

Council

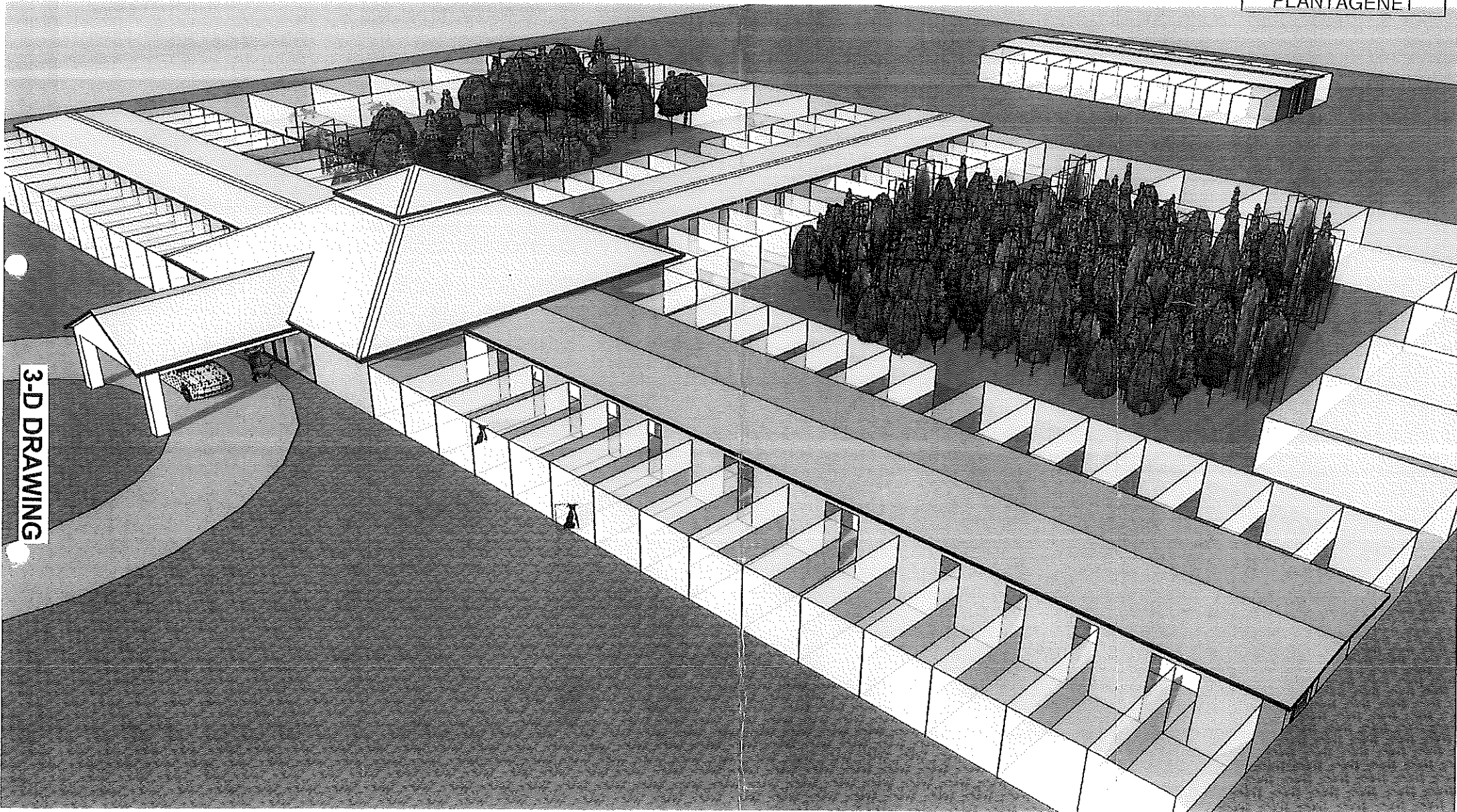
Lot 1415 Albany Highway, Mount Barker - Dog and
Cat Kennels

Location Plan
3-D Drawing
Site Plan 1
Site Plan 2
Floor Plan
Summary of Submissions

Meeting Date: 24 June 2014

Number of Pages: 9

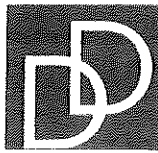
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3-D DRAWING

PROPOSED KENNEL FACILITIES (ALL PHASES) ON LOT 1415

32457 ALBANY HIGHWAY MOUNT BARKER WA



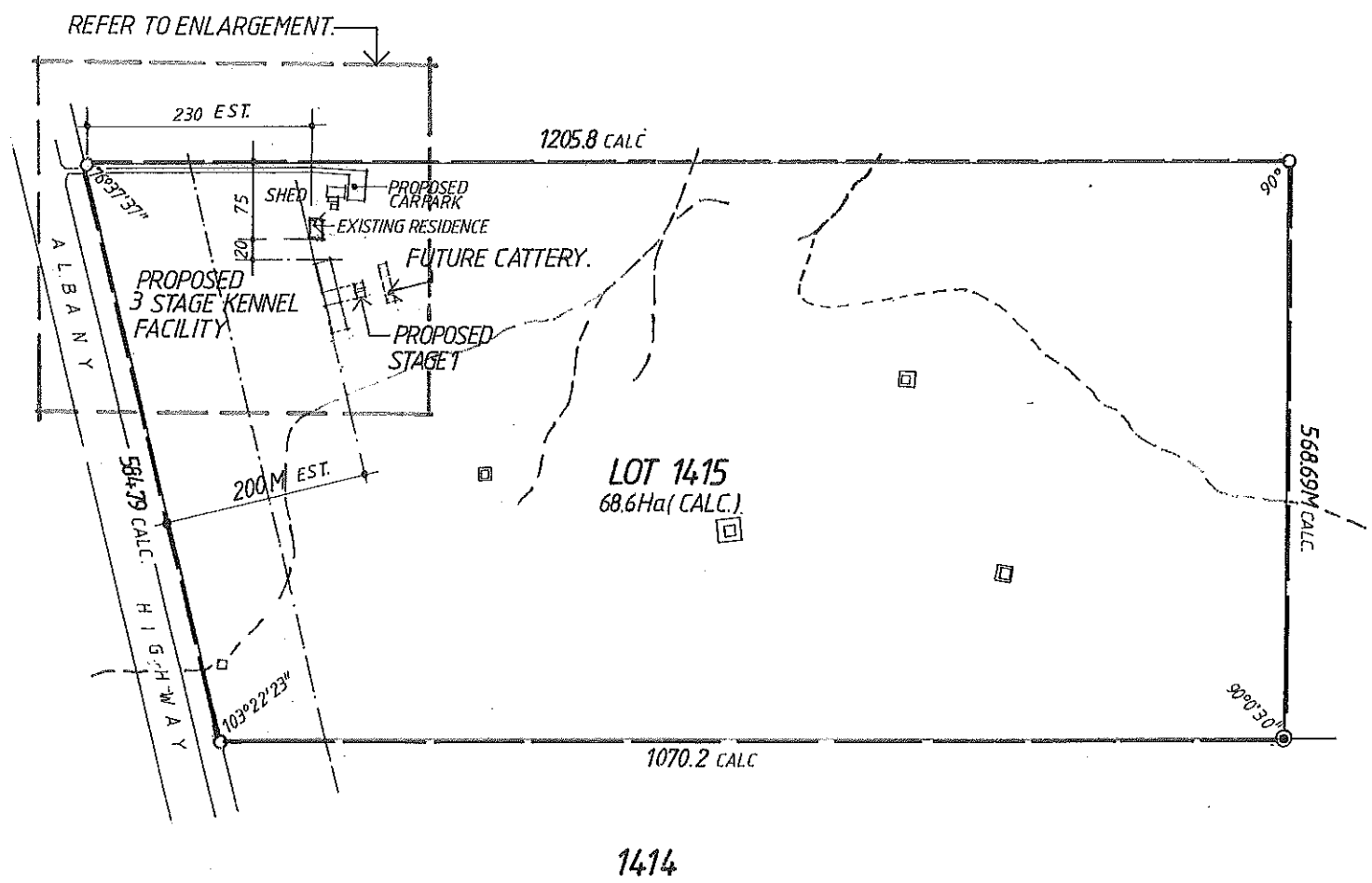
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BUILDING DESIGN & DOCUMENTATION

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SITE PLAN 1



SITE PLAN 1:5000

1414

PROPOSED KENNEL FACILITIES (PHASE 1) ON LOT 1415

32457 ALBANY HIGHWAY, MOUNT BARKER 6325 W.A.



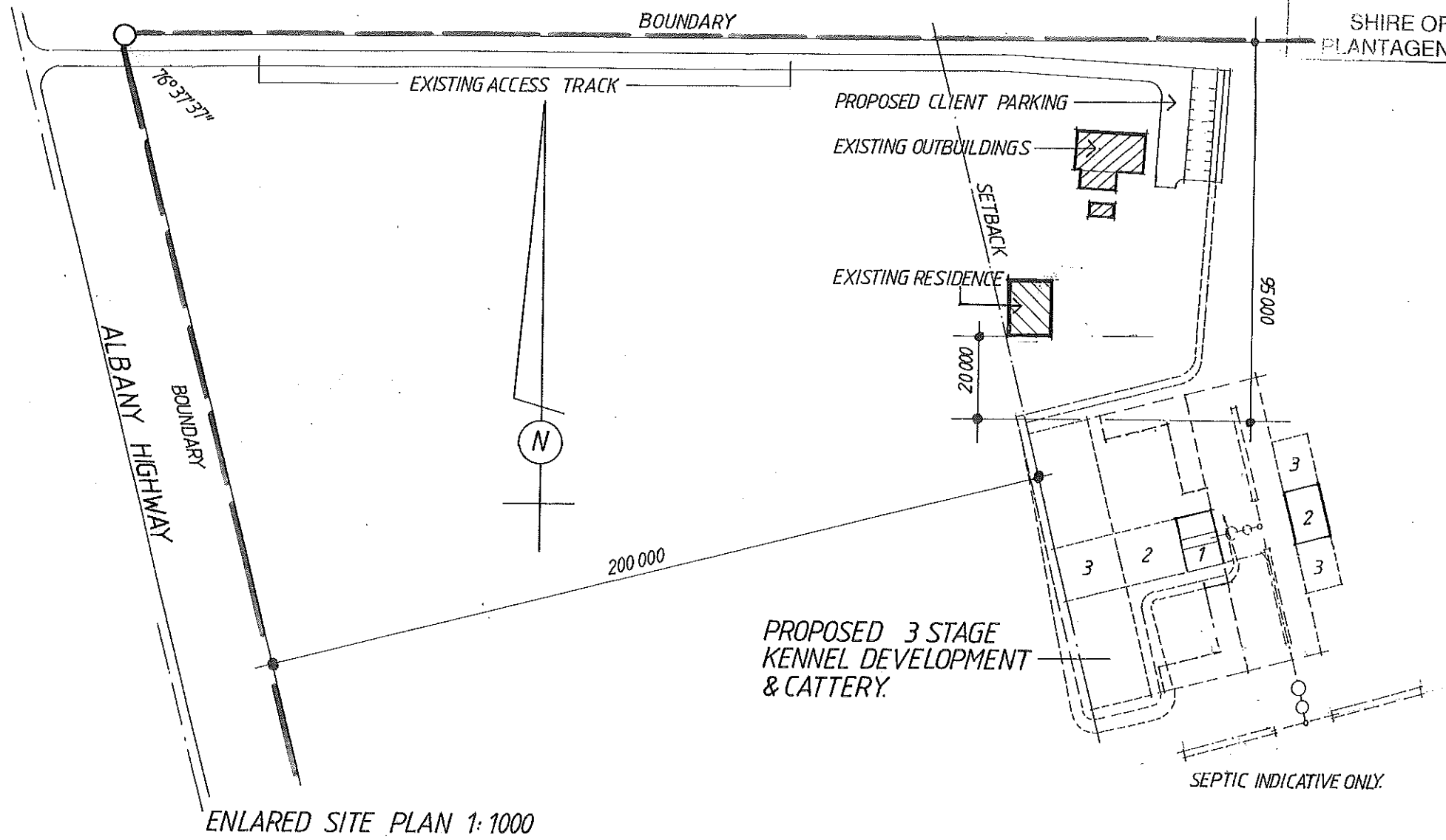
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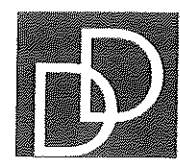
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SITE PLAN 2



PROPOSED KENNEL FACILITY (PHASE 1) ON LOT 1415

32457 ALBANY HWY. MOUNT BARKER 6324 WA



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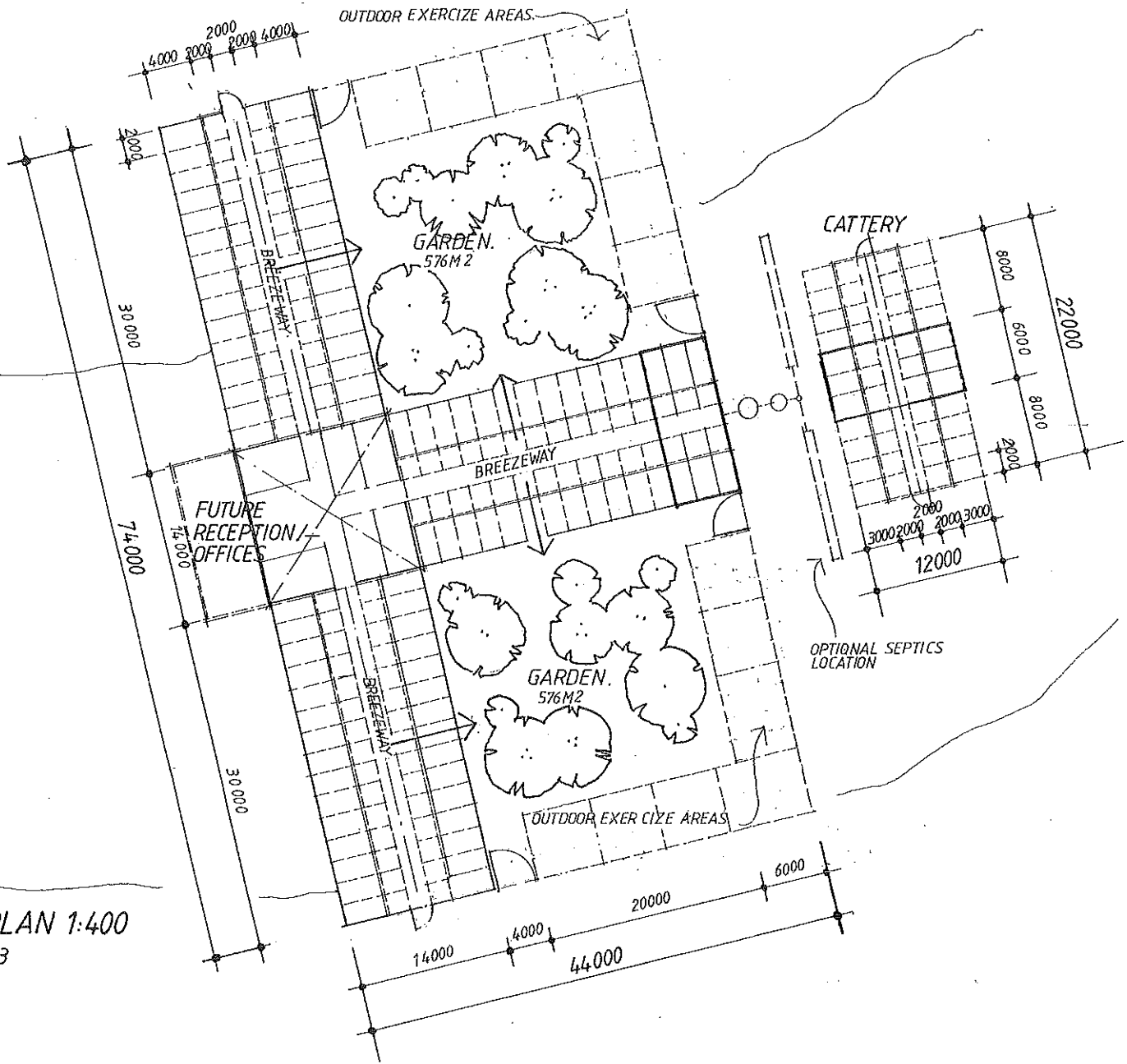
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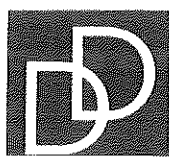
FLOOR PLANS

OVERALL PLAN 1:400
 STAGES 1, 2 & 3



PROPOSED KENNEL FACILITIES (ALL PHASES) ON LOT 1415

32457 ALBANY HIGHWAY MOUNT BARKER WA



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BUILDING DESIGN & DOCUMENTATION

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Summary of Submissions

Lot 1415 Albany Highway, Mount Barker – Dog and Cat Kennels

	Name/Address	Submission	Comment
1.	Department of Environment and Regulation St Georges Terrace Perth	<p>I note that the nearest neighbouring residential premises is over 500m from the proposed kennel location. Referring to EPA <i>Guidance for the Assessment of Environmental Factors No. 3 – Separation Distances between Industrial and Sensitive Land Uses</i> the recommended buffer distance for dog kennels in a rural zones is 500m. Generally speaking where the separation distances are met there is not expected to be land use conflicts resulting from industrial emissions. As a result site specific technical studies are not usually required in such circumstances unless the situation is non-typical.</p> <p>This concurs with our experience in noise regulation where generally kennels will comply with the assigned noise levels beyond 500m from the kennels. There are some exceptional circumstances, such as kennel zones, where many kennels are located in one area that may require up to 1km to comply. Nonetheless even in these situation compliance can usually be achieved at 500m with good management and minor noise mitigation measures.</p> <p>Having regard to the matters discussed above I see no need for a formal acoustic assessment to be undertaken and believe that the proposal can be designed and managed to meet the requirements of the <i>Environmental Protection (Noise) Regulation 1997</i> as they apply in the current circumstances.</p> <p>I note however that the kennel is located relatively close to the neighbouring boundary (around 100m) and at this distance it would be very difficult for the kennels to meet the assigned noise levels if a dwelling was to be constructed just the other side of the boundary. The noise regulations do not consider who was there first, so in this scenario the kennels would need to meet the noise limits at the house, which may not be possible at such a close distance and so could force the closure of the kennel. This is a risk the proponent should be made aware of and they may want to consider moving the kennel further from the boundary. Of course, if there are already other planning controls, which prevent this situation arising, such as set back requirements, or what have you, then this may not be such an issue.</p>	<p>Noted.</p> <p>The landowner of Lot 6 Albany Highway did not respond to the adverting letter on the proposal.</p>

2.	Main Roads WA PO Box 503 Albany	<p>Main Roads has reviewed the information presented by the Shire of Plantagenet regarding a new business enterprise on Lot 1415 Albany Highway, Mount Barker.</p> <p>Main Roads has no in principle objection to this change of use of property subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The existing access to Albany Highway shall remain and be upgraded to an appropriate standard for the vehicle types expected to utilise the access. A minimum standard of access is a 12.5m long truck. 2. There shall be no other access to Lot 1415, unless approved by the Main Roads Great Southern Regional Manager. 	<p>Noted.</p> <p>Condition of approval will require the existing crossover to be constructed to the satisfaction of Main Roads WA.</p>
3.	Department of Health PO Box 8172 Perth	<p>The DOH does not have specific comments provided the dog and cat kennels are maintained in a hygienic condition, the land is capable for onsite waste water disposal and is so designed and operated to prevent the build-up of animal wastes or odour sources. The on-site wastewater system servicing the development will require the approval of the DOH.</p>	<p>Noted.</p>
4.	Raeline Munday 32537 Albany Highway Mount Barker	<p>I live next door to the proposed dog and cat kennels at Lot 1415 Albany Highway. I live with my partner and our children; we understand that the area is zoned rural. But I have a few concerns about the proposal.</p> <ul style="list-style-type: none"> • One is the distance from our house to the kennels. • My biggest concern is 86 kennels, maybe it could be reduced to 20 or 40 and monitor for noise first. • How does the shire monitor the noise and how often? 	<p>The kennel locations are more than 480m from the house at Lot 1414 to the south.</p> <p>Condition of approval will reduce the number of dog runs to 30 and the number of cat runs to 20.</p> <p>Once a complaint is received.</p>

		<ul style="list-style-type: none"> • What materials are they using for the buildings? Will the wall facing our house be sound proof. The drawing looks like noise is funnelled our way. • Will the shire enforce planting of dense shrubs around the outside to help dampen noise? • What rights do we have if proposal goes through and noise is excessive? 	<p>Combination of Colorbond® sheeting and 25mm welded mesh. External run sidewalls will be 1m solid sheets for the bottom part with 1m welded mesh for the top part. External run end walls will be 2m high 25mm welded mesh. A condition of approval will require a vegetation screen located to the south of the kennels. There is substantial gum, she oak and remnant vegetation at Lot 1415 to assist with possible noise filtering. All the vegetation is in private ownership.</p> <p>See comment above Lodge a complaint with the Council's Ranger.</p>
5.	Department of Water PO Box 525 Albany	No objections.	Noted.

