



MINISTER FOR THE ENVIRONMENT, SCIENCE

Statement No.

000699

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

**CLAY EXCAVATION**  
**LOTS 7, 19, 60, 63, 64 & 20 HALLETT & COPLEY ROADS**  
**(formerly Part Lot 1 & Lots 222, 27, 26, 25, 28 & 7 Hallett & Copley Roads)**  
**& LOTS 19, 45 & 46 ST ALBAN'S ROAD & LOT 100 GREAT NORTHERN HIGHWAY**  
**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:** 1432

**Previous Assessment Number:** 504

**Previous Statement Number:** 251 (Published on 23 April 1992)

**Report of the Environmental Protection Authority:** Bulletin 1157

**Previous Report of the Environmental Protection Authority:** Bulletin 599

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 and procedures of this statement.

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**22 NOV 2005**

## **2 Proponent Commitments**

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

## **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 modified proposal within five years of the date of this statement or the approval granted in this statement shall lapse and be void.

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

- 4-2 The proponent shall make application for any extension of approval for the substantial commencement of the modified proposal beyond five years from the date of this statement 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 modified 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 monitor 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 by 31 December 2006 and every five years thereafter, 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 Acid Sulfate Soils Investigation and Management Plan**

- 6-1 Prior to any ground-disturbing activities associated with the excavation and dewatering of areas classed as having a “high risk” of Acid Sulfate Soils according to the Western Australian Planning Commission Bulletin No. 64 (2003), the proponent shall prepare an Acid Sulfate Soils Investigation and Management Plan to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

The objectives of the Plan are:

- to ensure that any ground-disturbing activities which may disturb acid sulfate soils and/or contaminated waters are planned and managed to avoid adverse effects on the natural and built environment, human activities and health.

The Plan shall address:

- 1 identification of acid sulfate soils in and near areas proposed to be disturbed,

and, in the event that the disturbance of acid sulfate soils is unavoidable, the Plan shall also address:

- 2 potential on-site and off-site effects of the disturbance of the acid sulfate soils and/or groundwater levels;
- 3 how drainage or soil extraction will be undertaken to minimise environmental impacts;
- 4 how any acid leachate generated as a result of ground-disturbing activities will be managed;
- 5 management of areas, both on and off-site, used to store or treat extracted soil;
- 6 comprehensive surface and ground water quality monitoring both on and off-site, if applicable;
- 7 establishment of agreed performance criteria and objectives in relation to environmental and social impacts; and
- 8 contingency measures and procedures in the event that the agreed performance criteria may not be met.

- 6-2 The proponent shall implement the Acid Sulfate Soils Investigation and Management Plan required by condition 6-1.

- 6-3 The proponent shall make the Acid Sulfate Soils Investigation and Management Plan required by condition 6-1 publicly available.

## **7 Wetland Rehabilitation**

- 7-1 Prior to the re-commencement of ground-disturbing activities, the proponent shall prepare a Wetland Rehabilitation Plan, to the requirements of the Minister for the Environment on advice of the Environmental Protection Authority.

This Plan shall include:

- 1 a report of a detailed vegetation and flora survey of the areas likely to be impacted by the proposal;
- 2 characterisation of the habitats likely to be impacted by the proposal;
- 3 an integrated and progressive mining and landscaping plan designed to optimise rehabilitation outcomes and provide a range of habitats in the final landform;
- 4 proposed final landforms and the identification of areas to be revegetated;
- 5 a rehabilitation and revegetation management plan for areas of vegetation to be disturbed during excavation;
- 6 agreed timelines and progressive performance criteria;
- 7 monitoring against the agreed progressive performance criteria;
- 8 contingency measures in the event that the rehabilitation or revegetation fails to meet agreed performance criteria; and
- 9 responsibilities for continued maintenance of rehabilitated and landscaped areas.

Note: In the preparation of advice to the Minister for the Environment, the Environmental Protection Authority expects to obtain advice of the Department of Environment and the Swan River Trust.

- 7-2 The proponent shall implement the Wetland Rehabilitation Plan required by condition 7-1.
- 7-3 The proponent shall make the Wetland Rehabilitation Plan required by condition 7-1 publicly available.

