

# Minutes

Council Meeting held  
on Thursday 23 June 2011

## CONFIRMATION OF MINUTES

These minutes comprising pages 1 - 39 were confirmed by  
Council on 28 July 2011 as a true and accurate record.

.....  
Barbara Dunnet  
SHIRE PRESIDENT



# Minutes

1.	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	1
2.	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (previously approved)	1
3.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	1
4.	PUBLIC QUESTION TIME	2
5.	APPLICATIONS FOR LEAVE OF ABSENCE	
8630		3
6.	PETITIONS/DEPUTATIONS/PRESENTATIONS	4
7.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	4
8631	Confirmation of Previous Minutes	
8.	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	4
9.	REPORTS BY MEMBERS ATTENDING COMMITTEES	4
10.	REPORTS OF OFFICERS	5

Minute No.	Agenda No.	Description	Page No.
8632	10.1	Bushfire Advisory Annual General Meeting	5
8633	10.2	Fire Signage	7
	10.3	Lease of Council Land – Draft Standard Lease Document	9
8634	10.4	Age Friendly Communities Plan	11
8635	10.5	Disability Services Commission: Accessible Communities Grant	14
8636	10.6	South West Development Commission: Regional Pilot Transport Program Grant	16
8637	10.7	Accounts for Payment	18

<b>11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION</b>	<b>20</b>
<b>(a) OFFICERS</b>	
8638	Procedural Motion 20
8639	Procedural Motion 20
11 (a) 1	Draft 2011/12 Cash Budget 21
8640	Procedural Motion 29
8641	Procedural Motion 30
8642	Procedural Motion 30
8643	Procedural Motion 30
8644	11 (a) 3 Policy WRK 3 Review 31
11 (a) 2	Rate in the Dollar 32
8645	Procedural Motion 39
<b>(b) ELECTED MEMBERS</b>	
<b>12. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	<b>39</b>
<b>13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN</b>	<b>39</b>
<b>14. CLOSURE OF MEETING</b>	<b>39</b>

# Minutes

## 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Chairperson declared the meeting opened at 4.15pm.

## 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (previously approved)

Councillors: Boulter, Camarri, Dean, Dunnet, Gilbert, Lorkiewicz, Mellema and Pinkerton  
Robert Jennings – Chief Executive Officer.

Kevin Waddington – Acting Manager Corporate Services.

Geoff Benson – Manager Development Services.

Chris Wade – Works Manager.

### VISITORS

6

### APOLOGIES

Nil

### LEAVE OF ABSENCE (previously approved)

Nil

## 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

The following questions were submitted by Ms C Brown at Council's May 2011 meeting and were taken on notice.

Q6. Ms C Brown asked;  
In reference to item 10.5 - Draft Budget and the withdrawal of \$10,000.00 for the implementation of the Cultural plan. Do Council consider it an appropriate use of funds in preparing documents such as a Cultural plan then not investing funds into the implementation of these plans?

A6. Council is required under various legislation and under good management practices to develop plans and strategies for the orderly provision of infrastructure and services to the community. Any items that require allocation of Council's resources are then considered during the normal budgetary process and are dependent on available funds and other Council priorities at the time.

- Q7. Is the replacement of the flood tree an example of one project that will not proceed if the implementation of the Cultural Plan is not funded?
- A7. The replacement of the flood tree may occur independently of the Cultural Plan. Council are currently seeking funding for this work.
- Q8. Regarding the exclusion of \$13,000.00 from functions and events support, are the functions and events under this funding community events or Council events?
- A8. Council has in the past allocated funds to cover the cost of Council's outside workforce assisting community groups prepare for a number of community events. The item you refer to formed part of a number of components that make up community events. The total amount of funding ultimately available will be determined by Council as part of the Budget process.
- Q9. In reference to item 10.6 User Pays Principle, if the recommendation is supported would this take affect from the 1<sup>st</sup> July 2011?  
If yes, what process will be put in place for small community organisations to apply under the community grants program considering the program for 2011/2012 has closed and there appear to be no provision for this consideration in the draft budget?
- A9. Once Council has completed the Budget process, resulting in the adoption of the 2011/12 Budget, all matters pertaining to the Budget are applicable for the budget period, in this case 2011/12.

If Council provides support under the Community Grants Program for 2011/12, the allocation will be made in accordance with Council's existing policy.

#### 4. PUBLIC QUESTION TIME

Patricia Fraser:

- Q1. Council allocated funding for bitumen works on roads in 2010/11. What happened to these funds as no new construction works have occurred?
- A1. The works manager advised that the bitumen works were for final or reseal work on existing bitumen roads which have been completed.
- Q2. Will River Road have additional gravel on three sections where the bitumen ends, near Bickerton Close intersection and in the dip near the property with the marron dams adjacent to the road?
- A2. The Works Manager advised that work on River Road will be undertaken as part of normal road maintenance scheduled works when and if weather conditions permit.

Sally Hepburn:

- Q3. Could Council consider placing restrictions on licensed kangaroo shooters, prohibiting them from discharging firearms within special rural subdivisions?

Question taken on notice.

Marjorie Lyon:

- Q4. Will Council please take up the issue of the speed limit on Barrabup Road and throughout the semi – rural subdivision accessed by the road?

- A4. The CEO advised he will contact Main Roads WA to discuss the matter as Council does not set speed limits.

- Q5. Will Council consider erecting prominent slow down signs warning of pedestrians and wildlife, or permit residents along the roads affected to erect signs outside their properties, after consultation with Council

- A5. The Works Manager advised that there were already a large number of advisory signs along the road and any more signs would not necessarily have the desired effect and just contribute to increased visual pollution along the road.

Maggie Longmore:

- Q6. Will Council seek to have a kangaroo cull undertaken in the Barrabup Road Subdivision area?

Question taken on notice.

## **5. APPLICATIONS FOR LEAVE OF ABSENCE**

Cr. B. Dunnet

Application received for the period:

11 July 2011 to 12 August 2011

Cr. C. Gilbert

Application received for the period:

1 July 2011 to 16 July 2011

Cr. R. Mellema

Application received for the period:

8 July 2011 to 21 August 2011

## **8630 PINKERTON/MELLEMA**

That the leave of absence applications for:

Cr. R. Mellema 8 July 2011 to 21 August 2011

Cr. C. Gilbert 1 July 2011 to 16 July 2011

Cr. B. Dunnet 11 July 2011 to 12 August 2011  
be approved.

**CARRIED 8/0**

**6. PETITIONS/DEPUTATIONS/PRESENTATIONS**

A petition was received on the 30 May 2011 with 401 names and signatures, 306 of these from addresses in the Shire of Nannup stating:

“We, the undersigned, do respectfully request that the Council: In the proposed upgrade to the Recreation Precinct priority be given to install a children’s water playground, as per the attached photos.”

Mr B Puckey was available in the gallery to take any questions on the matter.

The petition was tabled.

**7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

**8631 CAMARRI/GILBERT**

That the Minutes of the Ordinary Council Meeting of the Shire of Nannup held in Council Chambers on 26 May 2011 be confirmed as a true and correct record.

**CARRIED 8/0**

**8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

**9. REPORTS BY MEMBERS ATTENDING COMMITTEES**

Land Use Planning – (Asset Management)  
Blackwood Valley River Valley Marketing Group  
Scott River Water Quality Meeting



**10. REPORTS OF OFFICERS**

AGENDA NUMBER: 10.1  
SUBJECT: Bushfire Advisory Annual General Meeting  
LOCATION/ADDRESS:  
NAME OF APPLICANT: N/A  
FILE REFERENCE: FRC 1  
AUTHOR: Terese Levick-Godwin  
DISCLOSURE OF INTEREST: Nil  
DATE OF REPORT: 10 JUNE 2011

Attachments: 1. Bushfire Advisory Minutes May 2011  
2. Balingup Road Brigade Minutes from November 2009  
3. Darradup Brigade Minutes November 2010

**BACKGROUND:**

At the Bushfire Advisory Committee meeting in May of every year an election is held for the Chairperson, the Chief Bushfire Control Officer and the Deputy Chief Bushfire Control Officer.

**COMMENT:**

At the meeting two Deputy Chief Bush Fire Control Officers were recommended by the committee. Keith Rogers has considerable experience and will contribute in the role as Deputy Chief and Neville Hamilton will continue on as the Assistant Deputy.

There has been a change of Fire Control Officers (FCOs) in two Brigades, Balingup Road and Darradup Brigades. The proposed new FCOs are Mark Scott, Balingup Road Brigade and John Patman Darradup Brigade. Both new FCOs have completed their Fire Control Officer training.

**STATUTORY ENVIRONMENT:** Bush Fire Act 1954.

**POLICY IMPLICATIONS:** Nil.

**FINANCIAL IMPLICATIONS:** Nil.

**STRATEGIC IMPLICATIONS:** Nil.

**RECOMMENDATION:**

That the Council make the following appointments:

- Chairperson of the Bushfire Advisory Committee – Joan Lorkiewicz
- Chief Bushfire Control Officer – Terese Levick-Godwin
- Deputy Chief Bushfire Control Officer – Keith Rogers
- Assistant Deputy Chief Bushfire Control Officer – Neville Hamilton

- Fire Control Officer Darradup – John Patman
- Fire Control Officer Balingup Road – Mark Scott

**8632 PINKERTON/MELLEMA**

That the Council make the following appointments;

- Chairperson of the Bushfire Advisory Committee – Joan Lorkiewicz
- Chief Bushfire Control Officer – Terese Levick-Godwin
- Deputy Chief Bushfire Control Officer – Keith Rogers
- Assistant Deputy Chief Bushfire Control Officer – Neville Hamilton
- Fire Control Officer Darradup – John Patman
- Fire Control Officer Balingup Road – Mark Scott

**CARRIED 8/0**

# MINUTES

## Bushfire Advisory Committee

Minutes of a meeting of the  
Shire of Nannup Bushfire Advisory Committee Meeting  
held at 7.30pm Monday 9 May 2011  
in the Shirley Humble Room

### 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Councillor Lorkiewicz declared the meeting open at 7.35pm.

### 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (previously approved)

#### Attendance

Councillor Lorkiewicz  
Councillor Mellema  
Terese Levick-Godwin – CESM/CBFCO  
Geoff Benson – Manager Development Services  
Vic Lorkiewicz – FCO East Nannup  
Greg Crothers – FCO Nannup Brook  
Chris Scott – FCO Balingup Road  
Mal Cole – FCO Carlotta  
John Gaunt – Acting FCO Bidellia  
Gerald Brown – FCO Cundinup  
Neville Hamilton – Deputy Chief Bushfire Control Officer  
Laraine Raynel – Logistics Officer North Nannup  
Carey Curtis – Training Officer Nannup Brook  
Mark Scott – Balingup Road  
Daniel Austin – FESA District Manager Lower South West  
Brad Commins – DEC Acting Manager Blackwood District  
Dave Henderson – WAPRES

#### Apologies

Steve Pickering – Great Southern Limited  
Richard Hartwell – Forest Products Commission  
David Vines – FCO Scott River Lake Jasper

### 3. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

#### HAMILTON/COLE

That the Minutes of the Bushfire Advisory Committee Meeting held in the Shirley Humble Room on the 14 February 2011 be confirmed as a true and correct record.

**CARRIED**

9/0

**4. PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil.

**5. BUSINESS ARISING FROM THE MINUTES**

Refer 6.3 refers; Firebreak Variations, this item will go to the May 2011 Council meeting.

