

# Establishment Agreement

## ~~Tamala Park~~ Catalina Regional Council

---

Town of Cambridge (**Town of Cambridge**)

City of Joondalup (**City of Joondalup**)

City of Perth (**City of Perth**)

City of Stirling (**City of Stirling**)

Town of Victoria Park (**Town of Victoria Park**)

~~Town-City~~ of Vincent (**Town of Vincent**)

City of Wanneroo (**City of Wanneroo**)

# Establishment Agreement

## Tamala Park Catalina Regional Council

<b>Details</b>	<b>4</b>
<b>Agreed terms</b>	<b>6</b>
<b>1. Defined terms</b>	<b>6</b>
<b>2. Name</b>	<b>7</b>
<b>3. Region</b>	<b>8</b>
<b>4. Regional Purpose</b>	<b>8</b>
<b>5. Objectives</b>	<b>8</b>
<b>6. The Council</b>	<b>8</b>
6.1 Appointment of Members	8
6.2 Tenure of members of the TPCRC Council	9
6.3 Election of <a href="#">chairman</a> and deputy <a href="#">chairman</a>	9
6.4 Tenure of <a href="#">chairman</a> and deputy <a href="#">chairman</a>	9
6.5 Role of <a href="#">chairman</a>	10
6.6 Role of deputy <a href="#">chairman</a>	10
6.7 Role of members of TPCRC Council	10
<b>7. The Land</b>	<b>10</b>
7.1 Transfer	10
7.2 Documentation	11
7.3 Rates equivalent payment	11
<b>8. Financial contributions</b>	<b>11</b>
8.1 Bush Forever compensation payments	11
8.2 Annual contributions	11
8.3 Other contributions	11
8.4 Manner of payment	12
8.5 Late payment	12
8.6 Annual financial statements	12
<b>9. Financial distributions</b>	<b>12</b>
9.1 Surplus	12
9.2 Other distributions	12
9.3 Manner of distribution	12
<b>10. Borrowings</b>	<b>12</b>
10.1 Act to apply	12
10.2 Security	13
<b>11. Withdrawal of a Participant</b>	<b>13</b>
11.1 Withdrawal conditions	13
11.2 Notice	13

11.3	Permitted notice periods	13
11.4	Negotiations in good faith	13
11.5	Requirements of agreement	13
11.6	Matters relevant to negotiations	14
11.7	Failure to reach agreement	14
<b>12.</b>	<b>Divestment of ownership interests</b>	<b>14</b>
12.1	Definitions	14
12.2	Divestment only under this clause	14
12.3	Notice	15
12.4	Offer to Remaining Participants	15
12.5	Acceptance among Remaining Participants	15
12.6	Payment	15
12.7	Valuation	15
12.8	Requirements of the Act	15
<b>13.</b>	<b>Winding up</b>	<b>16</b>
13.1	Winding up by agreement	16
13.2	Division of assets	16
13.3	Division of liabilities	16
<b>14.</b>	<b>Dispute resolution</b>	<b>16</b>
14.1	No proceedings	16
14.2	Notification of dispute	16
14.3	Reasonable efforts to resolve Dispute	16
14.4	Dispute resolution process	16
14.5	Arbitration	17
14.6	Legal representation	17
<b>15.</b>	<b>Interpretation</b>	<b>17</b>
15.1	Interpretation	17
15.2	Headings and footnotes	18
15.3	Time	18
<b>Schedule 1 – Ownership shares</b>		<b>19</b>
<b>Schedule 2 – Resolution dates</b>		<b>20</b>
<b><u><a href="#">Schedule 3 – Resolution dates for revised Establishment Agreement 2023</a></u></b>		<b><u><a href="#">21</a></u></b>
<b>Schedule <del>34</del> – Number of members</b>		<b><del>24</del><u>22</u></b>
<b>Schedule <del>45</del> – Map of the Land</b>		<b><del>22</del><u>23</u></b>
<b>Signing page</b>		<b><del>23</del><u>24</u></b>

## Details

---

### Date

### Parties

Name **Town of Cambridge**  
Short form name **Town of Cambridge**  
Notice details 1 Bold Park Drive, Floreat, Western Australia 6014  
[Facsimile \(08\) 9347 6060](#)  
[Attention: Graham Partridge](#)

Name **City of Joondalup**  
Short form name **City of Joondalup**  
Notice details [90](#) Boas Avenue, Joondalup, Western Australia 604927  
[Facsimile \(08\) 9300 1383](#)  
[Attention: Garry Hunt](#)

Name **City of Perth**  
Short form name **City of Perth**  
Notice details Council House, 27 St Georges Terrace, Perth, Western Australia 6000  
[Facsimile \(08\) 9461 3083](#)  
[Attention: Frank Edwards](#)

Name **City of Stirling**  
Short form name **City of Stirling**  
Notice details 25 Cedric Street, Stirling, Western Australia 6021  
[Facsimile \(08\) 9345 8822](#)  
[Attention: Lindsay Delahunty](#)

Name **Town of Victoria Park**  
Short form name **Town of Victoria Park**  
Notice details 99 Shepperton Road, Victoria Park, Western Australia 6100  
[Facsimile \(08\) 9311 8181](#)  
[Attention: John Bonker](#)

Name ~~Town~~ **City of Vincent**  
Short form name ~~Town~~ **City of Vincent**  
Notice details 244 Vincent Street, Leederville, Western Australia 6007  
[Facsimile \(08\) 9273 6099](#)  
[Attention: John Giorgi JP](#)

3 January 2006

Name **City of Wanneroo**  
Short form name **City of Wanneroo**  
Notice details 23 Dundobar Road, Wanneroo, Western Australia 6065  
[Facsimile \(08\) 9405 5499](#)  
[Attention: Charles Johnson](#)

## Background

- A The Participants are the owners of the Land, in the shares set out in Schedule 1.
- B The Participants wish to ensure that the Land is rezoned, subdivided, developed and sold and, for that purpose, have agreed to the establishment of the [TPCRC](#) and the transfer of the Land to the [TPCRC](#).
- C ~~Each of the Participants has resolved, on the dates referred to in Schedule 2, to enter into this Establishment Agreement and to submit it to the Minister for approval under section 3.61 of the Act. In 2005, each of the Participants resolved, on the dates referred to in Schedule 2, to enter into an Establishment Agreement and to submit it to the Minister for approval under section 3.61 of the [Act](#).~~
- D In 2023 each of the Participants resolved, on the dates referred to in Schedule 3, to endorse a revised Establishment Agreement and submit it for approval under section 3.65 of the Act.
- E The 2023 version of the Establishment Agreement supersedes the 2005 Establishment Agreement in its entirety.

**Commented [DG1]:** Gazetted by Minister for Local Government on 3 February 2006.

**Formatted:** Font: (Default) Arial

## Agreed terms

---

### 1. Defined terms

In this Establishment Agreement:

**Act** means the *Local Government Act 1995* and includes the regulations made under the Act.

**Budget Deficiency** has the same meaning as the expression 'budget deficiency' is given in Part 6 of the Act.

Note: The expression 'budget deficiency' is defined by section 6.1 of the Act to mean:

'in relation to a financial year, the amount referred to in section 6.2(2)(c)'.  
'

Section 6.2(2)(c) refers to:

'the amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income'.

**CEO** means the chief executive officer of [TPCRC](#).

**Divestment Notice** means a notice in writing stating that a Participant wishes to sell their interest in the Land.

**Divesting Participant** means a Participant who has given written notice to other Participants that it is selling its interest in the Land.

