



**MINUTES
SPECIAL MEETING OF COUNCIL**

13 JUNE 2018

COMMENCING AT 7:00 PM

The Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.

Signed:
(CEO)

A handwritten signature in black ink, appearing to be 'M. Murray', is written over a dotted line.

Date **15 June 2018**

These minutes were confirmed at the Ordinary Council Meeting held on 27 June 2018.

Signed:
(Presiding Person at the meeting at which minutes were confirmed)

DISCLAIMER

The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered. Resolutions are not considered final until the minutes of the meeting are confirmed.

Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Council's decision.

Please note that meetings are recorded for minute taking purposes.

SPECIAL MEETING MINUTES

13 JUNE 2018

1. OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS

7.02 pm – Shire President Ballard declared the meeting open.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Elected Members

Mr L Ballard – Shire President, Presiding Person

Cr T Wiese – Deputy Shire President

Cr C Ward

Cr N Walker

Cr P Schutz

Cr C Bartron

Cr B Seale

Cr G Ballard

Staff

Mr D Stewart – Chief Executive Officer

Mr A Awang – Executive Manager Development & Regulatory Services

Mr T Evans – Executive Manager Technical & Rural Services

Mr F Ludovico – Executive Manager Corporate & Community Services

Ms C Thompson – Executive Assistant

Apologies

Cr M Fisher

3. DECLARATION OF INTEREST BY ELECTED MEMBERS AND COUNCIL EMPLOYEES IN MATTERS INCLUDED IN THE MEETING AGENDA

Cr Wiese advised that elected members that the valuer, Mr Richard Graham, is his first cousin, but Cr Wiese has no relationship with his business.

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Nil

9. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil

10. MATTERS WHICH REQUIRE DECISIONS

10.3.041	PROPOSED LEASE TO BUY (PRIVATE TREATY) – PART 1, LOT 36, 39-45 FEDERAL STREET, NARROGIN	5
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10.3.041 PROPOSED LEASE TO BUY (PRIVATE TREATY) – PART 1, LOT 36, 39-45 FEDERAL STREET, NARROGIN

File Reference: A162100
Disclosure of Interest: Nil
Applicant: David & Rachel Goncalves (Trading as: Lazy Daze Café)
Previous Item Nos: Nil
Date: 9 June 2018
Author: Niel Mitchell – Governance Officer
Authorising Officer: Frank Ludovico – Executive Manager Corporate and Community Services

Attachments

- Attachment 1 – Proposed lease with option to buy including strata plan of premises
- Attachment 2 – LMW Valuation of Part 1 Lot 36

Summary

To consider the leasing of Part 1, Lot 36, at 39-45 Federal Street Narrogin, commonly known as Café 27 to David and Rachel Goncalves trading as Lazy Daze Café. The proposed lease includes some equipment as listed, and has an option to buy.

Background

Council would be aware that the premises have been empty for some time, and listed with local real estate agents.

Mr and Mrs Goncalves recently enquired through Ray White Real Estate Narrogin, have signed a proposed lease, and have requested an option to buy.

PH & KE Gow (Licensed Surveyors) were engaged to prepare a survey and strata plan of the premises, for future sale.

In accordance with requirements, since a valuation had not been undertaken in the previous 6 months, an independent valuation from Richard Graham, of LMW Bunbury was sought and received on 8 June 2018.

The original signed lease (Attachment 1) required amendment to Clause 16 (maximum interest rate we can charge is 11%) and Clause 32 List of Lessor's Chattels was not included. These matters are being finalised but are considered minor adjustments to the final lease.

Comment

Valuation

~~Mr Richards~~ Mr Graham carried out an inspection of the premises on Friday 8 June 2018 and his valuation is dated the same day. He has advised he considers the premise's market:

- sale value to be \$160,000 to \$170,000, with an adopted market value of \$165,000; and
- rental value to be \$15,600 per annum, with lessee responsible for all usual outgoings.

Corrected by
Council
Resolution
0618.054

Proposed lease

The terms of the proposed lease include:

- a 36 month initial term;
- lease to include some equipment as listed;
- an option to renew for a further 60 months;
- rental at \$1,300 ex GST per month for Year 1 (\$15,600 per annum), adjusted by Perth CPI annually thereafter;
- security deposit of \$1,300 ex GST;
- an initial rent free period of 4 weeks to apply;
- a purchase price of \$170,000 for the premises at any time during the period of the lease, subject to strata title etc being available;
- the premises being removed from sale for a period of 2 years from the commencement to the lease, i.e. July 2018 to July 2020;
- some maintenance works to be carried out by the Shire prior to occupancy; and
- lessee responsible for general outgoings.

The proposed amounts within the proposed lease are very close to the figures advised by the independent valuation of LMW.

Financial summary of proposal

The financial summary of the proposal is as follows:

	Immediate sale	Lease
Sale	\$170,000	n/a
3 years "earnings" (initial term)	Est. \$13,000 Bank interest at 2.5%	Est income \$46,680 Cumulative at Perth CPI est of 2.5%
Sale after 3 years	n/a	\$170,000
Est. total income after 3 years	\$183,000	\$216,680
Additional 5 years "earnings" (full option)	Est additional \$35,400 Bank interest at 3% & 4%	Est additional \$88,300 Cumulative at Perth CPI est. of 2.5%
Sale after 8 years	n/a	170,000
Est. total value after 8 years	\$ 218,500	\$ 305,000

In effect, the asset is earning \$15,600 per year by being leased, as opposed to an estimated \$4,300 to \$4,700 if placed in an investment account.

The cost of the maintenance works requested would also reduce the differential. Should these works be in the order of \$30,000 to \$35,000, the differential between the two possibilities after 3 years is likely to be small. However, after 8 years, even taking into account annual maintenance, a lease is likely to be a substantially better option.

In considering these options, the Shire is in the fortunate situation that the premises are owned outright, so there is no mortgage to pay. Conversely there are no tax advantages to the Shire either.

Consultation

- Frank Ludovico – Executive Manager Corporate and Community Services
- Tracy Brandner – Ray White Real Estate
- Richard Graham – LMW Valuations

Statutory Environment

The *Local Government Act 1995 Section.3.58* addresses the disposition of property.

The Local Government (*Function and General*) *Regulations 1993 Regulation 30* provides for some exemptions, however, this proposed transaction does not fulfil any of the criteria.

