

## SCHEDULE 2

### LICENCE CONDITIONS

#### PREAMBLE

The following preamble provides the context for the grant of this Licence.

- a. Wedge and Grey Reserves are unmanaged Crown reserves placed under the management of the Department of Biodiversity, Conservation and Attractions (DBCA) by order of the Governor and with powers delegated to the Director General, by the Minister for Lands to manage the said Reserves.
- b. As a consequence of changes to the *Conservation and Land Management Act 1984* (CALM Act) in 2012, DBCA has the power to issue contractual Licences on land managed on behalf of other bodies as is the case with Wedge and Grey Reserves.
- c. Since 1 July 2014 Licensees have occupied their Shacks by way of a contractual Licence, the terms of which are revised from time to time.
- d. On the basis that Licensees are committed to the maintenance of Shacks within a framework for appropriate management of the Reserve, the Director General is prepared to grant a licence with a longer term from 1 November 2019, on revised conditions. Only one Shack is permitted per licence.
- e. In the event that DBCA ceases to manage the Reserves or part thereof, the Licence for a Shack within those areas will automatically cancel in the manner set out herein.
- f. A Shack Maintenance Guideline for Wedge and Grey (Annexure 1) outlines the necessary maintenance on licensed Shacks that can be undertaken without requiring the approval of the Director General of DBCA. Works, other than necessary maintenance, may be unlawful under planning and building laws, and without the approval of the Director General of DBCA.
- g. Fact sheets have been developed by DBCA, in consultation with the Shack Associations, in relation to the management of Wedge and Grey. These fact sheets may be updated as required or as new information becomes available, and new fact sheets will be developed as required.

## DEFINITIONS

In the Licence Conditions and Shack Maintenance Guidelines, unless the context otherwise requires:

**Aboriginal heritage site** means an Aboriginal heritage site or place to which the *Aboriginal Heritage Act 1972* (AHA) applies by operation of section 5 of the AHA.

**Asbestos Management Plan** means the plan entitled Asbestos Management Plan Wedge and Grey Reserves dated 4 November 2016 and as updated from time to time.

**Associated Structures** means any shed, hut, structure, fence, well/bore or other man-made construction or building within the Occupancy Area, excluding the Shack.

**Authorised Person** means an individual authorised under any relevant legislation.

**AHA** means the *Aboriginal Heritage Act 1972*.

**AHR** means the Aboriginal Heritage Regulations 1974.

**Business or commercial purposes** means the purpose of sale or any other purpose that is directed to financial gain or reward.

**CALM Act** means the *Conservation and Land Management Act 1984*.

**Commencement Date** means the date specified in Schedule 1 of the Licence.

**Compound** means enclosure including fences and gates that exceed 1.2m in height around Shack or associated structures which restricts reasonable access to the occupancy area or part thereof.

**DBCA** means the Department of Biodiversity, Conservation and Attractions being the department assisting the Minister and the Director General in the administration of the CALM Act and any reference to DBCA includes its predecessors, the Department of Environment and Conservation, the Department of Conservation and Land Management and the Department of Parks and Wildlife.

**DBCA officer** in this Licence means the District Manager and any person whether or not an officer of DBCA who is authorised by means of a delegation to act for the purposes of this Licence by the Director General.

**Delegate** means in this Licence means the District Manager and any person whether or not an officer of DBCA who is authorised to act for the purposes of this Licence by the Director General.

**Director General** means the chief executive officer (CEO) of DBCA or a Delegate of the CEO and all references to the Director General for operational purposes shall include the actions of DBCA on the Director General's behalf.

**District Manager** means the DBCA officer in charge of the Moora District (Jurien Bay) or the person acting in that position from time to time.

**DPLH** means the Department of Planning, Lands and Heritage and includes its predecessors, the Department of Lands, Department of Aboriginal Affairs, Department of Indigenous Affairs and the Sites Department.

**Fire Management Plan** means the plan entitled *Fire Plan: Wedge Reserve No. 43283 prepared by Strategen* dated January 2014.

**Footprint** means the total area and location occupied by an existing Shack and individual associated structures (as at 16 August 2016) which are defined by the perimeter of the external walls or fixtures where appropriate of each individual structure.

**Immediate family member** means Spouse, Mother, Father, Brother, Sister, Daughter or Son as recognised by Births, Deaths and Marriages.

**Licence** means a Licence granted by the Director General under section 101 of the CALM Act for access to and use of the Occupancy Area, and other parts of the Reserve appending:

- a) Licensee and Shack details set out in Schedule 1;
- b) Licence Conditions set out herein as Schedule 2; and
- c) additional information and guidance material (fact sheets).

**Licensee** is the person or persons described on this Licence.

**Licence cost** means the costs associated with the Licensee's use of the Shack, Occupancy Area and the Reserve and includes but not limited to:

- a) administration costs associated with managing Shacks and Shack users;
- b) operational costs associated with managing Shacks and Shack users;
- c) the cost of waste removal associated with managing Shacks and Shack licensee and;
- d) an allowance for the anticipated cost of removal of the Shack, its associated structures and site remediation.

**Licence Conditions** means the conditions set out in Schedule 2 to this Licence.

**Occupancy Area** means the area occupied by the Shack and Associated Structures, including an area of two metres from the perimeter of the Shack or Associated Structures; or 10 metres from the perimeter of the Shack for the purpose of liquor consumption and public liability, and any other areas within the Reserve used by the Licensee for the purpose of the activities allowed by this Licence and as determined and permitted by the Director General.

