GOVERNMENT OF WESTERN AUSTRALIA

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21 Jul 2023 15:42:01 Perth

Lease

Approved form 2017-82730 *Reg 3 of the Transfer of Land Regulations 2004*
The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Jurisdiction

State of Western Australia

Legislation

Transfer of Land Act 1893

Lodging party details

Name	NORTON ROSE FULBRIGHT AUSTRALIA
Address	LEVEL 30 108 ST GEORGES TERRACE PERTH WA 6000
Issuing box	175L
Phone	+61 8 6212 3254
Fax	+61 8 6212 3444
Email	KARYN.THOMSON@NORTONROSEFULBRIGHT.COM
Reference	4060805

Preparer details

Name	NORTON ROSE FULBRIGHT AUSTRALIA
Phone	+61 8 6212 3254
Reference	4060805

Land / Interest

Title(volume-folio)	Extent	Land description	Interest
2071-159	Part	PORTION OF LOT 7681 ON DEPOSITED PLAN 121764 AND BEING THAT PART OF THE LAND SHOWN HACHURED ON THE PLAN IN ANNEXURE B OF THIS CONCURRENT LEASE	FEE SIMPLE

Lessor(s)

CARL PETER PLANKE OF 1470 HARPER ROAD WOOROLOO WA 6558

Lessee(s)

AT AUSTRALIA PTY LTD (ACN 605 816 886) OF SUITE 4.04, LEVEL 4, 2 QUEEN STREET MELBOURNE VIC 3000

Terms and conditions

Commencement	19 July 2023
Duration	99 years 0 months 0 days
Option to renew	No
Additional terms and conditions	SEE ADDITIONAL TERMS AND CONDITIONS OF THIS CONCURRENT LEASE IN ANNEXURE A

Operative words

The lessor(s) hereby leases to the lessee(s) the land described above in the terms and conditions set out or referred to in this lease subject to the limitations, interests, encumbrances and notifications as shown on the certificate of title and/or otherwise affect the land under the legislation stated above.

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Execution date

18 July 2023

Lessor(s) execution

PLEASE SEE PAGE 22 OF ATTACHED CONCURRENT LEASE

Lessee(s) execution

PLEASE SEE PAGE 22 OF ATTACHED CONCURRENT LEASE

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Annexure A

Reference Schedule

ITEM 1
(Clause 1.1)

Land

The whole of the land comprised in Certificate of Title Volume 2071 Folio 159 known as 7681 Harper Road, Wooroloo Western Australia 6558

ITEM 2
(Clause 1.1)

Landlord

Name:	Carl Peter Planke
ABN:	42 089 288 231
Address:	1470 Harper Road, Wooroloo Western Australia 6558
Tel:	0418 953 120
Attention:	Carl Peter Planke

ITEM 3
(Clause 1.1)

Tenant

Name:	AT Australia Pty Ltd
ACN:	605 816 886
Address:	Suite 4.04, Level 4, 2 Queen Street, Melbourne, Victoria 3000
Tel number:	03 8539 3904
Attention:	Lease Administrator

ITEM 4
(Clause 1.1)

Premises

That part of the Land shown hachured on the plan in Annexure B

ITEM 5
(Clauses 1.1, 6(a))

Permitted Use

Installation, alteration, upgrade, maintenance, replacement and use of telecommunications facilities and equipment, including any infrastructure associated with such facilities, or any other incidental use permitted by law

ITEM 6
(Clauses 1.1, 2.2)

Term

(a) 99 years

(b) Commencing Date: 19 July 2023

(c) Terminating Date: 18 July 2122

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ITEM 7 (Clauses 1.1, 3.1)	**Prepaid Rent Amount** $240,000.00 (excluding GST) for the Term, payable in accordance with clause 3.1

RECITALS:

A. The Landlord is registered as the proprietor of an estate in fee simple in the Land.

B. The Landlord has agreed to grant and the Tenant has agreed to take a concurrent lease of the Premises on the terms and conditions of this Lease.

C. The Landlord grants to the Tenant the right to all receipts of rent and other payments relating to the Premises.

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THE PARTIES AGREE AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Lease unless the contrary intention appears:

Adjoining Land means the land contained in Certificate of Title Volume 1950 Folio 409.

Authority means:

(a) a government or government department or other body;

(b) a governmental, semi-governmental or judicial person including a statutory corporation; or

(c) a person (whether autonomous or not) who is charged with the administration of a law.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney.

Claim means, in relation to a person, any claim, cause of action, proceeding, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Commencing Date means the date specified in Item 6(b) which will be one day after the later to occur of:

(a) the date the Tenant completes its Due Diligence; and

(b) the date this Lease is fully executed.

Concurrent Landlord Rights has the meaning given under clause 2.3(b)(ii).

Due Diligence means the completion by the Tenant of its due diligence on the Premises and the Existing Lease (to the Tenant's satisfaction, at its discretion), and the receipt by the Tenant in a form and condition acceptable to it (in its discretion) of its policy order report of title insurance for the Premises, survey report, environmental report and other report or documentation required by the Tenant.

Encumbrance means:

(a) any other mortgage, pledge, lien or charge;

(b) an easement, restrictive covenant, caveat or similar restriction over property; or

(c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

Existing Lease means the lease and other occupancy arrangements and ancillary documents between the Landlord and the Existing Tenant over all or part of the Premises entered into or existing as at the date of this Lease, being the Initial Existing Lease and includes:

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(a) any renewal or extension of the Initial Existing Lease, whether granted to the Existing Tenant by the Landlord or the Tenant; and

(b) any other occupancy arrangements granted to the Existing Tenant on or after the date of this Lease over all or part of the Premises including under clause 8.1(a).

Existing Tenant means the tenant under the Existing Lease, including the Existing Tenant's successors and assigns.