In order to progress this, matter the lease (disposition) needs to be advertised for at least 14 days seeking submissions. Any submissions need to be considered before progressing the disposition. *Section 3.58(3) and 3.58(4) of the Local Government Act 1995* (detailed below) describe the process.

- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

Both the West Australian Newspaper and Narrogin Observer are appropriate for giving local public notice.

Should Council decide to proceed with the proposed lease with option to buy, the shortest time line complying with statutory requirements and publication deadlines would be:

- advertisement placed in West Australian for Saturday, 16 June 2018; with
- close of submissions being Monday 2 July 2018.

Allowing the CEO to progress the disposition if no adverse submissions are received will enable the matter to progress without the need for further referral to Council.

However, it is recommended that advertisements are only placed in the Narrogin Observer. Staff consider this will provide a greater transparency and opportunity for any submissions.

Advertising in the Narrogin Observer on Thursday 21 June 2018 would mean the submission period would end on Friday 6 July 2018.

If adverse submissions are received the matter will need to be determined at a Special Meeting, perhaps on 11 July 2018 to coincide with Council's Briefing Session.

Policy Implications

Nil

Financial Implications

- Cost of giving local public notice of lease with option to buy by private treaty.
- Cost of preparation of documentation etc, if the proposal proceeds following local public notice.
- Lease and sale income if the proposal proceeds following local public notice.

Strategic Implications

Shire of Narrogin Strategic Community Plan 2017-2027	
Objective	1. Economic Objective (Support growth and progress, locally and regionally)
Outcome:	1.1 Growth in revenue opportunities
Strategy:	1.1.1 Attract new industry, business, investment and encourage diversity whilst encouraging growth of local business

Voting Requirements

Absolute Majority

Officer's Recommendation

That Council:

1. Declare that the valuation of Mr Richard Graham of LMW for a market annual lease value of \$15,600 ex GST and an adopted market sale value of \$165,000 ex GST is a true indication of the value of the property as at 8 June 2018;

2. Give local public notice in the Narrogin Observer, with a submission period of 14 days, of the proposed lease having a 2 year term with a 5 year extension and with option to buy in accordance with the *Local Government Act 1995 s.3.58(3)&(4)*;
3. Delegate authority to the CEO to finalise the proposed lease (including minor amendments) with option to buy:
 - a. in consultation with the President, and
 - b. subject to no adverse public submissions being received within the comment period,
 - c. should any adverse comment be received, determination of the lease with option to buy is to be referred to Council for decision;
4. Authorise the President and Chief Executive Officer to sign and affix the Common Seal to the proposed lease with option to buy and any other necessary documentation.

COUNCIL RESOLUTION 0618.053

Moved: Cr Seale

Seconded: Cr Schutz

That Council:

1. Declare that the valuation of Mr Richard Graham of LMW for a market annual lease value of \$15,600 ex GST and an adopted market sale value of \$165,000 ex GST is a true indication of the value of the property as at 8 June 2018.
2. Give local public notice in the Narrogin Observer, with a submission period of 14 days, of the proposed lease having a 2 year term with a 5 year extension and with option to buy in accordance with the *Local Government Act 1995 s.3.58(3)&(4)*.
3. Delegate authority to the CEO to finalise the proposed lease (including minor amendments) with option to buy subject to:
 - a. amending special condition 2 to limit the option to purchase to two (2) years;
 - b. amending condition 5 to read from "The Lessor" to "The Lessee";
 - c. consultation with the Shire President;
 - d. no adverse public submissions being received within the comment period; and
 - e. should any adverse comment be received, determination of the lease (with option to buy) is to be referred to Council for decision.
4. Subject to satisfaction of clauses 3a to 3d inclusive, authorise the shire President and Chief Executive Officer to sign and affix the Common Seal to the proposed lease (with option to buy) and any other necessary documentation.

CARRIED BY ABSOLUTE MAJORITY 8/0

Reasons for change: To amend paragraph 3 of the Council Resolution such that two conditions are changed in the attached Contract to Lease Retail Premises document's 'special conditions':

- a) Edit special condition 2 to specify that the Lessee must take up the option to purchase within the first two years of the agreement;
- b) Edit special condition 5, delete the word "Lessor" and replace with "Lessee", as it is the Lessee who agrees to undertake the reconditioning upgrades of the building; and
- c) Make resultant minor changes to renumber the clauses and subject to clauses accordingly.

Commonly-used abbreviations:	
CEO	Chief Executive Officer
CPI	Consumer Price Index
GST	Goods & Services Tax

contract to lease retail premises by offer and acceptance



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TENANT GUIDE: See attached

NOTE: The leasing of retail premises is dealt with by the Commercial Tenancy (Retail Shops) Agreements Act 1985. A Disclosure Statement and a Tenant Guide should be sent to the proposed tenant at least seven (7) days before the Lease is entered into by the Tenant.

To: NARROGIN & DISTRICTS REAL ESTATE PTY LTD T/A RAY WHITE NARROGIN & DISTRICTS
44-48 FEDERAL STREET, NARROGIN WA 6312

(Agent's name and address) ("the Agent") As agent for the Lessor

I/We ("Lessee")

Full Name RACHEL GONCALVES

Address 7 CHURCH STREET, DWELLINGUP WA 6213

Telephone: Work Home 0487159399

Full Name DAVID GONCALVES

Address 7 CHURCH STREET, DWELLINGUP WA 6213

Telephone: Work Home 0447779860

ACN ABN 68461996018

Trading as LAZY DAZE CAFE

hereby offers to take on lease the Premises as described in the Schedule on the terms and conditions set out in the Schedule.

SCHEDULE

1. DEFINITIONS

In this Contract the definitions in the Commercial Tenancy (Retail Shops) Agreements Act 1985 (WA) (as amended) ("Retail Shops Act") have the same meanings unless the context requires otherwise.

2. PREMISES TO BE LEASED including fixtures, fittings and accessories ("Premises")

LOT 1 39-45 FEDERAL STREET
NARROGIN WA 6312

having an area of 490 m² approximately, [shown edged in red on the plan annexed hereto] together with a licence to use the car bays indicated on the plan.