**Original Lease** means the lease first issued for the Shacks at Wedge and Grey by DBCA.

**Permanent Occupation** means the main place of residence used for the majority of time throughout the year. (183 days)

**Recreational Purposes** means use of the Shack and Occupancy Area occasionally for purposes of enjoyment.

**Registrar** means the person appointed Registrar of Aboriginal Sites under s37(1) of the *Aboriginal Heritage Act 1972*.

**Regulations** means the Conservation and Land Management Regulations 2002.

**Reserve** means Reserve No. 43283 comprising Melbourne Location 4153 as depicted on Land Administration Reserve Diagram 1283 ("**Wedge**") **OR** Reserve No 43284 comprising Melbourne Location 4152 as depicted on Land Administration Reserve Diagram 1277 ("**Grey**").

**Shack** means the Shack or cottage used for habitation erected on the Occupancy Area. Only one Shack per Licence is permitted.

**Shack Maintenance Guidelines** means the Shack Maintenance Guidelines for Wedge and Grey, Annexure 1 of the Licence.

**Shire** means the Shire of Dandaragan.

**Term** means three years from the Commencement Date as set out in Schedule 1.

**Unauthorised Property** in the context of this Licence, means that the ownership in the structures on the Occupancy Area are divested from the Licensee upon termination of the Licence to enable DBCA to take steps to secure and/or if necessary, to dispose of the structures.

**Waste Transfer Station** means the fenced area at Wedge and the designated area at Grey that is managed by DBCA, where skip bins are provided for the management of waste generated on the reserve.

PROPOSED CONDITION

## INTERPRETATION

In the Licence Conditions and Shack Maintenance Guidelines, unless the context otherwise requires:

1. A reference to anything that the Licensee will or will not do include, where the context permits, the Licensees guests, employees, agents and contractors.
2. The singular includes the plural and vice versa.
3. A reference to anything is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them.
4. If the Licensee consists of a partnership or joint venture, then:
  - a) an obligation imposed on the Licensee binds each person who comprises the Licensee jointly and severally;
  - b) the act of one person who comprises the Licensee binds the other persons who comprise the Licensee; and
  - c) a breach by one person who comprises the Licensee constitutes a breach by the Licensee.
5. A reference to the approval of the Director General means a written approval.
6. A reference to a statute, ordinance, code or other law includes Regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
7. If a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning.
8. If the word "including" or "includes" is used, the words "without limitation" are taken to immediately follow.

## **1. NATURE OF INTEREST CREATED BY THIS LICENCE**

### **1.1. Consent**

The Licensee acknowledges and accepts that:

- a) The rights conferred by this Licence is in contract only and does not create or confer upon the Licensee any tenancy or any estate whatsoever in or over the Occupancy Area occupied by the Shack and Associated Structures; and
- b) the rights of the Licensee shall be those of a Licensee only and shall be subject to the conditions set out herein.

For the avoidance of any doubt, this Licence does not compromise any further or other rights of the Licensee.

### **1.2. Rights Reserved**

- a) In addition to the circumstances in which this Licence shall expire or otherwise cancel automatically as set out in condition 15 of these Licence Conditions and Schedule 1, the Director General reserves the right to decline to renew this Licence or, cancel this Licence, in accordance with conditions 15, 16 and 17 of these Licence Conditions. To the extent that they would otherwise have guided the termination process in the event of a default, Regulations 85 to 88 of the Regulations shall not apply to this Licence.
- b) To the extent that they would otherwise have guided the process of Shack removal upon the expiration or sooner determination of the Term, section 108A of the CALM Act and Regulations 77 to 80 of the Regulations shall not apply and the process set out in condition 19 will be applied to the management of Shack and ancillary building materials. Collection of personal property within the Occupancy Area or disposal of unclaimed personal property will be dealt with in accordance with the process set out in condition 19.
- c) It is the responsibility of the Licensee to notify any change of circumstance within 14 days of the event occurring. No compensation or consideration will be given for those who have Licences cancelled for failure to notify a change of circumstances.
- d) No compensation or other consideration shall be payable to or claimable by the Licensee from the Director General for or arising out of the expiry or sooner determination of the Licence.
- e) The Licensee acknowledges and agrees that the provisions of Part VII of the *Property Law Act 1969* do not apply to this Licence and that the Director General is entitled to refuse any renewal or re-grant of this Licence.

## **2. LICENCE RELATED PAYMENTS**

### **2.1. Licence cost**

- a) In consideration of the grant of this Licence, the Licensee agrees to pay to the Director General a total annual payment to reflect the Licensee's proportionate share of the estimated Licence Cost, such sum being \$2,063.25 per annum during the initial year of the Term and reviewable in the manner set out in condition 2.3.
- b) The Licensee agrees to pay the Licence cost in two (2) equal instalments on or before the specified due date of the Licence cost invoices which will be issued by DBCA bi-annually.

### **2.2. Licence cost components**

- a) Any costs incurred by the Director General associated with the management of Shacks or Licensees will form part of the assessment of the Licence cost payable by the Licensee.

### **2.3. Review of Licence cost**

- b) The Licence cost may vary from time to time. A cost recovery analysis may be undertaken at the discretion of the Director General to determine the annual Licence cost to be invoiced in the following year of the Licence term.

