

15 February 2010

Australian Competition and
Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

FILE No:
DOC:
MARS/PRISM:

Dear Sir/Madam

NOTIFICATION OF EXCLUSIVE DEALING – YARAN PTY LTD (A.C.N. 074 686 221) AS TRUSTEE FOR THE YARAN TRUST (A.B.N. 52 058 102 665)

Yaran Pty Ltd as Trustee for the Yaran Trust ('Yaran') is in the business of developing and selling land. Yaran has an Option to purchase land at Lot 1268 Coldstream Circuit, Merriwa and intends to subdivide the land into 15 survey strata Lots + Lot 16 (Common Property) which will be sold for residential usage.


As part of the house and land packages being offered to buyers of the 15 lots, the purchaser will acquire land by way of contract for sale from Yaran on the condition that the purchaser also enters into a contract for the supply of building services directly from a builder, to be nominated by Yaran.

We therefore enclose Form G – Notification of Exclusive Dealing pursuant to the development at Lot 1268 Coldstream Circuit, Merriwa by Yaran (Notice).

We confirm the correct legal entity giving the Notice is Yaran Pty Ltd (A.C.N. 074 686 221) as Trustee for the Yaran Trust (A.B.N. 52 058 102 665).

If you have any further queries regarding the Notice please do not hesitate to contact our office on 08 9354 1917.

Yours faithfully



Fyror Gorjy
Director



Form G

Commonwealth of Australia
Trade Practices Act 1974 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of person giving notice:

N94469 Yaran Pty Ltd (A.C.N. 074 686 221) as trustee for the Yaran Trust (A.B.N. 52 058 102 665) ('Yaran').

(b) Short description of business carried on by that person:

Yaran is in the business of developing and selling land. Yaran has an Option to Purchase Lot 1268 Coldstream Circuit Merriwa, which will be subdivided into 15 survey strata Lots + Common Property (Lot 16).

(c) Address in Australia for service of documents on that person:

Yaran Pty Ltd
20 Tribute Street
SHELLEY WA 6148

2. Notified arrangement

(a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

This notice relates to the sale of 15 lots in Merriwa in association with house and land packages being offered by Yaran.

(b) Description of the conduct or proposed conduct:

Yaran proposes to offer the lots listed above to the public for sale as part of a house and land package. The purchaser will acquire land by way of contract for sale from Yaran on the condition that the purchaser enters into a contract for the supply of building services directly from a builder, to be nominated by Yaran.

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:

The conduct refers to potential and actual house and land purchasers purchasing land from Yaran in Merriwa and building services from the Builder.

- (b) Number of those persons:

- (i) At present time:

There are no actual purchasers.

- (ii) Estimated within the next year:

(A) Minimum of 15 actual purchasers.

(B) Yaran is unable to advise on a maximum number of potential purchasers.

- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Yaran is unable to provide this information at this time as potential or actual purchasers have not yet been identified.

4. Public benefit claims

- (a) Arguments in support of notification:

See attached Submissions

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

The market in which the proposed conduct relates to is the residential real estate market in Merriwa, Western Australia.

6. Public detriments

See attached Submissions

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Jenni Delaney
Yaran Pty Ltd
20 Tribute Street
Shelley WA 6148

Tel: 08 9354 1917

Dated..... 15 / 2 / 10

Signed by/on behalf of the applicant

..... Fgy Ggy /

(Signature)

..... FARYAR GORTY

(Full Name)

..... YARAN PTY LTD

(Organisation)

