Heads of Agreement

for the

Development of the West Park Site

between

Burnie City Council

and

University of Tasmania
1. Background

1.1 The Burnie City Council (the BCC) owns and manages land surrounding the West Park Oval and Sports Facility at Burnie in Tasmania (the West Park Precinct).

1.2 The University of Tasmania (UTAS) has received funding for the construction of student accommodation under the National Rental Affordability Scheme (NRAS) and proposes to construct 40 dwellings (the NRAS Units) within the BCC Municipality.

1.3 An area of land within the West Park Precinct has been identified by UTAS as an appropriate site for the construction of the NRAS Units (the NRAS Site) and associated educational developments.

1.4 Subject to the appropriate terms and conditions of transfer being agreed in accordance with the principles outlined in this Heads of Agreement (HOA), the BCC agrees to transfer the land referred to in clause 2.1 to UTAS, for the purpose of:

a) constructing the NRAS Units; and

b) future development for UTAS’s purposes, including facilities used to support UTAS and student activities.

1.5 The transfer of the land represents the BCC’s in-kind contribution towards the expansion of educational opportunities for the people of the region through the Cradle Coast Campus.

1.6 This Heads of Agreement represents the agreement of the parties at the date of signing and the parties acknowledge that it replaces and supersedes all previous agreements, negotiations and correspondence.

2. Transfer to and Future Development of the West Park Precinct by UTAS

2.1 Subject to this HOA, the BCC will sell to UTAS in the parcels of land described below and identified on the plan at Annexure A (the Plan):

a) that portion of the land contained in Certificate of Title Volume 162920 Folio 1 and 34071 Folio 1 excluding the land on which the Makers’ Workshop is constructed (the NRAS land):

b) that portion of Certificate of Title Volume 137631 Folio 1 but excluding that part of the land on which the road referred to in clause 3.9 is constructed delineated by boundaries identified from points A, B, C and D and on the Plan. The land referred to in this sub-clause is public land within the meaning of that term in Division 1 Part 2 of the Local Government Act; and
c) the land north of the railway line delineated by boundaries identified from
H, I, J, K and L including those portions of land currently vested in the State of
Tasmania (the Northern Site).

2.2 The balance of the land described in Certificate of Title Volume 162920 Folio 1 and
known as the Makers’ Workshop (the Makers’ Workshop Site) will be leased to
UTAS in accordance with the provisions set out in clause 3.

2.3 The sale of the land described in clause 2.1 (a), (b) and (c) will:

a) be for peppercorn consideration; and

b) include all buildings and other improvements on said land including:

(i) the Home Arts Building; and

(ii) the Little Penguin Interpretive Centre (Penguin Centre) and the two band
rooms on the Northern Site (Band Rooms).

2.4 The sale of the land referred to in clause 2.1(a) will be subject to the following
conditions being satisfied:

a) UTAS obtaining development approval for the construction of the NRAS Units to
its satisfaction by 31 December 2013;

b) The registration of a Strata Title scheme in accordance with the provisions of the
Strata Title Act 1998, and comprising 2 lots (the Makers’ Workshop Site and the
NRAS land).

2.5 The sale of the land referred to in clause 2.1(b) will be subject to the following
conditions being satisfied:

a) UTAS obtaining development approval for the construction of the NRAS Units to
its satisfaction by 31 December 2013; and

b) the council complying with the requirements of s.178(4) of the Local
Government Act (the Act) and the council’s decision to sell the land not being
set aside pursuant to section 178(B) of the Act;

c) approval of the subdivision of the land from the balance of the land contained in
Certificate of Title Volume 137631/1 Folio 1.

d) UTAS obtaining development approval for use of the land referred to in clause
2.1(b) for the construction of an educational institution.
2.6 The sale of the land referred to in clause 2.1(c) (Northern Site) will be subject to the following conditions being satisfied:

a) UTAS obtaining development approval for the construction of the NRAS Units to its satisfaction by 31 December 2013; and

b) the council complying with the requirements of s.178(4) of the Act and the council’s decision to sell the land not being set aside pursuant to section 178(B) of the Act; and

c) unencumbered freehold title in all the land referred to in clause 2.1(c) (the Northern Site) vesting in the BCC; and

d) UTAS obtaining development approval for use of the land referred to in clause 2.1(b) for the construction of an educational institution.

