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CASINO (BURSWOOD ISLAND) AGREEMENT ACT 1985

GRANT OF LAND EXCISED FROM THE RESORT SITE

CASINO (BURSWOOD ISLAND) AGREEMENT ACT 1985

Notice of grant of land excised from the Resort Site on terms and conditions approved by the Minister—clause 6(5)(a) of the Casino (Burswood Island) Agreement set out in Schedule 1 to the *Casino (Burswood Island) Agreement Act 1985* as amended.

The Honourable Terry Waldron MLA Minister for Racing and Gaming and being the Minister of the Crown for the time being charged with the administration of the *Casino (Burswood Island) Agreement Act 1985* acting for and on behalf of the State of Western Australia and its instrumentalities from time to time (the State), hereby gives notice of the grant by the State to the Trustee of land excised from the Resort Site, not exceeding in the aggregate 10 hectares, on the terms and conditions for sale as set out in the Schedule below.

TERRY WALDRON, Minister for Racing and Gaming.

Schedule

2012

STATE OF WESTERN AUSTRALIA

and

BURSWOOD NOMINEES LTD

AGREEMENT FOR SALE

State Solicitor's Office
Commercial and Conveyancing
141 St George's Terrace
Perth WA 6000
Telephone : (08) 9264 1888
Ref: 561-11

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AGREEMENT FOR SALE

Date: 24 September 2012

STATE OF WESTERN AUSTRALIA acting through the Minister for Lands a body corporate pursuant to the provisions of the *Land Administration Act*, 1997 of Department of Regional Development and Lands, 140 William Street Perth Western Australia (Seller)

and

BURSWOOD NOMINEES LTD as trustee of the Burswood Property Trust trading as Burswood Entertainment Complex, (ACN 078 250 307) of Great Eastern Highway, Burswood Western Australia (Buyer)

Recitals

- A** The Seller is the registered proprietor of the Land which is Crown land and forms part of the Reserve.
- B** On or about 20 March 2012, the Western Australian State Government approved, among other things, the excision of 12,472m² of land comprised in the Reserve for the purposes of the construction and operation of the Car Park and other enhancements.
- C** The Seller and the Buyer have agreed that the Seller will excise part of the Land from the Reserve and with the land comprising Glenn Place and part of Bolton Avenue, subject to closure of Glenn Place and part of Bolton Avenue as a road at the request of the Town of Victoria Park, to create the Site and that the Site will, pursuant to section 87 of the LAA, be conveyed to the Buyer and amalgamated with the Buyer's Land.
- D** The Seller has agreed to convey the Site to the Buyer as an estate in fee simple and the Buyer has agreed to purchase the Site for the Purchase Price upon and subject to the terms and conditions herein contained.

Operative Provisions**1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In this Agreement, unless the contrary intention appears—

Act means the Casino (Burswood Island) Agreement Act 1985 (WA).

Agreement means the agreement evidenced by this document and includes all annexures and schedules.

Amalgamated Land means the land comprising the Site and the Buyer's Land;

Balance of the Purchase Price means the amount of the Purchase Price less the amount of the Deposit;

Bolton Avenue means the road of that name within the locality of the Town of Victoria Park;

Buyer's Land means Lot 15 on Deposited Plan 60786 and being the whole of the land in Certificate of Title Volume 2696 Folio 429;

Car Park means a multi-level car park to accommodate 1,004 car bays to be constructed on the Site by the Buyer or on behalf of the Buyer;

Clearance Certificate means certificates from the Service Providers in a form acceptable to the Seller stating that the Service Provider's requirements in respect of the Services on, in, or over the Site have been met;

Conditions Precedent means the conditions precedent contained in clause 2.2;

Contract Date means the date of execution of this Agreement;

Contaminated has the same meaning as that term is defined in the CSA, and **Contamination** is the state of being Contaminated;

Conveyance and Amalgamation Order means an order under section 87 of the LAA by which the Site is conveyed to the Buyer in fee simple and amalgamated with the Buyer's Land;

Covenant means covenants created and registered under section 15 of the LAA substantially in the terms set out in Annexure "B", with such modifications as may be reasonably necessary for it to conform with any Act in force at the time of its creation and registration;

CSA means the Contaminated Sites Act 2003;

Deposit means the sum of ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00);

Encumbrance means a mortgage, charge, easement, reservation, condition, positive covenant, restrictive covenant, memorial (and any conditions or statements contained in the memorial), notification, limitation, writ, warrant, caveat (and the claims stated in the caveat) or other interest of any third party affecting the land or any part of the land;

Existing Improvements means all buildings, fixtures and improvements that exist on the Site as at the Contract Date;

Glenn Place means the road of that name within the locality of the Town of Victoria Park;

GST has the meaning given in the GST Act;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

GST law has the meaning given in section 195-1 of the GST Act.;

In Order for Dealings means the initialling or signing of the Survey by or on behalf of the Inspector of Plans and Surveys (as defined in section 163(2) of the TLA) or an authorised officer as being in order for dealing and in particular as in order to enable the issue of a separate certificate of title for the Amalgamated Land;

LAA means the Land Administration Act 1997;

Land means—

- (a) Lot 302; and
- (b) Lot 301;

Landgate means the Western Australian Land Information Authority trading as Landgate;

Lot 301 means Lot 301 on Deposited Plan 42394 and being the whole of the land in Qualified Certificate of Title Volume 3139 Folio 329;

Lot 302 means Lot 302 on Deposited Plan 42394 and being the whole of the land in Qualified Certificate of Title Volume 3139 Folio 330;

Minister for Lands means the Minister for Lands, being a body corporate continued under section 7(1) of the LAA and being the Minister to whom the administration of the LAA is from time to time committed by the Governor;

Outgoings means—

- (a) land tax and metropolitan region improvement tax payable under the Land Tax Assessment Act 2002 (calculated on a single ownership basis);
- (b) local authority rates charges and other outgoings including but not limited to rubbish removal rates and charges; and
- (c) water, drainage and sewerage rates including but not limited to meter rents, sewer volume charges and charges for the disposal of stormwater or waste;

Plan means the plan attached to this Agreement as Annexure A;

Possession Date means the date Settlement occurs;

Purchase Price means the sum of TEN MILLION DOLLARS (\$10,000,000.00) plus GST;

Registrar of Titles has the meaning it has in section 3(1) of the LAA;

Reserve means the land comprising Western Australian Reserve 39361;

Service or Services means water, sewerage, gas, telecommunications and electricity;

Service Provider means any public entity or other authorised provider of Services;

Settlement Date is the date fixed by the Parties being no more than one month after the Survey is In Order for Dealing or if that occurs before the Conditions Precedent have been satisfied as required by clause 2.2 then the Settlement Date is the date that is fixed by the Parties being no more than one month after the latest of the Conditions Precedent set out in clause 2.2(b) is satisfied provided that that occurs by the date permitted in clause 2.2(b);

Settlement means the settlement of the purchase and conveyance of the Site in accordance with clause 11.2;

Site means the land that is shown, for identification purposes only, delineated and coloured red on the Plan and which comprises—

- (a) the land in Glenn Place;
- (b) that part of the Land that is the whole of Lot 302 and a portion of Lot 301; and
- (c) a portion of the land in Bolton Avenue;

and being an area of approximately 1.2623 hectares and limited in depth to 30 metres;

Specified Encumbrances means—

- (a) the depth limit of 30 metres;
- (b) Memorial L520748;
- (c) Easement F125777;
- (d) the Covenant; and
- (e) Encumbrances required as a condition of subdivision (includes amalgamation) or development, or by any Service Providers and includes the depth limitation of 30 metres;

State Agreement means the Casino (Burswood Island) Agreement set out in Schedule 1 of the Act (as amended).

Survey means a survey of the Site—

- (a) whereby the boundaries and area of the Site shall be accurately determined and computed respectively to depict a Crown lot limited in depth to 30 metres and with the area being approximately 1.2623 hectares; and
 - (b) which deals with the amalgamation of the Site with the Buyer's Land,
- that is acceptable to the Registrar of Titles;

Tax Invoice has the meaning and usage given to that expression in the GST Act;

Taxable Supply has the meaning given in section 195-1 of the GST Act; and

TLA means the Transfer of Land Act 1893.

1.2 Interpretation

In this Agreement unless the context otherwise requires—

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations and bodies politic;
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (f) references to this or any other Agreement include the Agreement as varied or replaced by written agreement, and despite any change in the identity of the parties;
- (g) references to writing include any mode of representing or reproducing words in tangible and permanent visible form, and includes facsimile transmission;
- (h) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (i) references to a person or body which has ceased to exist or has been reconstituted, amalgamated, reconstructed or merged, or the functions of which have become exercisable by any other person or body in its place, shall be taken to refer to the person or body established or constituted in its place or by which its functions have become exercisable;
- (j) an obligation incurred in favour of two or more parties shall be enforceable by them jointly and severally;
- (k) all acts and things which the Seller or the Minister for Lands is empowered to do under this Agreement may be done by the Minister for Lands or a delegate of the Minister for Lands appointed under section 9 of the LAA;
- (l) a reference to any thing (including, without limitation, any amount and the Land) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (m) a reference to this Agreement includes any schedules and annexures.

1.3 Headings

Headings shall be ignored in construing this Agreement.

1.4 Time

In this Agreement—

- (a) where time is to be reckoned from a day or event, such day or the day of such event shall be excluded;
- (b) where the day or last day for doing an act is not a business day, the day or last day for doing the act shall be deemed to be the next following business day.

1.5 Reference to clauses 23(2) and 23(3) of the State Agreement

The Seller and the Buyer agree that the transaction dealt with by this Agreement comes within clause 23(2)(b) and (3)(aa) of the State Agreement with the effect that the obligations of the Buyer, as Trustee (as defined in the Act), under clause 23(1)(c) of the State Agreement continue and are not affected.

2. SALE AND PURCHASE

2.1 Sale and Purchase

Subject to clause 2.2, the Seller hereby sells and the Buyer hereby purchases the Site free from all Encumbrances except for the Specified Encumbrances, for the Purchase Price and upon and subject to terms and conditions contained in this Agreement.

2.2 Conditions Precedent

- (a) The sale and purchase of the Site is subject to and conditional upon—
 - (i) the closure of Glenn Place as a road under section 58 of the LAA by order of the Minister for Lands;
 - (ii) the closure of that part of Bolton Avenue required (and as shown, for identification purposes only as part of the Site, on the Plan) as a road under section 58 of the LAA by order of the Minister for Lands,occurring within 9 months after the Contract Date or such later date as is agreed by the parties in writing.
- (b) Upon satisfaction of the conditions precedent contained in clause 2.2(a), the sale and purchase of the Site is then conditional upon—
 - (i) the excision process for excising that part of the Land identified in paragraph (b) of the definition of 'Site' from the Reserve, being completed pursuant to clause 6(2A), 6(2B) and 6(2D) of the Act; and
 - (ii) a notice being published in the *Government Gazette* pursuant to clause 6(5) of the Act by the Minister which sets out the terms and conditions on which the Seller is to sell that part of the Site the subject of the excision referred to in subclause 2.2(b)(i) to the Buyer,

occurring within 6 months after the date of satisfaction of the conditions precedent contained in clause 2.2(a) or such later date as is agreed by the parties in writing.

2.3 Road Closures and Survey

- (a) The Buyer is responsible, at its cost, to arrange with the Town of Victoria Park to undertake actions required for Glenn Place and that part of Bolton Avenue required for the Site, to be closed as a road and for the Town of Victoria Park to request closure of Glenn Place and the relevant part of Bolton Avenue as a road under section 58 of the LAA.
- (b) Nothing in this clause 2.3 is to act as a fetter on the Minister for Lands' powers under section 58 of the LAA.
- (c) The Buyer is responsible for the cost of any survey required for the purposes of satisfying the conditions set out in clause 2.2(a)(i) and (ii) and 2.2(b)(i). If satisfying any of those conditions requires documents to be lodged at Landgate that require a survey plan, the Buyer must liaise with State Land Services, Department of Regional and Development and Lands in respect of the survey and must appoint a surveyor approved by Landgate.

2.4 Buyer to liaise with Service Providers

- (a) The Buyer must liaise with all Service Providers and meet their requirements in respect of any Services that are on, in or over the Site including the granting of easements or the relocation of Services; and
- (b) The Buyer must provide to the Seller all Clearance Certificates obtained from the Service Providers, prior to Settlement.

2.5 Conditions Precedent not satisfied by the Conditions Precedent Expiry Date

If the Conditions Precedent are not satisfied by the dates referred to in clause 2.2(a) and clause 2.2(b), as applicable, this Agreement shall terminate without the need for notice by either party to the other and—

- (a) the Buyer shall have no right to purchase the Site or any other right or interest in the Site;
- (b) the Buyer and the Seller will be discharged from any further liabilities or obligations under this Agreement other than in respect of any rights, liabilities or obligations which have arisen before termination;
- (c) the Deposit shall be repaid to the Buyer; and
- (d) the Buyer shall have no right of action or claim against the Seller whatsoever including in respect of any moneys paid by the Buyer under the terms of, or in pursuance of, this Agreement (other than in relation to the Deposit).

3. METHOD OF PAYMENT

- (a) The Seller acknowledges that the Buyer has already paid the Deposit to the Seller or to the Seller's agent.
- (b) The Buyer shall pay the Balance of the Purchase Price by bank cheque to the Seller on the Settlement Date or as agreed between the parties in writing.
- (c) If for any reason a bank cheque tendered as or towards the money payable by the Buyer on the Settlement Date is not honoured on first presentation, the Buyer will remain liable to pay the amount of that money, without prejudice to any other rights, remedies or powers of the Seller under this Agreement.

4. SUBDIVISION COSTS OR COSTS ARISING OUT OF CONSTRUCTION

The Buyer must arrange and meet the cost of—

- (a) any road realignments and replacement/redevelopment of Reserve infrastructure affected by closing Glenn Place and that part of Bolton Avenue required for the Site as road, and excising that part of the Land required for the Site from the Reserve, and amalgamation of the Site with the Buyer's Land or the construction of the Car Park; and
- (b) any other subdivision conditions applicable to the excision of that part of the Land from the Reserve required for the Site and its amalgamation with the Buyer's Land and all development conditions relevant to construction of the Car Park.

5. CONSENTS

The Buyer must, at the Buyer's expense, obtain the consent of any mortgagee or the holder of any other Encumbrance affecting the Buyer's Land, if required, to the conveyance and amalgamation of the Site subject to the Specified Encumbrances with the Buyer's Land to enable registration of the Covenant and the Conveyance and Amalgamation Order at Landgate.

6. SURVEY

- (a) The Buyer shall at the Buyer's cost and expense—
 - (i) cause the Survey to be prepared dealing with conveyance of the Site and its amalgamation with the Buyer's Land. The Buyer must liaise with State Land Services, Department of Regional and Development and Lands in respect of the Survey and must appoint a surveyor approved by Landgate; and
 - (ii) use all reasonable endeavours to arrange for the Inspector of Plans and Surveys to mark the Survey In Order for Dealing within 6 months from the date of satisfaction of the latest of the conditions precedent contained in clause 2.2.

- (b) The boundaries and area as shown on the Survey that is placed In Order for Dealing shall be binding on the Buyer and Seller.

7. OUTGOINGS

7.1 Date for Apportionment of Outgoings

The Seller shall pay for all Outgoings, if any, levied, charged or assessed on the Site up to the Settlement, and the Buyer shall pay all Outgoings on and from that date and be entitled to all rents and profits for the Site from that date.

7.2 Adjustment of Outgoings of Settlement

- (a) The Outgoings for the Site shall be apportioned, if necessary, and any amount owing by one party to the other shall be paid or allowed at Settlement.
- (b) If the Outgoings are not separately assessed or payable in respect of the Site, the amount of the Outgoings attributable to the Site requiring apportionment shall be an amount which bears the same proportion as the area of the Site bears to the area of the Land.
- (c) If the amount of the Buyer's share of the Outgoings shown in the statement provided by the Seller is more than the amount paid by the Buyer on account, the deficiency must be paid by the Buyer to the Seller within a further 14 days, and the converse will apply in the case where there has been an overpayment.

8. GOODS AND SERVICES TAX

8.1 Purchase Price Exclusive of GST

The Purchase Price is exclusive of GST and the Buyer must pay additional to the Purchase Price any GST payable by the Seller in respect of a Taxable Supply made under this Agreement.

8.2 Tax Invoice

Where GST is payable, the Seller will provide to the Buyer, if required by the Buyer, a Tax Invoice in the format and form required as set out in the GST law.

8.3 Notification is Conclusive

A written notification given to the Buyer by the Seller of the amount of GST that the Seller is liable to pay on a Taxable Supply made or to be made under this Agreement is conclusive between the parties unless it is shown to be incorrect.

8.4 The Buyer Must Pay GST at Same Time

Subject to receipt of a Tax Invoice from the Seller, the Buyer must pay to the Seller the amount of the GST that the Buyer is liable to pay under this Agreement—

- (a) at the same time; and
- (b) in the same manner,

as the Buyer is obliged to pay for the Taxable Supply.

9. POSSESSION AND RISK

9.1 Buyer's Entitlement to Possession

- (a) The Buyer is entitled to, and the Seller shall give to the Buyer, vacant possession of the Site on and from the Possession Date and free from all Encumbrances other than the Specified Encumbrances.
- (b) The Seller consents to the Buyer carrying out or causing to be carried out surveys and assessments of the Site ("**activities**") prior to the Possession Date at its own expense subject to the Buyer giving notice to the Seller before it enters the Site to carry out those activities.
- (c) The Buyer agrees that it carries out the activities and enters the Site at its own risk and releases and indemnifies and shall keep released and indemnified the Seller against any damages, loss, actions, claims, demands, proceedings, costs and expenses that are or may be brought against the Seller by it or any other person arising out of the Buyer being on the Site or the carrying out of the activities. This clause survives Settlement or termination of this Agreement.

10. RISK

The Site shall, subject to clause 9.1(c), be at the risk of the Seller until the Possession Date and, on and from that date, the Site shall be at the risk of the Buyer.

11. SETTLEMENT

11.1 Title

The Buyer acknowledges that—

- (a) there will be no duplicate Certificate of Title in respect of Site and accordingly, at Settlement, the Seller will not deliver a duplicate Certificate of Title relating to the Site;
- (b) pursuant to section 87(5) of the LAA, any Encumbrances affecting the whole of the Adjoining Land will on registration of the Conveyance and Amalgamation Order also affect the Site;
- (c) a Certificate of Title for the Amalgamated Land will be created by the Registrar of Titles once the Conveyance and Amalgamation Order has been registered in accordance with the provisions of the TLA and the Registrar will endorse on the Certificate of Title the particulars of all dealings and matters affecting the Site as specified in, or effected by, this Agreement and the Conveyance and Amalgamation Order; and

- (d) if required, it is responsible, at its cost, for arranging with Landgate for the duplicate Certificate of Title for the Amalgamated Land to be issued to it.

11.2 Settlement

- (a) Settlement is to take place on the Settlement Date and no later than 3.00 pm on that day, at a place agreed by the Seller or the Seller's representative and the Buyer or the Buyer's representative.
- (b) On the Settlement Date—
 - (i) the Buyer must pay to the Seller the Balance of the Purchase Price; and
 - (ii) the Seller will, subject to compliance by the Buyer with clause 2.4(b), arrange registration of the Covenant (if it has not already been registered) and the Conveyance and Amalgamation Order at Landgate; and
 - (iii) the Buyer will simultaneously with but immediately after lodgement of the Conveyance and Amalgamation Order lodge for registration at Landgate any easement required by a Service Provider to be granted by the Buyer in respect of the Site and registered at Settlement.

11.3 Covenant

The Buyer acknowledges that—

- (a) the Covenant will be lodged for registration against the certificate of Crown land title for the Site prior to Settlement, or at Settlement, and before the Conveyance and Amalgamation Order is lodged for registration;
- (b) the Covenant is a covenant under section 15(7) of the LAA and will be in favour of the Gaming and Wagering Commission of Western Australia, a body corporate established under the *Gaming and Wagering Commission Act 1987*, and which is a State instrumentality as defined in the LAA and referred to in section 15(6)(a)(i) of the LAA;
- (c) the Covenant will, pursuant to section 15(9) of the LAA, constitute a charge on the Site;
- (d) the Covenant binds and runs with the Site pursuant to section 15(6)(c) of the LAA; and
- (e) the Covenant is enforceable against the Buyer, as successor to the Minister for Lands as covenantor, and will be enforceable against its successors in title pursuant to section 15(6)(d) of the LAA.

12. DEFAULT

12.1 Default Notice

Except as otherwise specifically provided in this Agreement—

- (a) the Seller shall not be entitled to forfeit any monies paid by the Buyer or take or recover possession of the Site on the ground of the Buyer's default in performing or observing any obligation imposed on the Buyer under this Agreement; and
- (b) neither the Seller nor the Buyer shall be entitled to terminate this Agreement on the ground of the other's default in performing or observing any obligation imposed on that other party under this Agreement;

unless—

- (c) the party not in default has given to the other party notice in writing which specifies the default and requires the default to be remedied within a reasonable period, which in the case of non-payment of any money shall be not less than 28 days; and
- (d) the party in default fails to remedy the default within that specified period.

12.2 Further Notices May be Given

The giving of a notice under clause 12.1 does not prejudice the right of either party to give a further notice under that clause.

12.3 Repudiation

Clause 12.1 does not apply where the party in default has repudiated this Agreement.

12.4 Buyer's Default

If the Buyer is in default in performing or observing any obligation imposed on the Buyer under this Agreement or if the Buyer repudiates this Agreement, then the Seller, in addition to any rights or remedies it may have under this Agreement or otherwise, may—

- (a) affirm this Agreement and sue the Buyer for damages for breach;
- (b) affirm this Agreement and sue the Buyer for specific performance of this Agreement and damages for breach in addition to or in lieu of specific performance of this Agreement; or
- (c) subject to clause 12.1, proceed to take or recover possession of the Site; or
- (d) subject to clause 12.1 and if the notice given pursuant to that clause states that unless the relevant default is remedied within the period specified in the notice, this Agreement will or may be terminated, terminate the Agreement and—
 - (i) forfeit the Deposit and any instalment of the Balance of the Purchase Price paid; and
 - (ii) sue the Buyer for damages for breach.

12.5 Seller's Default

If the Seller defaults in performing or observing any obligation imposed on the Seller under this Agreement or if the Seller repudiates this Agreement then the Buyer, in addition to any other rights and remedies the Buyer has under this Agreement or otherwise, is entitled to the repayment of all money paid by the Buyer under this Agreement.

13. NO REPRESENTATIONS, COMPENSATION**13.1 Entire Agreement**

The covenants and agreements contained or implied in this Agreement shall comprise the entire agreement between the parties and no other covenants representations warranties or agreements shall apply to the transaction evidenced by this Agreement.

13.2 No Representations

The Buyer acknowledges and agrees that, other than disclosed in this Agreement—

- (a) no warranty or representation has been given or made to the Buyer or anyone on the Buyer's behalf by the Seller, the Minister for Lands or any agent, employee or any other person on the Seller's or Minister for Lands' behalf as to—
 - (i) the title to the Site;
 - (ii) any Encumbrance, restriction or right in favour of any third party affecting the Site;
 - (iii) the condition or state of repair of the Site;
 - (iv) the condition or state of repair of the Existing Improvements or any part of the Existing Improvements; and
 - (v) the suitability of the Site for any use or purpose of any kind;
- (b) any representation or warranty implied by virtue of any statute or otherwise will not apply to, or be implied in, this Agreement and any such representation or warranty is excluded to the extent permitted by law;
- (c) the Site is sold as it stands with all existing faults, defects or characteristics whether they are apparent or ascertainable on inspection or not and without any obligation on the Seller to disclose or particularise any faults, defects or characteristics known to the Seller;
- (d) the Site is sold in the condition and the state of repair it is in on the Contract Date and the Buyer is purchasing and is deemed to purchase in reliance on the Buyer's own inspection of, and enquiries in relation to, the Site; and
- (e) the Seller will not be liable under any circumstances to make any allowance or compensation to the Buyer nor will the Purchase Price be affected by the exclusion of warranties or representations in this clause or for any fault, defect or characteristic in the Site.

13.3 No Compensation

All of the Land and the Site shall be taken to be correctly described and the Survey shall be final in terms of determining the correct boundaries and area and no error, misdescription, omission or misstatement which may be discovered shall annul the sale nor entitle the Buyer to rescind this Agreement nor entitle the Buyer to any claim for compensation and none shall be made.

13.4 Condition of Site

The Buyer is not entitled to make any objection, requisition or claim for compensation, or to rescind this Agreement in respect of—

- (a) the provision of, or a lack of, water, drainage, sewerage, gas, electricity, telephone or other services or connections to the Site, or in respect of the fact that any services or connections may be joint services to any other land, or because any facilities for services for any other land pass through the Site;
- (b) any encroachment onto the Site by any improvement which does not form part of the Site, or the encroachment onto adjoining land of any improvement which forms part of the Site;
- (c) the location of any sewerage, water or drainage pipes or services affecting the Site, or that any sewer passes through, or penetrates the Site;
- (d) the fact that the proposed use of the Site may not be an authorised use under any applicable zoning or use law, scheme or regulation; or
- (e) the fact that the area or boundaries of the Site is, after final survey, different from the area expressed in this Agreement or depicted on the plan attached to this Agreement.

13.5 Contamination

The Seller makes no warranty—

- (a) as to the nature or extent to which the Site may be affected by any Contamination; and
- (b) that remediation works will not be required to be carried out by the Buyer for any use which the Buyer may make of the Site.

14. COVENANTS ON BEHALF OF SUCCESSORS

The Buyer covenants and agrees that the covenants contained in this Agreement are made on behalf of and shall bind itself and its successors in title.

15. COSTS OF AGREEMENT

Each party shall bear its own costs of and incidental to the preparation and execution of this Agreement and the Conveyance and Amalgamation Order, but the Buyer shall pay the duty payable under the *Duties Act 2008* on this Agreement and the Conveyance and Amalgamation Order and any registration fees payable at Landgate for lodgement of any documents arising out of this Agreement.

16. TIME OF ESSENCE

Time shall be of the essence of this Agreement in all respects.

17. SERVICE OF NOTICES**17.1 Notices Deemed Served**

Any notice to be given or made under this Agreement is deemed to have been duly given or made to the other party if it is in writing, is signed by the party giving the notice, his duly authorised officer or delegate or his solicitor, and is—

- (a) delivered by hand to the other party's address mentioned in this Agreement;
- (b) sent by prepaid post to the other party's address mentioned in this Agreement; or
- (c) sent by facsimile transmission to the facsimile number of the other party.

17.2 Change of Address for Service

Any party may change its address or facsimile number for service, by notice given to the other party in the manner provided for in clause 17.1.

