

Allens Arthur Robinson



Point Nepean Community Trust

Deed of Amendment

Allens Arthur Robinson
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Date

24 APRIL

2006

Parties

1. Commonwealth of Australia through the Department of Defence, Infrastructure Division, Property Disposals, BP-2-A034, Canberra, Australian Capital Territory (the *Settlor*).

2. Simon^{47F} McKeon of^{47F} Geoff Bailey of^{47F}
^{47F} Thomas Harley of^{47F}
^{47F} David^{47F} Stewart of^{47F}
^{47F} Ursula de Jong of^{47F} Paul
^{47F} McShane of^{47F} Carolyn Briggs of^{47F}
^{47F} and Nelmay^{47F} Bee of^{47F}
^{47F} (the *Trustee*).

Recitals

A By a deed of trust dated 10 June 2004 (the *Trust Deed*) a trust known as the Point Nepean Community Trust (the *Trust*) was established for the benefit of all Australians to preserve, conserve and protect the Heritage Values and natural environment of the land, to encourage public access to and appropriate use of the Land and to encourage and foster understanding of the local culture and history of the Land and Simon^{47F} McKeon agreed to act as the initial trustee of the Trust.

B Clause 8 of the Trust Deed provides that the Minister in the Defence Portfolio shall appoint up to 10 individuals to be the trustees of the Trust.

C The Minister in the Defence Portfolio appointed Geoff Bailey, Thomas Harley, David^{47F} Stewart, Ursula de Jong, Paul^{47F} McShane, Carolyn Briggs and Nelmay^{47F} Bee as trustees of the Trust pursuant to clause 8.5 of the Trust Deed.

D. Clause 12 of the Trust Deed provides as follows:

"12. Trustee may vary Deed

12.1 It shall be lawful for the Trustee, having resolved to do so by Special Resolution, with the Settlor's prior written consent at any time or times by deed or deeds:

12.1.1 to vary or extend the provisions of this Deed and generally to declare new or further trusts affecting the Trust Fund or the Land to further the Objects **Provided That** no alteration shall be made which would cause the Trust to cease to be a charity according to the laws in force in the State of Victoria and **Provided Further That** the Trustee shall be expressly empowered to modify or vary the trusts and powers hereby

declared if and insofar as the same may be required for the purpose of obtaining exemption for the income of the Trust Fund pursuant to and in accordance with Subdivision 50B of the *Income Tax Assessment Act 1997* as amended from time to time or of any Act repealing or replacing the same:

- 12.1.2 if at any time after the creation of the Trust it shall appear to the Trustee that either by reason of change in the law affecting the administration of charities or trusts or of changes in social or political conditions or by reason of any defect or omission in the provisions of this Deed or for the more effectual execution of the Objects, the Trustee should possess or be invested with any further or other administrative powers which the Trustee does not or may not possess it shall be lawful for the Trustee by deed or deeds to supplement or alter or amend the provisions of this Deed to such an extent (but to such an extent only) as may in their opinion be requisite for the purpose of conferring on the Trustee such further or other administrative powers;
- 12.1.3 if it is considered necessary to do so, to vary the Deed to enable the Trust to become an organisation capable of being endorsed as a tax deductible gift recipient or income tax exempt under the *Income Tax Assessment Act 1997*;
- 12.1.4 to terminate the Trust and to pay or apply the whole of the property of the Trust and Trust Fund then remaining to or for the benefit of any of the Objects."

- E The Trustee has resolved by Special Resolution to alter, amend and delete various of the provisions of the Trust Deed.
- F The Trustee and the Settlor are satisfied that the alterations, deletions, replacements and additions effected by this Deed comply with clause 12 of the Trust Deed.

Now this Deed Witnesses that the Trustee with the consent of the Settlor amends, deletes, replaces and adds to the provisions of the Trust Deed with effect on and from the date of this Deed of Amendment as set out in the Schedule.

Executed as a Deed in Victoria.

