

**Access Track to Nelson
Location 7965
(Sandy Peak)
Doggerup Road
Shire of Manjimup**

**Public Environmental Review
Assessment No 1836
Response to submissions – Public
Advertising September 2012**



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2nd November 2012



**BIO
DIVERSE
SOLUTIONS**

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1. Introduction

The following document describes responses by Shellbay Holdings Pty Ltd (The Proponent) to public submissions made on Access Track to Nelson Location 7965 (Sandy Peak) Doggerup Road (Shire of Manjimup) Project (the Proposal), as part of the Public Environmental Review (PER) process for this proposal under the Environmental Protection Act 1986 (EP Act).

1.1. Description of Proposal

Shellbay Holdings Pty Ltd (Proponent) proposes to construct an all-weather access track along a gazetted road reserve "Doggerup Road" between Windy Harbour Road and Nelson Location 7965 (known as Sandy Peak) on the south coast of Western Australia. Doggerup Road (Subject Site) is located between Windy harbour Road and Nelson Location 7965, within the Shire of Manjimup. Access to the private property is presently under permit via a seasonally opened management track (managed by the Department of Environment and Conservation). Nelson Location 7965 is owned by Shellbay Holdings Pty Ltd who propose to survey and construct the track at their own expense with the approval from the Shire of Manjimup.

The Gazetted Road - Doggerup Road is located within the municipality of the Shire of Manjimup and was gazetted and surveyed approximately 70 years ago when Location Nelson 7965 was freeholded. The Doggerup Road Reserve is legal and gazetted access for Nelson Location 7965. Nelson Location 7965 is a private property adjoining the south coast and is surrounded by D'Entrecasteaux National Park, with no formal year-round access via vehicle. Doggerup Road extends from Windy Harbour Road to Nelson Location 7965 for approximately 6.5 km, of which 1.5km was cleared by the Shire of Manjimup approximately 40 years ago.

1.2. History of the Project

The project has a long history, with the proposal referred to the Environmental Protection Authority (EPA) by the Shire of Manjimup in April 1997. The EPA set the level of assessment at Public Environmental Review (PER) on 15 May 1997 due to concerns that the proposal would impact on the adjacent D'Entrecasteaux National Park, which is considered to be an Environmentally Sensitive Area (ESA).

A timeline of the history surrounding this project is summarised below:

- PER documents were submitted to the EPA in January 1998, the PER was available for public review for eight weeks, from 21 September 1998 to 13 November 1998. Thirteen submissions were received from government agencies, environmental groups and the public.
- Prior to the EPA completing its assessment and providing its report and recommendations to the then Minister for the Environment, and as a result of a misunderstanding between DEC and Shellbay Holdings Pty Ltd, they (Shellbay Holdings Pty Ltd) cleared a 5 metre wide access track along the full 6.5km length of the Doggerup Road Reserve from Windy Harbour to Nelson Location 7965.
- Legal proceedings followed and this led to Shellbay Holdings Pty Ltd subsequently withdrawing the PER proposal in December 2002.
- In 2009 the then Minister for the Environment determined that the proposal was unlikely to be Environmentally Acceptable due to environmental factors relevant to the proposal not satisfactory addressed in the PER.
- In October 2009 the Proponent appealed the decision by the Minister.
- Shellbay Holdings Pty Ltd continue to seek legal and secure access to the property and consequently referred a new PER proposal to construct an all-weather access track from Windy Harbour Road to Nelson Location 7965 within the gazetted road reserve.

The Minister for Environment determined the appeal for this proposal in May 2010, and upheld the appeal to the extent that the proposal be resubmitted to the EPA for a second time, with a more full and public assessment.

As a result of this determination, the Proponent is provided with the opportunity to:

- (1) *Investigate and document the environmental merits of alternative access routes to location 7965;*
- (2) *Clarify the proposal description, including: the disturbance area and width of the proposed road; the construction details of the Class three road; and the purpose of the road;*
- (3) *Undertake a review and update of the management plans, data and commitments in the previous documentation;*
- (4) *Collect site specific information pertaining to each environmental factor identified in the EPA's Statement of Reasons for Level of Assessment, which includes wetlands, dieback, native vegetation, Declared Rare Flora and Priority Flora, specially protected or priority Flora, soils and Aboriginal Culture; and*
- (5) *Demonstrate that the proposal can be developed and managed to be consistent with EPA policy.*

(Minister for Environment letter dated 11/5/2010)

Hence the above forms the basis for which the second Public Environmental Review (PER) document was compiled and provided the context for the EPA's Assessment. The PER documentation was released for Public Review from the 9 July to 3 September 2012. A total of 7 submissions were received by the EPA.

1.3. Key Project Issues for Environmental Assessment

In its Statement of Reasons Proposal Unlikely to be Acceptable dated 14 December 2009, the Environmental Protection Authority determined the key environmental factors relevant to the proposal as being:

- *Wetlands – Concerns that the proposed road would fragment the Doggerup Creek Wetland system and cause compaction and alteration of subsurface hydrology of these wetland areas.*
- *Dieback – The proposed road would have indirect impacts on wetland areas within the D'Entrecasteaux National Park through the spread of *Phytophthora cinnamomi* (dieback). The proposed road is very likely to have indirect impacts on poorly represented fragile plant communities in the vicinity of the proposed road through the spread of diseases such as *Phytophthora cinnamomi* (dieback).*
- *Native Vegetation – The proposal would reduce the extent of viable and intact native vegetation within four vegetation complexes of which only 15% of their original extent is currently in existing or proposed conservation reserves.*
- *Declared Rare and Priority Flora and Specially Protected or Priority Fauna - The proposed road may potentially disturb or destroy rare, priority or fragile flora species or communities and result in habitat loss, fragmentation and degradation and/or fatality for threatened and priority fauna through direct clearing, the spread of weeds, pests and pathogens, and potential fatality through construction and vehicles travelling at speed.*
- *Soil – The proposed road may result in soil erosion, degradation and acid sulphate soils event which would have serious implications for ecosystem integrity and biodiversity and management of the park more generally.*
- *Aboriginal Culture – A large number of registered sites under the Aboriginal Heritage Act are to be found within the Doggerup Creek area and there is a strong likelihood that further sites and artefacts of cultural significance exist in the area. These could be affected by the proposed road.*

The Proponent has addressed the following matters in the updated PER document:

- Environmental impacts during the construction and use of the roadway; and
- Indirect impacts of the track on D'Entrecasteaux National Park.

1.4. Approvals Process

Shellbay Holdings Pty Ltd referred the project to the Environmental Protection Authority (EPA) for assessment under the *Environmental Protection Act 1986* ('EP Act') in 1988. Subsequent to deferral of the first referral (1988) and an appeal to the then Minister of the Environment, a new Environmental Scoping Document (ESD) was approved by the EPA on the 29/9/2011. The Public Review Environmental Review (PER) Period (as previously established) is for eight weeks.

The PER is a public document which was subject to an eight week review period. During this time, the public had the opportunity to prepare submissions to the EPA regarding the proposal. Submissions and specialist advice from agencies will be considered by the EPA in their assessment. In addition to these public and technical submissions, the EPA will also consider their own investigations and associated advice or specifically commissioned research.

