
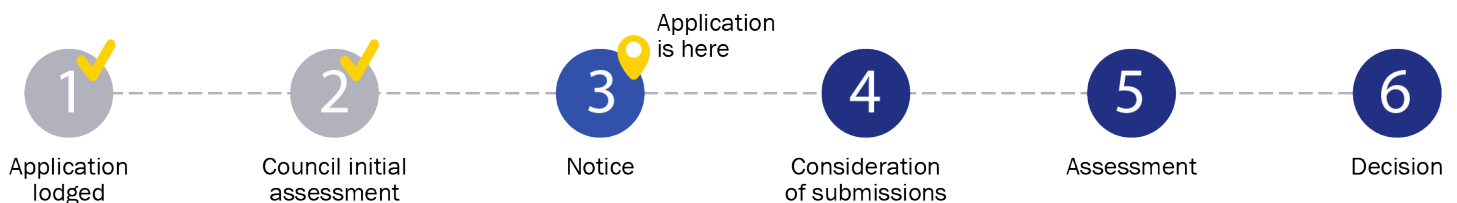


Notice of Application for a Planning Permit

The land affected by the application is located at:	Lot 4 on PS627026, 19 Knight Rd & Allot. 9 Sec. G PARISH OF GEMBROOK, Harewood Park Rd Gembrook	
The application is for a permit to:	Subdivision of the Land into Four (4) Lots	
A permit is required under the following clauses of the planning scheme:		
35.04-3	Subdivide land	
44.06-2	Subdivide land	
42.01-2	Subdivide land	
APPLICATION DETAILS		
The applicant for the permit is:	XWB Consulting	
Application number:	T240258	
<p>You may look at the application and any documents that support the application at the office of the responsible authority:</p> <p>Cardinia Shire Council, 20 Siding Avenue, Officer 3809.</p> <p>This can be done during office hours and is free of charge.</p> <p>Documents can also be viewed on Council's website at cardinia.vic.gov.au/advertisedplans or by scanning the QR code.</p>		
HOW CAN I MAKE A SUBMISSION?		
<p>This application has not been decided. You can still make a submission before a decision has been made. The Responsible Authority will not decide on the application before:</p>		07 February 2025
<p>WHAT ARE MY OPTIONS?</p> <p>Any person who may be affected by the granting of the permit may object or make other submissions to the responsible authority.</p> <p>If you object, the Responsible Authority will notify you of the decision when it is issued.</p>	<p>An objection must:</p> <ul style="list-style-type: none"> • be made to the Responsible Authority in writing; • include the reasons for the objection; and • state how the objector would be affected. 	<p>The Responsible Authority must make a copy of every objection available at its office for any person to inspect during office hours free of charge until the end of the period during which an application may be made for review of a decision on the application.</p>



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ePlanning

Application Summary

Portal Reference A22469ZA

Basic Information

Proposed Use 4 lot subdivision
Current Use Agriculture
Site Address 55 & 105 Harewood Park Road Gembrook

Covenant Disclaimer

Does the proposal breach, in any way, an encumbrance on title such as restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope? No such encumbrances are breached

Note: During the application process you may be required to provide more information in relation to any encumbrances.

Contacts

Fees

Regulation Fee Condition	Amount	Modifier	Payable
9 - Class 20 To subdivide land (0 Lots)	\$1,415.10	100%	\$1,415.10
	Total		\$1,415.10



Civic Centre
20 Siding Avenue, Officer, Victoria

Council's Operations Centre (Depot)
Purton Road, Pakenham, Victoria

Postal Address
Cardinia Shire Council
P.O. Box 7, Pakenham VC, 3810

Email: mail@cardinia.vic.gov.au

Monday to Friday 8.30am–
5pm
Phone: 1300 787 624
After Hours: 1300 787 624
Fax: 03 5941 3784

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Documents Uploaded

Date	Type	Filename
11-06-2024	Subdivision Plan	Title CA9A.pdf
11-06-2024	Subdivision Plan	Title Lot 4.pdf
11-06-2024	Subdivision Plan	Title Plan CA9A.pdf
11-06-2024	Subdivision Plan	Title Plan Lot 4.pdf
11-06-2024	Encumbrance	Creation of easement K398320.pdf
11-06-2024	Encumbrance	Section 173 agreement AF546766C.pdf
11-06-2024	Explanatory Letter	Context Plan Harewood Park Road Gembrook.pdf
11-06-2024	Explanatory Letter	Subdivision Plan Harewood Park Road Gembrook.pdf
11-06-2024	Explanatory Letter	Planning Report Harewood Park Road Gembrook Jun 24.pdf

Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit

Lodged By



Declaration

By ticking this checkbox, I, Salvatore Falcone, declare that all the information in this application is true and correct; and the Applicant and/or Owner (if not myself) has been notified of the application.



Civic Centre
20 Siding Avenue, Officer, Victoria

Council's Operations Centre (Depot)
Purton Road, Pakenham, Victoria



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Monday to Friday 8.30am–
5pm
Phone: 1300 787 624

After Hours: 1300 787 624
Fax: 03 5941 3784

**REGISTER SEARCH STATEMENT (Title Search) Transfer of
Land Act 1958**

VOLUME 08274 FOLIO 626

Security no : 124115715112H
Produced 11/06/2024 03:57 PM

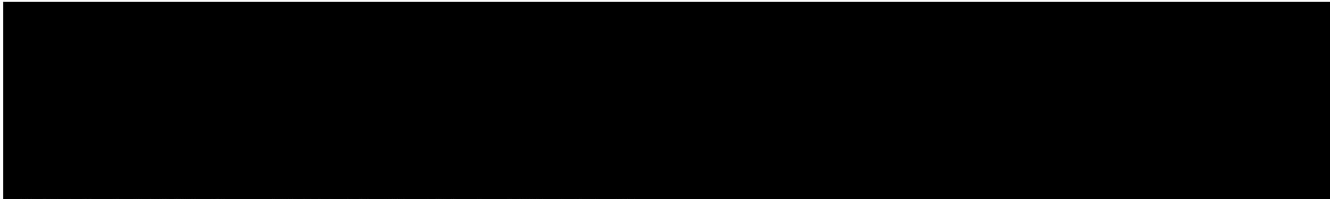
CROWN GRANT

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LAND DESCRIPTION

Crown Allotment 9 Section G Parish of Gembrook.

REGISTERED PROPRIETOR



ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT as to part K398320 21/11/2001

Any crown grant reservations exceptions conditions limitations and powers noted on the plan or imaged folio set out under DIAGRAM LOCATION below. For details of any other encumbrances see the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP742203J FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: HAREWOOD PARK ROAD GEMBROOK VIC 3783

ADMINISTRATIVE NOTICES

NIL

eCT Control
Effective from



DOCUMENT END

**REGISTER SEARCH STATEMENT (Title Search) Transfer of
Land Act 1958**

VOLUME 11203 FOLIO 035

Security no : 124115715263T
Produced 11/06/2024 04:00 PM

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LAND DESCRIPTION

Lot 4 on Plan of Subdivision 627026L.
PARENT TITLES :
Volume 11052 Folio 156 to Volume 11052 Folio 157
Volume 11061 Folio 940 Volume 11061 Folio 942
Created by instrument PS627026L 19/05/2010

REGISTERED PROPRIETOR

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987
AF546766C 20/12/2007

DIAGRAM LOCATION

SEE PS627026L FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 19 KNIGHT ROAD GEMBROOK VIC 3783

ADMINISTRATIVE NOTICES

NIL



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Document Type	Instrument
Document Identification	K398320
Number of Pages (excluding this cover sheet)	6
Document Assembled	11/06/2024 15:57

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\$41.
10
GRT T K398320
18-94 221925 JUN-1-83

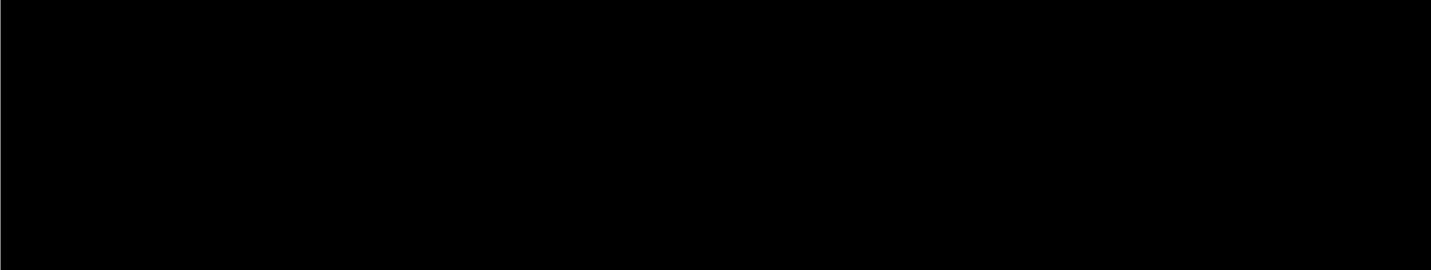
\$10.

GAS AND FUEL CORPORATION OF VICTORIA K398320
m/p - ridge + table

CREATION OF EASEMENT

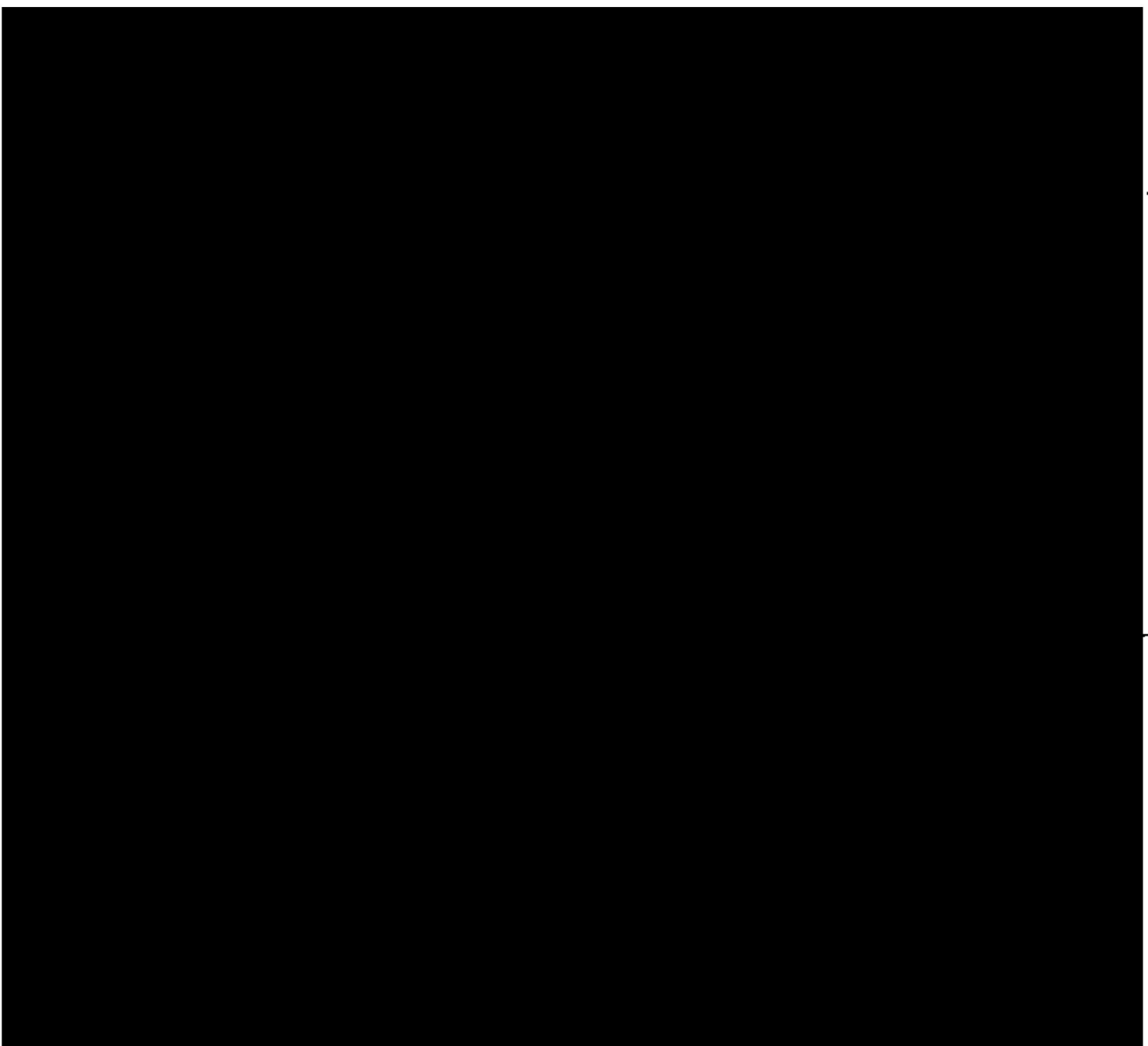


LAND MADE AVAILABLE
ISSUE TO

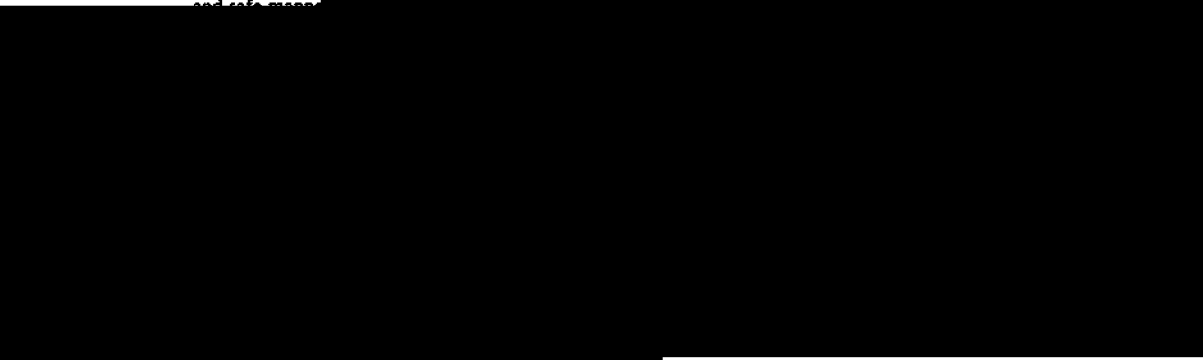


of Title (which land is hereinafter referred to as the "dominant tenement"), on over under and through ALL THAT piece of land delineated and coloured red on the plan marked 'A' annexed hereto (hereinafter referred to as the "servient tenement") being part of Allotment 9 Section G Parish of Gembrook and being part of the land described in Certificate of Title Volume 8274 Folio 626

