Government of **Western Australia**
Department of **Water and Environmental Regulation**

Environmental Protection Act 1986

Section 65

ENVIRONMENTAL PROTECTION NOTICE
AMENDMENT ONE – DATED 29 AUGUST 2018

PERSON TO WHOM THIS NOTICE IS GIVEN:

SHEOAK TREE MILLING PTY LTD
ACN: 126 185 386
C/-Porter and Stein
Suite 7, 1 Charles Street
SOUTH PERTH WA 6151

Sheoak Tree Milling Pty Ltd is the owner of land that comprises all or part of the Premises to which this notice relates.

PREMISES TO WHICH THIS NOTICE RELATES

Lot 105 on Deposited Plan 60851, as shown on Certificate of Title Volume 2719, Folio 681, being the land as shown in Schedule 1 of this Notice.

REASONS FOR WHICH THIS NOTICE IS GIVEN

This *Notice* is given to Sheoak Tree Milling Pty Ltd (*Owner)* under section 65 of the *Environmental Protection Act 1986* (*the EP Act*) because the Chief Executive Officer (*the CEO*) of the Department of Water and Environmental Regulation (*DWER*) suspects on reasonable grounds that there is, and is likely to be, emissions from the Premises, and the emissions are likely to cause pollution.

In particular, the CEO suspects on reasonable grounds that:

- *Chicken Waste* has been buried on and in the ground at the Premises;
- The surface water and groundwater flow direction on and under the Premises makes it highly likely that emissions are currently discharging to, or will in the future discharge to, Conservation Category and Resource Enhancement wetlands and Whitfield Brook;
- The emissions are likely to cause degradation of the environment through eutrophication, changes to species composition, reduction in biodiversity and damage to the habitat of native flora and fauna within these wetlands and Whitfield Brook

REQUIREMENTS OF THIS NOTICE

- This Notice requires the Owner to undertake specified measures to investigate the extent and nature of the emissions, prepare and implement a plan to abate the emissions and to take such measures as the CEO considers necessary to prevent further emissions. The Owner is also required to monitor the effectiveness of these actions.

- Pursuant to section 65(5) of the EP Act a person who is bound by an Environmental Protection Notice and who does not comply with a requirement contained in the notice commits an offence. Pursuant to section 118 of the EP Act, if a body corporate commits an offence under this Act or Regulations, each person who is a director or who is concerned with the management of the body corporate is taken to have also committed the same offence.

1. **Measures Necessary to Prevent Pollution**

1.1. Upon receipt of the Notice, the Owner must immediately stop causing or allowing the burying, stockpiling, storing, spreading or disposing of Chicken Waste on or in the ground on the Premises.

2. **Investigation of the Extent and Nature of Emissions**

2.1. Within 14 days from the day after the receipt of this Notice, the Owner is to engage and retain an *Environmental Consultant* to investigate the extent of any Chicken Waste deposited on or in the ground within the *Specified Areas*.

2.2. The investigation described in paragraph 2.1 must include sampling within each of the Specified Areas to establish the extent of any Chicken Waste deposited on or in the ground.

2.3. Samples must be tested for total nitrogen, ammonia, nitrate/nitrite, total phosphorous, total kjehdahl nitrogen and filterable reactive phosphorus.

2.4. The investigation described in paragraph 2.1 must not adversely impact or damage native vegetation on the Premises.

2.5. The investigation must be completed within 40 days from the day after engaging the Environmental Consultant identified in paragraph 2.1.

Reporting the Extent and Nature of the Emissions

2.6. Within 7 days from the day of engaging the Environmental Consultant, the Owner must *Provide in Writing* to the CEO notice of the environmental consultant, including their name and contact details.

2.7. The Owner must provide an *Investigation Report* to the CEO of DWER within ~~30 days~~ 90 days from the day after the completion of the investigation identified in paragraphs 2.1 to 2.5. *(Amended by Amendment One dated 29 August 2018)* The Investigation Report must include:

2.7.1. Global Positioning Systems (GPS) coordinates of all sampling points within each Specified Area;
2.7.2. GPS coordinates of all Chicken Waste located in or on the ground within the Specified Areas;
2.7.3. a map showing the location of all Chicken Waste identified within the Specified Areas;
2.7.4. estimations of the quantity of Chicken Waste in each location;
2.7.5. copies of all results for samples taken from the Premises as part of the investigation.

2.8. If the Investigation Report concludes that no Chicken Waste has been buried or deposited within a Specified Area, evidence supporting the conclusion must be annexed to the Investigation Report, including photographs of the location, the number and location of soil samples taken from the area and the results of soil sample testing.

2.9. If the CEO considers the Investigation Report to be appropriate for the purpose of this Notice, the CEO will approve the Investigation Report and notify the Owner of his decision.

2.10. If the CEO considers that the investigation undertaken and/or the information within the Investigation Report is not appropriate for the purpose of this Notice, the CEO will provide the Owner with directions for improvement.

2.11. Where the Owner is provided with directions for improvement under paragraph 2.10, the Owner will ensure further investigations and/or amendments to the Investigation Report are taken in accordance with the directions. The amended Investigation Report must be resubmitted to the

CEO for approval within 21 days after the day of receipt of the directions for improvement being issued by the CEO under paragraph 2.10.

