



NOTICE TO SURVEYORS T6/2004

CARBON RIGHTS, CARBON COVENANTS AND TREE PLANTATIONS

The *Carbon Rights Act 2003* and the *Tree Plantations Agreements Act 2003*, together with consequential amendments to the *Transfer of Land Act 1893*, were proclaimed on 24 March 2004. These acts provide statutory recognition of the creation of some new interests in land that will, in most cases where an interest affects part of a lot, involve the preparation and lodgement of deposited plans and Cadastral Survey Data (CSD) files. These plans and CSD files are to be lodged by surveyors accredited with the Land Surveyors Licensing Board as being eligible to verify survey documents.

This notice describes the requirements for deposited plans that support the registration of documents for carbon rights, carbon covenants and tree plantation agreements.

Carbon Rights Act 2003

The Carbon Rights legislation creates new rights in land that can be registered on the certificate of title for that land. These rights can apply to either freehold or Crown land and will remain on the title until it is surrendered by agreement.

Where the Carbon Right interest burdens the land in a title it will be shown as a “Primary Interest” in the Second Schedule of the title in order of priority.

If the land affected by the Carbon Right is only part of the land in a title then a Deposited Plan and CSD file of the affected land is required to be lodged to support the Carbon Right Instrument **except** in the following cases:

- when a narrative description referring to a suitable existing deposited plan - for example, “as to the portion of land depicted on Deposited Plan ... lodged to support Plantation Interest ...”; and
- when the affected land is part of the land in a title but is already defined, or can be defined from a compilation of surveys, as a separate severance polygon on the title and in SmartPlan, in which case an appropriate description will be required - for example “as to the portion of land within Certificate of Title Volume ... Folio ... bounded by ...”.

There is a need for certainty of description of the area of land affected by a Carbon Right as only one Carbon Right Instrument can be registered over any particular piece of land – carbon rights cannot overlap each other. Land existing as a live polygon or lot on the integrated layer in SmartPlan provides this certainty of description.

Carbon covenants (which may be positive or negative in nature) may also be registered on the certificate of title.

Where the Carbon Covenant interest benefits the land in a title it will be shown as a “Subsidiary Interest” to the relevant Carbon Right in the Second Schedule of the title in order

of priority. The Carbon Covenant must be for the benefit of the entire extent of the Carbon Right. Where the Carbon Covenant interest burdens the land in a title it will be shown as a “Primary Interest” in the Second Schedule of the title in order of priority. If the Carbon Covenant burdens only part of the land in a title then a Deposited Plan and CSD file of the affected land is required to be lodged to support the Carbon Covenant Instrument, unless either of the exceptions mentioned above (with respect to Carbon Right instruments) apply.

Tree Plantation Agreements Act 2003

The *Tree Plantation Agreements Act* is complementary to, but independent from, the Carbon Rights Act. This Act provides for the creation of a plantation interest, as a separate interest in land, on registration of a tree plantation agreement on the certificate of title.

Where the Plantation Interest burdens the land in a title it will be shown as a “Primary Interest” in the Second Schedule of the title in order of priority. Where the Plantation Interest burdens a lessee’s interest in freehold or Crown land it will be shown as a “Subsidiary Interest” in the Second Schedule of the title relevant to the lease. If the Plantation Interest only affects part of the land in the certificate of title then a Deposited Plan and CSD file of the affected land is required to be lodged to support the Plantation Interest Instrument, as for Carbon Rights and Carbon Covenants mentioned above.

Requirements for deposited plans

Deposited plans are to be prepared generally in accordance with the requirements for “Easement only” plans as described, with examples, in the Survey and Plan Practice Manual 2003. However, there are some important variations for the “Interest only” plans required for Carbon Rights, Carbon Covenants and Plantation Interests.

The Survey and Plan Practice Manual 2003 is available as a free download from http://www.landonline.com.au/PracticeManualsList.asp?product_group_id=62 and from Landgate Survey Channel (look in Publications/Manuals)

Template files of the deposited plan forms in several common computer aided drafting (CAD) and exchange formats are available as a free download from Landgate Survey Channel (look in Publications/Specifications/Guidelines/Plan Forms).

Deposited plans shall be of Type “*Freehold*” or “*Crown*” depending upon the tenure of the subject land. The Purpose shall be “*Interest*”. The “Plan of” section shall be in the form of “*Carbon Right/Carbon Covenant/Plantation Interest and/or other interest over Lot ... on DP...*”. The current certificate of title volume and folio numbers should appear on the plan either in the heading or on the graphics. The graphic area shall contain the notation “*For Interest Purposes Only*”.