## **3. OCCUPANCY AND USE OF SHACK, ASSOCIATED STRUCTURES AND OCCUPANCY AREA**

### **3.1. Use of Occupancy Area**

The Licensee is granted access to and use of the Occupancy Area for Recreational Purposes only.

- a) The Licensee shall not use any part of the Shack or its Associated Structures for Permanent Occupation. Non-compliance with this condition will result in the Director General commencing termination of this Licence in accordance with the process set out in condition 17.
- b) If the Licensee authorises any other person to use or gain access to the Occupancy Area, then the Licensee must ensure such persons are aware of the Licence Conditions and the Licensee remains responsible for such persons, and their conduct will be attributed to the Licensee.
- c) The Licensee shall not make, do or permit any act, matter or thing upon the Occupancy Area that may be or become a nuisance or annoyance to occupiers of other Shacks and visitors to the Reserve.
- d) The Licensee shall keep a copy of this Licence to which it refers in the Occupancy Area at all times.

- e) The Licensee must display the Shack number provided by DBCA on the Shack above, or as near as possible to above, the entry closest to the roadway and in such a manner so that the Shack number is in plain sight. The Licensee must not obstruct, alter or cover up the Shack number in any way.
- f) The Licensee shall not permit the Shack or any Associated Structure in the Occupancy Area to be used as a place of business or commercial purposes without prior approval from the Director General.
- g) The Licensee shall not use any part of the Reserve, the Shack, Associated Structures or Occupancy Area for advertising purposes without prior approval from the Director General.
- h) Until such time as suitable public use has been established on the Reserve, a maximum of one camping facility (caravan, campervans, camper trailers, tents and vehicles) is permitted per Occupancy Area for a period not greater than two consecutive weeks, provided such camping facility does not cause any damage to flora.
- i) Licence holders must abide by the Shire of Dandaragan fire restrictions.
- j) No solid fuel fires are permitted during periods in which the Minister responsible for the *Bush Fires Act 1954* has declared a Total Fire Ban.

### **3.2. Right of entry**

- a) The Licensee shall permit the Director General, DBCA officer, or authorised person, DBCA agents or contractors to at all reasonable times enter upon the Occupancy Area and any buildings and improvements in the Occupancy Area, without breaking a lock or other type of security device (except in the case of an emergency), to inspect the Occupancy Area, the Shack and any Associated Structure for compliance with these Licence Conditions and other written laws.

### **3.3. Rights to and for structures**

- a) The Shack and Associated Structures are the property of the Licensee and are required to be maintained in accordance with the Shack Maintenance Guidelines.
- b) If this Licence is cancelled or relinquished, the Licensee is required to remove the Shack and Associated Structures and other personal property in accordance with condition 19 of the Licence.
- c) The Licensee shall not sell, transfer, assign, mortgage, sublet, charge or otherwise dispose of or deal with any of its rights or obligations under this Licence unless approved by the Director General and subject to such conditions as the Director General may specify.
- d) The transfer of a Licence where licensees are displaced due to risks associated with coastal processes and those identified in an Aboriginal heritage site or area of Aboriginal significance will be generally supported by the Director General. All transfers will be managed by DBCA.



- e) Shacks and Associated Structures held by DBCA are not able to be transferred to another person or group without prior approval of the Director General.
- f) The Licensee shall comply with reasonable directions of any DBCA Officer whether given verbally or in writing within the timeframe specified in the direction.
- g) In the event that a sole licensee dies, DBCA may consider a request for the transfer of Licence to an Immediate Family Member.

#### **4. PUBLIC LIABILITY INSURANCE**

- a) The Licensee must maintain in the Licensee's name, and keep in force during the Term of this Licence a suitable public risk insurance policy with an insurer of good repute, in the name/s of the Licensee, with respect to the Occupancy Area, for not less than \$10,000,000 (Ten Million Dollars):
  - I. for any one accident or event;
  - II. any loss, damage or destruction to any property;
  - III. liability arising out of any contamination, pollution or environmental harm of the Occupancy Area or surrounding areas of a sudden or accidental nature during the term caused or contributed to by the licensees.
- b) The Licensee/s must;
  - I. provide a copy of the certificate of currency of the policy prior to the date of commencement of the Licence term;
  - II. provide evidence of insurance currency to DBCA on each anniversary of the date of commencement during the term or as otherwise requested by DBCA;
  - III. not do or omit to do any act or thing or bring or keep anything on the Occupancy Area which might render the insurance void.

#### **5. INDEMNITY**

- a) The Licensee agrees to release the State of Western Australia and all of its officers, agents, emanations and instrumentalities (collectively, "the State") from and in respect of any liability (in negligence or howsoever) the State would incur or would otherwise incur directly on account on being the owner of, or having the possession or control of, the Reserve in relation to the activities that are the subject of this Licence.

The Licensee agrees to indemnify the State from, against and in respect of all loss, claims, lawsuits, proceedings, causes of action, damage, liability, costs, expenses, demands and the like, suffered or incurred by or brought, made or alleged against the State to the extent caused or contributed by;

- I. any tortious, civil or actionable wrong by or on behalf of the Licensee or any officer, employee, agent, contractor or their sub-contractor, or invitee of the Licensee; or

- II. the conduct of the Licensee or any of its guests, agents, contractors or sub-contractors in relation to the activities of the Licence, but only to the extent that the relevant risk, hazard or danger (which caused or gave rise to, or related to, any such loss, claim, lawsuit, proceedings, cause of action, damage, liability, costs, expenses, demands or the like) was or should have been known by the Licensee taking into account all relevant factors including, to the extent such matters are relevant.
- b) The Release in condition 6 (a) will not apply to the extent that any claims, actions, demands, suits, proceedings, damages, liabilities, losses or costs made or brought against, suffered or incurred by the State are caused or contributed to by the State's own negligence, act, default or omission.