3. Preparation and Implementation of a Remediation Plan to Abate Emissions

Preparation of Remediation Plan

3.1. The Owner must instruct the Environmental Consultant identified in paragraph 2.1 to prepare a *Remediation Plan*, based on the approved Investigation Report in paragraph 2.9, for the prevention, control or abatement of the pollution caused or likely to be caused by emissions from Chicken Waste on or in the ground at the Premises.

3.2. The Remediation Plan must state the methodology to be used to prevent, control or abate the emissions in the areas identified as containing Chicken Waste within the Investigation Report.

3.3. The Remediation Plan must be in accordance with the *Contaminated Sites Guidelines* and must:

3.3.1. identify each area where emissions have occurred;
3.3.2 identify whether any pollution has occurred from these emissions;
3.3.3. analyse the risk of pollution from the emissions;
3.3.4. state the methodology to be used to prevent, control or abate the emissions and the justification for this methodology;

3.4. The Remediation Plan must identify any native vegetation on the Premises which may be adversely impacted by the methodology to prevent, control or abate the emissions and how this adverse impact will be minimised.

Reporting

3.5. The Remediation Plan must be submitted to the Director of Science and Planning (Environment) within ~~30 days~~ 140 days from the day after the receipt of the approval of the Investigation Report described in paragraph 2.9 of this Notice. *(Amended by Amendment One dated 29 August 2018)*

3.6. If the Director of Science and Planning (Environment) considers the Remediation Plan submitted to be appropriate for the purpose of this Notice, the Director of Science and Planning (Environment) will approve the Remediation Plan and notify the Owner of the decision.

3.7. If the Director of Science and Planning (Environment) considers the Remediation Plan to be inappropriate for the purpose of this Notice, the Director of Science and Planning (Environment) will provide the Owner with direction for improvement.

3.8. If subject to a direction for improvement under paragraph 3.7 of this Notice, the Owner must, within 21 days from the day after the receipt of the direction provided in paragraph 3.7, ensure that the Remediation Plan is amended and resubmitted to the Director of Science and Planning (Environment) in accordance with those directions for approval under paragraph 3.5.

Implementation of Approved Remediation Plan

3.9. Remediation of the Premises, in accordance with the approved Remediation Plan identified in Paragraph 3.6, must be completed within 60 days from the day after the date of the receipt of the approval by the Director of Science and Planning (Environment).

Reporting

3.10. Within ~~30 days~~ 90 days from the day after the completion of the implementation of the Approved Remediation Plan, the Owner must provide a written report to the CEO on the remediation of the Premises for his approval. *(Amended by Amendment One dated 29 August 2018)* This report must include as a minimum:

3.10.1. how the Approved Remediation Plan was implemented;
3.10.2. any additional Chicken Waste not identified in the Investigation Plan located during implementation of the Approved Remediation Plan and how this was addressed;
3.10.3. GPS coordinates and a map showing all areas on the Premises where Chicken Waste had been removed from the ground;
3.10.4. where the Chicken Waste, which has been identified by the investigation, was removed from the ground, where it was transported to;
3.10.5. quantities of Chicken Waste removed from each Specified Area or other places on the premises;

3.11. Copies of all receipts, invoices, orders or any other documentation relating to the excavation and transport of the Chicken Waste must be attached to the Report.

3.12. Results from all sampling undertaken in implementation of the Approved Remediation Plan must be attached to the Report.

3.13. If the CEO considers the remediation of the Premises to be sufficient for the purposes of this Notice, the CEO will approve the remediation and notify the Owner of his decision.

3.14. If the CEO considers the remediation to be unsatisfactory for the purpose of this Notice the CEO will provide the Owner with his reasons and provide direction for improvement.

3.15. The owner must within 21 days after the day of the receipt of the directions provided in paragraph 3.14 of this Notice, apply the CEO's directions and resubmit the Remediation Report to the CEO for approval.

4. Groundwater Monitoring

Construction of Monitoring Bores

4.1. Within 14 days from the day after the receipt of the notification of approval of the remediation by the CEO, as per paragraph 3.13, the Owner must engage and retain a contractor to install *Monitoring Bores* on the Premises at the locations depicted in Schedule 3 *(Longitude and Latitude and Lot 105 Aerial Photograph Locations of Monitoring Bores).*

4.2. The Monitoring Bores must be installed within 25 days from the day after engaging the contractor under paragraph 4.1.

4.3. The Monitoring Bores must be:

4.3.1. installed in accordance with section 8.2 of *Schedule B2 Guideline on Site characterisation* of the NEPM;
4.3.2. able to draw water from the superficial aquifer which occurs between ground level and 45 meters below ground level;
4.3.3. surveyed to allow the top of the bore casing and the ground level (to Australian height Datum) at each location to be accurately determined;

4.4. The Owner must ensure the bores are maintained in serviceable condition and are fit for the purpose of taking samples of groundwater for monitoring purposes as required under this Notice.

Reporting

4.5. Within 14 days from the day after completing the installation of the Monitoring Bores, the Owner must provide a written report to the CEO *(Monitoring Bore Report)* stating:

4.5.1. GPS coordinates of each monitoring bore;
4.5.2. construction logs for each monitoring bore;
4.5.3. name and contact details of drilling contractor/s used to construct each monitoring bore;
4.5.4. drilling method;
4.5.5. total depth of each monitoring bore;
4.5.6. depth to water for each monitoring bore.

