



TENDER 04 24-25

LEASE OF HANGAR AND WORKSHOP (SITE 4 – WAGIN AERIAL LANDING GROUND)

General Information:

The hangar and workshop is situated on Site 4 of the Wagin Aerial Landing Ground, over which the Shire of Wagin holds a Management Order.

The size of the building is 16 m x 18 m and comprises a hangar, workshop area, office and parts storage room. The building has single phase power, a reverse cycle air-conditioner and is connected to a water supply.

The premises have been (and are currently) being used as a business for the repair and servicing of aircraft.

The lease of the property is subject a formal *Agreement for Lease* being entered into and the consent of the Minister of Lands being obtained.

The term of the lease will be up to 5 years as determined by Council.

The criterion for deciding which tender will be accepted will be based on what the property is intended to be used for, which is considered by Council to be of the greatest benefit to the community, as well as the consideration offered.

Tenderers are to specify the intended use of the property and the annual consideration which will be provided to the Shire.

Enquiries about any aspect of the tender may be directed to Deputy CEO, John Fathers on 9861 1177.

Tenders bearing the tender reference number 04 24-25 will be received to 4.30pm on Friday 11 October 2024 and may be submitted in a sealed envelope or by email: shire@wagin.wa.gov.au.

Lowest or any tenders will not necessarily be accepted.

**Dr Kenneth Parker
Chief Executive Officer
PO Box 200
WAGIN WA 6315**

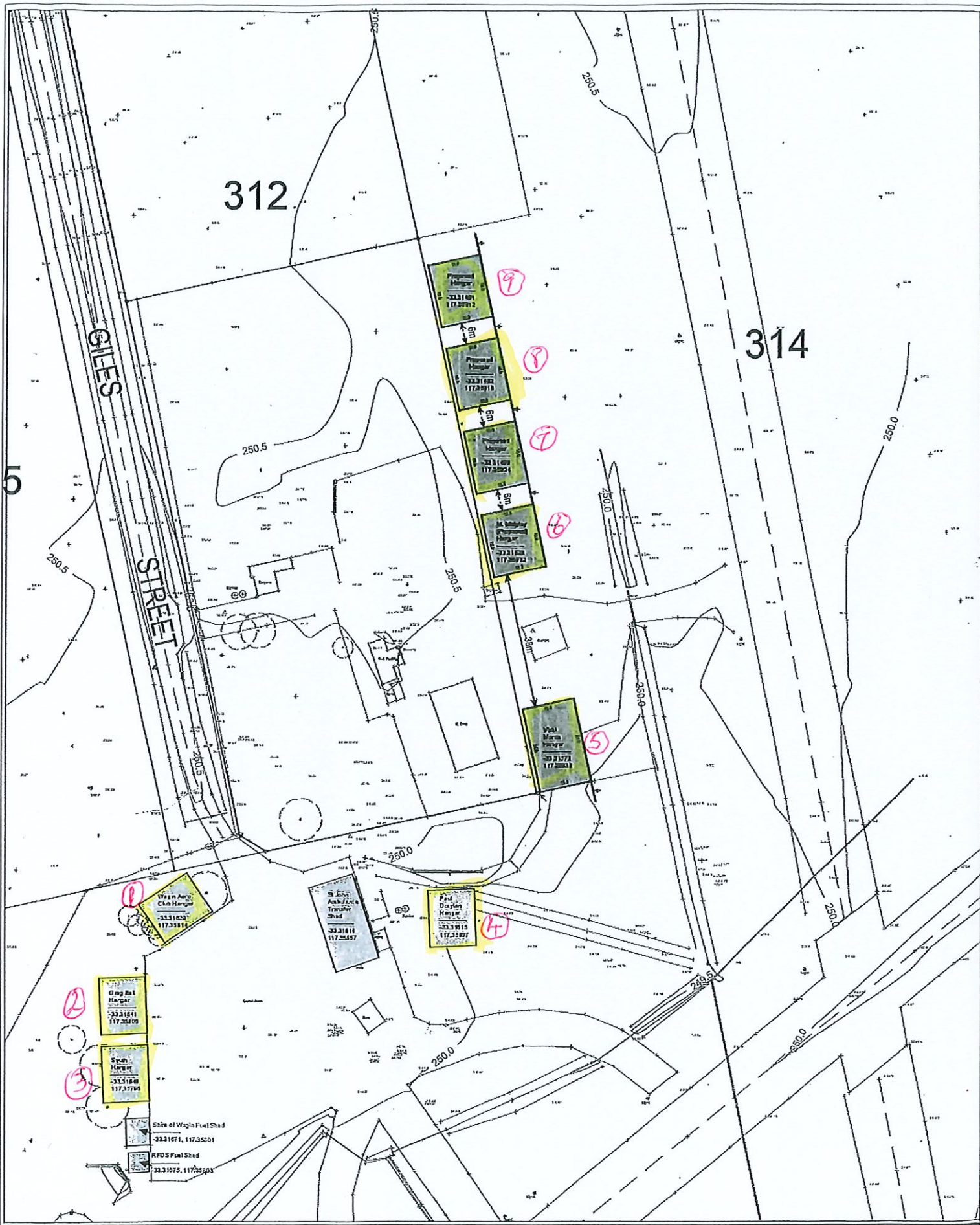
Attachments:

1. Photo Shed Internal and External
2. Site Plans
3. Draft Agreement





1. SITE PLAN.



INDICATIVE SITE
DEVELOPMENT PLAN
(PROPOSED NEW AIRCRAFT HANGARS)

LEASE AGREEMENT



SHIRE OF WAGIN
2 ARTHUR ROAD, WAGIN WA 6315
(Lessor)

AND

(Lessee)

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THIS DEED OF LEASE made on the _____ of _____ 20_____

BETWEEN:

THE SHIRE OF WAGIN of 2 Arthur Road, Wagin, Western Australia ("Lessor");

AND

("Lessee");

Shire of Wagin of 2 Arthur Road Wagin Western Australia (**the Lessor**) hereby lease the land to the Lessee, subject to approval by the Minister of Lands, named in Item 1 of the Schedule (**Lessee**) for the term specified in Item 4 of the schedule upon the following terms and conditions:

BACKGROUND:

- A.** The Land is part Reserve 20595, portion of Lot 314 on Deposited Plan 415364, and the whole of the land on Qualified Certificate of Crown Land Title Volume LR3170 Folio 705, in the vicinity of the Wagin airstrip and comprises an area of approximately 600 square metres.
- B.** The Lessee wishes to lease the Land and Aircraft Hangar.
- C.** The Lessor is the management body of the Land under the Management Order N218129 registered on 5 January 2016.
- D.** Under the Management Order, the Lessor has the power to lease the Land for any term not exceeding 21 years subject to the prior written approval of the Minister for Lands.
- E.** The Parties have agreed that, subject to the consent of the Minister for Lands, the Lessor will grant a 12 month lease of the Land to the Lessee on the terms and conditions set out in this Lease.

1. INTERPRETATION

1.1 Definitions

In this lease the following expressions shall have the following meanings unless the context requires otherwise:

- (a) **Building** means the building (or buildings) erected upon the land together with any extensions, alterations, modifications, additions or improvements subsequently made to the building and also includes any part of the building.
- (b) **CPI Rent Review** is a review of the then current annual rent of the land to an amount calculated by changing the rent payable by the Lessee during the year immediately preceding the review date (disregarding any rent free period or other incentive) by a percentage figure equal to the amount (expressed as a percentage) by which the Consumer Price Index (eight capitals - all groups) has changed

during the one year period immediately preceding the relevant review date provided that if during the term the Consumer Price Index ceases to be published or substantially changes, the Lessor will select another similar index or indicator of changes in consumer costs in lieu of the Consumer Price Index for the purposes of this definition.