2.7 The BCC will use its best endeavours to ensure the satisfaction of clauses 2.4(b) and clauses 2.5(b) & (c).

2.8 In the event that the land referred to in clauses 2.1 (a), (b) and (c) is transferred to UTAS, UTAS must substantially commence development of the land other than the NRAS Units Title for UTAS's educational purposes, including facilities used to support UTAS and student activities (UTAS Educational Purposes) within 10 years of the date of this Agreement.

2.9 In the event that UTAS does not comply with clause 2.8 then:

a) the BCC may immediately resume possession of the land other than the land on which the NRAS Units are built (the NRAS land) (the balance of the land) and exercise its option to purchase the balance of the land. To that end the agreement for sale will include an option for the BCC to purchase the unencumbered freehold interest in the balance of the land for the purchase price of $1.00; and

b) UTAS may retain the NRAS land provided that it pays the BCC an amount representing the market value of the unimproved NRAS Units Title as assessed at the date of the subdivision.

2.10 Should UTAS decide to dispose of the NRAS Units Title at some point in the future, UTAS will first offer to sell it to the BCC for the market value of the NRAS land together with the improvements on it at the time of the proposed sale. The purchase price shall be the market value of the land including the improvements less the market value of the land without improvements, with the market value being determined at the time the option is exercised.
3. **Future use of the land**

**Use of the Land**

3.1 Subject to clause 3.3, UTAS must use the land referred to in clauses 2.1 (a), (b) and (c) exclusively for UTAS’s Educational Purposes.

3.2 UTAS will develop, in consultation with the BCC a site master plan (the **Master Plan**) and concepts for use and development of the land referred to in clauses 2.1(a), (b) and (c) as an education precinct, including establishing a program for implementation of that plan within 2 years after the date of the transfer of the land referred to in clause 2(1)(a).

3.3 The Master Plan shall allow for an area of up to 1 hectare of land to be set aside for a non-educational use or development, subject to the provision that any such use or development exhibits a connection to the development of the entire site as an educational precinct, and provides services complimentary to that use for the benefit of UTAS. To this end, any covenant or Part 5 Agreement pursuant to the Land Use Planning & Appeals Act (**LUPA**) must be in keeping with the overall use of the land as an educational precinct.

**Use of the Makers’ Workshop Site**

3.4 Subject to clause 3.5, the BCC will grant UTAS a lease of the Makers’ Workshop Site (the **Lease**) (a) at peppercorn rent;

(b) for a period of 25 years from the date of transfer of the land referred to in clause 2.1(a) to UTAS;

(c) The Lease will contain an option in favour of UTAS for a further term of 25 years (the **Option Lease**). The parties will negotiate in good faith as to the terms and conditions of the lease.

(d) The Lease will provide UTAS an option to purchase the Makers’ Workshop for $1.00 at the conclusion of the Option Lease. In the event that the BCC decides to sell the Makers’ Workshop Site, UTAS shall be entitled to exercise the option to purchase prior to the expiration of the Option Lease;

(e) Where the BCC re-enters the land under clause 2.9(a), the Lease will be terminated; and

(f) Otherwise on terms and conditions to be negotiated in good faith between the parties.
3.5 UTAS will grant to the BCC a Licence to occupy a part of the Makers’ Workshop Site:

a) for use as the Visitor Centre or other mutually agreed community activity;

b) the location of which is to be suitably prominent and negotiated and mutually agreed between the parties;

c) at peppercorn rent;

d) the area, location and terms and conditions of which are to be negotiated in good faith by the parties.

