

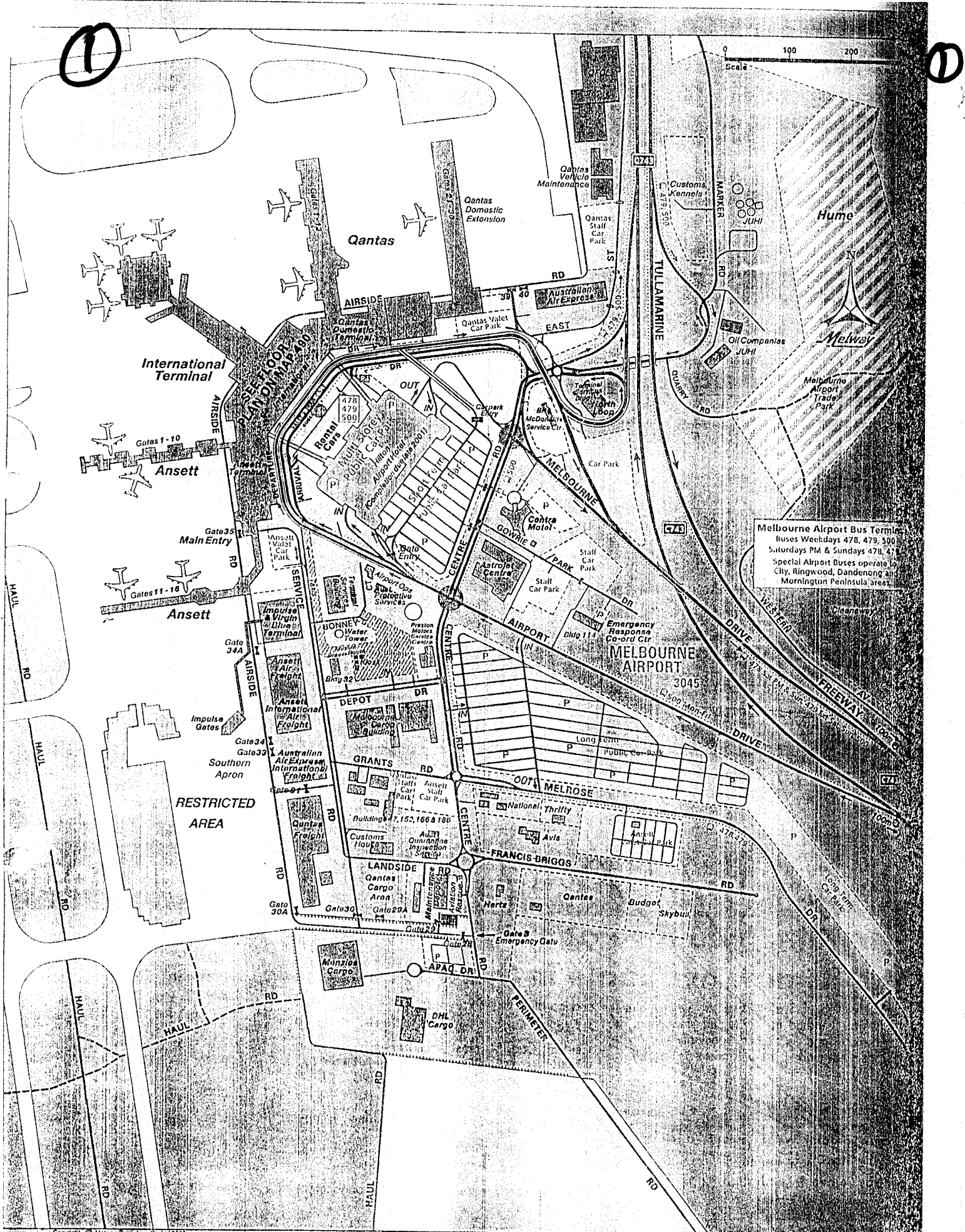
Eric Wilson

July 2010

**Senate Standing Committee
Legal and Constitutional Affairs
Parliament House
Canberra**

**DENIAL OF ACCESS TO COMMONWEALTH
COMPENSATION SCHEMES:
RECCOMENDATIONS & CASE STUDY**

SUPPORTING DOCUMENTS 1



VICTORIA
Certificate of Title

UNDER THE TRANSFER OF LAND ACT 1928

WILHELMENA SMITH OF 501 SWANSTON STREET MELBOURNE
MARRIED WOMAN

now the proprietor of an estate in fee-simple subject to the encumbrances notified
hereunder in ALL THAT piece of land delineated and coloured RED
on the map in the margin containing 405 acres 2 3/10ths perches
or thereabouts being part of Crown Sections 7 and 15

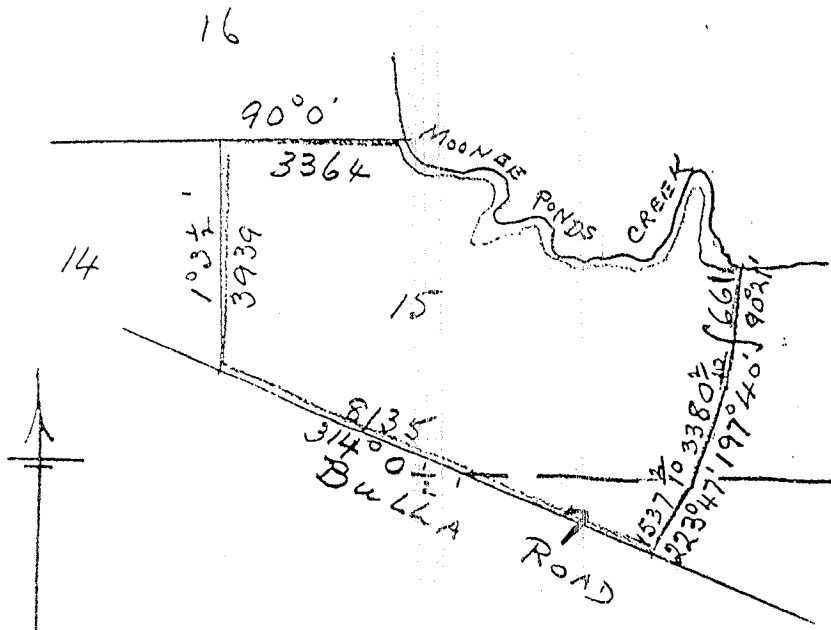
Parish of Tullamarine ✓ County of Bourke ✓

