


# Notice of Application for a Planning Permit

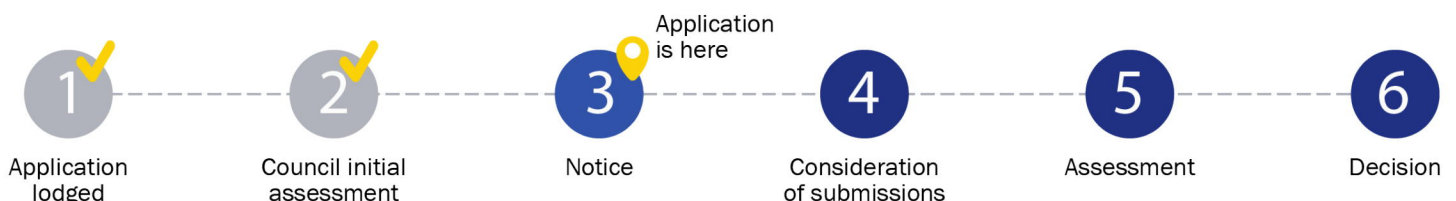
|   |   |
|---|---|
| The land affected by the application is located at: | L1 PS613771 V11225 F115<br>7 Pioneer Road, Lang Lang VIC 3984 |
| The application is for a permit to:                 | Boundary Realignment  |

## APPLICATION DETAILS

|  |  |
|--|--|
| The applicant for the permit is:   | [REDACTED]   |
| Application number:  | T230560  |
| You may look at the application and any documents that support the application at the office of the Responsible Authority:<br>Cardinia Shire Council, 20 Siding Avenue, Officer 3809.<br>This can be done during office hours and is free of charge.<br>Documents can also be viewed on Council's website:<br><a href="http://cardinia.vic.gov.au/advertisedplans">cardinia.vic.gov.au/advertisedplans</a> or by scanning the QR code. |  |

## HOW CAN I MAKE A SUBMISSION?

|  |  |   |
|--|--|---|
| 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: | <b>18 October 2024</b>   |   |
| <b>WHAT ARE MY OPTIONS?</b><br>Any person who may be affected by the granting of the permit may object or make other submissions to the responsible authority.               | An objection must: <ul style="list-style-type: none"><li>• be made to the Responsible Authority in writing;</li><li>• include the reasons for the objection; and</li><li>• state how the objector would be affected.</li></ul> If you object, the Responsible Authority will notify you of the decision when it is issued. | 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. |



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## Application Summary

Portal Reference A42342QE

## Basic Information

Proposed Use Boundary Realignment  
Current Use Multiple dwellings and sheds  
Site Address 7 Pioneer Road Lang Lang 3984

## 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

| Type              | Name                                | Address   | Contact Details                 |
|-------------------|-------------------------------------|---|---------------------------------|
| Applicant         | [REDACTED]                          |   |                                 |
| Owner             | South East Sands (Property) PTY LTD | "Como Centre" Suite 1 level 9/644 Chapel Street, South Yarra VIC 3141 | E: wayne.phillips@wilbow.com.au |
| Preferred Contact | [REDACTED]                          |   |                                 |

## Fees

| Regulation Fee Condition  | Amount     | Modifier | Payable           |
|---|------------|----------|-------------------|
| 9 - Class 19 To effect a realignment of a common boundary between lots or to consolidate two or more lots | \$1,415.10 | 100%     | \$1,415.10        |
| <b>Total</b>  |            |          | <b>\$1,415.10</b> |

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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

## Documents Uploaded

| Date       | Type                | Filename                              |
|------------|---------------------|---------------------------------------|
| 08-11-2023 | Subdivision Plan    | 23-09-95 (PRELIM) Model ().pdf        |
| 08-11-2023 | Explanatory Letter  | Cardinia Form 1 V2 Signed 6.11.23.pdf |
| 08-11-2023 | Additional Document | Title(Front7).PDF                     |
| 08-11-2023 | Additional Document | Title(Front9).PDF                     |
| 08-11-2023 | Additional Document | Title(Front25).PDF                    |
| 08-11-2023 | Additional Document | Title(Plan).PDF                       |
| 08-11-2023 | Additional Document | Title(PlanLP077628).PDF               |
| 08-11-2023 | Additional Document | Title(PlanLP200147U).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

|                 |  |                              |   |
|-----------------|--|------------------------------|---|
| Site User       | ██████████<br>M.J.Reddie Surveys Pty Ltd | PO BOX 268, berwick VIC 3806 | W: 9707-4117<br>M: 0438-538-870<br>E: luke@reddiesurveys.com.au |
| Submission Date | 08 November 2023 - 06:05:PM              |                              |   |

## Declaration

By ticking this checkbox, I, ██████████ 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.

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

Page 1 of 1

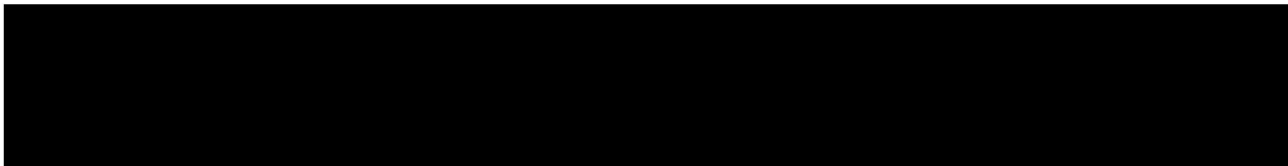
VOLUME 09627 FOLIO 989

Security no : 124109151608C  
Produced 18/09/2023 11:56 AM

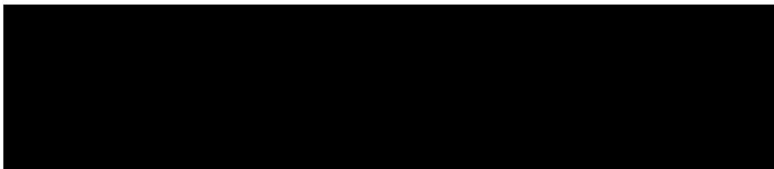
**LAND DESCRIPTION**

Lot 1 on Plan of Subdivision 200147U.  
PARENT TITLE Volume 08746 Folio 408  
Created by instrument LP200147U 22/08/1985

**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 or imaged folio set out under DIAGRAM LOCATION below.

**DIAGRAM LOCATION**

SEE LP200147U 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: 25 PIONEER ROAD LANG LANG VIC 3984

**ADMINISTRATIVE NOTICES**

NIL



DOCUMENT END

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

Page 1 of 1

VOLUME 11225 FOLIO 115

Security no : 124109151000M  
Produced 18/09/2023 11:44 AM

**LAND DESCRIPTION**

Lot 1 on Plan of Subdivision 613771D.

