

Key Terms	Proposed Non-Exclusive Access Licence
Council Approval and LGA Compliance	All negotiations, discussions and correspondence are non-binding on the Town and do not create a licence or agreement to licence. Pre-requisites for any binding legal relationship to be created include a Council resolution, Local Government Act compliance and conclusion of appropriate licence documentation drafted by the Town's lawyers to the Town's satisfaction and executed by all parties.
Policy 310 – Leasing and Licensing	Proposed Key Terms depart from standard policy and will require Council approval delegation is in place.
Proposed Licensor	Town of Victoria Park ABN 77 284 859 739
Proposed Licensee	Blackoak Capital – Elizabeth Baillie Pty Ltd ACN 651 448 583.
Property	Portion of Lot 1000 on Plan 410921 386 Berwick Street, EAST VICTORIA PARK 6101 being land held on certificate of title Volume 2992 Folio 720
Licensed Area	The access track and turning area described in Annexure A (highlighted in yellow and subject to minor variations if necessary).
Commencement Date, Term and Further Terms	Commencement Date, Term and Further Terms to align with Term (20 Years) and Further Terms (5 x 10 years) of the Lease between the parties of an approximately 1.4 Hectare portion of Lot 9000 on Deposited Plan 41207 being the whole of the land in Certificate of Title Volume 2992 Folio 139, more commonly known as 15 Hill View Terrace, East Victoria Park, Western Australia.
Nature of Licence	Non-exclusive access with and without vehicles in favour of the Licensee and in common with the Licensor (and all invitees and persons authorised by the Licensor) for the purposes of access to the Fire Pump area referred to in Advice Note AN4 of development approval DAP Application reference DAP/23/02602 dated 28 March 2024, including access for the Department of Fire and Emergency Services in both emergency and non-emergency situations.”
Licence Fee	\$1 per annum (if demanded).
Grant of Licence	Grant of licence to be subject to: <ul style="list-style-type: none"> a. all existing encumbrances (including easement O545034 to Electricity Networks Corporation); b. all other existing matters affecting the Property; and

	c. all future encumbrances or matters, that do not substantially interfere with the Licensee's non-exclusive access
Licensee Works	The proposed works include earthworks for stormwater retention, remediation of the existing swale, and an assessment of the existing access road for potential resurfacing with bitumen.
Outgoings	Nil.
Services	No services are required in the licence area.
Maintenance	<ol style="list-style-type: none"> 1. Licensee is responsible for all repair and maintenance to the Licence Area as required to maintain it in a safe and suitable condition for the purpose for which access has been granted. 2. Licensor shall not have any responsibility whatsoever to repair and maintain; provided that the Licensor may in its absolute discretion undertake repair and maintenance.
Assignments & Subletting	Licensee needs to be able to assign the Licence to any subsequent assignee under the Lease. Licensee to pay costs of Licensor's lawyers preparing assignment documentation, such costs being payable in advance by the Licensee and directly to the Licensor's lawyers.
Indemnity and insurance by Licensee	Licensee to insure and indemnify the Town on terms drafted by the Town's lawyers based on insurance, indemnity, and limitation of Licensor's liability provisions in Blackoak lease.
No warranty	The Town does not warrant in any way that the Property or Licensed Area is suitable for the use or works intended by the Licensee.
Signage	Prior written consent from the Lessor required. Licensee to provide a design concept and location map for consideration.
Legal	Licensee to bear the Towns reasonable legal costs for the negotiation and execution of the Licence documentation. Legal costs to be advanced by Licensee to the Town's lawyers for the Town's lawyers to draft documentation at the cost of Licensee
Approvals and compliance with laws.	<p>Licensee to comply with all applicable laws and to be responsible for obtaining any approvals required in order for the Licensee to exercise its rights under this Licence.</p> <p>There is no fetter on the Lessor's discretion in exercising its statutory functions/duties with regard to any approval processes required in order for the Licence to take effect.</p>
No Caveat	Licensee shall not be permitted to register a caveat or other notification on the Landgate title to the Property

Conditions Precedent	Licence to come into effect through provisions drafted by the Town’s lawyers. Subject to the Town’s lawyer’s advice, this may be by means of the licence being made conditional upon Blackoak’s Lease commencing in full force and effect.
Other terms and conditions	To be drafted by Town’s lawyers and address a variety of matters including but not limited to default, termination, damage and destruction, PPSA, and miscellaneous.
Special Conditions	<p>The proposed works are subject to the below conditions and considerations that must be taken cognisance of by the Licensee or addressed by the Licensee (as the case may be) to the Licensor’s satisfaction:</p> <ol style="list-style-type: none"> 1. Gravity Sewer: <ol style="list-style-type: none"> i. A recently constructed sewer within Hillview Bushland runs parallel to the property boundary of Hillview Bushland and 304 Berwick Street, at an offset of approximately 1.0m. ii. This sewer is pending take over inspection by Water Corp. Whilst under current circumstances, this sewer may not be connected and may be noted as “unused” by Water Corp, this sewer may become subject to future Water Corporation requirements. iii. Future easements may apply if the line is connected. 2. Stormwater: At the cost of the Licensee: <ol style="list-style-type: none"> i. Alternate stormwater retention structures must be installed when the swale is removed within the Hillview Bushland. ii. The stormwater drainage structures shall be installed at an appropriate offset from the property boundary between Hillview Bushland and 384 Berwick St, due to risk of water seepage and outside of implied easement area. iii. The design must eliminate the risk of water seeping into neighbouring property due to the topography at the location and must ensure the runoff shall not flow across any property boundaries. 3) The access track should be assessed by the Licensee for intended traffic, and may if required by the Licensor, be resealed at the cost of the Licensee. A required report should be provided to confirm to the satisfaction of the Licensor that the sprayed bituminous surfacing is fit for purpose and provide a surface that is: <ul style="list-style-type: none"> • well-bonded to the underlying granular base; • safe, durable, and traversable for the anticipated traffic; and • a moisture barrier and/or waterproofing membrane for the underlying pavement.

- 4) The Hillview Bushland is classified as a Threatened Ecological Community (TEC). Measures must be taken by the Licensee to the satisfaction of the Licensor to mitigate the risk of physical damage to the bush and spread of die back.
- 5) The Access track along the perimeter of the Hillview Bushland boundary shall be kept unimpaired.