**6. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

**7. REPORTS OF OFFICERS**

**8. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

(a) OFFICERS

(b) ELECTED MEMBERS

Nil.

**9. GENERAL BUSINESS**

**10. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

**15. NEXT MEETING**

*This was not discussed at the meeting; the CESM/Chief Bushfire Control Officer will be away from August 23 to October 3 2011. A suggestion would be to have the meeting either while the CESM/Chief is away or to hold the meeting on Monday 17 October 2011. If the FCO's could let the CESM know what the preference would be as soon as possible, it would be appreciated.*

**16. CLOSURE OF MEETING**

There being no further business to discuss the Presiding Member declared the meeting closed at 10.05pm

AGENDA NUMBER: 7.1  
SUBJECT: THE USE OF T CARDS AT FIRES  
NAME OF APPLICANT: TERESE LEVICK-GODWIN  
FILE REFERENCE: FRC 1  
AUTHOR: TERESE LEVICK-GODWIN  
DISCLOSURE OF INTEREST:  
DATE OF REPORT: 9 MAY 2011

**ATTACHMENT:**

**BACKGROUND:**

Discussion ensued regarding the T cards with both Brad Commins of DEC and Daniel Austin of FESA stating that T cards were essential during a fire both to keep track of personnel on the fireground and for safety purposes in alerting those of in an area when a wind change is expected.

**COMMENT:** T cards were made available to the FCO's at the meeting and an additional supply of T Cards has been sourced and they are in the CESM's office if any of the FCO's wish to have extra cards.

You may remember at the meeting that an SOP regarding T Cards was handed out, if you would like any additional information on the use of the cards, please don't hesitate to contact me.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:** Nil

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

Nil

AGENDA NUMBER: 7.2 SUBJECT: FIRE SIGNAGE NAME OF APPLICANT: TERESE LEVICK-GODWIN FILE REFERENCE: FRC 1 AUTHOR: TERESE LEVICK-GODWIN DISCLOSURE OF INTEREST: N/A DATE OF REPORT: 9 May 2011
--

**ATTACHMENT:**

**BACKGROUND:**

This was last brought to the Council from the Bushfire Advisory in February 2010. Other Shires use these signs to alert tourists and visitors that restrictions apply in the Shires.

**COMMENT:**

The preference of the Committee is for signs that fold to show one lot of wording at a time. It was considered that the signs would need to be placed at the beginning of the cleared land on the various major routes into the Shire. There were six major roads identified, Mowen Road, Balingup Road, Vasse Highway from Busselton, Vasse Highway from Pemberton, Brockman Highway from Augusta, Brockman Hwy from Bridgetown.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:**

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

That the Bushfire Advisory Committee recommends to Council that fire advice signs are installed on the major roads entering the Shire of Nannup with the wording 'Fires Prohibited' and 'Burning are Permits' are required'.

**COLE/LORKIEWICZ**

**CARRIED 9/0**

AGENDA NUMBER: 7.3  
SUBJECT: REPORT FROM FESA DISTRICT MANAGER  
NAME OF APPLICANT: DANIEL AUSTIN  
FILE REFERENCE: FRC 1  
AUTHOR: DANIEL AUSTIN  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

2010/11 saw the creation of the new Lower South West Region within FESA. This new Region takes in seven shires including Nannup. Administratively the Region began operating in January 2011 and commenced its own operational roster as of May 5<sup>th</sup> 2011. Operationally the 2010/11 FDS has been relatively quiet despite the potential.

From a Regional perspective there are some key areas we are looking to work on, including:

1. Developing and supporting Local Government incident management capability and capacity. This will include identifying personnel for roles, training and mentoring those people into the roles.
2. The development of predetermined incident management centres
3. Development of communications plans
4. Development of predetermined strike teams
5. Review, updating and development of operational risk and response plans
6. Continuing to develop and strengthen inter agency relationships and interoperability
7. Training

The year ahead is likely to present some interesting challenges as we receive the outcomes of the investigations into both the Lake Clifton and Roleystone fires.

We would like to take the opportunity to express our thanks to all members of the emergency services, specifically the volunteers, without whom we would not have a service. It is also vital that we thank the wives, husbands, partners and families of people. They also play an essential role in provide our service to the community.

I look forward to continuing to build a sound and supportive working relationship with you all to provide the best possible service to our customers, the community.

Kind Regards,

Daniel Austin  
District Manager – Manjimup  
A/Regional Director – Lower South West

AGENDA NUMBER: 7.4  
SUBJECT: DEC REPORT  
NAME OF APPLICANT: BRAD COMMINS  
FILE REFERENCE: FRC 1  
AUTHOR: BRAD COMMINS  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**Department of Environment and Conservation report  
Nannup BFAC Meeting 9/3/11**

**Plantation fire Cundinup road**

Good learning operation for the brigades. Clearly demonstrated the importance of filling the IMT roles as soon as possible at any incident.

The liaison role for DEC apparently caused some confusion for the brigade personnel. The assumption that a DEC Officer will take control of an incident upon arrival is incorrect. The changes to the Bushfire Act and Emergency Management Act clearly state assigned responsibility for bushfire on private property to the brigades. Unless the DEC is formally requested to take control by the Shire this will not happen.

The formation of the IMT at incidents will ensure familiarity with the structure and should be done consistently

Co-operation was good

Radio communications requires addressing to ensure all units are operating on one band.

**Bushfire Season**

A relatively quiet season with a small number of incidents. The two fires early in the season provided valuable opportunities to practice community responses to bushfire with good success.

Brigades and DEC worked well together during the season.

There is a changing of the guard in the bushfire resources area in both DEC and the Brigades. It is imperative that every opportunity to gain experience for members and employees is taken to ensure viable bushfire combat resources in the future.

DEC has an open invitation to all brigades to attend prescribed burns and bushfires for training purposes. Fire Control Officers are encouraged to take advantage of the opportunity.

**Brad Commins  
Acting Manger DEC Blackwood District**



AGENDA NUMBER: 7.5  
SUBJECT: ELECTION OF OFFICE BEARERS  
NAME OF APPLICANT: TERESE LEVICK-GODWIN  
FILE REFERENCE: FRC 1  
AUTHOR: TERESE LEVICK-GODWIN  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**ATTACHMENT:**

**BACKGROUND:**

At the Bushfire Advisory Committee meeting in May of every year an election is held for the Chairperson, the Chief Bushfire Control Officer and the Deputy Chief Bushfire Control Officer.

**COMMENT:**

The change this year with having two Deputy Chiefs is not a new concept, this has occurred in the past. Keith Rogers has considerable experience and will contribute in the role as Deputy Chief and Neville Hamilton will continue on as the second Deputy or Assistant Deputy.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:** Nil

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

That the Bushfire Advisory Committee makes the following appointments

- Chairperson – Joan Lorkiewicz – unopposed
- Chief Bushfire Control Officer – Terese Levick-Godwin

**HAMILTON/BROWN**

**CARRIED 9/0**

- Deputy Chief Bushfire Control Officer – Keith Rogers

**SCOTT/COLE**

**CARRIED 9/0**

- Deputy Chief Bushfire Control Officer – Neville Hamilton

**CROTHERS/LORKIEWICZ**

**CARRIED 9/0**

AGENDA NUMBER: 7.6  
SUBJECT: RURAL PROPERTY ADDRESSING  
NAME OF APPLICANT: GEOFF BENSON  
FILE REFERENCE:  
AUTHOR: GEOFF BENSON  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**ATTACHMENT:**

**BACKGROUND:**

In 2004 Landgate, in conjunction with Australia Post and Local Government, commenced a process of rolling out a consistent rural property addressing system thorough Western Australia.

There has been extensive consultation with FESA, St John and other Emergency Service providers to ensure that this new addressing system is appropriate.

As discussed at the meeting, other local authorities have utilised local community groups for the installation of the numbers at each property.

**COMMENT:**

For this new rural property address system to be most effective, and installation of the star picket and numbers to be accurate as possible, it would be appropriate if a local group were involved in this process.

At this stage the Shire staff is enquiring as to whether the local Brigades would be interested in carrying out the installation of the numbers to rural properties.

There is also the need to discuss the level of remuneration/donation to be made to the Brigades for carrying out the installation of the numbers. If the Brigades could discuss the remuneration individually with their members and pass the information on to Geoff Benson and let him know if they are interested in the project.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:**

**STRATEGIC IMPLICATIONS:**

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

**Brigades to consider the proposition and speak to Geoff Benson directly.**

AGENDA NUMBER: 7.7  
SUBJECT: INCIDENT MANAGEMENT TEAM FOR NANNUP  
NAME OF APPLICANT: TERESE LEVICK-GODWIN  
FILE REFERENCE: FRC 1  
AUTHOR: TERESE LEVICK-GODWIN  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**ATTACHMENT:**

**BACKGROUND:**

In the past the Department of the Environment (DEC) has controlled most fires in the Shire of Nannup. With the change of legislation to the Emergency Management Act in 2010, Local Government must take responsibility for fires on private property outside the townsite.

**COMMENT:**

During fires on private property an Incident Management Team (IMT) will, after the appropriate members have been identified, be formed. This IMT could be one or two persons or a full team depending on the severity of the incident. Additionally, the level of incident will reflect the level of support from external sources as in FESA and DEC. Training will be provided for these positions along with mentoring during fires by FESA, possibly DEC or other senior Brigade personnel including those from outside the Shire. As more personnel complete training, a vest will be given to them with the appropriate tabard; ie, for Sector Commander, a vest with the front and back name plate.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:**

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

That the Bushfire Advisory Committee supports the formal formation of an Incident Management Team with the positions of Incident Controller, Operations Officer, Logistics Officer, Planning Officer and any other position considered appropriate and will form a team of people to be trained in the above positions.

**SCOTT/GAUNT**

**CARRIED**

AGENDA NUMBER: 7.8  
SUBJECT: WAPRES REPORT  
NAME OF APPLICANT: RUSSELL WALTER  
FILE REFERENCE: FRC 1  
AUTHOR: RUSSELL WALTER  
DISCLOSURE OF INTEREST:  
DATE OF REPORT: 9 MAY 2011

**ATTACHMENT:**

**BACKGROUND:**

Dave Henderson of WAPRES thanked the Brigades who attended the WAPRES fire on 28 March and Russell Walter sent an email with the information below as a response to the Agency Debrief of the fire.

**COMMENT:**

A couple of points re the fire :the fire tank fittings were installed as per advise from yourself and seem not to be the correct fittings .We are happy to change if provided correct size.

Size of tank is larger than requirement requested by Shires, 35,000 over 20,000 litres.

WAPRES owns and has 2 additional water tankers (12000 litres) available for callout to fires and did refill tank on the next day of fire.

I did notice that the Fire Maps in the red tube alongside the Treefarm sign was not used at the fire ,is this known to Brigades as this standard across all Treefarms established for future reference.

Maps can be sent electronically at any time if hardcopy not available

Suggest any FCO setting up fire Control point does so on the access track into fire and quickly and captures all units and names, allocates radio channel ,UHF/simplex is a good one initially as it gets chatter off command channel at least in early stages.

I would suggest that comments re Plantation machinery should be clarified, skidders not ideal on slopes, the rocky site and standing trees require a bulldozer. WAPRES has Contractors who are available and can utilise them on request ,where it is our Estate we will bear all costs.

Very happy that DEC sent Dozer that night as it would have been mid morning before we had our machine there.