4.6. If the CEO approves the Monitoring Bore Report for the purpose of this Notice, the CEO will notify the Owner with his decision.

4.7. If the CEO considers that construction of the monitoring bores as detailed in the Monitoring Bore Report is inappropriate for the purpose of this Notice, the CEO will provide the Owner with direction for improvement.

4.8. The Owner must, within 21 days from the day after the date of the receipt of the directions made under paragraph 4.7, apply those directions and resubmit the Monitoring Bore Report in accordance with paragraph 4.5 for approval.

Groundwater Monitoring

4.9. Within 14 days from the day after the completion of the installation of the Monitoring Bores and the CEO's approval under paragraph 4.6 of this Notice, the Owner must instruct the Environmental Consultant identified in paragraph 2.1 to:

4.9.1. prepare a Sampling, Analysis and Quality Plan (*SAQP*) in accordance with DWER's *Contaminated Sites Guidelines* and *Schedule B2 of NEPM;* and
4.9.2. perform groundwater sampling in accordance with the approved SAQP in paragraph 4.12.

4.10. The SAQP must include as a minimum:

4.10.1. discussion of the environmental setting, including identification of ecological receptors which may be impacted by surface or ground water pollution;
4.10.2. sampling design and rationale matrix for groundwater sampling which must include regular sampling from every Monitoring Bore;
4.10.3. identification of sites where surface water monitoring can occur both on and off the Premises, including identification of accessible sampling points outside the Premises;
4.10.4. sampling design and rationale matrix for surface water on and off the Premises;
4.10.5. the frequency of sampling and the justification for this;
4.10.6. sampling is to occur every 6 months for a period of at least 5 years, commencing within one month of the approval of the SAQP as per paragraph 4.12, unless otherwise instructed by the CEO.
4.10.7. methodology to be used to collect and store water samples and transport, including decontamination, chain of custody and quality assurance and control procedures;
4.10.8. identification of the NATA accredited laboratory which will undertake testing of all samples;
4.10.9. the requirement that testing of each water sample will include:

- physical parameters of each sample including , pH, electrical conductivity, dissolved oxygen, temperature and redox potential;
- heavy metals, including copper and zinc;
- bacteria, including total bacteria, faecal bacteria and thermotolerant coliforms and
- total nitrogen, ammonia, nitrate/nitrite, total phosphorous, total kjehdahl nitrogen and filterable reactive phosphorus.

4.11. The draft SAQP must be provided to the CEO within ~~45 days~~ 90 days from the day after the receipt of the approval from the CEO for the installation of the Monitoring Bores under paragraph 4.6 of this Notice. *(Amended by Amendment One dated 29 August 2018)*

4.12. If the CEO considers the draft SAQP as appropriate for the purpose of this Notice, the CEO will approve the SAQP and notify the Owner of his decision.

4.13. If the CEO considers that the draft SAQP is inappropriate for the purpose of this Notice, the Owner will be provided with directions to improve the SAQP.

4.14. Within 21 days from the day after the date of the receipt of the directions for improving the SAQP identified in paragraph 4.13, the Owner is to amend the SAQP accordingly and submit it in accordance with paragraph 4.11 for the CEO's approval.

Reporting Groundwater Monitoring Results

4.15. Commencing from the day after the receipt of the approval of the SAQP under paragraph 4.12, the Owner is to provide to the CEO a *Sampling Report* every six months for a period of 5 years, unless otherwise instructed by the CEO. The Sampling Report is to include as a minimum:

4.15.1. a map showing groundwater elevation contours;
4.15.2. an assessment of groundwater flow and quality within the superficial aquifer and analysis of any detected changes, including seasonal variation;
4.15.3. mapping of groundwater levels and analysis of any fluctuations in levels for each monitoring bore;
4.15.4. copies of laboratory results and chain of custody forms;
4.15.5. analysis of laboratory results, including location and extent of any contaminants in the water and the likely environmental impact of these contaminants;
4.15.6. analysis of any changes or trends identified with comparison of previous laboratory results; and
4.15.7. a Tier 1 risk assessment comparing the monitoring results to the criteria published in the *Contaminated Sites Guidelines.*

5. General Reporting Requirements

5.1. If Sheoak receives any Chicken Waste at the Premises, the Owner must give the CEO written notification about the incident within 3 days of receipt. The notification must detail:

5.1.1 the reasons why the Chicken Waste was received;
5.1.2 the type of Chicken Waste and quantity of Chicken Waste received;
5.1.3 how the Chicken Waste is being stored, treated and disposed of.
5.1.4 actions taken to ensure that the Chicken Waste did not and will not cause any emissions.

Mike Rowe
Chief Executive Officer
Department of Water and Environmental Regulation

Dated 29 August 2018

Appendix 1: Definitions

Schedule 1: Certificate of Title and Restrictive Covenant dated 5 June 2009

Schedule 2: Lot 105 Satellite Photographs Displaying Specified Areas

Schedule 3: Location of Monitoring Bore on Lot 105 - Longitude and Latitude and Aerial Photograph marking location

IMPORTANT NOTE

A PERSON WHO IS BOUND BY THIS NOTICE AND WHO DOES NOT COMPLY WITH THIS NOTICE COMMITS AN OFFENCE.

