

WESTERN AUSTRALIA  
LAND ADMINISTRATION ACT 1997  
TRANSFER OF LAND ACT 1893 AS AMENDED

**LEASE OF CROWN LAND (L)**

DESCRIPTION OF LAND (Note 1)

**Portion of Reserve No 24510 and being Hay Location 2229 on Deposited Plan 240012**

| EXTENT | VOLUME | FOLIO |
|--------|--------|-------|
| Whole  | 3122   | 555   |

LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS (Note 2)

LESSOR/LESSORS (Note 3)

**SHIRE OF DENMARK** of 953 South Coast Highway, Denmark in the State of Western Australia.

LESSEE/LESSEES (Note 4)

**BEVANS (WA) PTY LTD** (ACN 055 585 503) whose registered office is 99 Aberdeen Street, Albany in the State of Western Australia

TERM OF LEASE (Note 5)

10 Years 0 Months 0 Days  
Commencing from the 1<sup>st</sup> day of July in the year 2011

THE LESSOR HEREBY LEASES TO THE LESSEE the land above described subject to the encumbrances as detailed herein.

for the above term for a rental of \$1200.00 per annum plus GST which shall be deemed to have been paid by the Lessee to the Lessor.

**Shire of Denmark  
("the Lessor")**

**and**

**Bevans (WA) Pty Ltd  
("the Lessee")**

**LEASE**

RESERVE 24510 IS VESTED IN THE LESSOR FOR THE PURPOSE OF CAMPING AND RECREATION WITH POWER TO LEASE FOR ANY TERM NOT EXCEEDING TWENTY-ONE (21) YEARS SUBJECT TO THE CONSENT OF THE MINISTER FOR LANDS AND THIS LEASE IS SUBJECT TO THE COVENANTS AND POWERS IMPLIED UNDER THE *LAND ADMINISTRATION ACT 1997* AND THE *TRANSFER OF LAND ACT 1893* AS AMENDED (UNLESS HEREBY NEGATED OR MODIFIED) AND TO THE COVENANTS AND CONDITIONS CONTAINED HEREIN.

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**THIS LEASE** is made the 1<sup>ST</sup> day of July 2011 between the Lessor named in Item 1 of the Schedule hereto and the Lessee named in Item 2 of the Schedule hereto.

**WHEREAS:**

The Lessor has agreed to lease and the Lessee has agreed to take on lease the land described in Item 3 of the Schedule hereto (which together with the buildings erections improvements fixtures and fittings thereon are collectively hereinafter “the Leased Premises”) for the Term and on commencement date stated in Item 4 of the Schedule hereto.

**1. THE LESSEE COVENANTS WITH THE LESSOR:**

**TO PAY RENT**

To pay on or before the due date for payment the rent reserved at the times and in the manner stated in Item 5 of the Schedule hereto.

**TO PAY OUTGOINGS**

To pay and discharge on or before the due date for payment all present and future outgoings including all rates and taxes, charges, assessments, licence fees, duties, impositions, penalties and other outgoings whatever which now or at any time during the Term are assessed and charged upon or in respect of the Leased Premises or the use or occupation of the Leased Premises or any part of the Leased Premises and any amount for water, electricity or gas consumed in the Leased Premises.

**COMPLY WITH LEGISLATION**

At all times during the Term to duly and punctually comply with, observe and carry out and conform to the provisions of all statutes (State or Federal) and all subsidiary legislation now or hereafter in force and all requirements and orders of any authority, statutory or otherwise, which affect the leased premises or the use of the Leased Premises or which impose any duty or obligations upon the owner or occupier of the Leased Premises.

**TO REPAIR AND MAINTAIN**

- (a) To keep the Premises cleaned, drained, in a sanitary condition and clear of rubbish and debris and store all garbage rubbish and refuse in a proper hygienic manner and attend to the expeditious disposal thereof.
- (b) To keep the Premises free from any hazard or hazardous material which could endanger human life.
- (c) At the expiration or earlier determination of the Term to clear the Premises of all rubbish and debris and to leave the Premises in a clean and tidy condition to the satisfaction of the Lessor.