The EPA's advice and recommendations will take the above into consideration during their assessment, and will be presented to the Minister for Environment for a determination of the environmental acceptability of the project along with any environmental conditions that should apply. The public will have the opportunity to appeal the EPA advice when the assessment is published. The Minister for the Environment will make a final decision on this proposal once any appeals have been considered.

1.5. Potential Environmental Impacts and Proposed Management

The Environmental Scoping Document (Bio Diverse Solutions 2011) identified a number of "Key Factors" relevant to the proposal.

Wetlands

Natural Area Consulting (NAC) wetland specialists (2011) undertook a wetland assessment defining the wetlands as part of the Gardner Watershed catchment area. The potential impact area is considered small, some 1.4 ha or 0.055% of the area known as the Doggerup Creek System of wetlands, or 10.8% of the gazetted road reserve area.

The Subject Site has a moderate risk of having suitable habitat for the vulnerable Balston's Pygmy Perch (*Nannatherina balstoni*) (*Environment Protection and Biodiversity Conservation Act 1999* (Cwth) (EPBC Act) and *Wildlife Conservation Act 1950* (WA) (WCWA)) and the Priority 3 species *Galaxiella nigrostriata* (Black-striped Minnow) (WCWA), as water conditions and geology are similar to those in other locations within the broader Doggerup Creek System where there are known populations of the fish.

It is anticipated there will be minimal long term disturbance to wetland areas and hydrological flows. Localised disturbance may occur to wetlands in the short term, with return to function in the long term as little vegetation will be disturbed, and aquatic fauna are able to move through the wetland areas.

No disturbance is proposed to the adjacent ESA wetland area, with disturbance confined to the road reserve area. Off-site impacts are anticipated to be low to the wider Gardner Watershed wetlands. The project is not anticipated to affect any groundwater resources.

Surface water monitoring indicates that the surface hydrology waters are rapidly draining with temporary pools forming during precipitation events. The extent of surface water cover in 2011 (wet winter season) compared with 2010 (un-seasonally dry winter) indicates that surface water (cover/extent) patterns are not variable between seasons. Monitoring pegs will guide the drainage of the track construction to ensure that drainage infrastructure is located in these areas to avoid any pooling or disruption to water flows across the Gardner watershed area.

Native Vegetation

NAC flora specialists (2011) undertook spring and summer flora surveys within the road reserve. The vegetation types were mapped within the subject area, a total of 236 species were recorded in the survey area and 7 Vegetation units were described being: Ed: Tall Closed Forest, EmCc: Tall Open Forest, OH: Open Heath, Em Low Woodland, CTS: Wetland areas, Tf: Low Open Forest, BIBq Low open Woodland.

NAC found that none of the vegetation complexes traversed by the survey area are considered to be under threat (Havel, 2002) at a local, regional or state level.

The proposal will require clearing of approximately <6.5ha of vegetation for the track construction, with a minimal footprint proposed for the all-weather track meaning significantly less vegetation removal than originally anticipated. Vegetation within wetland areas will not be removed.

The clearing is not likely to be significantly at variance with the Environmental Protection (Clearing of Native Vegetation) Clearing Principles ((a), (b), (c), (e) (f) and (g) and is unlikely to be at variance with the remaining four principles.

Declared Rare and Priority Flora

NAC Flora Specialists (2011) undertook surveys for threatened flora within the road reserve. No declared rare flora (DRF) was recorded in the Subject Site during the flora survey; however 6 priority flora species were recorded *Hemiandra australis*, *Andersonia barbata*, *Astartea sp.* *Scott River*, *Goodenia filiformis*, *Gonocarpus pusilis*, *Stylidium leewinense* were recorded on the site.

NAC noted that *Leucopogon rubricaulis* and *Schoenus submicrostachyus* are both on the western side of their currently known ranges and one species was considered locally endemic, namely *Xyris indivisa*.

There are no threatened or priority ecological communities (TECs or PECs) within or in close proximity to the site.

Dieback

Moore Mapping Dieback specialists (2011) undertook an assessment of the site where *Phytophthora cinammomi* (*P.c.*) was found to span a large portion of the area (3.7km) and was found to be in most of the swampy low lying areas, with the disease expression variable ranging from obvious to subtle which was dependant on the age of infestation (Moore, 2011).

Three sections of track are deemed protectable by Moore Mapping (2011):

- The uninterpretable section at the eastern end of the track, adjacent to Windy Harbour Road;
- The uninfested section which straddles the Gardner River watershed; and
- The uninfested section at the western end of the track, adjoining the private property.

Three short sections of track are deemed unprotectable by Moore Mapping due to their minimal size (2011):

- Two sections between the major creek crossing and the Gardener River watershed; and
- To the west adjacent to sample 3.

Fauna

Fauna Assessment was undertaken by Bio Diverse Solutions in consultation with the DEC where significant fauna such as the Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*), Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*) and Southern Brown Bandicoot (*Isodon obesulus fusciventer*), are known to use the site, however no species are believed to use the site exclusively.

Disturbance is most likely to occur on a local scale, impacting individual animals, rather than a species or population. It is not considered that the proposal will significantly alter the fauna habitat of the region, or impact on the conservation status of any species.

The wetlands and creek system may form suitable habitat for fish species such as the vulnerable Balston's Pygmy Perch (*Nannatherina balstoni*) (EPBC Act and WCWA) and the Priority 3 species *Galaxiella nigrostriata* (Black-striped Minnow) (WCWA), as water conditions and geology are similar to those in other locations within the broader Gardner Watershed System where there are known populations of the fish.

Aboriginal Culture

Aboriginal Heritage sites exist to the south and east of the Subject Site. A Department of Indigenous Affairs recommended Heritage Consultant (Wayne Webb) undertook a heritage assessment in 2011, finding that there were no probable heritage sites located within the Doggerup Road Reserve Subject Site.

Ongoing consultation is occurring with South West Boodjara Working Party, which speak for the Windy Harbour area, and will continue throughout the project lifespan.

Soil and Land Degradation and Acid Sulfate Soils

The site is located within the Albany-Fraser Orogen, with the main rock types being granite and gneiss intruded by dolerite dykes. The area is located within the Scott Coastal Plain which is based on deposits of sands of marine and alluvial origin and is characterised by extensive swampy plains (Department of Conservation and Land Management (CALM), 2005).

A preliminary Acid Sulfate Soil (ASS) investigation (Kinnear 2011) was undertaken in accordance with the DEC guideline document 'Identification and Treatment Acid Sulfate Soils' (DEC, 2009). Twelve test pits were excavated in and adjacent to the wetland areas within the Doggerup Road Reserve. The subject area sampling /digging test pits, was undertaken in remote wetland regrowth areas along the Doggerup Road reserve adjacent to the D'Entrecasteaux National Park. These areas were targeted from the desktop assessment (70-100% Risk of ASS occurring SLIP dataset 2010) and are inaccessible by vehicle or machine as there is presently no access into the area and being surrounded by National Park.

