

Deed Number _____
(for Office Use Only)

DATED the _____ day of _____ 20____
(to be filled in by the Minister only)

THE STATE OF WESTERN AUSTRALIA

and

THE MINISTER FOR RESOURCES

and

(NATIVE TITLE PARTY)

and

(GRANTEE PARTY)

DEED FOR GRANT OF PETROLEUM OR GEOTHERMAL TITLE

Petroleum and Royalties Division
DEPARTMENT OF INDUSTRY AND RESOURCES
100 Plain Street
East Perth WA 6004

Tel: (08) 9222 3813
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DEED FOR GRANT OF PETROLEUM OR GEOTHERMAL TITLE
Native Title Act 1993 (Cth) - Sections 28(1)(f) and 31(1)(b)
SCHEDULE

1. Date of deed (to be entered by Minister only)	
2. Petroleum or geothermal title(s) Application number(s) Type of title	
3. Grantee party (applicant for petroleum or geothermal title) Name(s) Address	
4. Native title party (Registered native title body corporate) Name(s) Address Native title determination application number Date entered on the National Native Title Register	
5. Ancillary agreement Native title party Other parties Date of ancillary agreement	YES / NO (delete the inapplicable)

Initialled: _____
for Government party

for native title party

for grantee party

THIS DEED is made on the date specified in the schedule

BETWEEN

THE STATE OF WESTERN AUSTRALIA and

THE MINISTER FOR RESOURCES, AS THE MINISTER RESPONSIBLE FOR THE ADMINISTRATION OF THE *PETROLEUM AND GEOTHERMAL ENERGY RESOURCES ACT 1967 (WA)* (together the "Government party")

and

NATIVE TITLE PARTY described in the schedule ("native title party")

and

GRANTEE PARTY described in the schedule ("grantee party")

RECITALS

- A. The grantee party has made application for the title(s).
- B. If the grant of the title(s) affects native title it will be a future act which passes the freehold test in Part 2 Division 3 Subdivision M of the *Native Title Act 1993 (Cth)* (as amended) and the right to negotiate provisions in Subdivision P apply in accordance with section 26(1)(c)(i) of the *Native Title Act*.
- C. The Government party has given notice of its intention to grant the title(s) in accordance with section 29 of the *Native Title Act*.
- D. The native title party, or the native title claim group that preceded the native title party, made to the Federal Court the native title claim in relation to the subject land.
- E. The determination of native title has been entered in the National Native Title Register and the native title party is the registered native title body corporate.
- F. In accordance with Part 2 Division 3 Subdivision P of the *Native Title Act* negotiations in good faith in respect of the grant of the title(s) have been conducted between the Government party, the grantee party and the native title party.
- G. The native title party agrees to the grant of the title(s) and this deed is entered into for the purpose of ensuring the validity of the title(s) under the *Native Title Act*.

Initialled: _____
for Government party for native title party for grantee party

OPERATIVE PROVISIONS

INTERPRETATION

1.1 In this deed unless the contrary intention appears:

“**ancillary agreement**” means any existing or future agreement (including, without limitation, the agreement(s) (if any) noted in the schedule) made between the native title party and the grantee party or any other person in connection with the grant of the title(s) and/or the grantee party exercising its rights and discharging its obligations under the title(s);

“**arbitral body**”, “**common law holders**”, “**determination of native title**”, “**future act**”, “**National Native Title Register**”, “**native title claim group**”, “**native title holder**”, “**native title rights and interests**”, “**registered native title body corporate**”, and “**relevant Minister**” have the same meaning as they have in the *Native Title Act*.

“**Native Title Act**” means the *Native Title Act 1993 (Cth)*, as amended from time to time;

“**native title claim**” means the native title determination application made by the native title party, or the native title claim group that preceded the native title party, to the Federal Court under Part 3 of the *Native Title Act* described in the schedule;

“**subject land**” means the land the subject of the application for title(s);

“**title(s)**” means the petroleum or geothermal title(s) to be granted pursuant to the application described in the schedule.

“**Petroleum Act**” means the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*, as amended from time to time.

“**petroleum or geothermal title**” means a retention lease for petroleum or geothermal energy under Part III of the Petroleum Act, a production licence for petroleum or geothermal energy under Part III of the Petroleum Act, an exploration permit for petroleum or geothermal energy under Part III of the Petroleum Act, or a drilling reservation for petroleum or geothermal energy under Part III of the Petroleum Act.

1.2 In this deed, unless the contrary intention appears:

Initialled: _____
for Government party for native title party for grantee party

- (a) the word “person” includes a firm, body corporate, statutory corporation, an unincorporated association or an authority and a reference to a gender includes each other gender;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a person includes a reference to the person’s executors, administrators, successors, substitutes (including but not limited to persons taking by novation) and assigns;
- (d) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally; and
- (e) a reference to anything is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them.

AUTHORITY TO ENTER INTO DEED

- 2. The native title party represents and warrants that all necessary authorisations have been obtained to enter into this deed and this deed is valid and binding and enforceable in accordance with its terms against the native title party

AGREEMENT TO GRANT OF TITLE

- 3. The native title party:
 - (a) agrees to the grant of the title(s) and to the grantee party exercising its rights and discharging its obligations under the title(s); and
 - (b) acknowledges that this deed is an agreement for the purpose of section 28(1)(f) and section 31(1)(b) of the *Native Title Act*.

COMPENSATION TO BE SET OFF

- 4.1 Clauses 4.2 and 4.3 apply if the native title party:
 - (a) receives or is entitled to receive from the grantee party or any other person any compensation, benefit or consideration (“compensation entitlement”) whether under any ancillary agreement or otherwise; and
 - (b) makes any claim for compensation, damages or other relief whatsoever against the Government party or any officer or agency of the Government party (“compensation claim”)

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for Government party for native title party for grantee party

in connection with the grant of the title(s) and/or the grantee party exercising its rights or discharging its obligations under the title(s) and their claimed effect on any native title rights and interests of the native title party, whether the compensation claim arises under the *Native Title Act* or otherwise.