..... DIRECTOR

(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

**SUBMISSIONS IN SUPPORT OF NOTIFICATION UNDER SECTION 93(1)
OF THE TRADE PRACTICES ACT 1974**

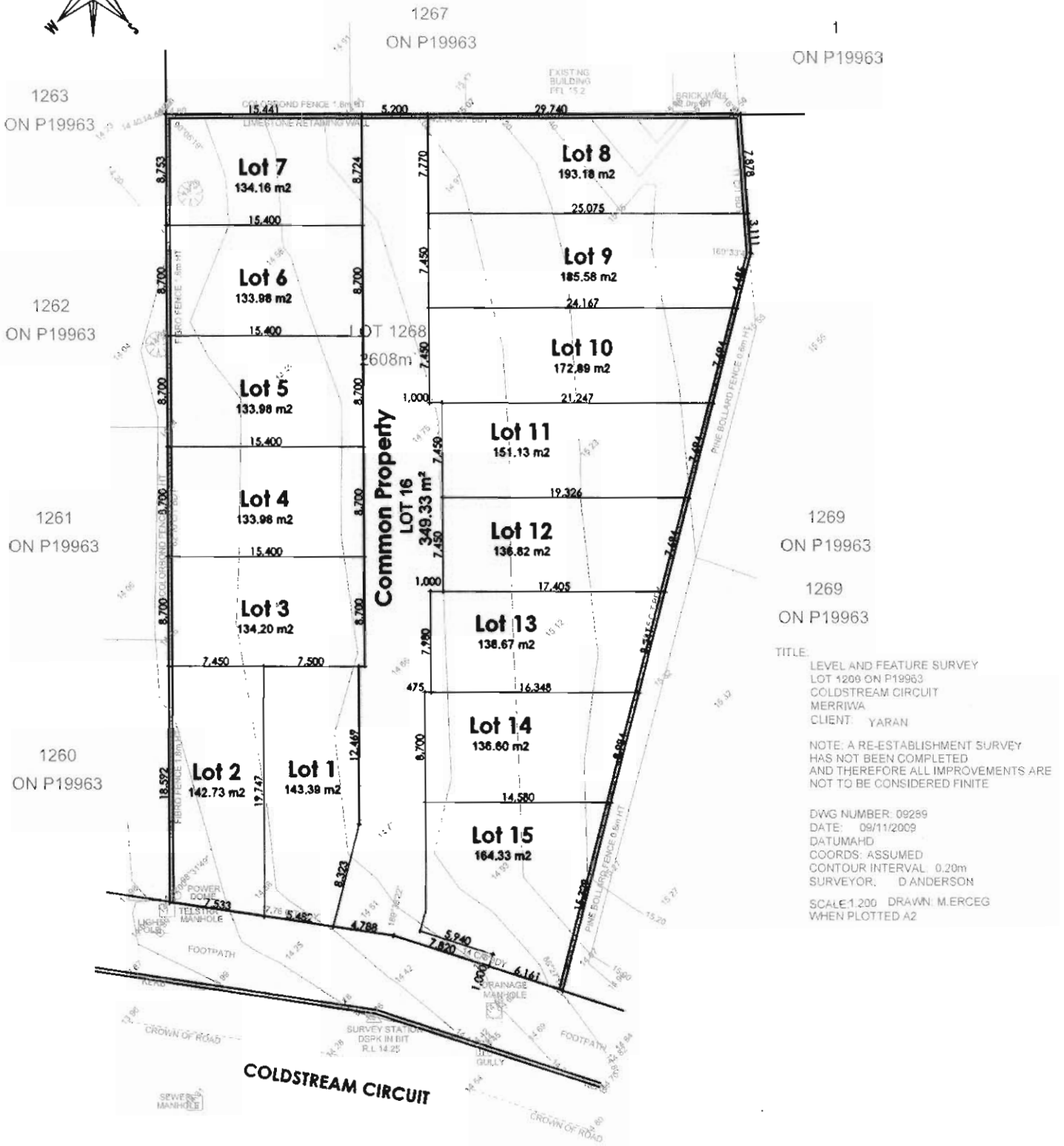
1. Background

- 1.1 Yaran Pty Ltd as trustee for the Yaran Trust ('Yaran') has an Option to purchase land at Lot 1268 Coldstream Circuit, Merriwa, Western Australia.
- 1.2 Yaran is in the business of developing and selling house and land packages.
- 1.3 The land currently comprises a green titled Lot # 1268 Coldstream Circuit, Merriwa, Western Australia, which will be subdivided into 15 survey strata lots for residential usage, plus Common Property (Lot 16).
- 1.4 Yaran intends to develop and sell the 15 lots to the public as house and land packages.
- 1.5 Under the house and land package, potential purchasers will be required to enter into the following contracts:
- (1) Contract for the sale of land from Yaran; and
 - (2) Building contract with the Builder for the supply of building services.
- 1.5.1 The sale of the land by Yaran to the potential purchaser will be conditional upon the purchaser entering into a contract with the Builder for the supply of building services.
- 1.6 The subdivision of the land into 15 survey strata lots will soon be completed. Yaran proposes to make offers to the public as soon as possible.

2. Public Benefit

- 2.1 The conduct described in this Form is exclusive within sections 47(6) and 47(7) of the Trade Practices Act 1974 (Cth). Yaran submits there is no likely detriment to the public resulting from that conduct.
- 2.1.2 In the alternative, Yaran submits the benefit to the public resulting from the conduct outweighs any detriment to the public.
- 2.2 The proposed conduct does not substantially lessen competition in the relevant market as the area represents a small proportion of residential real estate available for development and sale in the Merriwa area of Western Australia.