Dated 5.2.52 ✓

J. V. Lweeney
Assistant Registrar of Titles

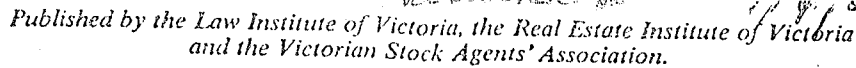
~~Nil~~

ENCUMBRANCES REFERRED TO



Measurements are in Links

Checked
19/59



3
279

3/83

Particulars of Sale;	and
Schedule;	and
General Conditions;	and
Special Conditions (if any).	

Where the signature of any party to this contract is secured by an agent, the parties acknowledge being given a copy of this contract by the agent at the time of signature as required by section 53 of the Estate Agents Act 1980.

..... Purchaser

A. A. McC

Such notice shall be given to the vendor or his agent or left at the address for service of the vendor being his address as specified in this contract or the address of the vendor's agent. In such a case the purchaser shall be entitled to the return of all monies paid by him under this contract EXCEPT for the sum of \$100.00 or 0.2% of the purchase price (whichever is the greater) which the vendor may retain.

PLANNING CERTIFICATE

4

Number

78921

Vendor

SMITH

Purchaser

AITKEN WALKER AND STRACHAN
DX 459
MELBOURNE

Reference

28 185

- A. This certificate is issued for :
LOT 1(PART), LP 91468 WESTERN AVENUE
SHIRE OF BULLA
- B. The land is covered by the Melbourne Metropolitan Planning Scheme.
The land is within the area for which the Minister is the responsible authority.
- C. The land :
- is included in a NOT APPLICABLE
- adjoins or is opposite a NOT APPLICABLE
- is reserved for NOT APPLICABLE
- abuts on a NOT APPLICABLE
- is within a REVOCATION AREA NO. 45B
- D. A proposed Amending Planning Scheme 413 has been placed on public exhibition which IF approved in its present form would change item C to :
- is included in a SPECIAL USE NO.17 ZONE
- E. Other

The land is NOT within an area in respect of which the Governor in Council has authorised the preparation of an urban renewal proposal.

The land is NOT within an investigation/designated area under the Development Areas Act.

AIRCRAFT NOISE

The Victorian Airfields Committee has recommended that wide publicity be given to the problem of Aircraft Noise in the vicinity of Airports.

Your attention is drawn to the special Noise Exposure Forecast Maps relating to Melbourne and Moorabbin Airports displayed on the walls of this office and to the charts contained on the maps.

If further detailed information is required, you should consult with Environment and Security Section, Department of Aviation 7th Floor, 108 Lonsdale Street, Melbourne, or phone 662 2455 (Correspondence to GPO Box 1733P, Melbourne Vic 3001).

Copies of Planning Schemes and Amendments can be inspected at the Ministry for Planning and Environment and relevant Municipal Offices.

MINISTRY FOR PLANNING AND ENVIRONMENT

Olderfleet Buildings 477 Collins Street Melbourne Victoria 3000 PO Box 4752 Melbourne 3001 Phone (03) 628 5199

SHIRE OF BULLA

Town and Country Planning Act 1961

PLANNING CERTIFICATE

PROPERTY No. 3.7600.00060

No. 8995

Place "X" in box of applicable items

ITEM

- A ☒ This Certificate is issued for the following land.
- (1) Sunbury Rd. Tullamarine Pt Lot 1 LP 9/468
- B ☐ The land is covered by
- ☐ (2) _____
- ☐ (2) _____
- C ☒ The land is outside the (3) Shire of Bulla Planning Scheme.
- D ☐ The map(s) comprising part of the scheme/order show that the land:—
- ☐ (a) is included in a _____ zone
- ☐ (b) adjoins or is opposite a _____ zone
- ☐ (c) is wholly/partly reserved for _____
- ☐ (d) Abuts on a _____ (road)
- ☐ (e) (Other) (4) _____
- E ☐ A proposed (5) _____ has been placed on public exhibition which IF approved in its present form would result in the relevant item of item D reading as follows:—
- () _____
- () _____
- F ☐ The land is within an area in respect of which the Governor in Council has authorised the preparation of an urban renewal proposal.
- G ☐ The land is within an investigation/designated area under the Development Areas Act.
- H ☒ (Other)

THE LAND IS COVERED BY THE MELBOURNE METROPOLITAN PLANNING SCHEME ADMINISTERED BY THE MINISTRY FOR PLANNING AND ENVIRONMENT FROM WHOM A CERTIFICATE CAN BE OBTAINED.

A fee of \$ 8.00 having been paid, this certificate is issued on the date shown below.

2/3/87
Date

Shire Secretary
Authorised Person

IMPORTANT NOTES

ONLY THOSE ITEMS WHICH HAVE BEEN MARKED WITH A CROSS APPLY TO THE LAND DESCRIBED.

The scheme or order named at item B is the one for which this Responsible Authority issues certificates.

If item C has been crossed you should check the description and location of the land and re-apply to the correct authority.

Item D indicates the zonings and other information as shown on the maps forming part of the scheme or order and includes all amendments gazetted up to the date of issue of the certificate. The certificate does not indicate any provisions contained within the written part of the scheme or order.

Item E includes all amendments schemes and orders placed on public exhibition up to the date of issue of the Certificate (irrespective of whether the exhibition period has closed) which IF approved could change the information given in item D.