- 4.2 The native title party agrees that the compensation entitlement is to be taken into account in determining and is to be set off against any compensation claim whether that claim is determined by agreement of the parties or by a court or body having jurisdiction or power to make a determination in relation to the compensation claim.
- 4.3 The native title party and the grantee party agree that if the native title party makes a compensation claim then at the request of the Government party they:
- (a) will provide full particulars including a statement of account of the compensation entitlement; and
 - (b) produce for inspection and copying any document (as that word is defined in the dictionary to the *Evidence Act* 1995 (Commonwealth)) relating to the compensation entitlement including without limitation any ancillary agreement.

GOVERNMENT PARTY NOT LIABLE FOR ANCILLARY AGREEMENT

5. The native title party and the grantee party acknowledge that neither the Government party nor its officers, employees or agents have any obligations or liability whatsoever in connection with the rights and obligations of the native title party or the grantee party under an ancillary agreement.

CONDITIONS

- 6.1 Clauses 4.1, 4.2 and 4.3 of this deed constitute conditions to be complied with by the parties for the purposes of subsections 41(1) of the *Native Title Act*, and all common law holders of native title are taken to be parties in respect of those clauses.
- 6.2 The terms of this deed, other than clause 3, and of any ancillary agreement are not conditions precedent nor conditions subsequent to the agreement of the native title party to the grant of the title(s) and to the grantee party exercising its rights and discharging its obligations under the title(s).
- 6.3 The provisions of this deed and of any ancillary agreement are not conditions of the title(s) when granted under the Petroleum Act.

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for Government party for native title party for grantee party

DEED PREVAILS

7. The grantee party and the native title party acknowledge that the provisions of this deed prevail over the provisions of any ancillary agreement to the extent of any inconsistency.

GENERAL

- 8.1 Each party agrees, at its own expense, on the request of another party, to do everything reasonably necessary to give effect to this deed and the matters contemplated by it.
- 8.2 The native title party consents to the arbitral body making a determination that the title(s) may be granted subject only to the conditions in clauses 4.1, 4.2 and 4.3 above.
- 8.3 Each party will pay its own legal and other costs and expenses in connection with the preparation and completion of this deed, except for stamp duty. The grantee party is to pay all stamp duty (including fines or penalties) payable on or with respect to this deed.
- 8.4 The grantee party and the native title party authorise the Government party, and the Government party agrees, to give a copy of this deed to the arbitral body and to advise the relevant Minister in writing of the making of this deed.
- 8.5 This deed is governed by the law in force in the State of Western Australia.
- 8.6 This Deed may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Deed by signing any counterpart.

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for Government party for native title party for grantee party

EXECUTED as a deed

SIGNED for and on behalf of
**THE MINISTER FOR RESOURCES and
the STATE OF WESTERN AUSTRALIA**

Name of authorised person (block letters)

Signature of authorised person

Office held

Date of signature

in the presence of:

Name of witness (block letters)

Signature of witness

Address of witness

Occupation of witness

Initialed: _____
for Government party

for native title party

for grantee party

SIGNED BY

Name of grantee party

Signature of grantee party

in the presence of

Date of signature

Name of witness (block letters)

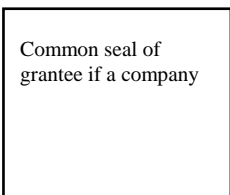
Signature of witness

Address of witness

Occupation of witness

OR IF THE GRANTEE IS A COMPANY

Note: Corporations law requires that a deed must be executed in accordance with the Articles of Association of the company, which is generally by affixing the common seal of the company to the deed in the presence of two directors, or one director and the company secretary. Grantee companies should check their Articles of Association. Alternatively, under section 127(1) of the Corporations Act 2001 a company can execute a document without using a common seal if the document is signed by two directors, or a director and a company secretary or for a proprietary company that has a sole director who is also the company secretary – that director.



The seal of the company was affixed hereto in accordance with the Articles of Association of the company in the presence of:

(Signature)

Director

(Name - block letters)

Director

(Signature)

Director/Secretary (delete inapplicable)

(Name - block letters)

Director/Secretary (delete inapplicable)

Date of affixing seal

WITHOUT SEAL

Initialed: _____
for Government party

_____ for native title party

_____ for grantee party

The deed was signed in accordance with section 127(1) of the Corporation Act 2001 in the presence of:

(Signature) _____
Director

(Name – block letters) _____
Director

(Signature) _____
Director/Secretary (delete inapplicable)

TO BE SOLE SIGNATORY ONLY WHERE COMPANY IS A PROPRIETARY COMPANY

(Name – block letters) _____
Director/Secretary (delete inapplicable)

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for Government party for native title party for grantee party

By executing this deed the signatories represent and warrant that they are authorised to execute this Deed on behalf of the native title party and all persons included in the native title holder

Common seal
of native title
party

The seal of the body corporate was affixed hereto in accordance with the Articles or Rules of Association of the body corporate in the presence of:

(Signature)

Director/Chairperson/Secretary/Treasurer
(delete the inapplicable)

Date of affixing
seal

(Name - block
letters)

Director/Chairperson/Secretary/Treasurer
(delete the inapplicable)

(Signature)

Director/Chairperson/Secretary/Treasurer (delete
inapplicable)

(Name - block letters)

Director/Secretary (delete inapplicable)

Initialed: _____
for Government party

_____ for native title party

_____ for grantee party