Executive Summary

JULY - 2015

Canberra Boat Hire Kuttabul Place, Acton	
Instructing Party	~~Aulich Civil Law~~
Client	Dobel Boat Hire Pty Ltd
Interest Valued	Crown Leasehold interest subject to existing tenancy arrangement
Relying Party and Purpose of Valuation	Aulich Civil Law for possible resumption by the ACT Government
Land Area	142m²
Zoning	DES: Designated subject to the National Capital Plan
Description	Lakeside boat hire premises adjoining Lake Burley Griffin and public toilet facilities.
GFA (current configuration)	147m²
Valuation Methodology	Capitalisation and Direct Comparison approaches
Date of Inspection	6 May 2015 & 1 June 2015
Valuation Date	1 June 2015
Income Particulars	**At Passing Rents**
Gross Income (pa)	$20,913
Adopted Outgoings	$4,011
Estimated Net Income (pa)	$16,902
Adopted Value	**$320,000 (exclusive of GST)**
Rate/m² of GFA	$2,254/m²
Valuer's Details	**STEVEN FLANNERY** FAPI **Certified Practising Valuer** **Registered Valuer (NSW) No. 3082** Director **GREG CUMMINS** FAPI **Certified Practising Valuer** **Registered Valuer (NSW) No. 7227** Director ***(Counter Signatory Only)***

f 13 YEARS @ $29,000
= $377,000 !

Pat Seears

From: Pat Seears
Sent: Tuesday, 26 September 2017 3:29 PM
To: Lloyd, Brian
Subject: Re: LDA land acquisitions [DLM=Sensitive]

Brian , that should be ok I'm back on the 11th I'll confirm ok regs Pat Seears

Sent from my iPhone

On 26 Sep 2017, at 7:23 AM, Lloyd, Brian <Brian.Lloyd@parliament.act.gov.au> wrote:

Dear Mr Seears,

Previously I asked whether you would appear before the Standing Committee from 11.15 am to 12.15 pm in hearings of 18 October 2017.

This email is to ask whether you would be able to appear from 11.15 am to 12.15 pm in hearings of 20 October 2017.

Please let me know if you are able to appear at this time.

Many thanks –

- Brian

From: Pat Seears [redacted]
Sent: Monday, 26 June 2017 9:25 AM
To: Lloyd, Brian <Brian.Lloyd@parliament.act.gov.au>
Subject: RE: LDA land acquisitions [DLM=Sensitive]

Good morning Brian, mate I don't really have much to say, except that the whole thing disturbs me immensely. Firstly, David Daws, who's life has been destroyed over this situation, is the most sincere, decent, honest, upstanding human being you could find anywhere. Next thing I would like you all to know is that there was no mateship, collusion as insinuated by some stupid dumb journalist, in actual fact I spoke to David Dawson on one and only one occasion in the 12 months leading up to the settlement of this lease. The next point is in my opinion I was paid a pittance for this land, if you were familiar with my situation, and what I tried to do on that site, for the betterment of all the ACT, you would realise that what I was paid didn't even cover the costs I had incurred, let alone the potential revenues I would have achieved if I was allowed to do what we had intended on the site. Next thing I want to ask is this, when the ACT Government sells this land to potential developers for millions of dollars, for the betterment and benefit of all Canberrans, the best parcel of land in the entire ACT, will the Auditor General and journalists be as concerned as to the massive imbalance of valuations, as to the Governments windfall and overall win in dollar terms, the pittance paid for all that area will look extremely respectable on the ACT ledger!! Thankyou Patrick Seears

Pat Seears
[redacted]
<image001.png>

LDA.

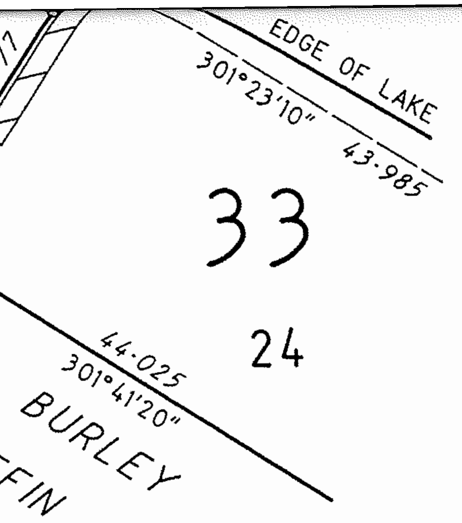
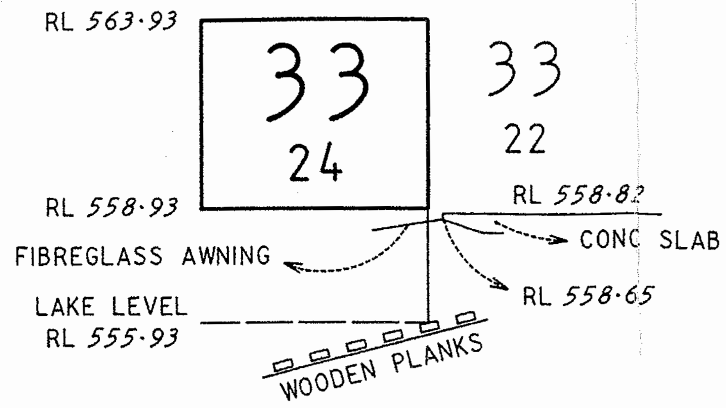


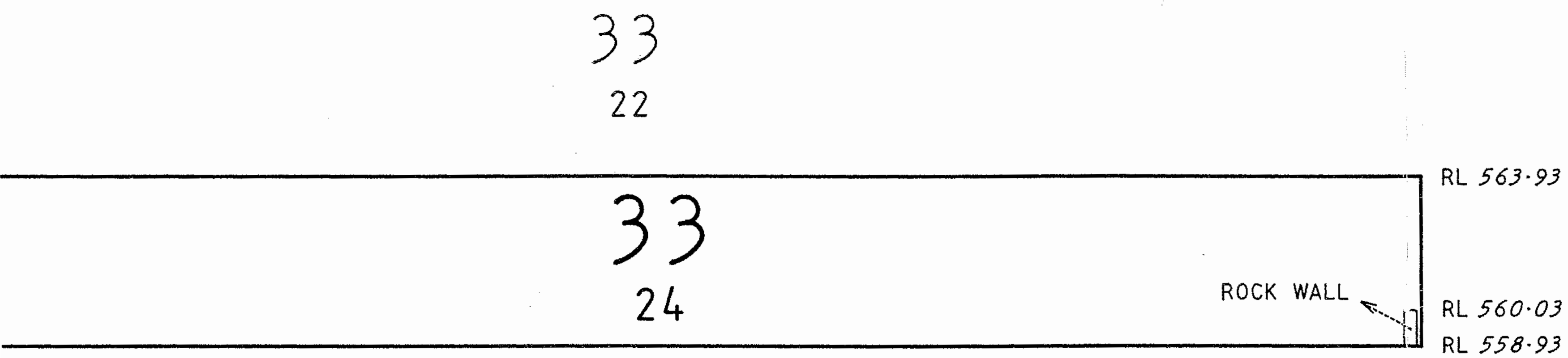
DIAGRAM 'A'