Of the 20 samples submitted to the Bioscience WA laboratory for analysis, none were found to be Actual ASS, however 6 samples met Potential Acid Sulfate Soil (PASS) criteria, including sulphur levels in the exclusion analysis. As the track construction methodology does not involve disturbing soils in wetland areas, the risk of exposing ASS is considered to be very low.

Environmental Management

An Environmental Management Plan (EMP) has been prepared in consultation with the DEC and the Shire of Manjimup. The EMP documents the Proponent's commitments in regards to pre, post and during construction tasks, including:

- Development of management review and feedback procedures;
- Development of corrective and preventative procedures;
- Development of performance monitoring and measurement procedures on the key features of the proposal which may have an impact on the environment;
- Development of communication procedures to DEC staff, members of the community and government officers, and communicating relevant procedures and requirements to contractors;
- Training, including induction of all contractors, in environmental management procedures;
- Setting of appropriate objectives and targets, including the responsibility for achieving these within the timeframe in which they are to be achieved;
- Specific Action Plans including: weed management, revegetation and rehabilitation, monitoring, pre, post and during construction tasks, long term management and maintenance.

- Dieback management, revegetation and rehabilitation, construction management, drainage management;
- Environmental review of the potential environmental impacts; and
- Review records associated with the EMP.

Community and Stakeholder Consultation

Shellbay Holdings Pty Ltd initiated a stakeholder consultation program for the project to ensure that the needs and concerns of the interested and available members of the community were addressed during the development of the all-weather access track. Information has been disseminated to the Shire of Manjimup, Department of Environment and Conservation (DEC), Wildflower Society, Conservation Council, South West Catchments Council and the South West Boodjara Working Party.

Feedback from the stakeholder and public consultation process will be evaluated and used to inform and guide the refinement of the EMP. Ongoing Consultation will continue throughout the PER process and prior to construction activities.

Assessment by the Commonwealth Department of Sustainability, Environment, Water, Population and Communities

Details of the proposal were submitted to the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) for assessment against matters of national environmental significance (MNES) listed under the EPBC Act 1999 (Cwlth), with the outcome that the matter is deemed to be a “Controlled Action” requiring Preliminary Assessment and a decision on approval under the *Environment Protection and Biodiversity Conservation Act (EPBC) 1999* before it can proceed. This approval is still pending to date.

2. Introduction

2.1. Background

Shellbay Holdings Pty Ltd (Proponent) proposes to construct an all-weather access track along a gazetted road reserve “Doggerup Road” (Subject Site) between Windy Harbour Road and Nelson Location 7965 (known as Sandy Peak) on the south coast of Western Australia. Nelson Location 7965 is owned by Shellbay Holdings Pty Ltd who propose to survey and construct the track at their own expense.

The gazetted road reserve, Doggerup Road, is located within the municipality of the Shire of Manjimup, and was gazetted and surveyed approximately 70 years ago when Nelson Location 7965 was freeholded. Nelson Location 7965 is a private property adjoining the south coast with no formal access as it is surrounded by D’Entrecasteaux National Park. The gazetted Doggerup Road reserve extends from Windy Harbour Road to Nelson Location 7965 for approximately 6.5 km, of which 1.5 km was cleared by the Shire of Manjimup approximately 40 years ago.

2.2. Purpose of the PER Document

The PER has been prepared in accordance with EPA (2009) “*Guidelines for preparing a Public Environmental Review/Environmental Management Programme*”. The intent of the PER document is to:

- Place the proposal in the context of the natural and socio-economic local and regional environments;
- Adequately describe all components of the proposal such that the Minister for the Environment has the required advice to review and consider a well-defined project;
- Communicate in open and accountable forms, the proposal to stakeholders such that the EPA can be advised as to the major issues and concerns held by the community;
- Describe and illustrate the environmental management of the construction of the all-weather access track outlining how each of the identified environmental impacts are minimised and will be managed; and
- Provide the justification and rationale required, demonstrating that this proposal should be judged to be environmentally acceptable by the Minister and the EPA (EPA, 2009).

2.3. Proponent Details

Name of the Proponent

Shellbay Holdings Pty Ltd

Address of the Proponent

Shellbay Holdings Pty Ltd
Carol and Barry Owen
Shellbay Holdings
36 Eaton Drive
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Key Contact

Bio Diverse Solutions
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Contact Details

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3. Description of Proposal

3.1. Project locality

The Subject Site is the Doggerup Road Reserve located adjacent to the D'Entrecasteaux National Park 18km south of Northcliffe and 4 km north of Windy Harbour (Figure 1), within the municipality of the Shire of Manjimup. The Doggerup Road Reserve is positioned east-west in the landscape between Windy Harbour Road and Nelson Location 7965.

Figure 1 – Project locality



(Bio Diverse Solutions, 2010)

