

NON-STATE SCHOOLS ACCREDITATION BOARD**MINUTES****Meeting: 17/09****Date: 15 December 2009**

Venue: Boardroom, Level 12, Education House, 30 Mary Street, Brisbane

Present: Emeritus Professor S V McLean AM (Chairperson), Mr D Briskey, Professor W Lane, Professor V Callan, Ms A Brazier, Mr D Robertson (Proxy for Dr J Roulston AM), Mr M Byrne

Secretariat: Mr P M Parsons, Mrs T Jarrett, Mrs T Belfiore

1. WELCOME AND APOLOGIES

Professor McLean opened the meeting at 12:30 p.m. and welcomed members.

The apology of Dr Roulston was noted.

1.1 Board and Funding Committee, reconstituted

Professor McLean advised Board members of the recent Executive Council appointments of Board and Funding Committee members that were approved by the Governor in Council on 3 December 2009 as published in the *Queensland Government Gazette*, Vol. 352, No. 97, p. 1092.

2. CONFIRMATION OF AGENDA

The agenda for the meeting was confirmed.

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**3.1 Minutes of meeting 16/09, 17 November 2009**

The minutes of meeting 16/09, 17 November 2009 were confirmed.

4. BUSINESS ARISING FROM MINUTES

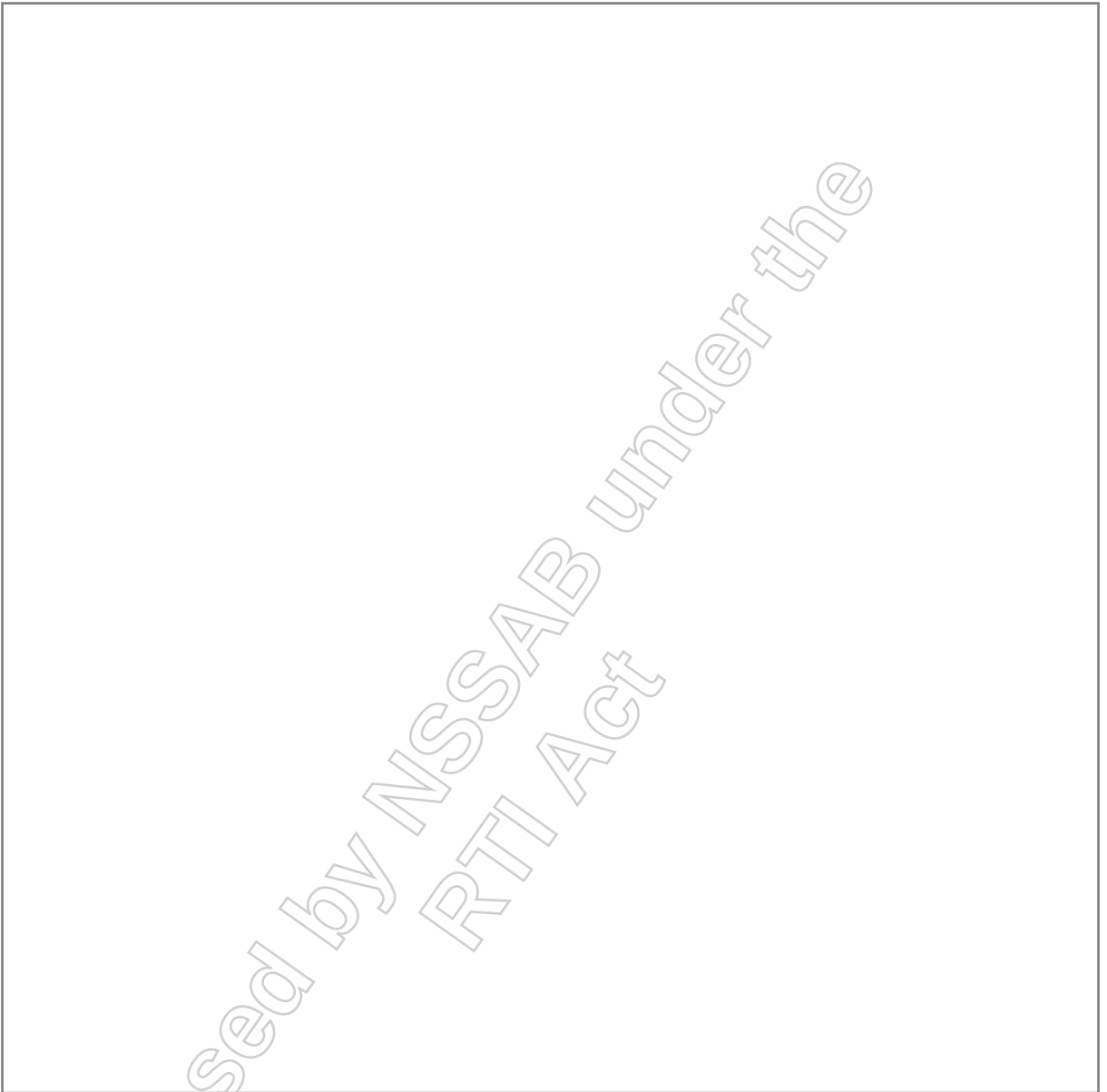
All business arising from the minutes was dealt with under other items of business.

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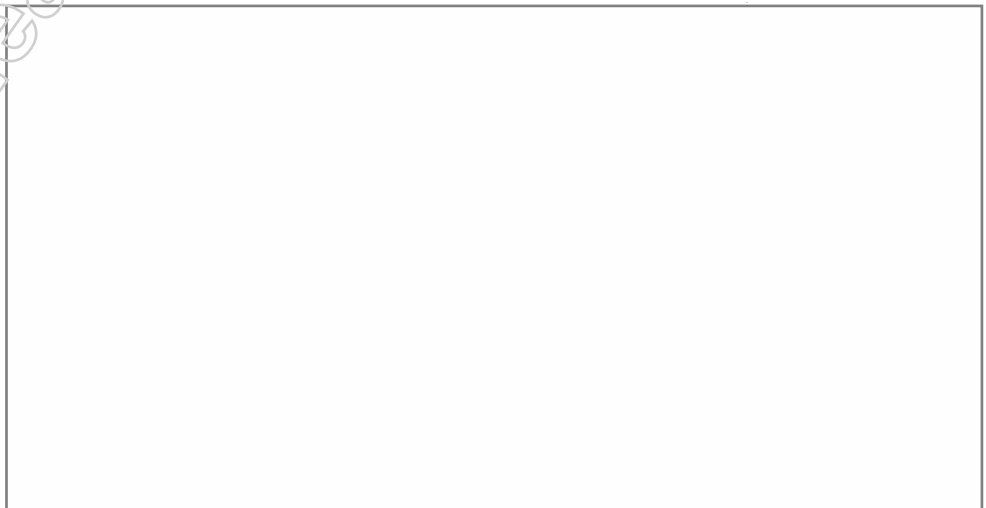


7. APPLICATIONS



7.3 Change of attribute

7.3.1



7.3.2

7.3.3

7.3.4

7.3.5 Maridahdi Early Childhood Community School

The Board gave consideration to the 1 December 2009 application from Maridahdi Early Childhood Community to include the proposed site at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School.

The Board **resolved** to:

- (a) refer the application to the Funding Committee and give the statutory notice to the Minister;
- (b) write to the applicant, as per the draft letter, seeking:
 - (i) clarification on whether the local authority has granted approval for a primary school to be located on the university site;
 - (ii) further information regarding the safety of the students within the grounds of the university campus;
 - (iii) a certificate of the school's financial viability;
 - (iv) clarification of anticipated enrolments; and

- (c) hold over further consideration of this application pending receipt of information from the applicant.

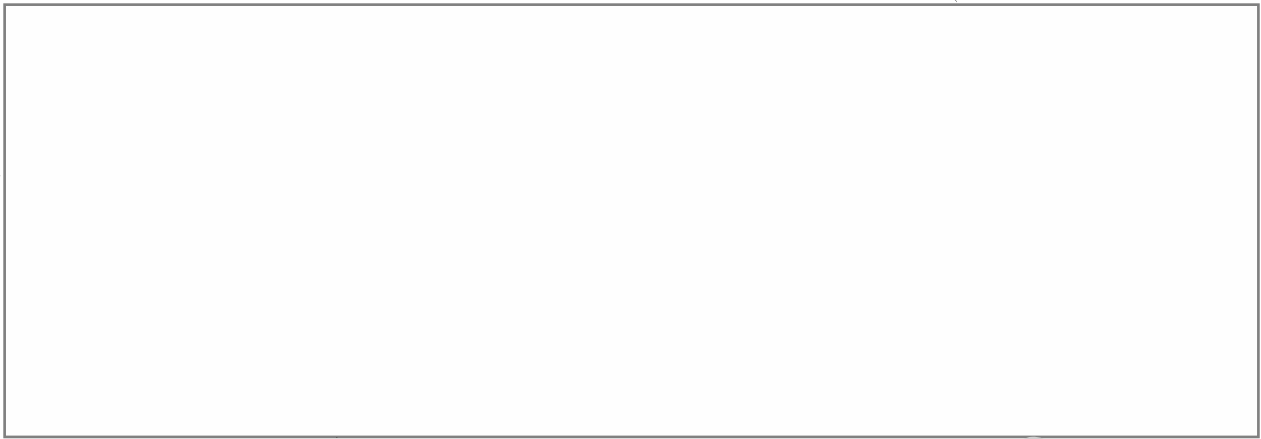
7.3.6

7.3.7

7.3.8

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19. NEXT MEETING

Scheduled for Thursday, 14 January 2010, 9:30 a.m, Room 12.02, Education House, 30 Mary Street, Brisbane.

20. MEETING CLOSE

The meeting closed at 4:45 p.m.

Confirmed

Chairperson

Date

NON-STATE SCHOOLS ACCREDITATION BOARD**MINUTES****Meeting: 01/10****Date: 14 January 2010**

Venue: Room 12.02, Education House, 30 Mary Street, Brisbane

Present: Emeritus Professor S McLean AM (Chairperson), Professor W Lane (Deputy Chairperson), Mr D Briskey, Ms A Brazier, Ms A Kempe (Proxy for Dr J Roulston AM), Mr M Byrne

Secretariat: Mr P M Parsons, Mrs T Jarrett, Mrs T Belfiore

1. WELCOME AND APOLOGIES

Professor McLean opened the meeting at 9:35 a.m. and welcomed Members.

The apologies of Dr Roulston and Professor Callan were noted. Professor McLean welcomed Ms Ann Kempe to the meeting as proxy for Dr Roulston.

2. CONFIRMATION OF AGENDA

The agenda for the meeting was confirmed.

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**3.1 Minutes of meeting 17/09, 15 December 2009**

The minutes of meeting 17/09, 15 December 2009 were confirmed.

4. BUSINESS ARISING FROM MINUTES

All business arising from the minutes was dealt with under other items of business.

5.

Released by NSSAB under the RTI Act

6. APPLICATIONS



6.3 Change of attribute

6.3.1

6.3.2

6.3.3



6.3.4

6.3.5

6.3.6 Maridahdi Early Childhood Community School

The Board noted its 15 December 2009 letter to Maridahdi Early Childhood Community (MECC) requesting further information regarding MECC's application to include the proposed site at West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School.

The Board noted the response (dated 6 January 2010, received 13 January 2010) from MECC.

The Board **resolved**:

- (a) to write to MECC requesting:
 - (i) a formal letter, or other form of official correspondence, from Toowoomba Regional Council confirming that the proposed site within the grounds of University of Southern Queensland is approved for use as a primary school;
 - (ii) confirmation that the toilet facilities on the proposed site are for exclusive use by the primary students, or if these facilities will be shared with university students and staff, information on the way school staff will ensure the health and safety of school students;
 - (iii) a financial statement from a qualified person, demonstrating that the school will have adequate resources for its viable operation with the inclusion of the third site at USQ with or

without approvals for Government-funding eligibility; and

- (b) to deal with the next phase of the Board's consideration of the applications by utilising the "notice of resolution" mechanisms under section 123(6) of the Act.

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RTI Act

Pages 18 through 19 redacted for the following reasons:

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18. NEXT MEETING

Scheduled for Thursday, 4 February 2010, 9:30 a.m., Room 12.02, Education House, 30 Mary Street, Brisbane.

19. MEETING CLOSE

The meeting closed at 11:10 a.m.

Confirmed

Chairperson

Date

NON-STATE SCHOOLS ACCREDITATION BOARD**MINUTES****Meeting: 02/10****Date: 4 February 2010****Venue:** Room 12.02, Education House, 30 Mary Street, Brisbane**Present:** Emeritus Professor S McLean AM (Chairperson), Professor W Lane (Deputy Chairperson), Mr D Briskey, Professor V Callan, Ms A Brazier, Dr J Roulston AM, Mr M Byrne**Secretariat:** Mr P M Parsons, Mrs T Jarrett, Mrs T Belfiore**1. WELCOME AND APOLOGIES**

Professor McLean opened the meeting at 9:30 a.m. and welcomed Members.

2. CONFIRMATION OF AGENDA

The agenda for the meeting was confirmed.

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**3.1 Minutes of meeting 01/10, 14 January 2010**

The minutes of meeting 01/10, 14 January 2010 were confirmed.

4. BUSINESS ARISING FROM MINUTES

All business arising from the minutes was dealt with under other items of business.

6. APPLICATIONS

Released by NSSAB under the RTI Act

6.3 Change of attribute

6.3.1

6.3.2

6.3.3

6.3.4 Maridahdi Early Childhood Community School – University of Southern Queensland site

The Board noted its 20 January 2010 letter to Maridahdi Early Childhood Community requesting further information in relation to the application to include the proposed site at the University of Southern Queensland, West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School.

The Board considered the recommendation from the Funding Committee.

The Board **resolved**:

- (a) that, having received a favourable recommendation from the Funding Committee, to give the Funding Committee recommendation to the Minister; and
- (b) to hold over further consideration of this application pending receipt of information requested from the applicant, due 23 February 2010.

6.3.5

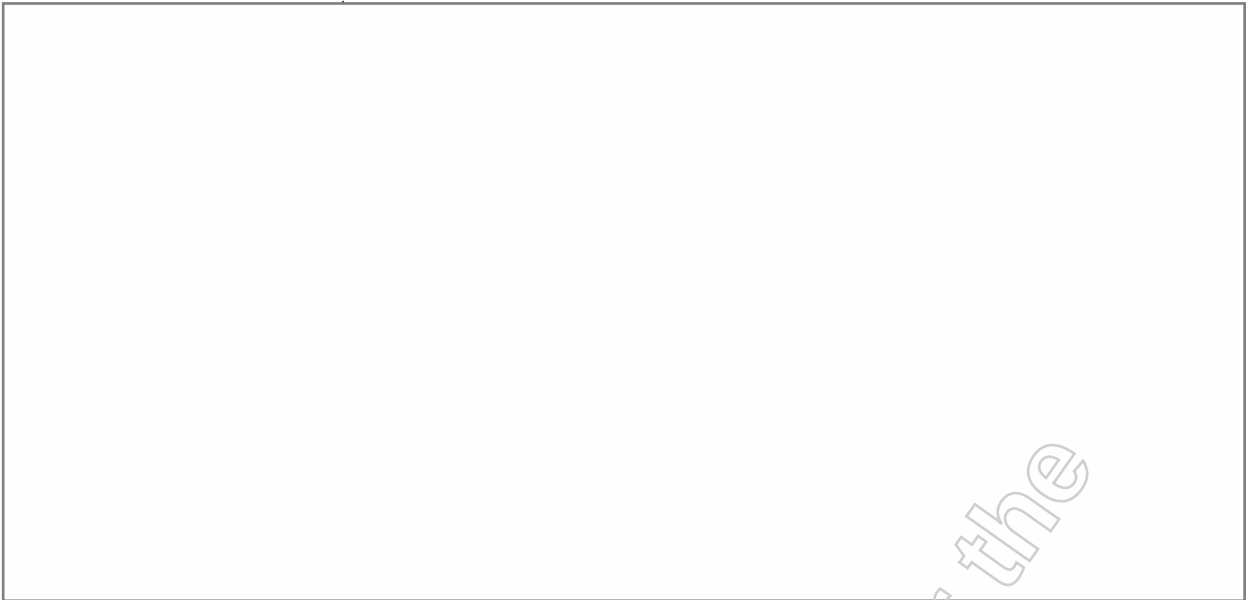
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RTI Act



17. OTHER BUSINESS

18. NEXT MEETING

Scheduled for Friday, 19 February 2010, 9:00 a.m., ADG Meeting Room, Level 9 Education House, 30 Mary Street, Brisbane.

19. MEETING CLOSE

Dr Roulston left the meeting at 12:45 p.m.

The meeting closed at 2:15 p.m.

Confirmed

Chairperson

Date

NON-STATE SCHOOLS ACCREDITATION BOARD**MINUTES****Meeting: 04/10****Date: 4 March 2010**

Venue: Room 12.02, Education House, 30 Mary Street, Brisbane

Present: Emeritus Professor S McLean AM (Chairperson), Professor W Lane (Deputy Chairperson), Mr D Briskey, Professor V Callan, Ms A Brazier, Dr J Roulston AM, Mr M Byrne

Proxy: Mr M Wilkinson (Proxy for Mr Byrne from 12:15 p.m.)

Secretariat: Mr P M Parsons, Mrs T Jarrett, Mrs T Belfiore

1. WELCOME AND APOLOGIES

Professor McLean opened the meeting at 9:30 a.m. and welcomed Members.

2. CONFIRMATION OF AGENDA

The agenda for the meeting was confirmed. No conflicts of interest were declared by members.

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**3.1 Minutes of meeting 02/10, 4 February 2010**

The minutes of meeting 02/10, 4 February 2010 were confirmed.

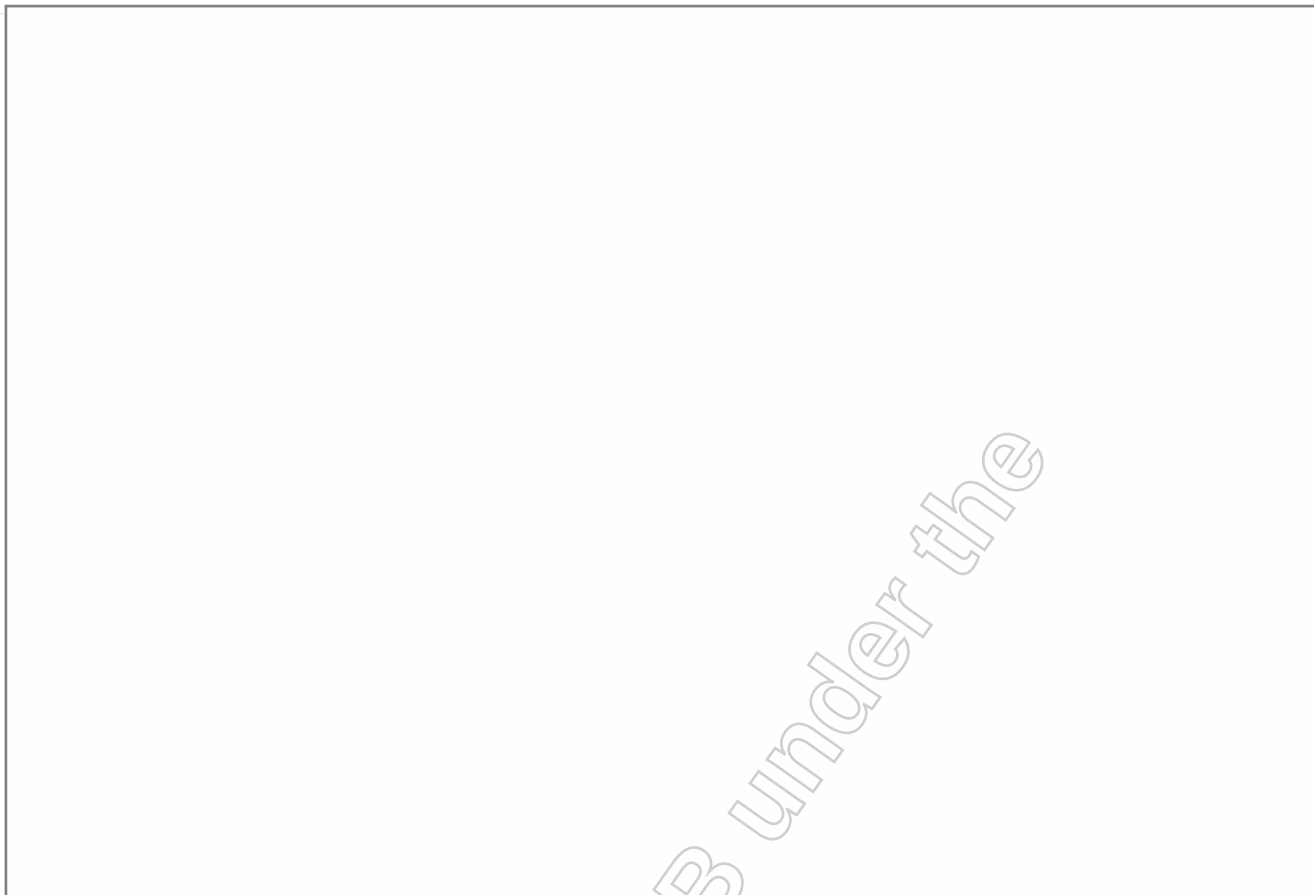
3.2 Minutes of meeting 03/10, 19 February 2010

The minutes of meeting 03/10, 19 February 2010 were confirmed.

4. BUSINESS ARISING FROM MINUTES

All business arising from the minutes was dealt with under other items of business.

6. APPLICATIONS



6.3 Change of attribute

6.3.1

6.3.2

6.3.3

6.3.4

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6.3.6

6.3.7

6.3.8

6.3.9 Maridahdi Early Childhood Community School – University of Southern Queensland site

The Board gave consideration to the letter (dated 10 February 2010, received 12 February 2010) from Maridahdi Early Childhood Community (MECC) providing further information regarding land and buildings, and financial viability in relation to the University of Southern Queensland, Toowoomba site.

The Board resolved:

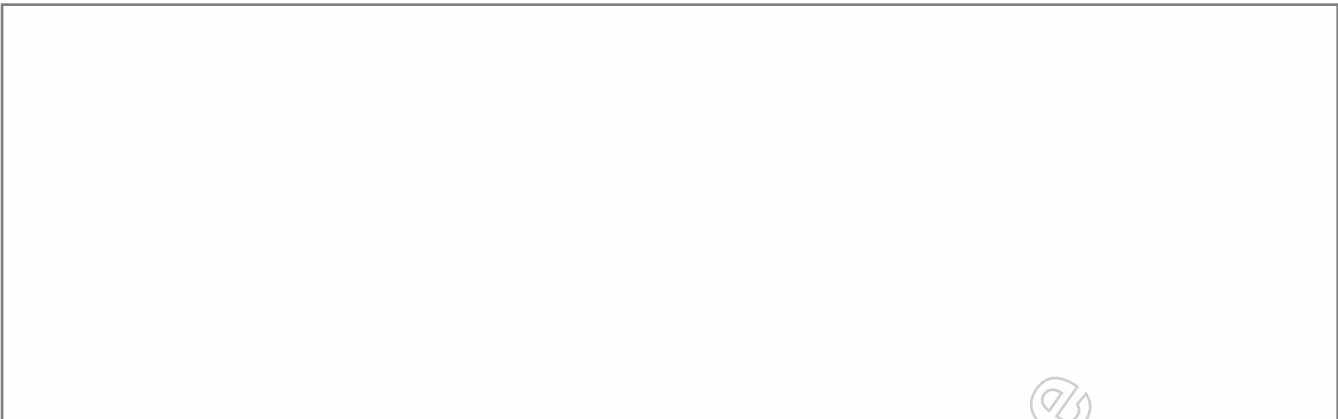
- (a) that the responses provided to date by MECC do not satisfy the Board that there will be adequate arrangements made to ensure the health and safety of students, specifically in relation to the access to toilets and other facilities external to the proposed school site;
- (b) to advise MECC to explore other arrangements to ensure that the health and safety of students is of paramount consideration in the use of buildings and facilities at the university campus;

- (c) to request MECC's response on whether it is able to provide more effective solutions to this matter; and
- (d) to hold over further consideration of the application until receiving MECC's response.

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RTI Act

Pages 39 through 45 redacted for the following reasons:

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18. NEXT MEETING

Scheduled for Thursday, 1 April 2010, 9:30 a.m, Room 12.02, Education House, 30 Mary Street, Brisbane.

19. MEETING CLOSE

Mr Byrne left the meeting at 12:15 p.m. and Mr Mike Wilkinson attended the remainder of the meeting in his place.

The meeting closed at 12:45 p.m.

Confirmed

Chairperson

Date

NON-STATE SCHOOLS ACCREDITATION BOARD
MINUTES

Meeting: 05/10

Date: 1 April 2010

Venue: Room 12.02, Education House, 30 Mary Street, Brisbane

Present: Emeritus Professor S McLean AM (Chairperson), Professor W Lane (Deputy Chairperson), Mr D Briskey, Ms A Brazier, Mr M Byrne, Ms R Collins (Proxy for Dr J Roulston)

Apology: Professor V Callan, Dr J Roulston

Secretariat: Mr P M Parsons, Mrs T Jarrett, Mrs T Belfiore

1. WELCOME AND APOLOGIES

Professor McLean opened the meeting at 9:35 a.m. and welcomed Members.

The apologies of Professor Callan and Dr Roulston were noted. Professor McLean welcomed Ms Collins, as proxy for Dr Roulston.

Ms Brazier joined the meeting at 10:30 a.m.

2. CONFIRMATION OF AGENDA

The agenda for the meeting was confirmed. No conflicts of interest were declared by members.

6. APPLICATIONS



6.3.2 Maridahdi Early Childhood Community School – University of Southern Queensland site

The Board noted its 11 March 2010 letter to Maridahdi Early Childhood Community (MECC) requesting a response with regards to health and safety issues at the proposed University of Southern Queensland site of Maridahdi Early Childhood Community School.

The Board considered:

- (a) MECC's response (dated 22 March 2010, received 26 March 2010); and
- (b) the verbal report provided by Mr Parsons and Mrs Jarrett regarding their visit to the site, informing the Board that the school appears to have commenced operations on the site.

The Board **resolved**:

- (a) that MECC's response did not satisfy the Board's concerns;
- (b) that operating on the site would constitute a change without the Board's approval is a breach of legislation and a grounds for cancelling the school's accreditation;
- (c) to write to MECC, in a letter to be settled by Professor McLean:
 - (i) stating that its responses to date do not satisfy the Board that there will be appropriate and adequate arrangements made to ensure the health and safety of the students, specifically in relation to the access to toilets and other facilities external to the proposed school site;
 - (ii) informing that the Board has received information which indicates that MECC appears to have commenced operations of the school at the university site without the Board's approval;
 - (iii) giving MECC the opportunity to comment on commencement at the site without the Board's approval and whether there were students at the site included in the 2010 school survey collection data; and
- (d) to hold over its decision pending a response from the MECC.

6.3.3

Pages 50 through 60 redacted for the following reasons:

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18. NEXT MEETING

Scheduled for Thursday, 13 May 2010, 9:30 a.m, Stuartholme School, Toowong.

19. MEETING CLOSE

The meeting closed at 1:00 p.m.

Confirmed

Chairperson

Date

NON-STATE SCHOOLS ACCREDITATION BOARD
MINUTES

Meeting: 06/10

Date: 13 May 2010

Venue: Stuartholme School, Birdwood Terrace, Toowong

Present: Emeritus Professor S McLean AM (Chairperson), Professor W Lane (Deputy Chairperson), Mr D Briskey, Professor V Callan, Ms A Brazier, Mr D Robertson (Proxy for Dr J Roulston), Mr M Byrne

Apology: Dr J Roulston

Secretariat: Mr P M Parsons, Mrs T Jarrett, Mrs T Belfiore

1. WELCOME AND APOLOGIES

Professor McLean opened the meeting at 10:30 a.m. and welcomed Members.

The apology of Dr Roulston was noted. Professor McLean welcomed Mr Robertson, as proxy for Dr Roulston.

2. CONFIRMATION OF AGENDA

The agenda for the meeting was confirmed. No conflicts of interest were declared by members.

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of meeting 05/10, 1 April 2010

The minutes of meeting 05/10, 1 April 2010 were confirmed.

4. BUSINESS ARISING FROM MINUTES

All business arising from the minutes was dealt with under other items of business.

6. APPLICATIONS

6.3 Change of attribute

6.3.2 Maridahdi Early Childhood Community School – University of Southern Queensland site

The Board noted:

- (a) its 6 April 2010 letter to Maridahdi Early Childhood Community (MECC); and
- (b) the Minister's letter (dated 5 May 2010, received 6 May 2010) advising approval of eligibility for Government funding for Years 3 to 7 at the temporary site at University of Southern Queensland (USQ), 487 West Street, Toowoomba, for the period to 31 December 2010.

The Board considered MECC's response (dated and received 23 April 2010).

The Board **resolved**:

- (a) that MECC's response has failed to satisfy the Board that there will be appropriate and adequate arrangements and facilities to ensure the health and safety of students, specifically arrangements and facilities in connection with student toilets (both fixed and portable), ovals, and student pick up and drop off areas on the university site;
- (b) MECC has commenced operations at the USQ site which has not been approved by the Board; and
- (c) to issue an information notice to refuse to grant the application to include the site situated at the USQ,

487 West Street, Toowoomba, in the attributes of accreditation of the school.

6.3.3

6.3.4

6.3.5

Pages 65 through 73 redacted for the following reasons:

Released by NSSAB under the
RTI Act

17. OTHER BUSINESS

18. NEXT MEETING

Scheduled for Thursday, 3 June 2010, 9:30 a.m. to 3:00 p.m., Room 12.02, Education House, 30 Mary Street, Brisbane.

19. MEETING CLOSE

Professor Lane left the meeting at 1:00 p.m.

The meeting closed at 2:00 p.m.

Confirmed

Chairperson

Date

NON-STATE SCHOOLS ACCREDITATION BOARD**MINUTES****Meeting: 07/10****Date: 3 June 2010**

Venue: Room 12.02, Education House, 30 Mary Street, Brisbane

Present: Emeritus Professor S McLean AM (Chairperson), Professor W Lane (Deputy Chairperson), Mr D Briskey, Professor V Callan, Ms A Brazier, Mr D Robertson (Proxy for Dr J Roulston), Mr M Byrne

Apology: Dr J Roulston

Secretariat: Mr P M Parsons, Mrs T Jarrett, Mrs T Belfiore

1. WELCOME AND APOLOGIES

Professor McLean opened the meeting at 9:30 a.m. and welcomed members.

The apology of Dr Roulston was noted. Professor McLean welcomed Mr Robertson, as proxy for Dr Roulston.

2. CONFIRMATION OF AGENDA

The agenda for the meeting was confirmed. No conflicts of interest were declared by members.

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of meeting 06/10, 13 May 2010

The minutes of meeting 06/10, 13 May 2010 were confirmed, with an amendment.

4. BUSINESS ARISING FROM MINUTES

All business arising from the minutes was dealt with under other items of business.

Released by NSSAB under the
RTI Act

6.3 Change of attribute



6.3.2 Maridahdi Early Childhood Community School – University of Southern Queensland site

The Board noted:

- (a) its 21 May 2010 information notice advising Maridahdi Early Childhood Community (MECC) of its decision to refuse to grant the application to include the site situated at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation of the school; and
- (b) MECC's letter (dated 28 May 2010, received 31 May 2010) advising that the school has ceased operation at the University of Southern Queensland site.

6.3.3

6.3.4

6.3.5

6.3.6



Pages 78 through 83 redacted for the following reasons:

Released by NSSAB under the
RTI Act

18. NEXT MEETING

Scheduled for Thursday, 1 July 2010, 9:30 a.m. to 3:00 p.m., Room 12.02, Education House, 30 Mary Street, Brisbane.

19. MEETING CLOSE

The meeting closed at 11:35 a.m.

Confirmed

Chairperson

Date



21 May 2010

FILE COPY

Ms Kathryn Tully
Chair
Maridahdi Early Childhood Community
PO Box 4742
TOOWOOMBA EAST QLD 4350

Non-State Schools
Accreditation Board



Dear Ms Tully

Re: Information Notice, Maridahdi Early Childhood Community, application to include site at West Street, Toowoomba, in attributes of accreditation of Maridahdi Early Childhood Community School

I refer to the application to the Non-State Schools Accreditation Board, under the *Education (Accreditation of Non-State Schools) Act 2001*, by Maridahdi Early Childhood Community, to include the site situated at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School.

The Board has decided, pursuant to section 52 of the Act, to refuse to grant the application. The Board made this decision on 13 May 2010.

I enclose an *Information Notice* about this decision, in accordance with section 52(5) of the Act.

Separate from this matter and as confirmed in your correspondence, dated 23 April 2010, Maridahdi Early Childhood Community has, in fact, commenced operations of the West Street site as a school and continues to operate without the Board having first granted its approval, as required under the Act, for this change in an attribute of accreditation.

This is a matter of considerable concern to the Board. It is particularly disturbing inasmuch as Maridahdi Early Childhood Community was expressly advised by the Board on 18 November 2009 and again on 6 April 2010, that to commence operations at an unapproved site would constitute a change in an attribute of the school's accreditation without the Board's approval under section 52 of the Act. As the Board advised, by virtue of section 63(1)(e), this is a ground for cancelling a school's accreditation.

Accordingly, Maridahdi Early Childhood Community is required to cease operations at the West Street site.

The Board requests the governing body to advise the Board in writing of steps it has taken to ensure closure of the West Street site without further delay. Such information should reach the Board on or before close of business on Monday, 31 May 2010, at which time the Board will give further consideration to the matter.

Yours sincerely

Emeritus Professor S Vianne (Vi) McLean AM
Chairperson

Enc

Floor 18 Education House
30 Mary Street Brisbane 4000
PO Box 15347 City East
Queensland 4002 Australia
Telephone 07 3237 9947
Facsimile 07 3237 0004
Website www.nssab.qld.edu.au

INFORMATION NOTICE

Non-State Schools Accreditation Board (the "Board")

Education (Accreditation of Non-State Schools) Act 2001 (the "Act") Section 52

Issued to: Maridahdi Early Childhood Community (the "applicant")

Name of school: Maridahdi Early Childhood Community School (the "school")

Date of issue: 21 May 2010

The decision: On 13 May 2010, the Board decided to refuse to grant the application to include the site situated at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation of the school.

Material considered by Board: The Board considered the following material:

- A. the application (and all accompanying documents) lodged by the applicant on 1 December 2009; and
- B. information provided by the applicant on 1 December 2009, 13 January 2010, 10 February 2010, 22 March 2010, and 23 April 2010; and
- C. the Minister's letter dated 5 May 2010 approving eligibility for Government funding for the proposed temporary site to be located at University of Southern Queensland, 487 West Street, Toowoomba.

Reasons for decision:

- 1. The Board is not satisfied that the school will comply with the following accreditation criteria prescribed under the *Education (Accreditation of Non-State Schools) Regulation 2001* (the "Regulation") after the change in attribute to include the site at the University of Southern Queensland, West Street, Toowoomba is effected:
 - (a) health and safety of staff and students (Regulation, section 10, refers); and
 - (b) educational facilities and materials (Regulation, section 13, refers).
- 2. The Board has made this determination having regard to the information provided in the application and provided subsequently by the applicant in support of the application.
- 3. The applicant has not satisfied the Board that there will be appropriate and adequate arrangements and facilities to ensure the health and safety of students, specifically arrangements and facilities in connection with student toilets (both fixed and portable), ovals, and student pick up and drop off areas on the university site.

