



THIS LICENCE AGREEMENT is made the _____ day of _____, 2012

BETWEEN

CLARENCE VALLEY COUNCIL of Locked Bag 23, Grafton 2460 (herein called “the Licensor”)

AND

LOWER CLARENCE COMMUNITY RADIO INC. (LCCR) of PO Box 601, Yamba 2464 (herein called “the Licensee”)

RECITALS:

- A. The Licensor is the owner of the Land described in Item 1 of the Schedule.
- B. The Licensee wishes to erect the Communication Equipment (described in Item 2 of the Schedule) on the Facility (described in Item 3 of the Schedule) located on the Land.
- C. The Licensor has agreed to the erection of the communication equipment on the term and conditions set out in this agreement.

THIS AGREEMENT WITNESSES:

1. DEFINITION

- 1.1 ‘*The Act*’ means the Telecommunications Act.
- 1.2 ‘*Carrier*’ shall have the same meaning as is contained in the Act.
- 1.3 ‘*Commencement Date*’ means the date noted in Item 4 of the Schedule.
- 1.4 ‘*Licence Fee*’ means the amount set out in Item 6 of the Schedule as varied by any review.
- 1.5 ‘*Licensor*’ means the Licensor and the Licensor’s employees and agents
- 1.6 ‘*The Site*’ includes both the Land and the Facility.
- 1.6 ‘*Term*’ means the term of this agreement as set out in Item 5 of the Schedule.

2. LICENCE

The Licensor grants to the Licensee, for the Term, a licence to use the Land and the Facility on the terms and conditions set out in this agreement.

3. USE

The Licensee may use the Land and the Facility to install and maintain the Communication Equipment and to use that equipment to transmit or receive radio or other electronic signals.

4. NO EXCLUSIVE POSSESSION

- 4.1 This Agreement does not confer on the Licensee any right of exclusive possession of any part of the Land or the Facility.
- 4.2 The Licensee acknowledges that the Licensor may licence other users to use either the Land or the Facility or both, provided that such other users do so with minimal disruption to the Licensee. The Licensor and any other users licensed by the Licensor may access the Land or the Facility at any time without notice to the Licensee.

5. PERSONAL RIGHTS ONLY

The Licensee acknowledges and agrees that the rights conferred on the Licensee herein are personal rights only and do not create any estate or interest in or over the Land or the Facility.

6. OWNERSHIP OF COMMUNICATION EQUIPMENT

The Licensor acknowledges that the Communication Equipment is owned by the Licensee and notwithstanding any rights the Licensor may have, the Equipment will at all times remain the property of the Licensee.

7. NO ASSIGNMENT

The Licensee must not assign or sub-let this Agreement or any part thereof without the prior approval in writing of the Licensor.

8. LICENCE FEE

The Licensee will pay to the Licensor the Licence Fee annually in advance, the first such payment to be paid on the Commencement Date of this Agreement, and subsequent payments to be paid on each anniversary of the Commencement Date.

9. GOODS AND SERVICES TAX

Notwithstanding any provisions of this Agreement, if Licensor is liable to any goods and services tax, value added tax or similar tax ('GST') in connection with supplies it makes under this Agreement, the Licensee will, in addition to any amount or consideration expressed as payable elsewhere in this Agreement, pay to the Licensor, upon demand, any GST to which the Licensor is liable.

10 REVIEW OF LICENCE FEE

The Licence Fee will be varied and increased with effect from each Fixed Percentage Review Date specified in Item 7 of the Schedule to the amount equal to the percentage specified in Item 8 of the Schedule of the Licence Fee payable immediately prior to the relevant Fixed Percentage Review Date.

11. APPROVALS

Prior to the installation of the Communication Equipment, the Licensee must obtain all necessary licences, consents and approvals to the installation of the equipment from all relevant authorities.

12. COMPLIANCE WITH APPROVALS

- 12.1 The Licensee must install the Communication Equipment in accordance with all necessary licences, approvals and consents.

12.2 The Licensee must maintain the Communication Equipment in good working order, repair and condition and in accordance with all licences, consents and approvals.

13. COVENANTS BY THE LICENSEE

The Licensee covenants that it will:

- (a) not to do or permit or suffer to be done in or upon the Site anything which may be or become a nuisance or annoyance or cause damage or inconvenience to the Licensor, other users or neighbouring owners or occupiers,
- (b) not permit any rubbish to accumulate on the Land,
- (c) not do or omit to do any act, matter or thing which might in any way endanger the Site or any person, equipment, chattels or goods which may be at the Site,
- (d) obtain and maintain any licences required by the Australian Communication Authority for the Communication Equipment and the frequencies at which the Licensee may transmit and must also comply with the requirements and notices of the Australian Communications Authority and any government, statutory or other authority or statute,
- (e) advise the Licensor of any matter relating to the Site or the Communication Equipment which may cause any danger or injury to any person or property,
- (f) comply with the requirements of the Work Health and Safety Act and Regulations when undertaking any work or activities on the Site and produce to the Licensor on request all safe work procedures and other documentation evidencing its compliance with the WHS legislation,
- (g) pay all accounts for the installation and supply of any water, electricity, gas, telephone and any other services utilised by the Licensor on the Site, including any security deposit which may be required by any service provider,
- (h) comply with all reasonable directions of the Licensor regarding the Site, and
- (i) pay all costs associated with the preparation of this agreement, including all stamp duty, if any, assessed on it.

