

PROPOSED SCHEME  
AMENDMENT –  
REZONING FROM PARKS  
AND RECREATION TO  
RESIDENTIAL R20

LOT 5863 BUTLER WAY, PORT HEDLAND

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Prepared by:



Prepared for:



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# 1. INTRODUCTION

This report has been prepared in support of the request to rezone lot 5863 Butler Way from 'Parks and Recreation' Reserve to 'Residential' with an applicable density coding of R20 in the Town of Port Hedland Town Planning Scheme No. 5.

The land was until recently Crown Reserve created for the purpose of Parks and Recreation. It was never developed for this purpose. Consistent with the Council's previous decisions, supported by the Minister for Lands, the reserve has been cancelled and identified as a potential residential infill site.

The rezoning of the land will facilitate development for residential development consistent with previous resolution of Council and supported by the State Government. It will make best use of land and not compromise the provision of adequate open space in the suburb of Pretty Pool.

The following report addresses site details, local context, servicing and strategic planning considerations which demonstrates the suitability and demand to rezone the site for residential development.

## 2. Land Details

### 2.1 Land Tenure and Existing Use

Lot 5863 Butler Way, Port Hedland is owned by the State of Western Australia and under leasehold to the Town of Port Hedland. The form of lease is a Development Lease. The Permitted Use of the lease is '*Development and Subdivision of the Land for residential purposes...*'. A copy of the Certificate of Title, Plan of Survey and Lease are included in **Appendix 1**.

The land is vacant and was likely created as a result of the historical subdivision of Pretty Pool to meet open space requirements in association with a subdivision approval. There are no records of the site ever being developed as a recreational space.

### 2.2 Site Description and Context

Lot 5863 Butler Way is located in the residential suburb of Pretty Pool in Port Hedland. It has a total land area of 2,156m<sup>2</sup> and has legal street frontage to Pennings Court and Butler Way. The site appears to have been historically cleared of all natural vegetation. A small layer of general scrub land covers the site. The location of the site is shown in **Figure 1**.

The Pretty Pool suburb is comprised predominantly of one and two storey single detached dwellings. Lots sizes range in areas from 400m<sup>2</sup> to 2,000m<sup>2</sup>. Land within Pretty pool is predominantly zoned residential R17.5, with areas in the Pretty Pool Development Plan ranging from R20 – R80.

The most recent green field subdivision in Pretty Pool and the broader Port Hedland area was completed to the east of the site between 2008 and 2012. The area of Pretty Pool is now almost entirely built out with only a few vacant lots remaining.

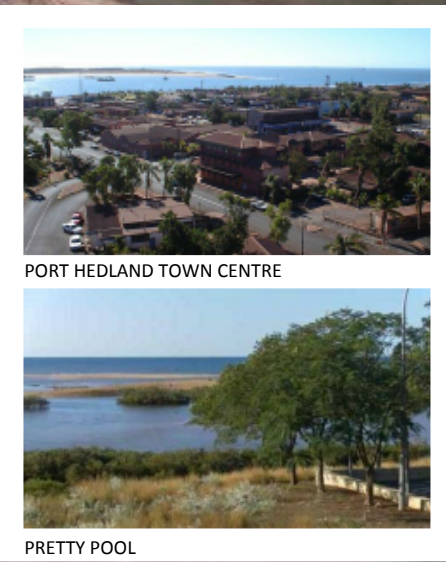
Existing water, power and sewer services area accessible from both Butler Way and Pennings Court.

Existing public open space in the vicinity of the Pretty Pool residential area includes:

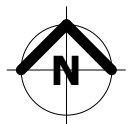
1. Pretty Pool Creek and Coastal Foreshore – The pretty pool creek area and adjoining foreshore area are popular recreational attributes of Port Hedland, providing unique recreational opportunity that reflects the lifestyle of the region. General Recreational use of Pretty Pool creek and the coastal tidal flats (i.e. swimming, fishing, recreational sports, walking, off road vehicle use, horse riding).
2. Pretty Pool Park - Located within the coastal foreshore reserve and accessed from Matheson Drive. The park includes barbeque and picnic facilities along with children's play equipment and a grassed open area. The Town of Port Hedland's amended Foreshore Management Plan (2013) proposes substantially increase the size of Pretty Pool Park to support local and broader popular community use of the space.
3. Yikara Park – Located in the newest area of Pretty Pool. The park also includes barbeque and picnic facilities along with children's play equipment and a grassed open area. It has an area of 7,150m<sup>2</sup>.

The developed parkland areas are both 'neighbourhood parks' being approximately 3,000 – 8,000m<sup>2</sup> in area. These park areas are well situated within the suburb, highly accessible and safe. The majority of houses are within 400m walking distance via the footpath network with a small number of houses being 450 – 550m from the nearest local park. **Figure 2** shows the location of the parks and walking distances to dwellings within Pretty Pool.





1 Location Plan  
1 : 7500



REV	DATE	DESCRIPTION
A	14/11/13	For Review

This concept has been prepared for the purpose of meeting client specifications. The drawing does not constitute an invitation, agreement or contract (or any part thereof) of any kind whatsoever.

Although care has been taken on the compilation of this document by RFF, all parties associated with the proposed property development disclaim any responsibility for any errors or omissions. The right is reserved to change the plan at any time.

Liability is expressly disclaimed by RFF for any loss or damage which may be sustained by any person acting on any visual impression gained from this drawing.

All areas and dimensions shown on this drawing are subject to final survey.

PROJECT ADDRESS  
Lot 5863 Butler Way,  
Port Hedland

DRAWING TITLE  
Location Plan

PROJECT TITLE  
Butler Way, Scheme Amendment

DRAWN: CR	SCALE: 1 : 7500	AT A3
CHECK: CW	PANEL MARK	REV
PROJECT No. 13083	<b>SK01</b>	<b>A</b>





PRETTY POOL CREEK PARK

PRETTY POOL PARK EXPANSION

SITE - LOT 5863 BUTLER WAY

YIKARA PARK

PEDESTRIAN SHED	
●	starting point
—	0-100m
—	100-200m
—	200-300m
—	300-400m



1 POS Plan  
1 : 3000



REV	DATE	DESCRIPTION
A	14/11/13	For Review

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PROJECT ADDRESS  
Lot 5863 Butler Way,  
Port Hedland

DRAWING TITLE  
POS Plan

PROJECT TITLE  
Butler Way, Scheme Amendment

DRAWN: CR	SCALE: 1 : 3000	AT A3
CHECK: CW	PANEL MARK	REV
PROJECT No. 13083	<b>SK03</b>	<b>A</b>



## 2.3 Project Background

The Pilbara Cities Office, now part of the Pilbara Development Commission, established the Lazy Lands program during 2010. The Lazy Lands residential infill project identifies underutilised or surplus Crown land that can be brought into the housing development pipeline.

Pilbara Cities representatives met with Council officers on 21 June 2012 to scope the next round of properties identified as potential residential infill parcel. The subject site was one of those identified.

On 25 July 2012 Council resolved to acquire eleven of the identified properties within the Recreational Reserves for land development projects. This included the subject site. The land parcels identified were undeveloped recreational reserve areas that Council Officers had determined were not required for future provision of Public Open Space. The decision to excise the subject site and cancel its recreation reserve was reaffirmed a second time by Council at its September 26 2012 Ordinary Council meeting.

In late 2012, the Town of Port Hedland was granted a development lease by the Department of Regional Development and Lands (RDL) on Recreation Reserve 40652 Lot 5863 on Deposited Plan 191022, Butler Way Port Hedland. The lease requires development of the land for residential purposes.

The agreement with the Department of Regional Development and Lands allows the Town of Port Hedland to purchase the land parcels at 5% of market value. This is permitted on the condition that all funds raised from subsequent development or sale of the land is reserved for expenditure on upgrades to existing or development of new recreation space in the Town of Port Hedland.

## 3. TOWN PLANNING CONSIDERATIONS

### 3.1 Strategic Planning

#### 3.1.3 Pilbara Planning and Infrastructure Framework

The Pilbara Planning and Infrastructure Framework was adopted by the Department of Planning to provide strategic direction for the future development of the Pilbara region over the next 25 years. It seeks to ensure that development and change in the Pilbara is achieved in a way that improves people's lives and enhances the character and environment of the region.

The key actions in the KPIF regarding the settlement patterns and housing identified include the following relevant points:

- *Identify areas of land for community and recreational needs in growth and redevelopment areas through zoning in local planning schemes.*
- *Facilitate private sector involvement in urban land development.*
- *Continue to undertake work that focuses on accelerating land releases for housing.*
- *Provide serviced residential land in identified growth areas to meet the needs of the labour market.*

#### 3.1.2 Pilbara's Port City Growth Plan

Pilbara's Port City Growth Plan was adopted by the Western Australian Planning Commission as a Local Planning Strategy for the Town of Port Hedland. The Growth Plan sets out the following overarching vision:

*"A nationally significant, friendly City where people want to live and are proud to call home."*

A key theme of the Growth Plan is:

***Housing Diversity & Land Supply Capacity*** – *providing an orderly and adequate supply of affordable land along with increased choice in affordable housing products and tenure options to cater for a diverse and permanent population.*

The Growth Plan identifies affordability and accessibility to housing as critical issues affecting future growth and identifies key actions include:

- *Immediately address critical housing shortage through using Council held land, utilising high quality modular construction methods and providing incentives and other forms of inducement to deliver housing in the next six to twelve months;*
- *Identification of priority land release sites to facilitate significant immediate and short term housing development in a variety of locations*



## 3.2 Statutory Planning and Guidelines

### 3.2.1 Town of Port Hedland Town Planning Scheme No. 5

The subject site is reserved for Parks and Recreation in the Town of Port Hedland Town Planning Scheme No. 5 (TPS5) (refer **Figure 3**). Part 2 of TPS5 address reserves. Clause 2.3 outlines relevant matters to be considered regarding the development of reserves:

*Where an application for planning approval is made with respect to land within a reservation, the Council shall:*

*(a) have regard to the ultimate purpose intended for the reservation,*

*(b) have regard for the intentions of agencies with responsibility for managing and developing the reservation, and*

*(c) confer with the organisations it considers relevant to the reservation and the proposed use or development.*

The Town of Port Hedland has clearly resolved through previous determinations that the land is no longer required for the purpose of parks and recreation. Furthermore, that fact that it was never formally established or used for the purpose intended adds to the fact that the initial reserve purpose may have never been appropriate.

The Town of Port Hedland, in conjunction with Pilbara Cities has also clearly indicated an intention to develop the land for residential development. This is now possible as a result of the granting of a lease by the State Government for this purpose.

In summary, the purpose of the reserve is redundant and an alternative use to make the best use of partially developed land within Port Hedland is consistent with the objectives and actions of Pilbara's Port City Growth Plan.