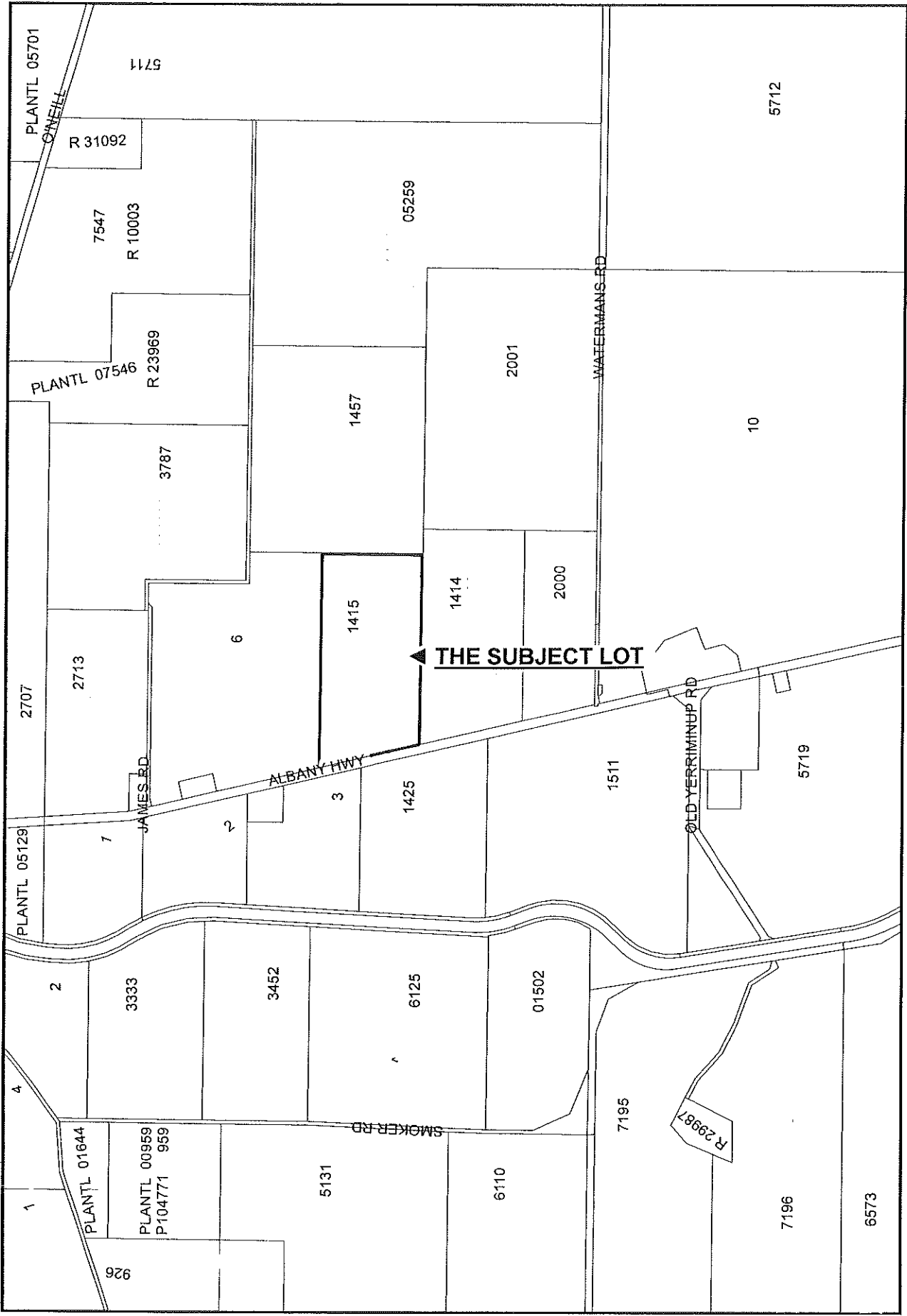
Council

Lot 1415 Albany Highway, Mount Barker - Dog and
Cat Kennels

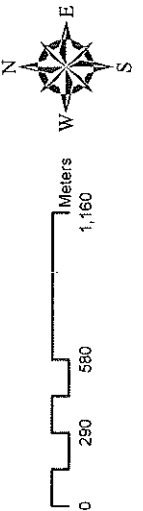
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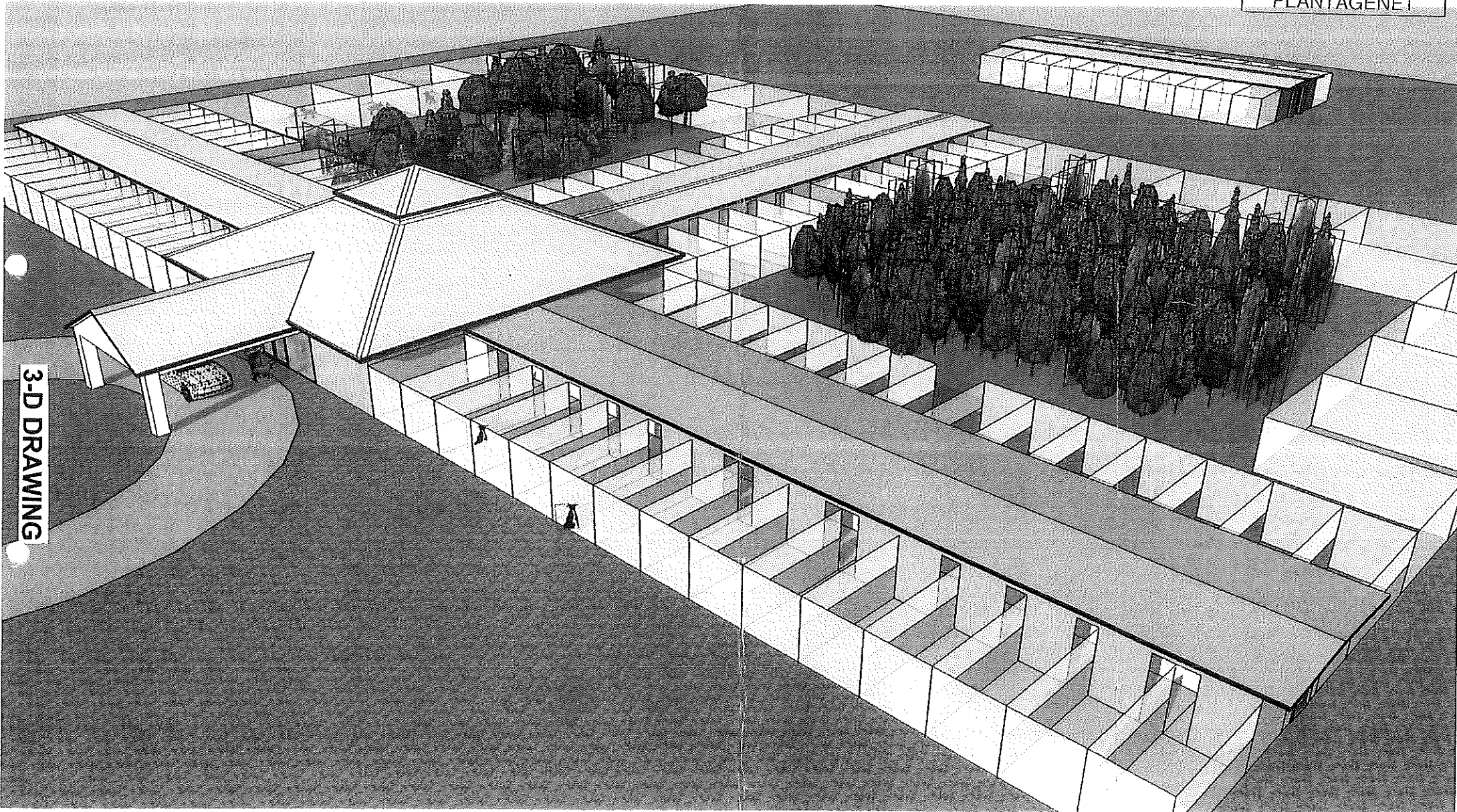
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LOCATION PLAN



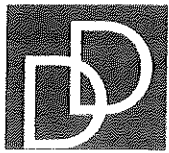
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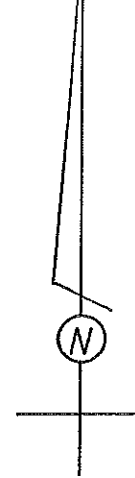
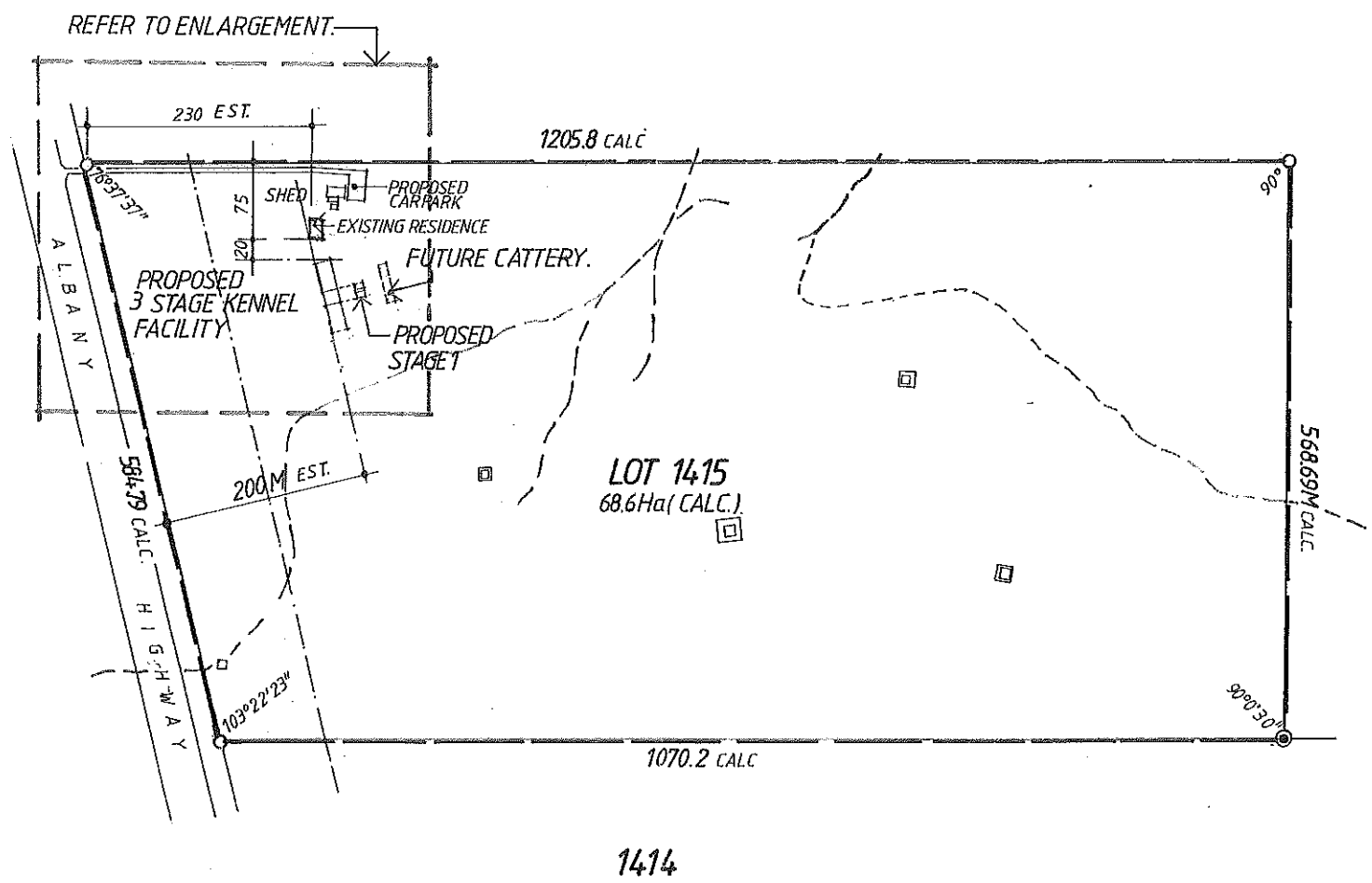
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SITE PLAN 1:5000

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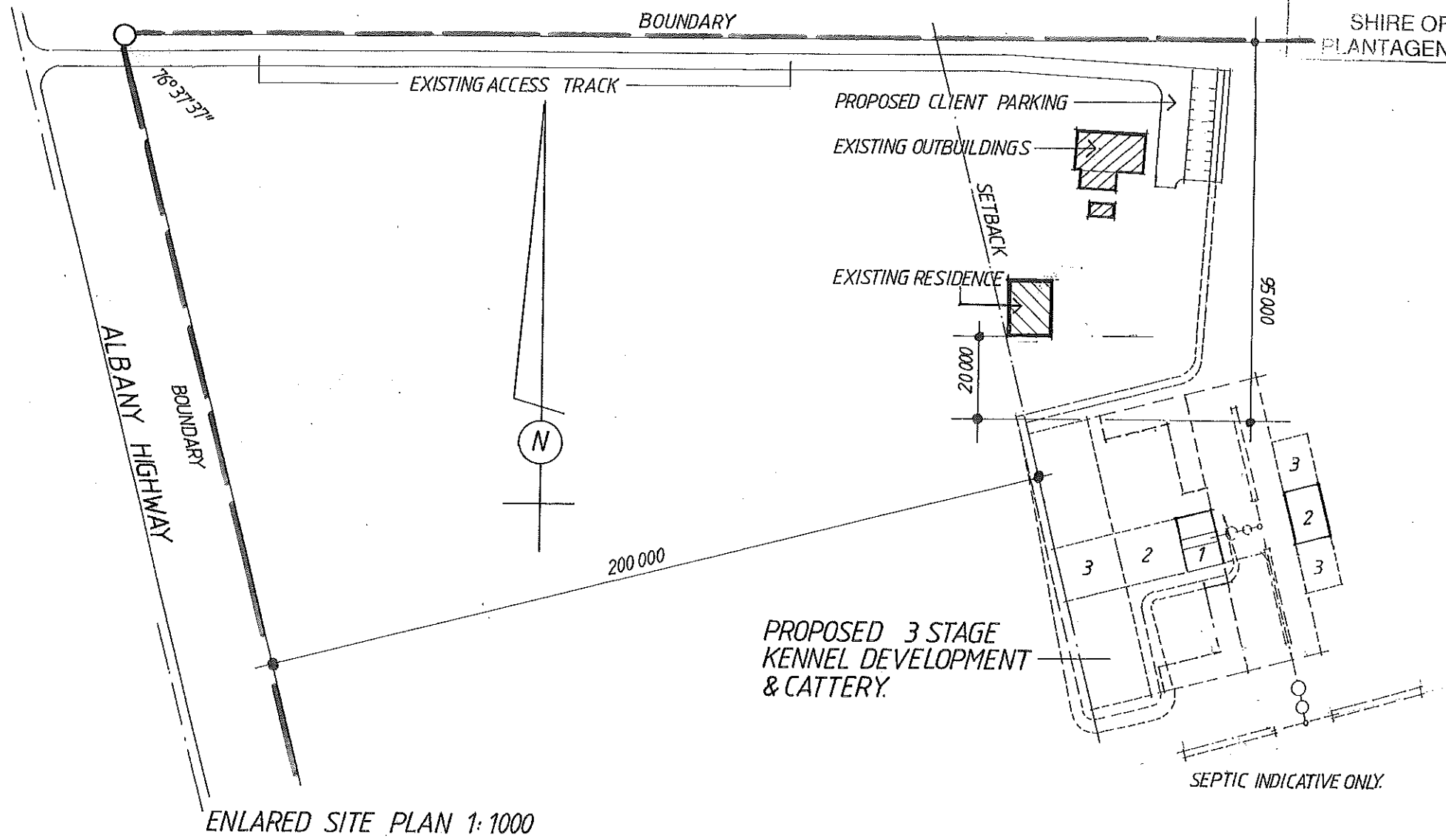
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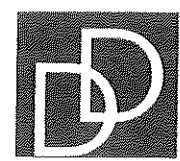
SITE PLAN 2



ENLARGED SITE PLAN 1:1000

PROPOSED KENNEL FACILITY (PHASE 1) ON LOT 1415

32457 ALBANY HWY. MOUNT BARKER 6324 WA



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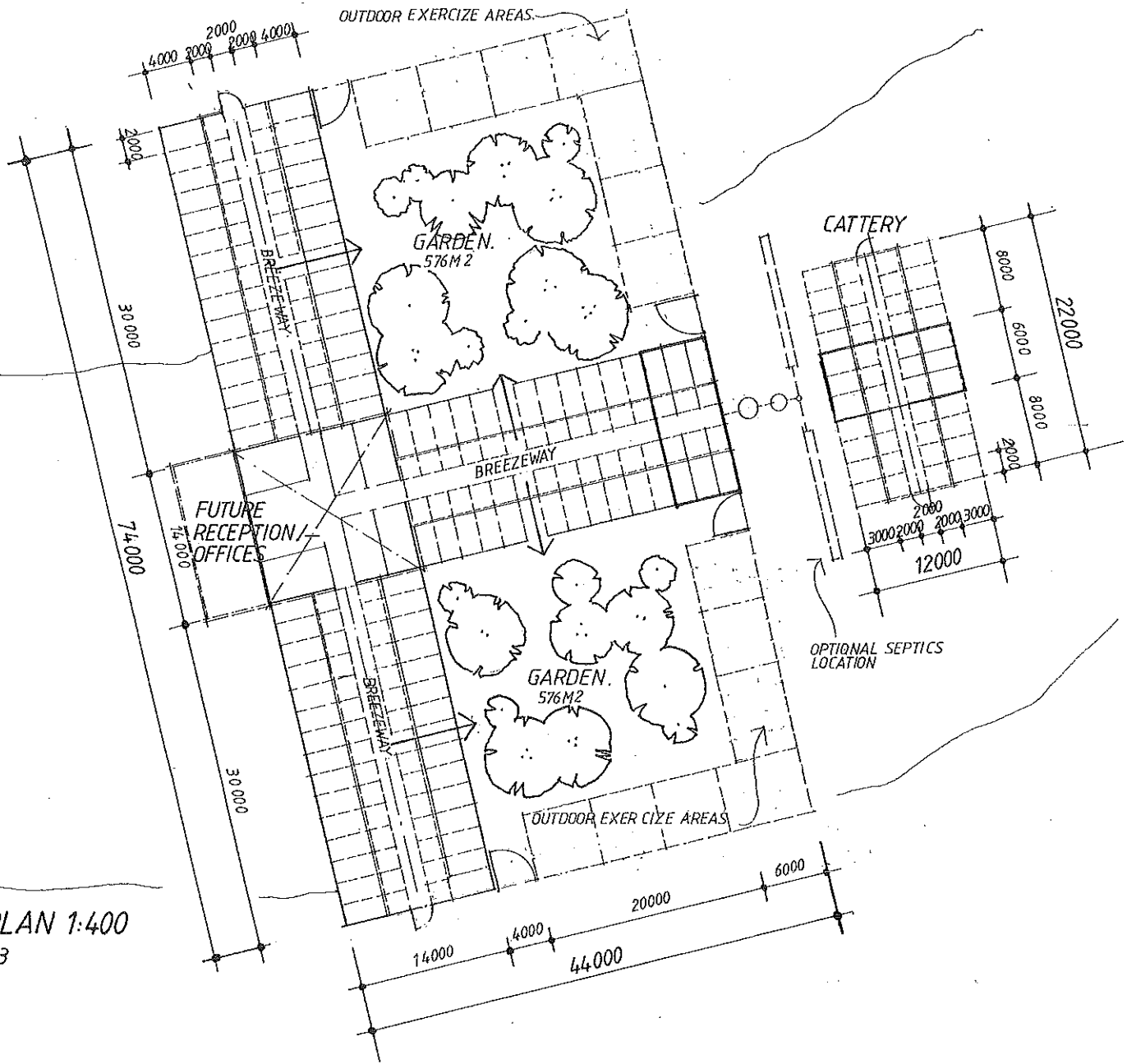
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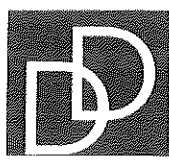
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OVERALL PLAN 1:400
STAGES 1, 2 & 3



PROPOSED KENNEL FACILITIES (ALL PHASES) ON LOT 1415

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D U E T D E S I G N

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3.	Department of Health PO Box 8172 Perth	<p>The DOH does not have specific comments provided the dog and cat kennels are maintained in a hygienic condition, the land is capable for onsite waste water disposal and is so designed and operated to prevent the build-up of animal wastes or odour sources. The on-site wastewater system servicing the development will require the approval of the DOH.</p>	<p>Noted.</p>
4.	Raeline Munday 32537 Albany Highway Mount Barker	<p>I live next door to the proposed dog and cat kennels at Lot 1415 Albany Highway. I live with my partner and our children; we understand that the area is zoned rural. But I have a few concerns about the proposal.</p> <ul style="list-style-type: none"> • One is the distance from our house to the kennels. • My biggest concern is 86 kennels, maybe it could be reduced to 20 or 40 and monitor for noise first. • How does the shire monitor the noise and how often? 	<p>The kennel locations are more than 480m from the house at Lot 1414 to the south.</p> <p>Condition of approval will reduce the number of dog runs to 30 and the number of cat runs to 20.</p> <p>Once a complaint is received.</p>

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5.	Department of Water PO Box 525 Albany	No objections.	Noted.

