

**8.2 NEW LEASE TO THE WESTERN AUSTRALIAN VOLLEYBALL ASSOCIATION INC.- PORTION OF 413 BULWER STREET, WEST PERTH**

- Attachments:**
1. Premises plan
  2. Market Rent Valuation Report - Confidential
  3. Maintenance Schedule

**RECOMMENDATION****That Council:**

1. **APPROVES a lease of part of 413 Bulwer Street, West Perth (Premises) to the Western Australian Volleyball Association Inc. (Tenant) on the following key commercial terms:**
  - 1.1. **Initial term:** two (2) years.
  - 1.2. **Option:** two x two (2) year terms, exercised upon mutual agreement by the City and the Tenant.
  - 1.3. **Premises area:** 452m<sup>2</sup> (buildings) and 1,200m<sup>2</sup> (volleyball courts).
  - 1.4. **Rent:** \$15,000 per annum (plus GST).
  - 1.5. **Rent Review:** CPI on 1 July each year of the term, commencing on 1 July 2021.
  - 1.6. **Outgoings:** the Tenant to pay all ESL, rubbish and recycling bin charges, utilities (including scheme water, electricity and gas) and minimum level of service statutory compliance testing (including RCD, DFES and pest inspection fees and charges), applicable to the Premises.
  - 1.7. **Insurance:** the Tenant to maintain a public liability insurance policy for not less than \$20million per one claim, in respect of the Tenant's use and occupation of the Premises and car park.  
  
The Tenant to reimburse the City for the building insurance premium payable in regard to all buildings, structures and improvements within the Premises area. If the Tenant requests the City make a claim on the Tenant's behalf (under the building insurance policy) the City may require the Tenant to pay any excess payable in respect to that claim.
  - 1.8. **Repair/maintenance:** the Tenant is responsible for:
    - (a) general minor maintenance of premises which includes replacement of fittings and fixtures including light globes and taps;
    - (b) re-painting of painted surfaces within the premises to ensure they remain in good repair; and
    - (c) cleaning (including carpets annually),see the maintenance schedule at **Attachment 3** for more information.
  - 1.9. **Capital upgrades:** The Tenant is responsible for capital upgrade and capital expansion of all assets within the leased or licenced area and the maintenance of the Premises fit-out.
  - 1.10. **Inspections:** The City will inspect the premises annually or as required.

- 1.11. **Responsibilities of the City:** The City is responsible for maintenance of roofing and main structure of the Premises (unless the damage is caused by the tenant) and the capital renewal and upgrade of existing assets at the City's discretion.
- 1.12. **Special Condition:** Car park licence
- (a) The City grants the Tenant a licence to use:
- (i) ten (10) car bays at the Premises for the Tenant's employees parking (Staff Car Bays); and
  - (ii) five (5) car bays at the Premises for tenant visitor car parking (Visitor Car Bays),
- as identified on the Premises plan (Licensed Area) between the hours of 8:00 am and 5:30pm Monday to Friday for the duration of the Term and at no extra cost to the Tenant (Licence).
- (b) A valid parking permit must be displayed in the front windscreen of all tenant employees' cars using the Staff Car Bays.
- (c) A three-hour time limit applies to the Visitor Car Bays at all times.
- (d) The Tenant must at all times keep and maintain the Licensed Area free of litter and in particular oil spillage or leakage and in a reasonable state of cleanliness.
- (e) The Tenant indemnifies the City from and against all losses arising from damage to any property or the death of or injury to any person caused by:
- (i) the Tenant or the Tenant's employees and visitors in a vehicle while on the Licensed Area; or
  - (ii) the use of the Licensed Area by the Tenant or the tenant's employees and visitors,
- except to the extent that the loss or damage is caused or contributed to by the City or the City's employees, agents or contractors.
- (f) The Tenant must ensure its public liability insurance policy extends to cover public liability resulting from the use by the Tenant and the Tenant's employees and visitors of the Licensed Area.
- (g) The Licence will come to an end upon the expiry or determination of this Lease.