STAMP DUTY VICTORIA
STRANS#17122 S.D.V. 8 24MAR83
RECEIPT# 23451 11A \$VVVVVVV10.00



- (d) Notwithstanding any rule of law or equity the pipes (which term shall include all pipelines and the Grantee's appliances) brought onto laid or erected upon or buried in or under the servient tenement by the Grantee shall at all times remain the property of the Grantee and its successors and assigns notwithstanding that the same may be annexed or affixed to the freehold and shall at any time and from time to time be removable in whole or in part by the Grantee and its successors and assigns.
- (e) Unless otherwise agreed by the Grantor and the Grantee upon the discontinuance of the use of the servient tenement by the Grantee the Grantee may at its option leave the pipe or any part thereof and the Grantee's appliances in the ground but if the Grantee damages the property of the Grantor during the removal of the pipe or appliances then the Grantee will compensate the Grantor upon the terms and in the manner contained in Clause (b) hereof.
- (f) The Grantee performing and observing the covenants and conditions on its part to be observed and performed shall and may peaceably hold and enjoy the rights, liberties, privileges and easement hereby granted without hindrance, molestation or interference on the part of the Grantor or of any person firm or corporation claiming by through under or in trust for the Grantor.
- (g) All notices to be given hereunder may be given by prepaid registered or certified letter addressed to the Grantor by being forwarded to the registered proprietor for the time being at his latest address shown in the Register Book and to the Grantee at 171 Flinders Street Melbourne or such other address as the Grantor and Grantee may respectively from time to time designate in writing and any such notice shall be deemed to have been given to and received by the addressee on the third day following that on which the same is posted. All notices to be given by the Grantee hereunder may be signed on behalf of the Grantee by its Secretary or Substitute Secretary for the time being.
- (h) Neither this instrument nor anything herein contained shall affect restrict limit or detract from or prejudice the rights power authority or immunity of the Grantee or the Grantee's associates under the Pipelines Act 1967 or any subsequent amendments thereto or under any consent granted pursuant to Section 9(2) of the said Act or under any permit granted pursuant to Section 12 of the said Act or any written permission given pursuant to Section 22 (1) of the said Act or any other rights of the Grantee under the said Act or under the Gas and Fuel Corporation Act 1958 or any subsequent amendments thereto as the case may be.
- (i) The Grantor will execute every such deed, instrument or assurance and do every such thing for further or more effectively securing the rights and interests of the Grantee to or in the servient tenement or any part or parts thereof pursuant to these presents as shall by the Grantee be reasonably required.
- (j) Wherever the singular or masculine is used it shall be construed as if the plural feminine or neuter, as the case may be had been used where the context or the party or parties hereto so require and the rest of the sentence shall be construed as if the grammatical and other changes thereby rendered necessary had been made and where more than one Grantor is a party hereto the covenants herein contained shall extend to and bind such Grantors jointly and each of them severally.
- (k) Nothing herein contained shall be deemed or construed to authorise or permit the construction operation or use of a pipeline outside the terms and conditions of any permit or licence issued pursuant to the Pipelines Act 1967.
- (l) The Grantee will at all times hereafter keep indemnified the Grantor from and against all damage, injury or nuisance which may be caused or occasioned by the escape of liquid or gaseous hydrocarbons, natural and artificial gas and any products or by-products thereof and any other substance from the Grantee's pipeline or pipelines and appliances on to or over the servient tenement if such damage arises from any failure of the Grantee to construct maintain and operate such installations in a proper and safe manner.



GAS & FUEL CORPORATION OF VICTORIA

TRANSMISSION PIPELINE - BAKENHAM TO WOLLERT

Part of - C.A. 9 Section 6 Lot _____ P.S. _____
 Parish of GEMBROOK Township of _____
 Area 6141m² Title Vol. 8274 Fol. 626
 Scale 1:4000 No. _____ Book _____

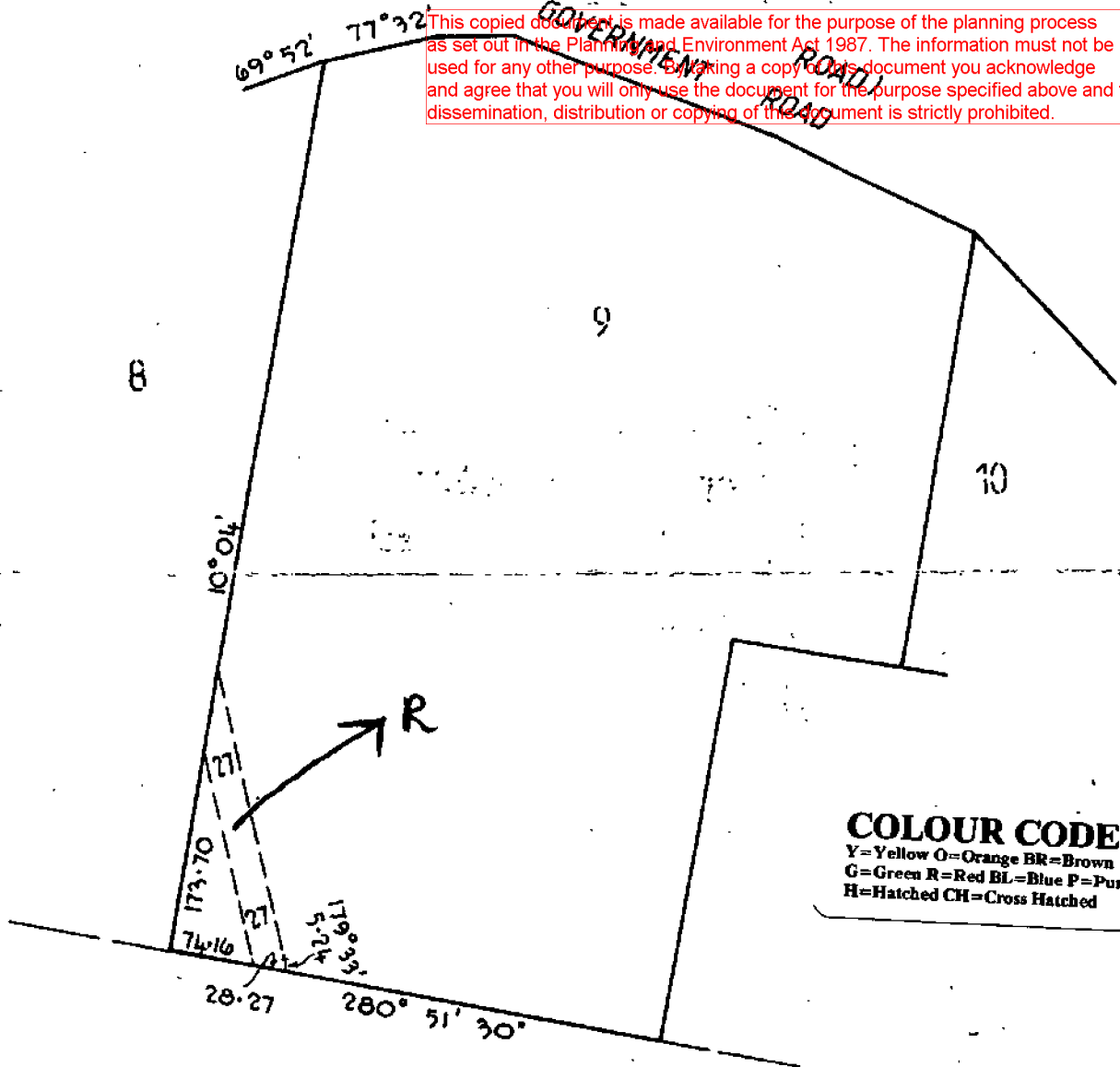
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(HAREWOOD

PARK

BALANCE OF TITLE NOT SHOWN

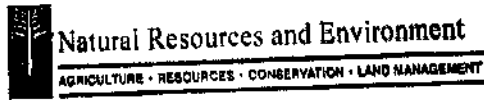
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COLOUR CODE
 Y=Yellow O=Orange BR=Brown
 G=Green R=Red BL=Blue P=Purple
 H=Hatched CH=Cross Hatched

1017729

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INTENTIONALLY

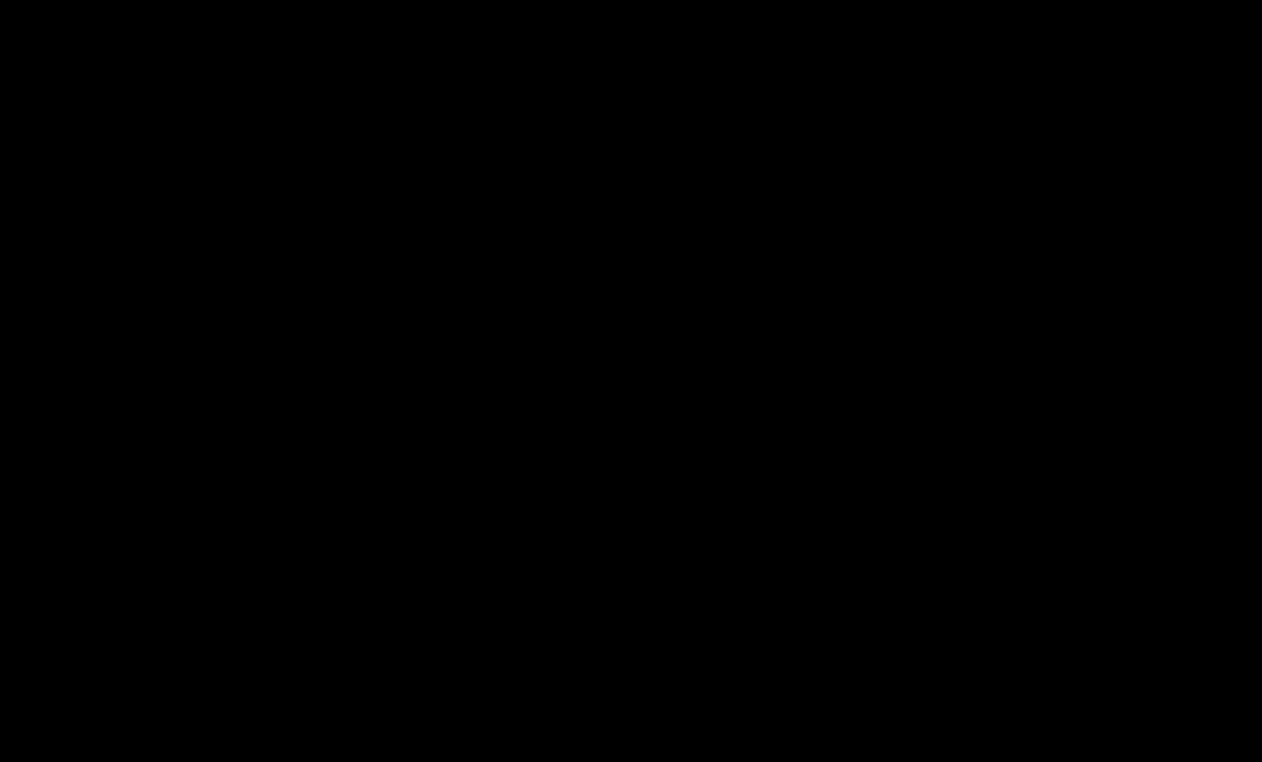
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ENCUMBRANCES REFERRED TO:

Any easements affecting the same
Mortgage No. J 798714



....., being registered as the proprietor of
Instrument of Mortgage Registered Number ... J. 798714..... over the land described in the foregoing Creation of
Easement as the servient tenement HEREBY CONSENTS to the said Creation of Easement and to such easement taking priority to the



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To the Registrar of Titles:

Please register the within Creation of Title to issue by

[Redacted]

[Redacted]

DATED

19

[Redacted]

CREATION OF EASEMENT

GAS AND FUEL CORPORATION
OF VICTORIA
171 RINDERS STREET
MELBOURNE, 3000

A memorandum of the within instrument
has been entered in the Registrar Book.



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Application by a Responsible Authority for the making of a recording of an Agreement

AF546766C

20/12/2007 \$97

173



Section 181 Planning & Environment Act 1987

Lodged by:

Name:

Phone: (03) 5968 3666

Address: 323a Main Street Emerald

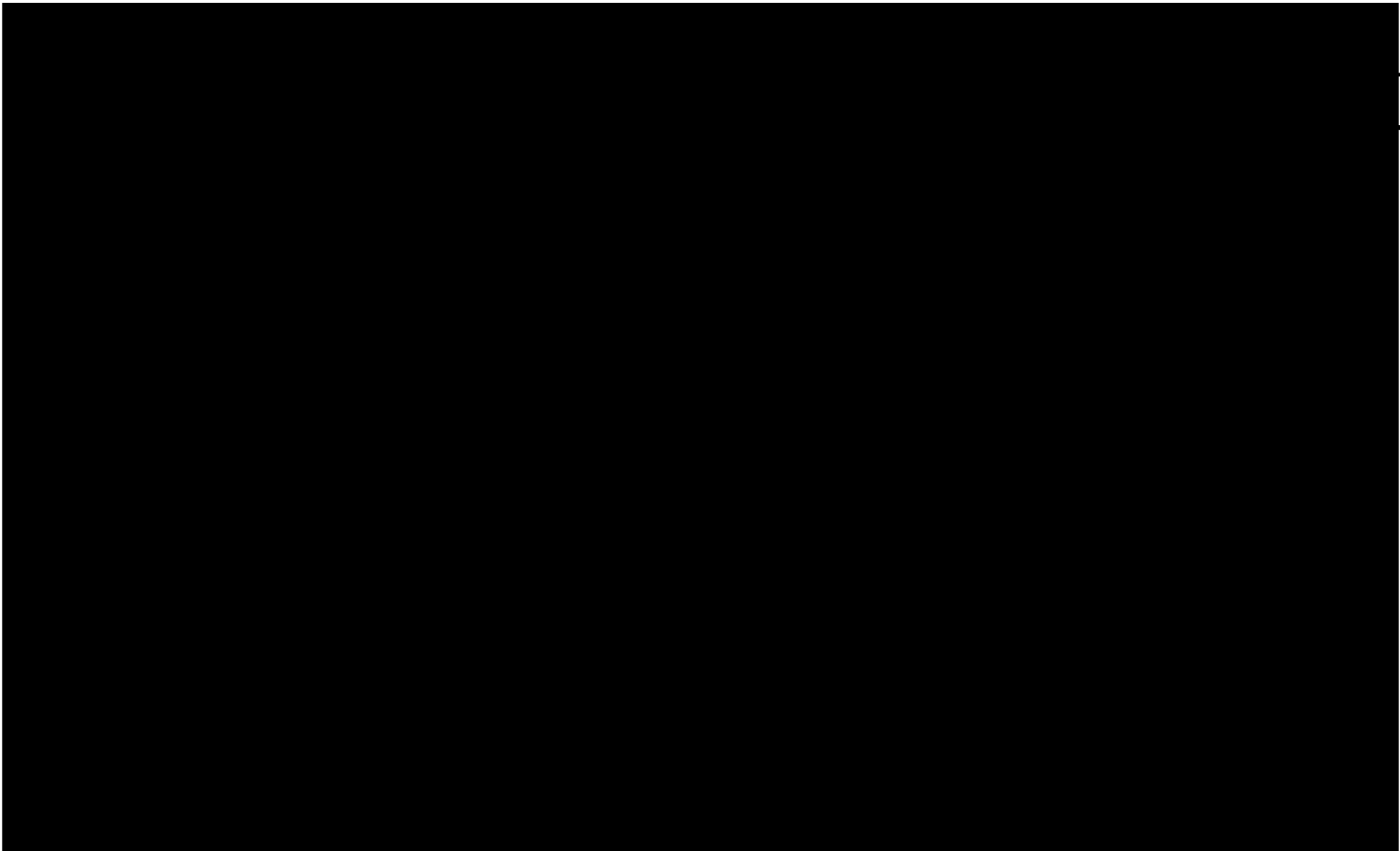
Ref: JSF

Customer Code: 0784 J



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The Responsible Authority having made an agreement requires a recording to be made in the Register for the land.



AF546766C

20/12/2007 \$97 173



**AGREEMENT PURSUANT TO SECTION 173
PLANNING AND ENVIRONMENT ACT 1987**

THIS AGREEMENT is made the 5 day of December 2007 pursuant to Division 2 of Part 9 of the Planning and Environment Act 1987 ("the Act") **BETWEEN** the Responsible Authority described in Schedule 1 and the Owner described in Schedule 1.