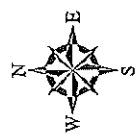
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Lot 305 Lowood Road, Mount Barker - Automotive
Panel Beating Spray-Painting

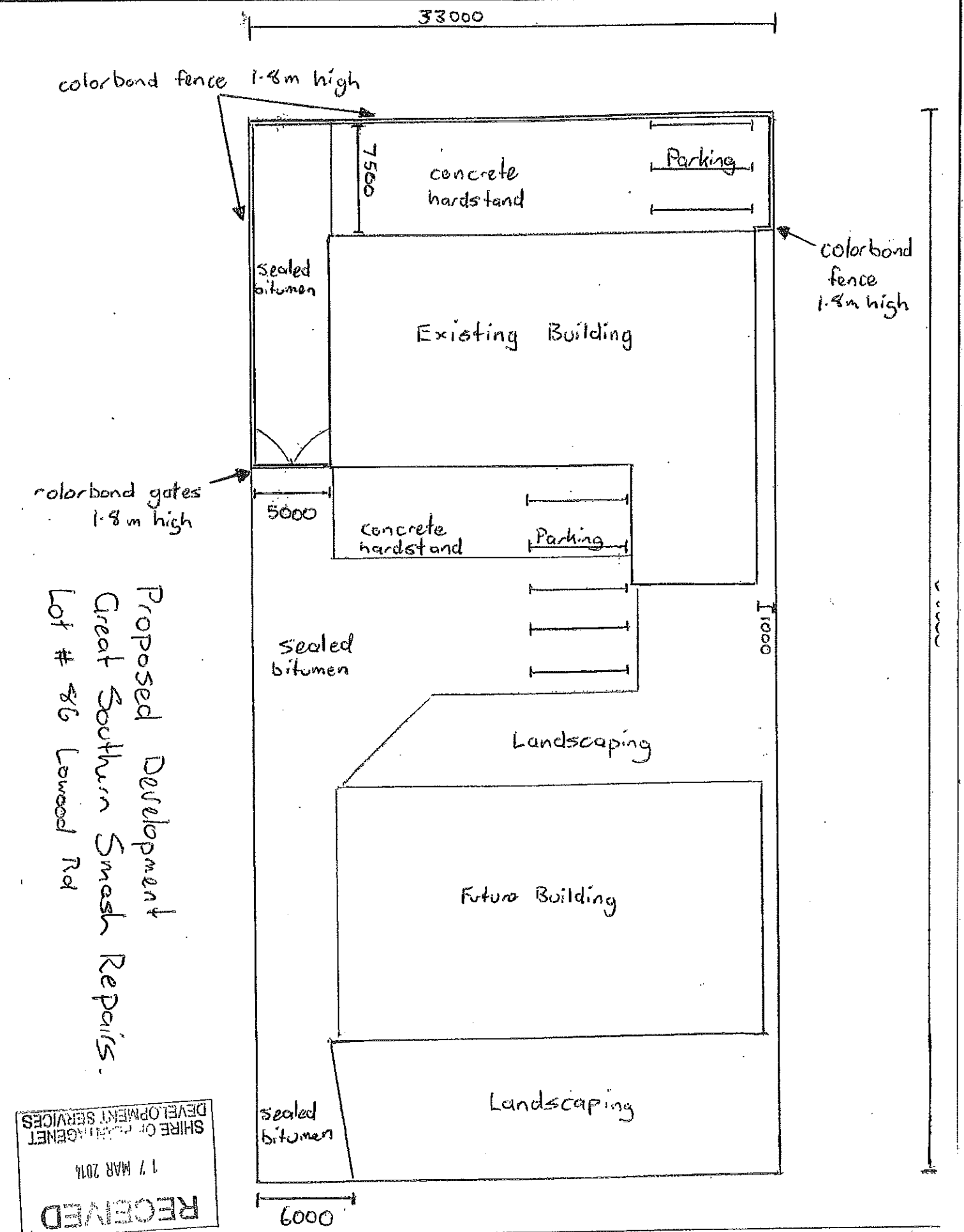
Location Plan
Site Plan
Floor Plan
Elevations
Landscape Plan
Summary of Submissions

Meeting Date: 24 June 2014

Number of Pages: 17



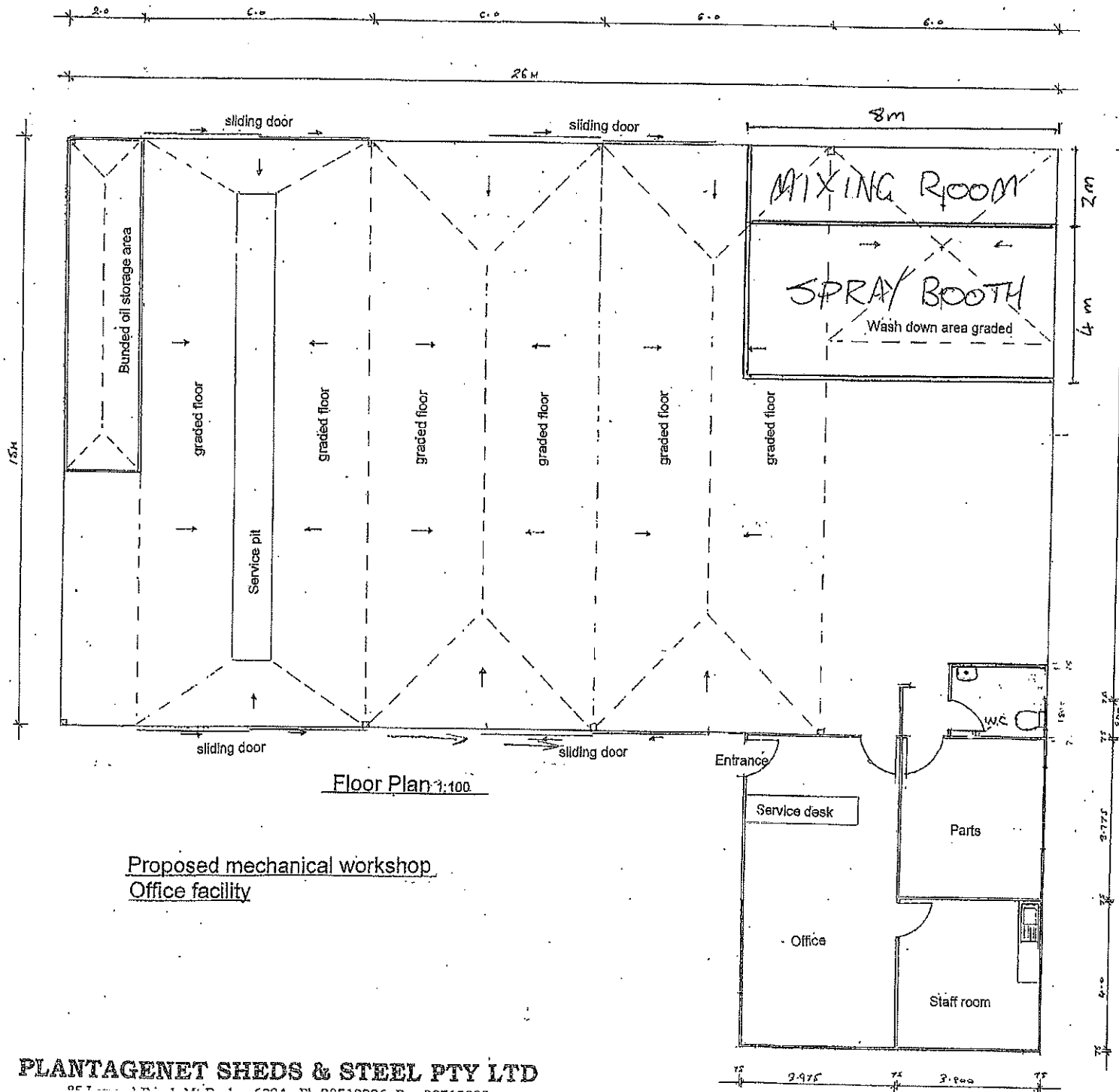
LOCATION PLAN



Proposed Development
 Great Southern Smash Repairs.
 Lot # 26 Lowood Rd

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 DEVELOPMENT SERVICES

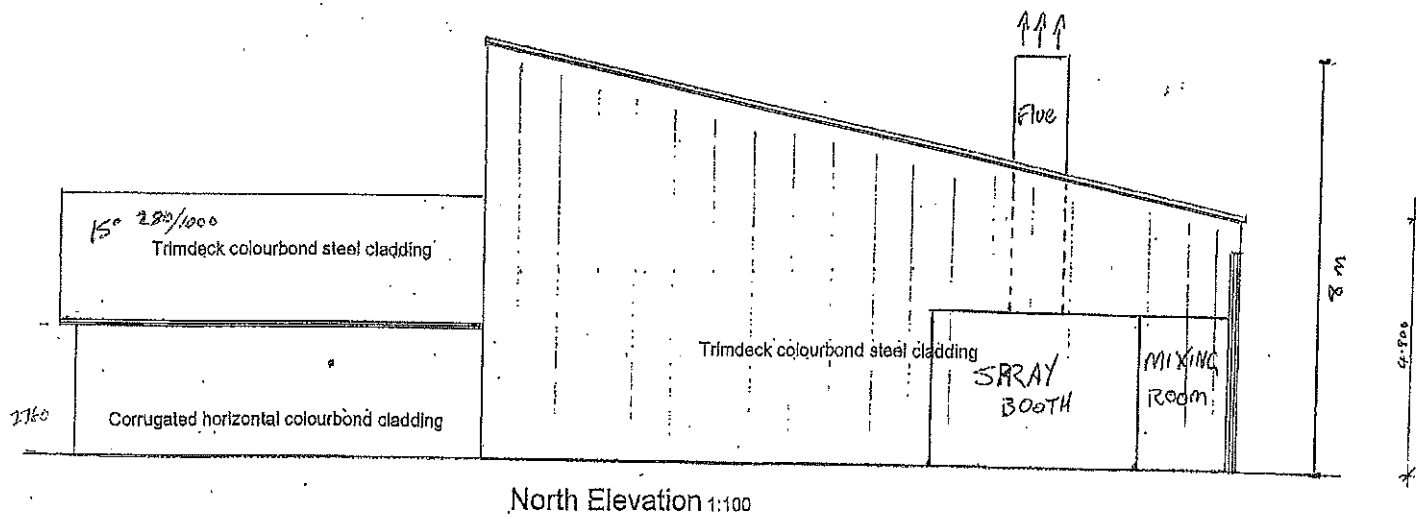
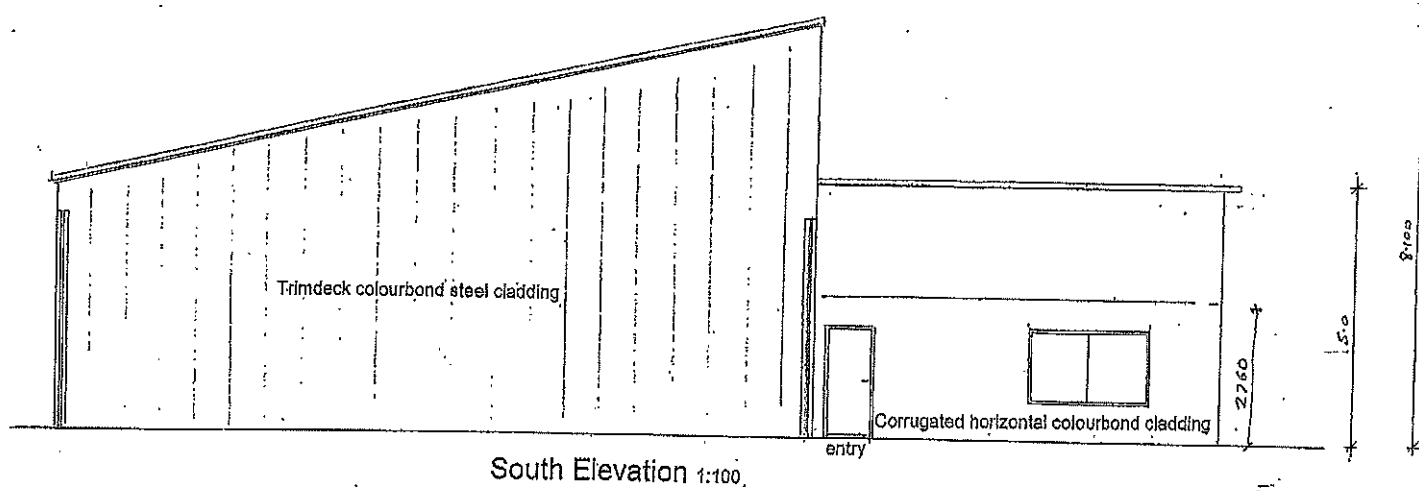
Lowood Rd 
SITE PLAN



FLOOR PLAN

Proposed mechanical workshop
Office facility

ELEVATIONS

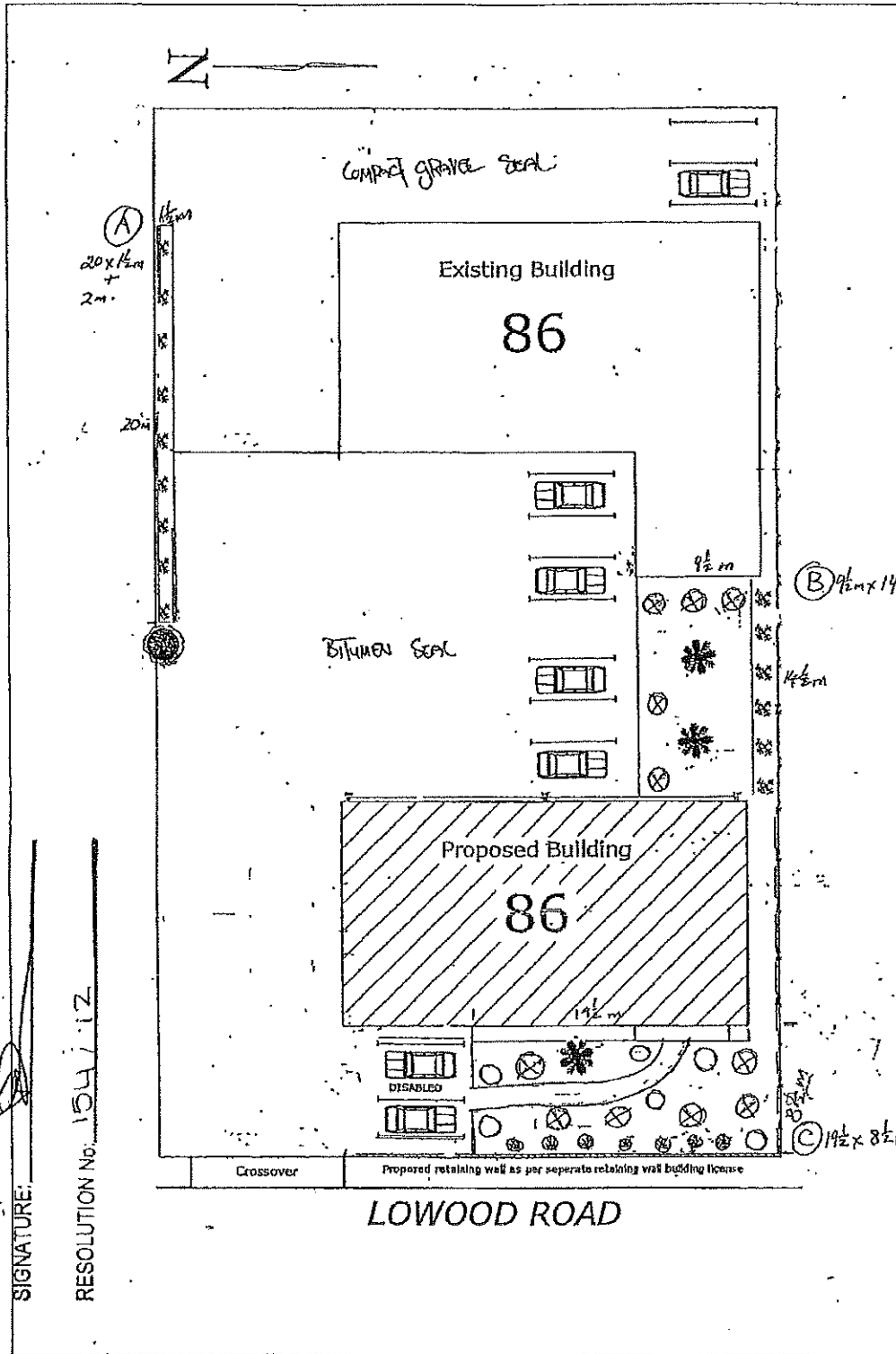


APPLICATION No: DA: 176/12

APPROVED ON: 24/07/12

SIGNATURE:

RESOLUTION No: 154/12



- A 20 x 1 1/2 m + 2 m 34 * Bottlebrush 2m high x 15
- B 9 1/2 x 14 1/2 m 137.75 ○ Eve. Lecoralya Rosea x 1
- C 19 1/2 x 8 1/2 m 165.75 * Deciduous tree x 3
- TOTAL AREA 337.50 ○ Flax x 6
- Grenthia Superb x 11
- Limelights x 7

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GARDEN C. will be planted to mirror the garden in front of Carol Willis.

Project
Proposed new warehouse and Showroom

Client
George and Sue Corke

LANDSCAPE PLAN

Summary of Submissions
Lot 305 Lowood Road, Mount Barker – Automotive Panel Beating Spray-painting

	Name/Address	Submission	Comment
1.	George Corke Lot 131 Ormond Road, Mount Barker	We have no objections to the proposed application, and we will undertake the works necessary to enable this application to be successful. These works include: 1. Fencing to the rear of premises; and 2. Complete planted landscaping to Lot 305.	Noted.
2.	Levi Corke 47 Mount Barker Road, Mount Barker	Thank you for informing me of the proposed application, as a residence within the area of the proposed automotive panel shop I have no objection to the proposal as there is already a large automotive panel shop on the corner Lowood Road and Montem Street and a previously operating automotive shop at the rear of the proposed site. Neither of these has affected us in the past. In fact I believe any encouragement for people to set up business in Mount Barker should be encouraged.	Noted.
3.	Department of Mines and Petroleum Mineral House 100 Plain Street East Perth	The Geological Survey of Western Australia (GSWA), on behalf of the Department of Mines and Petroleum (DMP) has reviewed the proposed regarding automotive panel beating and Lot 305 Lowood Road, Mount Barker with respect to the access and development of minerals and petroleum resources, geothermal energy and basic raw materials, and has no comment to make in this regard.	Noted.
4.	Water Corporation PO Box 100 Leederville	A water service is available to the lot. A sewer is not available. There are no issues or further comments.	Noted.
5.	Department of Water PO Box 525 Albany	The Department of Water advises that it has no objections to the proposed automotive panel beating premises at Lot 305 Lowood Rd, Mt Barker. However, the area where car detailing is to be carried out should contain any water run-off, and this water should not be allowed to enter into the stormwater system, and should be connected to the sewer system. The Department of Water advises that these types of planning referrals are generally of low interest to the department. Referrals of interest would include proposals that contain public drinking water source areas, waterways, wetlands on the site, or proposals that require stormwater management or advice on water supply or use.	1. The vehicle wash bay area is drained and partly sealed; a condition of PC will require the gravel area to be sealed and all gully traps to be fitted with grease traps. Noted.