- (d) To take all necessary measures that may be necessary to exterminate and keep the Structures on the Premises free from white ants and vermin and comply with all Acts of Parliament relating thereto and duly and punctually comply with and observe all statutes now and hereafter in force and all ordinances, regulations, by-laws and local laws relating to these matters or otherwise in any case in which the non-compliance therewith or the non-observance thereof would or might impose some damage or liability upon the Premises or any part thereof or the Lessor in respect thereof.
- (e) To maintain all vehicular access tracks upon the Premises.
- (f) To maintain, repair and keep clean all the Buildings and Structures erected or to be erected on the Premises.
- (g) Not to damage, destroy, remove or clear any native vegetation on the Premises, unless it is necessary for the erection or location of any of the permitted structures or for access thereto and in any event without the prior written consent of the Lessor.
- (h) Not to disturb the surface soil on the Premises in any manner likely to cause soil erosion.
- (i) Not to do or permit to be done or leave undone or permit to be left undone any act or thing which may be or deemed to be a nuisance within the meaning of the Local Government Act, the Health Act or any other Act, By-law or regulation applicable to the Premises or the use or occupation thereof by the Lessee and forthwith to abate any such nuisance.

## **NOTICE OF DAMAGE**

To inform the Lessor in writing of any damage to or defect in the Leased Premises likely to cause any injury to any persons thereon immediately the Lessee becomes aware of it.

## **LESSOR'S POWER TO VIEW AND REPAIR**

To permit the Lessor and the agents of the Lessor (with or without workmen) to enter the premises with or without tools, machines and materials upon giving TWENTY FOUR (24) hours' notice or without notice where in the opinion of the Lessor there is an emergency:-

- (a) To inspect the premises;
- (b) To carry out any rebuilding, repair, restoration, alteration, addition or improvement to the Premises that in the opinion of the Lessor may be necessary or convenient;
- (c) To repair the Premises or rectify any other breach by the Lessee of the Lessee's Covenants within a reasonable period specified in a notice served upon the Lessee requiring it to remedy that breach. These expenses are to be prepaid by the Lessee additional to the Rent payable for the period during which the expenses were incurred. If this amount is not repaid it is recoverable in the same manner as rent in arrears and interest is payable at the rate specified in Item 5 of the Schedule calculated from the date when payment was due.
- (d) To repair any part of the adjoining property (if any) belonging to the Lessor's and any buildings on the adjoining property.
- (e) To construct, erect, lay down, alter, repair, cleanse or maintain any drain, ventilator, shaft, water pipe, electric wires or gas pipes in connection with the adjoining property.

## **SURRENDER OF PREMISES**

- (a) At the determination this Lease or of the Term or any period of holding over quietly to deliver up possession of the Premises in good repair and condition free of an letter debris or any environmental degradation consistent with the Lessee's Covenants.
- (b) Before the determination of the Term or any period of holding over pursuant to clause 4(14) to remove at the expense of the Lessee all chattels, fixtures, fittings, signs and advertisements belonging to or brought upon the Premises by the Lessee and all Structures unless the Lessor has agreed in writing to the contrary and promptly make good to the reasonable satisfaction of the Lessor all damage caused or occasioned by that removal.
- (c) Any such chattels, fixtures, fittings, sign and advertisements referred to in (b) above not so removed by the Lessee within 7 days of the determination of the Term or any period of holding over pursuant to clause 4(14) shall, if the Lessor so elects become the property of the Lessor.

## **VACATING PREMISES OR RENEWAL OF LEASE**

The Lessee shall give notice in writing for a period not less than SIX (6) months prior to the determination of the Lease of the Lessee's intention to either vacate the Premises or negotiate a Lease for a further term.

## **EFFECT OF WAIVERS OF DEFAULT**

No express or implied consent or waiver by the Lessor or its agent to any breach of any covenant, condition or duty of the Lessee shall be construed as a consent to or waiver of any breach of any covenant, condition or duty.

