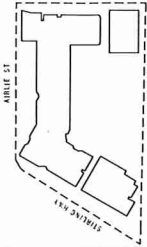


THE GROVE, CLAREMONT
10-10-148 STRONG HWY
CLAREMONT, WA



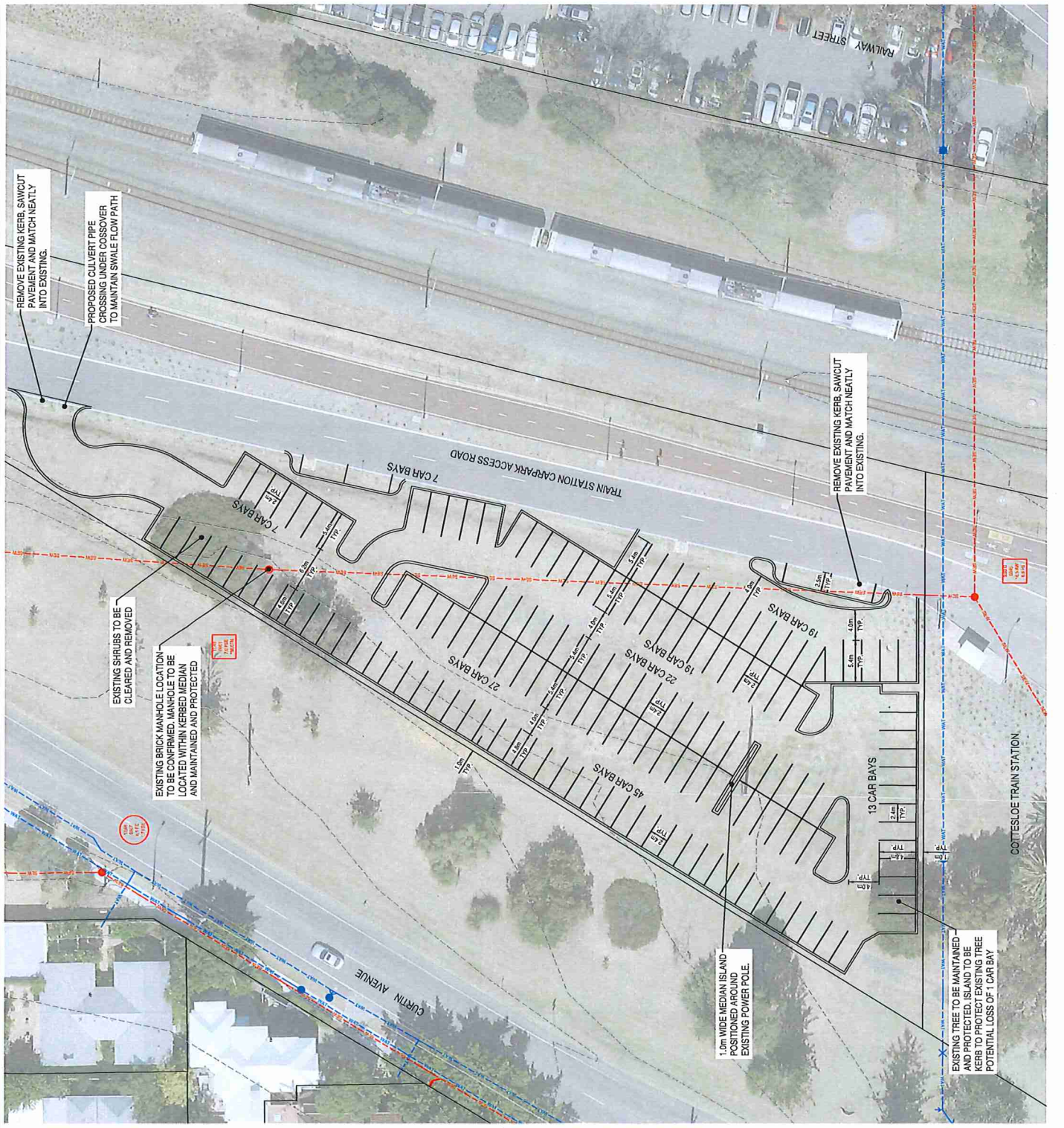
BLACKBURNE

MULTIPLEX





PROJECT NO		20-022	
DRAWING TITLE		CURTIN AVENUE - SITE PARKING CONCEPT	
DATE	25/03/17	SCALE	1:250
CHECKED BY	CJ	DRAWN BY	NS
PROJECT NO		GRV-PFL-CV-44-000-03	A
REVISIONS			
ISSUE NO RECORD COPY AS PRACTICAL COMPLETION			
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**CONTRACT FOR GRANT OF A LICENCE TO OCCUPY LAND
BY OFFER AND ACCEPTANCE**

LICENCE PLAN NO. 6560-2

COTTESLOE

TO: The Public Transport Authority of Western Australia of PO Box 8125,
Perth Business Centre, Perth, Western Australia, 6849 ("PTAWA")
(ABN 61 850 109 576)

The Proposed Licensee described in the Schedule ("Licensee")

HEREBY OFFERS to take a Licence to Occupy the Licensed Area described in the Schedule presently owned or controlled by PTAWA subject to the payment of the fees and to the terms and conditions set out in the schedule and also subject to the conditions in this offer, including the Additional Terms.

CONDITIONS

1. Definitions

In this offer:

"Additional Terms" means the additional terms, as so described, at the end of this offer, which form part of this offer.

"Authority" means any State or Federal government and any governmental department, agency or instrumentality and any local authority.

"Fees" means the fees payable to PTAWA as provided in clause 3.

