

Asset Transfer Deed

Water Corporation

and

Shire of Kulin



LEGAL SERVICES BUSINESS UNIT
FINANCE GROUP
WATER CORPORATION
629 NEWCASTLE STREET
LEEDERVILLE
WESTERN AUSTRALIA 6007
#191409633

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Inquiries should be addressed to General Counsel

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ASSET TRANSFER DEED

Parties

WATER CORPORATION (ABN: 28 003 434 917) a statutory body corporate established under the *Water Corporation Act 1995* (WA) of 629 Newcastle Street, Leederville, Western Australia 6007 ("**Corporation**")

AND

SHIRE OF KULIN (ABN: 54 830 263 951) of 38 Johnston Street, Kulin, Western Australia 6365 ("**Assignee**")

Background

- A. The Corporation currently owns the Asset.
- B. The Corporation no longer requires the Asset and has agreed to transfer ownership of the Asset to the Assignee on the terms and conditions set out in this Deed.

Operative provisions

1. Definitions and Interpretations

1.1 Definitions

In this Deed, except where the context otherwise requires:

Asset	means the Water Storage Tank located within Reserve 18926, as shown on the attachment to this Deed.
Encumbrance	means <ul style="list-style-type: none"> (a) every caveat, mortgage, pledge, charge, lien, assignment, hypothecation, security interest, title retention, hire, hire purchase agreement, bill of sale, chattel lease, chattel security, preferential right or trust arrangement; and (b) every other security agreement or arrangement of any kind given or created, in each case, by way of security.
GST	Has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Transfer Date	means the date the last party executes this Deed.

1.2 Interpretation

In the Deed the following rules apply unless the context expressly requires otherwise:

- (a) a reference to a person includes a company, partnership, joint venture, association, corporation or other body corporate and any governmental agency and includes that person's successors, permitted assigns, substitutes, executors, administrators and any person claiming under or through the party;
- (b) specifying anything in this Deed after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included unless there is express wording to the contrary;

- (c) if a word is defined, another part of speech or grammatical form of that word has a corresponding meaning;
- (d) words in the singular include the plural and words in the plural include the singular, according to the requirements of the context;
- (e) the clause headings in the Deed are for convenience only and do not affect interpretation of the Deed;
- (f) if the time for giving any notice, making any payment or doing any other act required or permitted by the Deed, falls on a day which is not a Business Day, then the time for giving the notice, making the payment or doing the other act shall be deemed to be on the next Business Day;
- (g) unless otherwise provided, prices are in Australian dollars;
- (h) communications between the Corporation and the Assignee shall be in the English language;
- (i) the Corporation may exercise the rights conferred by the Deed in addition to any other rights or remedies that the Corporation is or may be entitled to against the Assignee, whether at law or under the Deed;
- (j) the rights, duties and remedies granted or imposed under the terms of the Deed operate to the extent not excluded by law;
- (k) in the interpretation of the Deed, no rule of construction applies to the disadvantage of one Party on the basis that that Party put forward or drafted the Deed or any provision in it; and
- (l) a reference to a part, clause, party, schedule or annexure is a reference to a part, clause, party, schedule or annexure to the Deed and a reference to the Deed includes any schedule or annexure.

2. Corporation's obligations

- (a) The Corporation must own and operate the Asset until the Transfer Date.
- (b) The Corporation agrees and acknowledges that prior to the Transfer Date, the Assignee has no responsibility for:
 - (i) the operation, repair or maintenance of the Asset; or
 - (ii) any liability to any person that arises as a result of any failure to operate, repair or maintain the Asset.
- (c) Immediately upon execution of this Deed, the Corporation must grant to the Assignee full use of and, to the extent possible, access to the Asset.

3. Assignee's obligations

- (a) On and from the Transfer Date, the Assignee will be responsible for the operation, maintenance and repair of the Asset.
- (b) On and from the Transfer Date, the Assignee will be responsible for arranging for access or tenure arrangements with the owner of the land on which the Asset is located.
- (c) For the avoidance of doubt, the Assignee acknowledges that on and from the Transfer Date, the Corporation will have no responsibility for, or liability arising from, the operation, maintenance and repair of the Asset.