NOT TO SCALE



SECTION Y-Y

NOT TO SCALE



SECTION Y-Y

NOT TO SCALE

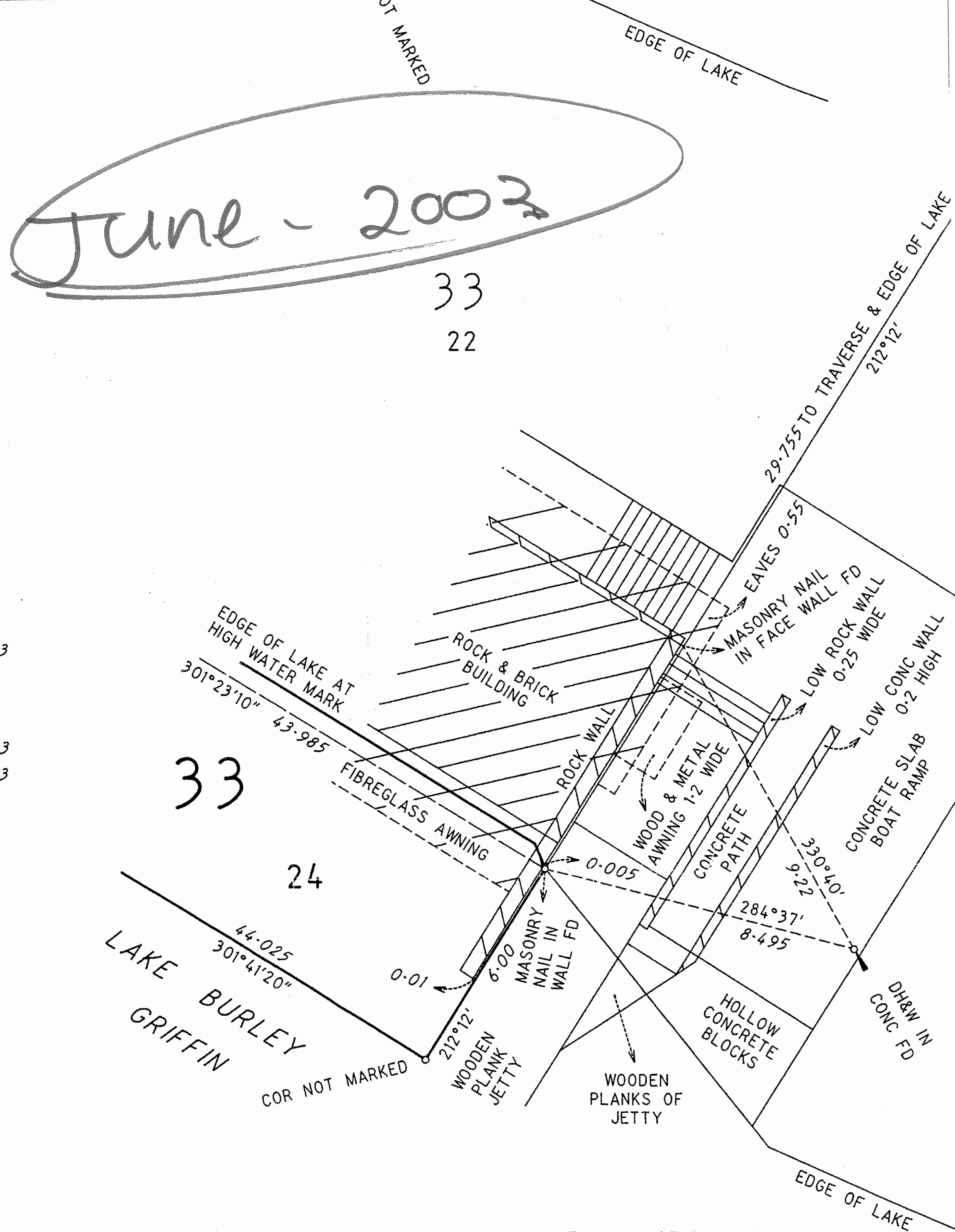


DIAGRAM 'B'

NOT TO SCALE

:

.OCK 24 IS A STRATUM BLOCK LYING BETWEEN
:GULAR HORIZONTAL SURFACES AS IDENTIFIED HEREON.

OCKS 22 & 24 ARE PART & PARCEL OF THE SAME
ASE & CANNOT BE SEPERATED THEREFROM.

IE LANDWARD BOUNDARY OF BLOCK 24, WHERE IT ABUTS
OCK 22 SECTION 33, WILL BE THE PROJECTION OF THE
GE OF LAKE AT RL 555·93 BETWEEN THE NOMINATED RL'S.

DUCED LEVELS ARE ON AUSTRALIAN HEIGHT DATUM.
IGIN OF LEVELS SR 164 RL 560·235

CESS TO BLOCK 24 SECTION 33 IS THROUGH
OCK 22 SECTION 33.

REFERENCE MARKS

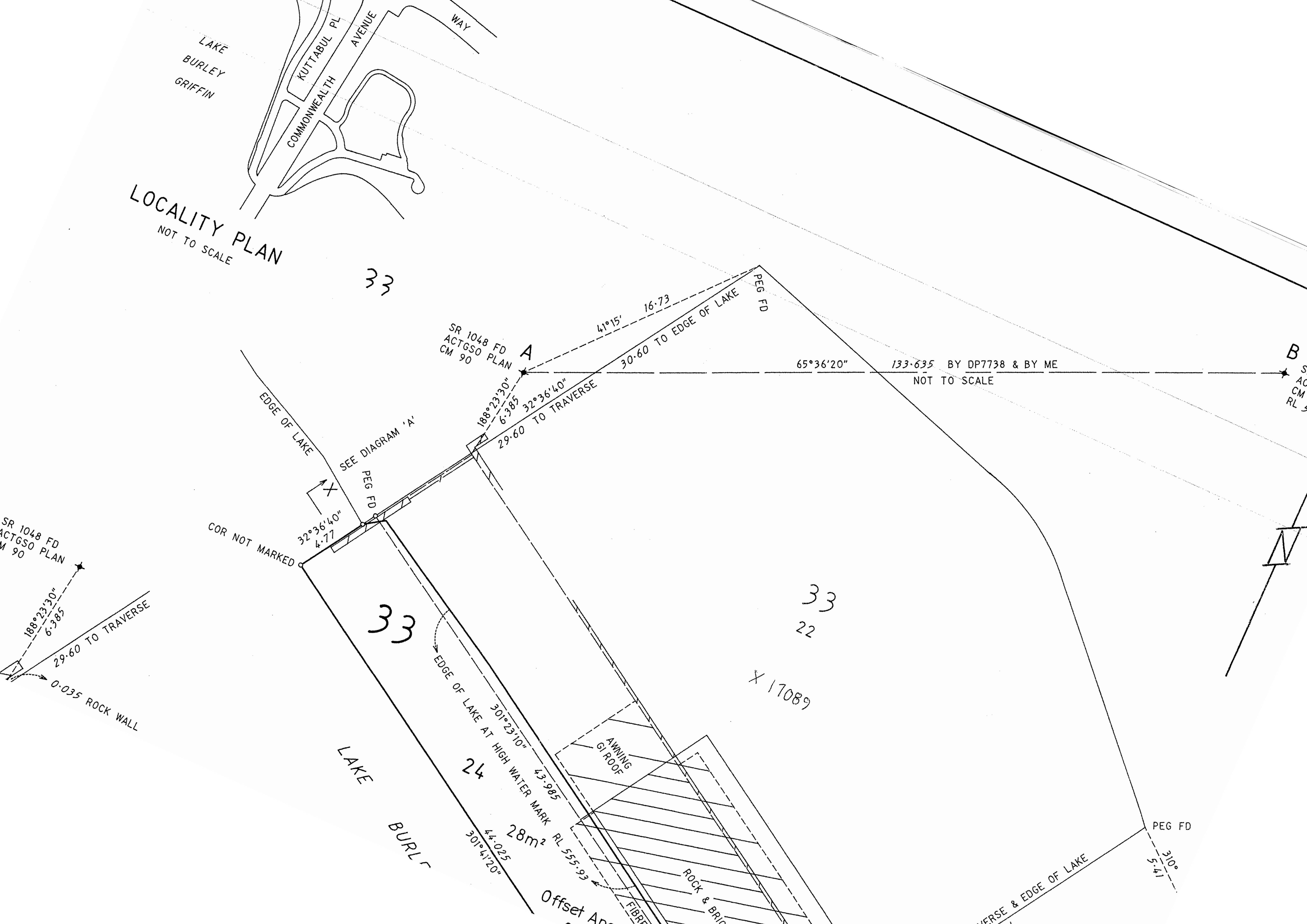
~~Denotes GIP in road 1.83 radially from TP~~
~~" GB " " 1.83 " " TP~~
~~" PLAQUE IN KERB~~
" DEEP DRIVEN ROD