### 3.2.2 Development Control Policy 2.3 – Public Open Space in Residential Areas

Development Control Policy 2.3, in conjunction with Element 4 of Liveable Neighbourhoods, are policy mechanisms which provide guidance on the appropriate provision of public open space for residential communities. Relevant Provisions of the Policy include:

1. Where practicable, 10 percent of the gross subdivisible area be ceded as Crown Reserve for the provision of public open space.
2. Public open space should include an overall balance between incidental open space, readily accessible to all residents and recreational open space which are larger and more suited to active leisure pursuits. In determining the appropriate mix, location and site identification, the direction of the Local Government should inform the public open space provision.



### 3.2.2 Liveable Neighbourhoods

Element 4 – Parkland provides guidance in relation to the provision of public parkland within residential subdivision. Key objectives relating to the provision of public parkland in residential communities include:

- *To ensure the public open space of appropriate quality and quantity is provided in a timely manner to contribute towards the recreational and social needs of the community in appropriate locations;*
- *to integrate urban water management functions with public open space;*
- *to facilitate the provision for community facilities where appropriate, as part of land ceded for public open space*
- *to protect and conserve margins of water courses, water bodies and wetlands and establish public foreshores along the coast and watercourses to urban development;*
- *to provide public open space is safe and overlooked by nearby buildings;*
- *to facilitate the provision of public open space contribution and its development as part of the subdivision process and to enhance local amenity*
- *to ensure that public open space is integrated into the urban structure to produce both land use and efficiency and long term sustainability*
- *to provide practical cash-in-lieu mechanism for open space allocation and improvements*
- *to provide for regional variations that best reflect the local community requirements*
- *to ensure the provision of adequate land to protect, and to provide public access to, river, creek, lake and ocean foreshore.*

Liveable Neighbourhoods particularly acknowledges the need for regional variations to the provision of public open space and supports in the provision of public parkland in regional areas provided:

- *the public open space is designed, developed and located for the widest possible use of the community, including meeting, recreation, leisure and entertainment;*
- *the public open space is developed to a minimum standard including full earthworks, basic reticulation, grassing of key areas, pathways that form part of the overall pedestrian and/or cycle network..;*
- *adequate areas provided elsewhere for drainage, flooding, particularly overland flow;*
- *public open space is readily available in the community that can be used at all hours of the day or night; and*
- *does not include any restricted open space.*



## 4. PROPOSED SCHEME AMENDMENT

It is requested Council initiate an amendment to the Town of Port Hedland Town Planning Scheme No.5 to rezone Lot 583 Butler Way, Port Hedland from 'Parks and Recreation' reserve to 'Residential R20' in the Town of Port Hedland Town Planning Scheme No. 5.

The rezoning is intended to facilitate the subdivision and subsequent development of the land to provide additional housing. Infill development in Port Hedland is particularly important at the present time given the release of any greenfield subdivision land in the next 2 – 4 years may be limited as a result of environmental and project cost concerns. Infill developments will therefore provide the only opportunity to meet on-going strong demand for housing in Port Hedland.

The Town of Port Hedland may develop the land itself, sell the land to the private market or undertake a joint venture development. Any profit generated from the project will be placed into a reserve to contribute to the improvement in the quality and provision of Public Open Space in Port Hedland.

## 5. JUSTIFICATION

The proposed amendment is considered to be consistent with the strategic and statutory framework outlined above for the following reasons:

1. The Town of Port Hedland has previously considered the matter and resolved the land was not required to meet current or future public open space in Port Hedland.
2. The land is no longer a 'Crown Reserve' for public recreation. A development lease facilitated through the State Government now applies to the land requiring development for residential purposes.
3. Although Pretty Pool may not have the minimum public open space provision required under Development Control Policy 2.3 or Liveable Neighbourhoods, the provision of public parkland in Pretty Pool is considered appropriate with overarching principles regarding public open space in Liveable Neighbourhoods based on the following:
  - a. existing open space is in highly accessible locations whereby almost all dwellings are within 400m walking distance of these spaces;
  - b. the quality of existing parkland in Pretty Pool is high, including grassed area for active recreation but also including play equipment, shade, lighting and barbeque areas ensuring they are capable of use by all members of the population;
  - c. the Pretty Pool area has a comprehensive footpath network which link into the existing park areas ensuring a high level of accessibility;
  - d. the parkland areas are in safe locations where surveillance from adjoining dwellings is good and lighting ensures night use is possible;
  - e. the parkland areas do not perform any drainage function and therefore the spaces are not restricted in their use; and
  - f. the high level of accessibility and use of the foreshore reserve, Pretty Pool creek reserve and tidal flats provide for alternative forms of casual recreation important to the Port Hedland community which conventional public parkland do not.
4. The Town of Port Hedland has recently undertaken a comprehensive review of its foreshore management plan and also developed a trails master plan. Aside from identifying the need for substantial expansion of Pretty Pool Park, these documents highlight recreational investments more akin to Port Hedland recreational activities. Profits generated from the development of the subject site will contribute towards the delivery of well planned new recreational assets in the vicinity of Pretty Pool reflective of the Pilbara lifestyle.
5. The identification and development of the site for infill development has followed due process. It will:
  - a. facilitate additional private investment in the region;
  - b. provide additional housing to address long term demand for housing and the current critical shortage of housing; and
  - c. will deliver of housing in Hedland in a more timely manner whilst larger scale greenfield development projects go through comprehensive due diligence processes.

## 6. SUMMARY

It is requested Council initiate an amendment to the Town of Port Hedland Town Planning Scheme No.5 to rezone Lot 583 Butler Way, Port Hedland from 'Parks and Recreation' reserve to 'Residential R20' in the Town of Port Hedland Town Planning Scheme No. 5.

The amendment will provide for the highest and best use of undeveloped land and assist in addressing the Town's housing shortage and supply gap within the Port Hedland suburb. The amendment will not adversely affect the provision of open space. The area has public parkland offering high amenity, is safe and easily accessible. The proximity to the foreshore reserve also provides for alternative recreation consistent with the lifestyle of Port Hedland residents.

In light of the information and justification included, Council's initiation of the amendment is requested at the earliest opportunity.



**APPENDIX 1  
CERTIFICATE OF TITLE, DEPOSITED PLAN  
& DEVELOPMENT LEASE**

WESTERN



AUSTRALIA

REGISTER NUMBER <b>5863/DP191022</b>	
DUPLICATE EDITION <b>N/A</b>	DATE DUPLICATE ISSUED <b>N/A</b>

**RECORD OF QUALIFIED CERTIFICATE  
OF**

VOLUME  
**LR3100**

FOLIO  
**875**

**CROWN LAND TITLE**

UNDER THE TRANSFER OF LAND ACT 1893  
AND THE LAND ADMINISTRATION ACT 1997

**NO DUPLICATE CREATED**

The undermentioned land is Crown land in the name of the STATE of WESTERN AUSTRALIA, subject to the interests and Status Orders shown in the first schedule which are in turn subject to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 5863 ON DEPOSITED PLAN 191022

**STATUS ORDER AND PRIMARY INTEREST HOLDER:  
(FIRST SCHEDULE)**

**STATUS ORDER/INTEREST: LEASEHOLD**

**PRIMARY INTEREST HOLDER: TOWN OF PORT HEDLAND OF PO BOX 41, PORT HEDLAND  
(LC M129893 ) REGISTERED 11 DECEMBER 2012**

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:  
(SECOND SCHEDULE)**

1. M129893 LEASE. SUBJECT TO THE TERMS AND CONDITIONS AS SET OUT IN THE LEASE.  
REGISTERED 11.12.2012.

- Warning: (1) A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.  
Lot as described in the land description may be a lot or location.
- (2) The land and interests etc. shown hereon may be affected by interests etc. that can be, but are not, shown on the register.
- (3) The interests etc. shown hereon may have a different priority than shown.

-----END OF CERTIFICATE OF CROWN LAND TITLE-----

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: LR3100-875 (5863/DP191022).  
PREVIOUS TITLE: LR3008-556.  
PROPERTY STREET ADDRESS: LOT 5863 BUTLER WAY, PORT HEDLAND.  
LOCAL GOVERNMENT AREA: TOWN OF PORT HEDLAND.  
RESPONSIBLE AGENCY: DEPARTMENT OF LANDS (SLSD).

NOTE 1: A000001A LAND PARCEL IDENTIFIER OF PORT HEDLAND TOWN LOT/LOT 5863 ON  
SUPERSEDED PAPER CERTIFICATE OF CROWN LAND TITLE CHANGED TO LOT 5863

END OF PAGE 1 - CONTINUED OVER

ORIGINAL CERTIFICATE OF CROWN LAND TITLE  
QUALIFIED

REGISTER NUMBER: 5863/DP191022

VOLUME/FOLIO: LR3100-875

PAGE 2

ON DEPOSITED PLAN 191022 ON 31-AUG-02 TO ENABLE ISSUE OF A DIGITAL  
CERTIFICATE OF TITLE.

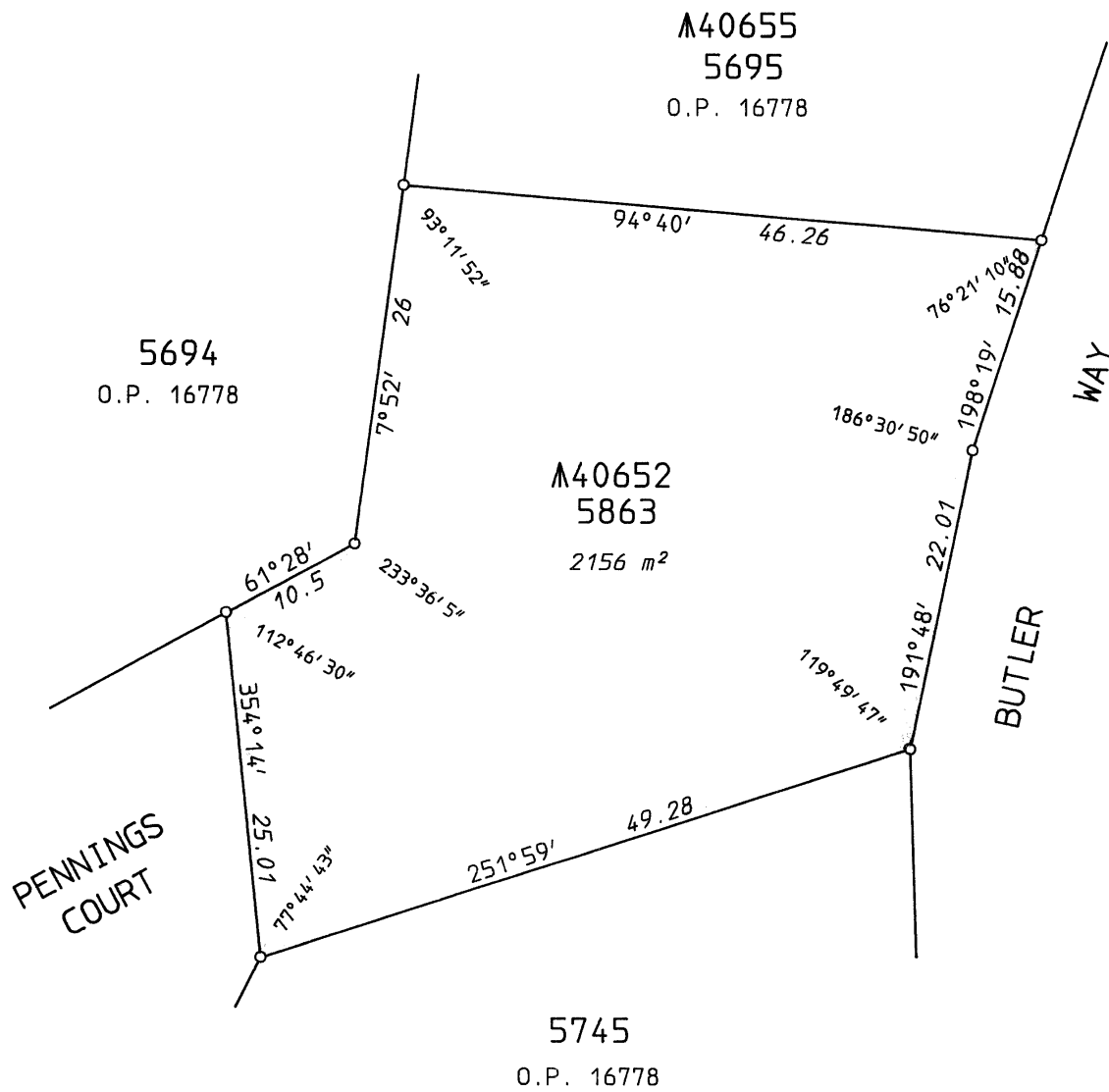
NOTE 2:

THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE  
OF TITLE.

NOTE 3: M129889

CORRESPONDENCE FILE 00591-2012-01RO

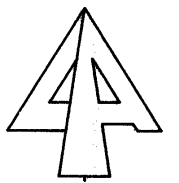




DP 191022



CD 91022



LAND DISTRICT FORREST		PORT HEDLAND LOT 5863		
SURVEYOR'S CERTIFICATE I hereby certify that:- (a) this plan of survey is a correct and accurate representation of the survey carried out by me personally / under my own personal supervision, inspection and field check and recorded in Fieldbooks lodged for the purpose of this plan of survey; (b) the measurements are in strict accordance with the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 and in particular regulations 23 and 34 of those regulations; and (c) this survey and this plan of survey are in strict accordance with the requirements of the Licensed Surveyors (Guidance of surveyors) Regulations 1961 and the relevant law in relation to which it is lodged.			SCALE 1:500 measurements in metres	FILE 1894-988
Licensed Surveyor <u>COMPILED</u> Date _____ (to strike out which ever does not apply)			SURVEYOR	PUBLIC PLANS BL66 (2) 28.33
Prepared by: A.D. POLLARD			FIELD BOOK <u>COMPILED</u> Page _____	INDEX PLANS
In order for certification  Date <u>19/5/93</u>			DATE OF MARKING	RECORDED ON INDEX PLANS KEY PLANS BL66 (2) 28.33
Examined <u>Bookman</u> Date <u>4.2.93</u>			RECORDED ON PUBLIC PLAN R.G.J. 17.4.93	DEPARTMENT OF LAND ADMINISTRATION
In order for further action  Date <u>10.2.93</u>			LODGED A.D.P. 3/2/93	DIAGRAM 91022
AUTHORIZED LEAD OFFICER  Date <u>2/6/93</u>				

**INSTRUCTIONS**

1. If insufficient space in any section, Additional Sheet Form B1 should be used with appropriate headings. The boxed sections should only contain the words "See Annexure".
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the person signing this document and their witnesses.
4. Duplicates are not issued for Crown Land Titles.

**NOTES**

1. **DESCRIPTION OF LAND**  
Lot and Diagram/Plan number or Location name and number to be stated.  
Extent - Whole, part or balance of the land comprised in the Certificate of Crown Land Title to be stated.  
The Certificate of Crown Land Title Volume and Folio number to be stated.
2. **ENCUMBRANCES**  
To be identified by nature and number, if none show "nil".
3. **LESSOR**  
State full name and address of the Lessor(s) and the address(es) to which future notices can be sent.
4. **LESSEE**  
State full name and address of the Lessee(s) and the address(es) to which future notices can be sent.
5. **TERM OF LEASE**  
Term to be stated in years, months and days.  
Commencement date to be date, month and year. Options to renew to be shown.
6. **RECITE ANY EASEMENTS TO BE CREATED**  
Here set forth Easements to be created as appurtenant to the lease commencing with the words "together with" and/or any Reservations hereby created encumbering the lease commencing with the words "reserving to".
7. **RENTAL**  
State amount in words.
8. **PAYMENT TERMS**  
State terms of payment. Eg, by instalments of \$.... payable on the .... day of each month/the months of .... in each year, commencing with a payment of \$.... on or before the day of .../execution of this lease by the Lessee.
9. **EXECUTION**  
A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The full name, address and occupation of the witness must be stated.

**EXAMINED**

Duplicate lease lodged. *al*

**M129893 L**

11 Dec 2012 15:36:38 Midland



REG \$ 160.00

**LEASE OF CROWN LAND (L)**

LODGED BY State Land Services

ADDRESS RDL - Pilbara - Box 98C

PHONE No.  
FAX No.

REFERENCE No. Louls Menage 00591-2012-01 RO Ph  
6552 4779 Fax 6552 4415

ISSUING BOX No.

PREPARED BY State Land Services

ADDRESS RDL - Pilbara - Box 98C

PHONE No.  
FAX No.

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

Duplicate lease issued to the Lessee as instructed on front of duplicate. *al*

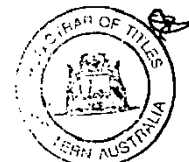
TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

1. dup. lease	Received Items
2.	Nos. 1
3.	
4.	Receiving Clerk
5.	
6.	

122564-004



Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.



ATTESTATION SHEET

Dated this 10<sup>th</sup> day of December in the year 2012

LESSOR/S SIGN HERE (NOTE 9)

Signed \_\_\_\_\_ Signed \_\_\_\_\_

PAGE 25 HEREIN REFERS

LESSEE/S SIGN HERE (NOTE 9)

Signed \_\_\_\_\_ Signed \_\_\_\_\_

In the presence of \_\_\_\_\_ In the presence of \_\_\_\_\_

PAGE 25 HEREIN REFERS



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**SCHEDULE**

<b>ITEM</b>	<b>TERM</b>	<b>DEFINITION</b>
1.	<b>Rent:</b>	\$500 plus GST per annum
1.(a)	<b>Rent payment date(s):</b>	1 January each year for the term of the Lease
1.(b)	<b>Rent Instalments:</b>	Annually
2.	<b>GST (if applicable)</b>	\$ 50 per annum
3 (a).	<b>Term:</b>	2 years
(b)	<b>Commencement Date:</b>	The date the Lease is signed on behalf of the Minister for Lands
4.	<b>Further Term</b>	2 Years
5.	<b>Permitted Use</b>	Development and Subdivision of the Land for residential purposes in accordance with the Development Plan.
6.	<b>Address for payment of Rent</b>	RDL PO Box 1143 West Perth WA 6872 Attention: Manager, Accounting Services
7.	<b>Address for service of notice on Lessor or Minister</b>	RDL PO Box 1143 West Perth WA 6872 Attention: Murray Raven Manager – State Land Services – Pilbara Region Telephone: (08) 65524629 Fax: (08) 65524415
8.	<b>Land (Leased Premises)</b>	Lot 2 on Deposited Plan 100648  Lot 5863 on Deposited Plan 191022



**19.7 THE LESSEE MUST PAY GST AT SAME TIME**

The Lessee must pay to the Lessor the amount of the GST that the Lessee is liable to pay under this Lease:

- (a) at the same time; and
- (b) in the same manner,

as the Lessee is obliged to pay for the Taxable Supply.

**19.8 APPORTIONMENT OF GST**

Where a Taxable Supply is not separately supplied to the Lessee, the liability of the Lessee for any amount for GST, in relation to that Taxable Supply, is determined on the same basis as the Lessee's proportion of that Taxable is determined.

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**20. ADDITIONAL PROVISIONS**

The parties to this Lease shall be bound by and must comply with the additional provisions (if any) set out in attachment to this Lease.

**18.8 VARIATION**

A variation of any provision of this Lease must be in writing and signed by the parties.

**18.9 ACCRUED RIGHTS**

The termination of this Lease (including without limitation, by way of forfeiture) does not affect the rights or remedies of the Minister against the Lessee in relation to a breach of this Lease by the Lessee before the termination of the Lease.

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**19. GOODS AND SERVICES TAX****19.1 DEFINITIONS**

In this clause the following terms have the following meanings:

“GST” has the meaning given in section 195-1 of the GST Act;

“GST Act” means *A New Tax System (Goods and Services Tax) Act 1999* and any legislation substituted for or amending that Act;

“GST law” has the meaning given in section 195-1 of the GST Act;

“Tax Invoice” has the meaning given in section 195-1 of the GST Act; and

“Taxable Supply” has the meaning given in section 195-1 of the GST Act.

**19.2 RENT EXCLUSIVE OF GST**

The Rent and any other amounts payable by the Lessee to the Lessor, under this Lease, are shown as exclusive of GST.

**19.3 LESSEE TO PAY GST**

The Lessee must pay additional to the Rent and any other amounts payable by the Lessee, any GST payable by the Lessor in respect of a Taxable Supply made under this Lease.

**19.4 VARIATION OF GST**

Where GST is payable, the amount payable shall be the amount specified in Item 2 of the Schedule, until varied from time to time consequent upon each review of Rent in accordance with this lease.

**19.5 TAX INVOICE**

Where GST is payable, the Lessor shall provide to the Lessee, a Tax Invoice in the format and form required as set out in the GST law.

**19.6 NOTIFICATION IS CONCLUSIVE**

A written notification given to the Lessee by the Lessor of the amount of GST that the Lessor is liable to pay on a Taxable Supply made or to be made under this Lease is conclusive between the parties except in the case of an obvious error.



