

Heritage Act 2018 (WA)

HERITAGE AGREEMENT

between

HERITAGE COUNCIL OF WESTERN AUSTRALIA

and



in respect of

WEARNE HOSTEL
(HCWA Place No. P603)

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HERITAGE AGREEMENT
WEARNE HOSTEL
40 MARINE PARADE, COTTESLOE

THIS AGREEMENT is made between the following parties:

1. **HERITAGE COUNCIL OF WESTERN AUSTRALIA** a body corporate established pursuant to the *Heritage Act 2018*, of Level 2, 491 Wellington Street, Perth, Western Australia, 6000 (the "**Council**"); and

2. [REDACTED]

RECITALS

- A. The Council's functions include the power to enter into Heritage Agreements for the purposes of Part 7 of the Act and implement those agreements when in operation.
- B. The Lessee leased the Land from the Registered Proprietor. The Lease expires on 12 January 2029 with the option to renew for another 25 years.
- C. The Place has been identified as being of cultural heritage significance, and was entered in the State Register of Heritage Places on 14 July 2000.
- D. The Place is located on the Land.
- E. The Council and the Lessee wish to enter this Agreement to provide for the conservation of the Place so as to retain its cultural heritage significance for present and future generations.
- F. The parties acknowledge that this Agreement is binding on all parties pursuant to the Act.

AGREEMENT:

The Parties agree with each other as follows:

1. DEFINITIONS AND CONSTRUCTION

1.1. DEFINITIONS

In this Agreement, unless the contrary intention appears:

"**Act**" means the *Heritage Act 2018 (WA)*;

"**Agreement**" means this Agreement as it may from time to time be varied as permitted by its terms;

"**Completion Date**" means –

- (a) in relation to Conservation Works, the date specified in Item 5 of the Schedule; and
- (b) in relation to the Interpretation Works, the date specified in Item 9 of the Schedule.

"**Conservation Plan**" means the Conservation Plan in respect of the Place described in Item 4 of the Schedule, as may from time to time be varied with the prior written approval of the Council;

"**Conservation Works**" means the works specified in Item 5 of the Schedule;

"**Damage**" means physical damage, losses, costs, damages, liabilities, expenses, actions, suits or claims of any kind;

“Development” means the physical works carried out on the Place or the Use of the Place or the Land, including:

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the Land;
- (b) the carrying out on the Land of any excavation or other works;
- (c) any act or thing that is likely to change the character of the Place or the external appearance of any building; and
- (d) any act or thing that would constitute an irreversible alteration of the Significant Fabric.

“Effective Date” means the date on which this Agreement is certified by the Minister pursuant to section 90(5) of the Act;

“Default Event” is defined in clause 5.1;

“Heritage Consultant” means any person who is a qualified professional in the relevant field with considerable experience in heritage conservation services of a similar nature and scope to the works required at the Place giving due regard to the Statement of Cultural Heritage Significance and the Conservation Plan;

“Inspector” means an inspector appointed by the Minister or a police officer performing the functions of such an inspector pursuant to Part 11 of the Act;

“Interpretation Plan” means the Interpretation Plan (if any) in respect of the Place described in Item 8 of the Schedule;

“Interpretation Works” means the works (if any) described in Item 9 of the Schedule;

“Land” means the land described in Item 1 of the Schedule;

“Lease” means the lease granted to the Lessee in respect to the Land;

“Lessee” means:

- (a) the lessee of the Land identified in Item 3 of the Schedule; and
- (b) the lessee of the Land from time to time;

“Maintenance” means the continuous protective care of the Place as specified in Item 7 of the Schedule;

“Minister” means the Minister responsible for the administration of the Act;

“Registered Proprietor” means the person or entity as shown on the Certificate of Title under the *Transfer of Land Act 1893*, which may be amended from time to time;

“Place” means the place described in Item 2 of the Schedule;

“Public Authority” has the same meaning as in the Act;

“Register” means the State Register of Heritage Places established pursuant to the Act;

“Registrar” means the Registrar of Titles or the Registrar of Deeds and Transfers, whichever of them is responsible for registering notification of Heritage Agreements under the Act.

“Significant Fabric” means any physical material of the Place including components, fixtures, contents and objects as specified in Item 6 of the Schedule; and

“Statement of Cultural Heritage Significance” means the statement of cultural heritage significance adopted in accordance with section 52 of the Act;

“Use” means the activities which are done in or on the Land but do not interfere with the actual physical characteristics of the Place.