17.3 Date of Service

Any notice made or given in accordance with clause 17.1 shall be deemed to be served—

- (a) if delivered by hand, on the day on which it is delivered to the other party's address;
- (b) if sent by pre-paid post, on the second day after the day on which it is posted; or
- (c) if sent by facsimile transmission, and a confirmation of transmission of all pages of the notice is received on the sender's facsimile machine, on the day on which it is sent,

but if the notice is deemed to be served on a day which is not a business day or is after usual business hours, the notice shall be deemed to be served on the next business day.

17.4 Address and Facsimile Number

For the purpose of this clause, the address and facsimile number for the Buyer and Seller is as follows—

(a) **Seller**

Address—

State Lands Services
Department of Regional Development and Lands
140 William Street
PERTH WA 6000

Attention: Manager—Metropolitan

Facsimile No.: (08) 6552 4417

(b) **Buyer**

Address—

Burswood Entertainment Complex
Great Eastern Highway
BURSWOOD WA 6100

Attention: Executive General Manager Legal Services

Facsimile No.: +61 8 9362 8344

18. VARIATION

This Agreement may not be waived, varied, discharged or released by any oral agreement or representation or otherwise than by an instrument in writing duly signed by the parties.

19. FURTHER ASSURANCES

The parties agree to do all acts, matters and things reasonably necessary to give effect to the provisions of this Agreement.

20. WAIVER AND ESTOPPEL

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any Law or under this Agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any Law or under this Agreement.
- (b) A waiver given by a party under this Agreement is only effective and binding on that party if it is given or confirmed in writing by that party.

- (c) No waiver of a breach of a term of this Agreement operates as a waiver of any other breach of that term or of a breach of any other term of this Agreement.
- (d) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any Law or under this Agreement by State does not preclude, or operate as an estoppel of any form of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any Law or under this Agreement.

21. PROPER LAW

- (a) This Agreement shall be construed in accordance with the law in force for the time being in the State of Western Australia.
- (b) Each party irrevocably submits to the exclusive jurisdiction of courts in exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising in connection with this Agreement. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

22. COVENANTS TO SURVIVE SETTLEMENT

Where applicable the covenants agreements and warranties by the Buyer and the Seller's rights in respect of the same shall survive Settlement.

23. TRUSTEE

23.1 Definitions

In this clause 23—

Trust means the Burswood Property Trust.

Trust Deed means the trust deed dated 20 February 1985 between Burswood Management Limited and West Australian Trustees Limited as amended.

Trust Property means, all the Buyer's rights, property and undertaking which are the subject of the Trust—

- (a) of whatever kind and wherever situated; and
- (b) whether present or future.

23.2 Trustee representations and warranties

(a) From the Buyer

The Buyer represents and warrants to the Seller that—

- (i) (existence) the Trust has been duly established; and
- (ii) (sole trustee) it is the only trustee of the Trust; and
- (iii) (appointment and no removal) it has been validly appointed as trustee of the Trust and no action has been taken or proposed to remove it as trustee of the Trust; and
- (iv) (power) it has power under the Trust Deed to enter into and comply with its obligations under this Agreement; and
- (v) (authorisations) it has in full force and effect the authorisations necessary to make this Agreement, perform obligations under it and allow it to be enforced (including any authorisation required under the Trust Deed and its constitution (if any)); and
- (vi) (indemnity) it has a right to be fully indemnified out of the Trust Property in respect of obligations incurred by it under this Agreement; and
- (vii) (adequacy of Trust Property) the Trust Property is sufficient to satisfy that right of indemnity and all other obligations in respect of which the Buyer has a right to be indemnified out of the Trust Property; and
- (viii) (no default) it is not, and never has been, in default under the Trust Deed; and
- (ix) (no termination) no action has been taken or proposed to terminate the Trust; and
- (x) (officers' compliance) it and its directors and other officers have complied with their obligations in connection with the Trust; and
- (xi) (exercise of powers) it has not exercised its powers under the Trust Deed to release, abandon or restrict any power conferred on it by the Trust Deed; and
- (xii) (benefit) entry into this Agreement is for the benefit of the beneficiaries of the Trust.

(b) Reliance

The Buyer acknowledges that the Seller has entered into this Agreement in reliance on the representations and warranties in this clause.

23.3 Capacity and liability of the Buyer

The Buyer acknowledges that it enters into this Agreement in its capacity as trustee of the Trust and is liable in its capacity as trustee.

23.4 Covenants

(a) Further steps

The Buyer agrees to do anything the Seller (acting reasonably) asks (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed) to bind the Buyer and its successors under this Agreement.

(b) **Exercise of Buyer's right of indemnity**

At the Seller's request the Buyer agrees to exercise its right of indemnity from the Trust Property in respect of obligations incurred by it under this Agreement.

(c) **Compliance with Buyer's obligations**

The Buyer agrees to comply with its obligations as trustee of the trust.

(d) **Notification of incorrect representation or warranty**

The Buyer agrees to notify the Seller immediately if any representation or warranty made or taken to be made by or on behalf of any of them in connection with this Agreement is found to be incorrect or misleading when made or taken to be made.

Executed by the parties as a deed

SIGNED for and on behalf of the
STATE OF WESTERN AUSTRALIA by
an authorised officer for and on behalf of the
Minister for Lands by delegation under
section 9 of the *Land Administration Act 1997*
in the presence of:

Chris Ziatas
Team Leader
State Lands—Metropolitan
State Land Services

MATTHEW PESTELL,
Department of Regional Development and Lands Officer.
Matthew Pestell
Name (please print)
A/Team Leader
Position

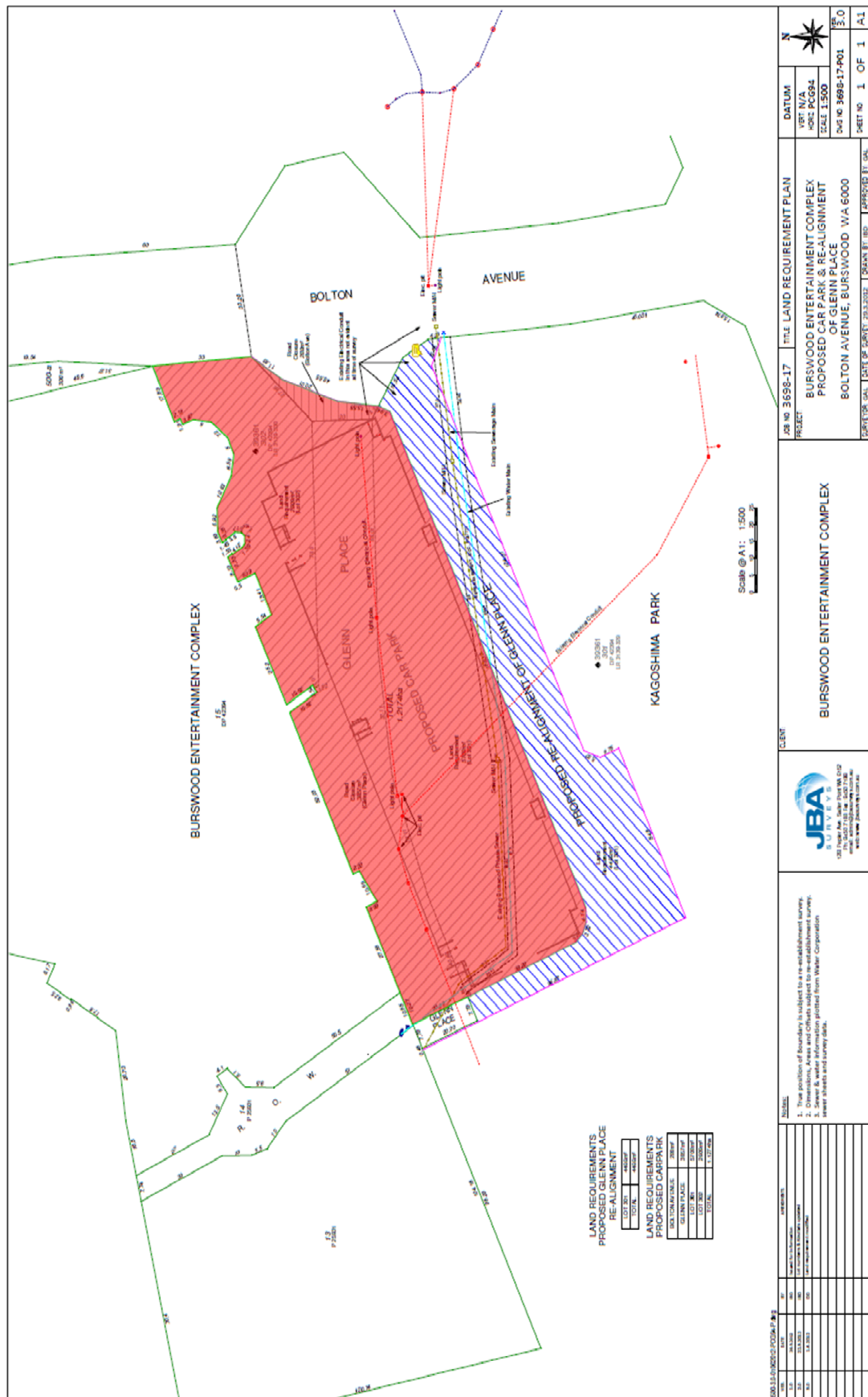
EXECUTED by
BURSWOOD NOMINEES LTD
ACN 078 250 307
pursuant to section 127(1) of the
Corporations Act 2001

BARRY JOHN FELSTEAD
Director
Barry John Felstead
Full name of Director

ALAN FRANK MCGREGOR
Director/Secretary
Alan Frank McGregor
Full name of Director/Secretary

ANNEXURE A

Plan of Site



ANNEXURE B

Covenant

COVENANT IN GROSS ON CROWN LAND ORDER (XE)

SERVIENT TENEMENT (NOTE 1)

Lot [] on deposited plan []*

This will be the Crown lot identified on the amalgamation survey plan being basically the 'Site'.

EXTENT

Whole

VOLUME

0000

FOLIO

000

LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS (NOTE 2)

Depth limit shown on deposited plan []*, Memorial L520748, Easement F125777 *[any others?]*

COVENANTOR (NOTE 3)

THE **MINISTER FOR LANDS**, A BODY CORPORATE UNDER THE *LAND ADMINISTRATION ACT 1997* ACTING IN THE NAME AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA, CARE OF THE DEPARTMENT OF REGIONAL DEVELOPMENT AND LANDS, LEVEL 2, 140 WILLIAM STREET, PERTH WA 6000

COVENANTEE (NOTE 4)

Gaming and Wagering Commission of Western Australia, a body corporate established under the *Gaming and Wagering Commission Act 1987* of [].

THE MINISTER FOR LANDS (IN THE NAME OF AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA) ORDERS THAT THE COVENANT REFERRED TO BELOW BE REGISTERED AGAINST THE CERTIFICATE OF CROWN LAND TITLE FOR THE ABOVE SERVIENT TENEMENT.

Dated this

day of

in the year

ATTESTATION (NOTE 5)

[*DELETE WHICHEVER IS INAPPLICABLE]

***THE COVENANT IS ON THE TERMS AND CONDITIONS SET OUT IN THE DEED ATTACHED TO THIS ORDER**

[OR]

***THE MINISTER FOR LANDS, ACTING IN THE NAME OF AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA, PURSUANT TO SECTION 15 OF THE LAND ADMINISTRATION ACT 1997 (LAA), AS COVENANTOR COVENANTS IN FAVOUR OF THE COVENANTEE DESCRIBED ABOVE (COVENANTEE), SO AS TO BIND THE SERVIENT TENEMENT, SUBJECT TO:**

- (a) THE LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS SHOWN ABOVE; AND**
- (b) THE COVENANTS AND POWERS IMPLIED UNDER THE LAND ADMINISTRATION ACT 1997 AND THE TRANSFER OF LAND ACT 1893 AS AMENDED (UNLESS HEREBY NEGATED OR MODIFIED),**

AS FOLLOWS:

The Covenantor shall not use the Land for any purpose other than construction and operation of a car park, with the ground floor street frontage of the car park able to be converted to active retail if required at a future date by the Covenantor.

Pursuant to:

- (a) section 15(6)(c) of the LAA, this Covenant binds and runs with the Land;
- (b) section 15(6)(d) of the LAA, this Covenant is enforceable against the successors in title of the Minister for Lands to the Land even if this Covenant is not annexed to land in which the Covenantee has an interest;
- (c) section 15(9) of the LAA, this Covenant when registered over the Land constitutes a charge against the Land;
- (d) section 15(10) of the LAA, this Covenant will not be discharged or removed on the sale of the Land by a mortgagee or annuitant;
- (e) section 15(11) of the LAA, this Covenant when registered over the Land is binding on future registered proprietors from time to time of the Land, as 'Covenantor'; and
- (f) section 15(13) of the LAA, this Covenant may be modified by agreement by the Covenantor and the Covenantee or discharged by the Covenantee.

INSTRUCTIONS

1. If insufficient space in any section, Additional Sheet Form B1 should be used with appropriate headings. The boxed sections should only contain the words "See Annexure".
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by parties.
3. 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 person signing this document and their witnesses.

NOTES

1. SERVIENT TENEMENT

Lot and Diagram/Plan number or Location name and number to be stated.

Extent – Whole, part or balance of the land comprised in the Certificate of Crown Land Title to be stated.

The Certificate of Crown Land Title Volume and Folio number to be stated.

If the servient tenement is a registered interest in the relevant Crown land, state the nature of the interest eg Leasehold.

2. LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS

In this panel show (subject to the next paragraph) those limitations, interests, encumbrances and notifications affecting the servient tenement land that are recorded on the certificate(s) of Crown Land Title in the Second Schedule (unless to be removed by action or document before registration hereof).

Do not show any:

- (a) Easement Benefits or Restrictive/Covenant Benefits; or
- (b) Subsidiary interests or changes affecting a limitation, etc, that is to be entered in the panel (eg, if a lease is shown, do not show any sub-lease or any document affecting either).

4. The documents shown are to be identified by nature and number. The plan/diagram encumbrances shown are to be identified by nature and relevant plan/diagram.

If none show "nil".

3. COVENANTOR

May be either the State, or the registered proprietor of the servient tenement.

4. COVENANTEE

State the full name of the Covenantee and the address to which future notices can be sent.

5. ATTESTATION

This document is to be executed by the Minister for Lands or a person to whom the power to make an order under section 15 of the Land Administration Act 1997 has been duly delegated under section 9(1) of that Act (if applicable).

EXAMINED

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.

Office Use Only

**COVENANT IN GROSS ON CROWN
LAND ORDER (XE)**

LODGED BY

ADDRESS

PHONE No.

FAX No.

REFERENCE No.

ISSUING BOX No.

PREPARED BY

ADDRESS

PHONE No.

FAX No.

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

TITLES, LEASES, DECLARATIONS ETC
LODGED HEREWITH

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

CASINO (BURSWOOD ISLAND) AGREEMENT ACT 1985

Notice of grant of land excised from the Resort Site on terms and conditions approved by the Minister—clause 6(5)(a) of the Casino (Burswood Island) Agreement set out in Schedule 1 to the *Casino Burswood Island) Agreement Act 1985* as amended.

The Honourable Terry Waldron MLA Minister for Racing and Gaming and being the Minister of the Crown for the time being charged with the administration of the *Casino (Burswood Island) Agreement Act 1985* acting for and on behalf of the State of Western Australia and its instrumentalities from time to time (the State), hereby gives notice of the grant by the State to the Trustee of land excised from the Resort Site, not exceeding in the aggregate 10 hectares, on the terms and conditions for sale as set out in the Schedule below.

TERRY WALDRON, Minister for Racing and Gaming.

Schedule

2013

STATE OF WESTERN AUSTRALIA

and

BURSWOOD NOMINEES LTD

AGREEMENT FOR SALE AND DEVELOPMENT OF LAND

State Solicitor's Office
141 St George's Terrace
Perth WA 6000
Telephone : (08) 9264 1888
Ref: 2351-12

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AGREEMENT FOR SALE AND DEVELOPMENT OF LAND

Date: 21 January 2013

STATE OF WESTERN AUSTRALIA acting through the Honourable Colin James Barnett, Premier and Minister for State Development of 1 Parliament Place, West Perth Western Australia and the Minister for Lands, a body corporate pursuant to the provisions of the *Land Administration Act 1997* (WA), of Department of Regional Development and Lands, 140 William Street Perth Western Australia (**State**)

and

BURSWOOD NOMINEES LTD ACN 078 250 307 as trustee of the Burswood Property Trust of Crown Perth, Great Eastern Highway, Burswood Western Australia (**Buyer**).

Recitals

- A. The State is the registered proprietor of the Land which is Crown land and forms part of the Reserve.
- B. Once excised from the Reserve, the Minister for Lands has the power to sell the Land pursuant to Section 74 of the *Land Administration Act 1997* (WA) and is a signatory to this Agreement.
- C. On or about 18 July 2012, subject to legal documentation being agreed by the parties, the State, among other things, agreed to the excision and sale of the Land to the Buyer for the purposes of the construction and operation of a hotel and ancillary facilities on the basis that—
 - (i) all of the Land be developed within a defined period of time and not be “land banked”; and
 - (ii) the Land not be subdivided, strata titled or resold.
- D. As part of that agreement the State has agreed to convey the Land to the Buyer pursuant to clause 6(5) of the State Agreement as an estate in fee simple and the Buyer has agreed to purchase the Land for the Purchase Price upon and subject to the Buyer completing Stage 1 and Subsequent Stages in accordance with the terms and conditions set out in this Agreement.

OPERATIVE PROVISIONS**1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In this Agreement, unless the contrary intention appears—

Act means the Casino (Burswood Island) Agreement Act 1985 (WA).

Agreement means the agreement evidenced by this document and includes all annexures and schedules.

Bank Cheque means a cheque drawn by a Bank on itself or a financial institution as defined in Section 3 of the Cheques Act 1966 (Cth);

Board means “Board” as defined in the State Agreement;

Buyer’s Covenants means all or any of the covenants and agreements contained in or implied by this Agreement to be observed and performed by the Buyer;

Claim includes any claim, demand, action, proceeding or suit of any nature whether actual or threatened and includes any payment of money (including damages) arising in connection with this Agreement or under a law;

Commencement of Construction means, in respect of each Stage, all works preliminary to the construction of that Stage of the Development including the fencing of the Land, construction of all earthworks and the construction of footings to the main building(s) as the case may be;

Conditions means the terms and conditions for the sale of Land set out in this Agreement;

Conditions Precedent means the conditions precedent contained in clause 2.2;

Consequential Loss includes indirect or special loss; loss of opportunity; damage to reputation; loss not likely to arise naturally in the usual course of things; loss of profit, revenue or business; loss arising from delay and the cost of capital or other financial costs.

Contaminated has the same meaning as given in section 4 of the Contaminated Sites Act 2003 (WA), and **Contamination** is the state of being Contaminated;

Covenant means covenants created and registered under section 15 of the LAA substantially in the terms set out in Annexure B, with such modifications as may be reasonably necessary for it to conform with any statute in force at the time of its creation and registration;

Development Approval means all approvals for Stage 1 and Subsequent Stages required to be granted by the Minister for State Agreement pursuant to the State Agreement;

Encumbrance means a mortgage, charge, easement, reservation, condition, positive covenant, restrictive covenant, memorial (and any conditions or statements contained in the memorial), notification, limitation, writ, warrant, caveat (and the claims stated in the caveat) or other interest of any third party affecting the land or any part of the land;

Existing Improvements means all buildings, fixtures and improvements that exist on the Land as at the date of this Agreement;

GST has the meaning given in the GST Act;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

GST law has the meaning given in section 195-1 of the GST Act;

In Order for Dealings means the initialling or signing of the Survey by or on behalf of the Inspector of Plans and Surveys (as defined in section 163(2) of the TLA) or an authorised officer as being in order for dealing and in particular as in order to enable the issue of a separate certificate of title for the Land;

LAA means the Land Administration Act 1997 (WA);

Land means that Portion of Lot 301 on Deposited Plan 42394 being part of the land in Qualified Certificate of Crown Land Title Volume LR3139 Folio 329 as shaded on the Plan being 5.823 hectares in area and further described in Annexure A1;

Landgate means the Western Australian Land Information Authority established by section 5 of the Land Information Authority Act 2006 (WA) trading as Landgate;

Local Authority means any local government established under the Local Government Act 1995 (WA) having jurisdiction over the Land or part thereof;

Minister for Lands means the Minister for Lands, being a body corporate constituted under section 7(1) of the LAA and being the Minister to whom the administration of the LAA is from time to time committed by the Governor;

Minister for State Agreement means the Minister of the Crown to whom the administration of the Act is from time to time committed by the Governor;

Plan means the plan attached to this Agreement as Annexure A1;

Pollution has the same meaning as that expression is given in the Environmental Protection Act 1986 (WA);

Possession Date means the date Settlement occurs;

Practical Completion means in respect of each Stage, the completion (save for any minor defect or omission) of the construction of that Stage of the Development in conformity with plans and specifications the subject of a building licence issued by the Local Authority and any other relevant government department or authority. Such practical completion to be evidenced by the handing over by the Buyer to the State of such of the following as the State may require—

- (a) a certificate from the Buyer's architect or builder certifying that the relevant Stage has been constructed or completed according to plans and specifications as approved by the Local Authority and any other relevant government department or authority; and/or
- (b) a copy of the occupancy permit issued by the Local Government under the Western Australian Building Act 2011 and Building Regulations 2012 written permission from the Local Authority for the occupation of that Stage;

Purchase Price means the sum which, when aggregated with the duty payable in respect of this Agreement, amounts to FIFTY NINE MILLION, NINE HUNDRED AND NINETY NINE THOUSAND NINE HUNDRED AND NINETY EIGHT DOLLARS AND EIGHTY FIVE CENTS (\$59,999,998.85), exclusive of GST;

Registrar of Titles has the same meaning as given in section 3(1) of the LAA;

Related Body Corporate has the same meaning as given in the Corporations Act 2001 (Cth);

Remediation has the same meaning as given in section 3 of the Contaminated Sites Act 2003 (WA) and includes the management of any contaminated site, and **Remediate** is the action of undertaking Remediation;

Repurchase Price means the repurchase price as calculated in clause 15(b);

Reserve means the land comprising Western Australian Reserve 39361;

Resort Site has the same meaning as given in the State Agreement;

Road Realignment Plan means the plan as approved by the Minister for State Agreement as part of the Stage 1 development a proposal and as amended with the approval of the Minister for State Agreement from time to time and attached as an indicative plan in Schedule 3;

Schedule means the schedule to the Agreement;

Settlement Date means the date which is nominated by the Buyer (and agreed to by the State acting reasonably) which must be no later than 6 weeks after the date—

- (a) the Survey is marked In Order for Dealings; or
 - (b) the last of the Conditions in clause 2.2(h) is satisfied,
- whichever is the later,

unless that 6 week period is extended in writing by the State (at its absolute discretion) following a request by the Buyer;

Settlement means the settlement of the purchase and conveyance of the Land in accordance with clause 10.1;

Site has the same meaning as given in the State Agreement;

Sports Precinct Land means that portion of Lot 301 on Deposited Plan 42394 situated north of the new boundary of the Land to be excised from Lot 301 on Deposited Plan 42394, which is indicated by the area hatched on the indicative plan annexed at Annexure B1;

Stadium Land means the land described in Annexure C1;

Stage means each of Stage 1 and any Subsequent Stage, and **Stages** has a corresponding meaning;

Stage 1 means the hotel development proposal as set out in Schedule 1;

State means the Crown in right of the State of Western Australia;

State Agreement means the Casino (Burswood Island) Agreement set out in Schedule 1 of the Act (as amended);

State Entities means the State of Western Australia and includes any department, agency, or instrumentality of the State of Western Australia, the Parliament and any Minister of the State of Western Australia and their respective employees, agents, contractors and consultants;

Subsequent Stage means any development following Stage 1 approved by the Minister for State Agreement and the State;

Survey means a survey of the Land whereby the boundaries and area of the Land shall be accurately determined and computed respectively to depict a lot and with the area being approximately 5.823 hectares that is acceptable to the Registrar of Titles;

Tax Invoice has the meaning and usage given to that expression in the GST Act;

Taxable Supply has the meaning given in section 195-1 of the GST Act;

TLA means the Transfer of Land Act 1893 (WA).

1.2 Interpretation

In this Agreement unless the context otherwise requires—

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations and bodies politic;
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (f) references to this or any other Agreement include the Agreement as varied or replaced by written agreement, and despite any change in the identity of the parties;
- (g) references to writing include any mode of representing or reproducing words in tangible and permanent visible form, and includes facsimile transmission;
- (h) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (i) references to a person or body which has ceased to exist or has been reconstituted, amalgamated, reconstructed or merged, or the functions of which have become exercisable by any other person or body in its place, shall be taken to refer to the person or body established or constituted in its place or by which its functions have become exercisable;
- (j) an obligation incurred in favour of two or more parties shall be enforceable by them jointly and severally;
- (k) all acts and things which the Minister for Lands is empowered to do under this Agreement may be done by the Minister for Lands or a delegate of the Minister for Lands appointed under section 9 of the LAA;
- (l) a reference to any thing (including, without limitation, any amount and the Land) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (m) a reference to this Agreement includes any schedules and annexures;
- (n) headings are inserted for ease of reference only and shall be ignored in construing this Agreement;
- (o) references to time are to local time in Perth, Western Australia;
- (p) where time is to be reckoned from a day or event, that day or the day of that event shall be excluded;
- (q) a reference to a business day is a reference to a day other than a Saturday, Sunday or gazetted public holiday in Western Australia;
- (r) where the day or last day for doing an act is not a business day, the day or last day for doing the act shall be deemed to be the next following business day;
- (s) the word “include” used when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (t) a provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement; and
- (u) all acts or things which the State is empowered to do or required to give approval in respect of this Agreement must be done by the Government of the State of Western Australia.

1.3 Reference to clauses 23(2) and 23(3) of the *Casino (Burswood Island) Agreement Act 1985 (WA)*

- (a) The parties acknowledge and agree that as a condition of the sale the Buyer has agreed to continue to pay to the Board the payment calculated in accordance with clause 23(i)(c) of the State Agreement notwithstanding the reduction of the area of the Resort Site by the State by the excision of the Stadium Land and Sports Precinct Land.
- (b) The State and the Buyer agree that the transaction dealt with by this Agreement comes within sub-clauses 23(2)(b) and (3)(aa) of the State Agreement with the effect that the obligations of the Buyer, as Trustee (as defined in the Act), under clause 23(1)(c) of the State Agreement continue and are not affected, and accordingly the parties do not need to amend the provisions of the State Agreement to give effect to the condition set out in clause 1.3(a) above. The parties further acknowledge and agree that if the interpretation agreed to in clause 1.3(a) is incorrect, an amendment to the State Agreement to reflect the condition of sale shall be agreed to by the parties.
- (c) Nothing in this clause 1.3 prevents the parties agreeing to amend the State Agreement to reflect any different arrangements agreed to by the parties in relation to the payment calculated in accordance with clause 23(1)(c) of the State Agreement from time to time.