A person who is aggrieved by a requirement contained in this notice may within 21 days of being given this notice lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal

Any other person who disagrees with a requirement contained in this notice may within 21 days of the making of that requirement lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal

PENDING THE DETERMINATION OF AN APPEAL REFFERRED TO ABOVE THE RELEVANT REQUIREMENTS CONTAINED IN THIS NOTICE CONTINUE TO HAVE EFFECT.

APPENDIX 1 –

DEFINITIONS

In this Notice, unless the contrary intention appears –

'EP Act' means the *Environmental Protection Act 1986* (WA)

'CEO' means Chief Executive Officer, Department of Water and Environmental Regulation

'CEO' for the purposes of correspondence means;

Chief Executive Officer
Department of Water and Environmental Regulation
Locked Bag 33
CLOISTERS SQUARE WA 6850
Telephone: (08) 6364 7000
Fax: (08) 63647001
Email: atrium.reception@dwer.wa.gov.au

'Chicken Waste' means dead chickens, chicken faeces, litter from chicken sheds or eggs;

'Contaminated Sites Guidelines' means *Assessment and Management for Contaminated Sites - Contaminated Sites Guidelines, December 2014.* Located at https://www.der.wa.gov.au/images/documents/your-environment/contaminated-sites/guidelines/Assessment_and_management_of_contaminated_sites.pdf

'Controlled Waste Regulations' means *Environmental Protection (Controlled Waste) Regulations 2004* (WA)

'Days' means all days including weekends. When the day or last day for taking any action falls on a Saturday or Sunday the action will be taken on the following business day.

'DWER' means Department of Water and Environmental Regulation.

'Environmental Consultant' means a suitably qualified professional in accordance with Schedule B9 of the NEPM.

'Investigation Report' means the report on the investigation undertaken in compliance with paragraph 2 of this Notice.

'Monitoring Bores' mean the groundwater bores installed under paragraph 4 of this Notice.

'Monitoring Bore Report' means the report on the installation of monitoring bores under paragraph 4.5 of this Notice.

'NATA' means the National Association of Testing Authorities, Australia.

'NEPM' means the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (Cth) available at https://www.legislation.gov.au/Details/F2013C00288

'Notice' means this Environmental Protection Notice.

'Owner' means Sheoak Tree Milling Pty Ltd, the registered property owner of the Premises.

'Premises' means Lot 105 on Deposited Plan 60851,Volume 2719 of Folio 681, being the land depicted in Schedule 1 of this Notice.

'Provide in Writing' includes by email with an authorised signature.

'Putrescible waste' has the meaning given in the *"Landfill Waste Classification and Waste Definitions 1996 (As amended December 2009)"* and includes animal manures and carcasses.

'Regulations' means the *Environmental Protection Regulations 1987* (WA)

'Remediation Plan' means the plan discussed in paragraph 3 of this Notice.

'Sampling Report' means the report on sampling results from groundwater testing discussed in paragraph 4.15 of this Notice.

'SAQP' means a sampling, analysis and quality plan (SAQP) prepared in accordance with DWER's *Contaminated Sites Guidelines* and *Schedule B2 of NEPM.*

'Specified Areas' means the areas of the Premises where waste and sand has been placed, as marked on the aerial imagery in Schedule 2 of this Notice. GPS points of these areas can be provided on request.

REGISTER NUMBER	
105/DP60851	
DUPLICATE EDITION	DATE DUPLICATE ISSUED
N/A	N/A

WESTERN AUSTRALIA

RECORD OF CERTIFICATE OF TITLE

UNDER THE TRANSFER OF LAND ACT 1893

VOLUME 2719 FOLIO 681

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 105 ON DEPOSITED PLAN 60851

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

SHEOAK TREE MILLING PTY LTD OF 49 NORTH ROAD BASSENDEAN

(TP N299088) REGISTERED 12/4/2016

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

1. *C343839 EASEMENT BURDEN FOR RIGHT OF CARRIAGEWAY PURPOSES - SEE SKETCH ON DEPOSITED PLAN 60851. REGISTERED 21/4/1982.
2. *K977171 RESTRICTIVE COVENANT TO CONSERVATION AND LAND MANAGEMENT EXECUTIVE BODY REGISTERED 17/6/2009.
3. *M744566 EASEMENT TO ELECTRICITY NETWORKS CORPORATIONFOR ELECTRICITY TRANSMISSION PURPOSES.SEE SKETCHON DEPOSITED PLAN 75958 REGISTERED 21/8/2014.
4. *N299089 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA REGISTERED 12/4/2016.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

----------END OF CERTIFICATE OF TITLE----------

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND:	DP60851
PREVIOUS TITLE:	1592-544
PROPERTY STREET ADDRESS:	NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AUTHORITY:	SHIRE OF GINGIN

NOTE 1:		DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING J570455
NOTE 2:	N255412	SECTION 138D TLA APPLIES TO CAVEAT L158265

NO.

