

SHIRE OF YORK	
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OFFICER	PAUL
INITIALS	
NATASHA	
16 APR 2018	
I/165902.	
REFERRED TO COUNCIL	
DATE	INITIALS



11 April 2018

Mr P Martin, CEO
Shire of York
PO Box 22,
York, WA 6302

Dear Mr Martin,

Expired Rail Corridor Leases

I am contacting you regarding a historic lease over rail corridor land that has been held by the Shire of York and the Public Transport Authority (PTA).

As you are aware, Arc Infrastructure Pty Ltd (Arc), previously Brookfield Rail Pty Ltd, is the manager of the Rail Freight Network in Western Australia under a long term lease from the State Government. As part of our management of the network, we are also the licensee of all the rail corridor land adjoining the rail freight tracks.

The Shire of York has the following historic lease;

1. an area of 875 sq m in Spencers-Brook & York Road, Burges held for drainage/Water Supply, etc.

The lease expired on 31/01/2010 but has been held over by the PTA. Given the lease is over rail corridor land managed by Arc, the PTA has asked Arc to enter into a licence with the Shire of York so that the land use is permitted and reflected correctly.

I attach a diagram of the plan of the lease area which have been provided to us by the PTA.

Please confirm the following:

1. The parcel of land is still used and required by the Shire of York
2. The purpose the parcel of land is used for
3. The lease area indicated on the diagram is accurate

It would be appreciated if you would provide this information within the next 4 weeks. If the Shire of York still wishes to occupy the land, Arc will prepare a draft Licence to Occupy for the Shire's use.

All licences of a non-community purpose nature are subject to the approval of the PTA. There is a process under which your occupation of the land could be considered and a Licence to Occupy issued.

Whilst Arc cannot guarantee that it can give you a licence to occupy the area, we see no reason why the PTA would not approve the use, assuming it is still being used for the purposes stated in the original lease.

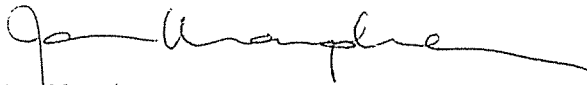
There is likely to be a small charge for preparation of the Licence to Occupy and a small annual fee, as well as the requirement to meet any rates, taxes or levies assessed against the property if you wish to continue to use the area.

In some circumstances, if the land is being used for a community purpose, Arc may consider entering into a community partnership or sponsorship arrangement. These are considered on a case by case basis.

Should you have any questions or wish to discuss this in further detail, please don't hesitate to get in contact with me at jan.macpherson@arcinfra.com or Rebecca Keating on 0439 277 980 or rebecca.keating@arcinfra.com.

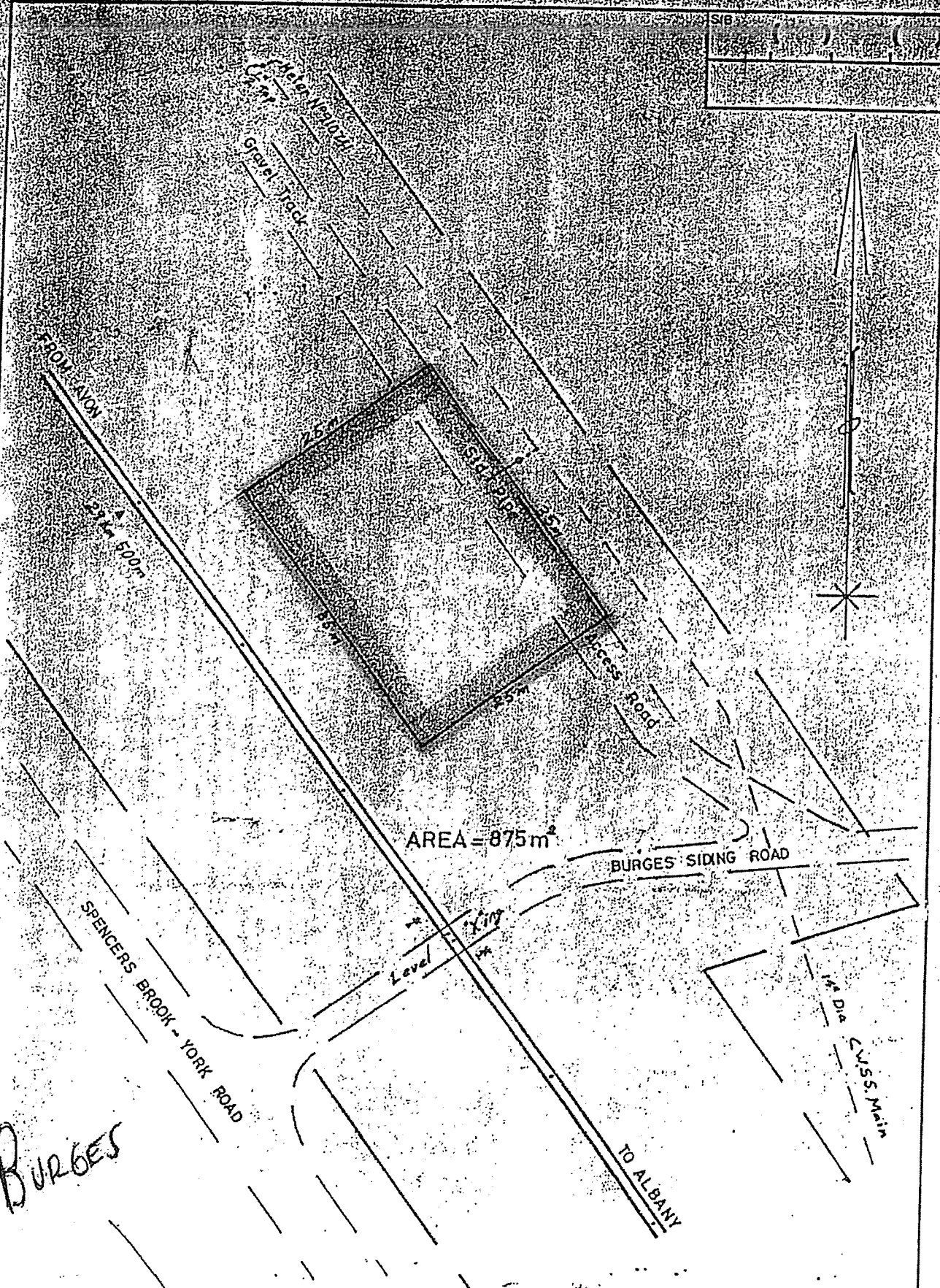
I look forward to working with you to finalise land use arrangements that will deliver on the needs of the Shire of York and still meet our obligations to the State Government.