Right of review: The applicant has a right to apply to the Minister for Education and Training for a review of the Board's decision to refuse grant the application.

The application for review must be made within 28 days after this *Information Notice* is given to the applicant.

The application for review must be in writing and state fully the grounds

of the application.

Under section 103 of the Act, after reviewing the original decision the Minister may either:

- (i) refer the matter to which the decision relates back to the Board for further consideration, subject to any directions decided by the Minister; or
- (ii) decline to refer the matter to which the decision relates back to the Board for further consideration.

Sections 101, 102 and 103 of the Act give more information about the way in which the Board's decision is reviewed if an application for review is lodged.

The Minister's postal address is:

The Honourable G Wilson MP
Minister for Education and Training
PO Box 15033
CITY EAST QLD 4002.

The applicant must serve a copy of the application for review on the Board.

The Board's postal address is:

Emeritus Professor Sandra Vianne McLean AM
Chairperson
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002.

END



Hon Geoff Wilson MP
Member for Ferny Grove

RECEIVED
6 MAY 2010

BY: _____



Queensland
Government

Minister for Education and Training

5 MAY 2010

Emeritus Professor S Vi McLean AM
Chairperson
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

Dear Professor McLean

Thank you for your letter dated 4 February 2010 regarding the recommendation of the Non-State Schools Eligibility for Government Funding Committee in respect of the application by the Maridahdi Early Childhood Community for eligibility for government funding for a temporary site of Maridahdi Early Childhood Community School, Toowoomba.

I am pleased to advise that I have approved the application for eligibility for government funding for the governing body of Maridahdi Early Childhood Community School at the temporary site to be located at University of Southern Queensland, 487 West Street, Toowoomba (Years 3 to 7, co-educational, classroom delivery, non-boarding and educational programs based on Queensland Studies Authority syllabus framework/s), for the period to 31 December 2010.

In accordance with subsection 55(7) of the *Education (Accreditation of Non-State Schools) Act 2001*, I have notified the governing body of the school of my decision.

Should you wish to discuss this matter further, you can contact Ms Christine Rutledge, Manager, Office of Non-State Education, on telephone (07) 3224 5536.

Please pass on my appreciation to Associate Professor Jim Watters and other members of the funding committee for preparing the recommendation.

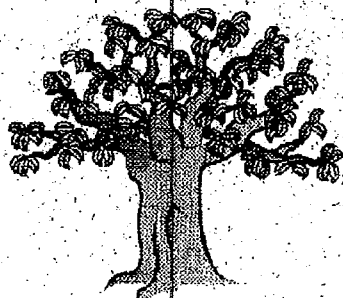
Yours sincerely

GEOFF WILSON MP
Minister for Education and Training

Ref: 10/39786

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30 Mary Street Brisbane
PO Box 15033 Brisbane
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Email education@ministerial.qld.gov.au
Website www.education.qld.gov.au
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Valuing individuality...enrichment through creative opportunity



23 April 2010

Emeritus Professor S V McLean
Chairperson
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

Dear Professor McLean

Change of attribute: USQ campus

We have received the Board's recent letter regarding this application.

I acknowledge that the Board's observation is correct; we did have students at USQ in mid-March. The Governing Council had taken this decision in the belief that our toilet supervision arrangements were completely satisfactory and that the Board was simply 'seeking clarification' (as stated in its correspondence) before formally accrediting the site.

It is now apparent that this was an error of judgment, and as Chair I take full personal responsibility for this.

As the Board is aware, Maridahdi is under considerable strain given the drawn-out nature of our South Street application. The Governing Council took this decision believing it to be the best solution for our students. We had examined many other options for temporary accommodation, and none seemed as well-suited as the USQ site.

Immediately upon receipt of your recent letter, we have arranged for a portable toilet to be delivered to the USQ site for Maridahdi's exclusive use. We believe this solution addresses any remaining concerns about supervision. We await your confirmation as to whether the Board finds this acceptable and is now willing to accredit this site.

Phone: 4635 1413 Fax: 4635 1116

Email: admin@maridahdi.qld.edu.au

P.O. Box 4742 Toowoomba East Qld 4350

3 - 7 Bowtell Street Toowoomba Qld 4350

School ABN 41 029 356 380 Kindergarten ABN 58 568 369 795 (Affiliated with the Crèche and Kindergarten Association of Queensland)

If not, we understand that we will need to cease operation at USQ. This would of course be very disruptive and upsetting to the affected students, a situation that we hope to be able to avoid. We would be most grateful for the Board's support in this matter.

We await the Board's advice.

On behalf of the Maridahdi Community Governing Council, I offer sincere apologies for bringing the school into disrepute with the Board over this matter. Please understand that we have only ever acted in what we genuinely believe to be in the best interests of the students in our care.

Sincerely,



KATE TULLY
Chair, Maridahdi Community Governing Council



6 April 2010

Non-State Schools
Accreditation Board

FILE COPY

Ms Kathryn Tully
Chair
Maridahdi Early Childhood Community
PO Box 4742
TOOWOOMBA EAST QLD 4350

Dear Ms Tully

I refer to the application from Maridahdi Early Childhood Community (MECC) under the *Education (Accreditation of Non-State Schools) Act 2001*, to the Non-State Schools Accreditation Board, to include the site situated at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School.

In earlier correspondence of 15 December 2009, 20 January 2010 and 11 March 2010 the Board sought clarification from MECC on matters relating to the health and safety of students when utilizing facilities, such as toilets, ovals, and pick up or drop off areas on the university site which would be external to the allocated space of the proposed school site. The Board has given further consideration to the application in conjunction with the additional information and documentation provided by MECC. However, MECC's responses to date do not satisfy the Board that there will be appropriate and adequate arrangements made to ensure the health and safety of the students, specifically in relation to the access to toilets and other facilities external to the proposed school site.

The Board turns now to a related matter. The Board has received information which indicates that MECC has commenced operations of the school at the university site. On 15 March 2010, two officers of the Board's Secretariat observed that the proposed site, the subject of the application currently before the Board for its consideration, is identified by two clearly marked signs as "Maridahdi Early Childhood Community School". Furthermore, the site has the appearance of being fully operational. It appeared to be fitted out as a school facility, with teachers or other adults in attendance and education seemingly being delivered with students in attendance and appearing to receive instruction.

The Board has therefore formed the preliminary view, from the information before it, that MECC is operating the site as part of the school.

As made clear in the Board's letter of 18 November 2009, the site at which a non-State school operates is an attribute of a school's accreditation, and must be approved by the Board *before* the school is entitled to operate on that site. To elaborate further, the site or land on which a non-State school operates are attributes of a school's accreditation under the Act.

Accordingly, the Board's concern relates to whether or not the school may have operated, or may be operating, a site without the necessary approvals under the Act. In particular, section 63(1)(e) of the Act deals with changes to an attribute of accreditation applying to a non-State school, without the Board's approval.

Operating on the university site would constitute a change, without the board's approval under section 52 of the Act, as applied by section 59, in an attribute of accreditation applying to the school, which by virtue of section 63(1)(e) is a ground for cancelling a non-State school's accreditation. Also, MECC's actions in operating an unapproved site in that way, would go to the suitability of MECC to continue to be the governing body of the school under the Act.

The Board notes that MECC's return under the Act for the 26 February 2010 school survey data collection (also known as the "census") declares a total of 56 enrolments at the school (comprising Preparatory Year = 12, Year 1 = 11, Year 2 = 16, Year 3 = 6, Year 4 = 9, Year 5 = 1, Year 6 = 1, and Year 7 = 0). It is unclear to the Board whether these data include those observed on the university site as possible students of the school.

The Board is therefore providing MECC with an opportunity to consider and comment on its deliberations thus far. MECC is invited to make a written submission to the Board in respect of the matters raised.

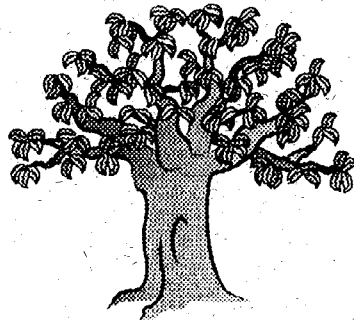
The Board considers that a reasonable period to allow MECC to make a submission is up to close of business, Wednesday, 21 April 2010.

Should MECC decide not to make a submission, it is the Board's intention to proceed to make its decision after that date based on the information then in its possession.

Yours sincerely



Emeritus Professor S Vianne (Vi) McLean AM
Chairperson



22 March 2010

Emeritus Professor S V McLean
Chairperson
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

RECEIVED
26 MAR 2010

BY:

Dear Professor McLean

Change of attribute: USQ campus

Thank you for your letter of 11 March seeking further information about students' access to toilets and other facilities.

We advise that the toilet facilities to be used by our students may also be used by University staff; any measure to 'fence off' access to these toilets would also prevent University staff from accessing their office and would therefore not be feasible.

We have discussed the Board's concerns, and feel that the only improvement we can make to our policy is to ensure that children would always be accompanied to the toilet by an *adult*, and not by another child. All adults working with the students will be either teaching staff with Suitability Notices, or parent volunteers. Maridahdi believes that these measures are sufficient to safeguard the health and safety of our students.

In relation to the use of other facilities external to the proposed site, the children would always be accompanied by their teaching staff and other adults on any visit to other parts of the University.

In relation to drop-off/pick-up arrangements, it is Maridahdi's policy to have all students signed in and out by a parent or other adult, so that in their trips between the proposed site and the carpark they will be accompanied by and in the care of their parent/carer.

I trust this information addresses the Board's remaining concerns in relation to this site.

Sincerely,


KATE TULLY
Chair, Maridahdi Community Governing Council



11 March 2010

Non-State Schools
Accreditation Board

Ms Kathryn Tully
Chair
Maridahdi Early Childhood Community
PO Box 4742
TOOWOOMBA EAST QLD 4350

FILE COPY

Dear Ms Tully

I refer to the application from Maridahdi Early Childhood Community (MECC) under the *Education (Accreditation of Non-State Schools) Act 2001*, to the Non-State Schools Accreditation Board, to include the site situated at the University of Southern Queensland (USQ), 487 West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School.

The Board has given further consideration to the application at its last meeting in conjunction with the additional information and documentation provided at the Board's request in relation to financial viability, and approvals for and use of land and buildings at the proposed USQ site.

In earlier correspondence of 15 December 2009 and 20 January 2010 the Board sought clarification from MECC on matters relating to the health and safety of students when utilizing facilities, such as toilets, ovals, and pick up or drop off areas on the university site which would be external to the allocated space of the proposed school site.

The Board notes MECC's response to these matters, including the written policy supplied stating that *"Children will be permitted to leave Maridahdi's allocated (fenced) space only with permission of the teacher or assistant, and only to visit our allocated toilets. Children will be accompanied to the toilet by an adult or another child."*

MECC's responses to date do not satisfy the Board that there will be adequate arrangements made to ensure the health and safety of the students, specifically in relation to the access to toilets and other facilities external to the proposed school site.

It is therefore open to MECC to explore other arrangements, which may include an agreement with USQ about other feasible solutions, to ensure that the health and safety of students is of paramount consideration in the use of building and facilities at the university campus.

The Board requests a response from MECC on whether it is able to provide more effective solutions to this matter on or before Friday, 16 April 2010. Of course, in the interest in progressing the application, MECC is free to respond to the Board's request sooner than this date.

The Board looks forward to receiving a response by the due date.

Yours sincerely



Emeritus Professor S Vianne (Vi) McLean AM
Chairperson

Floor 18 Education House
30 Mary Street Brisbane 4000
PO Box 15347 City East
Queensland 4002 Australia
Telephone 07 3237 9947
Facsimile 07 3237 0004
Website www.nssab.qld.edu.au

APPLICATION FOR CHANGE OF ATTRIBUTE OF ACCREDITATION				
School	Maridahdi Early Childhood Community School The school is currently accredited for primary education and is EFGF for Preparatory Year to Year 7.			
Applicant	Maridahdi Early Childhood Community			
Current applications	The application is to include the site at the University of Southern Queensland, 487 West Street, Toowoomba, (Year 3 to Year 7 only) in the attributes of accreditation of the Maridahdi Early Childhood Community School and to include this site in the eligibility for Government funding approvals for Maridahdi Early Childhood Community in respect of the school. The commencement date at the proposed new site has been amended from 27 January 2010 to 8 March 2010. Note: Applicant has a concomitant application to add a new site at 1 South Street, Toowoomba (Preparatory Year to Year 7).			
Key dates	Valid lodgement	1 December 2009	Latest decision date	2 September 2010
Board required to	When considering an application to change an attribute of accreditation (other than governing body) [Act, ch 2 pt 3 div 2], the Board is required to: (a) if the application relates to an aspect of the operation of the school for which the governing body is seeking eligibility for government funding, refer the application to the EFGFC and give the statutory notice to the Minister [Act, s 50(3)]; and (b) consider whether, after the change in attribute is effected, the school will comply with the accreditation criteria [Act, s 52(3)]; and (c) consider the application and either grant or refuse to grant the application [Act, s 52(1)]; and (d) if the Board grants the application, decide the day before which this change must be effected (change day) [Act, s 52(4)].			
Considerations for 4 March 2010 meeting				
Secretariat's recommendation	It is recommended that the Board: (a) consider the further information provided by the applicant regarding land and buildings, and financial viability in relation to this specific site; and (b) form the view that after the change in attribute is effected, the school will comply with the accreditation criteria, apart from financial viability criterion, which cannot yet be determined; and (c) a suitable change day would be 1 November 2010; and (d) decide that if the Minister grants eligibility for government funding — the Board grants the attribute change to include the new site at University of Southern Queensland, with a change day of 1 November 2010.			
Key actions to date				
4 February 2010	The Board resolved to: (a) give the EFGFC recommendation to the Minister [Act, s 85(2)]; and (b) <u>hold over further consideration of this application</u> pending receipt of information from applicant.			
15 Dec 2009	The Board resolved to: (a) refer the application to the EFGFC and give the statutory notice to the Minister			

[Act, s 50(3)];

- (b) write to the applicant, as per the draft letter, seeking clarification on whether the local authority has granted approval for a primary school to be located on the university site, further information regarding the safety of the students within the grounds of the university campus, school's financial viability and clarification on anticipated enrolments; and
- (c) hold over further consideration of this application pending receipt of information from applicant.

Released by NSSAB under the
RTI Act

JARRETT, Tracey

From: Maridahdi [admin@maridahdi.qld.edu.au]
Sent: Monday, 15 February 2010 12:45 PM
To: JARRETT, Tracey
Subject: RE: Amend commencement date at University of Southern Queensland

Dear Tracey

Thank you for your assistance with this. We wish to amend the student intake date for USQ to 8 March 2010.

Sincerely,

Kate Tully
Maridahdi Early Childhood Community
T: 07 4635 1413
F: 07 4635 1116
E: admin@maridahdi.qld.edu.au
W: www.maridahdi.qld.edu.au

-----Original Message-----

From: JARRETT, Tracey [mailto:Tracey.JARRETT@deta.qld.gov.au]
Sent: Monday, 15 February 2010 9:16 AM
To: kate tully
Cc: Maridahdi
Subject: Amend commencement date at University of Southern Queensland

Dear Kate

The Non-State Schools Accreditation Board will be giving further consideration of the University of Southern Queensland application at its next meeting with the additional information provided. The proposed commencement date of 27 January 2010 has now passed and therefore it is open to Maridahdi Early Childhood Community to amend the proposed commencement date.

An email response would be sufficient to amend the student-intake at the proposed USQ site.

Regards

Tracey Jarrett

Manager (Accreditation)

Non-State Schools Accreditation Board Secretariat Department of Education & Training |
1st Gov Floor 18 | 30 Mary Street | Brisbane QLD 4002

Ph: (07) 3234 1627

Fax: (07) 3237 0004

Email: tracey.jarrett@deta.qld.gov.au <mailto:mailto:
tracey.jarrett@deta.qld.gov.au>

Information from ESET NOD32 Antivirus, version of virus signature database
4866 (20100214)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

JARRETT, Tracey

From: JARRETT, Tracey
Sent: Monday, 15 February 2010 9:16 AM
To: 'kate tully'
Cc: 'admin@maridahdi.qld.edu.au'
Subject: Amend commencement date at University of Southern Queensland

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An email response would be sufficient to amend the student-intake at the proposed USQ site.

Regards

Tracey Jarrett

Manager (Accreditation)

Non-State Schools Accreditation Board Secretariat

Department of Education & Training | Qld Gov

Floor 18 | 30 Mary Street | Brisbane QLD 4002

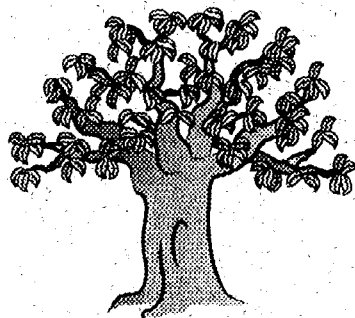
Ph: (07) 3234 1627

Fax: (07) 3237 0004

Email: tracey.jarrett@deta.qld.gov.au

RECEIVED
12 FEB 2010

BY:.....



MARIDAHDI
EARLY CHILDHOOD COMMUNITY

FILE COPY

10 February 2010

Emeritus Professor S V McLean
Chair
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

Dear Professor McLean

In response to your recent letter, I am pleased to provide the following clarification.

1. Land and Buildings

The requested letter from Toowoomba Regional Council is attached.

In regard to toilet facilities, these are not exclusively for Maridahdi's use, but in practice are not used by others. Maridahdi has developed a policy around students' use of these facilities; a copy of our policy is attached.

2. Financial viability

The requested letter is attached.

I thank the Board for its further consideration of this matter.

Sincerely,

KATE TULLY
Chair,
Maridahdi Community Governing Council

Att: Letter from Toowoomba Regional Council
Maridahdi USQ 2010 Policy
Letter from Hooper Accountants

MARIDAHDI EARLY CHILDHOOD COMMUNITY SCHOOL

USQ Policy 2010

PURPOSE AND SCOPE OF THE POLICY

The purpose of this policy is to provide guidelines about Maridahdi's use of facilities at the University of Southern Queensland (USQ). The policy covers the anticipated activities at this site, where a Maridahdi class will be temporarily located during 2010.

Responsibility

Principal

POLICY

General

Children attending the USQ 'campus' are enrolled at Maridahdi on the same terms as those at our Bowtell Street campus.

Maridahdi's Policies and Procedures as they apply at our existing campus continue to apply at our USQ campus.

Children are to be signed in and out each day by their supervising adult.

Health and safety

Children will be permitted to leave Maridahdi's allocated (fenced) space only with the permission of the teacher or assistant, and only to visit our allocated toilets. Children will be accompanied to the toilet by an adult or another child.

When a group of children leaves Maridahdi's allocated space in K2 to visit other parts of the University campus, they will be accompanied by their teacher and/or assistant. They will use footpaths and pedestrian crossings as appropriate to maximise safety. The teacher or assistant will carry a mobile phone.

POLICY RELEASE DETAILS

Date of Policy

January 2010

Approved by

Chair

Signature:



Date:

2 . 2 . 2010

Disclaimer: The information contained in this policy is to the best of our knowledge and belief correct at the date of publication. However, no warranty or guarantee is or can be given by Independent Schools Queensland or any member of its staff, and no liability is or can be accepted for any loss or damage resulting from any person relying on or using the information contained in this policy.

Partners -

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Jim Rawlings B.Com, CPA, DipFS (FP)
Tony Beverland B.Com, CPA

Accountants -

Dane Zeeman B.Com, CPA
Sue Lissimore B.Bus, CA
Sarah Dance B.Com
Kerry Thompson B.Bus
Melissa Zeller B.Com

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25 January 2010

Emeritus Prof S V McLean Chair
Non-State Schools Accreditation Board
PO Box 347
BRISBANE ALBERT ST BC QLD 4002

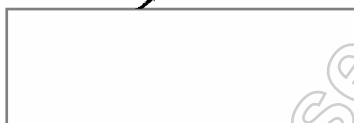
Dear Professor McLean

**Re: Maridahdi Early Childhood Community
Application for Change of Accreditation Attribute - USQ**

With reference to the above application and the Board's request for clarification, we confirm that in our opinion the School has access to adequate financial resources for its viable operation, even with the inclusion of the temporary campus at USQ. It is our understanding that - with the anticipated addition of the South Street campus later in 2010 - the School will not be operating on three campuses for long, if at all. The cost of the temporary operation at USQ is a relatively small and short-term impost, and we believe is well within the School's means.

Please feel free to contact me if you require any further clarification.

Yours faithfully



Anthony Hooper
Hooper Accountants

Toowoomba Office

T: 07 4637 9363 F: 07 4638 7617
PO Box 3252, Toowoomba QLD 4350
Clifford House, 120 Russell St,
Toowoomba QLD 4350

Pittsworth Office

T: 07 4693 3148 F: 07 4693 3149
PO Box 371, Pittsworth QLD 4356
132 Yandilla St,
Pittsworth QLD 4356

Enquiries: Tanya Duggan
Contact: 4688 6943
Our Reference: #3650976



9 February 2010

Emeritus Prof SV McLean
Chair
Non-State Schools Accreditation Board
PO Box 347
BRISBANE ALBERT ST BC QLD 4002

Dear Sir/Madam,

Confirmation of approved use of the University of Southern Queensland (USQ) site

In response to your request on the 3 February 2010; seeking confirmation that the USQ site has approval for an Educational Establishment.

Under the *Toowoomba Planning Scheme 2003*, the Educational Establishment definition includes primary, secondary, tertiary uses (being a university, college or other specialist college constituted by or under an Act).

The University of Southern Queensland (USQ, 487 - 519 West St Toowoomba, alternative address of 35 - 118 Baker Street Toowoomba) is located within the Special Use Zone, Education Precinct and has approval as an Educational Establishment and Child Care Centre. The use of the approved USQ classrooms by the Maridahdi School, would therefore be a consistent use.

If you require further clarification, please don't hesitate to contact Tanya Duggan, Planning Projects Officer on the above number.

Yours faithfully

A rectangular box containing a stylized signature, likely of Nathan Bright.

Nathan Bright
Acting Principal Planner, Development Assessment Urban

cc.

Mrs Kate Tully
Maridahdi Early Childhood Community
3 - 7 Bowtell Street
TOOWOOMBA QLD 4350

Toowoomba Regional Council
PO Box 3021
Toowoomba Village Fair QLD 4350
T 07 4688 6611 F 07 4631 9292
E info@toowoombaRC.qld.gov.au
W www.toowoombaRC.qld.gov.au

SERVICE CENTRES

CLIFTON
95 King Street
Clifton Q 4361
T 07 4697 4222

CROWS NEST
25 Emu Creek Road
Crows Nest Q 4355
T 07 4698 1155

GOOMBUNGEE
89 Mocatta Street
Goombungee Q 4354
T 07 4696 7900

GREENMOUNT
54 Hodgson Street
Greenmount Q 4359
T 07 4697 0200

HIGHFIELDS
O'Brien Road
Highfields Q 4352
T 07 4630 8925

MILLMERRAN
2-16 Campbell Street
Millmerran Q 4357
T 07 4695 1399

Oakey
64 Campbell Street
Oakey Q 4401
T 07 4691 1388

PITTSWORTH
85 Yandilla Street
Pittsworth Q 4356
T 07 4619 8000

TOOWOOMBA
153 Herries Street or
543 Ruthven Street
Toowoomba Q 4350
T 07 4688 6611

ABN 99 788 305 360

JARRETT, Tracey

From: JARRETT, Tracey
Sent: Thursday, 11 February 2010 12:46 PM
To: 'kate tully'
Cc: 'Maridahdi'
Subject: RE: NSSAB seeking confirmation that 20 Jan 2010 letter received

Dear Kate

The Board's Secretariat has received your response via facsimile to the Non-State Schools Accreditation Board which will be forwarded for the Board's next meeting.

I note that Maridahdi Early Childhood Community have not indicated to the Board that the school will be financially viable prior to/ without receipt of Government funding for the USQ site and therefore the Board would need to await the Minister's decision on funding eligibility before it could finalise its accreditation decision.

The Board decision on the accreditation of the South Street site is still pending on further information from Maridahdi Early Childhood Community regarding the developmental approvals for this site. I raise this in the context that the 9 months for the Board to make a decision ends on 30 April 2010 and this timeframe cannot be extended. It would be of assistance if Maridahdi Early Childhood Community was able to provide the Board with an update of the progress of this approval before its meeting on 1 April 2010 as it will not meet again until after the 30 April 2010.

Please contact me if you wish to discuss these matters.

Regards

Tracey Jarrett
Manager (Accreditation)
Non-State Schools Accreditation Board Secretariat Department of Education & Training |
Qld Gov Floor 18 | 30 Mary Street | Brisbane QLD 4002

Ph: (07) 3234 1627
Fax: (07) 3237 0004
Email: tracey.jarrett@deta.qld.gov.au

-----Original Message-----

From: kate tully [mailto:kate.tully@det.qld.gov.au] Act - Disclosure would, on balance, be contrary to
Sent: Wednesday, February 10, 2010 12:30 PM
To: JARRETT, Tracey
Subject: RE: NSSAB seeking confirmation that 20 Jan 2010 letter received

Hi Tracey

Yes, we have your letter, thanks. Unfortunately it has taken this long to get the 'formal letter' from Toowoomba Regional Council. I will forward this with the rest of my response today.

Regards,

Kate

-----Original Message-----

From: JARRETT, Tracey [mailto:Tracey.JARRETT@deta.qld.gov.au]
Sent: Thursday, 4 February 2010 3:52 PM
To: kate tully
Subject: NSSAB seeking confirmation that 20 Jan 2010 letter received

Dear Kate Tully

The Non-State Schools Accreditation Board has requested that I confirm with you whether Maridahdi Early Childhood Community received a letter, dated 20 January 2010, from the Board requesting further information in connection with the University of Southern Queensland site.

The Board understand that a response is not required until the 23 February 2010 however wanted to ensure that the letter was received.

Regards

Tracey Jarrett

Manager (Accreditation)

Non-State Schools Accreditation Board Secretariat Department of Education & Training |
Qld Gov Floor 18 | 30 Mary Street | Brisbane QLD 4002

Ph: (07) 3234 1627

Fax: (07) 3237 0004

Email: tracey.jarrett@deta.qld.gov.au <mailto:mailto:
tracey.jarrett@deta.qld.gov.au>

Released by NSSAB under the
RTI Act

Valuing individuality...enrichment through creative opportunity



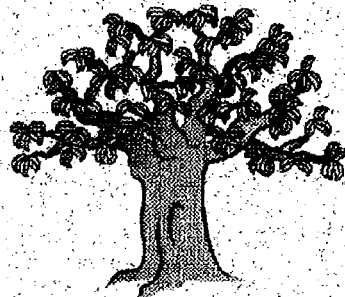
Fax

To:	Tracey Jarrett	From:	Kate Tully
Fax:	3237 0004	Pages:	4
Phone:		Date:	11 February 2010
Re:	Accreditation	cc:	File

Released by NSSAB under the
RTI Act

Phone: 4635 1413 Fax: 4635 1116 Email: admin@maridahdi.qld.edu.au
Website: www.maridahdi.qld.edu.au School: ABN 41 029 356 380 Kindy ABN 58 568 369 795
P.O. Box 4742 Toowoomba East Qld 4350 3 - 7 Bowtell Street Toowoomba Qld 4350
(Affiliated with the Creche and Kindergarten Association of Queensland)

Valuing individuality...enrichment through creative opportunity



MARIDAHDI
EARLY CHILDHOOD COMMUNITY

10 February 2010

Emeritus Professor S V McLean
Chair
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

Dear Professor McLean

In response to your recent letter, I am pleased to provide the following clarification,

1. Land and Buildings

The requested letter from Toowoomba Regional Council is attached.

In regard to toilet facilities, these are not exclusively for Maridahdi's use, but in practice are not used by others. Maridahdi has developed a policy around students' use of these facilities; a copy of our policy is attached.

2. Financial viability

The requested letter is attached.

I thank the Board for its further consideration of this matter.

Sincerely,


KATE TOLLY
Chair,
Maridahdi Community Governing Council

Att: Letter from Toowoomba Regional Council
Maridahdi USQ 2010 Policy
Letter from Hooper Accountants

Phone: 4635 1413 Fax: 4635 1116 Email: admin@maridahdi.qld.edu.au

P.O. Box 4742 Toowoomba East Qld 4350 3 - 7 Bowtell Street Toowoomba Qld 4350

School ABN 41 029 356 380 Kindergarten ABN 58 568 369 795 (Affiliated with the Crèche and Kindergarten Association of Queensland)

**USQ Policy 2010****MARIDAHDI EARLY CHILDHOOD COMMUNITY SCHOOL****USQ Policy 2010****PURPOSE AND SCOPE OF THE POLICY**

The purpose of this policy is to provide guidelines about Maridahdi's use of facilities at the University of Southern Queensland (USQ). The policy covers the anticipated activities at this site, where a Maridahdi class will be temporarily located during 2010.

Responsibility

Principal

Policy**General**

Children attending the USQ 'campus' are enrolled at Maridahdi on the same terms as those at our Bowtell Street campus.

Maridahdi's Policies and Procedures as they apply at our existing campus continue to apply at our USQ campus.

Children are to be signed in and out each day by their supervising adult.

Health and safety

Children will be permitted to leave Maridahdi's allocated (fenced) space only with the permission of the teacher or assistant, and only to visit our allocated toilets. Children will be accompanied to the toilet by an adult or another child.

When a group of children leaves Maridahdi's allocated space in K2 to visit other parts of the University campus, they will be accompanied by their teacher and/or assistant. They will use footpaths and pedestrian crossings as appropriate to maximise safety. The teacher or assistant will carry a mobile phone.

POLICY RELEASE DETAILS**Date of Policy**

January 2010

Approved by

Chair

Signature:

Date:

2 . 2 . 2010

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Hooper Accountants is a
CPA Business

Partners -

Tony Hooper B.Bus, CPA
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Accountants -

Dane Zeeman B.Com, CPA
Sue Lissimore B.Bus, CA
Sarah Dance B.Com
Kerry Thompson B.Bus
Melissa Zeller B.Com

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approved under Professional
Standards Legislation

25 January 2010

Emeritus Prof S V McLean Chair
Non-State Schools Accreditation Board
PO Box 347
BRISBANE ALBERT ST BC QLD 4002

Dear Professor McLean

**Re: Maridahdi Early Childhood Community
Application for Change of Accreditation Attribute - USQ**

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Please feel free to contact me if you require any further clarification.

Yours faithfully



Anthony Hooper
Hooper Accountants

Toowoomba Office

T: 07 4637 9363 F: 07 4638 7617
PO Box 3252, Toowoomba QLD 4350
Clifford House, 120 Russell St.
Toowoomba QLD 4350

Pittsworth Office

T: 07 4693 3143 F: 07 4673 3142
PO Box 371, Pittsworth QLD 4356
132 Yarrilla St.
Pittsworth QLD 4356

E: hooper@hooperaccountants.com.au

Enquiries: Tanya Duggan
 Contact: 4688 6943
 Our Reference: #3650976



9 February 2010

Emeritus Prof SV McLean
 Chair
 Non-State Schools Accreditation Board
 PO Box 347
 BRISBANE ALBERT ST BC QLD 4002

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Under the *Toowoomba Planning Scheme 2003*, the Educational Establishment definition includes primary, secondary, tertiary uses (being a university, college or other specialist college constituted by or under an Act).

The University of Southern Queensland (USQ, 487 - 519 West St Toowoomba, alternative address of 35 - 118 Baker Street Toowoomba) is located within the Special Use Zone, Education Precinct and has approval as an Educational Establishment and Child Care Centre. The use of the approved USQ classrooms by the Maridahdi School, would therefore be a consistent use.

If you require further clarification, please don't hesitate to contact Tanya Duggan, Planning Projects Officer on the above number.

Yours faithfully

Nathan Bright
 Acting Principal Planner, Development Assessment Urban

cc.

Mrs Kate Tully
 Maridahdi Early Childhood Community
 3 - 7 Bowtell Street
 TOOWOOMBA QLD 4350

Toowoomba Regional Council
 PO Box 3021
 Toowoomba Village Fair QLD 4350
 T 07 4688 6611 F 07 4631 9292
 E info@toowoombaRC.qld.gov.au
 W www.toowoombaRC.qld.gov.au

SERVICE CENTRES

CLIFTON

95 King Street
 Clifton Q 4361
 T 07 4687 4222

CROWS NEST

25 Emu Creek Road
 Crows Nest Q 4355
 T 07 4693 1155

GOOMBUNGEE

89 Maccata Street
 Goombungee Q 4354
 T 07 4696 7900

GREENMOUNT

54 Hodgson Street
 Greenmount Q 4359
 T 07 4697 0200

HIGHFIELDS

O'Brien Road
 Highfields Q 4352
 T 07 4630 8925

MILLMERRAN

2-16 Campbell Street
 Millmerran Q 4357
 T 07 4695 1399

Oakey

84 Campbell Street
 Oakey Q 4401
 T 07 4691 1388

PITTSWORTH

85 Yandilla Street
 Pittsworth Q 4356
 T 07 4619 8000

TOOWOOMBA

153 Herries Street or
 543 Ruthven Street
 Toowoomba Q 4350
 T 07 4688 6611

ABN 99 788 305 360



Released by NSSAB under the
RTI Act

JARRETT, Tracey

From: kate tully
Sent: Wednesday, 10 February 2010 12:30 PM
To: JARRETT, Tracey
Subject: RE: NSSAB seeking confirmation that 20 Jan 2010 letter received

Hi Tracey

Yes, we have your letter, thanks. Unfortunately it has taken this long to get the 'formal letter' from Toowoomba Regional Council. I will forward this with the rest of my response today.

Regards,

Kate

-----Original Message-----

From: JARRETT, Tracey [mailto:Tracey.JARRETT@deta.qld.gov.au]
Sent: Thursday, 4 February 2010 3:52 PM
To: kate tully
Subject: NSSAB seeking confirmation that 20 Jan 2010 letter received

(Dear Kate Tully

The Non-State Schools Accreditation Board has requested that I confirm with you whether Maridahdi Early Childhood Community received a letter, dated 20 January 2010, from the Board requesting further information in connection with the University of Southern Queensland site.

The Board understand that a response is not required until the 23 February 2010 however wanted to ensure that the letter was received.

Regards

Tracey Jarrett

Manager (Accreditation)

Non-State Schools Accreditation Board Secretariat Department of Education & Training |
Qld Gov Floor 18 | 30 Mary Street | Brisbane QLD 4002

Ph: (07) 3234 1627

Fax: (07) 3237 0004

Email: tracey.jarrett@deta.qld.gov.au <mailto:tracey.jarrett@deta.qld.gov.au>

JARRETT, Tracey

From: JARRETT, Tracey
Sent: Thursday, 4 February 2010 3:53 PM
To: 'kate tully'
Subject: NSSAB seeking confirmation that 20 Jan 2010 letter received

Dear Kate Tully

The Non-State Schools Accreditation Board has requested that I confirm with you whether Maridahdi Early Childhood Community received a letter, dated 20 January 2010, from the Board requesting further information in connection with the University of Southern Queensland site.