APPLICANT: Hicken, Walker & Strachan
DX 459
Melbourne

P.O. BOX 42,
SUNBURY, 3429
Telephone: 744-1900

201 1 20 125 W. Smith Sale

Lodged at the Titles Office by

Titles Office Use Only

Code

VICTORIA

TRANSFER OF LAND

Subject to the encumbrances affecting the land including any created by dealings lodged for registration prior to the lodging of this instrument the transferor for the consideration expressed transfers to the transferee all his estate and interest in the fee simple in the land described.
(Notes 1-4)

Land

(Note 5)

BALANCE OF THE LAND REMAINING UNTRANSFERRED IN CERTIFICATE OF TITLE VOLUME 8875 FOLIO 055

Consideration

(Note 6)

\$80,500.00

Transferor

(Note 7)

WILHELMENA SMITH

Transferee

(Note 8)

KEITH THOMAS McLAUGHLIN and NORMA ADA McLAUGHLIN
both of 1 Priors Wood Way, Sunbury
as joint proprietors

Date

Execution & Attestation

(Note 9)

SIGNED by the said WILHELMENA SMITH)
in the presence of:)

Witness:.....

SIGNED by the said KEITH THOMAS)
McLAUGHLIN and NORMA ADA McLAUGHLIN)
in the presence of:)

Witness

Comptroller of Stamps Use Only

T1

Office Use Only



Approval No. T1/1

TRACER
17/12/87



1002-2000 3/5/83 16/5/10 SAM TO POT IN COURT BOOKS

J. H. CURNOW & SON PTY. LTD.

(Incorporated in Victoria.)

LICENSED ESTATE AGENT • AUCTIONEERS • REGISTERED VALUERS

Member R.E.S.I. & M.L.B.

Director: F.C. DYETT. Licensed Estate Agent.

1st FLOOR KILLIANS WALK
QUEEN ST., BENDIGO, 3550
(054) 43 9255 - 43 9445

AUCTIONS & VALUATIONS:
90 QUEEN ST., MELBOURNE, 3000
(03) 67 3322

(6)

16th May, 1983.

Mr Keith T. McLaughlin,
Cr. Mickleham Road,
& Garden Drive,
TULLAMARINE. 3043

Dear Mr McLaughlin,

RE: Proposed Motocross Training Course

Further to our discussion at your office on Tuesday 10th May, 1983 and our inspection of the area at Tullamarine I report as follows:-

OWNER: Mrs Wilhelmena Smith - address
on Title: Hermsley Curlewis
via Geelong.

PARTICULARS OF TITLE: All that Piece of Freehold Land being Lot 1 on Plan of Subdivision No. 91468 Parish of Tullamarine, County of Bourke and being more particularly described in Certificate of Title Volume 8875, Folio 055.

AREA: 15.68 ha. (38⁶/₁₀ acres 2 roods
37⁶/₁₀ Perches.)

Effective area 12.95 ha. approximately (32 acres) balance made up of easement along Moonee Ponds Creek.

LOCATION: The Land is on the Eastern side of the Tullamarine Freeway opposite Melbourne International Airport. Service Roads from the Freeway (East) are Quarry Drive and Marker Road and from the Freeway South - Western Avenue.

ZONING: Extractive "A"

DRAINAGE: Although Low Lying, the land would drain into the Moonee Ponds Creek on its East North East boundary. Inspection shortly after rain found little evidence of water remaining.

(7)

VALUER'S COMMENTS: One could only be impressed by the plans for the Motorcross and Motor Cycle Complex, and it was not difficult to visualise the completed Motorcross Project on the "Smith" Freehold. The special feature is access - from the North, via Tullamarine Freeway - Quarry Drive and Marker Road; South via Tullamarine Freeway - Western Avenue and Quarry Drive.

The natural amphitheatre aspect of the land, the access and the distance from residential areas, would in MY OPINION MAKE it an ideal site for a Motorcross - Motor Cycle Complex.

Subject to Re-zoning: The price asked, One Hundred and Twelve Thousand Dollars (\$112,000.00) for the 32 acres would appear to be fair and reasonable.

F. C. DYETT. F.A.I.V. R.E.I.V. (AUST.)
Registered Valuer for the Whole of Victoria No.94.

INTER-OFFICE MEMO

8
420

TO : Statutory Planning Manager

DATE : 30 May 1997

FROM :

FILE NO : 86/10338/1

CONTACT

NAME :

EXT. :