I DARRYL JOHN COWIE of ACT SURVEY PTY LTD CANBERRA a surveyor registered under the Surveyors Act 2001 hereby certify that the survey represented on this plan is accurate and has been made in accordance with Survey Practice Directions 2001 and was completed on

PLAN OF

BLOCK 24 SECTION 33

Deposited in the office of the Registrar of Titles
the Australian Capital Territory the
day of 20 at
past o'clock in the
Approved


LAKE
BURLEY
GRIFFIN
KUTTABUL PL
AVENUE
WAY
COMMONWEALTH
LOCALITY PLAN
NOT TO SCALE
33
SR 1048 FD
ACTGSO PLAN
CM 90
A
41°15'
16·73
30·60 TO EDGE OF LAKE
PEG FD
65°36'20"
133·635 BY DP7738 & BY ME
NOT TO SCALE
B
188°23'30"
6·385
32°36'40"
29·60 TO TRAVERSE
EDGE OF LAKE
SEE DIAGRAM 'A'
X
PEG FD
COR NOT MARKED
32°36'40"
4·77
SR 1048 FD
ACTGSO PLAN
CM 90
188°23'30"
6·385
29·60 TO TRAVERSE
0·035 ROCK WALL
33
EDGE OF LAKE AT HIGH WATER MARK
301°23'10"
43·985
RL 555·93
24
28m²
44·025
301°41'20"
LAKE
33
22
X 17089
AWNING
GI ROOF
ROCK & BRIC
FIBR
Offset Ap
PEG FD
310°
5·41
TRAVERSE & EDGE OF LAKE

7 Isles Place
SOUTH BRUCE ACT 2617

Anne Skewes
Chief Executive Officer
Land Development Agency
27 Wentworth Avenue
KINGSTON ACT 2604

Dear Ms Skewes

Direct Sale of Block 22 Section 33 Acton

Thank you for your letter of 22 November, which offered me a lease over Block 22 Section 33 Acton for a period of 25 years. My consultants (Wal Kostyrko and Malcolm Smith) first meeting with the Territory (Claire Wall and Peter Johns) on this project was held in September 1996, and in the 8 years since that date there has been countless promises and commitments made by the various agencies, innumerable meetings, a wide range of various concept plan options produced, but until your latest letter, very little in the way of a tangible outcome.

Advice in December 2000 that Cabinet had approved the direct sale of the land, and the letter from Annabelle Pegrum in August this year supporting redevelopment of the existing site, were mistakenly taken by me to be a sign that progress was being made, but in each case was followed by further delays and obfuscation.

In the 8 years I have been attempting to get the project through LDA and NCA, I have expended considerable money in consultant fees and other costs. I have been prepared to make this investment because at no stage has anyone expressed any opposition in principle to the proposed development. In fact, to the contrary, I have been encouraged to persist with my vision for a vibrant, high quality, five star restaurant, cafe and boat hire complex on the waterfront.

Given the above background, the receipt of the long overdue and much promised lease offer should have been a significant landmark in the project, but instead represents no more than a worthless proposition. The lease requires me to pay $600,000 for the land, construct a building costing not less than $1.15 million, construct off site works at a cost of $105,500, and also build public toilets and a new jetty. The lease in effect also states that if the lease is determined within its 25 year term, I would not be paid one cent in compensation.

This is an extraordinary and disappointing climax after 8 years of negotiations, during which time I have always responded co-operatively to every single request from LDA and NCA. I would appreciate being informed in what other leases this particular compensation provision has been used. Although it has been made clear to me in recent times that the Griffin Legacy project may result in earlier resumption of the land, we have also previously been advised (by Peter Johns) that in these circumstances compensation would be based on the unexpired value of the land, and improvements, but not business goodwill. Mr Johns and Mr Mundy have been advised that this is acceptable to me, eg Malcolm Smith's email to Graham Mundy dated 25 June 2004. I should also point out that if my project had been dealt with even half efficiently, the development would be built and operating right now, irrespective of the 11th hour Griffin Legacy intervention.

I welcome the lease offer after this inordinate amount of time, and am particularly comfortable with the 25 year term, the grounds for termination (Part 5), my rights to the quiet enjoyment of the premises (Part 4), and various other provisions and covenants. I am not however prepared to accept the Compensation provision at Clause 3(u), and ask that you amend this consistent with Mr Johns previous advice, and in accordance with standard practice with other leases, ie that should the lease be determined by the Territory before the expiration of the 25 year term, compensation will be payable on a fair and equitable basis. At the very least I would expect this to provide compensation for the unexpired value of the land, and the value of the on and off site improvements constructed by myself.

I would be grateful therefore for your urgent and sympathetic review of the compensation provision.

Yours faithfully

[redacted]

Patrick Seears

2 December 2004

Entered in Register Book Vol...........Folio.........

AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) ACT 1991

Australian Capital Territory (Planning and Land Management) Act 1988 (C'th) ss 29, 30 & 31

LEASE GRANTED pursuant to the Land (Planning and Environment) Act 1991 and the Regulations thereunder on the day of Two thousand and WHEREBY THE PLANNING AND LAND AUTHORITY ("the Authority") ON BEHALF OF THE COMMONWEALTH OF

LESSEE

AUSTRALIA ("the Commonwealth") in exercising its functions grants to a company having its registered office at in the Australian Capital