The Board understand that a response is not required until the 23 February 2010 however wanted to ensure that the letter was received.

Regards

Tracey Jarrett

Manager (Accreditation)

Non-State Schools Accreditation Board Secretariat

Department of Education & Training | Qld Gov

Floor 18 | 30 Mary Street | Brisbane QLD 4002

Ph: (07) 3234 1627

Fax: (07) 3237 0004

Email: tracey.jarrett@deta.qld.gov.au

FILE COPY



Queensland
Government

4 February 2010

Non-State Schools
Accreditation Board

The Honourable Geoff Wilson MP
Minister for Education and Training
PO Box 15033
CITY EAST QLD 4002

Dear Minister

I refer to the application received by the Non-State Schools Accreditation Board under the *Education (Accreditation of Non-State Schools) Act 2001*, from Maridahdi Early Childhood Community, for the accreditation of, and eligibility for Government funding for primary education (Year 3 to Year 7) at the additional site at the University of Southern Queensland, West Street, Toowoomba for **Maridahdi Early Childhood Community School**.

The Non-State Schools Eligibility for Government Funding Committee has now completed its consideration of the application in so far as eligibility for Government funding is concerned.

In accordance with section 54(6) of the Act, the Committee has given its recommendation on Government funding to the Board for transmission to you for your decision on funding under section 55 of the Act.

I am pleased to forward, as required by section 54(7) of the Act, the Committee's recommendation on this application.

Accordingly, I enclose the following:

1. the Committee's recommendation dated 29 January 2010 (refer Enclosure 1); and
2. a copy of the application (refer Enclosure 2).

The Board looks forward to receiving notification of your decision.

Yours sincerely

Emeritus Professor S Vianne (Vi) McLean AM
Chairperson

Enc

Floor 18 Education House
30 Mary Street Brisbane 4000
PO Box 15347 City East
Queensland 4002 Australia
Telephone 07 3237 9947
Facsimile 07 3237 0004
Website www.nssab.qld.edu.au

FILE COPY



**Queensland
Government**

**NON-STATE SCHOOLS ELIGIBILITY FOR GOVERNMENT FUNDING
COMMITTEE**

REPORT & RECOMMENDATION
TO THE MINISTER FOR EDUCATION AND TRAINING

NAME OF SCHOOL: Maridahdi Early Childhood Community School	
SITE OF SCHOOL: University of Southern Queensland 487 West Street, Toowoomba	
GOVERNING BODY: Maridahdi Early Childhood Community	
TYPE OF APPLICATION: Change of Accreditation Attribute (add temporary site)	
ASPECTS TO BE FUNDED: Years 3 to 7 (co-educational, classroom delivery, non-boarding and educational programs based on Queensland Studies Authority syllabus framework/s) at the school site at 487 West Street, Toowoomba.	
STUDENT-INTAKE DAY: 27 January 2010	
LODGEMENT DATE: 1 December 2009	FINAL CONSIDERATION DATE: 2 September 2010
CONTEXTUAL INFORMATION: Maridahdi Early Childhood Community School is an accredited non-state school located at 3 -7 Bowtell Street, Toowoomba and currently offers Preparatory Year to Year 7. Philosophically, the school aims to emphasise the individuality of the learner and the role of creativity in learning and offers alternative educational choice without any religious affiliation. The school was established in January 2006 and at February 2009 had 51 students from Preparatory Year to Year 5. The school is in establishment phase and commences Year 6 in 2010 and Year 7 in 2011. The applicant states that the Toowoomba Regional Council has restricted the numbers on the Bowtell Street site to 75. The school anticipates an enrolment of 74 in 2010. The school is also a registered provider for over 20 Pre-Prep students. Maridahdi Early Childhood Community has an application currently before the Minister for consideration to add a site at South Street, Toowoomba to accommodate the increase in enrolments for Preparatory Year to Year 7. Due to a delay in council approvals for that site, the governing body is applying to add a temporary site, at West Street, Toowoomba, to accommodate students in Years 3 to 7 with the expectation that the South Street site will be ready for use by mid 2010. The catchment area is the geographical area of Toowoomba including the Statistical Local Areas (SLAs) of Toowoomba Central, Toowoomba South-East, Toowoomba North-East, Toowoomba West and Toowoomba North-West.	

KEY CONSIDERATIONS:

A key consideration of the Committee was whether there was any change to the conclusions reached for the earlier application. The Committee considered each of the criteria and determined that its conclusions did not alter.

The governing body requested and received exemption from the public notification requirements, as provided under section 76(8) of the *Education (Accreditation of Non-State Schools) Act 2001*, based on the catchment area being unchanged.

CATCHMENT AREA:

The catchment area is the geographical area of Toowoomba including the SLAs of Toowoomba Central, Toowoomba South-East, Toowoomba North-East, Toowoomba West and Toowoomba North-West.

The Committee determined that the catchment area as identified in the application was acceptable and justified. *Please refer to the attached catchment area map.*

RECOMMENDATION:

Having given due regard to each of the legislated criteria, and subject to the Minister approving the concomitant application for an additional site at South Street, the Committee unanimously recommends that the governing body of Maridahdi Early Childhood Community School be approved as eligible for Government funding for Years 3 to 7 (co-educational, classroom delivery, non-boarding and educational programs based on Queensland Studies Authority syllabus framework/s) at the school site at 487 West Street, Toowoomba, with a student-intake day of 27 January 2010, for the period to 31 December 2010.

SIGNATURE:

(CHAIR OF ELIGIBILITY FOR GOVERNMENT FUNDING COMMITTEE)

DATED:

29/01/2010

APPLICATION FOR CHANGE OF ATTRIBUTE OF ACCREDITATION				
School	Maridahdi Early Childhood Community School The school is currently accredited for primary education and is EFGF for Preparatory Year to Year 7.			
Applicant	Maridahdi Early Childhood Community			
Current applications	The application is to include the site at the University of Southern Queensland, 487 West Street, Toowoomba, (Year 3 to Year 7 only) in the attributes of accreditation of the Maridahdi Early Childhood Community School and to include this site in the eligibility for Government funding approvals for Maridahdi Early Childhood Community in respect of the school. The commencement date at the proposed new site of 27 January 2010 has since passed. <u>Note:</u> Applicant has a concomitant application to add a new site at 1 South Street, Toowoomba (Preparatory Year to Year 7). The applicant has been requested to inform the Board when the South Street site has developmental approvals from the local authority.			
Key dates	Valid lodgement	1 December 2009	Latest decision date	2 September 2010
Board required to	When considering an application to change an attribute of accreditation (other than governing body) [Act, ch 2 pt 3 div 2], the Board is required to: (a) if the application relates to an aspect of the operation of the school for which the governing body is seeking eligibility for government funding, refer the application to the EFGFC and give the statutory notice to the Minister [Act, s 50(3)]; and (b) consider whether, after the change in attribute is effected, the school will comply with the accreditation criteria [Act, s 52(3)]; and (c) consider the application and either grant or refuse to grant the application [Act, s 52(1)]; and (d) if the Board grants the application, decide the day before which this change must be effected (change day) [Act, s 52(4)].			
Considerations for 4 February 2010 meeting				
Secretariat's recommendation	It is recommended that the Board: (a) give the EFGFC recommendation to the Minister [Act, s 85(2)]; and (b) <u>hold over further consideration of this application</u> pending receipt of information from applicant.			
Key actions to date				
15 December 2009	It is recommended that the Board: (a) refer the application to the EFGFC and give the statutory notice to the Minister [Act, s 50(3)]; (b) write to the applicant, as per the draft letter, seeking clarification on whether the local authority has granted approval for a primary school to be located on the university site, further information regarding the safety of the students within the grounds of the university campus, school's financial viability and clarification on anticipated enrolments; and (c) <u>hold over further consideration of this application</u> pending receipt of information from applicant.			



20 January 2010

Non-State Schools
Accreditation Board

Ms Kathryn Tully
Chair
Maridahdi Early Childhood Community
PO Box 4742
TOOWOOMBA EAST QLD 4350

FILE COPY

Dear Ms Tully

I refer to the application from Maridahdi Early Childhood Community (MECC) under the *Education (Accreditation of Non-State Schools) Act 2001*, to the Non-State Schools Accreditation Board, to include the site situated at the University of Southern Queensland (USQ), 487 West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School.

The Board has given further consideration to the application at its last meeting in conjunction with the additional information and documentation provided at the Board's request by MECC.

The Board appreciated receiving clarification about the anticipated enrolments for the Bowtell Street campus resulting in the need to seek alternative facilities.

The Board seeks further clarification from MECC over several of the matters raised in its 15 December 2009 correspondence.

Land and Buildings

The Board notes that MECC has provided a copy of an unsigned informal email communication as evidence that the local authority, Toowoomba Regional Council, has granted permission for a primary school to be located within the grounds of USQ. The letter is not on letterhead of Toowoomba Regional Council.

The Board requests a signed formal document that demonstrates that Toowoomba Regional Council has approved the site for use as a primary school within the grounds of the USQ.

In addition, the Board seeks confirmation whether the toilet facilities located 10 metres from the entrance to the proposed site will be for exclusive use by the primary students attending Maridahdi Early Childhood Community School. If the toilet facilities are to be shared with USQ students and staff, the Board requests information as to the ways in which the school will ensure the health and safety of students using these facilities.

Floor 18 Education House
30 Mary Street Brisbane 4000
PO Box 15347 City East
Queensland 4002 Australia
Telephone 07 3237 9947
Facsimile 07 3237 0004
Website www.nssab.qld.edu.au

Financial Viability

The Board notes that the financial statement provided in the additional documents is in relation to the inclusion of the South Street site.

The Board considers that this financial statement is not specifically relevant to the inclusion of a site at USQ as the school is likely to have additional outlays with the inclusion of a third site.

The Board specifically request that MECC provide a financial statement from a qualified person, as defined in the Board's 15 December 2009 correspondence, demonstrating that the school has adequate resources for its viable operation, in respect of the inclusion of the school's third site which it is proposed will be located at USQ.

The Board notes from the application that the commencement date at the proposed new site at USQ is 27 January 2010. The Board considers it highly unlikely that the outcome of the eligibility for Government funding application would be decided by this timeframe.

The Board may be in a position to make a decision on accreditation at an earlier timeframe if MECC are able to demonstrate to the Board that the school would remain financially viable without receipt of Government funding for the USQ site. The application for eligibility for Government funding may then proceed after the Board's decision on accreditation.

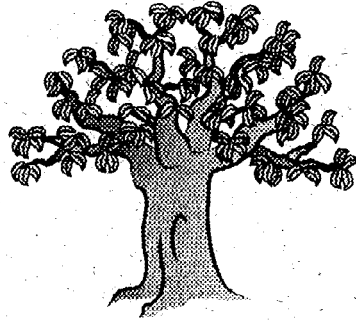
Under the Act, the Board must give an applicant at least 30 days to provide further information or documents. Accordingly, the Board requires that the additional material mentioned above be provided by close of business Tuesday 23 February 2010. If MECC fails to provide the required material within this time, MECC is taken to have withdrawn this application. Of course, in the interest in progressing the application, MECC is free to respond to the Board's request sooner than this date.

The Board looks forward to receiving the additional information.

Yours sincerely



Emeritus Professor S Vianne (Vi) McLean AM
Chairperson



MARIDAHDI
EARLY CHILDHOOD COMMUNITY

RECEIVED
13 JAN 2010

BY:.....

6 January 2010

Emeritus Professor S V McLean
Chairperson
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

Dear Professor McLean

Thank you for your letter of 15 December 2009, regarding our recent application. I am pleased to provide the following clarification.

1. Land and buildings

Attached is:

- Confirmation from Toowoomba Regional Council that Maridahdi's use of the premises is a consistent use under the Toowoomba Planning Scheme 2003;
- A site map indicating the location of car parking allocated for Maridahdi's use, which provides direct access to K2. We have implemented a parent car pool and do not anticipate that any of our children will be arriving by bus.
- An aerial photograph showing the location of K2, pedestrian crossings and the ovals. The use of these facilities would be as determined by the teacher according to the needs of the program.

2. Financial viability

This statement was attached to our existing application (re 1 South Street), as noted in my covering letter of 25 November 2009. Another copy is attached here, with apologies for any confusion caused.

3. Anticipated enrolments

The enrolment cap of 75 imposed by Toowoomba Regional Council relates to the *total* number of students on our Bowtell Street campus, i.e. school plus Pre-Prep (kindergarten) students. Our Pre-Prep classes take 22, leaving a maximum of 53 school students on site.

I trust this information addresses your queries. I am aware that the Board is meeting again on 14th January 2010, and am hopeful that you now have all the information you need to reach a decision. I realise your usual timeframe to process an application is usually longer than this, and I wish to assure you that Maridahdi is most grateful for the Board's timely handling of this matter.

Sincerely,

A rectangular box with a black border, used to redact the signature of Kate Tully. A small handwritten mark is visible to the left of the box.

KATE TULLY
Chair,
Maridahdi Community Governing Council

Dear Kate,

As discuss yesterday. Under the Toowoomba Planning Scheme 2003, the Educational Establishment definition includes primary, secondary, tertiary uses (being a university, college or other specialist college constituted by or under an Act).

The University of Southern Queensland (USQ, 487 - 519 West St Toowoomba) is located within the Special Use Zone, Education Precinct and would be described as an Educational Establishment. The use of the USQ classrooms by the Maridandi School that have been approved as an Educational Establishment, would therefore be a consistent use.

If you require further clarification, please don't hesitate to contact me on the number below.

Regards,

Tanya Duggan
Planning Projects Officer
Development Assessment Urban
Toowoomba Service Centre
T: 07 4688 6943
F: 07 4631 9161
E: tanya.duggan@toowoombaRC.qld.gov.au
W: <http://www.toowoombaRC.qld.gov.au/>
Toowoomba Regional Council
PO Box 3021, Toowoomba Village Fair QLD 4350

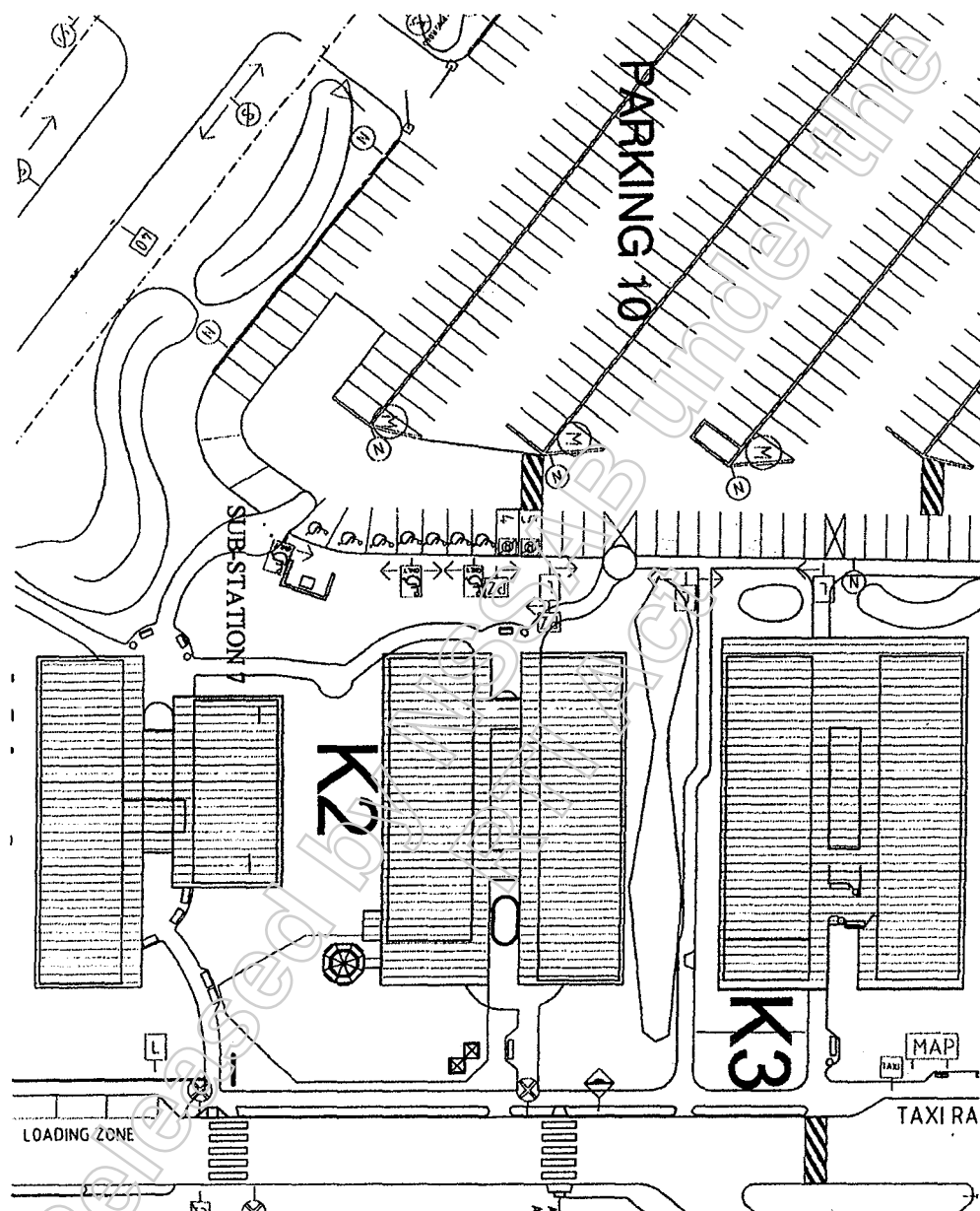
Queensland Land Registry

Land Title Act 1994, Land Act 1994
and Water Act 2000

Schedule/Enlarged Panel/
Additional Page/Declaration

Form 20 Version 2

Title Reference [49020261]





Scale 1:6990

Whilst all due care has been taken in the preparation of the plan and all information (the Plan and all information is referred to as 'Plan information'), the accuracy of the Plan Information cannot be guaranteed. The Plan Information is provided as a guide and should not be relied upon in anyway whatsoever. Toowoomba Regional Council takes no responsibility for inaccuracies in the Plan Information and is not liable under any circumstances for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with its use. The recipient must verify the Plan Information on site. Please refer any discrepancies to Toowoomba Regional Council - Information Management Branch. No part of the Plan Information should be reproduced without the permission of the Corporate Applications Principal - IIVB Branch, or other delegated representative of Council (07 4636 6699).

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- PRIVATE
- RESTRICTED
- SECONDARY
- SUB-ARTERIAL
- UNCONSTRUCTED
- TRC Road Labels
- TRC Boundary
- TRC Properties
- TRC Easments
- TRC Road Parcel

Esk 2009

Helidon 2009

Inglewood 2009

Millmerran 2009 50:49 PM

Partners -Tony Hooper B.Bus, CPA
Jim Rawlings B.Com, CPA, DipFS (FP)**Accountants -**Dane Zeeman B.Com, CPA
Tony Beverland B.Com, CPA
Sarah Dance B.ComLiability limited by a scheme
approved under Professional
Standards Legislation**Monday, 27 July 2009**Non-State Schools Accreditation Board
PO Box 347
BRISBANE ALBERT ST BC QLD 4002

Dear Sir/Madam

**Re: Maridahdi Early Childhood Community Inc
Application for change of Accreditation Attribute**

With reference to the above application, we confirm that in our opinion the School has access to adequate financial resources for it's viable operation.

We trust this meets with your requirements, but please feel free to contact this office if you have any further questions.

Sincerely,

Anthony W Hooper B.Bus, CPA
PARTNER



15 December 2009

Non-State Schools
Accreditation Board

Ms Kathryn Tully
Chair
Maridahdi Early Childhood Community
PO Box 4742
TOOWOOMBA EAST QLD 4350

FILE COPY

Dear Ms Tully

I refer to the application under the *Education (Accreditation of Non-State Schools) Act 2001* from Maridahdi Early Childhood Community, to include the site situated at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School, and to include this site in the eligibility for Government funding approvals. The application was received by the Board on 1 December 2009.

The Board has given preliminary consideration to the application at its meeting today and has resolved to seek further information and documentation from Maridahdi Early Childhood Community.

Relevant to the Board's requests for further information and documentation, the Board is obliged by the Act to be satisfied that after the change in attribute is effected, the school will comply with the accreditation criteria prescribed under the *Education (Accreditation of Non-State Schools) Regulation 2001*.

I now turn to each of the matters raised by the Board.

1. Land and buildings

The Board notes that the application is for primary education, Years 3 to Year 7 at a proposed site where the "teaching space at USQ (K2 Block) has previously been used as the Child & Family Studies Centre". The Board also notes that students will access toilet facilities located 10 metres from the entrance to the proposed site, and access to the university ovals and adjoining gardens under the supervision of staff of the school.

Additionally the Board notes in the application, that the current land use is zoned as 'Special use — Education'.

The Board requests:

- confirmation as to whether the local authority has granted permission for a primary school to be located within the grounds of the university at the space described as USQ (K2 Block) teaching space previously used as a Child & Family Studies Centre;

Floor 18 Education House
30 Mary Street Brisbane 4000
PO Box 15347 City East
Queensland 4002 Australia
Telephone 07 3237 9947
Facsimile 07 3237 0004
Website www.nssab.qld.edu.au

- information about the location of bus set down and private vehicle set down locations relative to the K2 Block;
- information about the anticipated number of occasions each school week that the school's students would be utilising the university's ovals, which relative to the K2 Block are located across and along Baker Street, a public road; and
- information about the location of designated crossings, if any, on Baker Street which would be utilised by students to travel to the ovals.

2. Financial viability

The next matter relates to the school's financial viability. The Board requires a signed statement or certificate from a qualified person that the school has access to adequate financial resources for its viable operation, particularly with respect to the inclusion of an additional site into the school's accreditation.

In regard to financial viability, the Board customarily receives and places considerable weight on a signed statement or certificate from a qualified person about whether a non-State school has access to adequate financial resources for its viable operation. For this purpose the Board has defined a qualified person as one who is:

- a qualified accountant within the meaning of the *Corporations Act 2001* (C'th); or
- a person registered (or taken to be registered) as a company auditor under the *Corporations Act 2001* (C'th); or
- a person approved by the Australian Government Minister as a qualified accountant under section 23(3) of the *Schools Assistance Act 2008* (C'th).

3. Anticipated enrolments

The Board notes that the application at page 1 states "our enrolments for the start of 2010 exceed our capacity at our current campus at Bowtell Street", and at page 2 gives an anticipated number of enrolments for 2010 as 74.

The Board understands that the local authority has set an enrolment cap of 75 students at the Bowtell Street campus.

There appears to the Board to be an inconsistency in the information provided in the application, and accordingly, the Board seeks information about this apparent contradictory data.

Under the Act, the Board must give an applicant at least 30 days to provide further information or documents. Accordingly, the Board requires that the additional material mentioned above be provided by close of business on Monday,

25 January 2010. If the Maridahdi Early Childhood Community fails to provide the required material within this time the Maridahdi Early Childhood Community is taken to have withdrawn this application.

It should be noted that the Board has raised the matters set out above as a result of its preliminary examination of the application. Other issues may arise as the Board continues its assessment of the application and may contact Maridahdi Early Childhood Community again later to seek further information and documents.

The Board looks forward to receiving the additional information.

Yours sincerely



Emeritus Professor S Vianne (Vi) McLean AM
Chairperson

Released by NSSAB under the
RTI Act



15 December 2009

Non-State Schools
Accreditation Board

The Honourable Geoff Wilson MP
Minister for Education and Training
PO Box 15033
CITY EAST QLD 4002

FILE COPY

Dear Minister

Re: Statutory Notice to Minister about application received under *Education (Accreditation of Non-State Schools) Act 2001*

Under section 50(3)(b) of the *Education (Accreditation of Non-State Schools) Act 2001*, the Non-State Schools Accreditation Board, as soon as practicable after receiving an application about a change in attribute applying to a non-State school which relates to an aspect of the operation of the school for which the school's governing body seeks Government funding, must give the Minister a notice stating: (a) that the Board has received the application; and (b) the day the application was received.

Notice of Application Received

School: **Maridahdi Early Childhood Community School**

Applicant: **Maridahdi Early Childhood Community**

Date received: **23 November 2009**

Application scope: **Application to include a site at the University of Southern Queensland, 437 West Street Toowoomba, in the attributes of accreditation (primary education, Year 3 to Year 7) of the school and to include this site in the eligibility for Government funding approvals for the Maridahdi Early Childhood Community. The applicant's intention is for the new site to commence on 27 January 2010.**

The Board has today given the Non-State Schools Eligibility for Government Funding Committee a copy of the application. The Committee will make its recommendation to you about eligibility for Government funding in due course.

No response to this notification is required.

Yours sincerely

Emeritus Professor S Vianne (Vi) McLean AM
Chairperson

Floor 18 Education House
30 Mary Street Brisbane 4000
PO Box 15347 City East
Queensland 4002 Australia
Telephone 07 3237 9947
Facsimile 07 3237 0004
Website www.nssab.qld.edu.au



15 December 2009

Non-State Schools
Accreditation Board

Associate Professor Jim Watters
Chairperson
Non-State Schools Eligibility for
Government Funding Committee
PO Box 15347
CITY EAST QLD 4002

FILE COPY

Dear Associate Professor Watters

The Non-State Schools Accreditation Board today considered the application (received by the Board's office on 23 November 2009) from Maridahdi Early Childhood Community to include a site at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation (primary education, Year 3 to Year 7) of the Maridahdi Early Childhood Community School and to include this site in the eligibility for Government funding approvals for the Maridahdi Early Childhood Community.

As required under section 50(3)(a) of the *Education (Accreditation of Non-State Schools) Act 2001*, the Board gives the Non-State Schools Eligibility for Government Funding Committee a copy of the application and accompanying documents.

Also, I advise the Committee that the Board has today given the Minister for Education and Training, the Honourable Geoff Wilson MP, the required notice under section 50(3)(b).

Yours sincerely

Emeritus Professor S Vianne (Vi) McLean AM
Chairperson

APPLICATION FOR CHANGE OF ATTRIBUTE OF ACCREDITATION				
School	Maridahdi Early Childhood Community School The school is currently accredited for primary education and is EFGF for Preparatory Year to Year 7.			
Applicant	Maridahdi Early Childhood Community			
Current applications	The application is to include the site at the University of Southern Queensland, 487 West Street, Toowoomba, (Year 3 to Year 7 only) in the attributes of accreditation of the Maridahdi Early Childhood Community School and to include this site in the eligibility for Government funding approvals for Maridahdi Early Childhood Community in respect of the school. The commencement date at the proposed new site is 27 January 2010. <u>Note:</u> Applicant has a concomitant application to add a new site at 1 South Street, Toowoomba (Preparatory Year to Year 7). The applicant has been requested to inform the Board when the South Street site has developmental approvals from the local authority.			
Key dates	Valid lodgement	1 December 2009	Latest decision date	2 September 2010
Board required to	When considering an application to change an attribute of accreditation (other than governing body) [Act, ch 2 pt 3 div 2], the Board is required to: (a) if the application relates to an aspect of the operation of the school for which the governing body is seeking eligibility for government funding, refer the application to the EFGFC and give the statutory notice to the Minister [Act, s 50(3)]; and (b) consider whether, after the change in attribute is effected, the school will comply with the accreditation criteria [Act, s 52(3)]; and (c) consider the application and either grant or refuse to grant the application [Act, s 52(1)]; and (d) if the Board grants the application, decide the day before which this change must be effected (change day) [Act, s 52(4)].			
Considerations for 15 December 2009 meeting				
Secretariat's recommendation	It is recommended that the Board: (a) refer the application to the EFGFC and give the statutory notice to the Minister [Act, s 50(3)]; (b) write to the applicant, as per the draft letter, seeking clarification on whether the local authority has granted approval for a primary school to be located on the university site, further information regarding the safety of the students within the grounds of the university campus, school's financial viability and clarification on anticipated enrolments; and (c) <u>hold over further consideration of this application</u> pending receipt of information from applicant.			
Key actions to date				
	This is the first meeting at which this application has been considered.			

DRAFT

15 December 2009

Ms Kathryn Tully
Chair
Maridahdi Early Childhood Community
PO Box 4742
TOOWOOMBA EAST QLD 4350

Dear Ms Tully

I refer to the application under the *Education (Accreditation of Non-State Schools) Act 2001* from Maridahdi Early Childhood Community, to include the site situated at the University of Southern Queensland, 487 West Street, Toowoomba, in the attributes of accreditation of Maridahdi Early Childhood Community School, and to include this site in the eligibility for Government funding approvals. The application was received by the Board on 1 December 2009.

The Board has given preliminary consideration to the application at its meeting today and has resolved to seek further information and documentation from Maridahdi Early Childhood Community.

Relevant to the Board's requests for further information and documentation, the Board is obliged by the Act to be satisfied that after the change in attribute is effected, the school will comply with the accreditation criteria prescribed under the *Education (Accreditation of Non-State Schools) Regulation 2001*.

I now turn to each of the matters raised by the Board.

1. Land and buildings

The Board notes that the application is for primary education, Years 3 to Year 7 at a proposed site where the "teaching space at USQ (K2 Block) has previously been used as the Child & Family Studies Centre". The Board also notes that students will access toilet facilities located 10 metres from the entrance to the proposed site, and access too the university ovals and adjoining gardens under the supervision of staff of the school.

Additionally the Board notes in the application, that the current land use is zoned as 'Special use — Education'.

The Board requests:

- confirmation as to whether the local authority has granted permission for a primary school to be located within the grounds of the university at the space described as USQ (K2 Block) teaching space previously used as a Child & Family Studies Centre;

- information about the location of bus set down and private vehicle set down locations relative to the K2 Block;
- information about the anticipated number of occasions each school week that the school's students would be utilising the university's ovals, which relative to the K2 Block are located across and along Baker Street, a public road; and
- information about the location of designated crossings, if any, on Baker Street which would be utilised by students to travel to the ovals.

2. Financial viability

The next matter relates to the school's financial viability. The Board requires a signed statement or certificate from a qualified person that the school has access to adequate financial resources for its viable operation, particularly with respect to the inclusion of an additional site into the school's accreditation.

In regard to financial viability, the Board customarily receives and places considerable weight on a signed statement or certificate from a qualified person about whether a non-State school has access to adequate financial resources for its viable operation. For this purpose the Board has defined a qualified person as one who is:

- a qualified accountant within the meaning of the *Corporations Act 2001* (C'th); or
- a person registered (or taken to be registered) as a company auditor under the *Corporations Act 2001* (C'th); or
- a person approved by the Australian Government Minister as a qualified accountant under section 23(3) of the *Schools Assistance Act 2008* (C'th).

3. Anticipated enrolments

The Board notes that the application at page 1 states "our enrolments for the start of 2010 exceed our capacity at our current campus at Bowtell Street", and at page 2 gives an anticipated number of enrolments for 2010 as 74.

The Board understands that the local authority has set an enrolment cap of 75 students at the Bowtell Street campus.

There appears to the Board to be an inconsistency in the information provided in the application, and accordingly, the Board seeks information about this apparent contradictory data.

Under the Act, the Board must give an applicant at least 30 days to provide further information or documents. Accordingly, the Board requires that the additional material mentioned above be provided by close of business on Monday,

25 January 2010. If the Maridahdi Early Childhood Community fails to provide the required material within this time the Maridahdi Early Childhood Community is taken to have withdrawn this application.

It should be noted that the Board has raised the matters set out above as a result of its preliminary examination of the application. Other issues may arise as the Board continues its assessment of the application and may contact Maridahdi Early Childhood Community again later to seek further information and documents.

The Board looks forward to receiving the additional information.

Yours sincerely

Professor S Vianne (Vi) McLean AM
Chairperson

Released by NSSAB under the
RTI Act



1 December 2009

Mrs Kathryn Tully
Chair
Maridahdi Early Childhood Community
PO Box 4742
TOOWOOMBA EAST QLD 4350

Dear Ms Tully

I acknowledge receipt on 1 December 2009 of the application under the *Education (Accreditation of Non-State Schools) Act 2001* from Maridahdi Early Childhood Community to include an additional site situated at University of Southern Queensland, 487 West Street, Toowoomba in the attributes of accreditation and eligibility for Government funding in respect of Maridahdi Early Childhood Community School.

The Non-State Schools Accreditation Board will advise Maridahdi Early Childhood Community in writing when decisions are made on the applications for accreditation.

The Minister for Education and Training, the Honourable Geoff Wilson MP, will advise Maridahdi Early Childhood Community in writing when decisions are made on the applications for eligibility for Government funding.

You will be contacted if any additional information or documents are required in relation to the application.

Yours sincerely

Mr P M Parsons
Director
Non-State Schools Accreditation Board Secretariat

JARRETT, Tracey

From: kate tully [REDACTED] - Disclosure would, on balance, be contrary to the RTI Act
Sent: Tuesday, 1 December 2009 9:39 PM
To: JARRETT, Tracey
Subject: FW: USQ Lease - K2 Building Maridahdi Early Childhood Community 8805
Attachments: lease to Maridahdi Early Childhood community (exp 27_6_10).PDF; lease_schedule_to Maridahdi Early childhood Community 2009.PDF

Dear Tracey

Many thanks for your message today. You are correct about the omission of the lease and I apologise for not pointing this out to you; I had expected it to be available before I mailed the application, but did not in fact receive it until today. The two lease documents are now attached. With the larger document (Lease Schedule), I direct your attention to the Reference Data on the last 5 pages as being the pertinent parts. As you will see, the lease is yet to be executed - I will fax you a signed copy as soon as it's available.

Thank you for your assistance in this matter. I look forward to an update on the Board's meeting schedule.

Yards,

KATE TULLY
 Chair, Maridahdi Community Governing Council

B: (07) 4635 1413
H: [REDACTED] - Disclosure would, on balance, be contrary to the RTI Act
M: [REDACTED]
E: admin@maridahdi.qld.edu.au OR [REDACTED] - Disclosure would, on balance, be contrary to the RTI Act



Dealing Number

OFFICE USE ONLY

Privacy Statement

Collection of this information is authorised by the Land Title Act 1994 the Land Act 1994 and the Water Act 2000 and is used to maintain the publicly searchable registers in the land registry and the water register. For more information about privacy in NR&W see the department's website.