## **6. LICENCE REQUEST**

- a) Licensees must complete and return in person with proof of identity a Request for Licence Renewal form when seeking renewal of each Licence Term. Should the Licensee fail to lodge the request by the date specified in the Request form (being not less than one month prior to the expiration of the current term), it will be assumed that the Licensee declines any further Term of Licence and the Shack and its Associated Structures will become Unauthorised Property on expiration of the term to be retained by or removed by DBCA as directed by the Director General.
- b) If the person requesting the Licence renewal is unable to attend the specified DBCA office with the Licence request in person, a certified proof of photo identification will need to be provided with the Licence request submitted by post or by an agent.
- c) No more than two (2) applicants who are natural persons aged 18 years or over per Occupancy Area will be accepted as Licensees.
- d) Licence applicants must provide their full names, addresses, date of birth, email and telephone numbers. All communication and correspondence will be issued to both Licensees. It is the Licensees' responsibility to ensure that any other Shack owners are notified accordingly.

## **7. UNSAFE OR DANGEROUS BUILDINGS OR STRUCTURES**

- a) Notwithstanding any other provision of the Licence, and irrespective of whether or not a Building Order has been issued under Part 8 of the *Building Act 2011*, in the event that the Director General, having taken advice from an Authorised Person under that Act, determines that any building or structure erected on the Occupancy Area is in a dangerous state or is unfit for human occupation and cannot be made safe as determined by the Authorised Person under that Act, the Director General may issue the Licensee with a Notice of Proposed Cancellation (Notice) in accordance of section 15 or 16.
- b) If the Licence is cancelled, the structure or building will be treated as Unauthorised Property and the Director General will act to remove or manage the risk without further notice following such cancellation without any further obligation to the Licensee.

## **8. COMPLIANCE WORKS AND MAINTENANCE OF SHACK, ASSOCIATED STRUCTURES AND OCCUPANCY AREA**

- a) Removal of tank stands from the Reserve is required by 31 May 2020, unless engineering certification of the structural integrity of the tank stand is provided to DBCA on or before 31 May 2020.
- b) Removal of all non-compliant, unused and derelict water storage facilities, including but not limited to ex chemical pods and IBC, from the Reserve is required by 31 May 2021.
- c) Certification of electrical compliance must be provided to DBCA by 31 May 2021.
- d) Licensees are required to remove any imported driveway materials, as outlined in the Shack Maintenance Guidelines, by 31 May 2022.
- e) Subject to satisfaction of the prerequisites in the Shack Maintenance Guidelines, removal of Compounds surrounding Shacks and Associated Structures throughout the Reserve is required by the 31 May 2022.
- f) From 31 May 2022, access to, and use of, bores, wells and windmills located in the Aboriginal heritage site is prohibited.
- g) The Licensee shall keep the Occupancy Area tidy and store equipment and materials within the Shack and Associated Structures, or a single, small designated area against the Shack in such a manner so as to avoid creating any hazard and out of public view.

## **9. SERVICES TO OCCUPANCY AREA**

- a) The Licensee acknowledges and accepts that no right arises on the part of the Licensee under this Licence to the provision of any services (including rubbish collection, water, sewerage or power supply) to the Occupancy Area by the Director General, the Shire, the Crown in right of the State or the Commonwealth or any statutory person or authority or their respective servants or agents.

## **10. SAFETY AND TESTING OBLIGATIONS**

- (a) Having regard to the intermittent nature of occupancy under the Licence, the Licensee acknowledges and agrees that inadequately maintained equipment may constitute a risk hazard, and will take steps at the Licensee's own cost, to ensure that the Occupancy Area and any fixtures or fittings including but not limited to electrical and gas appliances, are regularly tested, maintained and inspected.
- b) In particular, the Licensee will:
  - I. ensure that smoke alarms are installed in each Shack on the Occupancy Area and shall keep each smoke alarm in good working order;
  - II. install and maintain a fire extinguisher and fire blanket, in workable condition, for each building or structure and ensure that it is within easy access in the event of an emergency.

## **11. COMPLIANCE WITH THE LAW (INCLUDING ROAD USE)**

- a) The Licensee shall duly and punctually comply with, observe, carry out and conform to the provisions of all laws, Acts and statutes (State, Commonwealth or local) and all subsidiary legislation now or hereafter in force and all requirements and orders of any authority (statutory or otherwise) which affect the Occupancy Area and the Reserve.

### **11.1. Motor Vehicles**

- a) The Licensee shall not bring any motor vehicle onto the Reserve unless the vehicle and driver comply with the *Road Traffic Act 1974*, and the *Road Traffic Code 2000*.

### **11.2. Responsibility for Dogs**

- a) The Licensee shall ensure that dogs brought onto the Reserve comply with the *Dog Act 1976* and dogs shall not be allowed to be a nuisance to other visitors to the Reserve and Occupancy Area.
- b) The Licensee shall ensure dogs are not allowed to access the Wanagarren Nature Reserve or Nambung National Park other than when travelling in a vehicle via the sealed entrance roads to the Reserves.

### **11.3. Firearms**

- a) The Licensee shall not bring or allow any person to bring a firearm onto the Reserve unless authorised by the Director General.