- 2.3 The tight design of the Lots necessitates that all lots are required to be built by one builder concurrently. Please find attached plans and illustrations for the proposed development in Merriwa.
- 2.4 Common areas and common services need to be constructed before the units can be occupied. Please find attached copies of the proposed plans. On site, it would be impractical to engage more than one Builder to effect construction of these plans.
- 2.5 Using one Builder to construct all homes on the lots described will mean purchasers have more certainty about:
- (a) the quality of construction;
 - (b) the symmetry of the development;
 - (c) development in accordance with the design guidelines and plans; and
 - (d) timing of completion of the development.
- 2.6 As there is a single transfer of the land prior to the commencement of the building services by the Builder, purchasers will only be required to pay stamp duty on the land value, representing a significant saving for the purchasers and making the overall house and land package being offered by Yaran more affordable.
- 2.7 As Yaran does not have to carry the cost of constructing the buildings, Yaran can sell its house and land packages at a price lower than if Yaran had to fund the construction of all of the buildings itself. As a consequence, the house and land packages will be available to purchasers at more affordable prices.
- 2.8 Yaran will obtain tender quotations from pre-qualified builders suitable for the development and the most efficient builder with the best quality will be selected for the development.
- 2.9 The total house and land package prices that are paid by purchasers are based on sworn valuations of the completed houses. The total price paid for the house and land package by purchasers is therefore not impacted by the particular builder selected nor influenced by the cost of construction as set by the builder.



TITLE:
 LEVEL AND FEATURE SURVEY
 LOT 1208 ON P19963
 COLDSTREAM CIRCUIT
 MERRIWA
 CLIENT: YARAN

NOTE: A RE-ESTABLISHMENT SURVEY HAS NOT BEEN COMPLETED AND THEREFORE ALL IMPROVEMENTS ARE NOT TO BE CONSIDERED FINITE

DWG NUMBER: 09289
DATE: 09/11/2009
DATUM: AHD
COORDS: ASSUMED
CONTOUR INTERVAL: 0.20m
SURVEYOR: D ANDERSON

SCALE: 1:200 **DRAWN:** M.ERCEG
WHEN PLOTTED: A2

STRATA PLAN
 SCALE 1:300

YARAN
 PROPERTY GROUP
 CREATING VALUE SHARING VALUE
 www.yaran.com.au

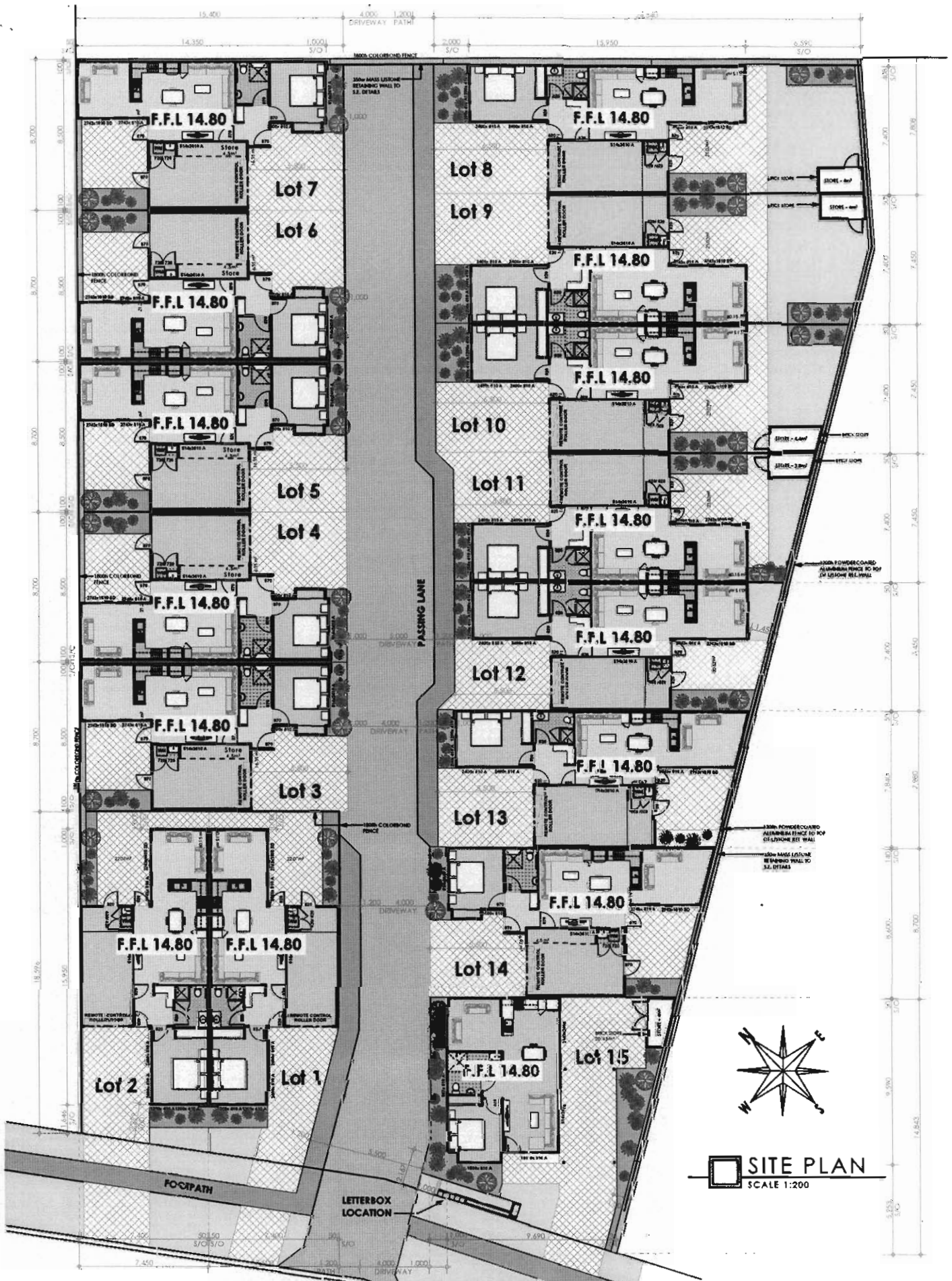
STAGE: CONCEPT STAGE	SHEET: STRATA PLAN
CLIENT: YARAN PTY LTD	DATE: 16/10/09 REV: 01 DESCRIPTION: INITIAL CONCEPT 01
PROJECT: 15 LOT DEVELOPMENT LOT 1268 COLDSTREAM CIRCUIT MERRIWA WA 6872	DATE: 02/12/09 REV: 02 DESCRIPTION: AMENDED TO CONTRACT PLANNER REQUIREMENTS
	DATE: 18/12/09 REV: 03 DESCRIPTION: AMENDED TO CONTRACT PLANNER REQUIREMENTS
	DATE: 19/01/10 REV: 04 DESCRIPTION: AMENDED TO CONTRACT PLANNER REQUIREMENTS
DATE PRINTED: Tuesday, 19 January 2010 TIME PRINTED: 10:43 AM	