LAND

Territory (hereinafter called "the Lessee") ALL THAT piece or parcel of land situate in the Australian Capital Territory containing **an area of 1402.8 square metres** or thereabouts and being **Block 22 Section 33 Division of Acton** as delineated on **Deposited Plan Number** in the Registrar-General's Office at Canberra in the said Territory ("the land") and being the land bounded by a bold line identified "A" on the legend on the plan annexed hereto ("the plan") RESERVING as appurtenant to the land being Block 6 Section 89 Division of Acton ("the Dominant Tenement") TOGETHER WITH the full right and liberty at all times hereafter to have that part of the building being Block 6 Section 89 Division of Acton having stratums between datum levels RL 558.93 and RL 563.93 supported by the same foundations as Block 22 Section 33 Division of Acton ("the Servient Tenement") and erected upon an extension of those; the full right and liberty for the free and uninterrupted passage and running of water, sewerage, gas, electricity, telephone and other services or supplies to and from the dominant tenement through over and along the pipes, drains mains, channels, gutters, watercourses, sewers, wires, cables and all other conducting media which are now or are to be laid in over or under the servient tenement for the use and enjoyment of the dominant tenement; the full right and liberty for the Lessee, its employees, contractors, sublessees, or other occupiers the right to pass and repass from time to time along or through the servient tenement with or without vehicles of any description for all purposes connected with the use and enjoyment of the dominant tenement as marked as easement for access and shown by (cross hatching) or the plan; and the full right and liberty for the Lessee, its employees, contractors, sublessees or other occupiers the right to enter on the servient tenement with or without vehicles for the purpose of repairing renewing or otherwise remedying any failure to maintain the rights of maintenance, services and access previously mentioned herein including the right to use any equipment as reasonably necessary for upholding and maintaining the improvements erected within the dominant tenement but so that such equipment shall allow the lessee of the servient tenement continued access to the servient tenement and the Lessee shall exercise such right of entry in a manner so as to cause as little inconvenience as possible to the lessee of the servient tenement and making good all damage so caused RESERVING UNTO THE LESSEE OF THE SERVIENT TENEMENT the full right and liberty at all times hereafter for the free and uninterrupted passage and running of water, sewerage, gas, electricity, telephone and other services or supplies to and from the servient tenement through over and along the pipes, drains, mains, channels, gutters, watercourses, sewers, wires, cables and all other conducting media which are now or are to be laid in the dominant premises for the use and enjoyment of the servient tenement; and the full right and liberty for the lessee of the servient tenement its employees, contractors, sublessees or other occupiers the right to enter on the dominant tenement with or without vehicles for the purpose of repairing renewing or otherwise remedying any failure to maintain services and access previously mentioned herein including the right to use all equipment as is reasonably necessary for upholding and maintaining the building erected within the servient tenement but so that such equipment shall allow the Lessee continued access to the dominant tenement and the lessee of the servient tenement shall exercise such right of entry in a manner so as to cause as little inconvenience as possible to the Lessee and make good all damage so caused RESERVING to the Territory all minerals TO HOLD unto the Lessee for the term

TERM

of twenty five years commencing on the day of **Two thousand and** (hereinafter referred to as "the date of the commencement of the lease") to be used by the Lessee for the purpose set forth in Clause 3(e) of this lease only YIELDING AND PAYING THEREFOR rent in the amount and in the manner and at the times hereinafter provided and UPON AND SUBJECT TO the covenants conditions and agreements hereinafter contained.

INTERPRETATION

1. IN THIS LEASE unless the contrary intention appears:

   (a) "Authority" means the Planning and Land Authority established by section 7 of the Planning and Land Act 2002;

   (b) "ancillary" means associated with and directly related to but incidental and subordinate to the predominant use;

   (c) "building" means a building or structure, as those terms are defined in s222 of the Land (Planning and Environment) Act 1991, which requires approval under Part 6 of that Act;

   (d) "gross floor area" means the sum of the area of all floors of the building measured from the external faces of the exterior walls or from the centre lines of walls separating the building from any other building excluding an area used solely for rooftop fixed mechanical plant and/or basement carparking;

   (e) "Lessee" shall -

      (i) where the Lessee consists of one person be deemed to include the Lessee and the executors administrators and assigns of the Lessee;

      (ii) where the Lessee consists of two or more persons be deemed to include in the case of a tenancy in common the persons and each of them and their and each of their executors administrators and assigns and in the case of a joint tenancy be deemed to include the said persons and each of them and their and each of their assigns and the executors administrators and assigns of the survivor of them; and

(iii) where the Lessee is a corporation be deemed to include such corporation its successors and assigns;

(f) "pedestrian concourse means a walkway of any length being not less than 2.5 metres wide and used for the free movement of pedestrians;

(g) "premises" means the land and any building or other improvements on the land;

(h) "restaurant" means a building or place used for the primary purpose of providing food for consumption on the premises whether or not the premises are licensed to sell liquor under the Liquor Act 1975 and whether or not entertainment is provided;

(i) "shop" means the use of the land for the purpose of selling, exposing or offering the sale by retail of food, goods and personal services;

(j) "Territory" means:

(i) when used in a geographical sense the Australian Capital Territory; and

(ii) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self Government) Act 1988 (Cth);

(k) words in the singular include the plural and vice versa;

(l) words importing one gender include the other genders.

2. THE LESSEE COVENANTS WITH THE COMMONWEALTH as follows:

RENT

(a) That the Lessee shall pay to the Authority rent at the rate of five cents per annum if and when demanded payable within one month of the date of any demand made by the Authority relating thereto and served on the Lessee;

MANNER OF PAYMENT OF RENT

(b) That any rent or other moneys payable by the Lessee under this lease shall be paid to such person as may be authorised by the Authority for that purpose at Canberra in the said Territory without any deduction whatsoever.

3. THE LESSEE FURTHER COVENANTS WITH THE COMMONWEALTH as follows:

COMMENCEMENT OF DEVELOPMENT

(a) That the Lessee shall within twelve (12) months from the date of the commencement of the lease or within such further time as may be approved in writing by the Commonwealth for that purpose commence to erect an approved development including a building, landscaping, a public pedestrian concourse, public toilet facilities and boat landing/ramp within the lease at a cost not less than the sum of one million one hundred fifteen thousand dollars ($1,115,000) in accordance with plans and specifications prepared by the Lessee and previously submitted to and approved in writing by the Commonwealth;

COMPLETION OF DEVELOPMENT

(b) That the Lessee shall within twenty four (24) months from the date of the commencement of the lease or within such further time as may be approved in writing by the Commonwealth complete the erection of the said approved development including building, landscaping, a public pedestrian concourse, public toilet facilities and boat landing/ramp within the lease in accordance with the said plans and specifications and in accordance with every Statute, Ordinance or Regulation applicable thereto;

ASSOCIATED WORKS

(c) That the Lessee shall commence within twelve (12) months and complete within twenty four (24) months respectively from the date of commencement of the lease or within such further time as may be approved in writing by the Commonwealth and the Territory for that purpose, and prior to the commencement of any trading or business from the premises, the design and construction of:

(i) a 3.0 metre wide gravel shoulder along the edge of the cycle path for the length of the proposed development and relocate timber bollards and all ancillary works and fittings in accordance with the Planning Control Plan;

(ii) approximately 4.0 metre wide brick paved pedestrian concourse along east boundary to replace part of existing driveway, including lighting and landscaping and all ancillary works and fittings;

(iii) widening of existing driveway to the east and provide a brick paving treatment to delineate the cyclepath and all ancillary works and fittings;

(iv) a vehicular access ramp with provisions for lighting and turning head and all ancillary works and fittings;

(v) verge works including appropriate signage at driveway and cyclepath intersection and all ancillary works and fittings;

(vi) relocated water supply main, new service pits and reconnection to fully service the block and all ancillary works and fittings; and

including all ancillary works and fittings in accordance with the prescribed conditions for associated works and plans and specifications previously submitted to and approved in writing by the Commonwealth and the Authority;

INDEMNITY

(d) That the Lessee shall indemnify and keep indemnified the Commonwealth the Territory the Authority their servants and agents from all actions claims suits and demands brought maintained or made against the Commonwealth the Territory the Authority their servants or agents by any person or body of persons arising out of the provision by the Lessee of the design and construction of the associated works referred to in Clause 3(c) of this lease until such works are completed and formally handed over to the Authority;

PURPOSE

(e) To use the premises only for the purpose of:

(i) the hiring of boats and ancillary thereto the storage and maintenance of boats used in connection with the boat hiring service; and

(ii) a restaurant and ancillary thereto a shop/kiosk only for the sale of light refreshments, confectionery, souvenirs and the like.