- (c) **Land** means the land described in Item 2 of the schedule
- (d) **Lessee** includes its executors, administrators, successors, permitted assigns and where not repugnant to the context its servants, agents and licensees.
- (e) **Lessor** includes its executors, administrators, successors and assigns.
- (f) **Management Order** means the management order made under section 46 of the *Land Administration Act 1997* under which the Land was vested in the Lessor;
- (g) **Minister for Lands** means the Minister for Lands in her or his capacity as the body corporate continued under section 7 of the *Land Administration Act 1997*;
- (h) **Rent** means the rent amount per year set out in Item 3 of the schedule as varied from time to time.
- (i) **Statute** means any legislation now or hereafter in force of the Parliament of the Commonwealth of Australia or the Parliament of any State or Territory of Australia and any rule, regulation, ordinance, by-law, statutory instrument, order or notice now or hereafter made under such legislation including any enactments made in substitution for such legislation.

1.2 General Interpretation

- (a) Reference to one gender includes the other genders; a reference to a person includes an incorporated body and vice versa; the singular includes the plural and vice versa.
- (b) Where a party comprises more than one person, this lease applies to all of them together and each of them separately.
- (c) Headings are for convenience of reference and shall not affect the interpretation of this lease.
- (d) This lease is written in plain english. The parties agree that its terms are to be interpreted to give commercial efficacy to the parties' arrangements. No rule resolving a doubt as to interpretation against the party preparing this Lease or any part of it shall apply. Any specific provisions will not limit the interpretation of general provisions.
- (e) Any express obligation on a party shall, unless otherwise stated, be performed at that party's expense.

- (f) If a provision of this lease is void or voidable by either party or unenforceable, invalid or illegal but would not be void, voidable, unenforceable, invalid or illegal if it were read down, it shall be read down accordingly. If notwithstanding the foregoing a provision of this Lease is still void, voidable, unenforceable, invalid or illegal:
 - (1) if the provision would not be void or voidable or unenforceable or invalid or illegal if a word or words as the case may be were severed, then that word or words are hereby severed; and
 - (2) in any other case, the whole provision is hereby severed and the remainder of this lease has full force and effect.
- (g) To the extent that any terms or conditions implied by statute are inconsistent with the terms or conditions of this lease any such implied terms and conditions are, unless not permitted by law, expressly excluded from this lease.

1.3 Contravention of Statute

Any provision of this lease which is void, voidable, unenforceable or invalid because of statute (including the Act):

- (a) Must in each case and to such extent be severable from the lease; and
- (b) The lease must be read as though such provision did not form part of the lease at that time.

2. RENTAL AND CHARGES

2.1 Payment of rent

The Lessee shall pay the rent due under this lease into such bank account as may be nominated by the Lessor from time to time or in the absence of such a nomination then to the Lessor or to such other person as may be nominated by the Lessor by cash or cheque at the time and in the manner set out in Item 3 of the schedule and the Lessee shall make no deductions from such rent.

2.2 Goods and Services Taxes

- (a) In addition to all other amounts payable by the Lessee pursuant to this lease the Lessee shall pay to the Lessor, at the same time as the relevant rent, outgoing, expense or other amount is due, all goods and services taxes, value added taxes, consumption taxes or other similar taxes, duties excises, surcharges, levies or imposts (collectively **GST**) charged or levied in respect of:
 - (1) rent paid or received pursuant to this lease.