1. Lessor

University of Southern Queensland
ABN 40 234 732 081

Lodger (Name, address, E-mail & phone number)

Office of University Lawyer,
USQ, West St, Toowoomba 4350
E: narelle.mulder@usq.edu.au
P: 07 4631 5437

Lodger
Code

2. Lot on Plan Description

Lot 1080 on Plan AG 2932

County

Aubigny

Parish

Drayton

Title Reference

49020261

3. Lessee

Given names

Surname/Company name and number

(include tenancy if more than one)

Maridahdi Early Childhood
Community ABN 41 029 356 380

4. Interest being leased

State Reserve Number 1486

5. Description of premises being leased

That part of Lot 1080 on Plan AG 2932 being part of K2 Block as shown hatched on attached plan

6. Term of lease

Commencement date/event: / /
Expiry date: 27 / 06 / 2010 and/or Event:

#Options: Nil

#Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)

7. Rental/Consideration

\$1894 plus GST monthly payable in
advance on the 1st day of each
month (See Schedule)

8. Grant/Execution

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in:-

the attached schedule and documents no. 711932933

* select applicable from menu

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Execution Date

See Enlarged Panel

Lessor's Signature

9. Acceptance

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Execution Date

Lessee's Signature

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8. Grant/Execution

The Lessor leases the premises described in Item 5 to the Lessee for the term stated in Item 6 subject to the covenants and conditions contained in:-

The attached Schedule and Document No. 711932933

Witnessing officer must be aware of his/her obligations under Section 162 of the Land Titles Act 1994

University of Southern Queensland

(ABN 40 234 732 081)

Mr Bernard Lillis, Chief Operating Officer

.....signature

.....full name

.....qualification

Witnessing Officer**Execution date****Lessor's signature**

(Witnessing officer must be in accordance with Schedule 1
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

9. Acceptance

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

.....signature

.....full name

.....qualification

Witnessing Officer**Execution date****Lessee's signature**

(Witnessing officer must be in accordance with Schedule 1
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

.....signature

.....full name

.....qualification

Witnessing Officer**Execution date****Lessee's signature**

(Witnessing officer must be in accordance with Schedule 1
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

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This is the Schedule referred to in the Form 7 LEASE dated the day of , 20

LEASE OF RESERVE IN TERMS OF THE LAND ACT 1994

BETWEEN **University Of Southern Queensland (ABN 40 234 732 081)** a body corporate duly constituted under the provisions of the *University of Southern Queensland Act 1998* (hereinafter with its successors called "the Trustee")

AND **Maridahdi Early Childhood Community (ABN 41 029 356 380)** (hereinafter with its successors and permitted assigns called "the Lessee").

WHEREAS all that piece of land being Lot 1080 on Plan AG 2932 and containing an area of 75.6 ha was reserved and set apart for University purposes by Order in Council dated 14th day of June, 1990, published in the Queensland Government Gazette on the 16th June 1990 at page 886 (hereinafter called "the Reserve") and whereas the Reserve has been placed under the control of the University of Southern Queensland as Trustee by Notice dated 22nd April 1993, published in the Queensland Government Gazette on 23rd April 1993 at page 1899.

AND WHEREAS the University of Southern Queensland being the Trustee for the time being of the Reserve has agreed with the Lessee to lease to the Lessee a part of the Reserve subject to the terms of the Land Act 1994, including that the Consent in writing of the Minister administering the Land Act 1994 be obtained and any conditions that Consent may include such as that the Mandatory Standard Terms Document forms part of this Lease and that the Lease be registered in the land registry.

AND AS this Lease is a Trustee Lease granted pursuant to Section 57 of the Land Act 1994, the terms of the Land Act 1994 will apply to this Lease including the rights to cancel this Lease as set out in the Act and that the terms of the Mandatory Standard Terms Document will prevail to the extent of any inconsistency in the terms of this Lease.

NOW BY THE TERMS OF THIS LEASE and the MANDATORY STANDARD TERMS DOCUMENT No. 711932933 and in consideration of the rental reserved and of the performance of the covenants and conditions by the Lessee **THE TRUSTEE LEASES** unto the Lessee a part of the Reserve being the premises shown hatched in black on the attached sketch plan.

A. DEFINITIONS and INTERPRETATIONS**(1) Definitions**

Unless otherwise provided or unless there is something inconsistent in the subject matter, the following words and phrases set out below (whether appearing with Capital letters or not) in the Lease have the meanings assigned to them in this Clause.

"the Act" means the Land Act 1994(Qld), unless the context otherwise permits.

"Air-conditioning equipment" means the plant electrical installations ductwork and diffusers, used for the manufacture and reticulation of conditioned air throughout the building and includes all mechanical ventilation like fans and heaters.

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“Approval” means any approval, consent or permission required including those required by law.

“Authority” includes association, corporation, authority or body.

“Building” means the building in which the Premises are situated if the premises do not comprise the whole of a building on the land and in any other event the building comprising the premises or included in the premises as described in Reference Data #7 and includes

- (i) the land on which the Building is erected;
- (ii) the common areas of the building;
- (iii) the Trustee's property in the building,

and unless repugnant to the context, shall be construed to mean any other building or additional buildings or additions or alterations to any existing or future building during the currency of this Lease located within the boundaries of the land.

“Car Park” means those parts of the Building and/or Land from time to time allocated by the Trustee for the parking of cars and includes the driveways to and from those parts.

“Claim” includes an action, suit, proceeding, claim, demand, cost, loss, damage or expense.

“Common Areas

of the Building” means those portions of the Building which are designed or are permitted by the Trustee for common use by any persons or groups of people including Lessees, occupiers, licensees, employees and the public without such persons or groups having any rights to exclusive occupation or licence thereof including but without limiting the foregoing

- (i) bus-stops, access and egress roads, car parking areas, pathways, landscaped and planted areas, pedestrian malls;
- (ii) entrances, exits, forecourts, foyers, vestibules, lifts, ramps, stairways, walkways, passage ways, landings and corridors;
- (iii) toilets, washrooms, showers, circulation areas, recreational areas, storage areas, loading docks.

And the “Common areas of the Land” shall have the like meaning as applicable to the land.

“Expense” means any cost fee disbursement expense penalty or charge whether paid or liable to be paid.

“Facilities” includes all fire and air-conditioning equipment and lifts (if applicable).

“Fire equipment” includes all stopcocks, hydrants, fire hoses, fire alarms, fire sprinklers and other fire prevention extinguishing and detection equipment in the building.

“Fittings” can include partitions divisions toilet and shower fittings grease traps taps spouts wash basins gas fittings electrical fittings security signage pipes facilities and other equipment or devices to provide services.

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"Floor Area" means with reference to an area of the Building, the area determined in the same way as the floor area of the premises is determined but no deduction or exclusion shall be made from the floor area by reason of walls columns stairs lifts or other interior construction or equipment.

"GST" refers to the Goods and Services Tax as imposed under A New Tax System (Goods and Services) Act 1999 (Cth) ("the GST Law") and includes where relevant, any related interest, penalties, fines or other charge and the terms GST amount, Input Tax Credit and taxable supply have the meanings as defined in the GST Law.

"Guarantor" means the person named in Reference Data #3 and also includes any person who covenants with the Trustee as Guarantor under Clauses K, L, S(11) and U and includes each person's executors and administrators and (if a company) its successors.

"Improvements" means all improvements, fixtures and fittings as constructed from time to time whether on the premises or building or land.

"Index Number" means the Consumer Price Index (All Groups) for Brisbane as published by the Australian Bureau of Statistics. If that index is suspended or discontinued or modified so it does not reflect a consistent basis change occurred in the cost of living in Brisbane during any Lease Year, the expression will mean an index or method of measuring increases in the cost of living in Brisbane during any Lease Year determined by a Valuer of the Australian Property Institute (Qld Division) or his nominee acting as an expert and not as an Arbitrator for that purpose at the request of the Trustee on behalf of all parties and such Valuer's decision shall be final and binding on the parties. The cost of obtaining such determination by the Valuer shall be borne by the Trustee and Lessee in equal shares.

"Insolvency" means for a natural person, committing an act of bankruptcy, being made bankrupt or being the subject to an arrangement under Part IV of the Bankruptcy Act and shall be deemed to include where applicable, the mental illness, death, having a trustee or guardian appointed to the property and for a corporation, going into liquidation, being wound up, being dissolved, having an official manager appointed, being subject to an Order for winding up or reconstruction or having any liquidator, provisional liquidator, managing controller, controller, administrator receiver, receiver and manager, an agent in possession, a trustee appointed to the property of the corporation or entry into any scheme or arrangement with creditors and in either case the making of any order or implementation of any statutory provision having the effect of restricting or deferring claims by creditors of any party and "insolvent" has a corresponding meaning.

"Insured event" means risks against which the Trustee or Lessee is required by this Lease to effect insurance and any additional risks against which the Trustee effects insurance relating to the Building or Land.

"Land" means the Trust Land or the Reserve.

"Law" includes any Statute Regulation By-Law Proclamation Ordinance Order or Rule including those of the Trustee.

"Lease" means this Trustee Lease and all legal variations to these documents.

"Lease Year" means each separate year of the term, the first year commencing on the Commencement Date and ending on the day prior to the Review Date and each

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subsequent Lease Year commencing on the corresponding Review Date of each succeeding year; the expression includes any broken period during the term.

"Lessee" means Trustee Lessee.

"Lessee's Equipment" means all improvements, machinery, equipment, apparatus, floor coverings, furnishings, partitions, divisions, cabling, stock, chattels or any other property or items owned or leased by the Lessee or is under its control and is installed or affixed by the Lessee or is in on or about the premises which is not the Trustee's property or improvement. All items of the Lessee's equipment in or installed in or affixed to the premises remains the property of the Lessee who shall be responsible for all maintenance repair replacement renovation and insurance of it and subject to any Approval required of the Trustee, the Lessee shall be entitled to remove any such property (but so as not in any way to injure the premises or the building) at the end of the Lease.

"Lessee's proportion" means that percentage of Outgoings specified in Reference Data #16.

"Month" means a calendar month.

"Obligation" includes any covenant, promise or condition of this Lease whether express or implied.

"Ordinary business hours" means those hours that it is customary for the business to be open given the nature of the business and its locality.

"Outgoings" means except for those the Lessee is separately liable and accountable for hereunder all costs and expenses of every kind relating to the Building and/or Land in respect of its use and occupation and the conduct management administration operation insurance and maintenance of the same and without limiting the generality of the foregoing may include those particular expenses described in Reference Data #15.

The outgoings will be calculated on an accrual and prepayment basis and all the sums referred to in this definition will be deemed to have been paid at the time when the obligation to pay them arose notwithstanding the actual date of payment AND any sum which is assessed at intervals or for periods other than periods falling wholly within the relevant Lease Year will be apportioned so far as may be necessary to calculate the outgoings. Any statement by the Trustee certifying as to the outgoings will be prima facie evidence of the matters stated in it.

PROVIDED THAT if at any time any item included in the outgoings relates only to part of the building then that item shall only be included for the purposes of this Lease if the premises are within that part of the building that derives benefit from that item and in that case the Lessee's pro rata share of that item shall be that proportion which the floor area of the premises bears to the total floor area of that part of the building to which that item relates and/or derives direct benefit there from (it being understood that items which relate to the common areas of the building or any part thereof shall be deemed to be related to the whole floor area of the building) and this also applies in the case of any item that relates only to part of the Land.

For the purpose of apportioning the outgoings equitably amongst the lessees of the building and/or land, the Trustee may in its absolute discretion from time to time determine that an

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expense forming part of the outgoings ("the Expense") will be paid by an individual lessee or group of lessees who derive direct benefit from the incurring of the Expense. If the Trustee determines that the Expense is payable by:

- (a) An individual lessee, that individual lessee will bear the cost of the Expense solely or
- (b) A group of lessees, the Expense will be apportioned amongst and be paid by the individual lessees in the group in the proportion which the floor area of each individual lessee's premises bears to the floor area benefiting from the incurring of the Expense.

Land Tax is not included in the expression the Outgoings.

"Permitted Uses" means those stated in Reference Data #17 and any change thereto which has the Trustee's Approval.

"Pipes" means all pipes sewers drains mains conduits ducts gutters water courses wire lines cables channels flues and all other conducting media and including fixings louvers cowls and any ancillary apparatus.

"Premises" means the area shown hatched in black on the sketch plan annexed as an Exhibit to this Lease and as described in Reference Data #8 and shall include:

- (1) The internal floor and ceiling surfaces and finishes (but not any other part) of the floor slabs and ceiling slabs (if any) that bound the premises,
- (2) The internal surfaces and finishes of external walls and doors and windows and their frames and internal structural or load bearing walls that bound the premises,
- (3) All surfaces and finishes of all internal structural or load bearing walls (if any),
- (4) The remaining doors and windows and their frames and the inner half severed medially of the internal non-load bearing walls that divide the premises from the adjoining offices or the common or other areas of the building,
- (5) All pipes that are in or on or above or under and that exclusively serve the premises,
- (6) All of the Trustee's property which from time to time are in or upon the premises and exclusively serves the premises including those separately itemised and listed in Reference Data #9.

"Reference Data" means the data set out in the Appendix to this Schedule and Reference Data # refers to the corresponding item number in that data.

"Rental or Rent" has the meaning given to that expression in Clause B of the Schedule.

"Rental Period" means each separate period for which rental is to be calculated.

"Rent Review Date" means the date set out in Reference Data #11.

"Rent Review" has the meaning given to that expression in Clause B of the Schedule.

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“Services” means electricity, gas, water, sewerage, telephone, wastes, pipes, telecommunications or data platforms, security, garbage and waste disposal and any other services provided.

“Stipulated Rate” means a percentage interest rate per annum equal to the prime lending rate charged by the Trustee's bank.

“Term” means the period set out in Reference Data #4 from the commencement date of the Lease as set out in Reference Data #5 and terminating on the expiry date set out in Reference Data #6.

“Trustee's property” means any item of property situated in or upon the land, building or premises at the commencement of the Lease or during the currency of the Lease whether affixed or not which belongs to the Trustee or is under its control including improvements, furnishings, floor coverings, chattels, machinery, apparatus, equipment.

(2) Interpretation

(a) If an Authority referred to in this Lease ceases to exist, is reconstituted renamed or replaced or its powers and functions are transferred to any other Authority then the reference to that Authority shall be deemed to be a reference to the entity established in lieu thereof and/or as nearly as may be that carries out its former powers or functions.

(b) References to Approval means Approval in writing signed by or on behalf of any entity.

(c) References to the Premises, in the absence of any provision to the contrary, includes any part of the premises.

(d) A reference to a Law shall extend to all amending consolidating or replacing it.

(e) A reference to Parties excludes the Guarantor except whether there is an express indication to the contrary.

(f) References to singular includes plural, persons includes any other entity recognised by law, masculine includes the feminine and vice versa.

(g) Any obligation by the Lessee not to do any act or thing is deemed to include an obligation not to permit or suffer that act or thing to be done, and to use its best endeavours to prevent that act or thing being done by a third party.

(h) Every term or obligation expressed or implied in this Lease by which two or more persons agree or are bound binds those persons jointly and each of them severally and every provision expressed or implied in this Lease which applies to two or more persons applies to those persons jointly and each of them severally.

(i) Every obligation (whether positive or negative) undertaken by any party (including the Guarantor) will, notwithstanding the wording, be deemed to be and will be construed as if each obligation is a separate and independent obligation made by the party undertaking the obligation and continuing (unless the context otherwise requires) throughout the term of this Lease and subsequently so long as it remains to be performed.

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- (j) The obligations implied by law (statutory or otherwise) are not negated but shall be deemed to have been modified to the extent of any inconsistency with the terms of this document in all cases where such modifications are permitted.
- (k) If any term or obligation of this Lease or the application thereof to any person or circumstances shall be or become invalid or unenforceable, the remaining terms and obligations of this Lease shall be valid and enforceable to the fullest extent permitted by law.
- (l) The index, clause headings, titles or marginal notes in this Lease are included for convenience only for reference purposes and do not affect the construction of this Lease OTHER THAN each reference in this Lease to any of the titled expressions contained in Clause A(1) which shall be construed to incorporate the terms and meaning set out under that title unless any inconsistency appears.
- (m) This Lease is expressed by the Trustee and Lessee in accepting and/or signing it to be executed and sealed as a Deed and to be delivered on the date of acceptance and/or signing of this Lease whichever occurs later.

B. RENTAL

(1) **Payment of Rent** The Lessee shall pay to the Trustee in each Lease Year the Annual Rent set out in Reference Data #10 or the Reviewed Annual Rent in substitution thereof as determined in accordance with any Rent Review as set out below ("the rental") by equal monthly instalments in advance on the first day of each month without any formal or other demand or deduction or set-off whatsoever or as the Trustee may direct from time to time by written notice and in the case of any broken period, an amount ascertained by multiplying the number of days in that broken period by the rental for the Lease Year of which it forms part and dividing the result by 365.

(2) **Rent Review** The Trustee may review the rental payable hereunder by reference to the specified Rent Review Date for each Lease Year of the Lease not more than once for each Lease Year.

(a) **Reviewed Annual Rent** The Reviewed Annual Rent for each subsequent Lease Year of the Lease as determined and notified by the Trustee to the Lessee by serving 14 days prior written notice on the Lessee shall be the higher of or determined by reference to one of the following methods (such election to be at the sole and absolute discretion of the Trustee):

(i) The amount calculated by applying the following formula on each Rent Review Date

$$R = \frac{A \times C}{B}$$

Where R = the rental in dollars for the relevant Lease Year.

Where A = the Index Number calculated or to be calculated for the period being the period for which such index numbers are calculated last ending prior to the first day of the relevant Lease Year.

Where B = the Index Number calculated or to be calculated for the period being the period for which such index numbers are usually calculated last ending prior to the Commencement Date of the Lease.

Where C = the annual rental payable (or would have been payable if the rental had not been pro-rated) for the first Lease Year of the term.

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- (ii) The rental reserved for the Lease Year immediately preceding the relevant Rent Review Date.
- (iii) An amount which the Trustee considers to be the Annual Market Rent appropriate to the premises as from the Rent Review Date ("Reviewed Annual Market Rent").
- (iv) An amount calculated by multiplying the rental reserved for the Lease Year immediately preceding the relevant Rent Review Date by a Percentage Increment as set out in Reference Data #13.
- (v) An amount calculated by such other Rent Review Method as may set out in Reference Data #12.

Notwithstanding the above and any determination by a Valuer under Clause B(3), in no event shall the rental payable in a subsequent Lease Year be less than the rental payable in the immediately preceding rent period.

- (b) **Non forfeiture** If the Trustee fails to give notice of the reviewed annual rent within a reasonable time of the rent review date, the Trustee will not forfeit its right to give notice at any later time and receive the benefit of any increase in rental as from the specified applicable rent review date.
- (c) **Delayed Review** Until the amount of the rental payable for each subsequent Lease Year is reviewed and determined in accordance with this clause, the Lessee shall continue to pay to the Trustee on the due dates the same rental as was payable on account thereof during the relevant immediately preceding rental period and upon determination and notice of the reviewed annual rental, any retrospective adjustment of arrears of rental from that Rent Review Date shall be payable forthwith upon such ascertainment and notice by the Trustee.

(3) Objection to Reviewed Annual Market Rent

- (a) **Notice** Should the Lessee object to the Reviewed Annual Market Rent as notified by the Trustee, then the Lessee must notify the Trustee within 14 days of delivery of the Trustee's notice (in which regard time is essential), that the Lessee disputes the proposed Reviewed Annual Market Rent and requires the Annual Rent to be determined in accordance with Clause B(3)(b). Unless notice is given by the Lessee within the time specified above, the Reviewed Annual Rent stated in the Trustee's notice given under Clause B(2)(a) becomes the rental reserved by this Lease on and from the Rent Review date in substitution of the rental previously stated or notified as determined in accordance with a Rent Review.
- (b) **Expert Determination Procedure** Following the Lessee's written notice to the Trustee that it disputes the proposed Reviewed Annual Market Rent in accordance with Clause B(3)(a), the Annual Market Rent will be determined by a Valuer appointed by the President of the Australian Property Institute (Qld) on the application of the Trustee. The costs of the determination will be borne equally between the Lessee and the Trustee. The Valuer to be appointed must have been a member of the Institute for at least 5 years and his decision shall be final and binding on the parties. The determination of the Annual Market Rent will be completed and

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notified by the Valuer to the parties within 30 days of submission of the question to the Valuer and shall include a written valuation setting out what was taken into account, what was disregarded, their respective weightings and any other adjustments. If the Valuer does not comply with this paragraph either party may apply to the President of the API (Qld) for appointment of a replacement Valuer. The determination of the first Valuer is of no effect unless it is received prior to the appointment of a replacement Valuer. Any variation in rental resulting from the determination takes effect on and from the Review Date. In determining the Annual Market Rent any Valuer will:

- (i) Be deemed to be acting as an expert and not as an arbitrator.
- (ii) Exclude any deleterious condition of the premises or the building if that condition results from any breach of any term of this Lease by the Lessee.
- (iii) Have regard to the terms and conditions of this Lease.
- (iv) Assume that all obligations on the part of the Lessee contained in this Lease have been fully performed and observed.
- (v) Have regard to the arguments and considerations submitted by each of the parties (if any).
- (vi) Have regard to the Annual Market Rent of comparable premises in the vicinity of the building or land.
- (vii) Value the premises as being fit for immediate occupation and use even if work has been carried out by the Lessee which has diminished the Annual Market Rent of the premises or if the premises are destroyed or damaged as if they had been fully restored and were in tenantable repair.
- (viii) Value the premises as being available to be let by a willing lessor to a willing lessee as a whole without a premium concession bonus or incentive otherwise required to secure a lessee but with vacant possession and subject to the provisions of this Lease (other than the amount of rental reserved by this Lease but including the provisions for rent review) for a term equal to the original term of this Lease.
- (ix) Where the annual market rent is to be determined for more than one office, value the premises on an office by office basis.

(4) Net Lease This Lease is a net lease and Lessee's obligations to pay all rental and the rights of the Trustee to the rental are absolute and unconditional and are not subject to any abatement reduction setoff defence counterclaim or recoupment. Except as may be otherwise be expressly provided in this Lease and notwithstanding any law to the contrary, this Lease will not terminate and the respective obligations of the Trustee or the Lessee will not otherwise be affected, by reason of:

- (a) The invalidity or unenforceability or lack of due authorisation or other defect of this Lease;
- (b) The lack of any right power or authority of the Lessee to enter into this Lease or any prohibition or interruption of or other restriction against the Lessee's use operation or possession of the premises for any reason;

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- (c) The interference with that use operation or possession by any person;
- (d) Any other indebtedness or liability and whenever arising of the Lessee to any other person;
- (e) Any insolvency or similar proceedings by or against the Trustee or the Lessee, or
- (f) Any other cause.

The rental will continue to be payable in all events and in the manner and at the times provided in this Lease unless the obligation to pay is terminated or abated under the express provisions of this Lease.

C. OUTGOINGS AND EXPENSES**(1) Lessee's outgoings and expenses** The Lessee shall pay

- (a) all or such sum of money equal to the Lessee's Proportion of the Outgoings as determined (at the Trustee's sole and absolute discretion) and advised by written notice of the Trustee to the Lessee, together with
- (b) the following:
 - (i) All expenses of every description relating to the conduct and operation of the Lessee's business in the premises including any services necessary for the operation of the business, like telecommunication services. The Trustee will make available standard telecommunication services "to the wall". All additional telephone services and data lines including installation are at the cost of the Lessee.
 - (ii) Where required by written notice of the Trustee to the Lessee, all charges for gas and electricity consumed or used on the Premises as determined by separate metering to be installed at the Lessee's expense on the premises.
 - (iii) All rates taxes charges assessments duties outgoings impositions and fees of any authority, municipal or semi-governmental, levied in respect of the premises or Lease or business for whatsoever reason and at any time during the continuance of the Lease including without limiting the foregoing any fire service fee and excess water charge. The Trustee reserves the right to recover from the Lessee by written notice to the Lessee any Community Ambulance Cover Levy charged under the Community Ambulance Cover Act 2003 that the Trustee may be required to pay with respect to the Lease of the premises.
 - (iv) If the local or any other authority provides any cleansing or refuse, trade waste, bulk garbage service for the premises (whether at the requests of the Lessee or by direction of any officer of that authority, the Lessee will pay the cost of all fees and charges imposed for the service and/or any permit required (the responsibility for obtaining such is on the Lessee).
 - (v) The costs and expenses of the Trustee of every kind of and incidental to any consideration, act or matter in connection with the Lease including without limiting the generality of the foregoing:
 - (1) All legal expenses (including costs on a Solicitor and own Party basis).
 - (2) The investigation of suitability of Lessee or Guarantor or assignee.

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- (3) Negotiation preparation execution stamping and registration of this Lease and any Rent Review.
- (4) Preparation of any necessary Lease plan.
- (5) Obtaining refusing or granting any necessary Approval.
- (6) Preparation and service of any notice (including under Sections 127 or 124 of the Property Law Act 1974) notwithstanding forfeiture is avoided other than by relief granted by the Court.
- (7) All monies the Trustee may expend or be put to in consequence of any breach or default of the Lessee in the performance and observance of any obligation or term contained or implied in this Lease or which is authorised or entered into or made by the Lessee.
- (8) All monies the Trustee may expend in consequence of any request by the Lessee.

SAVE THAT if no separate account or assessment is issued for any outgoing or expense in this subclause in respect of the premises or Lease then the Lessee will pay the Lessee's pro rata share of the account issued for the building or land as the case may be calculated by having regard to the floor area of the premises to the total area the account or assessment relates to and/or if the account is in respect of a period falling partially outside the term or any broken period of the Lease as the case may be, the Lessee's share being equivalent to that part of the period included in the term bears to the total period for which the account was issued.

(2) Prompt payment of Accounts The Lessee will pay all accounts payable by the Lessee prior to their due date directly to the person or authority who rendered the account unless the Trustee directs that payment be made to it and where required by the Trustee, payment or proof of payment is to be made to the Trustee within 7 days or such other time and/or in the manner as the Trustee directs in writing.

(3) Change in Law Should any law be introduced which prohibits the Trustee from demanding payment of any of the outgoings or expense set out herein then the Trustee shall (unless prohibited by law) be entitled by written notice to the Lessee to increase the rental payable by the Lessee by an amount equal to that which would, but for the introduction of the law, have been payable by the Lessee.

D. LESSEE'S USE OF PREMISES

At the Lessee's cost and at all times, the Lessee covenants with the Trustee:

(1) Purpose Not to use nor permit the premises to be used for any other purpose whatsoever without prior Approval of the Trustee OTHER THAN

(a) the Permitted Uses set out in the Reference Data #17, and

(b) for activities reasonably incidental to the stated Business of the Lessee set out in Reference Data #18.

(2) Business

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(a) **Hours** To keep the premises open for business in satisfaction of the Permitted Uses during ordinary business hours or as set out in Reference Data #20 or during the days and hours as notified in writing by the Trustee to the Lessee which shall not in any event be more than the ordinary business hours of the Trustee as set out in Reference Data #25 unless agreed in writing between the parties.

(b) **Trading Name** Not to operate under any other Business or Trade Names other than those set out in the Reference Data #19 on the premises without the Trustee's prior Approval.

(3) **Compliance with laws**

(a) **Comply** To duly observe and punctually comply with all relevant laws and requirements restrictions requisitions directions notices instructions and orders lawfully given or made by any relevant Authority including the Trustee relating to the lease, premises, Lessee's use or occupation of the premises or business of the Lessee, in particular those concerning occupational health and safety issues **SAVE THAT** the Lessee is not required by this clause to make any structural improvements alterations additions or works to the premises unless they are required by reason of any neglect or default by the Lessee or as a direct consequence of or incidental to the Lessee's business or activities carried on or in the premises or method or manner of carrying on the business or the number or sex of the employees or persons at the premises in which event the Lessee shall bear or reimburse to the Trustee the cost of all structural improvement alterations additions or works to the premises so required to comply with law.

(b) **Permits** To obtain keep and maintain all approvals registrations licences permits relating to the premises its permitted use or occupation or arising from or as a consequence of or incidental to the permitted Business of the Lessee and when required by the Trustee to produce the same for inspection by the Trustee on demand. The Lessee acknowledges that it is the responsibility of the Lessee to obtain the Approval of any planning or other Authority which may be required for the Lessee to carry on its business in the premises and the failure of the Lessee to obtain that Approval does not relieve the Lessee of its obligation to pay rental and otherwise perform its obligations under this Lease.

(c) **Infectious Diseases** In the event of any infectious diseases occurring on the premises, to give all necessary notices and other information to the proper Authorities including the Trustee and comply with all orders and notices including if necessary at its own expense to treat the premises by thoroughly fumigating and disinfecting the premises.

(d) **No illegal activity** Not to carry on or permit or suffer to be carried on in the premises any annoying noxious noisome offensive or illegal act business occupation or practice.

(e) **No Application** Not to apply to an authority for any licence, consent or approval to use the premises for a purpose other than the permitted use or apply for a liquor licence in respect of the premises (unless expressly permitted under the permitted use).

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(4) No Nuisance or Damage Not to do, cause, permit or suffer upon the Premises any act or thing or use of any equipment machinery apparatus or things which through noise odours vibrations or otherwise may be or grow to become a nuisance annoyance grievance or cause damage or disturbance to the premises or any neighbouring premises, the building or land or the services thereto or any neighbouring land, the Trustee, any other occupier or user of the land or persons lawfully upon the premises AND to take those steps as may be necessary to cease any nuisance or damage including confine odours peculiar to the Lessee's business to the premises AND to repair and make good forthwith any damage thereto occasioned or contributed to whether by the negligence misfeasance or nonfeasance or other act of the Lessee or any officer employee agent contractor invitee or visitor of the Lessee AND without limiting the generality of the foregoing:

- (a) Not to place any sweepings rubbish rags ashes or other deleterious substances in or block any pipes originating within the premises or on the land. (All blockages which may occur in any pipes between their points of origin and their entry into any trunk drain will be cleared by the Trustee.) All costs of clearing any blockages incurred by the Trustee will be paid by the Lessee to the Trustee upon demand.
- (b) Not to use the Trustee's property or other services of or to or in the premises or the building or land for any purpose other than that for which they were constructed designed or provided.
- (c) Not to overload the floors of the premises causing them to be broken strained or damaged. The Lessee will observe the maximum floor loading weights nominated by the Trustee and in particular the Lessee will not install any safes or other heavy apparatus without the prior Approval of the Trustee, such Approval to be subject to any conditions in the Trustee's discretion including specifying the position.
- (d) Not to move any safe furniture machinery equipment or apparatus in to or out of the premises or the building without prior Approval of the Trustee, such Approval to be subject to any conditions in the Trustee's discretion including not to move the same except under the supervision of the Trustee at a time approved by the Trustee and to give the Trustee reasonable notice of any intended moving.
- (e) Not to bring upon the premises or building or land any machinery, equipment or apparatus which may in the opinion of the Trustee be likely to cause any structural or other damage to any part of the premises, building or land (including any gardens) or any services thereto.
- (f) Not to install any electrical equipment on the premises that overloads or damages any cables switchboards or sub-boards through which electricity is conveyed to the premises or the building.
- (g) Not to interfere with or overload block injure deface or otherwise harm or prevent the proper and effective functioning of the premises and services contained in or about or to or from the premises without first obtaining the Approval of the Trustee and without limiting the generality of the foregoing not to hang any article or equipment from nor pierce any fire-rated ceiling.
- (h) Not to decorate the premises in any way that defaces, marks or damages including painting without written permission of the Trustee or as otherwise set out herein.

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- (i) Not to throw or permit to be thrown or to be dropped or allow to fall any article or substance whatsoever from or out of the premises or the building or any part thereof and not to place upon any sill ledge or other like part of the premises or the building any article or substance.
- (j) Not to bring nor permit to be brought or to leave in the premises or the building any animal bird or reptile unless necessary in the ordinary course of the Lessee's Business and then only if securely confined in proper cages.
- (k) Not to obstruct or permit to be obstructed any part of the building or land including by leaving or placing any article or thing or by any meetings of persons.
- (l) Not to burn any garbage refuse rubbish on or in the premises building or land.
- (m) Not to use any chemical burning fluids oil acetylene or alcohol or other inflammable or corrosive substances in the premises for any purpose unless necessary in the ordinary course of the Lessee's business and then only if confined in proper containers.

(5) Not Affect Trustee

- (a) **Increase/void insurance** Not to do or permit to be done anything or bring or keep anything in the premises which may breach or render void or voidable any policies of insurances relating to the premises, building or land or conflict with or breach any requirements of the Insurance Council of Australia or any laws applicable to the premises or which may lead to an increase in the premium payable by the Trustee for any such policies of insurance. Without prejudice to the rights of the Trustee to determine this Lease, the Lessee will pay to the Trustee on demand any increase in premium which may be occasioned by a breach of this clause.
- (b) **Use requiring structural alteration** Not to the use the premises for any purpose or in any manner which may give rise to any authority being entitled to give any notice requiring structural alterations or repairs to be made to any part of the premises or building or land.
- (c) **Not make Trustee Liable** Not to knowingly or wilfully do or omit to do anything nor permit any act or thing to be done which may render the Trustee liable to pay any claim or to bear the whole or any part of any expenses or damages incurred under any law order requirement or notice even though the same may be not in breach of any law.
- (d) **Not Increase Trustee Expense** Not to do or permit anything to be done which may render the Trustee liable to pay more for outgoings incidental to ownership of the premises, building or land.
- (e) **Not Harm Trustee's Reputation** To conduct its business in the Premises in a reputable manner so as not to harm the business or reputation of the Trustee or reflect unfavourably on the Trustee and will immediately discontinue such conduct on written notice by the Trustee.

(6) Marketing

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- (a) **On Premises** Not to cause or permit any advertising or other sign or advertisement placards or hoarding to be painted or erected or otherwise placed on or in the premises that is not customary and/or incidental to the Lessee's class of business and strictly complies with any local or other authorities laws and is not inconsistent with the general quality standard of the building and neighbouring buildings.
- (b) **Other areas** Not to use or permit the use of the common areas of the building or the land for business or display purposes or to solicit business or distribute any handbills or other advertising matter without the prior Approval of the Trustee on each occasion. If the Trustee permits the Lessee to display a sign outside the premises, the sign must comply strictly with any standard presentation required by the Trustee for signs in the same area and be consistent with the general appearance quality standard and design of the building or neighbouring buildings and in appropriate proportion to other signs providing they are not protruding from the side of the buildings to which they are affixed and it being understood that:
 - (i) There shall not be permitted signs on the highest point of the building which is on the roof or higher than the parapet or fascia board of the building to which it is affixed or
 - (ii) There shall not be permitted signs which consist of steady or intermittent light of any source whatsoever which is or may be visible at any time from any part of any common areas of the building or land.
- (c) **Broadcasting Equipment** Not to erect or place use or permit to be used on or out of the premises any radio or television or any musical instrument or antenna or receiver or loudspeaker or amplifier or screens or other similar devices or apparatus or like media or equipment likely or able to be heard or seen from outside the premises nor to spruik so that the same may be heard outside the premises without the prior Approval of the Trustee obtained for each occasion. That Approval may be granted or refused and subject to conditions in the absolute discretion of the Trustee and may be withdrawn by the Trustee at any time.

(7) **Vehicles**

- (a) **No Obstruction** Not to use or permit to be used any vehicles (including delivery vehicles during loading or unloading) so as to obstruct or interfere with the use of the common areas of the building or land including entrances and exits to car parks whether through parking or movement or otherwise.
- (b) **Compliance** To observe and ensure compliance of all laws of any authority including the Trustee relating to the control or direction or parking or movement of any vehicle including the prohibiting of vehicles intruding on any exclusion areas.
- (c) **Designated Parking** To use only the general car parks for parking or if permitted by the Trustee the designated "Special Permit" or specified car park area as set out in Reference Data #24 (if any) or as directed or designated by the Trustee from time to time.
- (d) **Fees** To pay to the Trustee on demand the parking fee the Trustee may require in respect of any vehicle parked by the Lessee or those over whom the Lessee may have control on the land including any area designated by the Trustee as aforesaid,

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that fee to be calculated at a rate not exceeding the rate set out in the Reference Data #24 during the period which any vehicle may be parked.