2. **Subject to final satisfactory negotiations being carried out by the Chief Executive Officer, AUTHORISES the Mayor and Chief Executive Officer to affix the common seal and execute the lease in recommendation 1. above.**

#### **PURPOSE OF REPORT:**

To consider entering into a new lease with the Western Australian Volleyball Association Inc. in regard to the offices, external garage and volleyball courts located at 413 Bulwer Street, West Perth (Premises).

#### **BACKGROUND:**

The Western Australian Volleyball Association Inc. (Tenant) has leased the Premises since 1 July 1999, as included on the plan at **Attachment 1**. The lease was for a term of 10 years, commencing 1 July 1999 and expiring 30 June 2009, with two further 5-year terms, the second of which expired on 30 June 2019. The Tenant has been holding over on a monthly tenancy of the Premises since 1 July 2019.

Administration engaged a commercial property valuer to complete a market rent appraisal of the Premises in February 2020 at **Confidential Attachment 2**. Due to the disruptions caused by COVID-19, the negotiations

of the new lease were put on hold. Administration recommenced negotiations of new lease terms with the Tenant late 2020, once the COVID-19 restrictions had eased.

#### **DETAILS:**

The land must be used for recreation as per the requirements of Local Planning Scheme No. 2. Due to the nature, age and layout of the Premises building and surrounds (in particular, the outdoor sand volleyball courts) it would be difficult to use the Premises in its current state for a different recreational purpose. In particular, alternative recreational uses would require changes to the outdoor volleyball courts (to maximise the use of the land) and an update of change rooms and toilets would likely also be necessary.

#### Condition of Premises

The Premises were constructed in the late 1950s/early 1960s. The last update/capital upgrade of the Premises occurred in the early 2000s, no substantive upgrade or improvement has been undertaken since this time.

The Premises are in a condition consistent with its age. The City has not planned to undertake any substantial works or capital improvements on the Premises. The Tenant has been informed of this.

The external garage/shed (that forms part of the Premises area) has a large crack running along the eastern wall of the structure. Currently, the garage is structurally sound. However, if the crack worsens and the garage become structurally unsound or is no longer safe for use, the Tenant would not be able to use this building. The Tenant has been informed of this. Administration has also informed the Tenant that (in the event the garage does become unsafe to use) the City cannot guarantee it will rectify the issue rather than demolish the building entirely.

The City's and Tenant's maintenance obligations are set out in the Maintenance Schedule at **Attachment 3**. Subject to available budget, the City may choose (at its discretion) to replace certain items at the Premises that come to the end of their economic life. However, whether the City would undertake any replacement will be assessed on a case-by-case basis at the time the replacement is required and is unlikely to occur (if at all) until the Sport and Recreational Facilities Plan has been finalised.

#### Sport and Recreational Facilities Plan

The City has started preparing a Sport and Recreation Facilities Plan (Plan). It is anticipated that the Plan will be presented to Council in 2022. The purpose of the Plan is to guide the location and types of sports and recreation facilities across the City.

The benefits and outcome of the Plan will guide the rationalisation of any surplus assets, reduce the City's maintenance budget and prioritise the improvements to the City's sport and recreation facility provisions. The Plan will consider all sport and recreation facilities owned by the City and address the large amount of single use facilities within the City.

Administration would not recommend additional investment into the Premises until the Plan is completed.

It is also possible that an alternative location for Volleyball within the City may be an outcome of the Plan. To allow for this, the proposed lease includes an initial 2-year lease term followed by two further 2-year option terms (which may be exercised upon the mutual agreement of the City and the Tenant).

#### Commercial lease terms

The Premises comprise ground floor change rooms, first floor admin/office area, external garage and outdoor beach volleyball courts. Currently, the Tenant pays rent of approximately \$11,500 per annum (including GST).

The current GRV for the Premises is \$53,000. Administration also obtained a market rent valuation of the Premises in February 2020. The Premises was valued at \$41,350 per annum based on the following breakdown:

Area	m <sup>2</sup>	\$ pa
Ground floor change rooms	200m <sup>2</sup>	\$10,000
First floor offices	214m <sup>2</sup>	\$21,400
External garage/shed	38m <sup>2</sup>	\$950
Volleyball Courts	1,200m <sup>2</sup>	\$9,000
<b>Total</b>	<b>1,652m<sup>2</sup></b>	<b>\$41,350</b>

Due to condition of the external garage (described above), it has a negligible amount of commercial value. On this basis, the market rent for the Premises would be approximately \$40,000 per annum (plus GST).

