in writing.
- (g) The Licensee is permitted to maintain an area of two metres clear of vegetation from around the Shack to reduce any fire hazard.
- (h) Notwithstanding paragraph 5 (b), vegetation may be cleared by methods outlined in the Shack Maintenance Guidance Note. Native vegetation may be disposed of at the Wedge and Grey waste transfer facilities. The burning of such removed vegetation on the Reserve is not permitted.

## 6. UNSAFE OR DANGEROUS BUILDINGS OR STRUCTURES

(a) Notwithstanding any other provision of the Licence, and irrespective of whether or not a Building Order has been issued by the relevant permit authority under Part 8 of the *Building Act 2011*, in the event that the Director General, having taken advice from an authorised person under that Act, determines that any building or structure erected on the Occupancy Area is in a dangerous state or is unfit for human occupation the Director General, in accord with Regulations, may issue the Licensee with a Notice of Proposed Cancellation (Notice) following the process for breach of an Essential Condition, which gives the Licensee 21 days to:

I. remove the unsafe or dangerous structure or building from the Occupancy Area.

(b) If the Licensee defaults in complying with the Notice by the date stipulated, the Licence will be cancelled, the structure or building will be treated as Unauthorised Property and the Director General will act to remove or manage the risk without further notice following such cancellation without any further obligation to the Licensee.

## **7. SERVICES TO OCCUPANCY AREA**

(a) The Licensee acknowledges and accepts that no right arises on the part of the Licensee under this Licence to the provision of any services (including rubbish collection, water, sewerage or power supply) to the Occupancy Area by the Director General, the Shire, the Crown in right of the State or the Commonwealth, or any statutory person or authority or their respective servants or agents.

## **8. SAFETY AND TESTING OBLIGATIONS**

(a) Having regard to the intermittent nature of occupancy under the Licence, the Licensee acknowledges and agrees that inadequately maintained equipment may constitute a risk hazard, and will take steps at the Licensee's own cost, to ensure that the Occupancy Area and any fixtures or fittings including but not limited to electrical and gas appliances, are regularly tested, maintained and inspected.

(b) In particular, the Licensee will:

ii ensure that smoke alarms are installed in each accommodation unit on the Occupancy Area and shall keep each smoke alarm in good working order;

iii install and maintain a fire extinguisher and fire blanket, in workable condition, for each building or structure and ensure that it is within easy access in the event of an emergency.

## **9. COMPLIANCE WITH THE LAW (INCLUDING ROAD USE)**

(a) The Licensee shall duly and punctually comply with, observe, carry out and conform to the provisions of all laws, Acts and statutes (State, Commonwealth or

local) and all subsidiary legislation now or hereafter in force and all requirements and orders of any authority (statutory or otherwise) which affect the Occupancy Area and the Reserve.

### **9.1 Motor Vehicles**

The Licensee shall not bring any motor vehicle onto the Reserve unless the vehicle and driver comply with the *Road Traffic Act 1974*, and in particular, *the Road Traffic Code 2000*.

### **9.2 Responsibility for Dogs**

- (a) The Licensee shall ensure that dogs brought onto the Occupancy Area and the Reserve comply with the *Dog Act 1976* and dogs shall not be allowed to be a nuisance to other visitors to the Reserve and Occupancy Area.
- (b) The Licensee shall ensure dogs are restricted to the Occupancy Area and Reserve only and shall not be allowed to access the Wanagarren Nature Reserve or Nambung National Park. Dogs are permitted to access the reserves in a vehicle via the sealed entrance roads to both Wedge and Grey.

### **9.3 Firearms**

The Licensee shall not bring or allow any person to bring a firearm onto the Occupancy Area or the Reserve unless authorised by the Director General.

## **10. MAINTENANCE OF NATURAL ECOLOGY**

### **10.1 Native flora and sites of significance**

The Licensee acknowledges the natural values of the area in the Reserve and shall not interfere with the natural environment without written permission from the Director General of DBCA. This includes, but is not limited to:

- (a) Removing rocks, earth, soil or other material from the Occupancy Area;
- (b) Marking any rocks or structures;
- (c) Clearing or removing trees or other vegetation from the Occupancy Area; without lawful authority, subject to section 5(g) of Licence Conditions;
- (d) Altering the contours of the surface of the Occupancy Area ;
- (e) Bringing or depositing any earth fill or other similar materials on the Occupancy Area;
- (f) Altering the natural drainage on the Occupancy Area;
- (g) Introducing any new plants or bringing any animal onto the Occupancy Area other than accompanying pet dogs;
- (h) Harming or endangering any flora or fauna on the Occupancy Area; or

- (i) Anything else in connection with the Occupancy Area that may be harmful to the environment.