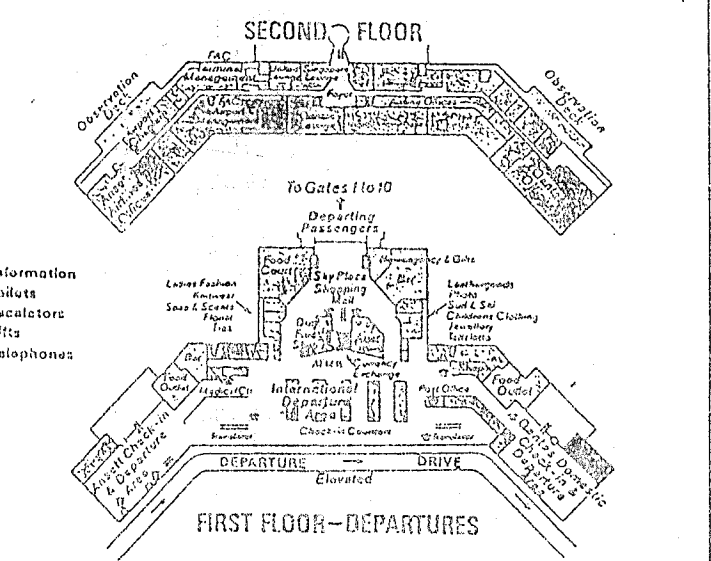
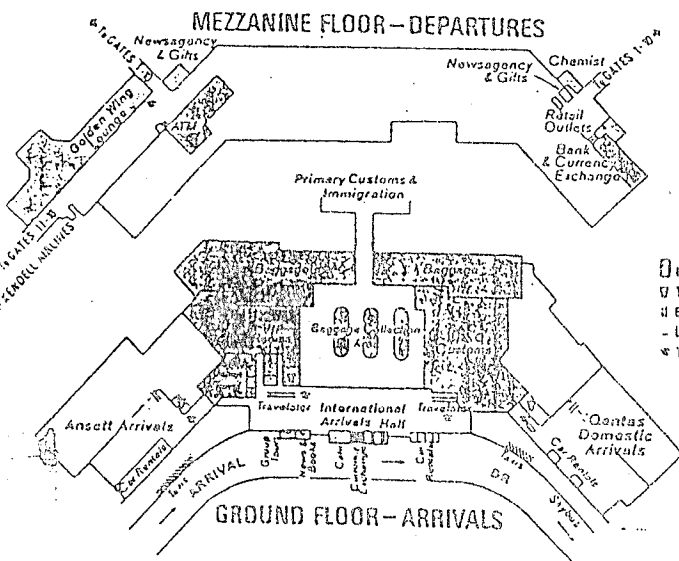
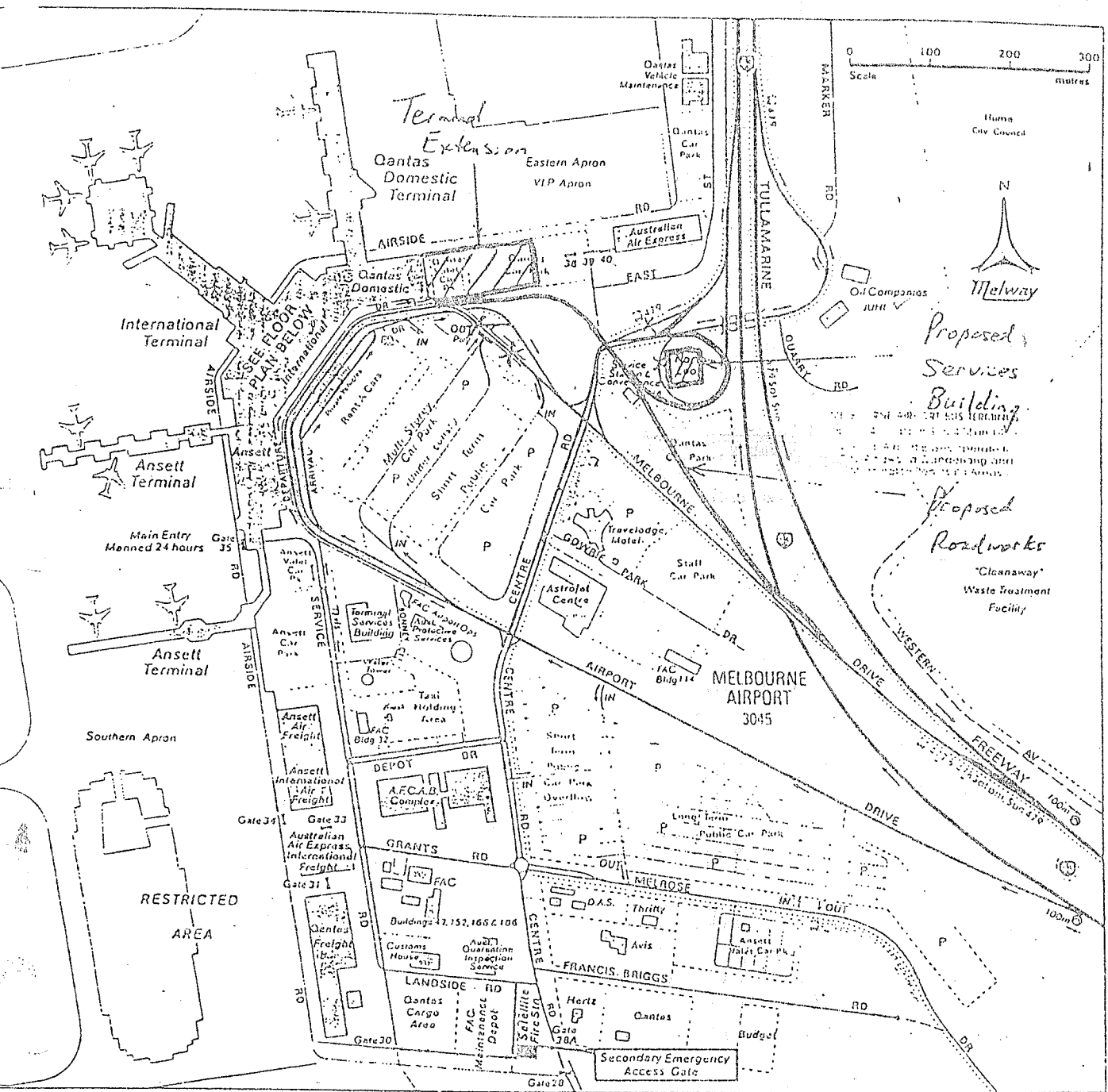
SUBJECT : TULLAMARINE FREEWAY - COMMONWEALTH LAND

