

Australian Capital Territory

Land (Planning and Environment) Determination of Matters to be taken into Consideration – Grant of a Further Rural Lease (No 2) - 2003

Disallowable instrument DI2003 - 254

made under the

Land (Planning and Environment) Act 1991, section 171A(2)

I REVOKE instrument No 85 of 2003 made under that subsection and DETERMINE that the following matters in Attachment A are to be taken into consideration in deciding whether to consent to the grant of a further rural lease.

Simon Corbell MLA
Minister for Planning

14 August 2003

Interpretation

In this Instrument:

“*land management agreement*” means an agreement under section 186C of the Act; and

“*Territory owned improvement*” means any improvements on the land to which subparagraph 173(1A)(a)(i) or (ii) applies at the date of surrender of the existing lease; and

“*Lanyon Bowl Area*” means the area described in the National Capital Plan under Appendix B and shown in Figure 27.

The conditions under which the Planning and Land Authority, on behalf of the Executive shall grant a further rural lease are as follows.

1. The maximum term of a further lease of land shall not exceed the maximum term for a lease of that land specified in the Maximum Rural Lease Term Plan set out in Schedule 1.
2. A further lease shall be a lease for rural purposes and shall limit the number of dwellings on the land to existing *approved* dwellings.
3. Subject to paragraphs 4 and 5, a further lease shall not be granted for a term of 21 years or more unless:
 - (a) for a lease where an amount condition applies in accordance with Schedule 2:
 - (i) subject to paragraph 16, for a lease other than a lease identified by the legend in Schedule 4, the lessee has paid to the Planning and Land Authority an amount determined in accordance with the relevant formulae in Schedule 3;
and

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- (ii) for a lease of land identified by the legend in Schedule 4 the lessee has paid to the Planning and Land Authority an amount determined in accordance with Schedule 5;
 - (b) for a lease where an amount condition in accordance with Schedule 2 does not apply – the market value; and
 - (c) the lessee purchases all Planning and Land Authority owned improvements (except timber treatment) for the amount determined by the Territory.
- 4. For an existing lease granted under section 161 or section 171A at market value, any subsequent further lease shall be granted without payment of a further premium.
- 5. For an existing lease granted under section 171A in payment if an amount worked out in the application of an amount condition, any subsequent further lease shall be granted on the basis of an amount condition of \$nil.
- 6. Where a further lease specified in paragraph 3 is to be granted, the lessee must nominate how the amounts determined under subparagraphs (a), (b) and (c) of paragraph 3 will be paid. The amounts determined may be paid as:
 - (a) a lump sum; or
 - (b) in quarterly instalments in advance over a period of 30 years at a fixed interest rate of 8% per annum on reducing balances; or
 - (c) a partial lump sum discharge of the values determined in accordance with subparagraphs (a), (b) and (c) of paragraph 3, together with quarterly instalments on the remaining balance over 30 years at a fixed interest rate of 8% per annum on reducing balances.

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7. Where a further lease is for a term less than 21 years, the rent payable for the further lease shall be determined as follows:
 - (a) For a lease where an amount condition applies in accordance with Schedule 2 and subject to paragraph 16: The rent payable shall be in accordance with the relevant formulae in Schedule 6, and shall apply from the date of commencement of the lease; or
 - (b) For a lease where an amount condition in accordance with Schedule 2 does not apply: The rent payable shall be 5% of the market value of any Territory owned residence, 3% of the market value of any other Territory owned improvements, and 3% of the market value of the land, tenure adjusted. The market value shall be subject to triennial review.
8. Subject to paragraph 9, a further lease shall not be granted unless a Land Management Agreement, approved by the Minister, has been signed by the lessee.
9. Paragraph 8 does not apply to a lease of land identified by hatching in Schedule 7.
10. A further lease shall not be granted until any discharge amount determined in accordance with section 186B, 186D, and either section 186E or section 186F, as relevant, has been paid for the existing lease.
11. The grant date of the first lease of the land granted after 15 December 1999 shall be taken to be the commencement date of the holding period for any further lease of the land.
12. If a further lease includes:
 - (a) public land; or
 - (b) land that lies within an area described in Schedule 1 as having a maximum lease term of 20 years,

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but not including public land in a lease where all or part of the lease lies in the Lanyon Bowl area, the further lease granted shall be subject to a provision allowing for the withdrawal of all or part of that land from the lease by the Planning and Land Authority.