- (e) **Registration** If requested by the Trustee, to furnish to the Trustee the registration number plates of the vehicles used or to be used by the Lessee and those over whom it may have control and to keep the Trustee informed of any changes thereto.

(8) **Air-conditioning** If the premises or the building is air-conditioned:

- (a) **Circulation** To take steps as may be necessary to prevent excess infiltration of unconditioned air into the premises or the building and leakages of conditioned air there from and not to do any act or thing whereby the workings of the air-conditioning equipment shall be abnormally affected (in particular by the installation of lighting, cooking, heating or refrigeration equipment which causes or may cause abnormal heat or cooling).
- (b) **Control** So far as the operation and regulation of the air-conditioning equipment may be under the control of the Lessee for the building or part thereof, to operate and regulate the air-conditioning equipment so that the temperature and humidity in the adjacent or remaining common areas or other premises of the building that the air-conditioning equipment affects is maintained at a level that is reasonably comfortable to all users.
- (c) **Exclusive** In respect of any air-conditioning equipment installed in the premises by the Trustee to exclusively service the premises, to pay the operating and insurance costs of that equipment and to keep the equipment in good repair and condition (fair wear and tear (save that as is normally rectified as part of preventative or other maintenance under a service contract) and damage by fire storm tempest or other accident or event beyond the control of the Lessee excepted) and to engage properly qualified air-conditioning equipment specialists to carry out regular servicing of the equipment as aforesaid.

(9) **Security**

- (a) **Keep Secure** To keep all doors and windows of the premises securely fastened on all occasions when the premises are left unoccupied and to pay to the Trustee any costs or expenses incurred by the Trustee in keeping the premises guarded or secure during the times as the doors and windows of the premises are not so securely fastened. The Lessee authorises the Trustee to enter the premises from time to time for the purpose of locking any door or window left unlocked or unfastened and acknowledges that the Trustee may but is under no obligation to check the general security of the premises and/or the building.
- (b) **Keys** Not to hand over or permit to be handed over to members of the public or to come into the possession or control of any person other the Lessee and its officers employees or agents, the keys to the premises or building or any toilets or other areas reserved and secured for use by Lessees or other occupiers of the building.
- (c) **End of Lease** To return to the Trustee at the end of this Lease all keys for locks of doors or other openings of the premises or the building or areas secured therein.

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(10) Lifts (If any) Not to use or permit to be used any lifts for carrying bulk or quantity goods and equipment except the lifts (if any) made available and designated from time to time by the Trustee for those purposes and if applicable, the Lessee may at any time request the Trustee to make a lift available for those purposes and the Trustee will endeavour to make a lift available within a reasonable time after receipt of the Lessee's request.

(11) General

(a) Regulations To observe and not to permit or suffer any breach of the regulations, rules, policies or procedures of the Trustee ("the regulations") as the Trustee may from time to time make vary add to delete or amend (the right to do so is hereby reserved to the Trustee in its absolute discretion) relating to

- (i) the University or
- (ii) management of the facilities of the University (hereinafter referred to as "facilities management regulations") which may include any of the following-
 - (1) use management safety cleanliness and care of the building and land;
 - (2) preservation of good order therein;
 - (3) convenience or comfort of occupiers or their invitees therein;
 - (4) location of garbage and refuse in common areas pending its removal;
 - (5) use of car parks including charging a daily car parking fee or prohibiting the use of designated car parks or imposing penalties if parked within prohibited areas;
 - (6) closure of common areas of the building or land and any part of them, or
 - (7) external appearance of the building/land.

PROVIDED THAT where there is any inconsistency between any facilities management regulations and the rights of the Lessee as set out in this Lease, then the terms of this Lease shall prevail.

The Lessee acknowledges and declares that the failure of the Lessee or any persons over whom it may have control to observe or comply with any of the regulations as may from time to time be in force shall constitute a breach of this Lease in the same manner as if the regulations were contained herein as obligations by the Lessee with the Trustee. The Lessee acknowledges that the Trustee shall not be responsible for any loss or damage arising out of non-enforcement of any regulation.

(b) Evacuation Procedures To perform from time to time fire drills and other emergency drills and to observe all necessary and proper emergency evacuation procedures of the Trustee and the Lessee and its officers employees agents invitees and will co-operate with the Trustee in performing those drills and procedures.

(c) No Sleeping Not to use nor permit the use of any part of the premises for sleeping.

(d) No auction Not to conduct any auction sale on the premises.

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- (e) **Method lighting/heating** Not to use any method of heating or lighting of the premises other than by gas or electricity services installed in the building PROVIDED that this obligation shall not prevent the use of auxiliary power or lighting (other than an exposed flame) during any period of power failure or power restriction.
- (f) **Current address** To keep the Trustee advised in writing of the current private address and telephone number of the Lessee and the private address and telephone number of the manager of the business conducted on the premises and to promptly inform the Trustee in writing of any change in that address or telephone number.
- (g) **No removing Trustee's property** Not to remove the Trustee's property from the premises save as otherwise set out herein and not to use them for any other purpose than that for which they were designed or provided.
- (h) **Not part with possession** Not to transfer, sublet or mortgage this Lease or part with possession of the premises save as otherwise set out herein.
- (i) **Mortgage of Lessee's equipment** Not to mortgage, charge, lease or otherwise deal with any of the Lessee's equipment without the Trustee's prior consent which will not be unreasonably withheld where the Lessee's financier enters an agreement with the Trustee prepared by the Trustee at the Lessee's cost and otherwise on terms and conditions satisfactory to the Trustee.
- (j) **Notice** If the Lessee shall receive any notice from any authority with respect to the premises including a notice requiring anything not to be done or to be done like repairs rectification or any work on any part of the premises thereon to give immediate written notice thereof to the Trustee and to forthwith provide the Trustee with a copy of that notice.
- (k) **Onus** In any proceedings in relation to the premises the onus shall be upon the Lessee to prove that the premises were used in accordance with this part and not otherwise.

E. MAINTENANCE AND REPAIR

The Lessee covenants with the Trustee to the satisfaction of the Trustee at all times:

(1) Maintain and Repair To keep and maintain the Premises and the services within or exclusively serving the premises (including pipes and electrical water and gas installations from the points where the supplies enter the meters serving the premises)

- (a) in good and tenantable repair order and condition;
- (b) in a thorough clean neat and sanitary condition;
- (c) free and clear of rodent cockroaches termites pests and other vermin;
- (d) free from any accumulation or deposit or useless property or rubbish, and
- (e) to the standard required by any Authority if appropriate,

and if required by the Trustee, to enter and keep regular periodic maintenance contracts with reputable competent contractors approved by the Trustee (for example, pest controllers to

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treat the premises for prevention and/or eradication of pests) or to employ competent personnel (for example, cleaners to clean and keep the premises including the surfaces of windows and glass (if practicable) in a thorough state of cleanliness and remove the rubbish) at the Lessee's cost, fair wear and tear and damage by fire or other insured events (unless in the case of fire or other risk for which an insurance policy effected by the Trustee shall have been vitiated or payment refused in consequence of some act default or negligence of the Lessee its officers employees contractors agents invitees or visitors) and damage by storm tempest earthquake and lightning or otherwise by Act of God excepted. Where the policy of insurance for the insured event requires payment of excess or deductible by the Trustee, the Lessee will pay the excess or deductible (or where the damage is to the premises and other parts of the building/land a fair proportion of the excess or deductible) to the Trustee on demand. Cleaning shall be done as frequently (but at least once a week of every week the premises are open for business) and to the same standard of cleanliness as is common for similar premises in the reasonable opinion of the Trustee.

(2) **Waste** Pending disposal thereof, to store all garbage waste litter rubbish and refuse in tightly secured containers within the premises and to attend to the expeditious disposal thereof or in the manner designated by the Trustee. Where the Trustee does not provide refuse services, the Lessee's will at its own cost and expense cause all wet refuse to be removed daily outside of ordinary business hours and will also at its own cost and expense cause to be removed from time to time (and to the extent necessary to ensure that it does not become readily visible from the common areas) all packing materials cartons containers and other waste material of every description which do not form part of the normal refuse removed by the relevant local authority. Refuse removed by a local authority must be properly wrapped and placed in bins to be located in the service areas provided in the building or on the land.

(3) **Waste agents** To dispose of all cleaning water and used cleaning agents and detergents through the drains and waste outlets located within the premises or through other drains as may be directed from time to time by the Trustee and to keep all drains waste pipes inside the premises clean and free from obstructions.

(4) **Lessee's Negligence** To immediately repair damage to the Premises or any other part of the Building/Land or services thereto or Trustee's property therein or thereon caused by the wilful or negligent act or omission of or by the lack of care or misuse by the Lessee or any person under its control and any invitee or trespasser of the Lessee while the trespasser is in the premises.

(5) **Lessee's items** To keep the Lessee's equipment in the premises clean and in good repair order condition and preservation including where appropriate to the standard required by any Authority having authority over the items and to make good all wear and tear (includes items no longer fit for the purpose, broken or worn out) and damage arising thereto and if the item be incapable of complete restoration to its former condition to replace with a similar article or parts thereof of at least equal quality (includes items missing broken lost) and not without the prior Approval of the Trustee to remove or permit to be removed from the premises (except for the purpose of necessary repairs) any of such items until the end of the lease.

(6) **Replace Trustee's Property** To immediately replace any of the Trustee's property in the premises which may become missing broken damaged injured lost or unfit for the purposes for which the same are now used by substituting other items of a like nature and of equal standard and quality and not without the prior Approval of the Trustee to remove or

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permit to be removed from the premises (except for the purpose of necessary repairs) any of the Trustee's property and to yield up the Trustee's property (or any substituted for them as herein provided) clean and in good repair order condition and preservation at the end of the Lease.

(7) **Glass** To immediately replace or repair any glass in the premises which may be damaged injured or broken from any cause whatsoever with glass of at least the same quality type and gauge or where specified by law then with glass of the quality type and/or gauge so specified.

(8) **Lighting** To immediately replace light bulbs globes and tubes in the premises which may become damaged or fail to light.

(9) **Wiring** To replace any wiring or to do any re-wiring in the premises required by reason of additional electrical equipment used by the Lessee or positioning of such equipment.

(10) **Paint** To paint all those parts of the interior of the premises as have previously been painted according to the present finish in a proper workmanlike manner and with good quality products in the colours approved by the Trustee as and when the Trustee may reasonably require (but in any event at least no more than once within every period of five years from the commencement date and during the last 3 months of the term or sooner determination of the Lease) and to repair and make good any floor, ceiling or wall surfaces which may become broken or cracked.

(11) **Notice** To give to the Trustee prompt notice in writing of any accident or breakages or defect or damage sustained to or in the premises building or land or any of the Trustee's property or the facilities or operation of services thereto or any circumstances likely to cause any loss damage or injury within the premises or the building or the land coming to the Lessee's knowledge (actual or constructive).

AND at the end or sooner termination of the Lease yield up the same in such repair and condition (or any substitution for them as herein provided) kept as aforesaid.

PROVIDED HOWEVER the Lessee is not required to carry out repairs to the premises where those repairs are necessitated by damage occasioned by the Trustee's use of exterior walls or by the exercise of the Trustee's rights reserved to it by the terms of this Lease.

F. ALTERATIONS OR ADDITIONS

(1) **Lessee's Alterations** Subject to Clauses D and E, the Lessee shall not without the prior Approval of the Trustee make or cause to be made or suffer or permit to be made any alterations or additions to all or any part of the premises or the services thereto including those that may be:

- (a) required to make or keep the premises suitable for permitted use by the Lessee in its business; or
- (b) necessary to comply with the requirements of the insurance underwriters of the building or the premises or any laws;

whether by varying developing modifying the construction or arrangement of the premises or services thereto or erecting building constructing installing attaching removing any improvements or additions or things in the premises or by marking, painting, defacing,

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drilling into, cutting, interfering with, altering or injuring the Premises or services thereto (hereinafter referred to as "Works") AND Approval of such Works may be granted upon whatever terms and conditions the Trustee in its absolute discretion thinks fit (but which will not be unreasonably withheld if the Works are required by law). Without limiting the generality of the foregoing, such Approval of any of the Lessee's Works may include any number of the following conditions:

- (i) As a precondition to Approval, full detailed plans drawings and other specifications of the proposed works and class and particulars of materials proposed to be used are first to be submitted to and approved by the Trustee.
- (ii) As a precondition to Approval, the Trustee may engage any consultant for advice and in considering the proposed works shall have regard to the manner in which and the extent to which the same may affect other parts of the premises or the building or land or the services thereto.
- (iii) As a precondition to Approval, any approvals required under any Act are first obtained.
- (iv) As a precondition to Approval or before the works are effected, the Lessee to furnish an undertaking (prepared by the Trustee at the cost of the Lessee) that the Lessee shall at the end of the Lease at its expense reinstate the premises to the form they were in before the works were carried out.
- (v) The materials to be used in carrying out the works are to be of a standard as to type quality colour and size as the Trustee determines or approves.
- (vi) The works are to be carried out by contractors approved by the Trustee.
- (vii) The Lessee shall effect and maintain insurance with reputable insurers in connection with the works as required by the Trustee.
- (viii) The works are to be carried out in a proper and workmanlike manner and comply with the requirements of any relevant authority in carrying out such works.
- (ix) The works are to be carried out without creating undue noise, nuisance or interference with the use and enjoyment of adjoining or nearby occupied premises.
- (x) The works are to be carried out under the supervision and/or at the direction of the Trustee or any number of appointees of the Trustee.
- (xi) The Lessee or Trustee are to carry out any additional works at the Lessee's expense to permit or ensure the proper and effective functioning of the premises and/or building or services thereto as a consequence of any works.
- (xii) The Lessee is to pay to the Trustee immediately upon demand all reasonable costs and expenses incurred by the Trustee relating to the works including any consultant contractor or supervisor's fees payable by the Trustee regardless whether any Approval is granted or not.
- (xiii) The Lessee satisfies the Trustee that it has sufficient funds available to complete the works.
- (xiv) The works will be carried out by and/or at the entire cost and expense of the Lessee.
- (xv) The Lessee deposit with the Trustee the estimated cost of the works before they are commenced.

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- (xvi) The Lessee to pay to the Trustee an amount as and by way of further annual rental as set out in Clause F(2).
- (xvii) The Lessee shall at the end of the Lease, if requested by the Trustee, remove such works and restore and rearrange the premises to the condition they were in immediately prior to commencement of the Lease at the Lessee's expense.
- (xviii) The Lessee indemnifies the Trustee and at all times holds indemnified the Trustee from and against all claims of every description whatsoever which the Trustee may suffer or incur in connection with or arising from or as a consequence of or caused by the works being carried out including their removal and notwithstanding that the Trustee may have consented to those works and releases and discharges it from any further liability.
- (xix) Any works carried out by the Lessee remains the property of the Lessee.

(2) Trustee Alterations at Lessee or Authority's Request If the Trustee carries out or effects any alterations or additions ("works") to the premises or services thereto at the request of the Lessee or by reason of any law or as a result of any requisition direction or order of any licensing or health inspector or other authority having jurisdiction over the premises to the owner or occupier of the premises (and regardless of whether the requisition order or direction was received before or after the commencement of this Lease) then the Lessee will as from the date of completion of those works pay to the Trustee as and by way of further annual rental:

- (a) Where the works were effected for the benefit of the Lessee or the premises only, an amount per annum equal to 10% the Trustee's expenses in carrying out the works or
- (b) Where the works were effected for the benefit of the Lessee or the premises as well as other parts of the building or land then by application of the formula above to the Lessee's pro rata share of the expenses that is reasonable in the circumstances bearing in mind the areas of the building or land benefited by the works and if there be any dispute as to what is reasonable proportion, then the question shall be determined by a Valuer appointed by the President of the Australian Institute of Property (Qld).

The further rental is to be paid monthly in advance on the same day as the rental. In this clause the Trustee's expenses includes any fees paid to architects quantity surveyors engineers or other consultants or contractors.

G. ASSUMPTION OF RISK LIABILITY INDEMNITY BY LESSEE

(1) Risk The Lessee agrees to occupy and use the premises at the sole risk of the Lessee.

(2) No Warranties The Lessee acknowledges and declares that the Trustee or any other person on the Trustee's behalf has not made any promise, representation, warranty or undertaking nor does warrant that:

- (a) The premises and the finish and amenities thereof are now or will remain suitable fit or adequate for all or any of the purposes or business of the Lessee permitted to be carried on in the premises;

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- (b) Others have leased, will continue to lease or will not be permitted to lease premises in any building or on the land, and
- (c) The Lessee has any exclusive or limited share right to carry on that type of use or business permitted under this Lease or to sell any particular product.

All warranties (if any) as to the suitability fitness adequacy of the premises implied by law are negated. The Lessee acknowledges that it has in entering into this Lease relied on a satisfactory personal inspection of the Premises and the Lessee shall be responsible for taking those steps and doing all acts matters and things as may be necessary or desirable to enable the premises to be lawfully used for the permitted uses.

(3) Trustee not Liable Notwithstanding anything contained in this Lease or any implication or rule of law to the contrary, the Trustee will not in any circumstances be liable to the Lessee for any injury loss or damage (including any loss of profits) the Lessee or its officers employees contractors agents licensees invitees or visitors may suffer including to the Lessee's equipment or any other property of any description of or in possession of the Lessee and contained in or about the premises caused occasioned or contributed to by:

- (a) The use and occupation of the premises by the Lessee and arising out of any act neglect or default or omission (wilful or otherwise) of the Lessee or any officer employee contractor agent licensee invitee visitor or other person claiming through or under the Lessee to observe or perform any of the obligations and restrictions on the part of the Lessee in this Lease;
- (b) The improper or faulty installation erection or construction of the Lessee's equipment on or in the premises by the Lessee;
- (c) The operation non-operation malfunction or failure to function or interruption of any of the facilities or services or Trustee's property contained in the premises or building or land including any labour difficulties in obtaining any services;
- (d) Any defect or accident in the construction of or making of any repairs alterations or additions in the building or to the land and services thereto, including blockage of any pipes;
- (e) Any act or omission by any contractor or consultant of the Trustee or by any other Lessee or occupier of the building and their respective employees contractors agents licensees or by any member of the public;
- (f) Water heat fire electricity vermin explosion tempest riot civil commotion collapse subsidence faulty machinery or services bursting pipes or by entry of water from any source whatsoever; or
- (g) Any other cause whatsoever

EXCEPT AND to the extent only that such loss damage or injury is wholly caused by the neglect or omission of the Trustee to do any act or thing to or in respect of the premises or the building of which the Lessee is or ought to be aware and which (as between the Trustee and Lessee) the Trustee might legally be liable to do AND the Lessee having given the Trustee notice in writing of that act or omission and the Trustee without reasonable cause fails within a reasonable time to take proper steps to rectify the act or omission

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AND NOTWITHSTANDING the above, the Trustee shall not be prejudiced by or responsible to the Lessee for the non-observance or violation of any Lease or other agreement by any other Lessee or occupier of premises in the building or on the land

AND the Lessee hereby releases and discharges the Trustee from all such claims and demands of any kind arising from such loss damage or injury.

(4) Indemnity The Lessee agrees to indemnify and keep indemnified the Trustee and any person claiming through or under either of them from and against all claims of any kind whatsoever for which they may sustain or incur or become liable whether during or after the term of this Lease in respect of or arising from or contributed to by any act, neglect, default or omission of the Lessee or its officers employees agents contractors licensees invitees or visitors or any other person claiming through or under the Lessee or of any trespasser while the trespasser is in the premises and the Lessee's use and occupation of the premises, notwithstanding that any time or other indulgence has been given by the Trustee to the Lessee in respect of any obligation of the Lessee under this Lease.

H. INSURANCE

(1) Effect Insurance In addition to the obligations on the Lessee under the Mandatory Standard Terms Document, the Lessee shall at its own expense procure and maintain (and if the Trustee so elects in the names of the Trustee as owner and the Lessee as tenant for their respective rights and interests and of any other persons having any insurable interest) the following insurances at all times during the currency of this Lease with such insurance company authorised under the Insurance Act 1973 (Cth) or reputable and solvent insurance company:

- (a) Plate glass insurance covering all plate glass in the premises against breakage or damage from any cause (including cover against hail storm wind and flood and other risks as the Trustee may determine from time to time) for its full replacement value.
- (b) Public risk liability insurance covering all claims for injury (including death and illness) liability loss or damage to any person or property howsoever sustained in connection with the business or arising out of the use of the premises (including cover against fire flood and explosion and against contractual and product liability from goods or services sold or supplied) on a comprehensive basis in an amount selected from time to time by the Trustee but not less than the amount stated in Reference Data #21 for each claim or occurrence.
- (c) Property insurance covering the premises and all property situated in the premises owned by the Lessee or for which the Lessee is legally liable including the Lessee's equipment covering fire flood riots earthquakes fusion theft explosion storm tempest lightning subsidence or collapse strikes impact by vehicles or aircraft articles dropped from aircraft water damage and malicious damage and all other perils as are normally insured against by prudent owners of such property for full replacement value.
- (d) If required by the Trustee by written notice, business interruption insurance covering an amount sufficient to reimburse the Lessee for direct or indirect loss of earnings attributable to perils commonly insured against by prudent lessees or attributable to prevention of access to the premises.

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- (e) Any other form or terms of insurance as the Trustee reasonably requires from time to time in amounts and on terms acceptable to the Trustee for perils against which a prudent Lessee would protect itself in similar circumstances.

Any insurance policy effected by the Lessee shall contain:

- (i) A clause whereby the insurer waives all rights of subrogation against each insured party who would otherwise be entitled to indemnity in accordance with the terms and conditions of such insurance whether damage is caused by the act omission or negligence of the Trustee or by those for whom the Trustee is in law responsible. The Lessee releases and agrees to hold harmless the Trustee from and against all liability for any loss or damage to the Lessee and its equipment, by oversight fault or any other cause, and
- (ii) An undertaking by the insurer to notify the Trustee in writing not less than 30 days prior to any material change in terms, cancellation or other termination of the policies.

(2) Evidence Whenever requested by the Trustee, the Lessee shall produce to the Trustee any insurance policies effected by the Lessee and evidence satisfactory to the Trustee of:

- (a) review of the amount of those insurances according to the value of the property insured, and
- (b) renewal (the certificate of currency) within 10 business days of the commencement of each respective renewal period.

(3) Trustee can effect If the Lessee fails to take out or to keep in force any insurance required by this clause, or if the insurance is not reasonably approved by the Trustee, the Trustee may effect the insurance at the sole cost of the Lessee and all expenses by the Trustee will be payable by the Lessee to the Trustee on demand without prejudice to any other rights and remedies of the Trustee under this Lease.

(4) Notice The Lessee covenants with the Trustee to inform the Trustee (and Minister if applicable) in writing as soon as possible of any occurrence that the Lessee consider is likely to give rise to a claim under any policy of insurance effected and must ensure that the Trustee (and Minister) is kept fully informed of subsequent actions and developments concerning the same.

(5) Monies Should the Lessee receive any monies in respect of insurance cover of which the Trustee has an insurable interest then the Lessee shall hold the same upon trust for itself and the Trustee to be applied in accordance with the terms to be agreed between the Lessee and the Trustee but in any event expeditiously expend and lay out the monies in making good, repairing, replacing or reinstating the property or in satisfying the Lessee's liability or its obligations under this Lease.

(6) Not affect insurance The Lessee covenants not to do or suffer to be done anything which may prejudice affect invalidate or vitiate any insurance of the premises or building or the contents thereof or make any policy affecting the same void or voidable nor introduce nor permit to be introduced into or upon the premises or any part thereof any goods material or thing nor do nor permit any act which shall or may according to the terms of the policy under which the premises or the building or land shall be insured be considered hazardous or

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require the payment of any extra premium or expense of insurance and to indemnify the Trustee and/or other occupiers of the building against all claims incurred by or made against them or any of them and any extra premium payable by them or any of them by reason of any breach of this covenant.

I. TRUSTS

The Lessee hereby warrants to the Trustee that the Lessee is the full beneficial owner of this Lease and that it has not entered into this Lease for or on behalf of or as the Trustee for any person or as Trustee of any trust or settlement and that this Lease and the assets of the Lessee are not subject to or the subject of any trusts.

HOWEVER in the event that the Lessee at any time upon or subsequent to entering into this Lease or entering into or incurring the obligations contained in this Lease is acting in the capacity of Trustee of any trust or if the Leased premises are held by the Lessee upon the terms of any trust or are subject to any trust (all or any of which trusts are hereinafter in this clause referred to as the "Lessee's Trust") then whether or not the Trustee may have notice of the Lessee's Trust, the Lessee covenants with the Trustee as follows:

- (a) This Lease extends to all rights of indemnity which the Lessee now or subsequently may have against the Lessee's Trust and the trust fund.
- (b) The Lessee has full and complete power and authority under the Lessee's Trust to enter into this Lease and that entering into this Lease by the Lessee is in the due administration of the Lessee's Trust and the provisions of the Lessee's Trust do not purport to exclude or take away the right of indemnity of the Lessee against the Lessee's Trust, and the Lessee will not release that right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
- (c) The Lessee hereby accepts this Lease both as Trustee of the Lessee's Trust and in its personal capacity and notwithstanding anything in any deed of trust or settlement or other document, the Lessee will be and at all times remain personally liable to the Trustee for the due performance fulfilment and observance of the obligations in this Lease and covenants with the Trustee that in the event of any default hereunder which is unremedied the Lessee will take those steps and proceedings necessary to ensure that the assets of the Lessee's Trust are made available for the purpose of rectifying that breach and that upon demand by the Trustee the Lessee will assign all rights of indemnity which the Lessee may have against the assets of the Lessee's Trust to the Trustee.
- (d) During the currency of this Lease, the Lessee will not without the Approval of the Trustee cause permit or suffer to happen any of the following events:
 - (i) The removal replacement or retirement of the Lessee as sole Trustee of the Lessee's Trust;
 - (ii) Any alteration to or variation of the terms of the Lessee's Trust;
 - (iii) Any advancement or distribution of capital of the Lessee's Trust; or
 - (iv) Any resettlement of the Lessee's Trust property.

which Approval shall be on such conditions as the Trustee may determine but such Approval shall not be unreasonably or arbitrarily withheld where:

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1. The Lessee gives to the Trustee not less than one month's notice in writing of the proposed event; and
 2. The Lessee is not in default under any of the obligations and agreements on the Lessee's part herein contained.
- (e) The Lessee further covenants with the Trustee that it will be an event of default and a breach of an essential term under this Lease if the Lessee is guilty of any breach of trust in respect of the Lessee's trust or ceases to be the sole Trustee of the Lessee's Trust or otherwise suffers removal replacement or retirement as Trustee of the Lessee's Trust.

J. LESSEE A CORPORATION

If the Lessee is a company (other than a corporation whose shares are listed on any Stock Exchange), the Lessee hereby covenants with the Trustee:

- (a) That no transfer of any share or shares in the capital of the Lessee shall be registered, recorded or entered in its books;
- (b) That no beneficial interest in any such share or shares shall be dealt with;
- (c) That no new shares shall be issued; or
- (d) That no director of the Lessee shall be appointed or other action be taken or attempted to be taken,

having the effect that the shareholders of the Lessee at the start of this Lease or from the date of the Trustee's consent to any assignment in accordance with the terms of this Lease together beneficially hold or control less than 75% of the voting income and capital participation rights in the Lessee or less than that percentage of any one or more such rights or less than that percentage of the voting rights at a meeting of directors of the Lessee, without the consent of the Trustee on such terms and conditions as it in its absolute discretion deems fit including a condition that the Lessee shall give the Trustee that information relating to the transaction as the Trustee may reasonable require verified by independent valuation or statutory declaration. The consent of the Trustee shall not be unreasonably withheld where:

1. The Lessee gives to the Trustee not less than one month's notice in writing of the intention of the Lessee's directors to deal with any such transfer or interest or to issue such shares or to take such other action as aforesaid;
2. The Lessee is not in default herein;
3. The person to whom it is proposed to transfer or issue a share or in whom it is proposed any such rights shall become vested (hereinafter called "the proposed transferee") prove to the satisfaction of the Trustee that they are each respectable responsible and solvent persons and that the corporation will remain capable of adequately carrying on the business carried on by it in the premises, and
4. The proposed transferees of the shares or other persons in whom rights are to be vested furnish to the Trustee a joint and several guarantee in the form required

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by the Trustee to be prepared at the expense of the Lessee that the Lessee will duly perform and keep the covenants and agreements on the Lessee's part contained in this Lease.

If a change as aforesaid takes place without the Trustee's prior consent, then the Trustee may at any time after it becomes aware of that change, treat that change as an event of default of an essential term under this Lease.

K. ASSIGNMENT SUBLETTING AND MORTGAGING

Providing the Lessee is not being in breach of any obligation restriction or agreement under this Lease, the Lessee shall not assign or sub-let or under-let this Lease nor part with the possession of the premises or permit or suffer any person other than the Lessee to carry on business in the premises and shall not declare itself Trustee of a legal or equitable estate or interest therein or mortgage charge or otherwise encumber the Lessee's interest in this Lease or any estate or interest therein or share with any other person the occupancy of the premises WITHOUT FIRST obtaining the Approval of the Trustee and any other authority necessary and if Approval is granted then upon terms and conditions set out in that Approval including that the assignee sublessee licensee Guarantor or surety of such person (if any) be a respectable responsible competent and solvent person capable of successfully conducting the type of business permitted under this Lease and performing the Lessee's obligations herein AND approved by the Trustee (the onus of proving all of this to the reasonable satisfaction of the Trustee shall be on the Lessee at its sole expense and if so required shall be verified by statutory declaration and/or by an auditor's or accountant's report including an up-to-date summary of assets and liabilities and copies of current bank account, overdraft and mortgage statements and/or character and business references and/or any other information required by the Trustee), AND as a condition precedent to the Trustee's Approval and prior to execution of any consent, the Trustee may require that:

- (a) The Lessee provides a copy of all agreements between the Lessee and the proposed assignee and any other party (including Guarantor and Surety) to the dealing to the Trustee and the Trustee will have the right to approve the terms of the agreement or to request changes to the agreement.
- (b) The Lessee ("the assignor") and proposed assignee sublessee or licensee ("the assignee") executes a deed of assignment of this Lease or estate or interest therein or any other document or instrument in such form as the Trustee shall approve and in which
 - (i) there shall be repeated by the assignee with the Trustee those of the Lessee's obligations terms and provisions herein contained as may be required by the Trustee to be observed performed fulfilled and kept, and execute and deliver to the Trustee a power of attorney (stamped if necessary) in favour of the Trustee in the same terms as those contained in the Power of Attorney clause of this Lease with any necessary alterations, and
 - (ii) shall provide that the assignment and the consent of the Trustee thereto shall not in any way be deemed to release the assignor from the obligations agreements or restrictions on the Lessee's part contained in this Lease nor will the Lessee's liability be impaired or discharged by reason of any time or other indulgence now or at any time hereafter granted by the Trustee to any assignee and the liability of the Lessee to assure the performance of the

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Lease will not be affected by any further assignments of the Lease or estate or interest therein.

- (c) The Lessee, at its expense, to procure that the terms of this Lease be guaranteed in a form of document or instrument and on terms acceptable to the Trustee.
- (i) If the intended assignee is a company then upon the Trustee's demand at least 2 (or more if the Trustee so requires) of its directors or principal shareholders of satisfactory standing to the Trustee will join in the deed as sureties for the company in order to jointly and severally covenant with the Trustee as sureties that:
- (1) The company pay the rent and perform and observe the covenants by the Lessee and conditions contained in this Lease;
 - (2) the Trustee be indemnified against all claims arising by reason of any default by the company;
 - (3) any neglect or forbearance of the Trustee will not release or exonerate the sureties;
 - (4) the sureties will accept a new Lease of the premises upon disclaimer of these presents by the company or on its behalf or on dissolution of the company, the new Lease to be for the then unexpired residue of the term of this Lease and at the rental payable under this Lease and subject to the same Lessee's and Trustee's covenants respectively and the same provisos and conditions in all respects as are contained in this Lease, and
- (ii) If the intended assignee is a Trustee of a trust (other than a unit trust) the Lessee shall procure the execution of a deed on the part of the directors and principal shareholders (if it is a company) and all beneficiaries jointly and severally guaranteeing the due and punctual performance by the proposed assignee of all conditions and agreements herein contained or contained in the deed on the part of the proposed assignee.
- (d) The Lessee shall forthwith provide the Trustee with a copy of all executed documents and instruments.
- (e) The Lessee pays to the Trustee its reasonably incurred costs and expenses of and incidental to the investigations of the assignee and of any Guarantor and/or surety proposed by the assignee and of the negotiations for and Approval and completion of any such instruments or document required hereunder.

L. TRUSTEE'S RESERVATIONS

The Trustee expressly reserves the following rights regarding the land and building generally:

(1) Trustee Right To Enter Premises

- (a) **Grounds** The Trustee may, on giving reasonable notice (deemed to be not more than 5 business days) to the Lessee (except in an emergency where no notice is

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required), with or without others and with any tools, equipment and materials, to enter the premises to:

- (i) View the state of repair and condition;
- (ii) Make such reasonable investigation as it may deem necessary to ascertain whether there has been any breach of this Lease;
- (iii) Serve upon the Lessee a notice in writing of any defect requiring the Lessee to repair anything in accordance with an obligation herein;
- (iv) Make any repair where a notice to repair is given and the Lessee fails to repair any defect or fails to repair to the standard required by the Trustee. (In addition to the Trustee's other remedies, the Trustee may recover from the Lessee on demand the cost of such repairs as the Lessee ought to have effected including all sums paid or payable on account of any insurance indemnities or compensation under the Worker's Compensation Act with interest thereon as set out in the Reference Data #14, such sum may be recovered by action at law as a debt owing by the Lessee to the Trustee);
- (v) Comply with any law affecting the premises or building or land or of any notice served upon the Trustee or Lessee by any relevant Authority which the Lessee may not be bound or, if bound, may neglect to do;
- (vi) In the event of any part of the premises being destroyed or damaged for the purpose of rebuilding the same or making them fit for the occupation and use of the Lessee;
- (vii) Within 6 months of the expiration of the term or sooner determination, for the purpose of viewing the premises with the object of leasing the same;
- (viii) Attend to any matters connected with the premises or the building or the facilities or services thereto for which the Lessee is not responsible, for example carrying out any works in conjunction with or to adjoining premises or common areas of the building which cannot be reasonably undertaken without access from or through the premises;
- (ix) Make such repairs, additions, installations, replacements, renewals and alterations as the Trustee shall deem necessary for the safety, preservation or improvement of the premises or building or land; or
- (x) Exercise any of the powers, rights and remedies conferred on the Trustee under this Lease

PROVIDING that in exercising these rights the Trustee shall not interfere with the Lessee in its use and occupation of the premises more than is reasonably necessary.

- (b) **Trustee not Liable** The Trustee shall not be responsible for or liable to the Lessee for any inconvenience injury loss (including economic loss) or damage howsoever arising which may be suffered by it as a consequence of the Trustee exercising its rights under this clause and the Lessee releases and discharges the Trustee from all liability and claims.

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- (c) **Extended Rights** The Trustee shall (without prejudice to any other rights invested in it) have the like rights as are in this clause in respect of any defects damage or want of repairs to any other premises or areas of the building or land for which the Lessee is responsible for under the terms of this Lease.

