

Field Solutions Group Site Licence

DETAILS

1	Licence Date ¹	
2	Effective Date ²	
3	FSG	Field Solutions Group Pty Ltd ACN 155 490 074
4	FSG Service Address	38/23 Narabang Way, Belrose NSW 2085
5	Council	Shire of Cunderdin
6	Council Service Address	Lundy Avenue, Cunderdin WA 6407
7	Land	See item 1 of Attachment 1
8	Building ³	Not applicable
9	Site	See item 3 of Attachment 1
10	Facilities	See Attachment 2 and clause 37(l)
11	Licence Fee – Year 1	Nil
12	Licence Fee – Annual Increase ⁴	Nil
13	Licence Fee – payment ⁵	Not applicable

1 Date of execution by last party.

2 Date that Term is to commence.

3 May be 'not applicable'.

4 Not applicable if Licence Fee is paid 'in kind'.

5 Not applicable if Licence Fee is paid 'in kind'.

EXECUTION BY FSG

Executed by **Field Solutions Group Pty Ltd** ACN 155 490 074 in accordance with section 127 of the Corporations Act

Signature – Director

Signature – Secretary

Name (PLEASE PRINT)

Name (PLEASE PRINT)

Executed by **Field Solutions Group Pty Ltd** ACN 155 490 074 by its duly authorised representative

Signature – Authorised Representative

Name and position (PLEASE PRINT)

EXECUTION BY COUNCIL

Executed by **Council** in accordance with the Local Government Act

(Common Seal)
in the presence of:

Signature

Signature

Name and capacity (PLEASE PRINT)

Name and capacity (PLEASE PRINT)

Executed by **Council** by its duly authorised delegate

Signature – Authorised Delegate

Name and capacity (PLEASE PRINT)

Particulars of delegation (PLEASE PRINT)

TERMS

Date and parties

- 1 This Licence is made on the Licence Date between FSG and Council.

Background

- 2 FSG is a Carrier.
3 Council owns the Land where the Building (if any) and the Site are located.
4 FSG may use the Site in accordance with this Licence.

Licence Rights

- 5 For the Term, FSG may:
- (a) occupy the Site;
 - (b) operate Facilities at the Site;
 - (c) use any existing power supply to power the Facilities;
 - (d) cause a separate power supply and/or electricity meter to be installed for the Facilities;
 - (e) access the Site and the Facilities via the Land and the Building;
 - (f) operate cabling in or through the Land, the Building, the Site and their surrounds to support the operation of the Facilities; and
 - (g) do anything necessary to comply with any law applicable to it –
(Licence Rights).

Term

- 6 The Term starts on the Effective Date and ends:
- (a) on the expiry of at least 12 months' written notice of termination by Council to FSG (but Council cannot give that notice before the nineteenth anniversary of the Effective Date); or
 - (b) on the expiry of at least three months' written notice of termination by FSG to Council.

Licence Fee

- 7 For the Term, FSG must pay the Licence Fee.
8 The Licence Fee for Year 1 is in item 11.
9 On each anniversary of the Effective Date, the Licence Fee for the Year starting on that anniversary will increase in accordance with item 12.
10 If item 13 of the Details specifies 'annually in advance' (or similar) FSG must pay the Licence Fee in advance by the first day of each Year. Otherwise, FSG must pay the Licence Fee as stated in item 13.

Licence Fee in kind

- 11 Item 11 may provide for a Licence Fee that is payable 'in kind' eg provision of discounted communications goods and/or services by FSG to Council. In that case:
- (a) That benefit in kind is the Licence Fee unless and until clause 11(b) applies.
 - (b) If it becomes impractical for FSG to provide that benefit in kind (eg because FSG ceases to offer the exact discounted product that Council acquires), FSG will either (i) by agreement with Council, supply an alternative product at a discount of the same value) or (ii) pay a cash Licence Fee of equal value to the discount.

FSG's other obligations

- 12 FSG must reimburse Council's cost of any electricity used by the Facilities.
13 If any amount payable by FSG under this Licence is subject to GST, FSG must pay the GST if

Council delivers a valid tax invoice for it.

- 14 In exercising Licence Rights, FSG must:
- (a) comply with the Carrier Obligations and all other all applicable laws;
 - (b) give Council at least 5 days' written notice (*Installation Notice*) of the installation of Facilities (except in urgent or emergency circumstances);
 - (c) comply with Council's reasonable rules and directions about safety;
 - (d) not unreasonably impair Council's normal operations at the Land or the Building;
 - (e) maintain public liability insurance of at least \$20m and provide to Council (within 30 days after Council's request) proof of currency of such insurance;
 - (f) at the end of the Term, remove the Facilities and repair any damage caused by the removal (unless FSG is otherwise lawfully entitled to maintain the Facilities in place);
 - (g) comply with its obligations to Council without unreasonable delay; and
 - (h) except as otherwise stated by this Licence – pay its own costs and expenses.