RECITALS

- A. The Responsible Authority administers the Cardinia Planning Scheme ("the Scheme").
- B. The Owner is the registered proprietors of the whole of the land described in Schedule 1 to this Agreement ("the Land").
- C. The Land is regulated by the Scheme.
- D. The Responsible Authority issued Planning Permit No. T030399 ("the Planning Permit") on 17 November 2003. The Planning Permit permits the subdivision of the Land into two (2) lots generally in accordance with the Plan of Subdivision attached to this Agreement as Schedule 2 ("the Plan of Subdivision").
- E. Condition 2 (c) of the Planning Permit provides:
"The permit holder must enter into a Section 173 Agreement with the responsible authority preventing any further subdivision of the land that creates additional lots unless the land is consolidated with an adjoining parcel of land to create a lot which exceeds the minimum lot size specified in the zone. The form and content of the Agreement must be to the satisfaction of the responsible authority, and all costs relating to the preparation and registration of the Agreement on title must be met by the permit holder. Prior to the issue of a Statement of Compliance, the permit holder must provide a dealing number to the responsible authority to demonstrate that the Agreement has been lodged with the Land Titles Office".

AGREEMENT

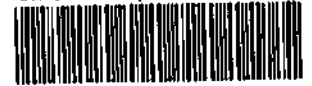
- 1. Except for the subdivision of the Land into two (2) lots in accordance with the Plan of Subdivision, the Owner will not further subdivide the Land other than a subdivision which does not create any additional lots unless the land is consolidated with an adjoining parcel of land to create a lot which exceeds the minimum lot size specified in the zone in which the land is included under the scheme.
- 2. The Owner and the Responsible Authority acknowledge and agree that this Agreement is made pursuant to Section 173 of the Act and during the period of

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20/12/2007 197

173



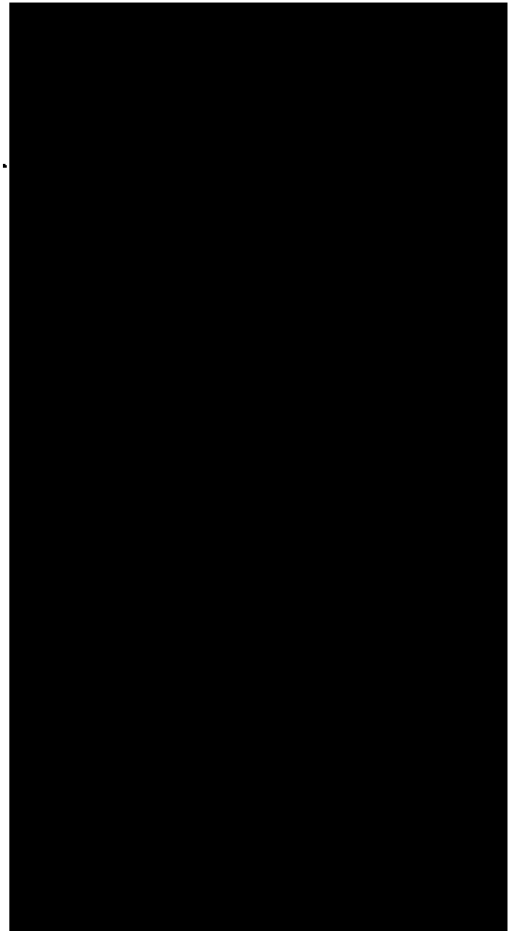
- this Agreement the obligations imposed on the Owner are conditions applying to the use or development of the Land and are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and bind the Owner, its successors in title, assignees and transferees and the registered proprietor or proprietors for the time being of the Land and every part of the Land.
3. (a) This Agreement must be registered on the Certificate of Title for the Land.
(b) The Responsible Authority and the Owner shall do all things necessary (including signing any further agreement, acknowledgement or document) to enable a memorandum of this Agreement to be entered on the Certificates of Title to the Land in accordance with Section 181 of the Act.
 4. Evidence of the registration of this Agreement must be provided to the Responsible Authority prior to any Statement of Compliance being issued in respect of the subdivision of the Land into two lots in accordance with the Plan of Subdivision.
 5. Without limiting the operation or effect which this Agreement has, the Owner must ensure that until such time as a Memorandum of this Agreement is registered on the Titles to the Land, successors in title shall be required to:
 - (a) give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
 - (b) execute under seal a deed agreeing to be bound by the terms of this Agreement and upon such execution this Agreement shall continue as if executed by such successors as well as by the parties to this Agreement as if the successor's name appeared in each clause in which the name of the Owner appear in addition to the name of the Owner.
 6. (a) This Agreement lapses upon any future rezoning of the Land or any amendment to the Scheme which allows that land to be subdivided.
(b) Upon the lapse of this Agreement the Owner and the Responsible Authority shall do all things necessary (including signing any further agreement, acknowledgement or document) to enable the removal of this Agreement from the Certificates of Title to the Land.
 7. The costs of the preparation, lodgment and registration and any subsequent removal of this Agreement shall be borne totally by the Owner.

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20/12/2007 \$97

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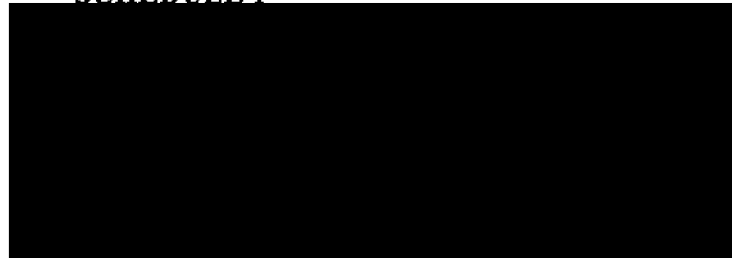
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20/12/2007 \$97 173



SCHEDULE 1

1. **Owner :**



2. **Responsible Authority:** Cardinia Shire Council of Municipal Offices,
Henty Way, Pakenham, 3810

3. **Land:** That part of the land in Certificate of Title Volume
8504 Folio 699 south of Harewood Park Road and
shown hatched on the Plan annexed to this
Agreement as Schedule 3.

4. **Commencement Date:** The date of this Agreement

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AF546766C

20/12/2007 \$97 173



SCHEDULE 2

Plan of Subdivision attached hereto.

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20/12/2007 \$97 173



PLAN OF SUBDIVISION

Stage No. / LR use only

EDITION

Location of Land

Parish: **GEMBROOK**

Crown Allotment: **10**

Title References: **VOL.8504 FOL.699**

Postal Address: **55-105 HAREWOOD PARK ROAD, GEMBROOK, 3783.**

AMG Co-ordinates: **E 370 700**
(Of approx. centre of plan) **N 5 797 600** Zone **55**

Vesting of Roads or Reserves

Identifier	Council/Body/Person
NIL	NIL

Council Certification and Endorsement

Council Name: **SHIRE OF CARDINIA**

Ref: **S04/134**

1. This plan is certified under section 6 of the Subdivision Act 1988.
- ~~2. This plan is certified under section 11(7) of the Subdivision Act 1988. Date of original certification under section 6 / /~~
- ~~3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.~~

Open Space

(i) A requirement for public open space under section 18 Subdivision Act 1988 has / has not been made.

~~(ii) The requirement has been satisfied.~~

~~(iii) The requirement is to be satisfied in Stage~~

Council Delegate
Council Seal

Mbranford

Date **9/12/2004**

~~Re-certified under Section 11(7) of the Subdivision Act 1988.~~

~~Council Delegate
Council Seal~~

~~Date / /~~

Notations

Staging: This is/is not a staged subdivision
Planning Permit No. **7030399**

Depth Limitation: **DOES NOT APPLY**

Survey: This plan is / is not based on survey and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited.

To be completed where applicable.
This survey has been connected to Permanent Mark No.s
In proclaimed Survey Area no.

Easement Information

Legend: **A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)**

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of

LR use only

Statement of Compliance / Exemption Statement

Received

Date / /

LR use only

PLAN REGISTERED

TIME

DATE / /

Assistant Registrar of Titles

SHEET 1 OF 2 SHEETS

NICHOLAS PETRIS & ASSOC. P/L
AGW 50 005 633 081
ENVIRONMENTAL PLANNING & DEVELOPMENT CONSULTANTS
LAND SURVEYORS
Unit 1 1569 Barwood Highway, Belgrave 3160
Telephone: (03)9754 3930 Fax: (03)9752 5069

LICENSED SURVEYOR (PRINT): **PETER CLYDE HANSEN**

SIGNATURE

P Hansen

DATE **19/05/2004**

REF **4506**

VERSION **1**

Date **9/12/2004**

COUNCIL DELEGATE SIGNATURE

Original sheet size **A3**

PLAN OF SUBDIVISION

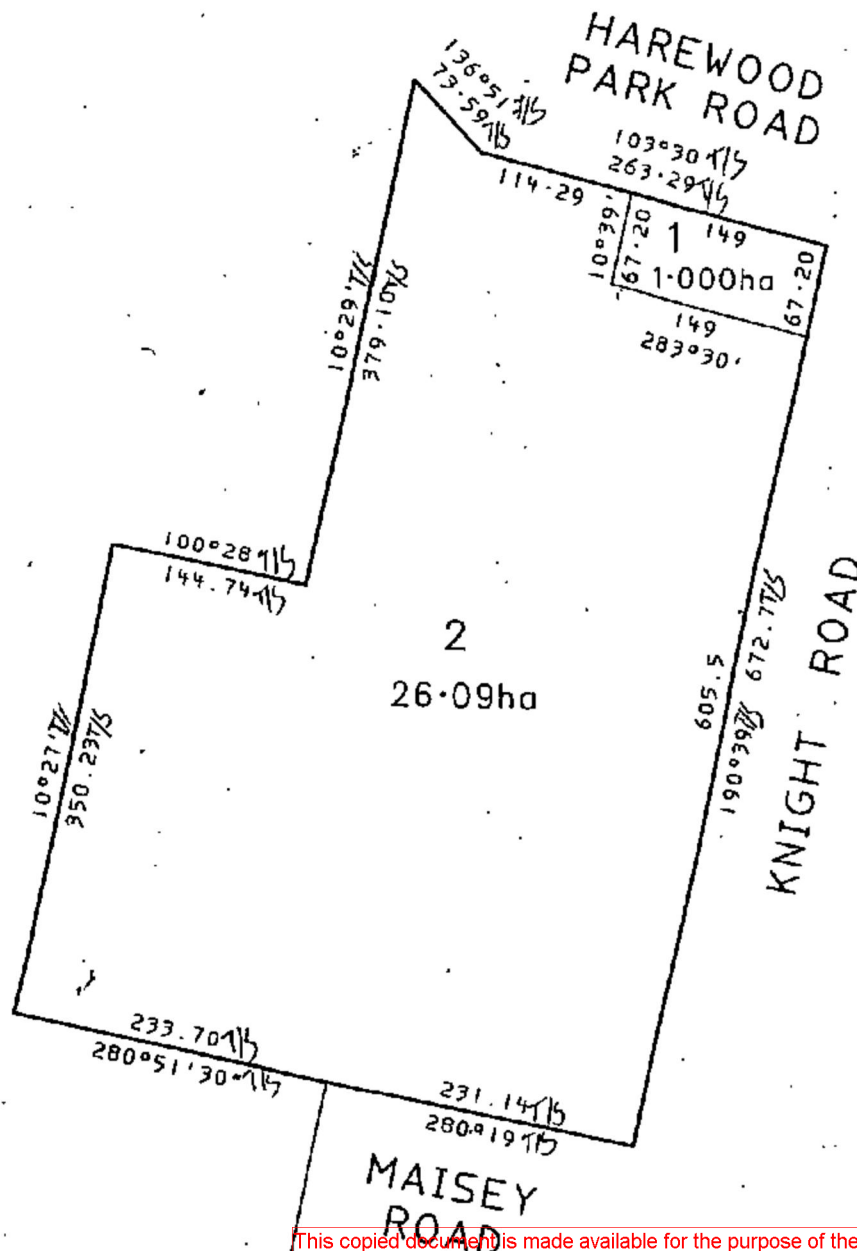
Stage No.

AF546766C

20/12/2007 \$97 173



APPROX. TRUE NORTH



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SHEET 2 OF 2 SHEETS

NICHOLAS PETRIS & ASSOC. P/L
 ABN 30 005 833 081
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 Telephone: (03)9754 3930 Fax: (03)9752 5050

ORIGINAL	SCALE
SHEET SIZE	SCALE
A3	1:4000

LENGTHS ARE IN METRES

AF546766C

20/12/2007 997 173



SCHEDULE 3

Plan attached hereto.

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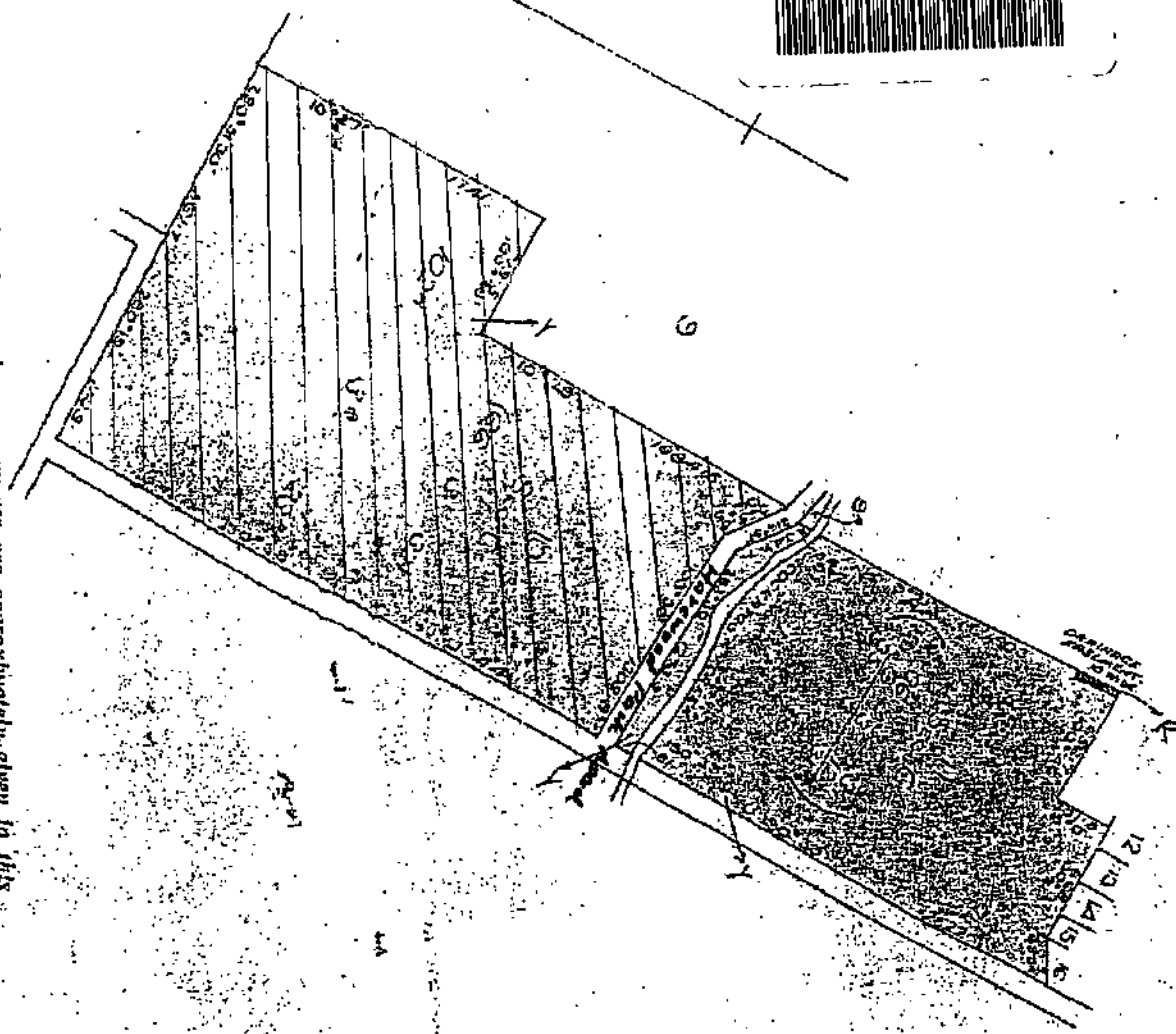
20/12/2007 \$97

173



NOTE: The bearings and measurements are approximately given in this plan. The measurements are in links.

