

DATED ¹⁹⁹³ NINETEENTH of JANUARY ¹⁹⁹² ¹¹ ⁶

HERITAGE COUNCIL OF WESTERN AUSTRALIA

("Council")

[REDACTED]

[REDACTED]

("Lessee")

and

[REDACTED]

[REDACTED]

("Guarantor")

SWAN BREWERY - HERITAGE AGREEMENT

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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John
or
b. 11/10

STATE TAXATION
21 JAN 1933
DEPARTMENT VIA.

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[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] ("Lessee")

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[REDACTED]

[REDACTED] ("Guarantor")

- A. The Brewery Site is part of the Swan Brewery Precinct which has been entered in the Register of Heritage Places pursuant to section 51 of the Heritage of Western Australia Act 1990.
- B. By the Leases the Lessor leased the Place to the Lessee for the Term.
- C. The Brewery Lease obliges the Lessee to cause certain works to be carried out in respect of the Place in accordance with plans and specifications approved by the Council.
- D. The Commission has issued the Development Approval and approved the Initial Development Plans subject to compliance with the conditions specified in the Development Approval.

- E. It is a condition of the Brewery Lease that the Council and the Lessee enter into a Heritage Agreement in respect of the Brewery Site.
- F. The Minister has given his approval to the Council on behalf of the Crown entering into this Agreement.

AGREED:

1. INTERPRETATION

Definitions

1.1 In this Agreement:

"adaptation" means modifying the Place to suit a proposed use.

"Airspace" means Perth Lot 1047.

"Airspace Lease" means the Lease dated 1 December 1992 made between the Lessor, the Lessee and the Guarantor over the Airspace.

"Approved Concept" means the development concept reflected in the Development Plans.

"Authorised Officer" means, in respect of the Council, such person or persons as the Council's Representative notifies to the Lessee from time to time and, in respect of the Lessee, such person as the Lessee notifies to the Council from time to time.

"Authority" means any Federal, State or Local governmental or other public body or authority of any kind having jurisdiction in relation to the Place.

"Bank Bill Rate" means in respect of a day, the average rate for bills of exchange which have a tenor of six months which

average rate is displayed on the page of the Reuters Monitor System designated "BBSW" on that date or, if there is a manifest error in the calculation of that average rate or that average rate is not displayed by 10.30 a.m. on that date, the rate specified in good faith by the Council at or around that time on that date, having regard, to the extent possible, to the rates otherwise bid and the offered for bills of that tenor at or around that time (including, without limitation, the sets of bid and offer rates for bills of that tenor displayed on that page "BBSW" at that time on that date).

"BMA" means the Building Management Authority established under the Public Service Act.

"Brewery Lease" means the Lease dated 18 June 1992 made between the Lessor, the Lessee and the Guarantor over the Brewery Site.

"Brewery Site" means Perth Lots 1034 and 1035.

"Business Day" means a day on which banks are open for general banking business in Perth.

"Commission" means the State Planning Commission of Western Australia.

"conservation" means the processes of looking after the Place and includes maintenance and may, according to circumstance, include preservation, restoration, reconstruction and adaptation or a combination of one or more of these things.

"Corporations Law" means the Corporations Law of Western Australia.

"Council's Representative" means the person so designated in item 1 of Schedule 19 or such other person who the Lessor notifies the Lessee in writing.

"cultural significance" means the aesthetic, historic, scientific or social values of the Place for the present community and future generations.

"development" bears the meaning given to that word by the Heritage of Western Australia Act 1990.

"Development Approval" means the Approval to Commence Development dated 5 November 1992 issued by the Commission to the Lessee authorising the Lessee to commence and carry out development on the Brewery Site and the Tunnel in accordance with the Initial Development Plans.

"Development Conditions" means in respect of any Development Works, the conditions specified in any approval given by the Council to such works.

"Development Plans" means the Initial Development Plans and includes any other plans on which the Council has endorsed thereon the words "Approved Development Plans".

"Development Works" means any works involving development of the Place.

"Event of Default" means any of the events specified in clause 25.

"Event of Force Majeure" means any event beyond the reasonable control of the Lessee and the Guarantor which prevents or delays the carrying out of work or operations including:

- (i) inclement weather;
- (ii) loss or damage or delay by war, national emergency, fire, flood, earthquake, explosion, lightning, storm or tempest or similar cause;

- (iii) injunctions or other court orders or any lawful restraint;
- (iv) civil commotions, any combination of workers, picket lines, bans, boycotts (including secondary boycotts), any refusal to supply, strikes, industrial disputes or stoppages;
- (v) any prohibition or embargo imposed by any Act (State or Federal) regulation ordinance proclamation by-law, declaration or order,

(and for the purpose of determining what steps have been taken by the Lessee or the Guarantor to control any event, steps taken by the Lessee will be deemed also taken by the Guarantor and vice versa).

"Fabric" means all the physical material in, on or at the Place.

"Historic Buildings" means the buildings situate on the Brewery Site on 18 June 1992.

"Initial Development Plans" means Plans 9237 A1.01 RevE, A1.02 RevE, A1.03 RevE, A1.04 RevE and Plans 9259 CP SK2.01, CP SK2.02, CP SK3.01 and CP SK4.01 and Plans 9237 CP 5.1, CP 5.2 and CP 5.4.

"Insolvency Event" means the happening of any of the following events in relation to the Guarantor:

- (a) it is wound up voluntarily or by the Court or a provisional liquidator or official manager is appointed except in the case of a reconstruction, or a voluntary liquidation approved by the Council.
- (b) it enters into any form of arrangement (formal or informal) with its creditors generally;

- (c) a receiver or receiver and manager is appointed to its assets generally;
- (d) an order is made under sections 460 or 585 of the Corporations Law for its winding up as a consequence of it being unable to pay its debts;
- (e) it becomes an insolvent under administration as defined in section 9 of the Corporations Law.

"Jetty" means the jetty proposed to be constructed by the Lessee adjacent to the cycle-way abutting Perth Town Lot 1035 and the subject of an approval issued to the Lessee by the Swan River Trust pursuant to the Swan River Trust Act 1988 on 24 September 1992, as varied by a letter from the Minister for the Environment to the Lessee on or about 20 November 1992.

"Jetty Licence" means any jetty licence granted to the Lessee under the Jetties Act 1926 in respect of the Jetty.

"Land" means the Brewery Site, the Tunnel and the Airspace.

"Leases" means individually and collectively the Brewery Lease, the Airspace Lease and the Tunnel Lease.

"Lessee" includes a reference to an assignee, a sub-lessee or any other person having a right to possess, use or occupy the Place.

"Lessee's Employees, Agents and Customers" means each of the Lessee's employees, officers, agents, contractors, service suppliers, sub-lessees, licensees, concessionaires, customers and those other persons who at any time are under the control of the Lessee and are in or on the Place with the consent (express or implied) of the Lessee but does not include the Lessor, its servants and agents.

"Lessor" means the Minister for Lands.

"maintenance" means the ongoing protective care of the Fabric, contents and setting of the Place but does not include restoration or reconstruction.

"Minister" means the Minister responsible for the administration of the Heritage of Western Australia Act 1990.

"Overpass" bears the same meaning as given to that word in the Airspace Lease.

"Permitted Use" bears the meaning given to that expression in the Brewery Lease.

"Place" means the Land and includes all buildings and other improvements on or in the Land from time to time, and during the currency of the Jetty Licence, includes the Jetty.

"preservation" means taking all reasonable steps (which includes any steps contemplated by this Agreement or the Brewery Lease) to retard deterioration of the Fabric with a view to maintaining the Fabric in its existing state and retarding deterioration.

"reconstruction" means returning the Place as nearly as possible to a known earlier state and is distinguished by the introduction of materials (new or old) into the Fabric and may include achieving a similar appearance to a known earlier state without using identical or original materials or construction techniques.

"restoration" means returning the Fabric to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.

"Significant Fabric" means the Fabric specified in Schedule 2.

"Term" means the term of the Brewery Lease expiring on 17 June 2057 as extended pursuant to clause 9.1 of the Brewery

Lease and includes a reference to any shorter term in the event of the early termination of the term of the Brewery Lease and, when the context so requires, includes any period of holding over and any additional term.

"Tunnel" means Perth Town Lots 1036 and 1037.

"Tunnel Lease" means the Lease dated 1 December 1992 made between the Lessor, the Lessee and the Guarantor over the Tunnel.

Interpretation rules

1.2 In this Agreement, unless the contrary intention appears:

- (a) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them occurring at any time before or after the execution of this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) the word "person" includes a firm, a body corporate or an unincorporated association;
- (d) a reference to the 'Council', the 'Lessee' or 'the Guarantor' includes a reference to its executors, administrators, successors, and assigns; -
- (e) an obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;
- (f) an obligation of, or a representation or warranty by two or more persons binds them jointly and severally;

- (g) a reference to a clause, a schedule or an attachment is a reference to a clause, a schedule or an attachment in or to this Agreement;
- (h) a reference to any thing (including any amount or the Place) is a reference both to the whole and any part of it;
- (i) each obligation of the Council or the Lessee to the other of them has effect as a covenant; and
- (j) a reference to a month is a reference to a calendar month.

1.3 Where in this Agreement, the word 'including' or 'include' is used, it is to be taken to be followed immediately by the words: 'but not limited to' or 'but are not limited to' as the case requires.

1.4 References in any attachment or schedule to elevations, facades, building numbers, building levels, interior space numbers, areas of land and north point are references to the same as shown in Schedule 1.

1.5 In the interpretation of this Agreement, no rule of construction will apply to the disadvantage of one party on the basis that that party put forward or drew this Agreement or any part of it.

2. OBJECTIVES

2.1 The parties confirm that their primary objectives in entering into this Agreement are:

- (a) to ensure the initial restoration, reconstruction and extension of the Historic Buildings in accordance with the Approved Concept;
- (b) to establish principles relating to:

- (i) the manner in which the restoration, reconstruction and extension of the Historic Buildings are carried out;
- (ii) the manner in which the conservation and care of the Historic Buildings are carried out;
- (iii) the erection of further buildings on the Place;
- (iv) the provision of public access to the Place;
- (v) the interpretation of the Place;
- (vi) the use of the Place,

during the Term.

3. SCOPE OF AGREEMENT

- 3.1 This Agreement applies to the Place.

4. PERIOD OF AGREEMENT

- 4.1 This Agreement commences on the execution of this Agreement and continues until the expiration of the Term.

5. DEVELOPMENT WORKS

- 5.1 Development Works may only be carried out at the Place in accordance with plans and specifications approved by the Council.
- 5.2 Development Works may be carried out at the Place in accordance with plans and specifications approved by the Council but only if the Lessee complies with any Development Conditions.
- 5.3 The Council has approved the Initial Development Plans but on the condition that the Council's approval is obtained to the detailed plans and specifications for the Development Works to

be carried out to give effect to the scheme set out in the Initial Development Plans and such Development Works are carried out in accordance with such detailed plans and specifications.

5.4 For the purpose of this Agreement the Council will be considered to have given its approval to a particular plan or specification (in this clause referred to as the "Relevant Item") if:

(a) the Council informs the Lessee in writing that the Lessee need not obtain the Council's approval to the Relevant Item; or

(b) the Council informs the Lessee in writing that the Lessee need not obtain the Council's approval to the Relevant Item if a specified Authority gives its approval to the Relevant Item and that Authority gives its approval to the Relevant Item.

5.5 Where the Council informs the Lessee that the Lessee need not obtain the Council's approval to a Relevant Item if a specified Authority gives its approval to the Relevant Item and that Authority gives its approval to the Relevant Item on the basis that specified conditions are complied with then those specified conditions are deemed to be Development Conditions for the purpose of this Agreement.

5.6 The Council may not impose any condition on the issue of an approval to any of the detailed plans and specifications for the Development Works to be carried out to give effect to the scheme set out in the Initial Development Plans if that condition relates to a matter other than the manner in which the relevant Development Works are to be carried out including the materials to be used in such works.

5.7 The Council may not impose any condition on the issue of an approval to any other scheme for the development of the Place if that condition:

- (a) is incompatible with any approval in respect of that scheme issued by the Commission; or
- (b) has been recommended to the Commission for inclusion as a condition of the Commission's approval to the scheme but has not been made a condition of such approval by the Commission,

but nothing in this clause 5.7 will prevent the Council imposing a condition which relates to the manner in which the relevant Development Works to give effect to that scheme are to be carried out including the materials to be used in such works.

6. SIGNIFICANT FABRIC

- 6.1 The Significant Fabric is as set out in Schedule 2 and the Lessee undertakes to the Council that without the prior written approval of the Council or as otherwise provided in or permitted by this Agreement no Development Works will be undertaken which change, damage or destroy that fabric.

7. FABRIC TO BE RETAINED AND CONSERVED

- 7.1 The Fabric which is to be retained and conserved is as set out in Schedule 8 and unless the Council otherwise agrees in writing or as otherwise provided in or permitted by this Agreement the Lessee must ensure that such fabric is retained and conserved in accordance with the principles of this Agreement.

8. FABRIC TO BE MAINTAINED

- 8.1 The Fabric to be maintained is as set out in Schedule 9 and unless the Council otherwise agrees in writing or as otherwise provided in or permitted by this Agreement the Lessee must ensure that such fabric is maintained in accordance with the maintenance plan set out in Schedule 10. The Lessee's obligations under this clause are in addition to, and not in derogation of, the Lessee's maintenance obligations under the Lease.

9. FABRIC TO BE RECONSTRUCTED

- 9.1 The fabric of the Place to be reconstructed is as set out in Schedule 11 and unless the Council otherwise agrees in writing or as otherwise provided in or permitted by this Agreement the Lessee must ensure that such fabric is reconstructed in accordance with the principles of this Agreement.

10. ALTERATION OR ADAPTATION OF EXISTING FABRIC

- 10.1 Fabric may be altered or adapted in accordance with the principles set out in Schedule 12 or as otherwise agreed in writing by the Council or as otherwise provided in or permitted by this Agreement.

11. PRINCIPLES FOR ADDITIONS AND NEW STRUCTURES

- 11.1 Additions may only be made to the Historic Buildings, and new structures may only be constructed on the Place, if such additions or new structures comply with the principles set out in Schedule 16 or as otherwise agreed in writing by the Council or as otherwise provided in or permitted by this Agreement.

12. PROTECTION OF ARCHAEOLOGICAL RESOURCES

- 12.1 The Lessee and the Lessee's Employees and Contractors must observe the rules for protection of archeological resources set out in Schedule 17 or as otherwise agreed in writing by the Council or as otherwise provided in or permitted by this Agreement.

13. CONSTRAINTS APPLYING DURING DEVELOPMENT

- 13.1 Unless otherwise agreed in writing by the Council, the Lessee and the Lessee's Employees and Contractors must observe the constraints set out in Schedule 18 during the period any development is being carried out on the Place.

14. OBSERVANCE OF RELEVANT DEVELOPMENT CONDITIONS

- 14.1 Unless otherwise agreed in writing by the Council, the Lessee must observe all Development Conditions.

15. USES

- 15.1 The Council acknowledges that the Lessee may use the Place for any Permitted Use with a tenancy mix as determined by the Lessee but the Council does not give any warranty (express or implied) that the Place is suitable or adequate for any Permitted Use and the Lessee acknowledges that it has not relied on any representation from the Council:

- (a) as to how the Place may be used; or
- (b) as to the observance of any prohibition or restriction applying to the Place under the requirements or orders of laws and authorities.

16. CAR PARKING FACILITIES

- 16.1 The parties agree that to enable the appreciation and enjoyment of the cultural significance of the Place by the public and to facilitate public access to the Place in accordance with clause 17 (other than in respect of public access to the Jetty) the Lessee must allow the public access to the car parking facilities at the Place.
- 16.2 The Lessee undertakes, subject to the receipt and maintenance by the Lessee of any necessary licences for a public fee-paying carpark, to allow the public sufficient access to the car parking facilities at the Place to meet the Lessee's obligations under clause 16.1.
- 16.3 The Council acknowledges that the Lessee may charge the public for the use of the car parking facilities and that the Lessee may not provide access to the car parking facilities on a 24 hour basis but the Lessee undertakes that any such charges will not be excessive and that the car parking facilities will be open:
- (a) at all reasonable times so as to ensure the objective set out in clause 16.1 is met; and
 - (b) at all times that any premises in the Place are open to invitees.
- 16.4 In setting charges and the times for access the Lessee must not discriminate between persons visiting the Place for the purpose of appreciating and enjoying the cultural significance of the Place and persons visiting the Place for the purpose of utilising other facilities at the Place which are available to the public. Nothing in this clause 16.4 will prevent the Lessee discriminating between visitors to the Place and tenants of the Place.

16.5 Nothing in this clause 16 obliges the Lessee to provide more car parking facilities than the Lessee is permitted by any relevant Authority to provide nor will the Lessee be in breach of this clause 16 merely by reason that the car parking facilities which the Lessee provides are on occasions insufficient to meet the public's demand.

17. PUBLIC ACCESS

17.1 Subject to clauses 17.3 and 17.4, the Lessee must allow the public unrestricted access:

(a) to the following areas of the Place 24 hours of the day:

(i) the Jetty in accordance with the terms of the Jetty Licence;

(b) to the following areas of the Place during daylight hours and during any hours that any premises at the Place are open to invitees:

(i) to the portions of the external grounds of the Place which the Lessee and the Council agree are to be the subject of this paragraph (b)(i),

(ii) the Tunnel and Overpass;

(c) to the following areas of the Place during any hours that such areas are open to invitees of premises operating at the Place:

(i) any area designated as a public access area on any Development Plan;

(ii) any area which the Council and the Lessee agree to be a public access area,

(collectively "the Public Areas").

