



Department of Planning,
Lands and Heritage



Key outcomes arising from written submissions received

March 2026

**SOLUTIONS FOCUSED FOR A
VIBRANT WESTERN AUSTRALIA**



Acknowledgement of Country

The Department of Planning, Lands and Heritage acknowledges Aboriginal people as the traditional custodians of Western Australia. We pay our respects to the Ancestors and Elders, both past and present, and the ongoing connection between people, land, waters and community. We acknowledge those who continue to share knowledge, their traditions and culture to support our journey for reconciliation. In particular, we recognise land and cultural heritage as places that hold great significance for Aboriginal people.

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Over a 12-month period the Department of Planning Lands and Heritage (the Department) consulted on the proposed new standard pastoral lease conditions. The Department received 56 written submissions from individual pastoralists, industry bodies such as the Pastoralists and Graziers Association, Kimberley Pilbara Cattlemen's Association, Southern Rangelands Pastoral Alliance, Goldfields Nullarbor Rangelands Biosecurity Association, the Gascoyne Catchments Group Inc. and the Insurance Council of Australia (ICA).

The majority (87.5 per cent) of the submissions were related to the proposed insurance and indemnity clauses. In response, the Department sought the advice of the State's insurer, the Insurance Commission of Western Australia (ICWA).

The Department reviewed all submissions with a view to providing any necessary amendments to the New Pastoral Lease Terms.

The following is a synopsis of the consideration of the main issues:

Cap on Insurance Amount

Many submissions raised concerns regarding the open-ended nature of the insurance requirement and that the amount of insurance required to be obtained under clause 9.2(a) was uncertain, as it was required to be an amount consistent with levels commonly insured for the risks being covered and was not specified as a set amount.

Outcome - The Department proposes to specify an amount consistent with commercial practice (currently \$20 million), which will be in the schedule to the pastoral lease.

To align with contemporary insurance practices, it has also been suggested that insurance coverage be limited to cover a total aggregate up to but not exceeding a certain amount.

Outcome - The words "and unlimited in the aggregate" have been removed from clause 9.2(a). This effectively limits the required cover to a total aggregate up to but not exceeding the limit of indemnity during any one period of insurance, as opposed to unlimited in the aggregate.

Scope of indemnity and insurance coverage – third party access

In clause 9.1 the pastoral lessee releases and indemnifies the State in relation to actions, claims etc. arising out of or relating to actions done by the pastoral lessee or its agents only. Pastoral lessees are **not** required to indemnify the State in relation to actions, claims, etc. arising out of or related to actions of third parties such as mining companies or native title parties.

The majority of the submissions raised the issue of the breadth of the required insurance coverage and concerns about insuring for third parties entering onto the land. As public liability insurance, which forms part of most farm insurance policies, responds to third party bodily injury or property damage where there is negligence, no amendments are proposed in response to this issue.

Requests to exclude natural disasters and uncontrollable events from indemnity and insurance obligations were not adopted given the absence of clear information concerning the risks involved.

Outcome - The phrase “all claims and losses, consistent with usual prudent commercial practice” in clause 9.1(a) is retained, upon advice from ICWA that this wording is standard and consistent with commercial practice.

Availability of insurance coverage for contamination, pollution and environmental harm

The requirement to obtain insurance for Environmental Harm has been removed as it is understood the public liability insurance component in the typical farm insurance policy does not include coverage for Environmental Harm.

Most of the submissions commented that it was difficult to obtain insurance for contamination and pollution and noted that the insurance available was cost prohibitive. It is understood that the usual farm insurance policy includes a public liability component for sudden and accidental pollution and covers third party injury or property damage.

Outcome - Other than the change to remove the need to insure for Environmental Harm, no further changes are proposed.

Scope of insurance and indemnity – natural disasters

Some submissions saw a need to remove the need to insure and indemnify for events outside the control of the lessee, such as natural disasters. This was determined to be a complex question with insufficient information available on the risks identified

Outcome - No amendments proposed on this basis.