PARENT TITLES :

Volume 09627 Folio 990      Volume 10967 Folio 956

Created by instrument PS613771D 08/09/2010

**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  
AH433369B 17/08/2010

**DIAGRAM LOCATION**

SEE PS613771D FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NIL

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

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

Street Address: 7 PIONEER ROAD LANG LANG VIC 3984

**ADMINISTRATIVE NOTICES**

NIL

DOCUMENT END

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

Page 1 of 1

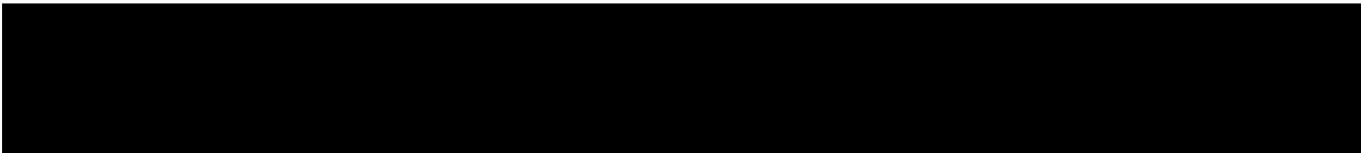
VOLUME 08746 FOLIO 407

Security no : 124109151362T  
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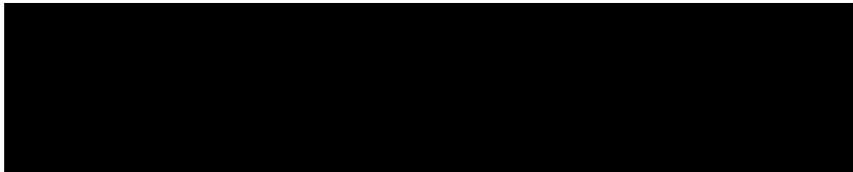
**LAND DESCRIPTION**

Lot 1 on Plan of Subdivision 077628.  
PARENT TITLE Volume 06435 Folio 961  
Created by instrument D014096 27/02/1968

**REGISTERED PROPRIETOR**



**ENCUMBRANCES, CAVEATS AND NOTICES**



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**DIAGRAM LOCATION**

SEE LP077628 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: 9 PIONEER ROAD LANG LANG VIC 3984

**ADMINISTRATIVE NOTICES**

NIL



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| Number of Pages<br>(excluding this cover sheet) | <b>4</b>                |
| Document Assembled                              | <b>18/09/2023 11:48</b> |

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|  |                         |                |   |  |   |                                   |
|--|-------------------------|----------------|---|--|---|-----------------------------------|
| <b>PLAN OF SUBDIVISION</b>   |                         |                |   | LR use only<br><b>EDITION 2</b>  | Stage No.<br>/  | Plan Number<br><b>PS 613771 D</b> |
| <b>LOCATION OF LAND</b><br><b>Parish:</b> Lang Lang<br><b>Township:</b> ---<br><b>Section:</b> ---<br><b>Crown Allotment:</b> 2 (pt)<br><b>Crown Portion:</b> ---<br><b>Title Reference:</b> V. 9627 F. 990 & V. 10967 F. 956<br><b>Last Plan Reference:</b> Lot 2 LP 200147 & Lot 2 PS 533599 H<br><b>Postal Address:</b> 7 & 65 Pioneer Road<br><small>(at time of subdivision)</small> Lang Lang 3984<br><b>MGA94 Co-ordinates:</b> E 376 500<br><small>(of approx. centre of land in plan)</small> N 5 765 400<br>Zone: 55 |                         |                |   | <b>COUNCIL CERTIFICATION AND ENDORSEMENT</b><br><b>COUNCIL NAME :</b> _____ <b>REF:</b> _____<br>1. This plan is certified under section 6 of the Subdivision Act 1988.<br>2. This plan is certified under section 11(7) of the Subdivision Act 1988.<br>Date of original certification under section 6 / /<br>3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.<br><b>OPEN SPACE</b><br>(i) A requirement for public open space under section 18 of the Subdivision Act 1988 has/has not been made.<br>(ii) The requirement has been satisfied.<br>(iii) The requirement is to be satisfied in Stage.....<br>Council Delegate<br>Council Seal<br>Date / /<br>Re-certified under section 11(7) of the Subdivision Act 1988<br>Council Delegate<br>Council Seal<br>Date / / |   |                                   |
| <b>Vesting of Roads or Reserves</b>  |                         |                |   |  |   |                                   |
| Identifier   | Council / Body / Person |                |   |  |   |                                   |
| Nil  | Nil                     |                |   |  |   |                                   |
| <b>Notations</b>   |                         |                |   |  |   |                                   |
| Depth Limitation: DOES NOT APPLY   |                         |                |   | Staging This is not a staged subdivision<br>Planning Permit No. T070740  |   |                                   |
| This is a Spear Plan   |                         |                |   | This plan is based on Survey<br>This survey has been connected to permanent marks no(s) 7 & 111<br>In Proclaimed Survey Area No.   |   |                                   |
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| <b>Easement Information</b>  |                         |                |   |  | LR use only   |                                   |
| Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)  |                         |                |   |  | Statement of Compliance/<br>Exemption Statement                               |                                   |
| Easement Reference   | Purpose                 | Width (Metres) | Origin  | Land Benefited/In Favour Of  | Received <input checked="" type="checkbox"/>                                  |                                   |
| E-1  | Drainage                | 2.01           | LP 200147 U   | All lots on LP 200147 U  | DATE 2 / 9 / 10   |                                   |
| E-2  | Drainage                | 2.01           | LP 77628  | All lots on LP 77628   | LR use only   |                                   |
| E-3  | Powerlines              | 12             | This Plan   | SPI Electricity Pty. Ltd.  | PLAN REGISTERED   |                                   |
| E-4  | Water Supply            | 4              | This Plan   | South East Water Limited   | TIME 2:04pm   |                                   |
| E-5  | Water Supply            | 2              | This Plan   | Lot 1 on LP 77628 & Lot 2 on LP 200147   | DATE 8 / 9 / 10   |                                   |
| E-6  | Gas Supply              | See Plan       | AC527348F   | Lot 1 on LP89200   | Daniel Thomas<br>Assistant Registrar of Titles                                |                                   |
|  |                         |                |   |  | Sheet 1 of 2 sheets   |                                   |
| <b>NOBELIUS LAND SURVEYORS</b><br>P.O. BOX 461<br>PAKENHAM 3810<br>Ph 03 5941 4112<br>Fax 03 5941 7359<br>rob@nobelius.com.au  |                         |                | LICENSED SURVEYOR: R. P. NOBELIUS<br>SIGNATURE.....DIGITALLY SIGNED.....<br>REF: 6611 |  | VERSION B<br>DATE / /<br>COUNCIL DELEGATE SIGNATURE<br>Original sheet size A3 |                                   |