**Land** means so much of:

- (a) the land, being part of Lot 118 Mindarie, that is comprised within Areas 3, 7 and 10 on the plan in Schedule-45;
- (b) any other land, being part of Lot 118 Mindarie, comprising or within Areas 5 and 16 on the plan in Schedule-45;
  - (i) that is rezoned 'Urban' under the *Metropolitan Region Scheme*; and
  - (ii) in respect of which any lease to the Mindarie Regional Council has been surrendered;
- (c) any other land between Lot 118 and the Mitchell Freeway Reserve that is transferred to the Participants of the [TPRCRC](#) as a result of negotiations with the State under the Bush Forever Policy;
- (d) any other land, adjacent to the land described in paragraphs (a)-(c) above, that may be acquired by the [TPRCRC](#) for the purpose of undertaking its obligations in relation to the land described in paragraphs (a)-(c) above; and
- (e) any other land, in the near vicinity of the land described in paragraphs (a)-(c) above, that may be acquired by the [TPRCRC](#) in exchange for any other land owned by the [TPRCRC](#) for the purpose of undertaking its obligations in relation to the land described in paragraphs (a)-(c) above,

as is owned, from time to time, by the Participants (jointly) or the [TPRCRC](#).

**Lot 118 Mindarie** means Lot 118 on Deposited Plan 28300 being the whole of the land in the Certificates of Title:

- (a) 2213/691 (the 1/12<sup>th</sup> share of City of Perth);
- (b) 2213/692 (the 1/12<sup>th</sup> share of the Town of Cambridge);
- (c) 2213/693 (the 1/12<sup>th</sup> share of the Town of Victoria Park);
- (d) 2213/694 (the 1/12<sup>th</sup> share of Town of Vincent);
- (e) 2213/695 (the 4/12<sup>th</sup> shares of City of Stirling);
- (f) 2213/696 (the 2/12<sup>th</sup> shares of City of Joondalup); and
- (g) 2213/697 (the 2/12<sup>th</sup> shares of City of Wanneroo).

**Minister** means the Minister of the Crown to whom the administration of the Act is for the time being committed by the Governor and includes a Minister of the Crown for the time being acting for or on behalf of the Minister.

**Operative Date** means the date on which the Minister declares, by notice in the Gazette under section 3.61(4) of Act, that the [TPRCRC](#) is established.

**Participants** means the parties to this Establishment Agreement and **Participant** means any one of them.

**Region** means the districts of the Participants.

**Regional Purpose** means the purpose referred to in clause 4.

**Remaining Participant** means all parties to this Establishment Agreement who are not engaged in the process of Divestment.

**Surplus**, for a financial year, means the amount, if any;

- (a) by which the revenue and income of the [TPRCRC](#) exceeds its expenditure; and
- (b) which is shown as a surplus in the annual financial report, for that year, prepared by the [TPRCRC](#) in accordance with the Act.

[TPRCRC](#) means the [Tamala Park-Catalina](#) Regional Council.

[TPRCRC Council](#) means the council of the [TPRCRC](#).

**Valuer** means:

A person who:

(a) is licensed under the *Land Valuers Licensing Act 1978*; and

(b) either:

(i) is a fellow or associate of the Australian Property Institute (Inc) (WA Division) of not less than five years standing; or

(ii) has not had less than five years practical experience in Western Australia in the valuation of properties of the same general classification as the land.

**Withdrawal Notice** means a written notice given to Participants and to CRC by a Participant who wishes to withdraw stating that wish,

**Withheld Sum** means the sum reasonably necessary to be withheld from a Surplus distribution under clause 9.1 having regard to:

- (a) the [TPRCRC](#)'s objectives, including its objective to maximise, within prudent risk

Formatted: Font: Not Bold

Formatted: Indent: Left: 2 cm, Hanging: 1 cm, Numbered + Level: 2 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 2.27 cm + Indent at: 2.9 cm

Formatted: Font: Not Bold

- parameters, the financial return to the Participants; and
- (b) the ~~TPRCRC~~'s need to maintain a positive cash flow balance for operational costs and approved development works.

## 2. Name

The name of the regional local government is the ~~Tamala Park~~Catalina Regional Council.

Notes:

1. Section 3.62(1) of the Act provides that a regional local government is a body corporate with perpetual succession and a common seal.
2. A regional local government has the same general function of a local government, including its legislative and executive functions. See sections 3.61(1) and 3.66 of the Act.
3. Except as stated in section 3.66, the Act applies to a regional local government as if:
  - (a) the Participants' districts together made up a single district; and
  - (b) the regional local government were the local government established for that district.
4. Section 3.66(2) provides that a regional local government can only do things for the regional purpose (see clause 4 below).

### 3. Region

The [TPRCRC](#) is established for the Region.

### 4. Regional purpose

The regional purpose for which the [TPRCRC](#) is established is:

- (a) to undertake, [development and sale of the Land](#) in accordance with the objectives, ~~the rezoning, subdivision, development, marketing and sale of the Land~~; and
- (b) to carry out and do all other acts and things which are reasonably necessary for the bringing into effect of the matters referred to in paragraph (a) of this clause.

Note:

In certain circumstances, a proposal to undertake a Regional Purpose may require the preparation of a business plan under the Act- see section 3.59 of the Act.

### 5. Objectives

- (a) The objectives of the [TPRCRC](#) are:
  - (i) to develop and improve the value of the Land;
  - (ii) to maximise, within prudent risk parameters, the financial return to the Participants;
  - (iii) to balance economic, social and environmental issues; and
  - (iv) to produce a quality development demonstrating the best urban design and development practice.
- (b) A failure or alleged failure of the [TPRCRC](#) to meet any of the objectives set out in this clause:
  - (i) is not to affect the obligations of a Participant to comply with this Establishment Agreement; and
  - (ii) is not to give rise to any claim or entitlement to damages on the part of a Participant.

Note:

Administrative law remedies may be available to a Participant in relation to the [TPRCRC](#)'s observance of the objectives set out in this clause.

### 6. The Council

#### 6.1 Appointment of members

- (a) Each Participant is to appoint a member or members of the council of the Participant to be a member or members of the [TPRCRC](#) Council:
  - (i) from the Operative Date – in the numbers set out in Schedule ~~34~~; and
  - (ii) from any change to the Participants – in the numbers agreed under clause 11.5(c).

- (b) A Participant may appoint a member or members of the council of the Participant as an alternate member or members for the member or members appointed by that Participant under paragraph of this clause.
- (c) An alternate member may act temporarily in place of the member, for whom he or she was appointed an alternate member, during any period in which the latter is unable, by reason of illness, temporary absence from the State, conflict of interest or for any other cause, to perform the functions of the office.

Note: section 3.62(b) of the Act provides that a regional local government is to have, as its governing body, a council established under the establishment agreement and consisting of members of the councils of the Participants.

## 6.2 Tenure of members of the **TPRCRC** Council

A member of the **TPRCRC** Council is to hold office until:

- (a) the Friday before the ordinary local government elections, currently held every 2 years in May, or at such other time as may be prescribed for the ordinary local government elections by the Act (local government elections), after the Operative Date;
- (b) the member's office, as a member of the council of the Participant, becomes vacant; or
- (c) the member's appointment is terminated by the Participant,

whichever occurs first.