Legal Registration and Lessor’s Costs

Many submissions called for a reduction in the costs required to be paid by lessees under clause 4.2. The costs have been expanded to now meet costs relating to assignment, subletting, lease surrenders, lease extensions and requests for Ministerial consent along with paying duty, fines or penalties that would otherwise be payable by the State. In line with current practices, pastoral lessees are expected to reimburse the State for its actual costs incurred where the pastoral lessee asks for consent for something under the lease (e.g. permission to sublease) or default occurs.

Outcome - No changes are proposed to clause 4.2.

Native Title Compensation

Fifty per cent of the submissions raised the issue of liability for native title compensation arising from the renewal of a pastoral lease as an issue. As this is not a matter related to the content of the pastoral lease terms, no changes are proposed to the lease terms on this basis. At present, the State Government is giving continued consideration to this issue.

Outcome: Outside the scope of the consultation related to the content of the pastoral lease terms.

THIS LEASE is made the _____ day of _____ in the year _____

BACKGROUND

- A. Pursuant to Part 7 of the *Land Administration Act 1997* (LAA), the Minister, for and on behalf of the State of Western Australia, leases to the Lessee, the Land subject to the Exclusions, Reservations and Encumbrances, for the Term and at the Rent and subject to the provisions of the LAA and on the terms and conditions of this Lease.
- B. This Lease is granted by the Minister for Lands in accordance with the provisions of Part 7 of the LAA.
- C. The Lessor and the Lessee intend that, if native title exists in relation to the Land and the grant of this Lease is a future act for the purposes of the *Native Title Act 1993* (Cth), this Lease takes effect as a permissible lease etc. renewal for the purposes of Subdivision I of that Act.¹

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

1.1. DEFINITIONS

In this Lease the following definitions apply unless the contrary intention appears:

Board means the Pastoral Lands Board established under the LAA.

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

Commencement Date means the date shown on the front page of this Lease as the commencement date.

Contamination is the state of being "contaminated" as that term is defined in the CSA.

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

CSA means the *Contaminated Sites Act 2003*.

Department means the department principally assisting the Minister in the administration of the LAA from time to time.

Deposited Plan means the deposited plan referred in the description of the Land on the front page of this Lease.

Encumbrance means the limitations, interests, encumbrances and notifications shown on the front page of this Lease.

Environmental Harm means any thing that is "Environmental Harm" within the meaning of that term as defined in the *Environmental Protection Act 1986* to the extent that it is inconsistent with the Permitted Use.

Environmental Law means all planning, environmental (including biodiversity), Contamination or Pollution laws including the *Biosecurity and Agricultural Management Act 2007*, the *Environmental Protection Act 1986*, the *Soil and Land Conservation Act 1945* and the *Biodiversity Conservation Act 2016* and any regulations, orders, directions, ordinances or all requirements, permissions, permits or licences issued thereunder.

¹ Recital C only to be included for pastoral lease renewals. Recital C to be deleted if new lease is being granted under section 102 of the *Land Administration Act 1997*.

Environmental Notice means any notice, direction, order, demand or other requirement to take any action or refrain from taking any action from any Governmental Agency, whether written or oral given under any Environmental Law.

Exclusions means the exclusions set out in clause 10.1.

front page of this Lease means the form suitable for registration of this Lease at the TLA Agency.

Governmental Agency means any government or any governmental (including local government), administrative, fiscal or judicial body, department, commission, statutory authority or board, tribunal, agency or entity.

GST has the meaning given in section 195-1 of the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the meaning given in section 195-1 of the GST Act.

Improvements means buildings, sheds, yards, fences, windmills, small-scale solar energy systems, bores, wells, dams, water apparatuses, drains and pipes, roads and tracks, and other facilities, structures fixtures and fittings on the Land at the Commencement Date or thereafter placed, effected, constructed, erected or undertaken on the Land during the Term and includes any alterations, additions, replacements, renewal or restorations made to those improvements during the Term.

Insurance Amount being the amount specified in the Schedule being an amount of insurance consistent with levels of insurance common for the risks specified in clause 9.2 or such other amount as may reasonably be specified by the Lessor from time to time.

Insurance Policy means the insurance policy or policies required to be taken out by the Lessee under clause 9.2.

Insurer has the meaning given in section 11 of the *Insurance Act 1973* (Cth).

LAA means the *Land Administration Act 1997*.

Land means the land described on the front page of this Lease subject to the Exclusions, and includes all Improvements on it from time to time.