2. SALE AND PURCHASE**2.1 Sale and Purchase**

Subject to clause 2.2 the State hereby sells and the Buyer hereby purchases the Land free from all Encumbrances, for the Purchase Price and upon and subject to the Conditions.

2.2 Conditions Precedent

- (a) The sale and purchase of the Land is subject to and conditional upon the Buyer giving to the State its consent for the—
 - (i) Land excision from the Reserve in the form set out in Annexure A2 within 30 calendar days from the date of this Agreement.
 - (ii) Sports Precinct Land excision from the Reserve in the form set out in Annexure B2 within 30 calendar days from the date of this Agreement notwithstanding that Sports Precinct Land will not be excised immediately but some time in the future; and
 - (iii) Stadium Land excision from the Reserve in the form set out in Annexure C2 within 30 calendar days from the date of this Agreement notwithstanding that Stadium Land will not be excised immediately but some time in the future;
 - (b) The sale and purchase of the Land is subject to and conditional upon the Buyer—
 - (i) being satisfied with its due diligence enquiries about the Land and its suitability for the development of Stage 1, and
 - (ii) receiving from the Minister for State Agreement the approval required under the State Agreement for the development of Stage 1 including all necessary access routes to Stage 1,
- by 28 February 2013;
- (c) The Conditions Precedent contained in clause 2.2(a) are for the benefit of the Seller alone, and any of them may be waived by the Seller at any time on or before the date specified in clause 2.2(a);
 - (d) Notwithstanding any other provision of this Agreement, the consents referred to in the Conditions Precedent contained in clause 2.2(a), once given, cannot be revoked or withdrawn by the Buyer in any circumstances whatsoever including, but not limited to, a failure to satisfy the Conditions Precedent contained in clause 2.2(a) or a termination of this Agreement;
 - (e) If on or before the date specified in clause 2.2(a)—
 - (i) the Conditions Precedent contained in clause 2.2(a) are not satisfied; or
 - (ii) the Seller has not given notice to the Buyer that the Condition Precedents contained in clause 2.2(a) are waived,then clause 2.4 will apply;
 - (f) The Conditions Precedent contained in clause 2.2(b) are for the benefit of the Buyer alone, and may be waived by the Buyer at any time on or before the date specified in clause 2.2(b);
 - (g) If on or before the date specified in clause 2.2(b) the Buyer has not given notice to the State that the Conditions Precedent contained in clause 2.2(b) are satisfied or waived, then clause 2.4 will apply;
 - (h) Upon satisfaction or waiver of the Conditions Precedent contained in clauses 2.2(a) and 2.2(b), the Settlement is then conditional upon—
 - (i) (excision of Land) the excision process for the Land from the Reserve, being completed pursuant to clause 6(2A), 6(2B) and 6(2D) of the State Agreement; and
 - (ii) (gazettal of conditions) a notice being published in the *Government Gazette* pursuant to clause 6(5) of the State Agreement by the Minister for State Agreement which sets out the terms and conditions on which the State is to sell the Land to the Buyer,

which the parties will use their reasonable endeavours to achieve within 120 days of the date of satisfaction or waiver of the Condition(s) Precedent contained in clauses 2.2(a) and 2.2(b).

Where, through no reason attributable to the delay of the Buyer, the conditions in this clause 2.2(h) are not satisfied within that period (or such other period as the Buyer and the Minister for State Agreement agree), the Buyer may give notice terminating this Agreement and in that case clause 2.4 will apply.

2.3 Buyer to arrange survey required for excision process

The Buyer is responsible for the cost of any survey required for the purposes of satisfying the Conditions. If satisfying any of the Conditions requires documents to be lodged at Landgate that require a survey plan, the Buyer must liaise with State Land Services, Department of Regional Development and Lands in respect of the survey and must appoint a surveyor approved by Landgate and must also provide the State with copies of any survey conducted.

2.4 Conditions Precedent not satisfied

- (a) If the Conditions Precedent are not satisfied or waived by the respective time frames referred to in clauses 2.2(a) and 2.2(b)—
 - (i) this Agreement shall terminate without the need for notice by either party to the other; and
 - (ii) the Buyer shall have no right to purchase the Land or any other right or interest in the Land, and—
 - (A) the Buyer and the State will be discharged from any further liabilities or obligations under this Agreement other than in respect to any rights, liabilities or obligations which have arisen before termination;
 - (B) the Buyer and the State shall have no Claim against each other (and in the case of the State, or State Entities) whatsoever including in respect of any moneys paid by either party under the terms of, or in pursuance of, this Agreement.
- (b) The parties (including in the case of the State, any State Entities) shall be responsible for all costs and expenditure incurred by them in respect of this Agreement up to and including the date of termination.

3. CIVIL LIABILITY ACT 2002 (WA)

Part IF of the *Civil Liability Act 2002* (WA) does not apply to this Agreement.

4. COSTS

The Buyer must arrange and at the Buyer's cost and expense carry out—

- (a) the road realignments detailed in the Road Realignment Plan; and
- (b) replacement/redevelopment of infrastructure on the Reserve arising out of the excision of the Land from the Reserve and the construction of Stage 1 or any Subsequent Stages where those road realignments and replacement/redevelopment of infrastructure are predominantly for the benefit of the Buyer; and
- (c) any other subdivision conditions applicable to the excision of the Land from the Reserve and all development conditions directly arising out of the construction of Stage 1 or Subsequent Stages.

5. TITLE AND SURVEY

5.1 Preparation of Survey

- (a) The Buyer shall at the Buyer's cost and expense—
 - (i) cause the Survey to be prepared dealing with the conveyance of the Land. The Buyer must liaise with State Land Services, Department of Regional Development and Lands in respect of the Survey and must appoint a surveyor approved by Landgate; and
 - (ii) use all reasonable endeavours to arrange for the Inspector of Plans and Surveys to mark the Survey In Order for Dealing within 2 months from the date of satisfaction of the latest of the Conditions Precedent.
- (b) The boundaries and area as shown on the Survey that is placed In Order for Dealing shall be binding on the Buyer and the State.
- (c) The parties acknowledge that where the draft Survey indicates that the final Survey will depict the Land with an area of more or less than the intended area of approximately 5.823 hectares the parties will cooperate in agreeing practical changes in the location of the boundaries of the draft Survey so that the final area will be as close as possible to the intended area of approximately 5.823 hectares.

5.2 New Certificate of Title

- (a) The Buyer acknowledges that there will be no duplicate Certificate of Title in respect of the Land and accordingly, at Settlement, the State will not deliver a duplicate Certificate of Title relating to the Land;
- (b) The certificate of Crown land to the Reserve of which the Land forms part may be inspected by search at Landgate and the Buyer shall not require the State to produce an abstract of title or any other evidence of the State's title or right to sell the Land.
- (c) The State shall not be required to answer any objections to or requisitions on title.

- (d) In the event that an application is to be made by the State at Settlement or immediately thereafter for a separate Certificate of Title to the Land then the Buyer acknowledges and agrees that if required by the State—
 - (i) Settlement shall be effected on the basis that the transfer of the Land to the Buyer shall be preceded by an application for a new title to be lodged by the State together with the parent title to the Land; and
 - (ii) Settlement shall be effected on the basis of a “follower dealing” if an application for a new Certificate of Title to the Land has already been lodged with Landgate.

5.3 Error in Area

If there is any mistake in or omission from this Agreement with respect to the description boundary or measurements of area of the Land as set out on the Plan as compared to the boundaries and area as determined by the Survey, then

- (a) the Survey shall be final in terms of determining the correct boundaries and area;
- (b) no error mis-description, omission or mis-statement shall annul this Agreement or sale, nor entitle any party to rescind this Agreement or to delay Settlement;
- (c) in the case where the area of the Land as surveyed is more than 5% less than the area of the Land as set out in the Plan, then the Buyer is entitled to compensation on a pro rata basis by notice to the State; and
- (d) in the case where the area of the Land as surveyed is more than 5% greater than the area of the Land as set out in the Plan, then the State is entitled to compensation on a pro rata basis by notice to the Buyer.

6. NOT USED

7. GOODS AND SERVICES TAX

7.1 Purchase Price Exclusive of GST

The Purchase Price is exclusive of GST and the Buyer must pay additional to the Purchase Price any GST payable by the State in respect of a Taxable Supply made under this Agreement.

7.2 Tax Invoice

Where GST is payable, the State will provide to the Buyer, if required by the Buyer, a Tax Invoice in the format and form required by the GST law.

7.3 Notification is Conclusive

A written notification given to the Buyer by the State of the amount of GST that the State is liable to pay on a Taxable Supply made or to be made under this Agreement is conclusive between the parties unless it is shown to be incorrect.

7.4 The Buyer Must Pay GST at Same Time

Subject to receipt of a Tax Invoice from the State, the Buyer must pay to the State the amount of the GST that the Buyer is liable to pay under this Agreement—

- (a) at the same time; and
- (b) in the same manner,

as the Buyer is obliged to pay for the Taxable Supply.

8. POSSESSION AND RISK

- (a) The Buyer is entitled to, and the State shall give to the Buyer, vacant possession of the Land on and from the Possession Date and free from all Encumbrances other than the Specified Encumbrances.
- (b) The State shall use reasonable endeavours to assist the Buyer in obtaining the consent of any present occupiers of the Land to the Buyer carrying out or causing to be carried out surveys and assessments of the Land (“Activities”) prior to the Possession Date at the Buyer’s expense.
- (c) Where the State has control and possession of the Land, the State consents to the Buyer carrying out Activities prior to the Possession Date at the Buyer’s expense subject to the Buyer giving 7 days notice to the State as to the nature of the Activities it wishes to undertake before it enters the Land to carry out those Activities.
- (d) The Buyer agrees that it carries out the Activities and enters the Land at its own risk and releases and indemnifies and shall keep released and indemnified the State and State Entities against any damages, loss, actions, claims, demands, proceedings, costs and expenses that are or may be brought against the State by it or any other person arising out of the Buyer being on the Land or the carrying out of the Activities.
- (e) This clause survives Settlement.

9. RISK

The Land shall, subject to clauses 8(b), 8(c) and 8(d), be at the risk of the State until the Possession Date and, on and from that date, the Land shall be at the risk of the Buyer.

10. SETTLEMENT**10.1 Settlement**

- (a) Prior to the Settlement Date the Buyer shall prepare or cause to be prepared a transfer of the Land in registrable form (which shall contain the terms of any restrictive covenant, easement, notification or other document to be created or registered under this Agreement in the form annexed to this Agreement) and after proper execution of such transfer and having such transfer endorsed for duty shall deliver such transfer to the State or its solicitor or settlement agent within a reasonable time prior to Settlement (being not less than five (5) business days prior to the Settlement Date) for the purposes of the transfer being executed by the State and being held by it or on its behalf pending Settlement.
- (b) Settlement shall take place on the Settlement Date no later than 3.00 pm on that day, at the offices of the State in Perth or at such other place in Perth as the State reasonably appoints.
- (c) At Settlement, the Buyer will deliver to the State an unendorsed Bank Cheque or Bank Cheques for the Purchase Price and any adjustment of rates and taxes due to the State and against receipt of the Purchase Price and adjustment of rates and taxes, the State will provide to the Buyer the transfer duly executed for and on behalf of the State.
- (d) If for any reason a Bank Cheque tendered as or towards the money payable by the Buyer on Settlement is not honoured on first presentation, the Buyer will remain liable to pay the amount of that money, without prejudice to any other rights, remedies or powers of the State under this Agreement.
- (e) If requested by the State, the Buyer shall provide to the State either prior to Settlement or after Settlement a copy of the endorsed Agreement.
- (f) Immediately after Settlement, the Buyer shall cause the transfer in respect of the Land to be lodged at Landgate for registration and use its best endeavours to have the transfer registered as soon as possible. In the event of a requisition notice being issued by Landgate, then unless the requisition arises from a document prepared by the State, the Buyer must do all things necessary to satisfy the requisition and pay all fees in respect of the requisition.

10.2 Interest on Late Settlement

If for any reason attributable to the Buyer the purchase is not completed on the Settlement Date, the Buyer shall pay to the State on Settlement interest at the rate of 9% per annum, calculated on a daily rate, on the balance of the Purchase Price and other moneys payable on Settlement calculated from and including the Settlement Date but excluding the actual date of payment in full settlement of any Claim the State may have against the Buyer arising from such delay subject to the provisions of clause 11. In order for the Buyer to be liable to pay interest under this Clause the State must give to the Buyer a notice requiring payment of interest under this Clause. In all other respects this Clause is without prejudice to the rights of the State under these Conditions or at common law or in equity.

10.3 Late Settlement rendering Default

If, due to the delay of the Buyer, the purchase is not completed within 30 days of the Settlement Date and the State is ready willing and able to settle, then the Buyer is in default of this Agreement and the State may terminate this Agreement in accordance with 11.1(b) by giving the Buyer 30 days notice to remedy the default.

11. DEFAULT**11.1 Default Notice**

Except as otherwise specifically provided in this Agreement—

- (a) the State shall not be entitled to forfeit any monies paid by the Buyer or take or recover possession of the Land on the ground of the Buyer's default in performing or observing any obligation imposed on the Buyer under this Agreement; and
- (b) neither the State nor the Buyer shall be entitled to terminate this Agreement on the ground of the other's default in performing or observing any obligation imposed on that other party under this Agreement,

unless—

- (c) the party not in default has given to the other party notice in writing which specifies the default and requires the default to be remedied within a reasonable period, which in the case of non-payment of any money shall be not less than 28 days; and
- (d) the party in default fails to remedy the default within that specified period.

11.2 Further Notices May be Given

The giving of a notice under clause 11.1 does not prejudice the right of either party to give a further notice under that clause.

11.3 Repudiation

Clause 11.1 does not apply where the party in default has repudiated this Agreement.

11.4 Buyer's Default

If the Buyer is in default in performing or observing any obligation imposed on the Buyer under this Agreement or if the Buyer repudiates this Agreement, then the State, in addition to any rights or remedies it may have under this Agreement or otherwise, may—

- (a) affirm this Agreement and sue the Buyer for damages for breach;

- (b) affirm this Agreement and sue the Buyer for specific performance of this Agreement and damages for breach in addition to or in lieu of specific performance of this Agreement; or
- (c) subject to clause 11.1(c) and 11.1(d), proceed to take or recover possession of the Land; or
- (d) subject to clause 11.1 and if the notice given pursuant to that clause states that unless the relevant default is remedied within the period specified in the notice, this Agreement will or may be terminated, terminate the Agreement and sue the Buyer for damages for breach.

11.5 State's Default

If the State defaults in performing or observing any obligation imposed on the State under this Agreement or if the State repudiates this Agreement then the Buyer, in addition to any other rights and remedies the Buyer has under this Agreement or otherwise, is entitled to the repayment of all money paid by the Buyer under this Agreement.

11.6 Survival

- (a) Any expiration or termination of this Agreement does not affect any rights of the parties which have accrued before the date of termination.
- (b) The following clauses of this Agreement survive termination of this Agreement and will continue in full, force and effect—
 - (i) Clause 2.2(a) (Consents to land excisions);
 - (ii) Clause 3 (Civil Liability Act 2002 (WA)),
 - (iii) Clause 8 (Possession and Risk);
 - (iv) Clause 11 (Default),
 - (v) Clause 12 (No Representations or Warranty),
 - (vi) Clause 16 (Development of Stadium Land),
 - (vii) Clause 17 (Warranty),
 - (viii) Clause 25 (Waiver and Estoppel), and
 - (ix) Clause 26 (Proper Law).

12. NO REPRESENTATIONS OR WARRANTY

12.1 Entire Agreement

The covenants and agreements contained or implied in this Agreement shall comprise the entire agreement between the parties and no other covenants representations warranties or agreements shall apply to the transaction evidenced by this Agreement.

12.2 No Representations

The Buyer acknowledges and agrees that, other than as set out expressly in this Agreement—

- (a) no warranty or representation has been given or made to the Buyer or anyone on the Buyer's behalf by the State, a State Entity, the Minister for Lands or any agent, employee or any other person on the State's or Minister for Lands' behalf as to—
 - (i) the condition or state of repair of the Land including any Pollution, Contamination and as to the classification status of the Land under the *Contaminated Sites Act 2003* (WA);
 - (ii) the condition or state of repair of the Existing Improvements (if any) or any part of the Existing Improvements (if any);
 - (iii) the suitability of the Land for any use or purpose of any kind including, but not limited to, the development of Stage 1 and of any Subsequent Stage;
 - (iv) the zoning of the Land and the use to which the Land or any other land adjoining or in the vicinity of the Land may be put;
 - (v) the easements, restrictive covenants, notifications or other agreements or encumbrances to which the Land may be or become subject;
 - (vi) the requirements of each and every authority, body or government department which has control or jurisdiction over the Land and the current and prospective use and development of the Land;
 - (vii) the value of the Land or the present and future feasibility, liability and economic return that may be derived from the Land;(although the parties agree that nothing in this clause 12.2 prevents the Buyer from relying upon any approval provided by the Minister for State Agreement contemplated by clause 2.2(b)(ii) of this Agreement);
- (b) any representation or warranty implied by virtue of any statute or otherwise will not apply to, or be implied in, this Agreement and any such representation or warranty is excluded to the extent permitted by law;
- (c) the Land is sold as it stands with all existing faults, defects or characteristics whether they are apparent or ascertainable on inspection or not and without any obligation on the State to disclose or particularise any faults, defects or characteristics known to the State;
- (d) the Land is sold in the condition and the state of repair it is in on the date of this Agreement and the Buyer is purchasing and is deemed to purchase in reliance on the Buyer's own inspection of, and enquiries in relation to, the Land; and not upon any or any alleged statement, warranty, condition or representation whatsoever made or alleged to have been made to the Buyer by the State or any employee, contractor or agent of the State;

- (e) neither the State nor a State Entity will be liable under any circumstances to make any allowance or compensation to the Buyer nor will the Purchase Price be affected by the exclusion of warranties or representations in this clause or for any fault, defect or characteristic in the Land; and
- (f) this clause shall apply notwithstanding the contents of any brochure, document, letter or publication made, prepared or published by the State or by any other person with the authority of the State whether express or implied.

12.3 Condition of Land

Other than as specified elsewhere in this Agreement, the Buyer is not entitled to make any objection, requisition or claim for compensation, or to rescind this Agreement in respect of—

- (a) the prior use of the Land;
- (b) the Land being suitable for any particular purpose;
- (c) the provision of, or a lack of, water, drainage, sewerage, gas, electricity, telephone or other services or connections to the Land, or in respect of the fact that any services or connections may be joint services to any other land, or because any facilities for services for any other land pass through the Land;
- (d) any encroachment onto the Land by any improvement which does not form part of the Land, or the encroachment onto adjoining land of any improvement which forms part of the Land;
- (e) the location of any sewerage, water or drainage pipes or services affecting the Land, or that any sewer passes through, or penetrates the Land;
- (f) the fact that the proposed use of the Land by the Buyer may not be an authorised use under any applicable zoning or use law, scheme or regulation; or
- (g) the fact that the area or boundaries of the Land is, after final survey, different from the area expressed in this Agreement or depicted on the plan attached to this Agreement.

12.4 Contamination

The State makes no warranty—

- (a) as to the nature or extent to which the Land may be or may not be affected by any Contamination; and
- (b) as to the extent of Remediation or work that may be or may not be required to be carried out by the Buyer to make the Land suitable for any use which the Buyer may wish to utilise the Land.

13. USE OF AND DISPOSITION OF LAND

The Buyer warrants covenants and agrees with the State (which warranty covenant and agreement shall survive Settlement) that until Practical Completion of Stage 1 the Buyer shall not use the Land for any other purpose without the prior written approval of both the Minister for State Agreement and the State (which approval may be given or refused in the absolute discretion of either the Minister for State Agreement and the State) and notwithstanding any zoning of the Land or approval from time to time by any Local Authority or other statutory authority which may enable the Buyer to use the Land for another purpose.

14. DEVELOPMENT OF LAND

14.1 Time frame for Development

- (a) Subject to clause 14.3, the Buyer shall cause—
 - (i) Commencement of construction of Stage 1 and Subsequent Stages to be effected within the period specified in Schedule 2; and
 - (ii) Practical Completion of Stage 1 and Subsequent Stages to be effected in accordance with the terms of the relevant Development Approval within the period specified in Schedule 2 or such later period as may be approved in writing by each of the Minister for State Agreement and the State .
- (b) Any development must be carried out in accordance with the relevant Development Approval and not for any other purposes.
- (c) The Buyer shall ensure that Stage 1 and any Subsequent Stages shall be completed—
 - (i) with all proper care skill and diligence;
 - (ii) in accordance with good industry practice;
 - (iii) in compliance with all applicable laws and regulations and the requirements of all relevant Local Authorities or public authorities;
 - (iv) in a proper and workmanlike manner; and
 - (v) using materials which are in good condition of high quality and suitable for the purpose for which they are intended.

14.2 Access for Development

In carrying out Stage 1 the Buyer shall—

- (a) as soon as practically available, use Camfield Drive (as realigned in accordance with the Realignment Plan) as the primary access route for construction; and
- (b) ensure that access to the Land by heavy vehicles, including but not limited to trucks, bulldozers, cranes and other vehicles carrying machinery, equipment, sand or products

required for the purpose of remediation of the Land and, or for the construction of Stage 1, shall be done in such a manner as to minimise noise and disruption to the surrounding areas, to the satisfaction of the State.

14.3 Extensions of Time

The dates set out in Schedule 2 for Stage 1 and any Subsequent Stage will be extended by—

- (a) (**Force Majeure**) any delays in the performance of the obligations hereunder and to the temporary suspension of continuing obligations hereunder that may be caused by or arise from circumstances beyond the power and control of the Buyer including without limiting the generality of the foregoing delays or any such temporary suspension as aforesaid caused by or arising from act of God, force majeure, earthquakes, floods, storms, tempest, washaways, fire (unless caused by the actual fault or privity of the Buyer), act of war, act of public enemies, riots, civil commotions, strikes, lockouts, stoppages, restraint of labour or other similar acts (whether partial or general), acts or omissions of the Commonwealth, shortages of labour or essential materials, reasonable failure to secure contractors, delays of contractors or factors due to action taken by or on behalf of any government or governmental authority, or factors that could not reasonably have been foreseen PROVIDED ALWAYS that the Buyer shall promptly give notice to the State of the event or events and shall use its best endeavours to minimise the effects of such causes as soon as possible after the occurrence;
- (b) (**Power to extend periods etc**) any period of extension approved in writing by the Minister for State Agreement and the State at the request of the Buyer as the Minister for State Agreement and the State thinks fit whether or not the period to be extended has expired or the date to be varied has passed.

15. OPTION TO REPURCHASE

- (a) If at any time after Settlement the Buyer fails to complete Stage 1 or any of the Subsequent Stages as set out in Schedule 2 in accordance with Clause 14 (**“the Default”**), then the State shall in the case of the Default, or having become aware of the Default as the case may be, give notice to the Buyer of that Default in accordance with clause 11.1, and should the Default not be remedied within the period set out in that Notice the State will have the option to repurchase the Land, or part of the Land as set out in this clause, upon giving the Buyer written notice thereof (**“Repurchase Notice”**) for an unencumbered estate in fee simple for the Repurchase Price, and the following provisions of this Clause shall apply—
 - (i) if Stage 1 is not completed in accordance with this Agreement, then the State has the option to repurchase the Land (in its entirety).
 - (ii) if any Subsequent Stage is not completed in accordance with this Agreement, the State has the option to repurchase that part of the Land that is identified as land set aside for that subsequent Stage and any further Subsequent Stage.
- (b) The Repurchase Price shall be calculated at the election of the State as follows—
 - (i) the purchase price of the Land under this Agreement, or where part of the Land is to be repurchased then a percentage of that purchase price based on the corresponding percentage of the land area to be repurchased;

Less the State’s solicitor’s and/or settlement agent’s costs and disbursements incurred upon the repurchase of the Land (or part thereof) by the State (including all transfer duty payable in respect of the repurchase);

Less all costs incurred in respect of the sale of the Land (or part thereof) pursuant to this Agreement, including all surveying cost and creation of title costs (where applicable) which have not been paid by the Buyer and any costs or estimated costs arising under this clause; and

Less all amounts incurred by the State arising from the breach of the Buyer’s Covenants.
- (c) If, acting reasonably, the State determines that the structures constructed or partly constructed on the Land, or that portion of the Land that is to be repurchased, have no future utility then the State may direct the Buyer prior to the date of settlement of the repurchase of the Land or part thereof to remove all structures constructed or partly constructed on the Land, or that portion of the Land that is to be repurchased, and make good the Land to the reasonable satisfaction of the State at the Buyer’s cost (excluding any piling which may be capped off a suitable depth below the surface of the Land rather than removed). In the event that the Buyer fails to remove such structures within a reasonable time (taking into account the extent of the structures) from the date of the Repurchase Notice, then the State may remove such structures and deduct the cost of removal from the Repurchase Price or deduct a reasonable estimate of the cost of the removal from the Repurchase Price. If the costs or estimated costs of removal are greater than the Repurchase Price, then the differential shall be a debt owing by the Buyer to the State payable on demand.
- (d) In the case of any dispute between the parties in relation to any of the matters referred to in clause 15(c) the parties agree that the dispute will be referred to binding expert determination which determination will be subject to rules 1, 3-7, 9, 10, 12-17 and Schedule B of the IAMA Rules 2010 Edition—October 2010 (as reproduced in Annexure D). In the event that an expert cannot be agreed upon, then an expert will be appointed on behalf of the parties by the President of the Law Society of Western Australia or his or her appointed delegate.
- (e) Settlement of the repurchase shall be effected by the State giving the Buyer thirty (30) days notice that the State is ready to settle (**“the Repurchase Date of Settlement”**).