Note: sections 2.32 and 2.33 of the Act set out circumstances in which the office of a member of a council becomes vacant and section 4.4 of the Act deals with ordinary elections for local governments.

## 6.3 Election of **chairman** and deputy **chairman**

- (a) The members of the **TPRCRC** Council are to elect a **chairman** and a deputy **chairman**:
  - (i) at the first meeting of the **TPRCRC** Council following the Operative Date;
  - (ii) at the first meeting of the **TPRCRC** Council following the first Saturday:
    - (A) after the local government elections following the Operative Date; and
    - (B) after the local government elections every 2 years after the Operative Date.
- (b) If the office of **chairman** or deputy **chairman** becomes vacant then the members of the **TPRCRC** Council are to elect a new **chairman** or deputy **chairman**, as the case requires.
- (c) The election referred to in subclause (b) is to take place:
  - (i) in the case of the office of **chairman** - in accordance with the provisions of Division 1 of Schedule 2.3 of the Act applying to the election of mayors and presidents; and
  - (ii) in the case of the office of deputy **chairman** - in accordance with the provisions of Division 2 of Schedule 2.3 of the Act applying to the election of deputy mayors and deputy presidents.

## 6.4 Tenure of **chairman** and deputy **chairman**

A **chairman** or deputy **chairman** is to hold that office from the date of election under clause 6.3 until:

- (a) he or she ceases to be a member of the **TPRCRC** Council, otherwise than under clause 6.2(a);
- (b) the election of a new **chairman** or deputy **chairman**, as the case may be; or
- (c) the expiry of the period of 2 years from the date of the last local government elections,

whichever occurs first.

## 6.5 Role of [chairmanchair](#)

The [chairmanchair](#):

- (a) presides at meetings of the [TPRCRC](#) Council;
- (b) carries out civic and ceremonial duties on behalf of the [TPRCRC](#);
- (c) speaks on behalf of the [TPRCRC](#);
- (d) performs such other functions as are given to the [chairmanchair](#) by the Act, any other written law or this Agreement; and
- (e) liaises with the CEO on the [TPRCRC](#)'s affairs and the performance of its functions.

Notes:

- 1. The role of the [TPRCRC](#) Council is set out in section 2.7 of the Act and is identical to the role of the council of a local government.
- 2. The functions of the CEO are set out in section 5.41 of the Act.
- 3. The [chairmanchair](#) may agree to the CEO speaking on behalf of the [TPRCRC](#) – see section 5.41(f) of the Act.

## 6.6 Role of deputy [chairmanchair](#)

- (a) The deputy [chairmanchair](#) performs the functions of the [chairmanchair](#) when authorised to do so under this clause.
- (b) If:
  - (i) the office of [chairmanchair](#) is vacant; or
  - (ii) the [chairmanchair](#) is not available or is unable or unwilling to perform the functions of [chairmanchair](#),then the deputy [chairmanchair](#) may perform the functions of [chairmanchair](#).

## 6.7 Role of members of [TPRCRC](#) Council

A member of the [TPRCRC](#) Council:

- (a) represents the interests of the ratepayers and residents of the Region;
- (b) facilitates communication between the community of the Region and the [TPRCRC](#) Council;
- (c) participates in the [TPRCRC](#)'s decision-making processes at meetings of the [TPRCRC](#) Council and its committees; and
- (d) performs such other functions as are given to the member by the Act or any other written law.

## 7. The Land

### 7.1 Transfer

- (a) When requested by the [TPRCRC](#) Council, the Participants are to transfer to the [TPRCRC](#) that part of the Land that is owned by the Participants.
- (b) To avoid doubt:
  - (i) the [TPRCRC](#) Council is not required to make a request under Clause 7.1(a); and
  - (ii) if no request is made by the [TPRCRC](#) Council under Clause 7.1(a) in relation to any part of the Land that is owned by the Participants, [TPRCRC](#) may arrange for that part of the Land to be transferred directly from the Participants to third party.

## 7.2 Documentation

The Participants are to execute whatever documentation relating to the Land – such as the transfer of, or other dealings with, the Land – as the [TPRCRC](#) requires to enable it to undertake its Regional Purpose.

## 7.3 Rates equivalent payment

From the date of the transfer of the Land to the [TPRCRC](#), and for so long as the Land, or part of the Land, is owned by the [TPRCRC](#) and is not rateable land under Part 6 of the Local Government Act 1995, the [TPRCRC](#) is to pay to the City of Wanneroo a rates equivalent payment in respect of the Land, or that part of the Land, calculated:

- (a) on the gross rental value - in respect of the Land or that part of the Land, that has been subdivided for the purposes of the sale of lots to the public, from the date that the approved plan or diagram of survey is marked by the Department of Land Information as being in order for dealing;
- (b) on the unimproved value - in respect of the balance of the Land; and
- (c) in respect of (a) and (b), by applying the minimum rate or the general rate in the dollar for unimproved values or gross rental values, as the case requires, but so as not to include any administrative fees or penalties or any specified area rate or differential general rate which is intended to apply only to the Land and to no other land.

## 8. Financial contributions

### ~~8.1 Bush Forever compensation payments~~

~~Each Participant is to ensure that the amount of the State's payment or payments of compensation to that Participant under the Bush Forever Policy in respect of the Land:~~

- ~~(a) is paid to the TPRC directly by the State; or~~
- ~~(b) is paid by the Participant to the TPRC within 14 days of:~~
  - ~~(i) the payment being received from the State by the Participant; or~~
  - ~~(ii) the Operative Date,~~~~whichever occurs later.~~

### 8.21 Annual contributions

If a Budget Deficiency is shown in the annual budget of the [TPRCRC](#), and if the Land has not been transferred to the [TPRCRC](#):

- (a) the [TPRCRC](#) Council may request the Participants to make a contribution; and
- (b) the Participants are to make the contribution, as requested by the [TPRCRC](#) Council, in the proportions set out in Schedule 1.

### 8.32 Other contributions

If the Land has not been transferred to the [TPRCRC](#):

- (a) the [TPRCRC](#) Council may request the Participants to make a contribution for the regional purpose (other than an annual contribution referred to in clause 8.2), including a contribution towards acquisition of any asset of capital nature; and
- (b) the Participants are to make the contribution, as requested by the [TPRCRC](#) Council, in the proportion set out in Schedule 1.

#### **8.43 Manner of payment**

The contributions referred to in clauses 8.2 and 8.3 are to be paid by each Participant to the [TPRCRC](#) in the manner and at the times requested by the [TPRCRC](#) Council.

#### **8.54 Late payment**

Unless otherwise agreed, if a Participant fails to pay to the [TPRCRC](#) a sum of money owing under this clause on or before the due date for payment, that Participant is to pay to the [TPRCRC](#), in addition to the sum of money due and payable, interest at the overdraft rate charged by the [TPRCRC](#)'s bank on amounts of the same size as the unpaid sum, calculated from and including the due date of payment to but excluding the actual date of payment.

#### **8.65 Annual financial statements**

The [TPRCRC](#) is to give to each Participant a copy of the [TPRCRC](#)'s annual financial statements, including details of all assets and liabilities, at the same time as these are submitted each year to the [TPRCRC](#)'s auditors.

### **9. Financial distributions**

#### **9.1 Surplus**

Where there is a Surplus, the [TPRCRC](#):

- (a) is to distribute to the Participants the amount by which the surplus exceeds the Withheld Sum;
- (b) may distribute to the Participants all or part of the Withheld Sum; and
- (c) is to pay the distribution to the Participants in the proportions set out in Schedule 1.