Law includes any requirement of any statute, regulation, proclamation, ordinance or by-law, present or future, and whether State, Federal or local.

Lease means this deed of lease, as it is amended, varied, renewed or assigned from time to time, as permitted by this Lease.

Lessee means the party described as the lessee on the front page of this Lease, and includes their successors and permitted assigns.

Lessee's Agent means the employees, agents, contractors, consultants, sublessees, licensees and invitees of the Lessee. For the avoidance of doubt, a person who accesses the Land in exercise of a Third Party Right in a capacity other than as an employee, agent, contractor, consultant, sublessee, licensee or invitee of the Lessee is not a "Lessee's Agent" within this definition.

Lessor means the party described as the lessor on the front page of this Lease and includes the Crown.

Lessor's Agent means the officers, employees, agents and contractors of the Lessor, the Minister and the Department.

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

Minister means the Minister for Lands, a body corporate continued under section 7 of the LAA.

Pastoral Purposes has the meaning given under section 93 of the LAA.

Permit means any permit issued to the Lessee in respect of the Land under Part 7 Division 5 of the LAA.

Permitted Use means the use of the Land for Pastoral Purposes.

permitted stock has the meaning in section 93 LAA.

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 Law.

prohibited stock has the meaning given in section 93 of the LAA.

Rent means the annual rent as determined and varied from time to time in accordance with Part 7 of the LAA being at the Commencement Date, the amount shown on the front page of this Lease.

Rent Payment Date means:

1 September; and

1 March

Reservations means the reservations set out in clauses 10.2 to 10.4.

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

Services means all utility services including water supply, gas, sewerage, waste disposal, drainage, electricity and telecommunications facilities.

Stock has the meaning given in section 3 of the LAA and includes both permitted stock and prohibited stock. For the avoidance of doubt, the inclusion of “**prohibited stock**” in this definition is not to be taken as any consent or permission of the Lessor or the Minister in relation to the presence of “**prohibited stock**” on the Land and does not constitute a waiver of the Lessee’s obligation under the LAA with respect to prohibited stock.

Surrounding Area means any land or water adjacent to or in the vicinity of the Land and the air generally above the Land, and includes an affected site within the meaning of that term as defined in the CSA.

Term means, subject to any sooner determination under the terms of this Lease or the LAA, the term set out on the front page of this Lease commencing on the Commencement Date.

Tax Invoice has the meaning given in section 195-1 of the GST Act.

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

Third Party Right means a right granted or otherwise created in favour of a third party under any Law.

TLA Agency means the agency or department responsible for the registration of dealings relating to land in the register kept pursuant to the *Transfer of Land Act 1893* being, at the Commencement Date, the Western Australian Land Information Authority a body corporate under the *Land Information Authority Act 2006* and known as “Landgate”.

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) the word “including” is deemed to be followed by “but not limited to”;
- (e) an expression importing a natural person includes a company, partnership, joint venture, association, corporation or other body corporate;
- (f) 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;
- (g) references to parts, clauses and parties are references to parts and clauses of, and parties to, this Lease;
- (h) 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;
- (i) 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;
- (j) a covenant or agreement by more than one person binds, and is enforceable against, those persons jointly and each of them severally;
- (k) 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;
- (l) a reference to a statute, regulation, ordinance or other law in this Lease includes regulations, proclamations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them from time to time;
- (m) 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; and
- (n) words that are defined in the LAA and used in this Lease have the same meaning given to them under the LAA.

1.3. PERFORMANCE OF FUNCTIONS BY MINISTER

All acts and things which the Minister or Lessor 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.

2. APPLICATION OF STATUTES

2.1. LAND ADMINISTRATION ACT

The Lessee and the Lessor agree that:

- (a) the provisions of the LAA relating to pastoral leases on Crown land granted under Part 7 of the LAA apply to this Lease; and
- (b) the provisions of this Lease do not in any way affect, alter or derogate from:

- (i) the Lessor's, the Minister's or the Board's rights or powers conferred under the LAA; or
- (ii) the Lessee's rights under the LAA.

2.2. STATUTORY EXCLUSIONS

The covenants and powers implied into leases by the *Transfer of Land Act 1893* do not apply to this Lease and are not implied in this Lease unless expressly included.