13. If a further lease includes:

(a) public land in a lease where all or part of the lease lies in the Lanyon Bowl area, or

(b) land that is identified as having high conservation value and is, or will be, subject to the preparation of an Action Plan under the *Nature Conservation Act 1980*; or

(c) land in respect of which an Action Plan has been prepared or approved, and which identifies this land for reservation; or

(d) land which has been identified as potentially being required for future public purposes,

the further lease granted may be subject to a provision relating to the withdrawal of all or part of that land from the lease by the Territory.

14. A further lease shall not be granted until all monies, other than rent, due under the existing lease have been paid.

15. The Planning and Land Authority will not purchase timber treatment from lessees who currently own it.

16. Where paragraphs 3(a)(i) or 7(a) apply, and where the lessee is offered a lease subject to a condition to consolidate land from existing leases, the component of the amount payable attributable to any right to a residence shall not be more than that payable as if separate leases had been granted for the land.

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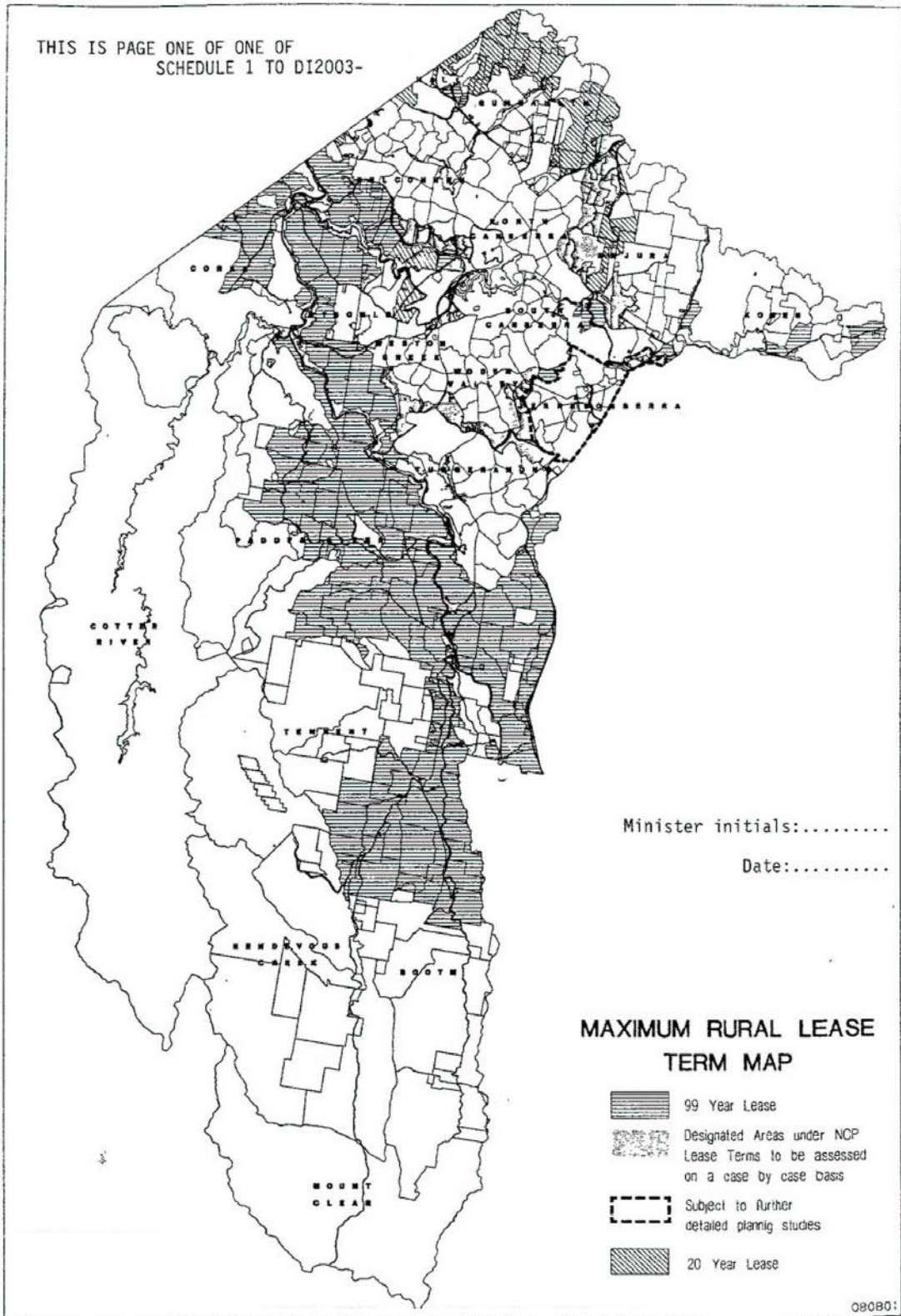
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17. This instrument does not affect any offer or grant of a further rural lease or any determination made under instrument DI2002-47 prior to the date of commencement of this instrument.