## **TOTAL DESTRUCTION OF THE PREMISES**

If the Premises or the Dwellings on the Premises are destroyed or damaged by fire, flood, lightning, storm, tempest or other disabling cause so as to render the Premises substantially unfit for use and occupation for any period exceeding ONE (1) month or so as to render the building or reconstruction of the Premises in its previous form impractical or undesirable in the opinion of the Lessor THEN:

- (a) The Lessee may at its option terminate the lease by TWO (2) weeks' notice in writing to the Lessor.
- (b) The Lease shall terminate on the third day after such notice is given.
- (c) If the Lessee terminates the Lease in accordance with clause 4(4)(a):
  - (i) It shall comply with clause 2(17).
  - (ii) It shall not be liable for payment of any Rent beyond the end of the financial year in which termination occurs pursuant to this clause.
- (d) Any termination as aforesaid shall be without prejudice to the rights of either party in respect of any antecedent breach matter or thing.

## **OPERATION AND USE OF PREMISES**

- (a) To use the Premises only for the Business and no other without the prior written consent of the Lessor.
- (b) To carry out the Business in a proper and efficient manner.
- (c) The Premises shall only be occupied:

- (i) by the endorsed licensed holders (pursuant to the Fisheries Act) only;
- (ii) during the salmon fishing season (as prescribed by the Department of Fisheries) and not otherwise.

## **LICENSES AND PERMITS**

- (a) To keep in force all licenses and permits required for the carrying out of the Business.
- (b) If during the Term the Lessee ceases to hold a Salmon Fisherman's Licence issued pursuant to the Fisheries Act then the Lease will automatically terminate and the Lessee shall vacate the Premises forthwith PROVIDED THAT should the Lessee hold a Zone Fishing Licence issued pursuant to the Fisheries Act as well as a Salmon Fishing Licence the Lessee may continue to occupy the Premises subject to the terms and conditions of this Lease.
- (c) Not to permit, without the prior written consent of the Lessor, on each occasion had and obtained, any person to use the Premises as a place of permanent residence by any person.
- (d) Not to permit the floors, walls, driveways and other parts of the Premises or any electrical power, water or other installation servicing the Premises to be overloaded, broken, strained or damaged.
- (e) Not to carry on or permit to be carried on at the Premises any noxious or offensive activity nor anything which may be a nuisance, annoyance or cause damage or loss to the Lessor or the owners or occupiers of any adjoining Premises or any other person or to use the Premises for any illegal or immoral purpose.

## **SIGNS, APPARATUS, ADVERTISING MATTER, etc**

- (a) Not to permit any structures, signs, notices, television or radio antennae, mast or canopy to be exhibited on or affixed to any door, wall, window, roof interior or exterior part of the Premises without first obtaining the consent of the Lessor
- (b) Not to remove, change, or modify any awning, canopy, decoration, lettering, advertising matter or thing without the written approval of the Lessor.
- (c) The Lessor shall not unreasonably withhold consent.

## **NUISANCE**

Not to allow anything to be done or to occur in or about the Leased Premises which is noxious, offensive or audibly or visually a nuisance.

## **NOT DAMAGE TREES**

Not to destroy, cut down, prune or damage any living tree on the Leased Premises without the Lessor's consent.

## **PAY LESSOR'S EXPENSES**

To pay to the Lessor on demand all sums of money which the Lessor may pay or expend in connection with performing, discharging or executing any requisition or works or abating any nuisance referred to in the preceding provisions of this Lease and which the Lessee fails to perform, discharge, execute or abate.

## **NO ASSIGNMENT**

Not to assign, mortgage, sub-let or part with the possession of or dispose of the Lease Premises or any part of the Leased Premises or the benefit at law or in equity of this Lease without the prior written consent of the Lessor and, if required by law, of the Minister for Lands having first being obtained.

## **INDEMNITY**

At all time to indemnify and keep indemnified the Lessor and its agents and employees against all claims which may be made by any person arising out of or incidental to the use of the Leased Premises by the Lessee or any of its officers, employees, agents, licensees or invitees.