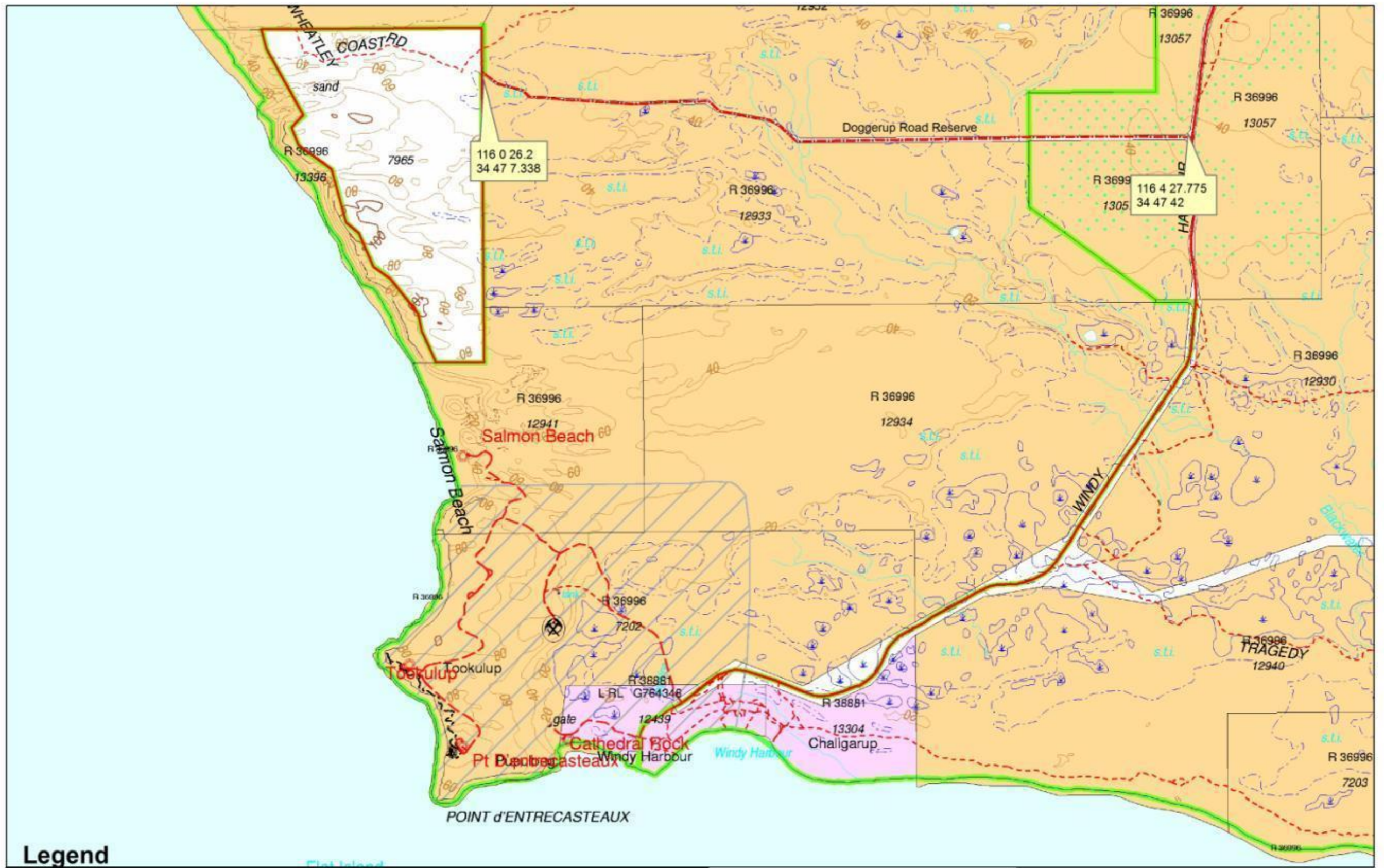
3.2. Proposal

There is no permanent road access to Nelson Location 7965 and currently the property can only be accessed via an existing DEC management track (Wheatley Coast Road) to the north east of Location 7965. This is impassable during winter due to inundation. Permission to use Wheatley Coast Road is currently sought by the Proponent on an annual basis from the Department of Environment and Conservation (DEC). The owners have sought legal access to Nelson Location 7965 via the road reserve since 1995, as did the previous owners.

The road reserve was gazetted in 1924. The PER relates to the 20 metre wide gazetted Doggerup Road Reserve as being the "Subject Site" (Figure 2). The proposed track is described as a 10m wide (6m permanent) clearing within a 20m wide surveyed road reserve surrounded by Class A Reserve, D'Entrecasteaux National Park, which is managed by the Department of Environment and Conservation.

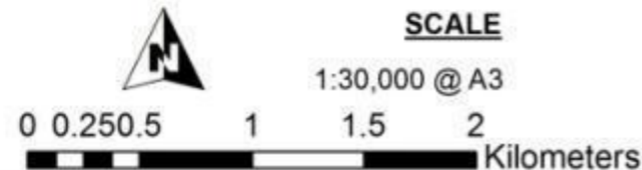
The proposal is for the clearing of native vegetation and the construction of a 6.5 km compacted limestone (3m final trafficable width) all weather access track within the gazetted road reserve from Windy Harbour Road to Nelson Location 7965.

Figure 2 – Doggerup Road Reserve Subject Site



Legend

- Nelson Location 7965
- Road centreline



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CLIENT Shellbay Holdings Pty Ltd Doggerup Road Windy Harbour		
Figure 2 – Doggerup Road Reserve		
STATUS FINAL	FILE LAND001	DATE 20/9/2010

3.3. Land use and Tenure

The subject site, Doggerup Road, is a road reserve that was gazetted in 1924. The subject site is located within the municipality of the Shire of Manjimup. Care, control and management of public roads are vested in the Local Authority under Section 300 of the *Local Government Act, 1995* (WA).

The road access to Nelson Location 7965 was partially formed and graded from the eastern end by the Shire of Manjimup in the early 1960's. At that time, approximately 1.5km section of road was fully cleared and constructed through Karri type vegetation to a gravel formed standard (including drainage, culverts, pipes, formation) from the Windy Harbour Road.

Doggerup Road is the formal gazetted access to Nelson Location 7965 (also known as Sandy Peak). Sandy Peak (Nelson Location 7965) has been identified through the Augusta-Walpole Coastal Strategy as 'Rural Conservation Zone' (i.e. no subdivision) within the D'Entrecasteaux National Park. It is proposed by the proponent (and in agreement with the Shire of Manjimup) that the newly formed track along Doggerup Road shall become a "Controlled Closed Road" which allows limited access into the location, while providing the proponents with all-weather access to the property.

Surrounding the Doggerup Road Reserve is D'Entrecasteaux National Park. The 116.686ha national park adjacent to the Subject Site (Doggerup Road Reserve) was gazetted in 28 November 1980. The Park comprises two Class A Reserves (no. 36996 and 43961) vested with the Conservation Commission and set aside for the purpose of 'national park and water' (CALM, 2005). The Reserve is managed on their behalf by the Department of Environment and Conservation (DEC) from the regional office at Manjimup and through district work centres at Pemberton and Northcliffe.

3.4. Key Characteristics of Project

Table 1 – Key Characteristics of Project

Non-spatial elements	Description
Legal Description of site	Doggerup Road Reserve
Zoning	Road Reserve
Municipality	Shire of Manjimup
Vegetation rehabilitation	All disturbed areas.
Spatial elements	Description
Footprint size of current Doggerup Road Reserve	13 ha (6.5km x 20 metre Road Reserve).
Length of road	6.5km (Windy Harbour Road to Nelson Location 7965).
Clearing native vegetation ha (maximum)	Not more than 6.5ha along road within a 10m maximum disturbance boundary/corridor (within 20m Road Reserve). 10 metres width of disturbance corridor within the 20 metre Road Reserve, or 6.5 ha (10m x 6.5km).
Existing cleared area of Road Reserve from previous disturbances	3m width or 1.95 ha (3m x 6.5km).
Total “Actual” amount proposed to be cleared by project (additional to existing).	4.55 ha (6.5ha – 1.95 existing cleared area).

3.5. Summary of Key Characteristics of the track construction

A maximum of 6.5 ha will need to be cleared for the project, although less than this figure is anticipated (4.55ha) due to the already cleared nature of the road reserve. It is anticipated that 3.9 ha would be the maximum permanent cleared area (3m running surface, 4m batters). The track is proposed to be constructed using compacted limestone to a minimum thickness of 300mm with batters steepened to limit the extent of clearing necessary.