14. ACCESS TO SITE

The Licensee agrees to:

- (a) only enter the premises if accompanied by representative of the Licensor and between the hours of 7am to 4pm Monday to Fridays, and
- (b) if entry is required outside the hours in clause 14 (a) the Licensor will be liable for costs of the Licensor's representative to attend, and
- (c) must comply with all reasonable directions given by the Licensor's representative from time to time as to gaining access to the Site.

15. ENVIRONMENTAL COMPLIANCE

15.1 The Licensee must exercise all reasonable diligence to conduct its operations on the Land and the Facility in a manner that prevents pollution and must comply at all times with the requirements of all Environmental Laws and all

international conventions to which Australia is a signatory and to the lawful requirements of public, municipal and other authorities in any way regarding pollution.

15.2 The Licensee agrees to indemnify the Licensor for any direct or indirect loss suffered by the Licensor as a result of:

- (a) any failure by the Licensee to comply with the requirements of any Environmental Law; or
- (b) any pollution or damage caused to the environment,

arising out of or as a consequence of the execution by the Licensor of its rights or obligations under the Agreement or the performance by the Licensee of the Agreement provided that the Licensee's liability to indemnify for such pollution or damage will be reduced proportionally to the extent that any act or omission of the Licensor, its employees or agents has contributed to such pollution or damage.

16. OCCUPANCY AT LICENSEE'S RISK

The Licensee agrees to occupy and use the Site at the risk of the Licensee and releases the Licensor to the full extent permitted by law from all claims in respect of or resulting from any accident, damage, injury or breach occurring on the Site as a result of the Licensee's occupation and use of the Site, except as may occur by the negligence of the Licensor.

17. DAMAGE TO PROPERTY

The Licensor is not liable for any Claim if any Communication Equipment or other property owned or used by the Licensee on the Site is stolen, destroyed or damaged by water, heat, fire, vermin or otherwise except occurring by the negligence of the Licensor.

18. INDEMNITY AND INSURANCE

18.1 The Licensee indemnifies and agrees to keep indemnified the Licensor from and against all actions, claims, costs, expenses and damages (including the costs of defending or settling any action or claim) in respect of:

- (i) loss of or damage to property of the Licensor; or
- (ii) personal injury (including death) to any person or loss of or damage to any property,

arising out of or by reason of anything done or omitted intentionally or negligently by the Licensee due to the entry on and use of the Site by the Licensee or arising from its exercise of any of its rights under this Agreement.

18.2 The Licensee's liability to indemnify the Licensor is reduced proportionally to the extent that a negligent act or omission of the Licensor or employees or agents (other than the Licensee) of the Licensor may have contributed to the injury, damage or loss.

18.3 The Licensee shall effect and maintain public liability insurances in a sum of not less than ten million dollars (\$10,000,000) and, if requested, provide the Licensor with a Certificate of Currency for the policies.

19. NEGATION OF WARRANTIES

The Licensor makes no express or implied warranty that the Land or the Facility are now or will remain suitable or adequate for all or any of the purposes of the Licensee

including installation of the Communication Equipment or can be used for the proposed purpose. All warranties (if any) as to suitability and adequacy of the Land or the Facility implied by law are to the extent permitted by law expressly negated.

20. TERMINATION

20.1 The Licensor may immediately terminate this Agreement by giving written notice to the Licensee at any time in any of the following circumstances:

- (i) if the Licence Fee or any other moneys owing to the Licensor under this Agreement are in arrears for 28 days after notice of the arrears has been given by the Licensor to the Licensee (or such further period as the Licensor may agree in writing),
- (ii) the Licensee is in breach of any of the conditions in this Agreement and the Licensee fails to rectify that breach within 30 days after notice of the breach has been given to the Licensee by the Licensor (or such further period as the Licensor may allow in writing), or
- (iii) if an order is made or a resolution is passed for the winding up of the Licensee except for the purposes of reconstruction or amalgamation.

20.2 Should the Licensor end the Agreement under this clause, the Licensee will not be released from liability for any prior breach of the Agreement and any other remedies available to the Licensor for breach of the Lease will not be prejudiced.

20.3 The Licensee is entitled to terminate this Agreement by giving three month's written notice to the Licensor expiring at any time.

