



LICENCE AGREEMENT

BETWEEN

TWEED SHIRE COUNCIL

AND

**POTTSVILLE & DISTRICT MEN'S SHED
INCORPORATED**

THIS LICENCE AGREEMENT is made the *30th* day of *MARCH* 2017

BETWEEN:

TWEED SHIRE COUNCIL of Civic and Cultural Centre, Tumbulgum Road, Murwillumbah in the State of New South Wales (hereinafter called "the Licensor") of the first part

AND:

POTTSVILLE AND DISTRICT MEN'S SHED INCORPORATED INC care of Overall Drive, Pottsville in the State of New South Wales (hereinafter called "the Licensee") of the second part

WHEREAS;

- A. The Licensee is an associate member of Australian Men's Shed Association and in accordance with the rules objectives and policies of the association conducts its activities within the Licensed Area.
- B. The Licensor has agreed to grant to the Licensee a licence of the area located on Lot 301 in DP 1125090 for the licence fee and upon the terms and conditions hereinafter contained.

NOW THIS DEED WITNESSES AND IT IS AGREED AS FOLLOWS:

- 1. In this Deed, unless otherwise there is something in the subject matter or context inconsistent, the following words shall have the respective meanings assigned to them:
 - (a) "Act" means the *Local Government Act, 1993 (NSW)* as amended
 - (b) "Commencement Date" means the date shown at the head of this Agreement.
 - (c) "GST" means any tax, impost or duty, including any goods and services, consumption, value added or similar tax applying on goods, services or other things introduced by the *A New Tax System (Goods and Services Tax) Act, 1999 (Cth)* and associated legislation (as amended), or under legislation passed by a State or Territory Parliament (whether before or after the Commencement Date) which is charged or levied on goods, services or other things.
 - (d) "Licensed Area" means the area of land described in the First Schedule and within the area hatched in red in the plan therein.

- (e) "Licence" means the licence granted pursuant to Clause 2 below.
 - (f) "Licensee" means the Licensee.
 - (g) "Term" means a period of five (5) years.
2. The Licensor **HEREBY GRANTS AND DEMISES** to the Licensee a Licence of the building on the Licensed Area as set out in Schedule 1 of this Agreement for the Term Commencing on the Commencement Date.
3. (a) (i) The Licensee agrees to pay the Licensor One Dollar (\$1.00) per annum, in advance, to be paid on each anniversary of the Commencement Date during the Term, the first payment to be due and payable on the Commencement Date.
- (ii) The Licensee acknowledges that the Licence Fee (rental) is a nominal amount and does not reflect the current market rental because the Licensee is a not for profit organisation.
4. The rent and all other moneys payable by and on behalf of the Licensee under this licence are exclusive of GST. Liability for GST (payable in respect of any taxable supply) is additional. It is payable by the Licensee to the Licensor at the same time as rent and other moneys are payable.
5. The Licensee hereby covenants with the Licensor:
- (a) To pay the rental hereby reserved;
 - (b) That the building on the Licensed Area will be used for the purpose of conducting the activities of the Licensee in accordance with the Rules of Australian Men's Shed Association, all approvals granted by any statutory authority for the activities of the Licensee and is subject to such conditions as may be notified by the Licensor from time to time.
 - (c) That the Licensee will not assign, sublet, licence or in any way part with possession of the whole or any part of the Land;
 - (d) That the Licensee will keep the building, improvements and appurtenances now or hereafter erected thereon in good order, repair and condition, this includes painting the internal walls and surfaces as directed by the Licensor, replacing and/or repairing any damage to the internal surfaces, mowing and maintaining the Licensed Area at all times during the Term;
 - (e) That the Licensor is hereby indemnified by the Licensee against any expense, loss, damage, claim, suit or demand by any person, firm or company due to or arising out of the faulty construction or

maintenance of the said buildings, improvements and appurtenances now or hereafter erected thereon;

- (f) That the buildings, improvements and appurtenances now or hereafter erected thereon shall not at any time have amplified noise from machinery or music used on those premises which creates an excessive noise to occupiers or invitees of land located within a one kilometre (1km) radius of the Land.
6. The Licensee shall be entitled on the expiry of the Term hereby granted and created or on an earlier date with the consent of the Licensor to remove the building, the fittings and fixtures including all equipment and materials relating to the use of the Licensed Area **PROVIDED** that the Licensee shall make good any damage occasioned to the Licensed Area arising out of such removal.
7. It is agreed and declared that the Licensee shall at his own expense;
- (a) throughout the duration of this licence, within one (1) day thereof notify the Licensor of any complaints made by any person in respect of noise emitting from the demised premises.
 - (b) ensure that all improvements and alterations to buildings or ground layout now or hereafter erected on the subject land shall be approved by the Licensor
 - (c) indemnify and agree to keep indemnified the Licensor from and against all actions suits claims debts demands obligations and other liability arising out of or by virtue of the occupancy and/or use of the subject lands by the Licensees during the continuance hereof or otherwise howsoever arising.
8. The Licensees acknowledge that the Licence is subject to the provisions of the *Local Government Act, 1993*.
9. The Licensee shall during the term of this Licence indemnify and keep indemnified the Licensor against all actions suits claims debts obligations and other liabilities during the continuation of the Licence and further, the Licensees shall, at their own cost, during the term of this Licence:
- (a) Maintain a public risk insurance policy together with any other insurances required in relation to the activities of the Licensee within the Licensed Area with a reputable insurance office approved by the Licensor in the names of the Licensee, the Licensor assuring them against such of the said matters as can be assured against in such office in the sum of not less than Ten Million Dollars (\$10,000,000.00) and shall produce at any time when required by the Licensor the last renewal receipt for payment of such premium thereon;

