

KARRATHA CITY CENTRE ACTIVATION & FUNDING DEED

LandCorp
City of Karratha

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KARRATHA CITY CENTRE ACTIVATION AND FUNDING DEED

PARTIES:

Name:	Western Australian Land Authority trading as LandCorp	LandCorp
Address:	Level 6, 40 The Esplanade Perth Western Australia	

Name:	City of Karratha	City
Address:	Lot 1083 Welcome Road Karratha Western Australia	

BACKGROUND

- (a) LandCorp is responsible for the revitalisation of the Karratha City Centre through the Royalties for Regions funded Karratha City Centre Infrastructure Project.
- (b) LandCorp has agreed to provide Funding to enable the City to activate the City Centre through certain Events.
- (c) The Parties have agreed to enter into this Deed to record each Party's respective obligations in relation to the funding and management of the Events.

OPERATIVE PART

The Parties agree in consideration of, among other things, the mutual promises contained in this Deed:

1 DEFINITIONS

- 1.1 In this Deed unless inconsistent with the context or subject matter the following terms have the following meanings:

Commencement Date means the last date of execution of this Deed by both Parties.

Deed means this deed.

Events means a signature event or events (as the context requires) and/or activities to be coordinated, supported, undertaken or managed by the City in accordance with this Deed for the purpose of enhancing activation of the Karratha City Centre only.

Funding means a total collective amount not exceeding \$450,000 plus GST or any part of that amount (as the context requires) during the Term.

GST has the meaning given in Section 195-1 of the GST Act.

GST Act means A New Tax System (Goods & Services Tax) Act 1999 and any legislation substituting or amending that Act.

Latest Date means 3 years from the Commencement Date or such later date as may be agreed in writing by the Parties.

Parties means LandCorp and the City.

Term means the term as mentioned in **clause 2** of this Deed.

- 1.2 In this Deed, unless the contrary intention appears:
- (a) the provisions of any schedule constitute part of this Deed but all headings are for convenience only and do not affect the interpretation, or form part of this Deed;
 - (b) if a Party consists of more than one person this Deed binds them jointly and each of them severally;
 - (c) a Party includes the party's executors, administrators, successors and permitted assigns. **Including** and similar expressions are not words of limitation;
 - (d) if an act must be done on a specified day which is not a business day, the act must be done instead on the next business day;
 - (e) in the interpretation of this Deed, no rules of construction apply to the disadvantage of any Party because that Party was responsible for the drafting of this Deed or any part of it; and
 - (f) the word "include" used when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind.

2 TERM

This Deed commences on the Commencement Date and expires on the later of:

- (a) the Latest Date; and
- (b) the date upon which all respective obligations of the Parties under this Deed have been satisfied.

3 EVENTS AND COLLABORATION

- 3.1 LandCorp and the City will work together in a collaborative manner to maximize activation of the Karratha City Centre through agreed Events.
- 3.2 The City must coordinate all Events which LandCorp provides Funding in accordance with this Deed.
- 3.3 All Events must be mutually agreed in writing between the City and LandCorp prior to:
- (a) the City agreeing to support, unless with its own funds, any third party to undertake an Event; and
 - (b) LandCorp providing the Funding for the respective Event to the City.
- 3.4 If requested by LandCorp, the City must promptly provide all relevant details (including proposed financial details) relating to an Event and any other reasonably required information relating to the proposed Event.
- 3.5 Subject to clause 3.3, the City must at its cost arrange to coordinate all Events (including but not limited to independently engaging contractors to assist with Events as required). All engagements of contractors for Events must be made between the City and the respective contractors only.

4 FUNDING

- 4.1 Subject to clause 3.3 and the City complying with its obligations under this Deed, LandCorp agrees to provide the Funding to the City on the terms set out in this clause 4.
- 4.2 LandCorp will provide Funding during the Term to those Events that are mutually agreed between the Parties within 30 days of receiving an invoice from the City.

- 4.3 The City must use the Funding provided by LandCorp to fund any agreed Event only and must use the Funding as efficiently and effectively as possible.
- 4.4 If required by LandCorp, the City must promptly provide LandCorp with full details of all income and expenditure for completed Events including itemised accounts showing how the Funding for the specific Event was expended.
- 4.5 The City acknowledges and agrees that LandCorp may in its absolute discretion cease to provide all or part of the Funding during the Term if it is not satisfied with how the Funding is being allocated or spent by the City.
- 4.6 The Parties agree that:
- (a) in order to provide a signature Event in the 2015/2016 financial year, LandCorp will, subject to the terms of this Deed, provide as part of its Funding, the amount of \$150,000 plus GST to the City for the purpose of bringing the Red Dog Festival into the Karratha City Centre. This Event will be held over the 2016 WA Day long weekend and is also proposed to coincide with the official opening of The Quarter Precinct, Karratha; and
 - (b) the distribution of the Funding for the 2016/2017 Financial Year and 2017/2018 Financial Year will be mutually agreed between the Parties.