- 17.2 The Lessee may not impose any charge on access to the Public Areas.
- 17.3 The Lessee is not obliged to allow the public access to the Public Areas under this clause prior to the opening of the Place to members of the public.
- 17.4 The Council and the Lessee may agree to change the boundaries of an area the subject of paragraphs (b)(i) and (c) (ii) of clause 17.1 in which case that amended area will become the subject of paragraphs (b)(i) and (c) (ii) of clause 17.1 (as the case may be).
- 17.5 The Lessee may refuse any person access to the Public Areas or may remove any person or property from the Public Areas if in the reasonable opinion of the Lessee it is appropriate for the proper or safe management and control of the relevant Public Area. Without limiting the generality of the previous sentence, it is agreed that the Lessee may refuse any person access to the Public Areas or may remove any person or property from the Public Areas for any of the following reasons:
- (a) behaviour or threatened behaviour which is or may be:
 - (i) a nuisance (at law or otherwise), disturbance of the Place or inconvenience to the Lessee or any sub-lessee of the Lessee or its or their respective employees, agents, customers or invitees;
 - (ii) indecent, improper or unlawful;
 - (iii) dangerous, whether to person or property (including damage to or destruction or defacement of the Place);

- (b) breach of any rule or regulation made by the Lessee and displayed at the Place for the proper or safe management and control of the Place.

17.6 Nothing in this clause 17 will prevent the Lessee restricting access to a Public Area on a temporary basis on isolated occasions or otherwise with the prior consent of the Council.

18. INTERPRETATION

18.1 The Lessee must provide for the interpretation of the Place in accordance with a programme approved by the Council and such programme is to address:

- (a) the cultural significance of the Place;
- (b) the history of the development of the Place.

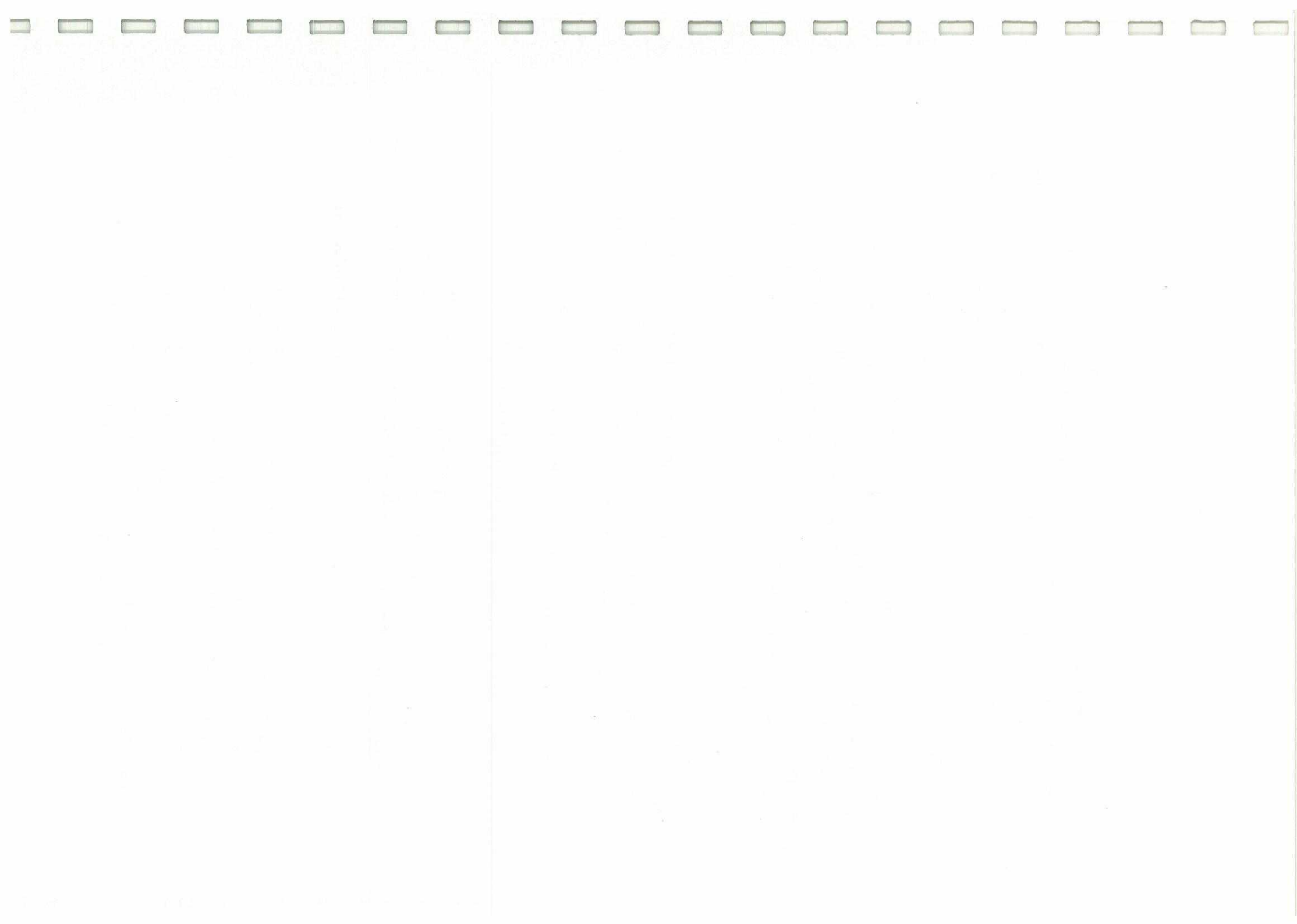
18.2 The Lessee must expend on such programme in aggregate not less than \$50,000 but is not obliged to expend in aggregate on the programme in excess of \$100,000.

19. INSPECTIONS

19.1 It is the wish of the Council that the Council's Representative be present at the times the inspections referred to in Schedule 10 are carried out and for this purpose the Lessee must notify the Council's Representative of an intended inspection and permit the Council's Representative to attend that inspection.

20. RECORDS

20.1 The Lessee must maintain and allow the Council's Representative access to a log of the maintenance carried out by the Lessee in accordance with its obligations under clause 8.1.



21. RECORDING OF SIGNIFICANT FABRIC REMOVED

- 21.1 All Significant Fabric which is removed from the Historic Buildings is to be recorded by photography and or sketches, and the record lodged with a repository approved by the Council.

22. COUNCIL TO ACT REASONABLY

- 22.1 Where the consent or approval of the Council is sought by the Lessee pursuant to the terms of this Agreement, the Council must act reasonably and must not unreasonably withhold its consent or approval or delay making a decision.

- 22.2 In determining whether the Council is acting reasonably regard is to be had to the principles set out in the Schedules but it is acknowledged that such principles are not exhaustive and that the Council may also have regard to other matters in addition to such principles.

- 22.3 The Council will not be considered to be acting unreasonably or unreasonably withholding its consent or approval or delaying making a decision if it requires the Lessee to first obtain the consent or approval of some Authority (whose consent or approval is required to the relevant matter) before the Council considers the Lessee's application for consent or approval.

23. RELEASE

- 23.1 If:

- (a) the Lessee assigns or is deemed to assign its entire interest under the Brewery Lease to an assignee (in this clause referred to as "the Relevant Assignee") in accordance with the provisions of clause 22 of the Brewery Lease;
- (b) the Relevant Assignee is not an Associate of the Lessee (as defined in the Brewery Lease);

- (c) the Lessee delivers to the Council a deed executed by the Relevant Assignee in a form prepared by or approved by the Council's solicitors (such approval not to be unreasonably withheld), by which the Relevant Assignee agrees with the Council to be bound by this Agreement; and
- (d) no Event of Default has occurred which has not been remedied or waived,

then the Council will release:

- (e) in the case of an actual assignment, the Lessee and the Guarantor, or
- (f) in the case of a deemed assignment, the Guarantor,

from any liability under this Agreement which arises after the date of the release.

24. COUNCIL'S RIGHTS

Right to enter

24.1 The Council or a person authorised by the Council may enter the Place at reasonable times to inspect the conservation of the Place and the compliance by the Lessee of its obligations under this Agreement provided that:

- (a) the Council shall give reasonable prior notice to the Lessee before any proposed entry of the Place;
- (b) the Council's agents or consultants entering the Place must be accompanied at all times by a representative of the Lessee;
- (c) the entry is at a reasonable time and causes the minimum of disturbance to the Lessee's enjoyment of the Place.

Council may rectify

24.2 The Council may do anything which should have been done by the Lessee under this Agreement but which has not been done and for that purpose the Council and other persons authorised by the Council may enter the Place and remain there for as long as is necessary provided that, except in the case of emergency, the Council will not be entitled to exercise its powers under this clause 24.2 unless:

- (a) the Council has given the Lessee reasonable notice in writing calling for the same to be done, and
- (b) if entry is to take place, the entry takes place at a reasonable time and causes the minimum of disturbance to the Lessee's enjoyment of the Place.

25. DEFAULT

Events of Default

25.1 An Event of Default occurs if:

- (a) the Lessee repudiates or commits a fundamental breach of this Agreement;
- (b) the Lessee does not comply with any of its obligations under this Agreement and such non-compliance continues for 30 days, or such longer period as is reasonable for rectification having regard to the nature of the non-compliance and, in the case of any works extended by the duration of any Event of Force Majeure, after receipt of written notice from the Council to effect compliance.

Indemnities

- 25.2 The Lessee indemnifies the Council against any loss, liability, costs or expense incurred or suffered by the Council arising from or in connection with the occurrence of an Event of Default including in each case, legal costs and expenses relating to any of those matters.

Interest on overdue money

- 25.3 The Lessee is to pay interest on any amount payable by it under this Agreement from when the amount becomes due for payment until it is paid. The interest is to be paid on demand or at times notified by the Lessor, and is to be calculated on daily balances. The rate to be applied to each daily balance is the rate equal to the aggregate of the Bank Bill Rate for that day (or, if that day is not a Business Day, the immediately preceding Business Day) and two per cent.

Acceptance of money

- 25.4 The acceptance of money under this Agreement or an attempt by the Council to mitigate its loss is not a waiver of:
- (i) a preceding breach by the Lessee of its obligations under this Agreement; or
 - (ii) an acceptance of a repudiation of this Agreement by the Lessee.

26. FORCE MAJEURE

- 26.1 The Lessee's obligation to commence or carry out any works required by this Agreement will be suspended during any period that the Lessee is prevented by an Event of Force Majeure from commencing or carrying out those works.

27. COSTS, EXPENSES AND DUTIES

27.1 The Lessee is to pay or reimburse the Council on demand for all the Council's costs and expenses in relation to:

(a) the exercise or enforcement by the Council of any right under this Agreement; and

(b) any act or omission by the Lessee causing cost or expense to the Council,

including the Council's legal costs and expenses.

27.2 The Lessee is to pay or reimburse the Council on demand for all stamp duty, taxes and fees, and fines and penalties in respect of any of them, which may be payable by the Lessee but not paid by the Lessee in connection with this Agreement.

28. NO AGENCY OR PARTNERSHIP

28.1 Nothing in this Agreement contained or implied constitutes the Lessee the agent or partner of the Council in relation to any action taken or any arrangement entered into in relation to the Development Works or the Place or anything done in the course thereof.

29. COUNCIL'S REPRESENTATIVE

Authority

29.1 The Council's Representative may act for and on behalf of the Council as its agent and all things done and all actions taken by the Council's Representative pursuant to this clause will be deemed done and taken by the Council for the purposes of this Agreement.

Particular Functions

- 29.2 The Lessee and the Council agree that the Council's Representative is hereby authorised by the Council to do all acts under this Agreement as agent on behalf of the Council which the Council is entitled to do under this Agreement.

30. VARIATION OF AGREEMENT

- 30.1 In view of the long term of this Agreement, the Council and the Lessee, without in any way affecting their respective legal rights and obligations hereunder, agree that it is their mutual intent that if during the term of this Agreement it should happen that the agreements made are, due to altered or unforeseen circumstances, uneconomical or otherwise inappropriate, they will meet together for the purpose of endeavouring to arrive at mutually acceptable agreements appropriate in the circumstances then prevailing.

31. NOTICES

- 31.1 A notice or other communication in connection with this Agreement is to be in writing and:
- (a) may be given by an Authorised Officer of the relevant party; and
 - (b) may be left at the address of the addressee or sent by ordinary post to the address of the addressee or sent by facsimile to the facsimile number of the addressee, in each case, as set out below or at or to any other address or facsimile number previously notified to the sender.

Council's address: 292 Hay Street
Perth
Western Australia

Facsimile: (09) 221 4151

Lessee's Address:

[REDACTED]
[REDACTED]
[REDACTED]

Facsimile:

[REDACTED]

Guarantor's address:

[REDACTED]
[REDACTED]
[REDACTED]

Facsimile:

[REDACTED]

31.2 Unless a later time is specified in it, a notice or other communication takes effect from the time it is received.

31.3 A letter or facsimile is deemed to be received:

- (a) if left at the address of the addressee, at the time it is left;
- (b) in the case of a posted letter, on the third business day after posting; and
- (c) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent to the facsimile number of the recipient.

In this clause, a 'business day' is a day on which banks are open for business in Perth, other than a Saturday or a Sunday.

32. MISCELLANEOUS

Waiver and variation

- 32.1 A provision of or a right created under this Agreement may not be waived except in writing signed by the party to be bound, or varied except in writing signed by the Council and the Lessee.

Remedies cumulative

- 32.2 The rights, powers and remedies provided in this Agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Agreement.

Indemnities

- 32.3 In relation to each of the indemnities in this Agreement:

- (a) the indemnity is a continuing obligation, separate and independent from the other obligations of the Lessee and survives the expiration or earlier termination of this Agreement;
- (b) it is not necessary for the Council to incur expense or make payment before enforcing a right of indemnity; and
- (c) the Lessee must pay to the Council an amount equal to any loss, liability, costs or expenses suffered or incurred by any employee, officer or agent of the Council.

Further assurances

- 32.4 If requested by any party, each other party is to execute and cause its successors to execute documents and do everything else necessary or appropriate to bind the party so requested and its successors under this Agreement.

Severance

- 32.5 If any clause in this Agreement or its application to any person or circumstance is or becomes invalid or unenforceable, then the remaining clauses of this Agreement will not be affected and each remaining clause will be valid and enforceable to the fullest extent permitted by law.

Supervening legislation

- 32.6 Any present or future legislation which operates to vary the obligations of the Council, the Lessee or the Guarantor in connection with this Agreement with the result that the rights, powers or remedies of another party are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

Governing Law and Jurisdiction

- 32.7 This Agreement is governed by the law in force in Western Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia.

Counterparts

- 32.8 This Agreement may consist of separate counterparts and the counterparts taken together constitute one and the same instrument.

33. GUARANTEE AND INDEMNITY

33.1 In consideration of the Council entering into this Agreement at the Guarantor's request, the Guarantor:

(a) unconditionally and irrevocably guarantees to the Council the due and punctual payment by the Lessee to the Council of all amounts payable by the Lessee under this Agreement and the due compliance by the Lessee with all its other obligations under this Agreement; and

(b) as separate undertakings:

(i) unconditionally and irrevocably indemnifies the Council against all loss, liability, cost or expense incurred or suffered by the Council arising from or in connection with any Event of Default; and

(ii) as principal debtor agrees to pay to the Lessor on demand a sum equal to the amount of any loss, liability, cost or expense described in clause 33.1(b)(i)

33.2 This guarantee and indemnity continues in full force and effect while the Lessee until the Lessee complies with or is released from all its obligations under this Agreement.

33.3 The Guarantor waives:

(a) all its rights as a surety in respect of this guarantee and indemnity; and

(b) any right it may have of first requiring the Lessor to commence proceedings or enforce its rights against the Lessee before claiming under this guarantee and indemnity.

33.4 The liability of the Guarantor and the rights of the Lessor under this clause are not prejudiced or otherwise affected by anything which might otherwise affect them in law or in equity, including, but not limited to, one or more of the following:

- (a) the Lessor granting time or other indulgence to or compromising with or partially releasing in any way the Lessee or the Guarantor;
- (b) acquiescence, delay, acts or omissions on the part of the Lessor;
- (c) the death, dissolution or other incapacity of the Lessee or another Guarantor;
- (d) an Insolvency Event occurs in respect of the Lessee, the Guarantor or another Guarantor;
- (e) the fact that another Guarantor may never execute this Agreement or that the execution of this Agreement by another Guarantor is void or voidable;
- (f) the invalidity or unenforceability of an obligation or liability of the Lessee under this Agreement;
- (g) the disclaimer of this Agreement by a liquidator or trustee of the Lessee; or
- (h) the Council releasing, disposing of or dealing in any other way with any other Security Interest it may hold given by the Lessee or any other guarantor.

33.5 The Guarantor may not, without the prior written consent of the Council:

- (a) raise a set-off or counterclaim available to it against the Lessee in reduction of its liability under this clause;

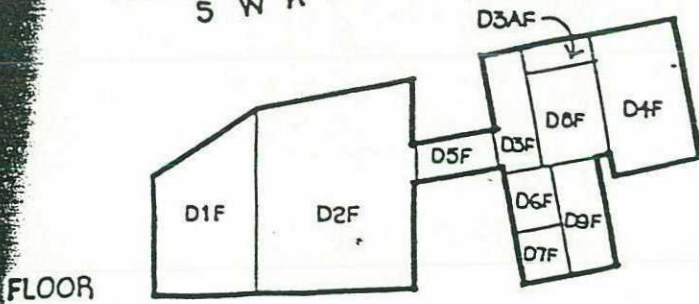
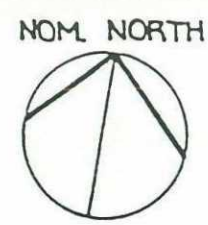
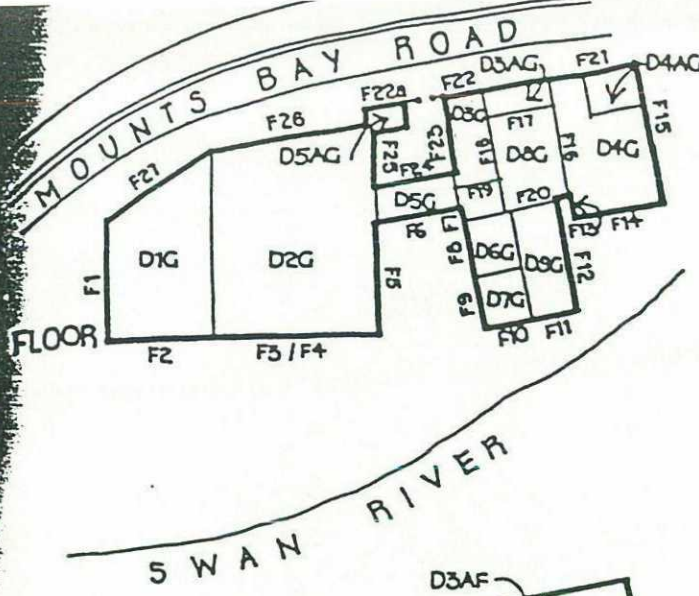
- (b) prove or claim in any bankruptcy, liquidation, composition, arrangement or assignment of or in relation to the Lessee until the Council has received 100 cents in the \$ in respect of the money owing by the Lessee under this Agreement; and the Guarantor holds in trust for the Council any proof or claim and any dividend received by it; or
- (c) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any other security held by the Council in connection with this Agreement.