(b) keep the building and other improvements now or hereafter located at the premises insured against fire, vandalism, malicious mischief with a reputable insurance office approved by office approved by the Licensor in the names of the Licensee, the Licensor assuring them against such of the said matters as can be assured against in such office in the sum of not less than two hundred and fifty thousand dollars (\$250,000.00) and shall produce at any time when required by the Licensor the last renewal receipt for payment of such premium thereon.

10. During the continuance of the Agreement the Licensee shall not use the Licensed Area for any purpose other than the carrying on thereon of the activities of the Licensee and authorised by the constitution and by-laws of Australian Men's Shed Association and in accordance with any statutory approvals granted to the Licensee for its activities.
11. The Licensee agrees with the Licensor that he will duly and punctually pay or otherwise discharge all outgoings claims debts liabilities and other obligations arising out of or connected with the carrying on of the Licensee's activities upon the Licensed Area.
12. The Licensee agrees with the Licensor that he will at all times maintain the Licensed Area in a neat and tidy state and condition.
13. The Licensee agrees with the Licensor that the Licensee will pay all governmental licences registration fees, electricity charges, telecommunication charges, garbage, sewerage and water rates and excess water rates in connection with the Licensed Area if applicable during the continuance of this Agreement as soon as the same shall become due and payable.
14. The Licensee further agrees with the Licensor that all of their members or other persons permitted by either of them to be upon the Licensed Area will conduct themselves in a proper and orderly manner and so as not to cause any nuisance annoyance or inconvenience to the Licensor, occupiers of properties adjacent to the Licensed Area or members of the public.
15. The Licensee agrees with the Licensor that during the continuance of this Agreement they will observe perform and keep all provisions of all licences and laws and all other Acts regulations or ordinances and the requirements of all competent Boards Councils and authorities relating to or affecting the conduct and carrying on of the Licensee's activities.
16. It is a condition of this Agreement that notwithstanding anything hereinbefore contained if any breach of the provisions hereof shall be committed suffered or permitted by the Licensee or any one of them or if either of them should fail to conduct their activities in compliance with the

terms and conditions herein contained, the Licensor shall be entitled thereupon or at any time thereafter and notwithstanding any delay or waiver of this right (other than an express waiver in writing) to revoke by notice in writing this Licence and any such revocation shall be without prejudice to any right of action accrued or thereafter to accrue to the Licensor in respect of any breach of any condition hereunder.

17. Expiry or Sooner Determination of Term:

- (a) This Agreement shall expire at midnight 12.00 am at the end of the Term.
- (b) Notwithstanding anything herein contained to the contrary the Licensor may determine this Agreement at any time and without prior notice if any of the following events occur:
 - i. if the Licensee defaults in the observation or performance of any covenant or term contained in this Agreement or any statutory approval that applies to the Licensee's use of the Licensed Area;
 - ii. If the Licensee uses any part of the Licensed Area other than for the purposes as agreed between the Licensor and the Licensee.

The Effect of Expiry or Sooner Determination

- 18.** The Licensee will at the expiration of the Term or sooner determination of this Agreement vacate the Licensed Area and will leave the Licensed Area clean and in good and substantial repair, order and condition in all respects and shall if so required by the Licensor remove its fixtures and fittings and restore the Licensed Area to its condition as at the commencement date of the Term, fair wear and tear excepted.

Service of Notices

- 19.** (a) Any notice required to be given under the terms of this Agreement shall be in writing.
- (b) Any notice delivered or given under this Agreement will be sufficiently served if addressed to the party and served in accordance with Section 170 of The Conveyancing Act 1919 NSW.
- (c) Any notice sent by post is deemed to have been served within 48 hours after posting.

Severance

20. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction is, as to that jurisdiction, ineffective only to the extent of that prohibition or unenforceability and does not invalidate the remaining provisions of this Agreement or effect the validity or enforceability of the provision in any other jurisdiction.

Whole Agreement

21. The Licensor and the Licensee agree that no party shall have any claim against another party arising out of this Agreement other than may arise under this Agreement.

Applicable Law

22. (a) Despite the domicile or residence of any of the parties this Agreement shall be construed in accordance and governed by the Laws of New South Wales.
- (b) The parties submit to the non exclusive jurisdiction of the Courts of New South Wales with respect to any legal proceedings in connection with or relating to this Agreement.