## **8 Environmental Management Programme**

- 8-1 Within six months following the issuing of the notice to the decision-making authorities under section 45(7) of the *Environmental Protection Act 1986*, the proponent shall prepare an updated Environmental Management Programme, also addressing the requirements of conditions 6 and 7 and the new locations (see table 1), 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 excavation strategy;
  - 2 Acid Sulfate Soils Investigation and Management Plan (see condition 6);
  - 3 groundwater management and protection;
  - 4 progressive rehabilitation of the site;
  - 5 Wetland Rehabilitation Plan (see condition 7);
  - 6 weed management;
  - 7 identification, management and protection of archaeological material, with the involvement of the Department of Indigenous Affairs;
  - 8 periodic reporting of monitoring results, incorporating monitoring of excavation and sieved clay for archaeological materials;
  - 9 procedures to minimise noise, dust and visual impacts associated with the quarrying and transport operations;
  - 10 public safety and mosquito control, with the involvement of the Department of Health at the design stage of water bodies and wetlands;
  - 11 consequential changes to project management to remedy unacceptable impacts; and
  - 12 clearly indicated timeframes for implementation of each stage.
- 8-2 The proponent shall implement the updated Environmental Management Programme required by condition 8-1.
- 8-3 The proponent shall make the updated Environmental Management Programme required by condition 8-1 publicly available.
- 8-4 The proponent shall periodically review the updated Environmental Management Programme required by condition 8-1.

## **9 Decommissioning**

- 9-1 Within two years following the date of this statement, the proponent shall prepare a Preliminary Decommissioning Plan including the additional areas for clay extraction, 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 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.
- 9-2 At least 12 months prior to the anticipated date of decommissioning, or at a time agreed with the Environmental Protection Authority, the proponent shall prepare a Final Decommissioning 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 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.
- 9-3 The proponent shall implement the Final Decommissioning Plan required by condition 9-2 until such time as the Minister for the Environment determines, on advice of the Environmental Protection Authority, that the proponent's decommissioning responsibilities have been fulfilled.
- 9-4 The proponent shall make publicly available the Final Decommissioning Plan required by condition 9-2.

## **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.
- 3 The City of Swan will adjust the bond on the proponent, as appropriate, commensurate with the expanded area of the excavation.

#### 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; SCIENCE

22 NOV 2005



## Schedule 1

### The Proposal (Assessment No. 1432)

The proposal is to conduct clay excavation operations.

The Key Proposal Characteristics are shown in Table 1.

**Table 1 – Key Proposal Characteristics**

Element	Quantities/Description
Offset	The transfer to the State of Western Australia, at no charge, of 5.97 hectares of Lot 12 Lexia Avenue (eastern side) for addition to Ellen Brook Nature Reserve to provide additional habitat for the endangered Western Swamp Tortoise.
Existing extraction areas	A change to the numbering of the lots has occurred:- The new numbers are Lots 7, 60, 63, 64 and 20 Hallett and Copley Roads, Upper Swan (Replacing Part lot 1 and lots 222, 27, 26, 25, 28, and 7 Hallett and Copley Roads, Upper Swan).
Areas for extension of clay extraction	Lot 19 Copley Road, Lot 100 Great Northern Highway and Lots 19, 45 and 46 St Alban's Road, Upper Swan.
*Size of Clay Body	Approximately 4 million tonnes
*#Total Area of Disturbance	Approximately 109 hectares
*Rate of Extraction	Approximately 180,000 tonnes per year
Major Infrastructure	nil
Overburden	Between 1 and 6 million tonnes
Water Usage	nil

# will also be rehabilitated.

\* estimated at present usage.

### Figures (attached).

Figure 1 - Location of current and proposed Midland Brick clay excavation.

Figure 2 - Aerial photo of current and proposed Midland Brick clay excavation works and rehabilitation areas.