SHEET NO:
1 OF 7

JOB NO:
MDS - 0272

DRAWING NO:
B11.04

BUILDING ASSOCIATION OF W.A.

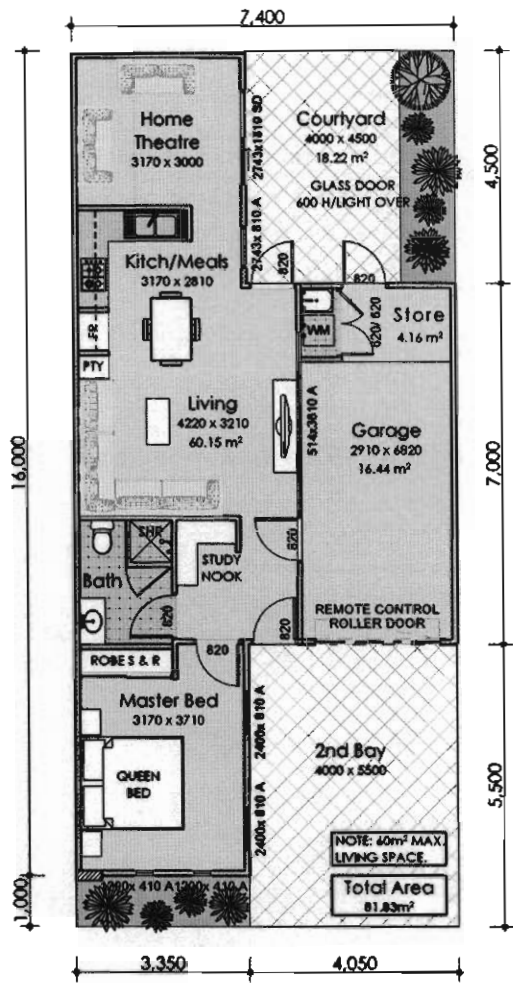


SITE PLAN
SCALE 1:200

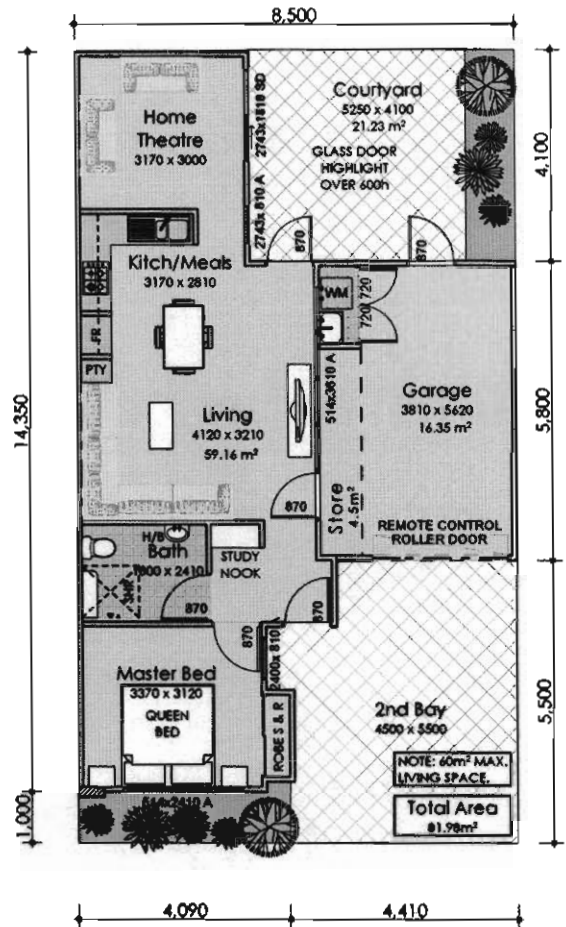
STAGE:	CONCEPT STAGE
CLIENT:	YARAN PTY LTD
PROJECT:	15 LOT DEVELOPMENT LOT 1268 COLDSTREAM CIRCUIT MERRIWA WA 6872

SHEET:	SITE PLAN
DATE:	14/10/09
REV:	01
DESCRIPTION:	INITIAL SITE CONCEPT
	02
	03
	04
DATE PRINTED:	Tuesday, 19 January 2010
TIME PRINTED:	10:43 AM

<p>BUILDING DESIGNERS ASSOCIATION OF WA.</p>	<p>SHEET NO: 2 OF 7</p>
	<p>JOB NO: MDS - 0272</p>
	<p>DRAWING NO. BL2.04</p>
	<p>DATE: 14/10/09</p>



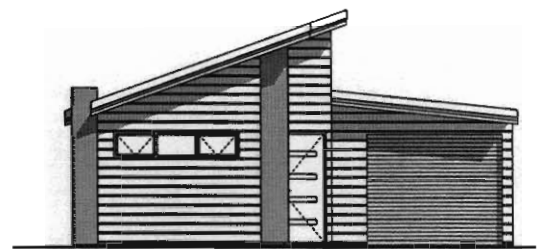
FLOOR PLAN (7.4m)
SCALE 1:100



FLOOR PLAN (8.5m)
SCALE 1:100

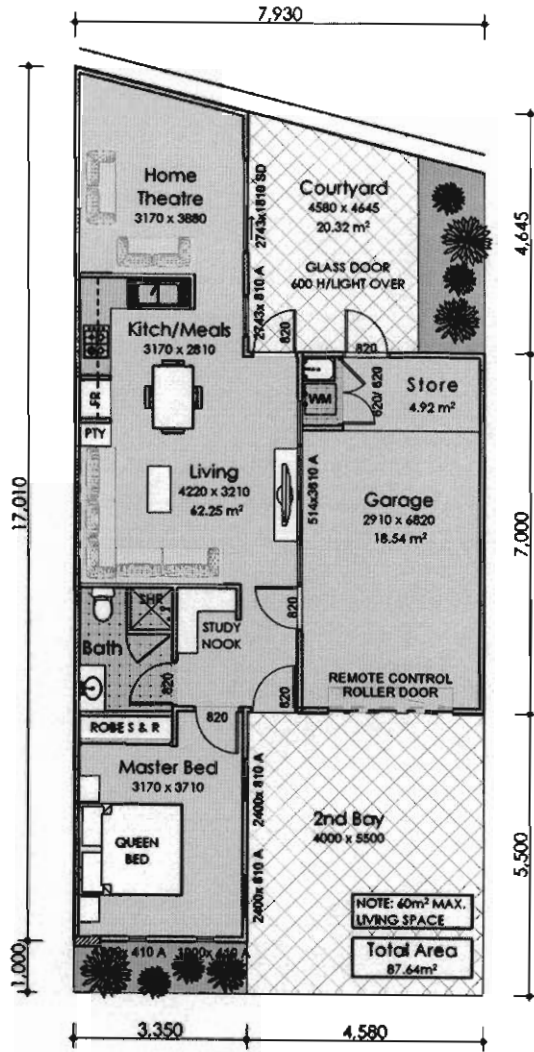


FRONT ELEVATION (7.4m)