1. I refer to your recent request for information concerning the status of land occupied by the Tullamarine Freeway through land acquired by the Commonwealth for Melbourne Airport.
2. After thumbing through files going back to 1959, I have ascertained:
 - i. In letter dated 22 May 1959, the Department of Civil Aviation advised of the Federal approval for the airport and advised that with closure of Lancefield Road, that it would provide an equivalent road within an equivalent reservation. (59/2519/2)
 - ii. This was reaffirmed in letter 13 Dec 1962 by the Director General Civil Aviation when the Commonwealth advised that it would provide funds equivalent to that now existing and that the land will be transferred free of charge to the State. (62/1592/14)
 - iii. In letter dated 22 Jan 1963, the Act P.M. Freeth advised Premier Bolte that the Commonwealth expects the cost of constructing the freeway outside the airport boundary, between the airport & city to be borne by the State & Local Government. The Commonwealth would provide funds for the relocation of Lancefield Road within the airport boundary to a standard equivalent to that as existed. The land was to be transferred free of charge to the State. (63/2964/2)
 - iv. In letters dated 19 Jul 1963, the CRB:
 - a. forwarded DCA plans for the new route, with suggested funding details. (63/4993/4)
 - b. advised Sec Dept of Interior of access difficulties with Bayview Quarries. (63/4993/5).
 - v. In reply dated 2 Aug 1963, the DOI advised that consideration was being given to providing a strip 50ft wide for access to Mrs Smith's property - Leased by Bayview. (63/936/13). ((It would appear at that stage, the Commonwealth had accepted responsibility with access at that stage.))
 - vi. VicRoads under the same cover in reply 17 Sep 1963, agreed that the proposed access would not interfere with plans for the new freeway.
 - vii. In letter dated 29 Mar 1965, the CRB suggested that the cost of constructing the access road should be shared 50/50. (65/1712/4)
 - viii. On 27 July 1965, in letter to DCA, the CRB advised that it proposed to declare a length of the new route towards Bulla as a By-pass Road. (65/936/12)

9

- ix. In letters to the 3 Councils, DCA & CDW, on 7 Oct 65, maintenance agreements were proposed including possible transfer to CRB at no cost, 2250 ft north of Victoria St of access track to Bayview. This length was to be maintained by the Shire of Bulla. (65/2964/32)
 - x. In letters dated 2 Sep 69 & 3 Oct 69, CRB forwarded copies of SP 11835, 11836 & 11837 to the Department of Interior seeking transfer of land & under what conditions. (69/10338/3).
 - xi. On 8 Apr 1970, the Department of Interior forwarded plan of land to be transferred plus agreement clauses. Some of controversial nature. Licence for land used for Lancefield Road. The Commonwealth wished to retain the areas within the ramps at the Northern Interchange. (70/10338/3)
 - xii. In GG 1 Jul 1970, Lancefield Road was rescinded across the airport.
 - xiii. On 29 April 1974, the Department of Services & Property submitted conditions for transfer of land, including transfer of 3A3R 27.8p at no cost to the Board..
 - xiv. Gazettal of Tullamarine Freeway and Melbourne - Lancefield Rd MR was promulgated in Government gazette dated 7 Jan 1977.
 - xv. On 14 Jul 1982, to the Department of Services & Property, the Board basically agreed to the conditions for the transfer of the land as given in letter of 29 April 1974. (81/10338/1).
 - xvi. On 27 May 1983, the Board wrote to the Department of Aviation, concerning duplication of the freeway & Lancefield Road. (83/1074/2).
3. In 1986, agreement had almost been reached with the Commonwealth to:
- Transfer the freeway land to the RCA
- Enter into a licence agreement for the land declared as Main road. ((It was considered that this length was temporary until Bulla Bypass was built.))
4. At the time the only sticking point apparently was that the Commonwealth wanted the RCA to take transfer of an area of 3 acres 3 roods 27.8 perches situated in Western avenue which served as an access road to a waste disposal tip. ((Council did not want the land)).
 5. In 1987 or thereabouts, the RCA sought an amendment to the planning scheme to provide for widening of Melbourne- Lancefield Rd, including the length subject to the proposed licence. This widening was included in Amendment L1 to the Bulla Planning Scheme, gazetted on 20 Jul 1988. See copy of part of Hume Planning Scheme attached.
 6. No further correspondence has been entered into since 1986, aside from a phonecall in 1989 at which time the Commonwealth advised that it would not agree to a licence over the extra land until the previous area had been settled.
 7. Bearing in mind, that no date has as yet been programmed for carrying out this duplication, and that there are doubts that the Commonwealth may need to extend the airport northerly across the deviation, it is suggested that this case should be re-opened. It may be desirable to complete the negotiations prior to the Airport privatisation.

10



INTER-OFFICE MEMO

TO : 1. Acting Deputy Chief Executive
2. General Manager - Road System Management

DATE : 18 Apr 1997

FROM : Regional Manager

BUSINESS AREA : Metropolitan North West Region

CONTACT
NAME :

EXT. : _____

SUBJECT : TULLAMARINE FREEWAY
MELBOURNE AIRPORT

1. INTRODUCTION

This memo is forwarded to advise of issues relating to Tullamarine Freeway and Melbourne Airport and to actions being taken by Metropolitan North West Region.

2. BACKGROUND

The Federal Government through the Federal Airports Corporation (FAC) is arranging to sell Melbourne Airport and is currently evaluating private sector bids.

3. TULLAMARINE FREEWAY AND SUNBURY ROAD

Tullamarine Freeway and Sunbury Road are declared as Freeway and Main Road respectively under the provisions of the Transport Act.

Portions of these routes along the perimeter of the airport, as shown on the attached survey plans A, are located on Commonwealth Government land which is dedicated to the FAC for operation of the airport. The road reserves, although defined by survey plan, have never been purchased by VicRoads or its predecessors. Although this situation has existed for a number of years by general agreement with FAC officers, these arrangements have not been formalised.

4. MELBOURNE AIRPORT DEVELOPMENT

Planning for the expansion and redevelopment of Melbourne Airport's terminal facilities has taken place over a number of years. Several years ago, the FAC proposed to deviate Tullamarine Freeway (and Sunbury Road) to a new alignment to the north east partly onto land previously quarried and used for waste disposal in order to accommodate expanded terminal facilities. However due to the extremely high cost to clean up contaminated land and for freeway construction, this proposal has been abandoned.

More recent proposals adopted by the FAC provide for expansion of the terminal facilities in the area between the existing terminal buildings and the freeway alignment without any deviation of the freeway. This has resulted in a "cramped" redevelopment proposal with limited land available for expansion of the terminal facilities and associated internal road network, and some proposed facilities very close to the freeway alignment.

