



MINISTER FOR THE ENVIRONMENT

Statement No.

000657

**STATEMENT TO AMEND CONDITIONS APPLYING TO A PROPOSAL
(PURSUANT TO THE PROVISIONS OF SECTION 46 OF THE
ENVIRONMENTAL PROTECTION ACT 1986)**

CLAY EXCAVATION
LOTS 40 & 41 APPLE STREET
(formerly Lots 21 and 22 Apple Street)
UPPER SWAN

Proposal: The operation of a clay excavation facility in Upper Swan, as documented in schedule 1 of this statement.

Proponent: Midland Brick Company Pty Ltd

Proponent Address: 102 Great Northern Highway, Middle Swan WA 6056

Assessment Number: 1434

Previous Assessment Number: 0121

Previous Statement Number: 265 (Published on 29 May 1992)

Report of the Environmental Protection Authority: Bulletin 1118

Previous Report of the Environmental Protection Authority: Bulletin 610

The implementation of the proposal to which the above reports of the Environmental Protection Authority relate is subject to the following conditions and procedures, which replace all previous conditions and procedures:

1 Implementation

1-1 The proponent shall implement the proposal as documented in schedule 1 of this statement subject to the conditions of this statement.

2 Proponent Commitments

2-1 The proponent shall implement the environmental management commitments documented in schedule 2 of this statement.

Published on

14 SEP 2004

3 Proponent Nomination and Contact Details

- 3-1 The proponent for the time being nominated by the Minister for the Environment under Section 38(6) or (7) of the *Environmental Protection Act 1986* is responsible for the implementation of the proposal until such time as the Minister for the Environment has exercised the Minister's power under section 38(7) of the Act to revoke the nomination of that proponent and nominate another person as the proponent for the proposal.
- 3-2 If the proponent wishes to relinquish the nomination, the proponent shall apply for the transfer of proponent and provide a letter with a copy of this statement endorsed by the proposed replacement proponent that the proposal will be carried out in accordance with this statement. Contact details and appropriate documentation on the capability of the proposed replacement proponent to carry out the proposal shall also be provided.
- 3-3 The nominated proponent shall notify the Department of Environment of any change of contact name and address within 60 days of such change.

4 Commencement and Time Limit of Approval

- 4-1 The proponent shall substantially commence the proposal within five years of the date of the statement published on 29 May 1992 or the approval granted in that statement shall lapse and be void.

Note: The Minister for the Environment will determine any dispute as to whether the proposal has been substantially commenced.

- 4-2 The proponent shall make application for any extension of approval for the substantial commencement of the proposal beyond five years from the date of the statement published on 29 May 1992 to the Minister for the Environment, prior to the expiration of the five-year period referred to in condition 4-1.

The application shall demonstrate that:

- 1 the environmental factors of the proposal have not changed significantly;
- 2 new, significant, environmental issues have not arisen; and
- 3 all relevant government authorities have been consulted.

Note: The Minister for the Environment may consider the grant of an extension of the time limit of approval not exceeding five years for the substantial commencement of the proposal.

5 Compliance Audit and Performance Review

- 5-1 The proponent shall prepare an audit program and submit compliance reports to the Department of Environment which address:

- 1 the status of implementation of the proposal as defined in schedule 1 of this statement;
- 2 evidence of compliance with the conditions and commitments; and
- 3 the performance of the environmental management plans and programs.

Note: Under sections 48(1) and 47(2) of the *Environmental Protection Act 1986*, the Chief Executive Officer of the Department of Environment is empowered to audit the compliance of the proponent with the statement and should directly receive the compliance documentation, including environmental management plans, related to the conditions, procedures and commitments contained in this statement.

- 5-2 The proponent may excavate clay indefinitely, subject to the acceptability of performance review reports which shall be submitted every five years after the start of the operations phase, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

The performance review reports shall address the following:

- 1 the major environmental issues associated with the project; the targets for those issues; the methodologies used to achieve these; and the key indicators of environmental performance measured against those targets;
- 2 the level of progress in the achievement of sound environmental performance, including industry benchmarking, and the use of best available technology where practicable;
- 3 significant improvements gained in environmental management, including the use of external peer reviews;
- 4 stakeholder and community consultation about environmental performance and the outcomes of that consultation, including a report of any on-going concerns being expressed; and
- 5 the proposed environmental targets over the next five years, including improvements in technology and management processes.