- (v) any outstanding or impending demand, notice, claim or liability to contribute to the construction or repair of a dividing fence between the Land and any adjoining land under the *Dividing Fences Act 1961* or otherwise;
  - (vi) any encroachment onto the Land by any fence, building or other structure on any adjoining land;
  - (vii) any encroachment onto adjoining land by any fence, building or other structure on the Land; and
  - (viii) any amounts owing to any Authority in respect of works performed or to be performed or any expenses incurred or to be incurred by any Authority in respect of the Land.
- (b) To the extent permitted by law, the Minister and the Lessor exclude any warranty in relation to any of the matters referred to in subclause (a).
  - (c) The benefit of the exclusion contained in this clause applies at the date of the parties entering into this Lease, and continues throughout the Term, including at the date on which the Lessee becomes entitled to a transfer of an interest in fee simple of the Land and the date on which an interest in fee simple of the Land is transferred to the Lessee under clause 11.

#### **18.4 HOLDING OVER**

If the Lessee continues to occupy the Leased Premises after the end of the Lease with the consent of the Minister, the Lessee will do so as a tenant from month to month. The terms of this Lease will apply to the tenancy as far as they may be applicable. Either the Minister or the Lessee may end the tenancy by one month's notification to the other, expiring at any time.

#### **18.5 WAIVER**

Failure to exercise or delay in exercising any right, power or privilege in this Lease by the Minister does not operate as a waiver of that right, power or privilege.

A single or partial exercise of any right, power or privilege does not preclude:

- (a) any other or further exercise of that right, power or privilege; or
- (b) the exercise of any other right, power or privilege.

#### **18.6 SEVERABILITY OF PROVISIONS**

If a court decides that any part of this Lease is void, voidable, illegal or unenforceable or this Lease would be void, voidable or unenforceable unless a part is severed from this Lease, then that part is severed from this Lease and does not affect the continued operation of the rest of this Lease.

#### **18.7 APPLICABLE LAW**

This Lease shall be construed and interpreted in accordance with the laws in force in the State of Western Australia.

The parties submit to the non-exclusive jurisdiction of the courts of Western Australia.

**17.3 REQUIREMENTS OF NOTICES SERVED ON THE MINISTER**

A notice or other document to be served on the Minister under this Lease must be signed:

- (a) if given by an individual, by the person giving the notice;
- (b) if given by a corporation, by a director or secretary of the corporation.

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**18. GENERAL PROVISIONS****18.1 EXCLUSION OF WARRANTIES**

The Lessee acknowledges having inspected the Leased Premises and that in entering into this Lease the Lessee has not relied on any statement, representation or warranty (other than those implied by or deemed to have been given by law and which cannot be contracted out of) by or on behalf of the Lessor or the Minister whether expressed or implied, other than the statements representations and warranties expressly set out in this Lease.

**18.2 SUITABILITY AND SAFETY OF LEASED PREMISES**

- (a) The Lessor or the Minister does not represent or warrant:
  - (i) that the Leased Premises is suitable to be used for the Permitted Use;
  - (ii) that any Improvements on the Leased Premises on the Commencement Date are suitable to be used for the Permitted Use; or
  - (iii) that the Leased Premises may lawfully be used for the Permitted Use.
- (b) Without affecting the generality of paragraph (a) above, the Lessor or the Minister does not represent or warrant that the zoning of the Leased Premises will allow the Leased Premises to be used for the Permitted Use, whether with the approval or permission of the relevant planning authority or otherwise. It is the Lessee's responsibility to make its own enquiries about zoning, and the Lessee warrants that, before executing this Lease, the Lessee has done so to the Lessee's own satisfaction.
- (c) The Lessee acknowledges having satisfied itself that the Leased Premises are suitable and safe to be used for the Permitted Use and agrees to take all measures necessary to ensure that the Leased Premises remain safe and free from hazards to the Lessee and all persons entering the Leased Premises.

**18.3 NO WARRANTIES AS TO TRANSFER OF TITLE**

- (a) The Minister and the Lessor do not give any warranty (express or implied) or make any representation in relation to any of the following matters:
  - (i) the zoning of the Land or permitted use to which the Land may be put under any relevant Act;
  - (ii) any outstanding or impending demands, orders or requisitions of any Authority relating to the Land;
  - (iii) any proposals for the re-alignment, widening or alteration of the level of any road adjoining the Land by any Authority;
  - (iv) any sewers, drains, pipes, cables or other installations passing through the Land;

- (a) to inspect the state and condition of the Leased Premises , the Improvements and the Services;
- (b) to repair, maintain or carry out any works in relation to the Leased Premises , which the Lessee is liable to do under this Lease and has failed to do within 28 days of the Minister serving notice on the Lessee requiring it to carry out those works;
- (c) to remove any harmful substance or carry out any maintenance or repairs to the Leased Premises; or
- (d) to comply with the requirements of any authority.

The Minister is not required to give any notice to the Lessee before entering on to the Leased Premises or carrying out any works under subclause (b) if the Minister is of the opinion those works are of an emergency nature.

### **15.2 REMEDY LESSEE'S DEFAULT**

The Minister may, but is not obliged to, remedy any default by the Lessee of its obligations under this Lease without notice (unless any clause specifically provides otherwise), including the payment of any moneys payable by the Lessee under this Lease.

### **15.3 RECOVER COSTS FROM LESSEE**

If the Minister carries out any works under clause 15.1 which it is the Lessee's obligation to do under this Lease or remedies a default under clause 15.2, the Lessee is to pay to the Minister on demand all debts, costs and expenses, including legal costs and expenses, incurred by the Minister as a result of carrying out those works or remedying that default.

## **16. EXTENSION OF TERM**

The Minister may, in its absolute discretion, grant or refuse to grant one extension of the Term and if granted , the extension of the Term will be for no longer than 2 years and on such other terms and conditions as the Minister thinks fit.

If the Lessee desires to extend the term, it is to make a request in writing to the Minister to that effect, at least 6 months prior to the expiry of the original Term.

## **17. NOTICES**

### **17.1 SERVICE OF NOTICE ON LESSEE**

Any notice or other document to be served on the Lessee under this Lease will be served in accordance with section 274 of the LAA.

### **17.2 SERVICE OF NOTICES ON MINISTER**

Any notice or other document to be served on the Minister under this Lease may be effected:

- (a) by delivering the document to the offices of RDL personally; or
- (b) by sending the document by letter (by pre-paid post) to the address or by facsimile to the facsimile number of RDL, as set out in item 9 of Schedule 1 or to the other address or facsimile number previously notified to the Lessee by the Minister.

this Lease would otherwise have expired at the end of the Term. The costs to be so compensated include reasonable legal costs.

- (b) The Lessor's entitlement to recover compensation or damages shall not be affected or limited by any of the following:
  - (i) The Lessee abandoning or vacating the Leased Premises;
  - (ii) The Lessor electing to re-enter or to effect forfeiture of this Lease;
  - (iii) The Lessor accepting any repudiation of this Lease by the Lessee;
  - (iv) Conduct by any of the parties constituting a surrender by operation of law.

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#### **14. RIGHTS AND OBLIGATIONS AT TERMINATION OF LEASE**

##### **14.1 YIELDING UP**

- (a) On the expiration or earlier determination of this Lease, the Lessee must:
  - (i) surrender peaceably and yield up the Leased Premises to the Minister:
    - (A) clean;
    - (B) free from rubbish; and
    - (C) in a state of repair and condition,
 to the absolute satisfaction of the Minister;
  - (ii) fill in, consolidate and level off any unevenness, excavation or hole caused by the Lessee or by the Lessee's use of the Leased Premises to the absolute satisfaction of the Minister; and
  - (iii) remove any fixtures, fittings or any other property on the Leased Premises as may be required by the Minister to the Minister's absolute satisfaction; and
  - (iv) promptly make good to the satisfaction of the Minister any damage caused by the removal in clause 14.1(a)(iii).
- (b) The Lessee's obligations to observe and perform the covenant contained in this clause 14.1 will survive the expiration or earlier determination of this Lease.

##### **14.2 IMPROVEMENTS TO VEST IN CROWN**

It is agreed that if the Lease is terminated (other than on a transfer of the interest in fee simple under clause 11), the provisions of section 92 of the LAA apply to this lease except as varied by this lease.

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#### **15. MINISTER'S RIGHTS**

##### **15.1 RIGHT TO ENTER**

The Minister or any person authorised by the Minister may enter on to the Leased Premises at all reasonable times and on reasonable notice with all necessary plant, equipment and materials:



transferred in accordance with clause 11, the Purchase Price is to be reviewed and determined again by the Minister based on a valuation from the Valuer General and the provisions of this clause including this subclause apply to that determination of the Purchase Price and the period for which that reviewed Purchase Price remains valid until the Land or the land comprised in the Agreed Stage is transferred in fee simple, if that is to occur.

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### **13. DEFAULT**

#### **13.1 ESSENTIAL TERMS**

- (a) Without limiting the provisions of this Lease which are essential terms it is agreed that each of the covenants by the Lessee contained in each of the following clauses is deemed to be an essential term of this Lease:
- (i) Clause 3.1 (Payment of Rent);
  - (ii) Clause 4 (Other Payments by Lessee);
  - (iii) Clause 5.1 (Use of Leased Premises);
  - (iv) Clause 5.3 (Nuisance and Other Activities);
  - (v) Clause 5.4 (Keep Clean and in Good Repair);
  - (vi) Clause 5.5 (Dealings with Lease or Leased Premises);
  - (vii) Clauses 9 (Subdivision and Development of Land);
  - (viii) Clause 11 (Transfer of Fee Simple);
  - (ix) Clause 19 (Goods and Services Tax).
- (b) In respect of the Lessee's obligation to pay Rent or make other payments, the acceptance by the Lessor of any late payment shall not constitute a waiver of the essentiality of the Lessee's obligation to make that payment or of the Lessee's continuing obligation to pay during the Term.

#### **13.2 TERMINATION OF LEASE**

- (a) The parties agree that, in addition to any other ground for termination at law, this Lease may be terminated by the Lessor:
- (i) In the event of breach of an essential term of this Lease; or
  - (ii) Pursuant to the provisions for forfeiture under section 35 of the LAA.
- (b) This Lease may be terminated under paragraph (a)(i) either by the Lessor giving notice to the Lessee or by the Lessor re-entering the Leased Premises without notice.

#### **13.3 COMPENSATION FOR TERMINATION**

- (a) Without limiting the Lessor's rights and remedies at law in respect of any breach of any term of this Lease, it is agreed that in the event of termination of this Lease pursuant to this clause or otherwise at law, the Lessee shall compensate the Lessor for all costs and losses incurred by the Lessor. The losses to be so compensated include loss of rent in respect of the period from the time of termination to the time at which

- (c) Registration of the Transfer automatically effects the creation and registration of a certificate of title for the land comprised in the relevant Agreed Stage and partial or whole cancellation of the certificate of Crown land title as it relates to the land in that relevant Agreed Stage.

#### **11.9 MORE THAN ONE NOTICE MAY BE SERVED**

For the avoidance of doubt, more than one notice by the Lessee pursuant to clause 11.1 and more than one Minister's Notice pursuant to clause 11.3 (a) may be served on more than one occasion, being in respect of each Agreed Stage.