1700/64



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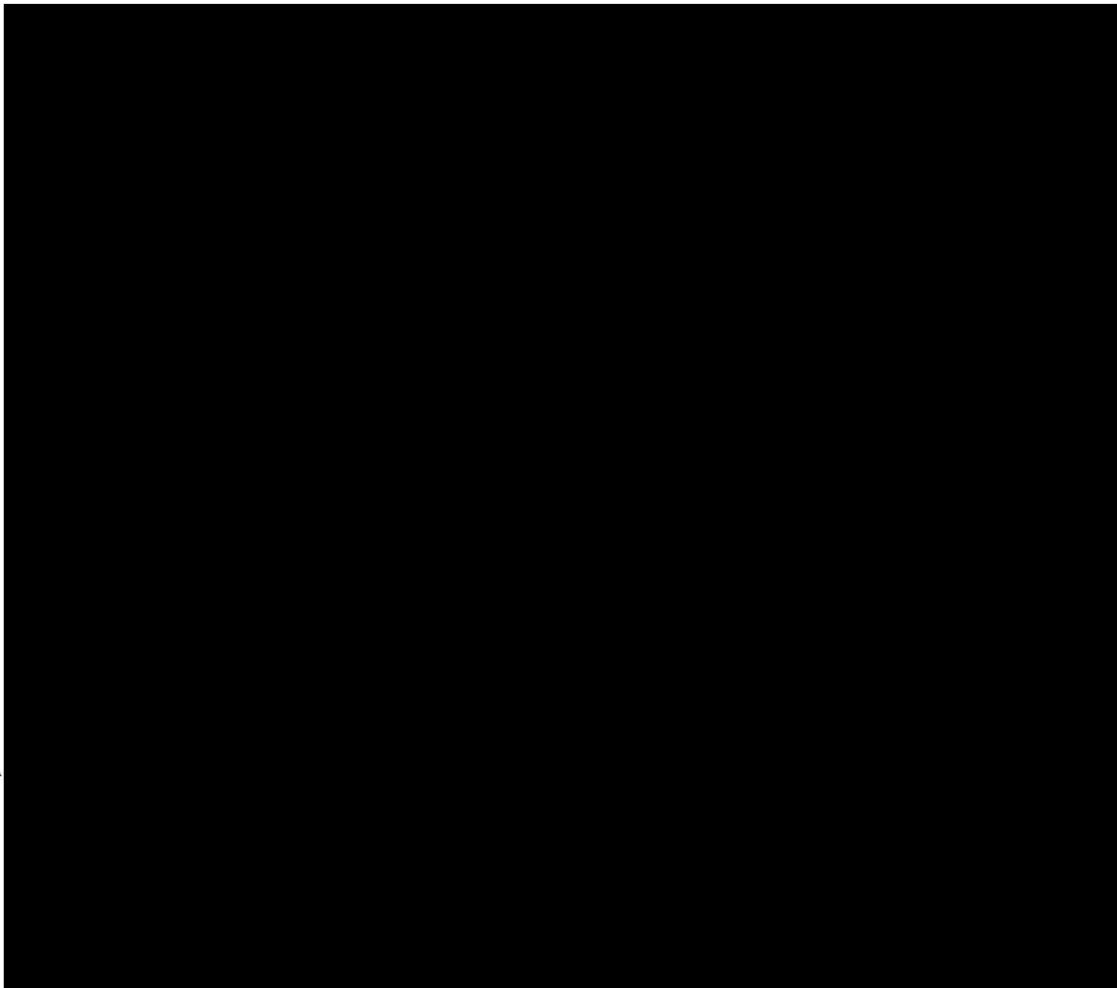
AF546766C

20/12/2007 \$97 173



MORTGAGEES CONSENT

Perpetual Limited as Mortgagee of Registered Mortgage No. AE220621H consents to the owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the Covenants and conditions of this Agreement.



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Document Type	Plan
Document Identification	TP742203J
Number of Pages (excluding this cover sheet)	2
Document Assembled	11/06/2024 15:57

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TITLE PLAN	EDITION 1	TP 742203J
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Location of Land

Parish: GEMBROOK
 Township:
 Section: G
 Crown Allotment: 9
 Crown Portion:

Last Plan Reference:
 Derived From: VOL 8274 FOL 626
 Depth Limitation: 50 FEET

Notations

SUBJECT TO THE RESERVATIONS EXCEPTIONS CONDITIONS AND POWERS CONTAINED IN CROWN GRANT VOL. 8274 FOL. 626 AND NOTED ON SHEET 2 OF THIS PLAN

ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN

Description of Land / Easement Information

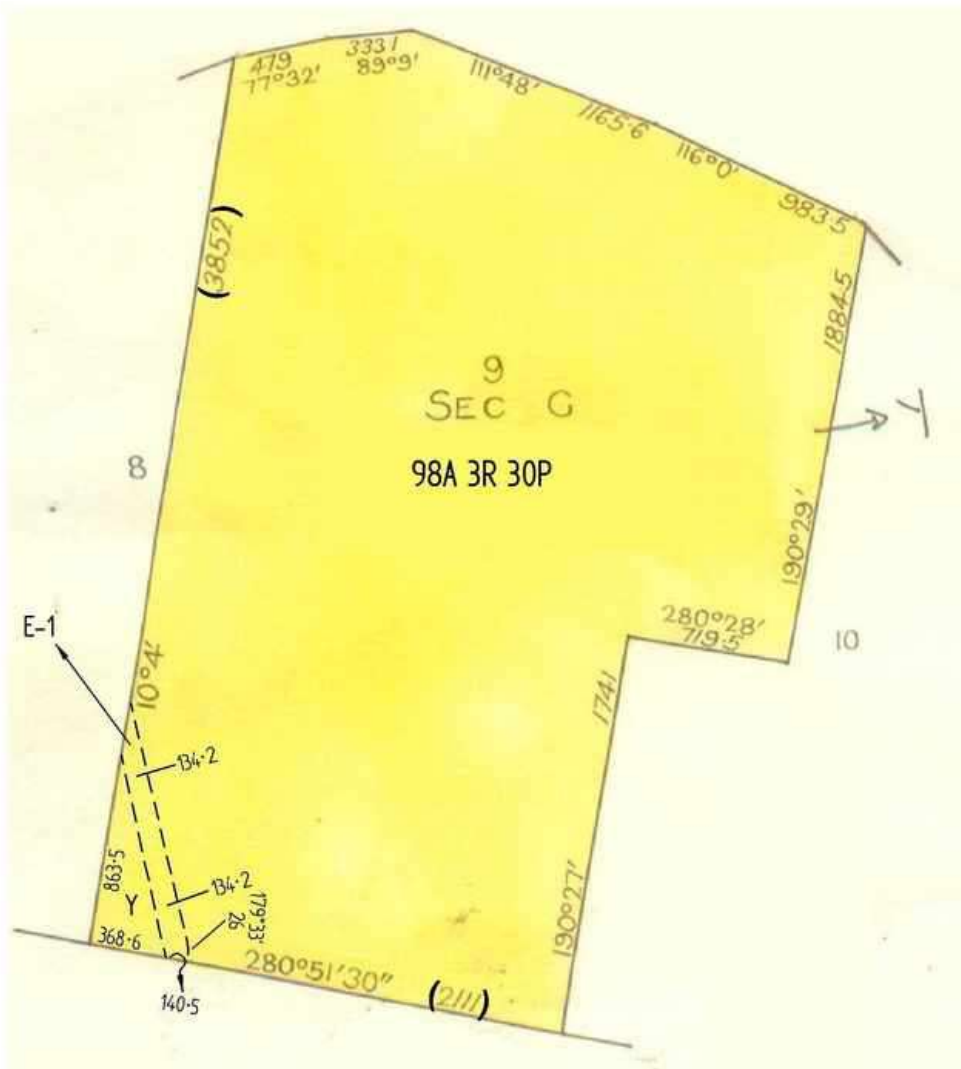
*AN APPURTANENT WATER SUPPLY EASEMENT TO WHOLE
 VIDE PS 432333 M - REGISTERED 28-6-2000*

E-1 = EASEMENT TO GAS & FUEL CREATED BY C/E K398320

THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT

COMPILED: 03/05/2002
 VERIFIED: BP

COLOUR CODE
 Y & E-1=YELLOW



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TITLE PLAN

TP 742203J

LAND DESCRIPTION INCLUDING RESERVATIONS EXCEPTIONS
 CONDITIONS AND POWERS SHOWN ON THE CROWN GRANT

All THAT piece of land in the said State
 being Allotment nine of Section G

in the Parish of Gembrook County of Evelyn

delineated and colored yellow in the map in the margin hereof TOGETHER with the right to sink wells for water and to the use for all purposes of any wells and springs now or hereafter upon the said land as though this Grant had been made without any limitation as to depth PROVIDED that this Grant is made subject to—

- (a) the reservation to Us Our heirs and successors of—
 - (i) all gold silver uranium thorium and minerals within the meaning of the *Mines Act 1958* and petroleum within the meaning of the *Petroleum Act 1958* (hereinafter called "the reserved minerals");
 - (ii) rights of access for the purpose of searching for and obtaining the reserved minerals in any part of the said land;
 - (iii) rights for access and for pipe-lines works and other purposes necessary for obtaining and conveying on and from the said land any of the reserved minerals which is obtained in any part of the said land;
- (b) the right to resume the said land for mining purposes pursuant to section 205 of the *Land Act 1958*;
- (c) the right of any person being the holder of a miner's right or of a mining lease or mineral lease under the *Mines Act 1958* or any corresponding previous enactment to enter on the said land and to mine for gold or minerals within the meaning of that Act and to erect and occupy mining plant or machinery thereon in the same manner and under the same conditions and provisions as those under which such a person has now the right to mine for gold and silver in and upon Crown lands provided that compensation as prescribed by Part II. of that Act is paid for surface damage to be done to the said land by reason of mining thereon.

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LENGTHS ARE IN
 LINKS

Metres = 0.3048 x Feet
 Metres = 0.201168 x Links

Sheet 2 of 2 sheets



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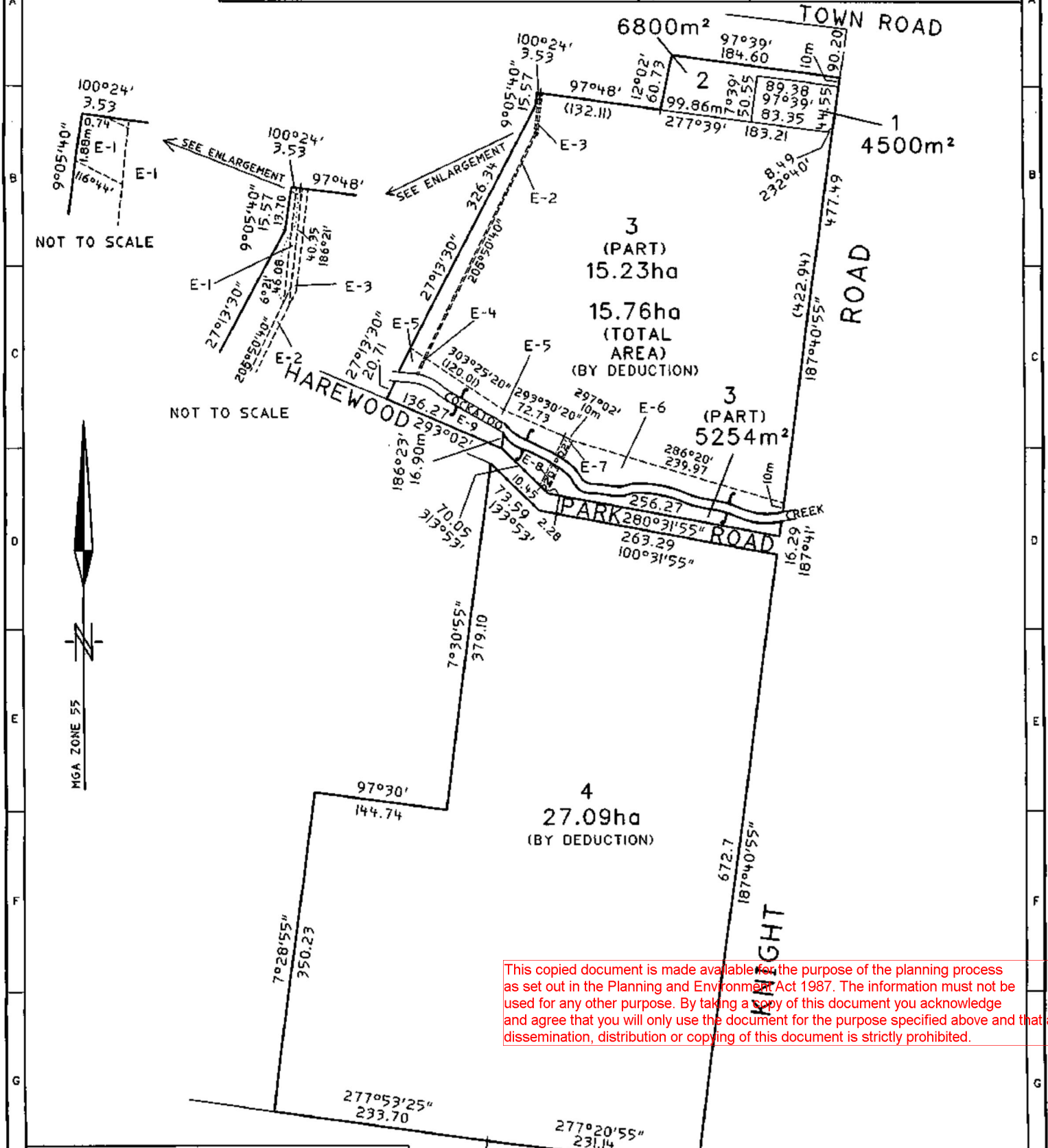
Document Type	Plan
Document Identification	PS627026L
Number of Pages (excluding this cover sheet)	3
Document Assembled	11/06/2024 16:00

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PLAN OF SUBDIVISION Stage No. Plan Number PS 627026 L



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HANSEN SURVEYING P/L ABN 89 128 307 051 TITLE SURVEYS - LAND & UNIT SUBDIVISION - TOWN PLANNING P.O. Box 714 Belgrave Unit 1 1569 Burwood Highway, Belgrave 3160 Telephone: (03) 9754 3930 Fax: (03) 9752 5069 Email: hansen@hannond.com

MAISEY ROAD

SHEET 2

30 October 2024

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[REDACTED]
Principal Statutory Planner
Cardinia Shire Council
mail@cardinia.vic.gov.au

Dear Evie

**Re: Planning Permit Application T240258PA
Harewood Park Road and Knight Road Gembrook**

I refer to Council's letter dated 10 July 2024 requesting further information in relation to the above application and to the meeting on 26 November 2024 with [REDACTED] yourself and myself.