3. LAND ("Land")

Lot PROPOSED LOT 1 On Survey / Strata / Diagram / Deposited / Plan 78751

and being the whole/part of the land in Certificate of Title Volume Folio

4. LEASE TERM ("Term")

36 months commencing on the day of 20

and expiring on the day of 20

NOTE Pursuant to s.13 of the Retail Shops Act the Lessee is entitled to a 5 year term (or term plus options) unless the exclusions in s.13 apply.

5. PAYMENT OF RENTAL

(i) (a) Monthly Rent (Rent is exclusive of GST, see clause 33)

Rental payable without deduction monthly in advance by the Lessee to the Lessor on the day of each calendar month

shall be \$ 1300.00

(in words) THIRTEEN HUNDRED DOLLARS

the first payment being due on the day of 20

~~(b) as per the attached annexure (if any)~~

* Delete and initial whichever of (a) and (b) do not apply

NOTE: THE AGENT IS UNDER A LEGAL DUTY NOT TO GIVE LEGAL ADVICE TO THE PARTIES WITH RESPECT TO THIS CONTRACT TO LEASE THEREFORE THE PARTIES ARE ENCOURAGED TO OBTAIN THEIR OWN INDEPENDENT LEGAL ADVICE BEFORE EXECUTING THIS CONTRACT.

contract to lease retail premises by offer and acceptance



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(ii) Deposit

Payment of two (2) months rent and pro rata outgoings and car parking licence fee where applicable of \$ [] in advance is tendered with this offer, which is to be held by the Agent as stakeholder, and will be refundable in full in the event that the offer is not accepted.

(iii) Rent Review

(a) The rental of the Premises will be reviewed 12 months from the commencement date of the Term of the lease and then every 12 months during the Term and on the last day of the Term and during the Further Term (if any) referred to in Clause 6(j). All rent reviews are to be based on market rental unless otherwise stated in Clause 5(iii)(b). The market rental will be calculated in accordance with the Retail Shops Act PROVIDED THAT the reviewed rent must take effect from the appropriate review date irrespective of when such reviewed rent is agreed or determined but until the reviewed rent is agreed or determined the Lessee will pay the rent at the rate previously due before review until agreement or determination when any shortfall will be payable upon demand or any over payment will be credited to the Lessee in respect of the next payment of rent due. No delay in implementing the rental review will prejudice the Lessor's right to review the rental at any time after the review date.

(b) Rent Reviews (if not market):

PERTH CPI

NOTE Only one method of rental review can apply on any review date.

6. OPTION OF RENEWAL Subject to the provisions of the Retail Shops Act:

- (i) PROVIDED the Lessee is not in default at the time of exercise of the option then the Lessee will have the option to renew the Lease for a term of 60 months ("the Further Term") at the expiry of the Term upon the same terms and conditions as in the Lease save for the rent. The initial rent for the Further Term will be reviewable at the same periods as stated in the initial Term and upon the same basis. The option must be exercised not more than six (6) months nor less than three (3) months prior to the expiration of the initial Term, time being of the essence.
- (ii) If after the expiration or sooner determination of the Term or any extension or renewal of it (including the Further Term) the Lessee remains in possession of the Premises with the consent of the Lessor then the Lessee will be a calendar monthly lessee of the Premises but otherwise at the same rental as that payable during the last month of the immediately preceding term and upon the same covenants conditions and provisions as contained in this document.

7. OPERATING EXPENSES [DELETE IF NOT APPLICABLE]

- (i) The Lessee agrees to pay the relevant proportion of Operating Expenses (as defined in the Retail Shops Act) for the Premises as set out below: (Operating Expenses are exclusive of GST, see clause 33)

[DELETE IF NOT APPLICABLE]

OPERATING EXPENSES
TO BE PAID FOR
BY LESSEE
(DENOTE WITH ✓)

Water Drainage and Sewerage Rates	[]	<input checked="" type="checkbox"/>
Local Authority Rates	[]	<input checked="" type="checkbox"/>
Land Tax and MRIT (on a single ownership basis)	[]	<input type="checkbox"/>
Interest Charges on Outstanding Rates and Taxes	[]	<input checked="" type="checkbox"/>
Water Consumed	[]	<input checked="" type="checkbox"/>
Fire Services	[]	<input checked="" type="checkbox"/>
Cleaning, Including Window and Rubbish Removal	[]	<input checked="" type="checkbox"/>
Grounds Repairs and Maintenance	[]	<input checked="" type="checkbox"/>
Building Repairs and Maintenance of a Non-Structural Nature	[]	<input checked="" type="checkbox"/>
Building Insurance	[]	<input checked="" type="checkbox"/>
Plate Glass Insurance and Public Liability Insurance (to a minimum of \$10,000,000.00)	[]	<input checked="" type="checkbox"/>
Common Area, Lighting and Power	[]	<input checked="" type="checkbox"/>
Security	[]	<input checked="" type="checkbox"/>
Toilet Requisites	[]	<input checked="" type="checkbox"/>
Hot Water Systems Running, Repairs and Maintenance	[]	<input checked="" type="checkbox"/>
Electricity and Gas and Telephone Services Consumed in the Premises	[]	<input checked="" type="checkbox"/>
Air-conditioning Running, Repairs and Maintenance	[]	<input checked="" type="checkbox"/>
Lift Running, Repairs and Maintenance	[]	<input type="checkbox"/>
Strata Company Levy	[]	<input type="checkbox"/>
Half of Audit Fees	[]	<input type="checkbox"/>
Other	[]	<input type="checkbox"/>

contract to lease retail premises by offer and acceptance

NOTE Separate provisions need to be made if the Lessee is to contribute to a sinking fund, marketing, promotion or reserve fund.

[DELETE IF NOT APPLICABLE]

(ii) The Lessee agrees to pay the Lessee's relevant proportion of the Operating Expenses pursuant to the Retail Shops Act as set out below:

**Delete and initial whichever of items (a) and (b) do not apply*

(a) The Lessee's relevant proportion of the Operating Expenses must be paid within twenty eight (28) days after demand.

[or] ~~(b) The Lessee's relevant proportion of the Operating Expenses must be paid by equal calendar monthly instalments in advance in accordance with the statement forwarded by the Lessor or the Lessor's Agent which may be estimated on an annual basis and which must be adjusted at the expiration of the next year ending 30 June and pro-rated should the period be less than a full twelve (12) months period.~~

8. VOID INSURANCE POLICIES

The Lessee must not do or permit to be done any act or thing which makes void or voidable any insurance policies in respect of the Premises.

