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Shire of Cranbrook

and

FES Ministerial Body

**LICENCE
COMMUNICATIONS SITE
582 FRANKLAND-KOJONUP ROAD,
FRANKLAND RIVER**

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LICENCE made

2025

Parties

Shire of Cranbrook of 21 Gathorne Street, Cranbrook, Western Australia ("**the Licensor**")
and

FES Ministerial Body a body corporate pursuant to the Fire and Emergency Services Act 1998 (WA) of 20 Stockton Bend, Cockburn Central, Western Australia ("**FES**")

INTRODUCTION

- A. The Licensor leases part of the Land specified in Item 1 of the Schedule ("**Land**") from the Landlord pursuant to the Lease.
- B. FES requires a licence from the Licensor to use the areas on the Tower shown for identification purposes only on the photos attached to this Licence marked "A" and an area for the Hut shown for identification purposes only on the photo attached to this Licence marked "B" located on that part of the Land shown for identification purposes only on the plan attached to this Licence marked "C" (being within the area leased by the Landlord to the Licensor) ("**Licensed Premises**") for the use of a communications facility.
- C. The Parties enter into this Deed to set out the terms and conditions upon which the licence is granted.

The parties agree**1 Definitions and Interpretation****1.1 Definitions**

In this deed:

Business Day	means any day except a Saturday, Sunday or public holiday in Western Australia.
FES	includes, where the context permits, FES' employees, agents, contractors and any persons having a right to use, access, possess or occupy the Licensed Premises.
FES's fixtures	without limiting the generality of such term, shall include reference to the Hut, any masts, antennae, batteries, radios, cables (telephone or any other type), pipes, wires, conduits, fencing, solar panels, erections and other improvements constructed, erected or installed by FES at the Licensed Premises, and all other appliances, apparatus and things of whatsoever nature brought onto the Land or the Licensed Premises by FES.
Hut	means the hut (mains powered) owned by FES and installed by FES on part of the area leased by the Landlord to the Licensor.
Landlord	means Warwick William Howard of 26 Smyth Road, Shenton Park WA and Andrew James Murray of Lot 11 Rocky Gully-Frankland Road, Frankland River WA, the registered proprietors of the Land.
Lease	means lease dated 23 November 2022 made between the Landlord as landlord and the Licensor as tenant over part of the Land for an initial term of 20 years.

Licence Fee means the annual licence fee payable during the Term (if demanded by the Licensor) being the amount specified in Item 4 of the Schedule.

Licensor's Property without limiting the generality of such term, shall include the Tower and all associated infrastructure and equipment constructed, erected or installed by the Licensor on the area leased by the Landlord to the Licensor.

Tower means the tower installed by the Licensor on part of the area leased by the Landlord to the Licensor.

1.2 Interpretation

In this deed:

- (i) Reference to the parties includes their personal representatives, successors and lawful assigns;
- (ii) Where a reference to a party includes more than one person the rights and obligations of those persons shall be joint and several;
- (iii) Headings have been inserted for guidance only and shall be deemed not to form part of the context;
- (iv) Where a day on or by which any timing is to be done is not a Business Day, that timing must be done on or by the next succeeding day which is a Business Day; and
- (v) The schedule to this Licence ("**Schedule**") and any annexures or appendices to this Licence are incorporated in and form part of this Deed.

2 Grant of Licence

- 2.1. The Licensor HEREBY GRANTS to FES a licence to use the Licensed Premises for a term (subject to the provisions of this licence) commencing on the commencement date specified in Item 2 of the Schedule ("**Commencement Date**") and expiring on the expiry date specified in Item 2 of the Schedule ("**Expiry Date**") and includes where appropriate any renewal or extension thereof ("**the Term**").
- 2.2. The Licensor covenants and agrees that subject to FES observing and performing the covenants contained in this Licence, FES shall peaceably hold and enjoy the Licensed Premises throughout the Term without any interruption from the Licensor or any person claiming by, through or under the Licensor.
- 2.3. The Licensor at its cost must maintain the Licensor's Property in good repair, order and safe condition at all times.
- 2.4. The Licensor must use its best endeavors to prevent damage to, or interference of, the Licensor's Property by any third party or anyone else (including a trespasser).
- 2.5. The Licensor acknowledges and agrees that FES, FES' employees, agents and contractors and any other persons having a right to use, access, possess or occupy the Licensed Premises may access the Licensed Premises at all times of the day or night (24 hours a day, 7 days a week) during the Term and any further term.