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SCHEDULE 1 TO DI2003-



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ELIGIBILITY FOR PAYMENT TO BE BASED ON AN AMOUNT CONDITION

1. An amount condition applies to an application for the grant of a further lease made on or before:
 - (i) for land within Region 1: 29 August 2003;
 - (ii) for land within Region 2: 29 August 2003; or
 - (iii) for land in other regions of the ACT: 31 December 2003.

2. Notwithstanding paragraph 1, an amount condition ceases to apply if an offer of a further lease is not accepted and executed by the lessee by a date 3 months after the date of a letter of offer for the grant of a further lease.

Region 1 includes land listed as follows:

<u>District/ Division</u>	<u>Block</u>
Belconnen	All, excluding Blocks 50, and 1329
Booth	All
Coree	All, excluding Block 65
Fyshwick	Block 3 Section 52, Block 6 Section 59, Block 8 Section 59, Block 3 Section 73 and Block 1 Section 78 only
Kowen	All
Majura	Blocks 55, 56, 57, 60 and 513 only
Paddys River	All
Stromlo	All
Tennent	All
Tuggeranong	All
Weston Creek	All

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Region 2 includes land listed as follows:

<u>District/ Division</u>	<u>Block</u>
Belconnen	Block 50 only
Coree	Block 65 only
Gungahlin	All
Hall	Block 8 Section 23 only
Majura	All, excluding Blocks 55, 56, 57, 60 and 513
Symonston	Block 1 Section 103, Block 5 Section 103, Block 7 Section 103 and Block 8 Section 103 only

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LAND VALUE PAYMENT FORMULAE FOR RURAL LEASES

Definitions

“DSE” means Dry Sheep Equivalent

“ha” means hectares

“value” means a value determined by the Planning and Land Authority

Formula 1

(i) Subject to (ii) and (iii), for areas greater than 16 ha inclusive of the right for a principal residence:

- more than 16 ha and no more than 80 ha \$190 per DSE less 15% for ACT factors
= \$162/DSE
- more than 80 ha and no more than 600 ha \$160 per DSE less 15% for ACT factors
= \$136/DSE
- more than 600 ha and no more than 1000 ha \$150 per DSE less 15% for ACT factors
= \$128/DSE
- more than 1000 ha \$130 per DSE less 15% for ACT factors
= \$110/DSE

(ii) Where there is no right to a residence, the scheduled values shall be reduced by 7.5%;

(iii) For the second and each additional dwelling, an additional amount of \$16,615 per dwelling is added.

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Formula 2

For leases of 16 hectares or less not containing the right to a residence, excluding leases in Pialligo and all other leases in areas other than those within a “broadacre” or “rural” designation under the Territory Plan:

$$\text{\$235/DSE less 15\% for ACT factors} = \text{\$200/DSE}$$

Formula 3

For leases of 16 hectares or less containing a right to one residence (adjusted for ACT factors), excluding leases in Pialligo and all other leases in areas other those within a “broadacre” or “rural” designation under the Territory Plan:

- (i) subject to (iii), up to 8 ha \$2,500 per annum capitalised at 6% over 99 years less 15% = \$37,400;
- (ii) subject to (iii), from 8 ha to 16 ha \$3,000 per annum capitalised at 6% over 99 years less 15% = \$42,400;
- (iii) for the second and each additional dwelling, an additional amount of \$16,615 per dwelling is payable.

Formula 4

For leases under 16 ha and not within a “broadacre” or “rural” designation under the Territory Plan, the existing rent capitalised over 99 years at 6% pa less a 15% deduction for ACT factors.