#### **9.2 Other distributions**

On the basis of:

- (a) a quarterly financial report, prepared in accordance with the Act, in respect of a financial year; and
- (b) current budgeted projections for that financial year,

the [TPRCRC](#) Council may determine that an amount not exceeding the [TPRCRC](#)'s excess funds should be distributed to the Participants.

#### **9.3 Manner of distribution**

The payment of any amount under clause 9.1 or 9.2 is to be in the manner and at the time determined by the [TPRCRC](#) Council, having regard to the prudent management of its cashflow and financial requirements.

### **10. Borrowings**

#### **10.1 Act to apply**

Part 6, Division 5, Subdivision 3 of the Act is to apply:

Note:

1. Section 3.66(4) of the Act provides that Part 6, Division 5, Subdivision 3 does not apply in relation to a regional local government unless the Establishment Agreement provides that it does.

2. Part 6, Division 5, Subdivision 3 of the Act deals with borrowings and includes the power to borrow and restrictions on borrowings.

## 10.2 Security

If the land has not been transferred to the TPRCRC, the TPRCRC may give security over any of the financial contributions of the Participants to the TPRCRC's funds as agreed from time to time by the Participants.

## 11. Withdrawal of a Participant

### 11.1 Withdrawal conditions

~~A Participant may withdraw from the TPRC only:~~

- ~~(a) after divesting itself of its interest (if any) in the Land under clause 12; and~~
- ~~(b) in accordance with an agreement in writing between the Participants under this clause.~~

~~A Participant must withdraw from the CRC immediately after, or concurrently with, divestment of ownership interests under Clause 12.~~

### 11.2 Notice

A Participant who wishes to withdraw from the TPRCRC is to give to each of the other Participants and to the TPRCRC, in accordance with clause 11.3, notice in writing of its wish to do so.

### 11.3 Permitted notice periods

A notice under clause 11.2, or under clause 12.3, ~~may be given at any time, must be given within 28 days of any of the following events:~~

- ~~(a) the date on which the State Government provides written acknowledgment of the amount that it has agreed, with the Participants or the TPRC, to pay under its 'Bush Forever' policy;~~
- ~~(b) the date of final adoption by the Western Australian Planning Commission of a structure plan for the development of the Land;~~
- ~~(c) the date of adoption by the TPRC of a detailed implementation plan for the Land; and~~
- ~~(d) the date of completion of the audit of each annual financial report for the TPRC for the preceding financial year, or 30 September, whichever occurs first.~~

### 11.4 Negotiations in good faith

The Participants are to negotiate:

- (a) in good faith with a view to reaching agreement; and
- (b) as soon as practicable following receipt of a notice under clause 11.2.

### 11.5 Requirements of agreement

An agreement under this clause:

- (a) is to specify the date on which the withdrawal is to take effect;
- (b) is to specify either:
  - (i) the amount to be paid to or by the withdrawing Participants; or
  - (ii) the methodology for determining the amount to be paid to or by the withdrawing Participant; and
- (c) is not to take effect unless the other Participants have agreed in writing to vary this Establishment Agreement so as to provide for:

Formatted: Normal, Indent: Left: 0 cm, Hanging: 1 cm, No bullets or numbering

Formatted: Normal, Indent: Left: 0 cm, Hanging: 1 cm, No bullets or numbering

- (i) the determination of the contributions to be made by those Participants to the funds of the [TPRCRC](#);
- (ii) the alteration of either or both of:
  - (A) the number of members of the [TPRCRC](#) Council; and
  - (B) the number of members of the [TPRCRC](#) Council to be appointed by one or more of those Participants; and
- (iii) following the divestment under clause 12:
  - (A) the proportions in which the remaining Participants hold the Land; and
  - (B) the payments to be made under clause 12.

### 11.6 Matters relevant to negotiations

When negotiating under this clause, the Participants are to have regard to:

- (a) the following principles:
  - (i) if the [TPRCRC](#) has an excess of assets over liabilities as shown in the financial statements of the [TPRCRC](#), then:
    - (A) firstly, to the extent that the withdrawing Participant's proportionate entitlement to the excess is sufficient to do so, the withdrawing Participant is to be given credit for its capital contributions as shown in the accounting records of the [TPRCRC](#); and
    - (B) secondly, the withdrawing Participant is to be given credit for any balance remaining of that proportionate entitlement to the excess; or
  - (ii) if the [TPRCRC](#) has an excess of liabilities over assets as shown in the financial statements of the [TPRCRC](#), then the withdrawing Participant is to meet its proportionate liability of the excess; and
- (b) any factor or circumstances considered relevant by the Participants including any financial consequences for the [TPRCRC](#) and the Participants other than the withdrawing Participant, associated with any contractual obligations of the [TPRCRC](#), by reason of the proposed withdrawal.

### 11.7 Failure to reach agreement

Any failure by the Participants to reach agreement under this clause is not to be treated as a dispute for the purpose of clause 14.

## 12. Divestment of ownership interests

### 12.1 Definitions

In this clause:

- (a) 'Divesting Participant' means a Participant who has an ownership interest in the Land and wishes to divest itself of that interest; and
- (b) 'Remaining Participant' means each other Participant.

### 12.2 Divestment only under this clause

A Participant is not to divest itself of its ownership interest in the Land otherwise than in accordance with this clause.

### 12.3 Notice

Where a Participant has decided to pursue a divestment of their ownership interests:

- (a) ~~A~~ a Divesting Participant is to give to each Remaining Participant and to the ~~TPRCRC~~, in accordance with clause 11.3, notice in writing of its proposed divestment. The notice shall include:
  - (i) a copy of the Valuation referred to in 12.7; and
  - (ii) a timeline for the delivery of the Divestment transaction that outlines key transaction timelines for both the Divesting Participant and Remaining Participants, noting that the timeline shall:
    - (A) be compliant with provisions of this agreement;
    - (B) be compliant with the requirements of the Act;
    - (C) stipulate the date by which Remaining Participants are to respond to the Divestment notice; and
    - ~~(A)~~(D) ensure that the withdrawal transaction can be completed as soon as is practicable whilst providing reasonable and achievable timelines for all parties;
- (b) the Remaining Participants are to respond to the Divestment Notice by the date specified in 12.3(a)(ii)(C);
- (c) where Clauses 12.5 and/or 12.6(c) apply, the timeframe in clause 12.3(b) shall be extended by 30 days (or other such time period as agreed by Divesting Participant and the other Remaining Participants) for each occasion a subsequent offer is taken to be made under clause 12.5; and
- ~~(a)~~(d) a Divestment of ownership interests under this clause 12 may not proceed unless the entirety of the Divesting Participants' interest in the Land is sold to the Remaining Participants under the provisions of this agreement.

Formatted: Space After: 6 pt, Add space between paragraphs of the same style

### 12.4 Offer to Remaining Participants

A notice given under clause 12.3 is taken to be an offer, by the Divesting Participant to the Remaining Participants, to sell its interest in the Land as identified in the notice:

- (a) to the Remaining Participants in the proportion that each of the Remaining Participants' shares bears to the whole of the Remaining Participants' shares; ~~and~~
- (b) in accordance with the most recent valuation that is required to be carried out under clause 12.7; and
- ~~(b)~~(c) in accordance with the timeline set out in the notice or as otherwise agreed in writing by the parties.

