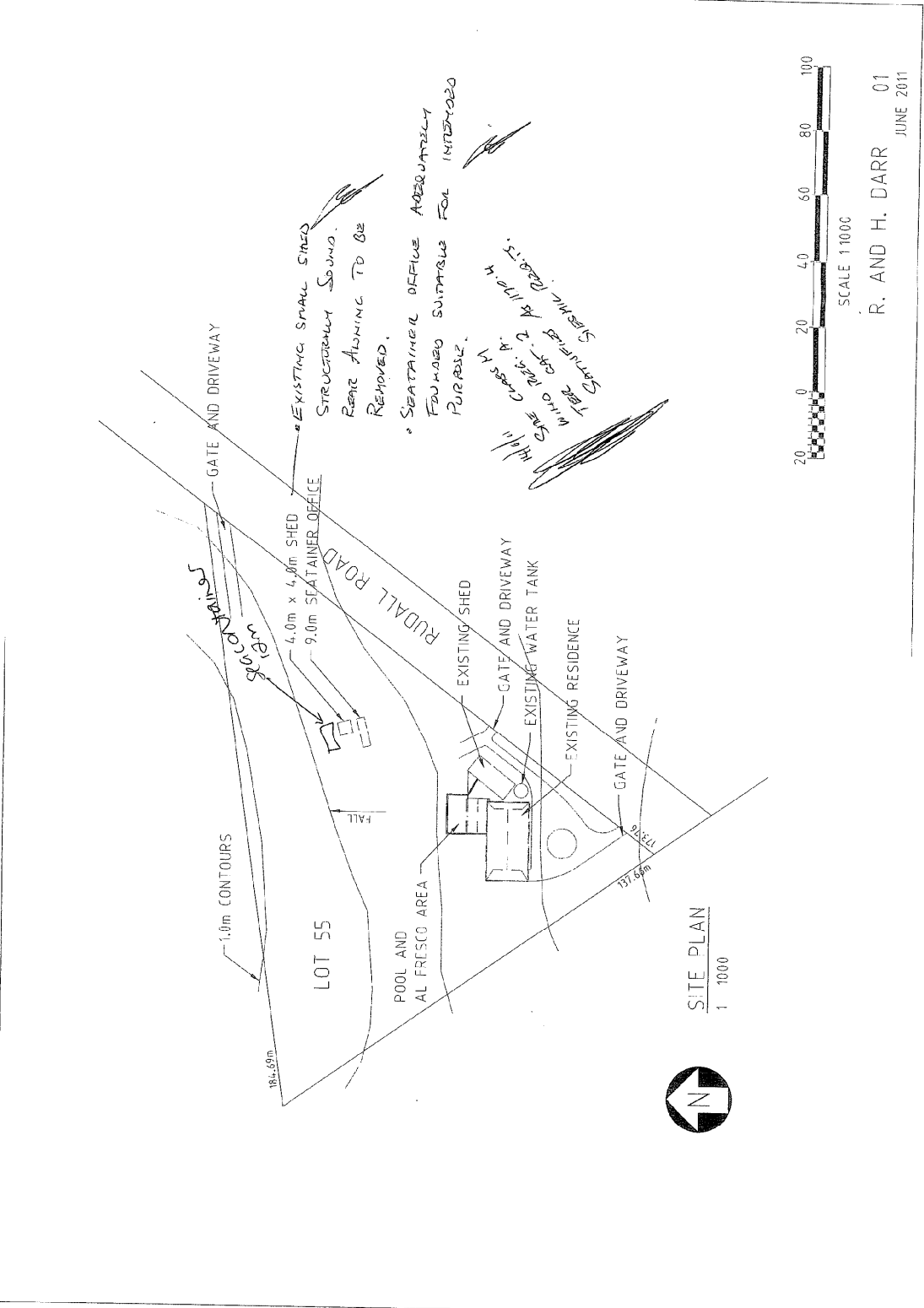






SITE PLAN



R. AND H. DARR 01  
JUNE 2011



**ASSESSMENT REPORT**

**CLAUSE 7.5 YORK TPS 2 – MATTERS FOR CONSIDERATION**

- a) The aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area.

York Town Planning Scheme No. 2 (the Scheme)

The site is zoned Rural-Residential under the provisions of the Scheme.

The objectives of the zone are to provide for closer settlement for residential use in a rural environment and to make provision for retention of the rural landscape and amenity. The use of the property for a home business is not inconsistent with the objectives of the zone.

Home businesses are a use that is not permitted in the zone unless Council has exercised its discretion and by granted planning consent. In this case, Council has not issued planning consent prior to the commencement of the home business.

Clause 7.14 of the Scheme enables Council to grant planning consent to a use or a development already commenced or carried out if the development conforms to the provisions of the Scheme.

The application is to conduct a home business. Home businesses are defined under the Scheme as:

*“a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –*

- (a) does not employ more than 2 people not members of the occupier’s household;*
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) does not occupy an area greater than 50 square metres, except that for land in the Farming Zone under the Scheme the local government may permit an area up to 200 square metres;*
- (d) does not involve the retail sale, display or hire of goods of any nature;*
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight, except that for land in the Farming zone under the Scheme the local government may permit the presence and use of up to 3 vehicles of more than 3.5 tonnes tare weight; and*
- (f) does not involve the use of an essential service or greater capacity than normally required in the zone.”*

The application proposes to gain approval to continue to conduct a home business that meets the requirements of the definition with the exception of the number of employees and area used. It is proposed to have four (4) employees utilising an area of 100m<sup>2</sup>.