Future Lease means any future sublease or licence with new or additional tenants (specifically excluding any lease with the Existing Tenant or related body corporate) relating to the Premises or any part of them which may be granted by the Tenant pursuant to the rights granted under this Lease.

Future Tenant means any tenant or licensee under any Future Lease or an agreement under clause 8.1(a) and expressly excludes the Existing Tenant or a related body corporate of the Existing Tenant.

GST has the meaning given to it in the GST Law.

GST Law means the same as "GST law" in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Initial Existing Leases means Registered Lease N442180 of part of the Land between the Landlord as landlord and NBN Co Limited ACN 136 533 741 as tenant dated 16 August 2016, commencing 19 December 2016 and expiring 18 December 2036.

Land means the land described in Item 1.

Landlord means the party named in Item 2.

Lease means the lease or tenancy that exists between the Landlord and the Tenant in relation to the Premises of whatever nature and whether at law or in equity as evidenced in whole or in part by this Lease.

Loss means any damage, loss, costs, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or ascertained, actual or contingent.

Outgoings means all amounts assessable, chargeable, paid or payable or otherwise incurred by the Landlord in respect of the Land or the control, management or maintenance of the Land.

Permitted Use means the use specified in Item 5.

Premises means that part of the Land described in Item 4.

Premises Plan means the plan included as Annexure B.

Prepaid Rent Amount means the amount specified in Item 7.

Reference Schedule means the reference schedule to this Lease.

Tenant means the party named in Item 3.

Term means the term of this Lease as specified in Item 6(a).

Terminating Date means the date specified in Item 6(c).

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1.2 **Rules for interpreting this Lease**

The following rules apply in interpreting this Lease, except where the context makes it clear that a rule is not intended to apply.

(a) A reference to:

(i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

(ii) a document (including this Lease) or agreement, or a provision of a document (including this Lease) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;

(iii) a party to this Lease or to any other document or agreement includes a successor in title, permitted substitute or permitted assign of that party;

(iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;

(v) anything (including a right, obligation or concept) includes each part of it;

(vi) a month is to a calendar month;

(vii) an **Item** is to the relevant Item in the Reference Schedule;

(viii) a professional body includes a succeeding body or where there is no succeeding body, a body serving similar objects as nominated by the Landlord; and

(ix) **dollars** or **$** is to an amount in Australian currency.

(b) Headings are for convenience only and do not affect interpretation.

(c) A singular word includes the plural, and vice versa.

(d) A word which suggests one gender includes the other genders.

(e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.

(f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

(g) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.

(h) The words **subsidiary**, **holding company** and **related body corporate** have the same meaning as in the *Corporations Act 2001* (Cth).

(i) Terms defined in the GST Law have the same meaning in this Lease unless the context otherwise requires.

(j) If a party is a member of a GST group, references to GST which the party must pay and to input tax credits which the party is entitled to claim, include

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GST which the representative member of the GST group of which the party is a member must pay, and input tax credits to which the representative member is entitled.

(k) If the day on or by which a person must do something under this Lease is not a Business Day, the person must do it on or by the next Business Day.

(l) Mentioning anything after "*includes*", "*including*", "*including, for example*", "*including, without limitation*" or similar expressions, does not limit what else might be included.

(i) If a party to this Lease is made up of more than one person, or a term is used in this Lease to refer to more than one party, then unless otherwise specified in this Lease:

(ii) an obligation of those persons is joint and several;

(iii) a right of those persons is held by each of them severally; and

(iv) any other reference to that party or that term is a reference to each of those persons separately.

1.3 Exclusion of legislation

(a) The covenants, powers and provisions implied in leases by sections 80 and 82 of the *Property Law Act 1969* (WA) and sections 92 and 93 of the *Transfer of Land Act 1893* (WA) do not apply to this Lease.

(b) Without limiting clause 1.3(a), any legislation that adversely affects an obligation of the Tenant, or the exercise by the Landlord of a right or remedy, under or relating to this Lease is excluded to the full extent permitted by law.

1.4 Authority to complete

The Landlord directs and authorises the Tenant (by itself or through its legal representatives) to complete and make fully effective the Lease including by:

(a) inserting the Commencing Date and Terminating Date wherever required in the Lease, once the Commencing Date is known;

(b) correcting any typographical, grammatical or other manifest errors in this Lease; and

(c) to make such amendments and additions to this Lease as may be required to obtain registration.

2 GRANT OF LEASE

2.1 Grant

Subject to the terms of this Lease, the Landlord:

(a) leases the Premises to the Tenant for the Term, which is:

(i) during the term of each of the Existing Leases, to operate as a concurrent lease; and

(ii) after the expiry or earlier termination of the Existing Leases, to operate as a direct lease, including the benefit of the obligations imposed on the respective occupiers by the Existing Leases; and

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(b) grants a licence to the Tenant (and all persons authorised by the Tenant) over the Land and Adjoining Land (excluding the Premises), to:

(i) have unrestricted access (both vehicle and pedestrian, and with or without materials, plant and other apparatus) across the Land to and from the Premises at all times of the day and night during the Term; and

(ii) lay, install, maintain, repair, replace and use cables over, under or within the Land to connect services and utilities to the Premises and where necessary to construct supports for such cabling,

which licence is coupled with and runs with the leasehold interest granted to the Tenant under this Lease, and may be sub-licenced to an Existing Tenant or Future Tenant.

2.2 **Term**

The Term begins on the Commencing Date and ends on the Terminating Date.

2.3 **Operation**

(a) This Lease is concurrent with and subject to the Existing Lease.

(b) The Landlord and the Tenant acknowledge and agree that:

(i) the intended effect of this Lease is for the Tenant to have the benefit of each Existing Lease, notwithstanding if the Tenant is not a party to the Existing Lease;

(ii) the Tenant is entitled to receive all rents and other moneys payable under the Existing Lease and Future Leases, and to enforce all covenants on the part of the Landlord under the Existing Leases and Future Leases as if the Tenant was itself the landlord under each of the Existing Lease; and

(iii) the Tenant is authorised by the Landlord to give a notice directly to the Existing Tenant to remit all rent and other monies payable under the Existing Lease to the Tenant.