4. Submissions received and Shellbay Holdings Pty Ltd Responses

Table 2 – Submissions Received during Public Environmental Review and Shellbay Holdings Pty Ltd Responses

Issue	Submission and/or issue	Shellbay Holding Pty Ltd Response
Proposal Footprint	<ul style="list-style-type: none"> The key characteristics table on page 17 of the Public Environmental Review (PER) states the width of the clearing footprint as 10 metres (within 20 metres road reserve). Please provide a construction profile to clarify the final road design and layout within the road reserve. 	<p>Shellbay Holdings Pty Ltd advise it was outlined in the PER and Engineering methodology documentation, that the footprint would generally be 3.0m wide for the full length, with additional at passing bays and water crossings, with the track to follow the natural surface. The Shire have not requested that the track be constructed to any Austroad standard with specific vertical and horizontal curve requirements.</p> <p>Shellbay Holdings Pty Ltd advise that stating it would follow natural ground and be 3.0m wide should be sufficient as this is not a major construction project. Additional survey and design by John Towie has been provided to assist interpretation by the agencies. Please refer to construction profile drawings provided to Shellbay Holdings Pty Ltd by John Towie undertaken and prepared in consultation with the Shire of Manjimup, October 2012 in Appendix A. As per the Environmental Management Plan, the Shire, DEC, DoW and any other government agencies are invited for a site walk over prior to construction to discuss any concerns of the track construction.</p>
Water Management	<ul style="list-style-type: none"> Department of Water states that maintaining pre-development water flows for water crossings three and four (identified in Figure 4 of the PER) is likely to be difficult due to the lack of defined channel. DoW has also identified species within the vegetation unit BIBq as being water dependant and should therefore be classified as wetland vegetation. The DoW noted that this vegetation unit is congruent with the mapped wetland provided in Figure 11 of the PER. As recommended by the Department of Environment and Conservation you should consider wetland sensitive designs. 	<p>Shellbay Holdings Pty Ltd contends that maintaining pre-development water flows will not be difficult. Design of the 3rd and 4th water crossings is shown diagrammatically by John Towie in Appendix A. An assessment of the existing catchment size and characteristics has been undertaken in accordance with Australian Rainfall and Runoff to determine the likely pre-development peak flow at crossing points 3 and 4 for a 1 in 10 year Annual Recurrence Interval (ARI) Storm Event. The catchment sizes are very similar for both the third and fourth crossings, producing similar peak flows. Utilising this pre-development peak flow and maintaining the use of 300mm diameter reinforced concrete pipes, to minimise the height of the track above the existing natural surface level, it is calculated that 12 separate culvert crossings would be required to maintain the existing peak flow capacity at each crossing point.</p> <p>It is recommended that crossing 3 includes three culverts side by side in the defined creek at chainage 73.71 and three culverts side by side at chainage 46.6, with the remaining 6 culverts being installed equidistant across the crossing point / swamp, as described in the Section 1 information received from John Towie Surveyor.</p> <p>It is recommended that crossing 4 includes three culverts side by side in the defined creek at chainage 249.07, with the remaining 9 culverts being installed equidistant across the crossing point, as described in the Section 2 information received from John Towie Surveyor. Installation of the culverts shall be in accordance with the previously produced Engineering Assessment.</p> <p>The mapped vegetation BIBq is within a “Dampland Seasonally inundated area” (Figure 11 PER document). Piped culverts are proposed where required for any surface watershed along the length of the track. It is noted that the species listed by Natural Area Consulting are predominantly groundwater dependant species, Shellbay Holdings Pty Ltd contends that these species will not be affected by the track construction as no groundwater shall be disturbed. Shellbay Holdings Pty Ltd would also like to note that the this area of track is previously cleared and vegetative impact will be minimal. Shellbay Holdings Pty Ltd have offered on numerous times to the agencies to accompany on a site visit to understand the vegetation and clearing nature, and is a recommendation of the EMP to undertake a site walk over prior to construction which is extended to any concerned agencies.</p>
Ongoing dieback and weed management	<ul style="list-style-type: none"> It is unclear in the PER how you will manage dieback once the road is constructed. Please clarify your commitments with regards to ongoing management of dieback. This issue is not discussed in the Environmental Management Plan (listed in schedule 3 of the PER). The Environmental Management Plan for the proposal states that weed monitoring and management will occur for three years post construction. The risk of weed incursion into D’Entrecasteaux National Park will not cease after this time. Please clarify how you will manage weeds into the future. 	<p>Shellbay Holdings Pty Ltd advises that as the material being used for the track is of a dieback free nature (certified uninfested raw material) that no movement of dieback can occur after the track is constructed as this material will act as a barrier (termed by DEC as “Green bridging”) to prevent any further movement of the disease (i.e. above the watershed and natural soil). In this manner Shellbay Holdings Pty Ltd believe ongoing management commitments to Dieback and other pathogens will be minimal. As access to the track is off a formed bitumen road, no soil movement can occur once the road is constructed.</p> <p>This is consistent with DEC Dieback Hygiene Manual, and as outlined in the EMP. The EMP has been updated to contain any contingency measures should the track be breached and temporary closures may need to be enforced to ensure there is no soil movement. Please refer to the updated version of the EMP dated 2/11/12. The ongoing maintenance of the track post construction will be the responsibility of Shellbay Holdings Pty Ltd, however they will not have any ownership of the road reserve as this is subject to a decision of the ownership from government agencies (see final dot point page 16/17 of this document).</p> <p>Shellbay Holdings Pty Ltd advises that the risk of weed incursion into the National Park is at its highest during construction and in the first three years post construction, and has thus accordingly outlined a rigorous weed management plan. After the three years monitoring, it is proposed weed management and monitoring will occur on an annual basis as part of the ongoing maintenance of the track. As weeds are identified they will be treated as per Table 5 of the EMP. The ongoing maintenance of the track post construction will be the responsibility of Shellbay Holdings Pty Ltd, however they will not have any ownership of the road reserve as this is subject to a decision of the ownership from government agencies (see final dot point page 16/17 of this document).</p>

Table 2 cont

<p>Public Access and ongoing maintenance of Doggerup Road</p>	<p>The OEPA understands that Shellbay Holdings Pty Ltd will assume long-term maintenance responsibility for Doggerup Road. Please clarify whether this responsibility will be legalised, such as through placing a covenant on the land title.</p> <p>The PER states that Doggerup Road will not be a public road but for private use only. Please clarify the main purpose of the road with regard to intended usage and the measures you will undertake to ensure the road is not used by the general public.</p>	<p>Shellbay Holdings Pty Ltd has received further advice from the Shire of Manjimup since the advertising of the PER regarding the road reserve, please refer to Appendix B. They advise that Doggerup Road is currently a public road. This means that presently, at any time, any member of the public, in any licensed vehicle, is entitled to use this road.</p> <p>Doggerup Road once constructed will be accessible to the public at large; there is no way that the owners of Shellbay Holdings Pty Ltd can legally control the public use. However, Shellbay Holdings Pty Ltd believes the numbers would be minimal and restricted to family and friends together with authorised trade persons and invitees.</p> <p>Shellbay Holdings Pty Ltd is restricted in controlling access to Doggerup Road as there is no legal right for them to gate the entry to Doggerup Road once it is constructed and trafficable to the public. This is further borne out by the email received from Doug Elkins from Shire of Manjimup. Therefore the only options Shellbay Holdings Pty believe are available are:</p> <p>a.) Remove the existing gates from the beginning of Doggerup Road and replace them with a sign showing “No through Road”; or</p> <p>Have the Shire of Manjimup support the closure of Doggerup Road and have the Department of Regional Land Development transfer the fee simple of the land comprising the gazetted road to Shellbay Holdings Pty Ltd. The Transfer will be conditional upon the said land being amalgamated to Nelson Location 7965 which in turn would allow for Shellbay Holdings Pty Ltd to control access over the constructed road which will now take the form of a private road and therefore gates can be installed as the land will be privately owned. In this instance Shellbay Holdings Pty Ltd can, if required grant an Easement In Gross to any Government instrumentality or Local Authority that may require to use the constructed Private Road i.e. FESA for fire management purposes.</p> <p>In summary Shellbay Holdings Pty Ltd contends that the best option for all parties concerned is option b) above as it will address all concerns in respect to legal, control and maintenance issues of the access road. The ownership and control of the road cannot be determined from Shellbay Holdings Pty Ltd at this point in time without guidance from the EPA and their pending decision and approval from the Shire and Department of Regional Land Development. Shellbay Holdings Pty Ltd advise that they (as per the PER and EMP) will be responsible for the maintenance of the road post construction.</p>
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Appendices