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#### **12. PURCHASE PRICE DETERMINATION**

- (a) If at any time prior to expiry of the Term the Lessee considers that it has completed the Development and Subdivision of the Leased Premises or Agreed Stage of the Development and Subdivision in accordance with clause 9, it may by notice in writing to the Minister advise of this and request the Leased Premises or in the case of the completion of an Agreed Stage of the Development and Subdivision that part of the Leased Premises that has been developed and subdivided be valued in order to determine the Purchase Price.
- (b) If the Minister having received the notice referred to in subclause (a) is satisfied that the Development and Subdivision or the Agreed Stage of the Development and Subdivision is at a stage advised in the notice, the Minister may determine the Purchase Price for the Land the subject of the notice based on a valuation from the Valuer General as at the date of referral to the Valuer General on the basis that the Lessee is purchasing the Land in the same state and condition as it was at the Commencement Date including the zoning of the Land at that time.
- (c) Nothing in subclauses (a) or (b) is to operate to prevent the Minister deciding that he or she would prefer to determine the Purchase Price at the time of, or as soon as possible thereafter of, issuing the Minister's Notice on the completion of the Development as provided in clause 11.2.
- (d) In the event that:
- (i) the Lessee does not give a notice referred to in subclause (a), but has given the Lessee's Notice and the Minister has given the Lessee a Minister's Notice; or
- (ii) the Minister has received a notice referred to in subclause (a) but has decided to determine the Purchase Price at the time of, or as soon as possible after giving the Minister's Notice,
- the Purchase Price will be determined by the Minister based on a valuation from the Valuer General as at or around the date of the Minister's Notice on the basis that the Lessee is purchasing the Land in the same state and condition as it was as at the date of the Minister's Notice.
- (e) If subclause (b) or (d) apply the Minister shall give the Lessee a notice setting out the Purchase Price (Review Notice).
- (f) The Purchase Price determined pursuant to the terms of this clause, will be final and binding on the Parties for a period of 6 months from the date of its determination after which time, if the Land or the land comprised in the Agreed Stage has not been

- (c) The Lessee will take a transfer of an interest in fee simple of the land comprised in the relevant Agreed Stage :
- (i) irrespective of the state of title to the land or otherwise, as to any of the matters referred to in clause 18.3 (Warranties); and
  - (ii) despite any error or misdescription in the land,
- and the Lessee shall not have any claim against the Minister or the Lessor relating to any of these matters.
- (d) The parties acknowledge that all payments due by the Lessee under this Lease including Rent are payable by the Lessee to the Lessor or the Minister in addition to, and are not to be deducted from, the Purchase Price payable in respect of the transfer of an interest in fee simple of the land comprised in the relevant Agreed Stage.
- (e) The Lessee agrees that if for any reason whatsoever, the Encumbrances or any other Interests referred to in subclause (a) are not referred to or created in or at the time of registration of the Transfer, the Lessee takes the interest in fee simple of the land in the relevant Agreed Stage subject to those Encumbrances, and other Interests and will do all things and sign all documents necessary to ensure the registration of those Encumbrances, and other Interests as soon as reasonably practicable after registration of the Transfer, on the relevant certificate or certificates of title.

#### **11.5 TRANSFER DOCUMENT**

Within the 30 days of issue of the Minister's Notice or the Review Notice whichever is the later notice issued, the Lessee is to deliver to the Minister a duly executed and stamped transfer of the land comprised in the relevant Agreed Stage, in a form suitable for registration at Landgate, between the State of Western Australia as transferor and the Lessee as transferee.

#### **11.6 EXECUTION BY MINISTER**

The Minister will execute the Transfer and return it to the Lessee.

#### **11.7 REGISTRATION OF TRANSFER**

The Lessee must lodge the Transfer at Landgate for registration as soon as practicable after receiving it, and is to attend to all stopped document notices and other requisitions and to pay all fees necessary for registration of the Transfer to be completed.

#### **11.8 EFFECT OF REGISTRATION**

- (a) Until registration of the Transfer, the Lessee is to continue to comply with and perform its obligations under this Lease, including without limitation, payment of Rent and outgoings as they become due and payable.
- (b) On registration of the Transfer the interest of the Lessee in this Lease in respect of the land in the relevant Agreed Stage merges with the interest in fee simple of the land in that Agreed Stage, and this Lease, shall be automatically surrendered by operation of law, except to the extent that any provision of this Lease expressly provides that it shall continue to apply after termination of the Term and provided that the Lessee shall do whatever may be required by Landgate to have the Lease surrendered or cancelled on the Certificate of Crown land title for the land comprised in the relevant Agreed Stage.

- (i) the Minister may inspect the Leased Premises, the Development and Subdivision of the Leased Premises and the construction of Services on the Leased Premises; and
  - (ii) if the Minister is of the opinion that the Transfer Conditions have been satisfied, the Minister will give a notice in writing to the Lessee to that effect (**Minister's Notice**).
- (b) In forming his or her opinion under subclause (a)(ii) as to the satisfaction of the Transfer Conditions, the Minister may consult with any relevant Governmental Agencies.

### 11.3 MINISTER'S CONDITIONS

- (a) In relation to the Development and Subdivision of the Land and construction of the Services on the Land, the Minister may impose any conditions in relation to the construction of the Services, or the management or ownership of or liability and responsibility for any part of the Land, that are to apply before or after registration of the Transfer (**Minister's Conditions**).
- (b) Notice of any conditions imposed under subclause (a) is to be given in writing at any time prior to issue of the Minister's Notice under clause 11.2(ii), and may be given in more than one notice.
- (c) The Lessee is to comply with any conditions imposed under subclause (a) at its own cost and expense.

### 11.4 TRANSFER OF FEE SIMPLE IN LAND

- (a) On the issue of the Minister's Notice or the Review Notice whichever is the later, and in exchange for payment by the Lessee to the Lessor by bank cheque or as otherwise directed by the Lessor of the Purchase Price (and any GST payable on the Purchase Price), the Lessee is entitled to a transfer of, and the Minister agrees to do all things necessary to transfer to the Lessee, the interest in fee simple of the land comprised in the relevant Agreed Stage subject to:
  - (i) the Encumbrances;
  - (ii) any restrictive or positive covenants, memorial, charge, easement, notification or any other encumbrance or interest (**Interests**), whether registrable under the LAA, the TLA, or any other Act and whether in favour of the Minister or any other person or as may be required as a Planning Condition or Minister's Condition;
  - (iii) subclause (c); and
  - (iv) the conditions referred to in clause 11.3to the extent that each of the forgoing relate to the relevant Agreed Stage.
- (b) The Lessee by this Lease consents to the registration of the Encumbrances and Interests referred to in subclause (a), and this consent shall survive the termination of this Lease or merger of the Lessee's interest in this Lease with the interest in fee simple in the Land or the relevant Agreed Stage.



See letter  
dated  
13-3-13

- (b) any other licences, permits or Authorisations required to be obtained under any Act or from any Governmental Agency relating to the development, and subdivision of, and construction of the Services (**Approvals**) as if the Land were alienated land.

## 9.5 STANDARD OF CONSTRUCTION

The Lessee is to construct the Services:

- (a) in a proper and efficient manner, exercising a high standard of care and skill applicable in the construction industry and using new materials of good quality and meeting the specifications, if any, described in the Development Plan;
- (b) in conformity with the Development Plan;
- (c) in a manner which complies with the Approvals (including all conditions of those Approvals), the Building Code of Australia (if applicable) and any other relevant Act or standard; and
- (d) otherwise to the satisfaction of the Minister.

## 9.6 FAILURE TO SUBDIVIDE

The Lessee further acknowledges and agrees that the obligation contained in clause 9.2 is a fundamental term of this Lease.

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## 10. QUIET ENJOYMENT

If the Lessee pays the Rent and does not breach the conditions of this Lease, the Lessee may occupy the Leased Premises during the Term without any interference from the Lessor and the Minister except where otherwise allowed by this Lease or the LAA.

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## 11. TRANSFER OF FEE SIMPLE

### 11.1 LESSEE'S NOTICE

If the Lessee:

- (a) has fully complied with its obligations under clause 9 in respect of the Development and Subdivision of the Leased Premises or the Land or in respect of an Agreed Stage of the Development and Subdivision agreed by the Minister under clause 9.3,
- (b) has paid the Rent due by the date of the Lessee's notice referred to in this clause; and
- (c) has complied with and performed all of its obligations under this Lease;

**(together the Transfer Conditions)** the Lessee may give notice in writing to the Minister that the Lessee considers it has satisfied the Transfer Conditions in respect of the Leased Premises or Land that Agreed Stage.

### 11.2 MINISTER'S INSPECTION AND NOTICE

- (a) When the Minister has received a notice from the Lessee under clause 11.1:



See letter  
dated  
13-3-13

PROVIDED THAT this release shall not operate to the extent that the liability, loss or damage is caused or contributed to by the negligent or other tortious act or omission of the Lessor.

- (c) The obligations of the Lessee under this clause continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring before the expiration or earlier determination of this Lease.

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## 9. SUBDIVISION AND DEVELOPMENT OF LAND

### 9.1. APPROVAL OF DEVELOPMENT PLAN

- (a) As soon as practicable after the Commencement Date but in any event within six (6) months of the Commencement Date, the Lessee must submit to the Minister for approval a Development Plan which, amongst other things:
- (i) details the timetable and plans for the Development and Subdivision of the Leased Premises and the Construction of the Development;
  - (ii) includes a timetable for commencement and completion of the construction of the Services; and
  - (iii) details how the Development and Subdivision will comply with the Town Planning Scheme and Planning Conditions.

### 9.2 SUBDIVISION AND DEVELOPMENT OF LAND

The Lessee is to develop, subdivide and construct all Services and Dwellings on the Land in accordance with this clause and the Development Plan and do all things necessary so that:

- a) a Deposited Plan for each Agreed Stage is in order for dealing and an application can be made for titles to issue to the lots created on the Deposited Plan as subdivided under the *Planning and Development Act 2005*;
- b) all Planning Conditions including those relating to the construction of the Services have been complied with (or will be on registration of the Transfer and any supporting or accompanying documents); and
- c) all the Minister's Conditions for each Agreed Stage have been complied with (or will be on registration of the Transfer and any supporting or accompanying documents)

### 9.3 DEVELOPMENT IN STAGES

The Lessee may carry out its obligations under this clause in relation to the Land in one or more stages, as may be agreed by the Minister.