9. REPAIR AND MAINTENANCE OF PREMISES

(i) The Lessee must at all times repair and maintain the Premises and any fixtures and fittings and utilities serving the Premises in the same condition as existing on the date the Lessee commences occupancy (except in respect of fair wear and tear or damage caused by acts or negligence of the Lessor or by events for which the Lessor has obtained insurance which is not vitiated or payment refused by any act or omission of the Lessee or the Lessee's Agents visitors or invitees) and the Lessee will make good any damage done by the Lessee.

(ii) As often as the Lessor may reasonably require (not being more than once every [] years) the Lessee shall decorate the internal parts of the Premises and in any event during the last six (6) months of the Term (howsoever determined) with the works to be carried out in a good and workmanlike manner using good quality materials to the same standard as at the commencement of the Lease Term.

10. ALTERATIONS AND ADDITIONS

No alterations or additions can be made to the Premises without written consent of the Lessor or the Agent representing the Lessor to be decided in the Lessor's absolute discretion and the Lessee must reinstate the Premises, if required by the Lessor, at the expiration of the Term or any extension of it.

11. SIGNS

The Lessee will not affix any sign to the Premises without the prior written consent of the Lessor and any relevant authorities but the Lessor's consent must not be unreasonably withheld.

The Lessee shall be responsible for:

- (i) ensuring that the erection of any signs has the prior approval of any relevant authorities;
- (ii) the removal of any signs at the expiration of the Term or prior to delivering up possession of the Premises and making good of any damage caused by removal; and
- (iii) maintain signs to a standard required by the Lessor and any relevant authorities.

12. USE OF PREMISES

(i) The Premises shall only be used as

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("Permitted Use") and that use must always conform to all laws, by-laws, regulations or requirements currently in force as the case may be. The Lessee must obtain all necessary approvals required.

(ii) The Lessor does not warrant that the Premises can be used for the Permitted Use.

13. COMMON AREAS

The Lessee is granted a licence at will to use all common areas (in common with the Lessor and all others entitled) which are necessary for access to and egress from the Premises and must do nothing which will inhibit or prevent the use of those areas by other lessees, their clients or suppliers.

14. NUISANCES - STATUTORY OBLIGATIONS AND NOTICES

The Lessee must cause no nuisance or annoyance to the Lessor or other lessees adjoining or adjacent to the Premises and must comply punctually with all orders requisitions statutes and regulations affecting the Premises and pass on to the Lessor copies of all statutory or local authority notices received in respect of the Premises.

15. DEFAULTS

Subject to any provisions to the contrary in the Retail Shops Act, if the Lessee shall default in payment of the rental or any other monies referred to or any part of it at any time is in arrears or unpaid for fourteen (14) days after it becomes due (whether any formal or legal demand has been made or not) or if the Lessee at any time defaults, fails or neglects to duly perform or observe any of the terms and conditions of this contract or the Lease contained or implied and on the part of the Lessee to be observed and performed and if the default continues for fourteen (14) days after notice in writing has been delivered or posted to the Lessee by the Lessor, or the Lessee (or permitted assigns) becomes subject to or take advantage of any law relating to bankruptcy or insolvency, or being a corporation goes into liquidation whether compulsory or voluntary (except for the purpose of reconstruction) then and in those cases it is lawful for the Lessor or any person or persons duly authorised by the Lessor in that behalf, to enter into or upon the Premises or any part of them without liability for trespass, to have again repossess and enjoy the former estate of the Lessor as if this contract had not been made without prejudice to any right of the Lease entered into, the cost of such re-entry or repossession to be a cost to be borne by the Lessee, but of action or remedy of the Lessor in respect of any antecedent breach of any of the terms by the Lessee contained in this document.

contract to lease retail premises by offer and acceptance



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16. INTEREST

Whenever the Lessee fails to pay money within fourteen (14) days after it has become due (whether formally demanded or not) then interest accrues on the unpaid monies at the rate of twelve per centum (12%) per annum calculated on a daily basis.

17. PROPERTY CONDITION STATEMENT

The Lessee must (if required by the Lessor) sign and deliver to the Lessor or the Agent within fourteen (14) days of execution of this Contract a property condition statement which evidences the physical condition of the Premises at the commencement of the Term.

18. SECURITY BOND

The Lessee must deposit with the Lessor's Agent a Bond of \$ [] as security for the Lessee's compliance with the provisions of this contract which Bond may be applied to compensate and pay the Lessor for any breach or default of this contract by the Lessee and any and all costs of the Lessor relating to the same.

19. ACCESS TO PREMISES

The Lessee must permit the Lessor, the Lessor's Agent or consultants or contractors to have access to the Premises at all reasonable times upon at least forty eight (48) hours prior notice (except in the case of emergency).

20. NOTICES

Notices are to be deemed to be served if served in accordance with section 135 of the Property Law Act 1969 (as amended) and in the event of posting will be deemed to be served on the third business day after posting (unless returned undelivered).

21. ASSIGNMENT AND SUBLETTING

(i) The Lessee shall not assign mortgage underlet or part with the possession or occupation of the Premises or any part of it unless the Lessee obtains the prior written approval of the Lessor, such approval not to be unreasonably withheld in the case of an assignment to a proposed assignee of good financial standing and of at least equivalent financial status to the Lessee and subject to the assignee providing such covenants and guarantees and satisfying all other requirements that the Lessor may reasonably impose.

(ii) Sections 80 and 82 of the Property Law Act 1969 (WA) are hereby excluded.

22. PREMISES DESTROYED

If at any time during the Term the Building is substantially destroyed or damaged so that the Premises become unfit for habitation and use (provided the monies payable under any policy of insurance effected by the Lessor have not been rendered void through any act or default of the Lessee or the Agent's servants licensees or invitees of the Lessee) the rent or a fair and just proportion of it according to the nature and extent of the damage sustained (to be ascertained in case the parties cannot mutually agree by reference to a licensed valuer appointed by the Australian Property Institute (WA Division) shall be suspended and cease to be payable until the Premises are again rendered fit for habitation and use.

23. INDEMNITY

The Lessee indemnifies the Lessor and agrees to keep the Lessor indemnified against all claims costs expenses and demands incurred by the Lessor or any third party due to the use of the Premises by the Lessee or their employees Agents and licensees. The Lessee uses the Premises at the Lessee's own risk.