## **INSURANCE**

To insure and keep insured (except to the extent to which the Lessor may consent) in the joint names of the Lessor and the Lessee with an insurer authorised to operate under the Insurances Act 1973 and approved by the Lessor:-

- (i) Against all liability to any person or property for all risks usually covered by a comprehensive public liability insurance policy in a sum required by the Lessor but in any event not less than TEN MILLION DOLLARS (\$10,000,000.00) in respect of any one claim.
  - (ii) Against all risks in respect of the Building and Structures on the Premises to their full insurable value.
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- (a) To deliver to the Lessor on demand a copy of all policies of insurance.
  - (b) To pay all insurance premiums within seven (7) days after they become due.
  - (c) To comply with the requirements of the insurer relating to the insurance policy and to the Premises.
  - (d) Not at any time to reduce the amount of insurance without first obtaining the consent of the Lessor.
  - (e) Not to do any act or thing that may cause any insurance premium to be increased or that may cause the insurance to be prejudiced or become liable to be cancelled or avoided or whereby any claim on the insurance policy may be or become liable to be reduced. If through the carry on of the Lessee's business any rate of insurance premium is increased the Lessee will pay the amount of the increase to the Lessor.
  - (f) If the Lessee fails to maintain any insurance the Lessor may make payment and keep on foot the insurance policy. The Lessee will on demand repay the insurance premium to the Lessor.

## **PROOF OF INSURANCE**

To deliver to the Lessor on or before the expiration of each year of the Term and at any other time upon the request of the Lessor valid certificates of currency in respect of all such insurance policies issued by the insurance companies with which the policies have been effected by the Lessee.

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## 2. THE LESSOR HEREBY COVENANTS WITH THE LESSEE:

### NO INTERFERENCE BY LESSOR

That subject to the terms and conditions of this lease the Lessee may use and occupy the Leased Premises during the term of the Lease without any interference from the Lessor or any person claiming any interest in the Leased Premises through the Lessor.

### LESSEE'S COVENANTS:

#### SEVERABILITY

If any part of this Deed is or becomes void or unenforceable then that part shall be severed from this Deed to the intent that all parts that shall not be or become void or unenforceable shall remain in full force and effect and shall be unaffected by an severance.

#### EXONERATION OF LESSOR FROM LIABILITY

The Lessor shall not be liable for any loss or damage suffered by the Lessee by reason of any accident arising from the water sewerage, gas or electricity or other services used or installed in the Premises or by reason of any leakage, overflow or escape of water, gas or electricity unless the same is directly attributable to the negligence of the Lessor or the employees of the Lessor.

#### RENT REVIEW

- (a) On or before each Rent Review Date (Item 5 of the Schedule) the Lessor is to notify the Lessee in writing not less than ONE (1) month prior to the Rent Review Date ("**Lessor's Notice**") of the amount which the Lessor considers to be the reviewed Annual Rent for the Premises. The amount specified in the Lessor's Notice is to be the relevant reviewed Annual Rent unless the Lessee notifies the Lessor in writing ("**Lessee's Dispute Notice**") within 14 days of the receipt by the Lessee of the Lessor's Notice. If the Lessor and the Lessee have not agreed upon the Annual Rent payable for the relevant rent Period within ONE (1) month of the giving of the Lessee's Dispute Notice the Market Rent for the relevant Rent Period is to be determined and paid in the manner specified in the paragraphs (b) to (h) inclusive below.