"Liability" includes any loss, cost, expense or other liability of any kind.

"Licence" means the licence to be created by the acceptance by PTAWA of this offer.

"Licensed Area" means the area so described in the schedule.

"Term" means the term of this Licence, subject to prior determination as provided in clause 3.

2. Offer of grant of Licence

The proposed Licensee offers to take from PTAWA a Licence of a non-exclusive right to use the Licensed Area on the terms of this offer.

3. Term

3.1 The Licence to be granted in clause 2 commences on the date stipulated in the Schedule as the Commencement Date and, subject to clause 3.2 and PTAWA's right of early termination set out in the Additional Terms, continues:

- (a) for the term specified in the Schedule; or
- (b) until either party gives the other party a notice terminating the Licence.

3.2 The Licence is to be subject to immediate revocation and termination by PTAWA:

- (a) at any time when the service of the public requires it; or
- (b) if the proposed Licensee is in breach of any terms and conditions of this Offer.

3.3 No compensation is payable to the Licensee if PTAWA terminates the Licence.

4. Licence fee and outgoings

The Licensee is to pay to PTAWA the Licence fee and the outgoings stipulated in the Schedule in the manner also stipulated in the Schedule.

5. Licensee's obligations

5.1 The Licensee is to:

- (a) keep and maintain the Licensed Area in good condition and repair at all times;
- (b) ensure that the Licensed Area is kept in a safe condition at all times;
- (c) comply with all laws relating to the Licensed Area and anything which is done on the Licensed Area; and
- (d) comply with all requirements and orders of any Authority relating to the Licensed Area.

5.2 If as a result of the Licensee's occupation of the Licensed Area work on or affecting the Licensed Area must be carried out for reasons connected with safety or security, PTAWA may:

- (a) require the Licensee to carry out the work at the Licensee's cost; or
- (b) carry out the work itself.

If PTAWA carries out the work, the Licensee must pay to PTAWA the costs of the work when requested by PTAWA.

5.3 In relation to clause 5.2:

- (a) PTAWA will not carry out any work without first consulting the Licensee about the extent of the work and the most effective means of having it done; and
- (b) the Licensee must cooperate with PTAWA to ensure that the work is carried out as efficiently as possible.

5.4 Clause 5.3(a) does not apply in the case of an emergency, when no consultation is required.

6. Approval of plans for work

6.1 If the Licensee wants to carry out work on the Licensed Area the Licensee must provide to PTAWA for its approval before the work is carried out detailed plans and specifications relating to the work. PTAWA will review the Licensee's plans and specifications as soon as practicable and notify the Licensee of its approval or rejection of the plans.

6.2 The Licensee must not carry out any work on the Licensed Area until PTAWA and every relevant Authority have each approved the plans and specifications for that work. The Licensee must not enter into a contract for the carrying out of any work on the Licensed Area unless PTAWA approves the contract.

6.3 If required by PTAWA all structures and material placed on the Licensed Area as a result of the aforementioned work must be removed at the Licensee's expense at the end of the Term or within 1 month of earlier termination. Should the Licensee fail to remove the aforementioned structures and material PTAWA may remove the aforementioned structures and material at the Licensee's expense and dispose of as it deems fit.

7. Use of the Licensed Area

7.1 The Licensee may only use the proposed Licensed Area for the purpose described in item 5 of the Schedule.

7.2 If the use to which the Licensee puts the Licensed Area requires any consent, licence or other authority under any law, the Licensee must obtain that consent, licence and authority.

7.3 PTAWA does not give any express or implied warranty of any kind that the Licensed Area is suitable for any purpose for which the Licensee intends to use it. Any warranty in relation to the Licensed Area which is implied by law is to be excluded to the extent that the law permits the warranty to be excluded.

- 7.4 The Licensee must ensure that the use of the Licensed Area, including but not limited to the construction of any buildings and other improvements on the Licensed Area, does not interfere with PTAWA's railway operations.
- 7.5 The Licensee must allow PTAWA (including its employees, contractors, agents, consultant or other authorised representatives) access to any services running through or servicing the Licensed Area including air conditioning equipment, power, water, sewerage, drainage, gas, telecommunications and fire system for any purpose lawfully required by PTAWA.
- 7.6 The Licensee must not (and may not permit anyone else to) except with PTAWA's consent:
- (a) store or use inflammable, volatile or explosive substances on the Licensed Area except those normally used in the Licensee's business if they are stored in proper containers and only used in accordance with all relevant laws; or
 - (b) interfere with or obstruct the operation of or access to the Services outside the Licensed Area; or
 - (c) use any facilities in or near the Licensed Area, including drains for any improper purpose; or
 - (d) put any signs or advertisements outside the Licensed Area; or
 - (e) use the Licensed Area for any activity which is offensive, illegal or immoral or which is or may become a nuisance to anyone; or
 - (f) use any dangerous or hazardous substance on the Licensed Area or do any activity which could cause harm to anyone unless required in the ordinary course of carrying out the Licensee's business.

8. Entry by PTAWA

The Licensee must permit entry to the Licensed Area by PTAWA at all reasonable times either with workmen or any other persons and any plant, equipment and materials to:

- (a) inspect the condition of the Licensed Area and to ensure compliance with the Licensee's obligations; and
- (b) comply with any requirement, notification or order of any Authority having jurisdiction over or in respect of the Licensed Area which is the responsibility of PTAWA. PTAWA will make good all damage caused to the Licensed Area by PTAWA to the reasonable satisfaction of the Licensee; and
- (c) remove anything which is harmful or dangerous; and

- (d) do anything else which PTAWA is required to do by law or is permitted to do under the Licence.