Yours sincerely,



Jan Macpherson

General Counsel



BURGES

Western Australian Government Railways			
YORK - Blue		Date	Jan 91
LEASE OF LAND TO YORK SHIRE COUNCIL		Traced	
Civil Engineering Branch		Drawn	RKP
		Checked	
		File No.	L 5297
		Plan No.	CD 9570
		Scale	1:600
		Sheet No.	1/1

Natasha Brennan

From: Anna Kijak <Anna.Kijak@arcinfra.com>
Sent: Monday, 30 July 2018 9:54 AM
To: Natasha Brennan
Subject: RE: I167908 - BU2 - RE: I167877 - BU2 - RE: Expired Rail Corridor Leases
Attachments: 20180724 - Shire of York - Licence to Use and Occupy Corridor Land.pdf

Hi Natasha

The Licence with Arc would include the following terms:

1. Use Fee of \$1.00 per annum (Item 4, Schedule 1)
2. Permitted Use of community purposes for standpipe usage (Item 5, Schedule 1)
3. Contract Term of 5 years, with option to renew for a further 5 years per clause 3.1
4. Commencement Date of 1 October 2018 (can be updated based on Council's review) per Item 2, Schedule 1
5. Document preparation fee of \$1,000 payable by the Shire of York (clause 20.1)
6. Shire of York to take out and maintain insurance (clause 14.1) for:
 - a. Public Liability for insured sum of \$20m; and
 - b. Worker's compensation and employer's indemnity insurance for insured sum of \$50m

I've attached a copy of the draft Licence with these terms.


Could you please revert with any queries arising from the Council Meeting?

Kind regards

Anna Kijak
Property Contracts Specialist

Arc Infrastructure
Level 3, 1 George Wiencke Drive, Perth Airport, WA, 6105
GPO Box S1411, Perth WA 6845

T – (08) 9442 8815
E – Anna.Kijak@arcinfra.com
W – arcinfra.com

 Please consider the environment before printing this e-mail.

From: Natasha Brennan <project@york.wa.gov.au>
Sent: Friday, 27 July 2018 11:14 AM
To: Anna Kijak <Anna.Kijak@arcinfra.com>
Subject: RE: I167908 - BU2 - RE: I167877 - BU2 - RE: Expired Rail Corridor Leases

Hi Anna

With regards to the licence – would it be based along the same lines as the previous licence?

- Rent \$1.00 per annum licence fee
- Permitted purpose (Community purposes) to be used for standpipe usage
- Term ? would this be for 10 years or more?

Are there any other essential terms in the lease that you are aware of?

I am in the process of doing up a Council Report for the August meeting and I don't want there to be anything that may be too different from the previous lease.

Kind regards

Natasha Brennan
Administration & Governance Coordinator



Shire of York

PO Box 22, York WA 6302

Phone: (08) 9641 0521 / Fax: (08) 9641 2202

Email: project@york.wa.gov.au

Website: www.york.wa.gov.au



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From: Anna Kijak [<mailto:Anna.Kijak@arcinfra.com>]
Sent: Thursday, 26 July 2018 8:27 AM
To: Natasha Brennan <project@york.wa.gov.au>
Subject: RE: I167908 - BU2 - RE: I167877 - BU2 - RE: Expired Rail Corridor Leases

Hi Natasha

Thank you for advising of the process for approval regarding the Licence costs.