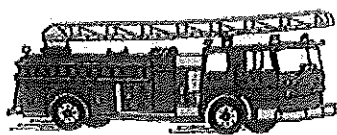
When multiple trucks are on site and firelines are needed to be established through compartments, a hose line can be run by using 2 or more trucks together enabling up to 100-150mtres to be run by joining hoses .Patrol by knapsacks and rakes can continue until mineral earth break established.

It is a better tool than backburning in trees This is a practised task but worth training with to utilise at the next fire.

One to discuss as it can use "tools" on trucks more efficiently and use personnel effectively at Plantation fires.

Regards

Russell Walter | Regional Forester - Manjimup WAPRES Eastbourne Road,  
Manjimup  
WA 6258  
PO Box 444  
Manjimup  
WA 6258  
Phone (08) 9771 7400  
Fax (08) 9771 8834 Mobile 0417 939 510



## THE BALINGUP ROAD VOLUNTEER BUSHFIRE BRIGADE

**Rmb 843 Balingup Road, Nannup 6275**  
**Phone/Fax (08)97562077**

The following are the minutes of the Balingup volunteer Bushfire Brigade held at the house of Chris and Katherine Scott, 30<sup>th</sup> of November 2009 at 7:30 PM.

### Attendances:

Graham Brockman, Steve Fraser, Tad Gryglicki, Tony Sheppard, James Lamb, Vivian Groves, David Dunnett, Lyndon Crouch, Brian Collett, Chris Morton, Terese Levick-Godwin, Chris Scott, Greg Sharp, Mark Scott, Allan Morris, Jenni and Brian DeGaris, Kim Dunnett.

### Apologies:

Wally, Moroz, John Brockman, Dirk Avery, Judith Molyneux.:

### Minutes of the last meeting:

Read and moved by David Dunnett, seconded by Tad Gryglicki.

### Business Arising From Last Meeting:

Letter to Shire regarding roadside spraying to be cc to Terese.

Moved by Graham Brockman, seconded by Allan Morris

### Correspondence:

1. Letter received from AFS with donation of \$105.00.
2. Letter (invoice) sent to Capel Crane Hire for \$2,055.00.
3. Invoice received from Nannup Shire for works \$935.00
4. Letter received from Nannup Shire regarding bushfire training dates.
5. Letter from Nannup Shire regarding payment of invoices via FFT.
6. Letter from Nannup Shire regarding emergency services levy submission 2010-2011.
7. Letter from Nannup Shire regarding questions raised by Balingup Road brigade at meeting 2nd March.
8. Bank statement Westpac

### Financials

27 <sup>th</sup> of March closing balance.....	6,914.20
Deposit Busselton.....	<u>1800.00</u>
	8714.20
+2055 from Capel Crane Hire	2055
Plus 105 donation from AFS	<u>105</u>
	9874.20
Payment for works Nannup Shire.....	<u>935.00</u>
Total .....	<u>8939.20</u>

**General business.**

1. It was decided to purchase uniforms, gloves, goggles, and hats for certain members.
2. Allan Morris discussed Telstra towers and proposed that the Balingup Road will get a tower, maybe two for mobile coverage.
3. Letter to therese regarding the burning off of what is known as Soldiers Creek and lot 2 south of Greg Sharp's property including Beyonderup Falls.
4. Steve Fraser asked if the ABC could give fire updates in the south west and also suggested turning power off on extremely hot windy days.
5. Brian Collett moved that the brigade sends letter to D.E.C regarding the unnecessary closure of the entire Balingup Road when fire was clearly not a threat to local residents coming and going.
6. It was moved that the brigade send letters of thanks to D.E.C Minister Karen McNamara and Minister Rob Johnson to thank them for their support.
7. It was unanimously agreed that Mark Scott would replace Chris Scott next year as brigade F C O. Chris was thanked for all his hard work.

Meeting closed: 9.30PM.

## **Darradup Volunteer Bushfire Brigade General Meeting Saturday 27 November 2010**

**Meeting Opened:** The meeting was opened at 5.07pm.

**Present:**

Rob & Kay Prestage, Nancy Tang, Barbara Dearden, Cate Stevenson, Helen Vial, Di Piper, Keith & Jan Oldfield, Evelyn & John Patman, Col & Pat Langridge, Peter & Lyndsay Swift, Anne & Lindsay Blackburne-Kane, Gerard Vial, Peter Johnson, Giep Vial, Ron Lovering, Chris Rutter, Steve Boak, Neville & Anne Hamilton, Phil Collins, David Raill, Terese Levick-Godwin and Noelene Broughton.

**Apologies:** Mike Piper, Keryl Rutter, Allister Broughton

**Confirmation of Previous Minutes:**

The minutes of the last meeting as tabled.

Accepted: Cate Stevenson     Seconded: Dave Raill

**Matters Arising:** Nil.

**Correspondence In:** Nil.

**Correspondence Out:** Nil.

**FCO Report, Keith Oldfield:**

It has been a busy season with 2 fires so far. Thank you to all those that assisted with the fires at Darradup and the North Nannup fires. There will be no more fire permits issued for the remainder of the spring restricted season.

A summary was given on the Layman burn.

A reminder that if you see smoke then call 000, this will trigger the correct chain of events to best deal with the situation.



**Treasurer's Report, Geoff Rummer:**

All's good. The audit has been done and there is a good surplus at the moment. Tonight's Christmas party is a freebie for members which is being funded by the money received through burns and fundraising throughout the year.

Cate Stevenson asked if the surplus needed to be spent before 30 June 2011?

Geoff replied no, that the surplus wasn't from the current ESL (emergency Services Levy) money and it has accumulated over time from fund raising and burns. The surplus is also used to purchase things that can't be claimed through ESL.

To date the Darradup BFB has been very successful in raising money and this is partly due to members doing all the paperwork required throughout the year.

**Treasurer's Report**

Accepted: Rob Prestage

Seconded: Phil Collins

**Social Report, Geoff Rummer:**

Thanks for all the help with events this year. They have been well attended and declared a success.

Would like to encourage new people onto the social committee to bring in new ideas and enthusiasm into the committee which will help make next year's events even better.

**Social Report**

Accepted: Noelene Broughton

Seconded: Cate Stevenson

**Operations:** Nil.

**Training, Phil Collins:**

The last training session was focussed on Radios and was a success with a good turnout. This was mainly due to emails being sent around to advertise the training and also on the board in front of the fire shed. This method will be used more often. It was also agreed that specific topic training is a good idea.

## **General Business:**

Barbara Dearden;

Advised that she was the new Fire Break Officer for the Shire. Inspections are currently being done and a strong reminder that all firebreaks need to be 3 metres wide and 4 metres high, 2 metre firebreaks are not wide enough.

Dave Raill;

If anyone was interested in radio training revision, there are several copies of the training DVD available to take home or use on the equipment at the fire shed.

Nancy Chan;

Asked if the agendas and minutes not to be sent as a publisher document as not everyone has that program. Emails are fine otherwise a hard copy to be sent.

Keith advised that this will be taken on board.

Terese Levick-Godwin as CESM

1. Advised that the South West Development Commission (SWDC) has granted a Bushfire alert system for the Jalbarragup area. It will consist of 50-70 units which will be given to permanent residents in the area. It is a radio setup through a satellite. It will give daily weather reports, fire ratings and an alarm will go off if there is a fire in the area.

The roll out of this system is expected to be January 2011.

Terese will be happy to give more information to anyone interested.

2. State Government have offered Dry Season Assistance and we have applied for 2 water tanks. 1 for Vasse Highway and the other for Scott River.
3. There has been an appeal lodged on the ESL moneys in relation all the brigades overspending. If successful there may be a partial refund.

Keith Oldfield;

Stated that our ESL money wasn't enough to run the brigade but we also got extra money for a water tank in Brookwood Estate, a fast pump for use in dams, etc and payment for gravel to surrounds of the fire shed. All this totalled to an extra \$11,000.00.

Keith is retiring as Fire Control Officer (FCO) as he will be moving to Busselton.

Nominations; Nil.

John Patman to replace Keith as FCO with assistance from Keith for a long hand over.

Accepted: Keith Oldfield      Seconded: Nancy Chan

**Meeting Closed:** With no further business the meeting closed at 5.40pm.

AGENDA NUMBER: 10.2  
SUBJECT: Fire Signage  
NAME OF APPLICANT: N/A  
FILE REFERENCE: FRC 1  
AUTHOR: Terese Levick-Godwin  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 10 June 2011

**ATTACHMENT:** Minutes of the Bushfire Advisory Committee

**BACKGROUND:**

The installation of fire advice signage at the entry to the Shire was previously brought to Council from the Bushfire Advisory in February 2010. Other Shires use these signs to alert tourists and visitors that fire restrictions apply in the Shires.

**COMMENT:**

The preference of the Committee is for signs that fold in half to show one lot of wording at a time. It was considered that the signs would need to be placed at the beginning of the cleared land on the approach of the various major routes into the Shire.

There were six major roads identified, Mowen Road, Balingup Road, Vasse Highway from Busselton, Vasse Highway from Pemberton, Brockman Highway from Augusta, Brockman Hwy from Bridgetown.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:**

Cost and installation is approximately \$750 per sign

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

That Council agree that fire advice signs be installed on the major roads entering the Shire of Nannup and that funding for the proposed signs be included in the Draft Budget for consideration in the 2011/2012 financial year, and aligned with budget priorities.

**8633 LORKIEWICZ/MELLEMA**

That Council approach FESA to provide fire advice signs to be installed on the major roads entering the Shire of Nannup.

**CARRIED 8/0**

Reason for change to Officer's recommendation:

FESA should provide the signs/funding for signs from the ESL Funds.

# MINUTES

## Bushfire Advisory Committee

Minutes of a meeting of the  
Shire of Nannup Bushfire Advisory Committee Meeting  
held at 7.30pm Monday 9 May 2011  
in the Shirley Humble Room

### 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Councillor Lorkiewicz declared the meeting open at 7.35pm.

### 2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (previously approved)

#### Attendance

Councillor Lorkiewicz  
Councillor Mellema  
Terese Levick-Godwin – CESM/CBFCO  
Geoff Benson – Manager Development Services  
Vic Lorkiewicz – FCO East Nannup  
Greg Crothers – FCO Nannup Brook  
Chris Scott – FCO Balingup Road  
Mal Cole – FCO Carlotta  
John Gaunt – Acting FCO Bidellia  
Gerald Brown – FCO Cundinup  
Neville Hamilton – Deputy Chief Bushfire Control Officer  
Laraine Raynel – Logistics Officer North Nannup  
Carey Curtis – Training Officer Nannup Brook  
Mark Scott – Balingup Road  
Daniel Austin – FESA District Manager Lower South West  
Brad Commins – DEC Acting Manager Blackwood District  
Dave Henderson – WAPRES

#### Apologies

Steve Pickering – Great Southern Limited  
Richard Hartwell – Forest Products Commission  
David Vines – FCO Scott River Lake Jasper

### 3. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

#### HAMILTON/COLE

That the Minutes of the Bushfire Advisory Committee Meeting held in the Shirley Humble Room on the 14 February 2011 be confirmed as a true and correct record.

**CARRIED**

9/0

**4. PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil.

**5. BUSINESS ARISING FROM THE MINUTES**

Refer 6.3 refers; Firebreak Variations, this item will go to the May 2011 Council meeting.

**6. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

**7. REPORTS OF OFFICERS**

**8. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

**(a) OFFICERS**

**(b) ELECTED MEMBERS**

Nil.