9. Reports

The Licensee must report promptly to PTAWA in writing and, in the case of emergency, verbally, any circumstance of which the Licensee becomes aware and which is likely to:

- (a) be a danger; or
- (b) cause any damage or danger,

to the Licensed Area or any person on or in the Licensed Area.

10. Limitation of PTAWA's liability and indemnity

10.1 PTAWA is not liable to the Licensee in any way as a result of:

- (a) any loss of or damage to any property of the Licensee or any other person on the Licensed Area or the Land; or
- (b) any injury to any of the Licensee's employees, agents or contractors or any other person sustained when any of them is on the Licensed Area,

and the Licensee releases PTAWA from any Liability to the Licensee in connection with any such event.

10.2 The Licensee agrees to indemnify PTAWA and keep PTAWA indemnified against any Liability incurred or suffered by PTAWA arising from or in connection with:

- (a) the loss of or any damage to the Licensed Area or any other property on the Licensed Area;
- (b) the death of or any injury to any person on the Licensed Area;
- (c) the loss of or any damages to any property of the Licensee or of any of its agents, employees or contractors or any other person on the Licensed Area, whether or not the result of negligence by any of them; or
- (d) any default by the Licensee of the licence agreement formed by PTAWA's acceptance of this offer.

10.3 Clauses 10.1 and 10.2 do not apply to the extent that any Liability is caused by the negligent act or omission of PTAWA or any of its agents, employees or contractors.

11. Insurance

The Licensee must provide a Certificate of Currency from an insurance company, acceptable to PTAWA, confirming that there is in place public liability insurance policy to a **Minimum of \$10,000,000** or such sum as nominated by PTAWA. The interests of PTAWA (as Licensor) are to be noted on the policy, and a copy of the policy is to be made available to PTAWA (or its agents) on request. The Certificate of Currency is to be forwarded to PTAWA's agents at the commencement of the Licence, and upon annual renewals thereafter.

11.1 The Licensee must maintain insurance by a reputable insurer which applies in relation to the Licensed Area against:

- (1) third party liability risks; and
- (2) loss of or damage to any property (including the Licensee's own property and the property of PTAWA) on the Licensed Area,

for minimum amounts and on terms and conditions reasonably approved by PTAWA.

11.2 The Licensee must, in respect of those insurances:

- (a) ensure that the interest of PTAWA is noted on the relevant policy;
- (b) deposit certificates of currency with PTAWA;
- (c) pay each premium before the due date; and
- (d) notify PTAWA immediately when an event occurs which may give rise to a claim under or which could adversely affect any of the insurances.

12. Assignment and sub-licence

The Licensee may not assign, transfer, sub-licence, or otherwise part with the benefit of the Licence unless PTAWA first consents in writing and then only subject to any conditions on which that consent is given.

13. Costs, expenses and stamp duty

13.1 The Licensee will pay legal costs and expenses in relation to the preparation and stamping of the Licence and this offer.

13.2 The Licensee will pay any stamp duty on the Licence and this offer.

Additional Terms

All sub clauses of this clause do not apply to this Licence, only those sub-clauses of this clause specified in the Schedule shall apply to this Licence.

1. Lights

The Licensee is to ensure that there is not at any time any light (white or coloured) on the Licensed Area in a position where it may affect any person on a train or other railway vehicle.

2. Trees

The Licensee is not to plant or allow any other person to plant a tree or shrub within the Licensed Area which is closer than 5 metres to any level crossing or which is within any area shown hatched black on the plan attached to the Licence as an area where trees or shrubs cannot be planted.

3. Machinery

The Licence is to ensure that at all times all items of Licensee's property which are visible to the public from outside the Licensed Area are:

- (a) kept in a good state of repair and well maintained;
- (b) properly painted or treated; and
- (c) otherwise kept in a presentable and tidy condition.

4. Obstruction of Views

For safety reasons, the Licensee is to ensure that at all times there is no improvement which is higher than height from the ground specified in the Schedule on that part of the Licensed Area shown on the plan attached to this offer as an area which is to be kept free from any obstruction.

5. Stock

The Licensee is to ensure that at all times no stock or other animals stray from the Licensed Area or through the Licensed Area on to other property owned by PTAWA.

6. No building or stacking

The Licensee is to ensure that at all times:

- (a) no building or other structure is constructed or allowed to remain; and
- (b) no property is stacked or otherwise stored,

on that part of the Licensed Area shown on the plan attached to this offer as an area which is to be free of buildings and fixed structures and not used for storage.

7. Buffer Rail

If required by PTAWA, as soon as reasonably possible after the Commencement Date the Licensee is to erect a buffer rail on the railway line boundary of the Licensed Area to prevent vehicles going on to the railway line. The Licensee is to construct the buffer rail in accordance with the design and specifications stipulated by PTAWA. The cost of the buffer rail, including the cost of complying with PTAWA's reasonable directions, is to be paid by the Licensee. The Licensee is to properly maintain the buffer rail after it is erected and if it is damaged the Licensee is to repair the damage as soon as reasonably possible.

8. Drainage System

If required by PTAWA the Licensee is to construct a drainage system on the Licensed Area to prevent water damage to the railway line through or near the Licensed Area. The Licensee is to construct the drainage system in accordance with the design and specifications stipulated by PTAWA. The cost of the drainage system, including the cost of complying with PTAWA's reasonable directions, is to be paid by the Licensee. The Licensee is to properly maintain the drainage system after it is constructed and if it is damaged the Licensee is to repair the damage as soon as reasonably possible.