(2) **Building Works** The Trustee may whenever and in any manner the Trustee deems fit alter add to or increase the height or elevation of the building or effect repairs to it or any part of it (including the premises) for any purpose but in particular during further stages of any development that includes the building, the alteration additions or repairs to be carried out in a reasonable manner and the Trustee or any person authorised by the Trustee may at any time for the purpose of making those alterations or additions or repairs enter and remain upon the premises with materials and tools upon giving reasonable written notice to the Lessee.

(3) **Operational Matters**

- (a) **Signage** The Trustee has the sole and exclusive right at all times during the term of this Lease to erect or affix any display sign or advertisement on or to the roof of the building and the external walls and common areas of the building and if required, has the right of reasonable access over and through the premises to and from any display sign or advertisement for the purpose of installing maintaining or removing it providing that in exercising these rights the Trustee shall not interfere with the Lessee in its use and occupation of the premises more than is reasonably necessary.

- (b) **Use of Services** The Trustee is entitled to free and uninterrupted passage and running of services and supplies from and to any other parts of the buildings or land in and through the pipes services or facilities which now are or may during the term of this Lease be in under or over the premises and is entitled at reasonable times and upon reasonable notice (except in the cases of emergency) to enter (or in the cases of emergency to break and enter) the premises to construct install alter add to remove replace and maintain and repair in or under or over the premises any pipes services or facilities for the benefit of any other part of the building or land.

- (c) **Closing of building** The Trustee may at any time and from time to time for any period it sees fit close all or any of the entrances to the building or other means of access to the building and/or close off the whole or any part of the building including any interior common areas like corridors passageways courts foyers and the Trustee may (but shall not be required to) lock those entrances and/or areas and during the times that the entrances or all or any part of the building shall be closed and/or locked, the Lessee and its officers employees agents visitors licensees and invitees shall not seek to enter or leave the part or parts of the building which are closed and/or locked except with the specific permission of the Trustee obtained for the purpose and where that permission is given, shall enter or leave by entrances and exits as directed by the Trustee and shall obey all directions given by or on behalf of the Trustee as to the time and/or manner of vacating the premises building or any part thereof PROVIDED HOWEVER that except in the case of real or threatened emergency the Trustee shall not without the consent of the Lessee close all the entrances to the building simultaneously for more than 24 consecutive hours during which the Lessee is required to be open for business under the terms of this Lease.

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(d) **Common Areas** Without liability to the Lessee for compensation or otherwise, the Trustee may from time to time and for any period of time and in any manner in as the Trustee sees fit and whether of a permanent or temporary nature:

- (i) Make available within the building and the land those common areas as the Trustee shall in its sole discretion deem appropriate. No part of the common areas shall be considered to be part of the premises;
- (ii) Construct or permit the construction of any building improvements structures or other works on or to any part or parts of the common areas of the land and/or building including to erect scaffolding for that purpose if necessary;
- (iii) Add to (whether by the construction of additional storeys or in any other manner) or vary or alter and repair and maintain any of the Trustee's property or buildings erections improvements structures or works;
- (iv) Discontinue relocate or make changes to the size or location or nature of any common areas or make repairs improvements renovation or service or close and/or lock the same;
- (v) Erect remove alter and move booths kiosks freestanding displays signs seats and other structures in any part of a common area;
- (vi) Restrict access to particular persons or classes of persons;
- (vii) Restrict or prohibit access during certain hours or days, and
- (viii) Do any other acts in and to the common areas as in its judgment may seem to be desirable including for example, closure of parking areas

PROVIDED HOWEVER that the Trustee shall not completely prevent access to the premises through any common areas except as otherwise provided herein.

(e) **Relocate Premises** The Trustee shall have the right at any time during the Lease to relocate the business of the Lessee to another location within the building or on the land subject to the following terms and conditions unless otherwise agreed between the parties hereto:

- (i) The Trustee shall give the Lessee not less than ninety days written notice of its intention to relocate the business of the Lessee.
- (ii) The reason for which the Trustee requires to relocate the business of the Lessee is that the Trustee wishes to extend, renovate, demolish or rebuild that part of the building in which the premises are situated.
- (iii) The area of the premises at the proposed new location (hereinafter called "the new premises") shall not be greater or smaller by ten per centum than the area of the premises.
- (iv) The new premises shall be as nearly as possible comparable to the premises.
- (v) The Trustee will pay or reimburse the Lessee removalist's fees, if any, incurred in moving the Lessee's equipment from the premises to the new

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premises together with any direct overhead costs incurred by the Lessee in respect of any period during which, solely as the direct consequence of the removal, the Lessee is unable to carry on business from the premises or the new premises.

- (vi) No rent will be charged in respect of either the premises or the new premises in respect of any period during which, solely as the direct consequence of the removal of the Lessee's equipment, the Lessee is unable to carry on business from either the premises or the new premises.
- (vii) The parties shall enter into a new lease on the same terms and conditions provisions and stipulations as this Lease except the term shall be the remaining unexpired period of this Lease and the annual rent payable in respect of the new premises shall be determined in accordance with the following formula:

$$\text{Annual rent of lease of new premises} = \frac{\text{Annual rent} \times \text{Floor area of new premises}}{\text{Floor area of leased premises}}$$

And the Trustee shall bear its own costs of the preparation and execution of the Lease of the new premises and the surrender of this Lease. Any stamp duty thereon shall be borne by the Lessee. This Lease shall terminate not later than the effective commencement date of the Lease of the new premises.

(4) GRANT RIGHTS

- (a) **Licence for use in common areas** The Trustee may from time to time in its absolute discretion during the term of this Lease in any part of the common areas of the building and/or land grant to any person either exclusively or in common with others a licence to use any structures or parts of the common areas for such purposes for such periods and upon such terms and conditions as the Trustee may in its absolute discretion think fit.
- (b) **Grant easements** The Trustee may for the purpose of providing public or private access to or egress from the building or land or support of the structures erected or to be erected or the provision of services to the building or the land to enter into any arrangements or agreements with any person or public or other authority or any of the lessees or occupiers of the land or buildings and for those purposes may dedicate transfer grant or create easements over the building or land in favour of those persons and/or authorities and upon whatever terms and conditions the Trustee thinks fit. The estate or interest of the Lessee under this Lease is deemed to be subject to these arrangements or agreements but the Trustee in exercising the rights reserved by this sub-clause will not enter into any arrangement or agreement or dedicate transfer grant or create any easement right or privilege in favour of any person or authority which substantially and permanently derogates from the enjoyment of the rights conferred on the Lessee by the this Lease.
- (c) **Interest** The Trustee may at any time acquire or dispose of any land or interest therein by transfer lease or otherwise as the Trustee sees fit.

(5) TRUSTEE'S SERVICES

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- (a) **Pest/Janitorial Services** Notwithstanding the express obligations on the Lessee contained in this Lease, the Trustee may but is not obliged to provide pest control and/or janitorial services (if any) set out in Reference Data #22 and #23 to the Premises in addition to the common areas of the Building. Janitorial services includes only ordinary dusting and cleaning and removing general refuse and does not include shampooing carpets, cleaning window coverings furniture and windows or other unusual services which remains the responsibility of the Lessee. If the Trustee provides any of these services to the Premises, the Lessee will at all times, permit the Trustee or any entity engaged by the Trustee to provide those services, access to the premises for those purposes and reimburse the Lessee's pro rata share of the Trustee's outgoing for providing that service to the premises to the Trustee upon demand. Additional cleaning requested by the Lessee will be charged at cost. The Trustee is not responsible in any way to the Lessee for any loss damage or injury to the Lessee or any person over whom it may have control or the Lessee's equipment caused by or contributed to or arising out of or in connection with or as a consequence of the provision of the services to the premises referred to in this sub-clause. Provision of these services will and does not waive the obligations of the Lessee under this Lease in any way.
- (b) **Security Services** The provision of security services shall be at the sole discretion of the Trustee and the Trustee shall not be liable for nor have any responsibility to the Lessee or its officers employees agents contractors licensees invitees or visitors for any loss damage or injury suffered including any loss or theft from the building or the premises caused or contributed to or arising out of any provision or failure to provide these services.
- (c) **Operation of air-conditioning equipment** Nothing herein contained shall require the Trustee to operate the air-conditioning equipment in the building during days and hours that the Lessee is not required to open the premises for business pursuant to Clause D(2)(a) hereof.
- (d) **Use of lifts** Any use by the Lessee or its officers employees agents contractors licensees invitees or visitors of any lifts shall be only during the hours (not exceeding the ordinary business hours of the Trustee) and on the conditions as may be prescribed by the Trustee from time to time and that user shall be permissive only and not as of right and the Trustee shall not be liable for any accident injury loss or damage howsoever caused which may happen in connection with the lifts nor for the lifts ceasing to run or operate at any time.
- (e) **Lessee car parking** The Trustee may at any time from time to time designate general or specific car parks, Special Permit Areas or other common areas of the building or land for which vehicles being used the Lessee and its employees contractors agents licensees and invitees must or may be parked and that user shall be permissive only and not as of right and the Trustee shall not be liable for any accident injury loss or damage howsoever caused which may happen in connection with the car park.

(6) MANAGEMENT

- (a) **Managing Agent** The Trustee may from time to time appoint a managing agent to manage the building or land and any managing agent so appointed will represent the Trustee in all matters relating to this Lease except in so far as the Trustee

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otherwise directs in writing but any communication from the Trustee to the Lessee will to the extent of any inconsistency supersede any communication from the managing agent.

- (b) **Building Manager** The Trustee may from time to time appoint a building manager who will be afforded the rights of entry conferred upon or reserved by the Trustee and who will be responsible for the general day to day running of the building and may include the policing and administration of the regulations.
- (c) **Car Park** The Trustee may contract with any authority or agent for the operation policing and management of the car parking areas on such terms and conditions from time to time as the Trustee shall in its sole discretion deem fit.

M. TRUSTEE'S ASSURANCES

Trustees Obligations Subject to the express and implied reservations rights and powers contained in this Lease, the Trustee agrees with the Lessee that the Trustee will perform and observe all of the obligations and terms on its part to be performed or observed under the terms of the grant and contained in this Lease including the following:

- (a) **Quiet enjoyment** If the Lessee promptly pays the rent and duly observes and performs the covenants and agreements on its part contained in this Lease, the Lessee may peaceably hold and enjoy the premises during the term of this Lease without any unreasonable interruption by the Trustee or any person lawfully claiming through the Trustee.
- (b) **Trustee to pay rates** The Trustee will pay all municipal rates and land tax payable in respect of the building and land except those rates and taxes which the Lessee has covenanted to pay in whole or in part.
- (c) **Common areas** The Lessee and its officers employees agents licensees invitees and visitors shall have the non-exclusive right (in common with the Trustee and all others to whom the Trustee has granted or may hereafter grant rights) to use any part or parts of the common areas of the building and/or land until the Trustee shall at any time or from time to time otherwise determine and that use shall be during such hours as the Trustee may determine and be subject to the rights and regulations of the Trustee as the Trustee may impose in accordance with the provisions hereof. The Trustee may manage operate equip police light control repair and maintain the common areas in such manner as determined by the Trustee in its sole absolute discretion but subject to any power failure shall endeavour to ensure that the Common Areas of the Building are adequately illuminated whilst in use, for the safety of users. The Trustee shall provide Janitorial Services to the common areas of the building to commercial generally accepted levels as set out in Reference Data #22. The Lessee shall notify the Trustee in writing of any repair or maintenance required in this regard.
- (d) **Lessee to have access** Subject to the foregoing, the Trustee will permit the Lessee at all times during the term of this Lease to have full and free access (in common with the Trustee and all other persons to whom the Trustee grants the like right) to and from the premises through the common areas of the building and/or the land as may be necessary or convenient for the purposes of the Lessee's business but not for any other purpose. In exercising this right of access the

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Lessee and all persons authorised by or claiming through or under the Lessee must comply with all reasonable requirements of the Trustee to ensure the safety of people, buildings and land including where necessary control of the entrances to the building/land and identification of people entering the building/land.

- (e) **Repair** The Trustee shall keep the Building and Services and Facilities in and to the Building in good repair and maintenance throughout the term of this Lease except to the extent the Lessee and other occupants of the building are obliged so to do. The Trustee shall maintain the Building to a standard of repair having regard to its age, quality, nature, function, character and situation, in keeping with similar comparable commercial buildings but the Trustee is not required to carry out structural repairs or to remedy latent defects or remedy fair wear and tear, except
- (i) when required for the stability or safety of the Building; or
 - (ii) to maintain the reasonable use and enjoyment of the Building and the Premises by the Lessee and other occupants of the Building.

Where the Trustee is responsible, it will ensure that the Facilities in the Building are regularly inspected, serviced and repaired, by specialist consultants or contractors as required at intervals considered necessary or prudent by those specialists.

- (f) **Provision of services** Subject to Clause L(5), the Trustee will endeavour to provide to the premises during the Lessee's ordinary business hours reasonable quantities of services and facilities (if applicable) required for the permitted use of the premises by the Lessee and to ensure that each is operating and is in working order and available for use. The Lessee shall notify the Trustee in writing of any maintenance required in this regard. If there is a failure of or interruption to any of those services and things described in this Lease the Trustee will take all reasonable steps in its power to restore them.
- (g) **Trustee's Insurance** The Trustee will insure the building against fire, lightning, impact by aircraft or falling objects, earthquake, explosion, impact by vehicles and animals, malicious damage other than by persons in or about the building with the actual or implied consent of the Lessee, rainwater, storm and/or tempest on terms and conditions reasonable to the Trustee at the time the insurance is effected. The obligation to insure against any risk is conditional upon insurance for that risk being available from reputable insurers at rates terms and conditions reasonable to the Trustee.

N. DESTRUCTION OR DAMAGE OF PREMISES

(1) **Substantially unfit or substantially inaccessible** If the premises or the building is damaged by an insured event or any other event beyond the control of the Lessee so as to render the premises substantially unfit for the occupation and use by the Lessee or (having regard to the nature and location of the premises and the normal means of access) substantially inaccessible, for a period exceeding 7 days, then and so often as the same shall happen:

- (a) **Rights in the Event** Except where the damage has been caused by the negligent act or omission or wilful misuse of the Lessee or of any officer employee agent licensee invitee or visitor of the Lessee or of any other occupier claiming by through or under the Lessee -

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- (i) **Suspension of Rent** A proportionate part of the rent and other monies payable under this Lease according to the nature and extent of the damage sustained, as agreed in writing between the parties, shall abate and all or any remedies for recovery of that proportionate part of the rent and other monies falling due after the damage shall be suspended until the premises have been restored or made fit for the occupation and use of the Lessee or accessible to the Lessee as the case may be.
- (ii) **Damage Notice** Within 14 days of the premises being rendered substantially unfit or inaccessible, the Lessee may serve on the Trustee written notice that the premises have been rendered substantially unfit or inaccessible (a Damage Notice) and unless within a period of 28 days after being served with a Damage Notice, the Trustee serves written notice on the Lessee that the Trustee will restore the premises or make them fit for occupation and use of or render them accessible to the Lessee (a Restoration Notice), the Lessee may (not before the expiration of the period of 30 days and not after the expiration of 56 days from the date of service of the Damage Notice on the Trustee) terminate this Lease by notice in writing to the Trustee.
- (iii) **Termination by Lessee** If the Trustee gives a Restoration Notice to the Lessee and does not within a reasonable time substantially commence and diligently proceed to restore the premises or make them fit for the occupation and use of or render them accessible to the Lessee, the Lessee may serve on the Trustee notice of intention to terminate this Lease and unless the Trustee upon receipt of that notice proceeds with reasonable expedition and diligence to restore the premises or make them fit for occupation and use of or render them accessible to the Lessee as the case may require, the Lessee may terminate this Lease by giving not less than 1 month's notice in writing to the Trustee and at the expiration of the last mentioned notice this Lease terminates.
- (b) **Termination by Trustee** If in the Trustee's sole opinion the damage to the premises or building is such that it is impracticable or undesirable to restore the premises or make them fit for the occupation or use of the Lessee or render them accessible to the Lessee or if the damage to the premises or the building occurs less than 1.5 years prior to the expiration of the term of this Lease the Trustee may terminate this Lease by giving not less than 1 month's notice in writing to the Lessee and at the expiration of that notice this Lease terminates.
- (c) **Antecedent Rights** No liability attaches to the Trustee by reason of termination of this Lease under para (a) or (b) of this clause, and otherwise any termination is without prejudice to the rights of either party in respect of any antecedent breach or non-observance of any obligations or provisions of this Lease.
- (2) **Wholly unfit or totally inaccessible** If the building or the premises are taken for any public purpose or are destroyed or so damaged that the premises are rendered wholly unfit for the occupation and use of the Lessee or totally inaccessible:
- (a) **Termination by Trustee** The Trustee may notwithstanding anything contained or implied in this Lease terminate this Lease by giving not less than 1 month's notice

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in writing to the Lessee and at expiration of that notice this Lease terminates and no liability attaches to the Trustee by reason of the termination.

(b) **Termination by Lessee** Except where the destruction or damage has been caused or contributed by the neglect or act or omission of the Lessee or of any officer employee agent licensee customer or visitor of the Lessee or of any sub-lessee licensee or other occupier claiming by through or under the Lessee including resulting in the vitiation or refusal of payment under any policy of insurance, the Lessee may terminate this Lease by giving not less than 1 month's notice in writing to the Trustee and at the expiration of that notice this Lease terminates.

(c) **Antecedent Rights** Any termination under para (a) or (b) of this clause is without prejudice to the rights of either party in respect of any antecedent breach or non-observance of any obligation or provision of this Lease.

(3) **Resolution of Disputes** Any dispute arising under Clauses N(1) or N(2) will be determined by a member of the Insurance Council of Australia Ltd (Qld Division) appointed by the President for the time being of that Institute on the application of the Trustee or the Lessee. The person so appointed will in making his determination act as an expert and not as an arbitrator and his determination will be final and binding on both parties. The cost of the determination will be borne by both parties in equal shares.

(4) **Lessee's improvements** This clause shall not apply to any damage to or destruction of any improvements effected by the Lessee to the premises it being the intent of the parties that the Lessee shall erect and utilise such improvements entirely at the risk of the Lessee.

(5) **Deemed Rebuilt** The premises shall be deemed to be again fit for occupation and to have been rebuilt and reinstated when they have been restored to the condition in which the Trustee is or was required to have placed them prior to the date they were let to and occupied by the Lessee but excluding any work carried out by on behalf of the Trustee at the request and expense of any other person. If the premises shall be rebuilt or reinstated or made fit for occupation as hereinbefore provided the Lessee hereby covenants with the Trustee that it shall forthwith cause to be performed that work required to restore them to the condition in which they were at the commencement date notwithstanding the Lessee's covenant to repair.

(6) **Insurance Proceeds** Nothing in this Lease shall be construed as rendering it obligatory on the Trustee to apply any insurance proceeds or to reinstate or rebuild the Premises in the event of their partial or total destruction.

O. DEFAULT BY LESSEE AND REMEDIES

(1) **Performance of the Lessee's covenants by the Trustee and Interest on Arrears**
If the Lessee makes default in payment of any monies covenanted by the Lessee to be paid (including rental reserved hereunder) or in the observance or performance of any of the obligations contained or implied in this Lease to be observed and performed by the Lessee, the Trustee may but shall not be obliged to pay that money and/or observe and perform those obligations and incur such expenses as may be necessary to perform such obligations (including the Lessee's covenant to insure) at any time without notice, and the full amount of any payments made or expenses which the Trustee incurs in that regard shall constitute a

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liquidated debt due and owing by the Lessee to the Trustee and the Lessee will pay to the Trustee immediately upon demand any of those monies which are payable together with interest thereon calculated at the Arrears Interest Rate set out in Reference Data #14 from the time of those monies having been so expended or from the date of demand, whichever the Trustee shall so elect, and be deemed to accrue from day to day to the date of payment and also upon any judgment which the Trustee may obtain against the Lessee from the date of any such judgment until the same shall be satisfied. Nothing contained in this clause shall be deemed to restrict limit or prejudice any right power or remedy of the Trustee in respect of such monies.

(2) Interest on arrears The Lessee will pay to the Trustee interest on any rental or any other monies which are in arrears calculated at the Arrears Interest Rate set out in Reference Data #14 from the time of the rental or other monies respectively fall due and be deemed to accrue from day to day to the date of payment.

(3) Default of the Lessee The Lessee shall have made default if:

- (a) The rental hereby reserved or any outgoings or expense or any part thereof payable by the Lessee to the Trustee shall at any time be unpaid for 7 days after becoming payable whether formally demanded or not;
- (b) Any monies payable by the Lessee hereunder shall not be paid when due whether any demand for payment has been made or not;
- (c) The Lessee fails to duly and promptly perform or observe any of the obligations, agreements, provisions, stipulations on the Lessee's part herein contained;
- (d) The Lessee does not comply with any notice requiring the Lessee to make strict and prompt fulfilment or observance of any of the obligations or agreements (whether express or implied) in this Lease and on the part of the Lessee to be performed or observed (including obligations and agreements of a negative character);
- (e) The Lessee fails or refuses to properly carry out any repairs required by any written notice within the time specified in the notice or if none is specified, then within a reasonable time;
- (f) The Lessee shall represent or hold itself out as having an interest in the premises other than as the Lessee of the premises or permit others to do the same;
- (g) If the Lessee shall attempt to assign or sublet its interest herein without the Approval in accordance with this Lease;
- (h) Any warranty or representation made by the Lessee or any other person on its behalf prior to or subsequent to the date hereof is untrue or false;
- (i) The Lessee becomes insolvent;
- (j) If the interest of the Lessee in this Lease shall be taken in execution or the Lessee does or suffers to be done any act whereby the estate or effects of the Lessee may become liable to be attached or taken in execution;

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- (k) If the Guarantors or any of them named in any deed of guarantee of or in respect of the Lessee's obligations under this Lease shall be in breach of any covenant contained in that deed;
- (l) If the Lessee ceases or threatens to cease to carry on its business; or
- (m) If the Lessee shall abandon, vacate or surrender the premises.

(4) Forfeiture of Lease If the Lessee shall have made default as aforesaid and shall fail to remedy it (if capable of remedy) in a proper manner to the satisfaction of the Trustee within 20 business days or such other reasonable time as the trustee may allow after taking into account what needs to be done and the time required to remedy the breach after the date on which the Trustee gives notice to the Lessee under Section 124 of the Property Law Act 1974 then (in addition to its other powers but without prejudice to the right of action or any other remedy of the Trustee in respect of any antecedent breach of any of the Lessee's obligations stipulations agreements contained or implied in this Lease which may be conferred upon the Trustee at law or in equity) the Trustee may at its option:

- (a) Without prior demand or notice, re-enter upon and take possession of the premises (by force if necessary) and eject the Lessee and all other persons therefrom and remove all goods and effects found on the premises and repossess and enjoy the same as the Trustee's first and former estate therein and thereupon this Lease shall be determined, or
- (b) By notice to the Lessee determine this Lease and from the date of giving such notice this Lease shall be determined,
- ~~(c) By notice to the Lessee elect to convert the unexpired portion of the term of this Lease into a tenancy from month to month in which event this Lease shall be determined as from the giving of that notice and THEREAFTER the Lessee shall hold the premises from the Trustee as tenant from month to month at a monthly rental equal to the aggregate of the monthly instalments on account of the annual rental converted to a monthly rental and a proportion of operating expenses of the building payable (if any) hereunder at the date of giving that notice (that rental being payable monthly in advance) but otherwise on the terms and conditions of this Lease so far as they can be applied to a monthly tenancy.~~

AND the Trustee shall be freed and discharged from any claim or demand by or obligation to the Lessee under or by virtue of this Lease.

(5) Essential Terms The Lessee acknowledges that although other obligations may also be essential terms, each of the Lessee's obligations specified hereunder are essential terms of this Lease:

- (a) The covenant to pay the annual rent not later than 7 days after the due dates for payment of each periodic instalment hereof. In respect of the Lessee's obligation to pay the annual rent, the acceptance by the Trustee of arrears or any late payment shall not constitute a waiver of the essentiality of the Lessee's obligation to pay the same in respect of those arrears or of the late payments or the continuing obligation of the Lessee to pay the rental during the term of the Lease.
- (b) The covenant to pay all outgoings and expenses charged against the Lessee or the premises.

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- (c) The covenant to pay to the Trustee any sum upon demand.
- (d) The covenant to use the premises only for the permitted use hereof.
- (e) The covenant to keep the premises open for business.
- (f) The covenant to comply with the law.
- (g) The covenant not to carry on any offensive or illegal activities.
- (h) The covenant to keep the premises in good and tenantable repair and replace broken glass.
- (i) The covenant not to make alterations or additions without Approval.
- (j) The covenant to insure.
- (k) The covenant not to void insurance.
- (l) The covenants dealing with assignments and sub-lettings.

Any breach or failure to observe or satisfy the aforesaid shall entitle the Trustee to all such rights and remedies as are available at law, in equity or otherwise in respect of such breach or failure to observe or satisfy an essential term.

(6) Damages for breach

- (a) **Re-entry/Determination** If the Trustee exercises its rights of re-entry or otherwise determines this Lease then, notwithstanding any other provision herein, the Trustee may, in addition to and not in substitution for any other rights and remedies which it may have, recover from the Lessee damages consequent upon or arising out of any default or other breach or failure by the Lessee to observe perform or satisfy any of the terms conditions covenants or stipulations herein contained or implied in relation to the balance of the term which would have subsisted if not for such determination or re-entry as well as for that part of the term of the Lease which had elapsed prior to such determination or re-entry, including:
 - (i) Any rent and outgoings due but unpaid at the date of the determination;
 - (ii) The amount by which the rent and outgoings between the date of determination and the date of expiry of this Lease by effluxion of time exceeds the rent and outgoings received or likely to be received from any other Lessee to whom the premises are relet or may be relet during that period. For the purposes of this clause, the onus of proving that the premises are likely to be relet and the amount of the rent likely to be received is upon the Lessee. For the purposes of calculating the rent and outgoings that would have been payable after the determination of this Lease and to the extent that the rent and outgoings that would have been payable cannot be established certainly, it will be assumed that the rent and outgoings would have increased annually by five per centum cumulative on each anniversary of the review date; and

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(iii) Any other amount necessary to compensate the Trustee as a result directly or indirectly of the Lessee's default and the Trustee's determination of the Lease including, for example

- (1) Costs and expenses incurred in maintaining the premises;
- (2) Costs of recovering possession of the premises;
- (3) Expense of reletting including necessary renovation or alteration of the premises, and
- (4) Legal costs.

(b) General Entitlement In the event that the Lessee's conduct (whether acts or omissions) constitutes a repudiation of this Lease (or the Lessee's obligations under the Lease) or constitutes a breach of any obligations hereunder or a breach of an essential term of this Lease, the Lessee covenants to compensate the Trustee and the Trustee shall be entitled to recover damages against the Lessee for the loss or damage suffered by reason of the repudiation or breach, whether or not this Lease is determined for the repudiation, breach or any other ground.

(c) Trustee's conduct no bearing The Trustee's entitlement to recover damages shall not be affected or limited if the Lessee shall abandon or vacate the premises, whether with or without the Trustee's consent, or if the Trustee shall elect to re-enter or determine this Lease or if the Trustee shall accept the Lessee's repudiation or if the conduct of the Lessee or the Trustee shall constitute a surrender by operation of law. The Trustee shall be entitled to institute legal proceedings claiming damages against the Lessee in respect of the entire lease term including the periods before and after the aforementioned events, regardless whether the proceedings are instituted either before or after that conduct.

(7) Trustee's rights when Lessee abandons premises If the Lessee vacates or abandons the premises or otherwise repudiates this Lease without lawful excuse prior to the expiration of the term the Trustee may, without being under any obligation so to do, seek to find another Lessee for the premises. For that purpose the Trustee may from time to time enter upon the premises and permit prospective Lessees to view them and may otherwise do all acts and things necessary in the opinion of the Trustee to renovate restore clean and secure the premises without accepting or being deemed to have accepted a surrender or repudiation of this Lease. For the purposes of this clause the Lessee is deemed to have vacated the premises if it ceases to carry on its permitted use for a period of 7 consecutive days without having paid in advance the instalments payable on account of rental and/or contributions to outgoings in respect of that period.

(8) Non-waiver of default

(a) Acceptance not waives earlier breach The demand by the Trustee for, or subsequent acceptance by or on behalf of the Trustee of rental or other monies payable under this Lease will not constitute a waiver of any earlier breach by the Lessee of any obligation contained in this Lease regardless of the Trustee's knowledge of any earlier breach at the time of acceptance of the rental or other monies.

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(b) **Failure to act not waives** No custom or practice between any of the parties in the course of administering this Lease or failure or delay or omission by the Trustee to exercise any right power or remedy accruing to the Trustee upon any continuing breach or default under this Lease impairs any right power or remedy of the Trustee and it will not be construed to be a waiver of or consent to or acquiescence in any continuing breach or default or of or in any similar breach or default occurring subsequently; and no waiver of any single breach or default will be deemed a waiver of any earlier or later breach or default.

(c) **Written waiver** Any waiver permit consent or approval of any kind or character of any breach or default under this Lease or any waiver of any obligation provision or condition of this Lease must be in writing and will be effective only to the extent set out in the written waiver, such waiver shall not extend or be deemed to extend to any instance or to any breach of obligation or condition save that to which such waiver specifically relates nor operate as a general waiver of the benefit of such covenant obligation or condition. The onus of proving any waiver shall rest upon the person alleging it.

(9) **Tender after Determination** Any monies tendered by the Lessee after the end of this Lease and accepted by the Trustee (in the absence of any express election of the Trustee) may be applied firstly on account of any rental and other monies due hereunder but unpaid at the date of determination and secondly on account of the Trustee's costs of determination of this Lease.

(10) **No Accord and satisfaction** No payment by the Lessee or receipt by the Trustee of a lesser amount than the rental stipulated in this Lease will be considered to be other than on account of the stipulated rent, and an endorsement or statement on a cheque or in a letter accompanying a cheque or payment as rental will not be considered to be an accord or satisfaction, and the Trustee may accept a cheque or payment without prejudice to the Trustee's right to recover the balance of the rental or pursue any other remedy.

P. TERMINATION OF LEASE

(1) **Right to remove Lessee's fixtures** If the Lessee has paid all rent and observed and performed all the covenants agreements and provisions contained in this Lease on the part of the Lessee to be observed and performed and subject to the terms and conditions imposed on the Lessee in any Approval application to make Alterations or Additions, any fixtures and things which with the Approval of the Trustee have been installed by the Lessee on the premises, may within 14 days prior to termination (other than cancellation) or expiration of the term of this Lease be taken down and removed from the premises for the Lessee's own benefit BUT always only upon the condition that the removal can be carried out without danger to the stability of the structure of the premises or of the building and that the Lessee will at its own expense make good to the satisfaction of the Trustee any damage done or unsightliness occasioned to the premises by or as a result of the installation or removal of any of these fixtures and things.

(2) **Yield Up** At the expiration or sooner determination of the term of this Lease for any reason, the Lessee will, subject to the terms and conditions imposed on the Lessee in any approval application to make Alterations or Additions, promptly remove from the premises all the removable Lessee's equipment and alterations made to the premises by or at the expense of the Lessee (or assignor if relevant) before or during the Lease term and shall repair any damage that may be caused by that removal and shall restore the premises

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to the same order and condition they were in immediately prior to commencement of the Lease at the Lessee's cost to the satisfaction of the Trustee and quietly peacefully surrender and yield up the premises as aforesaid **and shall at the same time, hand over all keys.** If this Lease is determined prior to the due date of expiry by effluxion of time, the Trustee will if requested so to do by the Lessee allow the Lessee access to the premises during any of the next 3 business days following the date of determination in the Trustee's ordinary business hours for the purposes of removing any removable Lessee's equipment and alterations and restoring the premises to the order and condition as mentioned in this clause and the Lessee shall keep current during this period all insurances required to be effected by it under this Lease.

(3) Remove fittings If the Lessee does not do so as of right under the provisions of clause P(2), the Lessee will if so required by the Trustee remove from the premises within 7 business days from the expiration or sooner determination of the term of this Lease all the Lessee's Equipment and/or alterations requested to be removed by the Trustee so that the premises are converted back to their original layout and order and condition and will make good any damage caused to the premises, building or land by the removal at the Lessee's cost to the satisfaction of the Trustee. The Lessee shall ensure during this period that all insurances required to be effected by it under this Lease are kept current.

(4) Abandoned Fittings If the Lessee shall fail to remove the Lessee's equipment, or alterations as aforesaid, then the Trustee may at its option:

- (a) Cause the Lessee's equipment to be removed and to be stored in a public warehouse or elsewhere at the risk of the Lessee and any damage caused by that removal to be made good and any alterations to be re-altered and the Trustee may recover the costs of removal storage making good and/or re-alterations from the Lessee as a liquidated debt payable on demand; or
- (b) Treat any of the Lessee's equipment not removed by the Lessee as if the Lessee has abandoned its interest in it and deal with it in any manner the Trustee thinks fit including being at liberty to remove store sell or otherwise dispose of the abandoned fixtures things and goods in any manner and on terms the Trustee thinks fit at the cost of the Lessee and may reimburse itself from the proceeds of that disposal for the expenses it has incurred in the removal storage and/or disposal of the same. Any property deemed abandoned by the Lessee will be and become the property of the Trustee without any entitlement to payment of any compensation. Nothing contained in this clause relieves the Lessee from, and except where the Trustee agrees in writing to the contrary the Lessee will be liable to the Trustee for, the cost and expense of and associated with any removal storage or sale by the Trustee of fittings and fixtures not removed by the Lessee from the premises and the cost and expense of and associated with the making good of any damage to the premises caused by that removal by the Trustee. Subject to payment of the Trustee's expenses as aforesaid and to its right to set off herein contained, the Trustee shall stand possessed of the those proceeds for the Lessee or any other person as shall satisfy the Trustee of its entitlement thereto and if there is no other person the Trustee shall deal with the same in accordance with the laws relating to unclaimed monies.

(5) Indemnity The Lessee indemnifies the Trustee in respect of any damage done to the premises or to the building or land in or about the removal of Lessee's equipment by the Lessee its officers employees agents or contractors and also in respect of any costs incurred

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by the Trustee in the removal and storage of them and re-altering the premises and also in respect of all claims which the Trustee may suffer or incur at the suit of any person (other than the Trustee) claiming an interest in the property by reason of the Trustee acting in accordance with this clause.

(6) Signs & Inspection by prospective Lessees At all times during the last 3 months of the Lease term the Lessee shall allow and permit the Trustee to display notices photographs and information concerning the premises in any medium including the internet, press and on or in the premises advising that the premises will be available for lease and the Lessee shall not cause the removal damage or defacing of that notice and shall permit and allow the Trustee to conduct prospective future Lessees through the premises to enable them to view the same at all reasonable times and on prior reasonable notice PROVIDED THAT in exercising its rights hereunder the Trustee shall cause as little interference as possible to the conduct of the Lessee's business.