I'll await your response following the Council Meeting to be held 27 August 2018 for us to proceed.

Kind regards

Anna Kijak
Property Contracts Specialist

Arc Infrastructure
Level 3, 1 George Wiencke Drive, Perth Airport, WA, 6105
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From: Natasha Brennan <project@york.wa.gov.au>
Sent: Thursday, 26 July 2018 8:04 AM
To: Anna Kijak <Anna.Kijak@arcinfra.com>
Subject: RE: I167908 - BU2 - RE: I167877 - BU2 - RE: Expired Rail Corridor Leases

Hi Anna

Thank you for your response.

I can see no problem with the associated costs with the licence, however we do not have delegation, I will need to put this to Council as an agenda item for the August Council Meeting (27 August 2018).

I will contact you after this date and advise if approval is granted to proceed.

Kind regards

Natasha Brennan
Administration & Governance Coordinator



Shire of York

PO Box 22, York WA 6302

Phone: (08) 9641 0521 / Fax: (08) 9641 2202

Email: project@york.wa.gov.au

Website: www.york.wa.gov.au



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From: Anna Kijak [<mailto:Anna.Kijak@arcinfra.com>]

Sent: Wednesday, 25 July 2018 2:21 PM

To: Natasha Brennan <project@york.wa.gov.au>

Subject: I167908 - BU2 - RE: I167877 - BU2 - RE: Expired Rail Corridor Leases

Hi Natasha,

Thank you for your feedback. I understand the arrangements with the Public Transport Authority of WA (PTA) have been held over since expiring in 2010 and as such, Arc's rationale for the costs are:

1. The new Licence is to be drafted on terms that form an agreement between the Shire of York and Arc and as such Arc is not privy to the arrangements in place previously agreed with the PTA.
2. The costs are in relation to Arc's resources for: drafting of the Licence, internal review by Arc, liaison with queries/ feedback to the terms, execution of the Licence and corporate filing. The team that contributes resources consists of five people, hence the allocation of time is considered amongst commercially rated charges.
3. In lieu of charging an annual fee, given that the standpipes are for community purposes, Arc is willing to charge an annual fee of \$1.00, in place of commercial rates that would otherwise be applicable.


Could you please consider the above in relation to the Shire of York's position on costs associated with the Licence and advise accordingly?

Kind regards,

Anna Kijak
Property Contracts Specialist

Arc Infrastructure
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E – Anna.Kijak@arcinfra.com
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From: Natasha Brennan <project@york.wa.gov.au>
Sent: Wednesday, 25 July 2018 10:24 AM
To: Anna Kijak <Anna.Kijak@arcinfra.com>
Subject: RE: I167877 - BU2 - RE: Expired Rail Corridor Leases

Hi Anna

With regards to the costs, I understand that if it was a new request we be required to pay a fee, however given that it is an existing use and has been in place for a long time do we need to pay these costs?
The cost seems quite substantial.

Kind regards

Natasha Brennan
Administration & Governance Coordinator



Shire of York
PO Box 22, York WA 6302
Phone: (08) 9641 0521 / Fax: (08) 9641 2202
Email: project@york.wa.gov.au
Website: www.york.wa.gov.au



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From: Anna Kijak [<mailto:Anna.Kijak@arcinfra.com>]
Sent: Tuesday, 24 July 2018 2:44 PM
To: Natasha Brennan <project@york.wa.gov.au>
Subject: I167877 - BU2 - RE: Expired Rail Corridor Leases

Dear Natasha

I have received your email from Jan Macpherson, who is conducting a handover of Arc Infrastructure property matters with myself.

Thank you for advising Arc that the Shire of York is still using the 875 square metre parcel of rail corridor land for standpipe usage.

To prepare Licence documentation, Arc usually charges a fee of \$2,000 to cover our costs, however given that the standpipes are for the benefit of the local community, we are willing to reduce the fee to \$1,000.

Could you please advise if the Shire of York is amenable to the preparation of a Licence by charging the reduced fee?

I will prepare the Licence documentation on your confirmation of the above, for review by the Shire of York.

Thank you.

Kind regards

Anna Kijak
Property Contracts Specialist

Arc Infrastructure
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W – arcinfra.com

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From: Natasha Brennan [<mailto:project@york.wa.gov.au>]
Sent: Wednesday, 18 July 2018 11:50 AM
To: Jan Macpherson <Jan.Macpherson@arcinfra.com>
Subject: Expired Rail Corridor Leases

Dear Ms Macpherson

I am following up on a letter we received dated 11 April 2018 (attached). I apologise for the delay in responding.

In answer to your questions I provide the following:

1. The parcel of land is still used and required by the Shire of York - Yes
2. The purpose of the parcel of land is used for – Standpipe Usage
3. The lease are indicated on the diagram is accurate - Yes

I hope that this is of assistance and if you require anything further, please let me know.

Also can you please let me know if there a cost to drafting up a new licence?

Kind regards

Natasha Brennan
Administration & Governance Coordinator



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