24. YIELD UP

At the expiry or sooner determination of the Term or any extension or renewal the Lessee must yield up and restore the Premises to the same state and condition as they were at the commencement of the Term in accordance with the obligations of the Lessee pursuant to this Contract.

25. QUIET ENJOYMENT

(i) Provided always that all terms and conditions of the Contract have been complied with, the Lessor covenants with the Lessee that the Lessee is entitled to enjoy peaceful occupancy of the Premises.

(ii) The covenants on the part of the Lessor in this Lease bind the registered proprietor for the time being of the Premises but do not render the Lessor personally liable in damages for any breach after the Lessor ceases to be the registered proprietor.

26. LEASE DOCUMENTATION

The Lessee will on demand by the Lessor execute a lease ("the Lease") prepared by the Lessor's solicitors incorporating all the details and agreements noted in this Contract and any other terms and covenants as the Lessor considers reasonable and necessary in the circumstances.

27. PRIORITY OF TERMS

In the event of a draft lease being appended to this Contract, the provisions of the draft lease appended to this Contract prevail over the provisions of this Contract to the extent of any inconsistency.

28. SPECIAL CONDITIONS

In the case of a conflict between the Special Conditions and any other provisions in this Contract, then the Special Conditions prevail.
(if insufficient space refer to annexure)

AS PER ATTACHED ANNEXURE

contract to lease retail premises by offer and acceptance



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29. STRATA LOT

The following provisions apply where the Premises are at the commencement date of the Term or at any time during the Term comprise the whole or part of a Strata Lot:

- (i) This Contract is subject in all respects to all easements rights reservations and powers mentioned in the Strata Titles Act 1985 (WA).
- (ii) The Lessee and the Lessee's employees and invitees have the right in common with the Lessor and all others entitled to use the common property comprised in the Strata Plan subject to the bylaws of the Strata Company and to all rules and regulations made by the Strata Company.
- (iii) The Lessee must duly and punctually pay and discharge all contributions levied by the Strata Company on the Lessor in respect of the Premises except those not payable pursuant to the Retail Shops Act.
- (iv) The Lessee must comply with all bylaws and all rules and regulations made by the Strata Company pursuant to its bylaws and the provisions of the Strata Titles Act 1985 (WA).
- (v) Unless the context otherwise requires, words and expressions defined in the Strata Titles Act 1985 (WA) have the same meanings here.
- (vi) The Lessor has the right to subdivide, execute easements or restrictive covenants, amalgamate or mortgage the Premises pursuant to the Strata Titles Act 1985 (WA) or any other legislation and the Lessee shall do all things reasonably required by the Lessor in respect of such matters.
- (vii) If the Premises are strata titled during the Term or any extension or renewal of it then the Lessee must enter into a deed at the request of the Lessor amending anything under this Contract or the Lease reasonably requiring amendment as a result of such strata titling.

30. GUARANTEE

- (i) In consideration of the Lessor accepting the Lessee's offer to lease at the request of the Guarantor, the Guarantor named herein (jointly and severally if more than one) unconditionally guarantee the due and punctual payment to the Lessor and performance of the Lessee's obligations pursuant to the Contract and indemnify the Lessor and covenant to keep the Lessor indemnified in respect of all monies which the Lessee becomes liable to pay to the Lessor and the performance of all terms covenants conditions and stipulations by the Lessee pursuant to this Contract.
- (ii) This guarantee and indemnity will not be affected by:
 - (a) any indulgence or concession given by the Lessor to the Lessee or the Guarantor;
 - (b) any variation of the provisions of the contract;
 - (c) the death or bankruptcy of the Lessee or the Guarantor;
 - (d) the Lessee's liability under this contract becoming invalid illegal or unenforceable through any act or omission.

GUARANTORS

Name	<input type="text"/>	Name	<input type="text"/>
Address	<input type="text"/>	Address	<input type="text"/>

31. SEVERABILITY

To the extent that any one or more of the provisions contained in this Contract is prohibited by any applicable law then those provisions and each of them are to such extent ineffective without invalidating or modifying the remaining provisions which shall continue in full force and effect as if the prohibited provisions had not been included in this Contract.

32. CHATTELS

The Lessor's chattels described here are included in the Contract:

33. GST

- (a) In this clause the term "GST" means any goods and services tax imposed under A New Tax System (Goods and Services) Act 1999 ("the GST Act") and its transitional and amending acts and regulations which is or may be levied or assessed or becomes payable in respect of rent, outgoings or in connection with the supply of the leased premises or any goods, services, facilities or other things by the Lessor to the Lessee under this contract or any extension, renewal or holding over.
- (b) The Lessee must pay to the Lessor any GST payable by the Lessor in accordance with the requirements of the GST Act. Those payments are to be made by the Lessee prior to the date for payment of the GST by the Lessor or on the dates for the payment of rent, whichever is the earlier. The Lessee hereby indemnifies the Lessor in relation to the payment of any GST.
- (c) Any rent or other payment obligation stated or referred to in this Contract does not include GST unless it is expressly included and GST must be paid in addition to that rent or payment obligation. Unless GST is expressly included, the consideration for any supply by the Lessor to the Lessee is increased by an amount equal to the amount of that consideration multiplied by the rate at which GST is imposed in respect of that supply.
- (d) The Lessor must provide to the Lessee a GST tax invoice as required by the GST Act.

contract to lease retail premises by offer and acceptance



ACCEPTANCE

I/We (the Lessor)

NARROGIN ROAD BOARD
PO BOX 1145, NARROGIN WA 6312

accept this offer and acknowledge the Agent's leasing fees are due and payable by us upon the Lessee taking possession of the Premises, or upon the execution of this Contract whichever is the earlier and are payable from any monies held by the Agent and any balance owing will be payable within seven (7) days of a request.