2.3. STATUTORY INCLUSIONS

With the exception of the exclusion set out in clause 2.2, nothing in this Lease affects or derogates from any right, power, condition or reservation granted or reserved in respect of or applying to the Land under any Law from time to time.

3. RENT

3.1. PAYMENT OF RENT

The Lessee must pay to the Lessor the Rent:

- (a) an initial payment equal to one half of the Rent on the execution of this Lease, and then by consecutive half yearly payments in advance on each Rent Payment Date, each payment being one-half of the Rent (excluding the first payment of Rent immediately after the initial payment, which must be proportionate if necessary);
- (b) at the place and in the manner notified by the Lessor in writing at any time;
- (c) without deduction or abatement; and
- (d) without demand from the Lessor.

4. OTHER PAYMENTS BY LESSEE

4.1. PAYMENT OF RATES, TAXES ETC

The Lessee must pay, when due and payable, all present and future rates, taxes, charges, impositions, assessments, outgoings, duties and fees including those under the *Biosecurity and Agriculture Management Act 2007* which at any time during the Term are charged upon the Land or imposed or levied upon the Lessor or the Lessee in respect of the Land, use of the Land for the Permitted Use or the ownership of the Land.

4.2. LEGAL REGISTRATION AND LESSOR'S COSTS AND DUTY

- (a) The Lessee must pay to the Lessor 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 the Lessee's obligations under this Lease; and
 - (iv) as a result of the exercise of any right, power, privilege, authority or remedy of the Lessor or the Minister in respect of this Lease, including the preparation and service of any notice referred to in clause 13.
- (b) The Lessee is to pay or reimburse the Lessor on demand for:

- (i) all duty, penalties or fines payable under the *Duties Act 2008* in respect of any dutiable transaction or other matter to which this Lease and any extension of the Term of this Lease relates; and
- (ii) all costs relating to the registration of this Lease and any extension of the Term of this Lease.

5. USE OF THE LAND

5.1. PERMITTED USE

- (a) This Lease confers on the Lessee a right to occupy and use the Land for the Permitted Use in accordance with the LAA and the provisions of this Lease.
- (b) The Lessee must not use the Land for any other purpose unless such use is authorised by a Permit or any other Law.
- (c) For the avoidance of doubt, the Permitted Use includes the right to place, effect, construct, erect, undertake, alter and add Improvements on the Land as are reasonably required or necessary for or ancillary to the Permitted Use and replace, renew, restore or remove all such Improvements.

5.2. NUISANCE OR OTHER ACTIVITIES

The Lessee must, not at any time during the Term:

- (a) carry on or permit the Lessee's Agents to carry on or from the Land any unlawful or illegal act, trade, business, occupation or calling; or
- (b) do or permit the Lessee's Agents to carry on or from the Land any act, matter or thing which results in nuisance, damage or disturbance to the Lessor or owners or occupiers of adjoining or neighbouring lands or buildings.

5.3. NO RIGHT TO SOIL OR TIMBER

Subject to the provisions of the LAA this Lease and any Permit, the Lessee shall have no right to the soil, or to the timber of the Land, except as may be required for the Permitted Use.

6. DEALINGS WITH THIS LEASE

The Lessee may only dispose of, deal with, or assign its estate or interest in, or part with possession of the Land, in accordance with the LAA.

7. LESSEE'S GENERAL OBLIGATIONS

7.1. CONTAMINATION, POLLUTION AND ENVIRONMENTAL HARM

The Lessee must not cause, or permit the Lessee's Agents to cause, any Contamination, Pollution or Environmental Harm to occur in, on or under the Land or to the Surrounding Area, and if any Contamination, Pollution, Material Environmental Harm or Serious Environmental Harm is caused by the Lessee or the Lessee's Agents, the Lessee must give notice of it to the Lessor and must minimise, contain and remediate any resultant damage and harm to the reasonable satisfaction of the Lessor.

7.2. COMPLIANCE WITH LAW

In addition and without limitation to anything else provided in the LAA and this Lease about complying with Laws, the Lessee must comply with all Laws and requirements, notices, orders or lawful direction of any Governmental Agency applicable to:

- (a) the exercise of the Lessee's rights or the performance of the Lessee's obligations under this Lease;

- (b) the use and occupation of the Land by the Lessee or the Lessee's Agents;
- (c) any Improvements; and
- (d) the Stock.