(7) Repayment of rent in advance Upon the Lessee yielding up the premises on or after the expiration or sooner determination of the Lease term, to pay to the Lessee the sum as may be held by the Trustee as rent paid in advance of the date of vacating the premises less any sums appropriated or which the Trustee is entitled in accordance with the Lease (and which may not have been paid by the Lessee). The Trustee shall be at liberty to pay those monies to any assignee or transferee of the Lessee's interest in the premises in the event the interest is assigned or transferred and thereupon the Trustee shall be discharged from all liabilities to the Lessee or any other person with respect to that rent.

Q. POWER OF ATTORNEY

(1) Appointment The Lessee hereby irrevocably nominates constitutes and appoints the Trustee and its nominees from time to time jointly and each of them severally to be the Attorneys of the Lessee at any time after the power contained in this Lease to re-enter has been exercised or has become exercisable (sufficient proof whereof shall be the statutory declaration of the attorney), to do any or all of the following:

- (a) Execute and sign a transfer or a surrender of this Lease;
- (b) Procure the power of attorney, transfer or surrender to be registered;
- (c) From time to time appoint a substitute attorney and/or revoke that appointment; and
- (d) Do execute and perform any act deed matter or thing in accordance with this clause as fully and effectually as the Lessee could do including when necessary authenticate and give full effect to this power of attorney or amend or re-execute this Lease.

(2) Ratify The Lessee hereby covenants to ratify and confirm everything the Attorney or any substitute shall lawfully do or cause to be done in accordance with this clause.

R. MISCELLANEOUS

(1) Entire Agreement Each party hereby acknowledges that this Lease is not entered into in reliance on any representation or warranty express or implied save as expressly set out in this Lease and that the terms and conditions set out in this Lease embodies the entire agreement as concluded between the parties, any written or oral agreement between the

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parties having ceased to have any effect immediately prior to the execution of this Lease, notwithstanding any negotiations or discussions prior to the execution of this Lease and notwithstanding anything contained in any document prepared by or for the Trustee for submission to potential Lessees or occupiers of the building. The Lessee acknowledges that it has not been induced to enter into this Lease by any representation verbal or otherwise made by or on behalf of the Trustee which is not set out in this Lease. This Lease may be amended only by instruments in writing executed by the Trustee and the Lessee.

(2) Applicable law and construction of this Lease This Lease shall be governed and construed in accordance with the laws of Queensland. The terms and obligations and each and every part thereof contained in this Lease shall be construed so as not to infringe the provision of any Act applicable thereto or be void or invalid according to the common law but if any term or obligation on its true interpretation does infringe any provision of an Act or is void or invalid according to the common law that term and obligation shall be read down to the extent necessary to ensure that it does not so infringe or is not so void or invalid and as may be reasonable in all circumstances so as to give it a valid operation of a partial character and in the event that the infringing term or obligation cannot be so read down it shall be deemed to be void and severable.

(3) Severability If it is held by a court of competent jurisdiction that:

- (a) any part of this Lease is void voidable illegible or unenforceable or
- (b) this Lease would be void voidable illegal or unenforceable unless any part of this Lease were severed,

that part will be severable from and will not affect the continued operation of the rest of this Lease.

(4) Negating of Moratorium To the fullest possible extent the provisions of all laws now existing and subsequently to come into force and operating directly or indirectly to lessen or otherwise modify or vary or affect in favour of the Lessee the obligations of the Lessee or to stay postpone abrogate extinguish impair diminish fetter or otherwise prevent or prejudicially affect the exercise by the Trustee of any of the rights powers and remedies conferred on or accruing to the Trustee are hereby expressly negated and excluded from this Lease except to the extent that such exclusion is prohibited or rendered ineffective by law.

(5) Modification of implied covenants It is expressly agreed and declared by and between the Trustee and the Lessee that all covenants, powers and other provisions implied by section 105 and 107(a),(b) and (d) of the Property Law Act 1974 are hereby negated AND that whenever any other inconsistency may exist between the covenants, powers and other provisions of this Lease and those implied by the Property Law Act 1974 then the covenants, powers and other provisions of this Lease shall prevail over those respectively implied by that Act EXCEPT to the extent however that any covenant, power or other provision of this Lease may not be lawful in which event the relevant covenant, power or other provision of the Act shall apply.

(6) Remedies Cumulative The rights powers and remedies provided in this Lease are cumulative with and not exclusive of the rights, powers and remedies provided by law (including in equity or at common law).

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(7) Concurrent Remedies All the remedies available to or exercised by the Trustee consequent upon any default of the Lessee shall be:

(a) Without prejudice to any other remedies which might otherwise be used, and

(b) Are in addition to and not in substitution for any such rights or remedies and

the Lessee shall not be released from liability in respect of the breach or non-observance of any obligation or stipulation by reason of the exercise by the Trustee of any such remedy.

(8) Time to be of the Essence Time is essential for all obligations of the Lessee in this Lease. The Lessee indemnifies the Trustee against all losses expenses and damages which the Trustee may sustain or incur as a consequence of any failure by the Lessee to perform and observe on the due date any obligations and provisions on its part contained or implied in this Lease.

(9) No other relationship Nothing herein contained shall be deemed to create or be construed (by the parties hereto or by any other party) as creating the relationship of principal or agent or of partnership or of joint venture between the parties it being understood and agreed that neither the method of computation of rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of landlord and tenant.

(10) No franchise It is agreed by and between the parties hereto that no exclusive franchise is given to the Lessee and the Trustee shall be at liberty now or at any time hereafter to let or licence any part or parts of the building or land for any purposes it sees fit notwithstanding that those purposes or some of them may be the same as the permitted uses hereunder or some of them.

(11) New Guarantor Within 14 days of the Insolvency of any Guarantor during the term of this Lease, the Lessee will give notice of this to the Trustee and if so required by the Trustee at the expense of the Lessee within 28 days of the insolvency event procure some other person acceptable to the Trustee to execute a Guarantee in the form of the Guarantor's covenants which are contained in this Lease in respect of the Lessee's obligations contained in this Lease or such other form of document or instrument and terms acceptable to the Trustee.

(12) Notices Unless otherwise stated, any notice given by the Trustee is deemed to be duly given and served upon the Lessee if signed by an officer or agent for the Trustee and left for the Lessee on the premises or delivered to the Lessee personally or if the Lessee is a Corporation then to any person at its registered office or principal place of business in this State or sent to the Lessee through the post in an envelope by registered or certified letter addressed to the Lessee at its address set out in Reference Data #2 or to the premises or at any other address as the Lessee shall have last designated by notice in writing to the Trustee and in the case of mailing, service is deemed to have been effected on the third business day next following that on which it was posted and if more persons than one are Lessees under this Lease, to any one of them. Any notice by the Lessee to the Trustee must be signed by the Lessee and must be given or served in the manner prescribed by provisions of the Property Law Act 1974 or shall be deemed duly served if mailed by registered or certified letter addressed to the Trustee at the address set out in Reference Data #1 or any other address which the Trustee shall have last designated by notice in writing to the Lessee.

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(13) Arbitration If any difference shall arise between the parties about any of the provisions of this Lease, (excepting differences relating to arrears of rent or as otherwise expressly provided for in this Lease) the difference shall be referred to the award of a single Arbitrator should the parties be able to agree upon one within fourteen days of the earliest party to commence negotiations for the selection of the Arbitrator and failing agreement on selection of the Arbitrator, either party may forthwith refer the difference to the President of the Qld Law Society Inc who shall appoint an Arbitrator to decide the difference in accordance with the provisions of the Commercial Arbitration Act 1990 and the Arbitrator shall be bound to keep commercial in-confidence information regarding the Lease confidential.

(14) Trustee's consent In any case where pursuant to this Lease or any regulation made hereunder, the doing or executing of any act matter or thing by the Lessee or other entity is dependent upon the consent or approval of the Trustee that consent or approval may be given or withheld or given on conditions or subsequently withdrawn once given by the Trustee in its absolute uncontrolled discretion unless otherwise herein specifically provided, but in exercising that discretion the Trustee shall not discriminate in favour of or against the Lessee to the extent that the Lessee or any other occupier of the premises within the building or land is given any trading advantage over its competitors.

(15) Trustee's Certificate A Certificate signed by an Officer of the Trustee about a matter or about a sum payable to the Trustee in connection with this Lease is sufficient evidence of the matter or sum stated in the certificate unless the matter or sum is proved to be false and the onus to do so shall be on the Lessee.

(16) Payment of monies All rents and other monies payable by the Lessee to the Trustee shall be paid free from exchange and without deduction or set-off whatsoever to the Trustee or such other persons and at such place and in such manner as the Trustee may from time to time in writing direct. Any monies payable hereunder if paid by cheque shall be deemed not to have been paid until such cheque is honoured.

(17) Costs of Litigation If without fault on its part either party is made a party to any litigation commenced by or against the other (other than litigation between the Trustee and the Lessee) and arising directly or indirectly out of the acts or omissions of the other in relation to the premises or the building, the party not at fault will be paid by the other party on demand all legal fees and disbursement (as between solicitor and own client) incurred in connection with the litigation.

(18) Goods and services tax (GST)

(a) The parties agree that

- (i) All payments have been set or determined without regard to the impact of GST;
- (ii) If the whole or any part of a payment is the consideration for a taxable supply for which the payee is liable to GST, the GST amount in respect of the payment must be paid to the payee as an additional amount, either concurrently with the payment or otherwise as agreed in writing, and
- (iii) The payee will provide to the payer a tax invoice.

(b) Despite any other provision of this Lease, if a payment due under this Lease (including any contribution to operating expenses) is a reimbursement or

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indemnification by one party of an expense, loss or liability incurred by the other party, the payment shall exclude any part of the amount to be reimbursed or indemnified for which the other party can claim an input tax credit.

- (c) Each party will comply with its obligations under the Trade Practices Act 1974 (Cth) in respect of any payment to which it is entitled under this Lease.

(19) Form of Lease If after lodgement for registration the form of this Lease is not acceptable to the Registrar of Title for any reason, the Lessee authorises the Trustee and its solicitors to make such alterations required by the Registrar of Titles to make this Lease acceptable for registration, and if necessary for this purpose, the Lessee shall execute a new Lease in the form acceptable to the Registrar of Titles (hereinafter called "the new Lease") PROVIDED THAT the changes made by the Trustee or its solicitors shall not alter the substantive terms of this Lease and the new Lease shall contain the same substantive terms as this Lease.

S. BOND

The Lessee will:

(1) Prior to entering possession of the premises pay to the Trustee the sum set out in Reference Data #26 as a cash bond for the due observance and performance by the Lessee of all the obligations and provisions contained in this Lease and as soon as the rent payable from each rent review is determined, the Lessee will pay to the Trustee as a further cash bond an amount which, when added to the cash bond already held by the Trustee (or to the limits of liability under any bank guarantee accepted by the Trustee in lieu of a cash bond under clause T(2)), equals the aggregate of 12 months rent at the rent payable by the Lessee at the material time.

(2) At the option of the Lessee, the Lessee may instead of paying the amounts in accordance with Clause T(1), provide to the Trustee an Australian Trading Bank guarantee, on terms acceptable to the Trustee, of due observance contained in this Lease, with a maximum liability to the bank of not less than the total of the cash bond required by Clause T(1).

(3) If at any time the Lessee fails to observe and perform any of the Lessee's covenants and provision in this Lease, the Trustee may in its discretion at any time appropriate to itself absolutely all or any part of the cash bond or call up any guarantee as may be necessary in the opinion of the Trustee to compensate the Trustee for any loss or damage suffered or which may be suffered by the Trustee by reason of that failure. Any appropriation or calling up by the Trustee will not constitute a waiver of that failure and will not prejudice any other right or remedy of the Trustee in respect of it.

(4) If the whole or any part of the cash bond are appropriated or any guarantee are called up by the Trustee and this Lease remains on foot, the Lessee will immediately upon demand by the Trustee pay to the Trustee the amount so appropriated or called up to be held as a cash bond in accordance with this clause.

(5) If the Trustee's interest in the premises is assigned or transferred, the Trustee may pay or transfer the bond less all sums appropriated by it in accordance with this clause to the assignee or transferee. Upon payment or transfer the Trustee will be discharged from all liability to the Lessee or to any other person in respect of the bond.

T. GUARANTEE AND INDEMNITY

The Guarantors named and described in Reference Data #3 of the Appendix hereby acknowledge that the Trustee has agreed (at the request of the Guarantors) to enter into the Lease conditionally upon and subject to this Guarantee and Indemnity ("the guarantee") being given by the Guarantors and accordingly and in consideration of the Trustee agreeing to grant this Lease to the Lessee, the Guarantors hereby unconditionally agree and covenants:

(1) It will be liable jointly and severally with the Lessee for the due and punctual payment of all rent and other monies to be paid by the Lessee under this Lease and for the due performance and observance of all the obligations terms conditions of this Lease on the part of the Lessee to be performed and observed.

(2) The Guarantor indemnifies the Trustee from and against all claims which the Trustee may suffer or incur in consequence of any breach or non-observance of any of the obligations terms conditions of this Lease on the part of the Lessee to be performed or observed and the Guarantor agrees that the Guarantor will remain liable to the Trustee under this indemnity notwithstanding as a consequence of any breach or non-observance the Trustee has exercised any of its rights under this Lease including its rights of re-entry and notwithstanding that the Lessee (being a corporation) may be wound up or dissolved or (being a natural person) may be declared bankrupt and notwithstanding that the guarantee given by the Guarantor may for any reason be unenforceable either in whole or in part.

(3) On any default or failure by the Lessee to observe and perform any of the obligations terms and conditions of this Lease the Guarantor will immediately on demand by the Trustee pay all rent and other monies and make good to the Trustee all losses damages costs and expense sustained or incurred by the Trustee by reason or in consequence of any default in performing or observing any of the obligations terms and conditions of this Lease and the Guarantor will also pay to the Trustee interest at the Arrears Interest Rate set out in Reference Data #14 from the time of any Rent or other monies respectively fall due to the date of the payment and without the necessity of any prior demand having been on the Lessee.

(4) The liability of the Guarantor under this guarantee will not be affected or discharged by:

- (a) The Trustee does not take any steps or proceedings to enforce its rights or recover or claim against the Lessee under the Lease
- (b) Any assignment or purported assignment of the Lease by the Lessee;
- (c) The winding up or any event of insolvency of any Lessee or Guarantor (being a company) or the death insolvency or other disability of any those persons (being natural persons);
- (d) The granting of any time credit or indulgence or concession to the Lessee or any Guarantor;
- (e) Any act matter or thing in favour of the Lessee in the nature of any compounding or compromise or release abandonment waiver variation or relinquishment or renewal of any rights of that person;
- (f) Any delay laches or acts of omissions in favour of the Lessee or Guarantor;
- (g) Any neglect or omission to enforce those rights or by any other thing;

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- (h) Any other person joining in the guarantee;
 - (i) Any amendment alteration modification variation or addition to the provisions of the Lease;
 - (j) If there is more than one Guarantor, if any of the Guarantors have not signed this Lease or guarantee;
 - (k) If this Lease ends, for any breach that occurred before the Lease ended or arose out of the Lease ending;
 - (l) Any other thing which under the law relating to sureties would or might but for this provision release the Guarantor in whole or in part from its obligation under this guarantee;
 - (m) Any act matter or thing or default failure or omission which maybe done by the creditor for or by any other person or persons or any other act matter or thing default failure or omission which might operate to effect or have the effect of exonerating terminating removing suspending or cancelling the liability of a Guarantor in accordance with the provisions of this clause, nor
 - (n) Any replacement of this Lease in accordance with the terms and conditions permitted by this Lease.
- (5) Notwithstanding that as between the Guarantor and the Lessee, the Guarantor may be a surety only, nevertheless as between the Guarantor and the Trustee the Guarantor is deemed to be a primary debtor and contractor jointly and severally with the Lessee.
- (6) To the fullest extent permitted by law, the Guarantor hereby waives such of its rights as surety or indemnifier (legal equitable statutory or otherwise) as may at any time be inconsistent with any of the provisions of this guarantee.
- (7) This guarantee shall not prejudicially affect or be prejudicially affected by any other security now or hereafter held by the Trustee for any monies or obligations intended to be hereby secured but any other security shall be deemed to be collateral herewith. The Guarantors shall not as against the Trustee claim the benefit or seek the transfer of any other security or part thereof.
- (8) The covenants and agreements made by the Guarantor are not conditional or contingent in any way or dependent upon the validity or enforceability of the covenants and agreements of any person and remain binding notwithstanding that any other person does not execute this Lease or this guarantee. The failure or refusal of any Guarantor to execute this guarantee shall not prejudice or affect the liability or obligations of any Guarantor who does execute this guarantee.
- (9) The obligations of the Guarantor under this guarantee continue and shall be irrevocable and remain in full force and effect until all rent and other monies payable under this Lease have been paid and until all other obligations have been performed observed and satisfied and those obligations will not be reduced or affected by any notice to quit given by either party to this Lease or the death insolvency liquidation or dissolution of the Lessee or the Guarantor or either of them.
- (10) The Guarantor shall not be entitled to claim or seek to enforce or recover monies paid pursuant to its obligations contained in this clause herein from the Lessee unless and until all of the obligations the subject of the guarantee shall have been fully and completely performed.

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(11) The Guarantor does not execute this guarantee as a result of or by reason of any promise representation statement information or inducement of any nature or kind given or offered to the Guarantor by the Trustee or on the Trustee's behalf whether in answer to any enquiry by or on behalf of the Guarantor or not and (except as provided in this guarantee) the Lessee was not prior to the execution of this guarantee by the Guarantor and is not subsequently under any duty to disclose to the Guarantor or to do or execute any act matter or thing relating to the affairs of the Lessee or its transactions with the Trustee.

(12) All monies received by the Trustee from or on account of the Lessee including any dividends upon the liquidation of the Lessee (if a company) or from any other person or corporation or from the realisation or enforcement of any security capable of being applied by the Trustee in reduction of the indebtedness of the Lessee shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to stand in place of the Trustee or claim the benefit of any money so received until the total indebtedness of the Lessee has been paid and all of the obligations the subject of the guarantee have been fully and completely performed and so that in the event of the liquidation of the Guarantor (being a company) except for the purposes of reconstruction or amalgamation, the Trustee shall be entitled to prove for the total indebtedness of the Lessee.

(13) In the event of the bankruptcy of the Lessee or insolvency or liquidation of the Lessee (being a company) except for the purposes of reconstruction or amalgamation, the Guarantors authorise the Trustee to prove for all moneys which ought to have been paid hereunder or under the Lease and to retain and to carry to a suspense account and appropriate at the Trustee's discretion any dividends received until the Trustee has with the aid thereof been paid one hundred cents in the dollar (Australian currency) in respect of the indebtedness of the Lessee.

(14) The Guarantor shall not prove in or enforce any security against the estate of the Lessee in bankruptcy or liquidation in competition with the Trustee and generally it shall waive in favour of the Trustee and the Lessee all of its rights so far as necessary to give effect to anything in this guarantee contained whether those rights are or are not connected with the suretyship of the guarantor.

(15) In the event of the Lessee during the term of this Lease entering into liquidation (or being a person, entering into bankruptcy) and the liquidator or Trustee in bankruptcy disclaiming this Lease, or if the Lessee should be dissolved, the Guarantor will accept from the Trustee a Lease of the premises for a term equal in duration to the residue remaining unexpired of the term of this Lease, the new Lease to contain the same Lessee's and Trustee's covenants respectively and the same provisos and conditions in all respects (including the proviso for re-entry) as are in this Lease contained together with such other covenants provisos and conditions as the Trustee may reasonably require and on the execution by the Trustee of the further Lease the Guarantor will pay all costs of the further Lease (including all costs of and incidental to the preparation execution and registration of the Lease) and will immediately execute and deliver to the Trustee the executed Lease.

(16) ~~In the event of a further Lease of the premises being granted by the Trustee to the Lessee (including to any successors of the Lessee or to its permitted assigns) consequent upon the exercise of any option to renew contained in this Lease or in the event of the Trustee granting to the Lessee any extension of the term of this Lease, then this guarantee will be deemed to extend to the further Lease or the extension of the term as the case may be and will be read and construed as if the further Lease were this Lease and Lessee holding under it were the Lessee referred to in this Lease.~~

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- (17) Until the determination of the obligations of the guarantee, no party (including the Guarantor) shall be or be able to be released or discharged from these presents and such release or discharge shall not be effective unless and until the execution of a document in the same form as to execution of this agreement by the parties hereof.
- (18) In the event of the Trustee transferring the land or otherwise assigning the Trustee's rights and obligations as Trustee under this Lease the Trustee's rights under this guarantee (whether or not there is any express assignment of the rights) will be deemed to be assigned to the owner from time to time of the land or other assignee of the Trustee's rights and obligations.
- (19) The Guarantors hereby further acknowledge agree and declare that the Trustee may assign the benefit of this guarantee by notice in writing to them without affecting or discharging their liability as sureties hereunder and thereupon this guarantee and its indemnity shall extend to and enure for the benefit of the assignee or assignees but without prejudice to any rights which the Trustee may have against them either as sureties or by way of indemnity arising before the date of the assignment.
- (20) The provisions in this Lease as far as they are applicable to the interpretation, construction, performance of and relations between the parties to this guarantee shall apply to this guarantee pursuant to the provisions of this Clause.
- (21) All notices or demands to be given or made to the Guarantor will be deemed to be duly given and served on the Guarantor if signed by the Trustee or its officer or solicitors and delivered to the Guarantor (of if there is more than one Guarantor then to any one or more of them) personally or if the Guarantor is a corporation then to any person at its registered office or principal place of business in this State or if left at or sent to the Guarantor through the post in a prepaid envelope addressed to the Guarantor at the address of the Guarantor as may be set out in Reference Data #3 or as notified by the Guarantor to the Trustee or Lessee. A notice or demand which is posted will be deemed to have been served on the Guarantor on the third day following posting.
- (22) The Guarantor shall execute all documents which may be required to complete or bring into effect the provisions of the terms of this guarantee.
- (23) In the event of the invalidity of any part or provision of this guarantee and indemnity that invalidity will not affect the validity or the enforceability of any other part or provision of this guarantee.
- (24) The Trustee's remedies against the Guarantor shall not be affected by reason of any security held or taken by the Trustee in relation to the Lease and these presents being void or defective or informal.
- (25) The Guarantors will indemnify the Trustee against any loss the Trustee may suffer by reason of the Lessee having exceeded its powers or being incompetent to enter into the Lease.
- (26) Where there is more than one person or corporation which together constitute the Guarantor to this Lease, the obligations and liabilities of each of those persons or corporation herein contained are joint and several.
- (27) This guarantee takes effect immediately upon its execution and continues to be of full effect whether or not the Lease is subsequently registered pursuant to the provisions of the Land Titles Act 1994. References to this Lease include any equitable Lease agreement for

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Lease or periodic tenancy arising upon execution or acceptance by the Lessee of the instrument to which this guarantee is annexed.

~~(28) This guarantee shall continue during the term granted pursuant to any option to renew, any holding over and, without limiting its extent in the absence of this extension, for so long as the lessee may remain in possession of the premises.~~

(29) That notwithstanding anything contained in this guarantee and notwithstanding that the whole or any part of the monies hereby secured are or may be irrecoverable or at any time not presently recoverable from the Lessee the Trustee (whether by reason of any legal limitation disability or incapacity of or affecting the Lessee or any one of the Guarantors or by reason of the rights of the Trustee to enforce payment by the Lessee of the whole or part of the monies hereby secured having been suspended or postponed by order of any Court or otherwise or by reason of any other fact or circumstance whatsoever and whether the transactions or any of them relating to those monies have been void ab initio or have been subsequently avoided or whether or not any of the matters or facts relating thereto have been or ought to have been within the knowledge of the Trustee whereby those monies or any part thereof are not recoverable from the Guarantors as sureties by the Trustee) THEN AND IN THAT CASE the Guarantors as a separate and additional liability under this Lease instrument hereby jointly and severally indemnify the Trustee in respect of those monies and as a principal debtor agree with the Trustee to pay the Trustee on demand a sum equal to the amount of those monies and the terms of this instrument shall mutatis mutandis apply as far as possible to this indemnity and the sum of money covered by this indemnity shall be deemed to be part of the moneys hereby secured.

SIGNED SEALED AND DELIVERED

this _____ day of _____ 20____

by the _____

as Guarantor in the presence of

A Justice of the Peace

Given under the common seal of

As Guarantor this _____ day of _____20____, by authority of a resolution of the board
of the directors, in the presence of

_____ a director and

_____ the secretary

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who certify that they are the proper officers to affix such seal
and in the presence of:-

A Justice of the Peace

Released by NSSAB under the
RTI Act

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U. SPECIAL CONDITIONS

- (1) The Lessee acknowledges that the Trustee is a body corporate established by the University of Southern Queensland Act 1998 and that the statutes, policies and codes of conduct apply on the Trustee's land and that a breach of any of those law will be deemed to a default of the obligations of the Lessee under this Lease.
- (2) The Trustee is required under the *Community Ambulance Cover Act 2003*, to pay a separate individual charge for Community Ambulance cover where electricity is "on supplied" to a Lessee. The Trustee reserves the right and exercises the right to recover this charge Community Ambulance Levy from the Lessee from the commencement of this Lease. In addition the Trustee reserves the right to recover any additions or increases to this charge that may be levied under the *Community Ambulance Cover Act 2003* during the term of this Lease.
- (3) The Lessee accepts and acknowledges that the Minister can exercise the Trustee's powers under this Lease including the right to enter and view and carry out repairs maintenance alterations additions and other works therein and otherwise to exercise or perform the Trustee's lawful rights or obligations contained in this Lease.
- (4) The Lessee acknowledges that this lease is entered into in accordance with the provisions of Section 24JA of the Native Title Act 1993 (Cth) and that the non-extinguishment principle contained in the Native Title Act 1993 (Cth) applies.
- (5) The parties accept and acknowledge any other Special Conditions to this Lease as may be set out in Reference Data #27.

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Appendix

Each reference in this Lease to any of the titles contained in this Appendix is to be construed to incorporate the data stated and the terms provided under that title.

REFERENCE DATA**Parties**

- Item 1** **Trustee and Address for Service of Notices**
University of Southern Queensland ABN 40 234 732 081
West Street, Toowoomba Qld 4350
Fax: 07 4631 2892
- Item 2** **Lessee and Address for Service of Notices**
Maridahdi Early Childhood Community ABN 41 029 356 380
3-7 Bowtell Street, Toowoomba Qld 4350

- Item 3** **Names of Guarantors and addresses:**
N/A

Term

- Item 4** **Lease Term**
From Commencement Date to Expiry Date
- Item 5** **Commencement Date:**
Commencing from the date of the Minister's Consent or 18/01/2010,
whichever occurs last
- Item 6** **Expiry Date:**
Last day of Lease term: 27/6/2010

Subject Matter of Lease

- Item 7** **Description of the Building**
Name of Building K2 Block
Area of the Building
Address of Building University of Southern Queensland,
Toowoomba Campus
- Item 8** **Description of Premises**
That area comprising
Office Numbers K2201, K2202, Equip Store, Enclosed Yard
(including covered play areas)
Floor of Building
Area of the Premises 569.05 square metres more or less
Address of Premises as above
- Item 9** **Itemised Inclusions in Premises (Trustee's property):**
N/A

Rental

- Item 10** **Annual Rental**
\$22728 plus GST payable in advance by equal monthly instalments of \$1894
per month plus GST on the 1st day of each month.
- Item 11** **Rent Review Date:**
N/A
- Item 12** **Rent Review Method:** N/A

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Item 13 Percentage Increment: N/A**Item 14 Arrears Interest Rate:**
Stipulated Rate or 0.0 p.a., whichever is higher**Outgoings****Item 15 Outgoings:**
Nil**Item 16 Lessee's Proportion** N/A**Use****Item 17 Permitted Uses under Lease**

Education Facility

Item 18 Lessee's Business

Childhood Education

Item 19 Lessee's Trading Name:

Maridahdi Early Childhood Community School Inc

Item 20 Lessee's Ordinary Business Hours:

8 a.m. to 4 p.m. business days

Insurance**Item 21 Lessee's Insurance Obligations****Public Liability** \$20 Million

As set out in Clause 14 of the Registered MSTD No. 71192933

Trustee's Services**Item 22 Janitorial:**In the premises: NilIn the Common areas:Daily vacuum carpets, clean toilet areas, restock toilet dispensers in toilets,
dust mop tile floor clean all sinks and mirrors empty rubbish bins

Twice yearly wash windows inside and out

Item 23 Pest Control:In the premises: NilIn the Common areas:

Yearly pest control and fumigation

Item 24 Parking**Designated Parking Areas:** 10 spaces in Car Park 10 as per attached plan**Special Permit** n/a**Parking Fee:** : \$Nil per vehicle per business day (or part thereof)**Item 25 Trustee's Ordinary Business Hours**

7.30 a.m. to 10.30 p.m. business days

Air-conditioning Services Hours Between the hours of 7am and 7 pm on
business days.**Security****Item 26 Bond**
N/A**Other****Item 27 Special conditions:**This Lease is conditional upon obtaining and the terms of the Minister's
Consent.

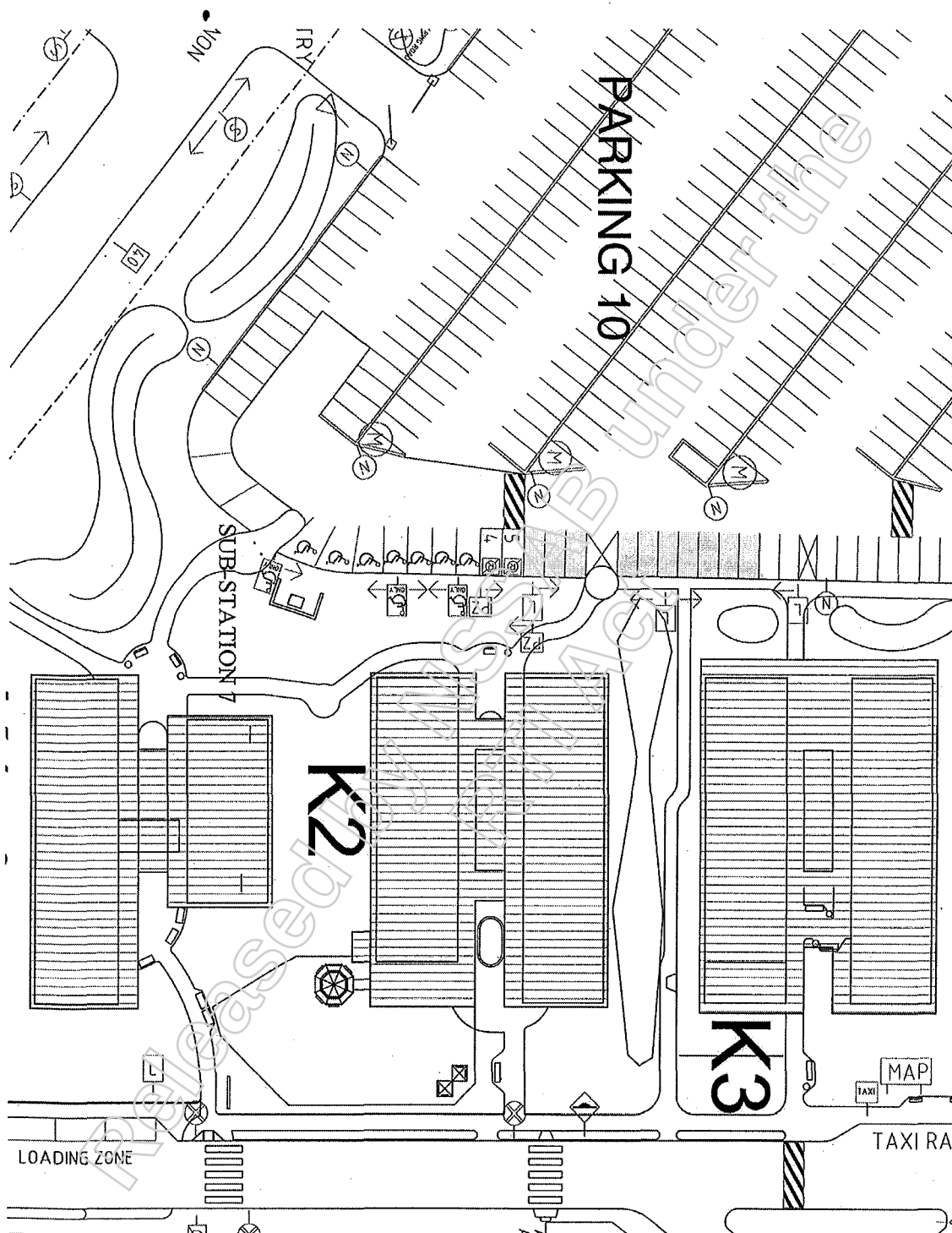
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EXHIBIT

The Exhibits listed below and attached to this Lease are incorporated in this Lease by reference to them and are to be construed as part of this Lease.

- a) Exhibit A: Plan showing the Building in which the premises are located and on which the premises are delineated in black hatching.

