

FORM APPROVAL B5886

WESTERN AUSTRALIA  
CONSERVATION AND LAND MANAGEMENT ACT 1984  
TRANSFER OF LAND ACT 1893 as amended

I hereby certify that the within is a true and correct copy of Lease No. 1919/100

*Keiran McNamara*

Mr Keiran McNamara  
Director General – Department of Environment and Conservation

## LEASE OF CROWN LAND (L)

### DESCRIPTION OF LAND (NOTE 1)

That part of Lot 52 on Deposited Plan No. 28125 shown hatched on the Plan attached to the lease.

### EXTENT

Part

### VOLUME

LR3124

### FOLIO

553

### LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS (NOTE 2)

Nil

### LESSOR/LESSORS (NOTE 3)

The CONSERVATION AND LAND MANAGEMENT EXECUTIVE BODY of Locked Bag 104, Bentley Delivery Centre, Western Australia 6983

### LESSEE/LESSEES (NOTE 4)

BUREAU OF METEOROLOGY of 700 Collins Street, Melbourne Victoria

### TERM OF LEASE (NOTE 5)

10 years

0 Months

0 Days

Commencing on the first day of September in the year 2011

THE LESSOR HEREBY LEASES TO THE LESSEE the land above described subject to the encumbrances (if any) shown hereon (Note 6)

For the above term for the clear yearly rental of (Note 7) SEE BODY OF LEASE

payable (Note 8) SEE BODY OF LEASE

SUBJECT TO THE COVENANTS AND POWERS IMPLIED UNDER THE CONSERVATION AND LAND MANAGEMENT ACT 1984 AND THE TRANSFER OF LAND ACT 1893 AS AMENDED (UNLESS HEREBY NEGATED OR MODIFIED) AND ALSO TO THE COVENANTS AND CONDITIONS CONTAINED HEREIN.

LEASE NO. 1919/100

THIS LEASE is made the 13<sup>th</sup> day of October 2011

**BETWEEN**

The Conservation and Land Management Executive Body pursuant to sections 37 and 100 of the Conservation and Land Management (CALM) Act 1984 ("the Lessor") care of Locked Bag 104, Bentley Delivery Centre, Western Australia 6983

AND

COMMONWEALTH OF AUSTRALIA represented by the Australian Government Bureau of Meteorology IPS Radio and Space Services ("the Bureau") of 700 Collins Street, Melbourne, Victoria (ABN 92 637 533 532)

**WHEREAS:**

- A. The Lessor has the power to grant a Lease of the Lease Area situated at Cape Range National Park in the State of Western Australia, more particularly described as Department of Environment and Conservation (DEC) Lease No. 1919/100 ("the National Park"), pursuant to sections 37 and 100 of the CALM Act.
- B. The Lessor and the Bureau want to facilitate the establishment and operation of a Weather Watch Radar Facility ("the Facility") to obtain data to assist in discharging its functions under the *Meteorology Act 1955*.
- C. The Bureau in cooperation with the Lessor will install the Facility on part of the National Park as described in Item 2 of Schedule 1 ("the Lease Area"). The facility will in general comprise a radar mounted on top of an equipment building, supporting infrastructure includes a standby generator, all contained within a 20 metre x 20 metre enclosure that is secured by a weldmesh fence with a gate which will be securely locked.
- D. Any utility services required by the Bureau, including but not limited to the provision of telephone media and electricity, will be provided to the Bureau at the cost of the Bureau.
- E. The Lessor has agreed to permit the Bureau to use the Lease Area for the purpose specified in Recital B and the Lessor acknowledges that Clause 4(2) of this Lease has been agreed between the parties to ensure that data obtained from the Facility is accurate and reliable. For the purposes of maintaining the identity of the data set the Facility will be referred to as the Cape Range Weather Facility.

**NOW THIS DEED WITNESSES** as follows:

- 1. The Lessor Leases the Lease Area described in Item 2 of Schedule 1, to the Bureau together with all necessary rights of access to the Lease Area over the National Park along the usual accessways provided by the Lessor from time to time:
  - (a) for the Lease Fee set out in Item 5 of Schedule 1 ("Lease Fee"), and
  - (b) for the term specified in Item 3 of Schedule 1 ("Term"), commencing on the date of

commencement specified in Item 4 of Schedule 1 ("Commencement Date") on the terms and conditions contained in this Lease.