The numerical standards within the definition are ‘development standards’ and therefore can be varied and approved subject to conditions in accordance with Clause 4.6 of the Scheme, if Council is satisfied that the variation of the standards of would be consistent with orderly and proper planning; preservation of the amenity of

the locality; and that non-compliance will not have any adverse impacts on the locality or likely future development of the locality.

It is considered that the variation of the development standards are appropriate if the recommended conditions of consent are imposed to ensure the preservation of the amenity of the area and reduce the potential for land use conflicts in accordance with Clause 4.7.3 of the Scheme. Additionally, the conditions are considered appropriate to ensure the future development of the area as a rural-residential area will not be affected by the approval of the home business.

The assessment of the provisions of the Scheme shows that the proposal is consistent with the intent of the provisions for home business and the objectives of the rural-residential zone.

b) The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, which has been granted consent for public submissions to be sought.

There are no new planning schemes or amendments known applicable to the site. However, the site is within the Mount Hardey future Rural-Residential area identified on Map 4 of the York Local Planning Strategy. The adjoining site is identified within Stage 3 and taking into consideration that Stage 1 is currently commencing, subdivision of the adjoining lot is envisaged a number of years into the future.

c) Any approved statement of planning policy of the Commission.

There are no statements of planning policy of the Commission applicable to the site.

d) Any approved environmental protection policy under the *Environmental Protection Act 1986*.

Not applicable.

e) Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State.

There are no policies or strategies applicable to the proposal.

f) Any Planning Policy adopted by the local government under clause 8.8, any policy for a designated heritage precinct adopted under clause 5.1.3, and any other plan or guideline adopted by the local government under the Scheme.

#### Local Planning Policy – Retrospective Planning Applications

Council at its Ordinary Meeting held on 18 July 2011 resolved to adopt the Local Planning Policy – Retrospective Planning Applications. The Policy provides guidelines on the assessment and determination of applications and fees.

This application is retrospective for a home business that has commenced without approval. The Policy states that the application is to be treated as if they were new proposals for planning approval.

The assessment of this application has been conducted in accordance with the Policy.

Additional application fees have been charged in accordance with the Policy and Council, if approves or refuses the application, has the choice to initiate legal proceedings for commencing a use without approval.

g) In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve.
The land is not reserved under the Scheme.
h) The conservation of any place that has been entered in the Register within the meaning of the <i>Heritage of Western Australia Act 1990</i> , or which is included in the Heritage List under clause 5.1.2, and the effect of the proposal on the character or appearance of a heritage precinct.
The site is not heritage listed or within a heritage precinct.
i) The compatibility or a use or development with its setting.
It is considered, with the imposition of the recommended conditions of consent, that the home business will be compatible with the rural-residential setting.
j) Any social issues that have an effect on the amenity of the locality.
No social issues have been identified.
k) The cultural significance of any place or area affected by the development.
No place or area of cultural significance will be affected by the development.
l) The likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment.
The proposal is for use and is unlikely to impact on the natural environment.
m) Whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bushfire or any other risk.
No natural constraints affect the proposal.
n) The preservation of the amenity of the locality.
It is considered, with the imposition of the recommended conditions of consent, that the home business will be compatible with the amenity of the locality.
o) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.
The proposed home business, including the variations to the employee and land area standards, is considered in context with the rural residential setting, taking into consideration lot sizes and distances to neighbours.
p) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles.
The existing access and egress from the site is adequate for use by the operator, his

employees, and occasional delivery vehicle.
q) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.
Rudall Road is a dirt road that services four properties. The traffic generated from the development will not adversely impact on traffic flow and safety.
r) Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal.
Not applicable.
s) Whether public utility services are available and adequate for the proposal.
Existing.
t) Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities).
Not applicable.
u) Whether adequate provision has been made for access by disabled persons.
Not applicable.
v) Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.
Existing landscaping sufficient to provide residential appearance to property and area used for home business.
w) Whether the proposal is likely to cause soil erosion and degradation.
Vehicles using Rudall Road generally are likely to result in road degradation, which may cause soil erosion as it is a dirt road.
x) The potential loss of any community service or benefit resulting from the planning consent.
No loss identified.
y) Any relevant submissions received on the application.
One submission was received objecting to the application during the advertising period. However, the objector later withdrew the submission. The submission questioned the scale of the business to be appropriate to the area, and the increased use and dust creation from vehicles using Rudall Road. An earlier request to upgrade Rudall Road had also been received from the objector.  As discussed earlier in this assessment, it is considered that the home business is appropriate for the site and locality, particularly as conditions of consent will be imposed restricting the business to the scale and size currently operating.



z) The potential impacts of noise, dust, light, risk, and other pollutants on surrounding land uses.
Dust has been identified as a potential impact from the use of Rudall Road. However, dust will result from any vehicle using Rudall Road, which may be exacerbated by the operation of the home business.
aa) The comments or submissions received from any authority consulted under clause 7.4.
Not applicable.
bb) Any other planning consideration the local government considers relevant.
The application has been assessed in accordance with Council's Policy for Retrospective Planning Applications and the applicant has paid the additional fees.

\* Note – this assessment should be read in conjunction with the Council report.