- 33.6 If a claim that a payment to the Council in connection with this Agreement is void or voidable under laws relating to insolvency or protection of creditors is upheld, conceded or compromised, the Agreement is immediately entitled as against the Guarantor to the rights to which it would have been entitled under this clause if all or part of the payment had not been made.
- 33.7 The Guarantor agrees to pay to the Council on demand the Council's costs and expenses, including legal costs and expenses relating to any action in connection with this guarantee and indemnity, including its enforcement where judgment is obtained. Money paid to the Council by the Guarantor is to be applied firstly against costs and expenses payable under this clause 33.7 and then against other obligations under this clause 33.
- 33.8 The Guarantor will be released from further liability under this guarantee and indemnity in the manner contemplated by and on the satisfaction of the conditions set out in clause 23.1.

EXECUTED AS A DEED.

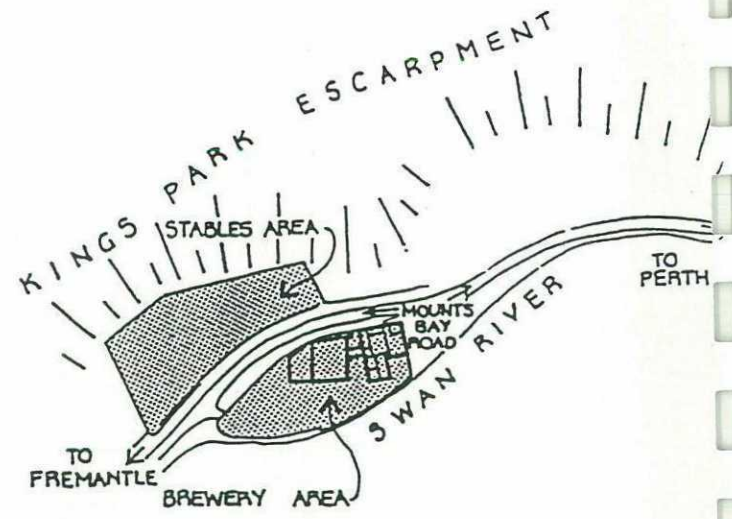
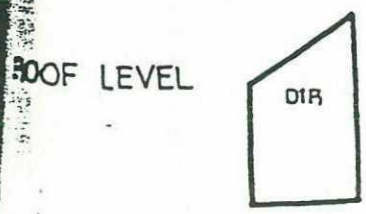
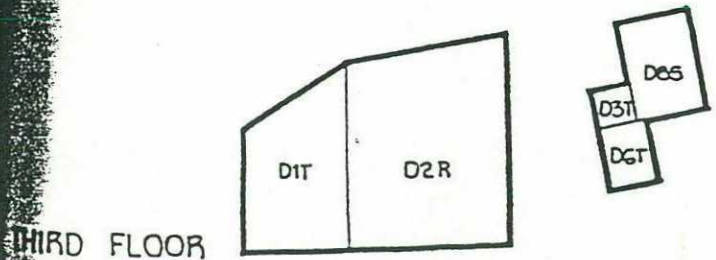
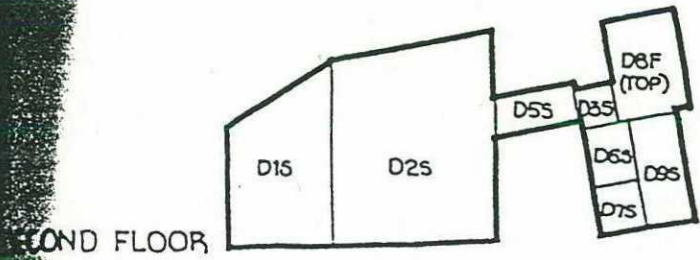
SCHEDULE 1

(Definition of Areas, Buildings, Facades and Internal Spaces)



LEGEND

- G = GROUND FLOOR
- F = FIRST FLOOR
- S = SECOND FLOOR
- T = THIRD FLOOR
- R = ROOF SPACE
- D1 = BUILDING N°1
- F14 = FACADE N°14



SITE PLAN

DIAGRAMMATIC SECTIONS

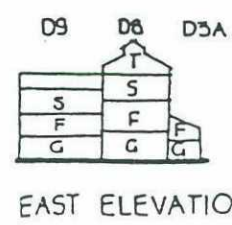
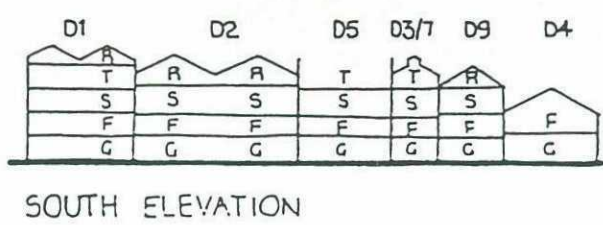


Fig.1/1
Swan Brewery, Perth
Definition of Areas,
Buildings, Facades and
Interior Spaces

SCHEDULE 2

(Significant Fabric)

all existing built fabric introduced to the Place before 1950, being those parts of the Fabric as comprise or as are indicated in Schedule 3; Schedule 4, Figures 1/2, 1/3, 1/4, 1/5; Schedule 5;

landform of escarpment along northern side of Stables Area (including native vegetation species listed in Schedule 6);

all subsurface construction and occupation deposits in areas located in Figure 1/7 Schedule 7, denoted A, C and D;

mash tun (damaged) located in space D5F;

hoist mechanism located above space D3F;

brine pipes and valves located in space D3G;

grist mill (grain cracking mill) located loose in compound;

approximately 70 linear metres original iron palisade fence (as supplied by the BMA);

remains of palisade fence to north of F26 and 27 and east of F15.

SCHEDULE 3

(Description of Surviving Buildings)

Stables area

- Reinforced concrete vehicle ramp enclosure c.1980s.

Brewery area

- Building D1: large four-level brick and render brewery cellar building with timber framed hipped roof c.1930s, partly demolished.

- Building D2: large three-level brick and render brewery cellar building with trussed timber roof, c.1920s, partly demolished.

- Building D3: two-level brick warehouse type building with trussed timber roof, c.1890s and 1960s, partly demolished.

- Building D4: two-level brick warehouse type structure with timber trussed roof framing, c.1890s and 1960s, partly demolished.

- Building D5: single level brick and render substation and switch room, part roof missing, c.1930s, partly demolished.

- Building D6: four-level brick brewing tower structure with trussed timber roof, c.1890, substantially enclosed by other structures and partly demolished.

- Building D7: three-level warehouse type building with trussed timber roof, c.1890s and 1900 partly demolished.

- Building D8: four-level brick and render brewing tower structure with trussed timber roof, c.1920s, partly demolished.

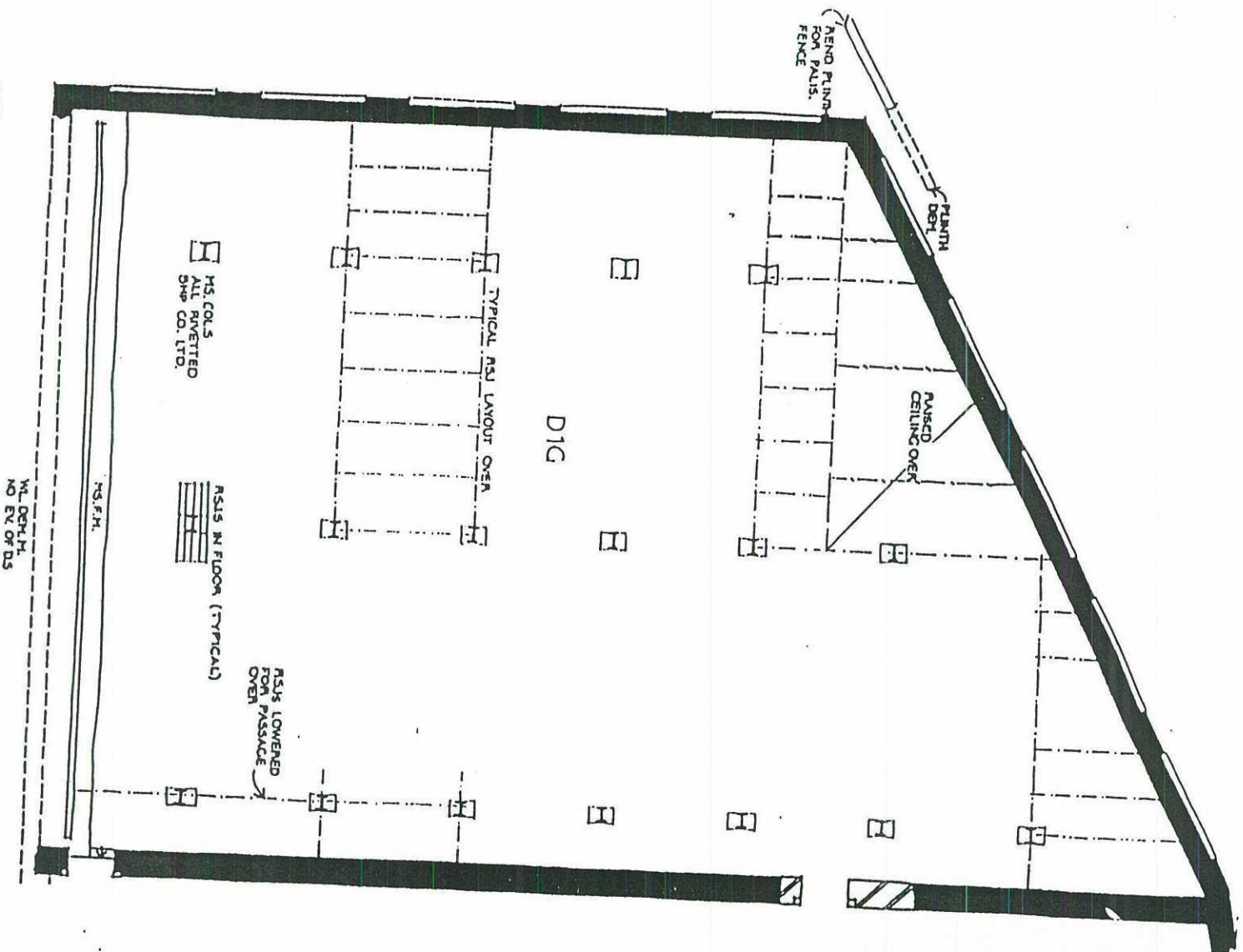
- Building D9: three-level brick and render warehouse type building with timber trussed roof, c.1900 and 1902s, partly demolished.

The above buildings are all jointed together with D3, D6, D7, D8 and D9 in particular complexly connected.

There were numerous temporary construction sheds, c.1980s, and a reinforced concrete vehicle ramp enclosure, c.1980s.

SCHEDULE 4

(Surveys of physical Fabric - September 1991)



W.D. DEPTH
NO EV. OR DS

MS.F.H.

MS. COLS
ALL RIVETTED
SHE CO. LTD.

RSJs IN FLOOR (TYPICAL)

RSJs LOWERED
FOR PASSAGE
OVER

D1G

ASND PLUMB
FOR PAIS.
FENCE

PLUMB
DEPT.

RAISED
CEILING OVER

TYPICAL RSJ LAYOUT OVER

KEY -

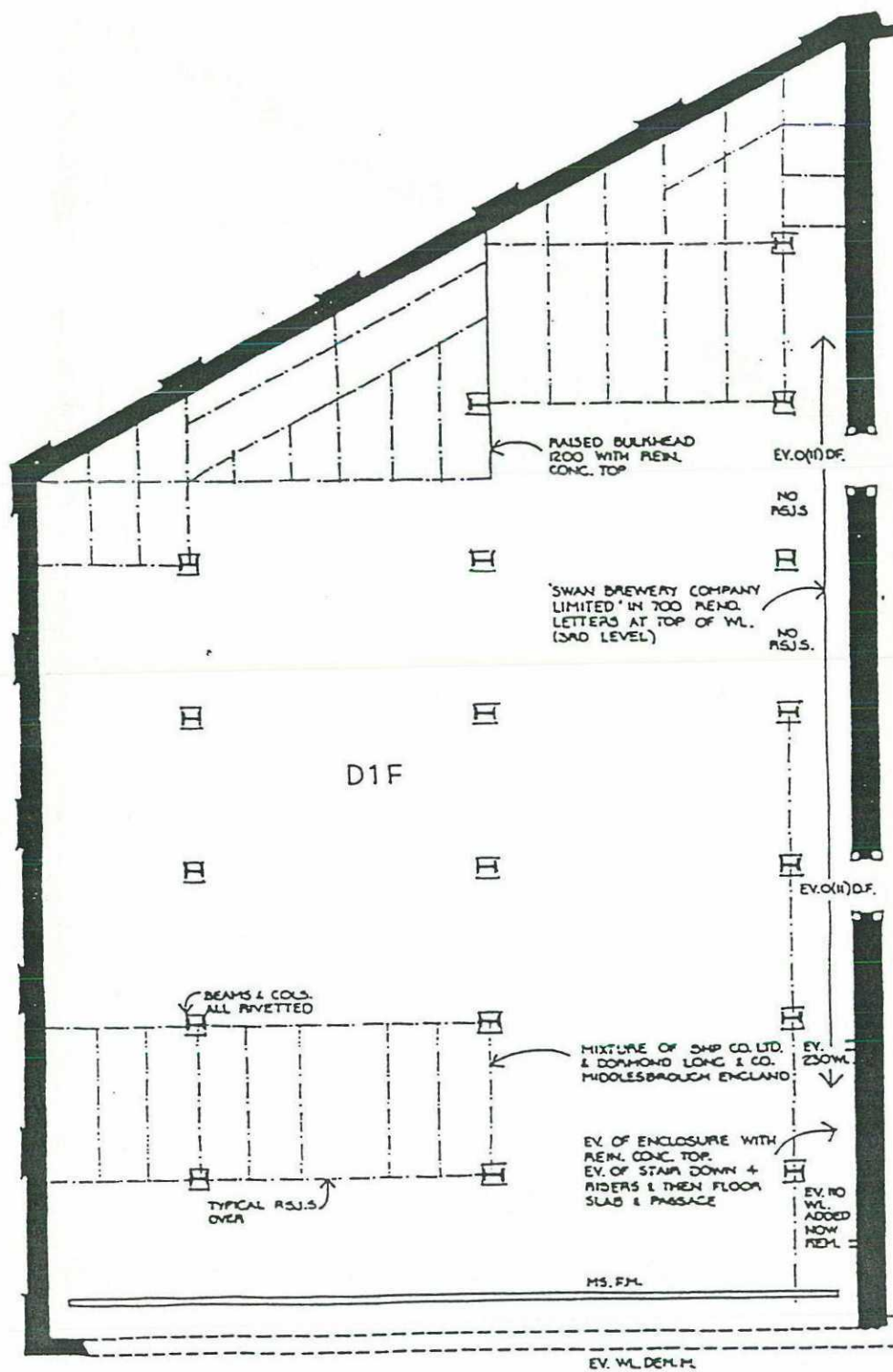
D9C - Space Number

- Steel beam or
timber truss over

(4) - Stage in construction
of existing buildings

- (1) - 1897
- (2) - 1897
- (3) - 1911
- (4) - 1910
- (5) - 1902
- (6) - 1920
- (7) - 1920
- (8) - C1960s
- (9) - 1920
- (10) - 1923
- (11) - 1933