As shown in the attached example A, it will be sufficient in some cases for the position of the area of interest to be defined by coordinates. The coordinates must be expressed in terms of a standard map grid maintained by DLI eg MGA94, PCG94. It will be necessary to ensure that the coordinates of the interest polygon and the coordinates used for plotting the boundaries are compatible. Compatible coordinates are those where the accuracy of each set of coordinates is similar and compatible with the relative positions of the relevant entities. If they are not compatible, it will be necessary to provide proof that the interest polygon is completely within the subject land. This can be achieved in the following ways:

1. by making a geodetic connection to a nearby, verified boundary point, or
2. by re-establishment of nearby boundaries and connection to the interest polygon.

If case 1 applies, the upgraded boundary coordinates must be shown on the plan. If case 2 applies, the connection from the boundary to the interest polygon must be shown by dimensions, and the interest polygon must be defined by dimensions (see example B).

The deposited plans will be subject to a legal audit as part of the plan registration process to ensure that the affected land is correctly, clearly and unambiguously defined and that the plan is consistent with the registered instrument.

Deposited plans lodged in support of a Carbon Right, Carbon Covenant or Plantation Interest will incur the **general fee** applicable to plans not requiring deposition with the Western Australian Planning Commission.

Requirements for CSD files

CSD files are to be created generally in accordance with the CSD User Guide at Appendix 9 of the Survey and Plan Practice Manual 2003. However, there are several specific details concerning the creation of polygon records that is not included in the current version of the user guide.

1. Polytype: This is to be entered as “Easement” or “Easement or Interest” depending on the application used and the version of that application,
2. Polyident1: The following text strings are to be used (exactly as shown here) as appropriate:
 - Carbon Right
 - Tree Plantation
 - Carbon Covenant – Burden
 - Carbon Covenant – Benefit
3. Polyident2: This attribute is to contain the lot number of the affected land.

Please refer to the attached screen prints of examples from applications in current use.