RN AUSTRALIA
SFER OF LAND ACT 1893 AS AMENDED

COPY

BLANK INSTRUMENT FORM

RESTRICTIVE COVENANT

(NOTE 1)

DESCRIPTION	**DEED OF COVENANT FOR THE CONSERVATION OF LAND.** Restrictive Covenant, pursuant to section 129BA of the Transfer of Land Act 1893, benefiting a public authority.
Date	**THIS RESTRICTIVE COVENANT** is made the 5th day of June, two thousand and nine (2009).
Owner, the registered proprietor of the burdened land	**BETWEEN** Farmtech Management Pty Ltd (A.C.N. 075 331 556) of Level 4, 165 Adelaide Terrace, Perth ("the Owner") **AND**
Benefiting public authority, name and description	Conservation and Land Management Executive Body ("the Executive Body") of care of the Department of Environment and Conservation ("the Department"), Locked Bag 104, Bentley Delivery Centre, Western Australia 6983
Land	That portion of Lot 105 shown as "X" on Deposited Plan 60851, formerly part of Lot 2 on Plan 13763, and now being the part of the land comprised in Certificate of Title volume _____ folio _____ ("the Land")
RECITALS	**WHEREAS**
Covenant runs with the land	A. This Restrictive Covenant binds the Owner, and persons deriving title from it in perpetuity.
Limitations, Interests, Encumbrances and Notifications	B. 1. A403692 Easement to Ampol Exploration Limited, Shell Development (Australia) Pty. Limited, Texaco Overseas Petroleum Company and California Asiatic Oil Company. See sketch on Vol 1592 Fol 544. K395712 Notification. The Grantees of Easement A403692 are now APT Parmelia Pty Ltd Pursuant to Section 20(5) of the Petroleum Pipelines Act 1969. 2. C343839 Easement burden see sketch on Vol 1592 Fol 544. 3. I533840 Lease to Western Property Holdings Pty Ltd of care of Level 1, 225 St George's Terrace, Perth expires: see lease. K230957 Transfer of lease I533840, lessee now Westeq Ltd of Level 4, 165 Adelaide Terrace, Perth. K230958 Extension of lease I533840. K699283 Sub-lease of lease I533840 to Timber Lakes (WA) Ltd of Level 4, 165 Adelaide Terrace, Perth expires: see sub lease. As to portion only K699284 Sub-lease of lease I533840 to Timber Lakes (WA) Ltd of Level 4,

	165 Adelaide Terrace, Perth expires: see sub lease. As to portion only K699285 Sub-lease of lease I533840 to Timber Lakes (WA) Ltd of Level 4, 165 Adelaide Terrace, Perth expires: see sub lease. As to portion only K699286 Sub-lease of lease I533840 to Timber Lakes (WA) Ltd of Level 4, 165 Adelaide Terrace, Perth expires: see sub lease. As to portion only K794940 Sub-lease of lease I533840 to Timber Lakes (WA) Ltd of care of Barrington Partners, 283 Rokeby Road, Subiaco expires: see sub lease. As to portion only. 4. J570455 Mortgage to Bank of Western Australia Ltd.
Intention of the Owner and the Executive Body	C. It is the intention of the Owner and the Executive Body that certain activities on the Land be restricted in order to protect its natural values, and in particular the special natural values listed in Recital D.
Special natural values	D. The special natural values of the Land are: • habitat for *Anigozanthos viridis* subsp. *terraspectans* (Dwarf Green Kangaroo Paw) and *Andersonia gracilis*, which are listed on the *Wildlife Conservation (Rare Flora) Notice 2008(2)*; • habitat for *Acacia drummondii* subsp. *affinis* (Priority 3) and *Tripterococcu paniculatus* ms (Priority 1), which are listed on the Department's *Priority Flora List 2008(2);* • a large area (314.96 hectares) of excellent quality Yanga Complex, Coonambidgee Complex and Bassendean Complex North vegetation (Heddle, Loneragan and Havel, 1980) with good connectivity through remnant vegetation on private property to the Moore River National Park, increasing the long-term viability of its conservation values; • wetlands classified as Conservation Category Wetlands under the Department's *Geomorphic Wetlands Swan Coastal Plain* dataset; and • Whitfield Brook, a seasonal watercourse, and the associated creekline vegetation, which connects through private property to Moore River National Park, providing a dynamic habitat for flora and fauna.
LEGAL RELATIONSHIPS	NOW THIS AGREEMENT WITNESSES:
Owner's covenants	1. The Owner with the intention of binding so far as is possible all registered proprietors or other persons having an estate or interest in the Land to ensure compliance with the restrictions set out herein, HEREBY COVENANTS with the Executive Body that the Owner shall not, except with the prior written consent of the Executive Body or in accordance with Management Guidelines mutually agreed by the Owner and the Executive Body, do or permit to be done any act or thing upon the Land which in the reasonable opinion of the Executive Body is prejudicial to the natural values of the Land, and in particular the Owner shall not: a) subdivide or permit subdivision of the Land; b) place or permit to be placed any structure or dwelling on the Land, save for within the designated area that must not exceed 2000 square metres in size (hereinafter referred to in this restrictive covenant as "Building Envelope") and the location and dimensions of which are shown in the drawing annexed hereto; c) destroy or remove or permit the destruction or removal of any local indigenous flora or any indigenous fauna or their related habitats on or from the Land, save for:

i) within the Building Envelope;

ii) the purpose of establishment of the transmission lines for the provision of essential services to the Building Envelope, in accordance with the mutually agreed Management Guidelines referred to in Clause 2 ("Management Guidelines");

iii) the purpose of establishment of, or carrying out maintenance on, a vehicle track to the Building Envelope, in accordance with the Management Guidelines;

iv) plant propagation and identification material, in accordance with the Management Guidelines;

v) timber, in accordance with the Management Guidelines;

vi) the purpose of carrying out maintenance of tracks, fences, transmission lines, firebreaks and fire access tracks, in accordance with the Management Guidelines; and

vii) management of Western Grey Kangaroo (*Macropus fuliginosus*) populations, in accordance with the Management Guidelines;

d) introduce, or cause or permit the introduction of, any flora onto the Land that is not indigenous to the Land, save for within the Building Envelope, which must not include any invasive plants and in particular any species listed in the Management Guidelines;

e) destroy or do or permit (unless required by law) any act that would result in the deterioration in the natural state or in the flow, supply, quantity or quality of any body of water on the Land, save for a bore within the Building Envelope in accordance with approvals from the relevant Local and State Government authorities as required;

f) introduce, or cause or permit the introduction of, any fauna onto the Land that is not indigenous to the Land, save for:

i) up to two domestic dogs in accordance with the relevant local government's regulations, which must be under control (as defined in the Management Guidelines) at all times; and

ii) other domestic pets approved by the relevant local government, which must be permanently restricted to the Building Envelope and which must not include any cats, rats, mice, rabbits or any declared species listed in the Management Guidelines;

g) conduct, permit or consent to any investigation or exploration for, or the mining, extraction, removal or production of gas, petroleum, minerals, soil, stones, sand, rock, gravel, clay or other substances on the Land;

h) permit or consent to (unless required by law) the construction, erection or establishment of any transmission lines or other services or works on the Land, save for the provision of essential services to the Building Envelope (including but not limited to underground electricity, telephone and water) in such a manner as to minimise damage to native vegetation;

i) carry out or permit on the Land the operation of any trade, industry or business, save for home-based businesses located within the Building Envelope and approved by the relevant local government regulations;

j) permit on the Land the use of vehicles including but not limited to trail bikes or four wheel drive vehicles or farm machinery, save for:

i) when required for the proper management and protection of the Land; and

	ii) on existing tracks; k) carry out or permit on the Land the storage of rubbish or garden refuse or materials, save for within the Building Envelope; l) carry out or permit on the Land any activities inconsistent or incompatible with the conservation of the vegetation and fauna on the Land; m) erect or permit to be erected any fence on the Land, save for: i) a perimeter fence around Lot 105; and ii) fencing of, and within, the Building Envelope; n) introduce or permit the introduction upon the Land of any rocks, soil, gravel, sand or other basic raw materials, except from external sources first approved in writing by the Executive Body as being free of weeds and known plant pathogens including Phytophthora Dieback disease, nor use or permit the use of earth moving machinery on the Land unless it has been first cleaned offsite and/or where appropriate precautions have been taken to reduce the risk of introduction or further spread of weeds and plant pathogens; and o) use or permit the use on the Land of guns, hunting weapons, animal traps or poisons, save for the purposes specified in the Management Guidelines.
Executive Body's Covenants	2. THE EXECUTIVE BODY HEREBY WAIVES the restrictions referred to in Clause 1 to the extent necessary for the implementation of mutually agreed Management Guidelines which may include provisions for reasonable fire protection including carrying out controlled rotational fuel reduction measures subject to express agreement between the Executive Body and the Owner in writing prior to the Land being deliberately burnt. The Executive Body waives any future claim to financial benefits arising from carbon sequestration or other ecosystem service rights that may become associated with the Land.
Mutual Covenants	3. IT IS HEREBY MUTUALLY AGREED by the Owner and the Executive Body that the covenants and restrictions expressed herein shall run with and bind the Land and shall enure for the benefit of the Executive Body.
Variation of Covenants	4. If the Owner seeks a variation of this covenant, then provided that the natural values identified by the Executive Body are not significantly compromised, and an appropriate variation can be made to address such alteration, the Executive Body may at its discretion agree to the variation provided that written approval for the variation has been obtained from the Western Australian Planning Commission ("the Commission") where the Land has been covenanted as a condition of the subdivision approval issued by the Commission.
Interpretation	5. a) Reference to a party or parties includes the personal representatives, successors and lawful assigns of the party or parties. b) Where a reference to a party includes more than one person the rights and obligations of those persons shall be joint and several. c) Headings have been inserted for guidance only and shall be deemed not to form part of the text.
Further obligations	6. Nothing herein shall prevent or exempt the Owner from complying with all Federal, State and Local Government laws.

Execution	**Executed by the parties as a Deed**

The COMMON SEAL of)
FARMTECH MANAGEMENT PTY LTD)
was hereunto affixed in the presence of:)
)

FARMTECH MANAGEMENT PTY LTD
A.C.N. 075 331 556
COMMON SEAL

DIRECTOR .....

SECRETARY .....