## **10.2 Fauna Protection**

The Licensee shall not:

- (a) interfere with, take or destroy any fauna from the Reserve;
- (b) interfere with or destroy any nest, spawning ground, or habitat of any such fauna;  
or
- (c) bring any animal onto the Occupancy Area, other than accompanying pet dogs.

## **11. PROTECTION OF ABORIGINAL HERITAGE SITES IN THE RESERVE**

The Licensee acknowledges that the sites of Aboriginal Heritage significance exist in the Reserves. It is an Essential Condition that the Licensee shall at all times comply with the AHA and not interfere with those sites (i.e. by excavating, destroying, damaging, concealing or in any way altering) without written consent from the DPLH, the Registrar of Aboriginal Sites and/or the Minister for Aboriginal Affairs dependent upon the statutory requirements of the AHA or AHR.

This includes but is not limited to:

- (a) Removing rocks, earth, soil or other material from the Occupancy Area;
- (b) Ground disturbing activities including excavation as set out under s16 and s17 of the AHA;
- (c) Marking any rocks or structures;
- (d) Clearing or removing trees or other vegetation from the Occupancy Area, without lawful authority subject to section 5 (g) of Licence Conditions;
- (e) Altering the contours of the surface of the Occupancy Area;
- (f) Bringing or depositing any earth fill or other similar materials on the Occupancy Area; or
- (g) Anything else in connection with the Occupancy Area that may be harmful to heritage values and the environment.

## **12. HAZARD MANAGEMENT AND VOLUNTARY ASSUMPTION OF RISK**

### **12.1 Assumption of risk**

- (a) The Licensee acknowledges that there are inherent and reasonably well known risks associated with the use of the Occupancy Area and with and to the structures located thereon as well as in other locations on the Reserve. These risks include but are not limited to:

- i. coastal hazards, erosion, and inundation;
  - ii. structural deficiencies of buildings;
  - iii. the potential presence of asbestos in materials used in the construction of Shacks and Associated Structures
  - iv. water contamination including use of bores;
  - v. fire hazards; and
  - vi. traffic management and more broadly, law and order issues associated with the manner in which the Reserve has historically been used by Shack occupants and their visitors.
- (b) For the purpose of mitigating such risks, the Licensee shall not store or use flammable or explosive substances on the Occupancy Area or the Reserve except those used for domestic purposes, such as for barbeques, generators, cook tops, in-Shack heating or water heaters and for Recreational Purposes, such as vehicles or boats.
- (c) The Licensee is responsible for cleaning up of any contamination, spill or other environmental incident that occurs as a result of any act or neglect of the Licensee to the satisfaction of the Director General and if not completed, DBCA may carry out any remediation at the cost of the Licensee.
- (d) The Licensee shall comply with such directions as may reasonably be made by the Director General for the purpose of implementing the Fire Management Plan.

## **12.2 Asbestos**

- (a) The Licensee acknowledges and accepts that the Reserve, including the Occupancy Area, may contain asbestos, and enters the Reserve voluntarily, assuming all risks associated with potentially being in proximity to asbestos materials.
- (b) The Licensee shall not store or dispose of obsolete, discarded or disused asbestos materials anywhere on the Reserve, and any such material shall be removed from the Reserve and disposed off-site at an approved facility for the disposal of asbestos by the Licensee at the Licensees expense.
- (c) The Licensee shall at all times throughout the Term comply with all environmental laws, relevant Australian standards, regulatory requirements and requirements of the Director General which apply in relation to the presence of, management of and removal of asbestos on the Occupancy Area.
- (d) In the event that management plan (interim or final) for the management of asbestos materials already brought onto the Reserve has been prepared and adopted by the Director General, the Licensee shall comply with such direction as may reasonably be made by the Director General for the purpose of implementing such plan where such materials are identified within the Occupancy Area.