Dated the day of **JUNE** 20 18

SIGNED BY THE LESSOR OR THE LESSOR'S AGENT

SIGNED by

(FULL NAME)

in the presence of:

Signature of Witness

Print full name of Witness

Address of Witness

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE LESSOR PURSUANT)
PURSUANT TO S.127 OF THE CORPORATIONS ACT)
)
)
)

Sole / Director

Full Name of Director

SIGNED BY THE LESSOR OR THE LESSOR'S AGENT

SIGNED by

(FULL NAME)

in the presence of:

Signature of Witness

Print full name of Witness

Address of Witness

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE LESSOR PURSUANT)
PURSUANT TO S.127 OF THE CORPORATIONS ACT)
)
)
)

Sole / Director

Full Name of Director

contract to lease retail premises by offer and acceptance



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000005158062

Ray White
Narrogin & Districts

SIGNED BY THE LESSEE (Individual)

SIGNED by

RACHEL GONCALVES

(FULL NAME)

Rgoncalves

Signature

in the presence of:

[Signature]

Signature of Witness

Tracey Ann Brandner

Print Full name of Witness

44-48 Federal Street
Narrogin WA 6312

Address of Witness

Real Estate Agent

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE LESSEE PURSUANT)
PURSUANT TO S.127 OF THE CORPORATIONS ACT)
)
)
)

Sole / Director

Full Name of Director

SIGNED BY THE LESSEE (Individual)

SIGNED by

DAVID GONCALVES

(FULL NAME)

[Signature]

Signature

in the presence of:

[Signature]

Signature of Witness

Tracey Ann Brandner

Print Full name of Witness

44-48 Federal Street
Narrogin WA 6312

Address of Witness

Real Estate Agent

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE LESSEE PURSUANT)
PURSUANT TO S.127 OF THE CORPORATIONS ACT)
)
)
)

Director / Secretary

Full Name of Director / Secretary

SPECIAL CONDITIONS FOR THE LEASE OF CAFÉ 27

1. THE LESSEE WILL BE GRANTED A 4 WEEK RENT FREE PERIOD FROM THE DATE OF APPROVAL OF THE LESSOR
2. THE LESSEE HAS THE OPTION TO PURCHASE THE PROPERTY AT ANY TIME DURING THE LEASE PERIOD FOR A PRICE OF \$170,000 PLUS GST, IF APPLICABLE, SUBJECT TO THE PROPERTY BEING SUB-DIVIDED AND TITLES BEING READY FOR DEALINGS AND AFTER THE REQUIRED APPROVALS OF THE LESSOR
3. THE LESSOR WILL TAKE THE PROPERTY OFF THE MARKET FOR A PERIOD OF TWO YEARS TO ALLOW THE LESSEE'S THE OPPORTUNITY TO RUN THE BUSINESS SO THEY CAN APPLY FOR A COMMERCIAL MORTGAGE TO PURCHASE THE PROPERTY. IF AFTER THE TWO YEAR PERIOD THE LESSEE IS UNABLE TO OBTAIN FINANCE THEN THE PROPERTY WILL BE ADVERTISED FOR SALE TO OBTAIN A POTENTIAL PURCHASER.
4. THE LESSEE WILL NOT BE CHARGED ANY FURTHER FEES IF THEY ARE THE PURCHASER OF THE PROPERTY DURING THEIR LEASE PERIOD
4. THE LESSOR WILL INSTALL TWO DOUBLE POWER POINTS TO LOCATIONS AS ADVISED BY THE LESSEE
5. THE LESSOR AGREES TO THE FOLLOWING RECONDITIONING UPGRADES:
 - A. YEAR 1 – PAINT KITCHEN, STORE ROOM AND THE OUTSIDE TOILET ETC
 - B. YEAR 2 – STAIRWELL AND ENTIRE UPPER LEVEL REPAINTED
 - C. YEAR 3 – UPSTAIRS BATHROOM IS TO BE MADE USEABLE AND PRESENTABLE AND UPGRADE THE ELECTRICAL FITTINGS ETC

SIGNED: 
RACHEL GONCALVES

SIGNED: 
DAVID GONCALVES

DATE: 30/5/18

SIGNED: _____
NARROGIN ROAD BOARD

DATE: _____

contract to lease retail premises by offer and acceptance



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SIGNED BY THE GUARANTOR

(Individual)

SIGNED by (FULL NAME)

Signature

in the presence of:

Signature of Witness

Print full name of Witness

Address of Witness

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE GUARANTOR PURSUANT)
PURSUANT TO S.127 OF THE CORPORATIONS ACT)
)
)
)
)

Sole / Director

Full Name of Director

Security Bond	\$ <input type="text"/>
Rent paid <input type="text"/> / <input type="text"/> / <input type="text"/>	\$ <input type="text"/>
Stamp Duty	\$ <input type="text"/>
Receipt No	<input type="text"/>
Western Power Bond	\$ <input type="text"/>

A true copy of this document has been received by each of the signatories.

SIGNED BY THE GUARANTOR

(Individual)

SIGNED by (FULL NAME)

Signature

in the presence of:

Signature of Witness

Print full name of Witness

Address of Witness

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE GUARANTOR PURSUANT)
PURSUANT TO S.127 OF THE CORPORATIONS ACT)
)
)
)
)

Sole / Director

Full Name of Director

Variable Outgoings	<input type="text"/>
Paid to <input type="text"/> / <input type="text"/> / <input type="text"/>	\$ <input type="text"/>

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STRATA PLAN 78751

SHEET 1 OF 3 SHEETS

PLAN OF LOT 36 ON DP222890

CERTIFICATE OF TITLE VOLUME 411 FOLIO 169

LOCAL GOVERNMENT SHIRE OF NARROGIN

FIELD RECORD 144291

NAME OF SCHEME
39 FEDERAL STREET
NARROGIN

ADDRESS OF PARCEL
39 FEDERAL STREET
NARROGIN, 6312.

MANAGEMENT STATEMENT YES NO

SURVEYOR'S CERTIFICATE - Reg 54
P. H. GOW
I, the undersigned, being a duly qualified and licensed surveyor, hereby certify that this plan is accurate and is a correct representation of the
(a) survey and / or
(b) calculations from measurements recorded in the field notes (where applicable)
undertaken for the purpose of this plan and that it complies with the relevant within law(s) in relation to which it is lodged.

Licensed Surveyor Date

LODGED

EXAMINED

ASSESS No.