(c) The Landlord must take all necessary steps to ensure that the Tenant has and enjoys at all times the Concurrent Landlord Rights.

(d) if an Existing Lease or Future Lease is terminated during the Term, the Landlord is authorised to enforce repair and make good provisions against the Existing Tenant or Future Tenant in accordance with the relevant Existing Lease or Future Lease.

2.4 **No Superior Rights**

The Landlord must not grant a lease which is concurrent or superior to this Lease.

2.5 **Landlord's continuing obligations**

The Landlord and Tenant acknowledge and agree that despite this Lease being concurrent with the Existing Leases and the Tenant being entitled by operation of law to the Concurrent Landlord Rights:

(a) the Landlord at all times remains liable under all Existing Leases and/or Future Leases (including any subleases granted by the Tenant under clause

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8.1(a)(iii)) for all of the landlord obligations under the Existing Leases and/or Future Leases as if the Landlord had not granted this Lease to the Tenant; and

(b) for clarity, the Tenant is not responsible for any cleaning, maintenance, repair or replacement whatsoever of the Premises or any improvements which may be erected on the Premises, except to the extent that such damage was caused by an act of the Tenant.

2.6 Landlord's failure to perform

If the Landlord breaches clause 2.5(a) and fails to remedy the breach within a reasonable time after written request by the Tenant to do so, the Tenant may, to the extent it is lawfully able to do so, carry out the obligation under the Existing Leases or Future Lease that the Landlord has failed to perform, in the manner it determines most expeditious and practicable, and recover the cost of doing so from the Landlord on an indemnity basis. This remedy is in addition to any other remedies available to the Tenant.

3 PREPAID RENT

3.1 Payment of the Prepaid Rent Amount

The Tenant must pay the Prepaid Rent Amount in Item 7 to the Landlord in two instalments, payable in the following manner:

(a) $100,000.00 is payable by the Tenant to the Landlord within 14 days of the later of:

(i) the Commencing Date;

(ii) the date the Tenant receives the original mortgagee consent and/or caveator consent to this Lease (if applicable), pursuant to clause 5.3; and

(b) $140,000.00 is payable by the Tenant to the Landlord on a date that is within one year and 14 days after the Commencing Date

in full and final satisfaction of the Tenant's obligation to pay the Prepaid Rent Amount during the Term.

4 LANDLORD'S RIGHTS AND OBLIGATIONS

4.1 Quiet enjoyment

Subject to the Landlord's rights under this Lease, the Tenant may occupy the Premises without interruption by the Landlord.

4.2 Outgoings

(a) The Landlord must pay all Outgoings charged or assessed on the Land.

(b) For clarity, the Tenant is not required to pay and is not responsible for any Outgoings whatsoever charged or assessed on the Land.

4.3 Availability of Electricity

The Landlord will, at any Future Tenant's request and cost, connect the Premises to an electricity supply. The supply of this electricity must be made through a dedicated

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usage meter so that the Future Tenant is directly accountable to the relevant authority for payment of electricity consumed by it on the Premises.

4.4 **Landlord's right to enter Premises**

(a) Subject to clause 4.4(b), the Landlord may enter the Premises at reasonable times, if it gives the Tenant reasonable prior written notice to enable it to comply with any law or any notice from any Authority affecting the Land.

(b) When exercising its rights under clause 4.4(a) the Landlord:

(i) must use its reasonable endeavours to minimise any disruption to the Tenant;

(ii) is not required to give reasonable notice or enter at a reasonable time in the case of an emergency; and

(iii) must comply with any of the Tenant's reasonable safety and security requirements.

4.5 **Existing Lease**

The Landlord:

(a) warrants that:

(i) complete copies of all of the Initial Existing Lease (and any ancillary documents, or other relevant information relating to the Initial Existing Leases) have been provided to the Tenant before the date of this Lease;

(ii) the Initial Existing Lease is the only leases or occupancy rights affecting the Premises as at the Commencing Date; and

(iii) neither the Landlord nor the Existing Tenant are in default under any of the Initial Existing Lease which would render them able to be terminated;

(b) acknowledges that on and from the grant of this Lease, it has no right to exercise any rights or remedies granted to it as landlord under the Existing Leases and must not enter into any dealings with respect to the Existing Leases or Future Leases, including:

(i) grant a new lease or licence to the Existing Tenant on the Premises or Land;

(ii) consent to an assignment of any Existing Lease or Future Lease;

(iii) terminate any Existing Lease or Future Lease;

(iv) accept a surrender of any Existing Lease or Future Lease; or

(v) vary the terms of any Existing Lease or Future Lease; and

(c) indemnifies the Tenant for any loss or damage that the Tenant may suffer for any breach of clauses 4.5(a) and 4.5(b) by the Landlord.

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4.6 **Contamination**

The Landlord warrants that, as far as the Landlord is aware, as at the Commencement Date the Land and the Premises do not contain substances hazardous to health or safety.

5 CAVEAT

5.1 **The Landlord consents to a caveat**

The Landlord:

(a) consents to the Tenant lodging a "subject to claim" caveat over the Land the subject of the Premises in respect of its interest in the Premises;

(b) must not apply for the lapsing, cancellation, withdrawal or removal of the caveat unless the Tenant fails to comply with clause 5.2; and

(c) subject to clause 5.1(b), must not take any action which would cause the caveat to lapse or be cancelled, withdrawn or removed.

5.2 **Tenant's obligation in respect of the caveat**

The Tenant must:

(a) consent to any dealing by the Landlord with the Land that is not inconsistent with the Tenant's rights under this Lease; and

(b) lodge a request to withdraw the caveat with the relevant Authority within a reasonable time after the first to occur of:

(i) this Lease being registered (if applicable); and

(ii) the lawful termination or expiration of this Lease.