## **12. MAINTENANCE OF NATURAL ECOLOGY**

### **12.1. Native flora and sites of significance**

- a) The Licensee shall not interfere with the natural environment without written permission from the Director General of DBCA. Interference includes, but is not limited to:
  - I. removing rocks, earth, soil or other material from the Occupancy Area;
  - II. marking any rocks or structures;
  - III. clearing or removing trees or other vegetation from the Occupancy Area; without lawful authority;
  - IV. altering the contours of the surface of the Occupancy Area;
  - V. bringing or depositing any earth fill or other similar materials on the Occupancy Area;
  - VI. altering the natural drainage on the Occupancy Area;
  - VII. introducing any new plants or bringing any animal onto the Occupancy Area other than accompanying pet dogs;
  - VIII. harming or endangering any flora or fauna on the Occupancy Area; or

- IX. anything else in connection with the Occupancy Area that may be harmful to the environment.

## 12.2. Fauna Protection

- a) The Licensee shall not:
- I. interfere with, take or disturb any fauna from the Reserve;
  - II. interfere with or destroy any nest, spawning ground, or habitat of any such fauna; or
  - III. bring any animal onto the Occupancy Area, other than accompanying pet dogs.

## 13. PROTECTION OF ABORIGINAL HERITAGE SITES IN THE RESERVE

- a) The Licensee acknowledges that Aboriginal heritage sites of significance exist in the Reserves. Aboriginal heritage sites that meet section 5 of the *Aboriginal Heritage Act 1972* (AHA) are protected regardless of whether they Registered or not. The Licensee shall at all times comply with the AHA and not excavate, destroy, damage, conceal or in any way alter an Aboriginal heritage site, whether registered or not, without the required approval from the Minister for Aboriginal Affairs. A conviction of an offence under the AHA within either Reserve No 43283 (Wedge) or Reserve No 43284 (Grey) will result in automatic termination of the Licence.

Where activities require ground disturbing works within an Aboriginal heritage site formal advice should be sought from the Department of Planning, Lands and Heritage (DPLH) before the ground disturbing works commence, and cannot be undertaken without prior approval of DBCA.

This includes but is not limited to:

- I. removing rocks, earth, soil or other material;
- II. ground disturbing activities including excavation as set out under s16 and s17 of the AHA;
- III. marking any rocks or structures;
- IV. clearing or removing trees or other vegetation from the Occupancy Area, without lawful authority subject to section 5 (g) of Licence Conditions;
- V. altering the contours of the surface of the Occupancy Area;
- VI. bringing or depositing any earth fill or other similar materials on the Occupancy Area; or
- VII. anything else in connection with the Occupancy Area that may be harmful to heritage values and the environment.

## 14. HAZARD MANAGEMENT AND VOLUNTARY ASSUMPTION OF RISK

### 14.1. Assumption of risk

- a) The Licensee acknowledges and agrees that there are inherent and reasonably well-known risks associated with the use of the Occupancy Area and the structures located thereon, as well as in other locations on the Reserve. These risks include but are not limited to:
  - I. coastal hazards, erosion, and inundation;
  - II. structural deficiencies of buildings;
  - III. the potential presence of asbestos in materials used in the construction of Shacks and Associated Structures;
  - IV. contamination of groundwater and the use of bores and rainwater tanks;
  - V. fire hazards; and
  - VI. traffic management and more broadly, law and order issues associated with the manner in which the Reserve has historically been used by Shack occupants, their visitors and the general public.
- b) To mitigate these risks the Licensee shall:
  - I. not store or use flammable or explosive substances on the Occupancy Area or the Reserve except those used for domestic purposes, such as for barbeques, generators, cook tops, in-Shack heating or water heaters and for Recreational Purposes, such as fuel for vehicles or boats; and
  - II. clean up any contamination, spill or other environmentally hazardous incident that occurs as a result of any act or neglect of the Licensee or the Licensee's visitors to the satisfaction of the Director General.
- c) The Licensee shall comply with such directions as may reasonably be made by a DBCA officer in relation to the above mitigation actions, and for the purpose of implementing the Fire Management Plan.
- d) The Licensee agrees that if a reasonable direction given by a DBCA officer in relation to risk mitigation is not complied with, DBCA may carry out the risk mitigation actions, and recover its cost from the Licensee as a condition of this Licence.

#### **14.2. Asbestos**

- a) The Licensee acknowledges and accepts that the Reserve, including the Occupancy Area, may contain asbestos, and enters the Reserve voluntarily, assuming all risks associated with potentially being in proximity to asbestos containing materials.
- b) The Licensee shall not reuse, store or dispose of obsolete, discarded or disused asbestos containing materials anywhere on the Reserve, and any such material shall be removed from the Reserve and disposed off-site in accordance with the relevant laws at an approved facility for the disposal of asbestos by the Licensee at the Licensees expense.
- c) The Licensee shall at all times throughout the Term comply with all environmental laws, relevant Australian standards, regulatory requirements and requirements of the Director General which apply in relation to the presence of, management of and removal of asbestos on the Occupancy Area.
- d) The Licensee shall comply with the Asbestos Management Plan and any such direction as may reasonably be made by the Director General for the purpose of implementing such plan where such materials are identified within the Occupancy Area.
- e) The Licensee agrees that if a reasonable direction given by a DBCA officer in relation to risk mitigation is not complied with, DBCA may carry out the removal and disposal of asbestos and recover its cost from the Licensee as a condition of this Licence.