Executed for and on behalf of the Commonwealth of Australia by the Honourable Sandy Macdonald Parliamentary Secretary to the Minister for Defence in the presence of:

47F



Witness Signature

DIANA STANLEY

Print Name

47F



Signature

The Honourable Sandy Macdonald

Point Nepean Community Trust Deed of Amendment

Allens Arthur Robinson 

Signed Sealed and Delivered by
Simon ^{47F} [redacted] McKeon in the presence
of:

47F [redacted]

47F [redacted]

Signature

Alan Studley

Print Name

Signed Sealed and Delivered by
Geoff Bailey in the presence of:

47F [redacted]

47F [redacted]

Alan Studley

Print Name

Signed Sealed and Delivered by
Thomas Harley in the presence of:

47F [redacted]

47F [redacted]

Witness Signature

Olivia Veruto

Print Name

Signed Sealed and Delivered by
David ^{47F} [redacted] Stewart in the presence
of:

47F [redacted]

47F [redacted]

Alan Studley

Print Name

Point Nepean Community Trust
Deed of Amendment

Allens Arthur Robinson 


Signed Sealed and Delivered by
Ursula de Jong in the presence of:

47F 

47F 

ALAN STUDEY

Print Name

Signed Sealed and Delivered by
Paul  McShane in the presence of:

47F 

47F 

ALAN STUDEY

Print Name


Signed Sealed and Delivered by
Carolyn Briggs in the presence of:

47F 

47F 

ALAN STUDEY

Print Name

Signed Sealed and Delivered by
Nelmay  Bee in the presence of:

47F 

47F 

Jacqueline White

Print Name

Signature

Schedule

1. Clause 5.1 of the Trust Deed shall be amended by replacing the words “the lease” where appearing in the first line and replacing them with the words “possession”.
2. A new clause 17 to be inserted as follows:
 - “17. **Establishment of Point Nepean Public Fund**

The Trustees shall establish and maintain a public fund to be called the Point Nepean Public Fund (the *Fund*). The Fund is established for the sole and specific purpose of supporting the objects of the Trust.

The Rules of the Fund are:

 - 17.1 The role of the Fund is to:
 - (a) receive gifts of money or property for the Fund’s purpose;
 - (b) credit to the Fund any interest earned on such gifted money; and
 - (c) credit to the Fund any money derived from such gifted property.

The Fund is not to receive any money or property other than that received as a gift for the objects of the Trust.

 - 17.2 The Trust and the Fund will invite members of the general public to make donations of money or property to the Fund for the objects of the Fund.
 - 17.3 All moneys donated to the Trust, all interest accrued on such moneys, all income derived from donated property and all money received from realisation of such property will be deposited into the Fund.
 - 17.4 Receipts are to be issued in the name of the Point Nepean Community Trust to donors and proper accounting records and procedures are to be kept and used for the Fund. All such receipts are to be endorsed with the following:

“The Point Nepean Public Fund is a Public Fund established by the Point Nepean Community Trust (ABN 61 786 390 117). Under the *Income Tax Assessment Act 1997* donations of \$2.00 or more are tax deductible.”.
 - 17.5 Donations to the Fund are to be kept separate from other funds of the Trust.
 - 17.6 A separate bank account called the Point Nepean Gift Fund is to be opened to deposit money donated to the Fund, including interest accruing thereon.
 - 17.7 The Fund will be operated on a non-profit basis. The assets and income of the Fund shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to the Trustee or any persons acting for the Trustee except as bona fide compensation for services rendered or expenses incurred on behalf of the Trust.
 - 17.8 In the event of the winding up of the Fund, if there remains, after the satisfaction of all its debts and liabilities, any surplus assets or property whatsoever within the

Fund, it shall not be paid to or distributed to the Trustee of the Trust but shall be given or transferred to another organisation or fund with similar purposes to which income tax deductible gifts can be made under the *Income Tax Assessment Act 1997*.