### 9.4 APPROVALS

Prior to commencing construction of the Services on the Land the Lessee is to apply for and obtain (which may be subject to Planning Conditions):

- (a) rezoning, development and subdivision approval under the *Planning and Development Act 2005* for the rezoning, development and subdivision of the Land; and

**8.2 INDEMNITY**

- (a) For the purposes of this clause, the term Lessor includes the Crown, the Minister and the agents, servants, employees and contractors of the Lessor, the Crown and the Minister.
- (b) The Lessee must indemnify and keep indemnified the Lessor from and against all actions, claims, costs, expenses and losses, proceedings, judgements, demands, damages, suits and demands whatsoever which may at any time be brought, maintained or made against the Lessor:
  - (i) in respect of any loss (including loss of use), injury or damage of or to any kind of property (including the Leased Premises and the property of third parties); and
  - (ii) in respect of any death or injury sustained by any person, directly or indirectly during the Term caused by, arising out of, or in connection with:
    - (iii) the use or occupation of the Leased Premises by the Lessee;
    - (iv) any work carried out by or on behalf of the Lessee under this Lease;
    - (v) the Lessee's activities, operations, business or other use of any kind under this Lease;
    - (vi) the pollution or contamination of the Leased Premises or any land or waters adjoining the Leased Premises and of the air generally above the Leased Premises by any matter or thing whatsoever;
    - (vii) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
    - (viii) any negligent or other tortious act or omission of the Lessee.
- (c) The obligations of the Lessee under this clause continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring before the expiration or earlier determination of this Lease.

**8.3 RELEASE**

- (a) For the purposes of this clause the term Lessor includes the Crown, the Minister, and the agents, servants, employees and contractors of the Lessor, the Crown and the Minister.
- (b) The Lessee:
  - (i) agrees to occupy, use and keep the Leased Premises at the risk of the Lessee;
  - (ii) releases to the full extent permitted by law the Lessor from any:
    - (A) liability which may arise in respect of any accident or damage to property or death or injury to any person, of any nature in or near the Leased Premises; and
    - (B) loss of or damage to fixtures or personal property of the Lessee.

that conduct, activity or use is undertaken and keep all such Authorisations in full force and effect throughout the Term;

- (ii) must use the Land in a manner which complies with each Environmental Law and each Authorisation held by the Lessee in accordance with paragraph (a)(i);
  - (iii) must not do or omit to do any act which might directly or indirectly result in the revocation, suspension or modification of an Authorisation in relation to the Land or any conduct or activity relating to the use of the Land;
  - (iv) must not cause or permit any Contamination, Pollution or Environmental harm of the Land;
  - (v) must notify the Lessor immediately on becoming aware of:
    - (A) the existence of any Contamination;
    - (B) any Pollution affecting the Land;
    - (C) an Environmental Notice being served on the Lessee or any other person which relates to or arises from the Lessee's use of the Land; or
    - (D) the making of a complaint to any person, including but not limited to the Lessee, or the commencement of proceedings against the Lessee relating to an alleged failure by the Lessee to observe or perform an obligation under an Environmental Law or Authorisation;
  - (vi) must, at the Lessee's cost, comply with every Environmental Notice issued in respect of, arising from or relating to, the Lessee's use of the Land, whether the notice is served on the Lessor or the Lessee;
- (b) Without affecting:
- (i) the obligations of the Lessee in this clause; or
  - (ii) limiting any right of, or indemnity in favour of, the Lessor;

if any Contamination, Pollution or Environmental Harm occurs in breach of paragraph (a), the Lessee must do everything necessary to minimise the effect of the Contamination, Pollution or Environmental Harm as soon as reasonably practicable and must remediate any resultant damage and harm, to the absolute satisfaction of the Lessor and in compliance with any Environmental Notice or Environmental Law.

- (c) The obligations of the Lessor under this clause 7 continue after the termination of the term in respect of any act, deed, matter or thing occurring before the termination of the Term.

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## **8. INDEMNITIES AND RELEASE**

### **8.1 LESSEE ASSUMPTION OF RESPONSIBILITIES**

The Lessee agrees to take and be subject to the same responsibilities to which it would be subject in respect of persons and property if, during the Term it were the owner and occupier of the freehold of the Leased Premises.

works (temporary or permanent) undertaken by the Lessee in relation to the construction of the Services, as the case may be;

- (c) on completion of construction of the Services, a policy of insurance to cover the Services and other improvements in, on or made to the Leased Premises against loss or damage by fire, flood, storm, tempest, rainwater, earthquake, cyclone, explosion, smoke, lightning and such other risks against which in the Minister's opinion a lessee may and does ordinarily insure, to their full replacement value; and
- (d) any other insurance policies which the Minister may reasonably require or which the Lessee is required to take out under any Act.

## **6.2 DELIVER INSURANCE DETAILS**

The Lessee is to deliver to the Minister on request:

- (a) a copy of the Insurance Policies; and
- (b) a certificate of currency or receipt for payment of the premiums relating to the Insurance Policies.

## **6.3 LESSEE'S OBLIGATIONS**

The Lessee is:

- (a) not to do or permit to be done anything which adversely affects the continuation, validity, extent of cover or ability to make a claim under any Insurance Policy;
- (b) to immediately rectify any thing which might prejudice any Insurance Policy, to pay any increased premium payable as a result of any thing done by the Lessee or the Lessee's Agents and to reinstate any Insurance Policy if it lapses or is cancelled;
- (c) to notify the Minister immediately if an event occurs which gives rise or might give rise to a claim under any Insurance Policy or which could prejudice any Insurance Policy;
- (d) to comply with the requirements of any Governmental Agency, the Insurance Council of Australia and any insurer in relation to fire protection of the Services and the Development and Subdivision, when they are being or are constructed;
- (e) to expend any moneys received in respect of a claim made under an Insurance Policy towards satisfying the liability the subject of the claim or in reinstating or replacing the damaged or destroyed property in respect of which the claim was made, as the case requires; and
- (f) to waive all rights of subrogation and ensure that under the Insurance Policies the insurer has no rights of subrogation against the Minister or the Lessor, and the Lessee indemnifies the Minister and the Lessor against any loss arising from a breach of this paragraph (f).

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## **7. LESSEE'S ENVIRONMENT OBLIGATIONS**

- (a) The Lessee, during the term of the lease:
  - (i) must obtain any Authorisation required for any conduct, activity or use undertaken by the Lessee on the Land, including the Permitted Use, before



- (d) Without limiting subclause (a), the Lessee must not agree to or permit any encroachment or easement into, upon, over or against the Leased Premises or any part of the Leased Premises without the prior written approval of the Minister.
- (e) The Lessee agrees that the Minister may, before giving approval under section 18 of the LAA, in writing require:
  - (i) such information concerning the transaction for which approval is sought as the Minister specifies; and
  - (ii) information furnished in compliance with clause 5.5(e)(i) to be verified by statutory declaration.
- (f) To the extent that the provisions of sections 80 and 82 of the *Property Law Act 1969* would otherwise apply, those provisions are hereby excluded.

#### **5.6 LESSEE NOT TO REMOVE MATERIALS EXCEPT WITH APPROVAL OF MINISTER**

- (a) The Lessee must not mine, remove, extract, dig up or excavate any sand, stone, gravel, clay, loam, shell, or similar substance or permit any other person to undertake any such action without the prior approval in writing of the Minister and subject to such conditions as the Minister may determine.
- (b) Subclause (a) does not apply to any removal digging up or excavation as may be necessary to construct or undertake any earthworks or Development and Subdivision or the Services, provided that any such removal digging up or excavation is undertaken in accordance with the requirements of the relevant Authority.

#### **5.7 COST OF LESSEE'S OBLIGATIONS**

Unless this Lease provides otherwise, anything which must be done by the Lessee under this Lease, whether or not at the request of the Minister, must be done at the cost of the Lessee.

#### **5.8 REGISTRATION OF LEASE**

The Lessee is to lodge this Lease for registration at LANDGATE, within 30 days after it is executed by the Minister and the Lessee.

### **6. INSURANCE**

#### **6.1 INSURANCE POLICIES**

The Lessee is to take out and keep in force at all times with insurers approved under the *Insurance Act 1973*, and if requested by the Minister to have its and the Lessor's interest noted on the policies:

- (a) a public liability policy with a cover of not less than \$10,000,000.00 for any one claim, including in respect of any works undertaken in relation to the construction of the Services or in carrying out the Development and Subdivision;
- (b) a contractors risk insurance policy to cover all works (temporary and permanent) undertaken in relation to the construction of the Services for loss, destruction or damage of or to property insured arising from any one cause, for not less than 110% of the full amount of the contract sum under any construction contract entered into by the Lessee in relation to the construction of the Services, or 110% of the value of the

- (b) On being served with a notice by the Minister, the Lessee must punctually comply with any notice or direction served on the Lessor or the Minister by a competent authority requiring the destruction of noxious animals, plants or pests or the carrying out of repairs, alterations or works to the Leased Premises.

### **5.3 NUISANCE**

The Lessee must not at any time during the Term do any thing on or in relation to the Leased Premises which is or may be deemed a nuisance by an Governmental Agency, under any Act or at common law, and is to promptly do all things necessary to abate that nuisance.:

### **5.4 STATE OF LAND AND IMPROVEMENTS**

The Lessee must at the Lessee's expense:

- (a) put the Land in a condition that is clean and will keep the Land clean, free from rubbish, pests and weeds, safe and free from hazards, except to the extent that it may not be possible to comply with these requirements as a result of or during construction of the Services;
- (b) on completion of the construction of the Services, remove from the Land, all construction and other debris and rubbish; and
- (c) keep all Services, and any other Improvements in good and substantial repair and condition,

to the absolute satisfaction of the Minister.

### **5.5 DEALINGS WITH ANY INTEREST IN THIS LEASE OR THE LEASED PREMISES TO BE APPROVED BY THE MINISTER**

- (a) It is agreed by the parties that section 18 of the LAA applies to this Lease and, without limiting the generality of that section, the Lessee must not, without the prior written consent of the Minister:
  - (i) part with possession of, share possession of or sublet the Leased Premises; or
  - (ii) mortgage, charge or in any way encumber the Lessee's estate or interest in the Leased Premises or its rights and powers as Lessee under this Lease; or
  - (iii) dispose of, deal with, or assign its estate or interest in the Leased Premises or its rights and powers as Lessee under this Lease; or
  - (iv) otherwise deal with any interest whatsoever in the Leased Premises or the Lessee's estate or interest under this Lease.
- (b) Any consent given by the Minister under clause 5.5(a) may be subject to such terms and conditions as the Minister in its absolute discretion may impose.
- (c) For the purpose of clause 5.5(a)(iii) where the Lessee is a corporation (not being a corporation where shares are listed on any Stock Exchange in Australia) any change in the beneficial ownership of a substantial shareholding (within the meaning of section 50 of the Corporations Law) in the corporation or any related body corporate (within the meaning of section 50 of the Corporations Law) shall be deemed to be an assignment of the Leased Premises and the benefit of this Lease and must require the prior approval in writing of the Minister.