7.3. LESSEE'S RIGHT TO NOTICE

The Lessor and the Lessee agree that, for the purposes of sections 35 and 131 of the LAA, a breach of a condition or covenant in respect of any matter under clause 7.1 and clause 7.2 of this Lease only occurs if:

- (a) the Lessee is served with a notice from a Governmental Agency (including any Environmental Notice) properly requiring the Lessee to do or to cease doing something in order to comply with any Law, requirements, notices, orders or directions of the kind referred to in the notice and within a reasonable time:
 - (i) the Governmental Agency does not withdraw, cancel, suspend or discontinue the notice; or
 - (ii) the Lessee fails to challenge the validity of the notice in a Court or Tribunal of competent jurisdiction or fails either to have the notice dismissed, withdrawn or discontinued, or to comply with the order of the Court or Tribunal; or
 - (iii) the Lessee fails to take and continue to take reasonable steps to achieve compliance with the notice; or
- (b) the Lessee is served with a notice from the Lessor that:
 - (i) the Lessee has failed to minimise or remediate, to the Lessor's reasonable satisfaction, any damage or harm from any Contamination, Pollution, Material Environmental Harm or Serious Environmental Harm caused by the Lessee or the Lessee's Agents of the kind referred to in clause 7.1; or
 - (ii) the Lessee has failed to comply with any Law, requirements, notices, orders or directions of the kind referred to in clause 7.2; andthe Lessee has not, by a date specified in the notice (being not less than 30 days after service of the notice), remedied the breach set out in the notice to the Lessor's reasonable satisfaction.

7.4. GRAZING

The Lessee will not and will not permit:

- (a) any grazing of Stock on all or part of the area leased where grazing is prohibited under the powers contained in the Soil and Land Conservation Act 1945 or any other Environmental Law;
- (b) grazing of Stock on all or such part of the area leased or otherwise howsoever in breach of any conditions or restrictions imposed under the powers contained under any Law.

8. REGISTRATION OF LEASE

The Lessor will lodge this Lease for registration at the TLA Agency, within 30 days after it is executed by the Lessor and the Lessee.

9. INDEMNITIES, RELEASE AND INSURANCE

9.1. INDEMNITY

The Lessee:

- (a) agrees to occupy, use and keep the Land at the risk of the Lessee;
- (b) releases and indemnifies and will keep indemnified the Lessor, the Lessor's Agents and the Minister from and against all actions, claims, writs, proceedings, suits, demands, losses, damages, compensation, costs of remediation, legal costs, charges and expenses whatsoever which at any time may be brought, maintained or made against the Lessor, the Lessor's Agents and the Minister arising from or relating to:
 - (i) the use or occupation of the Land and Improvements by the Lessee or the Lessee's Agents;
 - (ii) any work carried out by or on behalf of the Lessee on the Land or to the Improvements;
 - (iii) the Lessee's activities, operations, business or other use of the Land under the LAA, this Lease and any Permit;
 - (iv) the presence of any Contamination or Pollution in on or under the Land or the Surrounding Area caused or contributed to by the act, neglect or omission of the Lessee or the Lessee's Agent; and
 - (v) 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 and any Permit;
 - (vi) loss, damage or liability arising from the death of, injury to, or illness of, any person on the Land directly or indirectly caused by, arising out of, or in connection with the Lessee or the Lessee's Agents activities, operations, business or other use of the Land;
 - (vii) loss of, or damage to, the Improvements or the property of the Lessee including Stock, fixtures, fittings or other improvements on the Land,except to the extent that the same is caused by the negligence of the Lessor or the Lessor's Agents.