1.2. CONSTRUCTION

In this Agreement, unless the contrary intention appears:

- (a) headings, underlining and numbering are for convenience only and do not affect the interpretation of Agreement;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include every gender;
- (d) an expression importing a natural person includes a company, partnership, joint venture, association corporation or other body corporate;
- (e) a reference to a thing includes a part of that thing but nothing shall mean that partial performance of an obligation equals full performance;
- (f) references to parts, clauses, schedule and parties are references to parts and clauses and schedule of, and parties to, this Agreement;
- (g) references to a party to this Agreement includes that party’s successors and permitted assigns and in the case of a natural person also includes that person’s personal representatives and administrators;
- (h) where the day on or by which a thing is required to be done is not a business day that thing must be done on or by the next business day;
- (i) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (j) a covenant or agreement by more than one person binds, and is enforceable against, those persons jointly and each of them severally;
- (k) no rule of construction applies to the disadvantage of a party on the basis that the party was responsible for drafting this Agreement or any part of it;
- (l) a reference to this Agreement or any other document or instrument includes the Agreement, document or instrument (as the case may be) as varied or replaced, notwithstanding any change in the identity of the parties;
- (m) a reference to the Lessee doing or refraining from doing anything includes a reference to the Lessee causing a person to do, or causing a person to refrain from doing, that thing (as the case may be);
- (n) a reference to any thing is a reference to the whole and each part of it; and
- (o) words and phrases having defined meanings in the Act, unless otherwise defined in this Agreement, have the meanings so defined in the Act.

2. COMMENCEMENT, DURATION AND SCOPE OF THIS AGREEMENT

2.1. COMMENCEMENT AND DURATION OF THIS AGREEMENT

- (a) This Agreement is made for the purposes of Part 7 of the Act and is conditional upon the Minister
 - (i) being satisfied that this Agreement is desirable for the purposes of, and complies with, the Act; and
 - (ii) certifying that fact upon each executed copy of this Agreement.

- (b) This Agreement commences on the Effective Date and will continue for the term of the Lease and any extensions to the term of the Lease agreed to between the Owner and the Lessee.
- (c) If the Council has given notice of this Agreement to the Registrar, and that notification has been registered under s 97 of the Act, then this Agreement is binding on and enforceable against all subsequent Lessees of the Place and a subsequent Lessee is subject to the obligations under this Agreement and the Act.
- (d) The Council intends to provide notice of this Agreement to the Registrar pursuant to section 97 of the Act.

2.2. SCOPE OF THIS AGREEMENT

- (a) This Agreement applies to the Place and binds the Lessee of the Place.
- (b) All of the obligations of the Lessee under this Agreement are made pursuant to Part 7 of the Act and are intended to run with the Land.
- (c) If the Lessee transfers its interest in the Place to another person then:
 - (i) the Lessee becomes an “**Outgoing Lessee**”; and
 - (ii) Subject to paragraph (iv), the Outgoing Lessee is released from its obligations under this Agreement from the date of registration of the transfer by the Registrar; and
 - (iii) the subsequent Lessee becomes the Lessee under this Agreement from the date of registration of the transfer by the Registrar; and
 - (iv) the Outgoing Lessee remains liable for any Default Event arising prior to the registration of the transfer.

3. DEVELOPMENT AND CONSERVATION

3.1. HERITAGE CONSULTANT

- (a) The Lessee must appoint a Heritage Consultant to provide technical advice and documentation to manage the Conservation Works, Interpretation Works (if any), and any Development of the Place or other action which requires the approval of the Council under clauses 3.3 and 3.4.
- (b) The Lessee must obtain the written approval of the Council to any appointment of a Heritage Consultant pursuant to clause 3.1(a).

3.2. CONSERVATION PLAN

The parties acknowledge that the Conservation Plan is the primary guiding document for the conservation and future Use of the Place and should be read in conjunction with this Agreement.

3.3. CONSERVATION WORKS

- (a) The Conservation Works must be consistent with the advice and documentation of the Heritage Consultant.
- (b) The Lessee must manage and carry out the Conservation Works by the Completion Date.
- (c) Prior to commencement of the Conservation Works, the Lessee must provide detailed specifications of the Conservation Works to the Heritage

Council for the approval of the Heritage Council, which will not be unreasonably withheld.

3.4. DEVELOPMENT

Unless approved in writing by the Council, the Lessee shall not:

- (a) carry out any Development including the Conservation Works and Interpretation Works (if any);
- (b) do or permit to be done anything on or in relation to the Place which adversely affects the cultural heritage significance or characteristics of the Place;
- (c) sub-divide or make application to sub-divide the Land; or
- (d) remove or demolish any Significant Fabric.

3.5. MAINTENANCE

The Lessee must ensure that:

- (a) the Significant Fabric, as restored and adapted with the approval of the Council, is kept in a proper, safe and sound standard of repair and condition, in accordance with Maintenance obligations specified at Item 7 of the Schedule; and
- (b) reasonable measures are taken to secure the Place against trespass, vandalism, vermin and pests during any period in which the place is to be unoccupied for at least 60 consecutive days.