The FAC's planning for the longer term future provides for a possible freeway interchange at Victoria Road, changes to the ramp alignment providing the freeway exit to the airport, widening of the Melbourne Road ramp from the airport onto the freeway, and downgrading of the existing ramp "loop" at the Sunbury Road/North Drive interchange. This planning has been carried out with some input from VicRoads Region officers. One of the aims of the FAC has been to minimise the amount of through traffic (Keilor Park/Tullamarine to Sunbury) travelling through the airport road system and conflicting with passenger and commercial traffic accessing the airport.

The FAC's longer term planning has also envisaged development of a future second main access to the freeway network via a new "southern link" on airport land as an extension of the direct access currently being provided between the Western Ring Road and Sharps Road. The FAC has suggested in officer discussion that this should be provided by others, but it has been pointed out that VicRoads is unlikely to provide any funding for extension of this link on airport land.

Current internal roadworks being carried out by the FAC include extension of the elevated "departures" roadway to the east (in association with extension of the Qantas domestic terminal), associated changes to the road layout in this vicinity, and widening of the Melbourne Drive ramp from the airport onto the freeway. The later will involve widening of the bridge over the northbound freeway carriageway, and widening and improved merge conditions where traffic exiting the airport joins the Melbourne bound freeway carriageway. Refer attached plan B. All these works are being carried out at the cost of the FAC. Although the FAC has suggested that a case will be put to VicRoads for a State Government contribution to the improved merge treatment, this has not been supported by Region officers and a detailed submission with supporting traffic data has to date not been received from the FAC.

5. LICENCE AGREEMENT WITH THE FAC

It has been agreed in discussions between FAC and Region officers that a Licence Agreement is required to formalise the arrangements for the occupation of airport land by Tullamarine Freeway and Sunbury Road, and to delineate responsibility between airport maintenance operations and VicRoads road maintenance operations. The need for this agreement is being driven by the proposed sale of the airport.

The Licence Agreement will need plans defining boundaries of the road reservations, amended as necessary to cater for changed freeway ramp layouts and for planned future duplication of Sunbury Road.

One of the boundary changes considered necessary is as a result of a planned FAC terminal services building to be provided within the area of the ramp "loop" at the Sunbury Road/North Drive interchange. This has been proposed by the FAC as a result of the restricted area for terminal redevelopment between the existing terminal buildings and the freeway. The proposed building will be a low intensity use, and as the ramp loop will be downgraded in function, the proposal is considered acceptable. The FAC has been advised that the proposal is acceptable subject to the building being positioned well clear of the freeway carriageway and to certain conditions of vehicular access from the revised minor roadways. Changes will be required to the Tullamarine Freeway/Sunbury Road declaration boundaries.

A draft Licence Agreement has been prepared by the FAC and is currently being evaluated by Contract Services section. It is expected that a signed agreement will be executed soon. The Licence Agreement will effectively ensure that the defined area for Tullamarine Freeway/Sunbury Road (including future needs) will be excluded from land sold by the FAC to any private holder.

However, notwithstanding the Licence Agreement, it would be desirable (if possible) to pursue with the Commonwealth a process where VicRoads obtains title to the road reservation land. It is understood that no payment would be involved as the reservation merely replaces the former Sunbury Road reservation that existed many years ago prior to formation of the airport. This process will be discussed further with the Manager Statutory Planning.

6. SUMMARY

Submitted for information.

REGIONAL MANAGER METROPOLITAN NORTH WEST REGION



Commonwealth of Australia

RECEIVED

- 5 JUN 1998

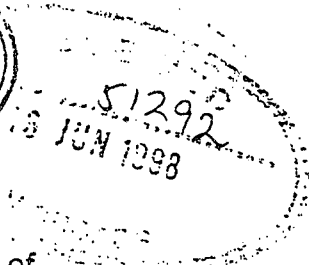
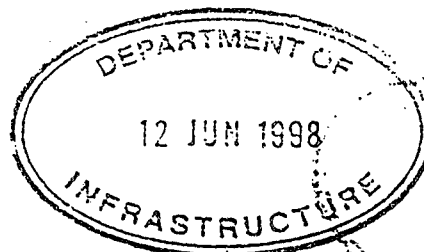
430

14

The Hon Mark Vaile MP MINISTER FOR
ROADS & PORTS

Minister for Transport and Regional Development

The Hon Geoff Craig MLC
Minister for Roads and Ports
80 Collins Street
MELBOURNE VIC 3000



Geoff
Dear Minister

Thank you for your letter of 14 April 1998 concerning the possible transfer of Melbourne Airport land to the Victorian Government for the purposes of the Tullamarine Freeway upgrade.

Under Section 161 of the *Airports Act 1996*, consent of the lessee is required before the Commonwealth can vary the site of a leased Federal airport. VicRoads will therefore need to negotiate a transfer with Australia Pacific Airport (Melbourne) Pty Ltd (APAM). The Commonwealth will then assess the negotiated proposal against its interest as freeholder of the airport land and execute the transfer if appropriate.

The mechanism under the *Airports Act* for the transfer would involve APAM surrendering its current lease; the Commonwealth regranting a lease with airport boundaries adjusted for the excised land; and transferring the excised land to the Victorian Government. The Commonwealth would be seeking to ensure that the lease surrender and regrant process did not impose any costs, taxation or otherwise, on APAM.

If a suitable land transfer cannot be negotiated between VicRoads and APAM, it may be necessary for the Commonwealth to become involved. However we would prefer an outcome to be negotiated without our involvement.

I am confident that an outcome can be negotiated which will satisfy all three parties' interests. I am sending a copy of this letter to the Chief Executive of APAM for his information.