The Tenant was affected by the COVID-19 lockdown between April and June in 2020. Upon application by the Tenant, the City's COVID-19 Relief and Recovery Committee granted the Tenant rent and outgoings payment assistance (decisions of 12 May 2020 and 8 September 2020). The Tenant received a waiver and deferral of rent in the amount of \$1,081.25 and a small waiver (approximately \$140) on recouped utilities/outgoings for the April to June period.

The COVID-19 emergency period expired on 28 March 2021. Upon Administration contacting the Tenant to negotiate repayment of the deferred amount, the Tenant has opted to pay the amount (\$1,081.25) in one full payment rather than enter into a payment arrangement to repay the amount in instalments.

The effect of the 2020 COVID-19 lockdown and the Tenant's position as a State sporting association were taken into account by Administration during the lease negotiation process. The proposed rent of \$15,000 per annum (plus GST) was negotiated between Administration and the Tenant based on the primary use of the premises (as offices) with a discount to the market value of the offices (valued at \$21,400) due to their condition and the nature of the Association.

The rent will be increased by CPI annually on 1 July of each year of the lease (commencing 1 July 2021).

In accordance with the City's Property Management Framework, the Tenant will be responsible for paying ESL, rubbish and recycling bin charges, minimum level of service statutory compliance testing and building insurance premiums for the Premises.

Administration recommends that Council grant a new lease to the Tenant on the key commercial terms as outlined above.

#### **CONSULTATION/ADVERTISING:**

As the Tenant is an incorporated sporting body and its members do not receive any pecuniary profit from its transactions, public notice is not a statutory requirement and is not proposed to occur. The Tenant has confirmed that the proposed lease terms are acceptable.

#### **LEGAL/POLICY:**

This lease falls within the scope of Category 3 of the City's Property Management Framework. The terms proposed are consistent with the Property Management Framework, including negotiation of the rent based on the GRV or a market rent valuation of the Premises.

*Local Government Act 1995 (Act) – s 3.58(5)(d) (Disposing of Property).*

*Local Government (Functions and General) Regulations 1996 – Regulation 30.*

In accordance with a section 3.58(5)(d) of the Act, Regulation 30 of the *Local Government (Functions and General) Regulations 1996* provides a range of dispositions that are exempt from the application of s 3.58 of the Act, including dispositions to:

*(b) the land is disposed of to a body, whether incorporated or not —*

- (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
- (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions...*

**RISK MANAGEMENT IMPLICATIONS:**

Low: It is low risk to enter into a new two year lease with the Tenant.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Thriving Places

*Our physical assets are efficiently and effectively managed and maintained.*

Innovative and Accountable

*Our resources and assets are planned and managed in an efficient and sustainable manner.*

**SUSTAINABILITY IMPLICATIONS:**

This does not contribute to any environmental sustainability outcomes.