5.3 **Mortgagee and Caveator Consent**

The Landlord must promptly obtain, at its cost, the unconditional consent of any:

(a) mortgagee of the Land; and/or

(b) caveator of the Premises or the Land,

to the grant of this Lease, and, if requested by the Tenant, to any Existing Lease, or Future Lease.

5.4 **Registration**

(a) After the Tenant receives the original mortgagee consent and/ or caveator consent (if applicable) in accordance with clause 5.3, the Tenant must, at its cost, promptly take all steps reasonably necessary to cause this Lease to be lodged for registration with the relevant Authority. The Landlord must promptly provide, at its cost, all reasonable assistance requested in writing by the Tenant to enable the Tenant to register this Lease.

(b) If required by the Tenant, the Landlord must (at its cost) take all steps necessary to enable registration of this Lease electronically through PEXA or such other electronic exchange service as may be required by the Tenant.

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6 TENANT'S OBLIGATIONS

(a) Subject to clause 6(b), The Tenant (and anyone authorised by the Tenant) must use the Premises only for the Permitted Use.

(b) The Tenant and Landlord acknowledge and agree that:

(i) the purpose of the grant of this Lease is as security for the financing arrangement between the Landlord and Tenant;

(ii) the Tenant will not construct, install or operate any telecommunications networks or services on the Premises and that the Tenant is not liable for the acts of any third party who does these things; and

(iii) the Tenant has no yield up or make good obligations in respect of the Premises at the end of the Term.

(c) Subject to the Tenant's rights and obligations under this Lease, the Tenant must not cause any disturbance to the Existing Tenant's quiet enjoyment under the Existing Lease.

7 RELEASE AND INDEMNITY

7.1 Release

To the extent permitted by law, the Tenant and the Landlord release each other from any Claim or Loss which a party incurs or is liable for in connection with any damage, loss, injury or death to or of any person or property on the Premises except to the extent that such Claim or Loss has been caused or contributed to by the other party, including by the negligence, recklessness or wilful misconduct of the other party.

7.2 Indemnity

The Tenant and the Landlord must indemnify each other against all Claims or Loss incurred in connection with or as a consequence of:

(a) any damage, loss, injury or death to the extent caused or contributed to by the other party (including by the negligence, recklessness or wilful misconduct of the other party); and

(b) any default by the other party under this Lease.

7.3 Resumption

(a) Either party may terminate this Lease by notice to the other party if the whole of the Premises is resumed by any Authority.

(b) The Tenant may terminate this Lease by notice to the Landlord if part of the Premises is resumed by any Authority.

(c) Neither party is liable to the other party if this Lease is terminated under clauses 7.3(a) or 7.3(b).

(d) The Landlord and Tenant agree to work together to ensure each receive the maximum amount of compensation (if any) to which they may be respectively be entitled at law due to a resumption.

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8 DEALINGS

8.1 Dealings by Tenant

(a) The Tenant may do any of the following without the Landlord's consent:

(i) assign this Lease;

(ii) part with or share possession of the Premises in accordance with the terms of this Lease;

(iii) grant a sublease of the whole or any part of the Premises to the Existing Tenant or an assignee or related party of the Existing Tenant provided any grant of a sublease in which the subtenant's obligations regarding insurance, yield up or make good provisions are materially different (lesser) than that of the Existing Tenant or any obligations on part of the Landlord are materially different (greater) than the Initial Existing Lease shall be subject to the Landlord's approval, not to be unreasonably withheld, conditioned or delayed; and

(iv) in the event that the Existing Tenant vacates the Premises, grant a replacement sublease of the whole or any part of the Premises to a new third party carrier (or otherwise) provided the grant of a sublease in which the subtenant's obligations regarding insurance, yield up or make good provisions are materially different (lesser) than that of the Existing Tenant or any obligations on part of the Landlord are materially different (greater) than an Initial Existing Lease shall be subject to the Landlord's approval, not to be unreasonably withheld, conditioned or delayed.

(v) grant an Encumbrance over or otherwise deal with the Tenant's interest in the Premises; or

(vi) procure anything specified in clauses 8.1(a)(i) to 8.1(a)(v).

(b) For clarity, the Landlord is entitled to the proceeds of rent for any lease, licence or other arrangement which is outside the Premises.

(c) If requested by the Landlord, the Tenant and any assignee must enter into a deed in the form the Landlord reasonably requires under which:

(i) the assignee agrees to perform all of the Tenant's express and implied obligations under this Lease, including the obligation to indemnify the Landlord; and

(ii) the Landlord releases the Tenant from its obligations under this Lease.

8.2 Dealings by the Landlord

The Landlord must not:

(a) sell, transfer or dispose of its interest in the Land or the Premises unless it has first obtained from the incoming transferee the incoming transferee's mortgagee's (if any) unconditional consent to this Lease and a deed of covenant in the Tenant's standard form in favour of the Tenant whereby the Landlord agrees to pay the Tenant's reasonable legal costs and outlays directly related to the Landlord's obligations under this clause, and the incoming transferee agrees to be bound by the terms and conditions of this Lease from the date of the transfer as if it was originally named in and was a party this Lease; or

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(b) subdivide the Premises or Land or convert the title to a strata (or similar) title without the Tenant's consent which must not be unreasonably withheld, provided that in the Tenant's reasonable opinion, the Permitted Use will not be adversely affected.

9 TERMINATION

9.1 General termination

Subject to clause 9.2, if, at any time during the Term:

(a) any of the Existing Leases or occupancy agreements granted pursuant to clause 8.1(a) are terminated by the relevant tenant; or

(b) the Premises are damaged or destroyed so that the Permitted Use cannot be carried out on the Premises,

the Tenant can terminate this Lease by giving the Landlord not less than one month's written notice of termination. For clarity, in the event the Lease is terminated pursuant to this clause, the Tenant is not entitled to any refund of the Prepaid Rent Amount unless the termination is caused by the default of the Landlord, in which case clause 9.2 will apply.