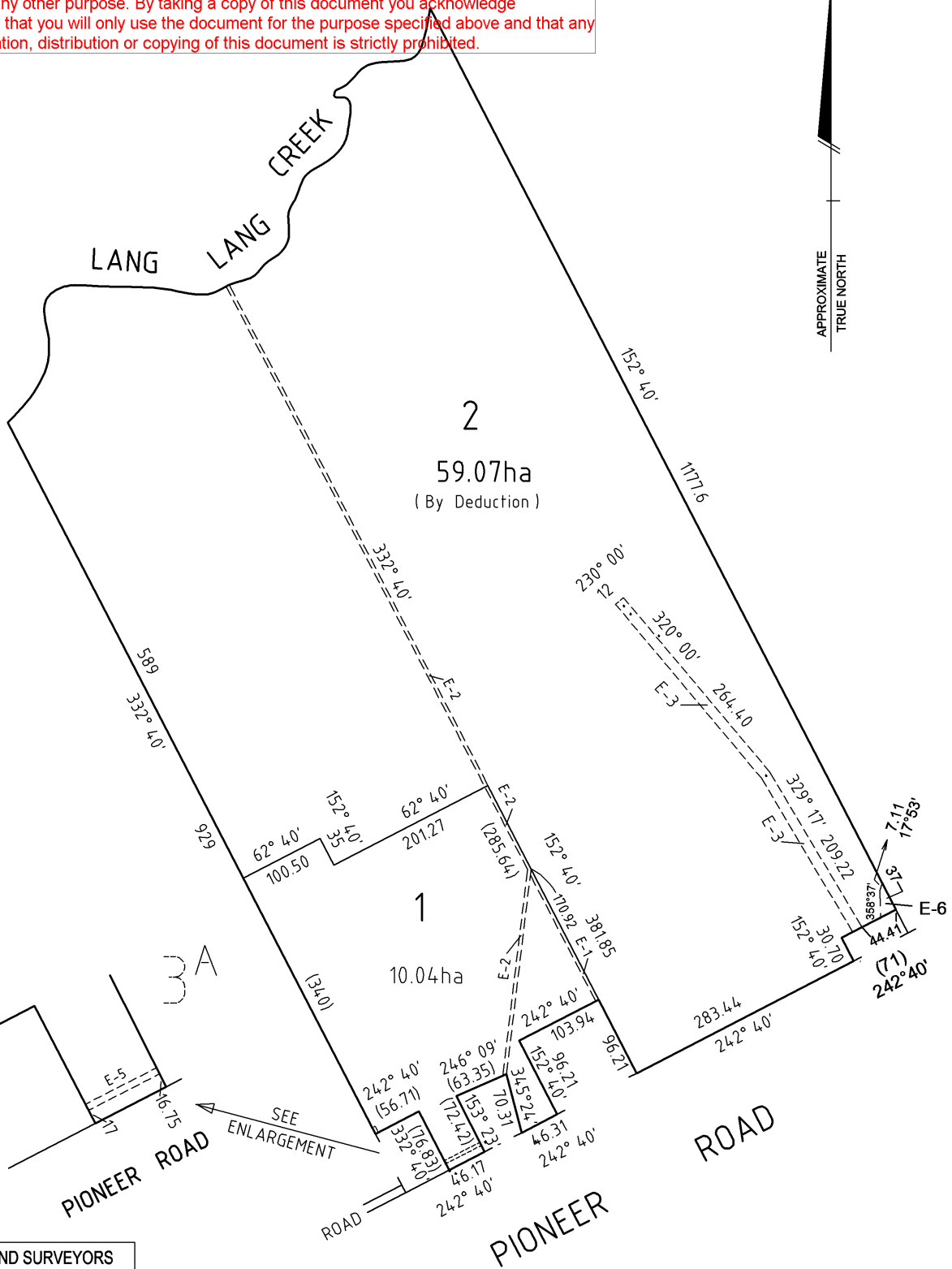
# PLAN OF SUBDIVISION

Stage No.

Plan Number

## PS 613771 D

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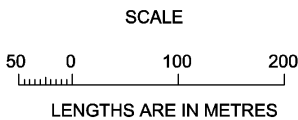
### NOBELIUS LAND SURVEYORS

P.O. BOX 461  
PAKENHAM 3810  
Ph 03 5941 4112  
Fax 03 5941 7359  
rob@nobelius.com.au



ORIGINAL  
SCALE  
1 : 5000

SHEET  
SIZE  
A3



LICENSED SURVEYOR: R. P. NOBELIUS

SIGNATURE.....DIGITALLY SIGNED.....