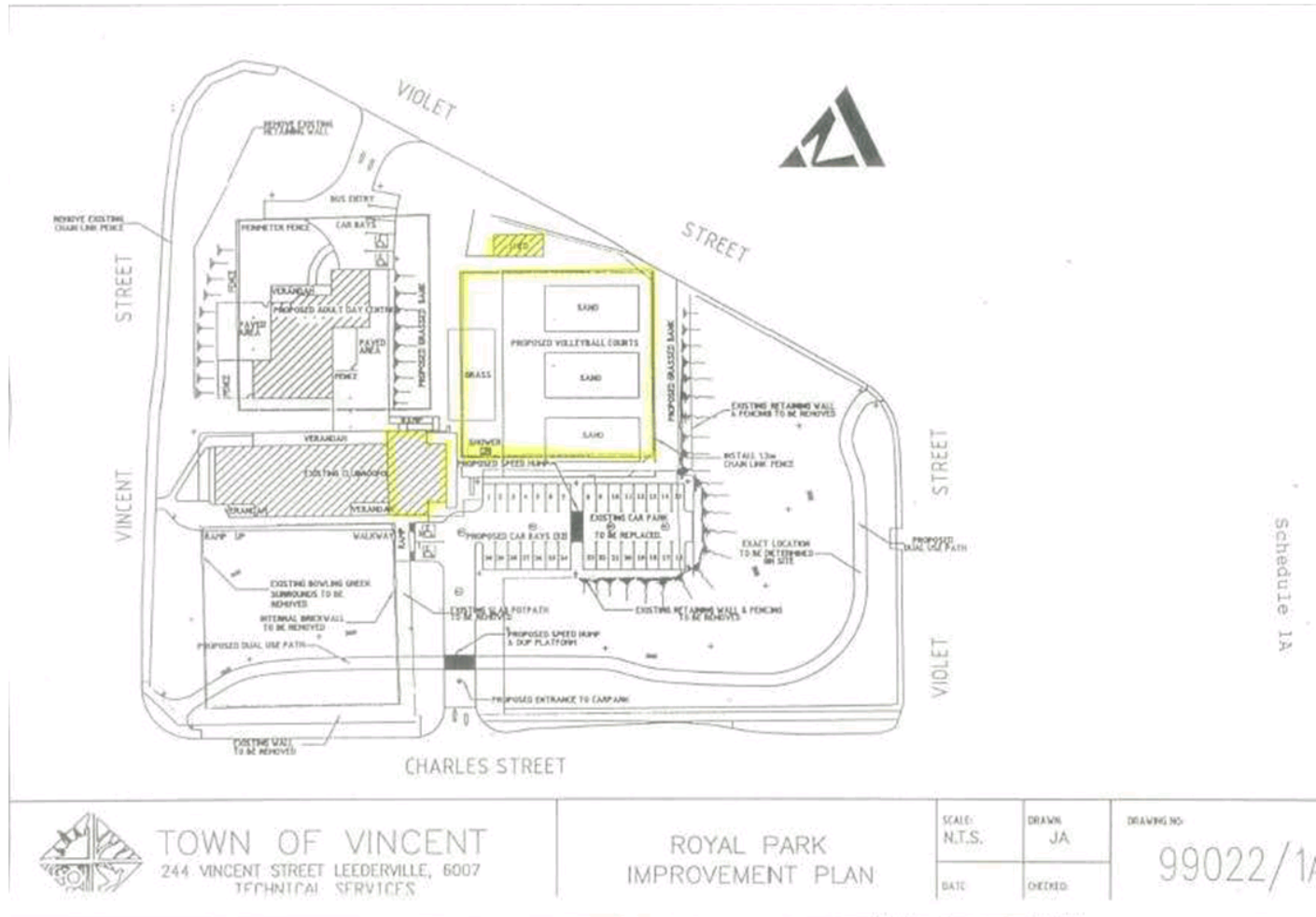
**PUBLIC HEALTH IMPLICATIONS:**

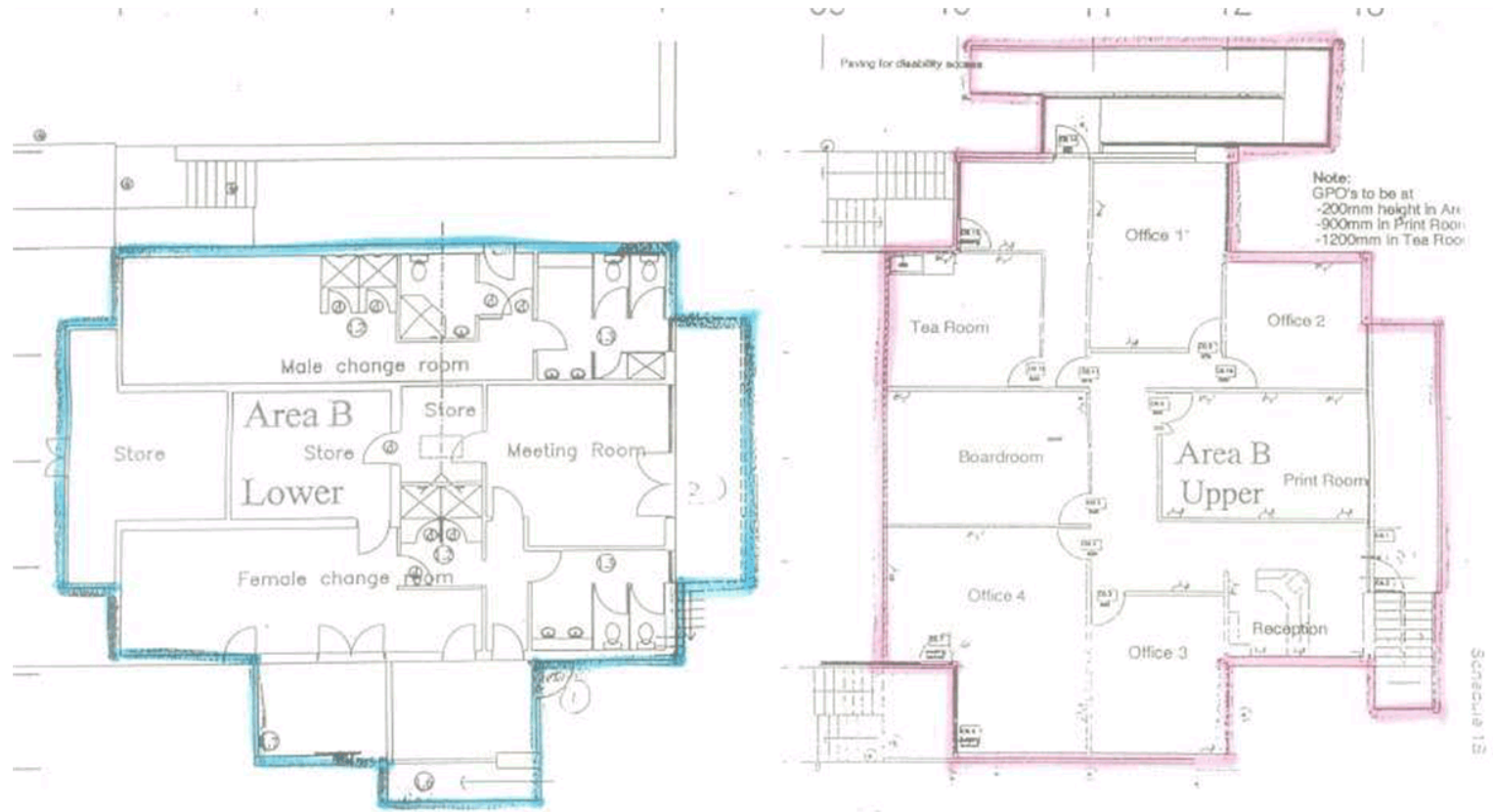
This is in keeping with the following priority health outcomes of the City's *Public Health Plan 2020-2025*:

*Increased physical activity*

**FINANCIAL/BUDGET IMPLICATIONS:**

The current rent for the Premises is approximately \$11,500 per annum including GST. The proposed new rent is \$16,500 per annum including GST, equating to an approximate increase of \$5,000 per annum. The rent is proposed to be increased by CPI annually during each year of the lease.











Maintenance Item	Lessor's obligations	Lessee's obligations
<b>Statutory/Minimum Level of Service obligations</b>		
Emergency exit lighting systems & emergency doors	Undertake annual inspections of the Premises to ensure maintenance and compliance with requirements of the Building Code of Australia and Australian Standards.	Ensure that any faults or operational issues with the emergency/exit lighting systems in the Premises are promptly reported to the Lessor. Reimburse the Lessor for the cost of annual compliance inspections.
Fire protection equipment (e.g. fire extinguishers, hoses, smoke alarms)	Undertake annual inspections of the Premises to ensure compliance with FESA and DFES requirements.	Ensure that any use or operational issues with the fire protection equipment in the Premises are promptly reported to the Lessor. Reimburse the Lessor for the cost of annual compliance inspections.
RCD Protections, Tagging Electrical Equipment	Ensure that all RCDs are repaired and maintained in accordance with the relevant legislation.	Ensure that all portable plug-in electrical equipment are regularly inspected (a minimum of once every 12 calendar months) in accordance with relevant legislation. Reimburse the Lessor for the cost of annual RCD compliance testing.
Pest Control, vermin control & termites	Undertake annual pest inspections and extermination treatments (if required).	Endeavour to keep the Premises free and clear of all rodents, rats, vermin, insects, birds, animals and other pests and report to the Lessor any pest activity or required treatment. Reimburse the Lessor for the cost of annual pest inspection and treatments.
<b>Premises and security</b>		
Cleaning & cobweb removal	Not any.	Ensure Premises is kept tidy and free of litter, dirt, rubbish, cobwebs and broken glass at all times.