9. Firebreaks

The Licensee is to provide firebreaks to comply with the requirements of any Authority and all laws, including by-laws and regulations.

10. Telephone Pole

The Licensee is to do everything reasonably possible to prevent damage occurring to any telephone pole and associated equipment including aerial lines belonging to PTAWA and located on or near the Licensed Area.

11. Telecommunications Cable

The Licensee is not to interfere with or disturb the telecommunications cable on the Licensed Area located as shown on the plan attached to this offer and is to prevent any other person interfering with or disturbing the telecommunications cable.

12. **Fences**

If required by PTAWA, the Licensee is to erect and maintain fences on the Licensed Area to the satisfaction of PTAWA.

13. **Environmental Obligations**

13.1 **Definitions**

In this clause:

Authorisation includes a consent, declaration, authorisation, registration, agreement, certificate, permission, licence, approval, authority or exemption from, by or with a Government Agency, including any renewal or amendment;

Baseline Audit means an environmental audit of the Licensed Area which identifies any Contamination, Pollution and Environmental Harm existing on the Licensed Area at a specified date and its extent and concentration;

Contamination means the presence of a substance in, on or under water or land at a concentration above the concentration at which the substance is normally present in the same locality, being a concentration that presents, or has the potential to present, a risk of harm to human health, the Environment or any Environmental Aspect;

Environment has the same meaning as that term is defined in the *Environmental Protection Act 1986* (Western Australia) (as amended);

Environmental Aspect means in respect of any area:

- (a) each interaction of any activity on the area or of the area itself within the Environment;
- (b) each of the following aspects of that area;
 - (1) heritage items on the land within the area or heritage values or significance of the area or anything on it;
 - (2) the flora and fauna in the area including threatened species, populations or ecological communities or their habitats in the area;
 - (3) critical habitat in the area;
 - (4) the propensity of the area to be affected by natural disasters such as bushfires, flooding or geotechnical characteristics of the area or any structures on it; and
- (c) the zoning or permissible uses of the area.

Environmental Expert means a reputable person who is suitably qualified and experienced in identifying and remediating Contamination, Pollution and Environmental Harm;

Environmental Harm means any serious or material harm, damage or detriment to the Environment or an Environmental Aspect which is not Pollution or Contamination;

Environmental Law means any law relating to any aspect of the Environment or health or having as its objective the protection or enhancement of the Environment or any Environmental Aspect; and

Environmental Notice means any notice, direction, order, demand or other requirement to take any action or refrain from taking any action from any Government Agency, whether written, oral or otherwise and in connection with any Environmental Law;

Government Agency means:

- (a) a government or government department or other government body;
- (b) governmental, semi-governmental, or judicial person, entity or authority; or
- (c) a person (whether autonomous or not) who is charged with the administration of any law.

Pollution means any unauthorised alteration of the Environment or an Environmental Aspect to its detriment or degradation which involves the release of any substance, the discharge of waste, an emission of noise, odour or electromagnetic radiation or the transmission of electromagnetic radiation;

Relevant Land means the Licensed Area and the Surrounding Land;

Remediation Date means the earlier of:

- (a) the date on which the Licensee assigns this Licence;
- (b) the date on which the Term of this Licence expires; or
- (c) 60 days after this Licence is terminated.

Remedial Work means any work to restore land affected by Contamination, Pollution or Environmental Harm, including to:

- (a) remove, destroy or reduce;
- (b) dispose of or disperse;
- (c) contain or encapsulate;

- (d) treat;
- (e) manage (including restrict or prohibit access to or use of the affected land); or
- (f) abate or control,

any Contamination, Pollution or Environmental Harm and to remove or minimise any risk or potential risk it presents to human health, the Environment or any Environmental Aspect;

Surrounding Land means any land adjacent to or in the vicinity of the Licensed Area.

13.2 Licensee's obligations

The Licensee must:

- (a) obtain any Authorisation required for any conduct, activity or use undertaken by the Licensee on the Licensed Area, including the Permitted Use, before that conduct, activity or use is undertaken and to keep all such Authorisations in full force and effect throughout the Term;
- (b) use the Licensed Area in a manner which complies with each Environmental Law and each Authorisation held by the Licensee in accordance with paragraph (a) and any other Authorisation provided to the Licensee by the PTAWA;
- (c) not do or omit to do any act which might directly or indirectly result in the revocation, suspension or modification of:
 - (1) an Authorisation relating to:
 - (A) the Licensed Area; or
 - (B) any conduct or activity relating to the use of the Licensed Area, including the Permitted Use, or
 - (2) any Authorisation from time to time relating to the Licensed Area when a copy of such Authorisation is provided by the PTAWA to the Licensee;
- (d) not cause or allow Pollution, Contamination, or Environmental Harm to occur in, on or under the Relevant Land and if any of those do occur the Licensee must minimise and remediate any resultant damage and harm to the reasonable satisfaction of the PTAWA.
- (e) notify the PTAWA immediately on becoming aware of:

- (1) the existence of any Contamination affecting the Relevant Land;
 - (2) any Pollution affecting the Relevant Land;
 - (3) the making of a complaint to any person, including but not limited to, the Licensee or the commencement of proceedings against the Licensee relating to an alleged failure by the Licensee to comply with an obligation under an Environmental Law or Authorisation; or
 - (4) an Environmental Notice being served on the Licensee or any other person which relates to or arises from the Licensee's use of the Licensed Area;
- (f) at the Licensee's cost, comply with every Environmental Notice issued in respect of, arising from or relating to, the Licensee's use of the Licensed Area, whether the notice is served on the PTAWA or the Licensee;
- (g) provide to the PTAWA on demand, copies of all Authorisations relating to the Licensee's use of the Licensed Area; and
- (h) if the PTAWA believes on reasonable grounds that there may be any Contamination, Pollution or Environmental Harm:
- (A) on the Licensed Area; or
 - (B) on the Surrounding Land which was caused or contributed to by the Licensee or a person authorised by the Licensee to use the Licensed Area,

that has not been fully disclosed in a Baseline Audit Report, within 2 months of receiving a request by the PTAWA, provide to the PTAWA a report from an Environmental Expert nominated by the PTAWA and paid for by the Licensee which identifies the nature and extent of any such Contamination, Pollution or Environmental Harm.