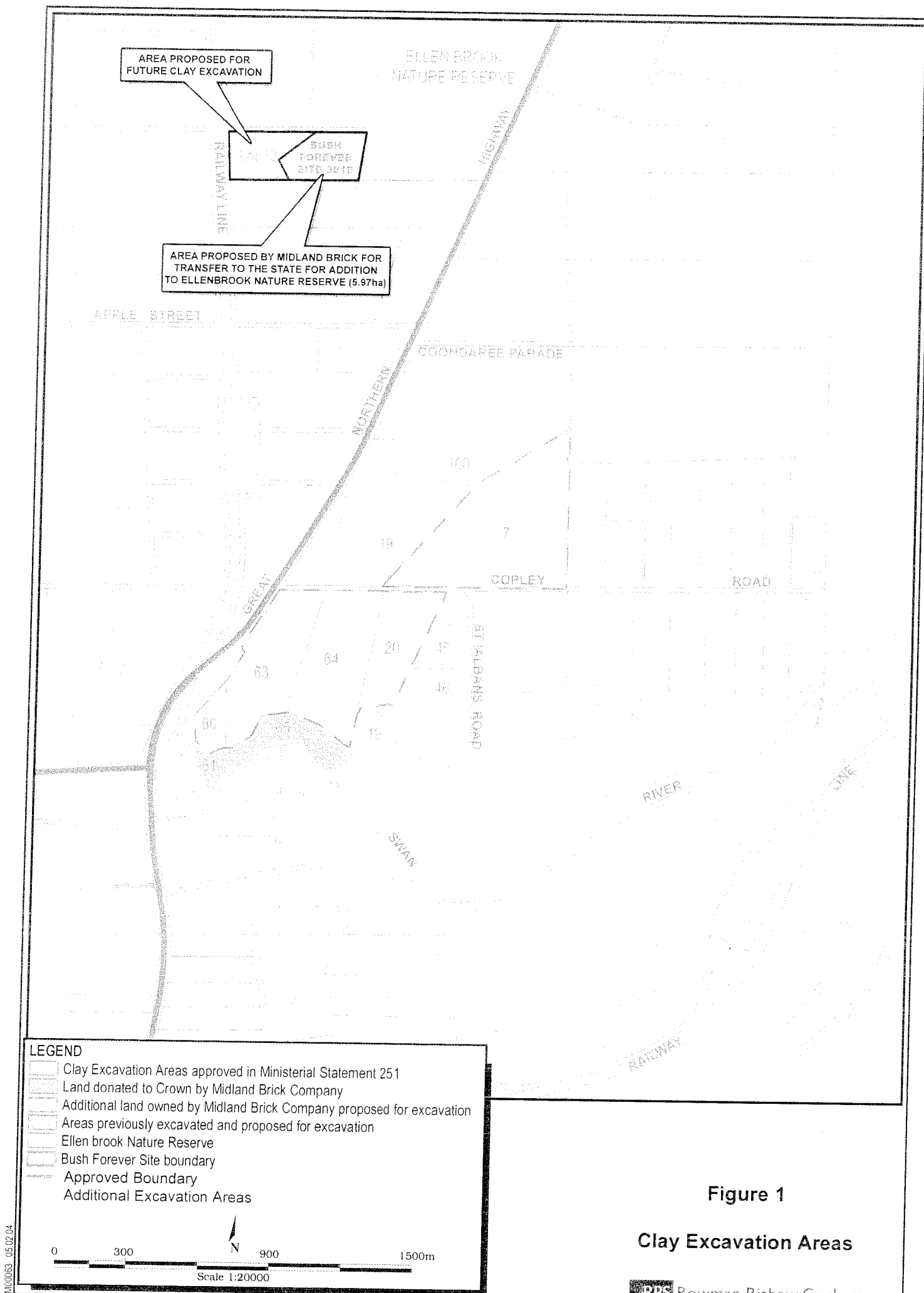
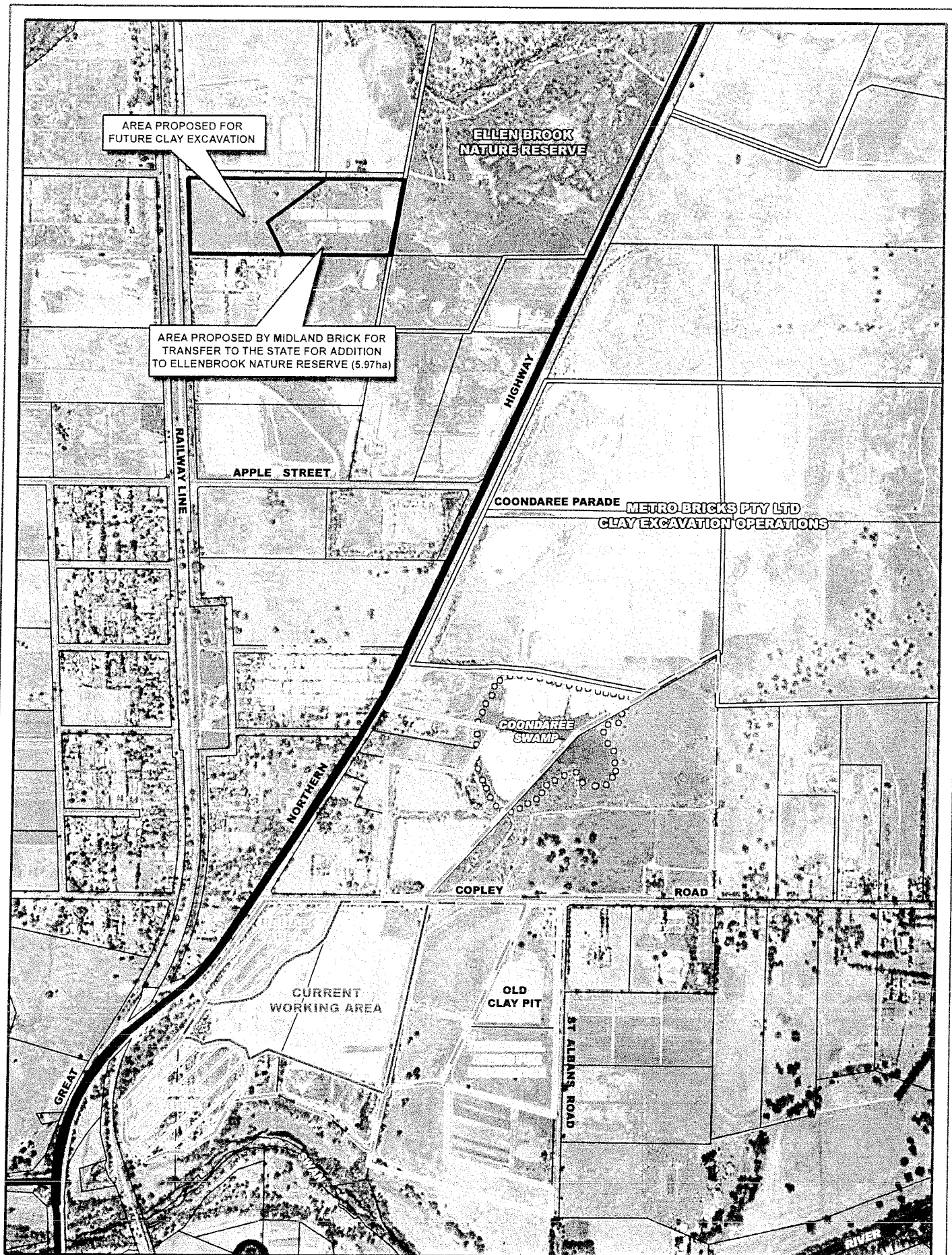