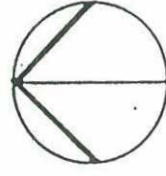


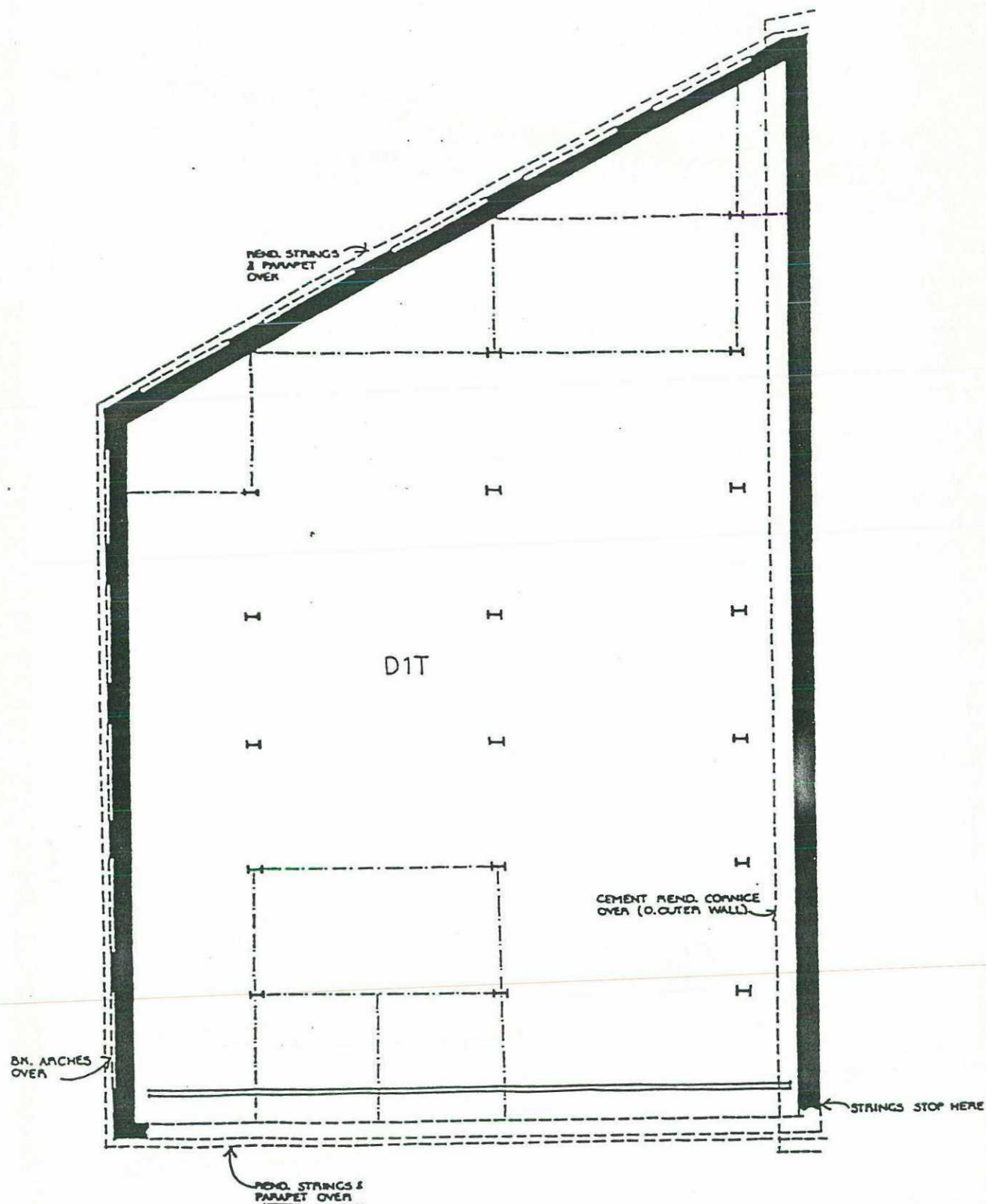
- KEY -
- D9G = Space Number
- = Steel beam or timber truss over
- (4) = Stage in construction of existing buildings

- (1) = 1897
- (2) = 1897
- (3) = 1911
- (4) = 1910
- (5) = 1902
- (6) = 1920
- (7) = 1920
- (8) = c1960s
- (9) = 1920
- (10) = 1923
- (11) = 1933



KEY	
D9G	= Space Number
	= Steel beam or timber truss over
(4)	= Stage in construction of existing buildings
(1)	= 1897
(2)	= 1897
(3)	= 1911
(4)	= 1910
(5)	= 1902
(6)	= 1920
(7)	= 1920
(8)	= cl960s
(9)	= 1920
(10)	= 1923
(11)	= 1933





- KEY -
- D9G = Space Number
- = Steel beam or timber truss over
- (4) = Stage in construction of existing buildings

- (1) = 1897
- (2) = 1897
- (3) = 1911
- (4) = 1910
- (5) = 1902
- (6) = 1920
- (7) = 1920
- (8) = c1960s
- (9) = 1920
- (10) = 1923
- (11) = 1933



- (1) 1907
- (2) 1907
- (3) 1911
- (4) 1910
- (5) 1907
- (6) 1910
- (7) 1910
- (8) 1910
- (9) 1910
- (10) 1910
- (11) 1910
- (12) 1910
- (13) 1910
- (14) 1910
- (15) 1910
- (16) 1910
- (17) 1910
- (18) 1910
- (19) 1910
- (20) 1910
- (21) 1910
- (22) 1910
- (23) 1910
- (24) 1910
- (25) 1910
- (26) 1910
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- (83) 1910
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- (87) 1910
- (88) 1910
- (89) 1910
- (90) 1910
- (91) 1910
- (92) 1910
- (93) 1910
- (94) 1910
- (95) 1910
- (96) 1910
- (97) 1910
- (98) 1910
- (99) 1910
- (100) 1910

(4) - Stage in construction of existing buildings

Steel beam of timber truss roof

EV DWAY DEFL. M. W.S. DEFL. M.

EV DWAY DEFL. M.

HS. P.H.

DOOR DRA. DIA. 12.0(10) D.C.

EV. OF BR. WA. WITH CONC. TOP (REMAINS UNLOCK)

FLOOR FALLS TO VARIOUS SUMPS & DISH DRAINS

D2C

CONC. BASE AROUND ALL COB.

PRINCIPAL FALLS CONCO-FLEET ENGLAND

HS. FALLS OVER PROOFINGHAM IRON & STEEL CO. ENGLAND (UNRETTED & BOLTED)

TYPICAL LAYOUT OVER

IS 12A & CONC. ? SUITE DPC DPC AT FFL 400 ABOVE FFL MAIN DCS TO WALL



40

Fig. 1/3a

D2C
Survey of Physical Fabr
September, 1991
Base Plan: Roger Gregson
Associates Pty. Ltd.

DOOR DIA. 12.0(10) D.C.

DOOR DIA. 12.0(10) D.C.

DOOR DIA. 12.0(10) D.C.

DOOR DIA. 12.0(10) D.C.

DOOR DIA. 12.0(10) D.C.

DOOR DIA. 12.0(10) D.C.

SEE SEPARATE DUCAM

W PART BLIND UP ON
OUTSIDE, O(10) W OF
3. O(10) AP. STEEL
TOP 3. 3. O(10) 6P. STEEL
BOTTOM 3. O(10) MAS.
MULLIONS, TRANSOM

O(10) W OF
MULLIONS DEM
(M)

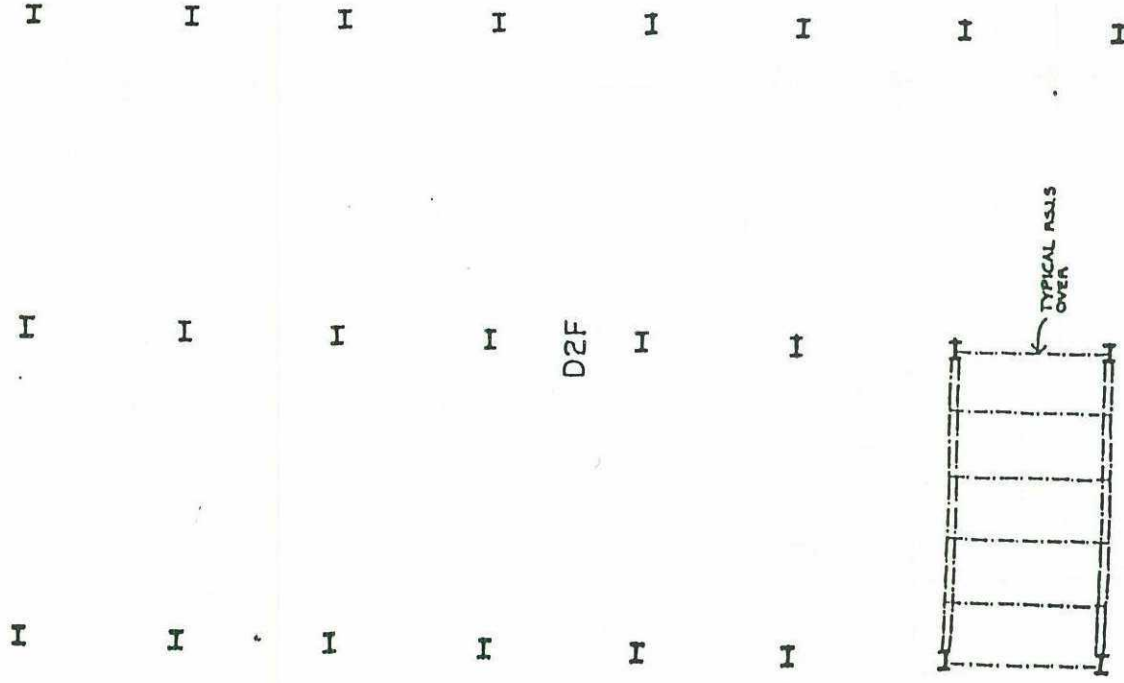
O(10) W OF
MULLIONS DEM
(M)

O(10) W OF
MULLIONS DEM
(M)

O(10) W OF
MULLIONS DEM
(M)

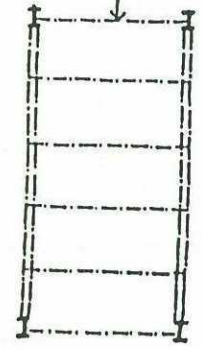
O(10) W OF
MULLIONS DEM
(M)

SINGLE RSJ



D.O.P. BAK. THIR.
EV. O(10) D.F.

D.O.P. BAK. THIR.
EV. O(10) D.F.



MS.F.M.

KEY -

D2F	Space Number
(4)	Steel beam or timber truss over
(4)	Stage in construction of existing buildings
(1)	1897
(2)	1897
(3)	1911
(4)	1916
(5)	1922
(6)	1928
(7)	1928
(8)	1928
(9)	1928
(10)	1928
(11)	1928
(12)	1928

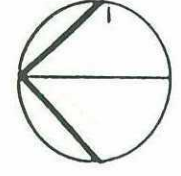
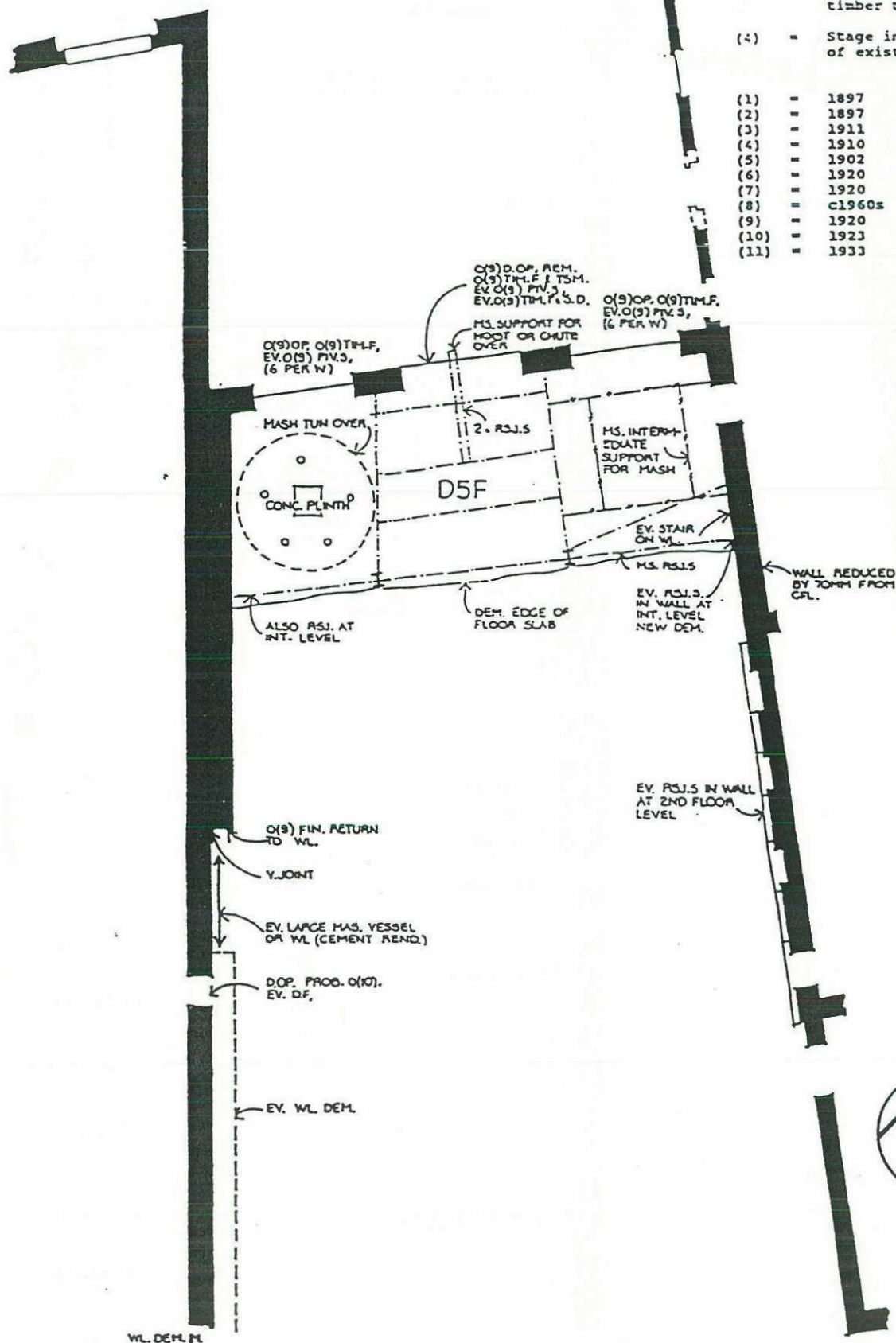
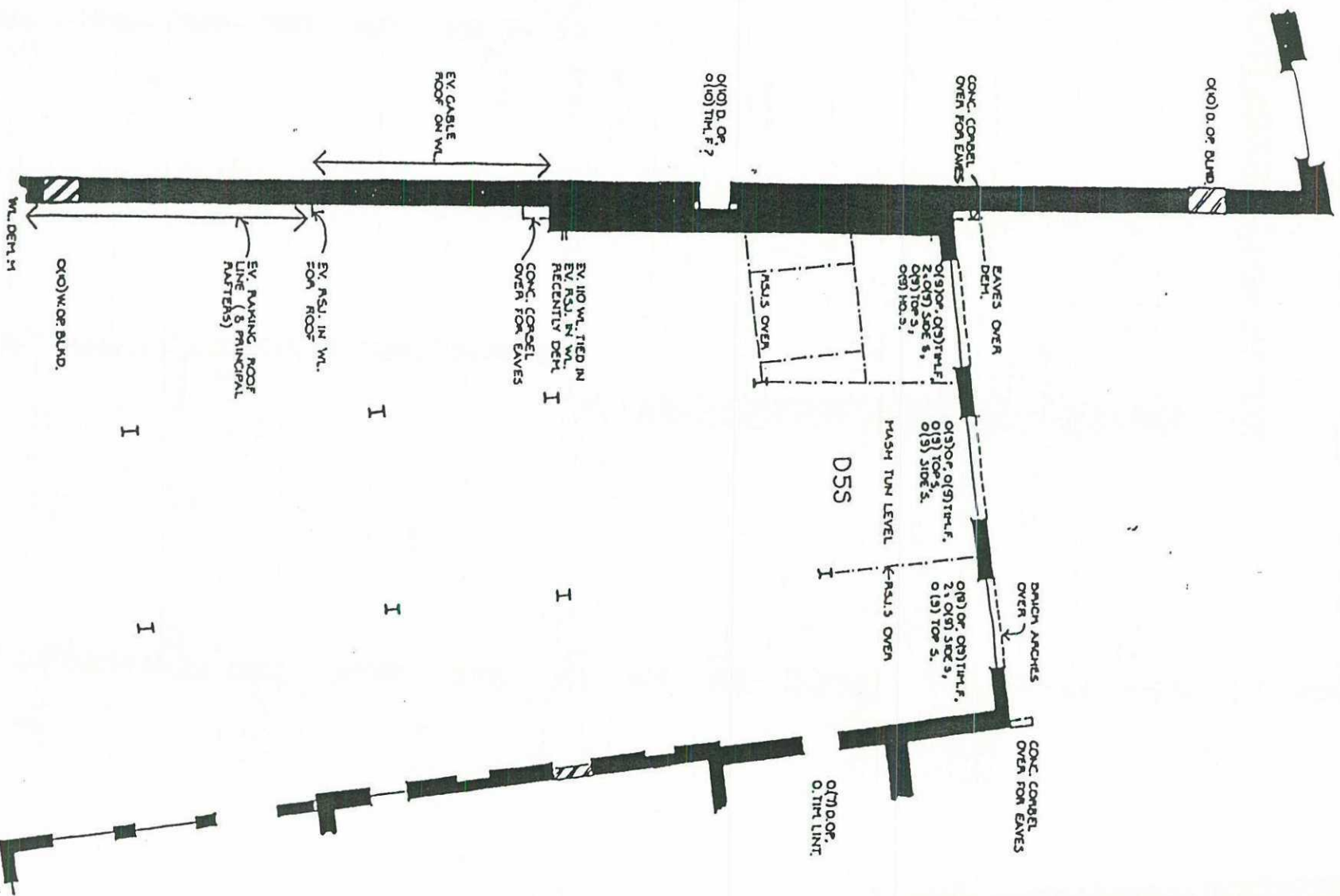


Fig. 1/3b
D2F
Survey of Physical Fabric
September, 1991
Base Plan: Roger Gregson ar
Associates Pty. Ltd.