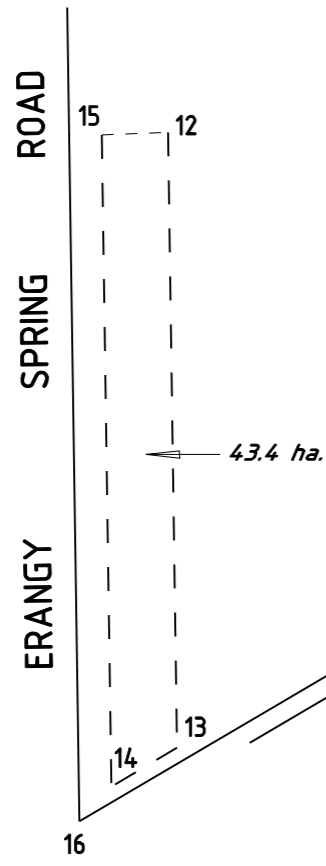
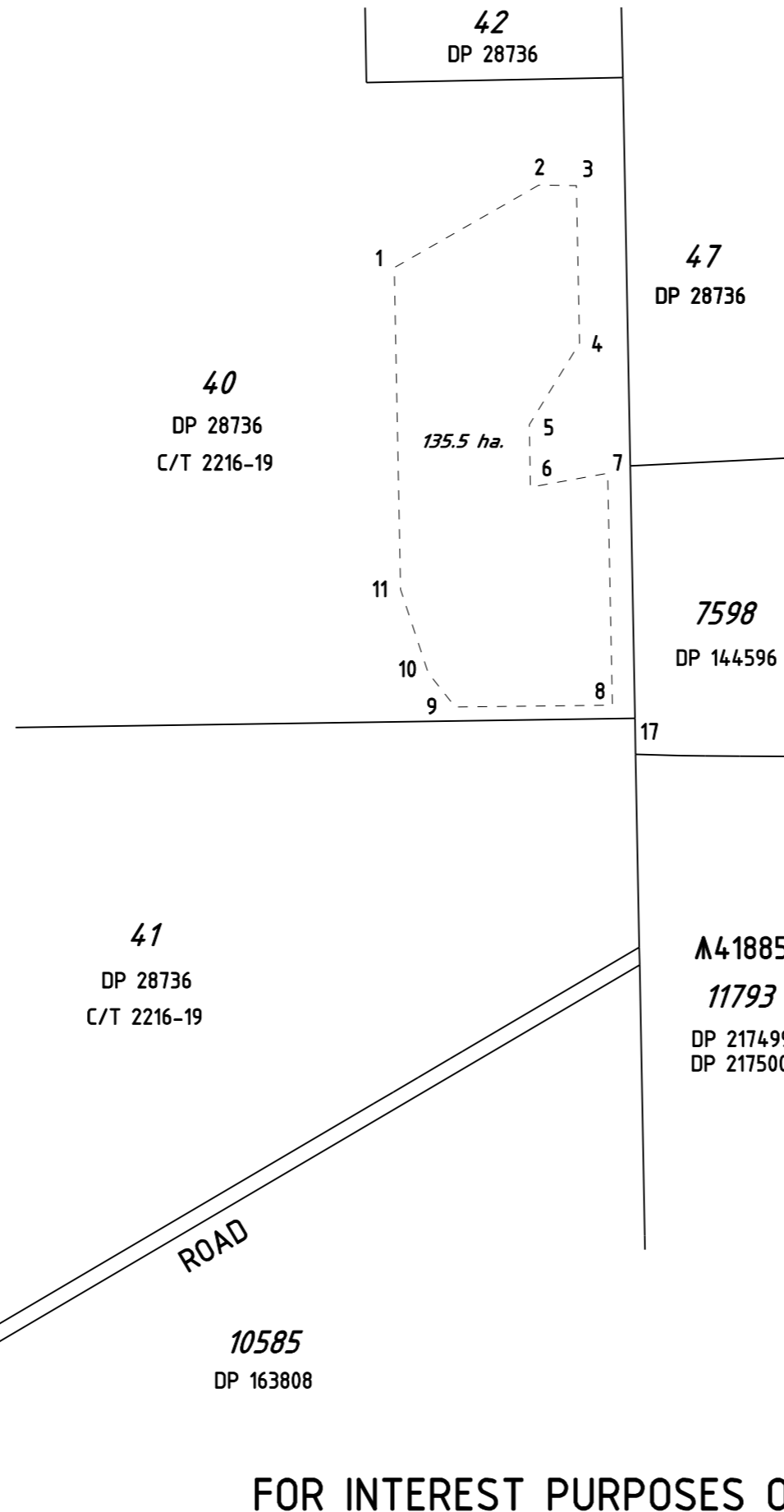
The Survey Advice Officer at DLI can be contacted (telephone 9273 7044; e-mail peter.joyce@dlj.wa.gov.au) for any queries about creating the CSD files.

Please also refer to Customer Information Bulletin No. 137 that was released recently defining DLI’s practice, procedure and registration requirements regarding Carbon Rights, Carbon Covenants and Tree Plantations.