3.6. REPORTING

- (a) All reports required in this clause shall be prepared on behalf of the Lessee by the Heritage Consultant appointed pursuant to clause 3.1.
- (b) The Lessee must ensure that a comprehensive written report describing the completed Conservation Works specified at Item 5 of the Schedule and Interpretation Works specified at Item 9 of the Schedule (if any) is provided to the Council within 30 days after the Completion Date.
- (c) The Lessee must ensure that a proper, detailed and comprehensive written report is provided to the Council within 60 days after receipt of a written request from either the Council for a report describing
 - (i) all Conservation Works, Maintenance, Development or Interpretation Works (if any) which the Lessee has undertaken pursuant to this agreement since the later of the Effective Date or the date of any previous report;
 - (ii) the condition of the Significant Fabric at the time of the report; and
 - (iii) any other matters regarding the conservation of the Place as specified in the written request;provided that no more than one such report shall be required within any 12-month period.
- (d) Subject to the requirements in section 126 of the Act, the Council may direct the Lessee or occupier of the Place to provide any information relating to the Place that the Council requires and the Lessee shall provide such information within 30 days of the direction.
- (e) The Lessee's failure to provide any report or information required under this Clause 3.6 shall constitute a Default Event.

3.7. INSURANCE

- (a) The Lessee must maintain and keep current with an insurer of good repute, an insurance policy for the amount specified in item 10 of the Schedule for any one claim and which policy includes, but is not limited to, coverage in respect of any loss, damage or destruction to the Place.
- (b) The Lessee:
 - (i) must give the Council a copy of the certificate of currency of the insurance policy referred to in clause 3.7(a) at the Effective Date; and
 - (ii) must submit evidence to the Council on each anniversary of the Effective Date, or as otherwise requested by the Council, which shows that the insurance policy referred to is still current.
- (c) The Lessee shall maintain all insurance required to be effected by it by law.
- (d) In the event of any loss, damage or destruction the Lessee shall, using monies recovered from its insurance policy and its own monies, fully and properly repair, replace or restore the destroyed or damaged Place.
- (e) If the parties fail to agree for 90 days from the date of damage or destruction, as to whether replacement, reinstatement or restoration of the Place is practical and feasible, the parties agree to submit to expert determination pursuant to clause 7 of this Agreement.

3.8. COMPLIANCE WITH STATUTES

- (a) The provisions of this Agreement are intended to be consistent with the Act and any other written laws and nothing in this Agreement limits or modifies the Council's powers under the Act.
- (b) Nothing in this Agreement removes, limits or modifies the obligations on the Lessee to comply with all relevant statutory and other requirements in connection with the Development, Conservation, Maintenance or Interpretation (if applicable) of the Place.
- (c) The Lessee must ascertain the need for and obtain all approvals, consents, licences and permits required for Development of the Land, Conservation or Maintenance of the Place, including planning approvals and building permits, from the relevant public authority as defined by the Act.

4. RIGHTS AND POWERS

4.1. RIGHTS OF ENTRY AND POWERS OF INSPECTION

- (a) The Council shall have the power to enter the Place with the consent of the occupier or a person apparently in charge of the Place.
- (b) Further, for investigation purposes including the exercise of the powers in Part 11 Division 2 of the Act, an Inspector may enter the Place
 - (i) with the consent of the occupier or a person apparently in charge of the Place; or
 - (ii) pursuant to an entry warrant.
- (c) The Lessee must do all things necessary to enable the Council or the Inspector, to exercise their rights of inspection as set out in clause 4.1(a) and 4.1(b), including without limitation, ensuring that reasonable access is provided to all parts of the Place and ensuring access to and use of any facility at the Place which is necessary to facilitate inspection.

- (d) Subject to the requirements set out in Part 11 of the Act, the Council or an Inspector may direct the Lessee, occupier or a person apparently in charge of the Place to provide any information relating to compliance with the Act or this Agreement.

5. DEFAULT

5.1. DEFAULT EVENTS

A Default Event occurs if:

- (a) the Lessee is in breach of, or does not comply with, any of its obligations under this Agreement or the Act and the breach or non-compliance continues for 30 days after receipt of written notice from the Council requiring rectification of the breach or non-compliance; or
- (b) the Lessee repudiates or commits a fundamental breach of this Agreement which for the avoidance of doubt includes the non-performance of any works required by the annexures to this Agreement.