- (f) Upon the exercise of the option to repurchase set out in this clause—
- (i) where all of the Land is to be repurchased, the State shall prepare and the Buyer shall execute forthwith a registrable transfer of the Land to the State or an entity nominated by the State;
 - (ii) where only a portion of the Land is to be repurchased,
 - (A) the State shall, with the Buyer's full co-operation arrange for that portion to be surveyed and the Land to be subdivided so that new certificates of title are created in respect of that portion of the Land to be repurchased and that portion that is retained by the Buyer, and
 - (B) the State shall prepare and the Buyer shall execute forthwith a registrable transfer of the Land to the State or an entity nominated by the State;
 - (iii) the Repurchase Price shall be paid to the Buyer and the transfer registered and possession given and taken on the Repurchase Date of Settlement;
 - (iv) outgoings shall be adjusted as at the Repurchase Date of Settlement;
 - (v) the Buyer shall sell the Land or that portion which is to be repurchased to the State free of all liens, charges, mortgages, caveats or other encumbrances whatsoever over the Land or that portion of the Land and shall cause the withdrawal or removal of any such encumbrance. The State may pay the Repurchase Price or any part thereof to any encumbrancee as may be necessary to allow the withdrawal or removal of any such encumbrance; and
 - (vi) the Buyer shall give to the State vacant possession of the Land or that part of the Land that has been repurchased at the Repurchase Date of Settlement.
- (g) Notwithstanding anything herein mentioned the right of the State to repurchase the Land (or part thereof) in accordance with this clause is without prejudice to all other rights or remedies available to the State and shall not be prejudiced by or in any way limited by any delay on the part of the State in exercising the option to repurchase and notwithstanding that the State may have been aware of any breach of any of the Buyer's Covenants.

16. DEVELOPMENT OF STADIUM LAND

- (a) The Buyer acknowledges that
- (i) the State will develop the Stadium Land into a sports precinct which will comprise amongst other things a major stadium with seating capacity of 60,000 seats ("**Stadium Development**"); and
 - (ii) the commencement of construction of the Stadium Development is expected to be in 2013 with completion expected in 2018.
- (b) To the fullest extent permitted by law the Buyer for and on behalf of the both itself and the Buyer's Related Bodies Corporate releases the State from any Claim in respect of any—
- (i) interference, nuisance, noise, dust, fumes, emissions, obstruction, vibration, emanating from; or
 - (ii) injurious affection including consequent restrictions in user enjoyment or development of land by an owner,
- arising out of the Stadium Development; and
- (iii) ground movement and disturbance caused by the Stadium Development, where the Stadium Development takes place wholly within the Stadium.
- (c) The Buyer for and on behalf of the both itself and the Buyer's Related Bodies Corporate releases the State for any Consequential Loss suffered by the Buyer or the Buyer's Related Bodies Corporate due to any of the matters referred to in clause 16(b) above or due to the Stadium Development.
- (d) Subject to clause 16(f), to the fullest extent permitted by law the State releases the Buyer and the Buyer's Related Bodies Corporate from any Claim in respect of any—
- (i) interference, nuisance, noise, dust, fumes, emissions, obstruction, vibration, emanating from; or
 - (ii) injurious affection including consequent restrictions in user enjoyment or development of land by an owner,
- arising out of Stage 1; and
- (iii) ground movement and disturbance caused by Stage 1, so far as it may affect the Stadium Development or the operation of the Stadium.
- (e) Subject to clause 16(f), the State releases the Buyer and the Buyer's Related Bodies Corporate for any Consequential Loss suffered by the State due to any of the matters referred to in clause 16(d) above or due to Stage 1; and
- (f) The State is bound by the provisions of clauses 16(d) and 16(e) only if Stage 1 is developed in accordance with the time frames for the Stage 1 development as set out in this Agreement and as extended in accordance with this Agreement.

17. WARRANTY

- (a) The Buyer covenants and warrants with the State (which warranty the Buyer acknowledges has induced the State to enter into this Agreement) that the Buyer has full power and capacity to enter into this Agreement and the Buyer has obtained all relevant approvals necessary to enter into and complete this Agreement.

- (b) The Buyer acknowledges and agrees with the State that if the State on reasonable grounds considers that there has been a breach of any of the warranties contained in this clause then the State may treat that breach as a default in the performance or observance of an obligation imposed on the Buyer under this Agreement and give notice to the Buyer under clause 11.1.

18. COVENANTS ON BEHALF OF SUCCESSORS

The Buyer covenants and agrees that the covenants contained in this Agreement are made on behalf of and shall bind itself and its successors in title.

19. COSTS OF AGREEMENT

Each party shall bear its own costs of and incidental to the preparation and execution of this Agreement and the steps contemplated under it, but the Buyer shall pay the duty payable under the *Duties Act 2008* (WA) on this Agreement and the conveyance and any registration fees payable at Landgate for lodgement of any documents arising out of this Agreement.

20. TIME OF ESSENCE

Time shall be of the essence of this Agreement in all respects.

21. NO FETTER ON STATE'S DISCRETION

Except as specifically referred to in this Agreement, nothing in this Agreement is intended to induce the decision of or fetter the discretion of a State Entity's decision making authority in respect of any decisions required to be made in relation to the Land or in respect of Stage 1 or any Subsequent Stages.

22. SERVICE OF NOTICES

22.1 Notices Deemed Served

Any notice to be given or made under this Agreement is deemed to have been duly given or made to the other party if it is in writing, is signed by the party giving the notice, his duly authorised officer or delegate or his solicitor, and is—

- (a) delivered by hand to the other party's address mentioned in this Agreement;
- (b) sent by prepaid post to the other party's address mentioned in this Agreement; or
- (c) sent by facsimile transmission to the facsimile number of the other party.

22.2 Change of Address for Service

Any party may change its address or facsimile number for service, by notice given to the other party in the manner provided for in Agreement.

22.3 Date of Service

Any notice made or given in accordance with clause 22.1 shall be deemed to be served—

- (a) if delivered by hand, on the day on which it is delivered to the other party's address;
- (b) if sent by pre-paid post, on the second day after the day on which it is posted; or
- (c) if sent by facsimile transmission, and a confirmation of transmission of all pages of the notice is received on the sender's facsimile machine, on the day on which it is sent,

but if the notice is deemed to be served on a day which is not a business day or is after usual business hours, the notice shall be deemed to be served on the next business day.

22.4 Address and Facsimile Number

For the purpose of this clause, the address and facsimile number for the Buyer and State is as follows—

- (a) **State Address—**

Department of Premier and Cabinet
2 Havelock Street
WEST PERTH WA 6005

Attention: Richard May, Executive Director, Strategic Projects

Facsimile No.: +61 8 6552 5001

- (b) **Buyer Address—**

Crown Perth
Great Eastern Highway
BURSWOOD WA 6100

Attention: Executive General Manager Legal & Corporate Services

Facsimile No.: +61 8 9362 8344

23. VARIATION

This Agreement may not be waived, varied, discharged or released by any oral agreement or representation or otherwise than by an instrument in writing duly signed by the parties.

24. FURTHER ASSURANCES

The parties agree to do all acts, matters and things reasonably necessary to give effect to the provisions of this Agreement.

25. WAIVER AND ESTOPPEL

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any Law or under this Agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any law or under this Agreement.
- (b) A waiver given by a party under this Agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this Agreement operates as a waiver of any other breach of that term or of a breach of any other term of this Agreement.
- (d) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power, or remedy under any law or under this Agreement by State does not preclude, or operate as an estoppel of any form of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided under any law or under this Agreement.

26. PROPER LAW

- (a) This Agreement shall be construed in accordance with the law in force for the time being in the State of Western Australia.
- (b) Each party irrevocably submits to the exclusive jurisdiction of courts in exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising in connection with this Agreement. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

27. COVENANTS TO SURVIVE SETTLEMENT

Where applicable the covenants agreements and warranties by the parties and their rights in respect of the same shall survive Settlement.

28. COMPLIANCE WITH LEGISLATION

As from the Possession Date the Buyer shall comply with and observe all provisions orders by-laws and regulations of and under any legislation in respect of or in any way affecting the Land.

EXECUTION PAGES

Executed by the parties as a deed

SIGNED for and on behalf of the)
STATE OF WESTERN AUSTRALIA by)
The Honourable Colin Barnett)
the Premier of the State)
of Western Australia for the time)
being in the presence of)

COLIN BARNETT
Hon Colin Barnett

RICHARD ALBERT MAY
Witness sign

RICHARD ALBERT MAY
Witness print full name

L5/Dumas Hse/2 Havelock St/West Perth 6005
Witness Address

Public Servant: ED Strategic Projects
Witness Occupation

The common seal of the
MINISTER FOR LANDS,
a body corporate continued
under section 7 of the *Land*
Administration Act 1997 (WA),
was affixed by the Minister for Lands
in the presence of:

)
)
)
)
)
)
)

BRENDON GRYLLS
Hon Brendon Grylls

STEVE IMMS

Witness sign

STEVE IMMS

Witness print full name

L9/2 Havelock St West Perth

Witness Address

Public Servant

Witness Occupation

EXECUTED by

Burswood Nominees Ltd

ACN 078 250 307

pursuant to section 127(1) of the

Corporations Act 2001

)
)
)
)
)

Barry John Felstead

Director

Alan Frank McGregor

Director/Secretary

Barry John Felstead

Full name of Director

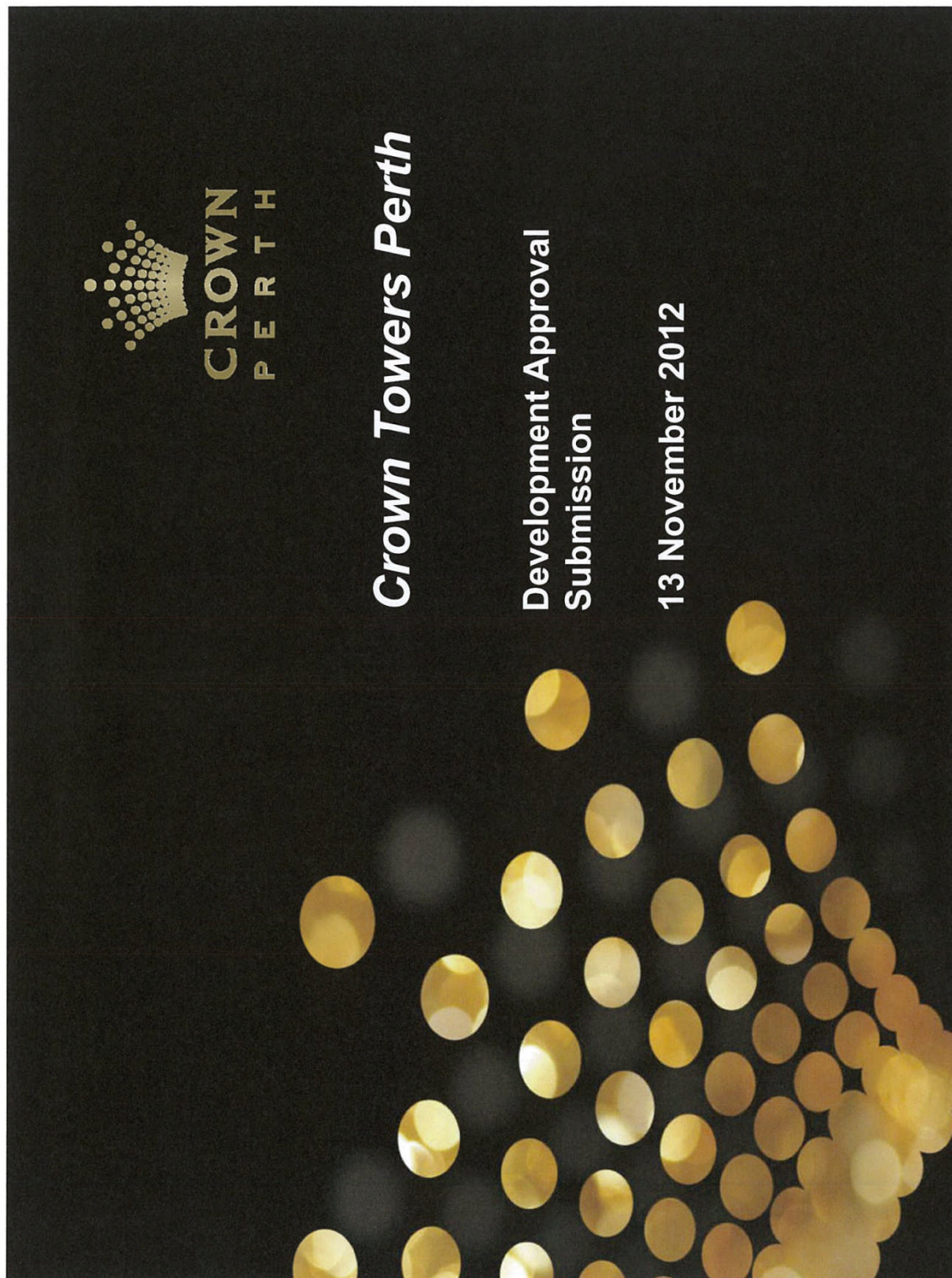
Alan Frank McGregor

Full name of Director/Secretary

SCHEDULE 1

DESCRIPTION OF STAGE 1

The Plans submitted to the Minister for State Agreement as contained in the schedule following



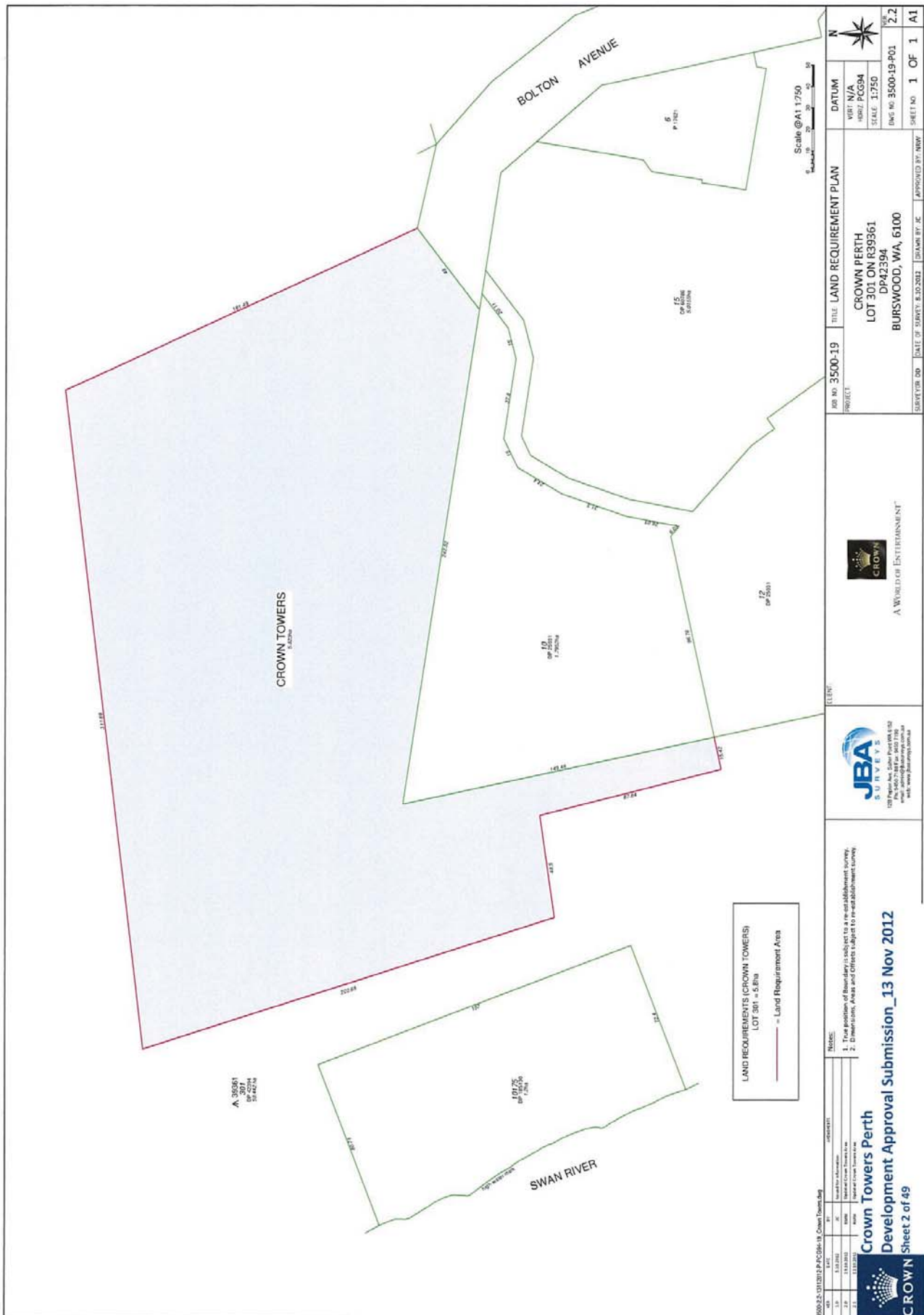


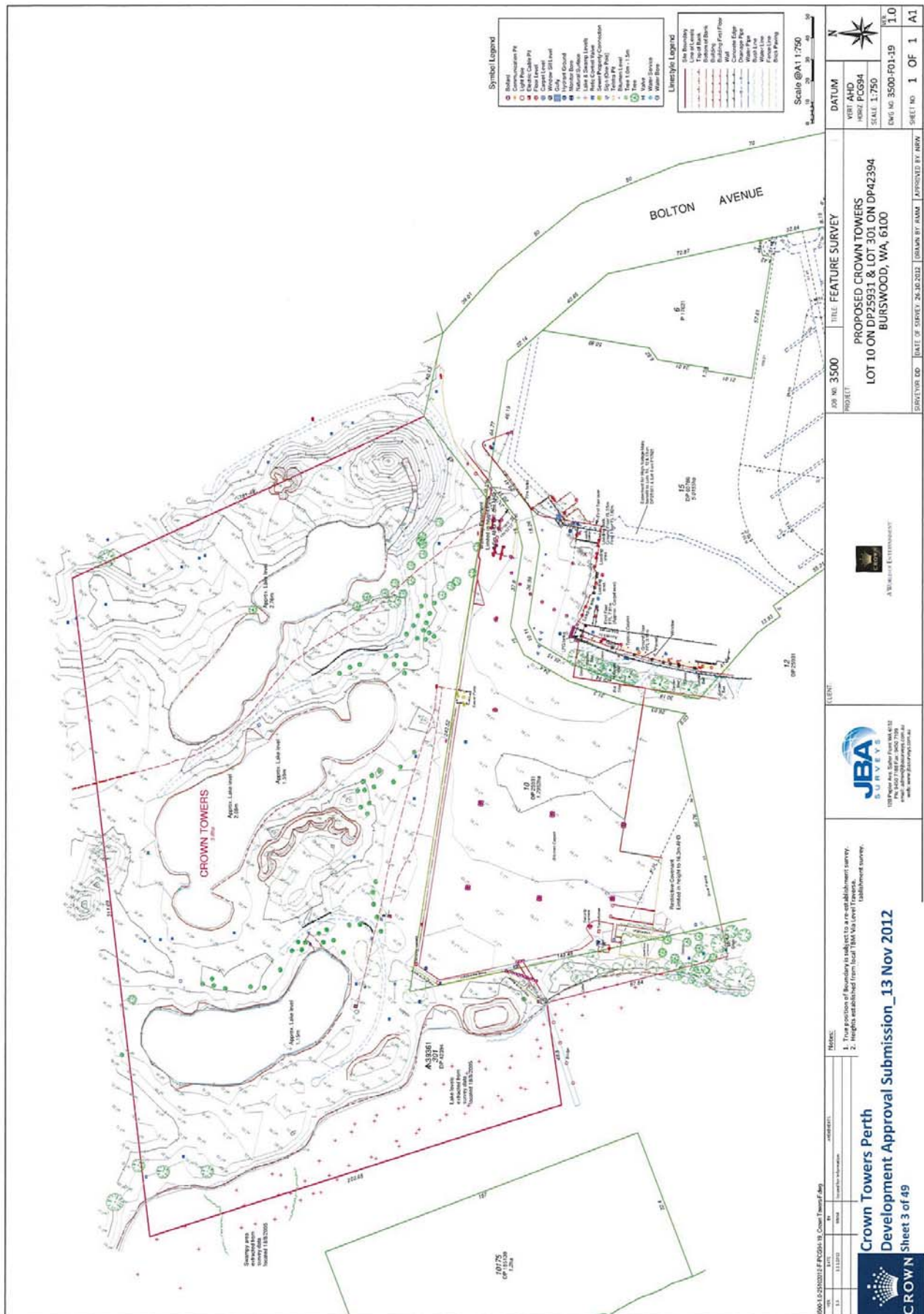
CROWN TOWERS PERTH
Development Approval Submission
 13 November 2012

DOCUMENT REGISTER

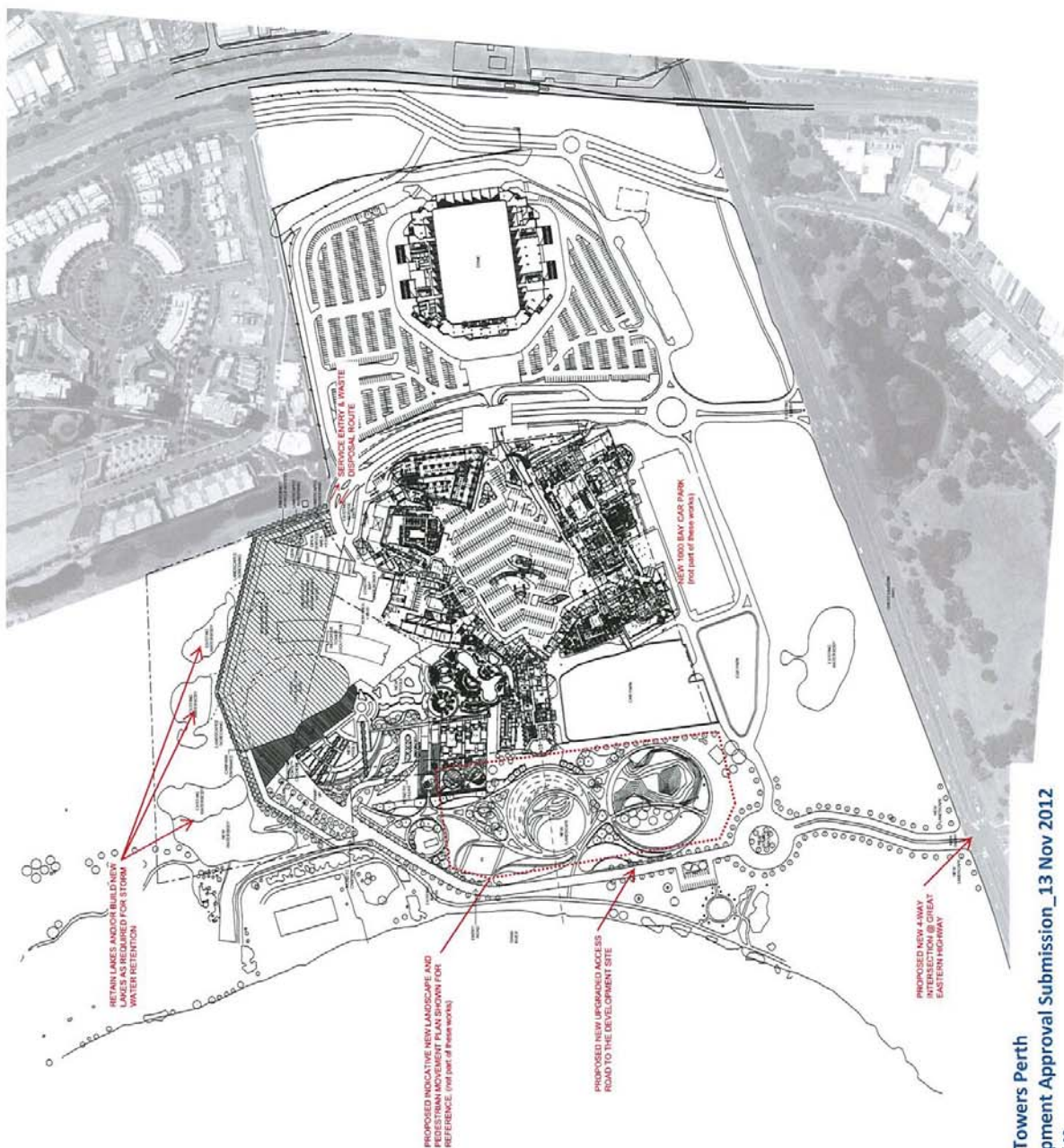
1. **Aerial Plan**
 - Sheet 1: Overall Aerial Image depicting development site
2. **Survey Plans Set**
 - Sheet 2: Land Requirement Plan
 - Sheet 3: Feature Survey Plan
3. **Master Plans & Sections Set**
 - Sheet 4: Overall Complex Site Plan
 - Sheet 5: Development Site Plan
 - Sheet 6: B1 Basement Plan
 - Sheet 7: L1 Podium Plan
 - Sheet 8: L2 Mezzanine Plan (Spa Level)
 - Sheet 9: Tower Floor Plate Plans (Levels 3-25)
 - Sheet 10: Building Sections
 - Sheet 11: Building Elevations (East & West)
 - Sheet 12: Building Elevations (North & South)
4. **Shadow Diagrams Plan**
 - Sheet 13: Sun Study / Shadow Diagrams
5. **Indicative Landscaping Schemes / Images Set**
 - Sheet 14: River Side Landscape / Pedestrian Access Scheme
 - Sheet 15: River Side Landscape Imagery / Photo Montage
 - Sheet 16: Indicative Mature Specimens Photo Montage
6. **Interior Design Reference Images Set**
 - Sheet 17: Interior Design Reference Imagery Cover
 - Sheet 18: Interior Design Reference Images – Lobby
 - Sheet 19: Interior Design Reference Images – Lobby Continued
 - Sheet 20: Interior Design Reference Images – Reception
 - Sheet 21: Interior Design Reference Images – Lobby Bar
 - Sheet 22: Interior Design Reference Images – Lobby Bar Continued
 - Sheet 23: Interior Design Reference Images – Café
 - Sheet 24: Interior Design Reference Images – Ballroom
 - Sheet 25: Interior Design Reference Images – Boardroom
 - Sheet 26: Interior Design Reference Images – Spa, Gym, Salon
 - Sheet 27: Interior Design Reference Images – All Day Dining
 - Sheet 28: Interior Design Reference Images – All Day Dining Continued
7. **External Façade Renderings Set**
 - Sheet 41: External Façade Rendering – from the Northwest
 - Sheet 42: External Façade Rendering – from the West (near)
 - Sheet 43: External Façade Rendering – from the Northwest
 - Sheet 44: External Façade Rendering – from the West (far)
8. **Site Logistics Plan**
 - Sheet 45: Development Site Logistics Plan
9. **Development Height Restriction Analysis**
 - Sheet 46: Perth Airport Prescribed Airspace Ultimate Runway Layout (PAURL) OLS 2009
 - Sheet 47: Development Overlay onto Perth Airport PAURL OLS Plan
 - Sheet 48: Perth Airport PAURL PANS-OPS 2009
 - Sheet 49: Development Overlay onto Perth Airport PAURL PANS-OPS Plan
10. **Traffic Analysis of Existing Crown Perth (formerly Burswood) Complex *FOR REFERENCE***
 - Technical Note prepared by ARUP dated 30 July 2012, 37 total pages
**Note: This traffic analysis does not consider the new Crown Towers Development rather assess the existing traffic conditions of the broader complex.*
11. **Crown Towers Perth Design Standards & Criteria**
 - Project Brief – issued for Pricing dated 21 August (including Appendices 1 thru 6)
**Note: Master plan information contained in Appendix 1 are superseded by sheets 4 thru 12 of this submission.*
12. **Interior Design Reference Images – Pool Bar**
 - Sheet 29: Interior Design Reference Images – Pool Bar
 - Sheet 30: Interior Design Reference Images – Pool
 - Sheet 31: Interior Design Reference Images – Guestroom
 - Sheet 32: Interior Design Reference Images – It's all about The Bed
 - Sheet 33: Interior Design Reference Images – And The Bathroom
 - Sheet 34: Interior Design Reference Images – Suites
 - Sheet 35: Interior Design Reference Images – Suites Continued
 - Sheet 36: Interior Design Reference Images – Crystal Club
 - Sheet 37: Interior Design Reference Images – Crystal Club Continued
 - Sheet 38: Interior Design Reference Images – VIP Gaming
 - Sheet 39: Interior Design Reference Images – VIP Gaming Continued
 - Sheet 40: Interior Design Reference Images – Crown Perth