6.	<p>Smithson Planning on behalf of Mr P Masson PO Box 5377 Albany 6330</p>	<p>Thank you for your letter dated 24 March 2014 addressed to Mr Peter Masson, providing notice of an application for planning consent in respect to an 'Automotive Panel Beating and Spraying Painting' business.</p> <p>Mr Masson is the registered landowner of Lot 314 Lowood Road, Mount Barker to the north and has engaged Smithson Planning to prepare his response in this matter.</p> <p>On behalf of our client, we respectfully request that the Shire of Plantagenet refuse the application for planning scheme consent for the reasons outlined below.</p> <p>The subject land is currently zoned 'Service Industrial' pursuant to the provision of Shire of Plantagenet Town Planning Scheme No. 3 (TPS3).</p> <p>Pursuant to TPS3 – Schedule 1 interpretations, an 'Automotive Panel Beating Spray Painting' land use means chassis reshaping, minor or major body repairs and the painting of motor vehicles by a spray process.</p> <p>Pursuant to TPS3 – Clause 3.2.2 relating to the zoning table, it is designated as an 'SA' land use, which means that the Council may, at its discretion, permit the use after Notice of Application has been given in accordance with Clause 6.2 of the scheme.</p> <p>As an observation and for the technical purposes of satisfying Clause 6.2, we would suggest that the plans submitted for advertising do not conform with Clause 6.1 of TPS3.</p> <p>Our client objects to the proposal on the following grounds:</p> <ol style="list-style-type: none"> 1. The intended land use is inconsistent with the orderly and proper planning of the locality. 	<p>Noted.</p> <p>2. The PC application conforms to clause 6.1 of TPS3. The application included the Schedule 6 PC form signed by the landowners and proponent. The proposal included the plans and supporting information requested by the Council. Both the application fee and advertising bond have been received.</p> <p>Disagree.</p>
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6.	(continued)	<p>2. The intended land use would be inconsistent with the Council's stated intentions under the Shire of Plantagenet Local Planning Strategy adopted and endorsed by the Western Australian Planning Commission in August 2013.</p> <p>3. The intended land use would be prohibited under the commercial zone as proposed in the Draft Town Planning Scheme Amendment #64 circulated on 07 February 2014 for comment to landowners.</p> <p>4. The intended land use fails to preserve the amenity of the locality.</p> <p>5. The intended land use will diminish the current and future value of adjoining land.</p> <p>6. The intended land use will diminish the current and potential future use and enjoyment of adjoining lands by virtue of increased hazard, traffic (parking, ingress & egress), and noise and vapour emissions.</p>	<p>3. The proposed use, subject to appropriate conditions, may be appropriate under the current Service Industrial zone. Approved uses could remain subject to the normal non-conforming use TPS3 requirements.</p> <p>4. Amendment 64 to TPS3 proposes to rezone various lots identified in LPS 2013 and TPS Policy No. 18.1 from Service Industrial to Commercial. However, the Council decided the land west of Lowood Road between Montem Street and Mondurup Street including Lot 305 will remain zoned Service Industrial in the short to medium term. Existing service industrial uses could remain subject to the non-conforming use TPS3 requirements.</p> <p>Noted.</p> <p>Not a planning consideration.</p> <p>5. Lot 305 is located in an area mainly bounded by service industrial land uses, commercial uses and an existing panel beating spray-painting use.</p>
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6.	(continued)	<p>7. The intended land use poses an unacceptable threat to the adjoining lands through storage of hazardous and noxious materials.</p> <p>8. The intended land use poses an unacceptable threat to the adjoining lands with the potential for fire and explosion of flammable materials.</p> <p>9. There is no authoritative risk assessment or acoustical report supporting the proponent's assertions that the proposed development will conform to the relevant environmental and workplace standards.</p> <p><u>Panel Beating & Spray Painting</u> With reference to the WorkSafe Western Australia Commission's legislation, the Occupational Safety and Health Act 1984, the Occupational Safety and Health Regulations 1996, the published guidance notes pertaining to panel beating and spray painting, and the attendant industry 'CODE OF PRACTICE SPRAY PAINTING'.</p> <p>Many substances encountered in spray painting are hazardous, and may include paints, solvents, dusts, powders, lacquers, paint removers, resins, adhesives, degreasers, surface preparation products, rust converters and rust removers. The employers' obligations include:</p> <ul style="list-style-type: none"> • Consultation with employees • Providing information and training to employees • Identifying the hazardous substances used or stored at the workplace • Assessing the risks from hazardous substances • Controlling the risks from hazardous substances • Arranging atmospheric monitoring and health surveillance where necessary; and • Record keeping. 	<p>6. Operations are required to conform to the Dangerous Goods Safety (Storage and Handling of Non-Explosives) Regulations 2007, Code of Practice Spray Painting Amended June 2009, Environmental Protection (Noise) Regulations 1997 and the Shire of Plantagenet Health Local Law 2008. It is compulsory for operations to conform to all relevant statutory requirements and industry standards.</p> <p>7. Risk assessment and acoustical report for workplace not required for PC application. See comment 6.</p>
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6.	(continued)	<p>The use of flammable materials in spray painting (eg. organic solvents), increases the risk of fire and explosion because of the amount of solvent vapour in the air. Spray painting mists spread and rapidly fill airspace, and may come into contact with many potential sources of ignition.</p> <p>There is attendant risk of fire or explosion from the following sources during spray painting:</p> <ul style="list-style-type: none"> • Electrical sparks and arcs generated by the discharge of static electricity from poorly earthed equipment • Electrical short-circuits • Naked flames, such as burner flames, welding or cutting torches, matches, cigarette lighters, heaters and burning material • Lit cigarettes and pipes • Portable, battery powered equipment (eg. radios, mobile phones) • Hot surfaces, such as operating internal combustion engines, frictional sparks, heated wires, glowing metals, overheated bearings and broken electric light bulbs that expose the hot filament • Equipment that produces sparks, such as abrasive grinding wheels • Catalytic reactions, for example peroxide hardeners • Products which can be self-heating or result in spontaneous combustion. <p>Employers must make sure that all substances in the workplace are correctly labelled, and that safety and health information including a Material Safety Data Sheet (MSDS), has been obtained from the supplier, manufacturer or importer. Employees' obligations include:</p> <ul style="list-style-type: none"> • Complying, as far as they are able, with all instructions given by their employer in accordance with relevant hazardous substances legislation • Reporting promptly to their employer anything that they become aware of that could affect the employer's compliance with relevant hazardous substances legislation. <p>Exposure to hazardous substances used in spray painting can have serious health effects. If exposure is not adequately controlled, long-term health effects can include:</p> <ul style="list-style-type: none"> • Occupational asthma • Allergic contact dermatitis • Lung cancer • 'Painter's syndrome', resulting from long-term exposure to organic solvents and affects the brain • Damage to the reproductive system • Kidney or liver damage. 	
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6.	(continued)	<p>Shorter term effects can include:</p> <ul style="list-style-type: none"> • Irritant contact dermatitis • Burns to the skin or eyes • Vomiting and diarrhoea • Irritation to the nose, throat and lungs • Headaches, dizziness, nausea and fatigue. <p>Spray painting equipment can be very noisy and if not controlled may result in suffering noise induced hearing loss. Noise affects concentration and makes communication difficult at noise levels well below the exposure standard.</p> <p>Sources of noise not associated with spray painting that are likely to affect persons at the workplace are sanding, grinding, welding, cutting and panel beating.</p> <p>Sources of noise associated with the spray painting process include pumps, compressors, and compressed air and spray booths. The National Code of Practice for Noise Management and Protection of Hearing at Work [NOHSC: 2009 (1993)] should be referred to for controlling noise emissions.</p> <p>Grinding and sanding of painted surfaces generates dust that can expose workers to hazardous concentrations of toxic substances such as lead, antimony, tributyltin oxide, nickel and hexavalent chromium. Sanding of polyurethane or epoxy paint that is not fully cured generates dust particles containing unreacted hardeners.</p> <p>We note the quality of the application and information presented in support of the proposal, and observe that there is no authoritative risk assessment or acoustical report forming part of the application.</p> <p>It is apparent that the proponent has some degree of industry knowledge, but those professional/trade credentials are not self-evident from the application.</p> <p>The choice of spray booth equipment, a Monarch Industries Ultra Finish 882 Mark 1, complies with Australian Standard (AS/NZS 4114.2 2003), but is not considered to represent 'state-of-the-art' industry performance.</p> <p>We register the specification of an air compressor to be "housed in the south-east corner of the building in a custom built sound proof room constructed from 75mm thick cool room panels (see site plan)" – and note that there is no such detail shown on any of the attached plans provided.</p> <p>Plantagenet Strategic Planning Vision</p> <p>From a strategic land use and planning perspective, the Shire of Plantagenet has developed 'TPS Policy 18 - Planning Vision 2010' and a 'Strategic Community Plan 2012-2022'.</p>	<p>8. Condition of PC will require noise reduction methods for compressor noise.</p>
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6.	(continued)	<p>The Shire of Plantagenet has also prepared a Draft Town Planning Scheme Amendment No.64 (corr. 07 Feb 2014) canvassing commercial redevelopment in the central business district of Mount Barker, which advocates rezoning the subject land and those adjoining to 'Commercial' from 'Service Industrial'.</p> <p>Even with the attendant development provisions of the Draft Local Planning Scheme text, the subject lands are still backing on to residential zoned and developed land at the rear of these properties (as shown in the aerial photo above) – therefore, the proposed use may well be in 'contact' with both living and working environments.</p> <p>On behalf of our client, we respectfully request that the Shire of Plantagenet refuse the application for planning scheme consent for the reasons nominated.</p>	<p>See comment 4.</p> <p>See comment 5.</p> <p>Noted.</p>
7.	Janet Barnden 19 Langton Road Mount Barker	<p>To approve this would not appear to be in keeping with Councils policy to encourage this type of business to be in the Industrial area on McDonald Avenue.</p> <p>As the business applying for this approval is already set up and operating from McDonald Avenue I feel allowing the move to Lowood Road is going against what Council is trying to achieve and is unfair on the business's that have moved to the Industrial area.</p>	See comment 3 at submission 6.
8.	Nathan Masson Mount Barker Smash Repair 73 Lowood Road Mount Barker	<p>I would like to express my disapproval for the proposal for the reasons as follows -</p> <ol style="list-style-type: none"> 1. Council seem to be moving in the direction that they would prefer Industrial type businesses to be located in the industrial area on McDonald Avenue rather than spread higgledy piggedly throughout the town centre. <p>This is highlighted by the upcoming proposed amendment to town planning scheme to rezone various properties within the town centre from service industrial to commercial.</p> <p>I believe the company seeking the application to operate at Lot 305 Lowood Road, Mount Barker is already located in the industrial area at McDonald Avenue, Mount Barker and I think this application, if approved, would send an inappropriate message to all the other industrial type businesses within the town, that Council is happy to have any type of business operate anywhere within the town centre, perhaps the pre existing concrete and trucking businesses etc on McDonald Avenue would also like to shift into the town centre.</p> <p>Also as we already have two panel beating businesses located within the town centre, being ourselves, Mount Barker Smash Repairs located on the corner of Lowood Road and Montem Street and G & T Restorations located on Marion Street, I think two of this type of business within the town centre is enough.</p> <ol style="list-style-type: none"> 2. Also for the uninitiated I would also like to shed some light on the facts surrounding so called 'water based paint' systems. 	See comment 4 at submission 6.

8.	(continued)	<p>Most of these paint systems which have been installed in workshops through out the country, sit in the corner gathering dust due mainly to them being notoriously difficult to use and excessive cost of material. Many have been installed to gain favour with local councils and to be able to obtain the so called 'green tick', but in truth all solid colours are applied with conventional pain systems, which means you can only apply water base to metallic type paintwork which is only about 50% of jobs undertaken.</p> <p>Also water base still requires a conventional primer to be applied, which contains solvent and hardener, (which in turn contains isocyanate a known carcinogen), then the water base paint is applied which is thinned by water rather than solvent, but you still have to seal the water base with a conventional clear coat, which contains solvents and hardener as well, so in all you may only save approximately 20% of solvent, as opposed to conventional methods.</p> <p>I would also like to add that our particular spray booth which is an Australian spray booth is one of the most environmentally friendly booths on the market today. The rear exhaust filtration system contains a water 'scrubber' which consists of three water curtains that filter out 95% of all paint contaminates before they enter the atmosphere. This being a far superior system than the old style glass fibre exhaust filter system.</p>	
9.	Nathan Masson 24 Mount Barker Road Mount Barker	<p>I would like to express my objection for the proposal for the reasons following -</p> <ol style="list-style-type: none"> 1. As most councillors would be aware, we were operating our Panel Beating business as a 'non conforming use', from the back of my residential block at 24 Mount Barker Road for many years. As we were 'non conforming uses', we were unable to expand or add anything to our work premises, and in keeping with councils objectives at the time, we were forced at great expense, to purchase an approved facility in the, at the time, correct zoned area. <p>I would find it most offensive for this application to be approved as we were unable to operate under conforming use where we were, yet if this application were to be approved, this business would be able to operate within conforming use a mere 2 metres over the boundary from our old premises.</p> <ol style="list-style-type: none"> 2. I also object to this proposal due to the impact of noise on my residential property, located directly behind, despite the applicants best efforts to make out that noise emissions would be very minimal in a modern day auto body repair business. I have been involved in the panel repair industry for 29 years and know for a fact this is not the case. 	<p>See comment 5 at submission 6.</p> <p>See comment 6 at submission 6.</p>
10.	Anonymous	<p>Having read through Mr Coleman's proposal I have the following concerns:</p> <ul style="list-style-type: none"> • Allowing a Panel Beating/Spray Painting business in an area currently under consideration for re-zoning to commercial, meaning said type of business would no longer be allowed to operate. 	<p>See comment 4 at submission 6.</p>

10.	(continued)	<ul style="list-style-type: none"> • The property currently has two adjacent residential properties and many more close by. • The property is on the main entrance to town, I feel businesses like this should be kept to an industrial area. • The residence on Lowood Road, next door to the proposed workshop, would surely be devalued by another industrial type business being able to operate next door. • Proposed workshop is only two properties away from Mount Barker Panel Beaters, a long standing business in town. • How will waste water, needed to clean and maintain a spray booth be contained. This waste water will be contaminated with solvents. • Lastly, dust extraction devices for sanding equipment do not contain 100% of dust. Such sanding equipment would be used to sand body fillers and primers. 	<p>See comment 5 at submission 6. Noted.</p> <p>Not a planning consideration.</p> <p>Noted.</p> <p>9. Wastewater to be diverted into existing on site effluent disposal system and grease traps to be fitted to all gully traps.</p> <p>10. All sanding operations to be carried out inside the workshop area.</p>
11.	Anonymous	<p>As a retired panel beater/spray painter with 35 years experience in the automotive repair industry I have seen a lot of changes. From acrylic lacquer to the modern 2 pack systems still in use today. 15 years ago I witnessed the rise and fall of the water based paints. That was a system designed primarily to appease the environmentalists and was a system that rapidly became the joke of the industry. I find it difficult to believe that Great Southern Smash Repairs actually plan to use this obsolete water based system. If the system is so good, why are they not already using it?</p> <p>Also, why is already established panel shop, operating in the shires industrial area, want to move into the main street of town that backs onto residential properties? It is an extremely noisy, dusty and without the correct spray booth, a toxic industry.</p> <p>From my experience I feel that unless an Australian made water scrubbing type of spray booth is used, then this sort of industry should be kept well away from residential areas. Failure to do so would quite possible leave the shire open to future litigation should residents get sick from the potentially carcinogenic isocyanate that unfiltered 2 pack paints produce.</p> <p>I am very sorry for wishing to remain anonymous, but as a recent arrival to the town I am well aware of the repercussions from speaking out in a small town.</p>	<p>See comments 3 and 5 at submission 6.</p>

12.	Anonymous	<p>I am writing this letter in regards to the application of 'Automotive Panel Beating at lot 305 Lowood Road, Mount Barker' and why I do not think this proposal should be accepted.</p> <p>As a Panel Beater/Spray Painter of nearly 25 years, and a long time local to our town of Mount Barker, I have a few concerns I would like to address in Mr Coleman's letter.</p> <p>Firstly, the use of water based paints. This is a topic that should be carefully looked into. Primers, other spray on fillers and clear coats are not a water based product. An issue I see Mr Coleman hasn't touched on. I would like to see every aspect of 'panel refinishing' and product use correctly address and made clear to the general public. The following is taken straight from the Occupational Safety and Health Act 1984 and Occupation Safety and Health Regulations 1996:</p> <p><i>'Category 2. Medium hazard includes any substance that contains organic solvents, or is a Dangerous Goods Class 3 product, that is not already included in Category 1. This can include water-based paints. Except for water, which is an inorganic solvent, the vast majority of solvents used at work or contained in workplace substances are organic. 'Organic solvents' covers a broad range of different substances, for example, toluene, xylene, methyl ethyl ketone, acetone, benzene, ethylene glycol derivatives, turpentine and white spirit. Their potential health effects vary, with some being more hazardous than others. Most of them are flammable. It should not be assumed that water-based paints and other water-based products are non-hazardous, because many contain organic solvents or other hazardous substances.'</i></p> <p>So simply saying use of the latest water-based product will be environmentally friendly, does make this statement truthful.</p> <p>Lastly, I would like to raise the issue about the rezoning of the property in question. I recent letters from the shire it is said that the property is to be rezoned commercial, a zoning that Automotive panel beating and Spray painting does not come under.</p> <p>With an already established Automotive spray-painting business less that 200mtrs away, I believe the town has nothing to gain from this proposal.</p>	<p>See comment 6 at submission 6.</p> <p>See comment 5 at submission 6.</p>
13.	Anonymous	<p>I am writing to state my disapproval regarding the application.</p> <p>Firstly I must apologise for remaining anonymous, but I seriously fear reprisals against myself and my family.</p> <p>I find it difficult to understand why the Shire if looking into rezoning the existing Lowood Road industrial area to a commercial zone, yet at the same time, is actually considering approval of yet another panel shop in the centre of town.</p>	<p>See comment 4 at submission 6.</p>

13.	(continued)	The existing panel shop is currently operating in a designated industrial area on McDonald Avenue, so I see no need whatsoever for the business to relocate its loud, unsightly and highly polluting business to the main street of Mount Barker.	Noted.
14.	Anonymous	<p>I am writing this letter in regards to a few safety concerns that has recently been brought to my attention.</p> <p>This would be regarding the business place of 'GSSR panel paint windscreen' at 598 McDonald Avenue, Mount Barker.</p> <p>Firstly the issue of the dividing wall between Mr Coleman's workspace, been used as a spray paint shop, and the adjoining building. This wall is required to go all the way to the top of the existing structure to create a firewall. In this case, it does not.</p> <p>Second, I have seen first hand Mr Coleman spray painting and using 2pak primer and paints outside of his spray booth, this is a health risk to those in the building and on the other side of the non complying firewall.</p> <p>Finally, in the Occupational Safety and Health Act 1984 and Occupational Safety and Health Regulations 1996 in the Worksafe WA Commission codes of practice for spray painting, it clearly states that all labels on and contained substances must be readable at all times. Something else Mr Coleman is failing to do.</p> <p>For the health and safety of our town I hope these issues and any others that I have not brought to your attention will be addressed soon.</p>	<p>11. Existing building at Lot 305 conforms to the Building Code of Australia for this type of building.</p> <p>12. Condition of PC will require all spraying applications to be carried out in the spray booth.</p> <p>Noted.</p>
15.	Department of Health PO Box 8172 Perth Business Centre	The DOH does not have specific comments except that the proponents consider appropriate treatment for odours and emissions to minimise potential discomfort to neighbouring premises. The proposal should comply with DER requirements related to spray painting and panel beating businesses.	Noted.