20.4 The Licensor is entitled to immediately terminate this Agreement by one month's written notice to the Licensee if the Licensor wishes to redevelop the Land or the Facility.

21. LICENSEE TO VACATE

21.1 On termination of the Licence, the Licensee will:

- (a) promptly remove from the Site the Communication Equipment and make good any damage caused by such removal;
- (b) vacate the Site, leaving it in good order and condition;
- (c) pay the Licensor all moneys due under this Agreement including payment for any loss, damage, costs or expenses sustained by the Licensor relating to any breach of this Agreement by the Licensee.

21.2 Should the Licensee fail to remove the Communication Equipment within fourteen days after the termination of this Agreement, the Licensor may remove the Communication Equipment and the Licensee shall pay on demand all removal and storage costs incurred by the Licensor in doing so. In respect of such removal, the Licensor will be deemed to be acting with the full authority of and as agent for and at the risk of the Licensee.

22. ABATEMENT AND DESTRUCTION

22.1 If the Facility is damaged by fire, lightning, storm, tempest or other disabling cause so as to render the Facility unfit for use by the Licensee, or if the Licensor is for any reason unable to provide the Licensee with adequate access to and from the Land or the Facility, the Licence Fee or a proportionate part of it will abate, unless that damage or restriction on use was caused by the Licensee.

- 22.2 If the Facility is totally destroyed, this Agreement may be terminated by written notice by either the Licensor or the Licensee without liability attaching to either party by reason of that termination.

23. EMERGENCY REPAIRS OR MAINTENANCE BY THE LESSOR

23.1 Where the Licensor is required to undertake repairs or maintenance on the Facility in the case of an emergency, the Licensor agrees that it will (as far as practicable in the circumstances) work around the Licensee's equipment before requiring the Licensee to power down the Licensee's equipment.

23.2 If the Licensor requires the Licensee's equipment to be removed, the Licensor agrees that:

- (a) if possible, it will provide the Licensee with alternative premises on which to erect its equipment to enable the Licensee to continue to operate under this agreement, and
- (b) allow the Licensee to reinstall the Licensee's equipment immediately after completion of the Licensor's repairs and maintenance.

24. INTERFERENCE WITH THE LICENSOR'S TENANT'S RADIO DEVICES

If another user of the Facility experiences significant interference with any radio device it uses on the Facility and Licensor notifies the Licensee of the nature of the interference:

- (a) the Licensee must within seven days of receipt of the written notice from the Licensor determine whether it is causing the interference and notify the Licensor of its determination,
- (b) the Licensee determines that its equipment is causing the interference it must use its best endeavours to stop the interference immediately,
- (c) if the parties cannot agree on the cause of the interference, then the Licensee can agree with the user experiencing the interference ('the user') to refer the matter to the Australian Communication Authority (ACA) for its determination acting as an expert. The ACA shall make its determination within thirty days of any reference to it and such decision shall be final and binding on the parties. The cost of the determination shall be borne by the Licensee and the user equally.
- (d) If the ACA determines that the Licensee caused the interference the Licensee must remedy the interference within thirty days of the ACA's determination.
- (e) If the Licensee does not remedy the interference within thirty days of the ACA's determination, then the Licensor may terminate this agreement immediately on written notice to the Licensee.

25. NOTICES

Any notice, request or other communication to be given or served on either party pursuant to this Agreement shall be in writing and addressed to that party at the address indicated in this Agreement or as otherwise notified in writing by one party to the other. Notices may be sent via pre-paid post or facsimile (to the number noted in Item 9 in the Schedule or such other number as the parties may nominate in writing to the other party). If sent by post the notice shall be deemed to have been served at the expiration of two business days after the date of posting and, if by facsimile, on the first business day after the date of transmission.

SCHEDULE

- 1. **Land** Lot 1 DP 802768
- 2. **Communication Equipment** Aerial
- 3. **Facility** Yamba Water Reservoir
- 4. **Commencement Date** 1 July 2012
- 5. **Term** 5 years from the commencement date
- 6. **Licence Fee** \$394.00 per annum plus GST
- 7. **Fixed Percentage Review Date** Each anniversary of the commencement date
- 8. **Fixed Percentage** 105%
- 9. **Facsimile numbers** Clarence Valley Council – 02 66427648
The Licensee - >>>>>>

SIGNED by the Licensor

The Common Seal of
CLARENCE VALLEY COUNCIL was
hereunto affixed pursuant to a resolution of Council
dated..... of