Yours sincerely

MARK VAILE

02 JUN 1998

DOCUMENT NO.	RP102162
REFERRED TO	VicRoads
CLASS'N CODE	11111
FILE NO.	
ACKNOWLEDGED	Yes
ACTION REQ'D	Note!
INITIALS	MS
DATE	11.6.98

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION

No 4033 of 2000

BETWEEN

KEITH THOMAS McLAUGHLIN and NORMA ADA McLAUGHLIN

Plaintiffs

and

THE COMMONWEALTH OF AUSTRALIA

First Defendant

AUSTRALIA PACIFIC AIRPORTS (MELBOURNE) PTY LTD
(ACN 076 999 114)

Second Defendant

and

THE REGISTRAR OF TITLES

Third Defendant

WITNESS STATEMENT OF FRANK SPREITZER

Date filed:	May 2005
Filed on behalf of:	The First & Second Defendants
Prepared by:	
Corrs Chambers Westgarth	Solicitors Code: 9973
Solicitors	Tel: (03) 9672 3000
Bourke Place	Fax: (03) 9672 3010
600 Bourke Street	Ref: MGS - 6611795
Melbourne Vic 3000	

I, Frank Spreitzer, of Professionals Real Estate Christies Beach, 71 Beach Road, Christies Beach South Australia, real estate salesperson, state as follows:

- 1 I am a real estate salesperson and have held this position for 15 years.
- 2 I joined the Commonwealth Department of the Interior ("DOI") in 1960. I was initially employed to perform a variety of jobs at DOI and then worked my way up to the position of rent and salaries officer.
- 3 In about 1964 or 1965 I made a career change into the property division of DOI as a clerk, being a class 4 officer, and progressed to the position of clerk class 8 officer. I transferred to Canberra in 1978 to pursue my career in property in DOI. In July 1983 I transferred to the Adelaide branch of DOI as a class 9, second in charge of the property branch. In about 1987 I left DOI to go into private practice, initially with Jones Lang Wooton. Currently I am employed as a real estate salesperson at Professionals Real Estate Christies Beach.
- 4 The property division of DOI was responsible for the acquisition and disposal of land and the granting of rights in relation to Commonwealth land. The division would deal with such things as easements and sales. During my time in the Melbourne branch of DOI, I was involved in

land acquisitions, including several minor acquisitions required for the airport. The office where I worked at this time was located on the corner of Spring Street and Latrobe Street, Melbourne.

- 5 At that time the Department of Civil Aviation ("DCA") was responsible for concessions, leases and licences under the Airports (Business Concessions) Act 1959/1966.
- 6 In about 1970 I held the position of clerk, class 7 officer.
- 7 During that time I was responsible for the acquisition of two small parcels of land from Mrs Smith in 1970 for the nominal value of \$3 and the creation of an easement over Commonwealth land in her favour. I do not recall physically inspecting the land at the time although it was practice at the time to do so. I referred the proposal to the DOI Survey Branch to prepare plans of the land involved and the surveyor may have inspected the land in question.
- 8 I recall meeting with Mr and Mrs Smith on 27 July 1970. This was my first meeting with Mrs Smith who was a lady that I estimate to have been in her 60s at the time. The meeting occurred at the offices of DOI in Melbourne.
- 9 Following the construction of the Tullamarine Freeway and the acquisition of part of Mrs Smith's land in 1961, a portion of Mrs Smith's land had no legal access. It was my understanding at the time that it had been previously agreed by the Commonwealth that it would restore legal access to any land left without legal access. Mr and Mrs Smith and myself discussed access by way of the grant of an easement over the Commonwealth land from Victoria Street, generally continuing the alignment of the Western Avenue to the point where such a road would meet with the original means of access to that part of the Smith land that was used for quarrying purposes ("the Western Avenue Easement").
- 10 Although this arrangement had been agreed in the mid 1960's and before my time in the property division of the DOI, I became aware of the situation in order deal with this matter. Mrs Smith advised me when she came to the meeting that she wanted to subdivide the land into two allotments and sell one of the allotments. Because of the lot configuration she would require the creation of the Western Avenue Easement in order to facilitate access to the land.
- 11 It was proposed that the Western Avenue Easement would be created to follow the alignment of the existing road on the land. The road had been constructed at the time of the construction of the Tullamarine Freeway and had not been constructed entirely within the Commonwealth boundaries. It was the intention of both parties for the accessway to the Smith land to be by way of an easement and that it would be highly desirable if the whole accessway was located within an easement on Commonwealth land. As a result the acquisition of two small parcels of land from Mrs Smith were required to ensure that the Commonwealth owned the land upon

which the accessway way was constructed so that it could grant the easement in its entirety in favour of Mrs Smith.