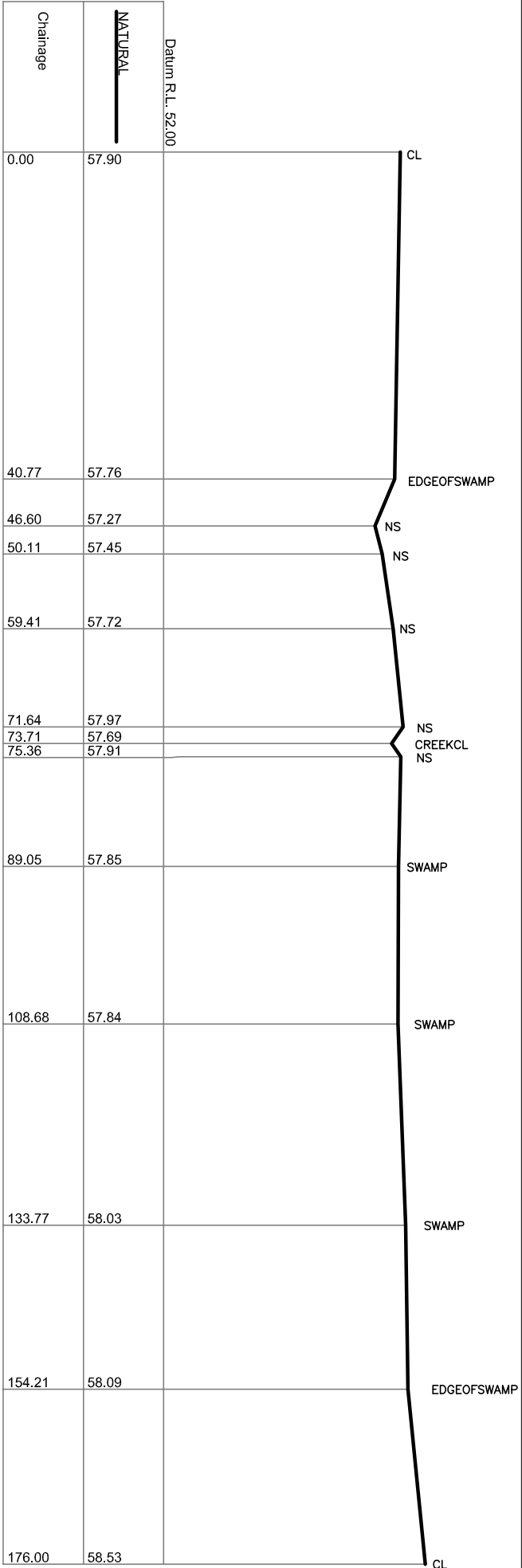
Appendix A – Construction profile, John Towie