- (2) any outgoings or other expenses incurred or paid by the Lessor and which are to be reimbursed by the Lessee to the Lessor pursuant to this lease; and
 - (3) any other taxable supply by the Lessor (for which the Lessor is to receive consideration from the Lessee pursuant to this Lease) within the meaning of a new tax system (Goods and Services Tax) Act 1999 or any other act amending or in substitution therefore (**GST Act**).
- (b) The parties acknowledge that the rent specified in Item 3 of the schedule and reserved by this lease from time to time is exclusive of the amount of GST charged, levied or payable from time to time in respect of the rent.
- (c) Notwithstanding the above, if this lease requires the Lessee to pay, reimburse or contribute to an amount paid or payable by the Lessor in respect of an acquisition from a third party for which the Lessor is entitled to an input tax credit under the GST Act, the amount for payment, reimbursement or contribution will be the GST-exclusive value of the acquisition by the Lessor plus, if the Lessor's recovery from the Lessee will be a taxable supply within the meaning of the GST Act, the GST payable in respect of that supply.
- (d) The Lessor shall provide to the Lessee a tax invoice in accordance with the GST Act in respect of any GST payable by the Lessee pursuant to this clause.

3. USE OF LAND

3.1 Permissible Use

The Lessee shall not use or permit to be used the land for any purpose other than that set out in Item 5 of the schedule. Without limiting the generality of this clause and for the avoidance of doubt, the Lessee shall not use or permit to be used the land for the purpose of storage.

3.2 Restrictions on Caravans and Storage of Fuel

The Lessee shall not permit there to be present on the land at any given point in time more than:

- (a) 1 caravan; and
- (b) Maximum of 2 x 205 litres of fuel,

Any fuel situated on the land must be secured in a container which is airtight and of material suitable for the safe storage of such fuel.

3.3 Clean

The Lessee shall keep the land clean and tidy.

3.4 Laws and Rules

At its own expense the Lessee will observe and comply with the requirements of all laws and governmental rules affecting the land and also with all lawful directions and orders or any public body or authority relating to the land. The Lessee shall not do or omit to do anything in respect of the land which could make the Lessor liable to pay a penalty or bear some expense incurred under any such laws, rules or orders.

3.5 Nuisance and Structural Injury

The Lessee shall not use or permit land to be used or permit anything to be done on the land which may constitute a public or private nuisance or waste.

4. ASSIGNMENT AND SUBLETTING

4.1 Assignment Requirements

The Lessee covenants with the Lessor that the Lessee:

- a) Will not assign sublet transfer or part with possession of the land or any part of the land or mortgage charge or encumber the Lessee's interest under this Lease without the written consent of the Lessor and the Minister for Lands.
- b) Will at the time of applying for consent have remedied all existing breaches of which the Lessee has been advised in writing of (if any) on the part of the Lessee under this lease.
- c) Will before, or at the time of, applying for consent submit to the Lessor a true copy of all transfers assignments agreements and other instruments to be entered into in respect of any proposed dealing with this lease or the land or the Lessee's interest therein and in the case of a proposed transfer assignment or subletting the Lessee will submit evidence satisfactory to the Lessor that the proposed transferee assignee or subtenant is respectable responsible solvent and suitable.
- d) Will, if so required by the Lessor, before any proposed assignment transfer or subletting is effected procure from the proposed assignee transferee or subtenant a direct covenant with the Lessor to observe the terms and conditions of this lease and the performance of the Lessee's obligations under this lease as the Lessor may require.

4.2 Release

In the event that the Lessor provides its consent to an assignment of this lease, the Lessee shall be released from its liabilities and obligations pursuant to this lease as and from the date of assignment.

4.3 Related Corporation

Notwithstanding clause 4.1, the Lessee may assign this lease or sublet part or all of the land to a body corporate related to it within the meaning of the Corporations Act 2001 without obtaining the consent of the Lessor.

5. ALTERATIONS, ADDITIONS, REPAIRS AND INSPECTIONS

5.1 Additions

The Lessee shall not erect any external attachments to a building on the land.

5.2 Repair and Maintenance

At all times during the term of this lease the Lessee shall:

- (a) repair, clean and maintain the land, buildings and other additions so that they are kept in the same condition that they were in at the commencement of this lease (or in the case of additions or installations made after the commencement of this lease then in the same condition as when the relevant addition or installation was completed) fair wear and tear excepted;
- (b) keep the land clean and free from rubbish and keep all garbage in proper receptacles and not overfill those receptacles;
- (c) promptly repair and replace all broken or damaged structures, caravans or vehicles situated on the land; and
- (d) shall keep that part in a clean and tidy condition and keep and maintain any subsisting garden areas.