GROSS FLOOR AREA

(f) That the gross floor area of any building erected on the land shall not exceed [illegible] square metres PROVIDED ALWAYS THAT a minimum of 400 square metres of the building shall be used for the hiring of boats and ancillary thereto the storage and maintenance of boats used in connection with the boat hiring service;

PUBLIC PEDESTRIAN CONCOURSE

(g) That the Lessee shall:

(i) provide and maintain an approved public pedestrian concourse along the frontage of Lake Burley Griffin to a standard acceptable to the Commonwealth and the Authority in accordance with plans and specifications previously submitted to and approved in writing by the Commonwealth; and

(ii) at all times permit members of the public to pass and repass along the public pedestrian concourse and shall ensure that public access is unimpeded to the satisfaction of the Commonwealth the Territory and the Authority;

PUBLIC FACILITIES

(h) That the Lessee shall

(i) provide and maintain toilet facilities on the land to a standard acceptable to the Commonwealth in accordance with plans and specifications previously submitted to and approved in writing by the Commonwealth;

(ii) ensure that access to the facilities are available to members of the public at all times between sunrise and sunset;

CARPARKING

(i) That the Lessee shall provide and maintain an approved drained and sealed carparking area on the land to a standard acceptable to the Commonwealth in accordance with plans and specifications previously submitted to and approved in writing by the Commonwealth;

LANDSCAPING

(j) That the Lessee shall provide and maintain landscaping on the land to a standard acceptable to the Commonwealth in accordance with plans and specifications prepared by the lessee and previously submitted to and approved in writing by the Commonwealth;

LIGHTING

(k) That the Lessee shall provide and maintain lighting and keep illuminated at the Lessee's expense all public access areas including the public pedestrian concourse to the satisfaction of the Commonwealth the Territory **and the Authority;**

DISABLED PERSONS ACCESS

(l) That the Lessee shall provide and maintain facilities for the disabled to a standard acceptable to the Commonwealth and the Territory to ensure that disabled persons are given [illegible] opportunity for ac[illegible]

SERVICE AREAS

(m) That the Lessee shall screen and keep screened all service areas to the satisfaction of the Commonwealth and shall ensure that all plant and machinery contained within the premises is suitably screened from public view;

BOAT HIRE LICENCE

(n) That the Lessee shall obtain and maintain from the Commonwealth a licence agreement to operate the boat hire business on Lake Burley Griffin in accordance with the provisions of the Lakes Ordinance 1976;

BUILDING SUBJECT TO APPROVAL

(o) That the Lessee shall not without the previous approval in writing of the Commonwealth erect any building, or make any structural alterations to any building, on the land;

REPAIR

(p) That the Lessee shall at all times during the said term maintain repair and keep in repair the premises to the satisfaction of the Commonwealth;

FAILURE TO REPAIR

(q) If and whenever the Lessee is in breach of the Lessee's obligations to maintain repair and keep in repair the premises the Commonwealth may by notice in writing to the Lessee specifying the repairs and maintenance needed require the Lessee to effect the necessary work in accordance with the notice. If the Commonwealth is of the opinion that a building or some other improvement on the land is beyond reasonable repair the Commonwealth may by notice in writing to the Lessee require the Lessee to remove the building or improvement and may require the Lessee to construct a new building or improvement in place of that removed within the time specified in the notice. If the Lessee does not carry out the required work within the time specified by the Commonwealth any person or persons duly authorised by the Commonwealth with such equipment as is necessary may enter the premises and carry out the necessary work and all costs and expenses incurred by the Commonwealth in carrying out the work shall be paid by the Lessee to the Commonwealth on demand and from the date of such demand until paid shall for all purposes of this lease be a debt due and payable to the Commonwealth by the Lessee;

RIGHT OF INSPECTION

(r) Subject to the provisions of the Land (Planning and Environment) Act 1991 to permit any person or persons authorised by the Authority to enter and inspect the premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

(s) To pay all rates charges and other statutory outgoings assessed levied or payable in respect of the premises as and when the same fall due;

ASSIGNMENT

(t) That the lessee shall not assign transfer or part with possession of the whole or any portion of the premises unless in conjunction with the sale of [illegible] Section 89 Division of Acton.

4. THE COMMONWEALTH COVENANTS WITH THE LESSEE as follows:

QUIET ENJOYMENT

That the Lessee paying the rent and observing and performing the covenants and stipulations on the part of the Lessee to be observed and performed shall quietly enjoy the premises without interruption by the Commonwealth, the Authority or any person lawfully claiming from or under or in trust for the Commonwealth or the Authority.

5. IT IS MUTUALLY COVENANTED AND AGREED as follows:

TERMINATION

(a) That if -

(i) any rent or other moneys payable under this lease shall remain unpaid for three months next after the date appointed for payment thereof (whether such rent or other moneys shall have been formally demanded or not); or

(ii) an approved development in accordance with Clause 3(a) of this lease is not commenced within the period specified in the said Clause; or

(iii) an approved development in accordance with Clause 3(a) of this lease is not completed within the period specified in Clause 3(b) of the said clause; or

(iv) associated works in accordance with Clause 3(c) of this lease are not completed within the period specified in the said Clause; or

(v) after completion of an approved development as aforesaid the land is at any time not used for a period of one year for the purpose for which this lease is granted; or

(vi) the Lessee shall fail to observe or perform any other of the covenants herein contained on the part of the Lessee to be observed or performed and shall have failed to remedy such breach within a period of six months from the date of service on the Lessee of a notice in writing from the Commonwealth or the Authority specifying the nature of such breach

the Authority may terminate this lease but without prejudice to any claim which the Authority the Territory and or the Commonwealth may have against the Lessee in respect of any breach of the covenants on the part of the Lessee to be observed or performed;

ACCEPTANCE OF RENT

(b) That acceptance of rent or other moneys by the Authority during or after any period referred to in paragraph (i) or (ii) or (iii) or (iv) or (v) or (vi) of Clause 5(a) of this lease shall not prevent or impede the exercise by the Authority of the powers conferred upon it by Clause 5(a) of this lease;

FURTHER LEASE

(c) Subject to the provisions of the Land (Planning and Environment) Act 1991 and the approval in writing of the Commonwealth the Lessee shall be entitled to a further lease of the land for such further term and at such rent and subject to such conditions as may then be provided or permitted by Statute Ordinance or Regulation;

NOTICES

(d) That any notice requirement demand consent or other communication to be given to or served upon the Lessee under this lease shall be deemed to have been duly given or served if signed by or on behalf of the Commonwealth or the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the registered office of the Lessee in the said Territory BUT if for any reason the Lessee does not have a registered office in the said Territory then at the usual or last-known address of the Lessee or affixed in a conspicuous position on the premises;

EXERCISE OF POWERS

(e) Any and every right power and or remedy conferred on the Commonwealth the Territory or the respective Ministers hereunder or implied by law may be exercised on behalf of the Commonwealth the Territory or the respective Ministers as the case may be by:

(i) the Authority;

(ii) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or

(iii) the authority or person to whom the Authority has delegated all its powers or functions under the <u>Planning and Land Act 2002</u> or any Statute Ordinance or Regulation substituted therefore.