9.2. INSURANCE

- (a) The Lessee must during the Term effect, maintain and keep current with an Insurer authorised to carry on an insurance business under the *Insurance Act 1973 (Cth)* and to the satisfaction of the Lessor, a public liability insurance policy in respect of the Land for the Insurance Amount for any one occurrence during any one period of insurance and covers all claims and losses, consistent with usual prudent commercial practice, directly or indirectly caused by, arising out of, or in connection with the Lessee or the Lessee's Agents' activities, operations, business or other use of the Land:

- (i) in respect of:
 - (A) the death of, or any injury or illness sustained by, any person;
 - (B) any loss, damage or destruction to any property including to the property of the Lessor; or
 - (C) the loss of use of any property, including the property of the Lessor; and
 - (ii) liability arising out of any Contamination or Pollution of a sudden and accidental nature (or such other form of insurance coverage as may become readily available from an Insurer carrying on business in Australia) during the Term of the Land or the Surrounding Area.
- (b) The Lessee must give to the Lessor a copy of the certificate of currency for the Insurance Policy on or before the Commencement Date, and the Lessee is to submit evidence to the Lessor on each anniversary of the date of execution of this Lease, or as otherwise requested by the Lessor or the Board, which shows that the Insurance Policy is still current.
 - (c) The Lessee must not, and must not permit the Lessee's Agents to, do or omit to do any act or thing which adversely affects the continuation, validity, extent of cover or ability to make a claim under any Insurance Policy.

10. EXCLUSIONS AND RESERVATIONS

10.1. EXCLUSIONS

All land that is on the Commencement Date marked or shown as excluded or having been surrendered, transferred, resumed or taken from the Land on:

- (a) the Deposited Plan; or
- (b) any other plan or title held by the Registrar of Titles under the *Transfer of Land Act 1893*,

including a road, reserve or stock route is excluded from the Land and is not the subject of this Lease.

10.2. RESERVATIONS

- (a) The Lessor reserves the right for itself, any Minister of the Crown, any Governmental Agency and each of their officers, agents, employees and contractors to:
 - (i) lay out, declare, open and make, either permanently or for temporary use, public roads through, on or over the Land;
 - (ii) take away any indigenous produce, rock, soil or other material which may be required for any public work, from the Land; or
 - (iii) pass over any part of the Land in connection with the performance of their functions (as that term is defined in the *Interpretation Act 1984*) with all necessary plant, equipment and materials, on all necessary occasions including for the purpose of accessing adjoining land.
- (b) The Lessee shall be entitled to payment for any lawful improvements, as that term is referred to in section 114(2) of the LAA, directly affected by the exercise of a Reservation under subclause (a)(i) or (a)(ii), but not otherwise.

10.3. RESERVATION IN FAVOUR OF ABORIGINAL PERSONS

This Lease is subject to the reservation in favour of Aboriginal persons in accordance with section 104 of the LAA as may be amended, supplemented or replaced from time to time.

10.4. OTHER RESERVATIONS

This Lease is subject to any reservation in favour of the Crown contained in the LAA or any other Law including reservations in the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Conservation and Land Management Act 1984* and the *Biodiversity Conservation Act 2016*.

11. FORFEITURE

11.1. NON PAYMENT OF RENT

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 Lessee's obligation to make that payment or of the Lessee's continuing obligation to pay during the Term or of the Lessor's rights under this Lease or the LAA in respect of the late payment of Rent.

11.2. BREACH OF LEASE

The Lessee acknowledges and agrees that:

- (a) a condition or covenant of this Lease, which is required to be performed or observed by the Lessee, shall constitute a condition or covenant to which section 131 of the LAA applies; and
- (b) a breach of such a condition or covenant may result in forfeiture of this Lease under section 35 of the LAA.

12. RIGHTS AND OBLIGATIONS ON DETERMINATION OF LEASE

12.1. YIELDING UP

On the expiration or earlier determination of this Lease, the Lessee must:

- (a) surrender peaceably and yield up the Land and all lawful improvements in accordance with section 114 of the LAA to the Minister:
 - (i) clean and free from any rubbish caused by the Lessee or the Lessee's Agents to the Minister's satisfaction; and
 - (ii) in a state of good repair and condition consistent with compliance by the Lessee with the LAA and the provisions of this Lease;
- (b) remove all fixtures or any other property, not being lawful improvements required to be yielded up under subclause (a), from the Land and make good any damage caused by the removal to the Minister's satisfaction; and
- (c) remove all Stock from the Land.

12.2. SURVIVAL

The Lessee's obligations to observe and perform the covenants contained in clause 12.1 will survive the expiration or earlier determination of this Lease.

