

LEASE

SHIRE OF DENMARK
[Lessor]

and

TELSTRA CORPORATION LIMITED
[Lessee]

LOT 8171 ON DEPOSITED PLAN 30137

15 November 2022 - Attachment 9.3.5

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REFERENCE SCHEDULE

Item 1	Lessor	Name: Shire of Denmark Address: 953 South Coast Highway Denmark WA 6333 Tel: (08) 9848 0300 Email: enquiries@denmark.wa.gov.au
Item 2	Lessee	Name: Telstra Corporation Limited Director, Telstra Property Address: c/- JLL Level 10, 242 Exhibition Street MELBOURNE VIC 3000 Attention: Property Management Director Email: Telstra.Notices@ap.jll.com and F0901953@team.telstra.com
Item 3	Premises	Whole of Lot 8171 on Deposited Plan 30137, hatched on the plan attached at Annexure A and situated at 466 Ocean Beach Road, OCEAN BEACH WA 6333. (For Telstra reference purposes only: JDE Number: 30954200 Tenure ID: 3083 Node Manager Address: 13252 RFNSA Site No.:)
Item 4	Land & Reserve	Volume LR3126 Folio 411, Reserve 46764
Item 5	Term	Ten (10) years
Item 6	Commencement Date	1 January 2023
Item 7	Terminating Date	31 December 2032
Item 8	Rent	\$1,000 per annum plus GST, payable yearly in advance on the Commencement Date and on each anniversary of the Commencement Date by way of electronic funds transfer.
Item 9	Rent Review	The Rent is to be increased by 2.5% per annum on each anniversary of the Commencement Date during the Term and any Further Term or any overholding.
Item 10	Special Conditions	Sections 92 and 93 of the <i>Transfer of Land Act 1893</i> (WA) do not apply to this Lease.
Item 11	Further Terms:	One (1) further term of ten (10) years

1. Lease and Rent

The Lessor leases the Premises to the Lessee for the Term for exclusive use and occupation by the Lessee for communications purposes for the Rent and on the terms and conditions contained in this Lease.

2. Access

The Lessor grants to the Lessee (and any person authorised by the Lessee) the right to access the Facility (with or without vehicles) and lay, repair and renew services on the Land to the Premises.

The parties acknowledge that the adjacent land is Crown Land, managed by the Lessor, and that if any access is required during construction, repair, renewal or maintenance of the Facility, the Lessee will seek consent on each occasion (except in the base of an emergency where no notice is required) and such consent will not be unreasonably withheld by the Lessor and will be deemed to have been given if there is no refusal or approval within 10 Business Days of the lessee's request for approval.

Such consent may include terms such as, but not limited to, requiring the lessee to provide details of the proposed work, make good provisions or the entering of a further licence agreement.

3. Lessee's Property

The Lessor consents to the Facility being brought onto, constructed on or affixed to the Premises by the Lessee. The Lessor agrees that the Facility remains the property of the Lessee and may be removed by the Lessee at any time during the Term or within 3 months after the expiry of this Lease or termination of any holding over period (whichever occurs later). Rent is payable by the Lessee during the removal period at the same rate of Rent (on a pro rata basis) that was payable by the Lessee upon the expiry of the Lease or date of termination of any holding over period.

4. Lessor Termination

The Lessor may terminate this Lease if it gives written notice to the Lessee of a breach of the Lease, including the covenants in clause **Error! Reference source not found.**, by the Lessee and the Lessee fails to rectify that breach within 3 months after the date of that notice.

5. Lessee Termination

The Lessee may terminate this Lease by giving the Lessor at least 6 months' written notice expiring at any time. If the Lease is terminated under this clause, the Lessee will not be entitled to a refund of any Rent paid in advance.

6. Holding Over

After the expiry of this Lease the Lessee may continue to occupy the Premises under a 6 monthly tenancy where the Lessee occupies the Premises at the same Rent payable prior to the Terminating Date and otherwise on the same terms as this Lease, as far as they can be applied to a 6 monthly tenancy. The tenancy may be terminated by 6 months' written notice being given by either party to the other.

7. Local Government Consent(s)

Where the Lessee proposes to alter or replace the existing Facility for which local government consent is required then the Lessee must first obtain the consent of the Lessor for those works, which must not be unreasonably withheld or delayed.

If the Lessor consents, the Lessor must assist the Lessee by signing all applications to the local council for any consent and/or approvals that are required by the Lessee.

The Lessee is responsible for the Lessor's reasonable legal costs in respect of this consent.