13.3 No representation or warranty in respect of Contamination, Pollution or Environmental Harm

The PTAWA makes no warranties or representations concerning the existence or non-existence of Contamination, Pollution or Environmental Harm on the Relevant Land. The Licensee relies on its own investigations concerning the existence or non-existence of Contamination, Pollution or Environmental Harm on the Relevant Land.

13.4 Licensee may undertake Baseline Audit

- (a) Subject to paragraph (b):

- (1) the Licensee may engage an Environmental Expert to carry out, at the Licensee's cost, a Baseline Audit of the Licensed Area to the reasonable satisfaction of the PTAWA, within 2 months of the Commencement Date;
 - (2) the Licensee must provide to the PTAWA a copy of any Baseline Audit it obtains within 10 days of receipt;
 - (3) if the Baseline Audit reveals any Pollution, Contamination or Environmental Harm on the Licensed Area, the Licensee must, within one month of receipt of the Baseline Audit, notify the PTAWA that the Licensee elects to:
 - a. surrender this Licence;
 - b. remediate the Licensed Area at the Licensee's cost to a state that, in the opinion of the Licensee, is suitable; or
 - c. continue in possession of the Licensed Area in accordance with the terms of this Licence at its own risk.
 - (4) if the Licensee does not notify the PTAWA in accordance with paragraph 13.4(a)(3), the Licensee is deemed to have elected paragraph 13.4(a)(3)(C);
 - (5) If the Licensee elects to surrender this Licence in accordance with paragraph 13.4(a)(3)(A), the Licensee shall have no further claims against the PTAWA whatsoever, including, without limitation, any relocation or associated costs.
- (b) If the Licensee assigns this Licence and if the PTAWA requires a certificate under clause 13.5(c), that certificate when read with a Baseline Audit obtained by the Licensee under clause 13.4(a) shall be the Baseline Audit for the purposes of clauses 13.2(h), 13.5 and 13.7.

13.5 Licensee to Remediate at end of Term

- (a) If the Licensee obtained a Baseline Audit in accordance with clause 13.4, the Licensee must, at its cost, perform the Remedial Work by the Remediation Date:
- (1) in respect of the Licensed Area, to restore the Licensed Area to the condition described in the Baseline Audit, to the satisfaction of the PTAWA; and
 - (2) in respect of the Surrounding Land, to the satisfaction of the PTAWA, to the extent that the Pollution, Contamination or Environmental Harm was caused by the Licensee or a person authorised to use the Licensed Area by the Licensee.

- (b) If the Licensee did not obtain a Baseline Audit, the Licensee must, at its cost, perform the Remedial Work by the Remediation Date:
 - (1) in respect of the Licensed Area, to the satisfaction of the PTAWA unless the Licensee can prove, to the reasonable satisfaction of the PTAWA, that the Pollution, Contamination or Environmental Harm was caused by the PTAWA or a person authorised by the PTAWA to use the Licensed Area; and
 - (2) in respect of the Surrounding Land, to the satisfaction of the PTAWA, to the extent that the Pollution, Contamination or Environmental Harm was caused by the Licensee or a person authorised to use the Licensed Area by the Licensee.
- (c) The PTAWA may direct the Licensee to, at the Licensee's expense, engage an Environmental Expert to certify that the Licensee has completed the Remedial Work in accordance with paragraph (a) or (b).
- (d) If the PTAWA terminates this Licence, or the Licensee fails to comply with this clause 13.5, the PTAWA may engage an Environmental Expert to do those things outlined in this clause 13.5 at the Licensee's expense and the Licensee indemnifies the PTAWA under clause 13.8.
- (e) The Licensee's obligations in this clause 13.5 survive termination of this Licence.
- (f) To the extent that the Licensee's obligation under this document is to perform Remedial Work that the PTAWA or another person would otherwise be responsible for remediating under any Environmental Law, the Licensee must do everything necessary to transfer that responsibility from the PTAWA or that other person to the Licensee in accordance with any Environmental Law.

13.6 Disclosure

13.6.1 Except to the extent that disclosure is required by law or to comply with the provisions of this Licence, the Licensee must keep confidential any information provided to the Licensee by the PTAWA concerning the environmental condition of the Relevant Land.

13.6.2 If the Licensee is required by law to disclose information concerning the environmental condition of the Relevant Land, the Licensee must notify the PTAWA before disclosing the information.

13.7 Environmental Release

The Licensee releases the PTAWA from all claims, actions, loss, damage, liability, costs and expenses arising from or connected with (directly or indirectly) the presence of any Contamination, Pollution or Environmental Harm in, on or under the Relevant Land at any time throughout the Term

whether or not identified in a Baseline Audit undertaken by the Licensee in accordance with clause 13.4.