5.2. RIGHTS AND REMEDIES

- (a) If a Default Event occurs, in addition to any penalties under the Act, the Council shall be entitled to exercise any one or more of the following powers:
- (i) enter the Place and take such actions as are in the Council's opinion necessary to rectify the Default Event (including attending to any construction or other works) at the Lessee's cost together with or separately from;
- (ii) any rights and remedies which may be available to the Council at law or in equity, including applying to the relevant court or tribunal for an order for specific performance, together with or separately from;
- (iii) the rights, powers and remedies available to the Council under the Act.
- (b) The Council may delegate any of its functions including the rights under 5.2(a) to any Public Authority or person.

5.3. COSTS

- (a) The Lessee shall on demand pay to the Council, all monies, costs, charges and expenses incurred or expended by the Council respectively by reason of a Default Event caused by the Lessee which includes the exercise or attempted exercise by the Council of the rights, powers and authorities of the Council under this Agreement and the Act.
- (b) If the Lessee becomes liable to pay any amount of money to the Council pursuant to this Agreement, including costs incurred in the rectification or a Default Event, the Lessee shall pay on demand to the Council, respectively, interest on that amount from the due date for payment but excluding the date of payment of repayment.
- (c) Any interest is to be paid under this clause is to be calculated daily, and is to be at 2% higher than the percentage rate payable on judgment debts pursuant to regulation 4 of *the Civil Judgements Enforcement Regulations 2005* (WA).

6. RISK AND INDEMNITY

6.1. LAND AND PLACE AT RISK OF LESSEE

The Land and the Place shall remain at the risk of the Lessee in all respects, notwithstanding any provisions in this Agreement dealing with the Development, Conservation Works, Interpretation Works or Maintenance of the Land or the Place. Without limitation, all Development, Conservation Works, Interpretation Works and Maintenance of the Land or the Place shall be conducted entirely at the risk of the Lessee.

6.2. RELEASE AND INDEMNITY

The Lessee releases and indemnifies and will keep released and indemnified, the Minister, the Crown, the Council from and against all actions, claims, writs, proceedings, suits, demands, losses, damages, compensation, costs of remediation, legal costs, charges and expenses whatsoever which at any time may be brought, maintained or made against the Minister, the Crown, the Council arising from or relating to the Development, Conservation Works, Interpretation Works, Maintenance or occupation of the Land or the Place by the Lessee or any person acting through, on behalf of, or under the direction of the Lessee.

7. DISPUTE RESOLUTION

7.1. EXPERT DETERMINATION

- (a) With:
- (i) the exception of disputes or applications envisaged by clause 7.1(g), and
 - (ii) notwithstanding section 101 of the Act which otherwise provides for resolution of disputes pertaining to heritage agreements,
- a party must not commence proceedings in any court or tribunal in respect of a dispute unless it has first complied with the provisions of paragraphs (b) to (e) below.
- (b) A party claiming that a dispute has arisen must provide written notice to the other party to that dispute, giving details of the dispute.
 - (c) For 30 days after receipt of notice given under 7(b) (or such longer period as may be agreed in writing by the parties to the dispute) each party to the dispute must act in good faith and use its best endeavours to resolve the dispute.
 - (d) If the parties to the dispute do not resolve the dispute between themselves under paragraph 7(c) within those 30 days, any one or more of them may notify the other party or parties to the dispute requiring the dispute to be submitted to an expert to be determined in accordance with the Resolution Institute Expert Determination Rules (**RI Rules**), subject to the modification of Rule 3(2) of the RI Rules with the result that the parties will not be bound by the determination of the expert if the subject matter of the dispute is otherwise capable of being referred to the State Administrative Tribunal under section 101 of the Act. Notwithstanding that any finding by an appointed expert may not be binding, the parties agree that due regard shall be given to the decision of the appointed expert if the dispute is pursued further in another forum.
 - (e) For the purposes of clause 7.1(d), if the parties cannot agree upon an expert, either party may request that an expert be nominated by the Chair of the Resolution Institute.

- (f) If either party is still unsatisfied with the determination of the appointed expert, it remains an option for such party to take make such application as may otherwise be authorised by section 101 of the Act to have the State Administrative Tribunal resolve the dispute, and for the purposes of the dispute, the Tribunal may have regard to the determination of the appointed expert.
- (g) Nothing in this clause 7 precludes a party from commencing court or other proceedings for the purposes of seeking urgent relief – including interlocutory injunctive relief or other enforcement orders envisaging short term compliance or action – in relation to any dispute or claim arising in connection with this Agreement or the Place.

8. GST

8.1. APPLICATION

For the avoidance of any doubt, this clause only applies to supplies under this Agreement including, but not limited to, any supply by way of reimbursement for rectification works under clause 5.2.

8.2. CONSTRUCTION

In this clause 8:

- (a) unless there is a contrary indication, words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law; and
- (b) GST Law means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

8.3. CONSIDERATION GST EXCLUSIVE

Unless otherwise indicated, all consideration, whether monetary or non-monetary, payable or to be provided under this Agreement is exclusive of GST (GST-exclusive consideration).