8. Insurance and Risk

For so long as Telstra Corporation Limited (or its corporate successor) is the Lessee, the Lessor acknowledges that the Lessee has a global insurance policy which includes public liability insurance in excess of \$20 million and which includes the Lessor as an insured to the extent of the Lessee's liability under this Lease.

Except as provided for or implied under the terms of the Lease the Lessee occupies the Premises at its own risk.

9. Assignment

The Lessee must not assign this Lease, sublet, licence or part with possession of the whole or part of the Premises (other than to a Related Body Corporate, Commonwealth department or body or a Carrier which will not require the Lessor's consent) without the consent of the Lessor which must not be unreasonably withheld or delayed.

With effect from the date of assignment of this Lease by the Lessee, the assignor Lessee and the Lessor release each other from all obligations and liabilities under this Lease, but without prejudice to any prior claim or remedy which either party may have against the other.

10. Indemnity

The Lessee agrees to indemnify the Lessor against any liability, loss, damage, cost or expense incurred or suffered by the Lessor caused or contributed to by the negligence of the Lessee (or its directors, agents, contractors or employees, acting within the scope of their authority) or the default of this Lease by the Lessee, but only to the extent that the Lessee (or its directors, agents, contractors or employees, acting within the scope of their authority) caused or contributed to that liability, loss, damage, cost or expense.

Without limitation as to the Lessor's rights under this Lease or otherwise, the indemnity provided by the Lessee under this clause 10 will not exceed \$20 million per event.

The Lessor must not settle a claim, action or demand the subject of an indemnity under this Lease without first consulting in good faith with the Lessee. The Lessor must take reasonable steps to mitigate any liability, loss, damage, costs or expenses.

11. Commonwealth Legislation

Nothing in this Lease affects, restricts, limits or derogates from the rights, powers and immunity of the Lessee under and by virtue of the Act or any other applicable legislation and/or regulations of the Commonwealth.

The Lessor agrees pursuant to clause 17(5) Division 5 Part 1 of Schedule 3 of the Act to waive its right to be given a notice under clause 17(1) Division 5 Part 1 of Schedule 3 of the Act of the Lessee's exercise of its powers to inspect and/or install a low impact installation and to maintain the Facility.

12. Costs of Lease

Save as to clause 2(f) of this Lease, each party must bear their own legal fees and disbursements for the preparation, negotiation and execution of this Lease.

13. GST

- (a) If one party (supplying party) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the consideration (receiving party) must also pay an amount (GST amount) equal to the GST payable in respect of that supply.
- (b) Subject to first receiving a tax invoice or adjustment note as appropriate, the receiving party must pay the GST amount when it is liable to provide the consideration.

- (c) If one party must indemnify or reimburse another party (payee) for any loss or expense incurred by the payee, the required payment does not include any amount which the payee (or an entity that is in the same GST group as the payee) is entitled to claim as an input tax credit, but will be increased under clause 13(a) if the payment is consideration for a taxable supply.
- (d) If an adjustment event arises in respect of a taxable supply made by a supplying party, the GST amount payable by the receiving party under clause 13(a) will be recalculated to reflect the adjustment event and a payment will be made by the receiving party to the supplying party, or by the supplying party to the receiving party, as the case requires.
- (e) In this Lease terms used that are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) (GST Act) have the meaning given in that Act, unless the context makes it clear that a different meaning is intended.

14. Special Conditions

The special conditions set out in Item 10 apply to this Lease.

15. Notices

A notice, consent or other communication under this Lease is only effective if it is in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and either:

- (a) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
- (b) sent by email to that person's email address or email addresses. Where more than one email address is specified, the notice consent or other communication must be sent to all specified email addresses.

A notice, consent or other communication is regarded as given and received where it is given by email:

- (c) if delivered by 5.00 pm on a business day - at the time (local time in the place of receipt) specified in the delivery confirmation or receipt generated by the sender's email; or
- (d) if delivered after 5.00 pm on a business day or on a day that is not a business day - on the next business day after the time (local time in the place of receipt) specified in the delivery confirmation or receipt generated by the sender's email.

A notice, consent or other communication is regarded as given and received where it is sent by mail – within Australia, 7 business days after posting or to and from a place outside Australia, 10 business days after posting.

A party's address and email are those notified by a party to the other party in writing from time to time.

