

**INTERNAL CURRENT STATE TENURE SEARCH**  
**NATURAL RESOURCES, MINES AND ENERGY, QUEENSLAND**

Search Date: 14/08/2019 12:11

Title Reference: 40076967  
Date Created: 14/08/2019

Previous Title: 17553152

**DESCRIPTION OF LAND**

Tenure Reference: TL 0/241163

Lease Type: TERM

LOT 540 CROWN PLAN B32370  
Local Government: BRISBANE CITY

Area: 0.012700 Ha. (SURVEYED)

No Land Description

No Forestry Entitlement Area

Purpose for which granted:  
VIADUCT

**TERM OF LEASE**

Term and day of beginning of lease

Term: 40 years commencing on 26/07/2019

Expiring on 25/07/2059

**REGISTERED LESSEE**

Interest

VA DUONG MOC		
CHAN CU MOC	JOINT TENANTS INTER SE	3547/7100
BODY CORPORATE FOR MCWHIRTERS	RETAIL COMMUNITY TITLES	
SCHEME 34719	TENANT IN COMMON	1/2
THE TRUST COMPANY LIMITED A.C.N. 004 027 749	TRUSTEE	3/7100
UNDER INSTRUMENT 718938155		

AS TENANTS IN COMMON

**CONDITIONS**

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**CONDITIONS**

A131 SPECIFIED CONDITIONS FOR: Lease for a Term of Years  
PURPOSE: Viaduct

**STATUTORY CONDITIONS:**

Statutory conditions are the mandatory conditions of a lease in accordance with Part 2 Division 1 of the Land Act 1994 and other specific requirements of the Land Act 1994.

1. Permitted Use: The lessee must use the land only for the purpose for which the tenure was issued under the Land Act 1994.
2. Duty of Care: The lessee has the responsibility for a duty of care, for the land under the Land Act 1994.
3. Rent/Instalment: The lessee must pay the annual rent/instalment in accordance with the Land Act 1994 and the Land Regulation 2009. For further information on how annual rent is determined, refer to the department's website at [www.dnrme.qld.gov.au](http://www.dnrme.qld.gov.au).
4. Noxious plants: The lessee must keep noxious plants on the land under control. If the lessee does not comply with this condition, the Minister may bring the noxious plants under control, the cost of which will be recovered from the lessee.
5. Information to Minister: The lessee must give the Minister administering the Land Act 1994, information the Minister asks for about the tenure.
6. Monies for Improvements: No money for improvements is payable by the State on the forfeiture, cancellation, surrender or expiry of this lease but money may be payable if the State receives payment from an incoming lessee or buyer for the improvements on the land. However, the previous lessee may apply to the Minister to remove the improvements that belong to the lessee, within a period of 3 months from the date of the forfeiture, surrender, or expiry of this lease. The lessee may only undertake the removal of the improvements in the presence of an authorised representative of the department, if required by the Minister. The lessee may only remove those improvements if all monies due from the lessee to the department under this lease have been paid.

**REGULATORY CONDITIONS; OR IMPOSED CONDITIONS - SECTION 210:**

A regulatory condition relates to a lease, in accordance with the Land Regulation 2009 - Chapter 5 Part 2 Division 3A of the Land Act 1994. Section 210 of the Land Act 1994 provides for Imposed conditions to be changed. Where a lease is not subject to the regulated conditions, the (wording of the) regulated conditions may be included as imposed conditions under section 210.

1. Indemnity: The lessee indemnifies and agrees to keep indemnified the Minister, and the State of Queensland and its Representatives, (the "Indemnified parties") against all liability, costs, loss and expenses including claims in negligence (including any claims, proceedings or demands brought by any third party, and any legal fees, costs and disbursements on a solicitor and client basis) ("Claim") arising from or incurred in connection with:
  - a. the granting of this lease to the lessee;
  - b. the lessee's use and occupation of the land; or
  - c. personal injury (including sickness and death) or property damage or loss in connection with the performance (or attempted purported performance or non-performance) of the lease or a

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breach of the lease by the lessee.

The lessee hereby releases and discharges to the full extent permitted by law, the Indemnified parties from all actions, claims, proceedings or demands and in respect of any loss, death, injury, illness or damage (whether personal or property and whether special, direct, indirect or consequential financial loss) arising out of the use and occupation of the lease.

To the full extent permitted by law, the Minister, the State of Queensland and their Representatives will not be liable to the lessee for any special, indirect or consequential damages, including consequential financial loss arising out of the use and occupation of the lease.

2. Public Liability: The lessee must effect a public liability insurance policy with an insurer authorised under the Insurance Act 1973 (Commonwealth) or, if not so authorised then only with the Minister's approval, which can be given or withheld in the Minister's sole discretion, naming the lessee as the insured covering legal liability for any loss of, or damage to any property and for the injury (including death) to any person arising out of anything done or omitted on or about the land or any improvements thereon and against all claims, demands, proceedings, costs, charges, and expenses whatsoever (including claims in negligence) Such policy must:

- a. be for an amount of not less than \$20 million and have no per event sublimit or such higher amounts as the Minister may reasonably require.
- b. be effected on a "claims occurring" basis; and
- c. be maintained at all times during the currency of the lease, and upon receipt of any notice of cancellation, the lessee must immediately effect another public insurance policy in accordance with the terms of the lease.

The lessee must, as soon as practicable, inform the Minister, in writing, of the occurrence of any event that the lessee considers is likely to give rise to a claim under the policy of insurance effected and must ensure that the Minister is kept fully informed of subsequent actions and developments concerning the claim.