8.4. PAYMENT OF GST

If GST is payable on any supply made by:

- (a) a party; or
- (b) an entity that is taken under the GST Law to make the supply by reason of the capacity in which a party acts,

(**Supplier**) under this Agreement, the recipient of the supply, or the party providing the consideration for the supply, must pay to the Supplier an amount equal to the GST payable on the supply.

8.5. TIMING OF GST PAYMENT

The amount referred to in clause 8.4 must be paid in addition to and at the same time and in the same manner (without any set-off or deduction) as the GST-exclusive consideration for the supply.

8.6. TAX INVOICE

The Supplier must deliver a tax invoice or an adjustment note to the recipient of a taxable supply before the Supplier is entitled to payment of an amount under clause 8.4.

8.7. ADJUSTMENT EVENT

If an adjustment event arises in respect of a supply made by a Supplier under this Agreement, any amount that is payable under clause 8.4 will be calculated or recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

However, the Supplier is not required to make any payment to the recipient if, at the time the payment would otherwise be required, a time limit has expired or there is another limitation preventing the supplier from being entitled to claim, or from claiming a corresponding credit or refund in respect of that payment.

9. NOTICES

9.1. FORM OF NOTICES

Any notice, report or other communication which must be given, served or made under or in connection with this Agreement:

- (a) must be in writing in order to be valid;
- (b) is sufficient if executed by the Party or on such Party's behalf by any officer, director, attorney or solicitor having the authority to so act for such Party;
- (c) is sufficient, in the case of the Lessee's obligations under clause 3.6, if executed by the relevant consultant appointed pursuant to clause 3.5;
- (d) shall be deemed to have been duly served, given or made in relation to a person if it is delivered or posted by prepaid post to the address, or sent by facsimile or sent by email to the address of that person identified in clause 6.2 or at such other address or number as is notified in writing by that person to the other Parties from time to time; and
- (e) shall be deemed to be served, given or made:
 - (i) if delivered by hand, on delivery;
 - (ii) if sent by prepaid post, on the second day after the date of posting;
 - (iii) if sent by facsimile, on receipt of a transmission report confirming successful transmission; and
 - (iv) if sent by email, on receipt of confirmation of successful delivery.

9.2. ADDRESS FOR NOTICES

The details of each Party for the purposes of giving notice are as follows:

- (a) the Council:
 - Heritage Council of Western Australia
 - Locked Bag 2506
 - Perth WA 6001
 - Phone: (08) 6551 8002
 - Email: info@dplh.wa.gov.au.
 - ATTENTION: Director, Heritage Development
- (b) the Lessee as detailed at Item 3 of the Schedule or for any subsequent Lessee the address noted by the Registrar or as notified to the Council.

10. GENERAL

10.1. GOVERNING LAW

This Agreement is governed by the laws of the State of Western Australia and the parties submit to the jurisdiction of that State.

10.2. FURTHER ASSURANCES

Each party shall do all things and execute all further documents as are necessary to give full effect to this Agreement.

10.3. EXTENSION OF TIME

The Council acting at its discretion and by written notice to the Lessee, may extend any time period for performance by the Lessee of any of its obligations under this Agreement.

10.4. NO WAIVER

Any failure to enforce this Agreement or any forbearance, delay or indulgence granted by one party to the other party will not be construed as a waiver of any rights, privileges or immunities created under this Agreement.

10.5. SEVERABILITY

If a condition, covenant or stipulation of this Agreement or the application of them to a person or circumstances is, or becomes, invalid or unenforceable the remaining covenants, conditions and stipulations are not to be affected by the invalidity or enforceability, and each covenant, condition and stipulation of this Agreement will be valid and enforceable to the fullest extent permitted by law.

10.6. NO ASSIGNMENT

The Lessee must not assign its rights under this Agreement without the prior written consent of the Council, which consent may be withheld in the absolute discretion of the Council.

10.7. NO COUNTERPARTS

For the purposes of certification by the Minister and registration by the registrar, the parties agree this Agreement must not be executed by counterparts.

10.8. WAIVER

A provision of, or a right created under, this Agreement may not be waived except in writing signed by the party granting the waiver.

10.9. VARIATION TO BE IN WRITING

No variation of this Agreement (excluding extensions of time pursuant to clause 10.3) shall be effective unless and executed by all parties including being certified by the Minister.

10.10. SPECIAL CONDITIONS

The provisions of this Agreement shall be subject to the Special Conditions, if any, set out in item 11 of the Schedule.