### 12.5 Acceptance among Remaining Participants

If a Remaining Participant does not accept the offer under clause 12.4 by the date referred to in 12.3(a)(ii)(C) within 30 days of the notice being given to it, the interest in the Land that could have been accepted by that Remaining Participant:

- (a) is taken to have been made to the other Remaining Participants;
- (b) may be accepted by the other Remaining Participants; ~~and~~
- (c) is to be accepted by such of the other Remaining Participants who wish to accept the offer, in the proportion that each of the other Remaining Participants' shares bears to the whole of the other Remaining Participants' shares- and
- ~~(e)~~(d) acceptance by a Remaining Participant under 12.5(b) and 12.5(c) must be completed within 30 days.

### 12.6 Payment

The acceptance of an offer made by a Divesting Participant is to be subject to terms that:

- (a) interest is to be payable on any part of the accepted price not paid to the Divesting Participant

within 60 days ~~after the date on which the offer is taken to have been made of the later of:~~

(i) ~~the date referred to in 12.3(a)(ii)(C); or~~

~~(ii) where Clause 12.5 and/or Clause 12.6(c) apply the date for acceptance of the last further offer made to the Remaining Participants under Clause 12.5 or 12.6(c);~~

Formatted: Indent: Left: 2 cm, Hanging: 1 cm

(b) if payment of the full amount due to the Divesting Participant has not been made by a Remaining Participant within ~~90 days after the date on which the offer is taken to have been made~~ 60 days of acceptance of the entirety of the Divesting Participant's interest in the Land as offered under Clause 12.3, then the Divesting Participant may, at its option, give notice to that Remaining Participant that the sale to that Remaining Participant is terminated; ~~and~~

(c) if the sale is terminated under paragraph (b), the relevant interest in the Land:

(i) is taken to have been offered to the other Remaining Participants;

(ii) may be accepted by the other Remaining Participants; and

~~(iii) is to be accepted by such of the other Remaining Participants who wish to accept the offer, in the proportion that each of the other Remaining Participants' shares bears to the whole of the other Remaining Participants' shares;~~

~~(d) the payments made to the Divesting Participant by the Remaining Participants may be adjusted to reflect changes to status and/or ownership of the land that may have occurred between the date of Valuation and the date of the acceptance of the offer. Any such adjustments will consider the methodology used in the Valuation obtained under 12.7 of this agreement;~~

Formatted: Space After: 6 pt, Add space between paragraphs of the same style

~~(e) where six or more months have passed between the date of the valuation and the estimated date of settlement of the divestment, the CRC must seek confirmation from the Valuer appointed under 12.7 that the original valuation remains accurate and current;~~

~~(f) if the Valuer instructs that the original valuation is not accurate and current as at the estimated date of settlement of the divestment, the CRC must instruct the Valuer to provide an updated valuation in accordance with 12.7;~~

~~(g) if 12(6)(f) applies the updated valuation is to be the basis of adjustments made under 12.(6)(d); and~~

~~(iii)(h) the timeline provided in Clause 12.3(b) is to be extended to provide for a further valuation where required.~~

Formatted: Indent: Left: 1 cm, Hanging: 1.5 cm

## 12.7 Valuation

(a) A Participant who wishes to consider withdrawing from the ~~TPRCRC~~ may ask the ~~TPRCRC~~ to arrange, at ~~its cost the Withdrawing Participant's cost~~, for the Land to be valued by a licensed valuer within 14 days ~~of any of the dates specified in clause 11.3.~~

~~(b) The ~~TPRCRC~~ is to comply with a request made under paragraph (a) and arrange for a valuation as soon as is practicable.~~

~~(c) The CRC must instruct the Valuer appointed under 12.7(a) to determine the valuation methodology for valuation of the Land in accordance with proper and accepted industry practice and considering all of the relevant factors, matters and variables used in proper land valuation have been taken into account.~~

Formatted: Space After: 6 pt, Add space between paragraphs of the same style

~~(d) The CRC must instruct the appointed Valuer to:~~

~~(i) give a written valuation of the Land setting out what was taken into account, what was disregarded, their respective weightings and any other adjustments;~~

~~(ii) act as an independent expert; and~~

~~(b)(iii) provide the valuation as soon as practicable but in no longer than 45 days.~~

Formatted: Indent: Left: 2 cm, Hanging: 1 cm

## 12.8 Requirements of the Act

Each Participant is to comply with the requirements of the Act that affect the sale and purchase of an

interest in the Land, such as the current requirements relating to a major land transaction.

## 13. Winding up

### 13.1 Winding up by agreement

The Participants may, by agreement, wind up the [TPRCRC](#).

### 13.2 Division of assets

- (a) If the [TPRCRC](#) is to be wound up and there remains, after satisfaction of all its debts and liabilities, any property and assets of the [TPRCRC](#) then the property and assets are to be realised and:
  - (i) the proceeds, along with any surplus funds, are to be used to repay to the Participants their respective capital contributions as shown in the accounting records of the [TPRCRC](#); and
  - (ii) the balance, if any, is to be divided among the Participants in the proportions set out in Schedule 1.
- (b) For the avoidance of doubt, for the purposes of subclause (a), any capital contributions of the Participants do not accrue interest.

### 13.3 Division of liabilities

If the [TPRCRC](#) is to be wound up and there remains any liability or debt in excess of the realised property and assets of the [TPRCRC](#), then the liability or debt is to be met by each of the Participants in the proportions set out in Schedule 1.

## 14. Dispute resolution

### 14.1 No proceedings

A Participant must not start arbitration proceedings in respect of a dispute arising out of this Agreement (**Dispute**) unless it has complied with this clause.

### 14.2 Notification of dispute

A Participant claiming that a Dispute has arisen must notify the [TPRCRC](#) and the other Participants giving details of the Dispute.

### 14.3 Reasonable efforts to resolve Dispute

- (a) During the 14 day period after notification is given under clause 14.2 (or longer period agreed in writing by the Participants) (**Negotiation Period**), the [TPRCRC](#) and the Participants must use their reasonable efforts to resolve the Dispute.
- (b) Although the [TPRCRC](#) and the Participants are responsible for the resolution of the Dispute, within the first 7 days of the Negotiation Period, if the Dispute continues, the chief executive officers of the Participants and the CEO of the [TPRCRC](#) must meet, and use their reasonable endeavours to resolve the Dispute.

### 14.4 Dispute resolution process

If the Dispute is not resolved within the Negotiation Period, the Participants shall meet and endeavour to agree on:

- (a) a process for resolving the Dispute other than by litigation or arbitration (such as by further negotiations, mediation, conciliation or expert determination);
- (b) the procedure and timetable for any exchange of documents and other information relating to

the Dispute;

- (c) the procedural rules and timetable for the conduct of the selected mode of proceeding;
- (d) a procedure for the selection and compensation of any independent persons engaged by the Participants to assist in resolution of the Dispute; and
- (e) whether or not the Participants should seek the assistance of a dispute resolution organisation.

#### 14.5 Arbitration

If the Participants are unable to agree on a process for resolving the Dispute in accordance with clause 14.4 within 21 days after the Negotiation Period then:

- (a) any Participant may notify the others in writing (**Arbitration Notice**) that it requires the dispute to be referred to arbitration; and
- (b) the dispute (unless meanwhile settled), on receipt of the Arbitration Notice by the recipients, is taken to be referred to arbitration under and in accordance with the provisions of the *Commercial Arbitration Act-19852012*.