Maintenance Item	Lessor's obligations	Lessee's obligations
Malicious damage & break-ins	At request of Lessee, will submit Building Insurance claim on behalf of Lessee.	Responsible for repairs and cleaning of broken glass, windows and doors after an act/incident of malicious damage. Responsible for repairing and replacing any stolen goods or broken fixtures and fittings. Report any incidents of malicious damage or break-ins to the Lessor. Must pay any excess for a Building Insurance claim commenced by the Lessor at the Lessee's request.
Vandalism & graffiti	At request of Lessee, will submit Building Insurance claim on behalf of Lessee.	Remove all vandalism & graffiti and repair any damage caused. Must pay any excess for a Building Insurance claim commenced by the Lessor at the Lessee's request.
Security monitoring, equipment and security lights.	Not any.	The Lessee must ensure the Premises is maintained in a secure condition at all times. If any security monitoring, equipment or lighting is in use by the Lessee at the Premises (including any installed by the Lessee), the Lessee must ensure all equipment and lighting is maintained in Good Repair and undertake regular servicing of any security equipment at the Premises. If the Lessor is called upon to attend the Premises or the Lessor incurs expense for a call out on a Lessor installed security system, the Lessee must pay to the Lessor on demand all costs incurred by the Lessor due to that call out.
Ceiling	Repair any structural damage to ceiling. If damage is caused or contributed to by the Lessee or Lessee's Employees and Visitors, the Lessor may require the Lessee to reimburse it for cost of repairing the damage.	Clean ceilings, as required, and report any structural damage to the Lessor.

Maintenance Item	Lessor's obligations	Lessee's obligations
Walls	Repair structural damage to load bearing walls. If damage is caused or contributed to by the Lessee or Lessee's Employees and Visitors, the Lessor may require the Lessee to reimburse it for cost of repairing the damage.	Keep clean at all times, dust any cobwebs and report any structural repairs or faults to Lessor.
Window, glass panes, flyscreens, security screens, doors, door handles.	Where a lock must be repaired or replaced due to damage, disrepair or old age, the Lessor will undertake the repair or replacement. If the damage or disrepair is caused by the Lessee's use of the Premises, the Lessor may recover its costs, for the repair or replacement, from the Lessee.	Keep items clean, operable, lockable, and firmly fixed. Repair, replace and lubricate hinges of items, repair/replace any items that are broken or damaged where caused by misuse/internal vandalism.
Skylights, lighting, globes	Not any.	Keep clean at all times and repair and/or replace as required. Replace all globes as required.
Painting	Not any.	At least once every 5 years of the Term and three months before the expiry of the Lease, repaint the Premises (interior and exterior) with a minimum of two coats of good quality paint (in a colour approved by the Lessor) to a tradesmanlike finish. Touch up any paint damage on internal walls, as required.
Cupboards, blinds, curtains, mirrors	Not any.	Keep clean at all times. Maintain, repair and replace items as required.
Carpet	Not any	Keep clean at all times, repair and/or replace when at end of economic life. Professionally clean at least once annually.
Vinyl Floors	Not any.	Keep clean at all times, repair and/or replace when at end of economic life.
Wooden Floors	Not any.	Keep clean at all times, repair and/or replace when at end of economic life.
Tiled Floors	Not any.	Keep clean at all times, repair and/or replace when at end of economic life.