SCHEDULE

ITEM	TERM	DEFINITION
1.	Land	Lot 555 on Deposited Plan 62538, being the whole of the land comprised in Certificate of Title Volume 2704 Folio 97.
2.	Place	<i>Wearne Hostel</i> (HCWA Place No. P603), located on 40 Marine Parade, Cottesloe, Western Australia, and consists of: (a) the Land; (b) all buildings, structures and works on the Land from time to time; and (c) any thing in connection with the Land, entered or deemed to be entered in the Register.
3.	Lessee	[REDACTED]
4.	Conservation Plan	Conservation Management Plan, Wearne Hostel, Cottesloe prepared by Griffiths Architects in August 2017.
5.	Conservation Works	The schedule of works described in Annexure A.
6.	Significant Fabric	Part 7.0 titled Graded Zones and Elements of Significance in the Conservation Plan dated August 2017.
7.	Maintenance	The schedule of maintenance activities described in Annexure B.
8.	Interpretation Plan	Not applicable.
9.	Interpretation Works	Not applicable.
10.	Insurance Amount	Full replacement value of the Place.
11.	Special Conditions	Not applicable.

EXECUTED AS A DEED

SIGNED for and on behalf of the)
HERITAGE COUNCIL OF WESTERN)
AUSTRALIA:)

JOHN ALEXANDER COWDELL
Full name, office held CHAIR HCWA

Signature *John Cowdell*

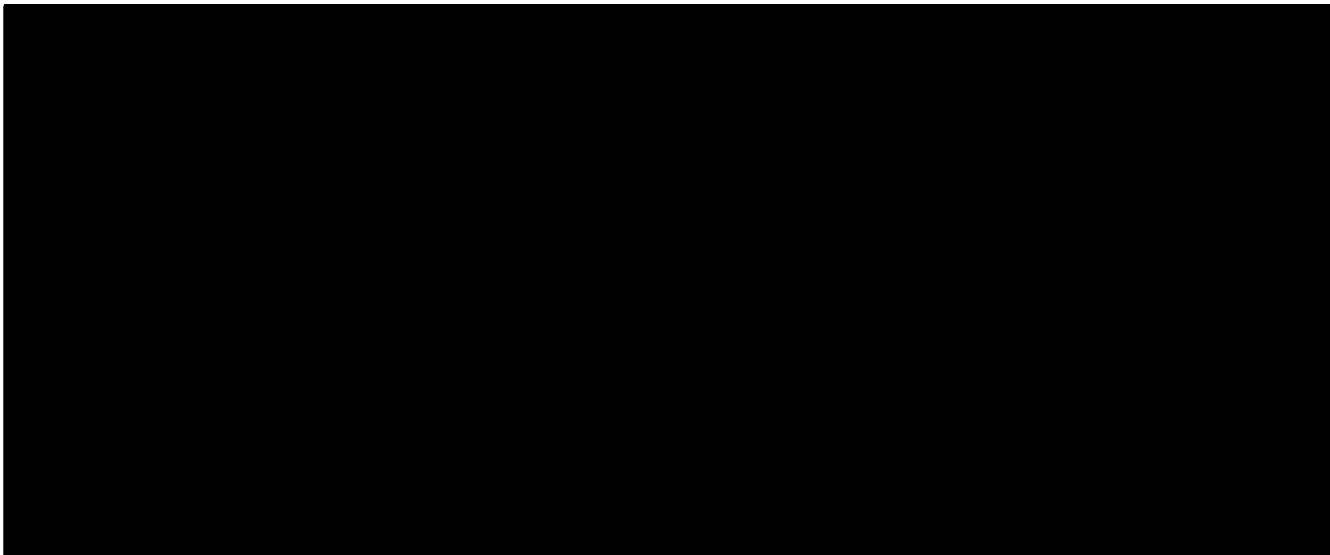
Vaughan Davies Assistant
Full name, Office held Director
General

Signature *Vaughan Davies*

in the presence of:

Vicky Rapley
Name of witness

Signature *V Rapley*



ANNEXURE A

Conservation Works

For the purposes of this following schedule of works, references to 'Meath Wing,' 'Children's League' 'rooms 03 and 04' and 'Summer House', are references to 'Meath Wing', 'Children's League' 'rooms 03 and 04' and 'Summer House' identified in the Conservation Plan in October 2017.

The following works must be completed within 1 year of the Effective Date

- 1) *Attend to all water ingress situations, identifying causes and implementing solutions compatible with conservation practice.*
- 2) *Locate all damp ingress areas, identify causes and eliminate source. Allow substrates to completely dry before decorative re-treatment.*
- 3) *Reinstate south-west entry gates and conserve piers.*

Note: The piers of the gate remain but without gates.