REF: XXXX

VERSION

Sheet 2

DATE / /

COUNCIL DELEGATE SIGNATURE



## Plan of Subdivision PS613771D Certification by Council (Form 5)

SUBDIVISION (PROCEDURES) REGULATIONS 2000

SPEAR Reference Number: S001541J  
Plan Number: PS613771D  
Council Name: Cardinia Shire Council  
Council Reference Number 1: S08/084  
Surveyor's Plan Version: B

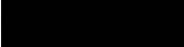
### Certification

This plan is certified under section 6 of the Subdivision Act 1988

### Public Open Space

A requirement for public open space under section 18 of the Subdivision Act 1988

Has not been made

Digitally signed by Council Delegate:   
Organisation: Cardinia Shire Council  
Date: 05/08/2008

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RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

**PLAN NUMBER**  
**PS613771D**

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NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.**

| AFFECTED LAND/PARCEL | LAND/PARCEL IDENTIFIER CREATED | MODIFICATION  | DEALING NUMBER | DATE     | EDITION NUMBER | ASSISTANT REGISTRAR OF TITLES |
|----------------------|--------------------------------|---------------|----------------|----------|----------------|-------------------------------|
| LOT 2                | E-6                            | RECTIFICATION | AK034566X      | 20/11/12 | 2              | GMR                           |
|                      |                                |               |                |          |                |                               |
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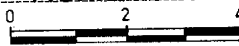
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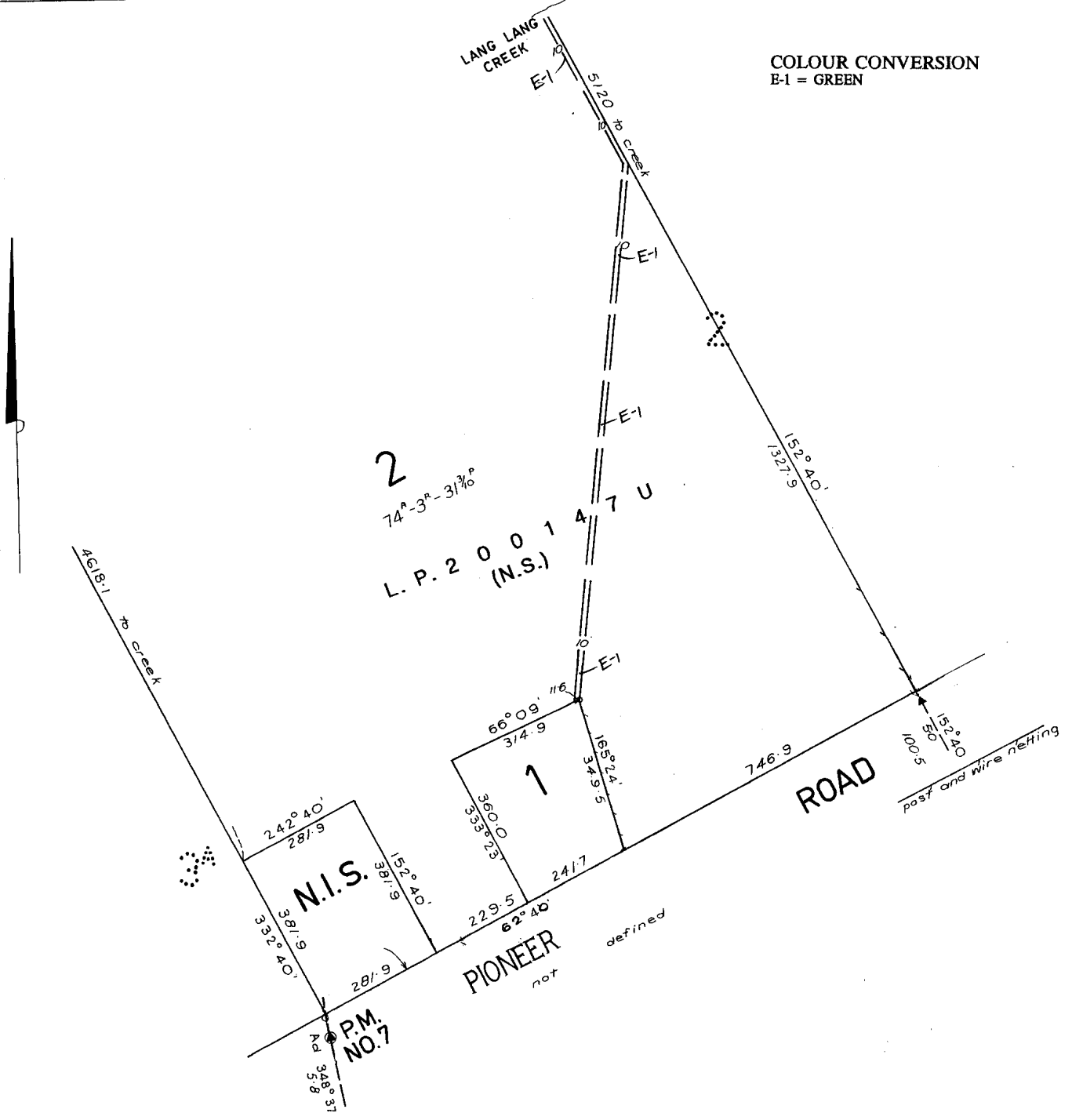
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**LP77628**  
**EDITION 1**  
 APPROVED 9/8/68

|  |   |  |
|--|---|--|
| <p>PLAN OF SUBDIVISION OF:</p> <p><u>PART OF CROWN ALLOTMENT 2</u></p> <p>PARISH: <u>OF LANG LANG</u></p> <p>COUNTY: <u>OF MORNINGTON</u></p> <p>SCALE OF CHAINS </p> | <p>APPROPRIATIONS</p> <p>THE LAND COLOURED GREEN IS SET APART AS AN EASEMENT OF DRAINAGE.</p> | <p>ENCUMBRANCES &amp; OTHER NOTATIONS</p> <p>LOT 2 IS THE BALANCE OF LAND BY REDUCTION FROM TITLE IN C/T.V. 6435 F. 961.</p> |
|--|---|--|



COLOUR CONVERSION  
 E-1 = GREEN

FOR APPROPRIATIONS, ETC,  
 SEE BACK HEREOF

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CERTIFICATE OF TITLE V.6435 F. 061 ✓  
 LODGED BY S.W. MISSON & BARTLEY ✓  
 DATE 2.7.68 ✓  
 DECLARED BY E.S. CROUCH I. 6. 66 ✓  
 CONSENT OF COUNCIL SHIRE OF  
 CRANBOURNE  
 7.10.66 ✓  
 PLAN APPROVED DATE 2.8.68 ✓ TIME 1. 25 ✓

THE LAND COLORED GREEN  
 IS APPROPRIATED OR SET APART ✓  
 FOR EASEMENTS OF DRAINAGE

LP .....77628.....  
 BACK OF SHEET .....1.....