- 17.9 The books and records of the Fund will be separately audited by the Fund's accountants to confirm that the Fund has been properly administered in accordance with these Rules.
- 17.10 The Fund will be administered by a committee of management who shall be responsible for all its functions including the making of investment decisions.
- 17.11 The committee of management shall comprise no fewer than three persons and may include the Trustee. The committee will be appointed by the Trustee. A majority of the members of the committee of management must be persons who, because of their tenure of some public office or their position in the community, have a degree of responsibility to the community as a whole as distinct from obligations solely in regard to the objectives of the Trust.
- 17.12 The Australian Taxation Office must be notified of any alterations made to the Fund Rules.

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**Deed of Amendment
Point Nepean Community Trust**



Commonwealth of Australia

Parties

Commonwealth of Australia (Settlor) through the Department of Defence, Infrastructure Division, Property Disposals, BP-2-A034, Canberra, ACT 2600

Simon^{47F} McKeon of^{47F} Geoff Bailey of^{47F}
 47F Thomas Harley of^{47F}
 David^{47F} Stewart of^{47F} Ursula de Jong of^{47F}
 47F Paul^{47F} McShane of^{47F}
 47F Carolyn Briggs of^{47F} Nelmay^{47F} Bee
 of^{47F} and Bruce Leaver, John Gorton
 Building, King Edward Terrace, Parkes, ACT (Trustee)

Background

- A By a Deed of Trust dated 10 June 2004 (**Original Trust Deed**) a trust known as the Point Nepean Community Trust (**Trust**) was established for the benefit of all Australians to preserve, conserve and protect the Heritage Values and natural environment of the land, to encourage public access to and appropriate use of the Land and to encourage and foster understanding of the local culture and history of the Land and Simon^{47F} McKeon agreed to act as the initial trustee of the Trust.
- B The Original Trust Deed was amended by a Deed of Amendment dated 24 April 2006 (**Deed of Amendment**) so that the Trust now operates in accordance with the terms of the Original Trust Deed as so amended (**Trust Deed**).
- C Clause 8 of the Trust Deed provides that the Minister in the Defence Portfolio may appoint up to 10 individuals to be the trustees of the Trust.
- D The Minister in the Defence Portfolio has appointed Geoff Bailey, Thomas Harley, David^{47F} Stewart, Ursula de Jong, Paul^{47F} McShane, Carolyn Briggs, Nelmay^{47F} Bee and Bruce Leaver as trustees of the Trust pursuant to clause 8.5 of the Trust Deed.
- E Clause 12 of the Trust Deed provides that the Trustee may by Special Resolution resolve to amend the Trust Deed with the Settlor's prior written consent at any time or times by deed or deeds subject to certain conditions.
- F The Trustee has resolved by Special Resolution to alter, amend and delete various of the provisions of the Trust Deed.
- G The Trustee and Settlor are satisfied that the alterations, deletions, replacements and additions effected by this document comply with clause 12 of the Trust Deed.

COPY

Operative provisions

The Trustee, with the consent of the Settlor amends, deletes, replaces and adds to the provisions of the Trust Deed, with effect on and from the date of this document as set out in the Schedule.

Execution and date

Executed as a deed.

Date: 21 June 2006

Executed for and on behalf of the Commonwealth of Australia by The Honourable Sandy Macdonald Parliamentary Secretary to the Minister for Defence in the presence of:

47F
[Redacted Signature]

Signature

DIANA STAINLAW

Name of witness

47F
[Redacted Signature]

Signature

Signed sealed and delivered by Simon 47F McKeon in the presence of:

47F
[Redacted Signature]

Signature

RACOSIN

Name of witness

47F
[Redacted Signature]

Signature of witness

Signed sealed and delivered by

CIRIYLA M. DE JONG

in the presence of:

47F
[Redacted Signature]

47F

RACOSIN

Name of witness

[Redacted Signature]

Signature of witness

Schedule

1. Clause 8.34 of the Trust Deed be deleted and replaced with the following:-

"To assist the Minister in ensuring the Commonwealth meets its obligations, the Trustee must provide to the Minister no later than 15 September 2006 and each year thereafter, a report on the following matters:-