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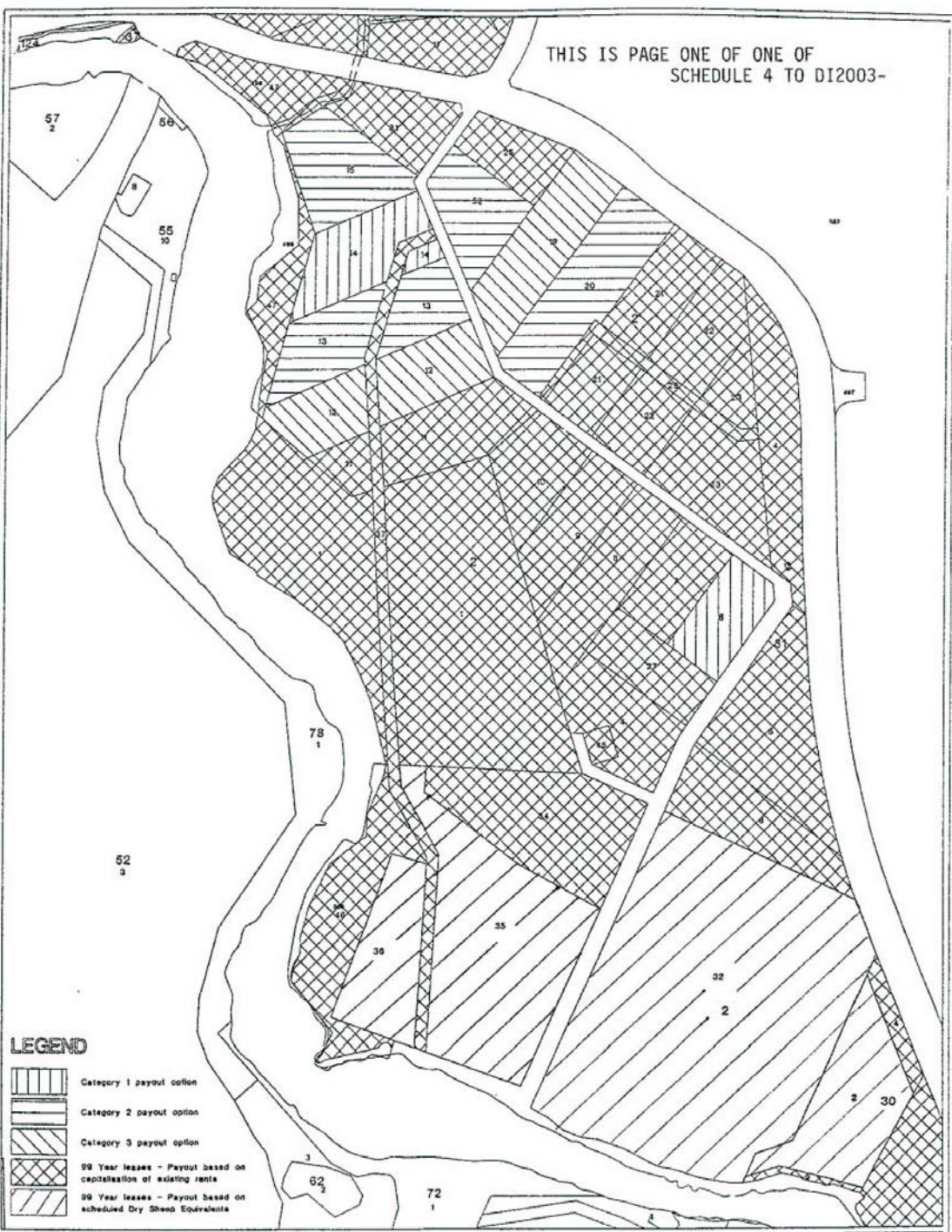
Formula 5

- (i) Subject to (ii) and (iii), the added land value for a horse agistment and related activities is a sliding scale based on the percentage of a property's carrying capacity used for horses as follows:
- If 0% to 20% of total equivalent carrying capacity are horses – add 10% to primary production value
 - If more than 20% but not more than 50% of total equivalent carrying capacity are horses – add 20% to primary production value;
 - If more than 50% of total equivalent carrying capacity are horses – add 30% to primary production value;
- (ii) For all leases of 16 ha or less, the addition of 30% to the DSE rate, or capitalised site value, as appropriate;
- (iii) The portion of the property used for primary production purposes will be calculated by applying the scheduled dry sheep area value.