Council

Authority to Sign and Affix Common Seal – Licence
12101/1905_A4380438 Agreement Unallocated
Crown Reserve - Narrikup

Licence to Occupy Crown Land

Meeting Date: 24 June 2014

Number of Pages: 19

ORIGINAL



**Government of Western Australia
Department of Lands**

Licence to Occupy Crown Land

**Section 91 of the
*Land Administration Act 1997 (WA)***

Lic 12101/1905_A4380438

THIS DEED OF LICENCE is made on the day of 2014

BETWEEN

THE STATE OF WESTERN AUSTRALIA acting through the **MINISTER FOR LANDS**, a body corporate under the *Land Administration Act 1997*, care of the Department of Lands, 140 William Street, Perth, WA 6000 (**Licensor**)

AND

THE SHIRE OF PLANTAGENET (ABN 29 084 782 574) of 22-24 Lowood Road, Mount Barker, Western Australia 6324 (**Licensee**)

BACKGROUND

- A. The Licence Area is Crown land.
- B. The Licensor administers Crown land.
- C. The Licensee wishes to be able to access the Licence Area for the purposes of the Permitted Use.
- D. The Licensor is authorised by section 91 of the LAA to grant a licence of Crown land for any purpose.
- E. The Interest Holders have consented to the grant of a short term licence for the Term.
- F. Section 24LA in Subdivision L of the NTA deals with low impact future acts. The section provides that if specified criteria are met, the act is a valid future act and the non extinguishment principle applies to the act.
- G. The grant of the Licence by the Licensor is a low impact future act under section 24LA of the NTA.
- H. If an approved determination of native title is made after the date of this deed in relation to a part of the Licence Area and the determination is that native title exists then, to comply with the section 24LA of the NTA, the use of that part of the Licence Area must be discontinued and this deed provides that the Licence, in respect of the Licence Area affected by the determination, shall terminate on the date of the determination.
- I. The Licensor has agreed to grant to the Licensee the Licence for the Permitted Use in respect of the Licence Area on the terms and conditions set out in this deed.

OPERATIVE PART

The Parties covenant and agree on the matters set out above and as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS IN THE NTA

In this deed, terms used in clauses that refer to, or deal with, native title or the NTA that are given a meaning in the NTA and are not otherwise defined in clause 1.2, have the meaning given to them in the NTA.

1.2 OTHER DEFINITIONS

In this deed, the following terms have the following meaning:

Authorisation includes consents, authorisation, permit, licence, approval, agreement, certificate, authority or exemption from, by or with a Governmental Agency and all conditions attached to those authorisations.

Business Day means a day other than a Saturday, Sunday or Public Holiday in Western Australia.

Contamination is the state of being contaminated as that term is defined in the CSA.

CSA means the *Contaminated Sites Act 2003*.

Department means the department principally assisting the Minister in the administration of the LAA from time to time.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

GST has the meaning given in section 195-1 of the GST Act.

GST Act means a *New Tax System (Goods and Services Tax) Act 1999(Cth)*.

GST law has the meaning given in section 195-1 of the GST Act.

Interest Holder means the *{Pastoral Lessee – if licence is over pastoral lease then complete definitions of “Pastoral Lease” and Pastoral Lessee}* or any other person holding an interest (as defined in section 3 of the LAA) in the Licence Area.

LAA means the *Land Administration Act 1997*.

Law includes any requirement of any statute, regulation, proclamation, ordinance or by-law present or future whether State, Federal or otherwise.

Licence means the contractual rights granted to the Licensee under clause 2.1 (a) and the rights granted under this deed necessary for the exercise of the rights granted under clause 2.1(a).

Licence Area means the licence area specified in item 1 of the Schedule.

Licence Fee means the licence fee specified in item 5(a) of the Schedule.

Licensee's Agent means the agents, contractors, subcontractors and invitees of the Licensee.

Licensee's Property means the plant, equipment, machinery, materials and any other personal property brought onto the Licence Area by, or belonging to, the Licensee or a Licensee's Agent.

Minister means the Minister for Lands, a body corporate under section 7(1) of the LAA.

NTA means the *Native Title Act 1993 (Cth)*.

Parties mean the Licensor and the Licensee.

Party means the Licensor or the Licensee, as the case may be.

Permitted Use is the use specified in Item 6 of the Schedule.

Schedule means the Schedule to this deed.

Tax Invoice has the meaning given in section 195-1 of the GST Act.

Taxable Supply has the meaning given in section 195-1 of the GST Act.

Term means the term specified in item 2 of the Schedule subject to any earlier termination of the Licence under the terms of this deed before expiry of the Term.

1.3 INTERPRETATION

In this deed:

- (a) clause headings are for convenient reference only and shall have no effect in limiting or extending the language of the provisions to which they refer;
- (b) a reference to a clause, schedule or annexure is a reference to a clause of or schedule or annexure to the document in which the reference appears;
- (c) a reference to any Law includes consolidations, amendments, re-enactments or replacements of it;
- (d) a reference to the 'Licence Area' includes, as the context requires, any part of the Licence Area and a reference to a thing includes a part of that thing but without implying that part performance of an obligation is performance of the whole the singular includes the plural, the plural includes the singular and any gender includes each other gender;
- (e) if a period of time is specified and runs from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (f) the word 'person' includes a reference to the person's personal representatives, executors, administrators, successors and assigns and a reference to a corporation includes a reference to the corporations successors and assigns;
- (g) covenants by two or more persons shall be deemed joint and several;

- (h) a reference to the word “including” is deemed to be followed by the words “but not limited to”; and
- (i) all acts and things which the Licensor is required or empowered to do under this deed may be done by the Minister or the Minister's delegate appointed under section 9 of the LAA.

2. GRANT OF LICENCE

2.1 GRANT OF LICENCE

- (a) Subject to clause 2.2, the Licensor grants to the Licensee a non-exclusive right during the Term to enter upon and use the Licence Area, and to permit any of the Licensee's Agents to enter upon the Licence Area, for the purposes of the Permitted Use in accordance with the terms and conditions set out in this deed.
- (b) For the avoidance of doubt, the Licensee has a right under subclause (a) to, during the Term, grant a sub-licence to the Licensee's Agents to enter upon the Licence Area, for the purposes of the Permitted Use in accordance with and subject to the terms and conditions set out in this deed.

2.2 NO ESTATE OR INTEREST IN LAND

The Licensee acknowledges and agrees that:

- (a) The rights conferred by the Licence rest in contract only and do not create in, or confer upon, the Licensee any tenancy or any estate or interest in or over the Licence Area and the rights of the Licensee will be those of a licensee only and will end on expiry of the Term or earlier termination of the Licence.
- (b) This Licence confers no right of exclusive occupation of the Licence Area upon the Licensee;
- (c) The Licensor may, at any time and at all times from time to time, exercise all the Licensor's rights as licensor including the Licensor's rights to:
 - (i) grant other interests, licences or rights to other persons in respect of the Licence Area for similar purposes to the Permitted Use or other purposes; or
 - (ii) use possess and enjoy the whole or any part of the Licence Area,save only in so far as such rights shall not unreasonably prevent the operation of the rights granted to the Licensee under the Licence or the rights of any other Interests Holder.
- (d) The grant of the Licence does not and is not intended to affect native title in the Licence Area, with the intent that the non-extinguishment principle applies.

2.3 APPROVED DETERMINATION OF NATIVE TITLE

Notwithstanding any other provision of this deed providing for the expiration or termination of the Licence, the Parties agree that:

- (a) if an approved determination of native title is made after the date of this deed in relation to a part of the Licence Area (**determined area**), and if such determination is that native title exists, the Licence shall terminate on the date of the determination in respect of the determined area even if neither Party has given or received notice of the determination;
- (b) the Licensee shall vacate and give up possession of the determined area to the Licensor in accordance with clause 8 as soon as reasonably practicable after becoming aware of the determination;
- (c) termination of the Licence under this clause does not give the Licensee any right to damages or compensation; and
- (d) termination of the Licence under this clause does not affect any rights or obligations that are expressed to survive expiry or earlier termination of the Licence and is without prejudice to the rights of the Licensor in respect of any antecedent breach of the terms or conditions contained or implied in this deed by the Licensee or the Licensee's Agents.

3. USE, TERM AND LICENCE FEE

3.1 USE OF LICENCE AREA

- (a) The Licensee may only use, or permit to be used, the Licence Area for the Permitted Use during the Term and otherwise in accordance with the provisions of this deed.
- (b) The Licensee is responsible and liable for all acts or omissions of the Licensee's Agents on the Licence Area and for any breach by them of any covenants or terms in this deed required to be performed or complied with by the Licensee.

3.2 LICENCE FEE

The Licensee must pay the Licence Fee to the Department, at the times and in the manner specified in item 5 of the Schedule.

4. LICENSEE'S COVENANTS

- (a) In carrying out activities permitted by the Permitted Use or in otherwise exercising its rights under this deed, the Licensee covenants with the Licensor that the Licensee and the Licensee's Agents:
 - (i) will not affix any Licensee's Property to any part of the Licence Area;
 - (ii) in addition to what is provided in subclause (a)(i), will not construct or place, or permit to be constructed or placed, on the Licence Area any building, structure (temporary or otherwise) or other thing that is a fixture;

- (iii) will not construct, or permit to be constructed, any fence or gate on the Licence Area without the prior approval of the Licensor;
 - (iv) subject to subclause (b), will not excavate or clear any part of the Licence Area or permit any excavation or clearing of the Licence Area;
 - (v) will not mine or permit any mining of any part of the Licence Area;
 - (vi) will not dispose or store on the Licence Area or permit the disposal or storage on the Licence Area, of any garbage, poisonous, toxic or hazardous substance;
 - (vii) will not cause or permit any damage to the Licence Area or areas adjoining the Licence Area;
 - (viii) will pay all rates, taxes, charges, assessments and other outgoings, if any, payable by the Licensee in respect of, or use of, the Licence Area;
 - (ix) will in its use of the Licence Area, co-operate with the Interest Holders and any other authorised users of the Licence Area and not remove, alter or interfere with any property of any of those persons without their written permission;
 - (x) will not cause or permit any Contamination to occur in, on or under the Licence Area or to areas adjoining the Licence Area and if any Contamination is caused by the Licensee or the Licensee's Agents, the Licensee must give notice of it as soon as practicable to the Licensor and minimise and remediate any resultant damage and harm to the reasonable satisfaction of the Licensor;
 - (xi) will in its use of the Licence Area take all steps necessary to keep it safe and free from hazard to any property or person on or using the Licence Area;
 - (xii) will punctually comply with and observe:
 - (A) all notices and directions given by the Licensor; and
 - (B) the requirements of other Governmental Agencies and all relevant Laws;
 - (xiii) will obtain, keep current, and comply with, all Authorisations required under any Law to use the Licence Area for anything permitted by the Permitted Use;
 - (xiv) will repair or remedy any damage caused or permitted by the Licensee or the Licensee's Agents (even if caused by a breach of this deed), to the Licence Area or areas adjoining the Licence Area; and
 - (xv) will, and will ensure that the Licensee's Agents, remain on the developed tracks when coming to and from the Licence Area by vehicle.
- (b) Subclause (a)(iv) does not apply to:

- (i) excavation or clearing that is reasonably necessary for the protection of public health or public safety; or
- (ii) tree lopping, clearing of noxious or introduced animal or plant species, regeneration or environmental assessment or protection activities, as relevant to the activities permitted by the Permitted Use and subject to compliance with subclause (a)(xii) and (xiii).

5. RISK, INDEMNITY AND RELEASE

5.1 RISK

The Licensee:

- (a) acknowledges that all Licensee's Property brought onto the Licence Area is at its sole risk and responsibility at all times and entry onto and use of the Licence Area by it or any Licensee's Agent is at its sole risk; and
- (b) acknowledges that the Licensor accepts no responsibility or liability for use of the Licence Area by the Licensee or a Licensee's Agent nor for any loss or damage to the Licensee's Property that is brought onto the Licence Area.

5.2 INDEMNITY AND RELEASE

- (a) The Licensee hereby releases and indemnifies and agrees to keep released and indemnified the Licensor, the State, the Crown, all Ministers of the Crown, and all officers, employees, agents contractors invitees and licensees of any of them (the **Indemnified Parties**) from and against all claims, demands, actions, suits, proceedings, judgments, damages, costs, charges, expenses (including legal costs of defending or settling any action, claim or proceeding) and losses of any nature whatsoever whether based in contract, tort or statute or any combination thereof which the Indemnified Parties (or any of them) may suffer or incur or which may at any time be brought maintained or made against them (or any of them) in respect of or in connection with:
 - (i) any destruction, loss (including loss of use), injury or damage of any nature or kind of or to property of any person whether or not on the Licence Area and including the property of:
 - (A) any of the Indemnified Parties or an Interest Holder; or
 - (B) the Licensee or the Licensee's Agents; and
 - (ii) the death of, or injury or illness sustained by, any person including:
 - (A) the Indemnified Parties or an Interest Holder; or
 - (B) the Licensee or the Licensee's Agents,directly or indirectly caused by, arising out of, or in connection with:

- (iii) the Licensee's or Licensee's Agents use or enjoyment of the Licence Area or any part of the Licence Area pursuant to the terms of this deed;
 - (iv) any works carried out by or on behalf of the Licensee or the Licensee's Agents under this deed;
 - (v) any Contamination or environmental harm caused or contributed to by the Licensee or the Licensee's Agents of the Licence Area or areas adjoining the Licence Area;
 - (vi) any default by the Licensee in the due and punctual performance, observance and compliance with any of the Licensee's covenants or obligations under this deed; or
 - (vii) any other act, neglect, default or omission by the Licensee or the Licensee's Agents.
- (b) The obligations of the Licensee under this clause:
- (i) are unaffected by the obligation of the Licensee to take out insurance and the obligations of the Licensee to indemnify are paramount; and
 - (ii) continue after the expiration of the Term or earlier termination of the Licence.

6. TERMINATION OF LICENCE

6.1 DEFAULT

The Licence and the rights granted to the Licensee pursuant to this deed, may be terminated by the Licensor by notice (**termination notice**) to the Licensee upon the Licensee breaching or failing to comply with any of the covenants, conditions or terms on the Licensee's part expressed or implied in this deed to be complied with by it and the Licence will terminate on expiry of the period specified in the termination notice.

6.2 NO COMPENSATION AND ACCRUED RIGHTS

- (a) No compensation or money is payable to, or recoverable by, the Licensee from the Licensor for termination of the Licence under this clause 6.
- (b) Any termination of the Licence under this clause 6:
 - (i) does not affect any rights and obligations that are expressed in this deed to survive expiry or earlier termination of the Licence; and
 - (ii) is without prejudice to the rights of the Licensor in respect of any antecedent breach of the terms, covenants or conditions contained or implied in this deed by the Licensee.

7. LICENSOR'S RIGHT TO ENTER AND TO REMEDY

If the Licensee has breached or failed to observe any of the terms of this deed on its part contained or implied in this deed, without affecting its other rights under this deed, the Licensor may (but is not obliged to) remedy the breach and all debts costs and expenses incurred by the Licensor, including legal costs and expenses, in remedying a default is a debt due to the Licensor, and must be paid by the Licensee to the Licensor on demand.

8. REMOVAL OF PROPERTY ON EXPIRY OR TERMINATION**8.1 OBLIGATION TO REMOVE PROPERTY AND RESTORE**

- (a) The Licensee must upon the expiration of the Term or earlier termination of the Licence vacate and give up possession of the Licence Area to the Licensor and, in doing so, must by the end of the Term or within 7 days after the earlier termination of the Licence:
- (i) remove all of the Licensee's Property from the Licence Area, to the Licensor's absolute satisfaction;
 - (ii) reinstate the Licence Area to the state and condition in which it was at the Date of Commencement;
 - (iii) promptly make good to the satisfaction of the Licensor any damage caused by the removal of the Licensee's Property referred to in sub-clause (a)(i) to the Licensor's satisfaction; and
 - (iv) remediate any Contamination or environmental harm to the Licence Area or areas adjoining the Licence Area caused by the Licensee or the Licensee's Agents.
- (b) The Licensee's obligations under:
- (i) sub-clauses (a)(iii) and (iv) apply whether or not the thing to be made good or remediated was originally done in breach of this deed and is not to be taken to authorise the carrying out of acts that would not be valid under section 24LA (b)(iv), (vi) or (vii) of the NTA; and
 - (ii) subclause (a) survive the expiration of the Term or earlier termination of the Licence.

8.2 FAILURE TO REMOVE

If the Licensee's Property is not removed in accordance with clause 8.1, its presence on the Licence Area after the expiry of the relevant period referred to in clause 8.1(a) shall no longer be authorised by this deed and:

- (a) the Minister may treat any structure forming part of the Licensee's Property as an alleged unauthorised structure under section 270 of the LAA and take action under that section accordingly;

- (b) the Minister may, but is not obliged to, remove the Licensee's Property from the Licence Area, may store it at the Licensee's expense, and may make good any damage caused by that removal, and may reinstate the Licence Area to the condition provided for in clause 8.1(a)(ii); and
- (c) any costs incurred by the Minister in doing any matter under sub-clause (b) or section 270 of the LAA, are a debt due by the Licensee to the Licensor and may be recovered in a Court of competent jurisdiction.

9. NO ASSIGNMENT

The rights granted by the Licence are for the benefit of the party named as "Licensee" in this deed and may not be assigned.

10. GENERAL PROVISIONS

10.1 DUTY

The Licensee shall be liable for any duty that is assessed and payable on this deed under the *Duties Act 2008 (WA)*.

10.2 NOTICES

- (a) Any notice that must or may be served under or pursuant to this deed may be signed by the Party giving the notice or by any solicitor or duly appointed representative of the Party giving the notice, and will be sufficiently served on the other Party if:
 - (i) given personally to the other Party; or
 - (ii) left at the address or forwarded to the Party by prepaid registered post to the address specified on page 1 of this deed or otherwise notified in writing by a Party to the other from time to time; or
 - (iii) sent by facsimile transmission to the facsimile number specified for a Party in Item 7 of the Schedule.
- (b) A notice given by facsimile transmission is deemed to have been given on the date on which the facsimile transmission report of the machine from which it was sent, shows that it was successfully transmitted in its entirety.
- (c) A notice sent by prepaid registered post will be deemed to have been served on the addressee three (3) Business Days after the date of posting.

10.3 EFFECT OF WAIVER

No consent or waiver express or implied by the Licensor or its officers, servants, agents, contractors or any of them, to or of any breach of any covenants conditions or stipulations of the Licensee will be construed as a consent or waiver to or of any other breach of the same or any other covenants conditions or stipulations contained or implied in this deed.

10.4 GOVERNING LAW

- (a) This deed shall be construed and interpreted in accordance with the laws in force in the State of Western Australia.
- (b) The Parties submit to the non-exclusive jurisdiction of the Courts of Western Australia.

10.5 VARIATION

This deed cannot be altered or varied by the Parties except by deed.

10.6 FLOODING

Without limiting any other clause in this deed, compensation will not be payable by the Licensor to the Licensee for any loss or damage to any person or property of the Licensor, Licensee or Licensee's Agents whatsoever caused by flooding of the Licence Area.

11. GOODS AND SERVICES TAX

11.1 LICENCE FEE EXCLUSIVE OF GST

The Licence Fee and any other amounts payable by the Licensee to the Licensor, under this Licence, are exclusive of GST.

11.2 LICENSEE TO PAY GST

The Licensee must pay additional to the Licence Fee and any other amounts payable by the Licensee, any GST payable by the Licensor in respect of a Taxable Supply made under this Licence.

11.3 VARIATION OF GST

Where GST is payable, the amount payable will be the amount specified in the Schedule to this Licence, until varied from time to time consequent upon each review of Licence Fee in accordance with this Licence.

11.4 TAX INVOICE

Where GST is payable, the Licensor will provide to the Licensee, a Tax Invoice in the format and form required as set out in the GST law.