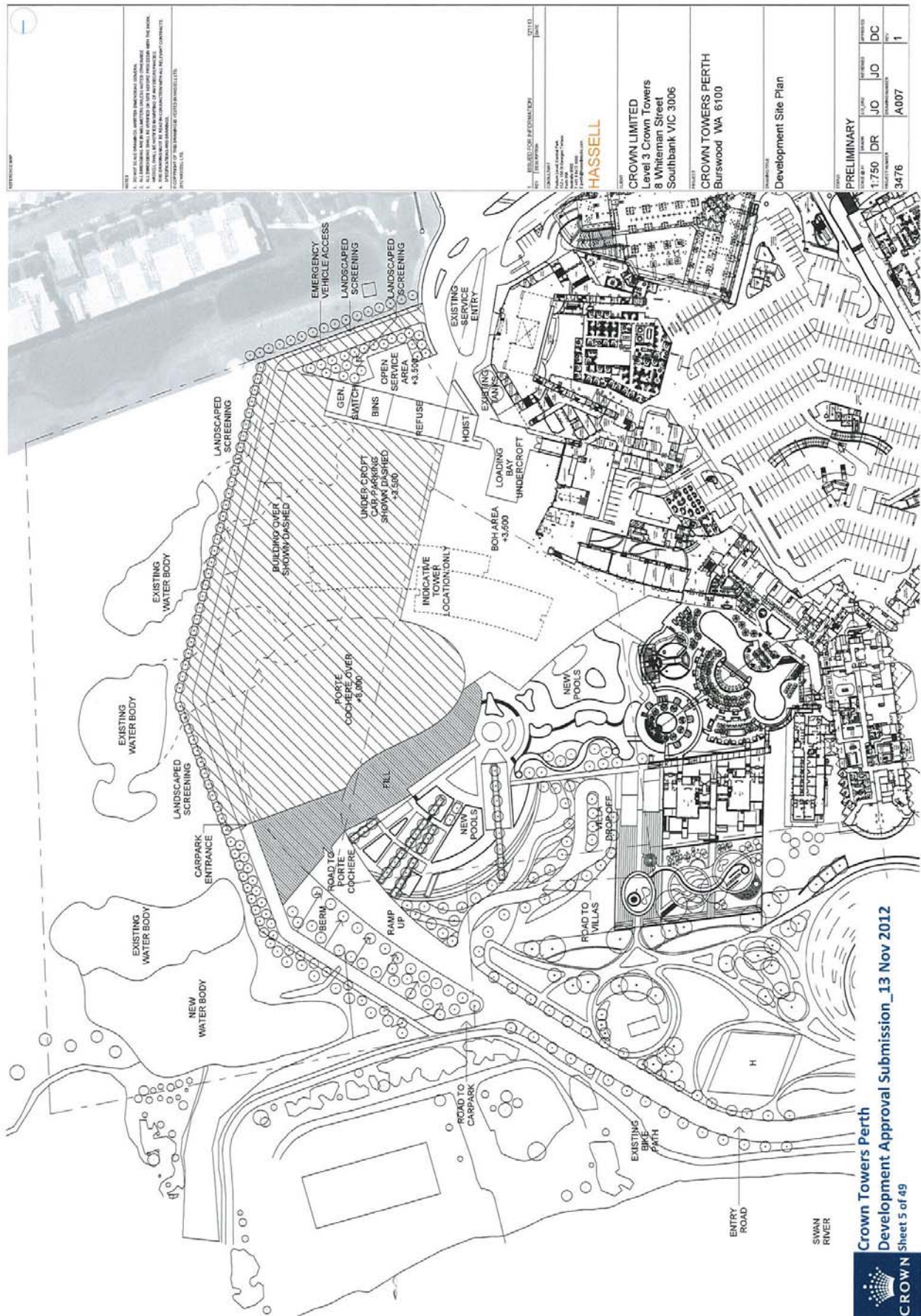




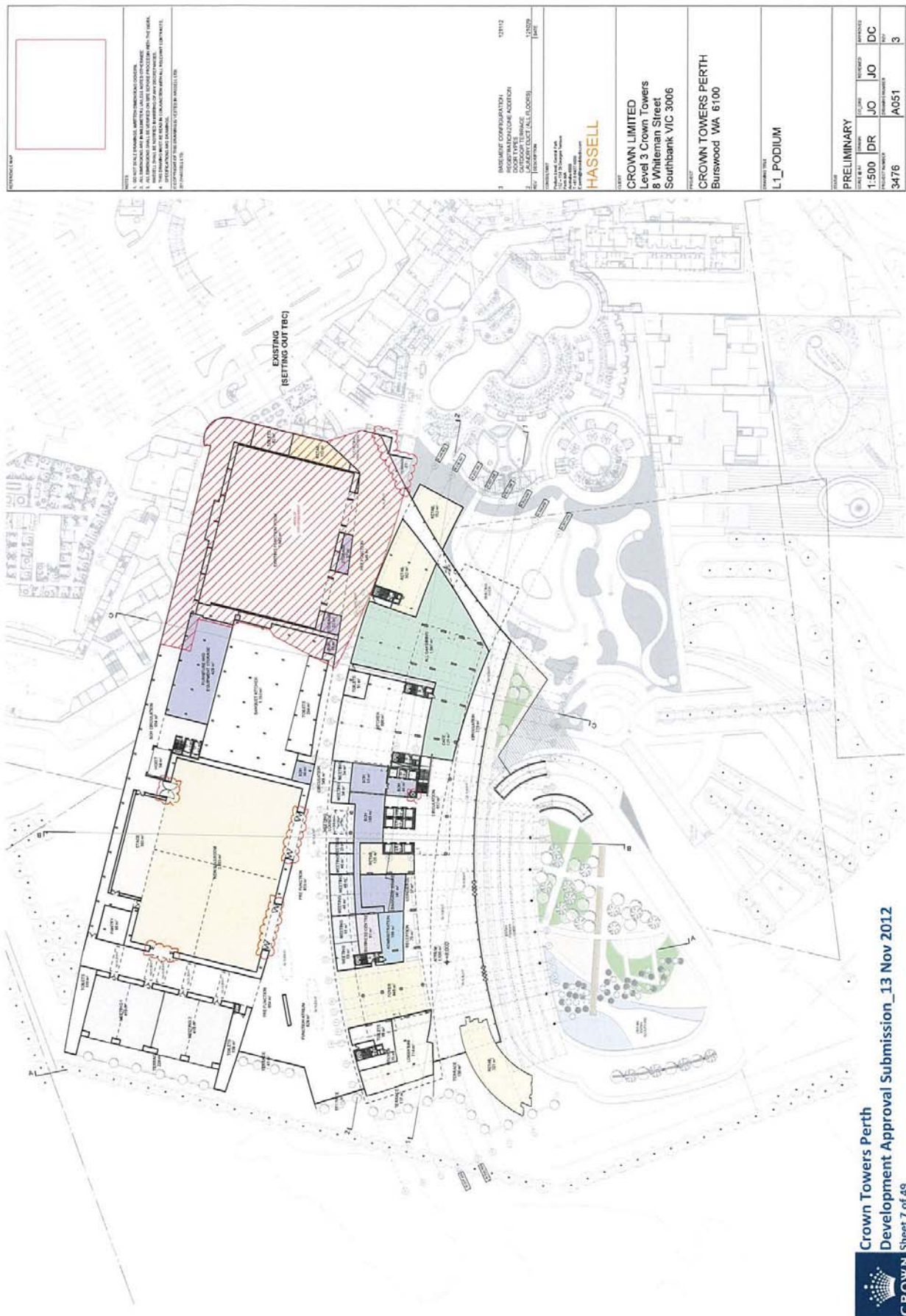


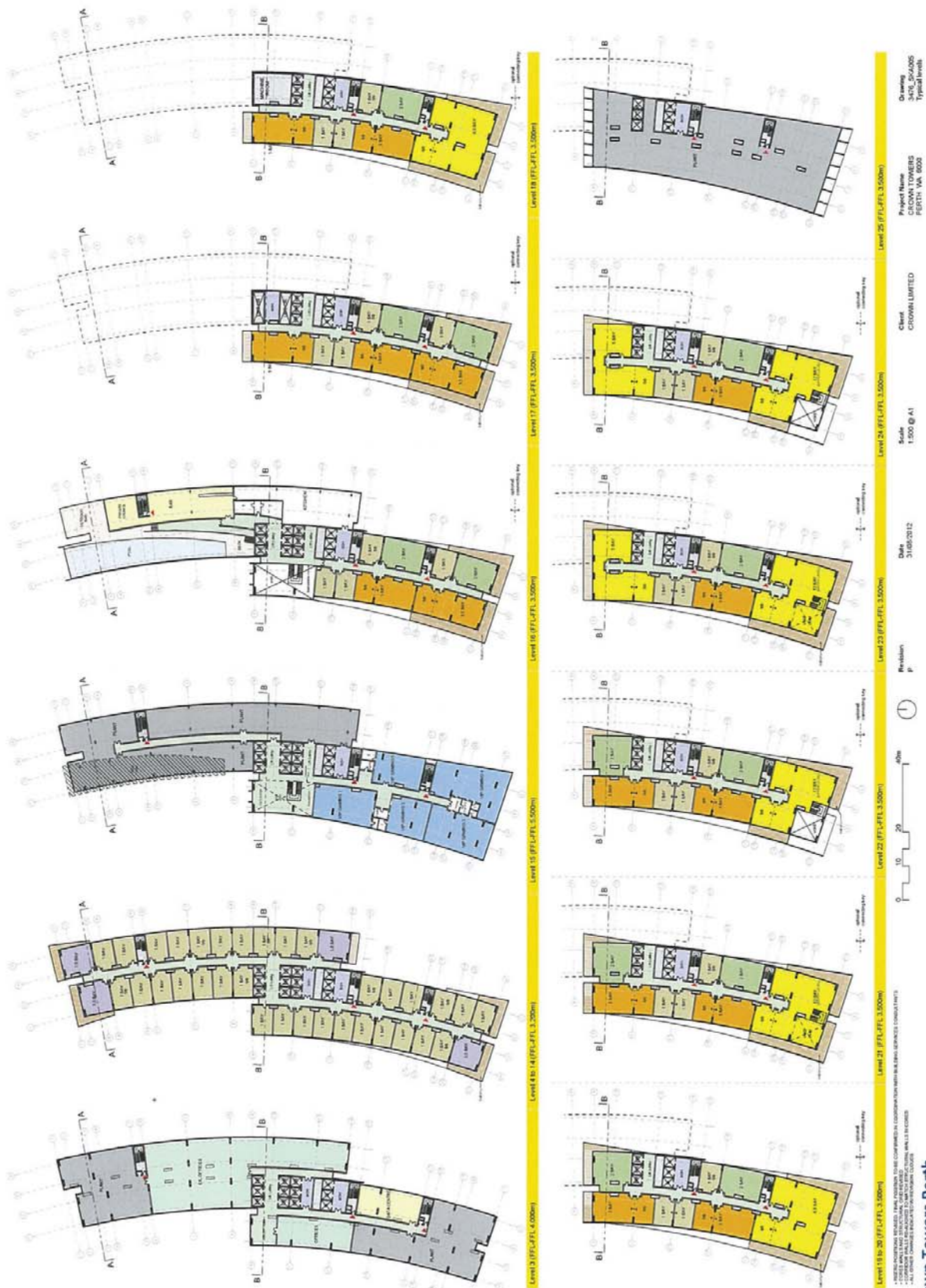
<p>NOTES</p> <p>1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE SPECIFIED.</p> <p>2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p> <p>10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.</p>	
<p>DISCLAIMER</p> <p>THIS DOCUMENT IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION WITHOUT THE WRITTEN APPROVAL OF HASSELL.</p>	
<p>PROJECT INFORMATION</p> <p>PROJECT NAME: CROWN TOWERS PERTH</p> <p>PROJECT ADDRESS: Level 3 Crown Towers, 8 Whiteman Street, Southbank VIC 3006</p> <p>CLIENT: CROWN LIMITED</p> <p>DESIGNER: HASSELL</p> <p>DATE: 13 Nov 2012</p>	
<p>PRELIMINARY</p> <p>DATE: 13 Nov 2012</p> <p>BY: JO</p> <p>CHECKED BY: JO</p> <p>APPROVED BY: A005</p> <p>SCALE: 1:2000</p> <p>SHEET NO: 3476</p> <p>TOTAL SHEETS: 1</p>	

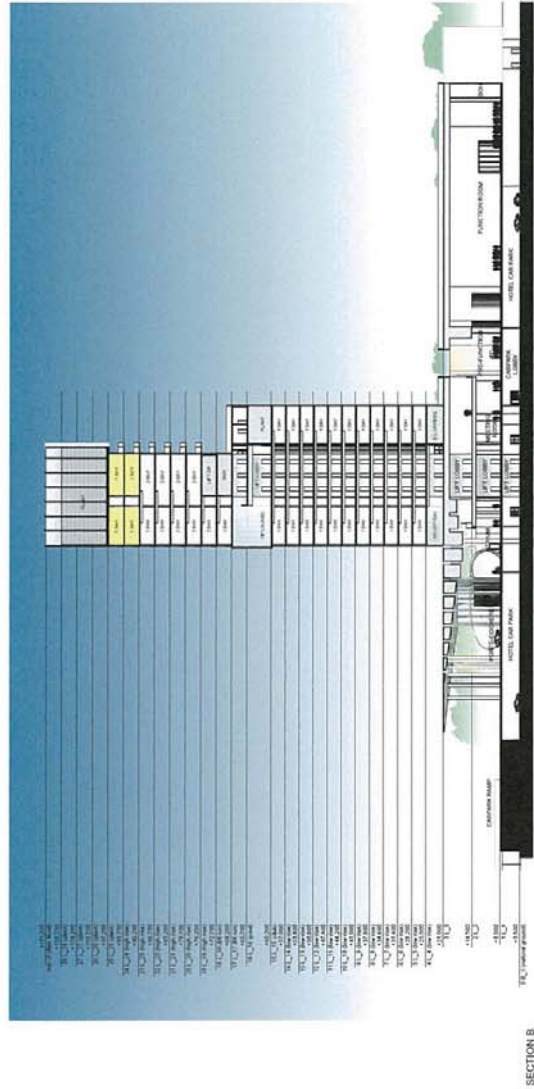
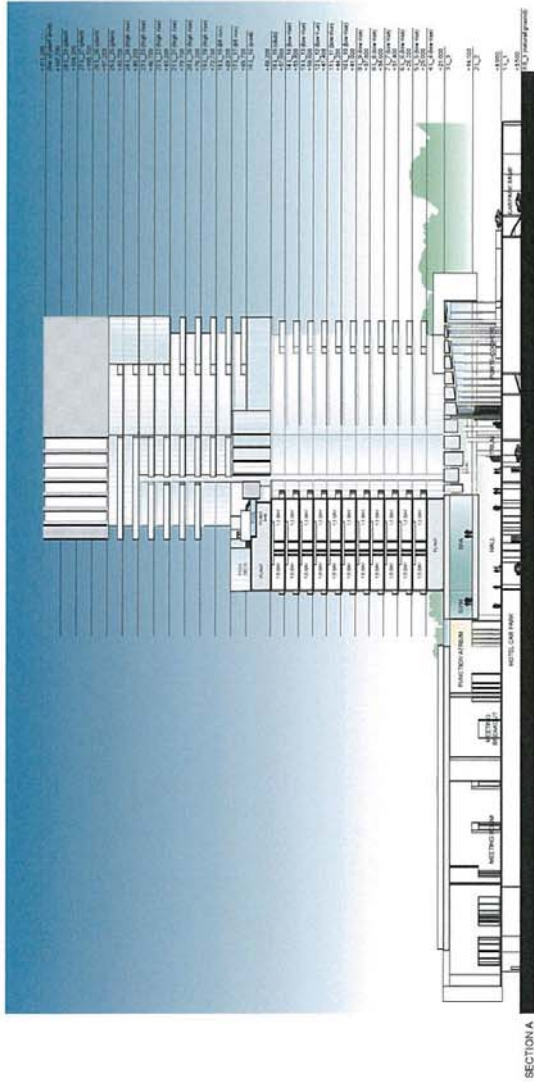












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S410000

Project Name
CROWN TOWERS
PERTH WA 6000

Client
CROWN LIMITED

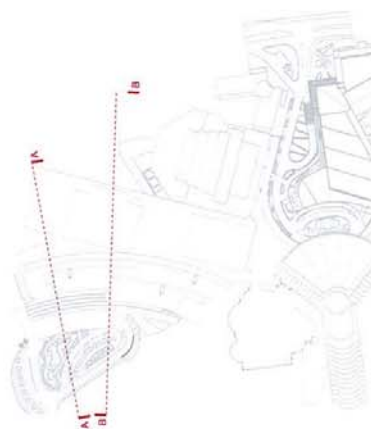
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Revision
P

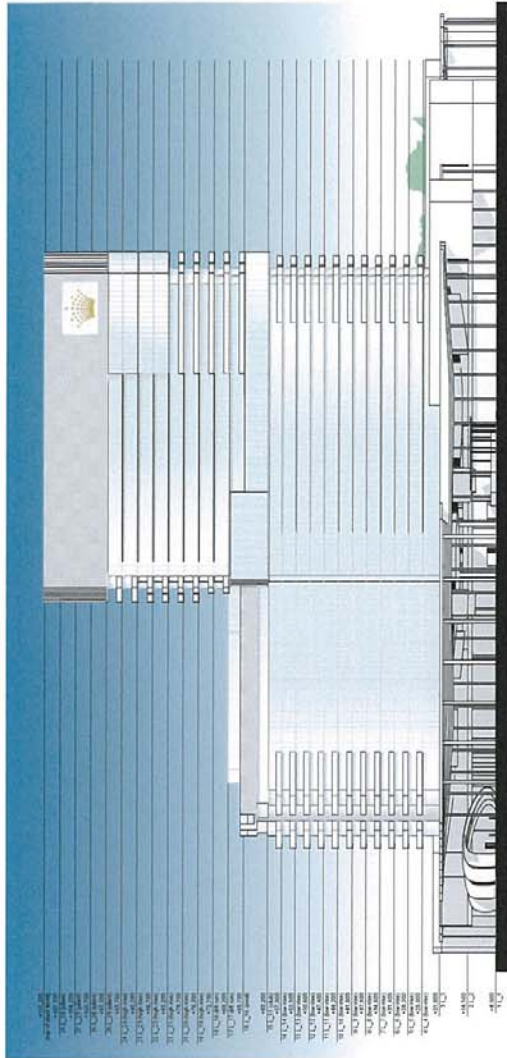
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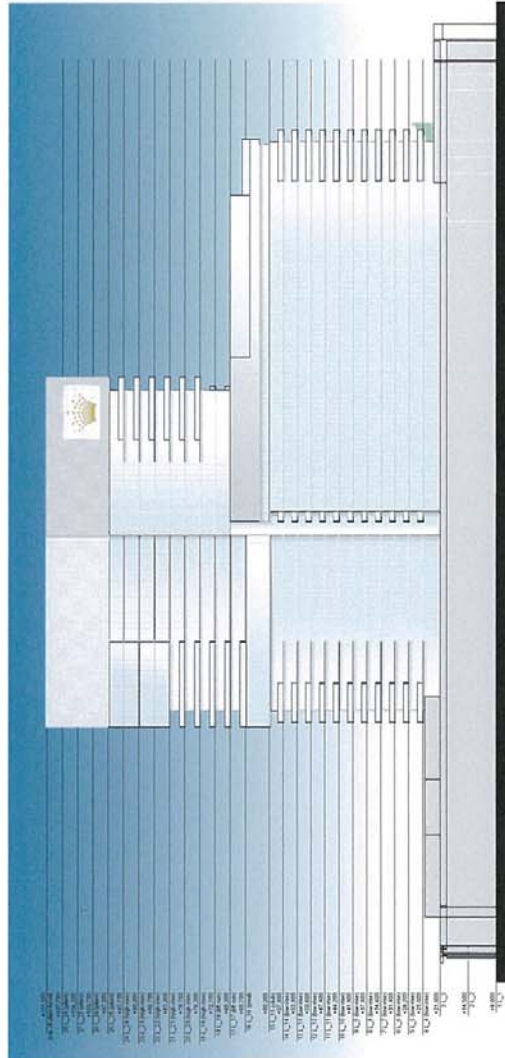


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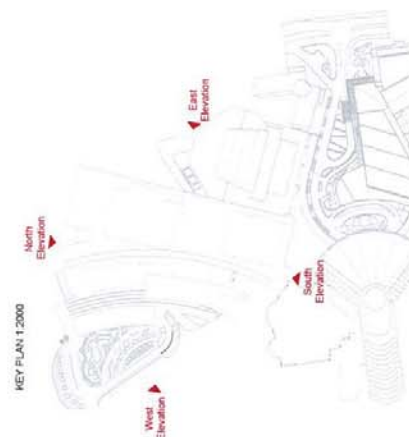




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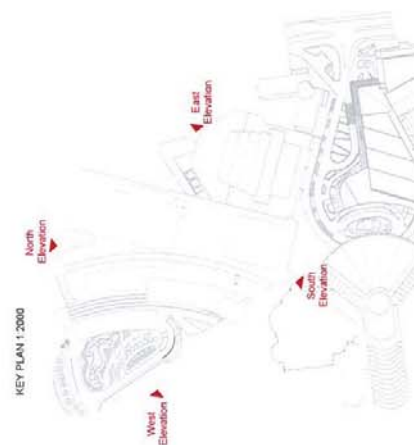
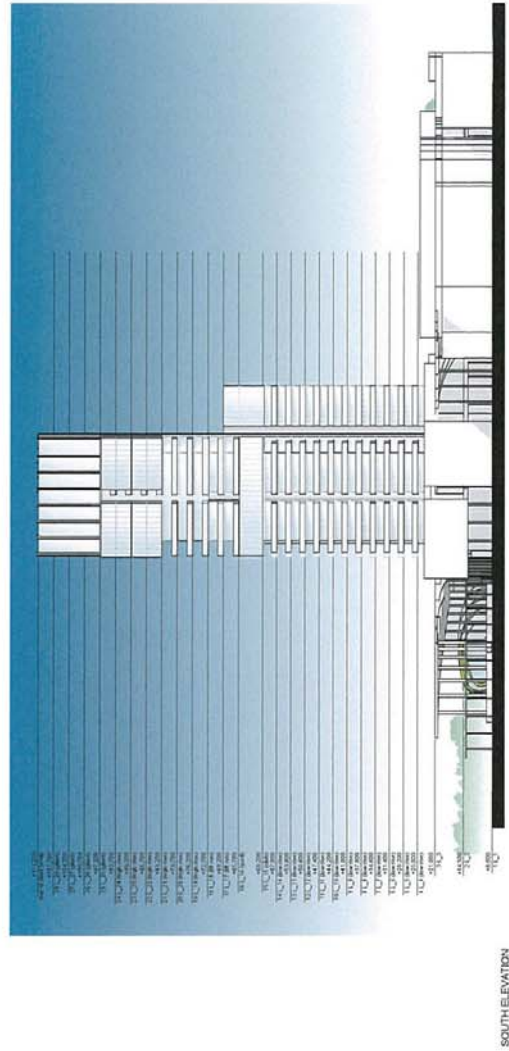
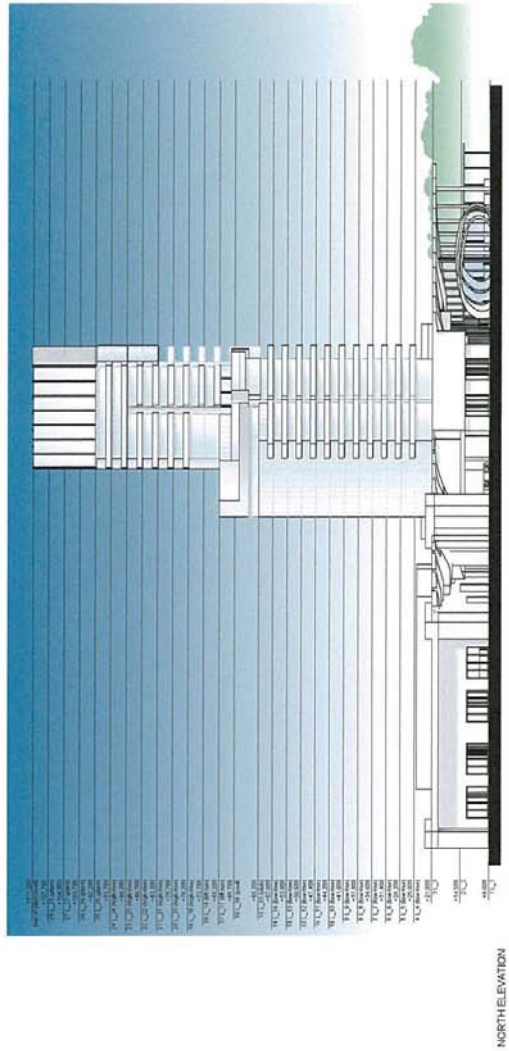


EAST ELEVATION



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Revision A
Client CROWN LIMITED
Project Name CROWN TOWERS PERTH WA 0000
Drawing 3475_04/05 Elevation