3 Payment of Fee

FES COVENANTS AND AGREES with the Licensor that it shall pay to the Licensor the Licence Fee (if demanded) in advance on the Commencement Date and thereafter on the same date in each and every succeeding year of the Term and any further term. The Licensor acknowledges and agrees that the Licence Fee must be reduced pro-rata for any period of less than one year (if demanded).

The Licensor acknowledges and accepts that the Licence Fee is a gross fee inclusive of all costs, charges, expenses, fees and levies and that FES is not obliged to pay any other monies to the Licensor or any other person in addition to the Licence Fee.

The Licence Fee is not subject to review at any time during the Term or any further term.

4 Restrictions

FES ACKNOWLEDGES that:

4.1 This Licence does not confer any estate or interest in the Land.

4.2 Other than the rights granted under this Licence, the grant of this Licence does not create or confer upon FES any tenancy or any other estate or interest in the Licensed Premises.

4.3 The rights of FES lie in contract only.

5 Repairs and Maintenance

FES will use its reasonable endeavours during the Term to keep the Licensed Premises in good order and condition.

6 Permitted Use

FES shall during the Term use the Licensed Premises as a communications facility for the purpose of fire and emergency services and all other ancillary uses.

7 Insurance

FES shall during the Term maintain insurance cover of the nature effected with the Western Australian Government Treasury Managed Fund (RiskCover) with respect to the Licensed Premises.

8 Services

The cost to install any services (including electricity, gas, water and telephone) to the Licensed Premises deemed necessary by FES shall be borne by FES (if applicable).

FES shall pay for any charges for services consumed by FES at the Licensed Premises as invoiced direct to FES by the relevant supplier (if applicable).

9 Indemnity

The Licensor HEREBY INDEMNIFIES FES in respect of all loss, damages, claims and liability arising out of or in connection with FES's use and occupation of the Licensed Premises caused or contributed to by the Licensor or the Licensor's employees, agents or contractors or anyone else the Licensor is responsible for.

10 FES's Rights

FES by its officers, servants, workmen, agents and contractors shall have the right at all times of the day or night (24 hours a day, 7 days a week) during the Term and any further term to install, alter, add to, erect, construct, dismantle, repair, replace, renew, remove and maintain any of FES's fixtures at the Licensed Premises.

11 Obligations in Respect of Licensed Premises

The Licenser must not transfer or otherwise dispose of its interest in the Land to a third party unless:

- 11.1 That disposition is subject to the operation of this Licence and the rights of FES under this Licence;
- 11.2 The Licenser gives FES reasonable prior notice of such intended disposition; and
- 11.3 The Licenser ensures that the proposed transferee signs a deed of covenant to be prepared by FES solicitors at the Licenser's expense made between the Licenser, FES and the transferee legally binding the transferee to comply with and observe all obligations imposed or contained in this Licence.

12 Yielding Up

FES may at or prior to the expiration of the Licence remove and carry away from the Licensed Premises, FES's fixtures but FES shall in such removal do no damage to the Licensed Premises and shall forthwith make good any damage which FES may occasion thereto. FES shall leave the Licensed Premises in a clean and tidy state.

For the avoidance of any doubt, the Licenser acknowledges and agrees that FES has no other yielding up / make good obligations other than as set out in this clause 12.