5.3 Lessor's Power to View and Repair

The Lessor and persons authorised by it may at all reasonable times upon giving prior reasonable notice to the Lessee enter the land to inspect it. If the Lessee has not complied with any of the Lessee's obligations in relation to maintaining and repairing the land, buildings, additions or installations then the Lessor may serve on the Lessee a notice requiring the Lessee to undertake the requisite maintenance or repair work and if within a reasonable time of receiving such notice the Lessee does not undertake the requisite work then the Lessor or persons authorised by it may undertake such work and for that purpose the Lessor and persons authorised by it may enter the land and remain on the land until the requisite works have been completed. Any expenses or costs incurred in carrying out such work shall be immediately paid by the Lessee to the Lessor upon demand.

5.4 Lessor's Power to Enter and Undertake Works

Notwithstanding any other provision in this lease, the Lessor and persons authorised by it may upon giving reasonable notice to the Lessee:

- (a) install, maintain, use, repair, alter and replace any of the Lessor's fixtures, fittings, plant and equipment on the land;
- (b) carry out any other works as may be provided for in this lease;

Provided always that in so doing the Lessor shall make reasonable endeavours to minimise inconvenience caused to the Lessee.

6. CAMPING RESTRICTIONS

6.1 Camping on Land

The Lessee may camp on the land provided that

- (a) The Lessee complies with all relevant provisions of the *Caravan Parks and Camping Grounds Regulations (WA) 1997*; and
- (b) The Lessee must not camp on the land for more than 28 consecutive nights, provided that the Lessee may camp on the land for more than 28 consecutive nights with the Lessor's consent.

7. INSURANCE

7.1 Lessee's Insurance

The Lessee agrees to take out public risk insurance cover for a sum of not less than Ten Million Dollars (\$10,000,000) in favour of the Lessor.

7.2 Lessor's Insurance

The Lessor agrees to take out public risk insurance cover for a sum of not less than Twenty Million Dollars (\$20,000,000).

7.3 Certificates of Insurance

All policies of insurance shall be taken out with a recognised and reputable public insurance office and the Lessee shall provide the Lessor with copies of certificates of insurance in relation to the policies upon request.

7.4 Lessee not to cause premium to increase

The Lessee shall not do or fail to do anything which may increase the rate of premium payable under any policy of insurance taken out in respect of the land.

8. INDEMNITIES

8.1 Risk of Lessee

The Lessee agrees to occupy and use the land and to enter the land at its own risk.

The Lessee releases the Lessor (and its agents, contractors and employees) from every claim and demand which may result from an accident damage or injury occurring on the land. The Lessor shall not be released from liability where the accident, damage or injury is caused by the negligence or willful act of the Lessor.

8.2 Indemnity by Lessee

The Lessee is to indemnify and keep indemnified the Lessor from and against all actions, claims, costs, proceedings, notices, losses and damages which may be brought against, incurred by, or suffered by the Lessor or the Lands in respect of:

- a) any loss whatsoever;
- b) injury and damage to property; and
- c) death or injury sustained by any person;

Caused or contributed to by

- a) the Lessee's or Lessee's Invitees' use or occupation of the premises;
- b) the Lessee's activities, operations or business on the premises;
- c) any work carried out by or on behalf of the Lessee on the premises; or
- d) an act, default or omission on the Lessee;

except to the extent caused or contributed to by the negligence, act, default or omission of the Lessor.