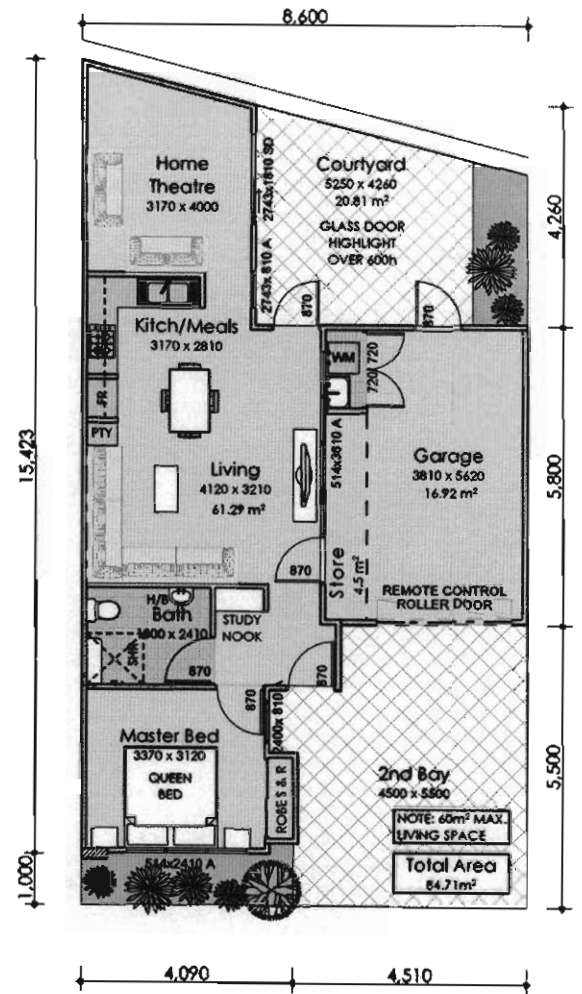


FRONT ELEVATION (8.5m)
SCALE 1:100

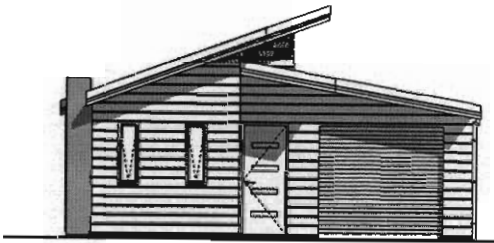
STAGE: CONCEPT STAGE	SHEET: TYPICAL PLAN	<p>BUILDING DESIGNERS ASSOCIATION OF W.A.</p>	SHEET NO: 3 OF 7
CLIENT: YARAN PTY LTD	DATE: 16/10/09 01 INITIAL CONCEPT 01		JOB NO: MDS - 0272
PROJECT: 15 LOT DEVELOPMENT LOT 1268 COLDSTREAM CIRCUIT MERRIWA WA 6872	03/12/09 02 AMENDED TO CONTRACT PLANNER REQUIREMENTS		DRAWING NO: BL3.04
	16/12/09 03 AMENDED TO CONTRACT PLANNER REQUIREMENTS		
	19/01/10 04 AMENDED TO CONTRACT PLANNER REQUIREMENTS		
DATE PRINTED: Tuesday, 18 January 2010		TIME PRINTED: 10:43 AM	