In response to Council's letter, the following information is provided:

Preliminary Assessment Comments

1 Prohibited subdivision

I refer to the legal opinion provided by [REDACTED] which was submitted on 13 August 2024 which confirms that the subdivision is not prohibited and note Council's email dated 25 October 2024 which states Council is satisfied that the application is not prohibited and does not breach the Section 173 Agreement.

2 Fragmentation of agricultural land

Council's concerns in relation to the fragmentation of agricultural land are noted.

Council has previously issued a permit for the subdivision in April 2006 (Planning permit T040321) which was extended a number of times by Council and lapsed in approximately 2015 due to inaction by the owner rather than a refusal by Council. The advice of Polis Legal states that the existence of expired planning permit T040321 should also be considered in the assessment of the merits of the application. At paragraph 5.3, Polis Legal states:

"This could be in a similar vein to the concept of 'repeat appeals'. While that concept does not strictly apply (as the matter is not before VCAT), those principles suggest that while the Tribunal is not bound by the first decision of the Tribunal, weight ought to be accorded to that first decision and, in the absence of any material change of circumstances of the land, and its surrounds, changes in planning policy and/or changes in the interpretation of the facts or law relevant to the Tribunal's consideration, or changes in the proposal itself, the first decision of the Tribunal should be followed".

Council's comments in relation to planning policy are very selective and make no reference to planning policy in relation to agriculture in Gembrook which articulate constraints and opportunities in relation to agriculture in Gembrook. Council must have regard to these policies which are contained within the Cardinia Planning Scheme and cannot choose to ignore them.

What type of productive agricultural use is Council seeking to protect given the decline in potato production and the unsuitability of the land for broadacre grazing in Gembrook?

Clause 14.01-1S has an objective to protect the state's agricultural base by preserving productive farmland. One of the strategies to achieve this objective is to consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity. The local issues and characteristics of Gembrook must be considered.

The overview to Clause 21.04-2 (Agriculture) recognises:

"The Gembrook area in the northern part of the municipality has also been a significant producer of potatoes historically. This area has been affected by dieldrin contamination and the Potato Cyst Nematode (PCN) which places restrictions on cattle grazing and potato distribution. The Gembrook Rural Review addressed this issue and has identified a number of actions to maintain agriculture as a viable activity in the area".

Similarly the key issues to Clause 21.04-2 (Agriculture) includes:

"Implementing the four key areas for action towards achieving the longer-term outcomes desired for Gembrook including; attracting new industries, companies and lifestyle investors to the area; assisting potato growers to make decisions about their future; enhancing environmental and landscape values; and building local support".

Under implementation in Clause 21.04-2 (Agriculture), an action is:

"Reviewing the planning framework for Gembrook to facilitate potential investment in more intensive agricultural enterprises".

Under reference documents in Clause 21.04-2 (Agriculture), a reference document is the Gembrook Rural Review Action Plan 2004. The Gembrook Rural Review refers to a key outcome for productive landuses of a rich mix of smaller agricultural enterprises, hobby farms and lifestyle businesses and farms with potatoes no longer dominant – more nurseries, tree farming, horses, berries, gourmet foods.

The Gembrook Rural Review was informed by an Alternative Agricultural Landuse Options Report (August 2004) prepared by Cadman Agribusiness Services. The report recognised that:

"Existing agricultural property sizes are generally too big for many of the proposed land use options. As an example, preferred lifestyle farm sizes range from 2 to 4 hectares, while more intensive horticultural property requirements by potential investors (nurseries and flowers) from the Monbulk/Silvan area are reported to be from 4 to 8 hectares. The minimum fifteen-hectare subdivision regulation imposed by Green Wedge in many cases will restrict conversion to new sustainable land use options".

Potential land uses suitable for the proposed lots in the subdivision based on the Cadman report include:

- Hay and fodder >2ha
- Horses recreational >8ha

- Alpacas >6ha
- Flowers and natives >6ha
- Glass houses > 2ha
- Nursery containers >4ha
- Blueberries >4ha
- Raspberries > 4ha
- Green tea >4ha
- Vineyard >2ha

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Further Information Required

3 Outstanding fees

The application fee was paid on 26 June 2024 and a copy of the receipt is attached.

4 Confirm subdivision not prohibited

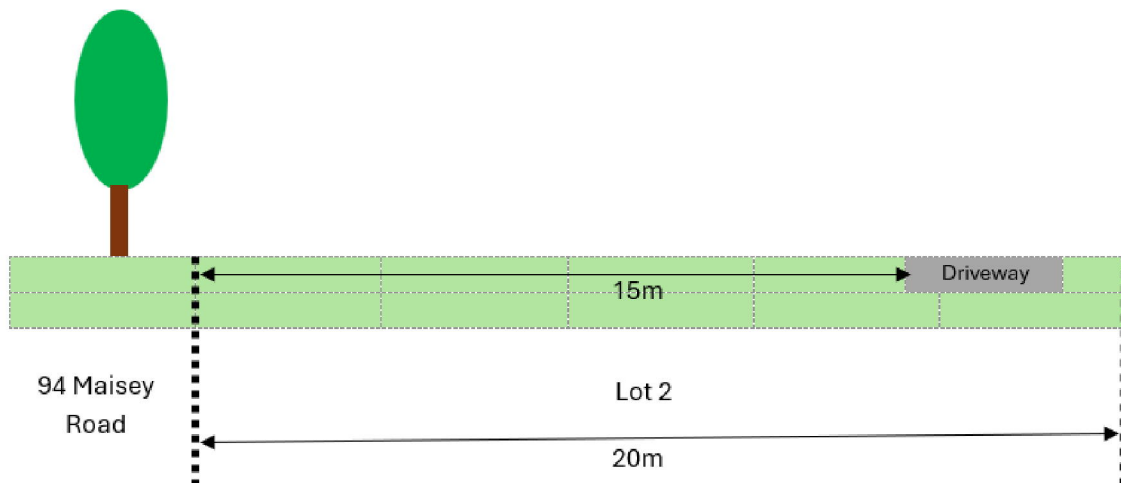
Please refer to point 1 above.

5 Town planning submission

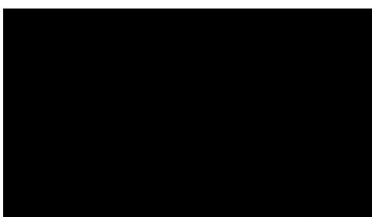
Please find attached an amended town planning submission addressing the points raised.

6 Plans

Please find below a cross section plan for the driveway to Lot 2. The driveway will be setback a minimum of 15m from the southern boundary to avoid any impacts on the trees on 94 Maisey Road.



I trust this information is sufficient to allow Council to progress its consideration of the permit application. Please contact me if you have any questions.



Supporting submission
Planning permit application - 4 lot subdivision
55-105 Harwood Park Road Gembrook

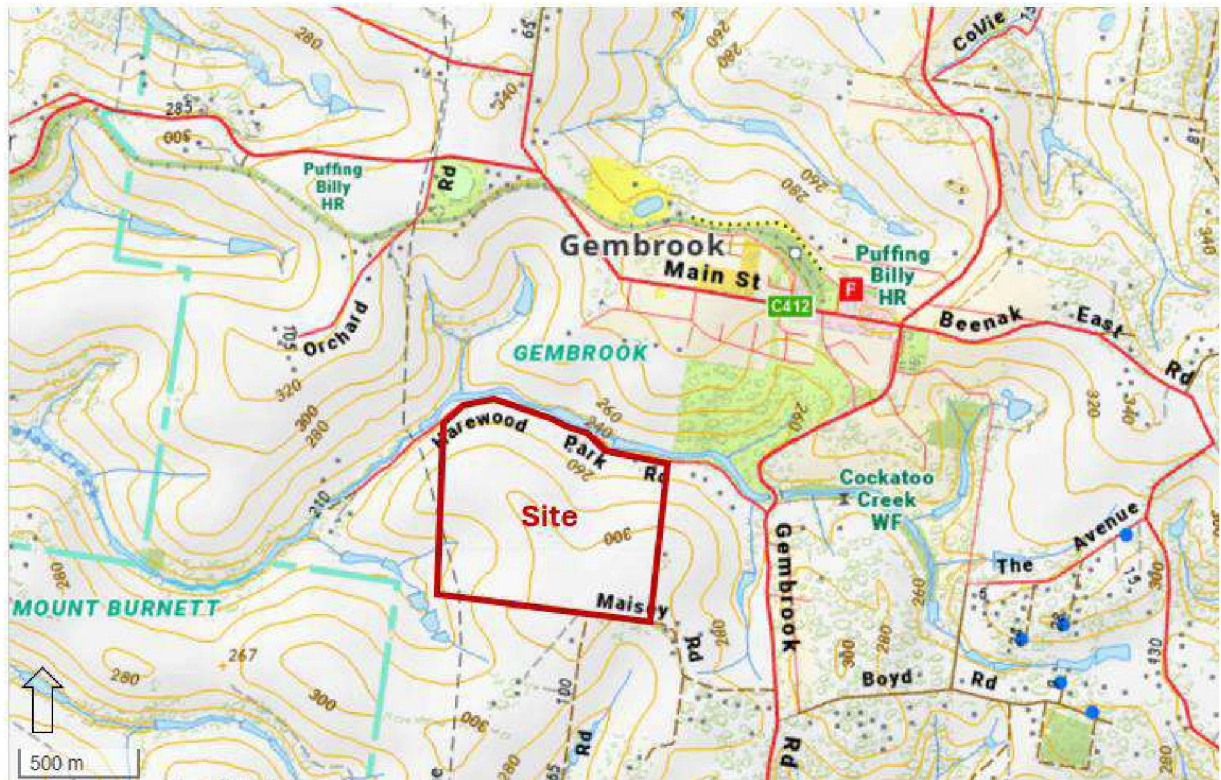
XWB Consulting has been engaged by [REDACTED] on behalf of [REDACTED] to prepare a planning permit application for a 4 lot subdivision at 55-105 Harwood Park Road Gembrook.

Site and locality

The site is located on the south side of Harwood Park Road and comprises 2 lots owned by Salvatore Falcone with a total area of 67.12ha. The details of the site are set out below:

Lot details	Title details	Area
CA9A Sec G Parish of Gembrook	Vol 08274 Fol 626	40.03ha
Lot 4 PS627026L	Vol 11203 Fol 035	27.09ha

The location of the land and details of the land are shown on the plan and aerial photograph below:



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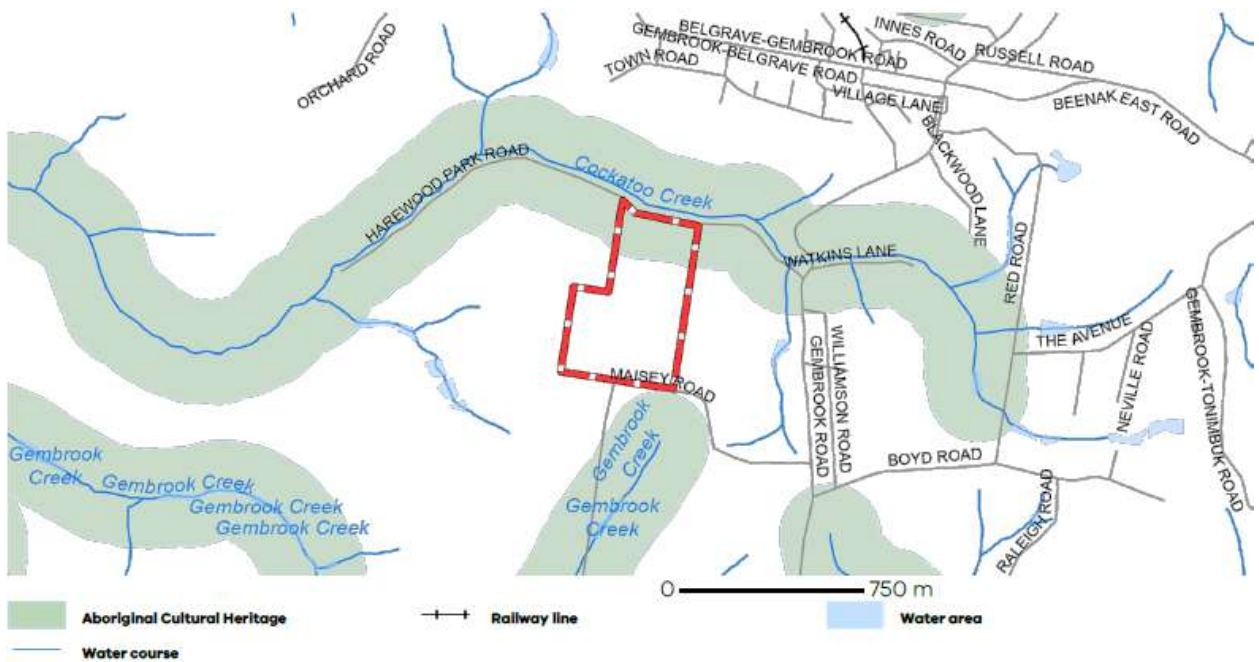
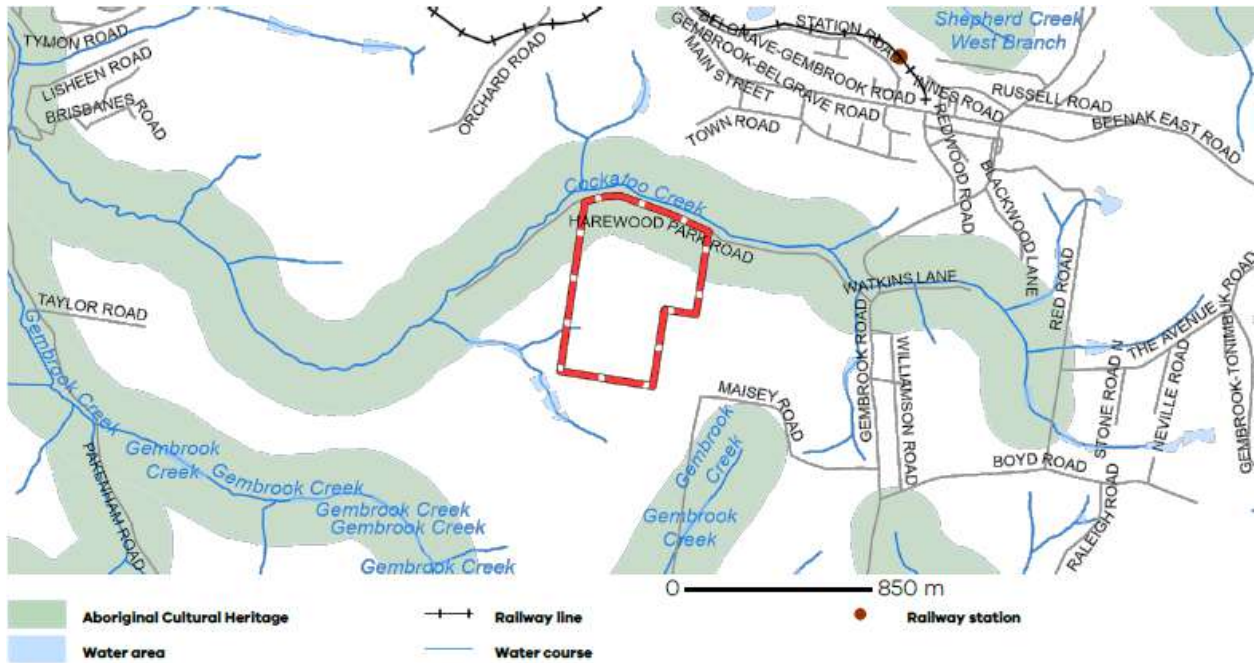
The site adjoins a section of Maisey Road to the south east and Knight Road to the east with the northern section of Knight Road being unconstructed. The site has been cleared of vegetation and comprises open paddocks which have historically been used for potato cropping. There is a high point to the south east with the land falling to the north towards Harewood Park Road and to the west. There is a dwelling on each existing lot along Harewood Park Road along with a large farm shed.