12.3. MINISTER MAY REMOVE PROPERTY

- (a) If any property is not removed in accordance with clause 12.1(b), its presence on the Land shall no longer be authorised by this Lease and:

- (i) the Minister may treat them as alleged unauthorised structures under section 270 of the LAA;
 - (ii) sections 270, 271 and 272 of the LAA apply with respect to the removal of the property or alleged unauthorised structures;
 - (iii) the Minister may, but is not obliged to, remove property from the Land and make good any damage caused by that removal; and
 - (iv) any costs incurred by the Minister in removing property under subclause (iii) or section 270(6) of the LAA, are a debt due and payable by the Lessee to the Lessor and may be recovered in a Court of competent jurisdiction.
- (b) If the Lessee has not complied with the requirement 12.1(c) to remove all Stock from the Land, the Lessor (without being obliged to do so and without affecting any other right or any action that may be taken at law or in equity) may, or may appoint or authorise any person, to:
- (i) take possession of any Stock on the Land, remove the Stock from the Land to some other place and depasture the Stock on some other land, and all the costs incurred by the Lessor in connection with the exercise of these rights (including without limitation the costs of mustering, removal and sale of Stock) will be a debt due and payable to the Lessor by, and recoverable from, the Lessee; and
 - (ii) sell the Stock and apply the proceeds of sale to all amounts due by the Lessee under clause 12.3(b)(i) and any other amounts due and not paid under the terms of this Lease.
- (c) The Lessor need not give any notice which is required by the *Personal Property Securities Act 2009* (Cth) to be given (including a notice referred to in section 157 of that Act), unless the requirement to give it cannot be excluded or waived.

12.4. PERSONAL PROPERTY SECURITIES

For the purposes of clause 12.3(b) and the *Personal Property Securities Act 2009* (Cth), the Lessor and the Lessee agree that the security interest does not attach to any Stock until the expiration or earlier determination of this Lease.

13. NOTICES

13.1. SERVICE OF NOTICE ON LESSEE

Unless otherwise provided by any Law, 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.

13.2. SERVICE OF NOTICES ON LESSOR OR MINISTER

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

- (a) by delivering the document personally to the offices of the Department at the address or such other address as is notified in writing to the Lessee by the Lessor; or
- (b) by sending the document by letter (by pre-paid post) to the address or by facsimile to the facsimile number of the Department or to any other address, facsimile number or electronic address or number subsequently notified in writing to the Lessee by the Lessor.

13.3. REQUIREMENTS OF NOTICES SERVED ON THE LESSOR AND MINISTER

A notice or other document to be served on the Lessor or 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; or
- (c) by a solicitor or other duly appointed agent of the person giving the notice.

14. GENERAL PROVISIONS

14.1. WAIVER

- (a) Failure to exercise or delay in exercising any right, power or privilege in this Lease by the Lessor or the Minister does not operate as a waiver of that right, power or privilege.
- (b) A single or partial exercise of any right, power or privilege does not preclude:
 - (i) any other or further exercise of that right, power or privilege; or
 - (ii) the exercise of any other right, power or privilege.

14.2. APPLICABLE LAW

- (a) This Lease shall be construed and interpreted in accordance with the laws in force in the State of Western Australia.
- (b) The parties submit to the non-exclusive jurisdiction of the Courts of Western Australia.

14.3. ACCRUED RIGHTS

The expiration or earlier determination of this Lease (including by way of surrender or forfeiture) in respect of the whole or any part of the Land does not affect the rights or remedies of the Minister against the Lessee in relation to a breach of this Lease by the Lessee or covenant to remediate, make good, indemnify or release the Lessor in respect of any act, deed, matter or thing occurring before the expiration or earlier determination of this Lease.

14.4. COST OF LESSEE'S OBLIGATIONS

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

14.5. SERVICES

The Lessee acknowledges that the Lessor is not liable for the cost of, or for arranging the provision or connection of, Services to the Land.

15. GOODS AND SERVICES TAX

15.1. RENT EXCLUSIVE OF GST

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

15.2. LESSEE TO PAY GST

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

15.3. 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.

15.4. 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.

15.5. 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, at the same time and in the same manner, as the Lessee is obliged to pay for the Taxable Supply, or otherwise on demand.

15.6. 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 Supply is determined.