9.2 Refund of Prepaid Rent Amount

The Landlord must, within 30 days after the date of termination of this Lease, refund to the Tenant part of the Prepaid Rent Amount paid by the Tenant under clause 3.1, if:

(a) an Existing Lease or Future Lease is terminated due to the default of the Landlord; or

(b) this Lease is terminated by the Tenant due to the default of the Landlord,

in an amount equal to the proportion of the Prepaid Rent Amount attributable to the balance of the Term, after the date of termination. For the avoidance of doubt, the parties acknowledge and agree that this clause runs with the Land and the obligation under this clause 9.2 will be assigned to any incoming transferee of the land from the date of the transfer.

10 NOTICES

10.1 How to give a notice

A notice, consent or other communication under this Lease is only effective if it is:

(a) in writing, signed by or on behalf of the person giving it;

(b) addressed to the person to whom it is to be given; and

(c) sent by email, express post or, if the addressee is overseas, by airmail or delivered to that person's address.

10.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

(a) if it is delivered, if received:

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(i) by 5.00 pm (local time in the place of receipt) on a Business Day - on that day; or

(ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day; and

(b) if it is sent by email, at the time of receipt unless the sender receives a notification from either the sender's mail server or the recipient's mail server indicating that the message has not been sent and/or received; or

(c) if it is sent by express post or airmail (as applicable):

(i) within Australia - three Business Days after posting; or

(ii) to or from a place outside Australia - seven Business Days after posting.

10.3 **Address for notices**

A person's email and address is that set out below that person's name in the relevant Item in the Reference Schedule, or as the person notifies the sender.

11 GST

(a) Except as otherwise provided in this Lease, amounts payable and consideration provided under this Lease in relation to any supply is exclusive of GST.

(b) If a supply made by the supplier to the recipient under or in connection with this Lease is a taxable supply for which GST is payable, subject to clause 11(e), the recipient must pay an amount equal to the GST payable on the supply (**GST Amount**):

(i) at the same time and in the same manner as the consideration for the supply is to be provided or paid under this Lease; or

(ii) within 14 days of receiving a valid tax invoice for the supply that includes the GST Amount,

whichever occurs later.

(c) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply (**Actual GST Amount**) being different from the amount in respect of GST already paid by the recipient to the supplier (**Recovered GST Amount**), the supplier:

(i) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 14 days of the adjustment event; and

(ii) if the Actual GST Amount:

(A) exceeds the Recovered GST Amount, subject to clause 11(e), may recover from the recipient the excess amount by giving at least 14 days' written notice to the recipient; or

(B) is less than the Recovered GST Amount, must refund to the recipient the amount by which the Recovered GST Amount exceeds the Actual GST Amount on the supply within 14 days of becoming aware of the adjustment event.

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(d) If this Lease requires a party to reimburse an expense or outgoing of another party (**Recoverable Expense**), the amount to be paid or reimbursed by the first party will be the sum of:

(i) the amount of the Recoverable Expense *less* any input tax credits in respect of the Recoverable Expense to which the other party is entitled under the GST Law; and

(ii) if the payment or reimbursement of the Recoverable Expense constitutes a supply for which GST is payable, an amount equal to that GST.

(e) Notwithstanding any provision contained in this Lease, the supplier must provide:

(i) a tax invoice or adjustment note (as applicable) to the recipient in respect of a supply; and

(ii) if the recipient requests, evidence to the satisfaction of the recipient (acting reasonably) that the supplier is registered, or required to be registered, for GST,

before the supplier will be entitled to recover any amount of GST to which it is entitled under this Lease.

(f) The parties each indemnify the other against all GST, and losses, liabilities and expenses (including legal liabilities on a full indemnity basis) that the other incurs (directly or indirectly) as a result of a breach of a warranty or other provision in this Lease relating to GST.

12 GENERAL

(a) This Lease is governed by and construed in accordance with the laws of Western Australia and the parties submit to the jurisdiction of the courts of Western Australia and the Commonwealth of Australia.

(b) The Tenant must pay the Landlord's reasonable costs and expenses incurred in connection with:

(i) any stamping and registration of this Lease if undertaken by the Landlord;

(ii) any default by the Tenant under this Lease and the enforcement or protection, or attempted enforcement or protection of any right under this Lease; and

(iii) the costs of preparing any plan needed for this Lease.

(c) The Tenant will reimburse the Landlord's reasonable legal costs, charges and expenses for the preparation, negotiation and execution of this Lease up to an amount of $3,000.00 (excluding GST) which is payable within 14 days after the *later* of:

(i) the date the Tenant has received sufficient supporting evidence or invoice of the costs incurred by the Landlord;

(ii) the Commencing Date; and

(iii) the date of production by the Landlord of all documentation required to enable registration of this Lease (including any mortgagee consent,

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caveator consent and the production of the title at the relevant titling office or electronic exchange, as applicable).

(d) Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this Lease.

(e) A provision of or a right under this Lease may not be waived or varied except in writing signed by whoever is to be bound.

(f) The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this Lease. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this Lease.

(g) The provisions of this Lease do not merge on termination.

(h) Expiry or termination of this Lease does not affect any rights arising from a breach of this Lease before then.

(i) Subject to clause 12(j), this Lease contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Lease and has no further effect.

(j) Any right that a person may have under this Lease is in addition to, and does not replace or limit, any other right that the person may have.

(k) Any provision of this Lease which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Lease enforceable, unless this would materially change the intended effect of this Lease.