Maintenance Item	Lessor's obligations	Lessee's obligations
Bathrooms and changerooms (including drains, hot water systems, sewerage, showers, sinks, taps, toilets etc.)	Replace items that require replacement due to old age/end of economic life. Undertake capital renewal as an when determined by the Lessor. Where the Lessor undertakes works or repairs to clear blockages which have occurred as a result of the neglect, misuse or default of the Lessee, the Lessee must pay (on demand) the Lessor's costs of undertaking those works.	Must keep clean at all times. Ensure all are operable and free from any blockages. Repair leaks, service and maintain as required. Replace damaged items as required. Lessee shall not permit foreign objects or matter to be placed into drains, toilets or grease traps.
<b>Fixtures, fittings, appliances and electrical</b>		
Air-conditioning	Not any.	Repair and undertake annual servicing of air-conditioning units/systems. Replace air-conditioning unit as required (i.e. due to age/end of life or Lessee requirements).
Oven Vents (if applicable)	Not any.	Keep clean at all times, repair and/or replace when necessary.
Exhaust Fans (if applicable)	Not any.	Keep clean at all times, repair and/or replace when necessary.
Electrical Fittings (i.e. plugs, switches, sockets, leads, lights, power points)	Replace any irreparable items. If replacement is caused by misuse/negligence of Lessee, Lessor may require the Lessee to reimburse it for the cost of replacement.	Maintain and repair as required. The Lessee must ensure that electrical fittings are not overloaded when in use.
Wiring	Replace any irreparable items.	Repair, maintain and advise the Lessor prior to any wiring or electrical work taking place.
Appliances (i.e. fridges, toasters, freezer, stove, microwaves, washing machine)	Not any.	Keep clean at all times. Keep items operable, regularly maintain and repair as required. Replace irreparable appliances.

Maintenance Item	Lessor's obligations	Lessee's obligations
<b>Premises exterior and surrounds</b>		
Roof (including leaks, broken tiles etc.)	Repair any structural damage to roof and clean roofs as required. If damage is caused or contributed to by the Lessee or Lessee's Employees and Visitors, the Lessor may require the Lessee to reimburse it for cost of repairing the damage.	Report any structural damage to the Lessor. Repair any damage to the roof (structural or otherwise) caused by the Lessee or its failure to maintain the eaves, gutters and downpipes in a clean and clear condition.
Eaves, gutters & downpipes	Repair any damage to eaves, gutters and downpipes. If damage is caused by Lessee failing to maintain the eaves, gutters or downpipes in a clean and clear condition, the Lessor may require the Lessee to reimburse the Lessor for the cost of undertaking the repairs.	Maintain eaves, gutters and downpipes in a clean, clear and functional condition and report any damage to same to the Lessor. Repair any damage to the eaves, gutters or downpipes where caused or contributed to by the Lessee or its failure to maintain the eaves, gutters and downpipes in a clean and clear condition.
Garden and surrounds (including fencing and gates)	Responsible for any major tree pruning and tree removal. Replacing fences and/or gates as required and determined by the Lessor.	Maintain the surroundings, fertilising, minor pruning and conduct regular mowing of the lawn (if any within Premises area). Responsible for ensuring all fences and gates are cleaned, repaired, re-enforced and maintained. Not to remove any trees or hedges without first obtaining approval from the Lessor, except for urgent safety reasons.
Walkways, footpaths, access, steps, ramps	Responsible for City verge footpaths.	Keep clean and clear at all times. Repair damage or trip hazards to access/walk-ways other than the City verge footpath.
Car Park	Responsible for bitumen repairs and pot-hole maintenance. Undertake sweeping, leaf litter removal and car park line marking as required.	Report to the Lessor any damage, trip hazards or obstructions. If damage to the car park is caused by the Lessee or the Lessee's Employees and Visitors, the Lessor may require the Lessee to reimburse it for the cost of rectifying the damage.
Shed, roller doors and garage (if applicable)	Replace or repair as and when determined by the Lessor (at its discretion).	Responsible for keeping clean such structures.

Abandoned rubbish	Arrange for removal of abandoned furniture, car parts, larger rubbish that has been dumped on the verge, carpark or grassed area by third parties.	Arrange for removal of abandoned items that have been dumped on the property and will fit in the bins provided.
Pollution	Not any.	Do all things necessary to prevent pollution or contamination of the Land by garbage, refuse, waste matter, oil or other pollutants. Report any pollution, contamination or suspected pollution/contamination to the Land to the Lessor promptly.