11.5 NOTIFICATION IS CONCLUSIVE

A written notification given to the Licensee by the Licensor of the amount of GST that the Licensor is liable to pay on a Taxable Supply made or to be made under this Licence is conclusive between the Parties except in the case of an obvious error.

11.6 TIME FOR PAYMENT

The Licensee must pay to the Licensor the amount of the GST that the Licensee is liable to pay under this Licence:

- (a) at the same time; and
- (b) in the same manner,

as the Licensee is obliged to pay for the Taxable Supply.

SCHEDULE

ITEM	TERM	DEFINITION
1.	Licence Area	Unallocated Crown Land, Narrikup, outlined red on the attached plan (Annexure 'A')
2.	Term	Five (5) Years
3.	Commencement Date	1 May 2014
4.	Expiry Date	30 April 2019
5.	(a) Licence Fee (b) GST Amount (c) Payment Date	\$1.00 \$0.10 Upon execution of the document
6.	Permitted Use	(a) Rehabilitate Unallocated Crown Land outlined red on the attached plan (Annexure 'A'); and (b) Revegetate the Unallocated Crown Land with seeds previously collected as per the attached list (Annexure 'B').
7.	Licensee's Address for Service of Notices	Chief Executive Officer Shire of Plantagenet 22-24 Lowood Road Mount Barker WA 6330
	Licensee's Facsimile No:	9892 1100
8.	Licensor's Address for Service of Notices	Minister for Lands C/- Department of Lands Regional and Metropolitan Services 140 William Street Perth WA 6000
9.	Insurance	\$10 Million
10.	Further Term	Five (5) Years

EXECUTED AS A DEED on the date set out on page 3 at the commencement of the Licence.

SIGNED for and on behalf of the **MINISTER FOR LANDS**, by an authorised Officer for and on behalf of the Minister for Lands by delegation under Section 9 of the *Land Administration Act 1997 (WA)*, by

.....
as its duly authorised delegate in the presence of:

.....
Signature of Witness

.....
Name of Witness

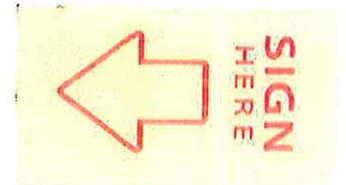
The **COMMON SEAL of the SHIRE OF PLANTAGENET** was hereunto Affixed by Authority of a resolution of the Council in the presence of:

.....
Authorised Officer (Chief Executive Officer)

.....
Signature and Print Name of Witness

.....
Address of Witness

.....
Occupation of Witness



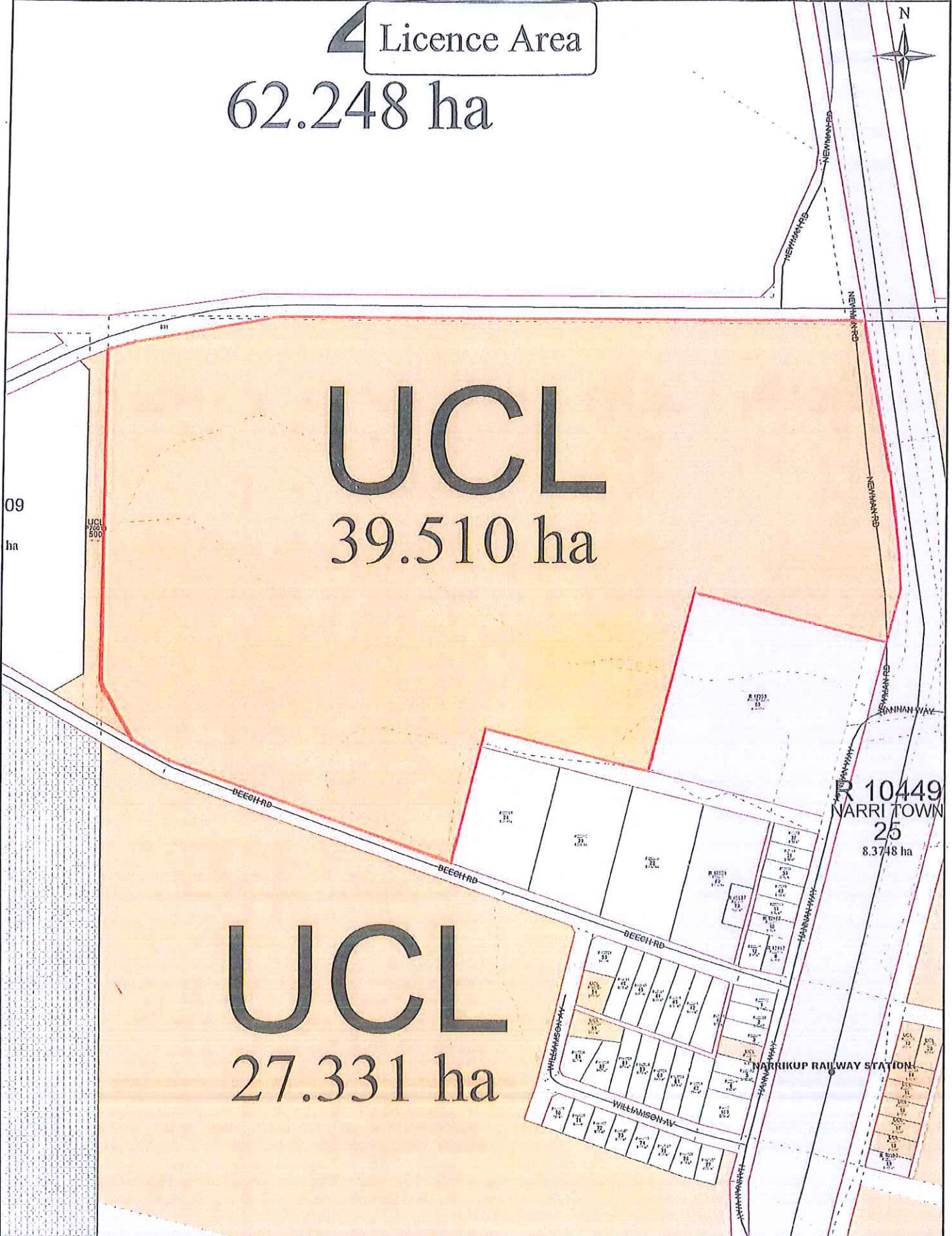
ANNEXURE A

Licence Area

62.248 ha

UCL
39.510 ha

UCL
27.331 ha



Scale : 1:5000 (MGA)
MGA : SW=563411,6151628.215 Zone 50 / NE=564460.091,6152984.545 Zone 50
Lat/Long : -34°46'31.986", 117°41'34.834" / -34°45'47.720", 117°42'15.733" H 271mm by W 210mm

Printed : 16:13 Wed 8/May/2013
© Western Australian Land Information Authority 2013

This product is for information purposes only and is not guaranteed. The information may be out of date and should not be relied upon without further verification from the original documents. Where the information is being used for legal purposes then the original documents must be searched for all legal requirements.

ANNEXURE B

Acacia	Baxteri	common
	Biflora	common
	Browniana/Browniana	common
	Extensa	some
	Luteola	common
Adenanthos	Mytifolia/Angustifolia	some
	Obovatus	some
Agonis	Hypericifolia	common
Allocasuarina	Humilis	common
	Frazeriana	some
Andersonia	Caerulea	common
	Simplex	some
Banksia	Gardneri	common
	Grandis	some
	Sphaerocarpa	some
Bossiaea	Oranta	common
	Linophylla	some
Corymbia	Calophylla	common
Dasypogon	Bromelifolius	some
Eucalyptus	Marginata	common
	Staeri	some
Gompholobium	Confertum	common
	Knightsianum	common
	Venustum	common
Grevilla	Depauperata	some
	Fascicularis	common
	Pulchella	common
Isopogon	Attenuatus	some
	Formosus	common
Hakea	Amplexicaulis	common
	Ceratophylla	some
	Corymbosa	some
	Ferruginea	common
	Sulcata	some
	Trifurcata	common
	Undulata	some
Hovea	Chorizemifolia	common
	Trisperma	common
Johnsonia	Lupulina?	some
Kennedia	Coccinea	common
Kingia	Australis	some
Leucopogon	Gibbosus	common
	Verticillatus	common
Lysinema	Ciliatum	common
Melaleuca	Thymoides	common

Mesomelaena	Tetragona	common
Nuytsia	Floribunda	some
Persoonia	Elliptica	some
	Longifolia	some
Taxandria	Linearifolia	some
	Parviceps	some
Tremula	Tremulus	common
Synaphea	Polymorpha	some
Xanthorrhoea	Platyphylla	common

Council

Annual Firebreak and Fire Hazard Reduction Notice
2014/2015

Firebreak and Fire Hazard Notice

Meeting Date: 24 June 2014

Number of Pages: 17

Bush Fires Act 1954



**ANNUAL FIREBREAK AND FIRE HAZARD
REDUCTION NOTICE 2014 / 2015**



**FIRST AND FINAL NOTICE IS HEREBY
SERVED TO ALL OWNERS AND
OCCUPIERS**

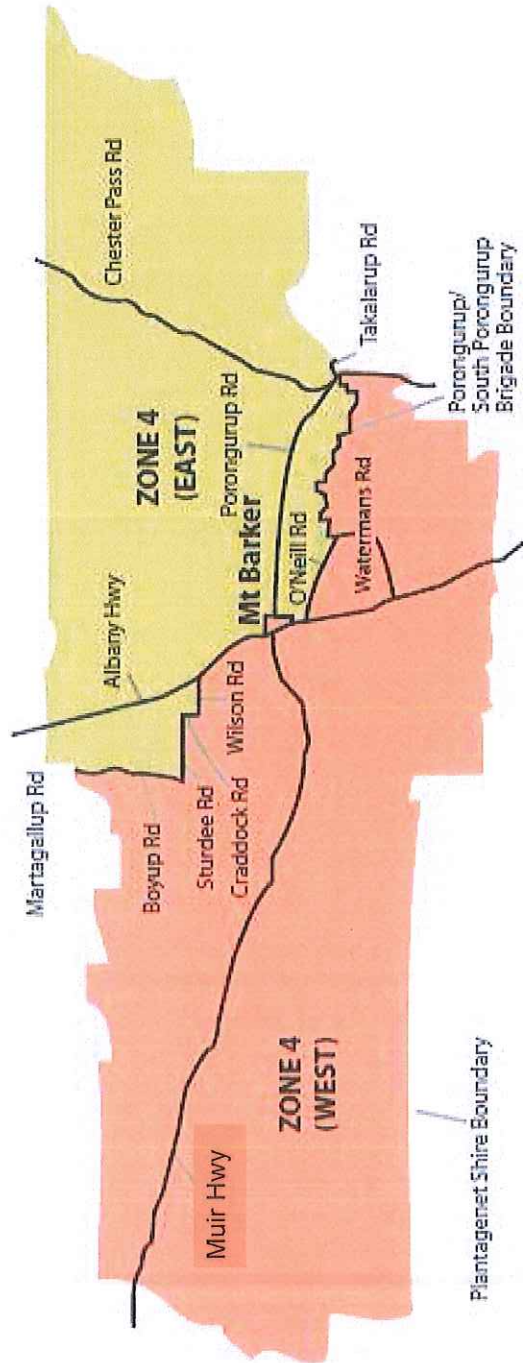
**Failure to comply with this Notice may
result in a fine of up to \$5,000.00**

**FIRE PREVENTION IS YOUR
RESPONSIBILITY**

FOR EMERGENCIES DIAL 000

**For current information relating to harvest and
vehicle movement bans or restricted and
prohibited burning times, phone 9892 1102**

SHIRE OF PLANTAGENET ZONES



IMPORTANT INFORMATION AND DATES

ZONE 4 EAST

Restricted: 3 October - 14 November

Prohibited: 15 November - 28 February
and Good Friday

Restricted: 1 March - 30 April

FIREBREAKS AND FIRE HAZARD REDUCTION DEADLINES

15 November - 30 April

ZONE 4 WEST

Restricted: 2 November - 14 December

Prohibited: 15 December - 28 February
and Good Friday

Restricted: 1 March - 30 April

FIREBREAKS AND FIRE HAZARD REDUCTION DEADLINES

1 December - 30 April

*These dates may vary due to climatic
conditions - for current information please
phone 9892 1102.*

CAMPING AND COOKING FIRES

Camping and cooking fires are prohibited from
3 October until 30 April annually.

HARVEST BAN

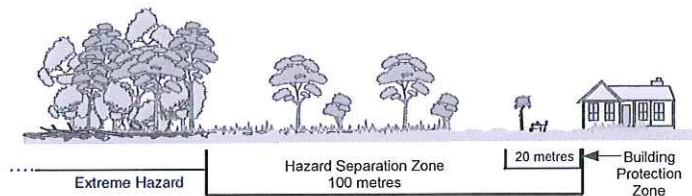
A Shire wide harvest ban applies on Christmas Day.

GLOSSARY

BUILDING PROTECTION ZONE: is a low fuel area immediately surrounding a building and is designed to minimise the likelihood of flame contact with buildings. It must fulfil the following conditions:

- A minimum width of 20 metres around all homesteads and buildings on all semi rural and rural land;
- A minimum width of 20 metres around all habitable buildings in townsites, settlements and urban subdivisions;
- Bush fire fuels to be maintained below 100mm in height;
- Trees and branches which overhang a building must be removed; and
- Lower branches of any remaining trees must be trimmed.

HAZARD SEPARATION ZONE: is a low fuel area which must be provided to create a minimum separation distance of 100 metres between buildings and hazards and must be maintained in a low fuel state.



Compliant fuel load



Non-compliant fuel load

GLOSSARY

FIREBREAK: is an area free of inflammable material.

BOUNDARY FIREBREAK: is a firebreak which must be placed within 100 metres of the property boundary on rural properties over one hectare and within 10 metres of the property boundary on bush blocks less than one hectare.



Compliant firebreak



Non-compliant firebreak

FIREBREAK VARIATION: A firebreak variation may be granted if barriers on the property prevent the installation of firebreaks. Please contact the Shire of Plantagenet for further information.

HARVEST BAN: Any operation of machinery involved in harvesting seed crops / timber and / or any other produce **MUST** come to a complete stop in paddocks when a ban is in place.

VEHICLE MOVEMENT BAN (includes operation of internal combustion engines): No vehicles or internal combustion engines are to be driven / operated unless on a constructed, gazetted road and / or front entrance of property residences when the ban is in place. Hot work such as welding or grinding is not to be undertaken in open air.

TOTAL FIRE BAN: A total fire ban (TFB) is declared by the Minister for Emergency Services on advice from the Department of Fire and Emergency Services (DFES). When a TFB is declared it prohibits the lighting of any fires in the open air and any other activities that may start a fire.

The ban includes all open fires for the purpose of cooking or camping and the use of incinerators, welding, grinding, soldering or gas cutting. There are also limitations on agricultural activities that may occur during a TFB.

GLOSSARY

For a detailed outline of TFB requirements and regulations, refer to the DFES website www.dfes.wa.gov.au.

FIRE PERMITS: During the restricted burning time, fire permits are required. A permit can be obtained from the Fire Control Officer (FCO) for your area. A permit must be obtained before burning commences (the permit holder must be in possession of the permit during the burn) and any special conditions imposed by the FCO when issuing the permit must be strictly adhered to. A list of FCOs is available on the Shire website: www.plantagenet.wa.gov.au.

SHIRE OF PLANTAGENET ZONES: The Shire of Plantagenet is divided into two bush fire control areas, Zone 4 West and Zone 4 East. The boundary between these two bush fire control areas is shown on the map on page 2. For a more detailed description of the boundary between Zone 4 West and Zone 4 East, please contact the Shire of Plantagenet on 9892 1111.

PLANTATIONS: Refer to the Plantations – Tree Farms Section on pages 12 and 13 of this notice.



Will this truck fit down your firebreaks this summer?

IMPORTANT INFORMATION

PLEASE TAKE YOUR RESPONSIBILITY SERIOUSLY

As a land owner or occupier, you have a legal requirement under Section 33 of the Bush Fires Act 1954 to carry out fire prevention work on your property in accordance with the provisions of this Firebreak and Fire Hazard Reduction Notice. Inspections of all properties will be carried out in all areas for compliance with this Notice. If you do not meet your responsibilities specified in this Notice you can be fined a minimum of \$250 and be required to meet the cost of the Shire's efforts to make your property comply.

It is the property owner, **not a contractor**, who is responsible for the standard and quality of the fire prevention work undertaken and required to be maintained in accordance with this Notice.

USE OF LAWMOWERS AND OTHER INTERNAL COMBUSTION ENGINES

The use of machinery with an internal combustion engine such as a lawnmower or motorbike on high fire danger days can easily start a fire. Avoid the use of these machines when high fire danger days are forecast.

No internal combustion engine machines may be used during a vehicle movement ban.

WELDING AND CUTTING EQUIPMENT

The use of welding equipment and power operated abrasive cutting disks (such as angle grinders) in the open air during the fire season is the cause of fires starting each year.

The use of this equipment during the restricted and prohibited times **must** be accompanied by a mobile fire fighting unit or fire extinguisher.

Where a welding or cutting operation is being carried out, the area surrounding the equipment must be cleared to bare earth to a five metre radius. An observer shall be on hand to monitor the site at all times.

These works or any other hot works must cease when a vehicle movement ban has been imposed.

BURNING OF TOXIC MATERIALS

Burning of toxic materials is prohibited at all times.

FUEL AND CHEMICAL STORAGE

Where fuel or chemical will be stored (including empty storage facilities) a three metre wide firebreak **MUST** be maintained around the facility.

NATIVE VEGETATION

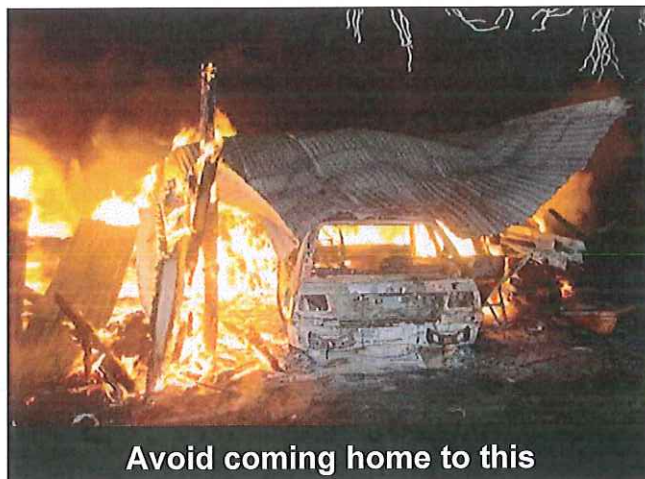
All native vegetation must be maintained in a low fuel state. This may be enforced by the Shire of Plantagenet if necessary, under provisions of the Bush Fires Act 1954 (Section 33).

REQUIREMENTS FOR ALL TOWNSITES AND SETTLEMENTS

(Mount Barker, Kendenup, Porongurup, Rocky Gully and Narrikup)

The following MINIMUM requirements apply to all people living in townsites and settlements:

- A 20 metre wide building protection zone is required;
- grass must be maintained less than 100mm in height;
- Owners of bush lots shall install a three metre wide firebreak around and within 10 metres of the boundary of the bush lot or lots;
- All bush or re-vegetated areas are to be maintained in a hazard reduced state, for example parkland clear, mulch, burn or remove; and
- Some urban subdivisions have a Fire Management Plan approved as part of the zoning or subdivision consent. Properties which fall within this category must comply with the Fire Management Plan in its entirety in addition to this Notice. Contact the Shire of Plantagenet for more information relating to your Fire Management Plan.



Avoid coming home to this

REQUIREMENTS FOR RURAL LAND UP TO ONE HECTARE IN SIZE

The following MINIMUM requirements apply to all people living on rural land up to one hectare in size:

- A 20 metre wide building protection zone is required;
- Where habitable buildings are located in close proximity to native vegetation, a hazard separation zone 100 metres wide is also to be maintained; and
- The remainder of the lot including native vegetation is to be maintained in a low fuel state.

RURAL RESIDENTIAL AND RURAL SMALL HOLDING SUBDIVISIONS

Rural Residential and Rural Small Holding Subdivisions have a Fire Management Plan approved as part of the zoning or subdivision consent. Properties which fall within this category must comply with the Fire Management Plan in its entirety, in addition to the requirements detailed in this Notice.