IN WITNESS whereof the Australian Capital Territory Executive on behalf of the Commonwealth and the Lessee have executed this Lease.

SIGNED by)
a delegate authorised to execute this lease)
on behalf of the Commonwealth in the)
presence of

Signed by)
(A.C.N.) by:)

....

Signature Signature

....

Name in full Name in full

....

Director/Secretary Director/Secretary

Re Lake Sale

19/1/15

Richard Hutch
Deputy Project Director (CttL)
Land Development Agency
GPO Box 158
Canberra ACT 2601

19 January 2015

Dear Mr Hutch

Re: **ACT GOVERNMENT PURCHASE OF DOBELL BOAT HIRE**

Thank you for your email of the 6th January 2015 seeking "*business documentation (annual accounts, tax returns etc.) that will be of assistance to the LDA's valuers in establishing an independent valuation*".

You would be well aware Dobell Boat Hire made a benevolent gesture in 1999 supporting Mr Jim Seears to operate the Paddle Boats and Kiosk Concession. All business accounts and tax returns relating to the Concession will be the property of Jim and Connie Seears not Dobell Boat Hire.

The below costing were requested by the 'City to the Lake' Project Team on behalf of the Land Development Agency. It represents the costs incurred by Dobell Boat Hire from the time of purchase of the Crown Lease in 1997 and future lost revenue. These costs incorporate purchase cost; premise maintenance and repairs spanning 15 years; consultants fees and costs associated with developing the site consistent with the Griffin Legacy, including extensive communications and negotiations with the National Capital Authority, Land Development Agency, ACTPLA and the Chief Minister's Office since 2000; and an estimate of revenue of the business to 2028.

The Annual Net Rental Revenue has been deleted as it is no longer applicable. In addition Pat Seears has reduced the Consultancy Fees pre 2008 after closer assessment. Consultancy Fees post 2008 have been itemised yearly in Table B.

Proposal: ACT Government Purchase Dobell Boat Hire for a sum of $2,650,170.

Sincerely

bonsella
BUSINESS SOLUTIONS

Ethos House
28 Ainslie Place
CANBERRA ACT 2601

GPO BOX 601
CANBERRA ACT 2601

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Ref: 22254

Mr Richard Hutch
Deputy Director
City to Lake
Land Development Agency

*** By Email –[redacted]***

Dear Mr Hutch

Re: ACT Government purchase of Dobel Boat Hire Pty Limited

The below costing was requested by the 'City to the Lake' Project Team on behalf of the Land Development Agency. It represents the direct costs incurred by Dobel Boat Hire Pty Limited from the time of purchase of the Crown Lease in 1997 and future lost revenue.
These costs incorporate purchase cost; premises maintenance and repairs spanning 15 years; consultants fees and costs associated with developing the site, consistent with the Griffin Legacy, including extensive communications and negotiations with the National Capital Authority, Land Development Agency, ACTPLA and the Chief Minister's Office since 2000; and an estimate of revenue of the business to 2028.

Proposal: ACT Government purchase Dobell Boat Hire for a sum of $3,075,300.

VALUE ITEM	**ORIGINAL VALUE**	**YEAR**	**CURRENT VALUE**	**SUB-TOTAL**
Purchase price	$230,000	1997	$356,000	$356,000
Maintenance/Upgrade	$115,600	1998-2013	$139,200	$139,200
Consultants *vis a vis* Site Development (Planners, Architects, Communication; Government Relations)	$602,560	1999-2006	$772,000	$772,000
	$300,100	2008-2014	$300,100	$300,100
Annual Net Return (kiosk & boat hire)	$97,500	2015-2028	$97,500	$1,365,000
Annual Net Rental Revenue	$11,000		$11,000	$143,000
TOTAL				**$3,075,300**

TABLE A

VALUE ITEM	ORIGINAL VALUE	YEAR	CURRENT VALUE	SUB-TOTAL
Purchase Price	$230,000	1997	$356,000	$356,000
Maintenance/Upgrade	$11,560	1998-2013	$15,154	$15,154
Consultants				
Wal Kosturko (Architect)	$77,080	1999-2006	$101,048	$101,048
Malcolm Smith (Planner)	$173,430	1999-2006	$227,360	$227,360
Peter Conway (Government Adviser)	$38,540	1999-2006	$50,524	$50,524
Bernie Bryant (Property Adviser)	$50,102	1999-2006	$65,681	$65,681
Peter Doyle (Restaurant Adviser)	$46,248	1999-2006	$60,629	$60,629
DFT Investment* (Dobell Boat Hire Representative and Development Adviser) - see Table B	$300,100	2008-2014	$300,100	$300,100
Annual Net Return (cafe & boat hire)	$97,500	2015-2028	$97,500	$1,365,000
Legal Expenses				
Rod Barnett	$35,200	1998-2011	$48,542	$48,542
Middleton	$14,080	2001-2005	$18,035	$18,035
Clayton Utz	$7,680	2003-2005	$9,837	$9,837
K&L Gates	$2,500	2014	$2,500	$2,500
Survey and Engineering Fees	$7,400	2002	$9,701	$9,701
Government Fees & Expenses	$12,600	1998-2007	$16,518	$16,518
Travel Expenses (Peter Doyle, etc)	$2,700	2004-2006	$3,540	$3,540
TOTAL				**$2,650,169**

TABLE B

DFT Investments

ABN 52 324 157 015

[ex GST]

Year	Fees
2008	$38,115
2009	$39,930
2010	$40,014
2011	$40,824
2012	$42,336
2013	$48,968
2014	$22,630
TOTAL	**$272,817**

PO Box 3506 Weston Creek Act 2611 15 Dundas Court Phillip ACT 2606 T: 02 6285 1234 F: 02 6282 0266

FACSIMILE TRANSMITTAL SHEET

TO: PATRICK SEEARS.	FROM: MALCOLM SMITH.
COMPANY:	DATE: 28.5.04.
FAX NUMBER: 4732 1979.	TOTAL NO. OF PAGES INCLUDING COVER: 5
PHONE NUMBER:	YOUR REFERENCE NUMBER:
RE: ACTON.	

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

Pat

Draft letter as discussed.

Cheers.

Malcolm.

28/5/04

Annabelle Pegrum
Chief Executive
National Capital Authority
GPO Box 373
Canberra ACT 2601

Dear Ms Pegrum

ACTON RESTAURANT AND BOAT HIRE PROJECT

You may be aware that I own the crown lease of Block 16 Section 33 Acton, on which I operate a boat hire and refreshment kiosk business. For the past 7 years I have been negotiating with the Authority and various Territory agencies in an attempt to gain approval for a significant redevelopment of the site, including an enhanced and expanded boat hire operation, and new kiosk, and restaurant.