- KEY -
- D9C - Space Number
- Steel beam or timber truss over
- (4) - Stage in construction of existing building
- (1) - 1897
- (2) - 1897
- (3) - 1911
- (4) - 1910
- (5) - 1902
- (6) - 1920
- (7) - 1920
- (8) - c1960s
- (9) - 1920
- (10) - 1923
- (11) - 1933





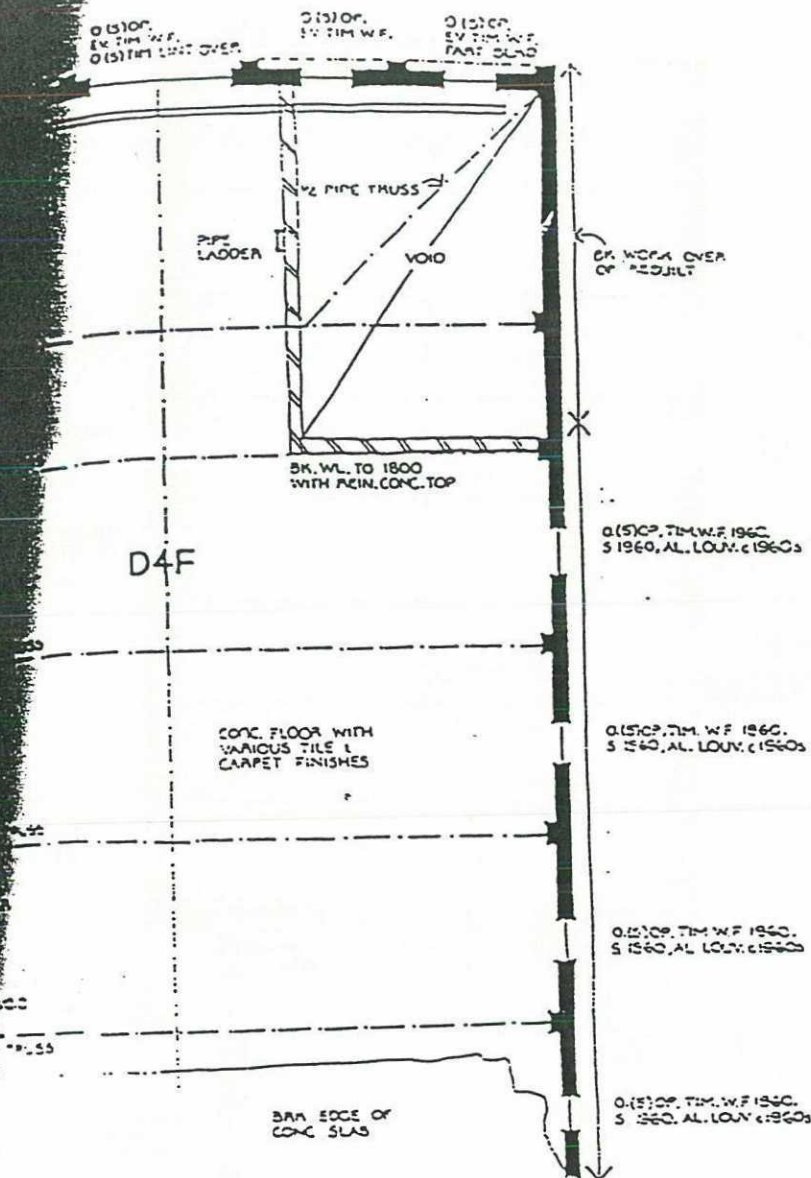
- KEY -
- D9C - Space Number
 - Steel beam or timber truss over
 - (4) - Stage in construction of existing buildings

- (1) - 1897
- (2) - 1897
- (3) - 1911
- (4) - 1910
- (5) - 1902
- (6) - 1920
- (7) - 1920
- (8) - c1960s
- (9) - 1920
- (10) - 1923
- (11) - 1933









KEY -

D9G = Space Number

= Steel beam or
timber truss over

(4) = Stage in construction
of existing buildings

- (1) = 1897
- (2) = 1897
- (3) = 1911
- (4) = 1910
- (5) = 1902
- (6) = 1920
- (7) = 1920
- (8) = c1960s
- (9) = 1920
- (10) = 1923
- (11) = 1933



D8F VOID

O(6)0^F
EV DEEP L TO F

O(6)0^F
EV DEEP L TO F



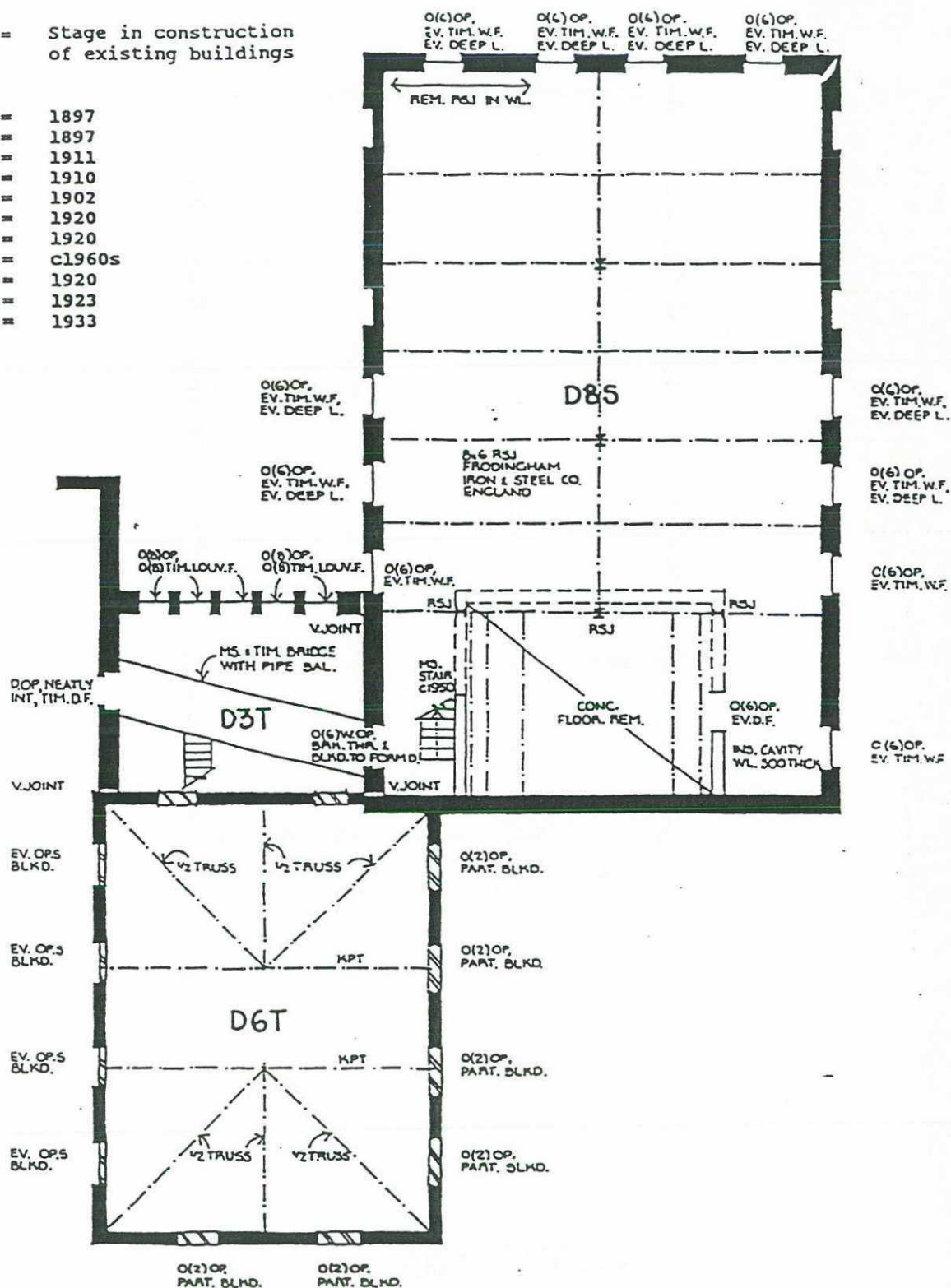
KEY

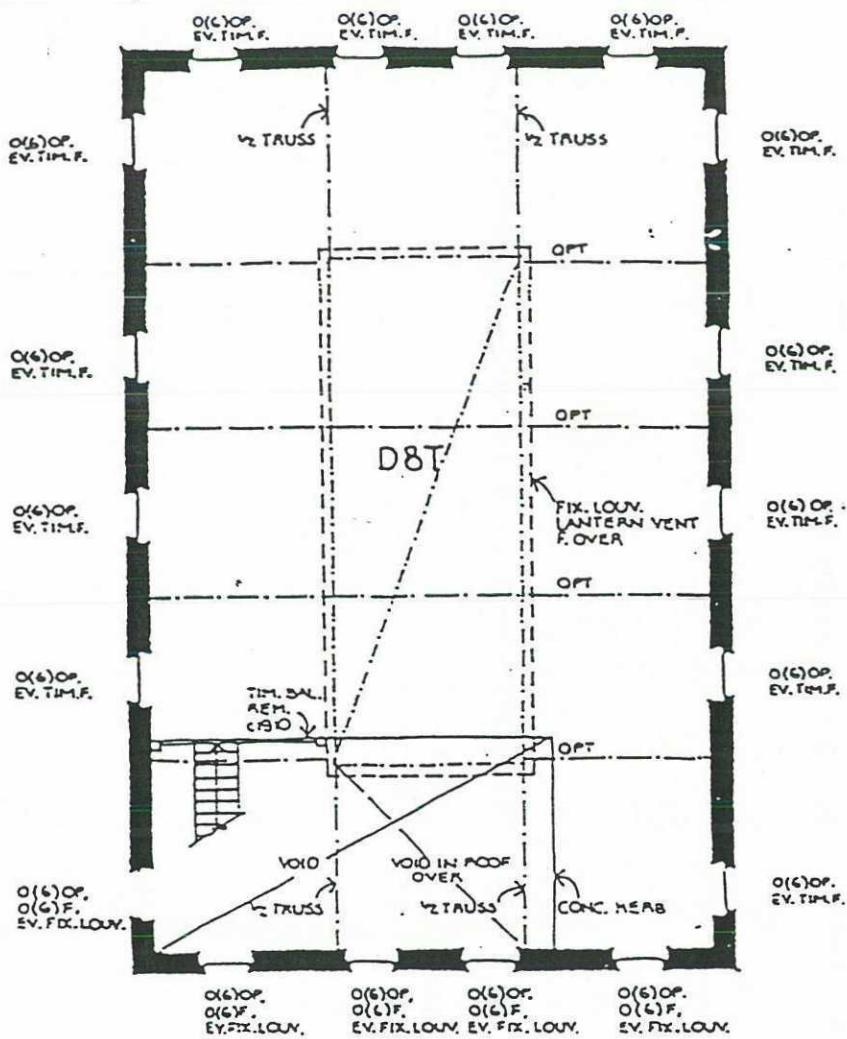
D9G

= Space Number

= Steel beam or
timber truss over(4) = Stage in construction
of existing buildings

- (1) = 1897
 (2) = 1897
 (3) = 1911
 (4) = 1910
 (5) = 1902
 (6) = 1920
 (7) = 1920
 (8) = c1960s
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KEY -

- D9G = Space Number
- = Steel beam or timber truss over
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- (9) = 1920
- (10) = 1923
- (11) = 1933



SCHEDULE 5

(Building surveys)

Item 1 - Survey of building interiors - September 1991

Notes:

1. All dimensions approximate
2. See Figure 1/1 for space identification
3. Unless otherwise noted, fabric dates are as follows:

D1	-	c.1930s
D2	-	c.1920s
D3	-	c.1890s
D3A	-	c.1890s
D4	-	c.1900
D4A	-	c.1900
D5	-	c.1920s
D5A	-	c.1930s
D6	-	c.1890s
D7G&F	-	c.1890s
D7S	-	c.1900
D8	-	c.1920s
D9G	-	c.1890s
D9F&S	-	c.1900-c.1920s

Space D1G:

Floor (F)	:	Concrete falling to four main sumps Shear bases to columns resting on 4 RSJs set in ground
W	:	Brickwork rendered on east wall Evidence of cork insulation and render on north and west walls
C	:	Framed in RSJs, all riveted "BHP Co Ltd" Rendered soffit over 50mm cork insulation
O	:	Concrete plinth along south side, modern supporting recent steel framing supporting parapet over, modern

Space D2G:

F	:	Rough concrete falling to dish drains running north-south, at first and third column base Remains of 20mm asphalt flooring
SK	:	Remains of coved asphalt skirting

- W : Brickwork rendered
- C : Framed in steel
"Cargo-Fleet, England" and "Froddingham Iron and Steel Co Ltd, England"
Riveted and bolted constructed
No ceiling to space D2F over

Space D3G:

- F : Mixture of concrete, asphalt and dirt on grade falling to south
- SK : Coved asphalt
- W : Brickwork cement rendered
On east wall many penetrations at high level through to former brine room
On west wall four large square steel sections cut off, two at approximately 900 and two at approximately 1800
On all walls painted dado at 1500 in shades of green and cream with black painted skirting
- C : Steel work framing supporting further steelwork bearers, supporting approximately 250 x 75 joists at 18 inch centres with herringbone nogging at mid span
- O : Remnant section of pipework and valves at high level (probably brine)

Space D3AG:

- F : Concrete on two levels with rendered brick steps
- W : Face brick, painted
- CO : -
- C : At east end 150 T&G lining boards
At west end approximately 200 x 75 oregon joists but evidence of sets of lining boards now removed
Trimmers over openings in north wall cross-tenoned indicating this is original structure to this area
- O : At east end painted dado at 1200 in grey, black and cream
At west end painted dado at 1500 in cream and greens

Space D4G:

- F : Concrete
Remains of two number dish drains running north-south adjacent columns, falling to south
- SK : -
- W : Brickwork in English bond painted
- CO : Reinforced concrete perimeter beam, c.1960
- C : Off-form concrete floor slab formed on 900 x 1800 ply sheeting, c.1960
Reinforced capitals over columns approximately 1800 square, c.1960
- O : Walls to D4AG obviously introduced, c.1960

Space D4AG:

- F : Concrete, c.1960
- SK : Raised reinforced concrete perimeter beam on south and west walls, c.1960
- W : West and south brickwork unpainted, c.1960
North and east brickwork and English bond painted
- C : On two levels:
West side reinforced concrete cast on sheet ply formwork, c.1960
Reinforced concrete beam cast against 75 boarded formwork, c.1960
East section - reinforced concrete ribbed slab c.1960 (badly deteriorated)

Space D5G:

- F : Excavated material and weeds only
On east side possible evidence of former chimney stack consisting of much broken brick, sand, tiles, etc, and absence of weed growth
Evidence that former floor was concrete, about 300 to 900 mm above existing ground level
- W : Brick piers on north side including granite quoins at lower level
No evidence of any original enclosure between piers
East wall - brickwork in English bond rendered to 1500 and painted with dado and stripes in green tones, originally unpainted
West wall - face brickwork wall in English bond, originally unpainted

C : Steel framing "Froddingham Iron and Steel Co Ltd, England"
Riveted and bolted construction supporting reinforced concrete slab set down above steelwork
Formwork was 150 sawn boards

Space D5AG:

F : Partly concrete and partly timber, consisting of 100 x 50 hardwood joists and 112 x 32 T&G timber flooring

W : Cement rendered brick

C : Missing

O : Evidence of use as switch room, including large incoming mains in floor

Space D6G:

F : Concrete and asphalt

SK : Small asphalt cove as for D3G

W : Cement rendered brickwork

C : Framed in steel, "Dorman Long Co Ltd, Middlesborough"
No ceiling to space above

O : Painted dado at 1500 in cream and greens
Former scheme evident where boxes removed from wall in cream, grey and black

Space D7G:

F : Asphalt

SK : -

W : Cement rendered brickwork

C : Framed in steel RSJs, "Dorman Long" and "BHP"
Cement rendered concrete ceiling

O : Painted dado in cream and green over similar dado in grey and black

Space D8G:

- F : Asphalt with large concrete plinths covering the majority of the area
- SK : Coved asphalt
- W : Cement rendered brickwork
- C : Framed in steel RSJs
Ceiling lining of cement render
- O : Cement dish drain along east wall falling to sump in SE corner

Space D9G:

- F : Concrete
- SK : Asphalt coved skirting along part west wall
- W : West wall English bond painted
North, east and south walls colonial bond painted with bullnosed bricks at reveals
- C : Framed in steel, "Froddingham Iron & Steel Co, England" riveted and bolted construction supporting reinforced concrete floor slab, cast on 150 sawn board formwork
Decayed areas indicate expanded metal lath reinforcing
- O : Additional steelwork added at south end to allow removal of original column

Space D1F:

- F : Concrete and asphalt falling to dish drains running north/south at first and third column bases
- SK : Coved asphalt
- W : East wall cement rendered brickwork
North and west walls evidence of 50mm cork insulation covered by cement render
- C : Steel framing
"Dorman Long Co Ltd, Middlesborough, England", all riveted construction
No ceiling to space D1S above
- O : Raised bulkhead section at north west corner
Many metal discs in floor and pipe poles indicating location of former tanks

Space D2F:

- F : Steel framing as for space below but no floor framing or sheeting
- W : Cement rendered
- C : Steel framed as for floor below
Cement rendered lining
Some areas concrete off boarded formwork, probably alterations

Space D3F:

- F : 270 x 80 hardwood joists at 450 centres
Evidence of floor boards
Remnants of 150 T&G hardwood flooring
- SK : -
- W : Painted brickwork
- C : Exposed roof framing painted consisting of king post trusses, bottom cord approximately 280 x 100, king posts 150 x 100, struts 100 x 100, principal rafters 100 x 150, purlins 200 x 75, rafters 125 x 50, all in oregon, 25 rods at quarter points of trusses, steel connector plates
- O : Surviving hoist mechanism including electric motor
Separate area at south and beneath space D3S
Floor - framing missing
Walls painted brickwork
Ceiling - steel RSJs only

Space D3AF:

- F : 150 T&G hardwood central section in pine, possibly original
- SK : 200mm painted
- W : Brickwork painted
Dado and stripe adjacent stair well
- C : Demolished, no evidence
125 x 50 roof rafters over
- O : Hardwood balustrade to stairway, mostly original

Space D4F:

- F : Concrete with cement topping and various sections of vinyl and tile floors, generally tiled floors along western walls, all c.1960
- SK : Some areas with tiled skirting and others with vinyl skirting, all c.1960
- W : Cement rendered brickwork, generally 150 x 150 grey tile splashbacks around most walls, possibly indicating laboratory
On east wall at south end walls battened and sheeted in plywood, perhaps indicating offices. This corresponds with cork tiled floors
Raised bulkhead section at NE corner with 150mm diameter pipe in roof space, all c.1960
- C : Remains of 100 x 50 ceiling joists at 450 centres
Evidence of fibrous plaster ceilings and small fibrous plaster cornice in Art Deco style, suggesting c.1950s but may be 1960s
- O : Large piped truss structure over roof constructed from approximately 100 diameter pipe bottom cord and 125 diameter upper cord with 75 and 50 pipe triangulation, c.1960s

Space D5F:

- F : Concrete, including several concrete plinth for mash tun agitation machinery
- SK : Coved cement
- W : Rendered brickwork
- C : Steel framing over survives to space D5S above
- O : Intermediate steel framing to support mash tun on east side, on west side surviving iron mash tun
Clad on exterior with timberwork, presumably insulation
All riveted construction
Painted dado in blue greys over former painted dado in cream and greens over even earlier dado in stone and Indian reds. This dado extends right out on west wall of spaces D6F and D7F indicating a single level to this floor front to back
On west wall painted dado indicates single level at least adjacent surviving sections of wall (approximately 50%)

Space D6F:

- F : Steel framing, no floor framing or sheeting
- SK : No evidence of skirting
Evidence of timber framing, possibly 300 x 75 joists
at 450mm centres now demolished
- W : Brickwork rendered
- C : Steel framing for floor over but no ceiling

Space D7F:

Not inspected due to lack of access

Space D8F:

- F : Concrete topped with asphalt falling to centre dish
drain
- SK : Coved asphalt
- W : Rendered brickwork
Along east wall much evidence of tiling and
insulation, possibly indicating yeast culture area
- C : Framed in steelwork "Froddingham Iron & Steel Co
Ltd, England"
Rivet and bolt construction
Cement rendered ceiling lining
Graffiti on wall indicates this was cellar space at
some time
Metal disks in floor also indicate circular tanks
similar to that in space D2F

Space D9F:

- F : Asphalt over concrete
- SK : Large asphalt coved skirting with dish drain on north
and east side
- W : As for space below D9G
- C : Large RSJs plated on top and bottom flange
Riveted construction
Supporting approximately 225 x 50 oregon joists at
300 centres, possibly c.1960, with herringbone
nogging supporting 112 T&G flooring throated, c.1960

Space D1S:

- F : Steel framing, no floor framing or sheeting
- W : As for space below
- C : Steel framing, "BHP Co Ltd", all riveted
No ceiling to space D1T above

Space D2S:

- F : Asphalt
- SK : Coved asphalt
- W : Cement rendered brickwork
- C : Steel framing "Froddingham Iron & Steel Co, England"
Riveted and bolted construction
Cement rendered over reinforced concrete slab
- O : Numerous metal discs in floor in circular patterns
indicating location of former tanks
Floor draining to dish drains running north/south on
first and third structural bays

Space D3S:

- F : Steel framing
Evidence of 150 x 50 joists at 18 inch centres
- W : West and north - brickwork stretcherbond, painted
East - brickwork English bond, painted
- C : Void to space D3T

Space D5S:

- F : Removed
- W : Painted brickwork
- C : Steel framing only, other framing removed

Space D6S:

- F : Part framed in steel, see space below D6F
Part framed in 300 x 75 oregon joists supporting
110 fin. T&G timber flooring
- W : Brickwork in English bond painted. Much evidence
of infilled openings and widened openings

- C : Framed in steel, no ceiling to space above D6T
- O : Piped stair to space above, c.1950s

Space D7S:

- F : Concrete, evidence of wash basins and showers
- W : Cement rendered to 1800
North wall - English bond brickwork, painted
West and south walls - English bond brickwork, painted
East wall - stretcherbond, painted
- C : Exposed roof framing, painted, consisting of king post truss in oregon 225 x 100 lower cord, 150 x 100 king post, 100 x 100 struts, 100 x 150 principal rafters, 200 x 75 purlins, 125 x 50 common rafters at 450 centres

Space D8S:

- F : Concrete
Evidence of asphalt topping
- SK : Evidence of asphalt coved skirting
- W : Brickwork, rendered
- C : Framed in steel, "Froddingham Iron & Steel Co, England"
Cement rendered concrete
- O : Area partitioned off on south side for yeast cultivation with concrete floors tiled with 100 x 100 red unglazed tiles
Walls 100 x 100 ceramic wall tiles laid stretcherbond, 100 x 100 green to 1650 then 50mm black stripe, then 100 x 100 cream above. Splayed sides to space at upper level
Another subsidiary space in SE corner with cement rendered walls and ceiling
Stair to space over D8T in pipe construction, c.1950s

Space D9S:

- F : 110 fin. T&G flooring
- SK : -
- W : Part painted brickwork, part cement rendered, unpainted

- C : Remnants and other evidence of 150 v-jointed T&G boarding supported on approximately 150 x 50 ceiling joists at 450 centres
Remnants of well finished beaded linings to bottom cords of trusses and 38 ovolo cornice
- O : Large trimmed opening in floor at south end, now boarded over with hook for hoisting and additional framing above in roof framing
King post trusses in roof over constructed of approximately 250 x 100 bottom cords, 100 x 150 principal rafters, 150 x 100 king posts, 100 x 100 struts, 150 x 50 common rafters, 200 x 75 purlins, two per slope, 225 x 38 ridge, approximately 25 m.s. rods at quarters points of truss
Balustrade to stair in hardwood

Space D1T:

- F : Steel framing
No floor framing or sheeting
- W : As for space below
- C : Framed in steel, "Lanarkshire Steel Co Ltd, Scotland" and "Shelton, England". All riveted construction
Cement rendered ceiling lining over reinforced concrete slab
- O : On east wall large cement rendered lettering "SWAN BREWERY COMPANY LIMITED" and cement rendered cornice indicating original exterior wall of building D2. Part of south wall and parapet supported on temporary extension of floor structure, modern

Space D3T:

- F : Void to space below
Bridge between spaces D5S and D8S of RSJs supporting timber plates supporting 75 x 38 decking and pipe balustrades, all c.1950
- W : Brickwork painted as for space below
- C : Remnants of skillion rafters, painted 100 x 50 at 450 centres
- O : Pipe stair to D6S, c.1960s

Space D6T:

- F : Steel framing, no floor framing or sheeting
- W : Face brick painted as for space below

- C : Oregon roof framing, not painted
King post trusses consisting of approximately
250 x 100 bottom chords, 150 x 100 king posts,
100 x 100 struts, 100 x 150 principal rafters,
225 x 75 purlins, 125 x 50 rafters at 18 inch
centres, 25 m.s. rod at quarter points of truss
Evidence of unglazed terracotta roofing

Space D1R (Roof):

- F : Concrete floor slab
Evidence of timber shavings all over the floor,
perhaps from insulation
- W : Brickwork up to about 900mm
Roof framing, wall plates 100 x 75
- C : Ceiling joists about 1200 above floor slab, 125 x 50
Rafters 125 x 50 supported at half span by 150 x 75
purlins, supported on 100 x 100 post resting on
concrete floor slab
Posts braced by approximately 250 x 75 horizontal
members
Box gutter supported on 75 x 100 bottom plate
supported on RSJs supported on steel struts from
steel structure below

Space D2R (Roof):

- F : Approximately 150 reinforced concrete slab
- W : Brickwork with piers to support trusses over,
approximately 900 high
- C : Trussing and roof framing, all exposed
- O : Along north side irregular triangle of roof area
covered by reinforced concrete slab, approximately
1200 above floor level supported on steel joists
along south side
Evidence of topping now removed falling to sump in
north east corner
Evidence of lead cover flashing
Parapets all round roof about 900 above box gutter
level
Cement rendered brickwork
Truss framing consists of 280 x 130 bottom chords,
220 x 130 top chords, 145 x 120 struts, 195 x 75
purlins, 100 x 50 common rafters, approximately
175 x 50 ridges, 340 x 50 box gutter sole plate in
oregon, otherwise all framing in hardwood
Evidence of battening now removed
Evidence of Wunderlich semi glazed terracotta tiles
Struts connected to top cords with steel Y-brackets
King post is, in fact, 32 m.s. rod, also similar rods
at quarter points of truss

Truss supported at mid span and at end span by columns extending from floor below
On south side it is then supported by jack bearers of same dimension of bottom cord

Space D8R:

- | | | |
|----|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| F | : | Concrete |
| SK | : | Asphalt skirting along east wall |
| W | : | Bagged brickwork |
| C | : | Exposed king post trusses in hardwood consisting of 290 x 125 bottom cord, 175 x 125 principal rafters, 175 x 125 queen posts, 125 x 125 struts, three rows of purlins approximately 150 x 100, 75 x 50 rafters at 150 centres, steel Y-plates and stirrup straps, gib and cotters, etc, at junction of posts and cords |

SCHEDULE 5
(Building surveys)

Item 2 - Survey of building exteriors - September 1991

Notes

1. See Survey of Building Interiors for dates of fabric
2. See Figure 1/1 for elevation identification

Elevation F1

Generally as for F27

Evidence of large cement rendered lettering on upper strings, possibly "The Swan" obscured by scaffold

Elevation F2

Walls largely demolished

At third floor level walls survive supported on steelwork in English bond with broad rendered frieze and stringcourses as for F1 and F27

No evidence of signs

Face brickwork parapet in stretcher bond with rendered corner motifs and evidence of three disc motifs now removed

Surviving roof rafters show evidence of fascia board and battens for Marseilles tiled roof

Below ground floor level evidence of cement rendered wall

Generally evidence of face brick walls in English bond with strings and moulds found on other elevations terminating about 18 inches from west corner of building

Elevations F3 and F4

Walls largely demolished to ground floor level

Below this evidence of cement rendered walls

Surviving roof structure, possibly indicates fascia board and eaves gutter along this side

Elevation F5

See interior

Elevations F7, F8 and F9

See interior

Elevation F10

Three level brickwork walls in English bond, mostly cement rendered

Large ground floor opening - a recent demolition containing evidence of a former window and door as shown

Ground floor and first floor windows have slightly arched window heads, cement rendered
Second floor windows have arched heads cement rendered
Sill to ground floor window is flat rendered, sills to first and second floor windows raised rendered brickwork
Projecting roof rafters with evidence of fascia board and battening for Marseilles tiles
On this and F11 much evidence of abutting of low pitched roof at first floor level

Elevation F11

Three level brickwork wall in stretcher bond, mostly cement rendered
Several steel lintels to ground floor opening
Raised rendered brickwork sills to windows on upper levels
Windows have arched heads supported on metal arch bars, presumably three header brick arches as for F12
Projecting roof rafters as for F12

Elevation F12

Three level painted brickwork walls in stretcher bond with splayed rendered sills on ground floor level and raised rendered sills on first and second floor level
Window heads all three header course arches
Roof rafters project approximately 400mm
Evidence of fascia board and evidence of battening for Marseilles tiles
Arched metal lintel bars to windows

Elevation F13

Painted brickwork wall in English bond with arched brick head to surviving window on ground level and lintel bar to head of window on first floor level (mostly demolished)

Elevation F14

Entire wall demolished

Elevation F15

Two level face brick in English bond
Rendered base course
Rendered projecting sills on ground floor
Splayed rendered sills on first floor
Remnants of eaves gutter consisting of several 75 x 25 battens fixed to brickwork
Evidence of numerous fixings and penetrations
Cast iron wall vent grills at ground floor window head level

Elevation F16

Three level walls rising above D4 constructed in English bond face brickwork with substantial ovolo style cement rendered string at third floor level and cement rendered flush and raised strings at sill and head of second floor windows and at central point inbetween

Raised cement rendered string at sill of third floor windows and between this and eaves, all cement rendered out in decorative panel works and large scotia moulds
 A rendered cement or concrete eaves course in ogee pattern
 Window sills of splayed render
 Window heads on first floor windows flush rendered concrete
 Over windows to second floor, decorative three header brick arches and cement rendered hood moulds
 Timber framed eaves with alternating broad projecting battens and parallel timber slatting
 Timber fascia board
 Large quadrant pattern gutter and large timber scotia mould
 Surviving roof rafters show evidence of battening for Marseilles pattern tiles
 Timber frame clerestory structure with evidence of fixed timber or glass louvres
 Some clerestory roof framing removed but remainder retains evidence of battening for ceramic roof tiles

Elevation F17

Generally as for F16

Elevation F18

Similar to F16

Elevation F19

Face brickwork wall in stretcher bond with cement rendered window sills and metal arch bars to window heads
 Evidence of flush fascia board to surviving roof framing
 Evidence of battening for Marseilles tile roof

Elevation F20

Wall rising above D9
 Face brickwork wall in English bond
 Arrangement of strings and decorations as for F16
 Windows only occur at third floor level

Elevation F21

Selected red face brick wall, originally with tuckpointing to joints set out with raised pilasters arching over first floor level with three header course arches
 600mm rendered base course in two planes
 Rendered string at ground floor and first floor window head levels
 Rendered string at first floor level and at sill of first floor windows
 All window sills with rendered splayed sills
 Brickwork below window sill level at first floor laid in 3 x 3 diaper pattern
 Evidence of battened raking eaves projecting about 300mm with fascia board
 Surviving 75 x 50 fascia fixed to top of brickwork
 Eastern half of roof rafters cut off flush with wall

Galvanised steel shaped rainwater head and square downpipes at west end

Two brick soldier arches over ground floor window heads

Elevation F22

Generally as for F21, built at different stage

Remains of roof eaves projecting approximately 400mm

Evidence of battening to soffit and fascia board

Cleat at high level at west end, possibly electrical attachment

Rendered basecourse only approximately 300 high with broad splay

Central Gates

230 brickwork walls in Flemish bond with approximately 300 rendered splayed basecourse and two brick high brick coping at 2100 with cement rendered top and broken embedded glass

Circular art deco style cement rendered piers approximately 500 in diameter sheathed in steel below 1000, stepped in at top in decorative style

Elevation F22A

Single storey brick in Flemish bond with approximately 400mm splayed rendered basecourse and 600 raised rendered eaves course

Remains of 100 x 50 roof plate and 100 x 50 ceiling joists

Remains of 150 x 25 fascia board with 6mm arrised bottom edge

Galvanised steel quad gutter and 50mm timber scotia

Door openings with flush rendered lintels three courses high

Elevation F23

Two level brickwork walls in English bond with splayed cement rendered window sills on ground level and raised cement rendered window sills on upper level

Rendered reinforced concrete window lintels to ground floor windows and 1½ brick soldier arched heads to upper windows

Raised pier at north end in white tuckpointing, possibly indicating tuckpointing on F22 was once also white

Rafters project approximately 500mm and have evidence of slatted soffits and timber fascia boards as for F22

Elevation F24

Multi-level brickwork wall with cement rendered strings at head and sills of openings

At head of second floor windows cement rendered hood mould

Approximately 230 projecting piers arching over windows at second floor level

Two number cement rendered corbels on east and west end retaining profile of boxed eave approximately 400 wide

Roof structure removed

Elevation F25

Multi-level brickwork wall in English bond with rendered string courses corresponding with F26

Concrete cornice, consoles and rendered parapet as for F26
Cement rendered string at second floor window level as for F26

Elevation F26

Multi-level face brickwork in English bond with 230 projecting piers arching over window openings at second floor level
Rendered strings at window sill and head levels
Rendered splayed coping on basecourse, extending between piers at ground level, approximately 900mm above ground level
Evidence of cement rendered concrete mullions and transoms to windows, now mostly removed
At second floor level rendered projecting hood and string mould
Beneath cornice broad rendered band
Reinforced concrete cornice supported on concrete corbels at about 3000 centres
Cement rendered parapet with piers at corners

Elevation F27

Multi-level face brickwork
Walls in stretcher bond in panels and English bond on piers projecting piers along north and west elevations arching over at second floor level
Four cement rendered stringcourses (relating to floor levels?)
Cement rendered splayed basecourse extending between piers at ground level approximately 900mm above ground level
At upper arches, cement rendered hood and string courses corresponding to adjacent building
Above this wide bands of rendered stringcourses in Art Deco style with rendered motifs at each corner of the building
Evidence of medallions on north and west elevation as indicated on elevation F2, not confirmed due to lack of access

SCHEDULE 6
(Survey of vegetation)

Trees:

Callitris preissii
Melaleuca lanceolata
Acacia saligna
Agonis flexuosa
Allocasuarina fraseriana
Banksia attenuata
Banksia menziesii
Dryandra sessilis
Eucalyptus calophylla
Jacksonia furcellata
Jacksonia sternbergiana

Shrubs/Twiners:

Acacia pulchella
Adriana Quadripartita
Atriplex Cinerea
Cryptandra arbutiflora
Gompholobium tomentosum
Grevillea crithmifolia
Hardenbergia comptoniana
Hibbertia hypericoides
Hovea trisperma
Macrozamia riedlei
Melaleuca acerosa
Melaleuca huegelii
Phyllanthus calycinus
Scaevola holosericea
Stirlingia latifolia
Templetonia retusa
Xanthorrhoea preissii

Herbaceous plants:

Anigozanthos manglesii
Burchardia umbellata
Caesia parviflora
Conostylis candidans
Dianella divaricata
Helichrysum cordatum
Loxocarya flexuosa
Orthrosanthus laxus
Ptilotus polystachyus
Sowerbaea laxiflora

SCHEDULE 7
(Archaeological Zoning - Fig 1/7)