**9. GENERAL BUSINESS**

**10. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

**15. NEXT MEETING**

*This was not discussed at the meeting; the CESM/Chief Bushfire Control Officer will be away from August 23 to October 3 2011. A suggestion would be to have the meeting either while the CESM/Chief is away or to hold the meeting on Monday 17 October 2011. If the FCO's could let the CESM know what the preference would be as soon as possible, it would be appreciated.*

**16. CLOSURE OF MEETING**

There being no further business to discuss the Presiding Member declared the meeting closed at 10.05pm

AGENDA NUMBER: 7.1  
SUBJECT: THE USE OF T CARDS AT FIRES  
NAME OF APPLICANT: TERESE LEVICK-GODWIN  
FILE REFERENCE: FRC 1  
AUTHOR: TERESE LEVICK-GODWIN  
DISCLOSURE OF INTEREST:  
DATE OF REPORT: 9 MAY 2011

**ATTACHMENT:**

**BACKGROUND:**

Discussion ensued regarding the T cards with both Brad Commins of DEC and Daniel Austin of FESA stating that T cards were essential during a fire both to keep track of personnel on the fireground and for safety purposes in alerting those of in an area when a wind change is expected.

**COMMENT:** T cards were made available to the FCO's at the meeting and an additional supply of T Cards has been sourced and they are in the CESM's office if any of the FCO's wish to have extra cards.

You may remember at the meeting that an SOP regarding T Cards was handed out, if you would like any additional information on the use of the cards, please don't hesitate to contact me.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:** Nil

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

Nil

AGENDA NUMBER: 7.2  
SUBJECT: FIRE SIGNAGE  
NAME OF APPLICANT: TERESE LEVICK-GODWIN  
FILE REFERENCE: FRC 1  
AUTHOR: TERESE LEVICK-GODWIN  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**ATTACHMENT:**

**BACKGROUND:**

This was last brought to the Council from the Bushfire Advisory in February 2010. Other Shires use these signs to alert tourists and visitors that restrictions apply in the Shires.

**COMMENT:**

The preference of the Committee is for signs that fold to show one lot of wording at a time. It was considered that the signs would need to be placed at the beginning of the cleared land on the various major routes into the Shire. There were six major roads identified, Mowen Road, Balingup Road, Vasse Highway from Busselton, Vasse Highway from Pemberton, Brockman Highway from Augusta, Brockman Hwy from Bridgetown.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:**

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

That the Bushfire Advisory Committee recommends to Council that fire advice signs are installed on the major roads entering the Shire of Nannup with the wording 'Fires Prohibited' and 'Burning are Permits' are required'.

**COLE/LORKIEWICZ**

**CARRIED 9/0**



AGENDA NUMBER: 7.3  
SUBJECT: REPORT FROM FESA DISTRICT MANAGER  
NAME OF APPLICANT: DANIEL AUSTIN  
FILE REFERENCE: FRC 1  
AUTHOR: DANIEL AUSTIN  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

2010/11 saw the creation of the new Lower South West Region within FESA. This new Region takes in seven shires including Nannup. Administratively the Region began operating in January 2011 and commenced its own operational roster as of May 5<sup>th</sup> 2011. Operationally the 2010/11 FDS has been relatively quiet despite the potential.

From a Regional perspective there are some key areas we are looking to work on, including:

1. Developing and supporting Local Government incident management capability and capacity. This will include identifying personnel for roles, training and mentoring those people into the roles.
2. The development of predetermined incident management centres
3. Development of communications plans
4. Development of predetermined strike teams
5. Review, updating and development of operational risk and response plans
6. Continuing to develop and strengthen inter agency relationships and interoperability
7. Training

The year ahead is likely to present some interesting challenges as we receive the outcomes of the investigations into both the Lake Clifton and Roleystone fires.

We would like to take the opportunity to express our thanks to all members of the emergency services, specifically the volunteers, without whom we would not have a service. It is also vital that we thank the wives, husbands, partners and families of people. They also play an essential role in provide our service to the community.

I look forward to continuing to build a sound and supportive working relationship with you all to provide the best possible service to our customers, the community.

Kind Regards,

Daniel Austin  
District Manager – Manjimup  
A/Regional Director – Lower South West

AGENDA NUMBER: 7.4  
SUBJECT: DEC REPORT  
NAME OF APPLICANT: BRAD COMMINS  
FILE REFERENCE: FRC 1  
AUTHOR: BRAD COMMINS  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**Department of Environment and Conservation report  
Nannup BFAC Meeting 9/3/11**

**Plantation fire Cundinup road**

Good learning operation for the brigades. Clearly demonstrated the importance of filling the IMT roles as soon as possible at any incident.

The liaison role for DEC apparently caused some confusion for the brigade personnel. The assumption that a DEC Officer will take control of an incident upon arrival is incorrect. The changes to the Bushfire Act and Emergency Management Act clearly state assigned responsibility for bushfire on private property to the brigades. Unless the DEC is formally requested to take control by the Shire this will not happen.

The formation of the IMT at incidents will ensure familiarity with the structure and should be done consistently

Co-operation was good

Radio communications requires addressing to ensure all units are operating on one band.

**Bushfire Season**

A relatively quiet season with a small number of incidents. The two fires early in the season provided valuable opportunities to practice community responses to bushfire with good success.

Brigades and DEC worked well together during the season.

There is a changing of the guard in the bushfire resources area in both DEC and the Brigades. It is imperative that every opportunity to gain experience for members and employees is taken to ensure viable bushfire combat resources in the future.

DEC has an open invitation to all brigades to attend prescribed burns and bushfires for training purposes. Fire Control Officers are encouraged to take advantage of the opportunity.

**Brad Commins  
Acting Manger DEC Blackwood District**

AGENDA NUMBER: 7.5  
SUBJECT: ELECTION OF OFFICE BEARERS  
NAME OF APPLICANT: TERESE LEVICK-GODWIN  
FILE REFERENCE: FRC 1  
AUTHOR: TERESE LEVICK-GODWIN  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**ATTACHMENT:**

**BACKGROUND:**

At the Bushfire Advisory Committee meeting in May of every year an election is held for the Chairperson, the Chief Bushfire Control Officer and the Deputy Chief Bushfire Control Officer.

**COMMENT:**

The change this year with having two Deputy Chiefs is not a new concept, this has occurred in the past. Keith Rogers has considerable experience and will contribute in the role as Deputy Chief and Neville Hamilton will continue on as the second Deputy or Assistant Deputy.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:** Nil

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

That the Bushfire Advisory Committee makes the following appointments

- Chairperson – Joan Lorkiewicz – unopposed
- Chief Bushfire Control Officer – Terese Levick-Godwin

**HAMILTON/BROWN**

**CARRIED 9/0**

- Deputy Chief Bushfire Control Officer – Keith Rogers

**SCOTT/COLE**

**CARRIED 9/0**

- Deputy Chief Bushfire Control Officer – Neville Hamilton

**CROTHERS/LORKIEWICZ**

**CARRIED 9/0**

AGENDA NUMBER: 7.6 SUBJECT: RURAL PROPERTY ADDRESSING NAME OF APPLICANT: GEOFF BENSON FILE REFERENCE: AUTHOR: GEOFF BENSON DISCLOSURE OF INTEREST: N/A DATE OF REPORT: 9 May 2011
---

**ATTACHMENT:**

**BACKGROUND:**

In 2004 Landgate, in conjunction with Australia Post and Local Government, commenced a process of rolling out a consistent rural property addressing system thorough Western Australia.

There has been extensive consultation with FESA, St John and other Emergency Service providers to ensure that this new addressing system is appropriate.

As discussed at the meeting, other local authorities have utilised local community groups for the installation of the numbers at each property.

**COMMENT:**

For this new rural property address system to be most effective, and installation of the star picket and numbers to be accurate as possible, it would be appropriate if a local group were involved in this process.

At this stage the Shire staff is enquiring as to whether the local Brigades would be interested in carrying out the installation of the numbers to rural properties.

There is also the need to discuss the level of remuneration/donation to be made to the Brigades for carrying out the installation of the numbers. If the Brigades could discuss the remuneration individually with their members and pass the information on to Geoff Benson and let him know if they are interested in the project.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:**

**STRATEGIC IMPLICATIONS:**

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

**Brigades to consider the proposition and speak to Geoff Benson directly.**

AGENDA NUMBER: 7.7  
SUBJECT: INCIDENT MANAGEMENT TEAM FOR NANNUP  
NAME OF APPLICANT: TERESE LEVICK-GODWIN  
FILE REFERENCE: FRC 1  
AUTHOR: TERESE LEVICK-GODWIN  
DISCLOSURE OF INTEREST: N/A  
DATE OF REPORT: 9 May 2011

**ATTACHMENT:**

**BACKGROUND:**

In the past the Department of the Environment (DEC) has controlled most fires in the Shire of Nannup. With the change of legislation to the Emergency Management Act in 2010, Local Government must take responsibility for fires on private property outside the townsite.

**COMMENT:**

During fires on private property an Incident Management Team (IMT) will, after the appropriate members have been identified, be formed. This IMT could be one or two persons or a full team depending on the severity of the incident. Additionally, the level of incident will reflect the level of support from external sources as in FESA and DEC. Training will be provided for these positions along with mentoring during fires by FESA, possibly DEC or other senior Brigade personnel including those from outside the Shire. As more personnel complete training, a vest will be given to them with the appropriate tabard; ie, for Sector Commander, a vest with the front and back name plate.

**STATUTORY ENVIRONMENT:** Nil

**POLICY IMPLICATIONS:** Nil

**FINANCIAL IMPLICATIONS:**

**STRATEGIC IMPLICATIONS:** Nil

**VOTING REQUIREMENTS:** Nil

**RECOMMENDATION:**

That the Bushfire Advisory Committee supports the formal formation of an Incident Management Team with the positions of Incident Controller, Operations Officer, Logistics Officer, Planning Officer and any other position considered appropriate and will form a team of people to be trained in the above positions.

**SCOTT/GAUNT**

**CARRIED**

AGENDA NUMBER: 7.8  
SUBJECT: WAPRES REPORT  
NAME OF APPLICANT: RUSSELL WALTER  
FILE REFERENCE: FRC 1  
AUTHOR: RUSSELL WALTER  
DISCLOSURE OF INTEREST:  
DATE OF REPORT: 9 MAY 2011

**ATTACHMENT:**

**BACKGROUND:**

Dave Henderson of WAPRES thanked the Brigades who attended the WAPRES fire on 28 March and Russell Walter sent an email with the information below as a response to the Agency Debrief of the fire.

**COMMENT:**

A couple of points re the fire :the fire tank fittings were installed as per advise from yourself and seem not to be the correct fittings .We are happy to change if provided correct size.

Size of tank is larger than requirement requested by Shires, 35,000 over 20,000 litres.

WAPRES owns and has 2 additional water tankers (12000 litres) available for callout to fires and did refill tank on the next day of fire.

I did notice that the Fire Maps in the red tube alongside the Treefarm sign was not used at the fire ,is this known to Brigades as this standard across all Treefarms established for future reference.

Maps can be sent electronically at any time if hardcopy not available

Suggest any FCO setting up fire Control point does so on the access track into fire and quickly and captures all units and names, allocates radio channel ,UHF/simplex is a good one initially as it gets chatter off command channel at least in early stages.

I would suggest that comments re Plantation machinery should be clarified, skidders not ideal on slopes, the rocky site and standing trees require a bulldozer. WAPRES has Contractors who are available and can utilise them on request ,where it is our Estate we will bear all costs.