During that period, my consultants (Malcolm Smith and Wal Kostyrko) and I have worked constructively and co-operatively at all times with Authority staff, and those from Territory Agencies, primarily LDA and its predecessors. Nevertheless, I have been concerned and frustrated by the inordinate amount of time it has taken to progress the proposal, and because of the lengthy delays have lost the opportunity to secure valuable restaurant operators, such as the legendry Doyle family. I am sure you would agree that a waterside restaurant such as "Doyles on the Lake" would have been a great boon for the National Capital, and its residents and visitors. Unfortunately, a representative of the Doyle family recently advised me that they were not prepared to wait any longer for the approvals to come through, and I believe they have now decided to invest elsewhere.

Despite these setbacks, I have maintained my strong belief in the benefits of the project and have been encouraged by the fact that at no time during the past 7 years has any agency expressed any in principle objection to the concept. In fact a number of important landmarks have been achieved, including:

- Formal advice from NCA that the proposal development is totally consistent with the existing policies of the National Capital Plan.
- Advice from the former Infrastructure and Asset Management Group that ACT Government Cabinet had agreed in principle to a direct sale of the additional land necessary to facilitate the development (11.12. 2000).
- Advice from ACT Land and Property, dated 9.3.01 confirming that NCA had forwarded to them approved Lease and Development Conditions and a Development Guidelines Drawing, to be used as the basis for an Application for Works Approval. This advice also indicated that Shamsul Huda had requested further discussion on the proposed design before finalising plans for the Works Application.

- Letter from NCA to Wal kostyrko, dated 16th September 2002, confirming that preliminary sketch plans previously submitted to the Authority were supported. The letter invited Mr. Kostyrko to proceed with detailed design and final sketch plans.
- Advice from Peter Johns (December 2003) confirming that the lease offer for the Territory land had been finalised, but had to wait for the NCA lease offer to be also finalised so that they could be issued concurrently.
- Advice from Shamsul Huda (Feb 2004) confirming that Commonwealth lease offer had been cleared by the government solicitors, and had been "sent up the line" for approval.

Underpinning the above steps have been extensive and numerous discussions and negotiations involving Malcolm and Wal. For instance up to the sketch plan approval, we had prepared numerous sketch plan proposals over the years, each successive one responding to specific issues raised by the Authority. There were also extensive discussions with NCA, LDA and ACTPLA about the precise detail of the respective crown leases.

During the course of the project, I have also commissioned specialist services on its various aspects, including traffic engineers, civil and structural engineers, quantity surveyors, valuers, surveyors, property advisors, accountants, solicitors and financiers. I have received the official government valuations for the respective parcels of land, and have already raised that money. Overall my financial investment in the project, including interest, has been substantial.

Although it appears that we reached a position in February/March this year where all in principle approvals had been obtained, and respective lease offers finalised (subject to your signature on the Commonwealth lease offer), I am now extremely concerned and annoyed that an 11th hours problem appears to have emerged which is impeding further progress on the project, and which totally ignores the 7 years of hard work, investment and negotiation.

What I find even more astonishing is that no one in the Authority is willing to tell me what this new problem is. David Wright has advised Malcolm Smith on a number of occasions that he is doing his best to resolve the issues, and that I should be patient because the outcome will be of benefit to me. This situation has been going on for 3 months and I still have no idea what the issue (s) is, when it may be resolved or what the "benefits" to me are likely to be. At my request Malcolm wrote to David Wright on 5th May requesting an urgent meeting. We never had that meeting but Mr Wright replied to Malcolm on 7th May stating that as long as he can get a commitment that the Territory will tackle the "problem", he will recommend that the Authority clear the lease offer. Malcolm understands that the Authority received the necessary "commitment" from the Territory (Peter Johns) a few days later.

I spoke to Mr Wright myself on 20th May and was asked to give him a "couple of days" to finalise the matter. I have heard nothing further, but Malcolm has since been advised by Mr Wright that the "problem" is now back with LDA to resolve. Consequently Malcolm spoke to Peter Johns, who advised that although technically the question may be back with LDA, the problem is one created solely by NCA. Mr Johns indicated that LDA is only allowed to operate within the context of the planning conditions set for the site by NCA. So although NCA have previously issued approved conditions for the site, Mr Johns indicated that LDA would have no say if NCA now wanted to change those conditions.

Although we have no formal advice on the nature of these problems, it has been suggested to Malcolm that the problem has been created by the intervention of your "Griffin Legacy" team, who have developed long term ideas for the comprehensive redevelopment of the West Basin foreshores, which my proposed development may conflict with. Having read the Griffin Legacy Exposure Draft however, Malcolm is of the view that the ideas are very long term, and even if capable of total implementation, would probably not happen during the 25 years nominated by NCA as my new lease term. For instance Malcolm has advised me that the West Basin proposals are related to other initiatives such as the covering of Parkes Way, and extending the City Centre down to the lakeshore.

No matter how commendable these ideas are, they currently have no statutory status or Commonwealth or Territory funding, and with all due respect, given the enormous costs involved, are unlikely to happen in our life times. To use these untested and unapproved ideas as a reason for not preceding with a valuable project, which has been developed, at substantial cost, over a period of 7 years, and which has had support and encouragement all along the way, lacks any credibility, particularly as in a timing sense there is unlikely to be any conflict.

Given this background I am sure you can understand my frustration, particularly given the unwillingness of anybody at NCA to be open, transparent, frank, and honest about the nature of the problems and issues, which have created the current impasse (we have had to rely on unsubstantiated 3rd hand gossip).

I invite you therefore, within 7 days of receiving this letter to give me a written reply to the following questions:

1. Why has the lease offer for the Commonwealth land, which Shamsul Huda previously advised was ready for your signature in March, not been signed by you?

2. What is the precise nature of the problem which has led to your decision not to endorse the lease offer documents?

3. What action is being taken to resolve the problem referred to above?

4. What is your firm timetable for resolving the problem?

5. What is the likely outcome in t rms of my proposal, which has been developed over a period of 7 y ars, and which has received a succession of in principle appr vals.

Unless I receive a satisfactory answe within 7 days I will instruct my solicitors to commence legal proceedings, whic h inter ilia, is likely to seek compensation for the costs I have inc rred and the revenue foregone. I also reserve the right to brief local politicia s (Senator Lundy, Jon Stanhope, Simon Corbell, and your Minister), an d the local and national media.

Yours faithfully

Patrick Seears

c.c. Anne Skewes
Chief Executive Land Dev lopment Agency

Senator Gary Humphries

28 May 2004

ROD J BARNETT AND ASSOCIATES
BARRISTERS AND SOLICITORS

Your Ref:

Our Ref: RJB.cw 030188

APRIL - 2004

22 April 2004

Deacons
Lawyers
AMP Building
1 Hobart Place
CANBERRA CITY ACT 2601

ADVANCE COPY BY FAX: 6272 0425

Attention: Vince Sharma

Dear Vince

Re: **PROPOSED SALE OF DOBEL BOAT HIRE TO JOHN FRAGOPOULOS**

We act on behalf of Dobel Boat Hire Pty Limited and its Directors and note that you are acting on behalf of Volanne Pty Limited and its Directors.

Dobel Boat Hire is currently in the process of negotiating a fresh Commonwealth Lease through the National Capital Authority and upon our instructions from the Directors of Dobel Boat Hire we are given to understand that the new lease together with a special licence relating to an incursion over the water situated contiguous to the original Crown Lease will be granted by the NCA in the near future. Our clients anticipate that the lease documentation will issue within the next ten (10) working days.