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SCHEDULE 4 TO DI2003-



LEGEND

-  Category 1 payout option
-  Category 2 payout option
-  Category 3 payout option
-  99 Year leases - Payout based on capitalisation of existing rents
-  99 Year leases - Payout based on scheduled Dry Sheep Equivalents

PIALLIGO
RURAL RESIDENTIAL LEASES

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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LAND VALUE PAYMENT FORMULAE FOR RURAL LEASES

Leases which include non-primary production commercial lease purpose clauses

- (i) Subject to (ii), the amount to be paid for further leases with wholly non-primary production commercial purposes, or a combination of primary production and commercial purposes, in accordance with the following Categories listed in Schedule 4 is:

Category 1	\$97 750
Category 2	\$86 250
Category 3	\$80 500

- (ii) Lessees who are required to complete a Land Management Agreement shall receive a 15% discount on the amount to be paid.

99 year leases with payment based on existing rents capitalized

- (i) Subject to (ii), the amount to be paid for rural leases shown in Schedule 4 as being based on existing rents capitalised is:

Existing rents capitalised over 99 years at a rate of 6%pa.

- (ii) Lessees who are required to complete a Land Management Agreement shall receive a 15% discount on the amount to be paid.

99 year leases with payment based on Dry Sheep Equivalent value

The amount to be paid for leases listed in Schedule 4 as being based on Dry Sheep Equivalent value is:

Payment in accordance with the relevant formula in Schedule 3.

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LAND RENT FORMULAE FOR RURAL LEASES LESS THAN 21 YEARS

Definitions

“DSE” means Dry Sheep Equivalent

“ha” means hectares

“value” means a value determined by the Planning and Land Authority

Formula 1

(i) Subject to (ii) and (iii), for rural leases of more than 16 ha, which contain the right to a principal residence:

- more than 16 ha but not more than 80 ha \$190 per DSE less 15% for ACT factors
= \$162/DSE
- more than 80 ha but not more than 600 ha \$160 per DSE less 15% for ACT factors
= \$136/DSE
- more than 80 ha but not more than 600 ha \$160 per DSE less 15% for ACT factors
= \$136/DSE
- more than 600 ha but not more than 1000 ha \$150 per DSE less 15% for ACT factors
= \$128/DSE
- more than 1000 ha \$130 per DSE less 15% for ACT factors
= \$110/DSE

(ii) where the lease does not contain the right to a residence, the scheduled values be reduced by 7.5%;

(iii) for the second and each additional dwelling, an amount of \$16,615 per dwelling is added (representing an annual rent of \$1,000 capitalised at 6% over 99 years).

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Formula 2

For leases of greater than 16 ha, annual rent will be charged at 3 percent of the land value derived from the scheduled DSE values in Formula 1 and Formula 7, plus an annual rent of 3% will be charged for the value of any Territory owned farm buildings and residences on the lease (excluding fencing, water and pasture improvements).

Formula 3

Subject to Formula 7, for leases of 16 ha or less not containing the right for a residence, excluding leases in Pialligo and all other leases in areas other than those within a “broadacre” or “rural” designation under the Territory Plan:

\$235/DSE less 15% for ACT factors = \$200/DSE

Formula 4

- (i) Subject to (ii) and Formula 7, for leases of 16 ha or less with a right to one residence (adjusted for ACT factors), excluding Pialligo and all other leases other than those designated “broadacre” or “rural” in the Territory Plan:
- up to 8 ha, \$2,500 per annum capitalised at 6% over 99 years, less 15% = \$37,400
 - 8 to 16 ha, \$3,000 per annum capitalised at 6% over 99 years, less 15% = \$42,400
- (ii) For the second and each additional dwelling, an amount of \$16,615 per dwelling is added (representing an annual rent of \$1,000 capitalised at 6% over 99 years).

Formula 5

Subject to Formula 7, for leases under 16 ha and not within a “broadacre” or “rural” designation under the Territory Plan, the existing rent capitalised over 99 years at 6% pa less a 15% deduction for ACT factors.