16. Option to Renew

- (a) Unless the Lessee gives to the Lessor either:
 - (i) at least 3 months' notice before the Terminating Date that the Lessee does not want a new lease of the Premises for a Further Term; or
 - (ii) notice before the Terminating Date that the Lessee does not want a new lease of the Premises for a Further Term but that it wishes to remain in possession of the Premises pursuant to clause 6,

then provided the Lessee is not then in breach of an essential term of this Lease of which it has been notified by the Lessor, the Lessor must grant to the Lessee a renewal of the lease or a new lease of the Premises for that Further Term.

- (b) The new lease must be on the same terms and conditions as this Lease except that:
- (i) **(Reference Schedule)** any necessary changes are made to Items 5, 6, 7 and 11 in the new lease;
 - (ii) **(Rent)** the rent to be inserted in Item 8 is the Rent payable on the Terminating Date of this Lease increased by the percentage referred to in Item 9,
- subject always to the reasonable discretion of the Lessor.

17. Reserve

The Land is vested in the Lessor for the purposes with the power to lease for any term not exceeding 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 (WA) and the Transfer of Land Act 1893 (WA) (unless negated or modified by the provisions of this Lease) and to the covenants and conditions contained in this Lease.

18. Events Affecting Land

If the Lessor proposes to grant a lease over the Premises which is intended to run concurrently with the Term then the Lessor must obtain the prior consent of the Lessee (which may be granted or refused by the Lessee in its absolute discretion). If the Lessor fails to obtain the Lessee's prior consent, then:

- (a) the Lessor must compensate the Lessee for any loss, damage or disadvantage which the Lessee may suffer or incur as a result of the Lessor's failure or delay in seeking the consent of the Lessee; and
- (b) the Lessee may terminate this Lease by giving to the Lessor no less than 6 months' notice at any time.

19. Lessee Covenants

The Lessee must:

- (a) pay the Rent to the Lessor;
- (b) pay any rates separately assessed to the Premises;
- (c) pay for any services metered to the Premises;
- (d) keep the Premises in good repair, clean and free of hazards and noxious weeds, subject to fair wear and tear;
- (e) must keep the Facility sufficiently clear to avoid a potential fire hazard arising and in accordance with the Shire of Denmark's Fire Management Notice;
- (f) upon determination of the Lease, make good the Premises to the reasonable satisfaction of the Lessor (acting reasonably); and
- (g) must arrange for and pay any costs associated with the Lease, including lodgement, registration and transfer duty.

20. Mortgagee's Consent

If the Premises are subject to a mortgage or charge, the Lessor must use its reasonable endeavours to obtain the unconditional mortgagee's or chargee's consent to this Lease and the Lessee must pay the mortgagee's or chargee's reasonable consent costs.

21. Minister for Lands

In consideration of the Minister for Lands providing its consent, the Lessee agrees to indemnify the Minister for Lands against any liability, loss, damage, cost or expense incurred or suffered by the Lessor caused or contributed to by the negligence of the Lessee (or its directors, agents, contractors or employees) or the default of this Lease by the Lessee, but only to the extent that the Lessee (or its directors, agents, contractors or employees) caused or contributed to that liability, loss, damage, cost or expense.

22. Definitions

In this Lease:

Act means the Telecommunications Act 1997 (Cth) as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.

Carrier has the same meaning as is contained in the Act and includes a party acting in reliance upon a nominated carrier declaration made under Part 3 of the Act.

Commencement Date means the date specified in Item 6.

Facility means the Lessee's equipment installed by the Lessee for communications purposes.

Further Term means a further term of this Lease, is any, as specified in Item 11.

Land means the land described in Item 4.

Lease means this lease and any equitable lease or common law tenancy evidenced by this lease.

Lessee means the party named in Item 2 and its successors and assigns.

Lessor means the party named in Item 1 and its successors and assigns.

Minister of Lands means the body corporate constituted under section 7 of the *Land Administration Act 1997*

Premises means the premises described in Item 3.