- (b) The Market Rent of the Premises is to be as assessed by a Valuer appointed by the President of the Australian Institute of Valuers (WA Division) at the request of the Lessor ("**Appointed Valuer**").
- (c) The Lessee shall bear the cost of the Appointed Valuer.
- (d) The decision of the Appointed Valuer is final and binding on the Lessor and the Lessee PROVIDED HOWEVER that the reviewed Annual Rent so determined shall not be less than the amount of Annual Rent payable by the Lessee immediately prior to the Rent Review Date.
- (e) The Appointed Valuer shall be deemed to be acting as an expert and not as an arbitrator.
- (f) The Annual Rent for each year in the Rent Period as reviewed is payable by one annual instalment calculated to the nearest cent provided that, pending agreement or determination as aforesaid, payment is to be made by the Lessee at the rate specified in the Lessor's Notice and thereafter at the agreed or determined rate with an appropriate adjustment to the annual payment further provided that if the Lessor's Notice is given after a Rent Review Date, the difference between the amount specified in the Lessor's Notice and the amount of Annual Rent payable immediately before the Rent Review Date to the date upon which an instalment of Annual Rent is payable next following the giving of the Lessor's Notice is to be paid with that following instalment.
- (g) The amount of any difference in Annual Rent between the amount specified in the Lessor's Notice and the amount of Annual Rent agreed or determined to be payable for the period from the relevant Rent Review Date to the date upon which an instalment of Annual Rent is payable next following the date of agreement or determination is to be paid by the Lessee to the Lessor forthwith.
- (h) Despite anything to the contrary expressed in or implied by this Lease:
  - (i) time is not of the essence in the giving of the Lessor's Notice; in particular, the Lessor is not, by reason of its failure to give a Lessor's Notice upon or within any time period after a Rent Review Date, to forfeit its right to have the Annual Rental reviewed as at the Review Date;
  - (ii) time is of the essence for the giving of the Lessee's Dispute Notice and the Implementation by the Lessee.

### 3. **THE LESSOR AND THE LESSEE AGREE THAT:**

#### **DEFAULT BY LESSEE**

If during the Term the Lessee makes default in the due performance or observance of any of the Lessee's Covenants and such default is not remedied within 30 days after notice thereof is given by the Lessor or if the Lessee is wound up or ceases to operate then the Lessor may terminate this lease and the rights of the Lessee under this lease provided that if the default is capable of being remedied by the Lessor, then the Lessor may in its discretion itself remedy the default or cause it to be remedied (for which purpose the Lessor by agents, workmen or otherwise has full power to enter upon the Leased Premises) and the costs and expenses incurred by the Lessor in remedying the default or causing it to be remedied are a debt payable by the Lessee to the Lessor on demand.

#### **TERMINATION OF LEASE**

The Lessor may terminate this Lease by giving six (6) months' written notice to the Lessee, notwithstanding that the Lessee is not in default and notwithstanding that the term of the Lease has not expired and the Lessee may terminate this Lease by giving six (6) months written notice to the Lessor notwithstanding that the term of the Lease has not expired. Such termination by either party does not waive the rights of the Lessor and/or the Lessee to seek a payment for compensation.

## **HOLDING OVER**

If the Lessee remains in possession of the Leased Premises with the permission of the Lessor after the expiration or sooner determination of the Term the Lessee will hold the Leased Premises as a monthly tenant subject to all the covenants and conditions contained in this Lease as far as they are applicable to a monthly tenancy and the tenancy so constituted may be terminated by one month's notice given by either party which notice may be given so as to expire at any time.

## **ARBITRATION**

Any dispute or difference arising between the parties in respect of any of the matters referred to in this Lease shall be referred to arbitration under the provisions of the Commercial Arbitration Act 1985.

## **NOTICES**

Any notice to be served on the Lessee under this Lease is to be served by the Lessor by delivery to the Lessee at the Leased Premises.

## **SPECIAL TERMS**

The Lessor and the Lessee will each comply with and observe and perform their respective obligations under any special term or condition shown at Item 7 of the Schedule hereto.