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Revision A

Date 3/08/2012

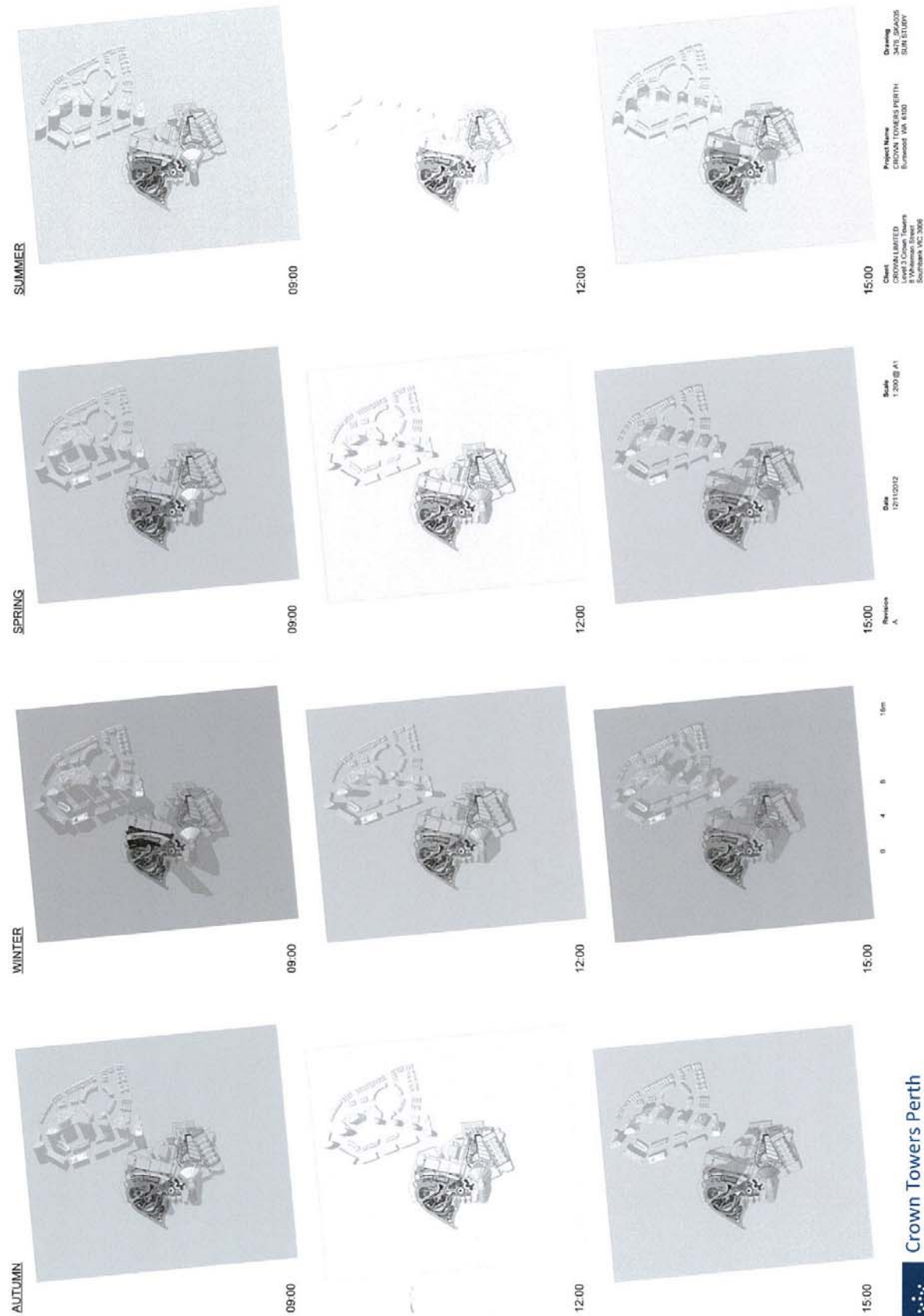
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Client CROWN LIMITED

Project Name CROWN TOWERS PERTH WA 6000

Drawing CROWN LIMITED





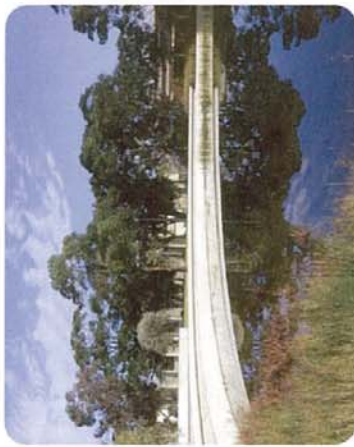


CROWN TOWERS PERTH

Riverside Landscape / Pedestrian Access Scheme

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vibrant > exciting > fun > active > engaging > dynamic
morning > day > afternoon > evening > night
the centre > the hub > a destination

retained water bodies transformed



winding circulation through parkland
river and lakeside fauna and flora

spirit of western australia



quiet gardens for villa guests

focus on human scale > **quality of space** > passive and active use

interaction with water



innovative landform/amphitheatre



CROWN TOWERS PERTH
Riverside Landscape / Pedestrian Access Imagery



Scientific name: *Brachychiton acerifolia*
 Common name: **5m to 9m MATURE TRANSPLANT**
 Supply height: 5m to 9m MATURE TRANSPLANT
 Flowering season: Clusters of red/pink star-shaped bell flowers in late Spring and early Summer
 Dormancy: Briefly after flowering season finishes in February/March



Scientific name: *Jacaranda mimosifolia*
 Common name: **Jacaranda**
 Supply height: 5m to 9m MATURE TRANSPLANT
 Flowering season: Magnificent purple-blue blossoms in late spring and early summer
 Dormancy: Briefly after flowering season finishes in February



Scientific name: *Tipuana tipu*
 Common name: **Rosewood**
 Supply height: 5m to 8m MATURE TRANSPLANT
 Flowering season: Bright yellow flowers at the end of summer
 Dormancy: Evergreen but has a habit of losing leaves briefly during winter



Scientific name: *Magnolia grandiflora*
 Common name: **4m to 11m MATURE TRANSPLANT**
 Supply height: 4m to 11m MATURE TRANSPLANT
 Flowering season: Creamy white, perfumed flowers in spring and summer.
 Dormancy: Evergreen



Scientific name: *Melaleuca quinquenervia*
 Common name: **Broadleaf paperbark**
 Supply height: 4m + BAG STOCK
 Mature height: 8m +
 Flowering season: Creamy white flowers in Autumn
 Dormancy: Evergreen



Scientific name: *Tipuana tipu*
 Common name: **Rosewood**
 Supply height: 5m to 8m MATURE TRANSPLANT
 Flowering season: Bright yellow flowers at the end of summer
 Dormancy: Evergreen but has a habit of losing leaves briefly during winter

Indicative Mature Specimens



Crown Perth
Crown Towers
Interior Design Return Brief

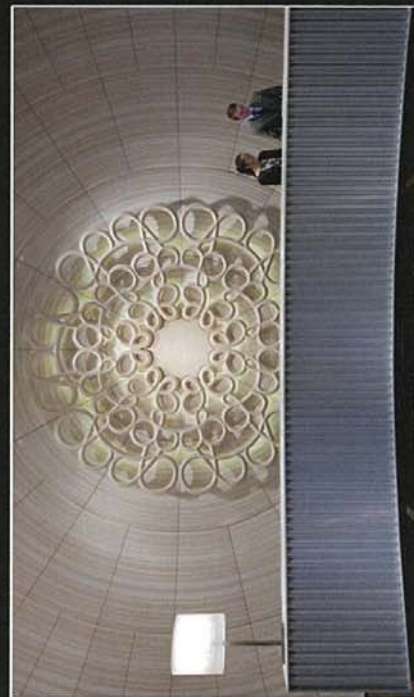


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Lobby

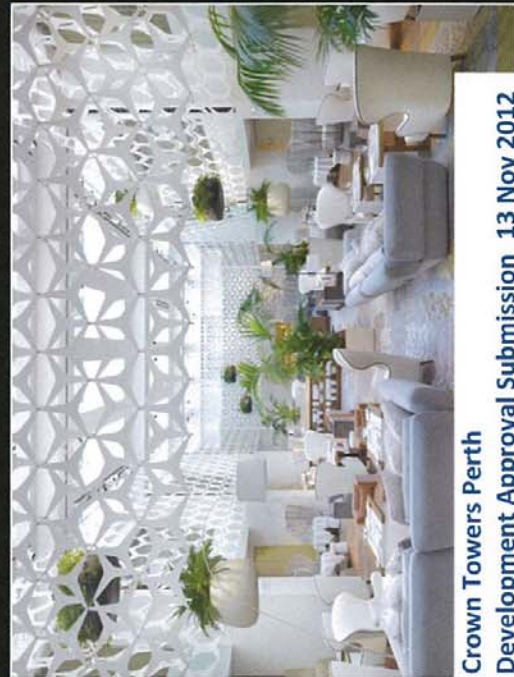


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Lobby

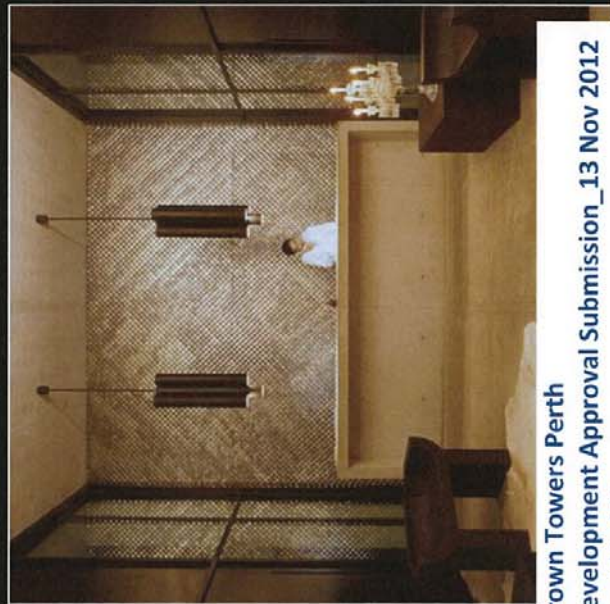
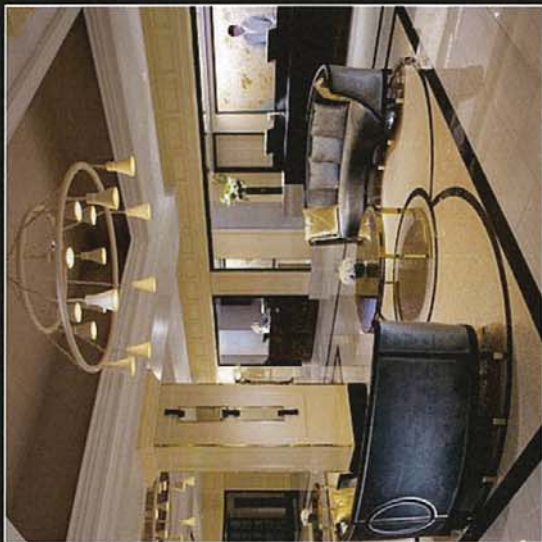


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Reception



Crown Towers Perth
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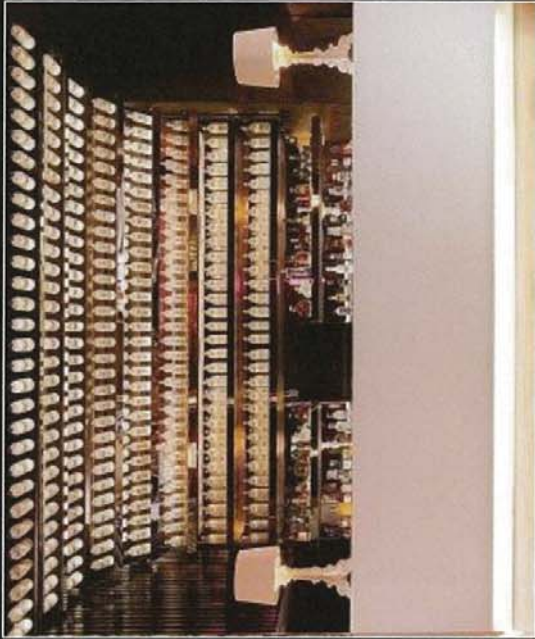


Lobby Bar

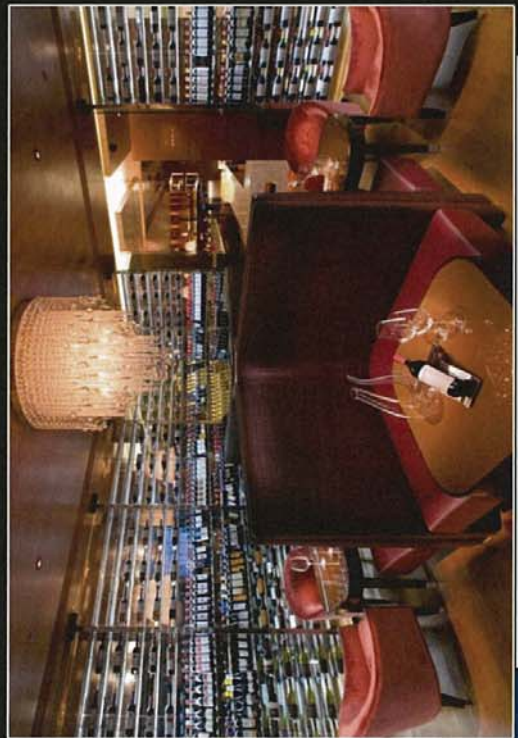
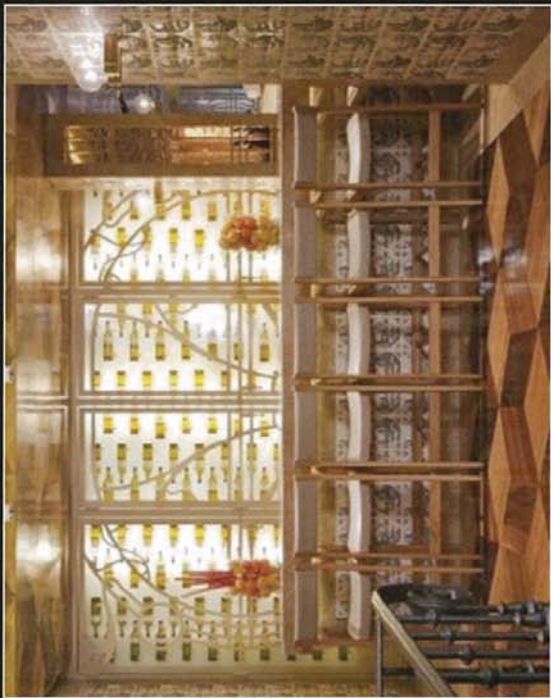


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Lobby Bar



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Café

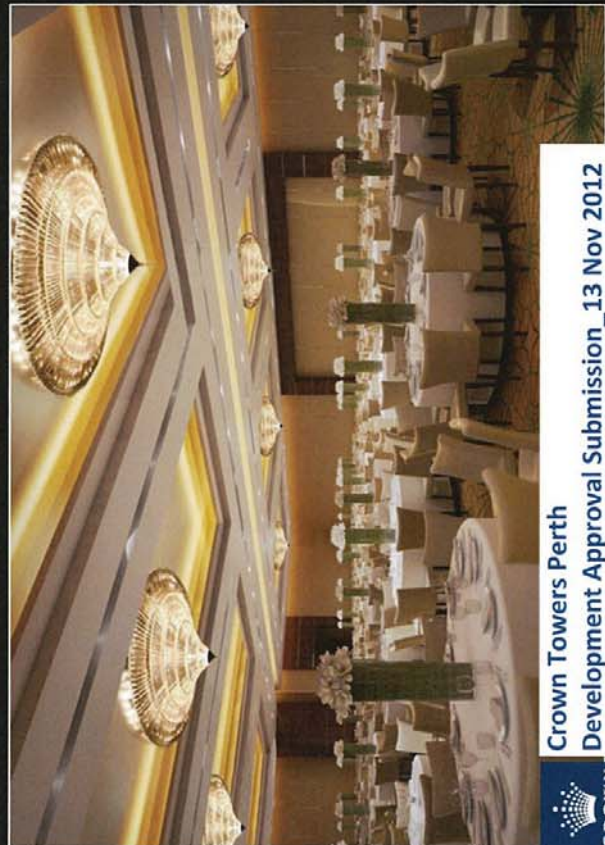


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Ballroom



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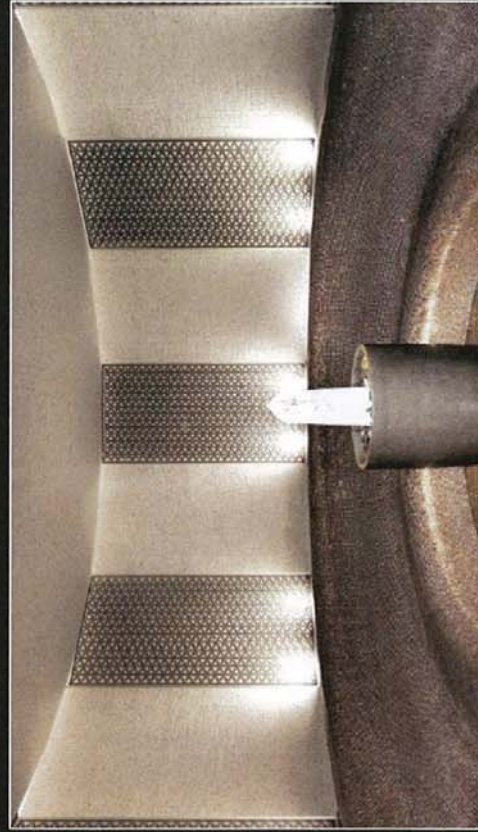


Boardroom



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Spa, Gym, Salon



Crown Towers Perth
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All Day Dining



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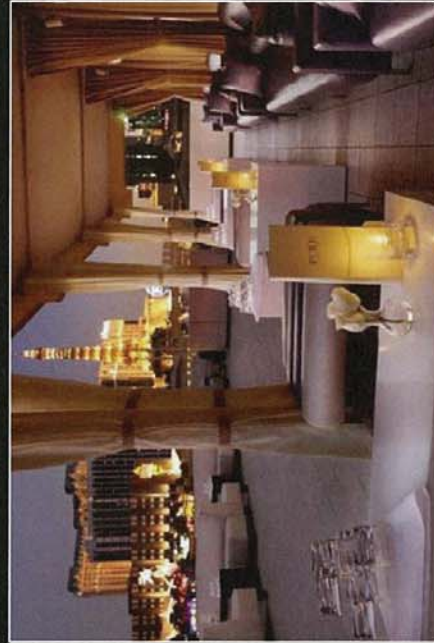


All Day Dining



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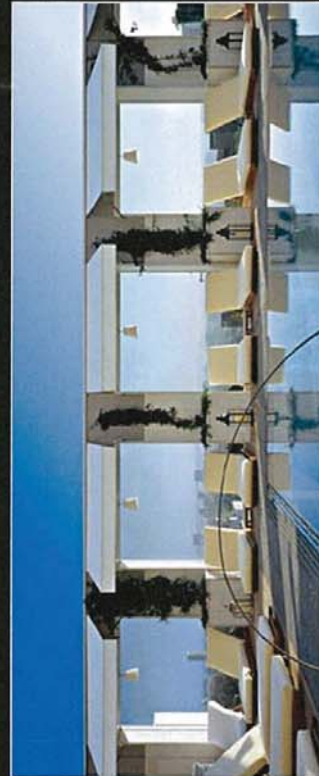




Pool Bar

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Crown Towers Perth
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Pool





Guestroom



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It's all about The Bed



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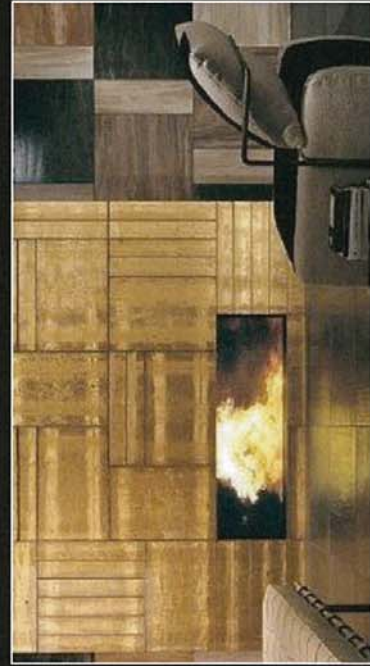


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And The Bathroom





Suites



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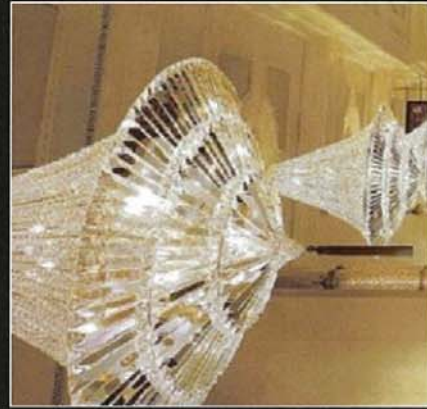
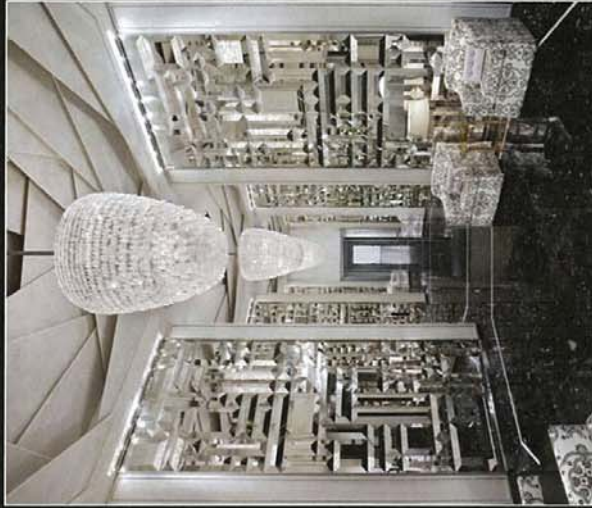


Suites



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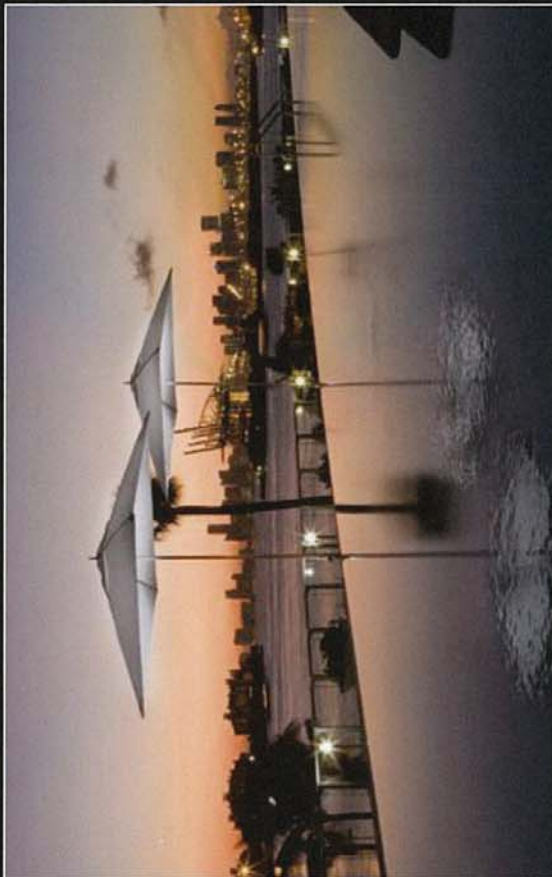


Crystal Club

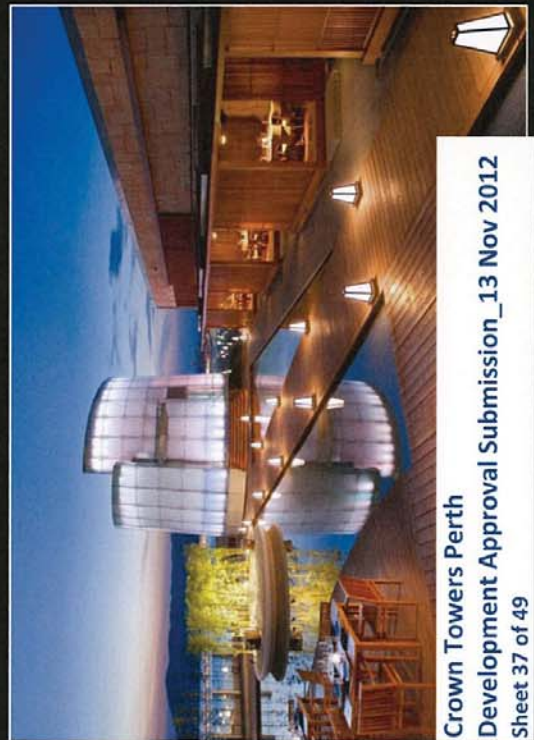


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Crystal Club

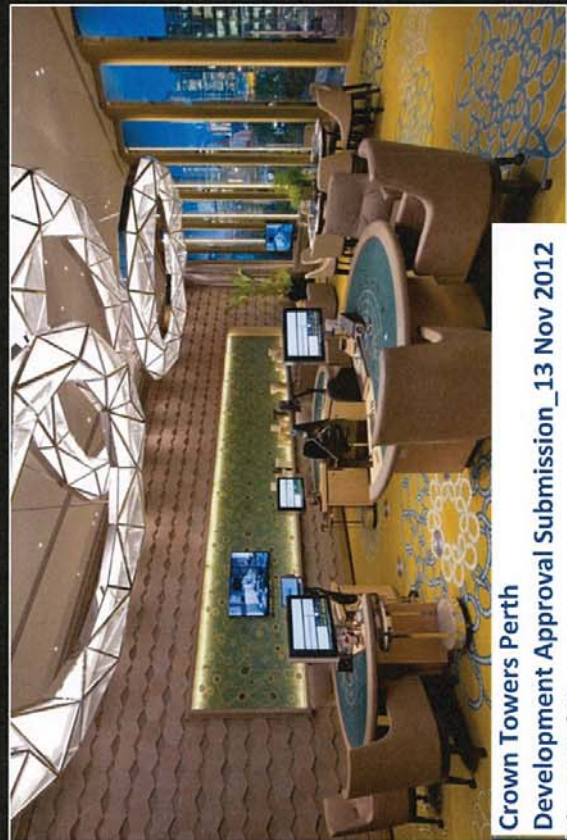


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VIP Gaming



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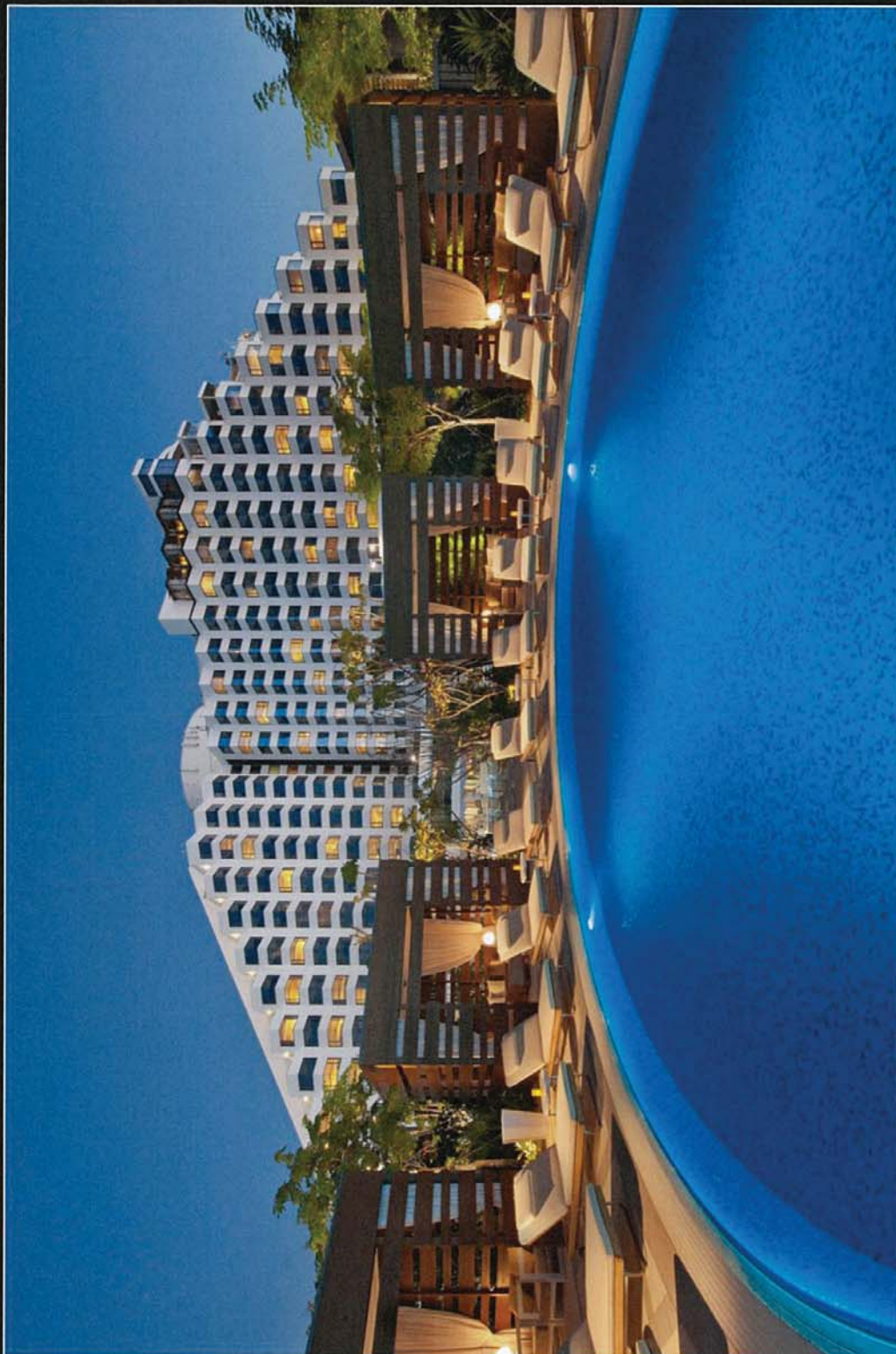