BRUCE ROBERTS
REGISTRAR OF TITLES

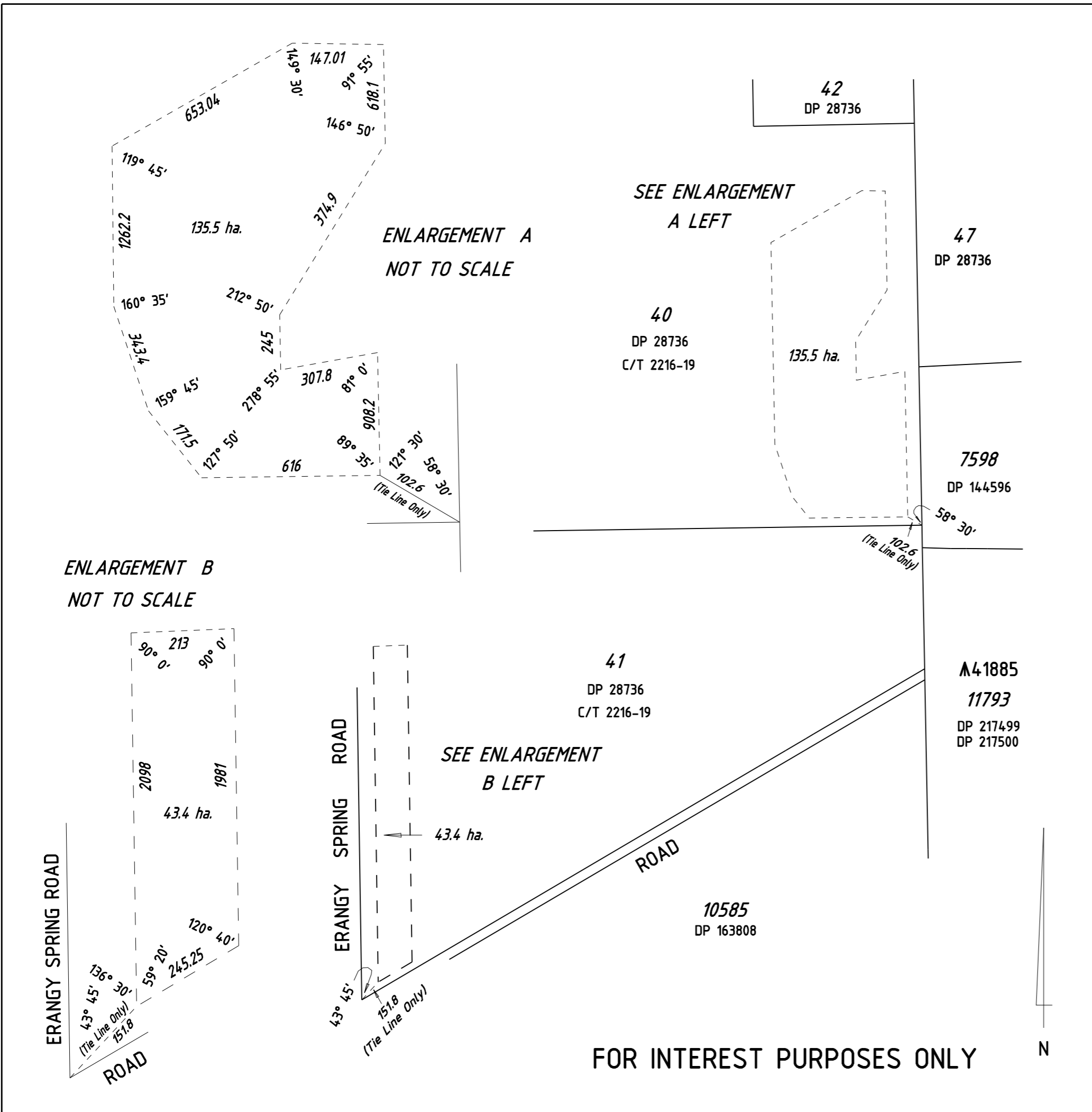
17 August 2004

CO-ORDS DERIVED BY DGPS - NOMINAL ACCURACY 0.5M		
MGA 94 CO-ORDINATES		
1	333 140 mE	6 826 251 mN
2	333 707 mE	6 826 575 mN
3	333 854 mE	6 826 573 mN
4	333 866 mE	6 825 955 mN
5	333 669 mE	6 825 636 mN
6	333 674 mE	6 825 391 mN
7	333 977 mE	6 825 445 mN
8	333 995 mE	6 824 537 mN
9	333 379 mE	6 824 529 mN
10	333 272 mE	6 824 663 mN
11	333 164 mE	6 824 989 mN
12	330 866 mE	6 823 735 mN
13	330 895 mE	6 821 754 mN
14	330 684 mE	6 821 629 mN
15	330 653 mE	6 823 727 mN
BDY CO-ORDS DERIVED FROM SCDB - NOMINAL POINT ACCURACY 0.2M		
16	330 582 mE	6 821 528 mN
17	334 083 mE	6 824 487 mN