13 FES's Fixtures

- 13.1 FES's fixtures shall be and remain the property of FES notwithstanding that any part or parts may be or become affixed to the Licensed Premises or the Land.
- 13.2 FES (acting reasonably) may make any alterations or additions to the Licensed Premises necessary to accommodate FES's fixtures.

14 Licenser's Warranties

- 14.1 The Licenser warrants that access to and the use and operation of the Licensed Premises will not be obstructed, interrupted or impeded by the Licenser or the Licenser's employees, agents or contractors or any other person the Licenser is responsible for, at any time during the Term and any further term.
- 14.2 The Licenser must not itself knowingly nor will it knowingly permit any third party to alter, damage or in any way interfere with any part of the Licensed Premises, FES's fixtures or FES's communications facility and indemnifies FES against any costs, losses or expenses arising from any such alterations, damage or interference.
- 14.3 The Licenser must use its best endeavors to procure the modification of any radio frequency used by any other communications carrier on the Land upon receipt of notice from FES that the relevant communications carrier's radio frequency interferes, obstructs, interrupts or impedes FES' radio frequency.

15 Holding Over

If the Licensor permits FES to continue to occupy the Licensed Premises beyond the Expiry Date otherwise than pursuant to the grant of a further licence under clause 16, FES shall do so as a yearly licensee only, at an annual Licence Fee equal to the annual Licence Fee payable by FES to the Licensor immediately before the holding over commenced payable annually in advance (if demanded by the Licensor) with the first annual payment to be made on the day following the expiration of the Term. The tenancy otherwise continues on the same terms and conditions as this Licence. The licence so created may be terminated at any time by either party by six (6) months notice in writing given to the other party to expire on any date.

16 Renewal of Licence

- 16.1 This Licence will be automatically renewed for the further term specified in Item 3 of the Schedule unless FES gives the Licensor notice in writing at least 3 months prior to the expiration of the initial term that the Licence is not to be renewed.
- 16.2 The renewed licence must commence on the day after the initial term expires and be on the same terms and conditions contained in this Licence but not including any provision for renewal after the further term hereby granted.

17 Termination

- 17.1 Notwithstanding any other provision contained in this Licence to the contrary, FES may in its absolute discretion at any time during the Term, any further term or any period of holding over immediately terminate this Licence by notice to the Licensor without any compensation or termination payment being paid to the Licensor.
- 17.2 Termination of this Licence does not affect the rights or liabilities of the parties in relation to any course of action accruing prior to termination.
- 17.3 Upon the termination of this Licence, FES must leave the Licensed Premises in a clean and tidy state. For the avoidance of doubt, the Licensor acknowledges and agrees that FES has no other yielding up/make good obligations.

18 Notices

- 18.1 Any notice to be given under this Licence by one of the parties to the other must be in writing.
- 18.2 A notice is given for all purposes to the Licensor by delivery in person or by prepaid post addressed to:

Shire of Cranbrook
PO Box 21
Cranbrook WA 6321
Attention: Chief Executive Officer
- 18.3 A notice is given for all purposes to FES by prepaid post addressed to:

DFES
20 Stockton Bend
Cockburn Central WA 6164
Attention: Land and Buildings

- 18.4 Any notice given in accordance with this Licence will be deemed to be duly served in the case of delivery in person, when left at the relevant address and in the case of posting at the expiration of three Business Days after the date of posting.
- 18.5 If a notice is delivered after 5pm, it is to be treated as having been given at the beginning of the next Business Day at 9am.

19 Permits / Consents

FES must obtain and keep all relevant consents to and permits for the use of the Licensed Premises as a communications facility or for access to the Licensed Premises from any statutory, public or other relevant authority (if applicable).

20 Goods and Services Tax

20.1 In this clause:

20.1.1 **GST** means any tax calculated by reference to the value of goods or services provided, calculated and levied at the point of sale or supply of the goods or services and includes GST as that term is used in the GST Act;

20.1.2 **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* and includes other GST related legislation and regulations under the legislation, as amended from time to time;

20.1.3 **Payment** includes every amount (other than GST) payable by FES to the Licensor under or in connection with this Licence, whether as a licence fee or as any other kind of payment; and

20.1.4 except for terms defined in this Licence, terms used in this clause have the same meaning as in the GST Act.