## **12.3 Waste management**

- (a) The Licensee shall not store or dispose of rubbish on the Reserve except in the designated and fenced area (the waste transfer station) provided by DBCA, for such purpose.
- (b) The Licensee acknowledges and accepts that the purpose of the waste transfer station is for the disposal of waste generated on the Reserve resulting from activities consistent with their recreational use of Shacks. Licensees shall not dispose of any waste in the waste transfer station if the waste is generated external to the Reserve.

### **13. AUTOMATIC TERMINATION OF LICENCE**

Notwithstanding the expressed Term of the Licence in Schedule 1, the Licence will automatically cancel in accord with Regulations in the event that:

- a) the portion of the Reserve the subject of the Licence is included in the Noongar Land Estate;
- b) The Shack within the Occupancy Area has been destroyed, demolished or otherwise removed due to natural causes or acts other than those the Director General is authorised by this Licence to carry out following the completion of any default process. This is subject to conditions set out under the Policy Manual or.
- c) The conviction of the Licensee of an offence under the AHA within either Reserve No 43283 (Wedge) or Reserve No 43284 (Grey),

In such event the Director General will follow the process set out in paragraph 16 in addressing the removal of the Shack and Associated Structures and any property of the former Licensee.

### **14. CANCELLATION OF LICENCE – ESSENTIAL CONDITION**

The Director General will cancel the Licence in accord with Regulations in the following manner where there has been a breach or failure to comply with an Essential Condition. The Director General will issue a Notice of Proposed cancellation specifying the Essential Condition which the Licensee has failed to satisfy, and

- (a) if the Director General considers it is capable of remedy, provide a period of at least 21 days within which the Licensee may satisfy the default complained of, failing which the Director General may cancel the Licence and give the former Licensee notice to that effect,
- (b) if the Director General does not consider it is capable of remedy, proceed to cancel the Licence and give the former Licensee notice to that effect,
- (c) Thereafter the Director General shall be at liberty to take the steps referred to in paragraph 18.

### **15. NON ESSENTIAL CONDITIONS**

The Director General will issue a Notice of Proposed cancellation in accord with Regulations specifying the non-essential Condition which the Licensee has failed to satisfy, and

- (a) if the Director General considers it is capable of remedy, provide a period of at least 21 days within which the Licensee may satisfy the default complained of, or make representations to the Director General, failing which the Director General may cancel the Licence and give the former Licensee notice to that effect,
  - (b) if the Director General does not consider it is capable of remedy, the Director General may consider whether in the interests of —
    - (i) the protection, management or control of the Reserves or assets on the Reserve; or
    - (ii) the protection or management of persons using the Reserve; or
    - (iii) the conservation, protection or proper management of fauna or flora,
- a licence should be suspended or cancelled, the Director General may, by written notice given to the person, cancel the Licence and give the former Licensee written advice to that effect,
- (c) Thereafter the Director General shall be at liberty to take the steps referred to in paragraphs 18.

## **16. NOTICE OF CANCELLATION**

- (a) The Licensee shall comply with any demand to remedy any breach of the Licence Conditions contained in a written notice.
- (b) The Licensee acknowledges that such notice – and any other notice to be served on the Licensee may be validly served upon the Licensee by addressing it to the Licensee and emailing or sending it by either standard or registered post to, or leaving it at, the address of the Licensee set out in the deed poll or as registered with DBCA, or by affixing the notice to the Shack.
- (c) A notice sent by registered post shall be deemed to have been served on the day on which it would in the ordinary course of post (6 days) reach the address to which it was sent.
- (d) If the Licensee defaults in any agreed payment or other compliance with of its obligations under this Licence, then the Director General may recover from the Licensee the amount of all moneys paid or expended by the Director General on behalf of the Licensee in so doing together with interest on that amount at the rate from time to time charged by the Commonwealth Bank of Australia on overdrafts of \$100,000.00 computed from the date upon which the moneys were paid or expended by the Director General on demand and until so paid those moneys shall be added to the Licence Charge Reserved by this Licence and are recoverable as Licence Charges in arrears. Such costs shall be a debt recoverable in a court of competent jurisdiction.