**2. THE BUREAU AGREES** with the Lessor as follows:-

- (1) To pay the Lease Fee and (subject to receipt of a valid tax invoice) any GST to the Lessor on the days and in the manner provided in Item 5 of Schedule 1.
- (2) To provide the equipment for the Facility and install it and make it operational and to pay for all electrical, internet and other service connections (above that already in existence on the Lease Area) required by the Facility.
- (3) To maintain and keep the Lease Area including any improvements thereon in good repair and condition and at the end or sooner determination of the Lease to yield up the Lease Area and any improvements thereon in a clean and tidy condition fair wear and tear and damage always excepted.
- (4) To keep and maintain the Facility in working order during the term of the Lease, servicing the plant and equipment forming part of the Facility ("Equipment") when necessary and taking appropriate action as soon as possible (within budgetary constraints) when faults or problems are reported by the Lessor or otherwise come to the attention of the Bureau.
- (5) To use the Lease Area only for the purpose set out in Item 7 of Schedule 1 and for no other purpose without the Lessor's previous written consent.
- (6) To the extent that it is bound, to comply with all laws of the State of Western Australia or the Commonwealth and any regulations or orders applying in respect of the Lease Area.
- (7) To upkeep the Lease Area including clearing of weeds and other vegetation as reasonably required.
- (8) To negotiate with the Lessor for access to the Facility at reasonable times during, construction, servicing and decommissioning.
- (9) To indemnify and keep indemnified the Lessor, its servants, agents, contractors and invitees against all actions, proceedings, claims demands (and associated costs) whatsoever which may be brought or made against the Lessor, its servants, agents, contractors and invitees that arise directly or indirectly from the negligent act or omission of the Bureau, a servant, agent or invitee or default by or danger created by the Bureau.

**3. THE LESSOR AGREES** with the Bureau as follows:-

- (1) In return for the Bureau paying the Lease Fee and otherwise complying with this Lease, the Bureau is entitled to peaceably hold and enjoy the Lease Area without any interruption or disturbance from the Lessor or any person lawfully claiming through or under the Lessor.
- (2) To allow the Bureau, its servants, agents and invitees unrestricted and uninterrupted access at all reasonable times to the Lease Area and not to do anything or allow anything to be done which would restrict or hinder access to the Lease Area in any way.
- (3) To allow the Bureau, its servants, agent and invitees all necessary use and access to cables,

conduits and ducts located on the National Park for the operation of the Facility, provided that the Bureau its servants agents and invitees will follow all rules and directions of the Lessor in respect of use of and access to those cables, conduits and ducts.

- (4) To indemnify and keep indemnified the Bureau, its servants, agents, contractors and invitees against all actions, proceedings, claims demands (and associated costs) whatsoever which may be brought or made against the Bureau, its servants, agents, contractors and invitees that arise directly or indirectly from the negligent act or omission of the Lessor, a servant, agent or invitee of the Lessor and except to the extent caused or contributed to by the Bureau or any of its servants, agents, contractors or invitees.

4. **IT IS MUTUALLY AGREED** by and between the Lessor and the Bureau as follows:-