#### 14.6 Legal representation

For the purposes of the *Commercial Arbitration Act-19852012*, the Participants consent to each other and to the [TPRCRC](#) being legally represented at any such arbitration.

### 15. Interpretation

#### 15.1 Interpretation

In this Establishment Agreement, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations and bodies politic;
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) a reference to a statute, planning scheme, or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (f) references to this or any other document include the document as varied or replaced, and notwithstanding any change in the identity of the parties;
- (g) references to writing include any mode of representing or reproducing words in tangible and permanently visible form;
- (h) an obligation of two or more parties is to bind them jointly and severally;
- (i) if a word or phrase is defined other parts of speech and grammatical forms of that word or phrase have corresponding definitions;
- (j) references to a person or body which has ceased to exist or has been reconstituted, amalgamated, reconstructed or merged, or the functions of which have become exercisable by any other person or body in its place, are to be taken to refer to the person or body established or constituted in its place or by which its functions have become exercisable;

- (k) an obligation incurred in favour of two or more parties is to be enforceable by them jointly and severally;
- (l) reference to any thing (including, without limitation, any amount) 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;
- (m) reference to a month and cognate terms means a period commencing on any day of a calendar month and ending on the corresponding day in the next succeeding calendar month but if a corresponding day does not occur in the next succeeding calendar month the period shall end on the last day of the next succeeding calendar month;
- (n) includes means includes without limitation;
- (o) references to this Establishment Agreement include its schedules.

## 15.2 Headings and footnotes

Headings and footnotes are to be ignored in construing this Establishment Agreement.

## 15.3 Time

- (a) References to time are to local time in Perth, Western Australia; and
- (b) unless otherwise specified, where time is to be reckoned from a day or event, that day or the day of that event is to be excluded.

Note:

### Amendment of Establishment Agreement

1. The Participants may amend this Establishment Agreement by agreement made with the Minister's approval - see section 3.65(1) of the Act.

### Admission of Other Local Governments

2. This Establishment Agreement can be amended to include another local government as a party to the amending agreement - see section 3.65(2) of the Act.

## Schedule 1 – Ownership shares

---

Participant	Share/proportion
Town of Cambridge	$\frac{1}{12}$
City of Joondalup	$\frac{1}{6}$
City of Perth	$\frac{1}{12}$
City of Stirling	$\frac{1}{3}$
Town of Victoria Park	$\frac{1}{12}$
<del>Town</del> City of Vincent	$\frac{1}{12}$
City of Wanneroo	$\frac{1}{6}$

## Schedule 2 – Resolution dates

<b>Participant</b>	<b>Date of resolution to enter into this Establishment Agreement</b>
<b>Town of Cambridge</b>	<b>20 December 2005</b>
<b>City of Joondalup</b>	<b>13 December 2005</b>
<b>City of Perth</b>	<b>13 December 2005</b>
<b>City of Stirling</b>	<b>13 December 2005</b>
<b>Town of Victoria Park</b>	<b>13 December 2005</b>
<b><del>Town</del> <u>City</u> of Vincent</b>	<b>6 December 2005</b>
<b>City of Wanneroo</b>	<b>13 December 2005</b>

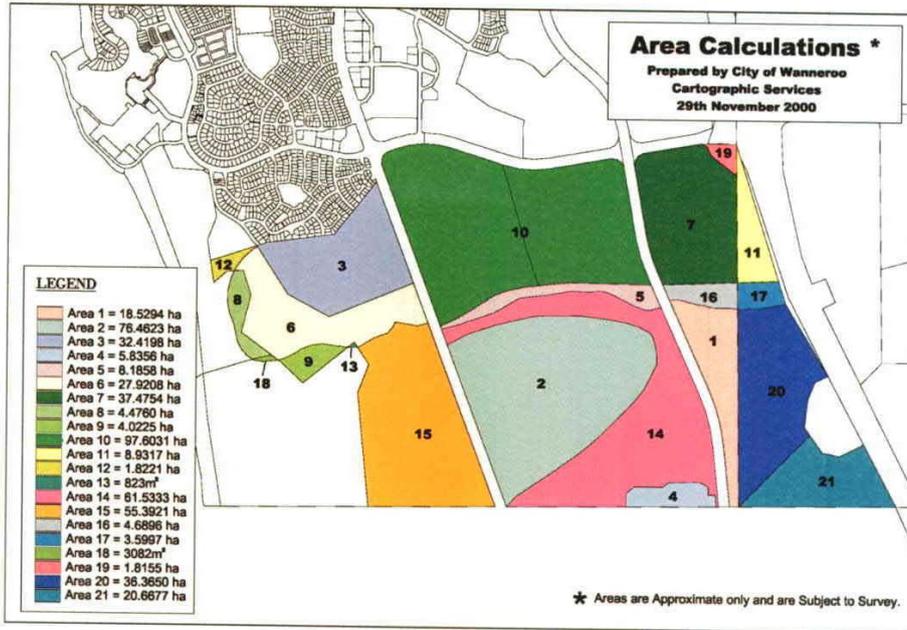
## Resolution dates for revised Establishment Agreement 2023

<u>Participant</u>	<u>Date of resolution to enter into this Establishment Agreement</u>
<u>Town of Cambridge</u>	<u>TBA</u>
<u>City of Joondalup</u>	<u>TBA</u>
<u>City of Perth</u>	<u>TBA</u>
<u>City of Stirling</u>	<u>TBA</u>
<u>Town of Victoria Park</u>	<u>TBA</u>
<u>City of Vincent</u>	<u>TBA</u>
<u>City of Wanneroo</u>	<u>TBA</u>

## Schedule 3 – Number of Members

<b>Participant</b>	<b>Number of Members</b>
<b>Town of Cambridge</b>	<b>1</b>
<b>City of Joondalup</b>	<b>2</b>
<b>City of Perth</b>	<b>1</b>
<b>City of Stirling</b>	<b>4</b>
<b>Town of Victoria Park</b>	<b>1</b>
<del>Town</del> <b>City of Vincent</b>	<b>1</b>
<b>City of Wanneroo</b>	<b>2</b>
<b>Total</b>	<b>12</b>

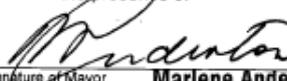
## Schedule 4 – Map of the Land



# Signing page

EXECUTED as an agreement

The common seal of Town of Cambridge is affixed in the presence of

  
Signature of Mayor  
**Marlene Anderton**  
Mayor, Town of Cambridge  
Name of Mayor (print)

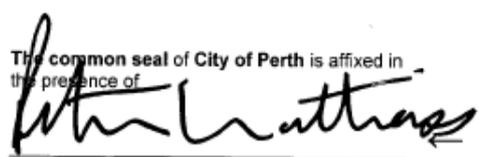
  
Signature of Chief Executive Officer  
**GRAHAM D. PARTRIDGE**  
CHIEF EXECUTIVE OFFICER  
Name of Chief Executive Officer (print)

The common seal of City of Joondalup is affixed in the presence of

  
Signature of Chairman of Commissioners  
**JOHN PATERSON**  
Name of Chairman of Commissioners (print)

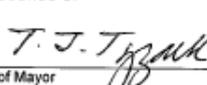
  
Signature of Chief Executive Officer  
**GARY HUNT**  
Name of Chief Executive Officer (print)

The common seal of City of Perth is affixed in the presence of

  
Signature of Lord Mayor  
**PETER NATTHAUS**  
Name of Lord Mayor (print)