The COMMON SEAL of the)
CONSERVATION AND LAND)
MANAGEMENT EXECUTIVE BODY)
)

CONSERVATION AND LAND MANAGEMENT EXECUTIVE BODY
COMMON SEAL

was hereunto affixed as authorised by the Executive Body in the presence of:

FULL NAME KEIRAN JAMES McNAMARA

CHIEF EXECUTIVE OFFICER

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

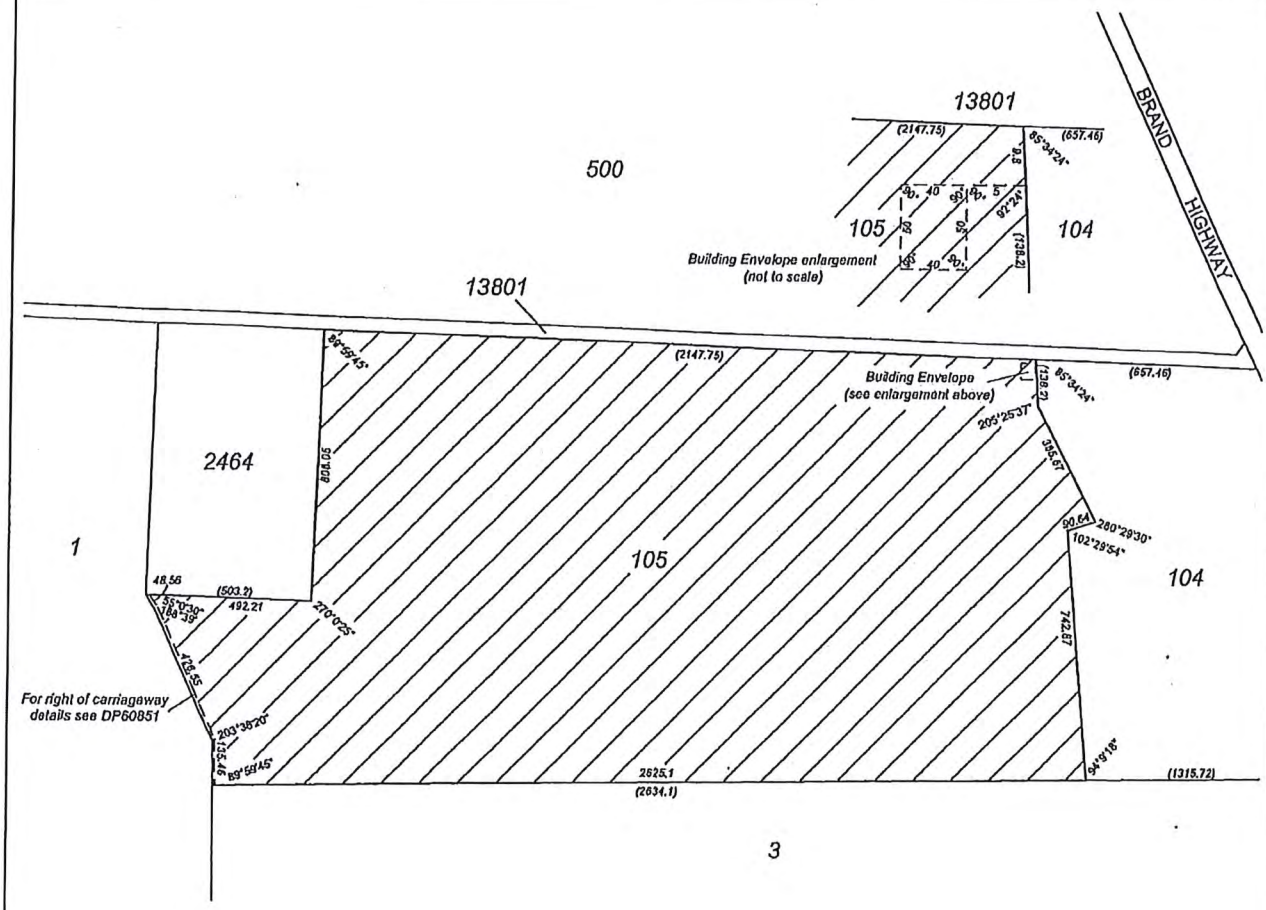
	Signed by: MORTGAGEE ..... Bank of Western Australia Ltd in the presence of: Witness ..... Witness name ..... Witness address ..... Witness occupation .....

EXECUTED by BANK OF WESTERN AUSTRALIA LTD ABN 22 050 494 454 by its duly constituted attorney under power of attorney No. H994310 dated 22nd January 2002 who has no notice of revocation of such power of attorney in the presence of:

Kane Mack
.....
An officer of the Bank

Witness name (please print) KANE MACK

) BANK OF WESTERN AUSTRALIA LTD
) By its attorney:
)
)
) Signature
)
) Name BRIAN WALKER
) Title SENIOR MANAGER



VOLUNTARY NATURE CONSERVATION COVENANT

Land Subject to Covenant

Covenant Area : Abt. 314.96ha

Location(s) : Portion of proposed Lot 105 on Deposited Plan 60851
(superseding Lot 2 on Plan 13763
as shown on Certificate of Title 1592/544)

Owner(s) : Farmtech Management Pty Ltd

500m 0 1000 2000m

Scale 1 : 20 000

Department of
Environment and Conservation

Our environment, our future

MARCH 2009

INSTRUCTIONS

1. This form may be used only when a "Box Type" form is not provided or is unsuitable. It may be completed in narrative style.
2. If insufficient space hereon Additional Sheet Form B1 should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
4. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.