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VIP Gaming





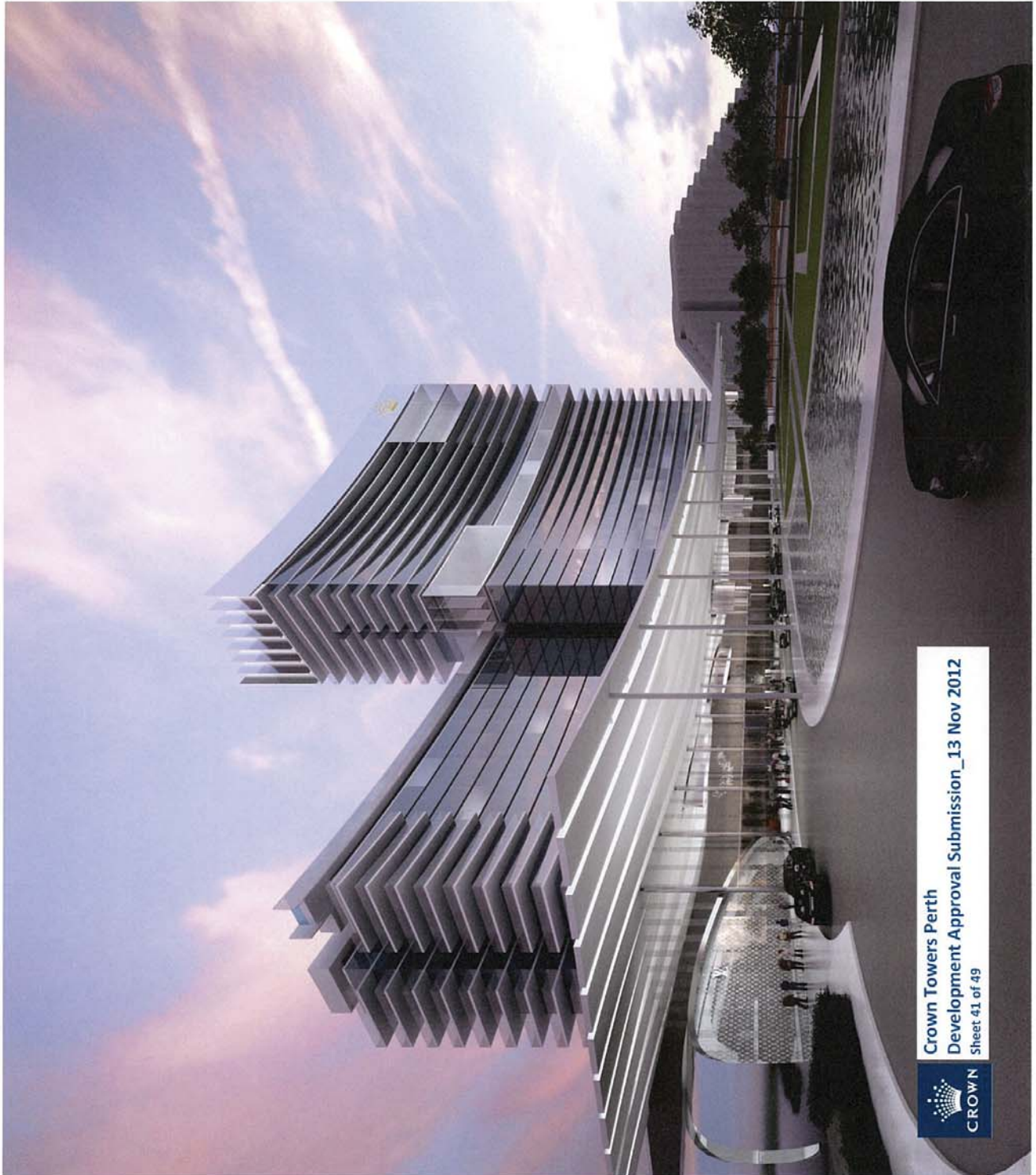
Crown Perth

Crown Towers Perth

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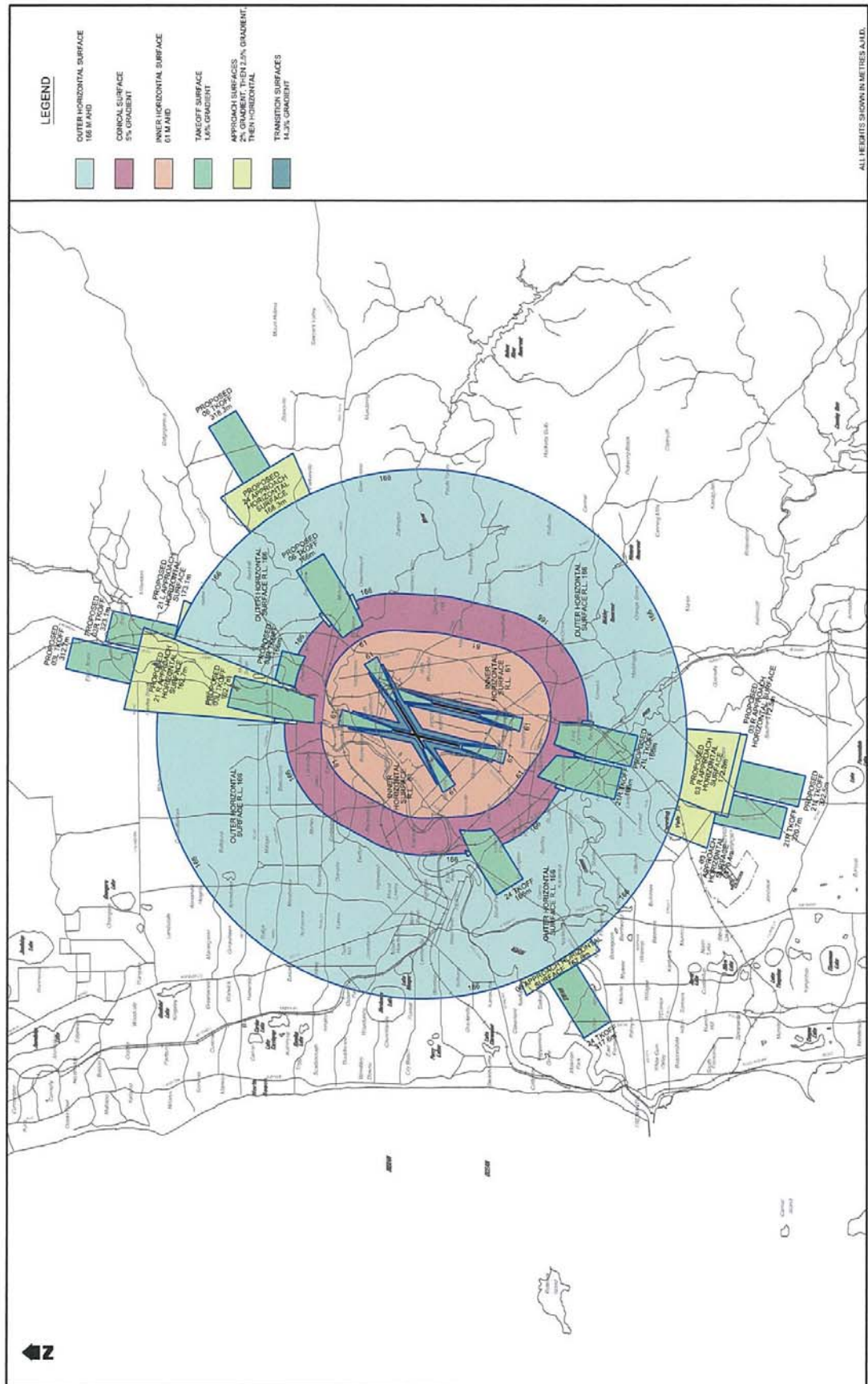


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Crown Towers Perth
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CROWN TOWERS PERTH DEVELOPMENT SITE LOGISTICS PLAN



Prescribed Airspace
Ultimate Runway Layout
OLS

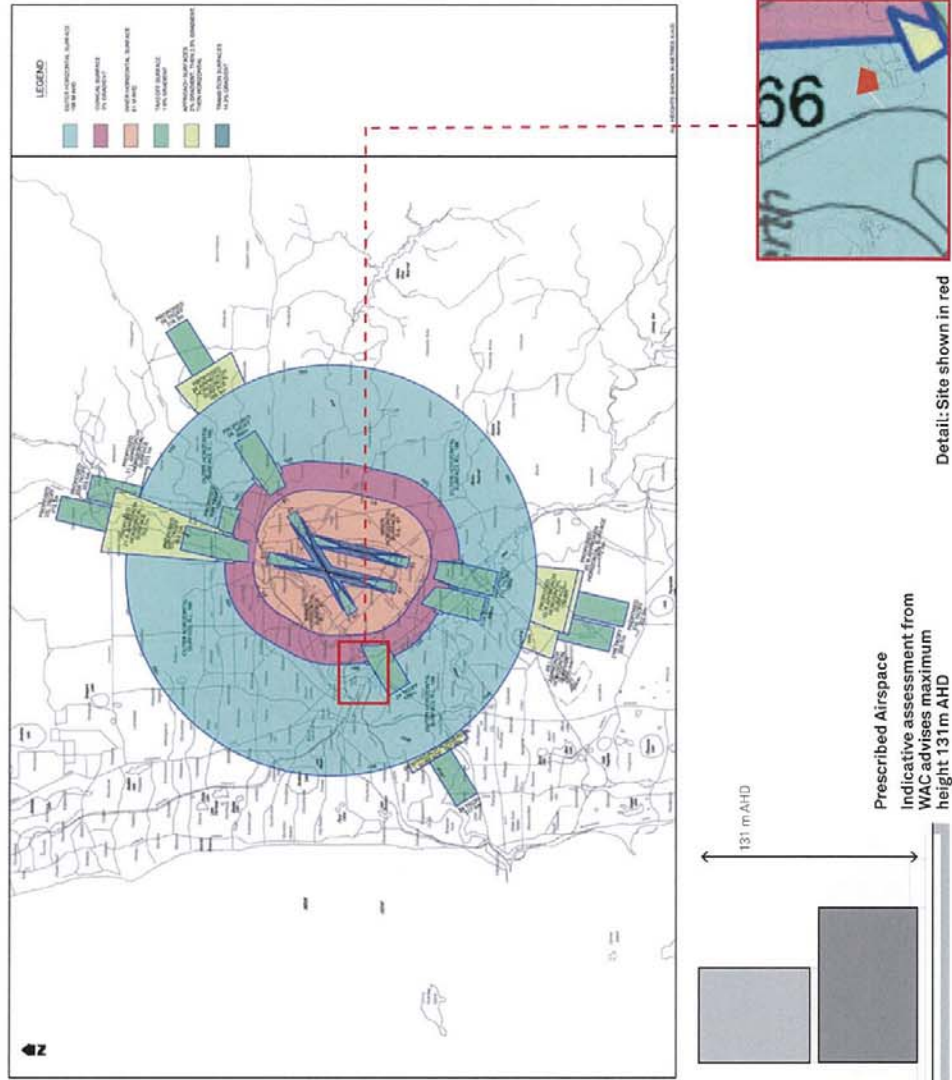
Figure 11.7

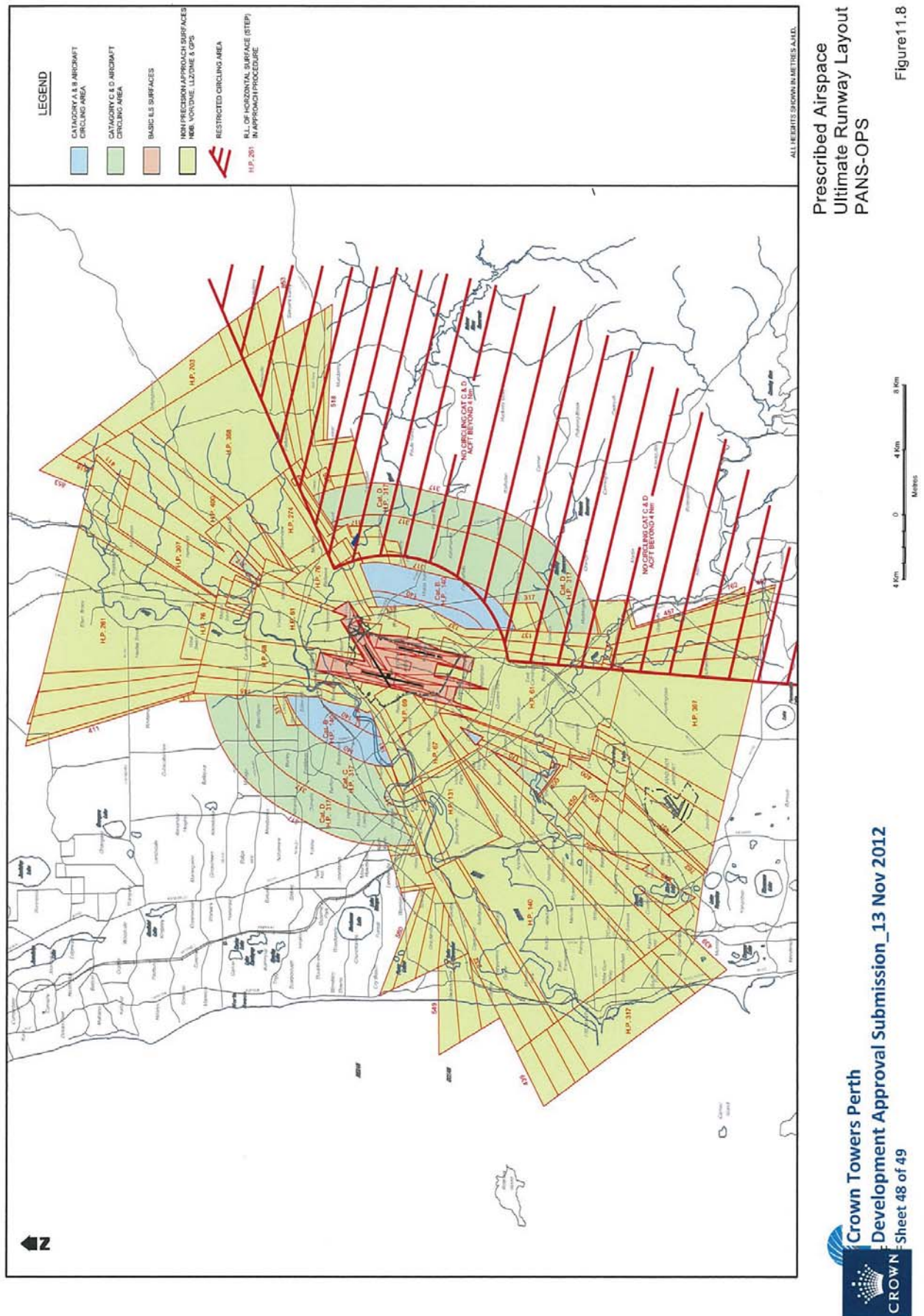
Burswood Hotel

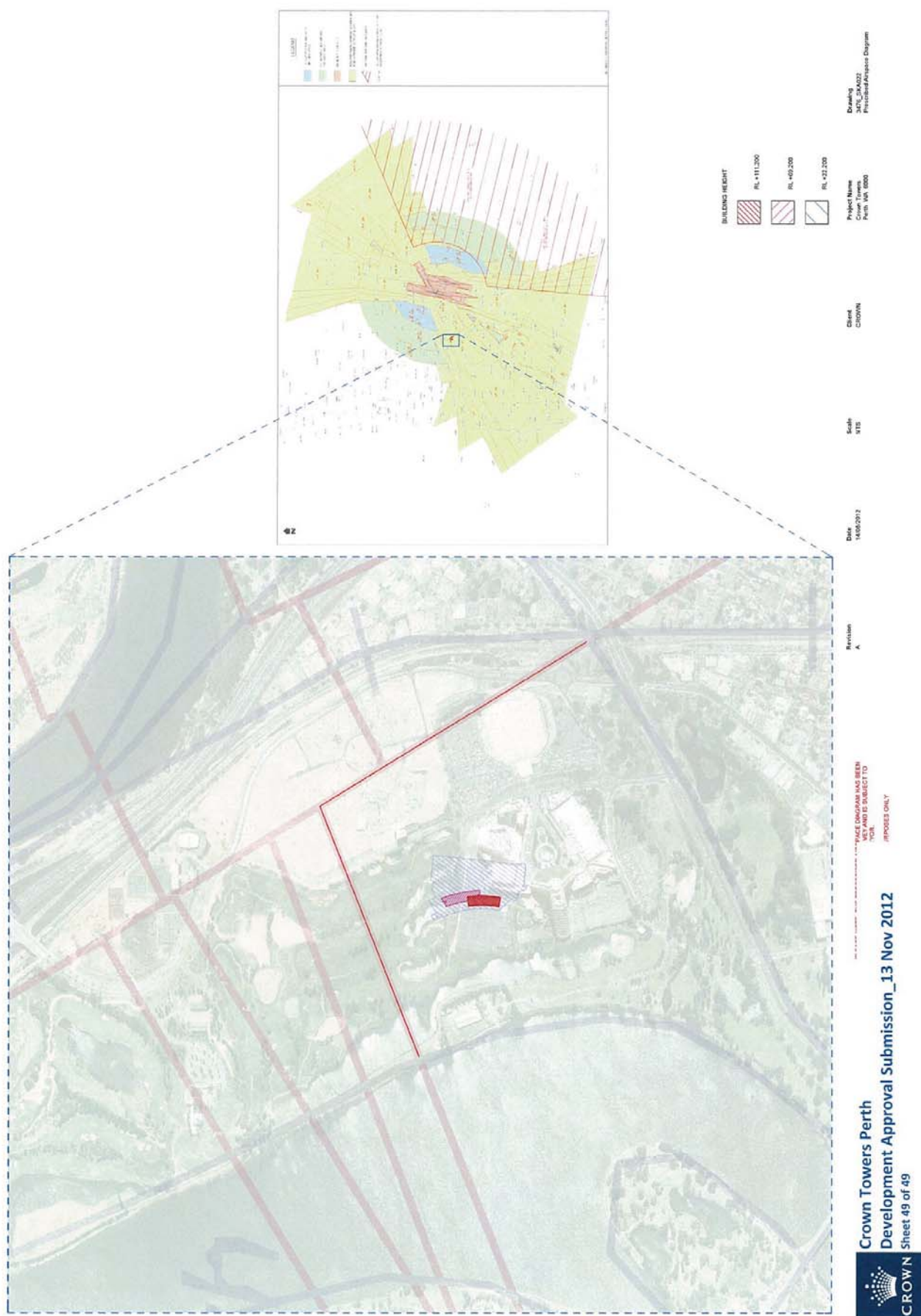
02 Design Approach

Design Constraints

6







SCHEDULE 2**STAGE 1**

Construction of a new hotel on the Land and adjacent land within the Site as described in Schedule 1

PERIOD OF CONSTRUCTION—

Commencement of Construction works—
30 days of Settlement taking place

Practical Completion—

3 years from the Commencement of Construction

SUBSEQUENT STAGES**PERIOD OF CONSTRUCTION—**

Commencement: Within 4 years from Practical Completion of Stage 1

Practical Completion—

Within 8 years from the Commencement date of the first Subsequent Stage, being 2028.

SCHEDULE 3

Road Realignment Plan (clause 4(a))

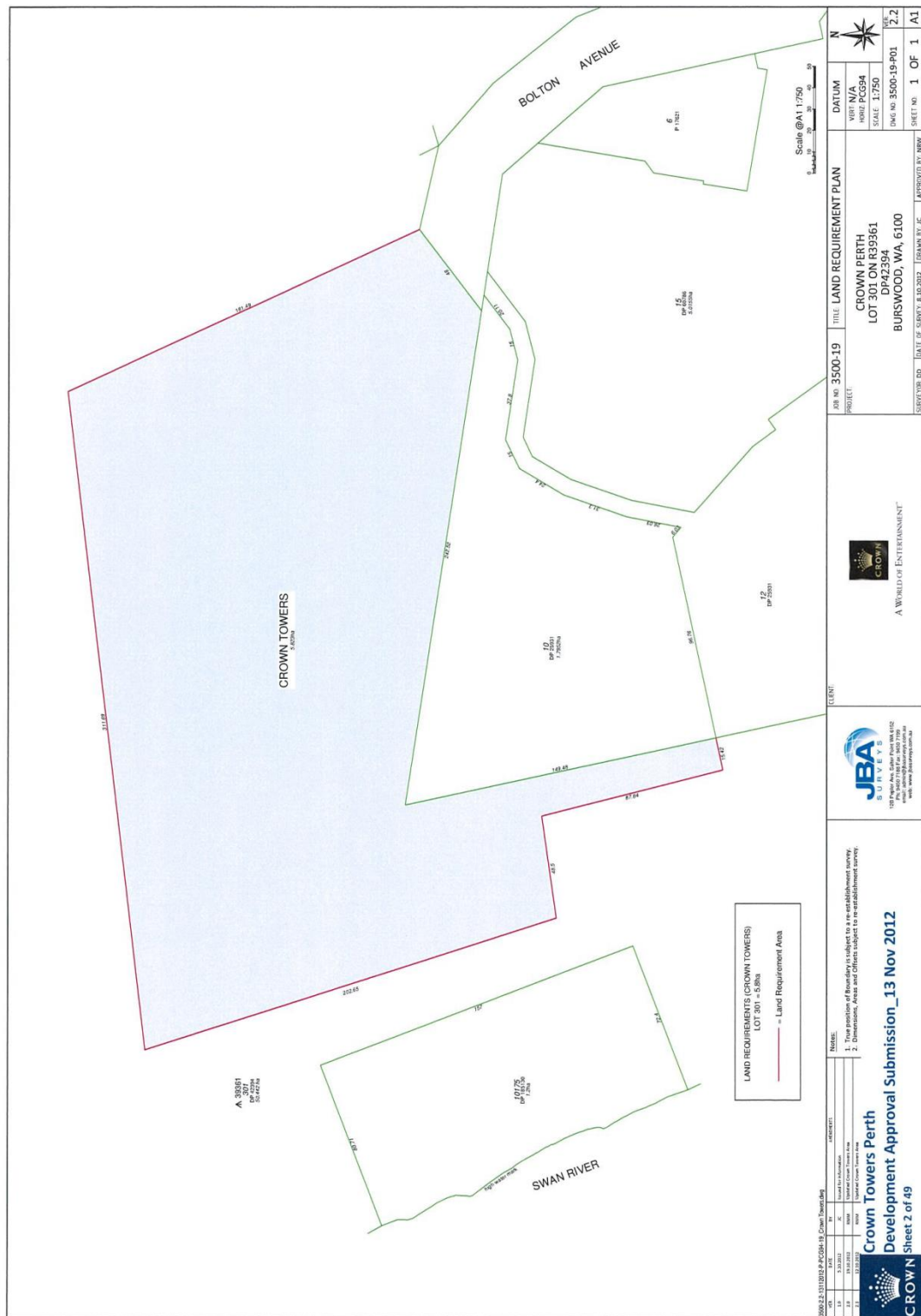


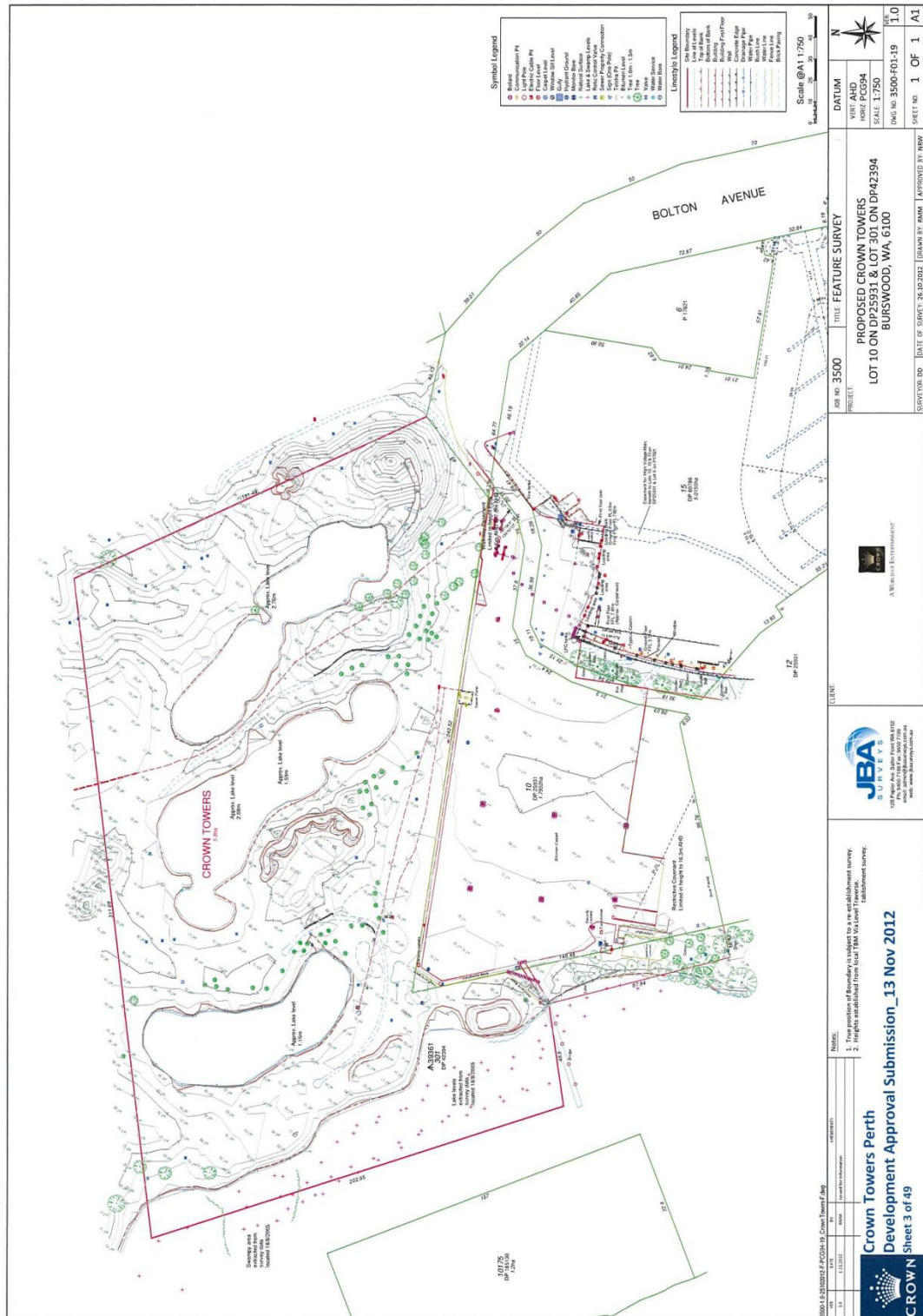
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CROWN TOWERS PERTH
CAMFIELD DRIVE EXTENSION / REALIGNMENT PLAN

ANNEXURE A1

Plan of Land





ANNEXURE A2

FORM OF APPROVAL FOR LAND EXCISION

CONSENT TO AMEND BOUNDARY OF THE RESORT SITE

Pursuant to clause 6(2A)(b)(iii) of the Schedule 1 of the *Casino (Burswood Island) Agreement Act 1985*, the Trustee (Burswood Nominees Limited (ABN 24 078 250 307)), and the Manager (Burswood Resort (Management) Limited (ABN 68 009 396 945)) of the Burswood Property Trust, consent to the State of Western Australia amending the boundaries of the Resort Site by decreasing the area of the Resort Site by way of the excision of that Portion of Lot 301 on Deposited Plan 42394, being 5.823 hectares indicated in the area shaded blue on the indicative plan annexed at Annexure A, from the Resort Site, the boundaries and area of which are to be accurately determined and computed respectively in a survey to be undertaken by Burswood Nominees Ltd (ACN 078 250 307), and the boundaries and area as shown in that survey shall be binding on the Parties.