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|  |   |
|--|---|
| <p><b>PLAN OF SUBDIVISION</b></p> <p>OF PART OF CROWN ALLOTMENT 2<br/>PARISH OF LANG LANG<br/>COUNTY OF MORNINGTON</p> | <p style="font-size: 24pt; text-align: center;"><b>LP 200147U</b></p> <p style="text-align: center;">EDITION 1<br/>PARISH<br/><b>APPROPRIATIONS</b></p> <p>BLUE - DRAINAGE PURPOSES</p> <p><u>COLOUR CONVERSION</u></p> <p>E-1 - BLUE<br/>E-2 - GREEN</p> |
|--|---|

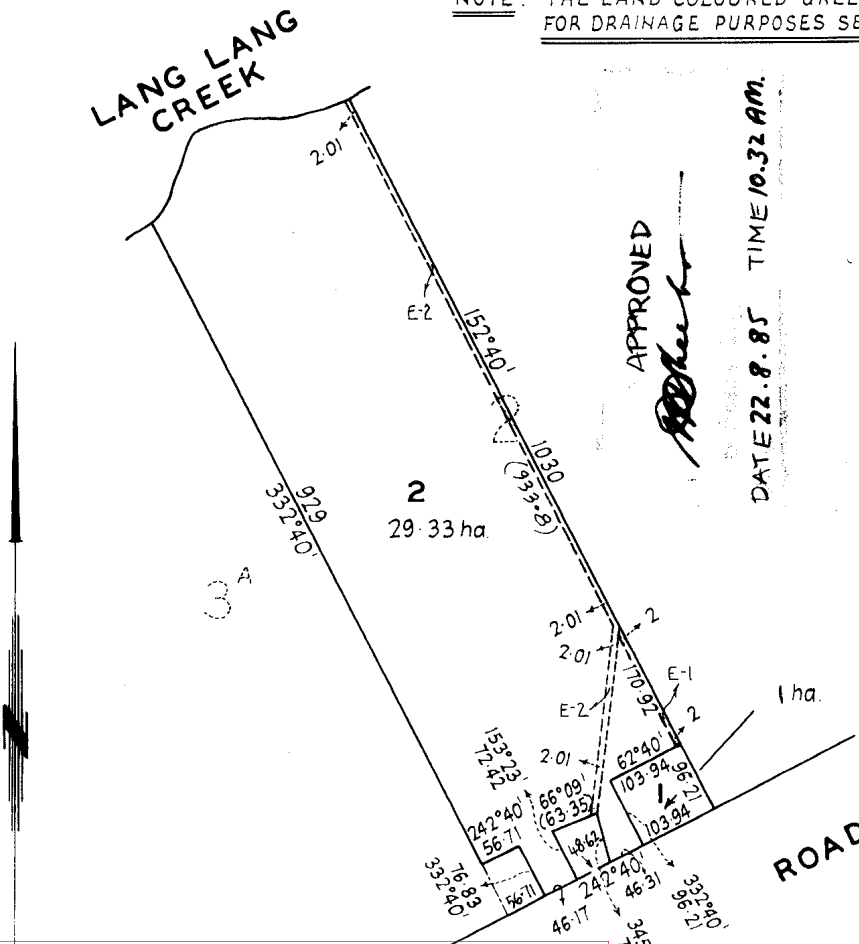
**SCALE**  160 80 0 160 320  
LENGTHS ARE IN METRES

PARISH PLAN

VOL. 8746 FOL. 408

APPROVED  
22/8/85

NOTE: THE LAND COLOURED GREEN IS ENCUMBERED FOR DRAINAGE PURPOSES SEE L.P. 77628.



APPROVED  
*[Signature]*  
DATE 22.8.85 TIME 10.32 AM.

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| CONSENT OF COUNCIL  | SURVEYOR'S CERTIFICATION  |
|---|---|
| <p><i>[Signature]</i><br/><i>[Signature]</i><br/><i>[Signature]</i></p> | <p>I certify that this plan has been made by _____ and accords with title VOLUME 8746 FOLIO 408 and is mathematically correct</p> <p style="text-align: right;"><i>[Signature]</i><br/>Licensed Surveyor.</p> <p style="text-align: center;">7TH. day of JANUARY 1985</p> |

# PLAN OF SUBDIVISION

EDITION

PS 919917V

## LOCATION OF LAND

PARISH: LANG LANG

TOWNSHIP:

SECTION:

CROWN ALLOTMENT: 2 (PART)

CROWN PORTION:

TITLE REFERENCES: VOL 11225 FOL 115  
VOL 11225 FOL 116  
VOL 8746 FOL 407

LAST PLAN REFERENCE/S: LOT 1 AND 2 ON PS 613771D  
LOT 1 ON LP 77628

POSTAL ADDRESS: 7, 9 AND 65 PIONEER ROAD  
(At time of subdivision) LANG LANG 3984

MGA2020 CO-ORDINATES E 376 375  
(of approx centre of land N 5 765 488  
in plan) ZONE: 55

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## VESTING OF ROADS AND/OR RESERVES

## NOTATIONS

| IDENTIFIER | COUNCIL/BODY/PERSON |
|------------|---------------------|
| NIL        | NIL                 |

DEPTH LIMITATION: Does not apply

## NOTATIONS

### SURVEY:

This plan is/~~is not~~ based on survey.

### STAGING:

This ~~is~~/is not a staged subdivision

Planning Permit No. -

This survey has been connected to permanent marks No (s). -

In Proclaimed Survey Area No. -

### WARNING

TOWN PLANNING PLAN ONLY  
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## EASEMENT INFORMATION

LEGEND A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)

Section 12(2) of the Subdivision Act 1988 applies to the whole of this plan

| Easement Reference | Purpose      | Width (Metres) | Origin     | Land Benefited/In Favour Of               |
|--------------------|--------------|----------------|------------|---|
| E-1                | DRAINAGE     | 2.01           | LP 200147U | LOTS ON LP 200147U                        |
| E-2                | DRAINAGE     | 2.01           | LP 77628   | LOTS ON LP 77628                          |
| E-3                | POWER LINES  | 12             | PS 613771D | SPI ELECTRICITY PTY LTD                   |
| E-4                | WATER SUPPLY | 4              | PS 613771D | SOUTH EAST WATER LIMITED                  |
| E-5                | WATER SUPPLY | 2              | PS 613771D | LOT 1 ON LP 77628 AND LOT 2 ON LP 200147U |
| E-6                | GAS SUPPLY   | SEE PLAN       | AC527348E  | LOT 1 ON LP 89200                         |