13.8 Environmental Indemnity

Without limiting clause 10 of the general terms of Licence, the Licensee indemnifies the PTAWA in respect of all claims, judgments, orders, costs (including legal costs on a full indemnity basis), losses, expenses and any obligation, duty or liability for which the PTAWA is or may become liable, including claims by third parties, in respect of or arising from (directly or indirectly):

13.8.1 the Licensee's breach of this clause 13;

13.8.2 any Pollution, Contamination or Environmental Harm in, on or under the Licensed Area during the Term; or

13.8.3 to the extent caused by the Licensee or a person authorised by the Licensee to use the Licensed Area, any Pollution, Contamination or Environmental Harm in, on or under the Surrounding Land during the Term.

14. Termination before end of Term

14.1 Notwithstanding any other provision of the Licence if PTAWA wants to terminate the Licence before the end of the Term for any reason, PTAWA may terminate the Licence by giving the Licensee written notice. The termination is to take effect on the date specified in the notice. That date **must be at least 6 months after the notice is given to the Licensee**. If no date is specified in the notice, the termination is to take effect 6 months after the notice is given.

14.2 On the termination date, the Licence will terminate and the Licensee, and any sub-Licensee or occupier of the Licensed Area, is to give up vacant possession of the Licensed Area to PTAWA.

14.3 The Licensee remains liable for the payment of Fees and outgoings and must comply with its other obligations under the Licence until the termination date, and in the case of obligations which are expressed to survive the termination of the Licence, until they have been met.

14.4 PTAWA will not, in any circumstances, be liable for any loss, injury or damage (whether in the nature of economic loss or loss of profits or otherwise) sustained by the Licensee or any person claiming under or through the Licensee as a result of or arising directly or indirectly in any way from the termination of the Licence under this clause except in relation to any liability for misrepresentation or fraud.

15. Increase in Fees on Change in Use

If at any time the Licensee requests PTAWA to allow the Licensee to change the Permitted Use as set out in the Schedule, PTAWA may, as a condition of agreeing to that request, require that the Fees be increased from a date (after the Licensee's request) stipulated by PTAWA.

16. Bond

16.1 In this clause, Bond means the amount specified in the Schedule together with any further amount paid under sub-clause (b) of this clause.

16.2 The Licensee is to pay the Bond to PTAWA before the Licensee enters the Licensed Area. The following terms apply with respect to the Bond:

- (a) if the Licensee does not comply with any of its obligations under the Licence, PTAWA may apply the Bond towards satisfying PTAWA's claim against the Licensee without notice to the Licensee;
- (b) if PTAWA applies the Bond towards an amount equal to the amount applied by PTAWA satisfying a claim against the Licensee, the Licensee is to pay to PTAWA no later than 7 days after PTAWA requests the Bond to be replenished to its former amount; and
- (c) PTAWA is to return to the Licensee any part of the Bond that has not been applied under this clause when the Licence terminates.

17. Bank Guarantee

17.1 In this clause "Bank Guarantee" means a bank guarantee from an Australian trading bank in a form satisfactory to PTAWA for an amount not less than the amount specified in the Schedule.

17.2 The Licensee is to provide the Bank Guarantee to PTAWA before the Licensee enters the Licensed Area. The following terms apply with respect to the Bank Guarantee:

- (a) if the Licensee does not comply with any of its obligations under the Licence, PTAWA may call on the Bank Guarantee and apply the money received towards satisfying PTAWA's claim against the Licensee without notice to the Licensee;
- (b) if PTAWA applies money received under the Bank Guarantee towards satisfying a claim against the Licensee, the Licensee is to arrange for a replacement Bank Guarantee for an amount equal to the amount applied by PTAWA no later than 7 days after PTAWA requests the replacement Bank Guarantee; and

(c) PTAWA is to return the Bank Guarantee to the Licensee (if not called on) when the Licence terminates.

18. Access

18.1 The Licensee may use that part of the land owned by PTAWA and adjoining the Licensed Area as is shown coloured as specified in the Schedule on the plan attached to the Licence for the purpose of access to and from the Licensed Area. The Licensee may not use that land for any other purpose. **The Licensee is to ensure that no vehicles are parked on that land** and that it is not obstructed in any way by the Licensee's Employees, Agents and Visitors.

18.2 The Licensee is to promptly comply with directions given by PTAWA concerning the use of the land referred to in this clause for access purposes.

18.3 Every indemnity given by the Licensee in the Licence and the provisions of the Licence imposing obligations on the Licensee to maintain insurance apply to the land used by the Licensee for access purposes as if that land forms part of the Licensed Area.

18.4 PTAWA is not liable to the Licensee in any way if the Licensee is not able to use the land referred to in this clause for access purposes, except if the Licensee is prevented from using the land without lawful reason by PTAWA or by an employee or agent or other person under the control of PTAWA.

19. Termination by Notice

Notwithstanding any other provision of the Licence, either party may terminate the Licence by giving the other party written notice. The termination is to take effect on the date specified in the notice. That date must be at least 6 months after the notice is given. If no date is specified in the notice, the termination is to take effect 6 months after the notice is given.

20. Access to Services

The Licensee is to allow any Authority (including its employees, contractors, agents, consultants or other authorised representatives) access to any Services on the Licensed Area for any purpose lawfully required by the Authority.

21. Opening Hours

The Licensee is to keep the Licensed Area open for business:

- (a) at the times specified on the Schedule; and
- (b) if no times are stated, during normal business hours having regard to the customary business hours of businesses similar to the Licensee's business.