Compensation

- 15 The Licence Fee is the compensation in connection with the Licence Rights and their exercise.
- 16 Otherwise, this Licence does not limit Council's rights under section 42 of Schedule 3 of the Telco Act.

Council's obligations

- 17 Council must:
- (a) at FSG's expense – give FSG any assistance it reasonably requires to exercise the Licence Rights;
 - (b) sign any document (eg consent to separate power supply or meter; consent to application for local council approval) etc required by FSG for the purposes of enjoying the Licence Rights;
 - (c) keep the Land and any Building in a safe and serviceable condition (but is not obliged:
 - (i) to improve them relative to their condition at the Licence Date;
 - (ii) to repair any damage that is caused by FSG; or
 - (iii) to maintain the Facilities or any part of them);
 - (d) if the Land is proposed to be transferred to any person – notify the proposed transferee of this Licence; and
 - (e) if the Land is transferred to any person – notify FSG of the details of the transferee; and
 - (f) except as otherwise stated by this Licence – pay its own costs and expenses of and in connection with this Licence.

As Built

- 18 If item 10 of the Details indicates that Facilities have already been installed as at the Licence Date, item 3 of Attachment 1 and Attachment 2 shall be taken to specify the Site and the Facilities where and as the Facilities is in fact installed at that date, and FSG's records as to the location and details of the Facilities at that date are taken to be accurate unless they are shown to be otherwise.

Ownership of Facilities

- 19 All Facilities are and shall remain the sole property of FSG, except as expressly agreed otherwise in writing by the parties.

Making good

- 20 If a party (**Defaulting Party**) fails to do anything required of it by this Licence (**Default**), the other party (**Innocent Party**) may give the Defaulting Party notice to cure the Default.

- 21 If the Defaulting Party does not cure the Default within 30 days, the Innocent Party may (at its election):
- (a) cause the Default to be cured and recover its reasonable costs of doing so from the Defaulting Party; or
 - (b) take any other action available to it under law.

Council warranties

- 22 Council warrants that it is the owner of the Land and is legally competent to enter this Licence.
- 23 Council warrants that any Building complies with all applicable laws.
- 24 Council gives no other warranty that the Site is suitable for FSG’s intended purposes or as to the use to which the Site may be put.

Application of Telco Act

- 25 To the fullest extent under law, the Licence Rights are an exercise of Carrier Powers. To the extent Carrier Powers do not apply, the Licence Rights apply by agreement.
- 26 If a Facility is not a Low-impact Facility, FSG and Council shall have the same rights and obligations with respect to it as if it was a Low-Impact Facility and, without limitation, FSG must comply with all Carrier Obligations and enjoys all Carrier Powers.
- 27 Nothing in this Licence limits, modifies or excludes Carrier Powers, whether during or after the Term.

Assignment

- 28 FSG may assign this Licence to:
- (a) another Carrier; or
 - (b) FSG’s Related Body Corporate –
by notice to Council.
- 29 FSG may share the Site with and sublicense its Licence Rights to CSPs, other Carriers, and their Related Bodies Corporate.
- 30 Subject to clauses 28 and 29, FSG may not assign this Licence without Council’s prior written consent (not to be unreasonably withheld or delayed).

Notices

- 31 Any notice in connection with this Licence:
- (a) must be in writing;
 - (b) may be delivered by hand delivery, fax, email or post to the party’s Service Address.
- 32 Until further notice, the parties’ Service Addresses are as set out in the Details.
- 33 Subject to clause 34:
- (a) a notice delivered by hand is taken to be received when delivered;
 - (b) a notice delivered by fax is taken to be received when the sender’s fax machine records that the fax has been successfully delivered;
 - (c) a notice delivered by email is taken to be received four hours after dispatch, as long as the sender has not received a delivery failure notification; and
 - (d) a notice delivered by post is taken to be received on the third Business Day after posting.
- 34 A notice that is received, or is taken to be received, on a day that is not a Business Day, or after 4:30 pm on a Business Day, is taken to be received at 9am on the next Business Day.

Applicable law and courts

- 35 This Licence is subject to, and shall be construed in accordance with, the law of the State or Territory in which the Land is located (including applicable Commonwealth laws), and the parties

submit to the non-exclusive jurisdiction of the courts of that State or Territory in connection with it and disputes arising under or in connection with it.

Special Conditions

36 Any Special Conditions in **Error! Reference source not found.**:

- (a) are part of this Licence; and
- (b) override anything else in this Licence except clause 27.