6 Drainage Management

- 6-1 Prior to quarrying activities and in consultation with the Department of Conservation and Land Management, Main Roads WA, the Swan River Trust and the City of Swan, the proponent shall prepare a Drainage Management Plan to protect the fenced-off habitat of the Western Swamp Tortoise at Ellen Brook Nature Reserve from external surface water drainage impacts of the proposal, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

This plan shall address the following:

- 1 monitoring of drainage to detect, report on, and manage any drainage impacts on the Wildlife Sanctuary for the Western Swamp Tortoise at Ellen Brook Nature Reserve;
 - 2 remediation of any unacceptable drainage impacts on the Wildlife Sanctuary caused by this proposal;
 - 3 detention of all drainage waters on-site in the first three years of operation, so that they do not enter the Wildlife Sanctuary at the Ellen Brook Nature Reserve nor create an unacceptable impact elsewhere; and
 - 4 diversion of all drainage waters from the south-western side of the Great Northern Highway to prevent their entering the Wildlife Sanctuary area at Ellen Brook Nature Reserve within two years following the date of the statement published on 29 May 1992, and in doing so, ensuring that this action does not cause an unacceptable impact elsewhere.
- 6-2 The proponent shall make publicly available and subsequently implement the Drainage Management Plan being part of the Environmental Management Programme required by condition 8, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

7 Wildlife Sanctuary Buffer

- 7-1 The proponent shall not quarry within 100 metres of the boundaries of the Wildlife Sanctuary at Ellen Brook Nature Reserve, until further investigations demonstrate, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority and the Department of Conservation and Land Management, that adverse effects upon the tortoise habitat will not occur.

8 Environmental Management Programme

- 8-1 The proponent shall prepare, make publicly available and subsequently implement an Environmental Management Programme, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

The plans, strategies or reports to be prepared as part of the Environmental Management Programme shall include the following:

- 1 a staged quarrying strategy;
- 2 drainage management (see condition 6);
- 3 groundwater management and protection;
- 4 progressive rehabilitation of the site;

- 5 procedures to minimise noise, dust and visual impacts associated with the quarrying and transport operations;
- 6 public safety and mosquito breeding;
- 7 periodic reporting of monitoring results; and
- 8 consequential changes to project management to remedy unacceptable impacts.

9 Regional Development, Drainage and Rehabilitation

- 9-1 The proponent shall contribute to the preparation of a regional development, drainage and rehabilitation strategy for the Upper Swan Locality in consultation with the Department of Conservation and Land Management, the Department for Planning and Infrastructure, the City of Swan, and other current and known proposed clay producers in the area, such that the strategy can be prepared within two years following the date of the statement published on 29 May 1992, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

10 Decommissioning/Closure Plans

- 10-1 Within two years following the date of the statement published on 29 May 1992, the proponent shall prepare a Preliminary Decommissioning/Closure Plan, which provides the framework to ensure that the site is left in an environmentally acceptable condition to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

The Preliminary Decommissioning/Closure Plan shall address:

- 1 rationale for the siting and design of plant and infrastructure as relevant to environmental protection, and conceptual plans for the removal or, if appropriate, retention of plant and infrastructure;
 - 2 long-term management of ground and surface water systems;
 - 3 a conceptual rehabilitation plan for all disturbed areas and a description of a process to agree on the end land use(s) with all stakeholders;
 - 4 a conceptual plan for a care and maintenance phase; and
 - 5 management of noxious materials to avoid the creation of contaminated areas.
- 10-2 At least 12 months prior to the anticipated date of decommissioning/closure, or at a time agreed with the Environmental Protection Authority, the proponent shall prepare a Final Decommissioning/Closure Plan designed to ensure that the site is left in an environmentally acceptable condition to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

The Final Decommissioning/Closure Plan shall address:

- 1 removal or, if appropriate, retention of plant and infrastructure in consultation with relevant stakeholders;
- 2 long-term management of ground and surface water systems;
- 3 rehabilitation of all disturbed areas to a standard suitable for the agreed new land use(s); and
- 4 identification of contaminated areas, including provision of evidence of notification and proposed management measures to relevant statutory authorities.

10-3 The proponent shall implement the Final Decommissioning/Closure Plan required by condition 10-2 until such time as the Minister for the Environment determines, on advice of the Environmental Protection Authority, that the proponent's decommissioning/closure responsibilities have been fulfilled.