## The Schedule

1. **Lessor:** Shire of Denmark of South Coast Highway, Denmark WA 6333.
2. **Lessee:** Bevans (WA) Pty Ltd (ACN 055 585 503)
3. **Leased Premises:** Portion of Reserve No 24510 and being Hay Location 2229 on Deposited Plan 240012
4. **Term of Lease:** 10 years commencing on 1 July 2011 and expiring on 30 June 2021
5. **Annual Rent :** Twelve Hundred Dollars (\$1200.00) per annum plus GST for each year of the Ten Year Term of Lease, payable in one instalment before 31 August in each year of the term.
6. **Rent Review Dates:** 1 July of each year and any period of holding over
7. **Special Conditions:**

### 7.1 Relocation Buildings & Structures

- (a) The Lessee shall on or before 1 January 2013 relocate all Buildings and Structures at least 10 metres from the top of the dune cliff at the eastern boundary of the Premises and shall maintain a 10 metre separation from the top of the dune cliff at all times, notwithstanding any degradation of the dune cliff.
- (b) The Lessee shall obtain all necessary approvals and planning consents and comply with all building and health requirements under the applicable statutes, to the satisfaction of the Lessor prior to the relocation at any time of the Buildings and Structures referred to in clause 2(20)(a).

## **7.2 Areas Adjacent to Premises**

- (a) Those areas immediately adjacent to, but not in the Premises that, in the opinion of the Lessor have been degraded shall be rehabilitated by the Lessee with endemic species, to the satisfaction of the Lessor and at the expense of the Lessee.
- (b) The Lessee shall not use or permit to be used any area adjacent to the Premises.



**INSTRUCTIONS**

1. If insufficient space in any section, Additional Sheet, Form B1 should be used with appropriate headings. The boxed sections should only contain the words "see page..."
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.
4. Where issued, the Duplicate Certificate of Title is required to be produced or if held by another party then arrangements must be made for its production.

**NOTES**

**1. DESCRIPTION OF LAND**

Lot and Diagram/Plan/Strata/Survey-Strata Plan number or Location name and number to be stated.

Extent - Whole, part or balance of the land comprised in the Certificate of Title to be stated. If part, define by recital and/or sketch.

The Volume and Folio number to be stated.

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

In this panel show (subject to the next paragraph) those limitations, interests, encumbrances and notifications affecting the land being leased that are recorded on the certificate(s) of title:

- a) In the Second Schedule;
- b) If no Second Schedule, that are encumbrances.

(Unless to be removed by action or document before registration hereof)

Do not show any:

- (a) Easement Benefits or Restrictive/Covenant Benefits; or
- (b) Subsidiary interests or changes affecting a limitation, etc, that is to be entered in the panel (eg, if a mortgage is shown, do not show any partial discharges or any document affecting either).

The documents shown are to be identified by nature and number. The plan/diagram encumbrances shown are to be identified by nature and relevant plan/diagram. Strata/survey-strata plan encumbrances are to be described as "Interests on strata/survey-strata plan".

If none show "nil".

**3. LESSOR**

State the full name of the Lessor/Lessors (REGISTERED PROPRIETOR) as shown in certificate of title and the address/addresses to which future notices can be sent.

**4. LESSEE**

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

**5. TERM OF LEASE**

Must exceed 3 years.  
Term to be stated in years, months and days or as the case may be. Commencement date to be stated. Options to renew to be shown.

**6. RECITE ANY EASEMENTS TO BE CREATED**

Here set forth any Easements to be created as appurtenant to the lease commencing with the words "together with" and/or any Reservations hereby created encumbering the lease commencing with the words "reserving to".

7. State amount of yearly rental in figures.

8. State term of payment.

9. Insert any Covenants required.

**10. LESSOR/LESSEE EXECUTION**

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

OFFICE USE ONLY

**LEASE OF CROWN LAND (L)**

LODGED BY: SHIRE OF DENMARK

ADDRESS

PHONE No.

FAX No.

REFERENCE No.

ISSUING BOX No.

PREPARED BY: SHIRE OF DENMARK

ADDRESS

PHONE No.

FAX No.