Very happy that DEC sent Dozer that night as it would have been mid morning before we had our machine there.

When multiple trucks are on site and firelines are needed to be established through compartments, a hose line can be run by using 2 or more trucks together enabling up to 100-150mtres to be run by joining hoses .Patrol by knapsacks and rakes can continue until mineral earth break established.

It is a better tool than backburning in trees This is a practised task but worth training with to utilise at the next fire.

One to discuss as it can use "tools" on trucks more efficiently and use personnel effectively at Plantation fires.

Regards

Russell Walter | Regional Forester - Manjimup WAPRES Eastbourne Road,  
Manjimup  
WA 6258  
PO Box 444  
Manjimup  
WA 6258  
Phone (08) 9771 7400  
Fax (08) 9771 8834 Mobile 0417 939 510

AGENDA NUMBER: 10.3  
SUBJECT: Lease of Council Land – Draft Standard Lease Document  
LOCATION/ADDRESS: Nannup  
NAME OF APPLICANT:  
FILE REFERENCE: ADM 9  
AUTHOR: Kevin Waddington – Acting Manager Corporate Services  
AUTHORISING OFFICER- Robert Jennings – Chief Executive Officer  
DISCLOSURE OF INTEREST: Nil  
DATE OF REPORT: 30 May 2011

Attachment: Draft Standard Lease Document.

### **BACKGROUND:**

Council first considered the Draft Standard Lease agreement at its January 2011 Ordinary Meeting and resolved the following:

#### ***"8539 PINKERTON/LORKIEWICZ***

*That the draft Standard Lease document attached be adopted for the purpose of community consultation for 28 days.*

***CARRIED 8/0"***

### **COMMENT:**

Council advertised the proposed standard lease in the Nannup Telegraph in February 2011, on Council's public notice board and on Council's website. The notices called for submissions on the proposed draft standard lease agreement to be submitted to Council within a period of 28 days from the date of publication of the notice in accordance with Council's above resolution.

At the close of the submission period Council had not received any submissions/comments on the proposed standard lease.

It is recommended that Council now adopt the draft standard lease document for all future lease agreements for Council owned or managed land/infrastructure.

**STATUTORY ENVIRONMENT:** Local Government Act 1995 S2.7 (2) (b)

**POLICY IMPLICATIONS:** Nil.

**FINANCIAL IMPLICATIONS:** Nil.

### **STRATEGIC IMPLICATIONS:**

Council's adopted Forward Plan contains targets which include the review of leases at 2 Brockman Street (Action Plan 9.2 (E)), Nannup Bowling Club (Action Plan 11.1 (C)),



implementation of a lease for Recreation Centre premises (Action Plan 11.2 (E)) and the Visitor Centre (Action Plan 13.3 (C)).

**RECOMMENDATION:**

That the draft Standard Lease document attached be adopted.

Recommendation not considered; item to be considered at the July Ordinary Council Meeting.

Dated 201

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SHIRE OF NANNUP

and

(LESSEE'S NAME)

LEASE

(DESCRIPTION OF PREMISES)

## CONTENTS

Recitals .....	4
Operative Provisions .....	4
1. INTERPRETATION .....	4
1.1 Definitions.....	4
1.2 Interpretation.....	5
2. LEASE.....	6
2.1 Lease.....	6
2.2 Term.....	6
2.3 Rent.....	6
2.4 Market Rent Review .....	6
2.5 CPI Rent Review.....	8
3. LESSEE'S OBLIGATIONS.....	8
3.1 Rates and Taxes .....	8
3.2 Services .....	8
3.3 Maintenance.....	8
3.4 Cleaning .....	9
3.5 Make good damage .....	9
3.6 Repainting.....	9
3.7 Entry by Lessor to view and to repair .....	9
3.8 Abatement of nuisances .....	10
3.9 Pests .....	10
3.10 No living in premises .....	10
3.11 Defacing.....	10
3.12 Rubbish .....	10
3.13 Disorderly behaviour.....	10
3.14 Compliance with written laws .....	10
3.15 Permitted purpose and operation of lessee's affairs .....	10
3.16 Insurances .....	11
3.17 Evidence of insurance cover .....	11
3.18 Not to void insurances.....	12
3.19 Compliance with insurance regulations.....	12
3.20 Indemnity .....	12
3.21 Alterations and improvements.....	12
3.22 Notice of defects .....	12
3.23 Sale of alcohol.....	13
3.24 Assignment or subletting.....	13
3.25 Signs.....	13
3.26 Legal costs .....	13
3.27 Lessee to make good .....	13
3.28 No registration or caveat .....	14
3.29 Interest on arrears.....	14
3.30 GST.....	14
3.31 Lessee's office holders.....	14
3.32 Vandalism .....	14
3.33 Storage of dangerous materials .....	15
3.34 Ownership of improvements .....	15
3.35 Special conditions .....	15
4. QUIET POSSESSION.....	15
5. MUTUAL AGREEMENTS .....	15
5.1 Default .....	15
5.2 Lessor's powers.....	16
5.3 Destruction of the Premises.....	16
5.4 Entry by Lessor .....	17
5.5 Works by Lessor .....	17
5.6 Holding over .....	17
5.7 No waiver.....	17
5.8 No warranty.....	18

5.9	Lessor's right to install services .....	18
5.10	Execution of works by Lessor .....	18
5.11	Notices .....	19
5.12	Approvals and consents.....	19
6.	ESSENTIAL TERMS.....	19
7.	GUARANTEE.....	19
8.	GST.....	20
	SCHEDULE 1 .....	22
	SCHEDULE 2 .....	23
	EXECUTED by the parties .....	24

## LEASE

This Lease dated

200

**PARTIES** SHIRE OF NANNUP of Adam Street, Nannup, Western Australia ("the Lessor")  
and

The person or persons described in Item 1.1 of Schedule 1 ("the Lessee")

### RECITALS

- A. The Lessor has the Lessor's Interest in the Land.
- B. The Lessor has agreed to lease the Premises to the Lessee on and subject to the terms and conditions of this Lease.

### OPERATIVE PROVISIONS

#### 1. INTERPRETATION

##### 1.1 Definitions

In this Lease, unless the context requires otherwise:

**"Building"** means the building or buildings and all other fixed improvements forming part of the Premises and includes any additions or alterations;

**"Commencement Date"** means the commencement date of the Term specified in Item 1.3 of Schedule 1;

**"CPI"** means the Consumer Price Index All Groups Index Numbers for Perth provided by the Australian Bureau of Statistics or if the basis upon which it is determined is substantially altered then such basis as the Lessor may reasonably determine to be as near to the Consumer Price Index previously referred to as is reasonably possible;

**"CPI Rent Review Date"** means each of the dates specified as such in Item 1.6 of Schedule 1;

**"GST"** means a tax, impost or other duty raised on the supply of goods and services and imposed by the Commonwealth of Australia or a state or territory of the Commonwealth of Australia;

**"Guarantor"** means the person or persons described in Item 1.8 of Schedule 1;

**"Land"** means the land described in Item 1.2 of Schedule 1;

**"Lessee"** if only one Lessee is a party means the Lessee and the executors, administrators and permitted assignees of the Lessee and if there are two or more Lessees parties means the Lessees and each of them and their and each of their executors, administrators and permitted assigns and if the Lessee or any of the Lessees shall be a corporation includes the successors and permitted assigns of the Lessee;

**“Lessor”** if only one Lessor is a party means the Lessor and the executors, administrators and assigns of the Lessor and if there are two or more Lessors parties hereto means the Lessors and each of them and their and each of their executors, administrators and assigns and if the Lessor or any of the Lessors shall be a corporation includes the corporation and its successors and assigns;

**“Lessor’s Interest”** means the Lessor’s interest in the Land which interest is described in Item 1.2 of Schedule 1;

**“Market Rent Review Date”** means each of the dates referred to as such in Item 1.6 of Schedule 1;

**“Premises”** means the premises described in Item 1.2 of Schedule 1 including all the Lessor’s fixtures and appurtenances;

**“Rate of Interest”** means the general maximum rate of interest charged from time to time by the Lessor on overdue or unpaid rates;

**“Rent”** means the Rent payable by the Lessee pursuant to this Lease;

**“Term”** means the term of this Lease as specified in Item 1.3 of Schedule 1 commencing on the Commencement Date and any shorter period in the event of the early determination of the Term.

## **1.2 Interpretation**

In this Lease, unless the context indicates a contrary intention:

- (a) words suggesting the singular include the plural and vice versa;
- (b) words suggesting any gender include any other gender;
- (c) a reference to a day means any day, which is not a Saturday, Sunday or a public holiday;
- (d) reference to a person include a company, corporation, and unincorporated or incorporated association or statutory authority;
- (e) references to clauses, paragraphs, subparagraphs and Schedules are to clauses, paragraphs, and subparagraphs of, and schedules to, this Lease as amended from time to time in accordance with the terms of this Lease;
- (f) a document will be incorporated into and form part of this Lease if the parties sign the document and it is referred to in this Lease and a reference to such a document is to that document as amended from time to time in accordance with the terms of this Lease;
- (g) headings used for clauses, paragraphs, subparagraphs, Schedules and the table of contents are for ease of reference only and will not affect the interpretation of this Lease;
- (h) references to any Lease or instrument are to that Lease or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (i) references to laws include any modification or re-enactment of those laws, or any legislative provisions substituted for such laws, and all orders, local laws,

planning schemes, by-laws, regulations and other statutory instruments issued under those laws;

- (j) use of the words “includes” or “including” means without limitation, unless the contrary intention appears;
- (k) a reference to any body is:
  - (i) if that body is replaced by another organisation, deemed to refer to that organisation; and
  - (ii) if that body ceases to exist, deemed to refer to the organisation which most nearly or substantially serves the same purposes or objects as that body; and
- (l) all dollar amounts specified in this Lease are in Australian dollars.

## **2. LEASE**

### **2.1 Lease**

- (1) The Lessor grants a lease to the Lessee and the Lessee takes a lease of the Premises on and subject to the terms of this Lease.
- (2) Where the Land is Crown land and the approval of the Minister of Lands is required under the provisions of any relevant vesting or management order then the grant of a lease under subclause (1) is subject to that approval.

### **2.2 Term**

The Premises will be held by the Lessee as tenant for the Term commencing on the Commencement Date and expiring on the expiry date specified in Item 1.3 of Schedule 1 the Lessee paying therefore the Rent payable in the manner provided in this Lease.

### **2.3 Rent**

- (1) The Lessee shall pay to the Lessor:
  - (a) for the first year of the Term, the annual rent specified in Item 1.4 of Schedule 1;
  - (b) for the second and each subsequent year of the Term the annual rent varied pursuant to clauses 2.4 and 2.5.
- (2) The Rent shall be payable in the manner set out in Item 1.5 of Schedule 1.