3.6 The University of Tasmania acknowledges the current purpose and function of the Makers’ Workshop and will develop a transition plan for the Makers’ Workshop in conjunction with the Burnie City Council within six months of signing the agreement to enhance community outcomes through a partnership with Burnie City Council and the community.

3.7 UTAS will be entitled to deal with the Home Arts Building for educational purposes as it sees fit within the constraints of the planning regime.

Use of the Land referred to in clause 2.1 (c) (Northern Site)

3.8 UTAS and the BCC must ensure the following uses/activities continue to occur, after the land is transferred to UTAS, on the Northern Site:

a) part of the Northern Site will continue to be used as an area of environmental management for penguin habitat;

b) part of the Northern Site will be used as public open space including for public car parking; and

c) the Penguin Centre will continue to be operated as such on the terms of this HOA.

3.9 Part of the Northern Site to be used for car parking with such area to be used for both UTAS parking and for public car parking, with the amount of land to be allocated for such parking and other applicable terms to be negotiated in good faith between the parties. It is agreed that the public will have the right to use the Northern Site for car parking when events are staged at West Park Oval and/or the Burnie Park.

3.10 The BCC is to construct at its cost a road from the Bass Highway to the Northern Site. UTAS will contribute 50% of the cost of constructing the road up to a total contribution of $150,000.00. The BCC will negotiate with the Department of
Infrastructure Energy and Resources (DIER) to enable the BCC to construct, at UTAS’s cost, a safe pedestrian and vehicle crossing over the railway line to the South of the Northern Site.

3.11 Subject to clause 3.13, UTAS will grant the BCC a right to occupy the Band Sheds:

a) for a minimum period of 10 years;

b) at peppercorn rent;

c) with all outgoings and maintenance costs to be borne by the BCC;

d) which may be sub-licenced to community groups;

e) otherwise on terms and conditions to be negotiated in good faith between the parties.

3.12 At the end of the 10 year period UTAS will be entitled to deal with the Band Sheds as it sees fit within the constraints of the planning regime.

3.13 If in its discretion UTAS determines to demolish the Band Sheds within the 10 year period referred to in clause 3.11, it will consult with the BCC with a view to relocating the community groups using the Band Sheds to another building at a location elsewhere on the Entire Site, so that the BCC’s right of occupation is secured for the remainder of the 10 year period. Where UTAS exercises its rights under this clause, UTAS will meet the costs of the relocation and re-establishment of the Band Shed.

3.14 UTAS will grant the BCC a right to occupy the building currently used as the Penguin Centre to be used for the same purpose that it is used at the date of this HOA:

a) at peppercorn rent;

b) with all outgoings and maintenance costs to be borne by the BCC; and

c) otherwise on terms and conditions to be negotiated in good faith between the parties.

Disposal of the Land

3.15 Where any land which is the subject of this agreement is sold, gifted or otherwise transferred by UTAS to a third party, UTAS shall pay to the BCC the value of the unimproved land, as assessed by a valuer agreed by the parties with the value being assessed at the date of any such transfer.
4. **Miscellaneous**

4.1 UTAS and the BCC will work to develop a joint communication strategy after the signing of this Heads of Agreement.

4.2 UTAS agrees that the NRAS Units will be of a high standard of construction and consistent with the schematic design prepared by Morrison and Breytenbach Architects.

4.3 UTAS will meet the costs of necessary sub-divisions or consolidations of title to give effect to the creation of relevant titles and transfers of the land referred to in clauses 2.1 (a), (b) and (c) to UTAS, but the BCC will meet the costs of facilitating the transfer of title from the State Government of its interest in the parcels within the Northern Site to the BCC.

4.4 In the event that UTAS has obtained development approval to commence works on the NRAS Units Site or the Makers' Workshop Site prior to registration of the strata title scheme referred to in clause 2.4(b), the BCC shall provide UTAS with an appropriate licence to commence works on those sites.

**Dated:** 20 Sept 2013

**Signed**

Mayor
Steve Kons

Acting Vice-Chancellor
Professor David Rich