NOTES

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The address and occupation of the witness must be stated.

EXAMINED

OFFICE USE ONLY

LODGED BY	Department of Environment and Conservation
ADDRESS	Locked Bag 104 Bentley Delivery Centre BENTLEY WA 6983
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PHONE No.	(08) 9334 0477
FAX No.	(08) 9334 0199

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS, ETC, LODGED HEREWITH

1. ..... Received Items Nos.
2. .....
3. .....
4. .....
5. ..... Receiving Clerk
6. .....

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.

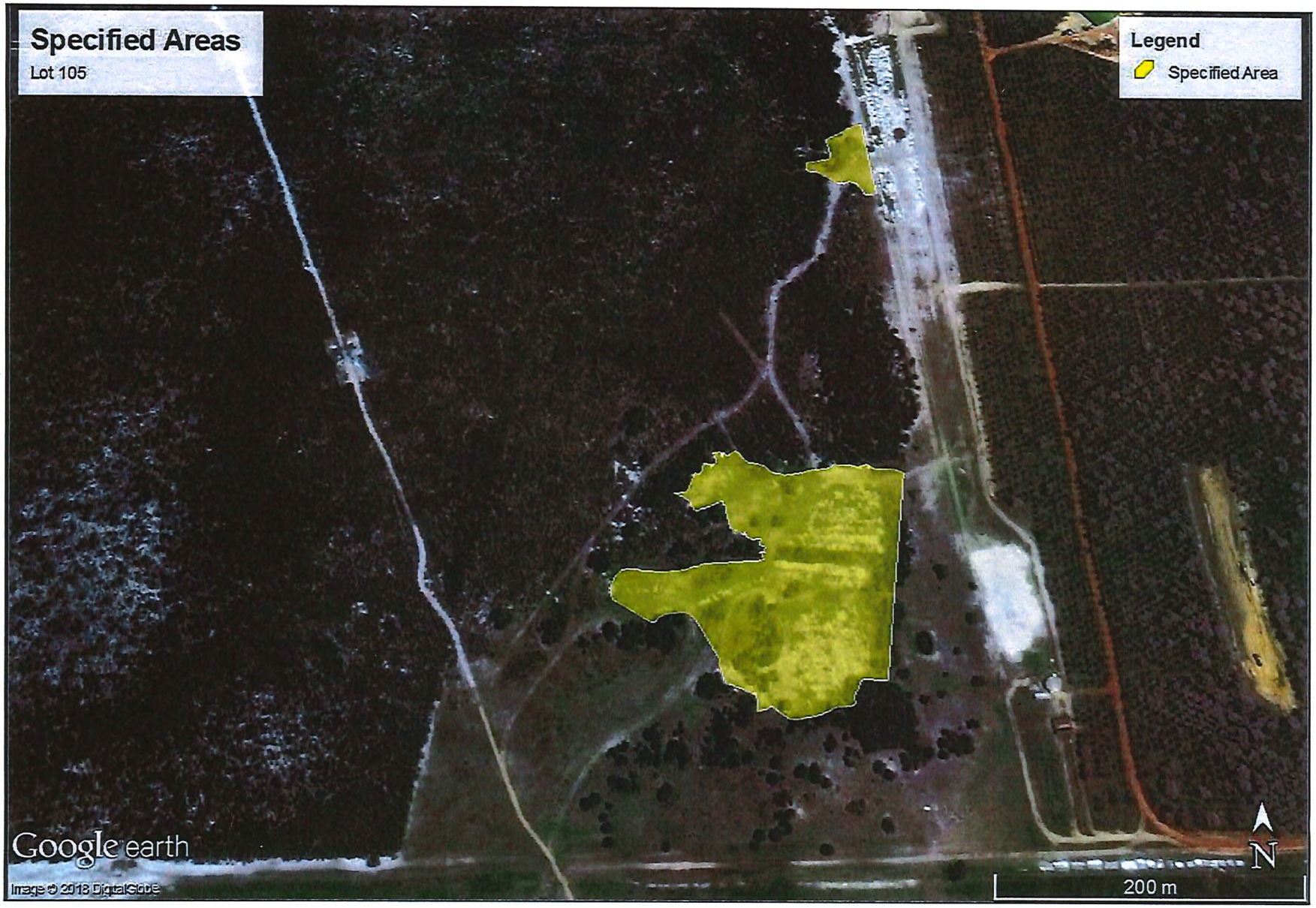
Landgate

GOVERNMENT OF WESTERN AUSTRALIA

Lot 105

Schedule 2

Close Up of Specified Areas Lot 105



Location of Monitoring Bore on Lot 105

Latitude and Longitude Coordinates for Monitoring Bore:

1. 115.4630, -31.0819;

Aerial Photograph Showing Location for Monitoring Bore

Legend

Yellow line – boundary of Lot 105

Red dot – location of monitoring bore

Schedule 3