Figure 1

## Clay Excavation Areas



# LEGEND

- Approved Boundary
- Additional Excavation Areas

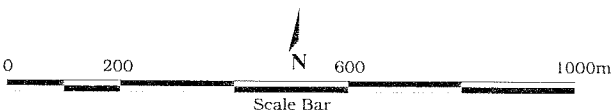


Figure 2

Aerial View of Site

## Proponent's Environmental Management Commitments

### CLAY EXCAVATION

LOTS 7, 19, 60, 63, 64 & 20 HALLETT & COPLEY ROADS  
(formerly Part Lot 1 & Lots 222, 27, 26, 25, 28, & 7 Hallett & Copley Roads)

&

LOTS 19, 45 & 46 ST ALBAN'S ROAD  
& LOT 100 GREAT NORTHERN HIGHWAY  
UPPER SWAN

(Assessment No. 1432)

MIDLAND BRICK COMPANY PTY LTD

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

## CLAY EXCAVATION LOTS 7, 19, 60, 63, 64 & 20 HALLETT & COPLEY ROADS (formerly Part Lot 1 & Lots 222, 27, 26, 25, 28, & 7 Hallett & Copley Roads) & LOTS 19, 45 & 46 ST ALBAN'S ROAD & LOT 100 GREAT NORTHERN HIGHWAY UPPER SWAN (Assessment No. 1432)

Note: The term "commitment" as used in this schedule includes the entire row of the table and its six separate parts as follows:

- commitment number;
- a commitment topic;
- the objective of the commitment;
- the 'action' to be undertaken by the proponent;
- the timing requirements of the commitment; and
- the body/agency to provide the technical advice to the Department of Environment.