If in doubt, contact the Shire of Plantagenet for more information relating to your Fire Management Plan.

ADDITIONAL REQUIREMENTS FOR THE MIRA FLORES SUBDIVISION

- A firebreak three metres wide shall be maintained along the perimeter / boundary of each lot. Overhanging branches to be cut back to a height of four metres;
- All private access tracks to be six metres wide with a four metre trafficable surface and four metre vertical clearance to allow entry and exit of a heavy duty fire unit; and
- Sufficient room to be provided to turn a heavy duty fire unit at the end of all access tracks.

REQUIREMENTS FOR RURAL LAND ONE HECTARE AND GREATER IN SIZE

The following MINIMUM requirements apply to all people living on rural land one hectare and greater in size:

- A 20 metre wide building protection zone is required;
- Where habitable buildings are located in close proximity to native vegetation, a 100 metre wide hazard separation zone is also to be maintained;
- A firebreak three metres wide is to be installed around and within 100 metres of all homesteads, buildings and fuel ramps / bulk fuel and hay. Hay stored beyond 100 metres of homesteads and buildings does not require a firebreak;
- A boundary firebreak is to be installed and the property must be kept in a managed state;
- For seed producing crops a firebreak may be maintained adjacent to the perimeter of crop. If a boundary firebreak is installed, a firebreak will not be required around seed producing crops; and
- All native vegetation must be maintained in a low fuel state. Areas of native vegetation larger than one hectare must have a firebreak constructed around the vegetation.

A FIRE CONTROL OFFICER HAS THE AUTHORITY UNDER THE BUSH FIRES ACT 1954 TO STOP ANY ACTIVITY OR OPERATION THAT THEY DEEM AS HAZARDOUS OR LIKELY TO START A FIRE.

**MINIMUM REQUIREMENTS FOR RURAL LAND OPERATIONS
(GREATER THAN ONE HECTARE) DURING THE RESTRICTED AND
PROHIBITED BURNING TIMES**

Type of Operation	Requirements
1. Harvesting of seed 2. Harvesting of timber 3. Swathing (except canola) 4. Slashing 5. Baling straw / stubble 6. Stone chaining 7. Operation of a portable sawmill	A mobile fire fighting unit to be stationed in, or immediately adjacent to the paddock or area where the operation takes place and within one kilometre of the operating machine. Unit to be a minimum of 400 litres.
8. All landowners or managers of greater than 10,000 hectares	A 3.4 Heavy Duty Appliance (4x4 truck carrying 3,000 litres of water) located within the Shire boundary.
9. Operation of welding equipment in the open air and power operated abrasive cutting discs	A mobile fire fighting unit to be stationed in, or immediately adjacent to the paddock or area where the operation takes place. A fire extinguisher to be provided at the place where the welding or cutting operation is carried out. Where a welding or cutting operation is carried out, an area around the equipment shall be cleared of all inflammable material to bare earth to a five metre radius. In addition, an observer shall be on hand to monitor the site at all times.
10. Operation of tractors, trucks and self propelled harvesters in standing crop or stubble paddocks	An operational fire extinguisher must be carried on the vehicles.

Harvesting and vehicle movements must cease when a harvest and / or vehicle movement ban is set. An exemption from a harvest and / or vehicle movement ban may be sought from the Shire.

PLANTATIONS

PLANTATIONS / TREE FARMS

A plantation / tree farm is defined as an area exceeding three hectares within townsites or an area exceeding 10 hectares within rural areas, of trees planted or land under preparation for planting or trees for commercial purposes.

Boundary firebreaks: boundary firebreaks are to be 15 metres wide and free of inflammable material, with a trafficable surface of at least six metres. A vertical clearance is to be established to a height of five metres above ground level over the trafficable portion of the firebreak.

Planting compartments: A planting compartment is defined as an individual area of approximately 30 hectares surrounded by firebreaks cleared of all inflammable material six metres wide (with a five metre trafficable surface) and a vertical clearance of all overhanging branches at least four metres above ground level to allow unrestricted access for fire fighting equipment. This applies to all established and subsequent rotation (coppice) plantations.

Planting compartments for new or re-established plantations after 1 July 2012: A planting compartment is defined as an individual area of approximately 50 hectares surrounded by firebreaks with an eight metre tree to tree separation, a six metre horizontal clearance free of all inflammable material (with a six metre trafficable surface) and a vertical clearance of all overhanging branches at least four metres above ground level to allow unrestricted access for fire fighting equipment.

REQUIREMENTS FOR PLANTATIONS CURRENTLY PLANTED OR PROPOSED TO BE PLANTED

FIREBREAKS

Boundary firebreaks shall be constructed on the boundaries of all plantations, tree farms, or such other location as may be agreed to by the Council.

PLANTATIONS

Compartment Firebreaks are required.

All landowners or managers of land greater than 10,000 hectares require a 3.4 Heavy Duty Appliance (4x4 truck carrying 3,000 litres of water) located within the Shire boundary.

Any barriers or obstructions such as swamps or rocky outcrops preventing a firebreak from being installed will require a request for a firebreak variation.

HOMESTEADS / BUILDINGS

- A 20 metre wide building protection zone is required;
- Where habitable buildings are located in close proximity to native vegetation, a hazard separation zone 100 metres wide is also to be maintained; and
- A Firebreak is to be installed around and within 100 metres of all homesteads, buildings and fuel ramps / bulk fuel and hay. Hay stored beyond 100 metres of homesteads and buildings does not require a firebreak.

HARVESTING

When harvesting is in progress, harvesters must maintain a 400 litre fire fighting unit in or adjacent to where harvesting is being carried out.

HARVESTED OR ABANDONED PLANTATIONS

Plantation fire breaks shall remain in place until the removal of all stumps is completed.

FIRE PROTECTION OF PRIVATE PLANTATIONS

All plantations must comply with the Guidelines for Plantation Fire Protection unless approval to vary those conditions has been granted by the Shire.

The Guidelines for Plantation Fire Protection have been adopted by the Lower Great Southern Plantation Fire Advisory Committee and copies of these guidelines may be obtained from the Shire of Plantagenet.

REMAINDER OF THE PROPERTY

All areas of the property which are not a plantation / tree farm, (i.e. farmland or native vegetation), must comply with the requirements detailed elsewhere in this Notice.

BRIGADE CONTACT DETAILS

Denbarker

Captain

Norm Handasyde 9857 6010

Secretary

Carolyn Lindberg 9857 6051

Forest Hill

Captain

Len Handasyde 9851 2259

Secretary

Sharon Lynch 9851 2243

Kendenup

Captain

Brian Appleby 9851 4912

Secretary

Jacqui Burcham 9851 4091

Middle Ward

Captain

Ian Mackie 9851 1350

Secretary

Greg Stothard 9851 1003

Narpyn

Captain

Michael Cave 9851 4882

Secretary

Stephen Morrow 9851 1495

Narrikup

Captain

Graeme Frusher 9845 3073

Secretary

Clair Frusher

Perillup

Captain

Robin Ditchburn 9856 1014

Secretary

Dean Trotter 9856 1045

BRIGADE CONTACT DETAILS

Porongurup

Captain

John Russell 9853 1097

Secretary

Ron Caudwell 9853 1262

Porongurup South

Captain

Jim Bailey 9853 1038

Secretary

Cass Porter 9853 2013

Rocky Gully

Captain

Murray Wills 9855 1590

Secretary

Jo Wills 9855 1590

Woogenellup

Captain

Bryce Skinner 9854 1080

Secretary

Martin Wiehl 9854 1056

South Stirling

Captain

Graeme Pyle 9854 3021

Secretary

Pierre Bailey 0427 543 016

Kojaneerup

Captain

Craig Nelson 9847 7026 or 0428 477 026

Secretary

Brad Shearer 9847 7027 or 0427 466 046

CONTACT DETAILS

Chief Bush Fire Control Officer

Murray Wills 9855 1590
0417 183 336

SHIRE CONTACT DETAILS

Shire Office 9892 1111
Ranger 9892 1137
Website www.plantagenet.wa.gov.au

EMERGENCY CONTACTS

Ambulance 000
Hospital 9892 1222
Doctor 9892 1000
Police 9851 1122
Town – Fire and Rescue 000

**For any queries regarding firebreaks, permits
or variations please contact the Shire
Administration Office.**

**For current information relating to harvest
and vehicle movement bans or restricted and
prohibited burning times,
phone 9892 1102**

TO REPORT A BUSHFIRE CALL 000

BRIGADE MEMBERSHIP

Please become an active
member of your volunteer Bush Fire Brigade

**Your local brigade needs
your support.**



Call 9892 1111
for more information

Council

Recreation Centre – Licence Agreement - Variation

Licence Agreement
Deed of Variation

Meeting Date: 24 June 2014

Number of Pages: 22

2014

MINISTER FOR EDUCATION

and

SHIRE OF PLANTAGENET

**Deed of Variation
School Community Recreation Centre
Mt Barker Senior High School**

State Solicitor's Office
Commercial and Conveyancing
141 St George's Terrace
Perth WA 6000
Telephone : (08) 9264 1888
Ref: 1438-08

Deed of Variation

Date

Parties

MINISTER FOR EDUCATION a body corporate under the School Education Act 1999 of 151 Royal Street East Perth Western Australia (**Minister**)

and

SHIRE OF PLANTAGENET a local government and body corporate under the Local Government Act 1995 of Lowood Road Mount Barker Western Australia (**Shire**)

Recitals

- A** By the Licence, the Minister granted the Shire a licence to use the Facilities as defined in the Licence on the terms and conditions set out in the Licence.
- B** The parties have agreed to vary the Licence on the terms and conditions contained in this Deed.

Operative provisions

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the contrary intention appears

Licence means a Licence undated but stamped 4 June 1998 made between the Shire and the Minister in respect of the Facilities for a term of 21 years.

1.2 Interpretation

In this Deed unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations and bodies politic;
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);

2.5 Licence to remain in force

Subject only to the variations contained in this Deed and such other alterations (if any) as may be necessary to make the Licence consistent with this Deed, the Licence as varied by this Deed shall remain in full force and effect and shall be read construed and be enforceable as if the terms of this Deed were inserted therein by way of addition deletion or substitution as the case may be.

3 Costs

Each party shall pay their own costs, of and incidental to, the preparation, negotiation and execution of this Deed and all duty (including fines and penalties) in respect of this Deed.

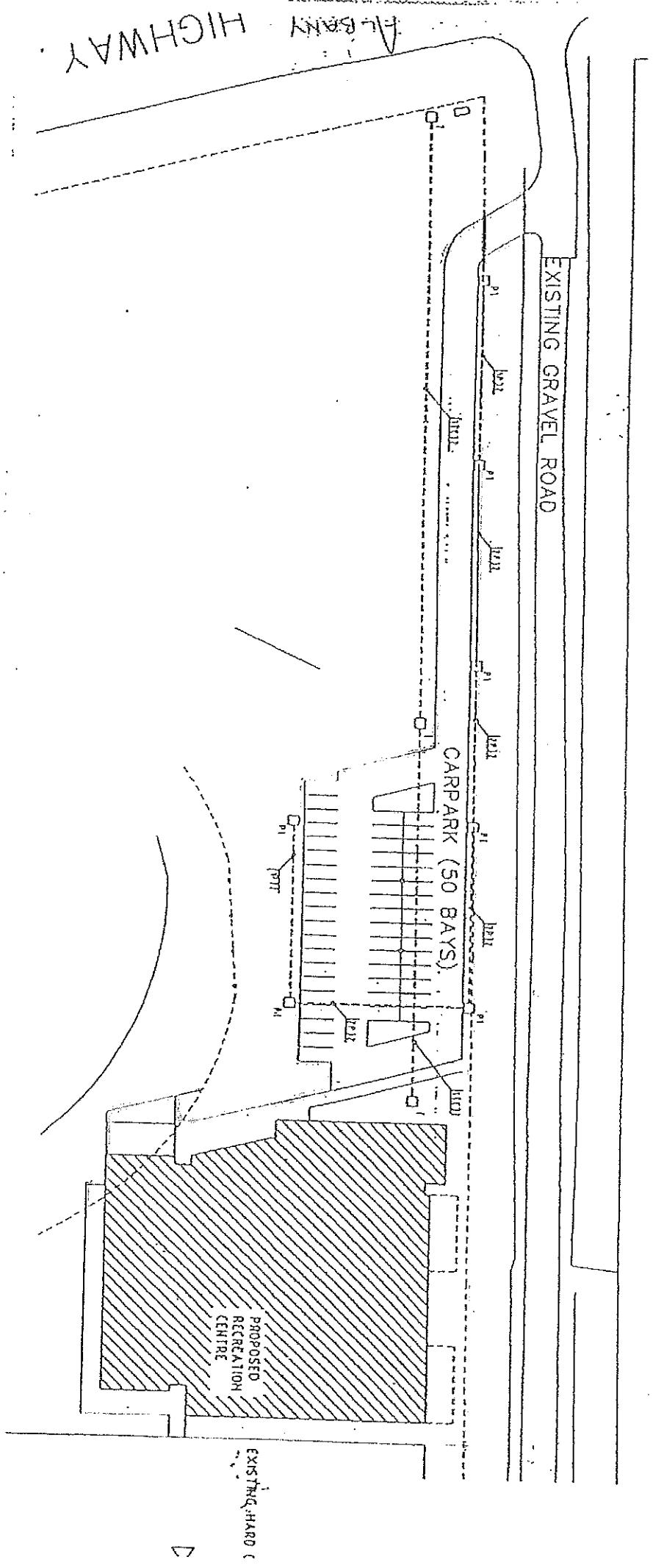
4 Further Assurance

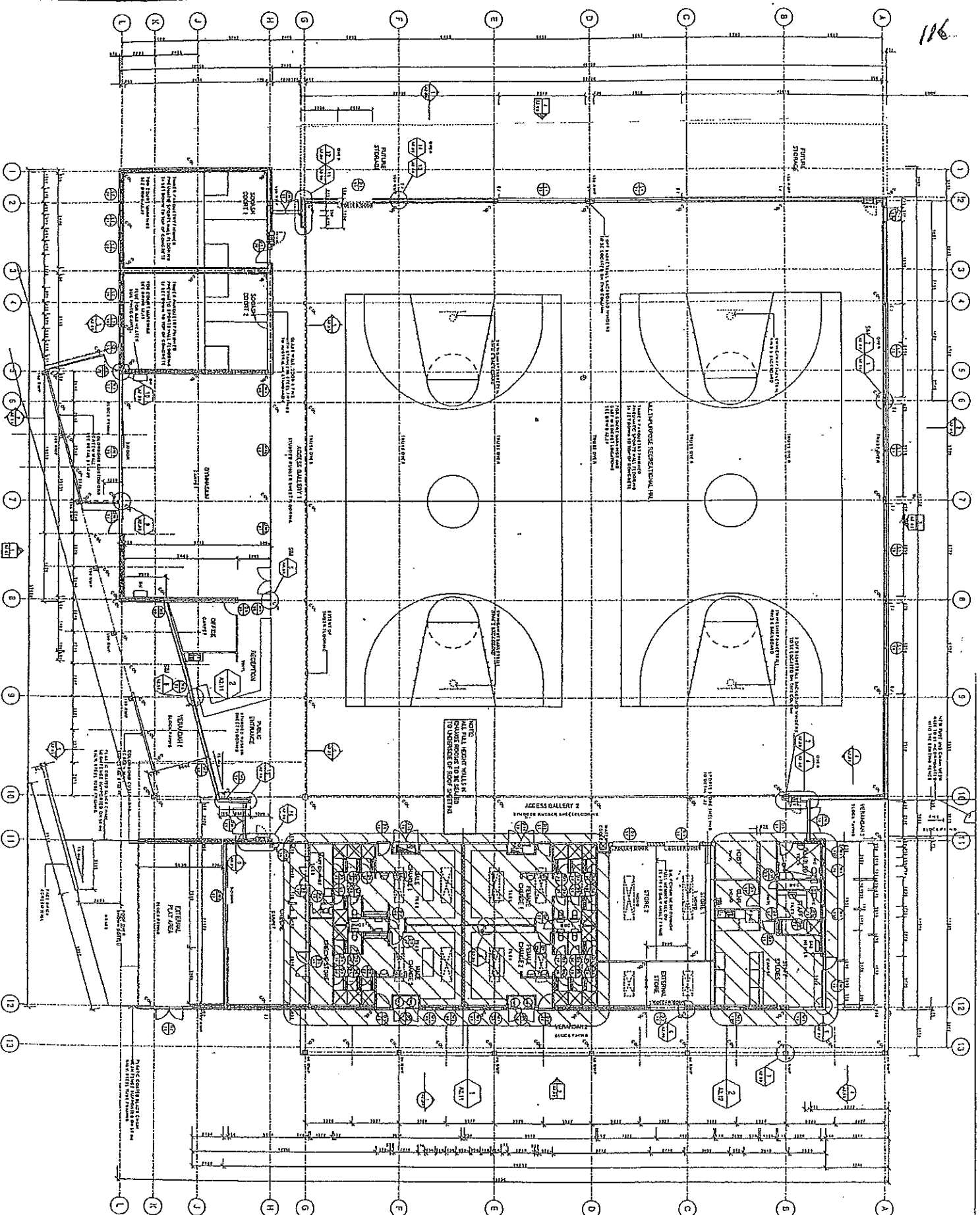
The parties must do everything reasonably necessary, including signing further documents, to give full effect to this Deed.

5 Governing law and jurisdiction

This Deed is governed by and shall be construed in accordance with the laws of Western Australia and the parties submit to the non-exclusive jurisdiction of the courts of Western Australia and any courts which have jurisdiction to hear appeals from any of those courts.

Mr. Baker S.H.S.





NOTE: ALL FULL HEIGHT WALLS IN THIS GALLERY ARE TO BE CONCRETE TO SUPPORT ROOF SYSTEM

LEGEND

1	1st Floor Area
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100	100th Floor Area

SPOVERS
 DEPARTMENT OF
 CONTRACT AND
 MANAGEMENT
 SERVICES

**LE BARBER HIGH SCHOOL
 COLLEGE RECREATION CENTRE
 FLOOR PLAN
 A2.01**

DATE: 10/10/11
 DRAWN: [Name]
 CHECKED: [Name]
 APPROVED: [Name]



1997

MINISTER FOR EDUCATION

AND

SHIRE OF PLANTAGENET

AGREEMENT - SCHOOL COMMUNITY RECREATION CENTRE
MT BARKER SENIOR HIGH SCHOOL

CROWN SOLICITOR'S OFFICE
COMMERCIAL AND CONVEYANCING
PERTH

TELEPHONE : (09) 264 1711

CSO : 4516/97ADR

EXEMPT from W.A. Stamp Duty

1997
for Commissioner of State Revenue
SHI

THIS AGREEMENT is made the day of

BETWEEN:

MINISTER FOR EDUCATION a body corporate pursuant to the provisions of the Education Act 1928 of 151 Royal Street, East Perth in the State of Western Australia
(the Minister)

AND

SHIRE OF PLANTAGENET a municipality and body corporate under the Local Government Act 1995 of Lowood Road Mt Barker in the said State **(the Shire)**.

RECITALS

- A. The Facilities are situated on the Land.
- B. The Land is vested in the Minister.
- C. The Minister has agreed to grant to the Shire a licence to use the Facilities on the terms and conditions contained in this Agreement.

OPERATIVE PART

IT IS HEREBY AGREED:

1. **Definitions and Interpretation**

1.1 In this Agreement unless the contrary intention appears:

Authority means any entity, person or group of persons empowered by Statute or otherwise to perform and carry out public regulatory administrative or executive functions of Commonwealth State or local government.

CEO means the Shire's chief executive officer.

Commencement Date means the day after the execution of this Agreement.

Department means the Education Department of Western Australia.

Facilities means the facilities described in Item 1 of the Schedule.

Land means Reserve 31528.

Licence means the licence referred to in Clause 3.

Party depending on the context means the Minister or the Shire and

Parties means both of them.

Phys-ed head means the head of the School's physical education department.

Principal means the principal or acting principal of the School.

WESTERN AUSTRALIA STAMP DUTY
04-JUN-98 001221575-001
DEF
VALUE \$
50 \$ *****00 PEN *****00
EXEMPT 100 %

Handwritten signatures and initials: M.F., J., and others.