10-4 The proponent shall make publicly available the Final Decommissioning/Closure Plan required by condition 10-2 to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

Procedures

- 1 Where a condition states "to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority", the Environmental Protection Authority will provide that advice to the Department of Environment for the preparation of written notice to the proponent.
- 2 The Environmental Protection Authority may seek advice from other agencies or organisations, as required, in order to provide its advice to the Department of Environment.

Notes

- 1 The Minister for the Environment will determine any dispute between the proponent and the Environmental Protection Authority or the Department of Environment over the fulfilment of the requirements of the conditions.

Dr Judy Edwards MLA
MINISTER FOR THE ENVIRONMENT

14 SEP 2004

Schedule 1

The Proposal (Assessment No. 1434)

Clay excavation commenced at this site early March, 2002, and previous to this topsoil from part of the first excavation cell was windrowed into a 1.5-metre tree-planted bund in readiness for excavation in the initial summer campaign.

Future excavation programs will continue within the excavation cell, in accordance with the approved staging plan. During the proposed earthworks programs (topsoil and overburden removal), approximately 0.5 hectares of the clay resource will be exposed at one time to reduce the potential for disturbance to local residents. Only relatively small quantities of clay will be excavated during the single campaign each year. Trucks will be loaded directly from the pit with an excavator working on a 3-metre face, with no clay stockpiling on-site. The clay excavation and cartage program generally runs for 2 to 6 weeks between November and May each year, depending on the tonnage removed.

The Key Proposal Characteristics are shown in Table 1.

Table 1 – Key Proposal Characteristics

Element	Quantities/Description
Size of Clay Body (million tonnes)	0.55
[#] Total Area of Disturbance (ha)	10.1
*Rate of Excavation (tonnes per year)	50,000
Major Infrastructure	nil
Overburden (million tonnes)	0.32 (1:0.6 ratio to clay)
Water Usage	nil

will also be rehabilitated.

* estimated at present usage.

Figures (attached).

Figure 1 – Project location.

Figure 2 – Proposed archaeological survey sites.