13 Trust

If the Landlord has entered into this Lease in the capacity as trustee of a trust or holds the Premises on the terms of any trust or subject to any trust (whether or not the Tenant has any notice of the terms of the trust), the Landlord covenants and warrants in its personal capacity that it:

(a) holds this Lease both in its capacity as trustee of the trust and in the Landlord's personal capacity, and acknowledges that the Landlord is personally liable for the performance of the Landlord's obligations under this Lease;

(b) has taken, or will take, all procedures necessary to ensure the trust's assets are sufficient, and available to compensate the Tenant for any default by the Landlord;

(c) will exercise, and assign to the Tenant on demand, any right of indemnity the Landlord has against the trust's assets to the extent of the liability of the Landlord under this Lease;

(d) has full power, authority and capacity under the terms of the trust to enter into and perform throughout the Term the Landlord's obligations under this Lease, and that entry into this Lease by the Landlord is in the due administration of the trust;

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(e) it is not and will be at any time during the Term be in breach of its obligations under the Trust;

(f) it is the only trustee of the trust and is not aware of any steps to remove it as sole trustee of the trust; and

(g) in its personal capacity indemnifies the Tenant in respect of any Loss or Claim the Tenant incurs if any of the warranties in this clause 13 are incorrect or breached.

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Annexure B

Plan

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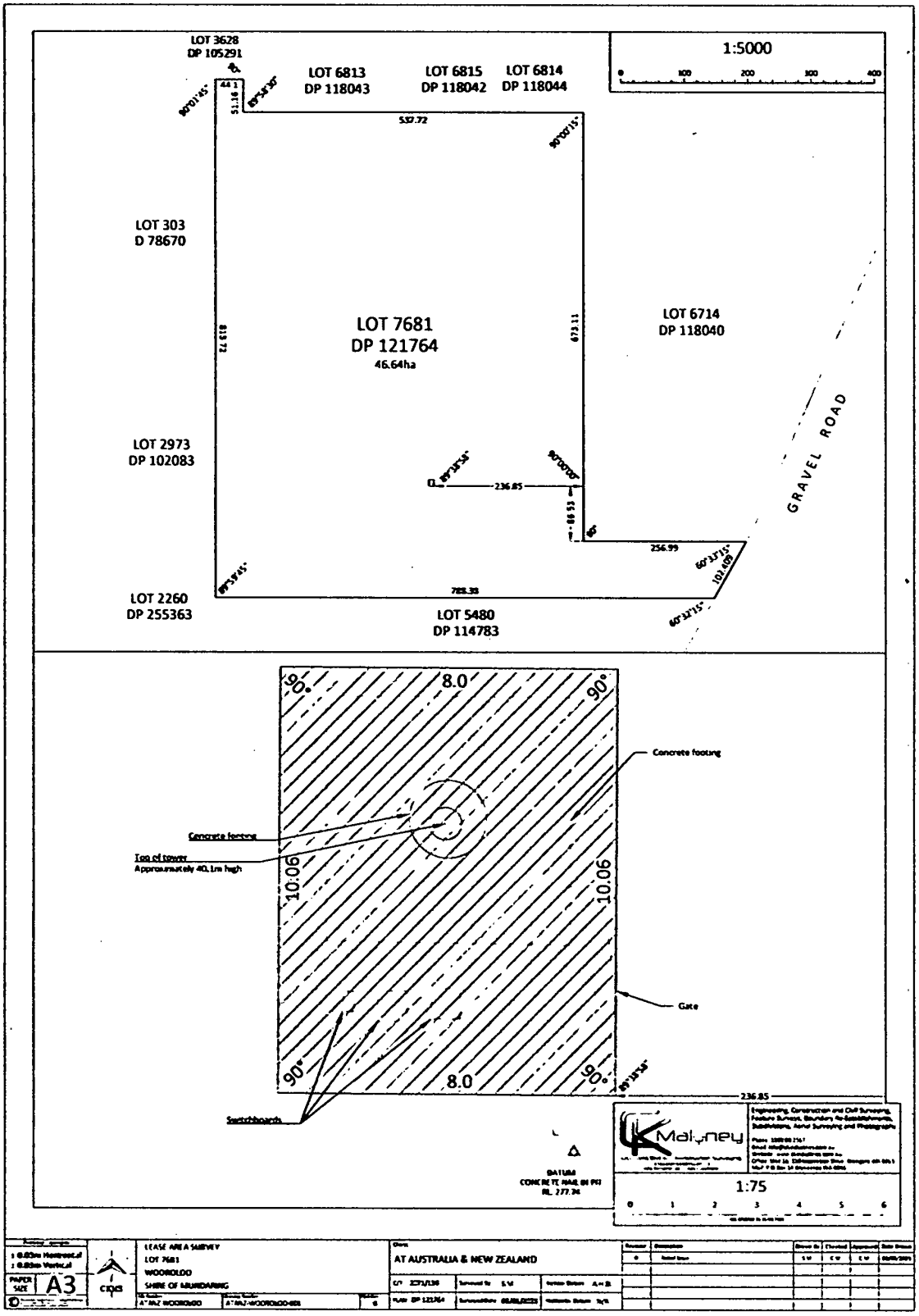

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SKETCH CORRECT.