- (1) In the event of the Bureau continuing in occupation of the Lease Area after the expiration of the term or any extension without any demand for possession having been made by the Lessor, the Lease Area shall be held by the Bureau under a yearly Lease determinable at any time upon six (6) months written notice being given by either party to the other at the same Lease Fee and on the same terms contained in this Lease as far as they can be applied to a yearly Lease.
- (2) The Bureau may from time to time during this Lease and at the Bureau's expense with the prior written consent of the Lessor which will not be unreasonably withheld or delayed, construct affix erect or install such improvements, objects and items (including a Shelter unless the same is provided by the Lessor in accordance with clause 4(6) and make such alterations to the Lease Area as the Bureau may consider necessary for the operation of the Equipment PROVIDED THAT the Lessor shall upon the Bureau's request, at the Bureau's cost, do all such things as may be reasonably necessary to assist the Bureau to secure approval or certification of the same in accordance with the requirements of any statute, ordinance or by-law pertaining to such improvement fixture object or item or of the requirements of any body or authority, statutory or otherwise pertaining to the same. The Bureau may at any time during the term of the Lease but must at the end or sooner determination of the Lease remove and carry away the Facility, the Equipment and any other fixtures, fittings, plant equipment or property brought onto the Lease Area by the Bureau, making good all damage caused by such removal.
- (3) The Facility and all items objects and improvements placed affixed or installed on the Lease Area by the Bureau shall at all times remain the property of the Bureau and the Bureau's right, title and interest in the said items will not in any way vest in the Lessor.
- (4) Each party shall each bear their own costs of and incidental to the preparation, negotiation and execution of this Lease.
- (5) The Bureau and the Lessor shall share jointly the ownership of the data produced by the Facility.
- (6) On request of the Bureau, the Lessor will use all reasonable endeavours to provide a space for a container for the electronic equipment comprising the Facility. The container will be provided by the Bureau.
- (7) Every notice, demand, consent or other communication required to be given or served under this Lease will be duly given to or served on:-
  - (i) **The Lessor** if in writing signed by or on behalf of the Director of the Bureau of Meteorology and delivered by hand or sent by prepaid registered or certified mail, telex

or facsimile transmission addressed to the Lessor (17 Dick Perry Avenue, Kensington Western Australia) or such other address as may be notified in writing to the Bureau from time to; and

- (ii) **the Bureau** in writing signed by the Executive Director, Finance and Infrastructure and delivered by hand or sent by prepaid certified or registered mail or by telex or facsimile transmission addressed to the Executive Officer, General Services of the Bureau of Meteorology [700 Collins Street, Melbourne Victoria] or such other address as may be notified in writing to the Lessor from time to time.
- (iii) A communication is deemed to be received:
  - (a) if delivered personally, on the date of delivery;
  - (b) if sent by prepaid ordinary post on the third day after posting;
  - (c) if sent by prepaid security post on the date that the acknowledgment of delivery is completed by the recipient; and
  - (d) if sent by facsimile, on completion of transmission without evidence of garbling or incomplete transmission.
- (iv) A communication takes effect at the time of receipt unless it specifies otherwise.
- (8) Failure by either party at any time to enforce any of the provisions of this Lease will not be construed as a waiver by that party of such provision or in any way affect the validity of this Lease.
- (9) A recipient of a taxable supply made under this Lease must pay to the supplier an amount equivalent to any GST paid or payable by the supplier in respect of the taxable supply subject to the supplier issuing a valid tax invoice in accordance with the GST law to the recipient.
- (10)
  - (i) Subject to any provision of this Lease to the contrary any difference or dispute between the Lessor and the Bureau may be referred by either the Lessor or the Bureau to be determined by a person acting as an expert (and not as an arbitrator) who is an appropriate practising professional appointed at the request of either party, by:
    - (a) the President of the professional body most appropriate to determine the dispute or, if the parties are unable to agree on the appropriate body, the President for the time being of the Law Society of Western Australia;
    - (b) if there is no such body in existence at the time of the request, the President for the time being of an equivalent body.
  - (ii) The Lessor and the Bureau must share equally the fees and expenses of an expert appointed pursuant to sub-clause 4(10)(i) but must otherwise bear their own costs in relation to the dispute.
  - (iii) Both parties have the right to make submissions either orally or in writing to an expert appointed under this clause and in making a determination such an expert must have

regard to those submissions and must provide the parties with a statement of reasons in writing for reaching the determination.