To the north are open paddocks to the north of Cockatoo Creek and the Gembrook township. To the west and south are open paddocks used for cropping and grazing purposes. To the east are open paddocks used for cropping and grazing purposes, residential areas to the south of the Gembrook Township and areas of remnant bushland.

The site is contained in Certificates of Title Volume 08274 Folio 626 and Volume 11203 Folio 035. Certificates of Title Volume 08274 Folio 626 is affected by Covenant K398320 which relates to the gas transmission easement through the south west corner of the site. Certificates of Title Volume 11203 Folio 035 is affected by an agreement under Section 173 of the Planning and Environment Act 1987 in relation to the further subdivision of the land.

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The northern section of the site is within an area of Aboriginal cultural heritage sensitivity as shown on the mapping provided by DELWP below:



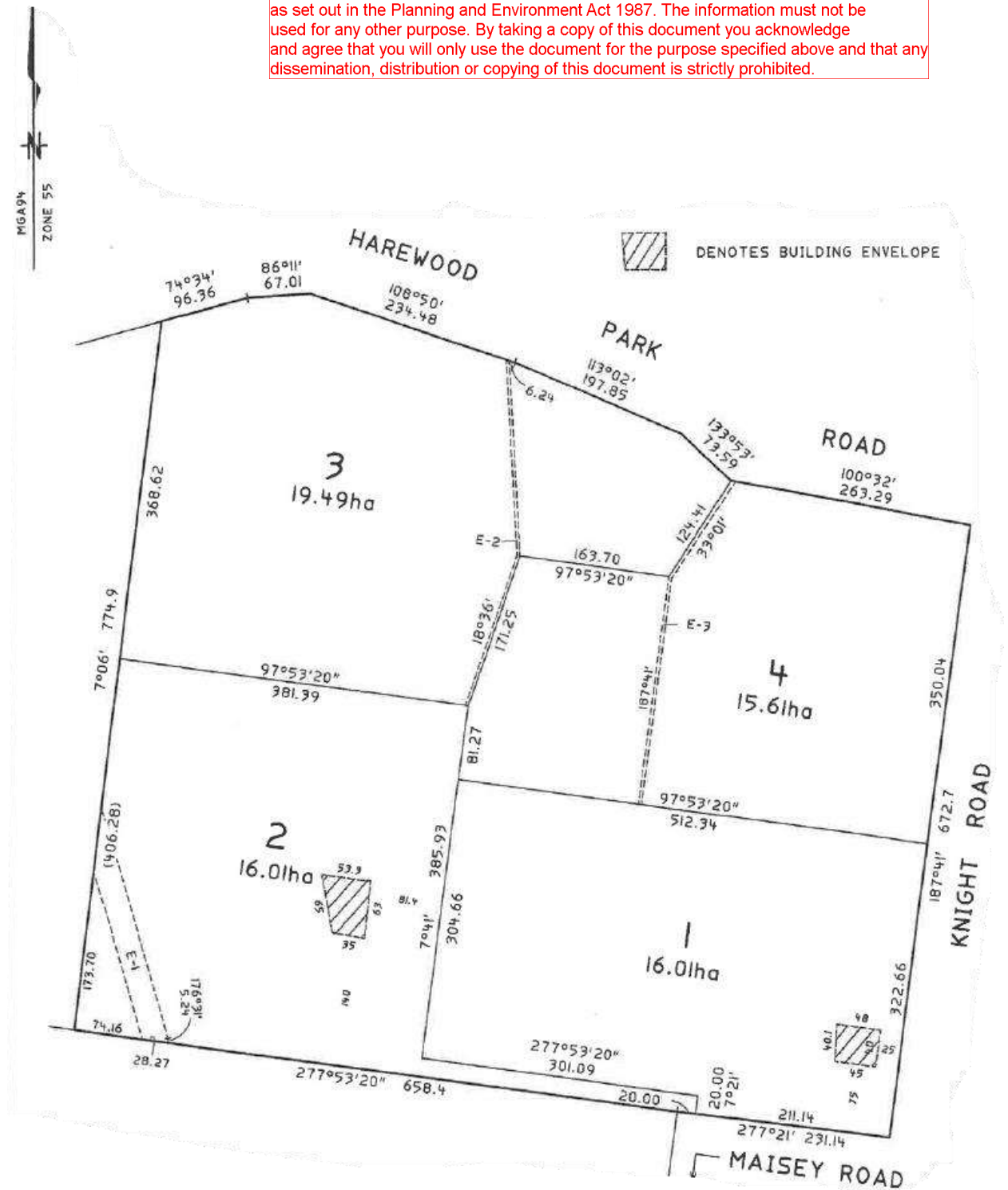
A cultural heritage management plan is not required as the subdivision is not defined as a high impact activity under Regulation 49(1) of the Aboriginal Heritage Regulations 2018. Regulation 49(1) provides that the subdivision of land into 3 or more lots is a high impact activity if:

- The planning scheme that applies to the activity area in which the land to be subdivided is located provides that at least 3 lot the lots may be used for a dwelling or may be used for a dwelling subject to the grant of a permit, and;
- The area of each of at least 3 lots is less than 8 hectares. (This point is not met in relation to the subdivision as the lots are greater than 15ha.)

Proposal

The application proposes the subdivision of the site into 4 lots ranging from 15.61ha to 19.49ha with access from Harewood Park Road and Maisey Road. Proposed Lots 3 and 4 contain the existing dwellings. The proposed subdivision is shown on the plan below:

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Building envelopes are proposed on the two vacant lots.

The subdivision reflects a subdivision approved as part of planning permit T040321 on 20 April 2006. The permit was extended on a number of occasions and inadvertently lapsed due to [REDACTED] suffering from ill health.

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Planning provisions

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State Planning Policy

The following provisions from State Planning Policy are relevant to the planning permit application:

- 11.01-1R Green Wedges Metropolitan Melbourne
- 13.02-1S Bushfire Planning
- 14.01-1S Protection of Agricultural Land
- 14.01-1R Protection of Agricultural Land Metropolitan Melbourne
- 19.01-3S Pipeline Infrastructure

Local Planning Policy

The following provisions from Local Planning Policy are relevant to the planning permit application:

- 21.02-4 Bushfire Management
- 21.04-2 Agriculture

Zone Provisions

The site is a Green Wedge Zone (Schedule 1) under the Cardinia Planning Scheme as shown on the plans below:



The purpose of the Green Wedge Zone is:

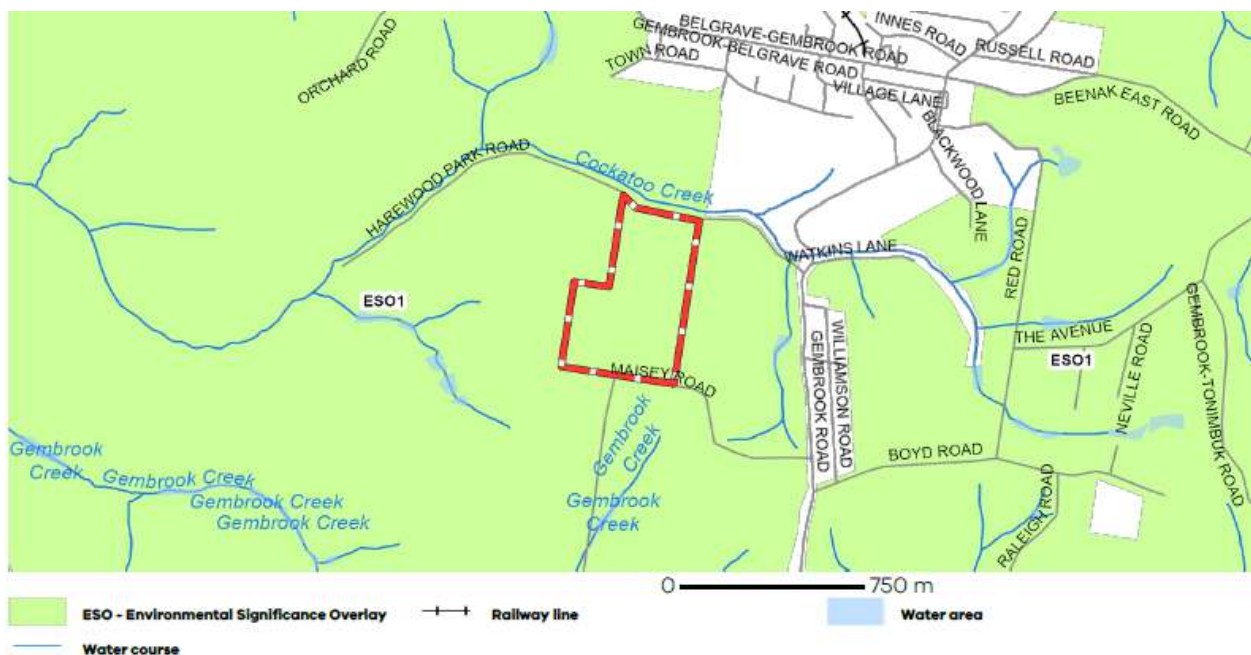
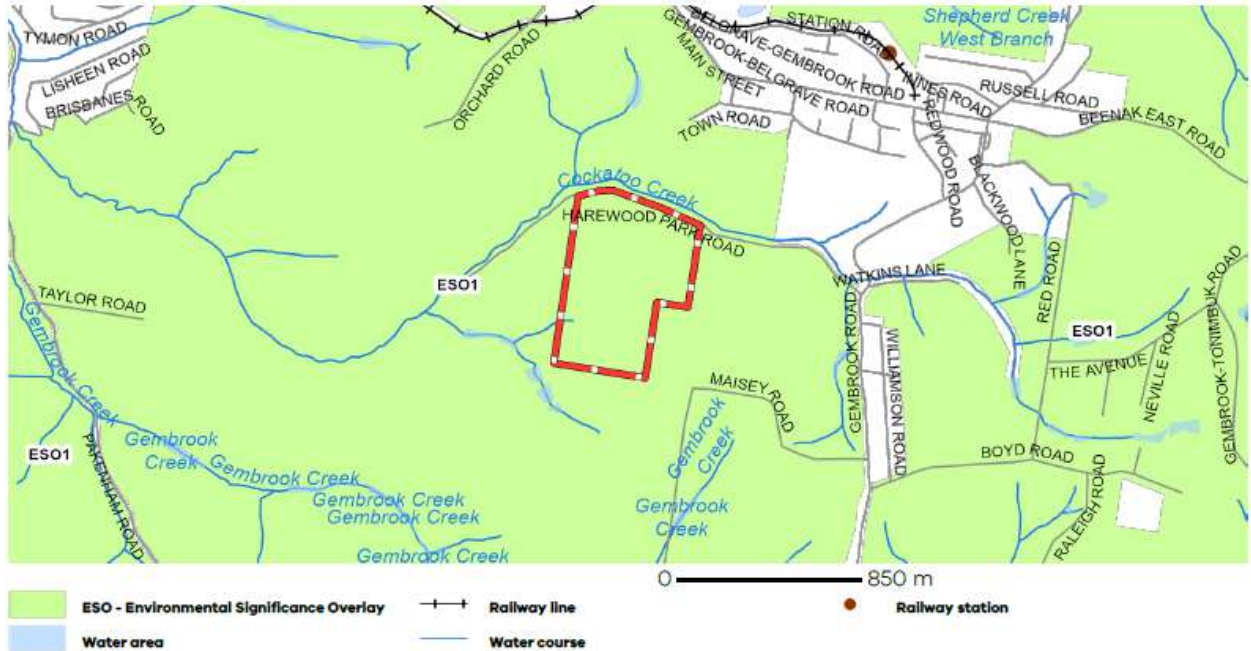
- To implement the Municipal Planning Strategy and Planning Policy Framework.
- To provide for the use of land for agriculture.
- To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.
- To encourage use and development that is consistent with sustainable land management practices.
- To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.
- To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.
- To protect and enhance the biodiversity of the area.

A planning permit is required to subdivide land under the Green Wedge Zone. Schedule 2 to the Green Wedge Zone specifies a minimum lot size of 15ha.

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Overlay provisions

The site is within an Environmental Significance Overlay (Schedule 1) (ESO1) under the Cardinia Planning Scheme as shown on the plans below:



The purpose of the Environmental Significance Overlay is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

The overlay sets out that a schedule to this overlay must contain a statement of environmental significance and the environmental objective to be achieved.

The schedule sets out the following statement of environmental significance:

The hills to the northern part of the municipality (generally to the north of the Princes Highway) is an area with significant landscape and environmental values. The area is characterised by a geology of Devonian Granitic and Sulrian Sediment origin, moderate to steep slopes, and areas of remnant vegetation. These characteristics contribute to environmental values including landscape quality, water quality, and habitat of botanical and zoological significance. These characteristics are also a significant factor in terms of environmental hazards including erosion and fire risk.