#### **14.3. Waste management**

- a) The Licensee shall not store or dispose of rubbish anywhere on the Reserve except at the Waste Transfer Station.
- b) The Licensee acknowledges and accepts that the purpose of the Waste Transfer Station is for the disposal of waste generated on the Reserve resulting from activities consistent with the Licensee's recreational use of Shacks. Licensees shall not dispose of any waste in the Waste Transfer Station if the waste is generated external to the Reserve.

#### **15. AUTOMATIC CANCELLATION OF LICENCE**

- a) Notwithstanding the expressed Term of the Licence in Schedule 1, the Licence will automatically cancel in the event that:
  - I. DBCA ceases to manage the Reserve or part of the Reserve to which the Licence relates; or
  - II. the Shack within the Occupancy Area has been damaged beyond maintenance in accordance with the Shack Maintenance Guidelines, destroyed, demolished or otherwise removed due to natural causes or acts; or
  - III. the Licensee is convicted of an offence under the AHA within the Reserve.

- b) In such an event the Director General will follow the process set out in condition 19 in addressing the removal of the Shack and Associated Structures and any property of the former Licensee.

## **16. NOTICE OF CANCELLATION**

- a) The Licensee shall comply with any demand to remedy any breach of the Licence Conditions contained in a written notice.
- b) The Licensee acknowledges that such notice – and any other notice to be served on the Licensee may be validly served upon the Licensee by addressing it to the Licensee and emailing or sending it by either standard or registered post to, or leaving it at, the address of the Licensee set out in the deed poll or as most recently registered with DBCA, or by affixing the notice to the Shack.
- c) A notice sent by registered post shall be deemed to have been served on the day on which it would in the ordinary course of post (six days) reach the address to which it was sent.
- d) If the Licensee defaults in any agreed payment, or other compliance with of its obligations under this Licence, then the Director General may recover from the Licensee the amount of all funds paid or expended by the Director General on behalf of the Licensee. In so doing together with interest on that amount at the rate from time to time charged by the Commonwealth Bank of Australia on overdrafts of \$100,000.00 computed from the date upon which the funds were paid or expended by the Director General on demand, and until so paid those funds shall be added to the Licence Cost Reserved by this Licence and are recoverable as Licence Costs in arrears. Such costs shall be a debt recoverable in a court of competent jurisdiction.

## **17. CANCELLATION OF LICENCE**

- a) The Director General may cancel the Licence, if:
  - I. the Licensee has breached or failed to comply with a condition of the Licence; or
  - II. the Licensee has breached or failed to comply with a reasonable direction given under this Licence; or
  - III. the Licensee has failed to reimburse DBCA's costs in relation to action taken under condition 15; or
  - IV. the Director General considers the cancellation of the Licence is in the interests of:
    - A. the protection, management or control of the Reserves or assets on the Reserve; or
    - B. the protection or management of persons using the Reserve; or
    - C. the conservation, protection or proper management of fauna or flora; or



- D. other users of the Reserve.
- b) Without limiting the Director General's decision under condition 18(c), if the Director General considers it necessary to cancel the Licence, the Director General will issue a Notice of Proposed Cancellation (Notice) giving the Licensee notice of:
- I. the reasons for cancelling the Licence;
  - II. actions the Licensee may take to prevent the Licence being cancelled and timeframe, being at least 21 days, within which to take those actions;
  - III. opportunity to make representations to the Director General in relation to the proposed cancellation within 14 days of the date the Notice is issued; and
  - IV. the Director General will not cancel the Licence without considering the Licensee's representations and/or until the timeframe specified in the Licence to take action has expired.
- c) If the Director General is of the opinion that the breach or failure is incapable of being remedied, or a Licence for access and use can no longer be given, the Director General will proceed to cancel the Licence immediately as set out in condition 15 and give the Licensee notice to that effect.
- d) After providing Notice of Cancellation of the Licence, the Director General shall be at liberty to take the steps referred to in condition 19.

## **18. SCOPE OF LICENSEE'S LIABILITY FOR BREACHES**

- a) In accepting this Licence, the Licensee agrees that a breach by any guest, employee, agent or contractor of the Licensee of any of the Licence Conditions imposed in this Licence shall constitute a breach by the Licensee, and that the Licensee shall be vicariously liable for such breaches in the event that:
- i. any entitlement to damages arises as a consequence of such conduct; and/or
  - ii. there is any failure to comply with a notice issued in the manner provided in this Licence in respect of costs incurred by the Director General as a result of any breach of the Licence Conditions; and/or
  - iii. the Licensee shall not exceed three breach notices within the Licence period, failing which the Director General may proceed to cancellation of the Licence.

## **19. RIGHTS TO AND FOR STRUCTURES UPON EXPIRY OR CANCELLATION**

### **19.1. Removal of Shack, Associated Structures and Personal Property**

- a) The Licensee acknowledges and agrees that upon automatic cancellation of the Licence:

- i. The Licensee is required to remove the Shack, Associated Structures and personal property within such timeframe as directed by the Director General.
  - ii. If the Licensee has not removed the Shack and Associated Structures by the specified date the Director General will be at liberty to act to remove the Shack and its Associated Structures after, without notice, on the basis that they have become Unauthorised Property. The cost of rectifying the Occupancy Area in such circumstances may be regarded as a debt payable on demand and in default of compliance, recoverable in a court of competent jurisdiction.
- b) Notwithstanding section 108A or regulations 77 and 80 if the Shack, Associated Structures and personal property within the Occupancy Area is not removed in the timeframe specified by the Director General it will be considered fixtures forming part of the Reserve and disposed of at the discretion of the Director General.