5 MANAGEMENT & PROMOTION

- 5.1 The Parties agree that the City will have sole responsibility of and maintain the day to day management of all Events. The City will be responsible for any promotion of Events and have the interaction with the public of the City of Karratha.
- 5.2 The City must ensure that all Events:
- (a) are carried out effectively, efficiently, safely and in accordance with any reasonable requirement of LandCorp and all applicable legislation and laws;
 - (b) promote the activation of the Karratha City Centre
 - (c) acknowledge the contribution made by Royalties for Regions.
- 5.3 The Parties agree that LandCorp will during the Term at its election retain a strategic role in the planning and activation activities for the Karratha City Centre as determined by LandCorp acting reasonably.
- 5.4 The Parties agree to meet on a regular basis to ensure the terms and objectives of this Deed are being achieved.
- 5.5 The City permits LandCorp at no charge to undertake marketing activities at all Events reasonably specified by LandCorp including but not limited to:
- (a) distributing LandCorp marketing material (eg. brochures and flyers);
 - (b) installing LandCorp banners and signs; and
 - (c) speaking or being appropriately recognized in any speeches given by, or in any audio or visual marketing undertaken by, the City.

6 DEFAULT

If any Party is in breach of any obligations under this Deed for at least thirty (30) days after notice has been given to the Party in breach and the Party in breach has failed to rectify the breach within that period, the Party not in breach may at any time after that date by notice to the Party in breach terminate this Deed but without:

- (a) affecting any rights and remedies of the Party not in breach under this Deed; or

- (b) releasing the Party in breach from liability in respect of its obligations under this Deed.

7 GOODS AND SERVICES TAX

- 7.1 Any supply made pursuant to in this Deed is exclusive of GST.
- 7.2 The Party or parties to this Deed providing supplies for consideration expressed otherwise than in an amount of money, in accordance with the terms of this Deed, which will constitute a Taxable Supply shall provide a Tax Invoice to the other Party for that Taxable Supply based on the GST exclusive market value of that consideration as determined by the Party making the supply.
- 7.3 A written statement given to the other Party by the supplier of the amount of GST that the other Party is liable to pay on a Taxable Supply made or to be made under this Deed is conclusive between the parties except in the case of an obvious error.
- 7.4 This Deed and supporting material is not a document notifying an obligation to make payment and is not an invoice under the GST Act.

8 DISPUTE RESOLUTION

- 8.1 If there is a dispute, question or difference between the Parties with respect to any matter the subject of this Deed, then the Parties must immediately confer in an effort to settle the dispute, question or difference.
- 8.2 If the Parties fail to agree within fourteen (14) days after first conferring, or if a Party refuses to confer, then the dispute, question or difference must be referred by either or both Parties to a single person acting as an expert (and not as an arbitrator) as agreed between the Parties, or if the Parties cannot agree on an expert, to be appointed upon the request of either Party by the President for the time being of the Law Society of Western Australia (Inc.).

9 COSTS & MISCELLANEOUS

- 9.1 LandCorp will pay its own and the City's reasonable legal costs of and incidental to the negotiation, preparation and execution of this Deed.
- 9.2 LandCorp must pay any duty assessed by the Office of State Revenue on this Deed (if any).
- 9.3 This Deed is to be governed by, and construed according to the laws of Western Australia.
- 9.4 Each Party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia and any court that may hear appeals from any of those courts for any proceedings in connection with this Deed, and waives any right it may have to claim that those courts are an inconvenient forum.
- 9.5 Unless application is mandatory by law, a statute, proclamation, order, regulation or moratorium, present or future, is not to apply to this Deed so as to abrogate, extinguish, impair, diminish, fetter, delay or otherwise affect prejudicially rights, powers, privileges, remedies or discretions given or accruing to a Party.
- 9.6 If a condition, covenant or stipulation of this Deed or the application of them to a person or circumstances is or becomes invalid or unenforceable, the remaining covenants conditions and stipulations are not to be affected by the invalidity or enforceability and each covenant, condition and stipulation of this Deed will be valid and enforceable to the fullest extent permitted by law.
- 9.7 A provision of, or a right created under, this Deed may not be:
- (a) waived except in writing signed by the Party granting the waiver; or

Executed by the Parties as a Deed.

SIGNED on behalf of the **WESTERN AUSTRALIAN LAND AUTHORITY** by person(s) authorised by its Board in accordance with Section 45(2)(b) of the Western Australian Land Authority Act 1992.



Authorised Officer

Matthew Read

Full Name of Authorised Officer



Authorised Officer

STUART NAHAJSKI

Full Name of Authorised Officer

Date: 8/2/ 2016

THE COMMON SEAL of the **CITY OF KARRATHA**

was hereunto affixed in the presence of:

(Signed)

(Position)

(Print Full Name)



COUN

CITUS ADAMS

(Signed)

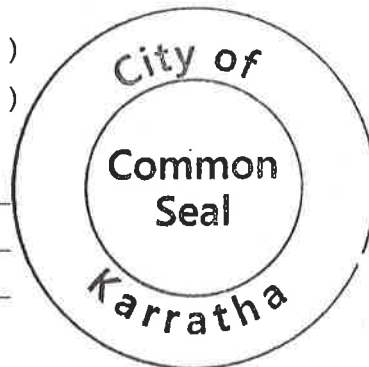
(Position)

(Print Full Name)



MAYOR

Peter J Long



Date: 19 February 2016