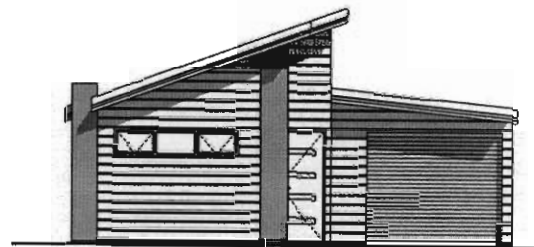
FLOOR PLAN (7.9m) (LOT 13)
 SCALE 1:100



FLOOR PLAN (8.6m) (LOT 14)
 SCALE 1:100

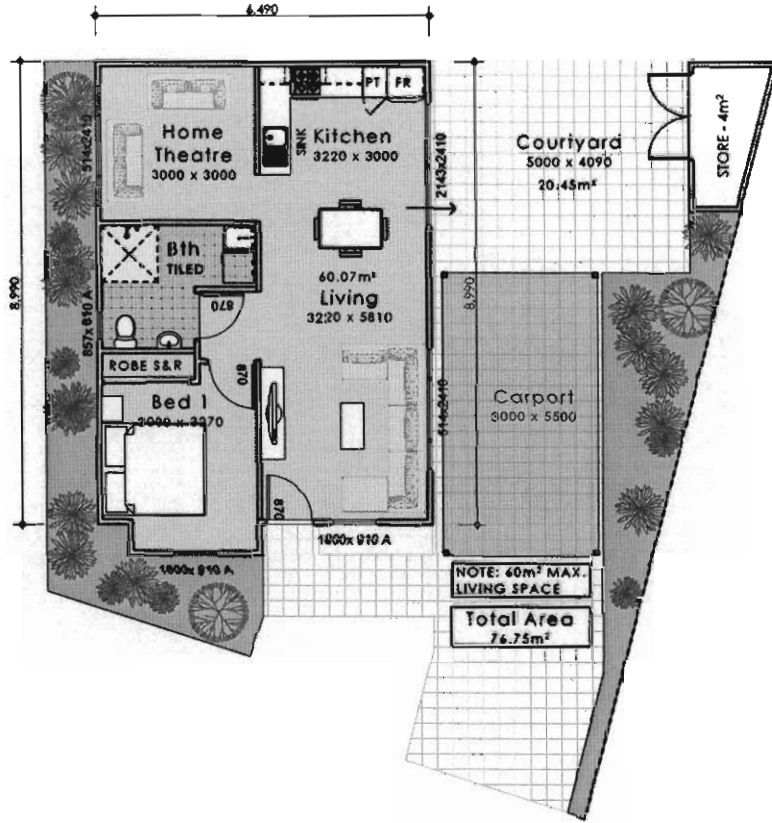


FRONT ELEVATION (7.9m)
 SCALE 1:100

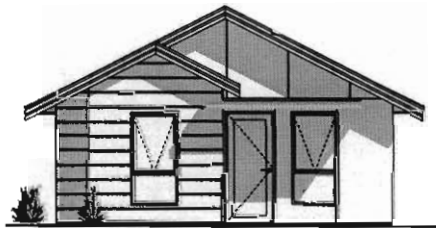


FRONT ELEVATION (8.6m)
 SCALE 1:100


STAGE: CONCEPT STAGE	SHEET: TYPICAL PLAN	<p>BUILDING DESIGNERS ASSOCIATION OF W.A.</p>	SHEET NO: 4 OF 7	
CLIENT: YARAN PTY LTD	DATE: 14/10/09 09/12/09 18/12/09 19/01/10		REV: 01 02 03 04	JOB NO: MDS - 0272
PROJECT: 15 LOT DEVELOPMENT LOT 1268 COLDSTREAM CIRCUIT MERRIWA WA 6872	DESCRIPTION: INITIAL CONCEPT 01 AMENDED TO CONTRACT PLANNER REQUIREMENTS AMENDED TO CONTRACT PLANNER REQUIREMENTS AMENDED TO CONTRACT PLANNER REQUIREMENTS		DRAWING NO: BL4.04	
DATE PRINTED: Tuesday, 19 January 2010			TIME PRINTED: 10:43 AM	

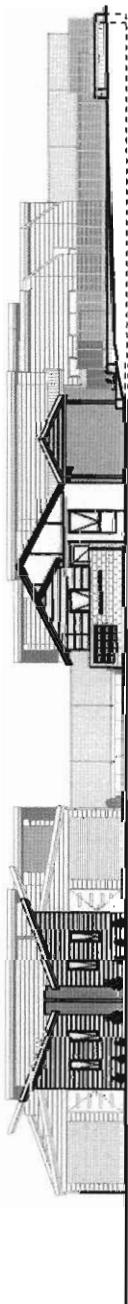


 FLOOR PLAN (LOT 15)
SCALE 1:100

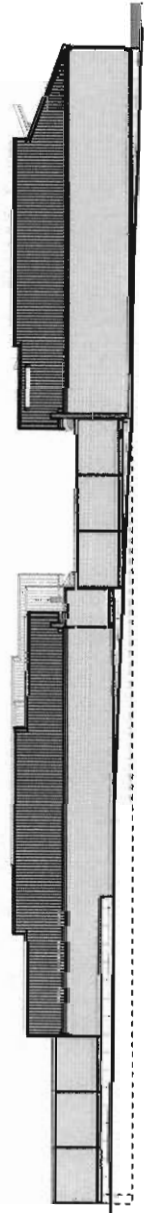


 FRONT ELEVATION
SCALE 1:100

STAGE: CONCEPT STAGE	SHEET: TYPICAL PLAN	 BUILDING DESIGNERS ASSOCIATION OF W.A.	SHEET NO: 5 OF 7
CLIENT: YARAN PTY LTD	DATE: RVS: DESCRIPTION:		JOB NO: MDS - 0272
PROJECT: 15 LOT DEVELOPMENT	16/10/09 01 INITIAL CONCEPT		DRAWING NO: BL5.04
LOT 1268 COLDSTREAM CIRCUIT MERRIWA WA 6872	02/12/09 02 AMENDED TO CONTRACT PLANNER REQUIREMENTS 18/12/09 03 AMENDED TO CONTRACT PLANNER REQUIREMENTS 19/01/10 04 AMENDED TO CONTRACT PLANNER REQUIREMENTS		
DATE PRINTED: Tuesday, 19 January 2010		TIME PRINTED: 10:43 AM	