PROPOSED LICENCE CONDITIONS

## **ANNEXURE 1**

# **Shack Maintenance Guidelines for Wedge and Grey**

Maintenance works as outlined in these Shack Maintenance Guidelines are permitted to be undertaken on Shacks and Associated Structures by the licensee without requiring the approval of the Director General of DBCA.

The terms and conditions in the Licence hold primacy. If there any inconsistencies between the Licence conditions and these Guidelines or Fact Sheets, the Licence conditions apply in the first instance.

These Guidelines clarify what is considered permissible maintenance works. Any works that would require a development and building approval are not considered maintenance; required to comply with relevant State planning and building legislative requirements and cannot be approved by the Director General.

Building additions including extensions to the existing building footprint, new rooms, new verandas, second storeys, elevated verandas or viewing decks, and any construction above the height of the existing roof pitch is not considered maintenance and is not permitted. The creation of new rooms by enclosing existing open verandas or patios is not permitted. This includes replacing existing shade cloth on the roof or walls with hard materials such as corrugated sheets. Previously uncovered verandas or patios cannot be covered with any new material.

Works undertaken shall at all times comply with the AHA and not interfere with any Aboriginal site (i.e. by excavating, destroying, damaging, concealing or in any way altering) without written consent from the DPLH, the Registrar of Aboriginal Sites and/or the Minister for Aboriginal Affairs dependent upon the statutory requirements of the AHA or AHR.

If you are uncertain if your proposed works constitutes maintenance, please contact the Senior Project Officer, Wedge and Grey on (08) 9688 6000 in the first instance.

### **Who do the Shack Maintenance Guidelines apply to?**

These Guidelines apply to all Licensees and is relevant only to works on licensed Shacks and Associated Structures. If a Licensee allows someone else to carry out the maintenance work, the Licensee must ensure that person is aware of the Licence Conditions and these Guidelines, and does not do any work contrary to the Licence Conditions or these Guidelines.

### **Why are Shack Maintenance Guideline necessary?**

DBCA acknowledges that there may be a need for a Licensee to carry out periodic maintenance to ensure building safety and environmental and heritage values are not compromised. DBCA also recognises the built form character of the Reserve, noting that Shack maintenance will assist in recognising that built form character.

These Guidelines may be amended from time to time and must be adhered to and read in conjunction with requirements of the Licence Conditions and other relevant Government legislative requirements.

### **What is defined as maintenance on Shack?**

Maintenance are those works:

- a) which do not require any building or planning approval under State legislation;
- b) re 'like for like', meaning that the maintenance works are to have the same appearance, using similar materials (except where asbestos containing materials are being replaced) and construction methods as the existing Shack; and
- c) Do not constitute an enhancement to the Shack or Associated Structure.

The Licensee shall ensure structural integrity and safety of the work done. Maintenance work impacting more than 10 per cent of the external Shack fabric will require prior written approval from DBCA.

### **What is the minimum standard required when undertaking maintenance on a Shack?**

- a) Maintenance works are to be undertaken according to Department of Health guidelines for working with asbestos where applicable. It is the responsibility of the Licensee to inform themselves of these guidelines and ensure they take all safety and precautionary measures. If the Licensee allows others to work with asbestos, the Licensee must ensure those people are aware of the risk and comply with the relevant laws.
- b) Any activities that may be ground disturbing must be consistent with the AHA and AHR.
- c) Any other works not described in these Guidelines can be requested via application and correspondence with DBCA.

## **Types of maintenance works**

### **1. Outside**

- a) Allowable clearing within an Occupancy Area shall be limited to two metres from external walls of a Shack as described in the fire management plan.
- b) The use of handheld tools and implements is permitted, such as whipper snippers and chainsaws, to clear weeds and overgrowth in the Occupancy Area up to a maximum of two metres from around the Shack.
- c) The use of registered herbicides is permitted to manage weeds and overgrowth in the Occupancy Area (caution is noted about clearing vegetation to bare sand and the possible increase in erosion that may result).
- d) A total external paved area no larger than one square metre is permitted per Shack for housing gas bottles. Where gas bottles are currently stored inside, Licensees can move those bottles outside and on to a paved area no larger than one square metre.

- e) A total external paved area no larger than one square metre is permitted per Shack for the housing of a hot water system. Where hot water systems are currently stored inside, Licensees can move those bottles outside and on to a paved area no larger than one square metre.
- f) Wheeled or tracked machinery such as a backhoe, bulldozer, front end loader, bobcat, 'Dingo', mulchers or slashers are not permitted to be used during maintenance to buildings, driveways or the management of vegetation in the Occupancy Area.

## **2. Fences, gates and Compounds**

- a) Subject to the following, works to remove Compounds are permitted. Any existing Compounds must be removed.
- b) Works that are not ground disturbing of existing fences is permitted using like for like material, (apart from asbestos).
- c) Where the works to be undertaken are ground disturbing, the replacement of existing fences, gates and Compounds in disrepair is not permitted without prior approval from the Director General.
- d) No locked gates are permitted on access tracks and or roadways throughout the Reserve.
- e) Removal of fences, gates is permitted.
- f) The building of new fences, new gates or new compounds around an Occupancy Area is not permitted.
- g) Unobstructed access to Occupancy Areas for management or emergency response must be maintained at all times.