8.3 Indemnity by Lessor

The Lessor is to indemnify and keep indemnified the Minister of Lands from and against all actions, claims, costs, proceedings, notices, losses and damages which may be brought against, incurred by, or suffered by the Minister of Lands in respect of:

- a) any loss whatsoever;
- b) injury and damage to property; and
- c) death or injury sustained by any person;

Caused or contributed to by

- a) the Lessor's or Lessor's Invitees' use or occupation of the premises;
- b) the Lessor's activities, operations or business on the premises;
- c) any work carried out by or on behalf of the Lessee on the premises; or
- d) an act, default or omission on the Lessor;

9. COVENANTS OF LESSOR

9.1 Quiet enjoyment

During the term of this lease if the Lessee is not in default of its obligations and subject to any express provision in this Lease the Lessor shall allow the Lessee to peacefully and quietly occupy and enjoy the land.

9.2 Consent and approval not be unreasonably withheld

The Lessor must not unreasonably withhold or delay its consent or approval where the Lessee is required to obtain the consent or approval of the Lessor pursuant to this lease.

9.3 Registration of Lease

If so requested by the Lessee, the Lessor will allow this lease to be registered at the relevant government office and for that purpose will produce the Certificate of Title for the land at no charge to the Lessee.

10. SURRENDER AND TENANT'S FIXTURES

10.1 Surrender of land

Upon expiry or the earlier cancellation of this lease the Lessee shall remove its chattels, plant and machinery from the land peacefully and quietly leave and surrender the land to the Lessor free of occupants, clean and free from rubbish and in good and tenantable condition (with damage caused by fair wear and tear, or in the nature of inevitable accident or causes beyond the control of the Lessee or its agents, employees, contractors or licensees being excepted).

10.2 Removal of Fittings

Upon expiration or cancellation of this lease or within thirty (30) days after that date the Lessee may remove all fixtures and fittings belonging to the Lessee from the land and shall make good any damage or disfigurement caused by such removal and any fixtures or fittings not so removed shall, if the Lessor so elects, become the absolute property of the Lessor.

11. DEFAULT AND CANCELLATION

If any one or more of the following events occur namely:

11.1 Late payments

Any payments payable under this lease by the Lessee are greater than fourteen (14) days late (provided a written demand has been made for such payment and the relevant arrears have not been paid within seven (7) days of such demand);

11.2 Breaches

Without limiting clause 11.1, the Lessee is in breach of any of the Lessee's obligations under this lease and such breach continues for a period of fourteen (14) days following services of a written notice of such default; or

11.3 Insolvency

The Lessee, being a natural person is found guilty of any indictable offence or becomes bankrupt or commits an act of bankruptcy or an act which could give rise to the same, or, being a body corporate, an order is made or a resolution is passed for

the winding up of the Lessee (except for the purpose of reconstruction or amalgamation with the Lessor's written consent, which shall not be unreasonably withheld), has an administrator appointed or a receiver or manager is appointed over or a mortgagee takes possession of any asset of the Lessee or if any proceedings are issued or event occurs intended to lead to any of those consequences or if any other action relating to insolvent debtors occurs in relation to the Lessee.

11.4 Completion of Aircraft Hangar

The Lessee fails to erect an aircraft hangar on the land within 2 years of the date commencement of this lease

11.5 Lapse of Building/Development Approval

Approval given to the Lessee by the Lessor for development or building of an aircraft Hangar on the land lapses or otherwise becomes of no force or effect, whether by the effluxion of time or for any other reason whatsoever.

The Lessor may in addition to its other powers either re-enter the Premises and eject the Lessee and all other persons and repossess the Premises or cancel this lease immediately by written notice to the Lessee, or both and thereupon this lease will terminate but without prejudice to any action or other remedy which the Lessor has or might otherwise have for arrears of rent or breach of covenant or for damages as a result of any such event subject to compliance with the requirements of any applicable statute.

12. RENT REVIEW

The rent shall be reviewed at the times and in the manner specified in Item 6 of the schedule.