Non Merger


23. None of the terms and conditions or any act matter or thing done under or by virtue or in connection with this Agreement shall operate as a merger of any rights and remedies of the parties in or under this Agreement but such rights and remedies shall at all times continue in full force and effect.

Relationship Between the Parties

24. (a) The Licensor and the Licensee hereby agree and acknowledge that nothing contained in this Agreement shall create the relationship of partnership or of principal and agent or of joint venture between the parties.
- (b) No provision in this Agreement contained nor any acts of the parties shall create any relationship between the parties other than the relationship of Licensor and Licensee upon the terms and conditions provided in this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year firstly hereinbefore mentioned.


THE COMMON SEAL of **TWEED SHIRE COUNCIL** was hereunto affixed pursuant to a resolution made the 16 day of March 20 17 , in the presence of:


General Manager TROY GREEN


Mayor



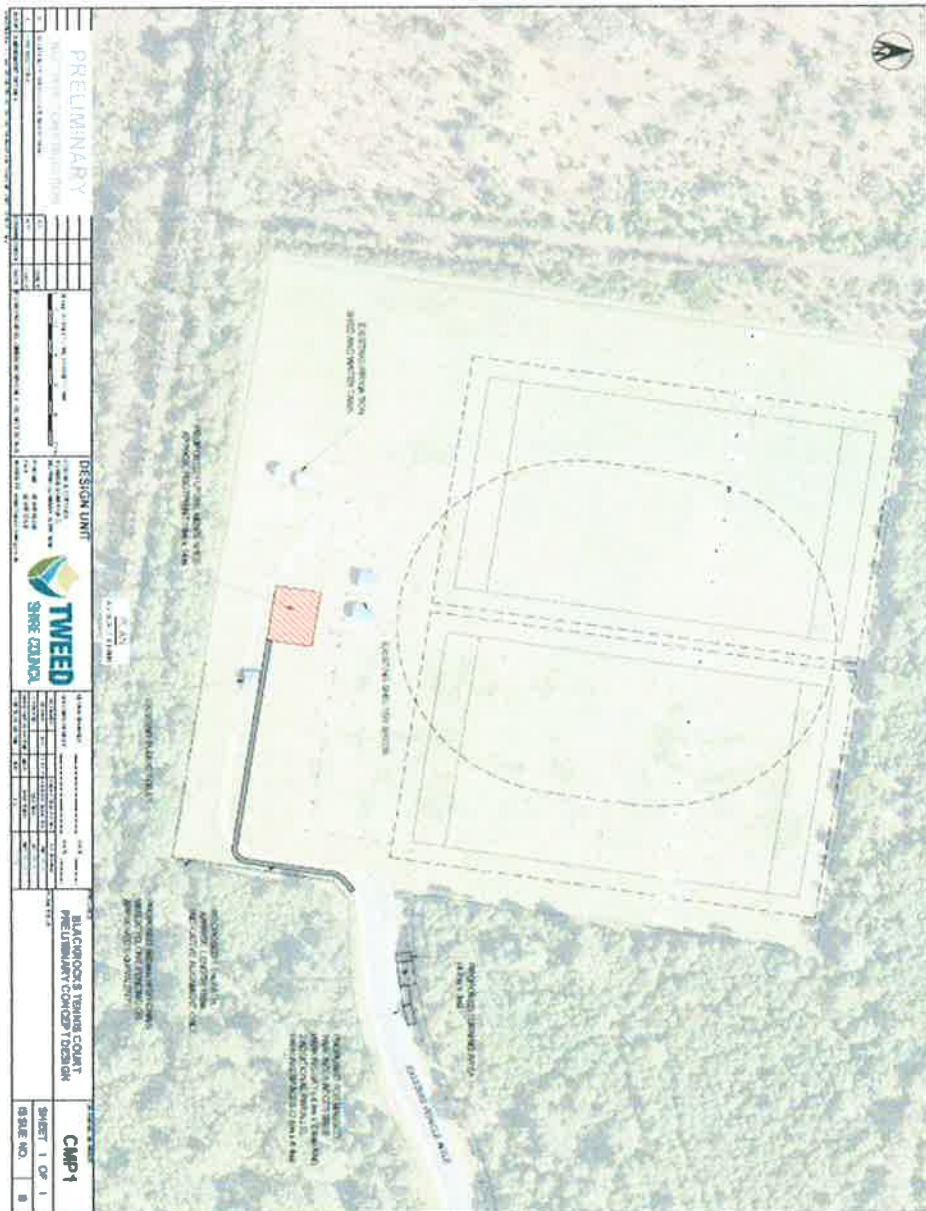
EXECUTED by **POTTSVILLE & DISTRICT MEN'S SHED INC** signed by those persons who are authorised under its constitution to sign for the group


Director/Secretary J. WELLS


Director/President MICHAEL BERNARD RYAN

FIRST SCHEDULE

ALL of the area at the Pottsville Black Rocks Sportsfield located at Overall Drive, Pottsville comprised in Certificate of Title Folio Identifier 301/1125090 shown hatched in red in the plan shown below:



J. H. Wells *M. P. Hylton*