The following works must be completed within 2 years of the Effective Date

- 4) *Conserve existing external timber windows, four panel timber doors and hopper lights and re-paint on completion.*
- 5) *Lower paving levels below damp proof course, especially to north and east elevations and install a breathing strip between paving and walls. Repair walls on completion.*
- 6) *Conserve bottom of limestone walls where impacted by damp, re-point, carry out plastic repairs where material erosion does not exceed 35mm, and piece in stone where deep erosion has occurred. Allow to dry out on completion.*
- 7) *Conserve verandah posts and replace rusted wire nails in verandahs with stainless steel nails*

Note: Some verandah posts have damaged bottoms, piece in new timbers in these cases.

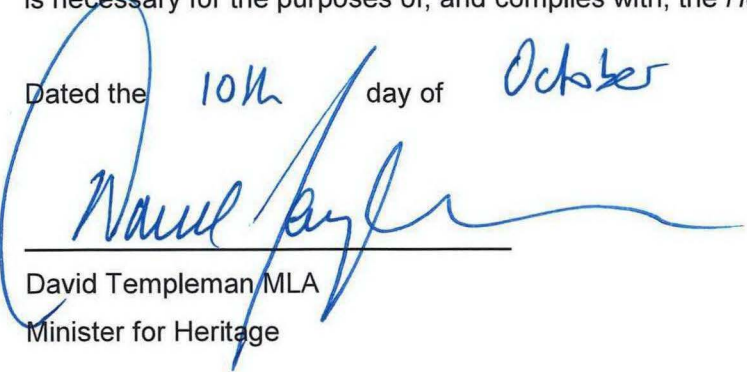
The following works must be completed within 5 years of the Effective Date

- 8) *Conserve verandah balustrades, stairs, and remaining timbers, piece in and replace timbers as appropriate and paint on completion.*
 - 9) *Conserve timber floors, moulded skirting and replace missing quads.*
 - 10) *Conserve plaster wall vents and ceiling roses.*
 - 11) *Remove asbestos cement sheeting from entry porch ceiling and reinstate original ceiling type and while work is being carried out to roof trim timbers, remove asbestos cement sheeting from gables and reinstate roughcast render work to documentary evidence.*
 - 12) *Reduce ground levels behind retaining walls and review structural adequacy of existing wall. Refer to documentary evidence to establish correct levels.*
- Note:** Ground levels in garden beds by the Meath wing are close to the top of the retaining wall and are causing minor rotation.
- 13) *Redesign stormwater solution, replace gutters and downpipes using circular downpipes.*

**CERTIFICATE UNDER SECTION 90
OF THE HERITAGE ACT 2018 (WA)**

I, the Hon. David Templeman MLA, Minister for Heritage, hereby certify that this Agreement is necessary for the purposes of, and complies with, the *Heritage Act 2018* (WA).

Dated the 10th day of October 2021



David Templeman MLA
Minister for Heritage

Note: Storm water system appears to be inadequate, this should be redesigned and replaced

- 14) *Correct and conserve chimney flashings.*
- 15) *Reopen, restore, and conserve fireplaces wherever possible in the course of adaptation and conservation.*

Note: Fire places should be reopened where possible. Some fireplaces have had mantles removed, these should be restored.

The following works must be completed within 10 years of the Effective Date

- 16) Replace flush timber doors with panelled doors to match existing where flush door substitutions have been made.
- 17) Remove aluminium windows and replace with timber to match original, where appropriate. Where aluminium windows are in new openings and the windows and openings are no longer required, remove the windows and reinstate the limestone walling.

Note: Reinstate timber sash windows where they have been replaced. Most of the inappropriate openings are to bathrooms inserted as later amenities. Removal of the bathrooms will require reconsideration of these openings.

- 18) Remove fly screens and grilles if no longer required.
- 19) Remove redundant services from walls and conserve walls.
- 20) Remove wall and window mounted AC units and make good walls and windows.
- 21) Remove paint and render from brick and stone walls and conserve substrate in a trial area. Monitor outcomes. Test salinity of walls and consider poulticing if salt levels are high. If results are satisfactory, consider removing all paint and conserving walls and render features.

Note: Plastic paints can trap moisture and cause damp problems. This paint should be removed and the stonework left exposed. The seaside location may have caused high salt levels in the stone, so that testing should be carried out and poulticing considered if the levels are high. Poulticing will draw out salts and assist with conservation of the limestone and soft bricks.

- 22) Conserve quoins and reveals, re-point where required
- 23) Conserve retaining wall stonework and repair coping.
- 24) Clear out and conserve basement and consider re-use as part of the adaptation program.
- 25) Conserve plaster walls and lath and plaster ceilings throughout.
- 26) Reinstate moulded skirting where previously removed in some of the adapted areas.