  
Signature of Chief Executive Officer  
**FRANK EDWARDS**  
Name of Chief Executive Officer (print)

The common seal of City of Stirling is affixed in the presence of

  
Signature of Mayor  
**TERENCE JOHN TYZACK**  
Name of Mayor (print)

  
Signature of Chief Executive Officer  
**LINDSAY DEAUMONTY**  
Name of Chief Executive Officer (print)



3 January 2006

The common seal of Town of Victoria Park is affixed in the presence of



3 January 2006

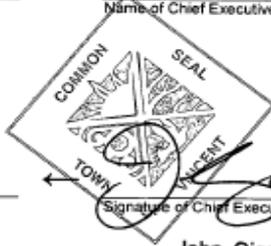
Signature of Mayor *John Lee*

Name of Mayor (print) John A.M. Lee

Signature of Chief Executive Officer *John M. Bonker*

Name of Chief Executive Officer (print) JOHN M. BONKER

The common seal of Town of Vincent is affixed in the presence of



Signature of Mayor *Nick Catania*

Name of Mayor (print) Nick Catania, JP  
MAYOR

Signature of Chief Executive Officer *John Giorgi*

Name of Chief Executive Officer (print) John Giorgi, JP  
CHIEF EXECUTIVE OFFICER

The common seal of City of Wanneroo is affixed in the presence of



Signature of Mayor *Jon Kelly*

Name of Mayor (print) Jon Kelly, JP  
Mayor

Signature of Chief Executive Officer *Charles Johnson*

Name of Chief Executive Officer (print) Charles Johnson

**Approved**

*John Bowler*

**John Bowler JP MLA**  
**Minister for Local Government and Regional Development**

.....24.....1..... 2006

# Establishment Agreement Amendment Agreement

Tamala Park Regional Council

---

Town of Cambridge (**Town of Cambridge**)

City of Joondalup (**City of Joondalup**)

City of Perth (**City of Perth**)

City of Stirling (**City of Stirling**)

Town of Victoria Park (**Town of Victoria Park**)

City of Vincent (**City of Vincent**)

City of Wanneroo (**City of Wanneroo**)

# Table of Contents

---

<b>Details</b>	<b>1</b>
<b>Agreed terms</b>	<b>2</b>
1. Defined terms	2
2. Interpretation	2
3. Amendments	2
<b>Schedule 1 – Resolution dates</b>	<b>7</b>
<b>Signing page</b>	<b>8</b>

---

# Details

---

## Parties

### **Town of Cambridge**

of 1 Bold Park Drive, Floreat, Western Australia, 6014  
(**Town of Cambridge**)

### **City of Joondalup**

of 90 Boas Avenue, Joondalup, Western Australia, 6019  
(**City of Joondalup**)

### **City of Perth**

of Council House, 27 St Georges Terrace, Perth, Western Australia, 6000  
(**City of Perth**)

### **City of Stirling**

of 25 Cedric Street, Stirling, Western Australia, 6021  
(**City of Stirling**)

### **Town of Victoria Park**

of 99 Shepperton Road, Victoria Park, Western Australia, 6100  
(**Town of Victoria Park**)

### **City of Vincent**

of 244 Vincent Street, Leederville, Western Australia, 6007  
(**City of Vincent**)

### **City of Wanneroo**

of 23 Dundobar Road, Wanneroo, Western Australia, 6065  
(**City of Wanneroo**)

## Background

- A The Participants are the parties to the Principal Establishment Agreement.
- B Each of the Participants has resolved, on the dates referred to in Schedule 1, to amend the Principal Establishment Agreement on the terms set out in this Amendment Agreement, and to submit it to the Minister for approval under section 5.65 of the Act.

# Agreed terms

---

## 1. Defined terms

In this Amendment Agreement:

**Amendment Agreement** means Establishment Agreement Amendment Agreement; and

**Principal Establishment Agreement** means the Establishment Agreement, executed by each of the Participants, that was approved by the Minister on 24 January 2006.

## 2. Interpretation

The terms used in this Amendment Agreement:

- (a) have the same meaning as those that are given in the Principal Establishment Agreement; and
- (b) are to be interpreted as if those terms were included in the Principal Establishment Agreement.

## 3. Amendments

The Principal Establishment Agreement is amended:

- (a) In Background, paragraph C, delete “Each of the Participants has resolved, on the dates referred to in Schedule 2, to enter into this Establishment Agreement and to submit it to the Minister for approval under section 3.61 of the Act.” and insert:

“In 2005, each of the Participants resolved, on the dates referred to in Schedule 2, to enter into an Establishment Agreement and to submit it to the Minister for approval under section 3.61 of the Act.”

In Background, after paragraph C, insert:

“D In 2023 each of the Participants resolved, on the dates referred to in Schedule 3, to endorse a revised Establishment Agreement and submit it for approval under section 3.65 of the Act.

E The 2023 version of the Establishment Agreement supersedes the 2006 Establishment Agreement in its entirety.”

- (b) In Clause 1 – Defined Terms insert:

“**Divestment Notice** means a notice in writing stating that a Participant wishes to sell their interest in the Land.

**Divesting Participant** means a Participant who has given written notice to other Participants that it is selling its interest in the Land.

**Remaining Participant** means all parties to this Establishment Agreement who are not engaged in the process of Divestment.

**Valuer** means:

A person who:

- (a) is licensed under the *Land Valuers Licensing Act 1978*; and

- (b) either:
  - (i) is a fellow or associate of the Australian Property Institute (Inc) (WA Division) of not less than five years standing; or
  - (ii) has not had less than five years practical experience in Western Australia in the valuation of properties of the same general classification as the land.

**Withdrawal Notice** means a written notice given to Participants and to CRC by a Participant who wishes to withdraw stating that wish.”

- (c) In Clause 2 – Name delete “Tamala Park” and insert:

“Catalina”

- (d) In Clause 4(a), after the words “to undertake” insert:

“, development and sale of the Land”

And delete “the rezoning, subdivision, development, marketing and sale of the Land”.

- (e) In Clause 6.3, delete all references to “chairman” and insert:

“chair”

- (f) In Clause 6.4, delete all references to “chairman” and insert:

“chair”

- (g) In Clause 6.5, delete all references to “chairman” and insert:

“chair”

- (h) In Clause 6.6, delete all references to “chairman” and insert:

“chair”

- (i) In Clause 8.1, delete the clause.

- (j) In Clause 11.1 – Withdrawal conditions, delete the words

“A Participant may withdraw from the TPRC only:

- (a) after divesting itself of its interest (if any) in the Land under clause 12; and
- (b) in accordance with an agreement in writing between the Participants under this clause.”

and insert:

“A Participant must withdraw from the CRC immediately after, or concurrently with, divestment of ownership interests under Clause 12.”

- (k) In Clause 11.3 – Permitted notice periods delete the words “must be given within 28 days of any of the following events:” and insert:

“may be given at any time.”

and delete subclauses (a) to (d).