## **3. Driveways / access ways**

- a) The creation of new driveways or access points to the Occupancy Area is not permitted.
- b) Driveways may be kept clear of vegetation using handheld tools and implements only.
- c) Clearing must remain within the driveway footprint as at 16 August 2016.
- d) Material such as imported sand, soil, cement, carpet, shade cloth, lino or bitumen is not permitted to be used to line driveways or entry points to the Occupancy Area.
- e) Existing materials noted above which are in poor condition, deteriorating, unsafe or pose a risk to the environment shall be removed immediately.
- f) Consideration will be given to driveway stabilisation where it is reasonably required upon application to DBCA.

#### **4. Existing structures/Shacks – external maintenance**

- a) Gutters and associated downpipes to collect rainwater or manage water runoff from roofs will be permitted.
- b) Maintenance (including painting) of wall and roof cladding of a Shack is permitted.
- c) Wall or roof cladding can be repaired or replaced and must be undertaken in a 'like for like' manner (except asbestos materials).
- d) No modifications can be made to asbestos structures/materials and no fixtures or attachments can be placed on asbestos cement roofs.
- e) Where asbestos or asbestos containing material cladding is being replaced, all statutory requirements for its removal must be followed and the replaced material shall not contain asbestos and be of a 'like for like' nature. See Policy for the management of Asbestos in the Wedge and Grey Reserves for further policy guidelines.
- f) It is acknowledged that some materials that are of heritage value, such as packing crates, folded tin or other material profiles from past eras are not available. It is the Licence holder's requirement to determine the heritage value of the materials requiring maintenance and to consider how to replace them with suitable like materials.

#### **5. Existing structures/Shacks – internal maintenance**

- a) Maintenance to the internal components of a Shack, including but not limited to walls, ceilings, damaged flooring, benchtops and fixtures is permitted.
- b) Maintenance may include repair, replacement or painting.
- c) Maintenance must not adversely affect the structural soundness of the Shack.
- d) It is noted that the licensee is responsible for the safety and structural integrity of their Shack and that minor internal structural repairs may be required to address immediate safety issues.

#### **6. Water storage facilities**

- a) Water storage facilities for the collection and use of water for any purpose shall comply with Australian Standards for human use.
- b) Where no existing water storage facility is present in the Occupancy Area, up to two new water storage facilities may be considered upon application to DBCA. Total combined capacity shall not exceed 12,500 litres.
- c) New water storage facilities will be permitted if all other water storage facilities within the Occupancy Area do not exceed a combined capacity of 12,500 litres. A maximum of two units are allowed on site at any given time.

- d) If an existing water storage facility fails, a replacement water storage facility will not be permitted if other suitable water storage facilities exceed 12,500 litres and remain in the Occupancy Area.
- e) Storage containers that do not comply with Australian Standards such as ex-chemical pods/IBC are not permitted.
- f) Between 1 November 2019 – 31 May 2021 replacement of one non-compliant storage container (ex-chemical pod/IBC) per Licence with an approved water tank up to a maximum of 1,000 litres will be permitted where the purpose is a header tank for ablution facilities, even if the total existing tank capacity exceeds 12,500 litres.
- g) New tank stands are not permitted to be constructed.
- h) Tank stands are permitted to be removed where they are unable to meet Engineer certification for structural stability.
- i) Installation of new concrete pads under water storage facilities are not permitted.

## **7. Sewage and wastewater**

- a) Licensees are encouraged to decommission existing toilet facilities and commence using chemical toilets. Dump points will be provided at the entry point to both Wedge and Grey to facilitate those who choose to use chemical toilets.
- b) If an existing septic tank and or leach drain fails, a replacement is not permitted.
- c) All old and unused septic tanks must be filled in or removed.
- d) Excavation is permitted above the base of the existing wastewater and sewerage systems to undertake assessment for certification.

## **8. Water and gas plumbing**

- a) Where required, all works to internal and external water and gas plumbing must be undertaken by a qualified plumber in accordance with all relevant regulations.

## **9. Electrical**

- a) All electrical work must be undertaken by a qualified electrician and/or in accordance with all relevant regulations.
- b) Portable power supplies, including small domestic generators are permitted.
- c) New fixed or permanent power supplies of a commercial or industrial scale are not permitted, subject to items listed in Solar Panels and Wind power generation.
- d) The sharing and distribution of power between Shacks is not permitted without certification from a Licenced electrician and prior written approval from DBCA.
- e) Buried electrical cables between power supplies and Shacks should be laid in accordance with all relevant regulations including using underground electrical warning tape and signs.

- f) Overhead electrical cables, extension cords or similar between Shacks is not permitted.

**10. Solar panels**

- a) Solar panels are only permitted where they are installed and certified, as required, by a qualified electrician with appropriate components that meet all necessary regulations.
- b) Solar panels are only permitted to be installed on the roof of Shacks subject to not compromising structural integrity of the building.
- c) Solar panels are not permitted to be installed on the ground.

**11. Wind power generation**

- a) Domestic scale wind power generation is only permitted where components are installed and certified by a qualified electrician and meet all necessary regulations.
- b) Wind power generation equipment is only permitted to be installed onto Shacks subject to not compromising structural integrity.
- c) Wind power generation equipment is not permitted to be installed on new ground-based infrastructure.

PROPOSED CONDITION