4. Transfer of Asset

4.1. Disengagement notice

In consideration of the payment of \$1 (including GST) by the Assignee to the Corporation (receipt of which is acknowledged by the Corporation), the Corporation agrees to transfer and assign, and the Assignee agrees to accept such transfer and assignment, the Asset free of all Encumbrances and other third party rights with effect from the Transfer Date and on the terms and conditions of this Deed.

4.2. Title and risk

Title to and risk in respect of the Asset passes to the Assignee on the relevant Transfer Date.

4.3. Further assistance

the Assignee must (at no cost to the Corporation) execute or deliver to the Corporation any document reasonably required by the Corporation to transfer the Asset to the Assignee.

5. Warranties

5.1. Corporation's warranties

- (a) The Corporation gives the following warranties in favour of the Assignee as at the date of this Deed and on each day up to and including the relevant Transfer Date:
 - (i) The Corporation is the legal and beneficial owner of the Asset;
 - (ii) The Asset is free and clear of all Encumbrances; and
 - (iii) The Corporation has not granted or created or agreed to grant or create any Encumbrance or third-party interest in respect of the Asset.
- (b) The Corporation gives the following warranties in favour of the Assignee as at the date of this Deed:
 - (i) the execution, delivery and performance by the Corporation of this Deed does not constitute a breach of any law or obligation, or cause or result in a default under any agreement, or Encumbrance, by which it is bound and which would prevent it from entering into and performing its obligations under this Deed; and
 - (ii) the Corporation has full power and authority to enter into and perform its obligations under this Deed.
- (c) Except as otherwise expressly stated in this Deed, the Asset is transferred, assigned or delivered to the Assignee by the Corporation on an 'as is,' 'where is' basis and the Corporation makes no representation, warranty or promise of any kind in relation to the Asset.

5.2. Assignee's warranties

The Assignee gives the following warranties in favour of the Corporation as at the date of this Deed:

- (a) The execution, delivery and performance by the Assignee of this Deed does not constitute a breach of any law or obligation, or cause or result in a default under any agreement, or Encumbrance, by which it is bound and which would prevent it from entering into and performing its obligations under this Deed;
- (b) the Assignee has full power and authority to enter into and perform its obligations under this Deed;

- (c) the Assignee acknowledges that it has inspected the Asset and agrees to take the Asset on an 'as is,' 'where is' basis;
- (d) the Assignee warrants that it has not entered into this Deed in reliance on any express or implied representation, warranty, promise or statement made by the Corporation.

6. Indemnities

On and from the Transfer Date, the Assignee indemnifies and releases and must keep indemnified the Corporation against any loss, damage or claim arising on or after the Transfer Date that the Corporation may pay, suffer or incur, or that may be made against the Corporation arising from or in connection with the use, operation, maintenance and/or repair of the Asset, except to the extent any loss, damage or claim arises (directly or indirectly) as a result of any negligent or unlawful act or omission or default of the Corporation, its servants, agents, contactors or consultants.

7. General

7.1. Costs and duty

Each party must pay its own costs and expenses in respect of the negotiation, preparation, execution and delivery of this Deed.

7.2. Notices

A notice or other communication including, but not limited to, a request, demand, claim, consent, approval or authority, to or by a party under this Deed must be in writing and addressed as shown at the beginning of this Deed or to any other address specified by any party to the sender by notice.

7.3. Governing law and jurisdiction

- (a) This Deed is governed by the laws of Western Australia.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the courts of Western Australia.

7.4. Severance

Where a clause in this Deed is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this Deed.

7.5. Variation

A variation of any term of this Deed must be in writing and executed by the parties.