## **17 SCOPE OF LICENSEE'S LIABILITY FOR BREACHES**

- (a) In accepting this Licence, the Licensee agrees that a breach by any guest, employee, agent or contractor of the Licensee of any of the Licence Conditions

imposed in this Licence shall constitute a breach by the Licensee and that the Licensee shall be vicariously liable for such breaches in the event that:

- i. any entitlement to damages arises as a consequence of such conduct; and/or
- ii. there is any failure to comply with a notice issued in the manner provided in paragraph 13 of this Licence in respect of costs incurred by the Director General as a result of any breach of the Licence Conditions; and/or
- iii. the Licensee shall not exceed 3 breach notices within a 12 month period failing which the Director General will be at liberty to proceed to termination of the Licence as if the Licensee had breached an Essential Condition which is not capable of remedy.

## **18 RIGHTS TO AND FOR STRUCTURES UPON EXPIRY OR CANCELLATION**

### **18.1 Remediation Levy**

- (a) In the event that Shack and its Associated Structures have become Unauthorised Property following the termination or expiration of the Licence, the Director General may draw upon the component of the annual Licence cost as the Director General has set aside and accumulated as a Remediation Levy without notice to the Licensee to facilitate the removal of such Shack and/or its Associated Structures . In those circumstances, such money as remains may also be applied to the rehabilitation of the Occupancy Area.
- (b) The Director General and the Licensee agree that, if the Licensee removes the Shack and its Associated Structures and restores the Occupancy Area to the satisfaction of the Director General by the specified date in the manner specified in the Policy Manual, the accumulated sum of the Remediation Levy paid to date by the Licensee will be refunded to the Licensee within 30 days of a DBCA final inspection.

### **18.2 Removal of Shack**

- (a) Subject to paragraph 16.1(b), the Licensee acknowledges and agrees that upon expiration or cancellation of the Licence,
  - I. The Licensee has 30 days to remove the Shack in the first instance subject to the Director General's requirements.
  - II. If the Licensee has not removed shack within 30 days the Director General will be at liberty to act to remove the Shack and its Associated Structures after 30 days, without notice on the basis that they have become Unauthorised Structures.
- (b) Upon cancellation of the Licence all structures and belongings within the Occupancy Area will be considered fixtures forming part of the Reserve and disposed of in accordance with the CALM Act/Regulation.

## **19 PUBLIC LIABILITY INSURANCE**



- (a) The Director General has taken out and intends to keep in force during the Term of this Licence a suitable public risk insurance policy in the name/s of the Licensee for not less than \$10,000,000 (Ten Million Dollars) for any one accident or event. A copy of the insurance policy will be provided to the Licensee upon renewal of Licence and a certificate of currency will be supplied on the Licensee's request once per year thereafter.
- (b) The Licensee must notify the Director General immediately when an event occurs which gives reason or might give reason to claim under or which could prejudice a policy of insurance
- (c) The Licensee must not do or omit to do any act or keep anything on the Occupancy Area which might
  - I. Render the insurance effected under this clause, or any adjoining Occupancy Area void or
  - II. Cause the premium to be increased for the Occupancy Area or any adjoining site.

## **20 INDEMNITY**

The Licensee agrees to indemnify the Director General against any loss or expenses incurred by the Director General by reason of any outstanding default in compliance with the Licence Conditions, should this Licence not be renewed upon the expiry of the Term or if this Licence is cancelled or suspended at any time, including but not limited to the cost of rectifying the Occupancy Area or damage caused by or attributable to the Licensee elsewhere on the Reserve.

## **21 LICENCE APPLICATION**

- (a) Licensees must complete and return in person with proof of identity an Application for Licence Renewal form when seeking renewal of each Licence Term. Should the Licensee fail to lodge the application by the date specified in the Application form (being not less than one month prior to the expiration of the current term), it will be assumed that the Licensee declines any further Term of Licence and the Shack and its Associated Structures will become Unauthorised Property on expiration of the term to be retained by or removed by DBCA as directed by the Director General.
- (b) If the applicant a Licence renewal is unable to attend the specified DBCA office with the Licence application in person, a certified proof of photo identification will need to be provided with the Licence application submitted by post or by an agent.
- (c) No more than two (2) applicants who are natural persons aged 18 years or over per Occupancy Area will be accepted as Licensees.
- (d) Both Licence applicants must provide their full names, addresses, date of birth, email and telephone numbers. All communication and correspondence will be issued to both Licensees. It is the Licensees' responsibility to ensure that any other Shack owners are notified accordingly.

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