### **2.4 Market Rent Review**

- (1) In calculating the Rent payable from a Market Rent Review Date the following shall apply:
  - (a) not less than 3 months prior to each Market Rent Review Date the Lessor shall give to the Lessee notice in writing of the annual rental proposed by the Lessor to become payable from that Market Rent Review Date (“the Lessor’s Proposed Rent”);

- (b) within 14 days after service of that notice on the Lessee (time being of the essence) the Lessee shall be entitled to give to the Lessor notice in writing disputing the amount of the Lessor's Proposed Rent and stating the amount which the Lessee considers to be the correct current market rent that should be payable from that review date ("the Lessee's Proposed Rent");
  - (c) if the Lessee does not give the notice referred to in paragraph (b) within the time specified in that paragraph (time being of the essence) then the Lessee shall be deemed to have accepted that the Lessor's Proposed Rent shall be the Rent payable by the Lessee to the Lessor on and from that Market Rent Review Date;
  - (d) if the Lessee gives the notice referred to in paragraph (b) within the time specified in that paragraph then the Lessor may accept the Lessee's Proposed Rent as the Rent payable by the Lessee to the Lessor on and from that Market Rent Review Date but unless notice in writing of such acceptance is given by the Lessor to the Lessee within 14 days after receipt by the Lessor of written notice of the Lessee's Proposed Rent then the Rent payable from that Market Rent Review Date shall be as determined by a Valuer nominated by the President for the time being of the Australian Institute of Valuers and Land Economists (Inc.) Western Australian Division at the request of the Lessor as the then Current Market Rent of the Premises;
  - (e) the Valuer appointed pursuant to paragraph (d) shall be deemed to be acting as an expert whose decision shall be final and binding on both the Lessor and the Lessee. Prior to determining the Current Market Rent of the Premises the Valuer shall afford each of the Lessor and the Lessee a reasonable opportunity to make a written submission. Any failure by either party to make such a submission shall not delay the Valuer's determination or otherwise affect any determination made. Upon completion of his determination the Valuer shall provide to the Lessor and the Lessee written reasons for his determination in which (without limitation) the Valuer shall specify the matters taken into account by the Valuer in reaching his determination and the weight given by the Valuer to each such matter. The cost of the Valuer's determination shall be borne by the Lessee unless the Current Market Rent so determined is less than the Lessor's Proposed Rent in which case those costs are to be borne equally by the Lessor and the Lessee.
- (2) Until the Rent from a Market Rent Review Date is agreed or determined the Lessee shall pay to the Lessor a rent equivalent to the Lessor's Proposed Rent. If the Rent agreed or determined from a Market Rent Review Date is less than the Lessor's Proposed Rent, then the difference between the Rent paid in respect of the period from the Market Rent Review Date to the date of such agreement or determination and the Rent which should have been paid for such period shall be applied by the Lessor against the moneys which next become due and payable by the Lessee to the Lessor pursuant to this Lease. If the annual rent agreed or determined from a Market Rent Review Date is more than the Lessor's Proposed Rent, then the difference between the rent paid in respect of the period from the Market Rent Review Date to the date of such agreement or determination and the Rent which should have been paid for such period, shall be paid by the Lessee to the Lessor on demand together with interest at the Rate of Interest calculated on a daily basis from the date on which each portion of such difference would have been payable if the Rent had been agreed or determined on the Market Rent Review Date until the date on which the same is paid.



- (3) Notwithstanding the failure by the Lessor for any reason to give the notice referred to in paragraph (c) of subclause (1) within the time specified in that paragraph, the right to give the notice and the effect of the notice shall remain in full force and effect as if it had been given within the specified time.
- (4) The Rent following the Market Rent Review Date shall never be less than the Rent immediately preceding the Market Rent Review Date.

## **2.5 CPI Rent Review**

On each CPI Rent Review Date the Rent shall be increased by a factor equal to the percentage increase in the Consumer Price Index between the Consumer Price Index published for the quarter immediately preceding the relevant CPI Rent Review Date and the Consumer Price Index published for the quarter ending immediately prior to the preceding CPI Rent Review Date and in the case of the first CPI Rent Review Date the quarter ending immediately prior to the Commencement Date and in no case will the Rent be less than that payable prior to the relevant CPI Rent Review Date.

## **3. LESSEE'S OBLIGATIONS**

### **3.1 Rates and Taxes**

- (1) The Lessee shall punctually pay all rates, assessments, levies or taxes levied or assessed or to be levied or assessed by the Commonwealth, the State, the local government, any water supply authority, any sewerage authority or by any other authority whether statutory, governmental, or otherwise which:
  - (a) are at any time during the Term or any holding over to any extent charged on the Premises or on the Lessor in respect of the Premises or both; or
  - (b) arise out of or by reason of the method or kind of business carried on by the Lessee.
- (2) If any rates, assessments, levies or taxes referred to in subclause (1) are not levied or assessed in respect of the Premises, then the Lessee shall pay to the Lessor on demand a proportion of them, being the proportion that the area of the Premises bears to the area of the property the subject of the assessment or levy, as specified by the Lessor.

### **3.2 Services**

The Lessee shall punctually pay for all water, gas, electricity, telephone and other utility services which are either provided to or used on the Premises.

### **3.3 Maintenance**

- (1) The Lessee shall keep and maintain every part of the Premises and all lighting and electrical installations and all drainage, sewerage and septic systems and all other fixtures and fittings in good and substantial repair, order and condition.
- (2) The Lessee need not carry out repairs of a structural nature.
- (3) (a) Without derogating from the Lessee's obligation under subclause (1), the Lessee agrees, within 7 days after receipt of a property condition report from the Lessor, to sign and return the report noting any variations.

- (b) The property condition report when signed by the parties shall be taken to be a true and correct description of the Premises as at the date of the report.
- (c) If the Lessee fails to sign the property inspection report, noting any variations, and to return it to the Lessor within 7 days after receipt, then the property inspection report provided by the Lessor shall be taken to be a true and correct description of the Premises as at the date of the report.

### **3.4 Cleaning**

The Lessee shall keep and maintain the Premises well cleansed and drained in good sanitary condition and properly disinfected, free from rubbish, refuse and disused material of any kind and the Lessee shall observe, perform, discharge, execute and take such sanitary measures and precautions and subject to clause 3.21, construct such works and make such amendments, alterations and additions to the Premises at any time as shall during the term be required by or under any written law.

### **3.5 Make good damage**

At the Lessee's own expense from time to time the Lessee shall make good any breakage, defect or damage to the Premises or any adjoining premises or facilities or any other property caused by want of care misuse or abuse on the part of the Lessee or the Lessee's employees agents contractors invitees licensees sub-tenants or other persons claiming through or under the Lessee or otherwise occasioned by any breach or default of the Lessee under this Lease.

### **3.6 Repainting**

Without limiting the generality of clause 3.3, as often as is necessary in the reasonable opinion of the Lessor at the Lessee's own expense the Lessee shall paint, colour, varnish and paper to the reasonable satisfaction of the Lessor all such parts of the Premises as have been previously painted coloured varnished or papered.

### **3.7 Entry by Lessor to view and to repair**

- (1) The Lessee shall permit the Lessor, the Lessor's architects, agents and contractors at all reasonable times to enter into and upon the Premises in order to view and examine the state of repair, order and condition and to leave upon the Premises notice of any lack of repair, order, condition, neglect or defect for which the Lessee is liable and requiring the Lessee to make good the same within the time specified in the notice and the Lessee shall make good the same in accordance with the notice to the satisfaction of the Lessor.
- (2) The Lessee shall permit the Lessor, the Lessor's agents and contractors at all reasonable times and, in the case of emergency, at any time to enter into and remain upon the Premises with all necessary plant, equipment and materials to carry out any works or make any repairs or alterations or additions to the Premises.

### **3.8 Abatement of nuisances**

- (1) The Lessee shall not do or omit to do any act matter or thing which may be or be deemed to be a nuisance within the meaning of the Health Act or any other Act or under any planning scheme, local law or regulation applicable to the Premises or the use or occupation of the Premises by the Lessee and the Lessee will immediately abate any such nuisance or alleged nuisance.
- (2) The Lessee shall ensure that the Premises are not used in any manner which may be or become a nuisance, disturbance or annoyance to the quiet and comfort of any occupier of any premises in the vicinity of the Premises and on being required to do so by the Lessor or any employee or agent of the Lessor the Lessee shall immediately abate the nuisance, disturbance or annoyance.

### **3.9 Pests**

The Lessee shall keep the Premises free of ants, termites, rodents, pests and vermin.

### **3.10 No living in premises**

The Lessee shall not use or permit the use of any part of the Premises for living or sleeping or for any unlawful purpose.

### **3.11 Defacing**

The Lessee shall not mark, paint, drill, write on or in any way deface any wall, ceiling, floor, wood, stone or ironwork of the Premises unless permitted by this Lease.

### **3.12 Rubbish**

The Lessee shall not permit any rubbish or garbage to accumulate on the Premises unless confined in suitable containers which are located so as not to be visible to members of the public.

### **3.13 Disorderly behaviour**

The Lessee shall prevent disorderly behaviour and indecent language at the Premises.

### **3.14 Compliance with written laws**

The Lessee shall comply with, carry out and perform the requirements of the Local Government Act, the Health Act and any other Act, ordinance, town planning scheme, local law, regulation or written law or of any notice, requisition or order under a written law applicable to the Premises or the use or occupation of the Premises.

### **3.15 Permitted purpose and operation of lessee's affairs**

- (1) The Lessee shall use the Premises only for the purpose specified in Item 1.7 of Schedule 1 or for any other purpose first approved in writing by the Lessor.
- (2) The Lessee shall at all times conduct its affairs for the purpose specified in Item 1.7 of Schedule 1 in a first class businesslike and reputable manner and with due diligence and efficiency.

### **3.16 Insurances**

The Lessee shall, at the Lessee's expense, effect and keep current, with an insurance company approved by the Lessor the following insurances in relation to the Premises:

#### **(a) Public risk**

A policy covering public risk which will:

- (i) be in the name of the Lessee, the Lessor, the Lessor's agent, managers, employees, representatives and contractors and provide for a minimum cover of ten million dollars (\$10,000,000.00) for each accident, claim or event or such higher amount as the Lessor specifies; and
- (ii) extend to cover any liability for the death of, or injury to, any person or damage to any person's property sustained when such person is using or entering or near any entrance, passage, stairway, display or display window to into or of the Premises, or sustains the injury or damage as a result of an act or omission of the Lessee, its agent, licensee, employee or representative operating a business on or from the Premises, or sustains the injury or damage as a result of consuming food or drink supplied on or from the Premises or as a result of goods sold on or from the Premises; and
- (iii) require the insurance company and the Lessee to give the Lessor at least 30 days written notice before either cancellation of the policy or a reduction in its level or extent of cover; and
- (iv) contain a clause which provides that any claims made by any of the insured parties against any other will be treated as though the claimant were not an insured party and in such instances provide that the insurance company waives its right of subrogation; and
- (v) provide cover which is primary and not contributory with any policies effected by the Lessor or the Lessor's managers, agents, employees, representatives or contractors;

#### **(b) Glass**

a policy in the name of the Lessee and the Lessor covering the breakage of any glass on the Premises including any plate glass. The Lessee agrees that all money received under the insurance policy will be expended in reinstating the damaged glass. If such money is insufficient to meet the cost of the reinstatement the Lessee shall reinstate the damaged glass at its own expense to the Lessor's satisfaction;

#### **(c) Fittings and chattels**

a policy covering the Lessee's fittings, fixtures and chattels contained in or about the Premises for its full insurable value against loss or damage resulting from fire and extraneous risks including but not limited to water, storm and rainwater damage.

### **3.17 Evidence of insurance cover**

- (1) Before taking possession of the Premises, the Lessee shall deliver the insurance policies required under this Lease to the Lessor.

- (2) The Lessee shall give satisfactory evidence to the Lessor that the policies have been renewed within 7 days after the expiration of each policy term.

### **3.18 Not to void insurances**

The Lessee shall not at any time do or allow anything which may either render the insurances on the Premises or any part of it void or voidable.