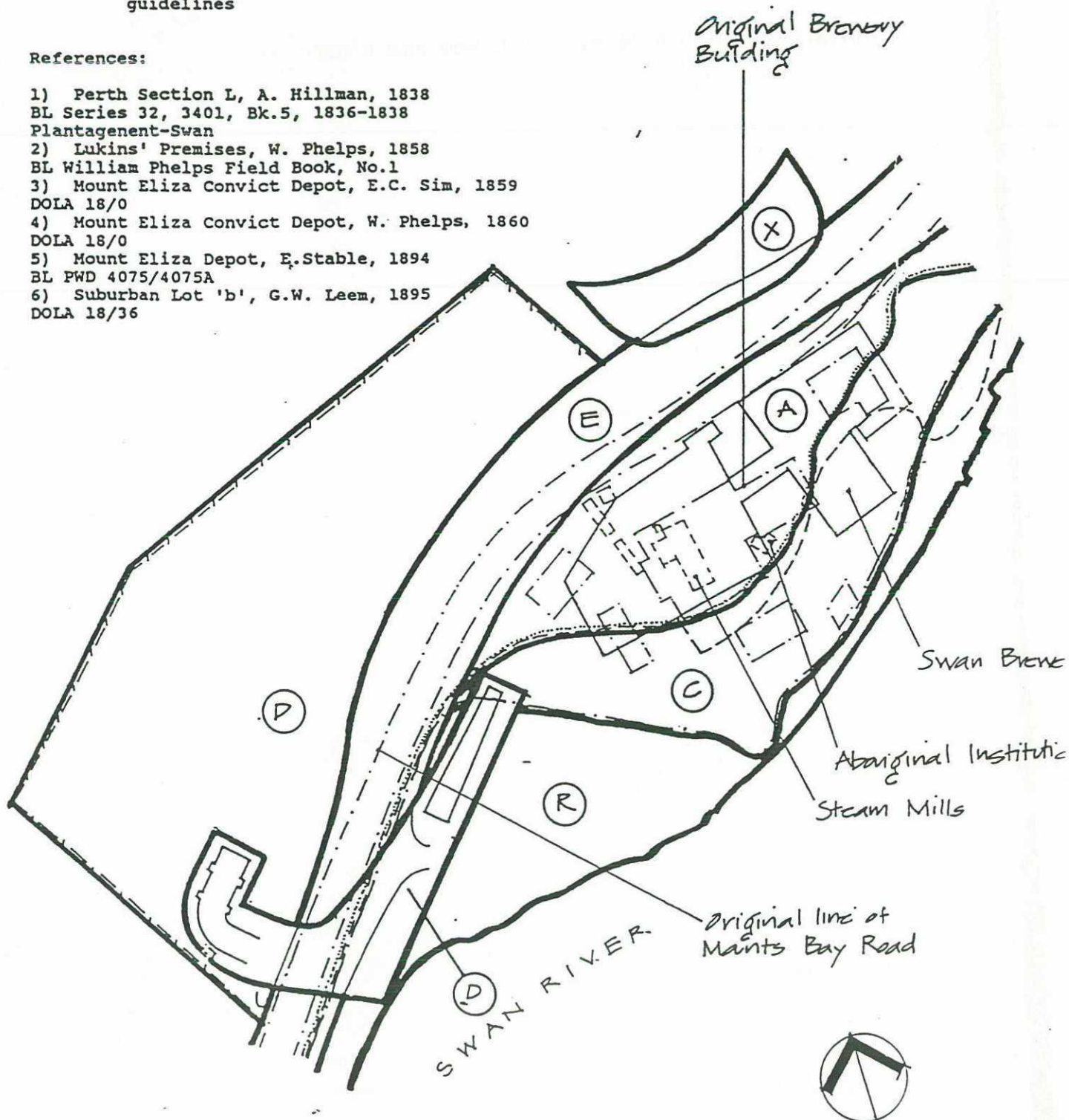
- Shoreline c1838
- Shoreline and buildings c1860
- Shoreline, buildings and road c1895
- Shoreline, buildings and road 1992
- / - / - / - Legal land boundary 1992



Area designation refer to archaeological guidelines

References:

- 1) Perth Section L, A. Hillman, 1838
BL Series 32, 3401, Bk.5, 1836-1838
Plantagenet-Swan
- 2) Lukins' Premises, W. Phelps, 1858
BL William Phelps Field Book, No.1
- 3) Mount Eliza Convict Depot, E.C. Sim, 1859
DOLA 18/0
- 4) Mount Eliza Convict Depot, W. Phelps, 1860
DOLA 18/0
- 5) Mount Eliza Depot, E. Stable, 1894
BL PWD 4075/4075A
- 6) Suburban Lot 'b', G.W. Leem, 1895
DOLA 18/36



SCHEDULE 8

(Fabric to be retained and conserved)

Fabric to be retained ("Retained Fabric") is the Significant Fabric excluding Fabric removed for development purposes in accordance with the principles for alteration or adaptation of Fabric as set out in Schedule 12.

All Retained Fabric is to be retained and conserved.

SCHEDULE 9

(Fabric to be maintained)

The Fabric set out in Schedule 8 and the reconstructed Fabric.

SCHEDULE 10

(Maintenance Plan following the Completion
Date as defined in the Brewery Lease)

Every year:

- Clean out eaves and gutters and rainwater heads
- Inspect roof timbers for termites and rot
- Check film flashings to masonry cornices
- Check external steelwork and touch up as necessary
- Inspect and clean out tapered and box gutters
- Check operation of stormwater drains
- Check walls for structural faults
- Check roof structure for structural faults

Every two years:

- Investigate corrosion at junctions of steelwork and footings, steelwork and floor slabs, steelwork and walls

Every three years:

- Check over and repair roof coverings and flashings
- Touch up decayed paintwork to external timber work

Every five years:

- Clean out stormwater drains
- Renew film finishes to cornices of D2 as considered necessary by the Council

Every six years:

- Renew film finishes to rendered and masonry sills, window heads and door heads
- Paint external steelwork
- Paint metal window frames
- Paint external timberwork
- Refurbish flat roof membranes

Every ten years:

- Renew external galvanised steel guttering and downpipes
- Paint external painted walls and render

Every twelve years:

- Repair external timber work

Every twenty years:

- Renew zincalume box, tapered and eaves gutters, valleys, downpipes and rainwater heads

Every twenty five years:

Carry out major repairs to roofing and roof flashings
Paint D4 roof trusses
Paint internal structural steework

SCHEDULE 11

(Fabric to be reconstructed)

- 1 Fabric of the place to be reconstructed is all Fabric listed below except where excluded for development purposes in accordance with the principles for alteration or adaptation of Fabric as set out in Schedule 12.
- 2 Roof structure and roofing of Buildings D1, D2, D3, D3A, D6, D7, D8 and D9, including clerestory roofs, dormer vents with associated barge boards, fascias, eaves, eaves soffits, eaves gutters, valleys, tapered gutters, flashings and finials
- 3 Roofing of Building D4 and D4A
- 4 Roofing work to include roof tiles and other coverings, hip and ridge flashings, tapered and box gutters, cover and apron flashings, eaves structure, fascia boards, eaves soffit linings, eaves gutters, downpipes, rainwater heads and downpipe brackets
- 5 Facade fabric of facades F1, F2 (existing top section only), F10 (top level only), F11 (top level only), F12, F16, F17, F18, F20, F21, F22, F22A, F23 (excluding ground floor), F24 (top level only), F25 (excluding ground floor), F26, F27, and eastern elevation of D5AG
- 6 Facade work to include structural stabilisation, repair of structural faults, repointing and cleaning of brickwork and render, repair and water proofing of rendered sills and lintels, stabilisation, repair and flashing of D2 cornice, rebuilding of missing sections, replacement or stabilisation of rusting steel sections and reconstruction of window and door assemblies, window sashes and door leaves
- 7 Centre entrance gates, walls, pillars and gate leaves (between F22A and F22).
- 8 Section of palisade fence in front of facades F26 and F27 (part to be supplied)
- 9 All above reconstruction work to recreate external appearance of buildings pre 1950, excluding externally mounted machinery

SCHEDULE 12

(Principles for Alteration and Adaptation of Fabric)

1. Generally

The existing Fabric which may be removed for development purposes is all post 1950 fabric and all Fabric the removal of which the Council approves taking into account these guidelines. Fabric removed for development purposes may be replaced with alternative fabric of sympathetic design.

2. Landscape and Isolated Built Features

As set out in Schedule 13, including Figure 1/8 and 1/9.

3. Exterior of Buildings

As set out in Schedule 14 including Figure 1/10. For facades F5, F6, F7, F8 and F9 see Interiors of Buildings below.

4. Interiors of Buildings

Interiors may be altered to new configurations and finishes approved by the Council. In determining the approval or otherwise of an application to alter the interiors, the Council shall consider the following as the adaptation objectives:

1. Provide interior spaces of a configuration appropriate to the nominated Permitted Use.
2. Provide interior finishes of a high standard appropriate to the nominated Permitted Use.
3. Provide new building services of a high standard appropriate to the nominated Permitted Use.
4. Allow partitioning and other fitout appropriate to the nominated Permitted Use.
5. Minimise changes of level on any one floor.
6. Provide efficiency of circulation around the buildings.
7. Retain Significant Fabric, including the physical definition of existing spaces, in relation to the relative significance of the spaces (space significance as per Figure 1/11 Schedule 15).
8. Retain some physical evidence of the former use of each interior (if any).
9. Provide for representative examples of pre-1950 finishes not to be covered from view.
10. Provide for at least some of the interiors to remain unpartitioned.

11. Locate substantial alterations including bulky building services in spaces of lesser significance in preference to spaces of higher significance (space significance as per Figure 1/11 Schedule 15).
12. Maximise the use of reversible dry construction for new work and employing more permanent wet construction for new work only when needed to meet statutory requirements or as appropriate for the permitted uses.
13. Allow restoration and reconstruction of interiors for either functional or interpretive reasons.
14. Employ designs and materials for new introduced elements that are clearly distinguishable from the design and materials of adjacent Significant and reconstructed Fabric.

SCHEDULE 13

(Guidelines for physical intervention and future development - landscape)

Landscape and Isolated Built Features and Buildings

Refer to Figures 1/8 and 1/9

Ranking 1

Not applicable

Ranking 2

Not applicable

Ranking 3

Areas of high landscape significance

Generally

- Preserve existing land form and native vegetation and promote growth of species native to the escarpment

Existing chain wire fences may be replaced with similar self-effacing fences

Intervention

- Maintain as appropriate setting for place
- Intervene only as necessary to control erosion and eradicate weeds
- Limit future spread of exotic species such as Gallipoli pine and agave species and, if possible, remove existing introduced exotic species
- Retain and conserve existing mature trees
- Renew dead or dying trees with matching species
- Prune vegetation and modify only in relation to health and future of fabric

Development

- No new structures, roads, parking areas, etc, should be built other than minor structures, paths, barriers, erosion works, etc, related to the care of the place.

Ranking 4

Areas of medium landscape significance

Intervention

- . For treatment of surface and sub-surface built archaeology see archaeological guidelines
- . Excavate within this area only in accordance with archaeological guidelines

Development

- . New fences, roads, paths, paving, landscaping, etc, may be made in accordance with Figure 1/9
- . New development is to be of a design sympathetic to the bulk, scale, form, proportions, materials and finishes to the existing buildings
- . New work is to be readily distinguishable from the existing significant fabric

Ranking 6

Areas of low landscape significance

Intervention

- . In area 6A road surface, median strip, kerbs and gutters, etc, may be removed and replaced provided that disturbance of road formation is controlled in accordance with the archaeological guidelines and that new elements are of a straight forward and simple modern design

Ranking 7

Areas of low landscape significance

Intervention

- . Existing weed growth and accumulated debris may be removed

Development

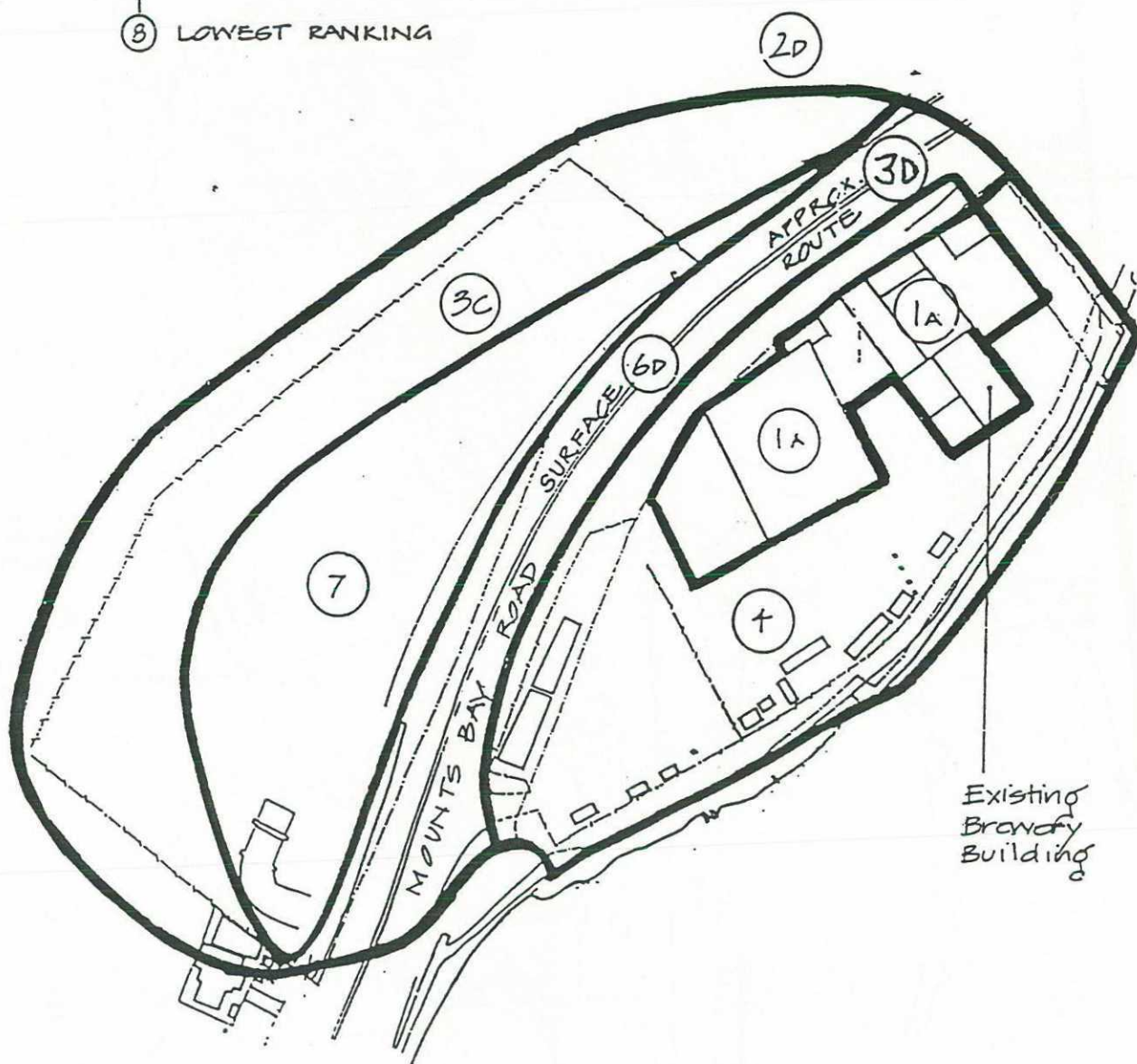
- . New structures, buildings, roads, fences, pavings, landscapes, etc, may be constructed to a sympathetic design as approved by the Council

LEGEND

② SIGNIFICANCE
RANKING OF
LANDSCAPE

① HIGHEST RANKING

⑧ LOWEST RANKING



Existing
Brewery
Building



SCHEDULE 14

(Guidelines for physical intervention and future development - historic buildings)

Exterior of Brewery Buildings

Refer to Figure 1/10

Rankings 1 and 2

- . Retain and conserve all pre 1950 fabric except as below
- . Fabric constructed post 1950 may be removed
- . Restore and reconstruct to pre 1950 configuration excluding machinery, equipment etc
- . Minor adaption may be made to accommodate new uses
- . Surfaces should not be covered or concealed to view from a distance
- . No new finishes should be applied (that are not reconstructions)

Rankings 3 and 4

- . Retain and conserve all pre 1950 fabric except as below
- . Fabric constructed post 1950 may be removed
- . Restore and reconstruct to pre 1950 configuration excluding machinery equipment, etc
- . Minor adaption may be made to accommodate new uses
- . Surfaces should not be covered or concealed to view from a distance
- . No new finishes should be applied (that are not reconstructions)
- . Discreet new doorways or window openings may be made for function reasons.