- 27) Conserve bas relief 'MCL Convalescent Home' on south elevation
- 28) Reroof with short length heritage galvanised sheeting when roof is next due for replacement. Check over roof framing, tie-downs and the like and remediate before re-roofing.
- Note:** When the place is re-roofed the sheets should be replaced with short length heritage galv as they are more authentic to the original roof sheeting.
- 29) Reconstruct the pepper pot roof to documentary evidence.
- Note:** The 'Pepper Pot' or 'Candle Snuffer' roof was a steep conical roof of the south-west corner of the Meath Wing. The existing roof is not as steep as the original and more iconic roof. Photos included in this report can be used to determine the original roof profile.
- 30) Open and reconstruct the rondels below the former pepper pot roof drum.
- 31) Repair soffit boards to eaves generally.
- 32) Remove concrete slabs and paving from verandahs and reinstate traditional timber floors based on documentary and physical evidence.
- 33) Remove evaporative cooler from kitchen roof if this building is retained, and make good roof.
- 34) Remove later covered walkways where no longer required and make good and conserve existing fabric. Carefully consider design of new walk ways and how they attach to the significant structures.
- 35) Replace CFC lattice infill panels below verandahs with timber lattice
- 36) Remove timber weatherboard addition if no longer required.
- Note:** A small addition to the Meath Wing is clad with timber weatherboard.
- 37) Reinstall doors replaced by windows per the inspection schedules.
- Note:** Several window openings were previously doors, these should be reversed.
- 38) Fill late addition windows where original masonry has been removed and finish stone to match existing.
- Note:** New windows have been added for bathrooms and other uses, if these are not in use they should be filled.
- 39) Reopen filled windows and reconstruct windows where indicated on schedules.
- Note:** Several windows have been filled, these should be reopened and reinstated.
- 40) Remove tiles, vinyl, and carpet from timber floors and conserve timber floors.
- Note:** If appropriate for room use the timber floors should be uncovered and conserved. Vinyl tiles may contain asbestos.
- 41) Replace switches and GPOs/socket outlets with sympathetic equivalents so they are more suitable to the heritage of the building.
- 42) Remove gyprock partition divisions, service rooms and the like, where no longer required and reveal original rooms.

Note: *The original larger rooms were partition into the current layout, if possible these partitions should be removed and the original room layout restored.*

- 43) Remove introduced wet areas where no longer required.

Note: Unused wet areas should be removed and materials returned to original intent.

- 44) Extend verandahs to original extent when 1984 addition is removed if possible.

Note: *According to documentary evidence some parts of the 1984 addition are in the place of original verandahs, once the 1984 additions are removed these verandahs should be restored.*

- 45) Reinstate access to the cellar through the original staircase if possible and useful.

Note: *The original staircase opening is covered by a concrete slab, if this staircase was reinstated easier access would enable greater use and maintenance of the cellar.*

- 46) Reinstate original opening between rooms 03 and 04 with history and stories of the Ministering Children's League and Wearne Hostel.

Note: *This opening was moved to access passage B when the partitions were enacted. Originally the opening was in the middle of the wall into the much larger undivided room.*

- 47) Reinstate timber boards and seats to summer house if possible.

Note: *The Summer House currently has a concrete slab foundation, this should be replaced with a timber deck.*

ANNEXURE B

Maintenance

The Programme below will form part of the maintenance regime for the Place. The programme will be the responsibility of the Lessee from time to time.

This schedule is concerned with the Significant Fabric and the presentation of the Place. It does not aim to cover all the statutory requirements concerning plant and machinery.

Monthly

- External lighting
- Check reticulation heads, if installed near building to ensure sprays are not directed at the building.

Annually

- Monitor ground levels to avoid bridging of DPC.
- Check operation of all windows and external doors. Adjust as necessary.
- Undertake termite inspections and take actions as required.
- Verandah timbers and connections. Take actions as required.
- Inspect verandah floor boards, repair as required and apply finishes where there is a breakdown in the protective coatings.
- Inspect and clean out gutters and downpipes.
- Ensure stormwater is getting away from building and flush out lines as required.
- Check over roof flashings and chimney caps and dress down and secure.
- Monitor stone walls and make good where required.
- Monitor walls for rising damp, particularly areas of historic damp penetration in the south-west corner of the historic buildings.
- Check over bed mulch levels and ensure that these are kept below damp proof course level, or as a guide, 30mm below floor level.
- Monitor efficacy of stone conservation work generally and report deterioration for remediation.
- Monitor historic plantings and obtain arboricultural advice when deterioration is noted.

Five Yearly

- Inspect paint systems and touch up.
- Monitor lath and plaster ceilings for deflection and re-bond, or make good as required.
- Inspect pointing and repair where needed.
- Check over roof and roof flashings

Ten Yearly

- Inspect paint systems and schedule and action re-coating as required.