We are also instructed that your client, Mr Fragopoulos, wishes to purchase the interest of Dobel Boat Hire by way of a transfer of shares of Dobel Boat Hire Pty Limited for a total purchase price of $2.3 million.

Upon our instructions, the essential elements for the agreement for the sale of shares will be as follows:

i) **Initial Deposit** - $15,000 payable to the trust account of Location Real Estate upon receipt of your confirmation that the matter is to proceed;

ii) **Further Deposit** - $215,000, bringing the aggregate to 10% of the total purchase price;

iii) **Balance of Purchase Price** - upon completion of sale of shares ($2,070,000);

EMAIL barlaw@webone.com.au
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PO BOX 7165 CANBERRA MAIL CENTRE ACT 2610
PHONE (02) 6280 8899 FAX (02) 6280 5955

ROD J BARNETT AND ASSOCIATES

BARRISTERS AND SOLICITORS

Your Ref:

Our Ref: RJB.cw 030188

22 April 2004

PRIVATE & CONFIDENTIAL
Mr John Fragopolous
P.O. Box 688
JAMISON CENTRE ACT 2814

Dear John

Re: **PROPOSED PURCHASE OF DOBEL BOAT HIRE**

We act on behalf of Dobel Boat Hire and note that your legal representatives are Deacons Lawyers (reference Vince Sharma).

We **enclose** for your attention copy of letter this day forwarded to Vince Sharma. Upon the instructions received by the writer, the letter sets out the terms of the proposed sale of shares in Dobel Boat Hire. Undoubtedly, you will seek to instruct your solicitors further in relation to this matter and at the same time nominate the incoming shareholders of Dobel Boat Hire so that an appropriate agreement for the sale of shares can be prepared.

Yours faithfully
ROD J BARNETT & ASSOCIATES

[redacted]

Rod J Barnett

Encl.
cw\Ironmongie.let4

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iv) **Special Condition** - completion shall take place upon the granting of a further lease granted by NCA over property described as Block 22 Section 33 Division of Acton together with an area extending over the lake edge in accordance with the draft plan **enclosed** herewith and marked with the letter "A";

v) **Betterment Tax** - all betterment tax imposed by the NCA will be payable by the incoming shareholders subsequent to completion of the agreement and liability for betterment tax is acknowledged by the incoming shareholders;

vi) **Stamp Duty and Outgoings** - all stamp duties and other outgoings in relation to the lease will become payable by the incoming shareholders *, *[* including any imposition of land rich duty which might be applicable]*. The new lease will be subject to the rights of a continuing licence in favour of Dobel Boat Hire which has been subsequently granted to Jim and Cony Seears*, *[* exact particulars of which are not yet to hand.]*

We are given to understand that Mr Fragopolous may wish to appoint other parties to be nominees in relation to the transfer of shares.

Please advise whether or not you hold instructions with regard to this matter and ensure that your clients are bound to strict confidentiality in relation to these proposals. We advise that we do have instructions to prepare a confidentiality agreement on the part of those involved in this transaction but cannot prepare the confidentiality agreement to be executed until you are in a position to take further instructions as to who the exact shareholders will be.

We await your early response.

Yours faithfully
ROD J BARNETT & ASSOCIATES

[redacted]

Rod J Barnett

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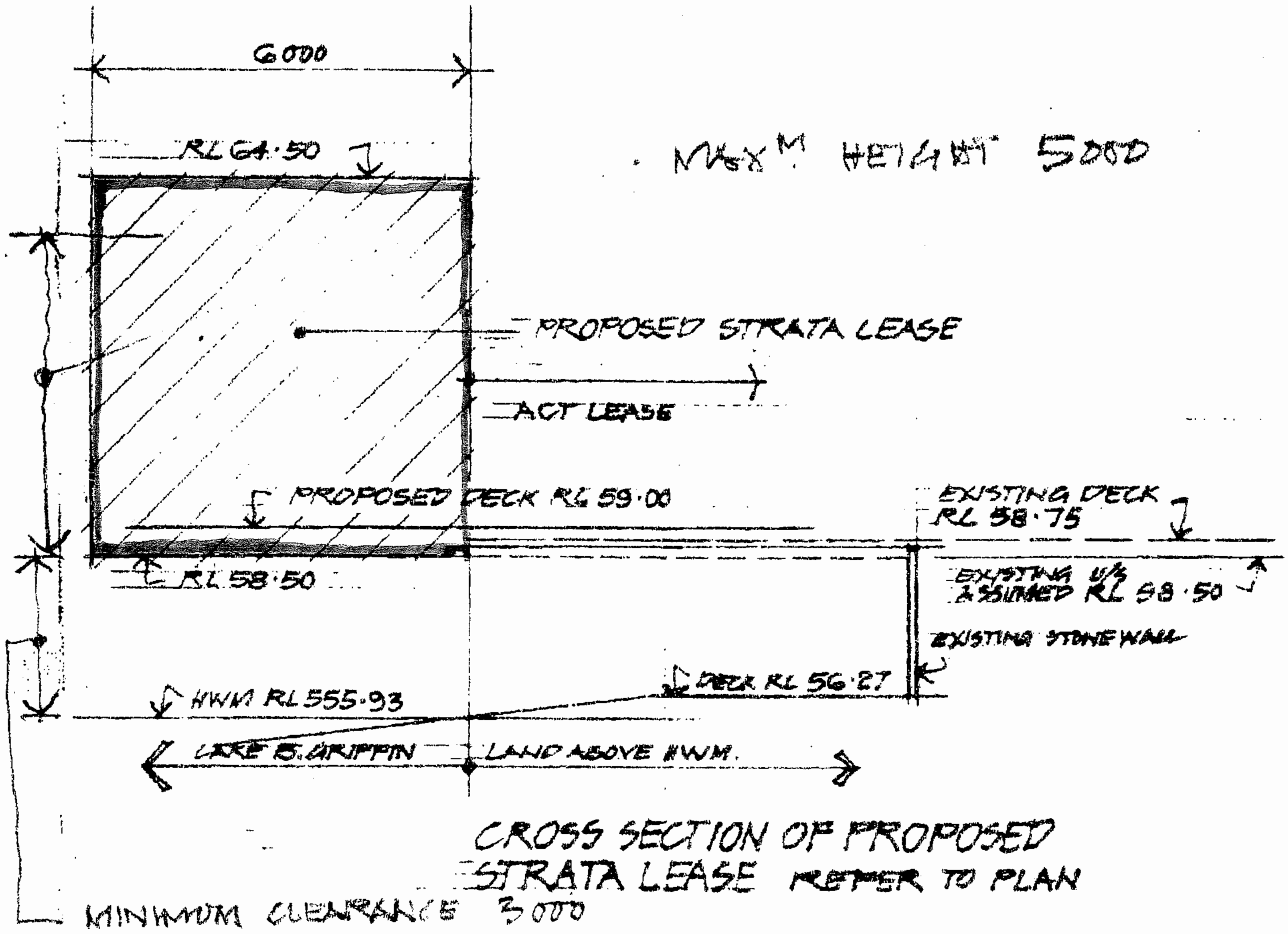

CROSS SECTION OF PROPOSED STRATA LEASE REFER TO PLAN