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Formula 6

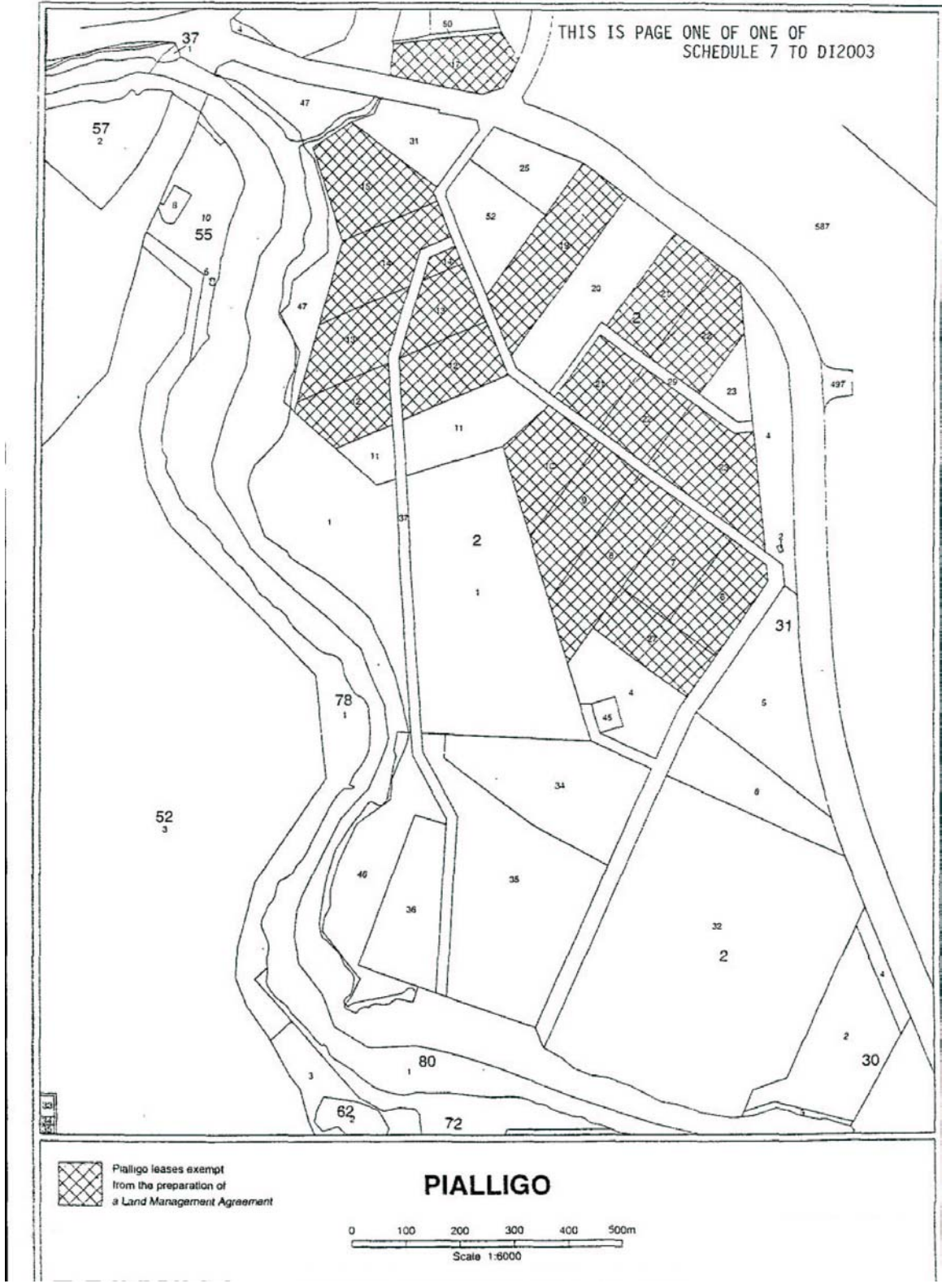
For leases of 16 ha or less, the annual rent is 3% of the land value derived from application of Formula 3, Formula 4 or Formula 5, as applicable, and of Formula 7; PLUS an annual rent of 3 % of the value of any Territory owned farm buildings and residences (exclusive of fencing, water and pasture improvements).

Formula 7

- (i) The added land value for a horse agistment and related activities is a sliding scale, based on the percentage of a property's carrying capacity used for horses, as follows:
 - If 0% to 20% of total equivalent carrying capacity are horses – add 10% to primary production value
 - If more than 20% but not more than 50% of total equivalent carrying capacity are horses – add 20% to primary production value
 - If more than 50% of total equivalent carrying capacity are horses – add 30% to primary production value
- (ii) For those leases of 16 ha or less, with or without the right to a residence, the application of 30% to the DSE rate or capitalised site value as appropriate;
- (iii) The portion of the property used for primary production purposes will be calculated by applying the scheduled dry sheep area value.

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