 - 8.34.1 the financial status of the Trust Fund for the financial year ending 30 June 2006 and each year thereafter including details as to spending and revenue, both actual and projected, and of assets and liabilities, supported by actuarial certification;
 - 8.34.2 how the Trustee is meeting, and proposes to continue to meet, the requirements for preservation of the Heritage Values of the Land."
2. Clause 8.38.1 of the Trust Deed be deleted and replaced with the following:

"8.38.1 The resolution is set out in a document or documents indicating that a majority, or in the case of a Special Resolution a Special Majority, are in favour of it, even if some Trustees are against it."
3. Clause 8.42 of the Trust Deed be deleted and replaced with the following:-

"A majority of Trustees must be present before business can be transacted at a Meeting of Trustees."
4. Clause 10.8 of the Trust Deed be amended by deleting the word "Trust" in the second line and replacing it with the words "State of Victoria".
5. The definition of Land in clause 16.1 of the Trust Deed shall be amended by deleting the words "Lot 2 on Transfer Plan number TP839163E which is North of Defence Road, other than the area designated 'Cliff Area' on the copy of the Transfer Plan attached to this Deed," and replacing them with "Lot 4 on Transfer Plan TP839163E version 4 a copy of which is attached to this Deed".
6. The definition of Special Majority in clause 16.1 of the Trust Deed shall be amended by deleting the words "by number" and replacing them with the words "not prevented from voting by reason of a conflict of interest".
7. The Transfer Plan number TP839163E marked 'preliminary' attached to the Trust Deed be removed and replaced with the Transfer Plan TP839163E version 4 a copy of which is attached to this Schedule.

TITLE PLAN	EDITION 4	TP 839163E
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LOCATION OF LAND
 PARISH : NEPEAN
 CROWN ALLOTMENT : 154 (PART)
 LTG BASE RECORD : VICMAP DIGITAL PROPERTY
 LAST PLAN REFERENCE : PS 435239 M, S-11192,
 SURVEY BY AUSLIG IN SUPPORT OF
 TRANSFER N716899 S
 TITLE REFERENCE : VOL 5758 FOL 1151598
 DEPTH LIMITATION : 45.72m

NOTATIONS:

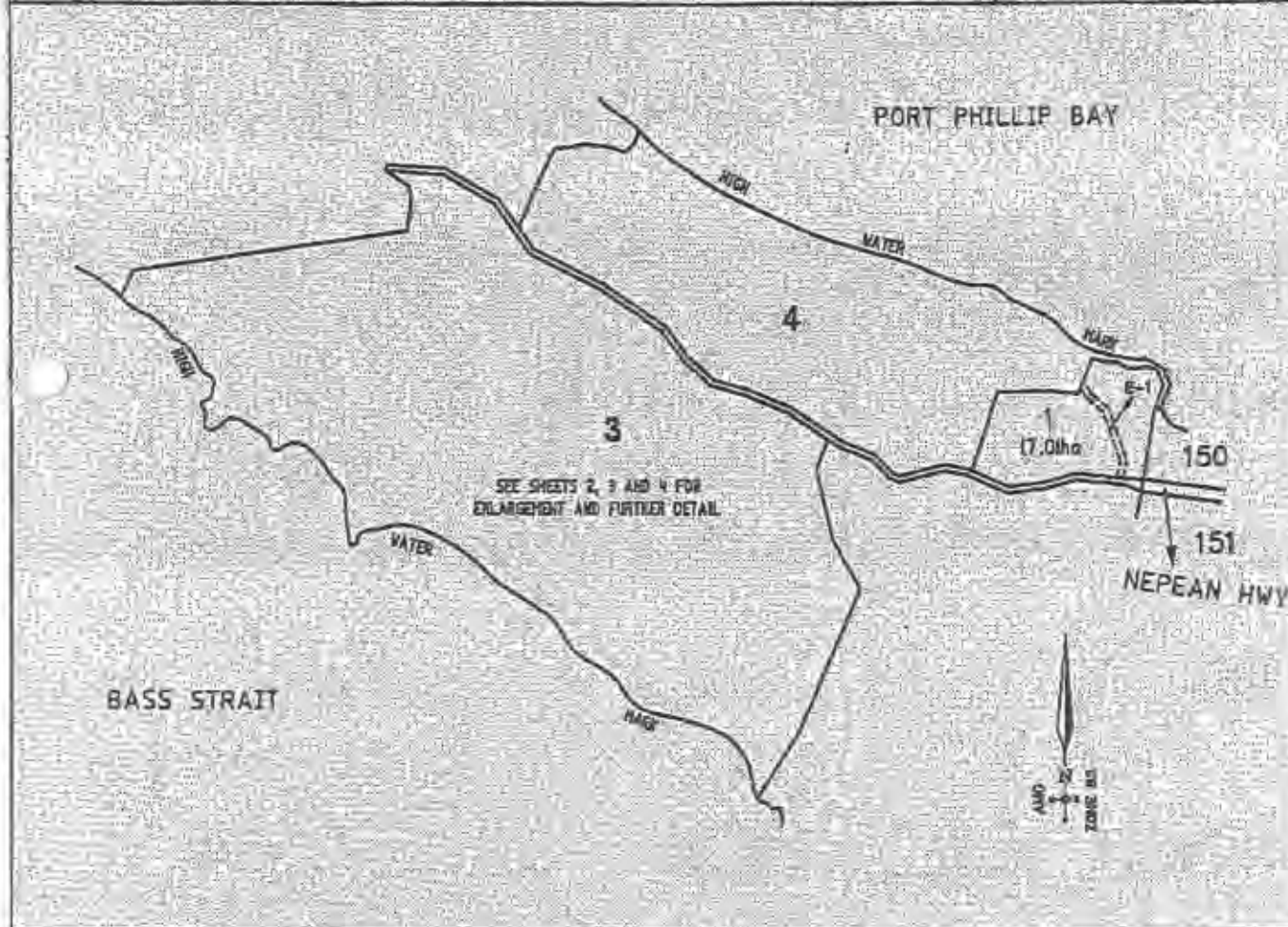
Easement Information				
Easement Reference	Purpose / Authority	Width (Metres)	Origin	Land benefited / In favour of
E-1	CARRIAGEWAY DRAINAGE SEWERAGE SUPPLY OF ELECTRICITY WATER SUPPLY SUPPLY OF GAS COMMUNICATIONS	20	AC848627N	LOTS 3 AND 4 ON THIS PLAN