P & C means the School's parents and citizens association.

Recreation Manager means the Shire's recreation services manager.

Schedule means the Schedule hereto.

School means Mount Barker Senior High School.

Statute includes all Statutes (State and Federal) for the time being enacted or modifying any Statutes and all regulations, bylaws and other statutory orders and instruments made under any Statute.

1.2 In this Agreement unless a contrary intention appears:

- (a) a reference to a person includes that person's legal personal representatives, assigns and successors;
- (b) an obligation on the part of two or more parties binds them jointly and severally and a right in favour of two or more parties is for the benefit of them jointly and severally;
- (c) words importing any gender include the other genders;
- (d) a reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (e) the singular include the plural and vice versa;
- (f) the word **person** includes a corporation;
- (g) a reference to this Agreement or any other document includes the document as varied or replaced, and notwithstanding any change in the identity of the parties thereto;
- (h) no rules of construction shall apply to disadvantage a party on the basis that party being responsible for the preparation of the Agreement or any part of it;
- (i) reference to -
 - (i) an Act by name is a reference to an Act of the Parliament of Western Australia;
 - (ii) an Act whether by name or otherwise includes the amendments to the Act for the time being in force and also any Act passed in substitution for it or in lieu of it and all

subsidiary or subordinate legislation for the time being in force under it;

- (j) reference to the Shire using the Facilities means and includes use of the Facilities by the Shire or any of its employees, agents, licensees or invitees.

1.3 **Headings**

Headings are inserted for convenience and do not effect the interpretation of this Agreement.

2. **Facilities' Construction**

- 2.1 The Minister shall properly and using good quality materials construct the Facilities in accordance with the plans and specifications annexed hereto.
- 2.2 The Shire will on or before the construction of the Facilities contribute the sum of \$1.2 million toward the construction of the Facilities.
- 2.3 The Minister will contribute the sum of \$1.3 million toward the construction of the Facilities.

3. **Grant of Licence**

- 3.1 Subject to and conditional upon all provisions of clause 2 having been complied with, the Minister grants to the Shire a licence to use the Facilities, for recreation purposes, during the times set out in Item 2 of the Schedule, for the period commencing on the date when the Facilities have been completed and are ready for their intended use and ending twenty-one (21) years from and including the Commencement Date or until such time as the Minister divests himself or is divested of his rights over or in the Land (whichever occurs sooner).
- 3.2 The rights conferred on the Shire under this Agreement rest in contract only and do not create in or confer upon the Shire any tenancy, estate or interest whatsoever in or over the Facilities and the rights of the Shire are those of a licensee only and do not comprise or include further or other rights and the Shire is not granted exclusive possession of the Facilities.

4. **Facilities' Maintenance**

4.1 The Shire shall at all times during the Term at its own cost and expense in all things to keep and maintain -

- (a) the Facilities well cleansed and drained and in good sanitary condition; and
- (b) all buildings fences gates and other improvements now or hereafter comprising the Facilities in good tenable repair order and condition;

4.2 The Minister shall reimburse the Shire 40% of all costs and expenses reasonably incurred by the Shire in performing its obligations under clause 4.1.

4.3 The Shire shall, in respect of clause 4.2, invoice the Minister quarterly and the Minister shall pay such invoice within 28 days of having received the same.

5. **Supervision of Facilities**

The Shire shall ensure that at all times the Facilities are in use by the Shire, an officer authorised by the Shire shall supervise use of the Facilities as part of his or her normal duties.

6. **Costs**

The Shire shall pay:

- (a) fifty percent (50%) all legal costs incurred by the Minister in connection with the negotiation and preparation of this Agreement; and
- (b) the stamp duty hereon (if any).

7. **Insurance**

7.1 The Shire shall at least 7 days prior to the Commencement Date effect and maintain throughout the term of the Licence insurance as specified in Item 3 of the Schedule with reputable and substantial underwriters approved of by the Minister (such approval to not be unreasonably withheld or delayed).

7.2 As and when requested the Shire shall provide the Minister with a copy of the policy and all receipts or other proof of payment of premiums.

8. **Indemnity**

The Shire shall release indemnify and keep indemnified the Minister and all agents and employees of the Minister from and against all actions proceedings, suits, claims, demands, losses, damage, costs and expenses which may at any time be brought or maintained against or suffered or incurred by the Minister or

any of the Minister's agents or employees arising from or in connection with the Facilities and/or this Agreement and:

(a) the death of or injury or illness to any person; and/or

(b) the destruction or loss of or damage to any property;

TO THE EXTENT that the same has been caused or contributed to by:

(c) any breach of this Agreement by or on the part of ; or

(d) any negligent or other unlawful act or omission of

the Shire or any agent, employee, licensee, invitee or contractor of the Shire .

9. **Assignment**

The Shire shall not without the prior written consent of the Minister (which consent may be arbitrarily withheld) assign, transfer, encumber or otherwise dispose of the Licence or any part thereof or the rights, liberties or authorities granted under this Agreement.

10. **Termination**

10.1 If the Shire:

(a) breaches or fails to comply with any term of this Agreement; and

(b) after having been served with a written notice:

(i) specifying the breach or failure; and

(ii) requiring that breach or failure to be rectified within a reasonable period specified in the notice (being not less than 3 days)

fails or refuses to so rectify that breach or failure within that period, then the Minister shall be entitled to terminate this Agreement and such termination shall take effect immediately upon the Shire being served with notice of termination.

10.2 If the provisions of clause 2 have been complied with and if this Agreement is terminated on or before 21 years from and including the Commencement Date, the Minister shall pay to the Shire a sum of money equal to 45% of the depreciated value of the Facilities (excluding the land upon which the Facilities are on). Such depreciated value will be determined by a qualified, competent and trustworthy member of the Australian Institute of Valuers and Land Economists (Inc) Western Australian Division or a similar body (incorporated

or unincorporated) in the event of the said Institute ceasing to exist in its present or reconstituted form.

11. **Waiver**

11.1 No right of any Party under this Agreement shall be deemed to be waived except where such a waiver is in writing signed by or on behalf of that Party.

11.2 A waiver by a Party shall not prejudice the rights of that Party in respect of any subsequent or other breach of the Agreement by the other Party.

11.3 A failure by a Party to enforce any provision of this Agreement or any forbearance, delay or indulgence granted by a Party to the other shall not be construed as a waiver of the first mentioned Party's rights under this Agreement.

12. **Variation**

This Agreement may only be varied by agreement signed in writing by both Parties.

13. **Notices**

13.1 Notices that may or must be sent under or in connection with this Agreement shall be in writing, signed by the Party or representative of the Party giving notice, and may be delivered by pre-paid post, by hand or by facsimile transmission to the other Party at the relevant address or facsimile number set out in Item 4 of the Schedule.

13.2 Notices shall be deemed to be received:

- (a) (in the case of delivery by pre-paid post) two days after deposit in the mail;
- (b) immediately upon delivery by hand; or
- (c) immediately upon an apparently successful facsimile transmission being noted in document form by the sender's facsimile transmitter.

14. **Alcohol**

Except as provided under the provisions of the Education Act Regulations, 1960, the Shire shall not permit the consumption of alcoholic beverages on the Facilities.

15. **Fees**
A Party may charge members of the public fees to use the Facilities during that Party's permitted times of use of the Facilities.
16. **Costs Sharing**
The Parties shall share the running costs of the Facilities in accordance with the table set out in item 5 of the Schedule. This clause 16 is subject to clause 8 at all times.
17. **Shire to Promote Community Awareness**
The Shire shall ,at its own cost and expense, be responsible for advertising the Facilities and otherwise promoting community awareness of and interest in the same from time to time.
18. **Not to obstruct or cause nuisance**
The Shire shall not do or leave undone or allow or suffer to be done or left undone any act matter or thing whereby a nuisance or anything in the nature of or which may be deemed to be a nuisance by any Authority or within the meaning of any Statute (State or Federal) now or hereafter in force may exist arise or continue upon or in connection with the Facilities or any business carried on upon the same or the use or occupancy thereof and forthwith to abate any such nuisance or alleged nuisance and to carry out and comply with all the provisions of every such Statute and of every requisition and order of any Authority in reference thereto.
19. **Comply with Statutes**
The Shire shall ensure that its employees agents contractors licensees and invitees shall at all times duly and punctually comply with observe and carry out and conform with the provisions of any Statute now or hereafter in force and all requirements and orders of any Authority which effect the Facilities or the use thereof or which impose any duty or obligation upon the owner or occupier thereof.
20. **Report Damage etc**
The Shire shall promptly report any theft of, damage to, deficiency in, destruction of, or other fault in relation to the Facilities to the Principal upon the happening of the same and do all things and take all steps that

are reasonable so as to minimise and mitigate any loss caused or occasioned thereby.

21. **Chattels**

Each Party shall for the duration of the Licence let the other Party have use of those of its chattels situated in the Facilities from time to time.

22. **Option to Renew**

If:

- (i) prior to the expiration of the period set out in clause 2 (**the Term**) this Agreement has not been terminated; and
- (ii) the Shire desires to extend this Agreement for twenty-one (21) years commencing from the expiration of the Term (**the Further Term**); and
- (iii) the Shire gives to the Minister written notice of its desire such notice being received by the Minister not more than 6 or less than 3 months prior to the expiration of the Term; and
- (iv) during the Term there had been no breach of any term of this Agreement by the Shire which was not rectified strictly in accordance with a notice of breach being given by the Minister,

then the Minister shall extend this Agreement for the Further Term (on and subject to the terms and conditions set out in this Agreement with the exception of clause 10.2 and this clause 22).

23. **Records and Audited Accounts**

The Shire shall keep true, accurate and up-to-date records of its receipts and expenditure in respect of the Facilities and shall allow the Minister to inspect and/or take copies of those records at any time and from time to time provided that reasonable notice is first given by the Minister on each occasion. The Shire shall, at intervals of no greater than twelve (12) months during the currency of this Agreement, provide the Minister with properly audited accounts of its receipts and expenditure in respect of the Facilities.

24. **Advisory Committee**

24.1 The Parties shall appoint an Advisory Committee (**Committee**) to comprise the following persons:

- 2 Department representatives

- 2 Shire representatives
- 3 Community representatives (to be appointed jointly by the Parties)

24.2 The role of the Committee will be to provide advice to the Parties:

- (i) as to how disputes in connection with the Facilities could be dealt with;
- (ii) as to how this Agreement can be improved or varied; and
- (iii) on the day-to-day operations of the Facilities.

24.3 The Committee shall meet at intervals of no greater than 3 months.

25. **Debts**

25.1 If under this Agreement a Party (**Creditor**) is claiming monies owing as a debt from the other Party (**Debtor**), the Creditor will provide the Debtor with true copies of all documentation in support of that debt at the same time the Creditor gives the Debtor the relevant invoice calling for the payment of the debt.

SCHEDULE

Item 1 (Clause 1.1)

The Community Recreation Centre and grounds shown and delineated and hatched in blue on the plans annexed hereto and marked with the letters "A" and "B".

Item 2 (Clause 3.1)

The Shire shall be entitled to use the Facilities at all times except:

- (i) (in respect to the 2 indoor multi-use courts component of the Facilities) between the hours of 12.30 p.m. and 1.30 p.m. on any school day and/or such other times as first agreed to by the Parties in writing;
- (ii) where the School requires the Facilities for a school function and has first given the Shire no less than 90 days' written notice of such requirement; and
- (iii) where the School has notified the Shire 10 weeks in advance of its requirements for the next school term (for the period 8.30 am - 4.30 pm).

Item 3 (Clause 7)

Public liability insurance (the indemnity cover to be no less than of \$5,000,000) covering liabilities incurred under clause 8.

Item 4 (Clause 13.1)

Minister:
Facilities Policy and Planning Branch,
Education Department
151 Royal Street
EAST PERTH WA 6004
FAX: 9264 5005

Shire:
CEO
Shire of Plantagenet
Lowood Road
MOUNT BARKER WA 6324
FAX: 0898 511939

Item 5 (Clause 16)

	Minister	Shire
Electricity, gas and water consumption costs	40%	60%
Telephone costs	-	100%
Garden maintenance costs	100%	-
Rubbish removal costs	-	100%

EXECUTED by the Parties.

THE COMMON SEAL of the
MINISTER FOR EDUCATION
was hereunto affixed by THE
HONOURABLE COLIN JAMES
BARNETT M.Ec., MLA
Minister for Education for the
time being in the presence of :

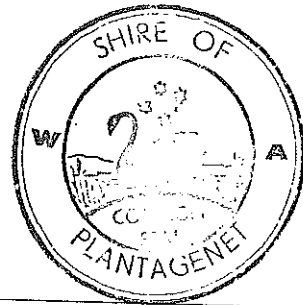
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Colin Barnett
et al



THE COMMON SEAL of THE
SHIRE OF PLANTAGENET was hereunto
affixed by the authority of the Council
in the presence of :

)
)
)
)



R. M. Forbes

MAYOR PRESIDENT

[Signature]

CHIEF EXECUTIVE OFFICER/TOWN CLERK

MA BARLER S.H.S.

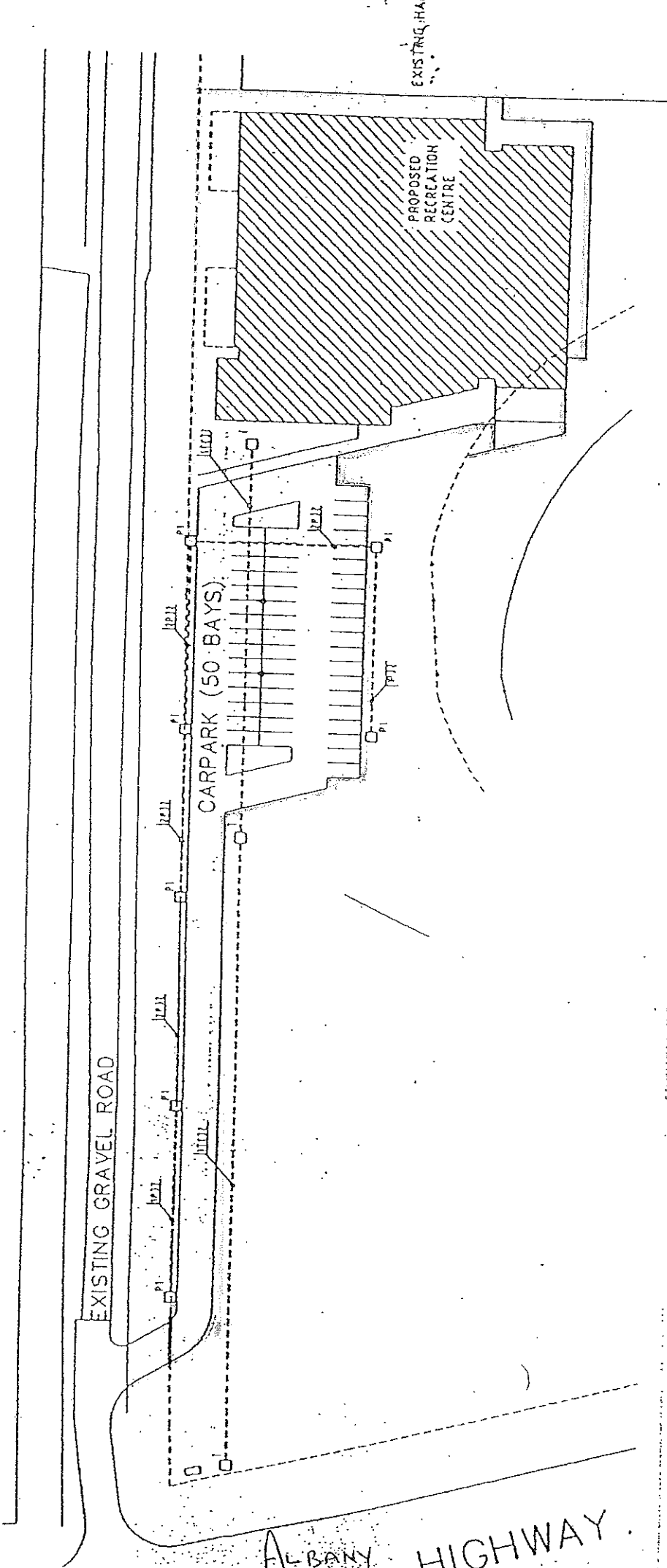
EXISTING GRAVEL ROAD

CARPARK (50 BAYS)

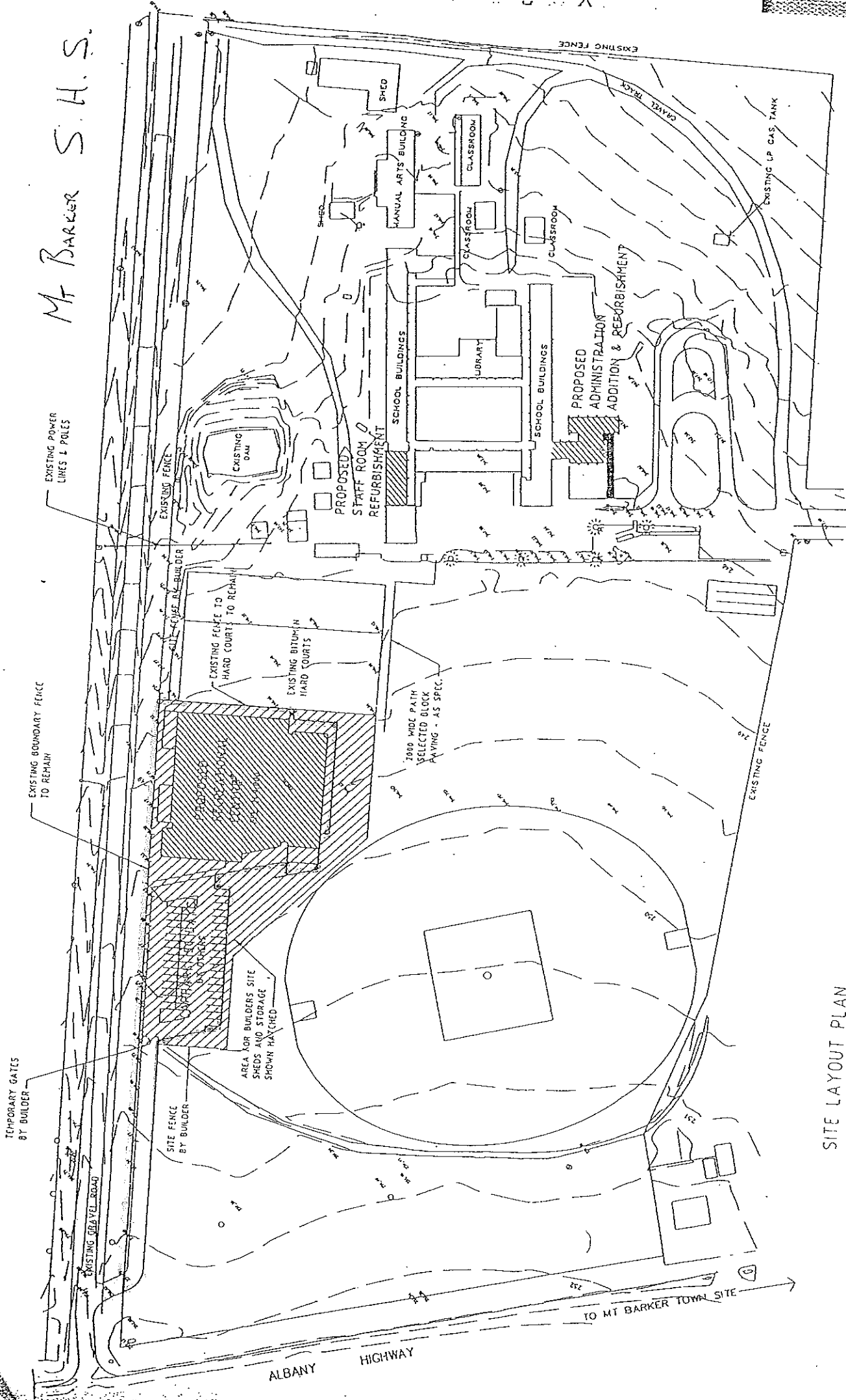
PROPOSED RECREATION CENTRE

EXISTING

ALBANY HIGHWAY



Mt Barker S.H.S.



SITE LAYOUT PLAN
SCALE 1:1000