Ranking 5

- . Retain and conserve fabric constructed pre 1950 except as below
- . Restore and reconstruct missing elements to pre 1950 configuration if possible
- . Sympathetic modification allowable
- . No new finishes allowed (that are not reconstructions) but walls may be concealed or covered
- . New windows and doorways may be introduced for functional reasons

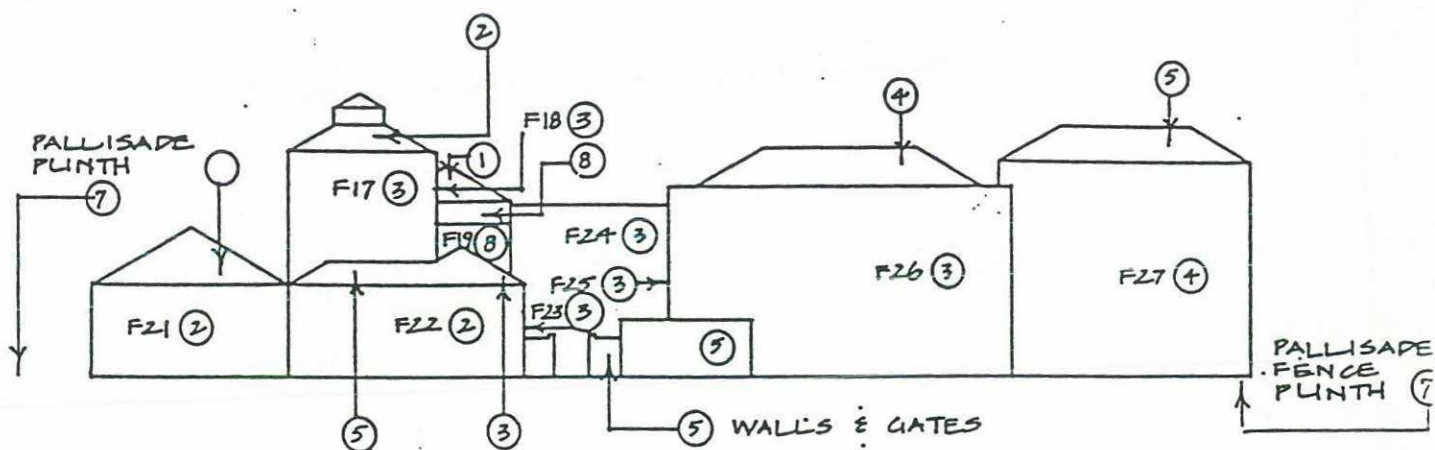
Ranking 6, 7 and 8

- . Retain and conserve fabric constructed pre 1950 preferred
- . Restoration or reconstruction not desirable
- . Sympathetic modification allowable
- . May be covered or concealed to view from a distance
- . New finishes allowable
- . Missing walls may be replaced with new fabric either reconstruction, or new fabric of sympathetic but identifiably new design

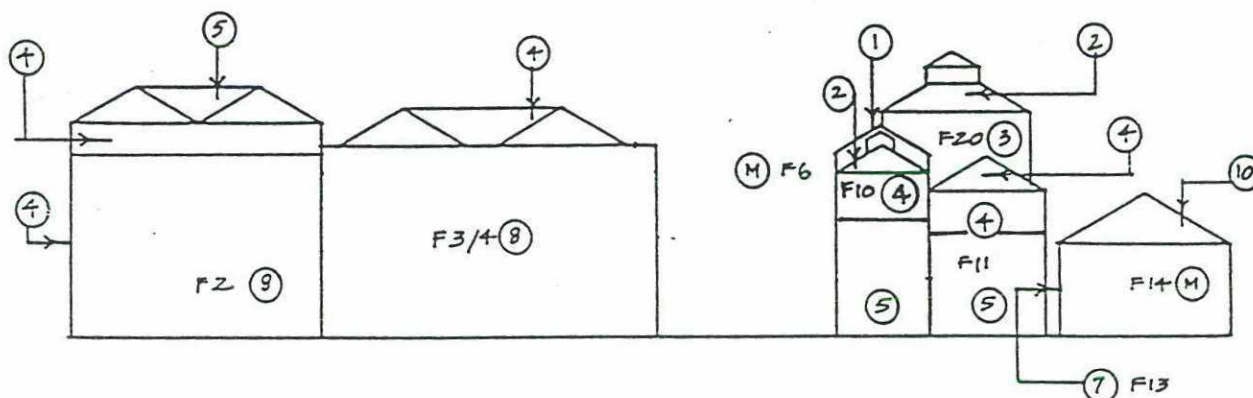
- . New windows and doorways may be introduced for function reasons

Rankings 9 and 10

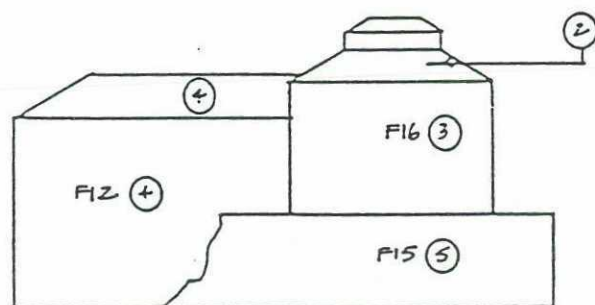
- . May be removed or replaced with new fabric either reconstruction or new fabric of sympathetic but identifiably new design



NORTH ELEVATION (MOUNTS BAY ROAD)



SOUTH ELEVATION (SWAN RIVER)



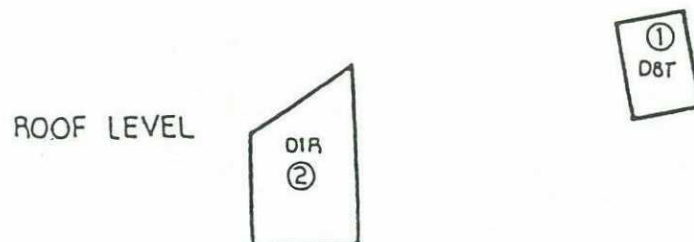
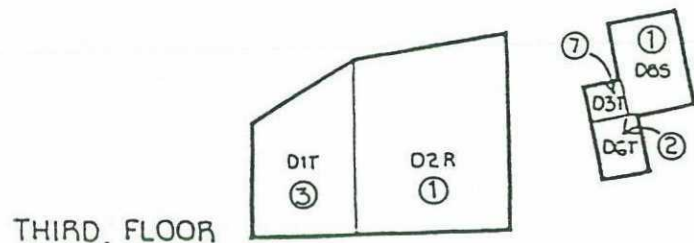
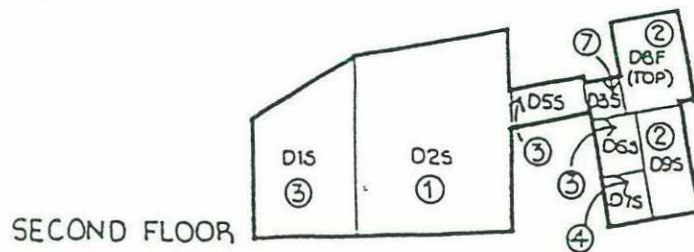
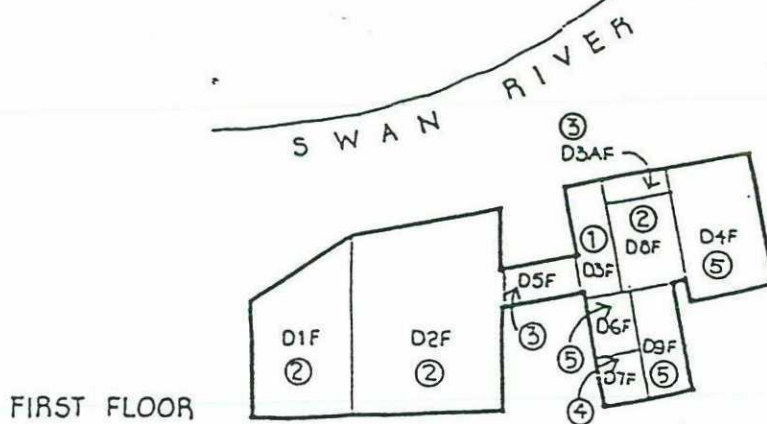
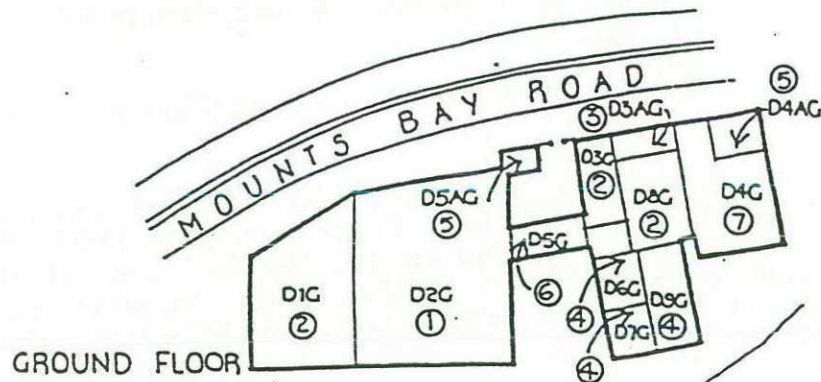
WEST ELEVATION

LEGEND

- (2) Significance Ranking
- F2 Facade Number
(See also facade identification diagram)
- (1) Highest Ranking
- (10) Lowest Ranking
- (M) Missing

SCHEDULE 15

(Ranking of significance of interior spaces)



LEGEND

- ② SIGNIFICANCE RANKING OF INTERIOR SPACES
- DZF SPACE NUMBER
- ① HIGHEST RANKING
- ⑩ LOWEST RANKING

SCHEDULE 16

(Principles for additions and new structures)

Generally: As set out in Schedule 13 including Figures 1/8 and 1/9.

In relation to roads and carparks: As set out in Schedule 13, including Figures 1/8 and 1/9, in particular careful design and landscaping of any construction in the Stables Area of the site to minimise visual presence. No vehicle entry to penetrate principal facades F15, F21, F22, F22A, F26, F27 except at existing central entry (between F22 and F22A) and at existing loading openings in F15.

SCHEDULE 17

(Protection of archeological resources)

Archaeological guidelines

See Figure 1/12

1. Area A

Intervention -

If this area is the subject of a future redevelopment that would result in the disturbance or concealment of the archaeological resource by building or other works then the following procedures should be followed:

- (a) Engage an archaeologist recognised by a relevant professional body
- (b) Excavate the area by initial mechanical excavation of the upper non-significant deposit under supervision of archaeologist. Archaeological excavation by manual area excavation of selected sample area/s (this includes recording).

Interpretation -

Provision should be made in resources, planning, and management for the following conservation of the archaeological remains:

Option 1

- (a) Retain in situ items such as the remains of the aboriginal institution, steam mill, etc, by covering up or in an interpretative framework created by landscaping and/or new building works

and/or

Option 2

- (b) Conserve excavated remains in statutory depository and allow for post-excavation analysis.

Implementation of option 1 is very much dependent on the scale and quality of the archaeological remains revealed. The decision to conserve the remains would therefore have to be made during the excavation process. As a minimum, option 2 should be undertaken.

2. Area C

Intervention -

If this area is the subject of a future redevelopment that would result in the disturbance or concealment of the archaeological resource by building or other works, then the following procedures should be followed:

- (a) Engage an archaeologist recognised by a relevant professional body
- (b) Archaeologist to undertake watching brief for duration of ground disturbance - this may necessitate further archaeological manual (either area or trench) excavation on full time basis (this includes recording).

Interpretation -

Provision should be made in resources planning, and management for the following conservation of the archaeological remains:

- (a) Conserve excavated remains in statutory depository and allow for post-excavation analysis

3. Area D

If this area is the subject of a future redevelopment that would result in the disturbance or concealment of the archaeological resource by building or other works then the following procedures should be followed:

- (a) Engage an archaeologist recognised by a relevant professional body
- (b) Archaeological excavation of sample areas

Intervention;

Provision should be made in resources, planning, and management for the following conservation of the archaeological remains:

- (a) Conserve excavated remains in statutory depository and allow for post-excavation analysis.

4. Area E

Intervention -

If this area is the subject of a future works that would result in the disturbance or concealment of the archaeological resource by road or other works, then the following procedures should be followed:

- (a) Engage an archaeologist recognised by a relevant professional body

- (b) Archaeologist to undertake a watching brief over the works. This may necessitate further archaeological manual excavation by either trench or area excavation on a full time basis (this includes recording).

Intervention -

Provision should be made in resources, planning, and management for the following conservation of the archaeological remains:

- (a) Conserve excavated remains in statutory depository and allow for post-excavation analysis.

5. Area X

This area is known to have no archaeological potential. No archaeological works are required.

6. Area R

This area is known to be land reclaimed from the c.1930s. If the area is the subject of future works that would result in the disturbance or concealment of the archaeological resource by building or other works, then the following procedures should be followed:

- (a) Engage an archaeologist recognised by a relevant professional body
- (b) Archaeologist to undertake a watching brief over the works - this may necessitate further archaeological excavation by trench excavation on a full time basis (this includes recording)

Interpretation -

Provision should be made in resources, planning, and management for the following conservation of the archaeological remains:

- (a) Conserve excavated remains in statutory depository and allow for post-excavation analysis.

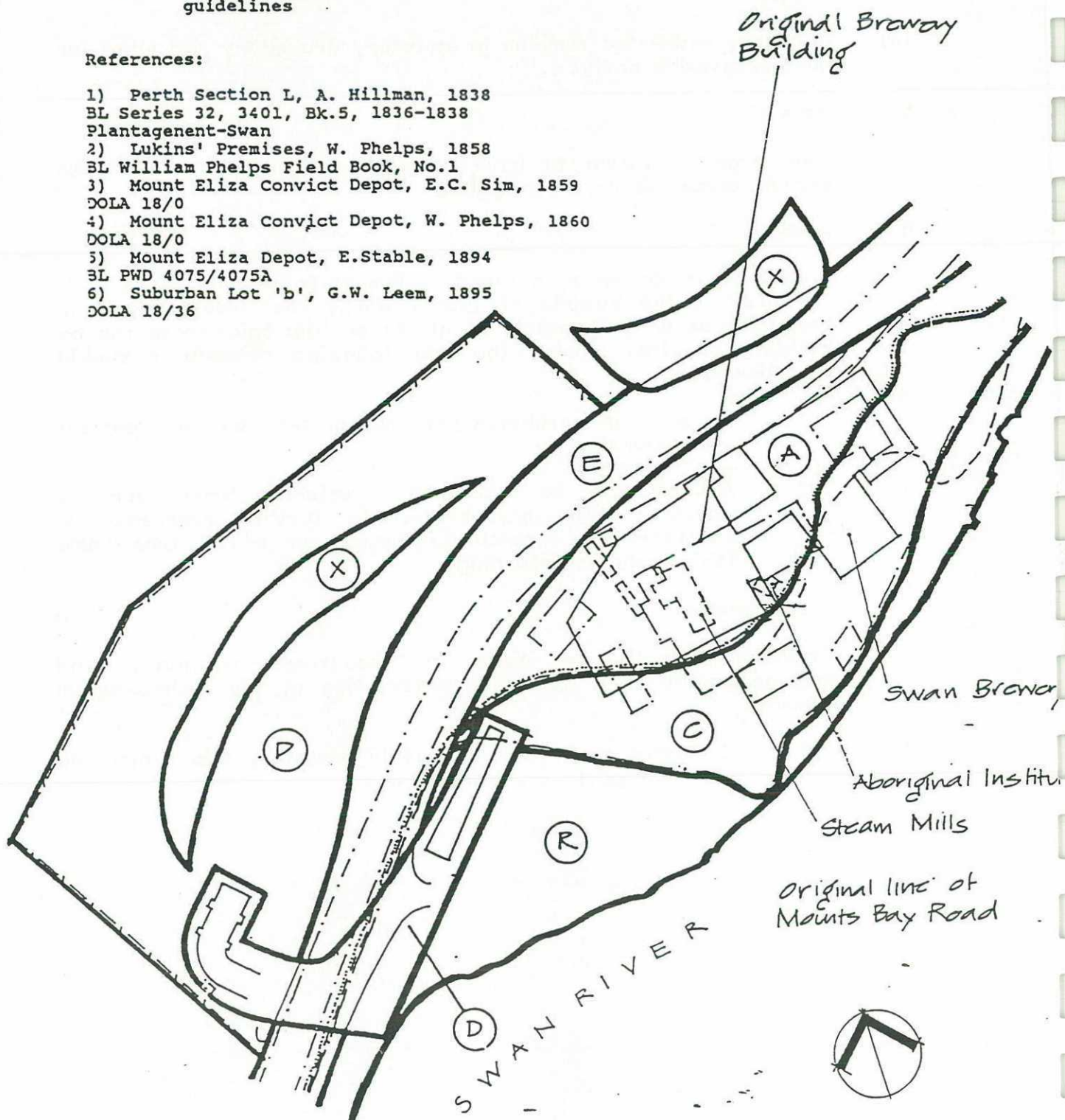
- Shoreline c1838
- Shoreline and buildings c1860
- Shoreline, buildings and road c1895
- Shoreline, buildings and road 1992
- /-/-/-/- Legal land boundary 1992



Area designation refer to archaeological guidelines

References:

- 1) Perth Section L, A. Hillman, 1838
BL Series 32, 3401, Bk.5, 1836-1838
Plantagenet-Swan
- 2) Lukins' Premises, W. Phelps, 1858
3L William Phelps Field Book, No.1
- 3) Mount Eliza Convict Depot, E.C. Sim, 1859
DOLA 18/0
- 4) Mount Eliza Convict Depot, W. Phelps, 1860
DOLA 18/0
- 5) Mount Eliza Depot, E.Stable, 1894
3L PWD 4075/4075A
- 6) Suburban Lot 'b', G.W. Leem, 1895
DOLA 18/36



SCHEDULE 18

(Constraints to be observed during Development)

Constraints during Construction Phase:

1 Signs, compounds, fences etc

All project and construction signs, compounds, fences, etc. to be of a design, text, construction and location approved by the Council.

2 Excavation

All excavation other than that of a trifling nature (for example, weeding, brick piers, etc) to be subject to archaeological control as set out in Schedule 17:

3 Measured Drawings

As soon as practicable after the execution of this Agreement the surviving joinery in the following elevations is to be recorded by measured drawings to a standard approved by the Council: F12, F21, F22, F23, F24, east elevation of D5AG.

4 Protection of particular areas of fabric and patina

The following areas and items of fabric are to be completely isolated during adjacent construction work by approved fencing, barriers, boarding up, etc: mash tun (D5F), hoist (roof space over D3F), raised 'Swan Brewery Company' sign (DIT), east window D2F (in F26), door and window cases D3AG (in F22), doorcase D3AF (in F22), window case north end D9G (in F12), four number window frames D8T (in F18 and F20).

5 Restricted Areas

Each area which the Council and the Lessee agree is a restricted area for the purpose of this paragraph of this Schedule 18 is to be adequately signposted and monitored by the contractor during the construction phase of any Development Works which may affect the same to ensure that the areas are not used for works and activities or storage associated with construction.

The Council and the Lessee may agree to change the boundaries of a restricted area in which case that amended area will be the relevant restricted area for the purpose of the preceding paragraph.

SCHEDULE 19

(Miscellaneous)

Item 1:

Council's Representative:

BMA
2 Havelock Street
West Perth Western Australia 6005
Facsimile: (09) 222 5000

THE COMMON SEAL of
HERITAGE COUNCIL OF WESTERN
AUSTRALIA is affixed in the
presence of:

[Signature]
.....
Signature of authorised person

CHAIRMAN

Office held

IAN BRUCE MOLYNEUX

.....
Name of authorised person

[Signature]
.....
Signature of authorised
person

DEPUTY CHAIRMAN

Office held

MAURICE ANTHONY OWEN



.....
Signature of authorised person

.....
Name of authorised person

.....
Name of authorised person

.....
Signature of authorised person

DIRECTOR


.....
Name of authorised person

.....
Deputy Chairman
Office held
.....
Name of authorised person

CERTIFICATE UNDER SECTION 32 OF THE HERITAGE
OF WESTERN AUSTRALIA ACT

I, JAMES ANDREW MCGINTY, B.A., B.Juris (Hons), LLB.
J.P., M.L.A., Minister for Heritage, hereby certify that this
Agreement is necessary for the purposes of, and complies with, the
Heritage of Western Australia Act.

Dated the 19 day of January 1993
JAS.


.....
MINISTER FOR HERITAGE

SBHA04/DJW