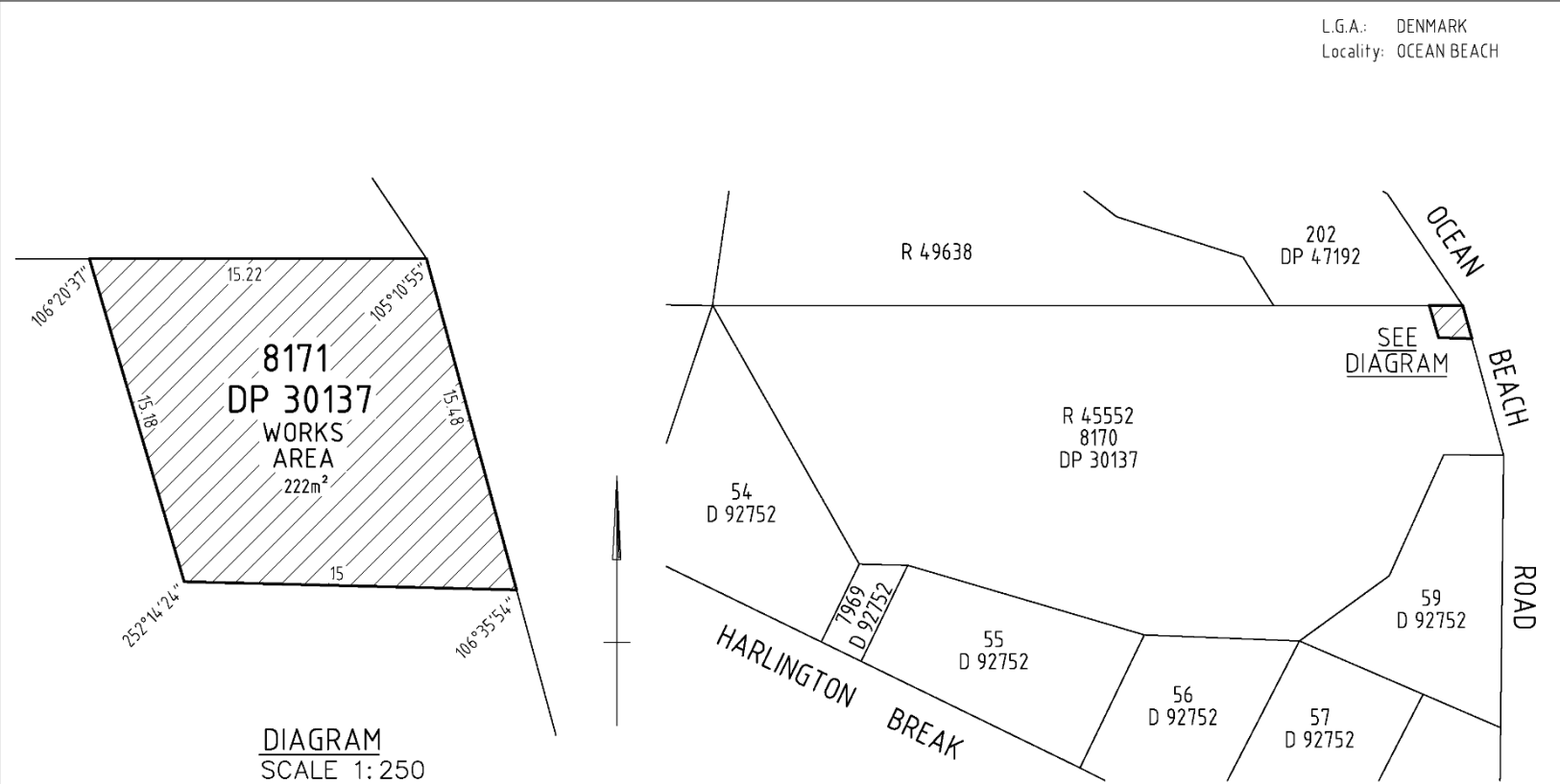
Related Body Corporate means a related body corporate or a body corporate of which the Lessee is either an associated entity or a related body corporate of an associated entity as each of those terms are defined in the *Corporations Act 2001* (Cth).

Rent means the amount specified in Item 8 as varied from time to time in accordance with Item 9 (if applicable).

Term means the term of this Lease in Item 5.

Terminating Date means the date specified in Item 7.

ANNEXURE A - PREMISES PLAN



L.G.A.: DENMARK
Locality: OCEAN BEACH

DIAGRAM
SCALE 1:250

SCALE 1:2500

JDE No. 30954200 ALL DIMENSIONS IN METRES

ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
NA	KM	CW	Supersedes W103567 Shf 1	SEJ	MG	26/11/21	1

Telstra
BUILDING SERVICES
OCEAN BEACH TE (13252)
SITE TENURE PLAN
466 OCEAN BEACH ROAD, OCEAN BEACH, WA 6333

Sureline Geomatics
TEL (02) 9896 8025
info@suregeo.com.au

CT: VOL LR3126 FOL 411
Owner: RESERVE UNDER MANAGEMENT OF SHIRE OF DENMARK
Address: PO BOX 183 DENMARK, WA 6333

NOTE: Covenants or Restriction to user have not been investigated for the purpose of this plan

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ANNEXURE B – MINISTERIAL CONSENT

To be obtained by lessor

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