20.2 Each payment is exclusive of GST.

20.3 Each payment must be increased by the GST applying to the payment or imposed on the Taxable Supply in respect of which the Payment is made.

20.4 FES must pay the GST referred to in clause 20.3 at the time Payment in respect of which the GST applies is due under this Licence. Payment of GST by FES is subject to the Licensor giving to FES a valid tax invoice. The Licensor warrants that the amounts referred to in any tax invoice given to FES are correct.

21 Governing Law

This Licence is governed and construed in accordance with the laws from time to time in force in Western Australia and the parties submit to the non-exclusive jurisdiction of the Courts of that State.

22 Entire Agreement and Variation

22.1 This Licence constitutes the entire agreement between the parties with respect to its subject matter.

22.2 This Licence must not be changed or modified in any way subsequent to its execution except in writing signed by the Licensor and FES.

23 WAPC Consent

If for any reason this Licence requires the consent of the Western Australian Planning Commission, then it will be subject to that consent being given.

24 Termination – Damage

Notwithstanding any other provision contained in this Licence to the contrary, FES may immediately terminate this Licence by written notice to the Licensor if:

- i. The Licensed Premises or the Licensor's Property are damaged to the extent that they are no longer suitable or are otherwise rendered unfit for the use of the Licensed Premises as a communications facility;
- ii. Any application for a required consent or permit for the use of the Licensed Premises is rejected or cancelled, lapses or is otherwise terminated and no further replacement consent or permit can reasonably be obtained.

25 Costs

Each party shall bear its own costs (including legal costs) of and incidental to the preparation, negotiation and completion of this Licence.

26 Minister for Lands Consent

If for any reason this Licence requires the consent of the Minister for Lands, then it will be subject to that consent being given.

27 FES Payments

Notwithstanding any other provision contained in this Licence to the contrary, the Licensor acknowledges and agrees that any payment under this Licence by FES is subject to and conditional upon FES receiving a valid tax invoice from the Licensor with 30 day payment terms.

The Licensor acknowledges and agrees that the Licensor may not issue a tax invoice for the Licence Fee (if demanded) later than 3 months after the start of the relevant year of the Term or any further term (time being of the essence). A tax invoice given other than within the time period referred to in this paragraph of clause 27 has no force or effect.

28 General

As far as possible all provisions of this Licence must be construed so as not to be invalid, illegal or unenforceable in any respect. If any provision or part of it cannot be read down, that provision or part is taken to be severable and the remaining provisions of this Licence will not be affected.

29 Licensor Warranty

For the avoidance of any doubt, the Licensor warrants to FES that:

- i. Pursuant to clause 3.5(c) of the Lease, the Licensor may grant a licence to FES;
- ii. Pursuant to clause 3.5(d) of the Lease, the Landlord agrees that FES may have unrestricted access to and from the Licensed Premises using the accessway(s) on the Land at all times with or without all necessary vehicles, equipment and workmen, as if it were the tenant under the Lease.

30 Lease/Licence

- 30.1 FES acknowledges that this Licence may come to an end on termination of the Lease.
- 30.2 If the Lease terminates then this Licence may also terminate simultaneously with the termination of the Lease.
- 30.3 For the avoidance of any doubt, the parties acknowledge and agree that the Term (including any holding over) must be 1 day less than the term of the Lease.
- 30.4 Notwithstanding any other provision contained in this Licence to the contrary, where the Lease is likely to be or is terminated for any reason, the Licensor must immediately notify FES in writing and the Licensor authorises and permits FES to deal directly with the Landlord to continue and protect FES's rights to use the Licensed Premises for the Term and any further term and the Licensor will provide all necessary assistance and execute any documents reasonably required by FES in this regard.