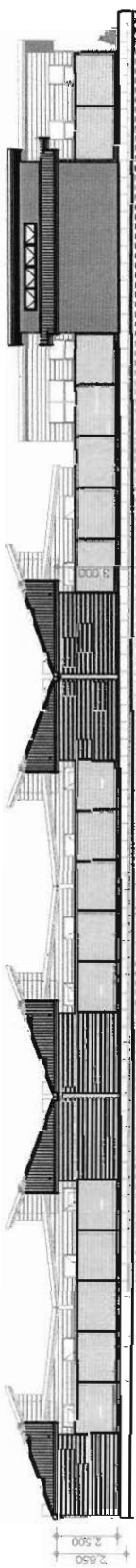
STREET ELEVATION
SCALE 1:200



NORTH EAST ELEVATION
SCALE 1:200



SOUTH EAST ELEVATION
SCALE 1:200



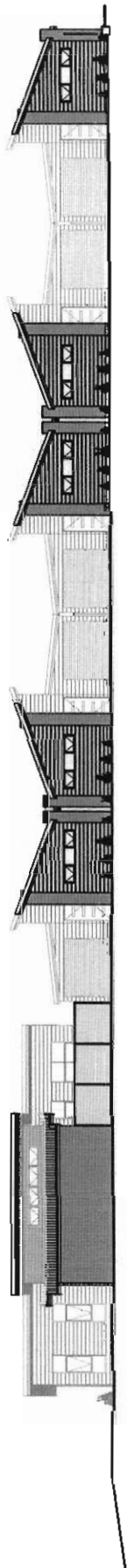
NORTH WEST ELEVATION
SCALE 1:200

STAGE:	CONCEPT STAGE
CLIENT:	YARAN PTY LTD
PROJECT:	15 LOT DEVELOPMENT LOT 1268 COLDSTREAM CIRCUIT MERRIWA WA 6872

STAGE:	ELEVATIONS	
DATE:	REV:	DESCRIPTION:
16/10/09	01	INITIAL CONCEPT 01
02/12/09	02	AMENDED TO GOVERNMENT CONTRACT PLANNER REQUIREMENTS
18/12/09	03	AMENDED TO GOVERNMENT CONTRACT PLANNER REQUIREMENTS
19/01/10	04	AMENDED TO GOVERNMENT CONTRACT PLANNER REQUIREMENTS
DATE PRINTED:		Tuesday 17 January 2010
TIME PRINTED:		10:43 AM

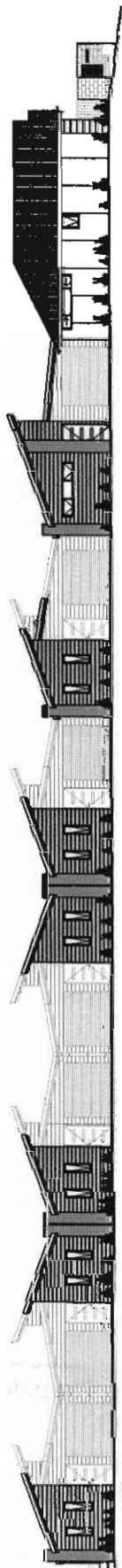
BUILDING DESIGNERS ASSOCIATION OF W.A.

SHEET NO: **6** OF 7
JOB NO: MDS - 0272
DRAWING NO: BL6.04



DRIVEWAY ELEVATION (LOTS 1-7)

SCALE 1:200



DRIVEWAY ELEVATION (LOTS 8-15)

SCALE 1:200

STAGE:	CONCEPT STAGE
CLIENT:	YARAN PTY LTD
PROJECT:	15 LOT DEVELOPMENT LOT 1268 COLDSTREAM CIRCUIT MERRIWA WA 6872

SHEET:	ELEVATIONS	
DATE:	REV:	DESCRIPTION:
16/08/09	01	INITIAL CONCEPT
03/12/09	02	AMENDED TO CONTRACT PLANNER REQUIREMENTS
18/12/09	03	AMENDED TO CONTRACT PLANNER REQUIREMENTS
19/01/10	04	AMENDED TO CONTRACT PLANNER REQUIREMENTS
DATE PRINTED:	Tuesday, 19 January 2010	TIME PRINTED: 10:43 AM