DATE

WESTERN AUSTRALIAN PLANNING COMMISSION
W.A.P.C. REF: Certificate of Approval of W.A.P.C. under Section 289(2) of Strata Titles Act 1985

DELEGATED UNDER SEC 16 OF THE P & D ACT 2005

PLAN APPROVED

DATE

INSPECTOR OF PLANS AND SURVEYS
(S. 18 Licensed Surveyors Act 1985)

DATE

SUBJECT TO IN ORDER FOR DEALINGS

FOR REGISTRAR OF TITLES REGISTERED

DATE

APPLICATION

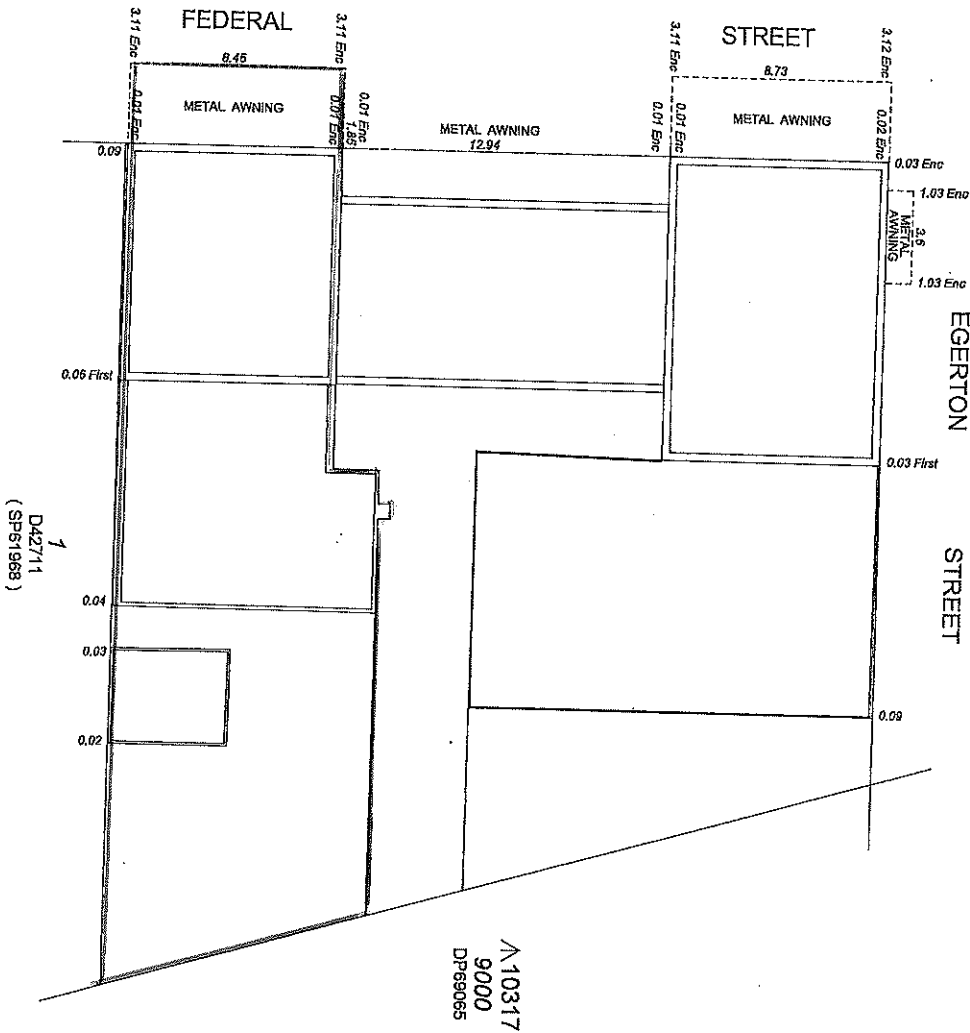
REGISTRAR OF TITLES SEAL

DATE



VERSION AMENDMENT AUTHORISED BY DATE

LOCATION PLAN
LIMITED IN DEPTH TO 60.96 METRES



1 : 200 at A3

0 5 10 15

INTERESTS AND NOTIFICATIONS

SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND SUBMITTED	BENEFIT TO	COMMENTS

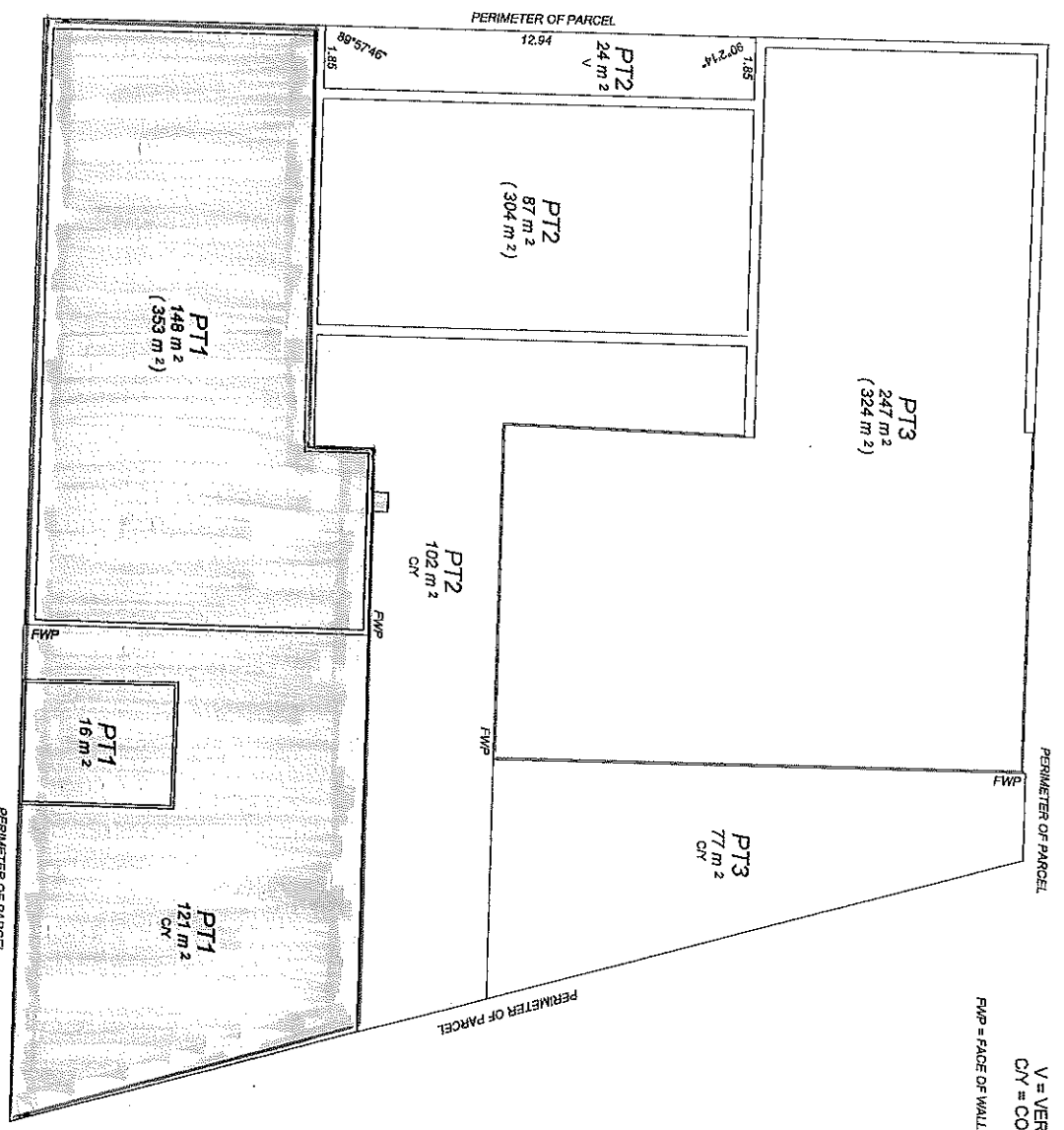
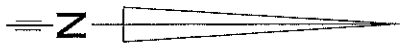
PH & KE GOW
LICENSED SURVEYORS
P. O. BOX 890,
NARROGIN, W.A. 6312.
PH - 98813140, FAX - 98815575
peter.gow@lsipond.com