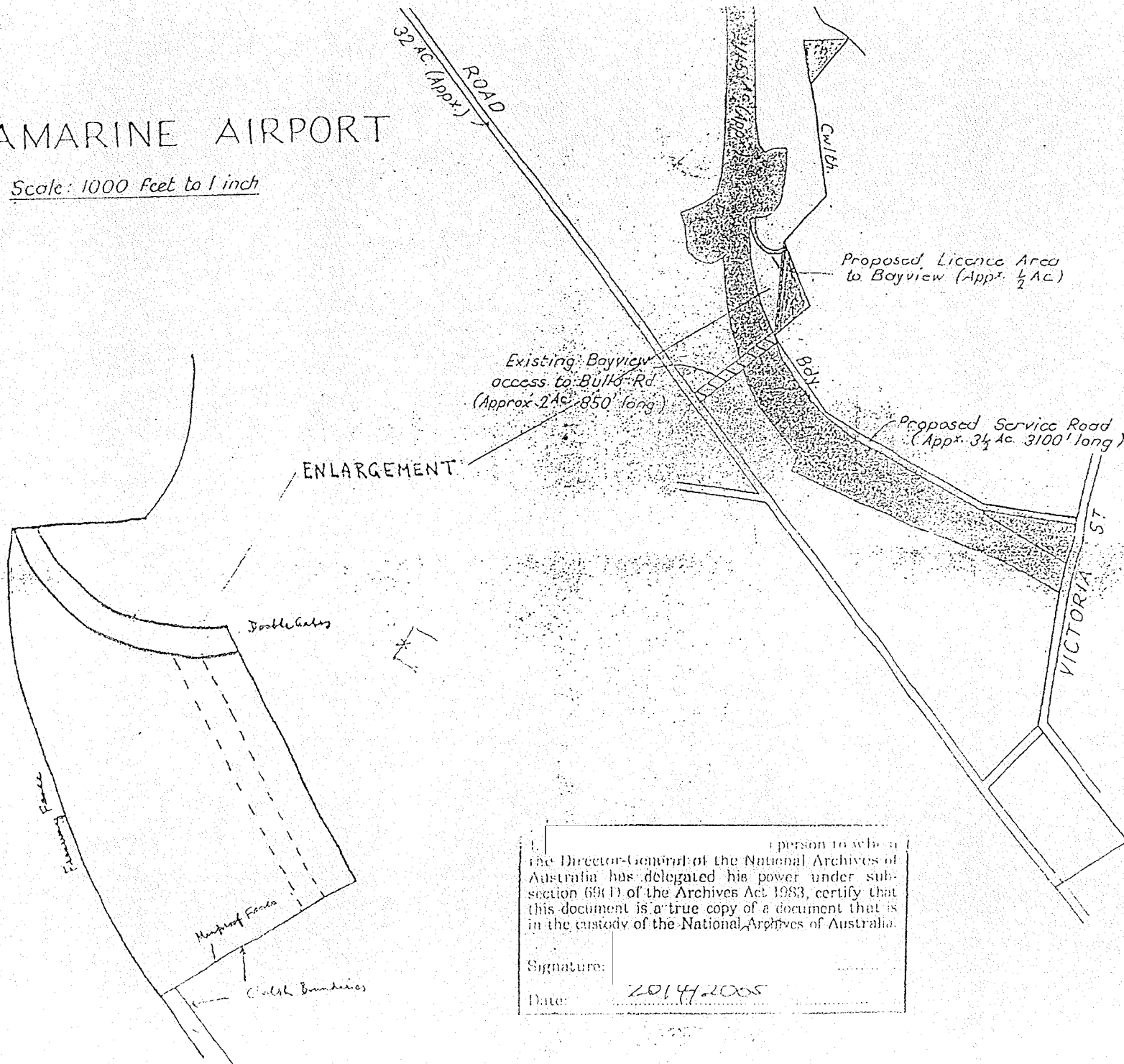
- 12 A small parcel of land was also acquired from Bayview Quarries, who had been licensees of the Smith land, but who were at that time the registered proprietors of the parcel of land between the Smith land and Victoria Street. The land was acquired because the constructed road encroached onto the Bayview Quarries land.
- 13 Mrs Smith did not assert at this time any right to access and egress to and from her property from any other point at any time of our meeting. The only right of access sought was the Western Avenue Easement. If any other access needs had been raised at the meeting I would have recorded it in my file note as I am a meticulous record keeper.
- 14 In due course the Western Avenue Easement was granted.
- 15 I recall that I expressed the intention to have the Western Avenue Easement declared a public highway by the local Council (at that time the Shire of Bulla). It was Commonwealth policy at the time to divest itself of any ongoing maintenance obligations and public liabilities for roads over which it did not have a requirement. I signed a letter to the Shire of Bulla on behalf of the Chief Property Officer, Mr Tierney requesting that it declare the Western Avenue Easement as a public Highway. The letter was written by Denis Baguley and approved by me. At that time I did not have the necessary authority to transfer Western Avenue to the Shire of Bulla to be proclaimed a public highway, I could only recommend that the road be transferred but the actual transfer would have required approval of the Chief Property Officer if the Shire had indicated that it would accept the property. The Shire declined the invitation to declare the Western Avenue Easement a public highway and accordingly the matter was not taken any further.
- 16 I have been shown a copy of the plan attached to this statement and marked as FS1.
- 17 The hand drawn enlargement marked on the plan was drawn by me. I do not recall why I drew it nor how I gained the information to draw it. The reference to a "manproof fence" was a description of a cyclone fence that is tall enough that a person cannot climb over it, possibly with barbed wire on top. I have only marked one gate on the drawing marked "double gate". If there had have been a gate in the "manproof fence" I would have shown it on the drawing.

Dated:

.....
FRANK SPREITZER

TULLAMARINE AIRPORT

Scale: 1000 Feet to 1 inch



I, _____ a person to whom the Director-General of the National Archives of Australia has delegated his power under subsection 69(1) of the Archives Act 1983, certify that this document is a true copy of a document that is in the custody of the National Archives of Australia.

Signature: _____

Date: _____

20/4/2005

64/36
SF 1970
13/1/05

(18)



NOTE FOR FILE

Mr. Spritzer
to plan himself
Please return for
Sims & hand out
pieces to be acquired
11-8-70

102

1982
189

Mr. and Mrs. Smith called into the Office on 24/7/70 and said that they were in a position to arrange an advantageous sale of ^{southern} portion of their property. However their land does not have any legal access to a road, following the construction of the Tullamarine Freeway.

They are most anxious to obtain access rights over the roadway leading to Mickleham Road as soon as possible. I showed them the plan attached and suggested that if they were prepared to transfer ^{to Council} those portions of their land on which the road is constructed for nil consideration, I would recommend that the Commonwealth grant them an access easement over the road also at nil consideration. However I indicated that Civil Aviation would first need to agree to the grant of this easement.

I mentioned that the Commonwealth intended in due course to have the road taken over by the local Council as a public highway.

In response to my question they said they would consider selling a small portion of their land at the intersection of boundaries having bearings of $51^{\circ}16'$ and $320^{\circ}59'$. This problem of access at this point from a proposed adjoining car park was discussed with Mr. Munday of D.C.A. on 15/7/70.

Mr. Meehan,

As discussed recently with Messrs. Doyle and Pealer, please provide negotiation plan (4 copies) showing land which should be purchased from Smiths for the roadway. Please show areas. Also please indicate land over which easement for carriageway should be granted. A blow-up of land referred to in para. 4 would be helpful.

* Mr. Spritzer: Re cut off at far western end
required for DCA access. F. Spritzer 24/7/70.
1/8

ULLAMMARINE AIRPORT

Scale: 1000 Feet to 1 inch