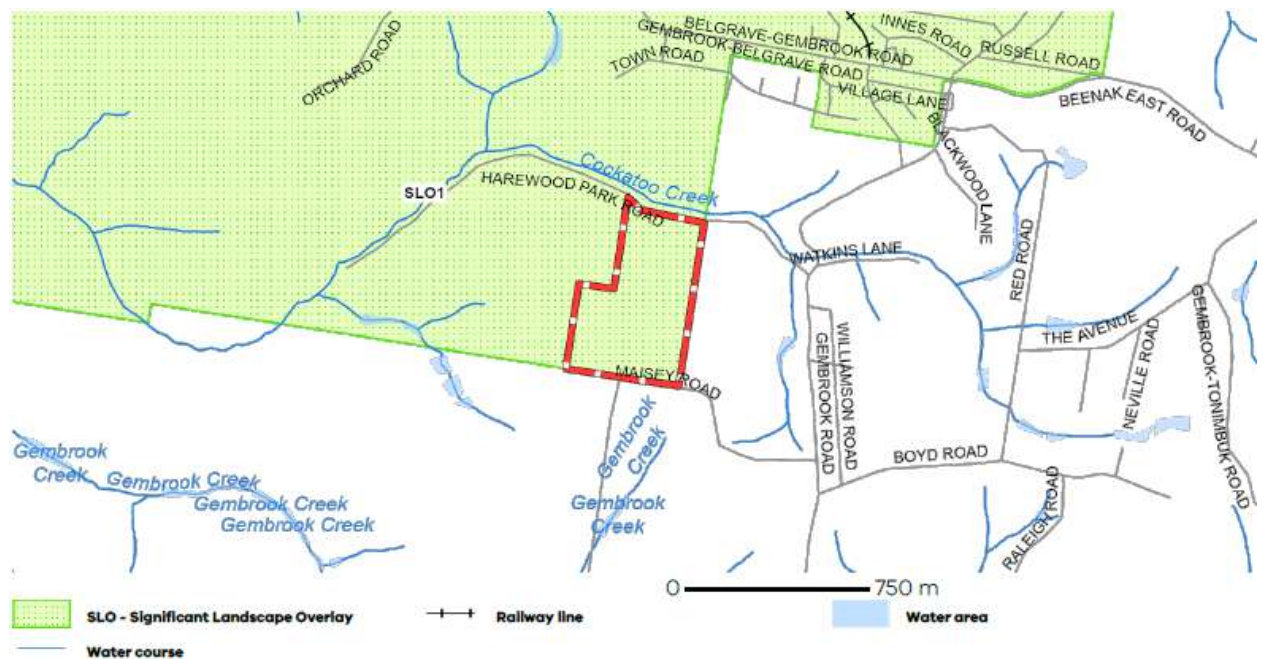
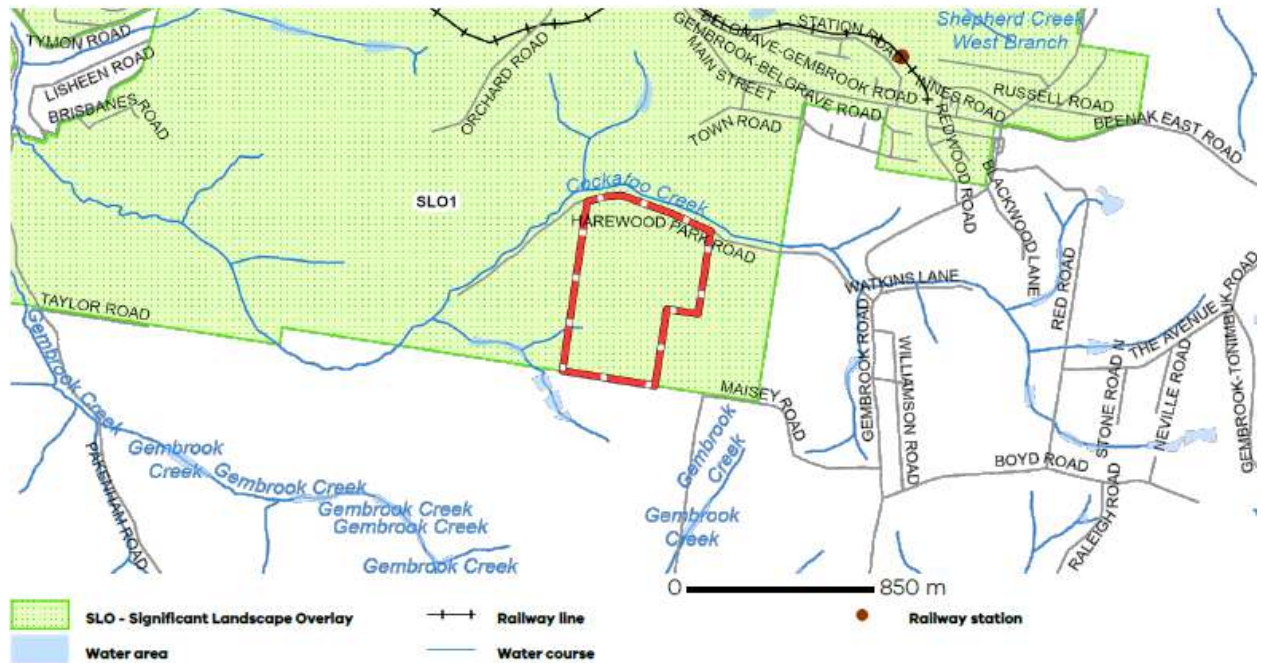
The vegetation supports the ecological processes and biodiversity of this area by forming core habitat areas within a complex network of biolink wildlife corridors. Sites containing threatened flora and fauna are defined as being of botanical and zoological significance. Development within and around these sites need to be appropriately managed to ensure the long term protection, enhancement and sustainability of these ecological processes and the maintenance of biodiversity.

The environmental objectives to be achieved under the schedule to the overlay are:

- To protect and enhance the significant environmental and landscape values in the northern hills area including the retention and enhancement of indigenous vegetation.
- To ensure that the siting and design of buildings and works does not adversely impact on environmental values including the diverse and interesting landscape, areas of remnant vegetation, hollow bearing trees, habitat of botanical and zoological significance and water quality and quantity.
- To ensure that the siting and design of buildings and works addresses environmental hazards including slope, erosion and fire risk, the protection of view lines and maintenance of vegetation as the predominant feature of the landscape.
- To protect and enhance biolinks across the landscape and ensure that vegetation is suitable for maintaining the health of species, communities and ecological processes, including the prevention of the incremental loss of vegetation.

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The site is within a Significant Landscape Overlay (Schedule 1) under the Cardinia Planning Scheme as shown on the plans below:



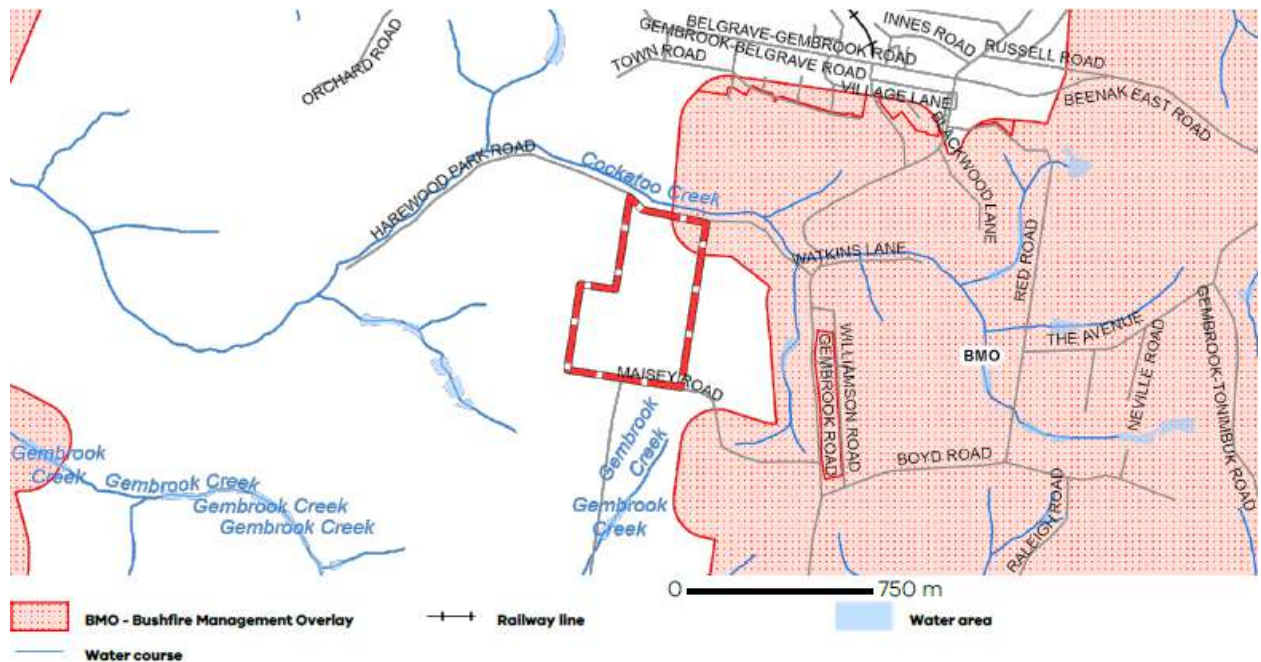
The purposes of the Significant Landscape Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify significant landscapes.
- To conserve and enhance the character of significant landscapes.

A planning permit is not required to subdivide land under the Significant Landscape Overlay.

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A small section of the site in the north east corner is within a Bushfire Management Overlay under the Cardinia Planning Scheme as shown on the plan below:



The purpose of the overlay is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

A permit is required to subdivide land under the Bushfire Management Overlay.

An application is required to be accompanied by a bushfire site hazard assessment, bushfire landscape hazard assessment and bushfire management statement. The overlay specifies that if in the opinion of the responsible authority any part of these requirements is not relevant to the assessment of an application, the responsible authority may waive, vary or reduce the requirement.

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Particular Provisions

The provisions at Clause 53.02 Bushfire Planning apply to the application. The purpose of the provisions is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.
- To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.
- To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.

The bushfire planning provisions set out the requirements related to an application under the Bushfire Management Overlay.

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Consideration of proposal

The land is currently used for grazing and has historically been used for growing potatoes. The growing of potatoes is no longer viable due to the decline of potato production in the Gembrook area over many years. This is in part attributable to the potato cyst nematode which imposes restrictions on farming activities in the area and has affected the markets for the sale of potatoes produced.

Council undertook a review of rural activities in the Gembrook area in 2004 which is referred to in local planning policy in relation to agriculture in Clause 21.04-2 as a reference document. The review recognises the decline in potato production in the Gembrook area and seeks to promote new productive land use opportunities including more intensive agricultural enterprises. The vision for the future is described as a rich mix of smaller agricultural enterprises, hobby farms and lifestyle businesses and farms with potatoes no longer dominant. There will be more nurseries, tree farming, horses, berries and gourmet foods.

Cadman Agribusiness Services prepared a report on alternative land uses in the Gembrook area as part of the Gembrook Rural Review. Based on this report, the proposed lots would be suitable for the following agricultural uses:

- Hay and fodder >2ha
- Horses recreational >8ha
- Alpacas >6ha
- Flowers and natives >6ha
- Glass houses > 2ha
- Nursery containers >4ha
- Blueberries >4ha
- Raspberries > 4ha
- Green tea >4ha
- Vineyard >2ha

The subdivision of the land will not remove the land from agricultural production and will allow for a mix of smaller agricultural enterprises as envisaged by the Gembrook Rural Review. This is consistent with state and local planning policy in relation to agriculture and green wedges. The proposed lot sizes meet the minimum lot size under the zone and are consistent with the existing mix of lot sizes in the area. The proposed lots will not adversely impact on existing agricultural activities in the area.

The purpose of the subdivision is to allow for new productive land use opportunities including more intensive agricultural enterprises as envisaged by the Gembrook Rural Review. This is consistent with the purposes of the Green Wedge Zone in that it provides for the use of the land for agriculture including provide opportunity for a variety of productive agricultural uses. The subdivision is also consistent with the purposes of the Environmental Significance Overlay in that it does not adversely impact on biodiversity values including native vegetation.

In relation to the decision guidelines of the Green Wedge Zone:

General issues

The subdivision is considered to be consistent with state and local planning policy particularly in relation to agriculture for the reasons outlined above. The subdivision will not adversely impact

the character of the area with lot sizes consistent with the general pattern of lot sizes in the area and only an additional 2 additional dwellings allowed given the two existing dwellings.

Rural issues

Traditional broadacre grazing and potato production are no longer viable for the Gembrook area and the subdivision seeks to allow for productive landuse opportunities including more intensive agricultural enterprises. The 2 additional lots will have minimal impact on rural infrastructure including local roads.

Environmental issues

The land is largely cleared of vegetation and as such, there would be no loss of vegetation or impacts on biodiversity as a result of the subdivision. Wastewater disposal for existing and new dwellings will be contained within the lots and will not adversely affect waterways or other environmental values.

Design and siting issues

Any future dwellings on the vacant lots will be subject to a planning permit under the Green Wedge Zone and Environmental Significance Overlay at which time issues in relation to siting, design and environmental impacts can be considered in detail. The building envelopes on the vacant lots are the same as previously approved by Council under Planning Permit T040321.

In terms of the decision guidelines of the Environmental Significance Overlay, there will be no loss of vegetation or impacts on biodiversity as a result of the subdivision. The rural landscape in the Gembrook area will not be altered as a result of the subdivision and the siting and design impact of the construction of additional dwellings can be managed through planning permits required for the construction of the dwellings.

The subdivision also reflects the subdivision approved by Council under Planning Permit T040321 including the location of proposed building envelopes. The Agreement under Section 173 of the Planning and Environment Act allows for the further subdivision of Lot 4 on PS627026L in conjunction with another parcel of land being CA9A Sec G Parish of Gembrook as confirmed by Planning Permit T040321.

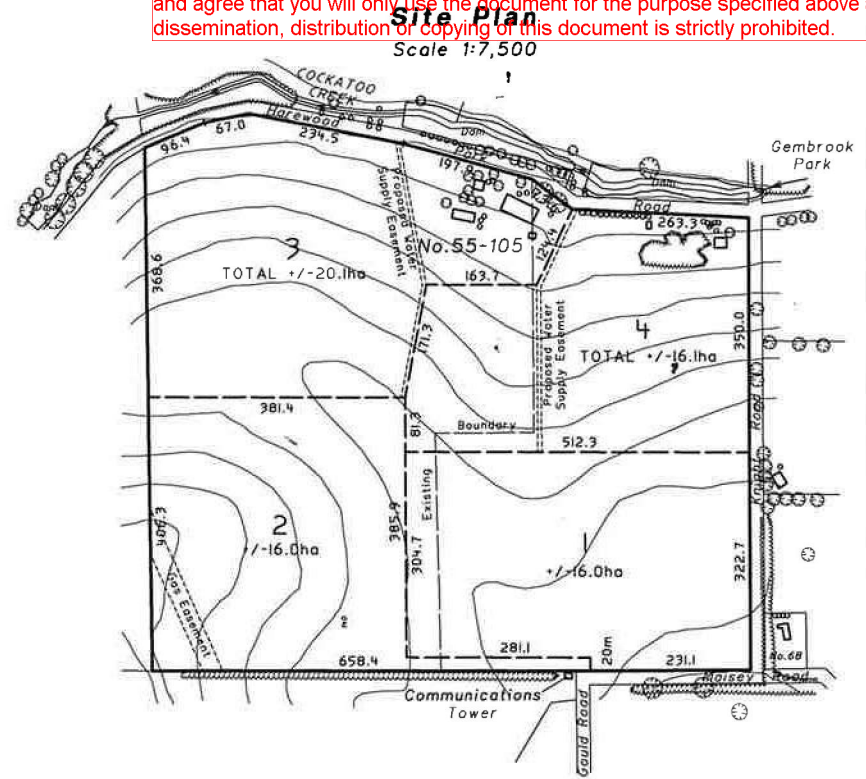
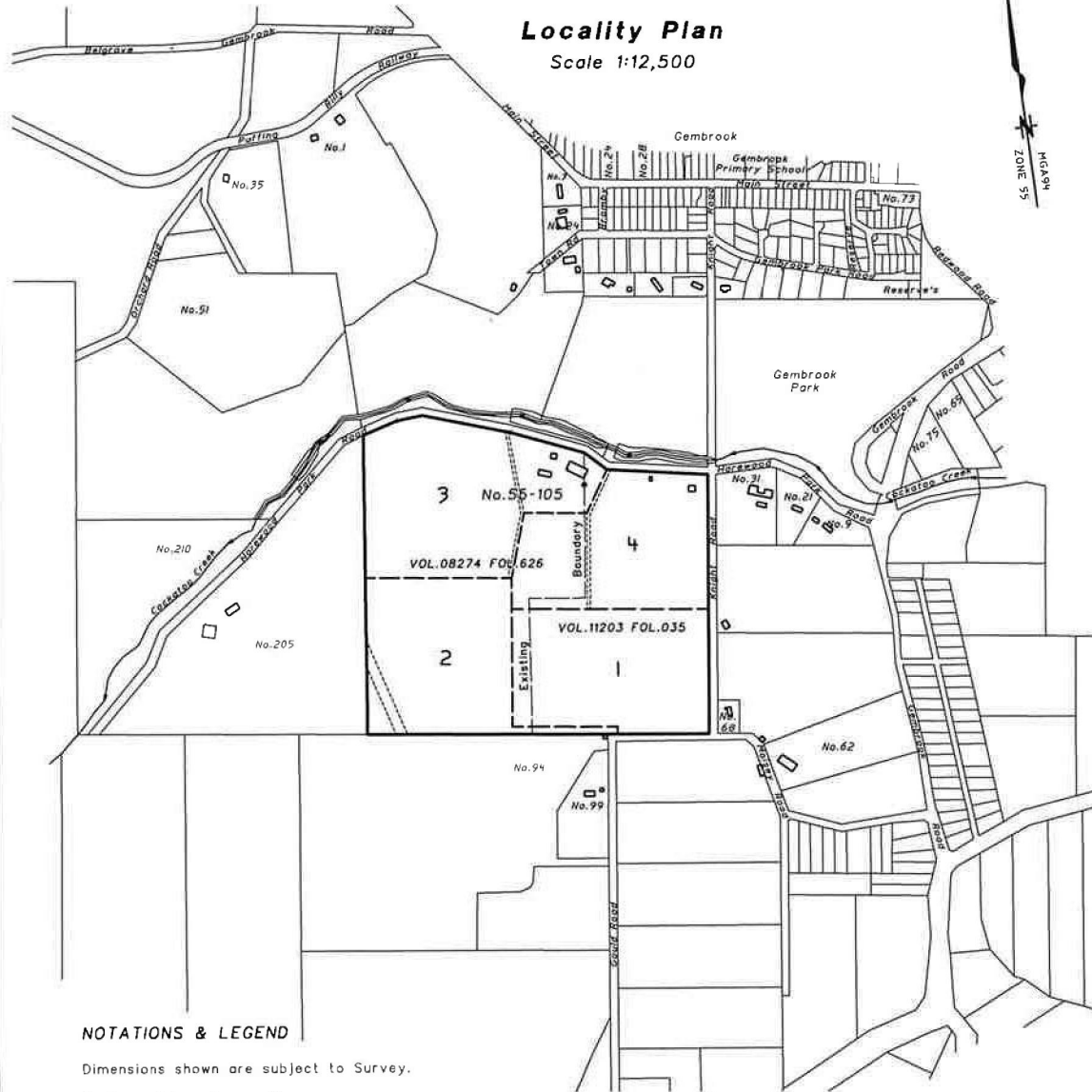
The gas transmission easement passes through the south west corner of proposed lot 2 within an area which will remain open farmland. The proposed building envelope on proposed Lot 2 is well separated by the gas transmission easement. Therefore it is considered that there is no adverse impacts associated with the gas transmission easement.