**4.3 LEGAL COSTS AND STAMP DUTY**

- (a) The Lessee must pay to the Minister the Lessor's reasonable legal and other costs and expenses arising out of this Lease, including those incurred:
  - (i) in relation to an assignment, subletting or surrender of this Lease;
  - (ii) in considering a request for any consent or approval by the Minister;
  - (iii) as a result of a default by the Lessee in performance of his obligations under this Lease; and
  - (iv) the exercise of any right, power, privilege, authority or remedy of the Minister in respect of this Lease, including the preparation and service of any notice referred to in clause 11.
- (b) The Lessee is to pay or reimburse the Minister on demand for:
  - (i) all duty and penalties payable on this Lease and any extension of the Term of this Lease; and
  - (ii) all costs relating to the registration of this Lease and any extension of the Term of this Lease.

**4.4 INTEREST**

- (a) If any amount payable by the Lessee under this Lease (whether formally demanded or not) is not paid within 30 days after it becomes due for payment, the Lessee is to pay to the Minister interest on demand, on the amount from the due date for payment until it is paid in full.
- (b) Interest is to be calculated on a daily basis, at the Interest Rate.
- (c) Nothing in this clause 4.4 affects or prejudices any other right which the Minister may have in respect of the Lessee's failure to pay any amount by the due date for payment.

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**5. LESSEE'S GENERAL OBLIGATIONS****5.1 PERMITTED USE**

- (a) This Lease confers on the Lessee a right to occupy and use the Leased Premises for the Permitted Use.
- (b) The Lessee must not use the Leased Premises or allow the Leased Premises to be used for any purpose other than the Permitted Use and must not use the Leased Premises for any illegal or improper purpose.

**5.2 COMPLIANCE WITH LAW**

- (a) The Lessee must comply with all Laws and the requirements, notices or orders of any Governmental Agency including obtaining all necessary licences, approvals or authorities relating to:
  - (i) the Leased Premises and the occupation of the Leased Premises; and
  - (ii) the construction of the Services.

---

**2. APPLICATION AND EXCLUSION OF STATUTES****2.1 LAND ADMINISTRATION ACT**

The Lessee and the Lessor agree that:

- (a) the provisions of the LAA relating to leases of Crown land granted under section 85 of the LAA apply to the Lessee; and
- (b) the provisions of this Lease do not in any way affect, alter or derogate from the Lessor's or the Minister's rights or powers conferred under the LAA.

**2.2 TRANSFER OF LAND ACT**

Such of the covenants and powers as might otherwise be implied by the *Transfer of Land Act 1893 (WA)* do not apply to this Lease and are not implied in this Lease unless expressly included.

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**3. RENT****3.1 PAYMENT OF RENT**

The Lessee is to pay the Rent for the Leased Premises by one annual instalment on the Rent Payment Date at the offices of the Lessor specified in Item 6 of the Schedule.

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**4. OTHER PAYMENTS BY LESSEE****4.1 PAYMENT OF RATES, TAXES, ETC SEPARATELY ASSESSED**

The Lessee must pay, when due and payable, all rates, taxes (including State land tax) and other charges (including impositions, assessments, outgoings, duties and fees) of any public, municipal, government or statutory body, authority or department which are separately charged upon the Leased Premises or imposed or levied upon the Lessor, the Minister or the Lessee in respect of the Leased Premises separately or the ownership of the Leased Premises separately. "State land tax" means land tax calculated on the basis that the Leased Premises comprise the only land of which the Lessor is owner. In the case of local government rates and charges the Lessee is to pay in respect of each financial year an amount equivalent to the local government rates and charges for the Leased Premises that, but for section 32(2) of the *Western Australian Land Authority Act 1992* and section 6.26(2)(a)(i) of the *Local Government Act 1995*, the Lessee would have been liable to pay in respect of that financial year for the Leased Premises.

**4.2 PAYMENT OF SERVICE CHARGES SEPARATELY METERED**

The Lessee must, in respect of the supply of any water, gas, electricity, telephone, waste disposal or other services separately metered or charged for the Leased Premises, pay all accounts when they become due and payable.

- (g) a reference to a party to this Lease includes that party's successors and permitted assigns and in the case of a natural person also includes that person's personal representatives and administrators;
- (h) where the day on or by which a thing is required to be done is not a Business Day that thing must be done on or by the succeeding Business Day;
- (i) a covenant or agreement by more than one person binds, and is enforceable against, those persons jointly and each of them severally;
- (j) no rules of construction apply to the disadvantage of a party because that party was responsible for the drafting of this Lease or of any of the provisions of this Lease;
- (k) references to statutes, regulations, ordinances and by-laws when contained in this Lease include amendments, re-enactments or consolidations of any of them and a reference to a statute includes every regulation, proclamation, ordinance and by-law issued under that statute;
- (l) a reference in this Lease to a sub-clause, paragraph or sub-paragraph is a reference to a sub-clause, paragraph or sub-paragraph in the clause or definition in which the reference appears;
- (m) words which are defined in the LAA and used in this Lease have the same meaning given to them under the LAA; and
- (n) "including" is deemed to be followed by the words, "but not limited to".

### **1.3 PERFORMANCE OF FUNCTIONS BY MINISTER**

- (a) Under section 10(1) of the LAA, the Minister may, in the name and on behalf of the Lessor, exercise powers and perform duties in relation to land in accordance with the LAA.
- (b) All acts and things which the Lessor or the Minister is required or empowered to do under this Lease may be done by the Minister or the Minister's delegate appointed under section 9 of the LAA.
- (c) Where, pursuant to this Lease, payments and rights accrue to the Minister or obligations are imposed on the Minister, the same are for the benefit and burden respectively of the Lessor unless the context otherwise requires.

### **1.4 APPROVAL BY THE MINISTER**

- (a) In any case where under this Lease the doing or executing of any act matter or thing by the Lessee is dependent on the approval or consent of the Minister, such approval or consent will not be effective unless it is given in writing and may be given or withheld by the Minister in the Minister's absolute discretion and may be given subject to such conditions as the Minister may determine unless otherwise provided in this Lease.
- (b) The Lessee agrees that any failure by the Lessee to comply with or perform a condition imposed under clause (a) will constitute a breach of a condition or covenant under this Lease.

**Purchase Price** means the purchase price payable for each Agreed Stage of the Leased Premises as determined by the Minister on advice from the Valuer General.

**RDL** means the Department of Regional Development and Lands or such other department of State which from time to time is assisting the Minister responsible for the administration of the LAA.

**Related body corporate** has the same meaning as that term is defined in the *Corporations Law*.

**Rent** means the annual rent specified in item 1 of the Schedule.

**Rent Payment Date** means the date in each year of the Term set out in Item 1(a) of the Schedule.

**Review Notice** means a notice advising of the Purchase Price for the Land or an Agreed Stage given by the Minister under clause 12(c).

**Schedule** means the Schedule to this Lease.

**Services** means all public utility services including roads, footpaths, water supply, sewerage, drainage, electricity and gas reticulation and telecommunications equipment.

**Shire** means the Town of Port Hedland of P O Box 41, Port Hedland, Western Australia.

**Term** means the term of this Lease as shown in Item 3(a) of the Schedule and set out on the front (registrable) page commencing on the Commencement Date and includes any Further Term or any other period during which the Lessee has possession of the Leased Premises.

**Timetable** means the timetable for the development and subdivision of the Leased Premises contained in the Approved Development Plan.

**Transfer conditions** has the meaning in clause 11.1.

**Transfer** means the transfer document referred to in clauses 11.5 and 11.6 as it relates to each Agreed Stage.

## 1.2 INTERPRETATION

In this Lease, unless the context otherwise requires:

- (a) headings or subheadings are inserted for guidance only and do not govern the meaning or construction of this Lease or of any provision contained in this Lease;
- (b) words expressed in the singular include the plural and vice versa;
- (c) words expressed in one gender include the other genders;
- (d) an expression importing a natural person includes a company, partnership, joint venture, association, corporation or other body corporate;
- (e) a reference to a thing includes a part of that thing but without implying that part performance of an obligation is performance of the whole;
- (f) references to parts, clauses and parties are references to parts and clauses of, and parties to, this Lease;



**Landgate** means the Land Information Authority of Western Australia established under the *Land Information Authority Act 2006*.

**Law** includes any requirement of any statute, regulation, proclamation, ordinance local law or by-law, present or future, and whether state, federal or otherwise.

**Lease** means this lease, as it is amended from time to time, varied, supplemented, replaced, extended, renewed or assigned, as permitted by this lease, and includes any deed of variation of this lease.

**Leased Premises** means the Land and Improvements thereon.

**Lessee** means the party stated as the lessee as described on the front page of this Lease and where the context permits:

- (a) its successors and permitted assigns;
- (b) if the Lessee is a natural person, its executors, administrators and permitted assigns.

**Lessee's Agents** means each of the Lessee's employees, agents, contractors, subcontractors, visitors and any other person who is on the Leased Premises with the Lessee's express or implied consent.

**Lessor** means the State of Western Australia acting through the Minister, care of Department of Regional Development and Lands, Level 2, 140 William Street, Perth WA 6000.

**Lots** means a lot as that term is defined in section 4(1) of the *Planning and Development Act 2005* or a lot in relation to a strata scheme, a lot in relation to a survey-strata scheme, or a lot shown as common property on a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*.

**Minister** means the Minister for Lands, being a body corporate existing under section 7(1) of the LAA and being the Minister to whom administration of the LAA is committed from time to time.

**Minister's Conditions** means any conditions imposed by the Minister as referred to in clause 11.3 of this Lease.

**Minister's Notice** means a notice given under clause 11.2(a)(i) in respect of each Agreed Stage.

**Party** means the Lessor or the Lessee as the case may be.

**Permitted Use** means the use of the Leased Premises described in item 5 of the Schedule.

**Planning Commission** means the Western Australia Planning Commission established by the *Planning and Development Act 2005*.

**Planning Condition** means any condition imposed by the Planning Commission or any Governmental Agency in relation to the Development and Subdivision of the Leased Premises, including the construction of the Services under any Approval, whether any such condition is imposed as a condition precedent or condition subsequent.

**Pollution** means any thing that is pollution within the meaning of that term as defined in the *Environmental Protection Act 1986* that is not authorised under any Act.

**Construction of the Development** means the construction of Residential Dwellings and all fixtures and Improvements and construction and provision of all Services relevant to the Development, and in accordance with all necessary Approvals, Planning Conditions and the Development Plan.

**Contamination** is the state of being contaminated as that term is defined in the *Contaminated Sites Act 2003*.

**Corporations Law** means the Corporations Law 2001 (*Commonwealth*).

**Crown** means the Crown in the right of the State of Western Australia.

**Deposited Plan** means the Deposited Plan or Plans of the Land prepared by or on behalf of the Lessee to subdivide the Land or Agreed Stages of the Land into Lots.

**Development Plan** means the development proposed by the Lessee for the Development and Subdivision and Construction of the Services as approved by the Minister pursuant to clause 9.1.