13. RENEWAL

If the Lessee wishes to renew this Lease for the further term specified in Item 8 of the Schedule then the Lessee must request the Lessor in writing for such a renewal. The request must be received by the Lessor not less than two (2) months nor more than six (6) months before the expiry of this Lease. The Lessor shall grant the Lessee a renewal of this Lease if:

- (a) at the time of the request there is no outstanding breach of this Lease by the Lessee of which the Lessee has been given written notice from the Lessor;
- (b) the Lessor receives approval from the Minister for Lands to the renewal of this Lease requested by the Lessee; and
- (c) The Lessor has received an extension of its management order over the Land to the extent that the Lessor has the power to lease the Land,

The renewed Lease will not include a right of renewal other than for any further term specified in Item 8 of the Schedule and otherwise will be upon the same terms and conditions as this Lease.

14. AMENDMENTS

Any amendment to a term of this lease shall only be made in writing executed by the

parties or duly authorised officers on behalf of the parties.

15. ENTIRE AGREEMENT

The parties agree that the terms set out in this lease contain their entire agreement notwithstanding any negotiations, documents or discussions which took place or were given prior to the execution of this lease. This lease replaces any other agreement between the parties.

16. GOVERNING LAW

This agreement shall be construed according to the laws of the Jurisdiction and the parties submit themselves to the jurisdiction of the Courts of the Jurisdiction and any competent appellate Courts.

17. NOTICES

Any written notice to be given by one party to the other shall be signed by the party giving the notice or by an officer or the duly authorised solicitor or agent of that party and shall be hand delivered or sent by prepaid post or sent by facsimile to the address of that party shown in this lease or to a facsimile number at that address (or any other address or facsimile number that a party may advise in writing) and shall be deemed sufficiently given:

- (a) in the case of hand delivery on the date of delivery; or
- (b) in the case of prepaid post two (2) business days after being sent by prepaid post; or
- (c) in the case of facsimile on receipt by the sender of a successful transmission answerback.

SCHEDULE

Item 1 The Lessee

Item 2 The Land

That portion of Lot 314 on Deposited Plan 415364, being part Reserve 20595, highlighted on the map at Annexure (attach plan and enter no) attached to this lease and bearing the description, enter Lot/Hangar Number

Lot /Hangar Number – 4 (Hangar and Workshop)

Item 3 The Rent and Manner of Payment

Subject to the rent review provisions contained herein and clause 2.3, the annual rent will be \$xxxxx plus GST and is payable in advance on the date of commencement of this lease.

Item 4 Term

A term of xxxxxxx commencing on the date of execution of this Lease Agreement

Item 5 Permissible Use

The use and enjoyment of an aircraft hangar

Item 6 Rent Review

Dates: Each annual anniversary of the date of execution of this lease Agreement

Method: CPI Rent Review

Item 7 Public Risk Insurance

Twenty Million Dollars (\$20,000,000)

Executed on (insert date)

LESSOR

THE COMMON SEAL OF)

THE SHIRE OF WAGIN was)

Hereunto affixed in the presence)

of:)

SIGNED - SHIRE PRESIDENT

DATE

SHIRE PRESIDENT NAME (please print)

SIGNED - CHIEF EXECUTIVE OFFICER

DATE

CHIEF EXECUTIVE OFFICER NAME (please print)

LESSEE

In accordance with the Corporations Act 2001:

DIRECTOR

DATE

NAME (PLEASE PRINT)