Dictionary and interpretation

37 In this Licence, unless the context suggests otherwise, the following definitions and rules of interpretation apply:

- (a) **Building** means any building/s described by item 2 of Attachment 1.
- (b) **Business Day** means Monday to Friday, excluding public holidays, in the place where an action is to be performed or, in the case of a notice, the notice is received.
- (c) **Carriage Service Provider** means the same as in the Telco Act.
- (d) **Carrier** means a licensed telecommunications carrier under the Telco Act.
- (e) **Carrier Obligations** means FSG's obligations and duties under the Telco Act (including Schedule 3) and any applicable instrument having force pursuant to the Telco Act including the *Telecommunications Code of Practice 2021* and Industry Code C564:2020 *Mobile Phone Base Station Deployment*.
- (f) **Carrier Powers** means FSG's rights, powers and immunities under the Telco Act, including Schedule 3.
- (g) **Corporations Act** means the *Corporations Act 2001*.
- (h) **Council** means the person named in item 5 of the Details and its heirs and successors in title.
- (i) **CSP** means a Carriage Service Provider.
- (j) **Details** means the part of this Licence so titled.
- (k) **Effective Date** means the date in item 2 of the Details.
- (l) **Facilities** means each facility (within the meaning of Schedule 3) described in Attachment 2 or in an Installation Notice or otherwise lawfully operated at the Site, as supplemented, modified or replaced from time to time, and includes any ancillary equipment reasonably required for the operation of such a facility.
- (m) **FSG** means the person named in item 3 of the Details.
- (n) **Installation Notice** means a notice under clause 14(b).
- (o) **Land** means the land at the address in item 1 of Attachment 1.
- (p) **Licence** means this agreement and the rights and obligations it provides for.
- (q) **Licence Date** means the date in item 1 of the Details.
- (r) **Licence Fee** – see clauses 8 and 9.
- (s) **Licence Rights** – has the meaning given by clause 5, and includes the right to exclusive possession of the Site.
- (t) **Local Government Act** means the Act or Acts of a parliament by which Council is established, constituted and regulated (including in relation to the execution of documents by or for the Council).
- (u) **Low-impact Facilities** means the same as in the Telco Act.
- (v) **Month** means each of January, February, etc. during the Term.
- (w) **Related Body Corporate** means the same as in the Corporations Act.
- (x) **Schedule 3** means Schedule 3 of the Telco Act.

- (y) **Service Address** – see clause 32.
- (z) **Site** means the part/s of the Land and/or Building described by item 3 of Attachment 1, and includes any other part/s of the Land or Building on which Facilities are installed with Council's consent.
- (aa) **Telco Act** means the *Telecommunications Act 1997*.
- (bb) **Term** – see clause 6
- (cc) **Year** means each year during the Term starting on the Effective Date or its anniversary.
- (dd) **Year 1** means the year starting on the Effective Date.
- (ee) A reference to an 'item' means a numbered item in the Details, identified by number.
- (ff) Anything that is unenforceable must be read down, to the point of severance if necessary.
- (gg) Anything a party can do, it may do through an appropriately authorised representative.
- (hh) Any matter in a party's discretion is in its absolute and unfettered discretion.
- (ii) Words like 'eg', 'includes' and 'including' are to be read as if they were followed by 'without limitation'.
- (jj) The words 'in writing' include any communication sent by letter, fax or email or any other form of communication capable of being read.
- (kk) A reference to a document includes the document as modified from time to time and any document replacing it.
- (ll) If an expression is defined in this Licence, grammatical derivatives of that expression have a corresponding meaning.
- (mm) The word 'operate' includes 'access, install, operate, maintain, repair, power, update, upgrade, supplement, replace, secure, relocate (within the Site) and/or remove'.
- (nn) The word 'sublicense' includes 'sublease'.
- (oo) Headings are only for convenience. They are to be ignored when interpreting this Licence.
- (pp) A provision of this Licence will not be construed against a party because that party proposed or drafted it.
- (qq) Money amounts are stated in Australian currency and exclusive of any applicable GST unless otherwise specified.
- (rr) A reference to the singular includes the plural and vice versa.
- (ss) There is no significance in the use of gender-specific language.
- (tt) A 'person' includes any entity which can sue and be sued.
- (uu) A 'person' includes any legal successor to or representative of that person.
- (vv) A reference to a law includes any amendment or replacement of that law.

- 1 Land⁶
Lot on Plan: P118286 5636
Land ID Number: 2041467
- 2 Building⁷
Not applicable
- 3 Site⁸
Latitude: -31.626512
Longitude: 117.027164



⁶ This is the parcel of land at which the facilities will be installed and operated, identified by title particulars, street address or otherwise.

⁷ This is the structure (if any) to which facilities will be attached e.g. 'Water tower'.

⁸ This is the portion of the Land or Structure where facilities will be installed e.g. Roof of water tower.'



- 1 **Data transmission and Associated Equipment:**
Tower, Backhaul and sectors radios with communications hut and secure compound fencing, networking and power redundancy equipment.