..... Mayor
Clr Richie Williamson

..... General Manager
Mr Scott Greensill

SIGNED by the Licensee

Name of Representative

Position of Representative

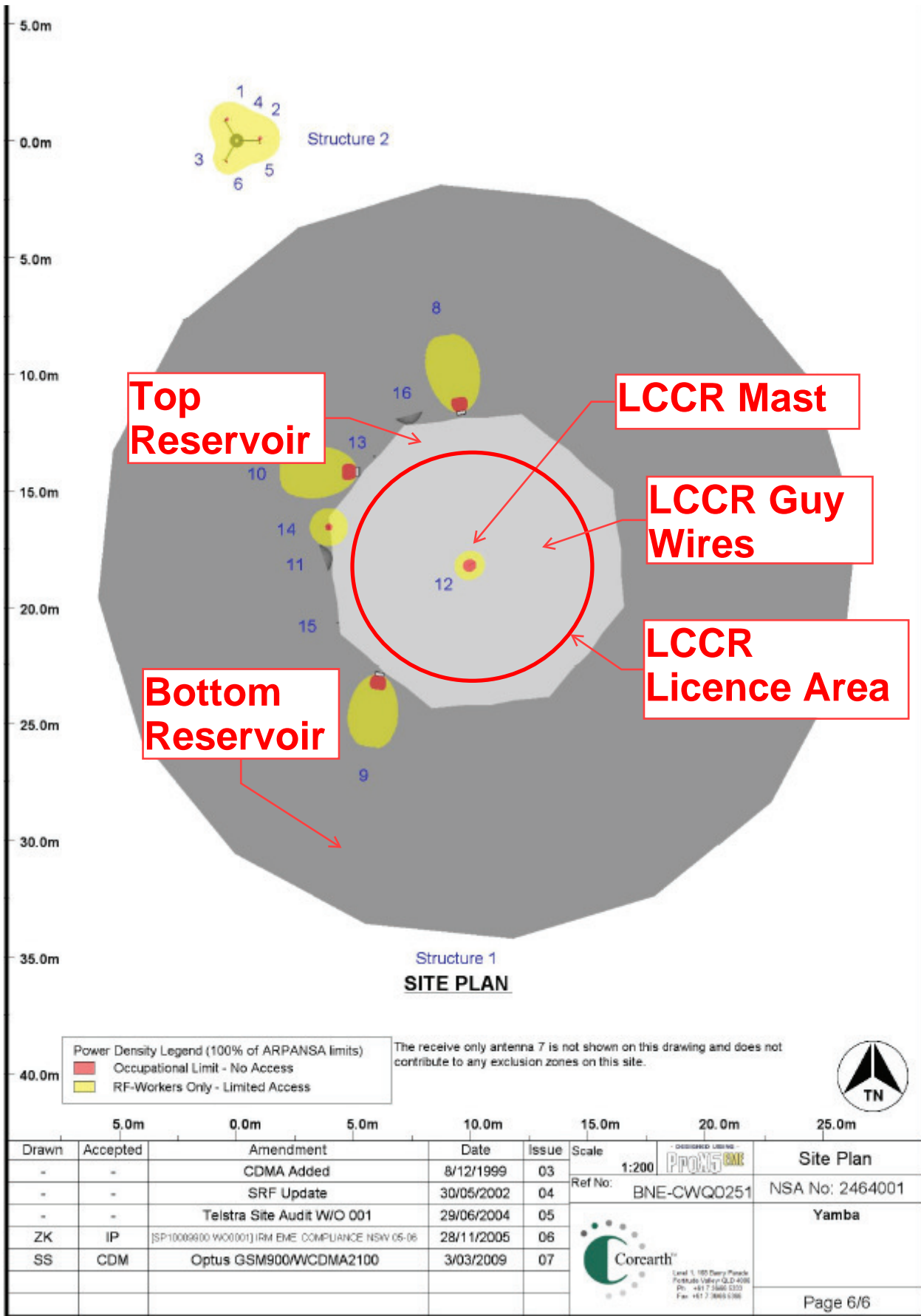
Signature of Representative

Date

in the presence of:

Name of Witness

Signature of Witness



Power Density Legend (100% of ARPANSA limits)

■	Occupational Limit - No Access
■	RF-Workers Only - Limited Access

The receive only antenna 7 is not shown on this drawing and does not contribute to any exclusion zones on this site.



Drawn	Accepted	Amendment	Date	Issue	Scale	Site Plan
-	-	CDMA Added	8/12/1999	03	1:200	Site Plan
-	-	SRF Update	30/05/2002	04		
-	-	Telstra Site Audit W/O 001	29/06/2004	05	Ref No: BNE-CWQ0251	NSA No: 2464001
ZK	IP	[SP10009900 WCO001] IRM EME COMPLIANCE NSW 05-06	28/11/2005	06		
SS	CDM	Optus GSM900/WCDMA2100	3/03/2009	07		
					<p>Level 1, 100 Perry Parade Pottsville Valley QLD 4098 Ph: +61 7 5668 5200 Fax: +61 7 3665 5266</p>	
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