Appendix B – Email from Shire of Manjimup Doug Elkins

Appendix A

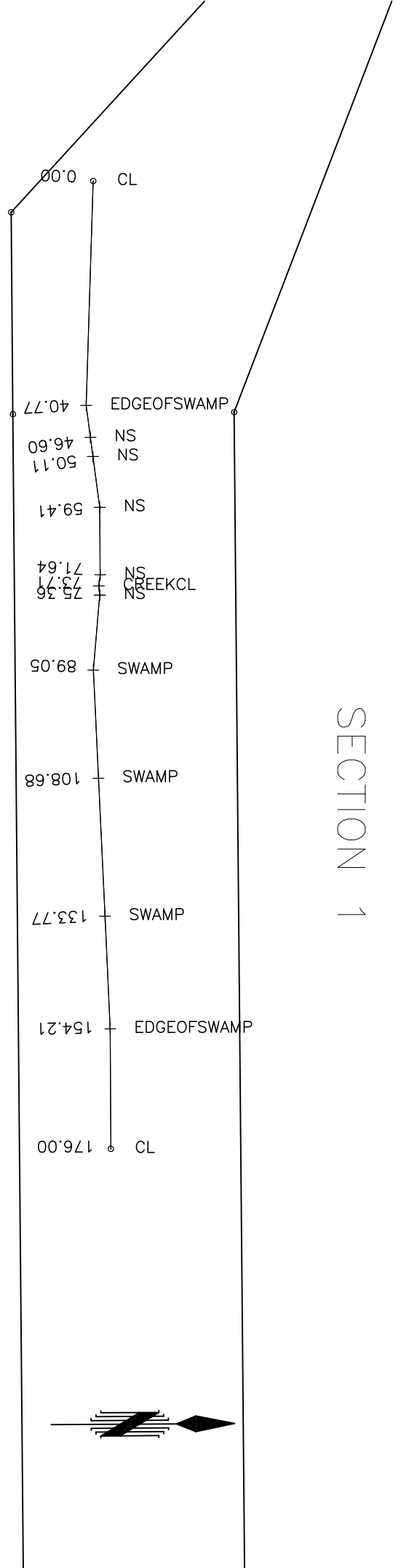
Construction profile, John Towie

Scale Horizontal 1:500 Vertical 1:100

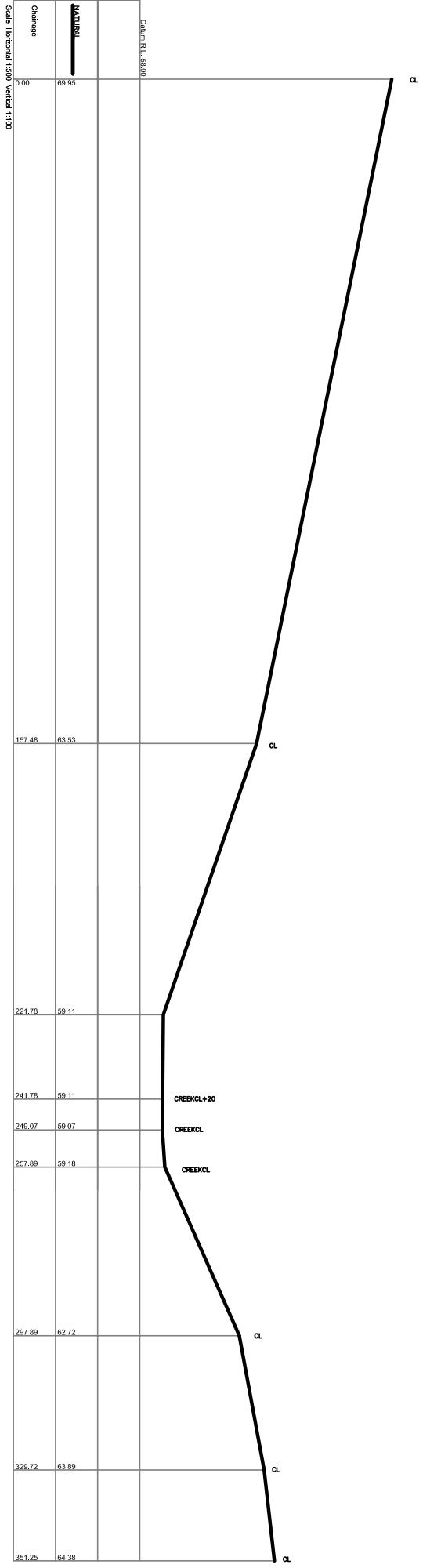
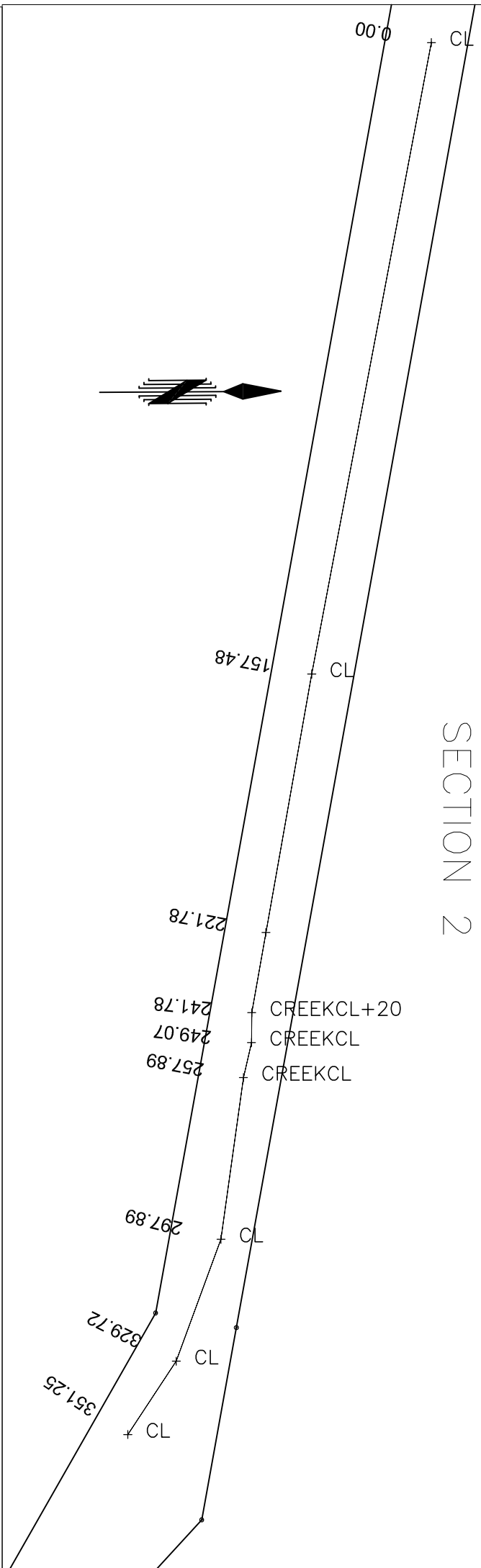


NATURAL

SECTION 1



SECTION 2

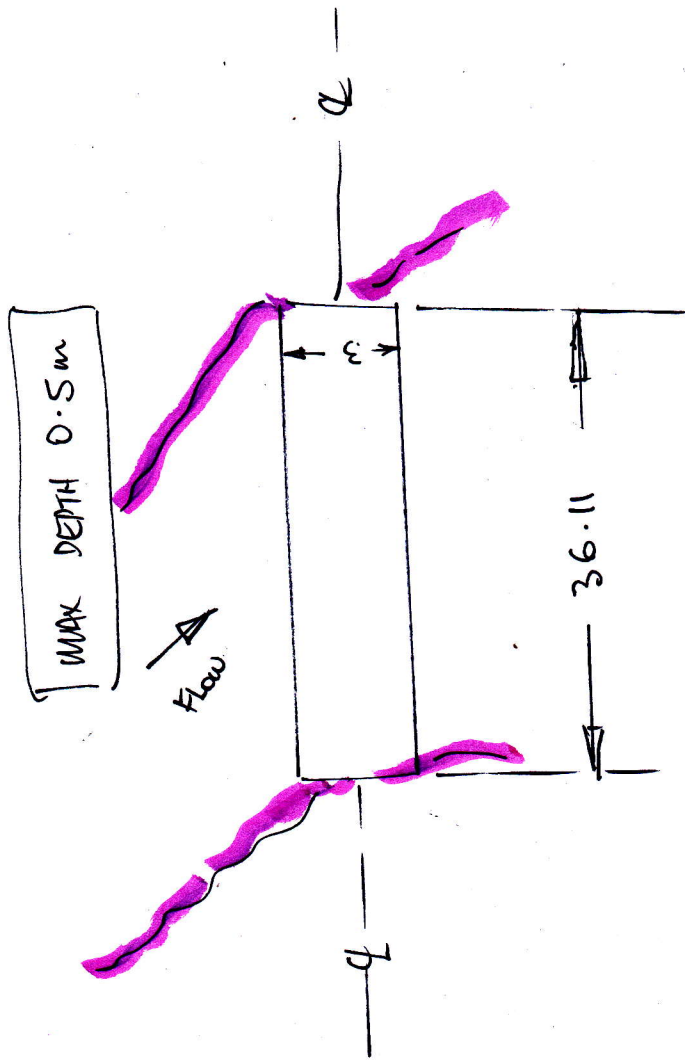


Station: RL = 58.00

Change	Station	Elevation
	0.00	69.55
	157.48	63.53
	221.78	59.11
	241.78	59.11
	249.07	59.07
	257.89	59.18
	297.89	62.72
	329.72	63.89
	351.25	64.38