- (l) In Clause 12.3 – Notice, delete the words “A Divesting Participant is to give to each Remaining Participant and to the TPRC, in accordance with clause 11.3, notice in writing of its proposed divestment.” and insert:

“Where a Participant has decided to pursue a divestment of their ownership interests:

- (a) a Divesting Participant is to give to each Remaining Participant and to the CRC, in accordance with clause 11.3, notice in writing of its proposed divestment. The notice shall include:
- (i) a copy of the Valuation referred to in 12.7; and
  - (ii) a timeline for the delivery of the Divestment transaction that outlines key transaction timelines for both the Divesting Participant and Remaining Participants, noting that the timeline shall:
    - (A) be compliant with provisions of this agreement;
    - (B) be compliant with the requirements of the Act;
    - (C) stipulate the date by which Remaining Participants are to respond to the Divestment notice; and
    - (D) ensure that the withdrawal transaction can be completed as soon as is practicable whilst providing reasonable and achievable timelines for all parties.
- (b) the Remaining Participants are to respond to the Divestment Notice by the date specified in 12.3(a)(ii)(C);
- (c) where Clauses 12.5 and/or 12.6(c) apply, the timeframe in clause 12.3(b) shall be extended by 30 days (or other such time period as agreed by Divesting Participant and the other Remaining Participants) for each occasion a subsequent offer is taken to be made under clause 12.5; and
- (d) a Divestment of ownership interests under this clause 12 may not proceed unless the entirety of the Divesting Participant’s interest in the Land is sold to the Remaining Participants under the provisions of this agreement.”
- (l) In Clause 12.4 – Offer to Remaining Participants, after subclause (b) insert:
- (c) in accordance with the timeline set out in the notice or as otherwise agreed in writing by the parties.”
- (m) In Clause 12.5 – Acceptance among Remaining Participants, delete the words “within 30 days of the notice being given to it” and insert:
- “by the date referred to in 12.3(a)(ii)(C)”
- and after subclause (c) insert:
- “
- (d) acceptance by a Remaining Participant under 12.5(b) and 12.5(c) must be completed within 30 days.”
- (n) In Clause 12.6 – Payment, delete the words “after the date on which the offer is taken to have been made” and insert:

“of the later of:

- (i) the date referred to in 12.3(a)(ii)(C); or
- (ii) where Clause 12.5 and/or Clause 12.6(c) apply the date for acceptance of the last further offer made to the Remaining Participants under Clause 12.5 or 12.6(c);”

In subclause (b) delete the words “90 days after the date on which the offer is taken to have been made” and insert:

“60 days of acceptance of the entirety of the Divesting Participant’s interest in the Land as offered under Clause 12.3”

After subclause (c) (iii) insert:

“

- (d) the payments made to the Divesting Participant by the Remaining Participants may be adjusted to reflect changes to status and/or ownership of the land that may have occurred between the date of Valuation and the date of the acceptance of the offer. Any such adjustments will consider the methodology used is the Valuation obtained under 12.7 of this agreement;
  - (e) where six or more months have passed between the date of the valuation and the estimated date of settlement of the divestment, the CRC must seek confirmation from the Valuer appointed under 12.7 that the original valuation remains accurate and current;
  - (f) if the Valuer instructs that the original valuation is not accurate and current as at the estimated date of settlement of the divestment, the CRC must instruct the Valuer to provide an updated valuation in accordance with 12.7;
  - (g) if 12.6(f) applies the updated valuation is to be the basis of adjustments made under 12.6(d); and
  - (h) the timeline provided in Clause 12.3(b) is to be extended to provide for a further valuation where required.”
- (o) In Clause 12.7 – Valuation, in subclause (a) delete the words “its cost” and insert:

“the Withdrawing Participant’s cost”

In subclause (a) delete the words “of any of the dates specified in clause 11.3”

In subclause (b) after the words “paragraph (a)” insert:

“and arrange for a valuation as soon as is practicable.

- (c) The CRC must instruct the Valuer appointed under 12.7(a) to determine the valuation methodology for valuation of the Land in accordance with proper and accepted industry practice and considering all of the relevant factors, matters and variables used in proper land valuation have been taken into account.
- (d) The CRC must instruct the appointed Valuer to:
  - (i) give a written valuation of the Land setting out what was taken into account, what was disregarded, their respective weightings and any other adjustments;
  - (ii) act as an independent expert; and

- (iii) provide the valuation as soon as practicable but in no longer than 45 days.”
- (p) In Clause 14.5 – Arbitration, in subclause (b) delete “*Commercial Arbitration Act 1985*” and insert:  
“*Commercial Arbitration Act 2012*”.
- (q) In Clause 14.6 – Legal representation, delete “*Commercial Arbitration Act 1985*” and insert:  
“*Commercial Arbitration Act 2012*”.
- (r) In Schedule 1 – Ownership shares, delete “Town of Vincent” and insert:  
“City of Vincent”.
- (s) In Schedule 2 – Resolution dates, delete “Town of Vincent” and insert:  
“City of Vincent”.
- (t) Insert after Schedule 2 a new table – Resolution dates for revised Establishment Agreement 2023:

<b>Participant</b>	<b>Date of resolution to enter into this Establishment Agreement</b>
<b>Town of Cambridge</b>	<b>TBA</b>
<b>City of Joondalup</b>	<b>TBA</b>
<b>City of Perth</b>	<b>TBA</b>
<b>City of Stirling</b>	<b>TBA</b>
<b>Town of Victoria Park</b>	<b>TBA</b>
<b>City of Vincent</b>	<b>TBA</b>
<b>City of Wanneroo</b>	<b>TBA</b>

- (u) In Schedule 3 – Number of Members, delete “Town of Vincent” and insert:  
“City of Vincent”.

# Schedule 1 – Resolution dates

---

<b>Participant</b>	<b>Date of resolution to enter into this Amendment Agreement</b>
Town of Cambridge	[ <i>add day and month</i> ] 2023
City of Joondalup	[ <i>add day and month</i> ] 2023
City of Perth	[ <i>add day and month</i> ] 2023
City of Stirling	[ <i>add day and month</i> ] 2023
Town of Victoria Park	[ <i>add day and month</i> ] 2023
City of Vincent	[ <i>add day and month</i> ] 2023
City of Wanneroo	[ <i>add day and month</i> ] 2023

# Signing page

---

EXECUTED [**add day and month**] 2023

**THE COMMON SEAL** of the **Town of Cambridge** is affixed in the presence of -

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of Mayor (print)

\_\_\_\_\_  
Name of Chief Executive Officer (print)

**THE COMMON SEAL** of the **City of Joondalup** is affixed in the presence of -

\_\_\_\_\_  
Signature of Chairman of Commissioners

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of Chairman of Commissioners (print)

\_\_\_\_\_  
Name of Chief Executive Officer (print)

**THE COMMON SEAL** of the **City of Perth** is affixed in the presence of -

\_\_\_\_\_  
Signature of Lord Mayor

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of Lord Mayor (print)

\_\_\_\_\_  
Name of Chief Executive Officer (print)

**THE COMMON SEAL** of the **City of Stirling** is affixed in the presence of -

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of Mayor (print)

\_\_\_\_\_  
Name of Chief Executive Officer (print)

**THE COMMON SEAL** of the **Town of Victoria Park** is affixed in the presence of -

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of Mayor (print)

\_\_\_\_\_  
Name of Chief Executive Officer (print)

**THE COMMON SEAL** of the **City of Vincent** is affixed in the presence of -

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of Mayor (print)

\_\_\_\_\_  
Name of Chief Executive Officer (print)

**THE COMMON SEAL** of the **City of Wanneroo** is affixed in the presence of -

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Name of Mayor (print)

\_\_\_\_\_  
Name of Chief Executive Officer (print)

**Approved**

**Hon. John Newton Carey MLA**  
**Minister for Housing; Lands; Homelessness; Local Government**

**[add day and month] 2023**