Released by NSSAB under the
RTI Act

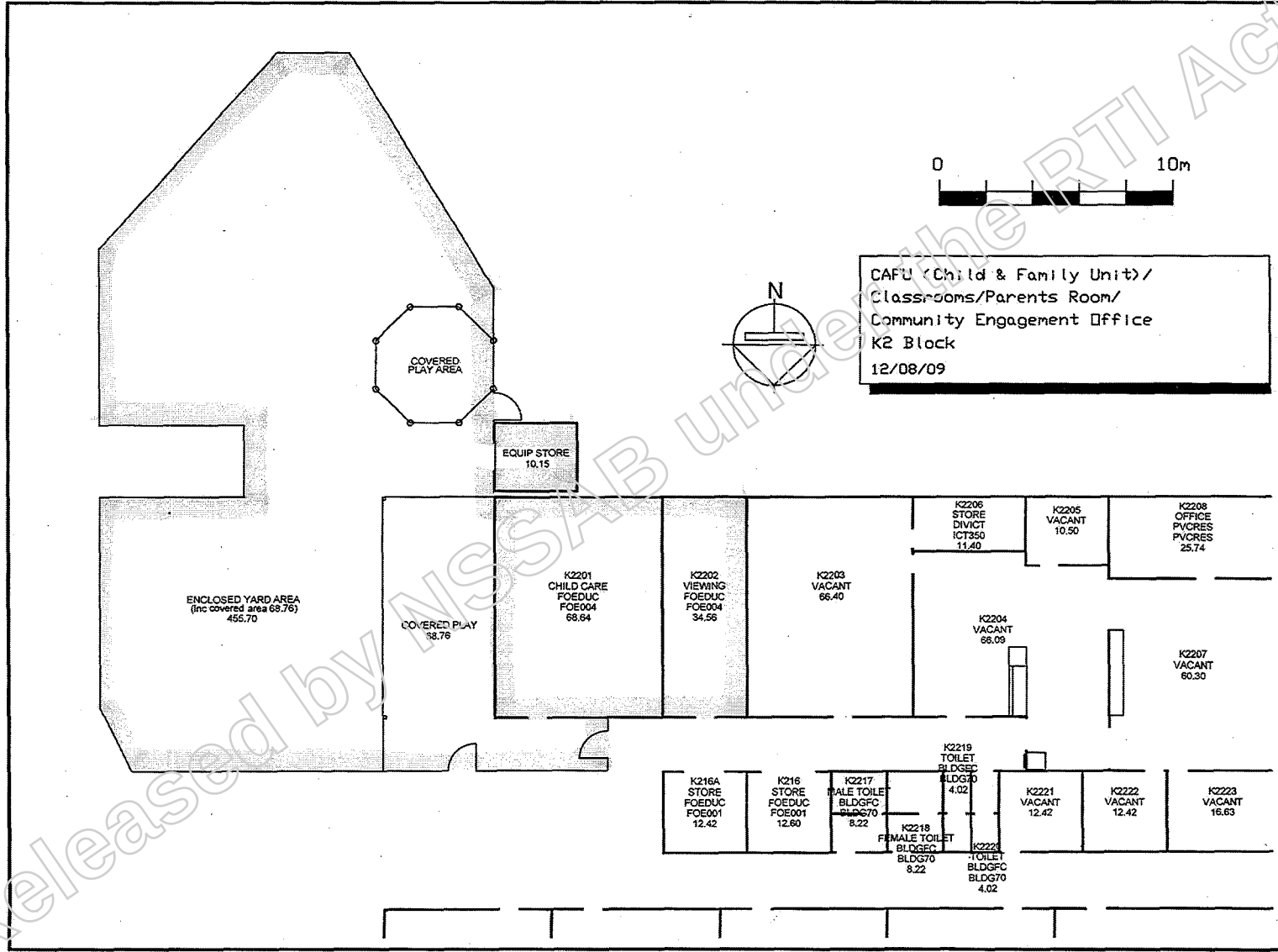
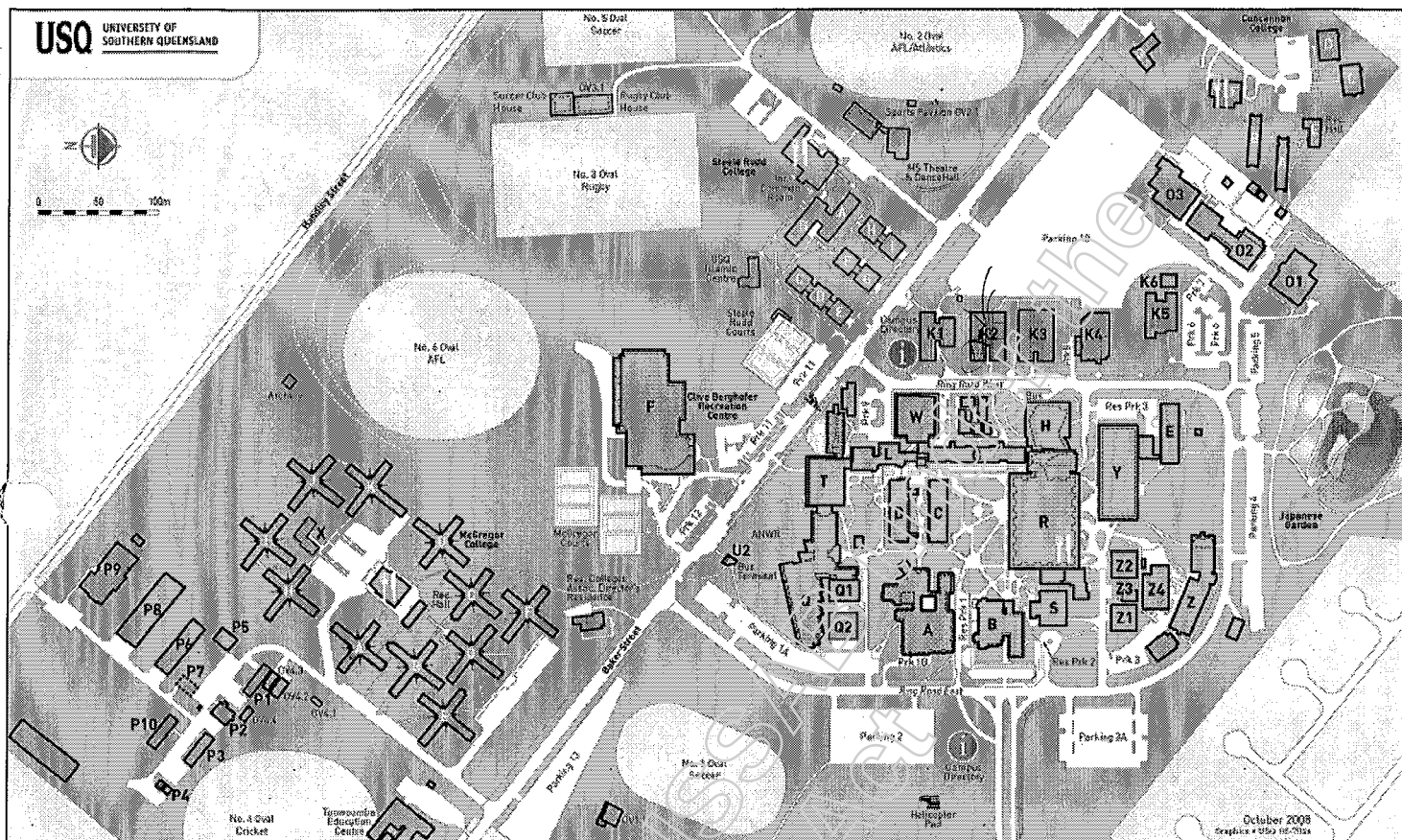


Exhibit A

Toowoomba campus map



[Toowoomba campus map, printable version \(PDF 299KB\)](#)

ABN: 40 234 732 081 | CRICOS: QLD 00244B | NSW 02225M | © University of Southern Queensland | Right to Information | Updated 19 July 2009

JARRETT, Tracey

From: JARRETT, Tracey
Sent: Tuesday, 1 December 2009 4:40 PM
To: 'Maridahdi'
Subject: Application new site Uni of Southern Qld

Dear Kate

Our office received the new application for change of accreditation attribute for the propose site at University of Southern Queensland today. From a preliminary scan of the application I note that the lease was to be enclosed in Appendix 2 however the application does not contain this document.

I thought considering your urgency with the application it might be best to seek this information from you before it goes before the Board for its consideration.

You may email or faxed the document on the contact details below and our office will include the document in the application.

Regards
Tracey

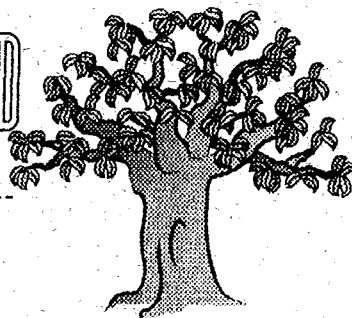
Tracey Jarrett

Manager (Accreditation)
Non-State Schools Accreditation Board Secretariat
Department of Education & Training | Qld Gov
Floor 18 | 30 Mary Street | Brisbane QLD 4000

☎ (07) 3234 1627
☎ (07) 3237 0004
✉ tracey.jarrett@deta.qld.gov.au

RECEIVED
1 DEC 2009

BY:



MARIDAHDI
EARLY CHILDHOOD COMMUNITY

25 November 2009

Emeritus Professor Roy Webb
Chairperson
Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

Dear Professor Webb

Thank you for your response to our recent correspondence regarding our plans for 2010. It seems we have little option but to apply for a change of accreditation attribute for our temporary operation from USQ. Accordingly, I attach here the required *Change of accreditation attribute* application, together with supporting documentation.

I note your comments regarding our very tight timeframe. We are well aware of the Board's usual timeframe for these applications, and acknowledge that we are placing pressure on the Board by submitting this application late in the 2009 school year. Unfortunately, the circumstances around this have been largely beyond our control. We do hope, therefore, that the Board will be able to decide this application at its December meeting, given that:

- this application entails only a very minor change in operations – the *only* attribute we seek to change is to add an address;
- all of the information contained in this application – except for the address – has already been under consideration by the Board since July;
- we have already complied with the notification requirement of the Funding Committee, albeit for the South Street address; I think it is reasonable to suggest that our temporary operation from USQ is not more likely to raise objections than our relocation to South Street, and as far as I am aware there were no submissions regarding our earlier notification.

Phone: 4635 1413 Fax: 4635 1116 Email: admin@maridahdi.qld.edu.au

P.O. Box 4742 Toowoomba East Qld 4350 3 - 7 Bowtell Street Toowoomba Qld 4350

I appreciate that the fact this is a temporary measure for Maridahdi does not reduce the Board's obligation to ensure that the site complies with all accreditation criteria. I trust the enclosed documents provide all of the information the Board requires to assess this.

I also note that this *is* a temporary solution, and that it is Maridahdi's intention to surrender accreditation of the USQ site as soon as the South Street campus is accredited.

Finally, I note that some of the documentation required to support this application is identical to that accompanying our existing application (e.g. Constitution, Positive Suitability Notices, statement of financial viability etc.). For the sake of our trees, I've made the decision not to send you a further 18 duplicates of those documents; I trust this decision is acceptable to the Board.

We thank the Board for its special consideration of our circumstances, and look forward to hearing from you after your 3rd December meeting. If I can be of any assistance, please feel free to call me any time on 4635 1413 or losure would, on balance, be

Sincerely,


KATE TULLY
Chair,
Maridahdi Community Governing Council

Encl.: Completed Form NSS-301 and appendices - original + 17 copies

RECEIVED
1 DEC 2009

BY:



Non-State Schools
Accreditation Board
Queensland Government

Form NSS-301

Change of accreditation attribute

Application for accreditation and funding eligibility

NAME OF SCHOOL MARIDADI EARLY CHILDHOOD COMMUNITY SCHOOL			Office use only
Details of person to contact about this application			CIS No.
Title (eg Ms, Mrs, Mr, Dr, Pastor) Ms	Given name/s KATHERYN ANN	Preferred first name KATE	CIS No. Appendices
Surname TULLY			
Postal address PO BOX 4742			
Postcode TOOLONGOMA EAST QLD 4350			
Business telephone 4635 1413	After hours telephone Act - Disclosure would, on balance, be contrary	Fax 4635 1116	Date received
Mobile	Email address kamin@maridadi.qld.edu.au		Funding application

Privacy Information

Form NSS-301: *Application for change of accreditation attribute and funding eligibility* collects information for the following purposes:

- to enable the Non-State Schools Accreditation Board to decide whether to approve the change of attribute under the *Education (Accreditation of Non-State Schools) Act 2001* (the "Accreditation Act"); and
- where applicable, to enable the Non-State Schools Eligibility for Government Funding Committee to decide whether to grant eligibility for government funding status under the *Education (Accreditation of Non-State Schools) Act 2001*.

Certain data collected in this survey is 'personal information' within the meaning of the Queensland Government Information Standard 42, which deals with the collection and handling of such information by government agencies. Form NSS-301 collects personal information about:

- a contact person for the purpose of processing the application;
- a person authorised by the incorporated governing body to act on its behalf for the purpose of processing the application; and
- the directors or members of the executive management group of the incorporated governing body making the application for the purpose of ascertaining whether the governing body complies with the requirements of the *Education (Accreditation of Non-State Schools) Act 2001*.

The information collected in this survey may be disclosed to the following entities:

- the Minister for Education and Training and Minister for the Arts;
- the Office of Non-State Education within the Queensland Department of Education, Training and the Arts and other relevant areas of the Queensland Department of Education, Training and the Arts;
- assessors and auditors appointed under the *Education (Accreditation of Non-State Schools) Act 2001*; and
- any person who inspects an application or asks an applicant for a copy of an application under sections 82 and 83 respectively of the Accreditation Act.

PLEASE NOTE

Attachments must be labelled with the corresponding number and title of the related item in the application form.

PART 1 APPLICANT DETAILS

1. Applicant

Name of the governing body applying to change an attribute or attributes of accreditation.

MARIDANI EARLY
CHILDHOOD Community

2. Is this application seeking eligibility for government funding for the change of attribute?

☒ Yes

☐ No

☐ Not Applicable

☐ Automatic by virtue of the transition provisions of the *Education (Accreditation of Non-State Schools) Act 2001*

If No, Not Applicable or Automatic, proceed to Item 3.

If Yes, please address all of the following items:

a) Is the school to be operated on a not-for-profit basis?

☒ Yes

☐ No

Note: A school is **not operated for profit** only if any profits made from the school's operation are used entirely to advance the school's philosophy and aims, as stated in the school's statement of philosophy and aims. Only schools operating on a not-for-profit basis are eligible for government funding.

b) In relation to the operation of the school, has the governing body entered into any prohibited arrangement?

☐ Yes

☒ No

Note: A **prohibited arrangement** is a contract or arrangement entered into by a school's governing body or proposed governing body and a for-profit entity not dealing with each other at arm's length.

c) In relation to the operation of the school, does the governing body intend to enter into any prohibited arrangement?

☐ Yes

☒ No

Note: A **prohibited arrangement** is a contract or arrangement entered into by a school's governing body or proposed governing body and a for-profit entity not dealing with each other at arm's length.

d) Currently, is there a direct or indirect connection between the governing body and any for-profit entity?

☐ Yes

☒ No

If Yes, attach a statement explaining how the governing body is ensuring that there are no connections between it and any for-profit entity that could reasonably be expected to compromise its independence when making financial decisions.

e) With the change of attribute, will there be a direct or indirect connection between the governing body and any for-profit entity?

☐ Yes

☒ No

If Yes, attach a statement explaining how the governing body intends to ensure that there will be no connections between it and any for-profit entity that could reasonably be expected to compromise its independence when making financial decisions.

3. Details of governing body

Note: If applying to change the governing body, provide details of the proposed governing body. For all other changes of attribute, provide details of the existing governing body.

Attach the following:

a) a copy of the constitution or like document of the governing body and the rules under which it operates;

b) documentation showing the corporate structure of the governing body, including details of related entities and the relationships between these entities;

c) documentation showing the current membership of the governing body e.g. ASIC Company Extract;

d) a copy of the positive notice blue card issued by the Commissioner for Children and Young People and Child Guardian for each director or member of the executive management group of the governing body;

e) a copy of the policy used by the governing body for identifying, declaring and dealing with any conflicts of interest or potential conflicts of interest a director or member of the executive management group of the governing body may have in regard to the operation of the school; and

f) (for new governing body only) documentary evidence that the proposed governing body is a corporation, ensuring that the type of incorporation is included.

See Appendix 1

PART 1 APPLICANT DETAILS

4. Offences

Note: If applying to change the governing body, provide details of the proposed governing body. For all other changes of attribute, provide details of the existing governing body.

Has any director or member of the executive management group of the governing body been convicted of an indictable offence?

☐ Yes

☒ No

If Yes, attach details.

Has the governing body been convicted of an offence?

☐ Yes

☒ No

If Yes, attach details.

Released by NSSAB under the
RTI Act

PART 2 CHANGE OF ATTRIBUTE DETAILS

5. Current location of school

If a change of attribute is being proposed for more than one site, please complete Appendix 1 for each site other than the one indicated below.

With the exception of the governing body of the school, attributes of accreditation are specific to each site.

Street address

3-7 BOWTELL ST	
TOOWOOMBA QLD	
4350	
	Postcode

Real property description of existing school site

Lot no.	Plan no.
Lot 6	RP 133692

6. Accreditation attributes

- a) Indicate the anticipated date of the proposed change of accreditation attribute.

27 / 1 / 2010

- b) Tick to indicate which attribute/s the school's governing body is seeking to change.

☐ Governing body of the school

Proceed to Item 13.

☒ Location of the school

Proceed to Item 7 then to Item 13 and onwards.

☐ Curriculum model

Proceed to Item 8 then to Item 13 and onwards.

☐ Mode of delivery of education

Proceed to Item 9 then to Item 13 and onwards.

☐ Years of schooling and student-intake type

Proceed to Item 10 then to Item 13 and onwards.

☐ Inclusion of boarding facilities

Proceed to Item 11 then Item 13 and onwards.

☐ Sector student-intake day

Proceed to Item 12 then Item 13.

7. New location of school

Proposed street address

UNIVERSITY OF	
SOUTHERN QUEENSLAND	
487 WEST ST	
TOOWOOMBA	Postcode A350

Real property description of proposed school site

Lot no.	Plan no.
1080	AG2932

Current land use zoning

Special use: Education

8. Curriculum model

Attach a statement providing details of the proposed change of curriculum model/syllabus framework to be used by the school.

If the proposed change will result in the use of a curriculum model/syllabus framework other than those approved or accredited by the Queensland Studies Authority, attach details to show that the proposed curriculum model/framework will enable students to achieve standards of learning at least comparable to Queensland standards of learning.

9. Mode of delivery of education

Attach a statement providing details of the proposed change in the mode of delivery of education.

10. Years of schooling offered and student-intake type

Attach a statement providing details of the proposed change in the years of schooling offered and the student-intake type (i.e. females only or males only or co-educational) to be enrolled in each new year of schooling.

11. Boarding facilities

Attach a statement providing details of the proposed change relating to boarding facilities at the school.

PART 2 CHANGE OF ATTRIBUTE DETAILS

12. Sector student-intake day

Attach a statement providing details of the proposed change/s to sector student-intake day/s.

A sector student-intake day is the first day students will commence education within the following sectors of schooling:

- Preparatory Year to Year 3
- Years 4 to 7
- Years 8 to 10
- Years 11 to 12.

13. Accreditation criteria

Attach statements explaining how each of the following criteria will be affected by the proposed change in attribute/s.

- a) Statement of philosophy and aims;
- b) Educational program;

- c) Students with a disability;
- d) Distance education delivery;
- e) Flexible arrangements approvals;
- f) Health and safety of students and staff;
- g) Conduct of staff and students;
- h) Staffing;
- i) Land and buildings;
- j) Educational facilities and materials;
- k) Improvement processes; and
- l) Financial viability.

If clarification or further information is required, is permission given for the Board to liaise with the qualified person who prepared the financial viability statement or certificate?

☒ Yes

☐ No

Provide details of the qualified person who has prepared the financial viability statement or certificate.

Title (eg. Ms, Mrs, Mr, Dr, Pastor)	Given names	Preferred first name
MR	ANTHONY	TONY
Surname		
HOOPER		
Position	Relevant Qualification	
PARTNER, HOOPER & CO.	B. BUS, CPA	
Postal Address		
PO Box 3252		
Taawane RD		Postcode
		4350
Business telephone	After hours telephone	
4637.9363		
Mobile	Fax	
	4638.7617	
Email address		
hooper@hooperco.com.au		

End of application for accreditation.

Please proceed to Part 3 if you wish to apply for eligibility for government funding.

PART 3 FUNDING APPLICATION DETAILS

14. Funding eligibility

Do you wish to modify your eligibility for government funding to incorporate the proposed changes?

☒ Yes

☐ No

Where modification to funding eligibility is being sought, provide the information requested below as it relates to the proposed changes.

Where a proposed change in attribute only involves the *discontinuation* of an attribute, eg, discontinuation of Years 11 and 12 or discontinuation of boarding facilities, there is no need to complete the following items.

15. Catchment area

The catchment area is defined in the Accreditation Act as the geographical area in which at least 80 per cent of the school's students reside or are likely to reside.

Attach the following as they relate to the proposed change/s for which funding is being sought:

- a) a description and map/s of the modified catchment area of the school with the catchment boundary and Statistical Local Area (SLA) and/or the Census Collector District (CD) codes clearly marked on the map/s;
- b) a statement of supportive argument for both:
 - the selection of the SLAs/CDs included in the catchment area;
 - the exclusion of the SLAs/CDs that are adjacent to the catchment area boundary;
- c) for both the first and fifth year of operation of the proposed change, a list of the SLAs/CDs that comprise the catchment area ranked by magnitude of prospective student enrolments by percentage and numbers; and
- d) a list of the SLAs/CDs that comprise the catchment area ranked by proximity to the school;
- e) the catchment area map showing:
 - the site of the new school; and
 - the names and locations of all existing schools, both non-State and State.

16. Educational choice

If it is claimed that the proposed change/s for which funding is being sought will provide new elements of choice for schooling in the catchment area, attach a statement explaining the features that are not currently available in existing schools, for example:

- a) the school's philosophical or religious foundations;

- b) the educational program and mode of delivery;
- c) the student welfare and pastoral care provisions; and
- d) any other factors.

The Funding Committee's consideration of the educational choice criterion may include matters other than those noted above.

17. Anticipated enrolments

In relation to the proposed change/s for which funding is being sought, attach a table of the anticipated enrolments by year level or age for the five years from the anticipated date of the proposed change of attribute. Indicate the number of any intended overseas students separately.

18. Minimum enrolments

If necessary, attach an explanation for periods when the minimum enrolment requirements under the Accreditation Act are not likely to be met.

19. Projected population of school-age children

Attach the following as they relate to the change/s for which funding is being sought:

- a) a table showing data on the projected population of school-age students in the catchment area by relevant age or year level cohort for the first and fifth years from the anticipated date of change; and
- b) details of the source/s of the projected population data (eg Australian Bureau of Statistics, Department of Local Government and Planning, or other independent and authoritative sources).

20. Anticipated share of cohort

In relation to the change/s for which funding is being sought, attach supporting argument for the share of the total cohort of school-age students in the catchment area, by age or year level, that is claimed as the anticipated enrolment.

21. Public notification

Attach the following as it relates to the change/s for which funding is being sought:

- a) a statement on how the public notification requirements will be met;
- b) copy of the public notice to be published; and
- c) a list of people, with their addresses, to whom the notice will be given.

PART 3 FUNDING APPLICATION DETAILS

22. Impact on other schools (Optional)

Attach a statement on the likely impact of the proposed change/s over the next five years on existing schools in the catchment. The statement would address impact on existing schools in terms of:

- a) changes to their enrolments;
- b) changes to their curriculum offerings;
- c) their future viability; and
- d) positive effects.

23. Unfilled enrolment capacity (Optional)

Attach a statement relating to the changes that comments on the current demand for student places and the likely effect on the overall unfilled enrolment capacity of other schools in the catchment area.

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RTI Act

Declaration

The person authorised by the incorporated governing body to act on its behalf, eg the chairperson or secretary, is to sign the declaration and provide the contact details requested below.

I, (print full name here)

KATHEN ANN TULLY

of (print full address here)

s 47(3)(b) of the RTI Act - Disclosure would, on balance, be contrary to the public interest

declare that the information provided in and attached to this Application is, to the best of my knowledge, true and correct.

Signature of declarant

Date 25/11/09

Contact details

Postal Address	
PO Box 4242	
Taewarua Rd	
Postcode 4350	
Business telephone	After hours telephone
4635 1413	
s 47(3)(b) of the RTI Act - Disclosure would, on balance, be contrary to the public interest	
Mobile	Fax
	4635 1116
Email address	
s 47(3)(b) of the RTI Act - Disclosure would, on balance, be contrary to the public interest	

Change of accreditation attribute – November 2009 MARIDAHDI EARLY CHILDHOOD COMMUNITY

Background and attachments

Background

Maridahdi has a current application before the Board for accreditation of its proposed new campus at 1 South Street, Toowoomba ('the South Street application'). That application was submitted in July 2009. We envisage that town planning approval and accreditation will occur during 2010, and we will transfer students to the South Street campus in the second half of 2010.

In the meantime, our enrolments for the start of 2010 exceed our capacity at our current campus at Bowtell Street, Toowoomba. (Our capacity is set by our planning approval from Toowoomba Regional Council.) Hence this application seeks accreditation of a teaching space at the University of Southern Queensland (USQ), to be used as a temporary solution until our South Street campus is available.

PART 1: APPLICANT DETAILS

Q3. Details of governing body

Relevant documentation was attached at *Appendix 1* of the South Street application. This information remains unchanged, so we have not re-submitted it here.

PART 2: CHANGE OF ATTRIBUTE DETAILS

Q13. Accreditation criteria

(i) Land and buildings

The teaching space at USQ (K2 Block) has previously been used as the Child & Family Studies Centre; we believe it is well-suited to our purposes as a temporary location for a class of Year 3 – Year 7 students. It comprises a classroom of approximately 70 square metres, a withdrawal/preparation room of 35 sqm and adjoining playspace of 455 sqm, all of which is fully fenced. The playspace includes some 100 sqm of shaded area. Toilets are located just 10 metres from the entrance to the classroom. A plan of the space is attached at *Appendix 1*.

While we are located at USQ, the students will also be permitted to play on university ovals and visit the adjoining gardens, when accompanied by adults. There will be a teacher and assistant or other adult with the students at all times.

The educational program, facilities and materials will be no different from those provided at our accredited Bowtell Street campus.

A lease has been prepared for our use of the space at USQ: see **Appendix 2**.

PART 3: FUNDING APPLICATION DETAILS

Q15: Catchment area

Our catchment area previously defined remains relevant to this application. The map at **Appendix 3** shows this catchment area, plus the location of Maridahdi, the location of USQ and the location of other state and non-state schools. It also shows the residential locations of the 85% of our current families who live within the nominated SLAs. Information relating to our catchment area is unchanged from what we have provided in the South Street application.

Q16: Educational choice

As noted in our previous applications, enhancing genuine educational choice is the main reason for Maridahdi's expansion. This application seeks to facilitate that expansion by retaining students while we are waiting for our second campus to be ready for occupation.

Q17: Anticipated enrolments

The table below shows our anticipated enrolments, from 2009 through to 2014.

Pre-Prep		Prep	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Total (school)
2 x 24	2009	16	16	7	11	0	1	0	0	51
2 x 24	2010	18	16	16	7	11	4	2	0	74
2 x 24	2011	20	18	16	16	7	11	4	2	94
2 x 24	2012	20	20	18	16	16	7	11	4	114
2 x 24	2013	20	20	20	18	16	16	7	11	130
2 x 24	2014	20	20	20	20	18	16	16	7	139

Q18: Minimum enrolments

As Maridahdi already has more than the minimum 25 enrolments required, we do not envisage a period where this minimum level will not be met.

Q19: Projected population of school-age children

PIFU statistics for 2010 and 2014 were provided at *Appendix 4* of the South Street application.

Q20: Anticipated share of cohort

The South Street application fully explains our anticipated student numbers. Our student totals are unchanged from that application; the current application does not envision any increase in provision.

Q21: Public notification

As Maridahdi has already fulfilled the requirements of public notification in relation to the South Street application, we respectfully suggest that further notification is not necessary for this application.

As far as we are aware, no submissions were made in relation to our notification in August 2009; we believe it is fair to conclude that no objections would be raised to the change of attribute being proposed in *this* application, particularly as this is only a temporary measure.

Q22: Impact on other schools

We believe that the impact of the proposed change of attribute will have no impact on existing schools. This assessment is based on the small student cohort across a relatively large catchment area; it is highly unlikely that our students' attendance at Maridahdi will have any perceivable impact on the viability or operations of other schools.

Q23: Unfilled enrolment capacity

This application does not entail any increase in student numbers at Maridahdi, beyond the proposal for which we have already received accreditation. We reiterate that the size of Maridahdi does not place at risk the viability of any other school - state or non-state.

Change of accreditation attribute – November 2009 MARIDAHDI EARLY CHILDHOOD COMMUNITY

Appendices

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Appendix 1

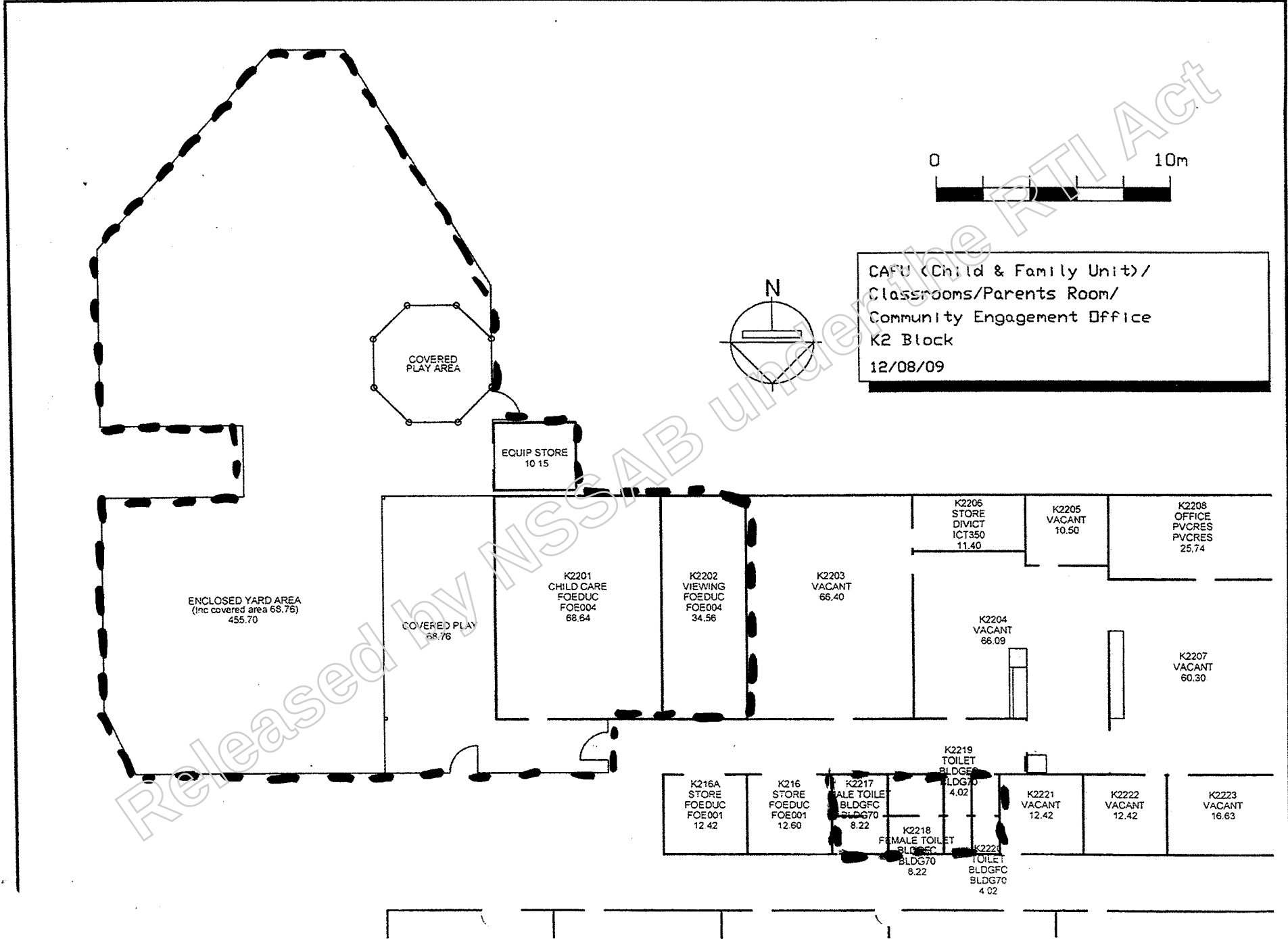
PART 2: CHANGE OF ATTRIBUTE DETAILS

Q13. Accreditation criteria

i) Land and buildings

Floor plan of proposed teaching space, University of Southern Queensland.

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RTI Act



Appendix 2

PART 2: CHANGE OF ATTRIBUTE DETAILS

Q13. Accreditation criteria

i) Land and buildings

Lease for teaching space, University of Southern Queensland

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Appendix 3

PART 3: FUNDING APPLICATION DETAILS

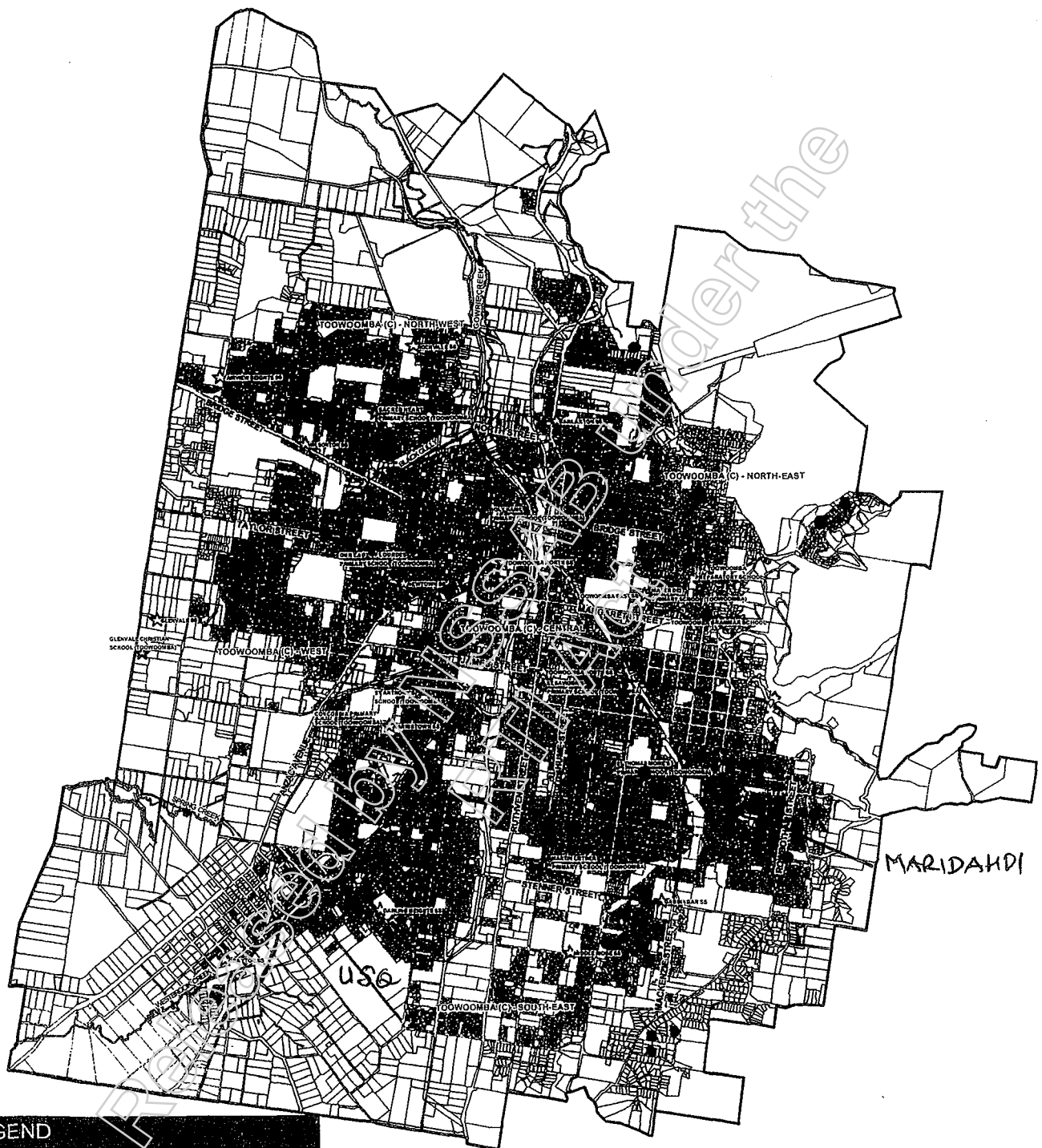
Q15: Catchment area

a) Catchment Area Map

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Toowoomba City - Primary Schools and SLA's

CATCHMENT AREA & LOCATION OF OTHER SCHOOLS



LEGEND

- TOOWOOMBA LGA BOUNDARY
- STATISTICAL LOCAL AREA BOUNDARY
- RIVERS/CREEKS/WATERCOURSES
- STATE PRIMARY SCHOOL SITE
- NON STATE PRIMARY SCHOOL SITE
- MAJOR ROADS

SLA NAME

• Maridahdi family residence