### **3.19 Compliance with insurance regulations**

- (1) The Lessee shall comply with insurance, sprinkler and fire alarm regulations as they relate to the use of the Premises.
- (2) The Lessee shall pay to the Lessor the cost of any alterations to any sprinkler or fire alarm installation which may become necessary by reason of the non-compliance by the Lessee with the regulations of the Insurance Council of Australia or the requirements of the Lessor's insurer or both of them.
- (3) The Lessee shall pay to the Lessor on demand the Lessor's costs of carrying out:
  - (a) any testing and servicing of fire equipment and systems and of electrical equipment which may be required by law or recommended by any relevant authority; and
  - (b) any alteration to any fire equipment and systems which may become necessary by reason of non-compliance by the Lessee with the requirements of any insurer, relevant authority or local government.

### **3.20 Indemnity**

The Lessee shall indemnify the Lessor and keep the Lessor indemnified from and against all claims, demands, writs, summonses, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature whatsoever which the Lessor may suffer or incur in connection with loss of life, personal injury or damage to property arising from or out of any occurrence in upon or at the Premises or the use by the Lessee of the Premises or to any person or the property of any person using or entering or near any entrance to the Premises or occasioned (wheresoever it may occur) wholly or in part by any act, neglect, default or omission by the Lessee its agents, contractors, servants, workmen, customers, members or any other person or persons using or upon the Premises with its consent or approval expressed or implied.

### **3.21 Alterations and improvements**

The Lessee shall not, without the prior written consent of the Lessor, make or permit to be made any alteration in or additions to the Premises or remove from the Premises any improvement and the Lessee shall not cut maim or injure or suffer to be cut maimed or injured any of the walls, floors, ceilings, plumbing, gas or electrical fixture or fittings or timbers.

### **3.22 Notice of defects**

The Lessee shall give to the Lessor immediate notice in writing of any damage to or defect in the Premises or the water or sewerage pipes, gas pipes, electrical light fixtures or any plant fittings or equipment in the Premises.

### **3.23 Sale of alcohol**

The Lessee shall not sell or permit the sale of any alcohol or alcoholic beverage on the Premises except with the prior consent of the Lessor and in accordance with a licence under the Liquor Licensing Act 1988.

### **3.24 Assignment or subletting**

- (1) The Lessee shall not assign, sublet or part with the possession of the Premises and the Lease without the prior written consent of the Lessor.
- (2) Sections 80 and 82 of the Property Law Act 1969 (*Attachments 1 & 2*) are hereby expressly excluded.
- (3) Where the Land is Crown land, the prior written consent of the Minister for Lands is required under subclause (1) in addition to the consent of the Lessor.
- (4) The Lessee shall not mortgage, encumber or charge the Premises or the Lease.

### **3.25 Signs**

The Lessee shall not, without the prior written consent of the Lessor, affix or exhibit or permit to be affixed to or exhibited upon any part of the exterior of the Premises or in any place visible from outside the Premises any placard, sign, notice, poster, hoarding or advertisement.

### **3.26 Legal costs**

- (1) The Lessee shall pay to the Lessor on demand the costs (on a full indemnity basis) of and incidental to the negotiations and instructions for and the preparation, completion and stamping of this Lease (including stamp duty) and all copies of this Lease.
- (2) The Lessee shall pay to the Lessor on demand all costs, charges and expenses (including solicitors' costs and surveyors' fees) incurred by the Lessor for the purpose of or incidental to the preparation and service of any notice under section 81 (*Attachment 3*) or any other section of the Property Law Act 1969 requiring the Lessee to remedy a breach of a provision of this Lease.

### **3.27 Lessee to make good**

- (1) At the expiration or sooner determination of this Lease:
  - (a) the Lessee shall yield up the Premises to the Lessor in the condition required by this Lease; and
  - (b) the Lessee shall remove from the Premises all fixtures, fittings and chattels brought onto the Premises by or for the use of the Lessee except for any structural improvements and any fixtures, fittings and chattels provided for the use of the Lessee and which the Lessor determines should remain in the Premises. The Lessee shall not do or allow any damage to the Premises in such removal. If however any damage occurs the Lessee will immediately make it good; and
  - (c) the Lessee shall remove any lettering, signs, names, advertisements and notices erected, painted, displayed or affixed onto or within the Premises

and make good any damage caused by reason of such erection, painting, displaying, affixing or removal. If the Lessee defaults under this clause the Lessor may remove and make good at the Lessee's expense.

- (2) If the Lessee fails to remove its fixtures, fittings and chattels the Lessor may at its option do either or both of the following:
  - (a) remove and store any of them in such a manner as the Lessor determines at the cost of the Lessee; and
  - (b) treat them as if the Lessee had abandoned its interest in them and they had become the property of the Lessor may then deal with them in such manner as the Lessor determines. If the Lessor sells them it need not account to the Lessee for the proceeds of sale but may apply the proceeds of sale as it see fit.

### **3.28 No registration or caveat**

- (1) Neither the Lessee nor any agent or other person on behalf of the Lessee shall without the prior consent in writing of the Lessor register this Lease nor lodge any absolute caveat in respect of the Premises to protect the interests of the Lessee under this Lease.
- (2) In the event of this Lease or any such caveat being registered or lodged the Lessee, in consideration of the Lessor having granted this Lease to the Lessee, hereby irrevocably appoints the Lessor and each and every one of the officers or agents of the Lessor jointly and severally for the Term and for a period of 6 months after the Term the agent and attorney of the Lessee to surrender or withdraw any such lease or caveat the cost of which shall be borne and paid by the Lessee.

### **3.29 Interest on arrears**

The Lessee shall pay to the Lessor on demand interest at the Rate of Interest plus 2% on all moneys owing by the Lessee but unpaid in breach of the provisions of this Lease for more than 14 days from and including the due date for payment such interest to be calculated on a daily basis on the total of the moneys owing from time to time and computed from and including the due date for payment until the date of actual payment.

### **3.30 GST**

Each payment made by the Lessee under this Lease must be made with an additional payment in respect of any GST or similar tax applying to that payment where the Lessee is registered for GST.

### **3.31 Lessee's office holders**

Where the Lessee is an incorporated association or a body corporate, the Lessee shall deliver to the Lessor, as often as is required, a current list of the names and addresses of the office holders of the Lessee.

### **3.32 Vandalism**

The Lessee shall immediately report to the Lessor any acts of vandalism or any incident which occurs on or adjacent to the Premises which is, or is likely to involve, a breach of the peace or become the subject of a report to the police.

### **3.33 Storage of dangerous materials**

The Lessee shall not store or keep on the Premises any inflammable liquids, acetylene gas, dangerous chemicals or volatile or explosive oils, compounds or substances.

### **3.34 Ownership of improvements**

The Lessee acknowledges and agrees that any building or improvement constructed or erected on the Premises by the Lessee is or shall become the property of the Lessor upon completion of the building or improvement and shall form part of the Premises for the purposes of this Lease and the Lessee shall have no claim for compensation in respect thereof.

### **3.35 Special conditions**

The Lessee shall observe and perform the special conditions set out in Schedule 2.

## **4. QUIET POSSESSION**

If the Lessee pays the rent and performs its covenants contained in this Lease it will peaceably possess and enjoy the Premises for the Term without any interruption from the Lessor or any person lawfully claiming through, from or under it, subject always to the rights, powers, remedies and reservations of the Lessor contained in this Lease.

## **5. MUTUAL AGREEMENTS**

### **5.1 Default**

If:

- (a) the Rent or any part of it is in arrears for 14 days even if it has not been formally demanded;
- (b) the Lessee breaches or does not comply with any provision whether expressed or implied in this Lease;
- (c) repairs required by any notice given by the Lessor under this Lease are not completed within the time specified in the notice;
- (d) the Lessee defaults in the payment of any moneys owing to the Lessor other than rent whether under this Lease or any other account after 14 days written demand for payment has been made by the Lessor on the Lessee;
- (e) the Lessee is a corporation and an order is made or a resolution is passed for the winding up of the Lessee except for the purpose of reconstruction or amalgamation with the written consent of the Lessor which consent will not unreasonably be withheld;
- (f) the Lessee is a corporation and ceases or threatens to cease to carry on business or goes into liquidation whether voluntary or otherwise or is wound up or if a liquidator or receiver (in both cases whether provisional or otherwise) is appointed;
- (g) the Lessee is a corporation and is placed under official management or an administrator is appointed under or pursuant to the provisions of the



relevant Corporations Law or enters into a composition or scheme of arrangement;

- (h) the interest of the Lessee under this Lease is taken in execution;
- (i) the Lessee or any person claiming through the Lessee conducts any business from the Premises after the Lessee has committed an act of bankruptcy;
- (j) the Lessee abandons or vacates the Premises; or
- (k) the Lessee being an incorporated association:
  - (i) is wound up or resolves to be dissolved or wound up voluntarily;
  - (ii) without the prior written consent of the Lessor, changes its name, objects or constitution;
  - (iii) is convicted of an offence under the Associations Incorporations Act 1987,

then the Lessor may in addition to its other powers either:

- (i) re enter on the Premises or any part of them with force if necessary and eject the Lessee and all other persons from and repossess the Premises; or
- (ii) by notice in writing to the Lessee determine this Lease,

or both.

## **5.2 Lessor's powers**

If the Lessor exercises its powers under clause 5.1, this Lease will terminate but the Lessee will not be released from liability for any breach of or non-compliance with any provision of this Lease and the remedies available to the Lessor for recovery of arrears of rent or for prior breach or non-compliance will not be affected. On such determination if the Lessee fails to remove its fixtures, fittings and chattels the Lessor may at its option take action in accordance with section 3.27 (2) of this lease agreement.

## **5.3 Destruction of the Premises**

- (1) Where the Premises or any part of the Premises are at any time damaged or destroyed by fire, flood, lightning, storm or tempest so as to make them unfit for the occupation and use of the Lessee, then the Rent or a proportionate part of the Rent, according to the nature and extent of the damage sustained will abate and all remedies for recovery of the Rent or such proportionate part of the Rent will be suspended until the Premises are rebuilt or made fit for the occupation and use of the Lessee.
- (2) If the Lessor does not rebuild the Premises or make them fit for the use and occupation of the Lessee within a reasonable time then either party may terminate this Lease by one month's notice in writing to the other without right or claim for damage by reason of such termination of the Lease but without prejudice to the rights of either party for any prior breach of or failure to comply with a provision of this Lease.

- (3) Nothing in this Lease will impose on the Lessor any obligation to rebuild the Premises or to make the Premises fit for the use and occupation of the Lessee.

#### **5.4 Entry by Lessor**

If the Lessee fails to duly and punctually observe or perform any provision of this Lease the Lessor shall be entitled to carry out the observance or performance of the provision and for that purpose the Lessor or the Lessor's architects, servants agent or workmen may if necessary enter the Premises and the cost and expense incurred in the observance or performance together with interest thereon at a rate of 2% per annum greater than the Rate of Interest shall be a debt due by the Lessee to the Lessor and shall be payable on demand and may be recovered by the Lessor in the same manner as if such debt were for rent due under this Lease in arrears by action in law and such cost expense and interest shall be a charge on the term.