FOR INTEREST PURPOSES ONLY

TYPE _____ FREEHOLD	
PURPOSE _____ INTEREST	
PLAN OF CARBON RIGHT AND/OR OTHER INTEREST Over Lots 40 & 41 on DP 28736 CT 2216/19	
DISTRICT VICTORIA	DOLA FILE
TOWNSITE _____	
LOCAL AUTHORITY SHIRE OF MULLEWA	
LOCALITY INDARRA	SSA YES/NO _____
FORMER TENURE _____	ON _____ INDEX : MO 25 1940 I SW
FIELD BOOK _____	
SCALE: ALL DISTANCES 1:25 000	
SURVEYOR'S CERTIFICATE - Reg 54 I hereby certify that this plan is a correct representation of the survey and / or calculations from measurements recorded in the field book lodged for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged.	SURVEYOR'S CERTIFICATE - Compiled I hereby certify that this compiled plan (a) is a correct and accurate representation of the survey(s) of the subject land; and (b) is in accordance with the relevant law in relation to which it is lodged.
Licensed Surveyor _____ Date _____	Licensed Surveyor _____ Date _____
LEGEND EXTENT OF CARBON RIGHTS TOTAL AREA - 178.9 ha. GDA DATUM - Geodetic Datum of Australia 1994 (GDA 94) PROJECTION - Universal Transverse Mercator G.M. 117E Zone 50	
LODGED _____	TYPE OF VALIDATION _____
DATE _____	FULL AUDIT _____ LEGAL COMPONENT _____
FEE PAID _____	DOCKET CERTIFIED CORRECT _____
ASSESS No. _____	ISC. _____ FSC. _____
IN ORDER FOR DEALINGS	
SUBJECT TO _____	
AUTHORIZED LAND OFFICER _____	
APPROVED _____	
FOR INSPECTOR OF PLANS & SURVEYS DATE _____	
SURVEY FIRM BTT - SSG1 - DLI	
APPROVED BY WESTERN AUSTRALIAN PLANNING COMMISSION	
FILE _____	
DELEGATED UNDER S.20 WAPC ACT 1985	
DATE _____	
Department of Land Information Government of Western Australia	
DEPOSITED PLAN	
EXAMPLE A	
SHEET _____	OF _____
EDITION _____	VERSION _____



TYPE _____		FREEHOLD	
PURPOSE _____		INTEREST	
PLAN OF CARBON RIGHT AND/OR OTHER INTEREST Over Lots 40 & 41 on DP 28736 CT 2216/19			
DISTRICT VICTORIA		DOLA FILE	
TOWNSITE _____		_____	
LOCAL AUTHORITY SHIRE OF MULLEWA		_____	
LOCALITY INDARRA		SSA YES/NO _____	
FORMER TENURE _____	ON _____	FIELD BOOK _____	
		INDEX : MO 25 1940 SW	
SCALE: ALL DISTANCES 1:25 000			
SURVEYOR'S CERTIFICATE - Reg 54 I hereby certify that this plan is a correct representation of the survey and / or calculations from measurements recorded in the field book lodged for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged. Licensed Surveyor _____ Date _____		SURVEYOR'S CERTIFICATE - Compiled I hereby certify that this compiled plan (a) is a correct and accurate representation of the survey(s) of the subject land; and (b) is in accordance with the relevant law in relation to which it is lodged. Licensed Surveyor _____ Date _____	
		LEGEND EXTENT OF CARBON RIGHTS TOTAL AREA - 178.9 ha.	
		 GDA <small>DATUM - Geodetic Datum of Australia 1994 (GDA 94) PROJECTION - Universal Transverse Mercator C.M. 117E Zone 50</small>	
LODGED _____	TYPE OF VALIDATION _____		SURVEY FIRM BTT - SSG1 - DLI
DATE _____	FULL AUDIT _____		APPROVED BY WESTERN AUSTRALIAN PLANNING COMMISSION FILE _____ DELEGATED UNDER S.20 WAPC ACT 1985 DATE _____
FEE PAID _____	LEGAL COMPONENT _____		
ASSESS No. _____	DOCKET _____		
	CERTIFIED CORRECT _____		
	ISC _____		
	FSC _____		
IN ORDER FOR DEALINGS			
SUBJECT TO _____			
AUTHORIZED LAND OFFICER APPROVED _____			
FOR INSPECTOR OF PLANS & SURVEYS DATE _____			
DEPOSITED PLAN EXAMPLE B SHEET _____ OF _____ EDITION _____ VERSION _____			

Capture

New Lot Definition

Lot Definition

Lot Type

- (A) Agricultural Area
- (C) Closed Road
- (E) Estate Area
- (F) TLA lot
- (I) Inclusion
- (L) Location
- (M) Marine Park
- (O) Right of Way
- (P) Pedestrian Access Way
- (R) Road Casement
- (S) Suburban Area
- (T) Townsite Lot
- (W) Road Widening
- (X) Easement
- (Y) Miscellaneous
- (Z) Surround

Easement Reg./Sec:

Encumbered Lot/Loc:

Optional Information

House Number

Street Name

12,1,4929.391,2029.391,**X**,"Carbon Right","1",10000,"",""

CSD Editor