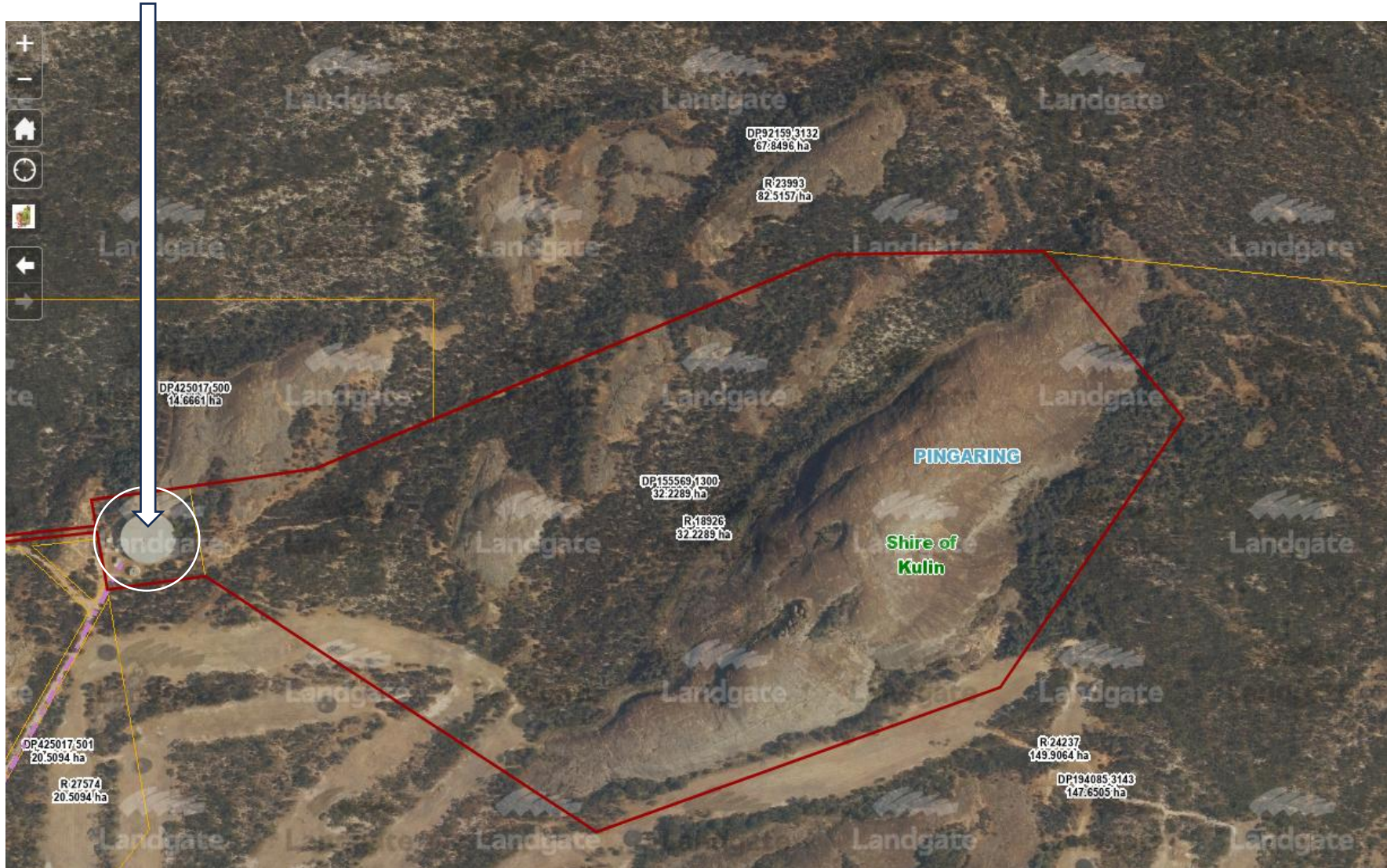
7.6. Assignment

Neither party can assign its rights and obligations under this Deed without the other party's prior written consent.

7.7. Entire agreement

This Deed replaces all previous agreements in respect of its subject matter and contains the entire agreement between the parties.

Attachment: Water Storage Tank located within Reserve 18926:



Executed as a Deed

Signed for and on behalf of the
WATER CORPORATION (ABN: 28 003 434 917)
by its duly authorised representative

Signature

Print Name

Title

Date

Signature of Witness

Print Witness's Name

Title

Date

Signed, sealed and delivered for and on behalf of
SHIRE OF KULIN (ABN:54 830 263 951)
by its duly authorised representative

Signature of Authorised
Representative

Print Name

Title

Date

Signature of Witness

Print Witness's Name

Title

Date