THIS PLAN HAS BEEN PREPARED FOR THE VICTORIAN LAND TITLES OFFICE FOR TITLE DIAGRAM PURPOSES

47F

Checked by [REDACTED]
 Date: 22/7/2004
 Assistant Registrar of Titles

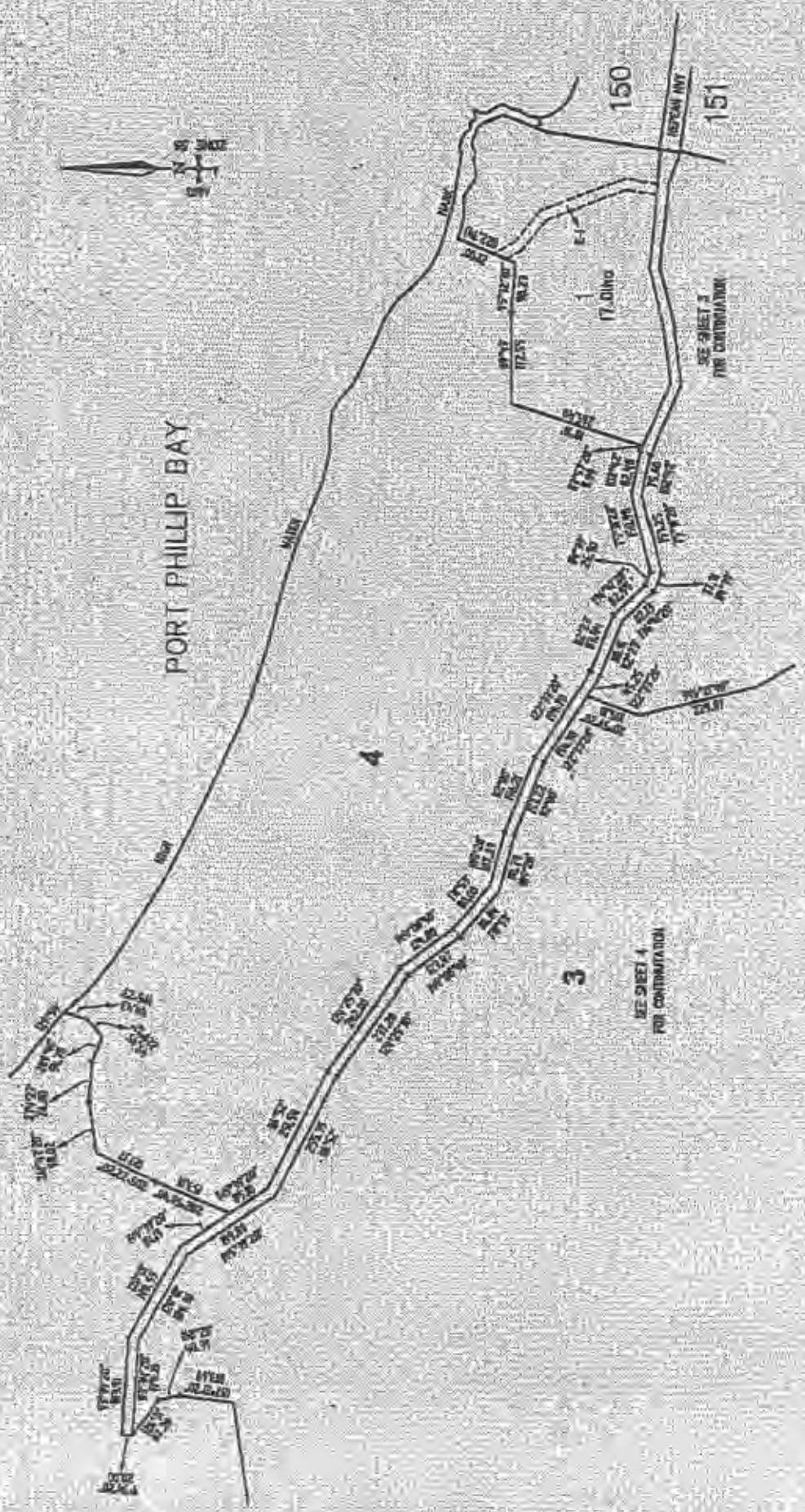
Legend : A - Appurtenant E - Encumbering Easement R - Encumbering Easement (Road)



 MADIGAN SURVEYING 20 ALEXANDER ROAD MURDOCHVILLE VIC 3114 PH 03 9499 4444 FAX 03 9499 4444 EMAIL info@madigan.com.au	SCALE 150 0 150 300 450 600 LENGTHS ARE IN METRES	LICENCED SURVEYOR 47F SIGNATURE [REDACTED]	THOMAS J. GAIRD DATE: 6/04/2004
	SCALE 1:15000	SHEET SIZE A3	Corr. No.
SURVEYORS REF. 2757TP6.DGN			

COPY

TITLE PLAN EDITION 1 TP 839163E



	MADIGAN ROAD MADRICKVILLE 175 TPO.DGN DATE: 1/10/2008 DRAWN: [redacted]	SURVEYORS REF. 275 TPO.DGN	SCALE 1:7500	SHEET SIZE A3	LICENSED SURVEYOR [redacted]	THEOPHIL J. BARR DATE: 1/10/2008
			SCALE 1:7500 GRAPHIC SCALE: 0 25 50 75 100 METRES	SHEET SIZE A3	CORR.-No.	Sheet 2 of 4 sheets