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1 Horner Street, Beaconsfield. 3807

P.O. Box 268, Berwick. 3806

Phone (03) 9707 4117 Fax (03) 9707 4428

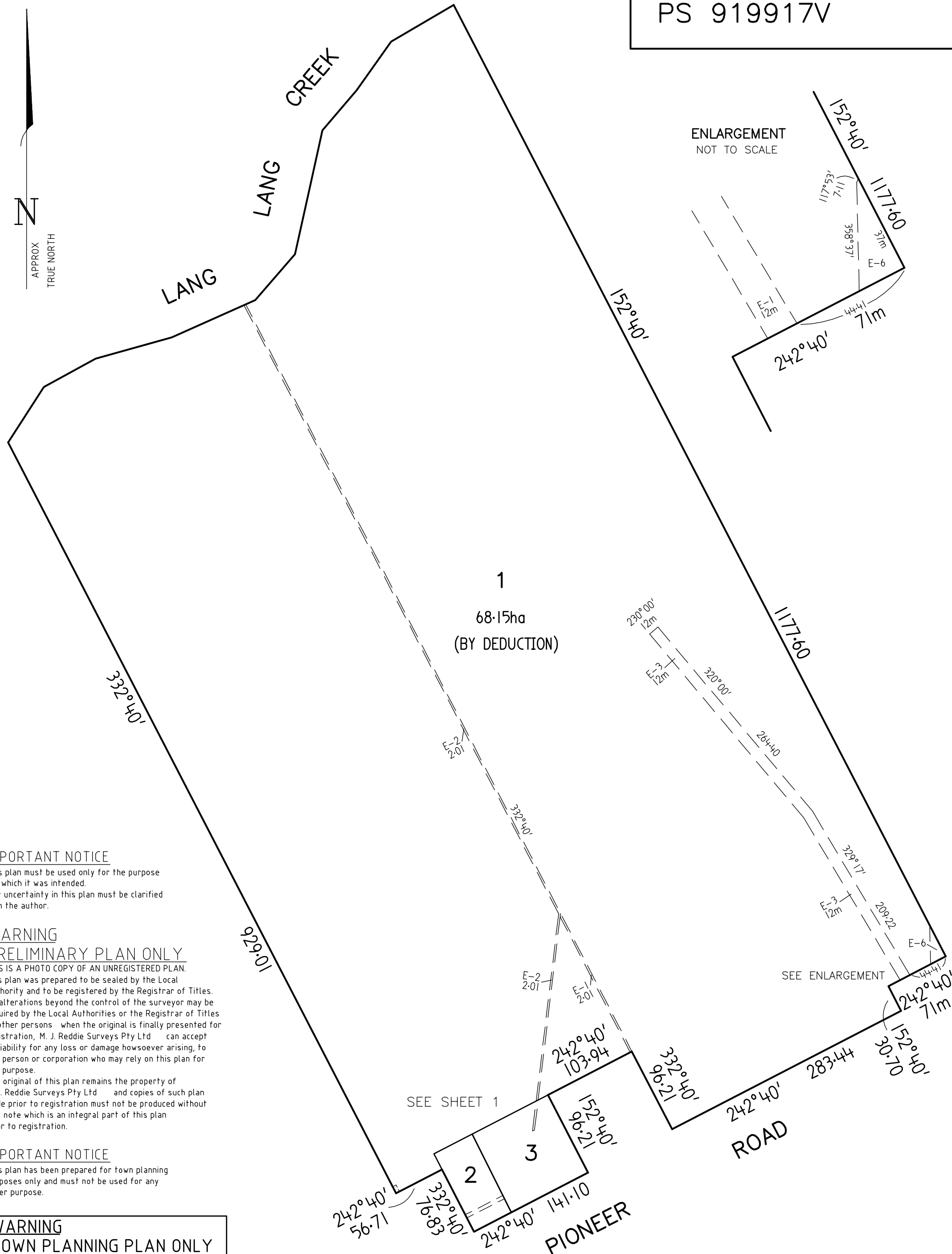
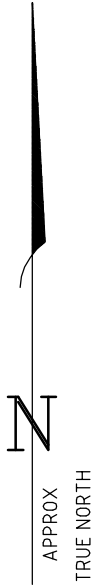
REF:23-09-95

FILE: KMH750

ORIGINAL SHEET  
SIZE: A3

SHEET 1 OF 3

LUKE M. REDDIE / VERSION 1



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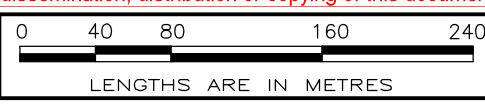
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1:4000



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SIZE : A3

SHEET 2

LUKE M. REDDIE / VERSION 1

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SEE SHEET 2

1  
68.15ha  
(BY DEDUCTION)