22. **Redecoration**

The Licensee is to redecorate the Licensed Area to the reasonable satisfaction of PTAWA at least once in every period specified in the Schedule. Redecoration of the Licensed Area includes replacing curtains, blinds and other furnishings which are worn or damaged, repainting all surfaces previously repainted and otherwise treating all surfaces in the manner previously treated.

23. **Building Insurance**

During the currency of this Licence or any extension thereof all buildings and structures upon the said Licensed Area and all additions and appurtenances thereto which the Licensee shall not be entitled to remove at the expiration or earlier determination of this Licence or any extension thereof shall be insured by the Licensee, under a reinstatement and replacement policy approved by PTAWA against loss or damage in the name of PTAWA as owner and the Licensee as Licensee for not less than the sum nominated in the Schedule or for such greater sum which is appropriate to adequately cover all buildings and structures upon the said Licensed Area, such reinstatement and replacement insurance is to be effected with an approved insurer and the policy of insurance or a copy thereof is to be handed by the Licensee to PTAWA or to PTAWA's Managing Agent and that the Licensee will produce to PTAWA or to PTAWA's Managing Agent an Annual Certificate of Currency. Provided always that if the Licensee shall fail to make and maintain any such insurance as aforesaid PTAWA may from time to time at its discretion effect and keep on foot such insurance as aforesaid, the cost of which will be a debt due and payable by the Licensee to PTAWA on demand.

24. **Goods and Services Tax**

24.1 Unless the contrary intention appears, in this clause:

"GST" means a tax levied on the value of a good or service or property supplied, including but not limited to the value represented by the Licence Fee and the amount of Operating Expenses, Rates & Taxes, management fees or other money payable to PTAWA for goods or services or property.

"Operating Expenses" means the total of any amounts paid or payable by PTAWA in respect of a financial year for items of expenditure in connection with the operation of the Licensed Area.

"Rates" means rates, land taxes and other charges imposed by an Authority in relation to the Licensed Area.

"Supply" means a good or service or property supplied under this Licence, including but not limited to the Licensed Area, and other

goods or services or property the cost of which comprises part of the Operating Expenses or Rates and Taxes.

“Taxes” means any taxes, charges, or duties, including stamp duties or any fines or penalties imposed by an Authority in relation to the Licensed Area.

- 24.2 The Licensee must pay to PTAWA the amount of any GST PTAWA pays or is liable to pay on a Supply.
- 24.3 The Licensee must pay to PTAWA the amount of the GST that the Licensee is liable to pay at the same time and in the same manner as the Licensee is obliged to pay for that Supply, including in relation to Fees, Operating Expenses and Rates and Taxes, at the time the Licensee is obliged to pay those amounts.
- 24.4 The price for each Supply, including Licence Fee, fixed or determined under this Licence does not include GST on that Supply and the Licensee must pay the amount of GST in addition to the price for that Supply fixed or determined under this Licence.
- 24.5 Where a Supply is not separately supplied to the Licensee, the liability of the Licensee for any amount for GST in relation to that Supply is determined on the same basis as the Licensee’s Contribution to Operating Expenses is determined.
- 24.6 A written statement given to the Licensee by PTAWA of the amount of GST that the Supplier pays or is liable to pay is conclusive as between the parties except in the case of an obvious error.

25. Residual Current Devices

- 25.1 The Licensee acknowledges that it will not allow any electrical work to be carried out on the Licensed Area, or to the building (if any), without first ensuring that the Licensed electrical contractor is aware of, and is working in accordance with the current legislation.
- 25.2 The Licensee must ensure that:
 - (a) any electrical contractor performing any work in or upon the Licensed Area is duly qualified and Licensed as required by all relevant acts, regulations and by-laws; and
 - (b) any work done complies with all acts regulations, and by-laws and is done in accordance with best industry practices.

26 **Graffiti**

The Tenant must remove all graffiti appearing along the fence lines or on the buildings, after the Tenant becomes aware of, or is made aware of by PTA, of that graffiti, within the following periods:

- (g) In the case of offensive and obscene graffiti – 1 hour; and
- (h) in the case of other graffiti – 24 hours.

SCHEDULE

1. **The Licensee:** **Town of Cottesloe
109 Broome Street
COTTESLOE WA**

2. **Commencement Date:** **1 April 2014**

3. **Licence Fee:** **\$1.00 per annum (payable on demand)**

4. **Outgoings payable by the Licensee**

The Licensee must pay before they become overdue or otherwise as required by PTAWA:

- all charges for services (including but not limited to electricity, gas water and sewerage and telephone and communication services) used by the Licensee in connection with the Licensed Area;

- any rates and taxes and similar charges and assessments levied in respect of the Licensed Area or the Licensee's use or occupation of the Licensed Area; and

- management and administration fees recoverable in accordance with PTAWA Commercial Portfolio Management Agreement;

as reasonably determined by PTAWA. In the case of any charges or assessments which are levied on other land as well as the Licensed Area, the Licensee must pay direct to the relevant supplier or Authority the proportion of such charges, rates, and taxes relevant to the Licensed Area.

5. **Permitted Use:** **Landscaping and beautifications**

6. **Term:** **Ten (10) Years**

7. **Licensed Area:** All that land coloured blue consisting of 9580sqm approximately as detailed in the site plan 6560 attached hereto.

8. Insurance to be Effected by Licensee:

(with PTAWA's interests as Licensor noted on policy)

Public Liability Minimum \$10,000,000

Buildings Replacement Cost

9. Additional Terms:

Only the following additional terms as detailed in the Licence and listed below shall apply to this Licence.