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EXECUTED as a Deed

SIGNED, SEALED AND DELIVERED for and on behalf of **AT Australia Pty Ltd (ACN 605 816 886)** by its attorney, Adrian Neale Jones, under registered power of attorney document number P072527 who declares that he has no notice of revocation of the said power of attorney, in the presence of:

Signature of Attorney

Steven
Signature of Witness

Partner of Norton Rose Fulbright
Attorney Position / Tier

Steven Tek Li
Name of Witness [print]

Level 38, 477 Collins Street, Melbourne, Victoria 3000
Address of Witness

Lawyer
Occupation of Witness

SIGNED, SEALED AND DELIVERED by **Carl Peter Planke** in the presence of:)
)
)

Signature of Witness

LISA THOMPSON
Name of Witness [print]

8 Hawdon Mews, Hillarys
Address of Witness

Executive Assistant
Occupation of Witness

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NORTON ROSE FULBRIGHT

21 July 2023

Norton Rose Fulbright Australia
ABN 32 720 868 049
Level 30, 108 St Georges Terrace
PERTH WA 6000
AUSTRALIA

Tel +61 8 6212 3222
Fax +61 8 6212 3444
GPO Box P1225, Perth WA 6844
DX 139 Perth
nortonrosefulbright.com

Direct line
+61 8 6212 3136

Email
charles.smith@nortonrosefulbright.com

Your reference:

Our reference:
4060805

Landgate
Document Lodgement Section
PO Box 2222
MIDLAND WA 6936

Dear Sir / Madam

Registration of Concurrent Lease - Certificate of Title Volume 2071 Folio 159

We act for AT Australia Pty Ltd (ACN 605 816 886) (**Lessee**).

We **enclose** the following documents for registration:

1. the concurrent lease between Carl Peter Planke (**Lessor**) and the Lessee dated 19 July 2023 (**Lease**) with the mortgagee consent dated 08 July 2023 attached;

2. letter from Commonwealth Bank of Australia (as mortgagee) providing consent to lodgement of the concurrent lease dated 07 July 2023; and

3. letter from WAPC dated 28 June 2023 granting conditional approval under Section 136 of the Planning and Development Act 2005 on the conditions contained in that letter.

We draw to your attention to clause 2.3(a) of the Lease which provides that the Lease is concurrent with and subject to the Existing Leases (as that term is defined in the Lease).

With regards to the handwritten Commencement Date on the Landgate coversheet and in Item 6 of Annexure A, Commencement Date: 19 July 2023 and Termination Date: 18 July 2122, please refer to clause 1.4 of the lease.

Please let us know if you have any queries or require any further information.

Yours faithfully

Karyn Thomson
Special Counsel
Norton Rose Fulbright Australia
Contact: Charles Smith

EV002509025 CONST

APAC-#305717156-v1

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Commonwealth Bank

Commonwealth Bank of Australia
ABN 48 123 123 124 AFSL and
Australian credit licence 234945

The Registrar
Landgate
PO Box 2222
MIDLAND WA 6936

EV002509026 CONST

7 July 2023

Att: Registrar of Titles

Consent to subsequent lodgement

Our Ref:	506050417
Certificate of Title:	2071/159

Commonwealth Bank of Australia, as Mortgagee of Mortgage(s) Numbered O109494 hereby consents to the registration of the following documents:

- Consent to and Registration of a Lease

Lodged by: Norton Rose Fulbright Australia

In favour of: AT Australia Pty Ltd

Commonwealth Bank of Australia requests that, in accordance with the request by the Registered Proprietor/s to the Registrar of Titles in the above mortgage, no duplicate Certificate of Title be issued at the conclusion of this transaction.

Yours faithfully

Signed for and on behalf of Commonwealth Bank of Australia ACN 123 123 124 by John Manera its attorney under power of attorney H662979 dated 11/12/2000 who declares that they are Assistant Manager of the Commonwealth Bank of Australia in the presence of:

.....
John Manera

.....
Branka Andrin
300 Murray Street Perth WA - Bank Officer

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CONSENT OF MORTGAGEE

COMMONWEALTH BANK OF AUSTRALIA ACN 123 123 124 the mortgagee named in the Mortgage O109494 registered over Certificate of Title Volume 2071 Folio 159 (Lot 7681 on Deposited Plan 121764) and being the Land described the subject of the within Lease between Carl Peter Planke (Lessor) and AT Australia Pty Ltd ACN 605 816 886 (Lessee) HEREBY CONSENTS to the within Lease.

Signed for and on behalf of Commonwealth Bank of Australia ACN 123 123 124 by John Manera its attorney under power of attorney H662979 dated 11/12/2000 who declares that they are Assistant Manager of the Commonwealth Bank of Australia in the presence of:

.....
John Manera

.....
Witness
Branka Andrin
300 Murray Street Perth WA
Bank Officer

EV002509027 CONST

Dated the 8th day of July 2023

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GOVERNMENT OF WESTERN AUSTRALIA

Western Australian Planning Commission

File No: WAPC/13/0130
WAPC Ref: 1795188
Officer: Reyta Szabo

AT Australia Pty Ltd
Suite 4.04, Level 4
2 Queen Street
MELBOURNE VIC 3000

Via email: olivia.natoli@atanz.com

Planning and Development Act 2005
Approval of a Lease Subject to Conditions/Advice

Dear Sir/Madam

Application	Proposed Lease under Section 136 of the Planning and Development Act 2005
Parties	Carl Peter Planke (Lessor) & AT Australia Pty Ltd (Lessee)
Location	Lot 7681 on Deposited Plan 121764
Term of Lease	99 years (no option to renew)
Proposed Use	Telecommunications (Infrastructure & Use)

The Western Australian Planning Commission (WAPC) has considered the application referred to above and on 20 June 2023 resolved to grant conditional approval to the abovementioned document.

Conditions:

1. *This decision is valid for three years from the date of this approval.*
2. *Legal access from a gazetted constructed road to the lease area is to be maintained for the term of the lease.*

Advice:

In regard to Condition 1, if the transaction is not entered into within this period, a new application is required.

This approval does not constitute subdivision and/or development approval and does not infer future subdivision and/or development approval will be forthcoming.

Please note the Western Australian Planning Commission no longer requires the executed lease documents to be submitted for its endorsement.

Should the applicant be aggrieved by this decision, there is a right to apply for a review under Part 14 Section 251 of the *Planning and Development Act 2005*. The application must be submitted in accordance with Part 2 of the *State Administrative Tribunal Rules 2004* and should be lodged within 28 days of the date of this decision to the State Administrative Tribunal, Level 6, State Administrative Tribunal Building, 565 Hay Street, PERTH, WA 6000. It is recommended that the applicant contact the tribunal via telephone (9219 3111) or visit their website at http://www.sat.justice.wa.gov.au for further details.