DATE

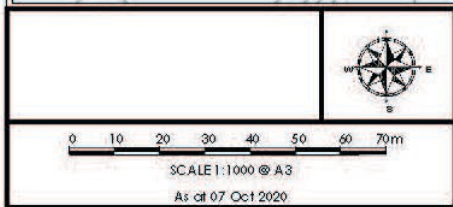
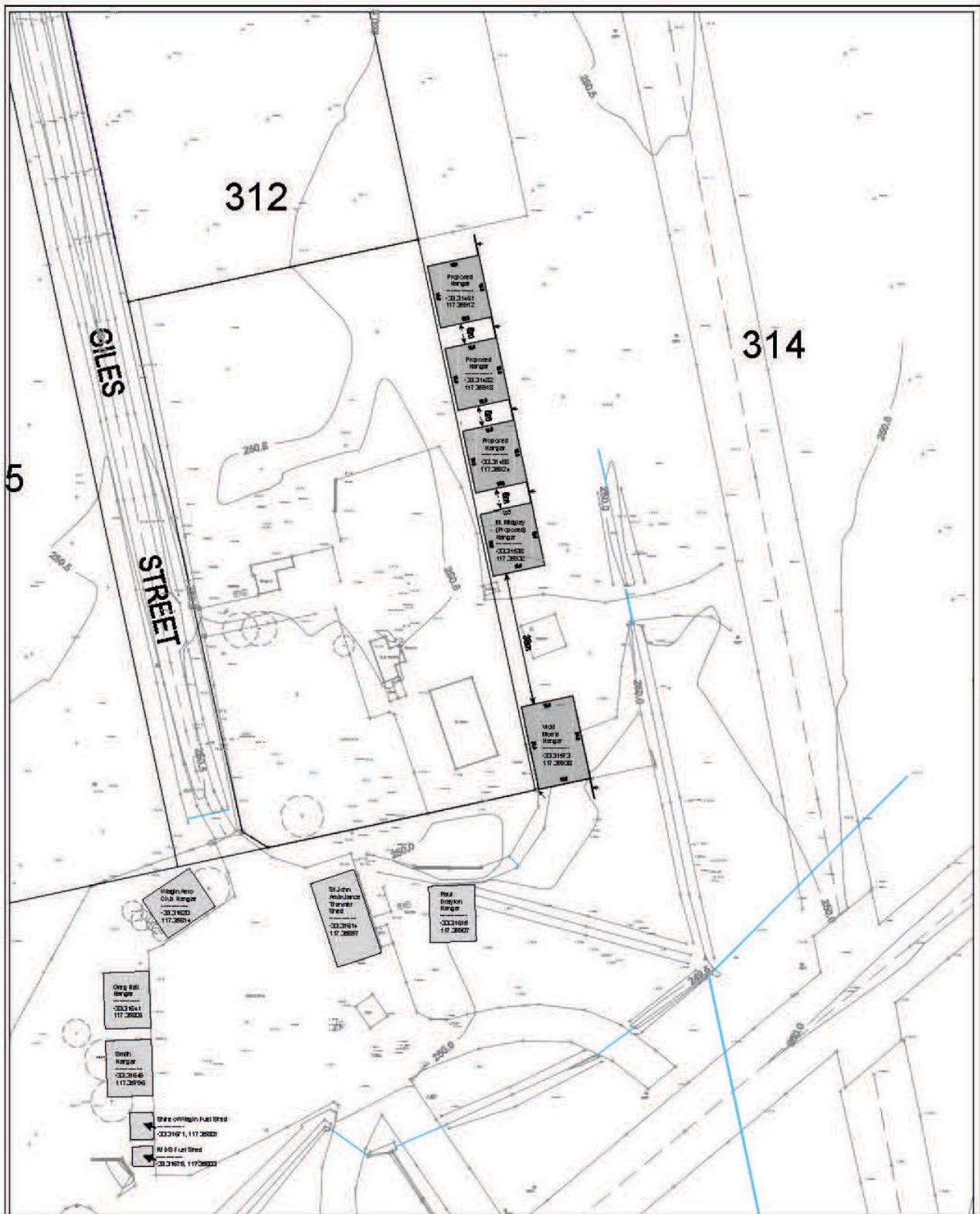
SIGNED by the said Lessee)

In the presence of:)
DATE _____
)

Witness – Name & Signature)
DATE _____

18. ANNEXURE

SITE PLAN INCLUDING HANGAR SITES/LOCATION NUMBERS



INDICATIVE SITE
DEVELOPMENT PLAN
(PROPOSED NEW AIRCRAFT HANGARS)

CROWN RESERVE 20595, LOT 314
GILES STREET, WAGIN
Shire of Wagin

19. MINISTERS CONSENT LETTER