No.	Topic	Objective	Action	Timing	Advice
1.	Transfer of land	To increase the size of the Ellen Brook Nature Reserve and provide additional protected habitat for the Western Swamp Tortoise.	<p>The proponent will transfer 5.97 hectares of the eastern side of Lot 12 Lexia Avenue to the Crown.</p> <p>The area includes Bush Forever site number 301B.</p>	<p>Transfer should commence within six months following the issuing of the section 45(7) notice to the decision-making authorities (<i>Environmental Protection Act 1986</i>).</p> <p>Transfer should be finalised as soon as possible after the process begins.</p>	CALM DPI

### Abbreviations

CALM = Department of Conservation & Land Management  
DPI = Department for Planning & Infrastructure

## Attachment 1 to Statement 699

### Change to Proposal

**Proposal:** Clay Excavation Lots 7, 19, 60, 63, 64 & 20 Hallett & Copley Roads (formerly Port Lot 1 & Lots 222, 27, 26, 25, 28 & 7 Hallett & Copley Roads), & Lots 19, 45 & 46 St Alban's Road, & Lot 100 Great Northern Highway Upper Swan.

**Proponent:** Midland Brick Company Pty Ltd

**Change:** Inclusion of an additional lot (Lot 18 St Alban's Road, Upper Swan) into the Upper Swan clay extraction area (Figure 3).

#### Key Characteristics Table:

Element	Description of proposal	Description of approved change to proposal
Offset	The transfer to the State of Western Australia, at no charge, of 5.97 hectares of Lot 12 Lexia Avenue (eastern side) for addition to Ellen Brook Nature Reserve to provide additional habitat for the endangered Western Swamp Tortoise.	The transfer to the State of Western Australia, at no charge, of 5.97 hectares of Lot 12 Lexia Avenue (eastern side) for addition to Ellen Brook Nature Reserve to provide additional habitat for the endangered Western Swamp Tortoise.
Existing extraction areas	A change to the numbering of the lots has occurred:- The new numbers are Lots 7, 60, 63, 64 and 20 Hallett and Copley Roads, Upper Swan (Replacing Part lot 1 and lots 222, 27, 26, 25, 28 and 7 Hallett and Copley Roads, Upper Swan).	A change to the numbering of the lots has occurred:- The new numbers are Lots 7, 60, 63, 64 and 20 Hallett and Copley Roads, Upper Swan (Replacing Part lot 1 and lots 222, 27, 26, 25, 28 and 7 Hallett and Copley Roads, Upper Swan).
Areas for extension of clay extraction	Lot 19 Copley Road, Lot 100 Great Northern Highway and Lots 19, 45 and 46 St Alban's Road, Upper Swan.	Lot 19 Copley Road, Lot 100 Great Northern Highway and Lots <b>18</b> , 19, 45 and 46 St Alban's Road, Upper Swan.
*Size of Clay Body	<del>Approximately 4 million tonnes</del>	<del>Approximately 4 million tonnes</del>
*#Total Area of Disturbance	Approximately 109 hectares	<b>Approximately 117 hectares</b>
*Rate of Extraction	Approximately 180,000 tonnes per year	Approximately 180,000 tonnes per year
Major Infrastructure	nil	nil
Overburden	Between 1 and 6 million tonnes	Between 1 and 6 million tonnes
Water Usage	Nil	Nil

# will also be rehabilitated

\* estimated at present usage

#### List of Figures:

Figure 3: Clay Excavation, Upper Swan – site boundary

**Dr Paul Vogel**  
CHAIRMAN  
Environmental Protection Authority  
under delegated authority

Approval date: 2.11.09



# LEGEND

- Cadastre
- Site boundary



RPS

Job Number: L09142  
Date: 07/09/09  
Revision: A  
Scale: 1:6000 @ A3  
Drafted by: SF  
Source: Aerial Photograph - Landgate, 2009



Figure 3

Hallett Quarry