Should you have any queries, please contact the assigned planning officer listed above.

Yours faithfully

Postal address: Locked Bag 2506 Perth WA 6001 Street address: 140 William Street Perth WA 6000
Tel: (08) 6551 8002 Fax: (08) 6551 9001 info@dplh.wa.gov.au www.dplh.wa.gov.au
ABN 35 482 341 493

EV002509028 LTR

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Ms Sam Fagan
Secretary
Western Australian Planning Commission

28 June 2023

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GOVERNMENT OF WESTERN AUSTRALIA

Western Australian Planning Commission

File No: WAPC/13/0130
WAPC Ref: 1795188
Officer: Reyta Szabo

Chief Executive Officer
Shire of Mundaring
7000 Great Eastern Highway
MUNDARING WA 6073

Via email: shire@mundaring.wa.gov.au

Dear Sir/Madam

Application	Proposed Lease under Section 136 of the Planning and Development Act 2005
Parties	Carl Peter Planke (Lessor) & AT Australia Pty Ltd (Lessee)
Location	Lot 7681 on Deposited Plan 121764
Term of Lease	99 years (no option to renew)
Proposed Use	Telecommunications (Infrastructure & Use)

The Planning and Development Regulations 2009 provides that when the Commission grants an approval under sections 136 and 139 of the *Planning and Development Act 2005* to leases, licences, etc, it forwards a copy of the approval to the local government for information.

Please find attached a copy of the Commission's decision letter with respect to the abovementioned application.

Yours faithfully

Sam Fagan
Secretary
Western Australian Planning Commission

28 June 2023

Postal address: Locked Bag 2506 Perth WA 6001 Street address: 140 William Street Perth WA 6000
Tel: (08) 6551 8002 Fax: (08) 6551 9001 info@dplh.wa.gov.au www.dplh.wa.gov.au
ABN 35 482 341 493

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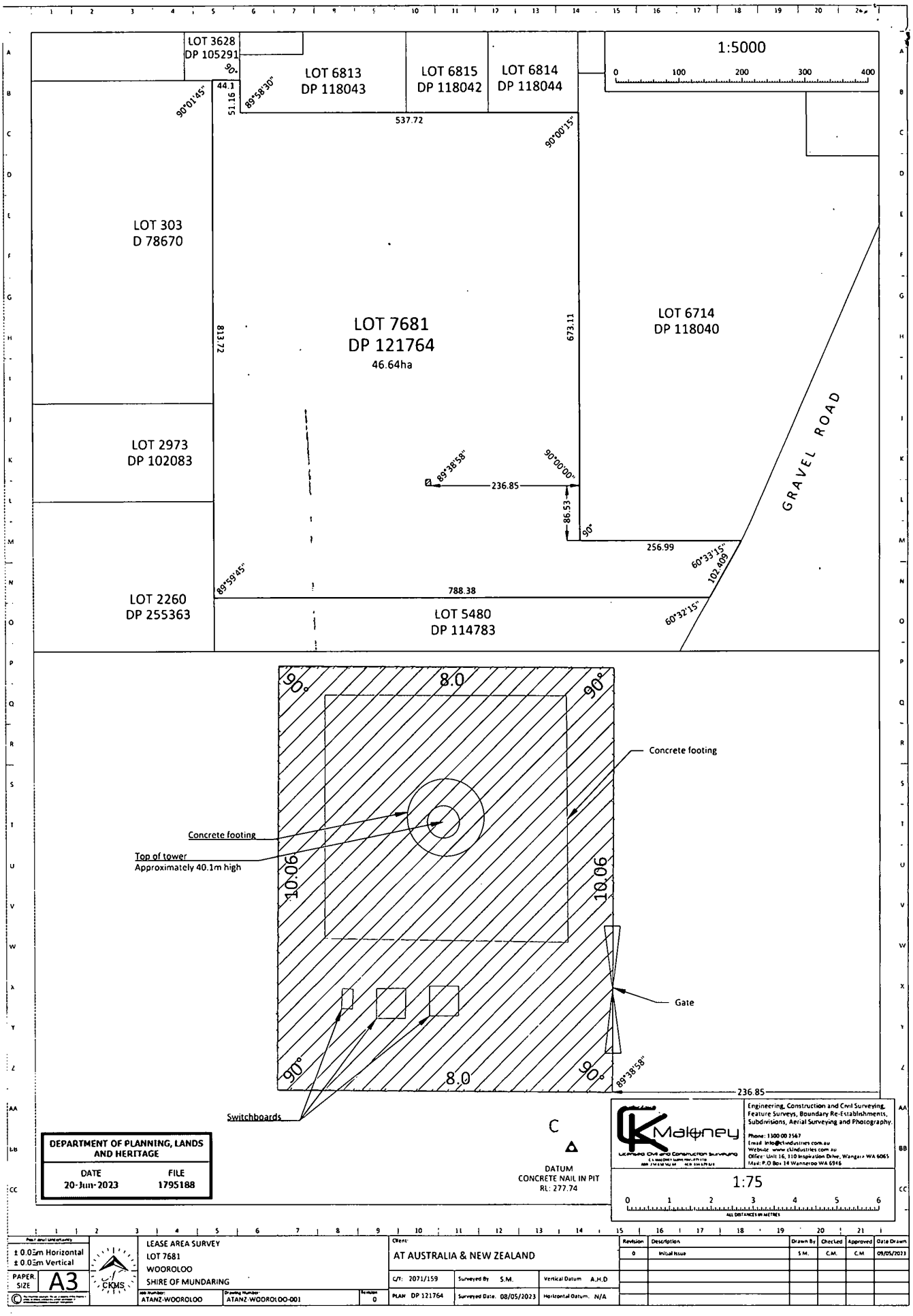

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