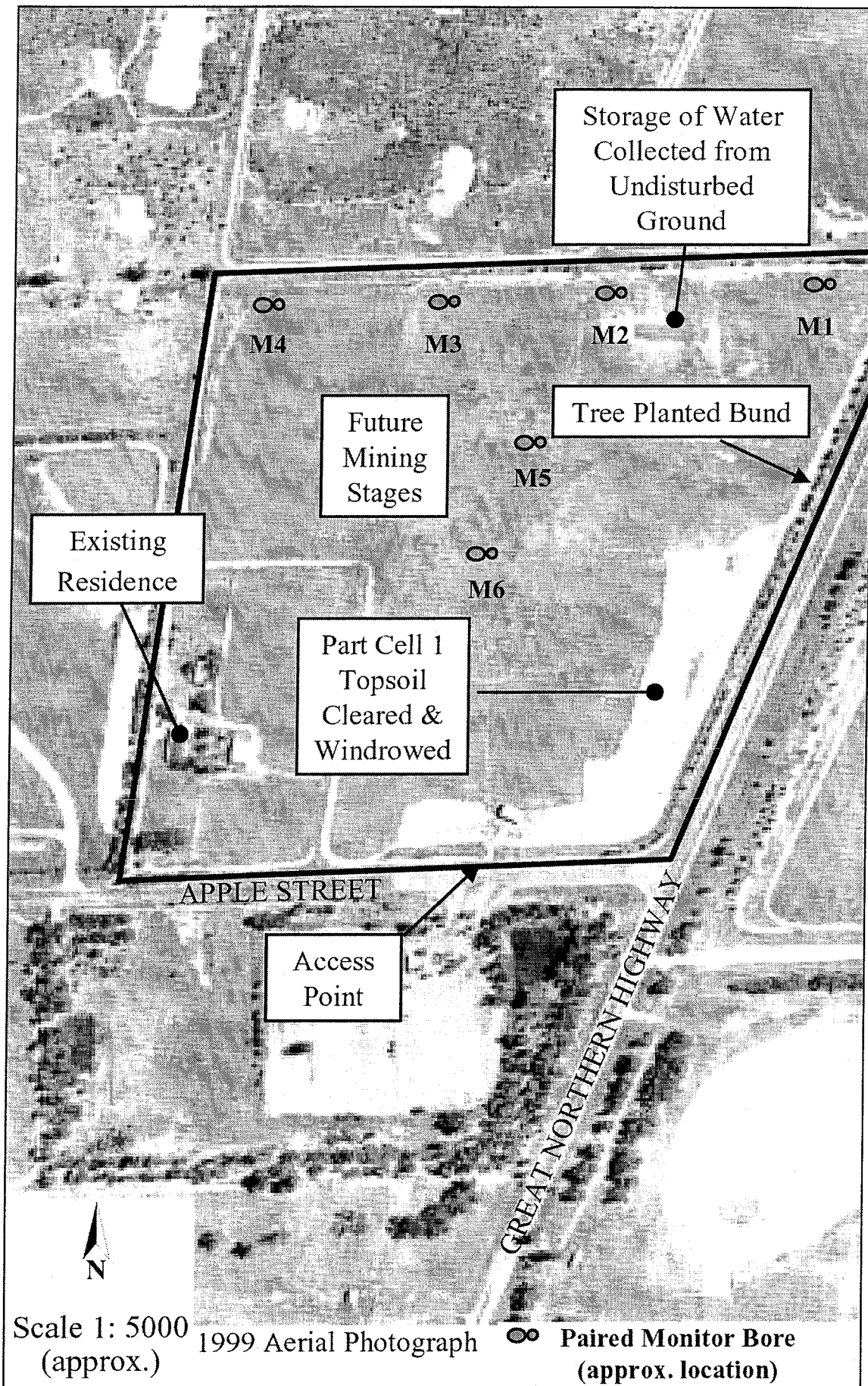
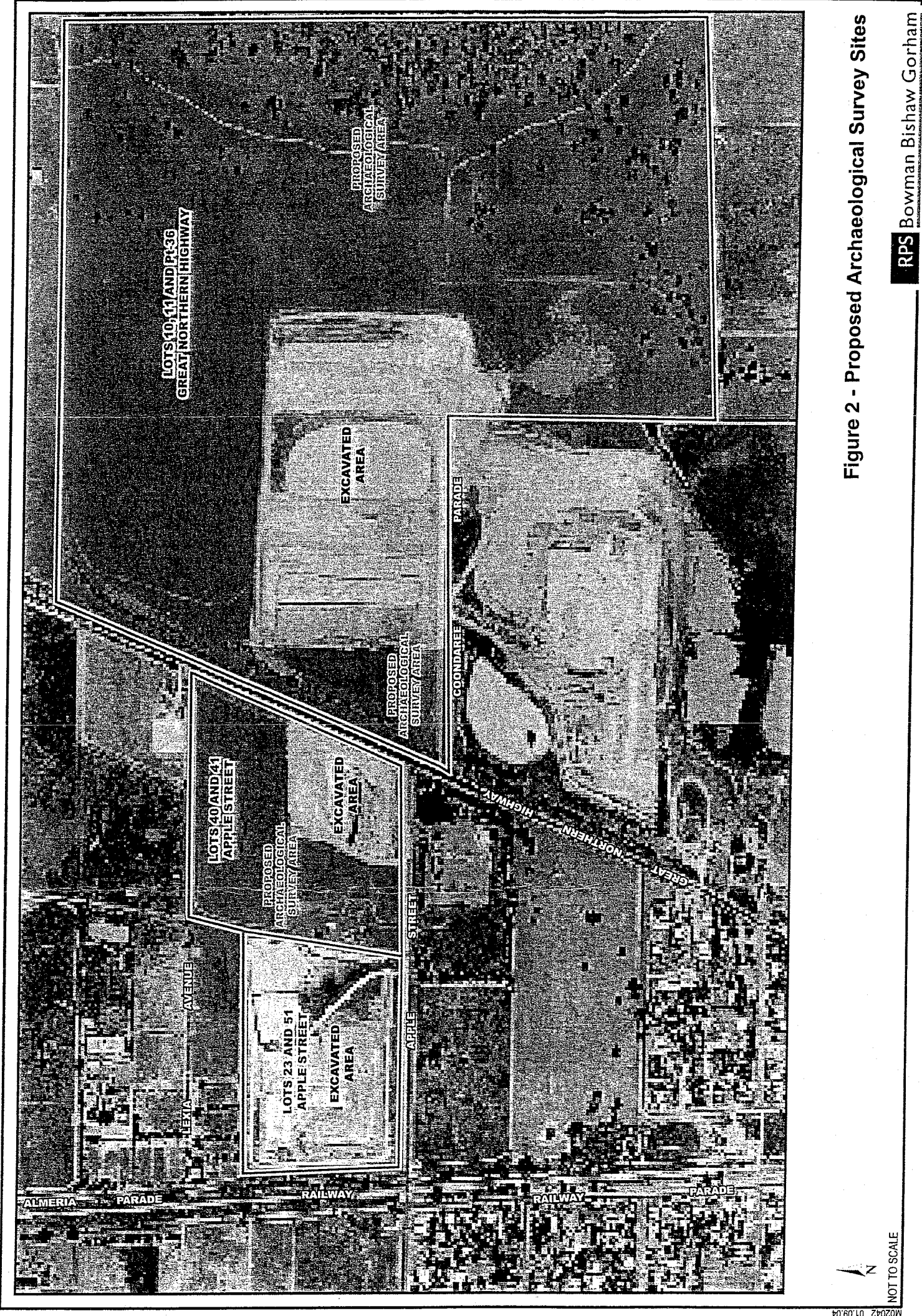