Lights
Building or Stacking
Firebreaks
Telephone Poles
Fences
Environmental Obligations
Increase in Fees on Change in Use
Termination by Notice
Access to Services
Goods and Services Tax
Residual Current Device
Graffiti

EXECUTED as a deed.

The **Common Seal of the TOWN OF COTTESLOE**)
is hereunto affixed by authority of)
a resolution of the Council in the)
in the presence of :)



Jm Dawkins
.....
Signature of the Mayor of the
Town of Cottesloe

Carl Askew
.....
Signature of the Chief Executive
Officer of the Town of Cottesloe

Josephine Mollie Dawkins
.....
Name of the Mayor of the
Town of Cottesloe

Carl Askew
.....
Name of Chief Executive Officer
of the Town of Cottesloe

.....
Address

.....
Address

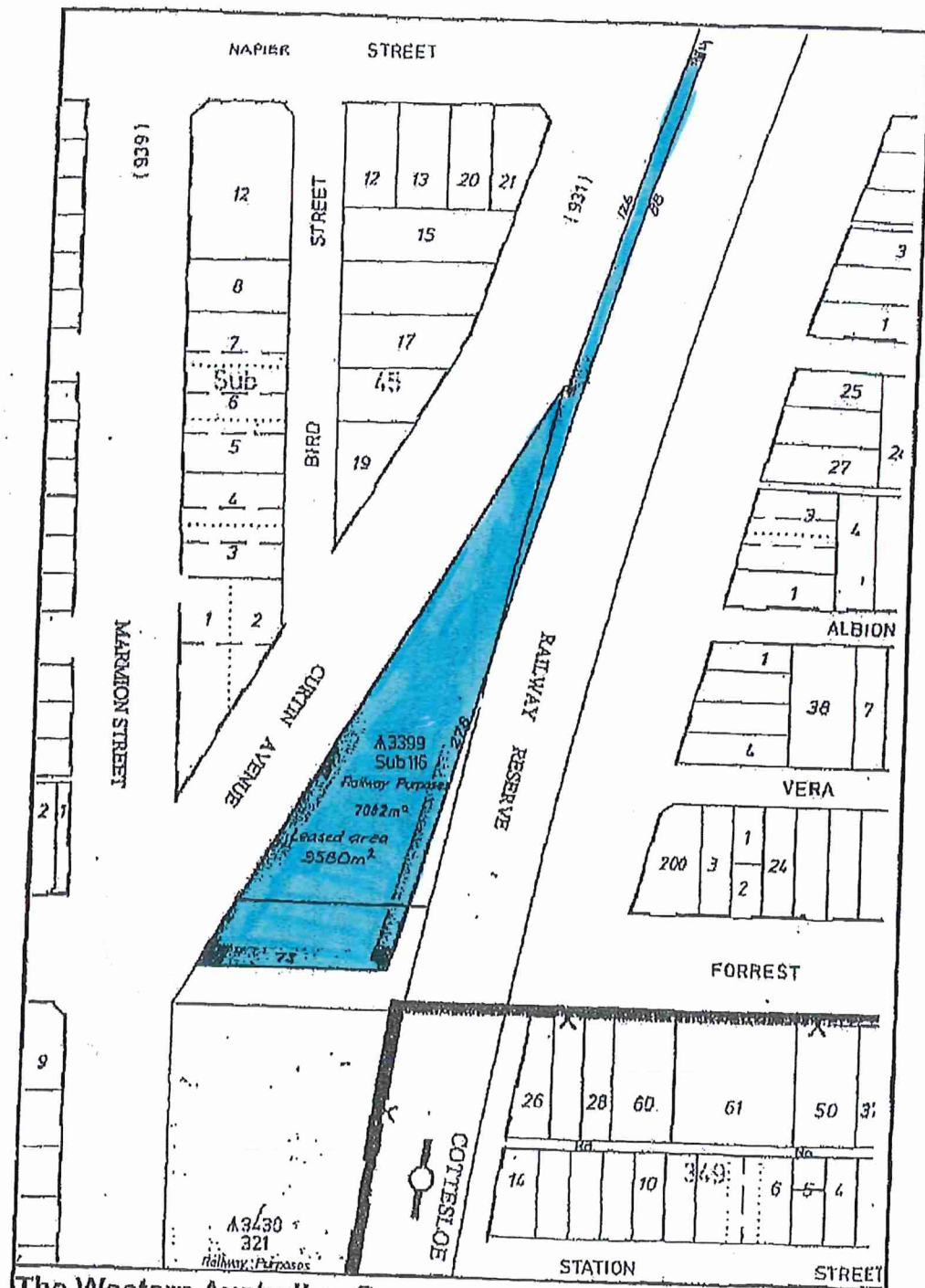
Signed for and on behalf of the)
PUBLIC TRANSPORT AUTHORITY)
OF WESTERN AUSTRALIA by)
)
an officer of the Authority duly authorised by)
the Authority pursuant to section 51(5) of the)
Public Transport Authority Act 2003 for that)
purpose in the presence of:)
Officer)

[Signature]
.....
Signature of Duly Authorised

Jenny Kiss
.....
Witness (signature)
Jenny Kiss
.....
Name (please print)

MANAGING DIRECTOR
.....
Position held

116 West Parade
.....
Address *East Perth*
Legal Practitioner
.....
Occupation



The Western Australian Government Railways Commission

**COTTESLOE
LEASE OF LAND TO TOWN OF COTTESLOE**

R.F. 1:2000
Date: 7-2-97
Drawn: I.D.
Plan No. 6560

January 25, 1993

AP/216R/L David/E14/