The lessee must renew such policy, at the lessee's expense, each year during the currency of this lease.

The condition will be satisfied if the lessee is the State of Queensland or a statutory authority eligible for cover under the Queensland Government Insurance Fund and is insured and continues to be insured by the Queensland Government Insurance Fund.

This condition will be satisfied if the lessee is the Commonwealth of Australia or a statutory authority eligible for cover under the Comcover Insurance Fund and is insured and continues to be insured by Comcover.

3. Access: The provision of access, further access or services to the land will not be the responsibility of the State.
4. Survey Costs: If the land needs to be surveyed or re-surveyed the lessee must do this at their own cost under the Survey and Mapping Infrastructure Act 2003. This survey plan must be lodged in the land registry within the specified time.
5. Jurisdiction: The lessee is subject to the Land Act 1994 and all

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other relevant Queensland and Commonwealth legislation.

6. Compliance with Laws: The lessee must comply with all lawful requirements of the:
  - a. Local Government; and
  - b. any department within the Queensland or Commonwealth governments (including the department administering the Land Act 1994), local authority or statutory instrumentality having jurisdiction over the land, or the development, use and occupation of the land, in regard to its use, occupation and development of the land.

#### IMPOSED CONDITIONS:

These imposed conditions relate to this lease - Chapter 5 Part 2 Division 2 of the Land Act 1994.

#### Cancellation/Forfeiture

1. The lease may be forfeited/cancelled if not used for the purpose for which it was issued or any subsequent additional purpose, defaults payment of the annual rent or by breach of a condition of the tenure.
2. The lease may be cancelled after giving the lessee reasonable notice in writing, in accordance with the Land Act 1994.

#### Improvements or development on or to the land

1. The lessee must at all times and, to the satisfaction of the relevant authorities, properly keep the pedestrian bridge and any works incidental thereto on the land in a good and substantial state of repair.
2. The lessee must remove the improvements and rehabilitate the area to the satisfaction of the Minister / Chief Executive of the Land Act 1994 , from the date of termination of the tenure.
3. If the lessee fails to remove the improvements and rehabilitate the area as above, the Minister / Chief Executive administering the Land Act 1994 , can remove the improvements and is hereby authorised to do whatever is necessary to effect the said removal. The department may recover from the lessee the total cost incurred in the said removal.
4. The lessee must ensure that the development and use of the land meets with the Planning Scheme, Local Laws and requirements of the Brisbane City Council, binding the lessee.
5. The lessee must provide to the Minister administering the Land Act 1994 a Performance Guarantee Bond produced by an Australian trading bank on terms approved by the Minister administering the Land Act 1994 and in a form approved by the said Minister unconditionally guaranteeing to pay the amount of \$ 104,710.00 the bond to the said Minister on demand as surety for as may occur or be required by . The amount of the bond may be reviewed at any time at the discretion of the said Minister, or upon application being made to the department administering the Land Act 1994 by the lessee. Assessment of the bond amount must be undertaken by the department administering the Land Act 1994 and all costs leading to the establishment of the bond and any review of the bond must be borne by the lessee. Notwithstanding the above, the said Minister has the discretion to approve any other form of security offered by the lessee in

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substitution for the bond. If the said Minister approves any other form of security offered by the lessee (the substituted security), then the said Minister will determine, in the Minister's absolute discretion, the amount of, the form of, and the terms upon which the substituted security must be provided.

Care, sustainability and protection of the land

1. The lessee must not under any circumstances conduct activities other than those relating to a pedestrian walkway and associated pop-up food and drink cart, advertising signage as approved by the Brisbane City Council. The lessee must ensure there is an unobstructed pedestrian thoroughfare of at least two (2) metres in width on the land.

Conversion or renewal of the lease

1. The lessee of this lease is not allowed to make an application for conversion of this lease in terms of the Land Act 1994.

Quarry Material and Forest Products

1. The lessee must allow any person authorised under the Forestry Act 1959 access to the land for the purpose of cutting and removing timber or removing other forest products, or quarry material, or other material from the land.

The lessee must not interfere with any forest products or remove any quarry material (including any stone, gravel, sand, earth, soil, rock, guano or clay which is not a mineral within the meaning of the Mineral Resources Act 1989) or other material upon the land without the permission of the Minister administering the Land Act 1994 except under the authority of and in compliance in every respect with the requirements of a permit, licence, agreement or contract granted or made under the Forestry Act 1959.

Other conditions the Minister considers appropriate

1. The Minister administering the Land Act 1994 may resume the whole or any part of the land, provided the said Minister gives the lessee six (6) months notice. Compensation to the lessee will be for lawful improvements only, as provided for under the Land Act 1994.
2. If at any time, maintenance or repair are being conducted on the leased land that will disturb the free use and enjoyment of the viaduct by the public or will interfere, alter or change any services of gas, water, electricity, telephone or any other service, the lessee must before commencing such maintenance or repair, obtain the approval of any relevant authority and must carry out such maintenance and repairs, at the lessees' expense and to the requirements and satisfaction of the relevant authorities.
3. Without limiting any other provision of this lease, the lessee indemnifies the Brisbane City Council in the same manner as set out in item 1, of the regulated indemnity condition of this lease, as if the Brisbane City Council were an 'Indemnified party'.

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**ENCUMBRANCES AND INTERESTS**

1. Rights and interests reserved to the Crown by  
Lease No. 40076967

**ADMINISTRATIVE ADVICES - NIL**

**UNREGISTERED DEALINGS - NIL**

**\*\* End of Current State Tenure Search \*\***

Information provided under section 34 Land Title Act(1994) or  
section 281 Land Act(1994)