Figure 1: Project location.



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Figure 2 - Proposed Archaeological Survey Sites

Proponent's Environmental Management Commitments

1992, as amended

**CLAY EXCAVATION
LOTS 40 & 41 APPLE STREET
(formerly Lots 21 & 22 Apple Street)
UPPER SWAN**

(Assessment No. 1434)

MIDLAND BRICK COMPANY PTY LTD

Proponent's Environmental Management Commitments (consistent with commitments detailed in 1992)

CLAY EXCAVATION
LOTS 40 & 41 APPLE STREET
(formerly Lots 21 & 22 Apple Street)
UPPER SWAN (Assessment No. 1434)

The proponent is committed to the overall environmental management and rehabilitation philosophy outlined in the Consultative Environmental Review and subsequent modifications as outlined in Appendices 2 and 3 of Environmental Protection Authority Bulletin 610.

In specific terms, this means the proponent will:

- (1) Consult with the Planning Authorities to facilitate the derivation of a long-term strategic plan for the locality, which recognises and accepts the interim priority land use of clay extraction.
- (2) Establish an inter-company liaison mechanism to enable a coordinated approach between all three proponents of the nearby clay excavation projects with respect to addressing potential cumulative operational effects and overall rehabilitation goals.
- (3) Implement the management techniques described in both Sections 5 and 6 of the Consultative Environmental Review to ensure that adverse effects are not experienced in relation to:
 1. potential visual intrusion for residents at Upper Swan and through-traffic on Great Northern Highway;
 2. potential noise and dust disturbance of the residents at Upper Swan, particularly near the road junction of Apple Street and Almeria Parade;
 3. potential erosion of working areas and stockpiles and consequent silt transport to local drainage; and
 4. dewatering of accumulated rainfall and (perhaps) groundwater seepage from the working area of the pit which may be necessary to allow excavation to proceed.
- (4) Implement routine surveillance of the quarries at regular intervals throughout the year to assess critical parameters identified in the monitoring programme.
- (5) Rehabilitate previously worked areas sequentially as soon as practicable in accordance with the rehabilitation objectives developed in consultation with the Department of Conservation and Land Management, the Department for Planning and Infrastructure, the City of Swan and the landowner (ie. in respect of leasehold arrangements).
- (6) Contain any turbid water within its excavations and immediate surroundings to ensure it does not flow onto the tortoise habitat.

- (7)
- 7.1 Prepare an Environmental Monitoring and Management Programme to the requirements of the Environmental Protection Authority prior to commencement of operations at the site.
 - 7.2 Implement the Environmental Monitoring and Management Programme outlined in 7.1 to the requirements of the Environmental Protection Authority.
- (8) Verify that no adverse effects on the Short-Necked Tortoise habitat are experienced, by appropriate staging and monitoring of excavations.
- (9) Not excavate below the permanent water table and, if the excavation did reach the water table, the area would be backfilled to maintain at least one metre of cover.
- (10) Undertake an archaeological survey in the areas currently undisturbed by clay excavation activities within the project area, prior to clay excavation in these areas. (See figure 2 attached).
- (11) In the event that Aboriginal cultural deposits are discovered during the archaeological survey referred to in commitment 10 above or uncovered as a result of clay excavation or any other activities, work in the immediate area will cease immediately and the discovery will be reported to the Department of Indigenous Affairs.