- (iv) The written determination of the expert appointed pursuant to sub-clause 4(10)(i) is conclusive and binding on the parties.
- (11) In respect of Public Liability, the Bureau will insure for an amount of not less than \$10,000,000.00 in respect of any single accident or event; and on reasonable request deliver to the Lessor a certificate of currency in respect of such insurance.
- (12) In the event any locks or keys allocated to the Bureau by the Lessor OR allocated to the Lessor by the Bureau in respect of the National Park or the Lease Area or any part thereof are stolen lost misplaced or damaged by the Lessor or the Bureau or their servants employees agents or persons authorised by the Bureau or the Lessor to use such keys, the Bureau or the Lessor as the case may be shall on receipt of the written request of the other party to this Lease pay all costs and expenses incurred in replacing such locks and keys for use by the Lessor or the Bureau.
- (13) The Bureau shall not without the prior written consent of the Lessor (which consent may be arbitrarily withheld) assign, transfer, encumber or otherwise dispose of the Lease Area or any part thereof or the rights, liberties or authorities granted under this Lease.
- (14) This Lease may only be varied by agreement signed in writing by both parties.
- (15) If the Bureau breaches or fails to comply with any term of this Lease, and after having been served with a written notice:
  - (a) specifying the breach or failure; and
  - (b) requiring that breach or failure to be rectified within a reasonable period specified in the notice (being not less than 14 days),fails or refuses to so rectify that breach or failure within that period, then the Lessor shall be entitled to terminate this Lease and such termination shall take effect immediately upon the Bureau being served with notice of termination.
- (16) The Bureau shall not do or leave undone or allow or suffer to be done or left undone any act matter or thing whereby a nuisance or anything in the nature of which may be deemed to be a nuisance by any Authority or within the meaning of any statute (State or Federal) now or hereafter in force may exist, arise or continue upon or in connection with the Lease Area or any business carried on upon the same or the use thereof and shall forthwith abate any such nuisance or alleged nuisance and shall carry out and comply with all the applicable provisions of every statute and of every requisition and order of any Authority in reference thereto.
- (17) The Bureau shall not affix or cause or permit to be affixed or exhibited anywhere in or on the Lease Area any poster, signboard, neon sign or advertisement except as shall be first approved in writing by the Lessor.
- (18) The Bureau shall pay 100% of all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any default by the Bureau in performing or observing any covenants, conditions or stipulations herein contained or implied and on the part of the Bureau to be performed or observed.
- (19) The Parties must do everything reasonably necessary, including signing further documents, to give full effect to this Lease.
- (20) Nothing in this Lease may be construed to make the Bureau a partner, agent, employee or joint venturer of the Lessor.