In relation to bushfire risk, the bushfire management overlay only affects a small section of the land in the north east corner including an existing dwelling. The proposed subdivision does not increase the risk to the existing dwellings, and the vacant lots proposed as part of the subdivision are located well outside the Bushfire Management Overlay. In the event that the dwelling was replaced on Lot 4 at some stage in the future, there are ample areas available on Lot 4 to site a new dwelling outside the Bushfire Management Overlay. The Bushfire Management Overlay sets out that an application is required to be accompanied by a bushfire site hazard assessment, bushfire landscape hazard assessment and bushfire management statement. The overlay specifies that if in the opinion of the responsible authority any part of these requirements is not relevant to the assessment of an application, the responsible authority may waive, vary or reduce the requirement. The agreement of the responsible authority is sought to waive the requirement for a bushfire site hazard assessment, bushfire landscape hazard assessment and bushfire management statement on the basis that the site is located largely outside the Bushfire Management Overlay, the bushfire risk to the existing dwellings is not increased as a result of the subdivision, the proposed vacant lots are located outside the Bushfire Management Overlay and there is ample room on Lot 4 to site a future replacement dwelling outside the Bushfire Management Overlay.

The proposed subdivision is considered to be consistent with state and local planning policy, particularly in relation to agricultural and environmental considerations. The proposal is also consistent with the purposes of the Green Wedge Zone and Environmental Significance Overlay and Bushfire Management Overlay. It considered a permit should be issued subject to appropriate conditions.

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NOTATIONS & LEGEND

Dimensions shown are subject to Survey.
Contours intervals are 10m.

- Vegetation
- Building
- Watercourse
- Proposed Boundary
- Existing Boundary

SITE & LOCALITY PLANS

PROPOSED SUBDIVISION

FOR : [REDACTED]
AT : 55-105 HAREWOOD PARK ROAD,
GEMBROOK VIC, 3783.

Vol.08274 Fol.626 Vol.11203 Fol.035
TP 742203J & Lot 4 on PS627026L

SCALE 1:7500	75 0 75 150 225 300 LENGTHS ARE IN METRES
ORIGINAL SHEET SIZE: A3 Date : Dec 2021	
SURVEYORS REF: 21122 Ver.A	

R.V. FOOTE AND ASSOCIATES
LAND AND ENGINEERING SURVEYORS
4 FORMBY CLOSE WANTIRNA, 3152
Ph. 9801 8642 richard@rvfoote.com.au

PLAN OF SUBDIVISION

EDITION 1

PS 902865H

LOCATION OF LAND

CARDINIA SHIRE COUNCIL

PARISH: GEMBROOK
TOWNSHIP: *****
SECTION: G
CROWN ALLOTMENT: 9 & 10
TITLE REFERENCE: VOL.08274 FOL.626
 VOL.11203 FOL.035
LAST PLAN REFERENCE: TP 742203J & LOT 4
 ON PS 627026L
POSTAL ADDRESS: 55-105 HAREWOOD PARK ROAD,
 GEMBROOK VIC, 3783.
 (at time of subdivision)
MGA84 ZONE 55 CO-ORDINATES: E 371 400
 (of approx centre of land in plan) N 5 797 570

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VESTING OF ROADS AND/OR RESERVES

NOTATIONS

IDENTIFIER	COUNCIL/BODY/PERSON
NIL	NIL

NOTATIONS

DEPTH LIMITATION : 15.24m BELOW THE SURFACE APPLIES TO ALL THE LAND IN THE PLAN
SURVEY : This plan is based on survey.
STAGING : This is not a staged subdivision.
 Planning Permit No.
 This survey has been connected to permanent marks No(s).
 In Proclaimed Survey Area No. N/A

EASEMENT INFORMATION

LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)
 Section 12(2) of the Subdivision Act applies to all the land in this subdivision.

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	GAS SUPPLY	27.00	C/E K398320	GAS & FUEL
E-2	WATER SUPPLY	2.00	THIS PLAN	LOT 2 ON THIS PLAN
E-3	WATER SUPPLY	2.00	THIS PLAN	LOT 1 ON THIS PLAN

WARNING
 Note: This plan is provisional only and could be subject to changes prior to certification by council and registration at Land Registry. R V Foote & Assoc. accept no responsibility for the use of this plan prior to registration at Land Registry.

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 Ph. 9801 8642 richard@rvfoote.com.au
 21122PS.SEE / 21122PS.LCD

SURVEYORS FILE REF: 21122

ORIGINAL SHEET SIZE: A3

SHEET 1 OF 3

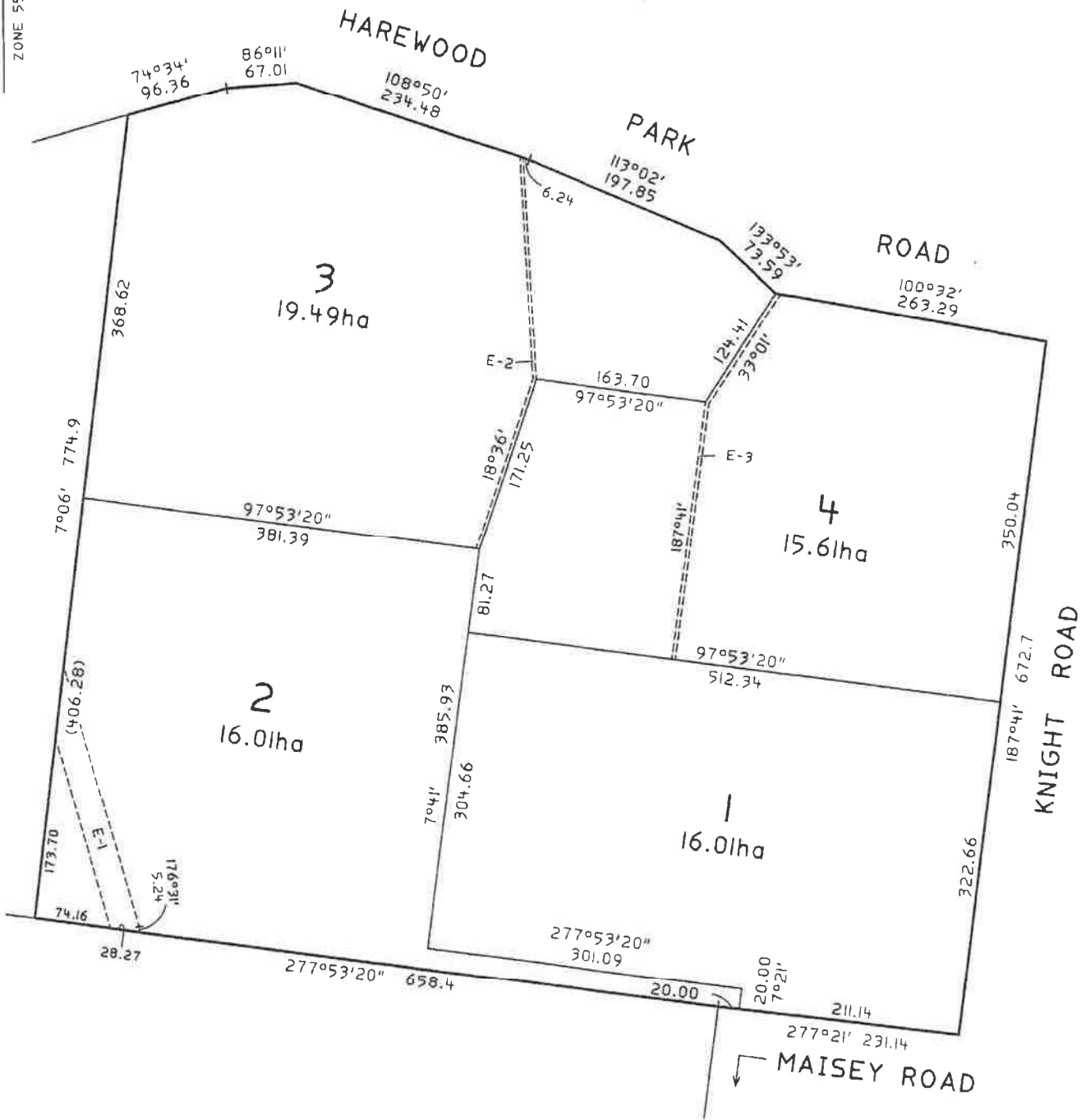
RICHARD V FOOTE VERSION A

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PS 902865H

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MGA94
 ZONE 55



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 Ph. 9801 8642 richard@rvfoote.com.au

SCALE 1:4000
 40 0 40 80 120 160
 LENGTHS ARE IN METRES

ORIGINAL SHEET
 SIZE: A3

SHEET 2

RICHARD V FOOTE VERSION A

SURVEYORS FILE REF: 21122

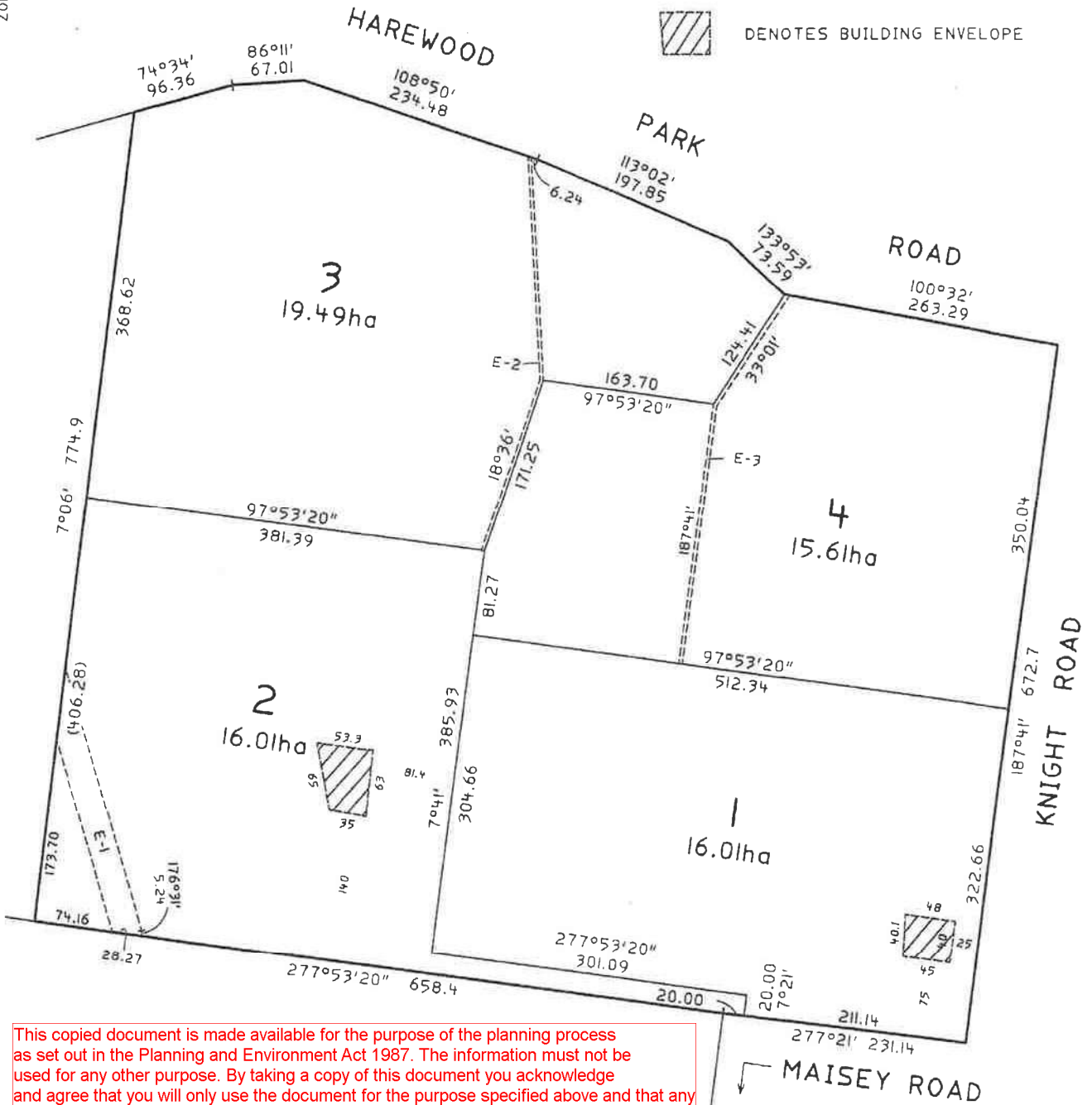
CREATION OF RESTRICTION

On registration of this plan the following is created:
 LAND TO BENEFIT : Lot's 3 & 4 on this Plan of Subdivision
 LAND TO BE BURDENED : Lot's 1 & 2 on this Plan of Subdivision

DESCRIPTION OF RESTRICTION

1. The registered proprietor or proprietors of Lot's 1 & 2 shall not construct any garage or dwelling outside the building envelope without the further consent of the Responsible Authority.

MGA94
 ZONE 55



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R.V. FOOTE AND ASSOCIATES LAND AND ENGINEERING SURVEYORS 4 FORMBY CLOSE WANTIRNA, 3152 Ph. 9801 8642 richard@rvfoote.com.au	SCALE 1:4000	40 0 40 80 120 160 LENGTHS ARE IN METRES	ORIGINAL SHEET SIZE: A3	SHEET 3
	RICHARD V FOOTE VERSION A			
SURVEYORS FILE REF: 21122				