SEE SHEET 2

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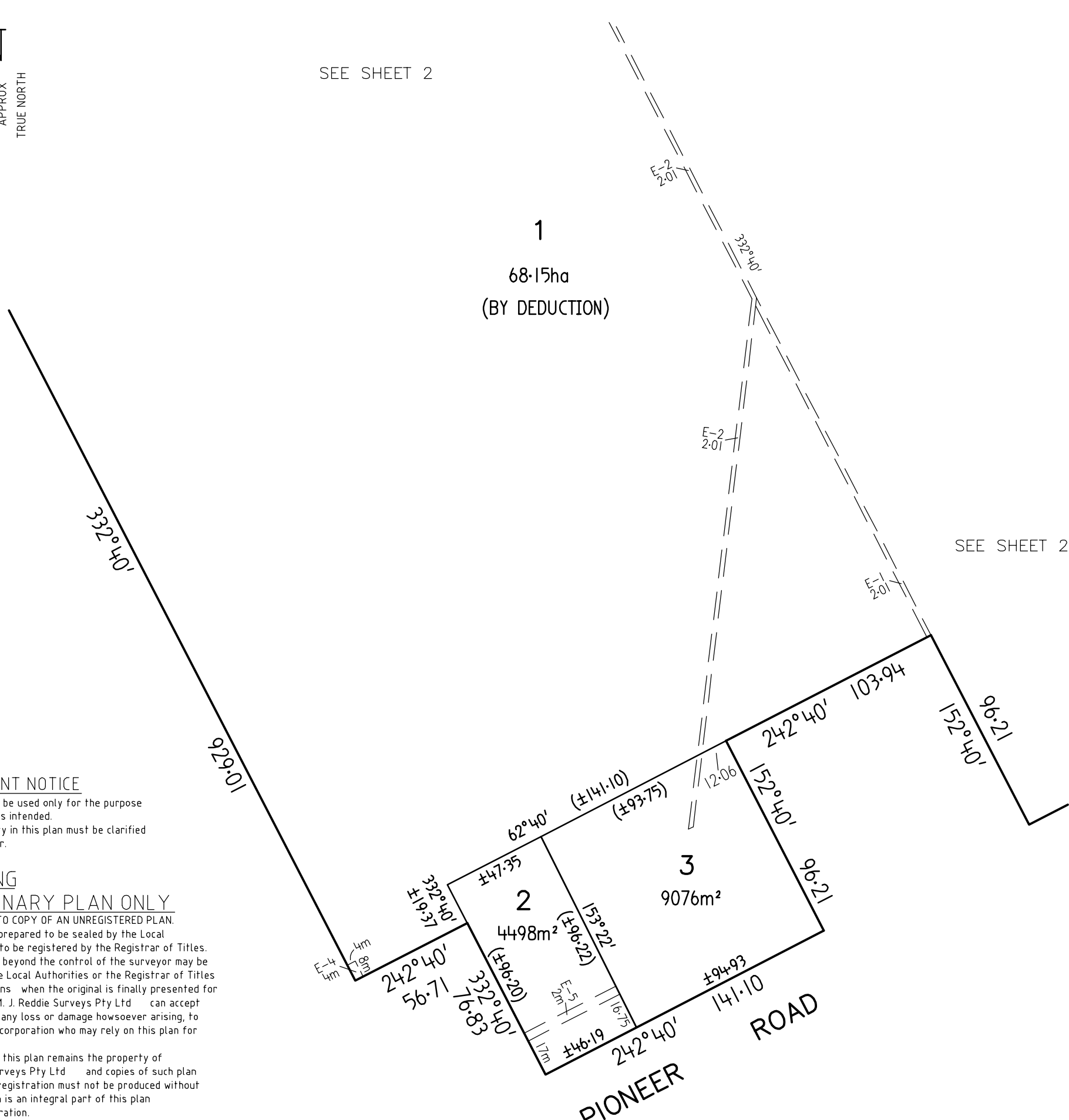
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SCALE  
1:2000



ORIGINAL SHEET  
SIZE : A3

SHEET 3

LUKE M. REDDIE / VERSION 1



**SUBDIVISION (PROCEDURES) REGULATIONS 2011 - SCHEDULE 1**

**SCHEDULE 1**

**FORMS**

**Sch. 1**

**FORM 1**

[Regulation 6](#)

[Subdivision Act 1988](#)

**APPLICATION FOR CERTIFICATION OF PLAN**

PART A. [ *All Applicants complete this Section* ]

Plan No.: PS 919917V

To: Cardinia Shire Council  
Po Box 7 Pakenham VIC 3810

I: [REDACTED]

Of: PO BOX 268  
Berwick, 3806

Telephone: 9707 4117

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apply to have the attached:

\*PLAN OF SUBDIVISION

\*PLAN OF CONSOLIDATION

\*PLAN OF CREATION/REMOVAL/VARIATION OF EASEMENT/RESTRICTION

certified under the [Subdivision Act 1988](#)

and to have advice of street numbers allocated

1. 7,9 and 25 Pioneer Rd Lang Lang

2. **Name:** South East Sands (Property) Pty Ltd (ACN 651 313 423)  
**Address:** Suite 1, Level 9, 644 Chapel St, South Yarra, Vic, 3141

3.   
PO BOX 268  
Berwick, 3806

Does the attached plan do anything requiring the unanimous resolution of the members of the owners corporation under Division 3 of Part 5 of the [Subdivision Act 1988](#) or an order of the Victorian Civil and Administrative Tribunal under section 34D of the [Subdivision Act 1988](#) ?

\*YES [ *provide details* ]/\*NO

If 'YES', have the members of the affected owners corporation passed a unanimous resolution to proceed with the alterations shown on the attached plan?

\*YES/\*NO

If 'NO', has the Victorian Civil and Administrative Tribunal made an order under section 34D of the [Subdivision Act 1988](#) ?

Sch. 1

\*YES/\*NO

Signed:

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[ *Name and signature of Applicant* ]

IF THE APPLICANT IS NOT THE OWNER, the owner must provide written consent under [section 5\(5\)](#) of the [Subdivision Act 1988](#) —

(a) if the application is made in paper form by signing the following—

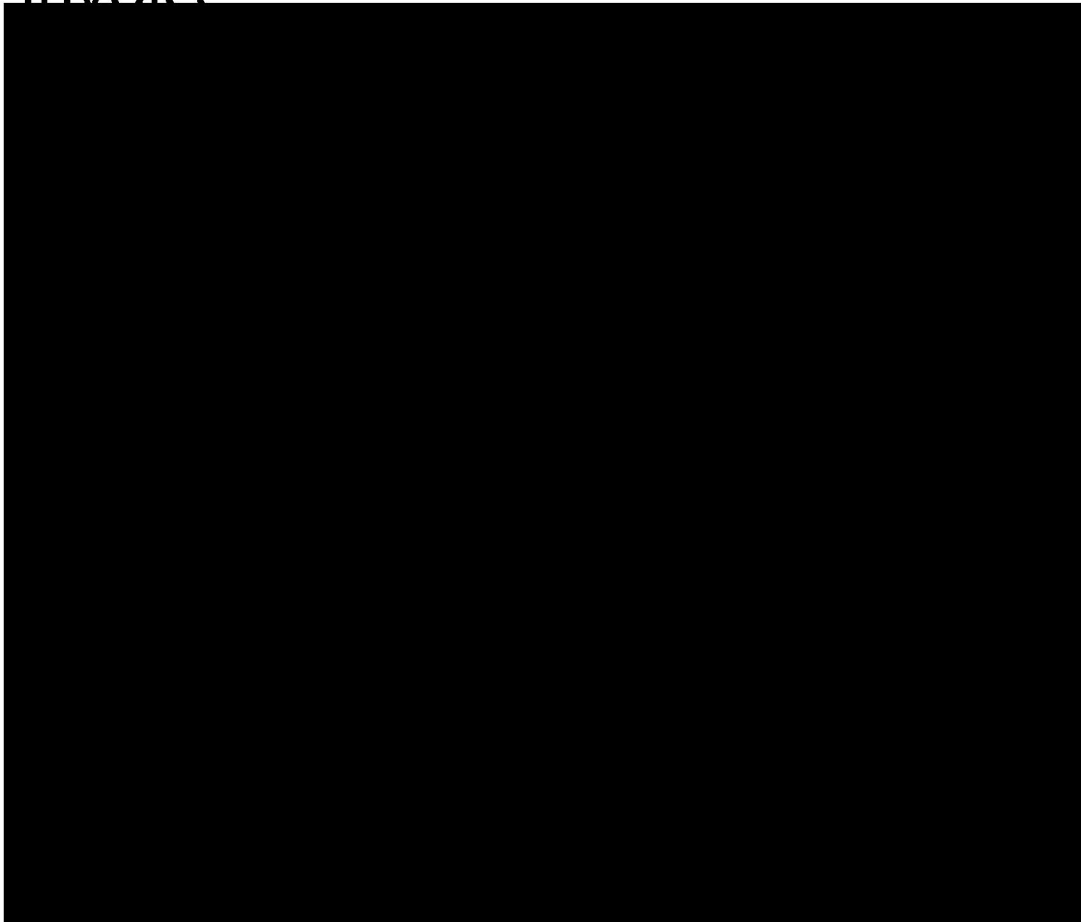
I/We consent to the applicant submitting this plan to the Council for certification.