Schedule**Item 1 Land**

Lot 25 on Deposited Plan 410954 being the whole of the land comprised in Certificate of Title Volume 2931 Folio 811.

Item 2 The Term

5 years

Commencement Date 8 August 2025

Expiry Date 7 August 2030

Item 3 Further Term

One further term of 5 years commencing on 8 August 2030.

Item 4 Licence Fee

\$1.00 per annum (exclusive of GST) if demanded by the Licensor [gross fee].

EXECUTED as a Deed

The Common Seal of the Shire of
Cranbrook was hereunto affixed in the
presence of:

Chief Executive Officer – Print Name

Chief Executive Officer – Signature

Shire President – Print Name

Shire President – Signature

Signed by **RYAN BULLUSS** Executive
Manager – Land and Buildings as sub
delegate of the Minister under Sections 15
and 16 of the Fire and Emergency Services
Act 1998 in the presence of:

Abhisheikh AK

Signature of Witness

ABHISHEIKH KATHIPAN

Print name of Witness

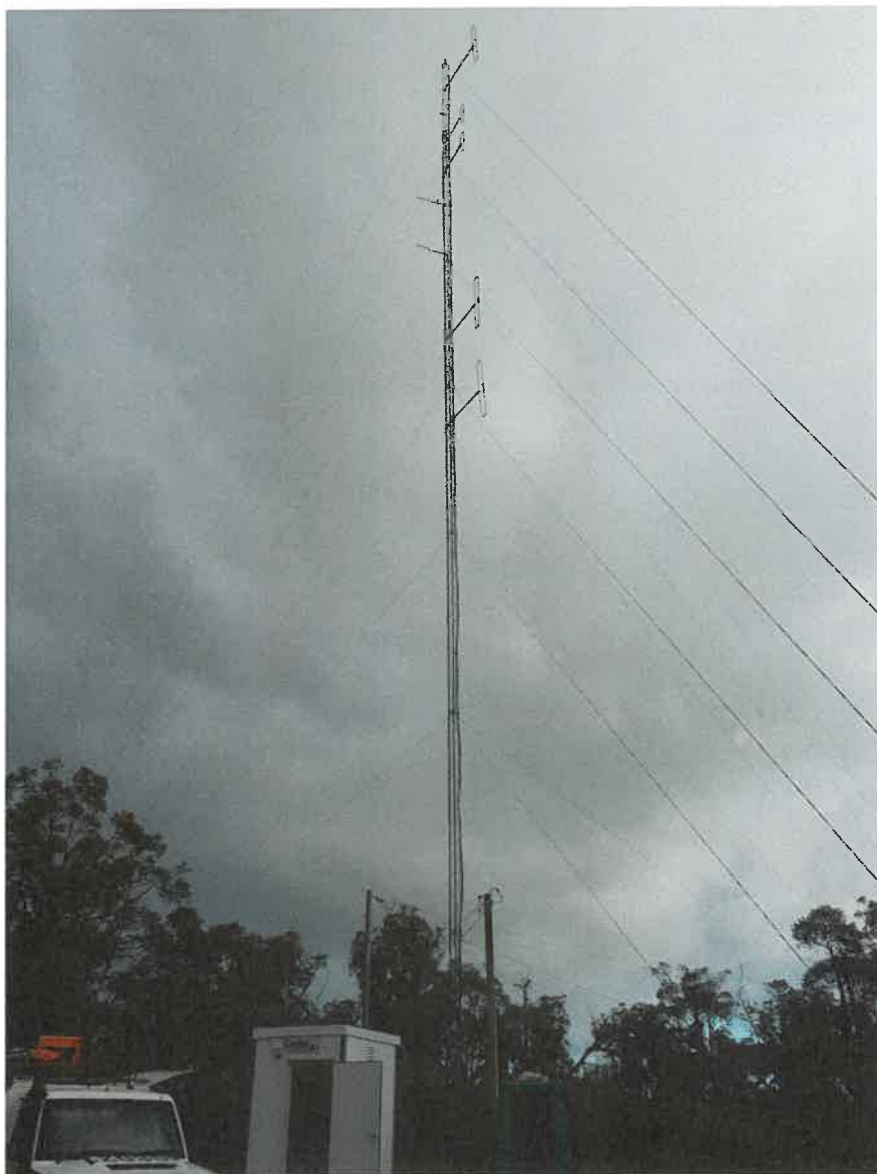
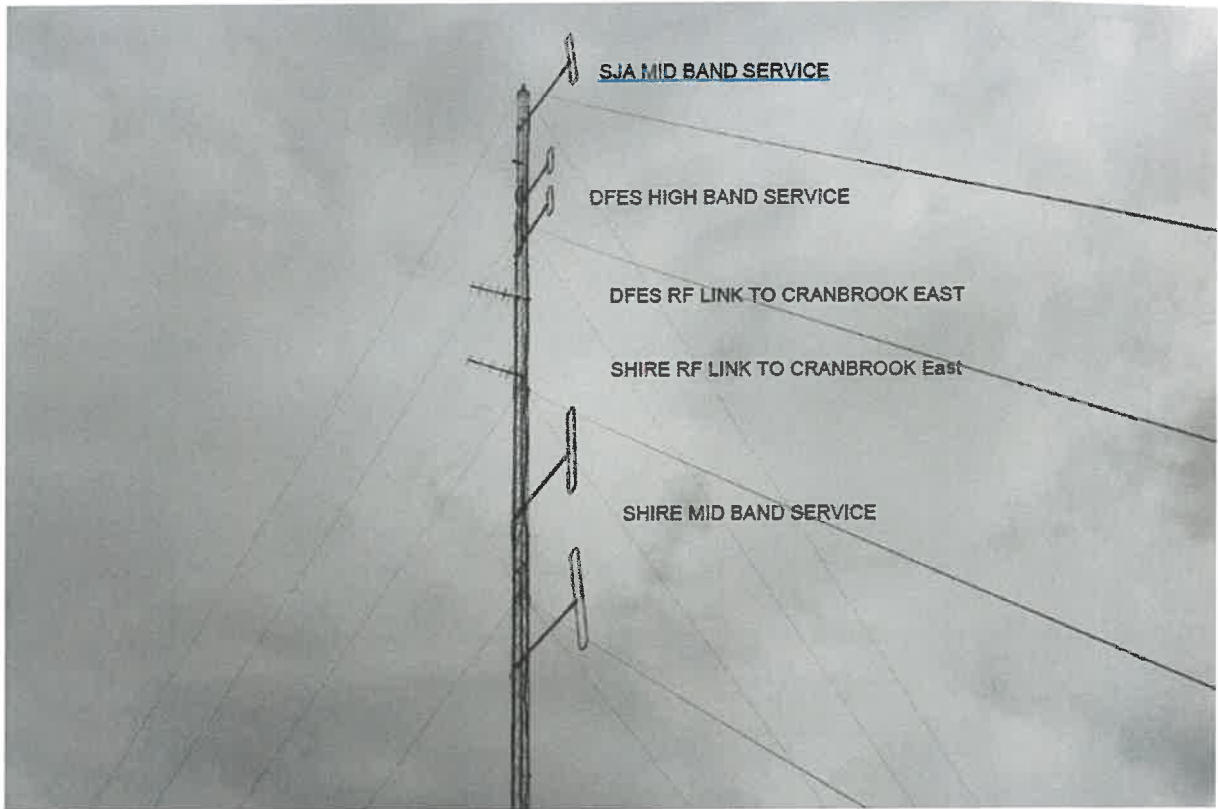
20 STOCKTON BEND, LOCLIBURN CENTRAL WA 6164

Address of Witness

PROPERTY PLANNING & LEASING OFFICER

Occupation of Witness

“A”



“B”



"C"
Cranbrook West
DFES Tower/Hut location & access