Scale: Horizontal 1:50 Vertical 1:10

CREEK CROSSING 4

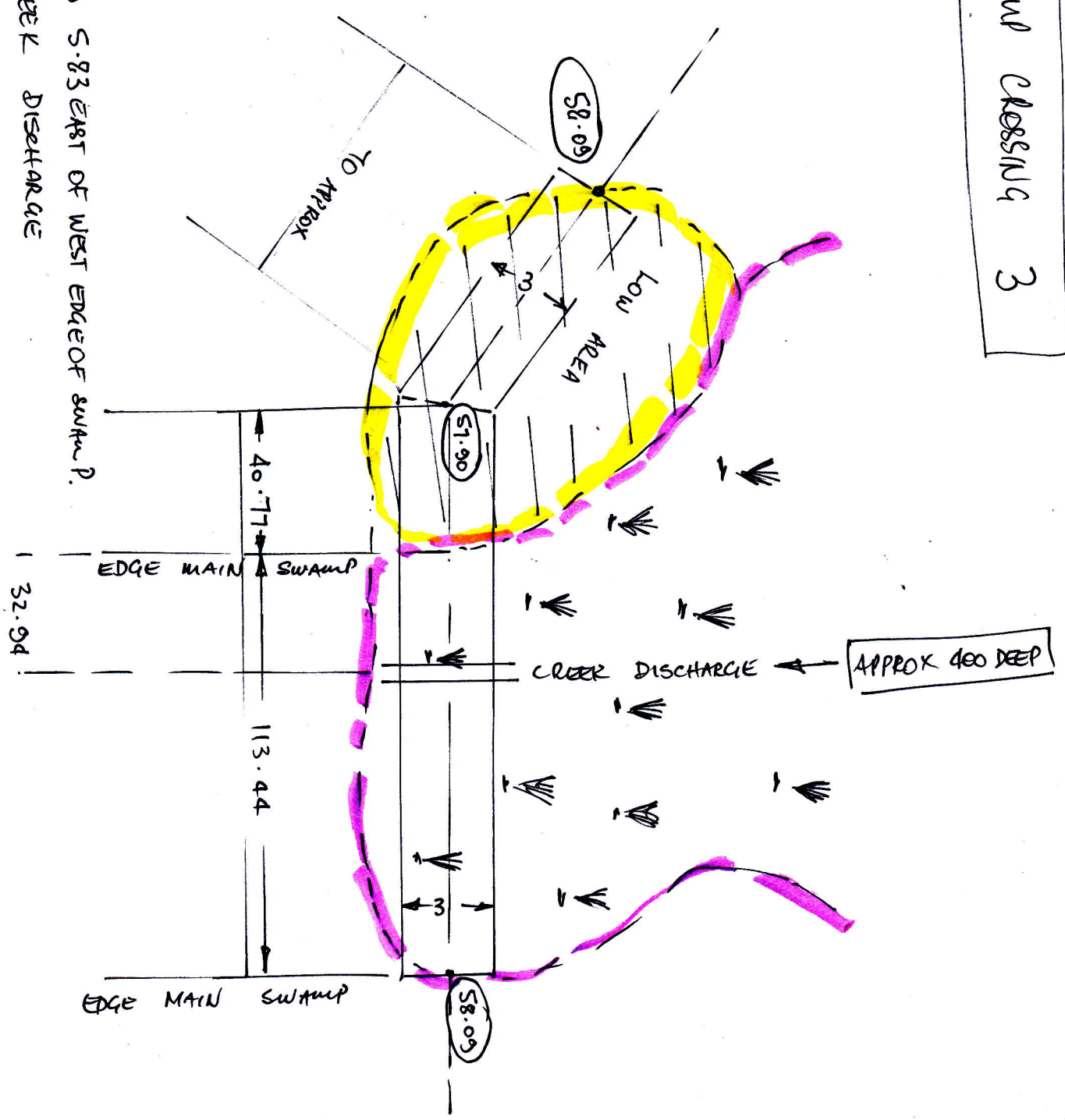


H/Over
26.10.2012
Z

Swamp crossing 3

ATouee 26.10.2012

MAXIMUM DEPTH 800 mm (LOCALISED S.83 EAST OF WEST EDGE OF SWAMP P.)
 MAXIMUM DEPTH 400 mm AT CREEK DISCHARGE



EDGE MAIN SWAMP

CREEK DISCHARGE

APPROX 400 DEEP

LOW AREA

S8.09

S1.90

S8.09

40.77

113.44

32.94

TO APPROX

Appendix B

Email from Shire of Manjimup Doug Elkins

Kathryn Kinnear

Subject: FW: Doggerup Road - Gate

From: Doug Elkins [<mailto:doug.elkins@manjimup.wa.gov.au>]

Sent: Wednesday, 31 October 2012 4:32 PM

To: carolbarry.o@bigpond.com

Cc: Info; Roy Winslow

Subject: Doggerup Road - Gate

Carol

Thank you for your call today requesting some clarification on public use of Doggerup Road.

As per our conversation, I confirm that Doggerup Road is currently a public road. This means that, at any time, any member of the public, in any licensed vehicle, is entitled to use this road. This road can also be used by any walker or rider of a bike. This has been the perplexing point for Council. The reality is that, at its current level of development there is significant environmental risk due to this legal right, as the crossing of the waterways and wet lands is not prevented merely due to the lack of a constructed crossing, and as the road becomes boggy, the general public will 'form' new tracks destroying vegetation.

It is noted that the *Environmental Protection Act 1996* ('Act') provides protection against damage to rare and endangered flora, and the clearing of native vegetation. However, this protection does not extend to the prohibition of the public from the use of the road. Furthermore, while the land surrounding the road may be classified as an Environmentally Sensitive Area ('ESA'), sections of the road can only be classified as ESAs in the case that there is rare flora, a defined wetland or a threatened ecological community, and these individual points have been made public or the Council has been informed of their individual locations (i.e. declaring the National Park as an ESA does not burden the road). In addition, the 'maintenance area' of the road is excluded from any ESAs.

The above means that clearing exemptions are likely to apply to much of the road, including the exemption for fence line clearing up to 5m inside the road reserve, and clearing for the maintenance of the 'efficacy and safety' of the road. In essence, any person at anytime has a right to use this road, and traverse this road, and Council has substantial rights over much of the road to remove vegetation without permit. It appears that the 'low key' road upgrading works, which limit the area of vegetation needed to maintain the 'safety and efficacy' of the road, reduce the likelihood of the general public 'making their own way' and destroying vegetation, provide a passage over waterways so that vehicles do not have to attempt water crossings, with the risk of oils and fuels entering the waterway and the risk of damage to the banks and unseen habitats, is superior to the 'environmentally risky' but completely legal public road arrangement currently in place.

I note that you currently have in place a gate to control access to the road. While the Council can provide a right to install a gate, no authority, other than Parliament, can provide a right to permanently restrict access to a public road. Accordingly, while we may generally look the other way if the gate is locked, as this is a public road, the right to have a gate does not provide a right to control access. If the Environmental Protection Authority ('EPA') has a desire to control access to the public road they should work with Council and the Department of Regional Development and Lands ('RDL') to have the road permanently closed and incorporated into your land. Such a result would restrict access to the road to the occupiers of your land, and would remove many of the exemptions that could allow significant vegetation clearing and management. However, in view of Council's position with regard to the EPA's unprecedented interference with minor improvements to a public road, it would be unlikely that Council would ever support the closure of the road without the interested agency (EPA or Department of Environment and Conservation) either providing an alternative constructed public road access to your property, or brokering a deal between yourself and RDL to have the road incorporated into your land.

Finally, as Doggerup Road is a public road, regardless of the result of the PER, you will still have the legal right to use the road in its current state of construction. It is unfortunate that this completely legal use of the road is more likely to result in environmental damage than the minor upgrades you propose.

As I personally would like to see the best possible environmental outcome, a view echoed by Council, I wish you the best of luck in getting your environmentally superior solution to traversing this public road approved.

Kind regards



Doug Elkins
Director Works

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E: doug.elkins@manjimup.wa.gov.au | W: www.manjimup.wa.gov.au

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