#### **5.5 Works by Lessor**

- (1) The Lessor may by itself or its agents at all reasonable times enter the Premises or any part of the Premises for any one or more of the following purposes:
- (a) complying with the terms of any legislation affecting the Premises and any notices served on the Lessor or Lessee by any statutory, licensing, municipal or other competent authority;
  - (b) carrying out any repairs, alterations or works of a structural nature;
  - (c) installing any services such as air-conditioning apparatus, automatic fire sprinklers, gas pipes, water pipes, drainage pipes, cables or electrical wiring;
  - (d) making any repairs which the Lessor may think necessary to the Premises;
  - (e) making any improvements or alterations to the adjoining Premises which the Lessor may consider necessary;
  - (f) taking inventories of fixtures;
  - (g) exercising the powers and authorities of the Lessor under this Lease.
- (2) In carrying out the works referred to in this clause the Lessor will not cause unnecessary interference with the use of the Premises by the Lessee.

#### **5.6 Holding over**

If the Lessee shall hold over the Premises upon the expiry of the Term then a tenancy from year to year shall not be presumed but the tenancy shall in that event be and continue to be a tenancy from week to week at the rental then payable but otherwise upon the terms and conditions contained in this Lease insofar as they are applicable and shall be determinable at the expiration of one week's notice by either party to the other at any time.

#### **5.7 No waiver**

- (1) No waiver (whether express or implied) by the Lessor of any breach of any

covenant, obligation or provision contained or implied in this Lease will operate as a waiver of any other breach of the same or any other covenant, obligation or provision contained or implied in this Lease nor shall it operate as a waiver of the essentiality of any obligation which by virtue of this Lease is an essential term of this Lease.

- (2) In particular, any demand by the Lessor for, or any acceptance by the Lessor of, rent or other moneys payable under this Lease will not constitute a waiver by the Lessor of any breach of any provision in this Lease and will not create any new tenancy between the parties.
- (3) No custom or practice which has grown up between the parties in the course of administering this Lease will be construed so as to waive or lessen the right of the Lessor to insist on the performance by the Lessee of all or any of the Lessee's obligations under this Lease.

#### **5.8 No warranty**

- (1) This document embodies the whole transaction of leasing made by this Lease and all warranties, conditions and representations collateral or otherwise concerning the leasing whether written, oral, express or implied and whether consistent with this document or not are cancelled.
- (2) This Lease may be amended only by instruments in writing executed by the Lessor and the Lessee.
- (3) The Lessee acknowledges that it has entered into this Lease without relying on any representation or warranty by the Lessor except as stated in this clause and after satisfying itself as to the suitability of the Premises for the purpose of which the Premises are leased.

#### **5.9 Lessor's right to install services**

The Lessor reserves to itself and to its employees agents and contractors the right to enter upon the Premises at all reasonable times with all necessary materials and appliances to erect make excavate lay or install in on over or under the Premises any posts drains pipes conduits cables wires or other things requisite for any existing or future service to the Premises together with the like right to enter upon the Premises for the purpose of inspecting removing maintaining altering or adding to any such things relation to an existing service to the Premises and, in each such case the Lessor shall cause as little inconvenience and damage to the Lessee as is practicable in the circumstances.

#### **5.10 Execution of works by Lessor**

If the Lessor desires or is required to:

- (a) execute any works which by law the Lessor is bound and has been required to execute on the Premises or the Building; or
- (b) build any further storeys upon the Building; or
- (c) alter repair add to or re-build any part of the Premises or the Building; or
- (d) construct erect lay down alter repair cleanse or maintain any drain ventilator shaft water pipe electric wires or gas pipes in connection with or for the accommodation of the Building or any adjoining property; or

- (e) underpin; or
- (f) reinstate or re-build in case of fire,

then and in any such case the Lessor may with or without employees agents workmen and contractors and appliances enter upon the Premises and carry out such works doing as little damage to the Premises as is reasonably possible and restoring them without unreasonable delay but without making compensation for any damage or inconvenience to the Lessee provided that in each case the Lessor shall cause as little inconvenience and damage to the Lessee as is practicable in the circumstances.

#### **5.11 Notices**

- (1) Any notice or demand from the Lessor to the Lessee is to be taken to be duly served if left for the Lessee on the Premises, if mailed by prepaid letter addressed to the Lessee at the address set in this Lease or if sent by facsimile machine to the Lessee's facsimile machine.
- (2) Any notice or demand from the Lessee to the Lessor is to be taken to be duly served if mailed by prepaid letter addressed to the Lessor at its office.
- (3) A notice or demand posted mailed is to be taken to be duly served at the expiration of 48 hours after the time of posting mailing and any notice given by one party to the other may be signed on behalf of the party giving it by a director, secretary, chief executive officer or solicitor.

#### **5.12 Approvals and consents**

Except as expressly stated to the contrary in this Lease, the Lessor may, whenever its approval or consent is required under this Lease, give it conditionally or unconditionally or withhold it.

### **6. ESSENTIAL TERMS**

The Lessee and the Lessor agree that each of clauses 2.3, 3.1, 3.2, 3.3, 3.15, 3.16 and 3.24 are essential terms of this Lease, and any breach or failure by the Lessee to comply with any of those clauses will entitle the Lessor to all rights and remedies available to it in respect of breach of or failure to comply with an essential term.

### **7. GUARANTEE**

- (1) This Lease is granted to the Lessee at the request of the Guarantor and for such consideration the Guarantor hereby covenants and agrees with the Lessor as follows:
  - (a) the Guarantor hereby guarantees to the Lessor the due observance and performance by the Lessee of each and all of the covenants contained in this Lease;
  - (b) the Guarantor hereby indemnifies the Lessor and covenants and agrees at all times hereafter to keep the Lessor indemnified from and against all damages and all costs, losses and expenses which the Lessor may suffer or incur as a result either directly or indirectly of any breach or non-observance by the Lessee of any covenant or provision in this Lease expressed or implied and on the part of the Lessee to be observed and performed and the Guarantor agrees that this indemnity shall continue and the Guarantor shall remain liable to the Lessor under this indemnity notwithstanding that as a

consequence of such breach or non-observance the Lessor has exercised any of its rights hereunder and notwithstanding that the Lessee (being a corporation) may be wound up or (being a natural person) may be declared bankrupt and notwithstanding that the guarantee hereby given may for any reason whatsoever be unenforceable either in whole or in part.

- (2) The Guarantor shall be responsible for the payment to the Lessor on demand of all costs, charges and expenses which the Lessor may be entitled to recover by reason of any default of the Lessee.
- (3) The liability of the Guarantor shall not be released, prejudiced or abrogated by the granting of time or other indulgence or concession to the Lessee or by any variation of the provisions of this Lease or by any release, abandonment, waiver or modification of any rights or obligations as between the Lessor and the Lessee or by any act or omission of the Lessor whereby but for this provision the Guarantor would or may have been so released it being intended that the obligation and liability of the Guarantor shall be a continuing liability absolute and unconditional in all circumstances.
- (4) If for any reason and whether by statute or otherwise any payment made by the Guarantor to the Lessor under the provisions of this Lease is avoided then irrespective of whether such avoidance operates from the date of such payment or from any later date the liability of the Guarantor shall remain as if no such payment had been made.
- (5) The guarantee and indemnity hereby given are to continue and are to remain in full force and effect until the due performance, observance and fulfillment by the Lessee of all the covenants and provisions in the Lease expressed or implied and on the part of the Lessee to be observed and performed.
- (6) Where 2 or more parties are named as Guarantor those parties are bound jointly and severally.

## **8. GST**

- (1) If GST is imposed or levied in respect of any supply by a party under or in accordance with this Lease (including the supply of the Premises or the supply of any goods, services, rights, benefits or other things) then the party making the supply may recover the GST Amount from the party receiving the supply in addition to the Consideration. The party making the supply shall provide such invoices to the party receiving the supply as are required pursuant to the GST Legislation.
- (2) In sub-clause (1):

“Consideration” means any amount or consideration payable or to be provided pursuant to any provision of this Lease other than this clause;

“GST” means any form of goods and services tax or similar value added tax;

“GST Amount” means the Consideration (after deducting the GST Exempt Component) multiplied by the Rate;

“GST Exempt Component” means any part of the Consideration which solely relates to a supply that is free or exempt from the imposition of GST;

“GST Legislation” means A New Tax System (Goods and Services Tax) Act 1999 and any other legislation or regulation which imposes, levies, implements or varies a GST or any applicable rulings issued by the Commissioner of Taxation;

“Rate” means the rate at which GST Legislation from time to time imposes or levies GST on the relevant supply under this Lease;

“supply” includes supply as defined under GST Legislation.

## **SCHEDULE 1**

**Item 1.1 Lessee's Name and Address:**

**Item 1.2 Land:**

**Premises:**

**Lessor's Interest:**

**Item 1.3 Term:**

**Commencement Date:**

**Expiry Date:**

**Item 1.4 Annual rent payable on the  
Commencement Date:**

**Item 1.5 Manner of payment of rent:**

**Item 1.6 CPI Rent Review Dates:**

**Market Rent Review Dates:**

**Item 1.7 Permitted Purpose:**

**Item 1.8 Guarantor's Names and  
Addresses:**

**SCHEDULE 2**  
**SPECIAL CONDITIONS**

**2.1 Use by community associations and others**

- (1) The Lessee shall permit community, charitable and recreational associations and bodies and such other associations, bodies or persons as the Lessor may approve, to use the Premises at all times when the Premises are not required by the Lessee, and the Lessee shall not charge any fee for such use in excess of the fees fixed by the Lessor from time to time.
- (2) The Lessee shall take bookings by all associations, bodies and persons permitted to use the Premises pursuant to sub-Item (1) and shall enter all such bookings in a register kept for the purpose together with details of the name of the association, body or person, the hours during which the Premises were used by the association, body or person, the fees paid to the Lessee and such other details as the Lessor may require.
- (3) The Lessee shall keep the register referred to in sub-Item (2) available for the Lessor to view at the Premises or forthwith upon request by the Lessor shall provide the Lessor with the register for viewing by the Lessor.



**EXECUTED by the parties**

**THE COMMON SEAL** of **SHIRE OF NANNUP** was )  
hereunto affixed pursuant to a resolution of the Council )  
in the presence of: )

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

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

**THE COMMON SEAL** of )  
hereunto affixed by authority of the )  
presence of: )  
was )  
in the )  
)  
)

\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Office held

\_\_\_\_\_  
Office held

\_\_\_\_\_  
Name of authorised person  
(block letters)

\_\_\_\_\_  
Name of authorised person  
(block letters)

**SIGNED** by )  
in the presence of: )  
)

Witness:

Address:

Occupation:

**PROPERTY LAW ACT 1969 – SECT 80**

**80 .      Consent to assign or sublet not to be unreasonably withheld**

(1)      In every lease containing a covenant, condition or agreement against assigning, underletting or parting with the possession, or disposing of the land or property leased without licence or consent, that covenant, condition or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a condition to the effect that the consent shall not be unreasonably withheld and that no fine or sum of money in the nature of a fine shall be payable for or in respect of the licence or consent, but the last mentioned condition does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to the licence or consent.

(2)      In any instrument executed before or after the coming into operation of this Act a reference to section 4 of the *Landlord and Tenant Act 1912* <sup>5</sup> shall be read and construed as a reference to this section.

**PROPERTY LAW ACT 1969 – SECT 80**

**82 .      Certain assignments not to be deemed a breach**

No assignment or underletting —

- (a)      by the official assignee of a bankrupt;
- (b)      by the liquidator of a company (except in the case of a member's voluntary winding up);
- (c)      by the sheriff or bailiff under an execution; or
- (d)      by a personal representative pursuant to a bequest in a will,

shall be deemed a breach of a covenant, condition or agreement against assigning, underletting, parting with possession or disposing of the land leased unless the contrary is expressly declared in the lease.