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

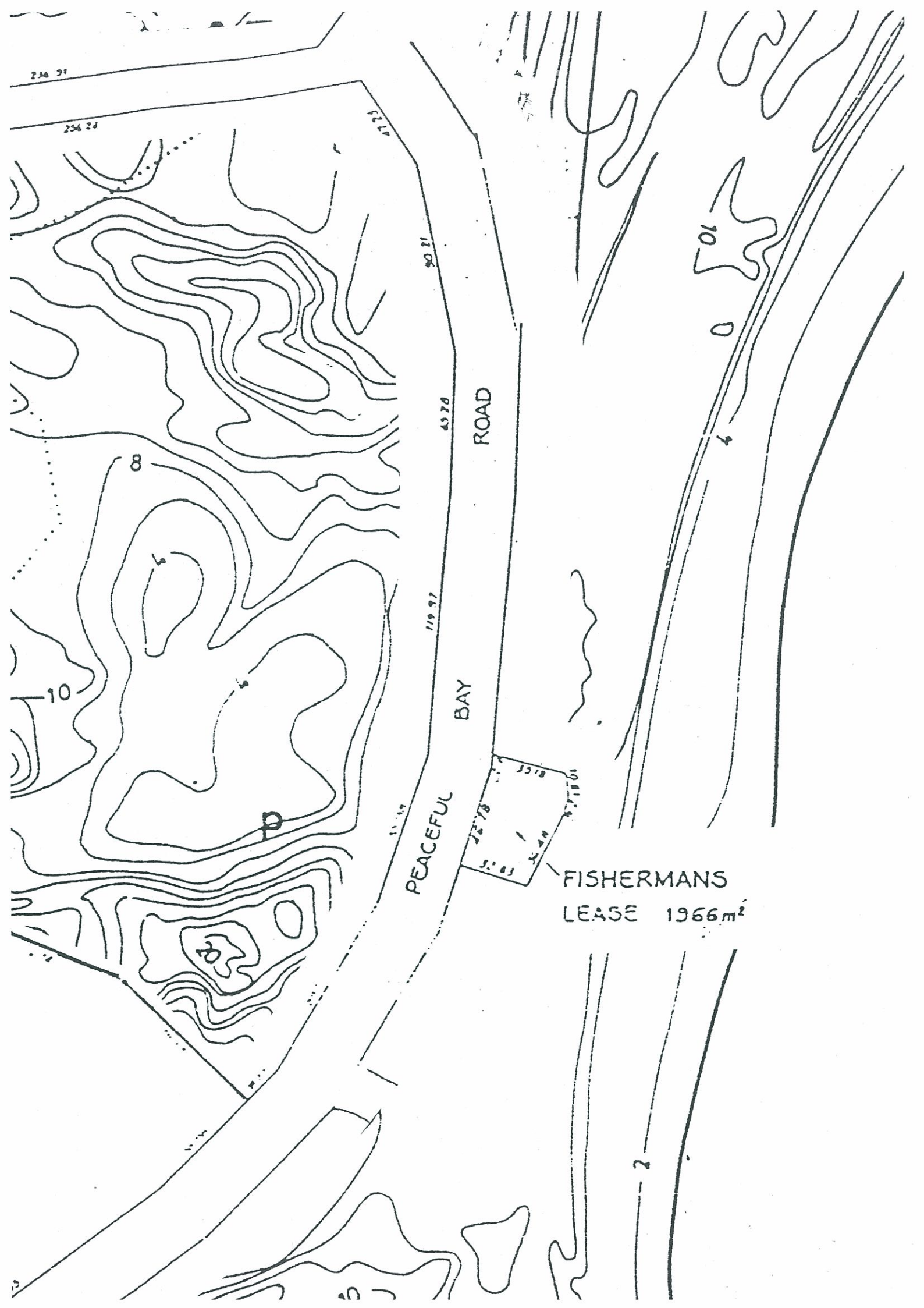
Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.

EXAMINED

Figure 1 Portion of Reserve No 24510 and being Hay Location 2229 on Deposited Plan 240012



Indicative Boundary Only - Refer to survey for exact boundary lines



230.31

254.24

47.23

49.21

49.76

119.97

PEACEFUL BAY

ROAD

10

8

101

0

4



FISHERMANS LEASE 1966m²

2