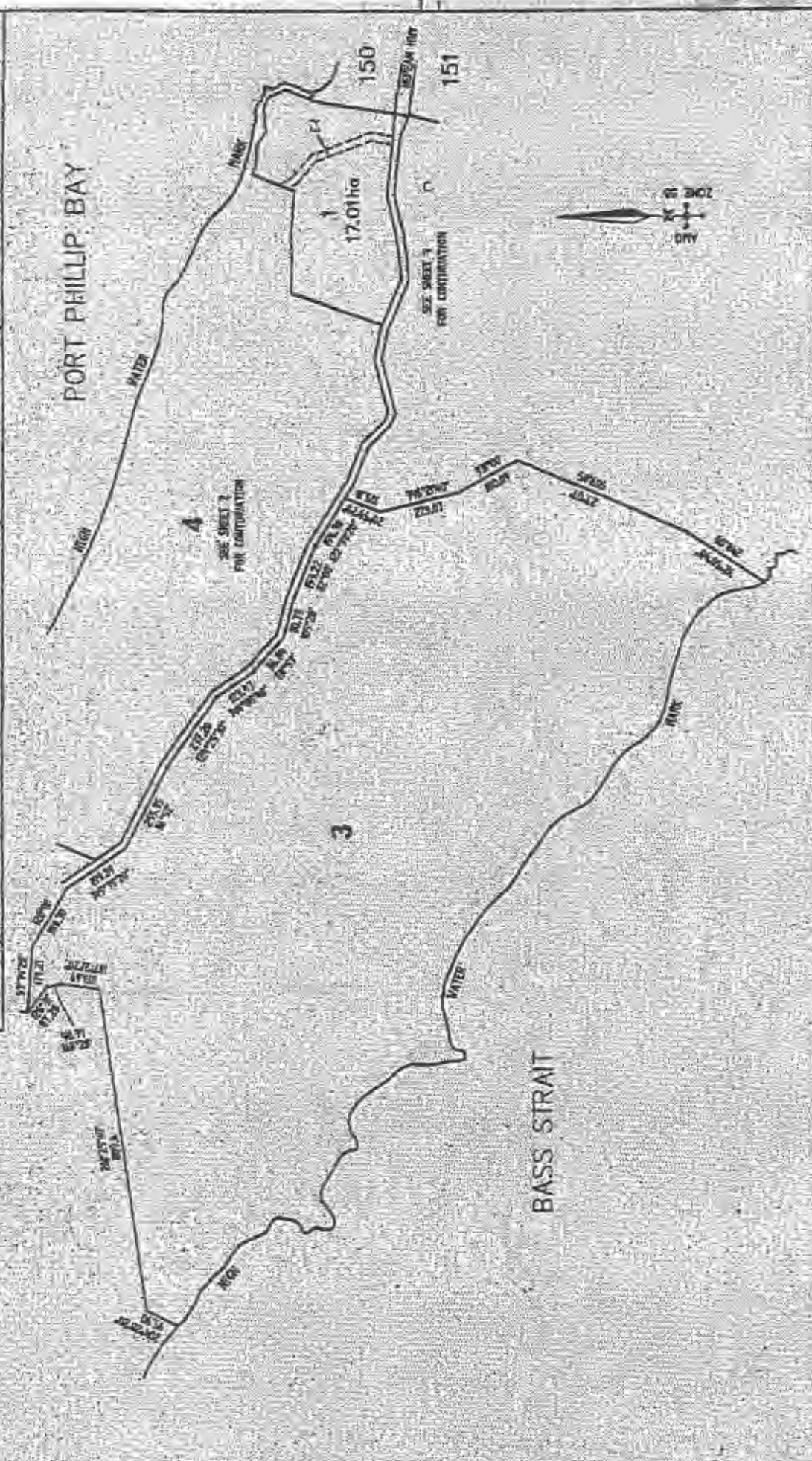
47F

COPY

TITLE PLAN

EDITION 1

TP 839163E



47F

THOMAS A. GARDNER
DATE: 2/16/2009

CLASSIFIED SURVEYOR
SIGNATURE

SCALE
LENGTHS ARE IN METERS
10 20 30 40 50

SURVEYORS REF.
2757TP6.DGN

REGISTERED SURVEYOR
M.A. GARDNER
M.A. GARDNER
M.A. GARDNER



MARDIAN SURVEYING
www.mardiansurveying.com.au

Sheet 1 of 4 sheets