EXECUTED by
Burswood Nominees Ltd
ACN 078 250 307
as the Trustee for the
Burswood Property Trust
Pursuant to section 127(1) of the
Corporations Act 2001

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)
)

Director

Alan Frank McGregor
Director / Secretary

Full name of Director

Alan Frank McGregor
Full name of Director / Secretary

EXECUTED by
Burswood Resort (Management) Ltd
ACN 009 396 945
as the Manager for the
Burswood Property Trust
Pursuant to section 127(1) of the
Corporations Act 2001

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)
)
)

Director

Alan Frank McGregor
Director / Secretary

Full name of Director

Alan Frank McGregor
Full name of Director / Secretary

ANNEXURE B1

SPORTS PRECINCT LAND



ANNEXURE B2

FORM OF APPROVAL FOR SPORTS PRECINCT LAND EXCISION

CONSENT TO AMEND BOUNDARY OF THE RESORT SITE

Pursuant to clause 6(2A)(b)(iii) of the Schedule 1 of the Casino (Burswood Island) Agreement Act 1985, the Trustee (Burswood Nominees Limited (ABN 24 078 250 307)), and the Manager (Burswood Resort (Management) Limited (ABN 68 009 396 945)) of the Burswood Property Trust, consent to the State of Western Australia amending the boundaries of the Resort Site by decreasing the area of the Resort Site by way of the excision of part of Lot 301 on Deposited Plan 42394 from the Resort Site, the boundaries and area of which are to be accurately determined and computed respectively in a survey to be undertaken by the State, and the boundaries and area as shown in that survey shall be binding on the Parties.

EXECUTED by
Burswood Nominees Ltd
ACN 078 250 307
as the Trustee for the
Burswood Property Trust
Pursuant to section 127(1) of the
Corporations Act 2001

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)
)

Director

Director / Secretary

Full name of Director

Full name of Director / Secretary

EXECUTED by
Burswood Resort (Management) Ltd
ACN 009 396 945
as the Manager for the
Burswood Property Trust
Pursuant to section 127(1) of the
Corporations Act 2001

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Director

Director / Secretary

Full name of Director

Full name of Director / Secretary

ANNEXURE C1

Stadium Land

Lot 300 on Deposited Plan 42394 being the whole of the land in Qualified Certificate of Crown Land Title Volume LR 3139 Folio 328 AND Lot 12057 on Deposited Plan 218634 being the whole of the land in Qualified Certificate of Crown Land Title Volume LR 3119 Folio 917

ANNEXURE C2

FORM OF APPROVAL FOR STADIUM LAND EXCISION**CONSENT TO AMEND BOUNDARY OF THE RESORT SITE**

Pursuant to clause 6(2A)(b)(iii) of the Schedule 1 of the Casino (Burswood Island) Agreement Act 1985, the Trustee (Burswood Nominees Limited (ABN 24 078 250 307)), and the Manager (Burswood Resort (Management) Limited (ABN 68 009 396 945)) of the Burswood Property Trust, consent to the State of Western Australia amending the boundaries of the Resort Site by decreasing the area of the Resort Site by way of—

- (a) the excision of the whole of Lot 300 on Deposited Plan 42394 being the whole of the land in Qualified Certificate of Crown Land Title Volume 3139 Folio 328, and
- (b) the excision of the whole of Lot 12057 on Deposited Plan 218634 being the whole of the land in Qualified Certificate of Crown Land Title Volume 3119 Folio 917,

from the Resort Site.

EXECUTED by
Burswood Nominees Ltd
 ACN 078 250 307
 as the Trustee for the
 Burswood Property Trust
 Pursuant to section 127(1) of the
Corporations Act 2001

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)
)
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)

Director

Director / Secretary

Full name of Director

Full name of Director / Secretary

EXECUTED by
Burswood Resort (Management) Ltd
 ACN 009 396 945
 as the Manager for the
 Burswood Property Trust
 Pursuant to section 127(1) of the
Corporations Act 2001

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Director

Director / Secretary

Full name of Director

Full name of Director / Secretary

ANNEXURE D

IAMA EXPERT DETERMINATION RULES

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THE INSTITUTE *of* ARBITRATORS & MEDIATORS AUSTRALIA

ACN 008 520 045

ARBITRATORS • MEDIATORS • CONCILIATORS

EXPERT DETERMINATION RULES

Authority for Rules

The Council of The Institute of Arbitrators & Mediators Australia resolved at a meeting on 22 November 2001 that, where any two or more parties have agreed between them that a dispute arising or having arisen between them shall be submitted to expert determination in accordance with The Institute of Arbitrators & Mediators Australia Expert Determination Rules, the Rules numbered 1 to 17 hereafter shall apply.

The Council further resolved at a meeting on 18 October 2010 that, where any such dispute is referred to expert determination on or after that date, this 2010 Edition of the Rules shall apply unless otherwise agreed by the parties.

PART I	PRELIMINARY
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RULE 1 Definitions

In these Rules:

‘The Institute’ is the Institute of Arbitrators & Mediators Australia.

‘Agreement’ is any agreement between the parties embodying a submission of present or future disputes to expert determination.

‘the costs of the Process’ includes the fees and expenses of an Expert or Nominee, any Nomination Fee or other fee payable to the Institute of Arbitrators & Mediators Australia or other nominating body, and costs for such things as room hire and transcript.

‘days’ means normal working days and shall exclude Saturdays, Sundays and public holidays.

‘the Dispute’ means the disputed issues for expert determination in accordance with these Rules.

‘Expert’ means a person who has accepted appointment to determine the Dispute in accordance with these Rules.

‘Nominee’ means a person who has been nominated by the Institute or agreed by the parties as Expert but who has not accepted appointment as Expert.

‘Preliminary Conference’ means a meeting appointed to deal with procedural or administrative matters in connection with expert determination of the Dispute.

‘the Process’ means expert determination of the Dispute in accordance with these Rules.

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RULE 2 Appointment of the Expert

1. Unless otherwise agreed in writing by the parties, the Process shall be conducted:
 - a. by a person agreed between the parties; or
 - b. if the parties are unable to agree on the identity of the person to be appointed, by a person nominated by the Institute,
who accepts appointment as Expert.
2. Subject to any written agreement of the parties to the contrary, the provisions of Schedule A shall apply.
3. The Nominee shall, within seven (7) days of receiving advice of his or her nomination or agreed appointment, give written notice to the parties of the time and place of a Preliminary Conference to be held in accordance with Rule 8, which the parties or their duly authorized representatives shall attend.
4. Prior to that Preliminary Conference, the Nominee may advise any conditions he or she wishes to impose (including provision of security for the fees and expenses of the Nominee) and request the agreement of the parties to such conditions.
5. On the parties agreeing to any such conditions, the Nominee shall accept appointment and shall then be deemed to have entered on the reference as Expert.

RULE 3 Agreement to be Bound

1. The parties agree that the Expert is deemed to be an expert in the subject matter of the Dispute.
2. Unless otherwise agreed in writing by the parties, the determination of the Dispute by the Expert shall be final and binding between the parties.

RULE 4 Application of Rules

1. These Rules are subject to any law which governs expert determination in the place where the Process is held, and to any agreement between the parties in relation to the Process.
2. Otherwise, where the parties to a dispute have agreed to expert determination in accordance with these Rules, they are thereby bound to comply with these Rules unless:
 - a. any part thereof is held to be void or voidable, in which case that part shall be severed from the remainder of the agreement; or
 - b. the parties agree in writing to modify the application of these Rules.

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PART II	THE PROCEDURE
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RULE 5 Role of the Expert

1. The Expert shall determine the Dispute as an expert in accordance with these Rules and according to law.
2. The parties agree that:
 - a. the Expert is not an arbitrator of the matters in dispute and is deemed not to be acting in an arbitral capacity;
 - b. the Process is not an arbitration within the meaning of any statute.
3. The Expert shall adopt procedures suitable to the circumstances of the particular case, avoiding unnecessary delay and expense, so as to provide an expeditious cost-effective and fair means of determining the Dispute.
4. The Expert shall be independent of, and act fairly and impartially as between the parties, giving each party a reasonable opportunity of putting its case and dealing with that of any opposing party, and a reasonable opportunity to make submissions on the conduct of the Process.
5. Any dispute arising between the parties in respect of any matter concerning these Rules or the Process, (including the Expert's jurisdiction) shall be submitted to and determined by the Expert.

RULE 6 General Duty of Parties

1. The parties shall do all things reasonably necessary for the proper, expeditious and cost-effective conduct of the Process.
2. Without limiting the generality of the foregoing, the parties shall:
 - a. be represented at any Preliminary Conference or meeting convened by the Expert by a person or persons with authority to agree on procedural matters;
 - b. comply without delay with any direction or ruling by the Expert as to procedural or evidentiary matters; and
 - c. where appropriate, take without delay any necessary steps to obtain a decision of a Court on a preliminary question of jurisdiction or law

RULE 7 Confidentiality

1. The Expert the parties and all advisers and representatives of the parties shall:
 - a. except as provided in paragraph 2 of this Rule, keep all information disclosed during the Process confidential;

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- b. sign Confidentiality Agreements in the terms of this Rule.
- 2. The obligation of confidentiality under sub-paragraph a of paragraph 1 above shall apply except:
 - a. if disclosure is compelled by law;
 - b. to the extent necessary to give effect to the Agreement or to enforce any determination of the Expert.

RULE 8 Preliminary Conference

- 1. Unless otherwise agreed by the parties, the Expert shall convene a Preliminary Conference with the parties, in person or by teleconference, to be held as soon as practicable after reference of the Dispute to the Process.
- 2. The purpose of the Preliminary Conference is to:
 - a. discuss and agree on the issues in dispute, or formulate a procedure by which those issues can be clarified and agreed;
 - b. plan and agree on how the Process should proceed, including a timetable for provision of submissions, documents and any other evidentiary material;
 - c. make arrangements for Confidentiality Agreements to be signed by all persons taking part in the Process, in accordance with Rule 7;
 - d. make such other planning and administrative arrangements as may be required in relation to the Process, including in respect of the terms of appointment of the Expert.

RULE 9 Conduct of the Process

- 1. Subject to any rule of law or equity or written agreement of the parties to the contrary, and the requirements of Rule 5, the Expert shall make such directions or rulings in relation to the Process as he or she sees fit.
- 2. Subject to any written agreement of the parties to the contrary, and without limiting the generality of paragraph 1 of this Rule, the directions and rulings made by the Expert may include directions or rulings in relation to:
 - a. identifying or clarifying the issues in dispute, by preparation of a joint statement of issues or otherwise;
 - b. provision of submissions, documents and any other evidentiary material relied upon by the parties;
 - c. provision of any further submissions and evidentiary material which the Expert considers appropriate;
 - d. meetings between the parties, their representatives and/or experts engaged by the parties, whether or not such meetings are attended by the Expert,

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including the times by which any such steps shall be taken.

3. If the parties agree in writing (in the Agreement or otherwise), the procedure in Schedule B shall apply.

RULE 10 The Expert's Determination

1. As soon as reasonably practicable after receiving the submissions and evidentiary material from the parties pursuant to Rule 9, the Expert shall determine the Dispute between the parties and notify such determination in writing to the parties.
2. Subject to any rule of law or equity or written agreement of the parties to the contrary, the Expert's determination shall contain a statement of reasons in such form as the Expert considers reasonably appropriate, having regard to the amount and complexity of the Dispute.
3. Subject to any rule of law or equity or written agreement of the parties to the contrary, the Expert's determination may include for the payment of interest on any monetary sum determined, in such amount as the Expert considers reasonable.
4. Where the Expert's determination contains:
 - a. a clerical mistake;
 - b. an error arising from an accidental slip or omission;
 - c. a material miscalculation of figures or a material mistake in the description of any person, thing or matter; or
 - d. a defect of form,the Expert may correct the determination.

PART III	GENERAL
-----------------	----------------

RULE 11 Contractual Obligations

Where the Dispute arises out of or in connection with a contract between the parties, the parties shall continue to perform their contractual obligations notwithstanding the existence of the Process.

RULE 12 Waiver of Right to Object

1. Subject to any rule of law or equity or written agreement of the parties to the contrary, if a party to the Process takes part, or continues to take part, in the Process without making within a reasonable time thereafter any objection:
 - a. that the Expert lacks substantive jurisdiction;
 - b. that the Process has been improperly conducted,

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c. that there has been any other irregularity affecting the Expert or the Process,

then that party shall be deemed to have waived its right to make such objection later, before a Court, unless it shows that, at the time it took part or continued to take part in the Process, it did not know and could not with reasonable diligence have discovered the grounds for the objection.

2. Subject to any Statute Law or principle of common law or equity, or written agreement of the parties to the contrary, where the Expert rules that he or she has substantive jurisdiction and a party to the Process who could have questioned that ruling in a Court does not do so within any time fixed by the Expert (or if no time is fixed, within a reasonable time), then that party shall be deemed to have waived any right it may otherwise have had to later object to the Expert's substantive jurisdiction on any ground which was the subject of that ruling, and shall be deemed to have submitted to the Expert's jurisdiction.

RULE 13 Costs

1. Subject to any written agreement by the parties to the contrary, each party shall pay its own costs of or incidental to the Process.
2. Subject to any written agreement by the parties to the contrary, the parties shall be jointly and severally liable for the costs of the Process, and shall pay those costs in equal shares.

RULE 14 Extension of Limitation Period

1. If, during the Process, a limitation period for bringing any proceedings in relation to the Dispute expires, the parties agree that:
 - a. the limitation period will be extended by the number of days from the date of reference of the Dispute to the Process to the date of the Expert's determination in accordance with these Rules;
 - b. they will not rely, in any arbitral or judicial proceedings on the expiry of a limitation period other than as calculated in accordance with this Rule.

RULE 15 Subsequent Proceedings

1. The Expert shall not, without the written consent of the parties, accept an appointment to act as arbitrator, or act as advocate or adviser to any party, in any subsequent arbitral or judicial proceedings arising out of or in connection with the Dispute.
2. The parties agree that:
 - a. the Expert will not be called upon to give evidence or produce documents in any subsequent arbitral or judicial proceedings arising out of or in connection with the Dispute, by subpoena or otherwise;
 - b. with the exception of the Expert's determination, the Expert's papers will not be the subject of a subpoena to give evidence or produce documents in any

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subsequent arbitral or judicial proceedings arising out of or in connection with the Dispute.

RULE 16 Counting of Days

1. For the purpose of counting days under these Rules, such period shall begin to run on the day following the day when notice, notification, communication or proposal is actually received or deemed to be received under paragraph 2 of this Rule, whichever is earlier. If the last day of such period is a public or official holiday or a non-business day at the residence or place of business of the addressee, then the period is extended until the first business day which follows.
2. Any such notice, notification, communication or proposal which is posted is deemed to have been received on the second day following the day of posting. Any such notice, notification, communication or proposal which is sent by facsimile or other means of telecommunication or electronic transmission is deemed to have been received on the day of transmission.

RULE 17 Liability for acts or omissions

The parties agree that the Expert, the Institute and its officers and employees are not liable to any party for or in respect of any act or omission in the discharge or purported discharge of their respective functions under these Rules unless such act or omission is shown to have been fraudulent.

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SCHEDULE A

RULE A1 Inability to Agree on Person to be Appointed

1. This Rule applies to the extent that it is not inconsistent with the Agreement.
2. Any party may, by notice in writing (hereafter called the Notice of Dispute), give notice that it requires a dispute to be referred to expert determination, and call on the other parties to the dispute to agree on the identity of the person to be appointed as Expert.
3. The Notice of Dispute shall be served at the address for such party or parties specified in the Agreement. Unless otherwise provided in the Agreement, service may be effected personally, by mail, or by facsimile or other means of telecommunication or electronic transmission.
4. Unless otherwise agreed between the parties, if no agreement has been reached on the identity of the person to be appointed as Expert within ten (10) days after service of the Notice of Dispute or deemed receipt of same, then the dispute, unless settled, shall be and is hereby referred to expert determination by an Expert nominated by the Institute in accordance with this Schedule.
5. If the parties agree in writing that the giving of notice under this Rule shall not be required, then the parties may jointly call for nomination of an Expert by the Institute in accordance with this Schedule.

RULE A2 Exercise of Power of Nomination by the Institute

1. Where the Institute is to exercise powers to nominate persons to act as Experts, those powers shall be exercised by:
 - a. the President of the Institute; or
 - b. the Senior Vice-President of the Institute or the Chair of any Chapter, to which the power of appointment is delegated in any particular case or cases.
2. Where the Institute is to nominate an Expert:
 - a. the party giving a Notice of Dispute shall also provide evidence that it has deposited with the Institute of Arbitrators & Mediators Australia the prescribed Nomination Fee; or
 - b. if the parties agree in writing that the giving of notice under Rule A1 shall not be required then, unless the parties otherwise agree, they shall jointly deposit with the Institute of Arbitrators & Mediators Australia the prescribed Nomination Fee.
3. The Nomination Fee shall be the sum of \$330.00 or such other sum as prescribed by the Institute from time to time.
4. Lodgement of the prescribed Nomination Fee shall be a pre-requisite to the nomination of an Expert by the Institute.

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RULE A3 Call for Nomination

1. This Rule applies to the extent that it is not inconsistent with the Agreement.
2. Where a Notice of Dispute has been given pursuant to the Agreement or pursuant to Rule A1, and such dispute has not been settled within the time provided, any party may thereafter request the Institute in writing to nominate an Expert and, in so doing, shall submit the following to the Institute:
 - a. a copy of the Notice of Dispute;
 - b. a copy of the Agreement containing the submission to expert determination;
 - c. the names and addresses of the parties to the dispute;
 - d. a brief description of the nature of the dispute containing such particulars of the dispute as will permit the Institute to nominate an appropriate Expert.
3. If the parties agree in writing that the giving of notice under Rule A1 shall not be required then, in addition to the material referred to in paragraph 2 of this Rule, they shall provide to the Institute of Arbitrators & Mediators Australia a copy of their written agreement to that effect.
4. Within ten (10) days after receipt of the material submitted pursuant to paragraphs 2 or 3 of this Rule, or such further information as to the nature of the dispute as the Institute may reasonably require for the purposes of nomination, the Institute shall nominate an Expert, and shall advise the parties and the Nominee accordingly.
5. Where the parties agree on the conditions advised by the Nominee, then the Nominee shall notify the parties in writing within two (2) days of his or her acceptance of the appointment as Expert. On acceptance of the appointment, the Nominee shall be deemed to have entered on the reference as Expert.
6. Where any party does not agree with the conditions advised by the Nominee then:
 - a. the Nominee may notify the parties in writing within two (2) days as to whether he or she desires to accept the appointment as Expert subject to accepting a resolution of the disagreement in accordance with sub paragraph b below;
 - b. where the Nominee has notified the parties in accordance with sub paragraph a above, any dispute on the conditions advised by the Nominee shall be determined in accordance with Rule A5. Upon such determination, the Nominee shall be deemed to have accepted the appointment upon such conditions and have entered on the reference.

RULE A4 Further Nomination

1. Unless the parties otherwise agree in writing, the Institute shall nominate a replacement Expert, within ten (10) days of being called on to do so by a party, if:
 - a. appointment is declined by a Nominee pursuant to paragraph 5 of Rule A3 or the Nominee fails to provide the notification in accordance with paragraph 6 of Rule A3;
 - b. a Nominee nominated by the Institute does not enter upon the reference as Expert within one (1) month of the date of his or her nomination;

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- c. after entering on the reference, an Expert shall die or shall otherwise become incapable by reason of ill health or otherwise, or be debarred in law, from continuing on the reference.

RULE A5 Disputes about conditions advised by a Nominee

1. Where the Institute nominates an Expert or a replacement Expert pursuant to Rules A3 or A4 above, then any dispute as to the reasonableness of the conditions notified by the the Expert or replacement Expert shall be determined by the President of the Institute or his or her nominee, which determination shall be final and binding. In making such a determination, the parties agree that the President of the Institute or his or her nominee shall have regard to such terms and conditions as are reasonable or usual taking into account the Expert's qualifications and experience, the nature of the function to be performed and responsibility to be undertaken.

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SCHEDULE B

The Process shall be conducted in the following manner:

1. The claimant shall, within twenty one (21) days of the date on which the Expert accepts appointment, provide the following to each other party and to the Expert:
 - a. a statement in writing detailing the nature of the dispute, the legal and factual issues involved, its contentions in relation to those issues, and the quantum of its claim;
 - b. all documents and other evidentiary material on which it relies;
 - c. its written submissions on the legal and factual issues involved in its claim.
2. Thereafter, each party other than the claimant shall, within a further period of twenty one (21) days, provide the following to each other party and to the Expert:
 - a. a statement in writing indicating whether or not it agrees with the claimant's written statement pursuant to paragraph 1a and, if not, its statement of the nature of the dispute (including any cross claim), the legal and factual issues involved in the claimant's claim and any such cross claim, its contentions in relation to those issues, and the quantum of any such cross claim;
 - b. all documents and other evidentiary material on which it relies;
 - c. its written submissions on the legal and factual issues involved in the claimant's claim and any cross claim brought by it.
3. Thereafter, any party may reply to written material served pursuant to paragraph 2, within a further period of twenty one (21) days, by providing the following to each other party and to the Expert:
 - a. a statement in writing in reply indicating whether or not it agrees with the written statement pursuant to paragraph 2a and, if not, its reply as to the nature of the dispute, the issues likely to arise and its contentions in relation to same;
 - b. all documents and other evidentiary material in reply to material served pursuant to paragraph 2b;
 - c. its written submissions in reply on the legal and factual issues involved.
4. If a cross claim is made in accordance with paragraph 2, then the cross claimant may reply, in the same manner as set out in paragraph 3, to written material served in respect of such cross claim pursuant to paragraph 3.
5. If the Expert considers it appropriate, he or she may direct that expert reports not be served in accordance with paragraphs 1b, 2b, 3b and 4 above and that, instead, the experts retained by the parties are to be each provided with the material otherwise served pursuant to paragraphs 1b, 2b, 3b and 4, and then jointly confer (by a time fixed by the Expert) and produce a joint report or reports (by a time fixed by the Expert) recording the matters on which they agree, the matters on which they disagree, and identifying the reasons for any such disagreement and their respective contentions in relation to same.
6. If the Expert considers it appropriate, he or she may direct that the experts retained by the parties attend one or more Experts' Conclaves chaired by the Expert, so as to narrow issues in dispute, which Conclaves are to be held at a time and are to be conducted and recorded in a manner directed by the Expert.

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7. The Expert may make such other directions or rulings as he or she considers reasonably appropriate, including directions or rulings for further material or meetings pursuant to sub-paragraphs 2c and 2d of Rule 9.
8. Any times fixed pursuant to this Schedule B may be varied by agreement of the parties. In the absence of such agreement, on proper cause being shown by a party, the Expert may vary the times fixed on such terms as he or she considers reasonable in the circumstances.