**Development and Subdivision** means the development, subdivision and construction of the development on the Leased Premises as residential dwellings in accordance with the terms and conditions of this Lease.

**Encumbrances** means any encumbrances shown on the front (registrable) page of this Lease.

**Environmental Expert** means a reputable person who is suitably qualified and experienced in identifying and remediating Contamination, Pollution and Environmental Harm, to the reasonable satisfaction of the Lessor.

**Environmental Harm** has the same meaning as that term is defined in the *Environmental Protection Act 1986*.

**Environmental Law** means all planning, environmental, Contamination or Pollution laws and any regulation order, direction, ordinances or all requirements, permission, permits or licences issued hereunder.

**Further Term** means any extended or additional term granted by the Minister under clause 16 of this Lease and as referred to in Item 4 of the Schedule.

**Governmental Agency** means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

**Improvements** mean any building, facility or structure on the Leased Premises at the Commencement Date.

**Insurance Policies** means the insurance policies referred to in clause 6.1.

**Interest Rate** means the rate determined under section 8(1)(a) of the *Civil Judgments Enforcement Act 2004* from time to time.

**LAA** means the Land Administration Act 1997 (WA).

**Land** means the land, or part of the land, as the case may be, comprising the Leased Premises as referred to in Item 8 on the Schedule and described on the front (registrable) page of this Lease.

## DATE

This deed is made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

## PARTIES

The parties to this Lease are the Lessor and the Lessee defined in clause 1.1.

## RECITALS

- A. The Minister is authorised by section 85 of the LAA to grant leases of Crown land for certain purposes and on such terms and conditions as the Minister may determine including conditions requiring the Lessee to develop and subdivide the Crown Land and giving the Lessee an option to purchase the Land.
- B. The Minister has resolved to allocate seven (7) parcels of Land to the Lessee and the Lessee acknowledges and agrees that the Minister's objective in granting this Lease is for the Land to be developed and subdivided so as to provide lots for residential purposes.

## AGREEMENT

The parties covenant and agree as follows:

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### 1. DEFINITIONS, INTERPRETATION AND EXERCISE OF MINISTER'S POWERS

#### 1.1 DEFINITIONS

The following definitions, together with those in the Schedules, apply unless the contrary intention appears:

**Act** means any present or future Act (State or Commonwealth), regulation, by-law or other subsidiary legislation made under any Act, and any order, notice or requirement of any Authority made under any such Act, regulation, by-law or other subsidiary legislation;

**Agreed Stage** means the Development and Subdivision of the whole or part of the Leased Premises as agreed between the Lessee and the Minister pursuant to clause 9.3 of this Lease.

**Approvals** means the approvals described in clause 9.4.

**Authorisation** includes a consent, authorisation, permit, licence, approval, agreement, certificate, authority or exemption from, by or with an Authority or required under any law and all condition attached to an authorisation.

**Authority** means any Federal, State or local government, or other governmental statutory or public department, tribunal, agency, body or authority of any kind.

**Business Day** means any day other than a Saturday, Sunday or State public holiday in Western Australia.

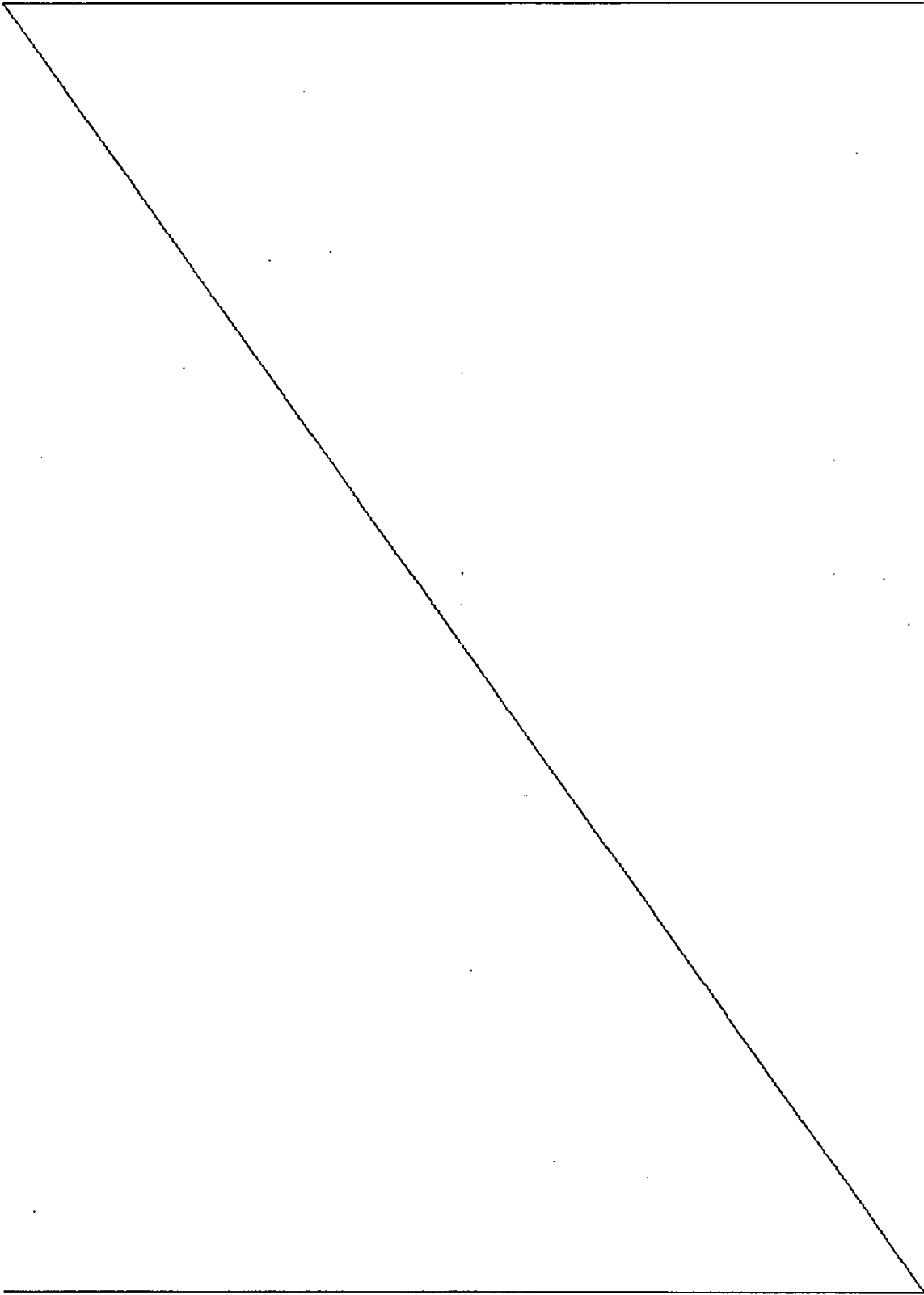
**Certificate of Crown land title** has the same meaning as in the LAA and includes a qualified certificate of Crown land title as that term is defined in the LAA.

**Commencement Date** means the date shown at Item 3 (b) of the Schedule and shown on the front (registrable) page of this Lease as the commencement date.

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FORM LAA-1022

TENURE CODE:

WESTERN AUSTRALIA  
LAND ADMINISTRATION ACT 1997 as amended  
TRANSFER OF LAND ACT 1893 as amended

**LEASE OF CROWN LAND (L)**



DESCRIPTION OF LAND (NOTE 1)

Lot 2 on ~~Deposited Plan~~ 100648  
*Diagram*  
Lot 5863 on Deposited Plan 191022

EXTENT

Whole  
  
Whole

VOLUME

3110  
  
3100

FOLIO

769  
  
875

ENCUMBRANCES (NOTE 2)

G409269 - Easement to Telstra Corporation Limited, registered 28.2.1997.

LESSOR/S (NOTE 3)

State of Western Australia acting through the Minister for Lands, a body corporate under the Land Administration Act 1997, care of Department of Regional Development and Lands, Level 2, 140 William Street, Perth, Western Australia 6000.

LESSEE/S (NOTE 4)

Town of Port Hedland of PO Box 41, Port Hedland WA 6721.

TERM OF LEASE (NOTE 5)

2 Years                      0 Months                      0 Days  
Commencing from the              10th Day of      December, 2012  
With an option for a further term of      2 years.

THE LESSOR LEASES TO THE LESSEE the land above described subject to the encumbrances shown hereon (note 6)

for the above term for the clear yearly rental of (Note 7) Five hundred and fifty dollars inclusive of GST  
payable (Note 8) On the first of January each year for the term of the Lease

SUBJECT TO THE COVENANTS AND POWERS IMPLIED UNDER THE LAND ADMINISTRATION ACT 1997 & TRANSFER OF LAND ACT 1893 AS AMENDED (UNLESS HEREBY NEGATED OR MODIFIED ) AND ALSO TO THE COVENANTS AND Conditions contained herein.

*See letter dated 13-3-13*





Government of **Western Australia**  
Department of **Regional Development and Lands**

**Lands Division**

Your ref: M129893  
Our ref: 00591-2012 Job 122564  
Enquiries: Jason Gibbons  
Ph: (08) 6552 4588  
Fax: (08) 6552 4417  
[jason.gibbons@rdl.wa.gov.au](mailto:jason.gibbons@rdl.wa.gov.au)

Registrar of Titles  
LANDGATE  
PO Box 2222  
MIDLAND WA 6936

To the Registrar of Titles

**REQUISITION NOTICE DOCUMENT M129893**

I confirm I am an officer from the Department of Regional Development and Lands, State Land Services and have the authority and delegation to sign and amend documents for the State of Western Australia on behalf of the Minister for Lands as set out below.

I hereby request that you amend document **M129893** as follows:

- The name and designation of the person attesting to the document for the State of Western Australia is to be stated as **Peter Broekmeulen – Team Leader, Pilbara**;
- The operative clause shown at the bottom of Form LAA-1022 is to have the words "**Conditions contained herein**" inserted after the word "and";
- Please insert page numbers **13** and **14** on those pages;
- It was intended that the Lease be lodged in duplicate. I have provided a duplicate form LAA-1022 to be attached to the lease and asked David Tonkin of our survey team to bring the duplicate document to you upon his return to Midland from our office in the city today. It is anticipated David will be back in Midland this afternoon.

Yours faithfully

**Jason Gibbons**  
**Project Officer**  
**State land Services - Pilbara**

Gordon Stephenson House, 140 William Street, Perth Western Australia 6000 PO Box 1143, West Perth Western Australia 6872  
13 March 2013 Telephone: (08) 6552 4400 Facsimile: (08) 6552 4417 Freecall: 1800 735 784 (Country only)  
Email: [info@rdl.wa.gov.au](mailto:info@rdl.wa.gov.au) Website: [www.rdl.wa.gov.au](http://www.rdl.wa.gov.au)  
ABN: 28 807 221 246

13/03/2013