HELD BY LANDGATE IN DIGITAL FORMAT ONLY

GROUND FLOOR PLAN

PIERS AND DUCTS ARE COMMON PROPERTY

V = VERANDAH
CY = COURTYARD
FWP = FACE OF WALL PRODUCED TO BOUNDARY



THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THE STRATA PLAN ARE THE INNER SURFACES OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING AS PROVIDED BY SECTION 32(1)(a) OF THE STRATA TITLES ACT 1985.

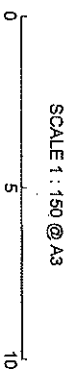
THE BOUNDARIES OF THE PARTS OF LOTS WHICH ARE VERANDAH'S SHOWN ON THE STRATA PLAN ARE TO THE OUTER SURFACE OF THE BUILDING WALL, OR WHERE SHOWN DESIGNATED DIMENSIONS, THE UPPER SURFACE OF THE FLOOR AND THE PROLONGATION OF THE UNDER SURFACE OF THE CEILING OF THE RESPECTIVE BUILDING PART LOT, EXCEPT WHERE COVERED.

THE BOUNDARIES OF THE PARTS OF LOTS WHICH ARE COURTYARDS SHOWN ON THE STRATA PLAN ARE TO THE OUTER SURFACE OF THE BUILDING WALL, OR WHERE SHOWN DESIGNATED DIMENSIONS, THE UPPER SURFACE OF THEIR FLOOR AND 10 METRES ABOVE THE UPPER SURFACE OF THEIR FLOOR.

ALL ANGLES ARE 90 DEGREES UNLESS SHOWN OTHERWISE.

ALL DISTANCES ARE FROM THE EXTERNAL SURFACE OF THE BUILDING WALLS UNLESS SHOWN OTHERWISE.

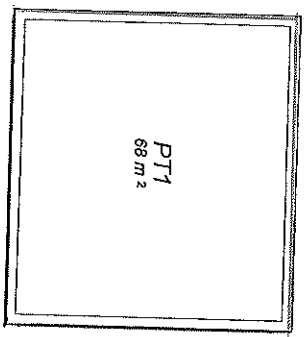
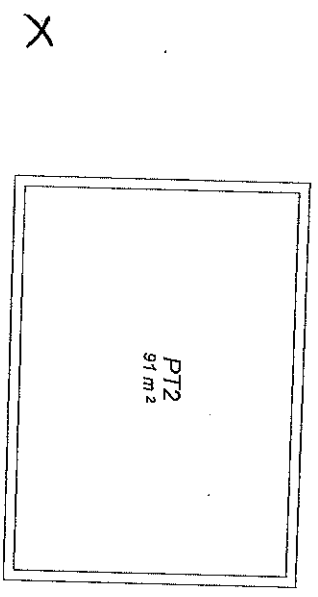
FOR OTHER PARTS OF LOTS 1 & 2 SEE SHEET 3.



PH & KE GOW
LICENSED SURVEYORS
P. O. BOX 580
NARROGIN, W.A. 6312
PH - 98815140, FAX - 98815575
pete@gow@bigpond.com

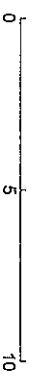
FIRST FLOOR PLAN

PIERS AND DUCTS ARE COMMON PROPERTY



THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THE STRATA PLAN ARE THE INNER SURFACES OF THE WALLS, ON THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING AS PROVIDED BY SECTION 42(1) OF THE STRATA TITLES ACT 1985.

FOR LOT 3 AND OTHER PARTS OF LOTS 1 & 2 SEE SHEET 2.



SCALE 1 : 150 @ A3

PH & KE GOW
LICENSED SURVEYORS
P. O. BOX 580
NARROGIN, W.A. 6332
PH - 98815140, FAX - 98815175
pete@gow@bigpond.com

Frank Ludovico

From: Richard Graham <Richard.Graham@lmw.com.au>
Sent: Friday, 8 June 2018 3:53 PM
To: Frank Ludovico
Subject: RE: Shire of Narrogin property

Hi Frank,

I am confirming I have inspected the property proposed Lot 1/39 Federal Street Narrogin.

I consider the current market value range for the property is \$160,000 to \$170,000 with an adopted market value of \$165,000. Any offer received within this value range would be deemed acceptable.

I consider the market rental value is \$15,600 per annum plus GST with the tenant responsible for all normal building outgoings.

The report will follow as agreed.

Regards

Richard Graham AAPI
Director
Certified Practising Valuer



Main Tel: (08) 9792-5544
Fax: (08) 9792-5540
Mobile: (0428) 310-234

Suite 4, 10 Victoria Street, Bunbury, WA 6230
PO Box 2493, Bunbury, WA 6231
<http://www.lmw.com.au>



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11. CLOSURE OF MEETING

7:34 pm – There being no further business, the Presiding Member, Shire President Ballard declared the meeting closed.