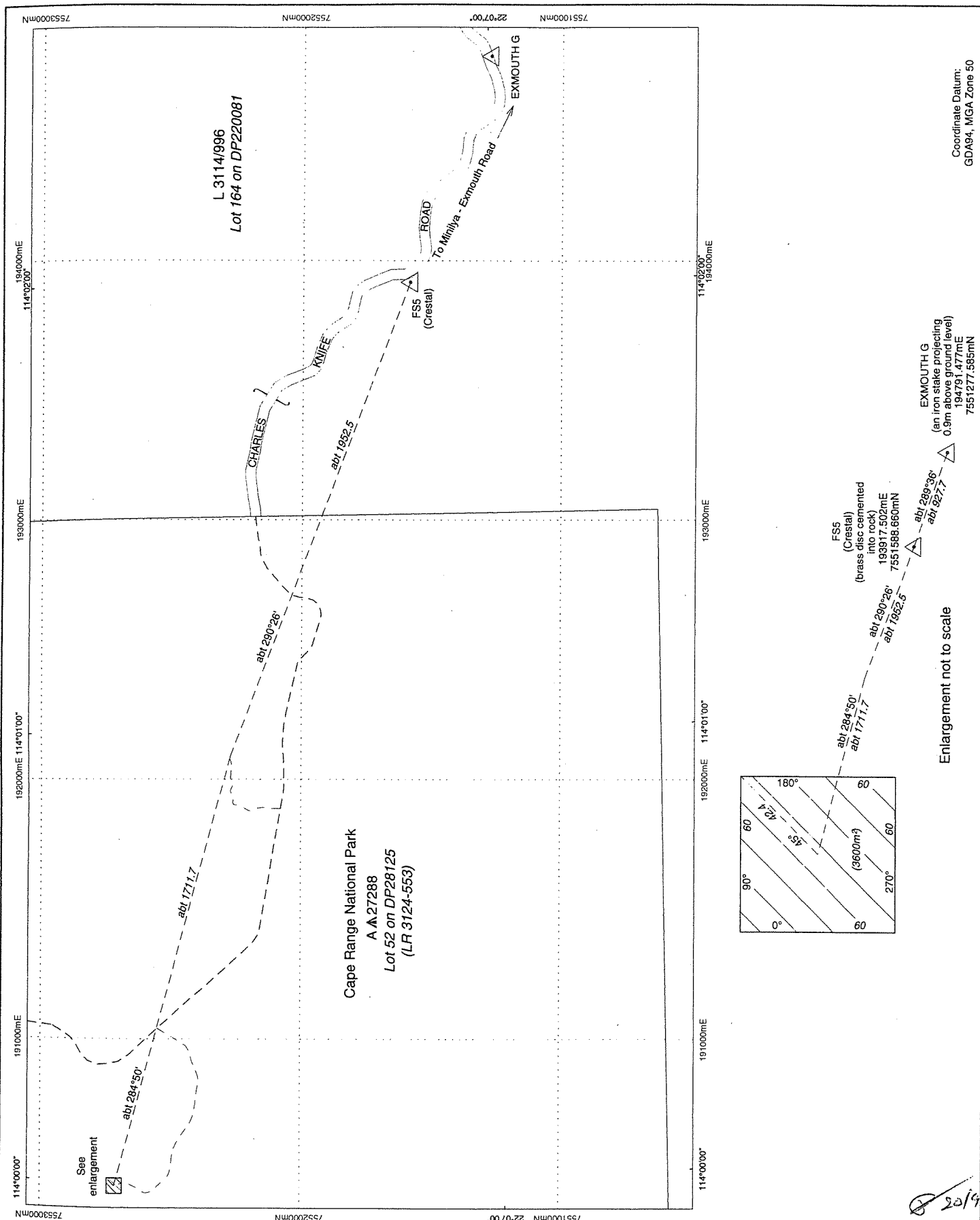
- (21) The rights, powers and remedies in this Lease are in addition to, and not exclusive of, the rights, powers and remedies existing at law or in equity.

5. In this Lease unless a contrary intention appears:

- (1) references to a person include that person's legal personal representatives, assigns and successors;
- (2) an obligation on the part of two or more parties shall bind them jointly and severally and a right in favour of two or more parties shall be enforceable by them jointly and severally;
- (3) references to this Lease include its schedules and annexures;
- (4) references to a person which has ceased to exist or has been reconstituted or merged or the functions of which have become exercisable by any other person or body in its place, shall be taken to refer to the person or body established or constituted in its place or by which its functions have become exercisable;
- (5) words importing any gender include the other genders;
- (6) headings shall be ignored in the construction of this Lease;
- (7) reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (8) where time is to be calculated from a day or event, such day or the day of such event shall be excluded;
- (9) words importing the singular include the plural and vice versa;
- (10) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes telex and facsimile transmission;
- (11) references to persons include corporations and vice versa;
- (12) references to time are to local time in Perth, Western Australia;
- (13) references to this Lease or any other document include the document as varied, extended, renewed or replaced, and notwithstanding any change in the identity of the parties thereto;
- (14) references to a statute whether by name or otherwise includes the amendments to the statute for the time being in force and also any statute passed in substitution for it or in lieu of it and all subsidiary or subordinate legislation for the time being in force under it;
- (15) if a word or phrase is defined, cognate words and phrases have corresponding definitions;
- (16) reference to a clause means a clause of this Lease;
- (17) all the provisions in the Schedule are incorporated in and form part of this Lease;
- (18) no rules of construction apply to disadvantage a Party on the basis of that Party being responsible for the preparation of this Lease or any part of it;
- (19) reference to \$ or Dollars is a reference to Australian dollars;
- (20) reference to the Bureau using the Lease Area means and includes the use of the Lease Area by the Bureau or any of its employees agents contractors Lessees or invitees.

## SCHEDULE 1

1. LESSOR: The Conservation and Land Management Executive Body pursuant to sections 37 and 100 of the *Conservation and Land Management (CALM) Act 1984*.
2. LEASE AREA: All of the Lease Area comprising approximately 3600 square metres and being more particularly described as CALM Lease No 1919/100 Cape Range National Park and shown hatched on the plan annexed hereto.
3. TERM: Ten (10) years.
4. DATE OF COMMENCEMENT: 1 September 2011
5. LEASE FEE: \$1.00 if and when demanded (Lease Fee refer Clause 2.1)
6. PAYMENT OF LEASE FEE: annually in advance commencing on the Commencement Date and thereafter on each anniversary of the Commencement Date to the Lessor at its address for service of notices.
7. PURPOSE: Installing, maintaining and using the Facility in order to obtain data to assist in discharging its functions under the *Meteorology Act 1955*.



# LEASE 1919/100 - Weather Station

LESSEE	BUREAU OF METEOROLOGY		LEASE PLAN APPROVAL
LGA	EXMOUTH	AREA	LESSEE
LAND DISTRICT	LYNDON	DRAWN	WITNESS
DEC DISTRICT	EXMOUTH	CHECKED	LESSOR
PLAN REF.	NINGALOO. YANREY (1:250 000)	FILE No	WITNESS

SCALE 1 : 20 000



Department of  
Environment and  
Conservation

ATTESTATION SHEET

Executed by the parties as a Deed on the

13<sup>th</sup>

day of

October

in the year 2011

LESSOR/LESSORS SIGN HERE (NOTE 9)

THE COMMON SEAL of the )  
**CONSERVATION AND LAND** )  
**MANAGEMENT EXECUTIVE BODY** )  
 was hereunto affixed by



*K. J. M. N.*

Chief Executive Officer

in the presence of:

**Witness:** Signature

Name (please print)

*CAMPBELL YOUNGSON*

Address (please print)

*168 ST GEORGES TCE PERTH WA.*

Occupation (please print)

*PUBLIC SERVANT*

LESSEE/LESSEES SIGN HERE (NOTE 9)

SIGNED for and on behalf of the )  
**COMMONWEALTH OF AUSTRALIA** )  
 by )

in the presence of:

*B. Coutinho*

Witness

**Brenda Jean Coutinho LL.B.**

Name **700 Collins Street Docklands, Victoria**  
 An Australian Legal Practitioner  
 within the meaning of the  
 Legal Profession Act 2004

Address

Occupation



### 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 Title/Crown Land Title to be stated. The Certificate of Title/Crown Land Title Volume and Folio number to be stated.

#### 2. **LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS**

The documents shown are to be identified by nature and number. The plan/diagram encumbrances shown are to be identified by nature and relevant plan/diagram. If none show "nil".

#### 3. **LESSOR**

State full name and address of Lessor/Lessors and the address/addresses to which future notices can be sent.

#### 4. **LESSEE**

State full name and address of Lessee/Lessees and the address/addresses to which future notices can be sent. If two or more, state tenancy eg Joint Tenants, Tenants in Common. If Tenants in Common specify shares.

#### 5. **TERM OF LEASE**

Term to be stated in years, months and days. Commencement date to be stated. 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 of yearly rental in words.

#### 8. **PAYMENT TERMS**

State terms of payment

#### 9. **EXECUTION**

A separate attestation is required for every person signing this documents. Each signature should be separately witnessed by an Adult Person. The name, address and occupation of witnesses must be stated.

EXAMINED

Office Use Only

LODGED BY

ADDRESS

PHONE No.

FAX No.

REFERENCE No.

ISSUING BOX No.

PREPARED BY Department of Environment and Conservation

ADDRESS Locked Bag 104, Bentley Delivery Centre, Western Australia 6983

PHONE No. 9423 2333

FAX No. 9423 2466

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

TITLES, LEASES, DECLARATIONS ETC LODGED  
HEREWITH

- |          |                 |
|----------|-----------------|
| 1. _____ | Received Items  |
| 2. _____ | Nos.            |
| 3. _____ |                 |
| 4. _____ | Receiving Clerk |
| 5. _____ |                 |
| 6. _____ |                 |