Signed:



Director - South East Sands (Property) Pty Ltd (ACN 651 313 423)

## Invoice



| Regulation   | Description  | Amount     | Modifier | Modified Amount |
|--------------|--|------------|----------|-----------------|
| 9 - Class 19 | To effect a realignment of a common boundary between lots or to consolidate two or more lots | \$1,415.10 | 100%     | \$1,415.10      |

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# Biodiversity & Arboricultural Assessment Report 7 Pioneer Road, Lang Lang, Victoria



Prepared for South East Sands  
Report 24026, Version 1.0  
April 2024

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## Table of Contents

|       |   |    |
|-------|---|----|
| 1     | Introduction .....  | 4  |
| 1.1   | Study Area and Surrounding Context .....  | 4  |
| 2     | Methods.....  | 7  |
| 2.1   | Literature Review.....  | 7  |
| 2.2   | Nomenclature and Taxonomy .....   | 7  |
| 2.3   | Field Assessment .....  | 7  |
| 2.4   | Biodiversity Assessments Under the Guidelines 2017 .....  | 8  |
| 2.5   | Survey Limitations .....  | 8  |
| 3     | Flora Results .....   | 10 |
| 3.1   | Species Observed.....   | 10 |
|       | Table 1. All trees (vegetation) recorded across the subject land at 7 Pioneer Road, Lang Lang, Victoria ..... | 11 |
|       | Table 2. All tree groups recorded across The subject land at 7 Pioneer Road, Lang Lang, Victoria .....        | 12 |
|       | Figure 1. All Vegetation Recorded on the Subject Land at 7 Pioneer Road, Lang Lang, Victoria                  | 13 |
| 3.2   | Vegetation Assessment.....  | 14 |
| 3.3   | Large Trees .....   | 14 |
| 3.4   | Scattered Trees .....   | 14 |
| 3.5   | Rare and Threatened Flora Species .....   | 14 |
| 4     | Fauna Results .....   | 15 |
| 4.1   | Fauna Habitat.....  | 15 |
| 4.2   | Habitat Types and Assessment of Quality .....   | 15 |
| 4.3   | Habitat Suitability for Rare and Threatened Fauna.....  | 15 |
| 5     | Native Vegetation Impacts .....   | 17 |
| 5.1   | Impacted Trees.....   | 17 |
|       | Figure 2. Trees Impacted by Proposed Resubdivision Boundary, 7 Pioneer Road, Lang Lang, Victoria .....        | 18 |
| 5.2   | Impacts to Protected Native Vegetation .....  | 21 |
| 6     | Legislation and Regulations.....  | 22 |
| 6.1   | <i>Environment Protection and Biodiversity Conservation Act 1999</i> .....                                    | 22 |
| 6.2   | <i>Flora and Fauna Guarantee Act 1988</i> .....   | 22 |
| 6.3   | <i>Catchment and Land Protection Act 1994</i> .....   | 23 |
| 6.4   | <i>Wildlife Act 1975</i> and Wildlife Regulations 2002 (Victoria).....  | 23 |
| 6.5   | <i>Planning and Environment Act 1987</i> .....  | 23 |
| 6.5.1 | Implications of Native Vegetation Clause 52.17 .....  | 24 |
| 6.5.2 | Cardinia Planning Scheme .....  | 24 |
| 7     | Conclusions and Recommendations.....  | 25 |



References..... 26  
 Appendix 1. Flora Recorded in the Study Area ..... 27  
 Attachment 1: Proposed Plan of Subdivision ..... 28

### Version Control

| Version | Responsibility | Name | Date       | Signature |
|---------|----------------|------|------------|-----------|
| 1.0     | Assessment     |      | 28/03/2024 |           |
| 1.0     | Assessment     |      | 28/03/2024 |           |
| 1.0     | Author         |      | 01/05/2024 |           |
| 1.0     | Mapping        |      | 02/05/2024 |           |
| 1.0     | Review         |      | 02/05/2024 |           |

**Front cover image:** Looking roughly southwest along the realignment boundary, trees to be impacted shown in centre right, 7 Pioneer Road, Lang Lang in Victoria

### Acknowledgements

Abzeco staff acknowledge the following people for their assistance with this assessment:

- [Redacted] (South East Sands Pty Ltd) – for project information and site access

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# 1 Introduction

Abzeco was commissioned by South East Sands to conduct a Biodiversity and Arboricultural Assessment Report for the proposed resubdivision of land at 7 Pioneer Road, Lang Lang, Victoria.

The purpose of this report was to identify and document the extent and condition of native vegetation (patches and/or scattered trees), the loss and impact to native vegetation, document listed ecological communities and habitat for threatened flora and fauna species and provide further environmental of legislative recommendations in relation to the boundary realignment upon resubdivision of the subject land.

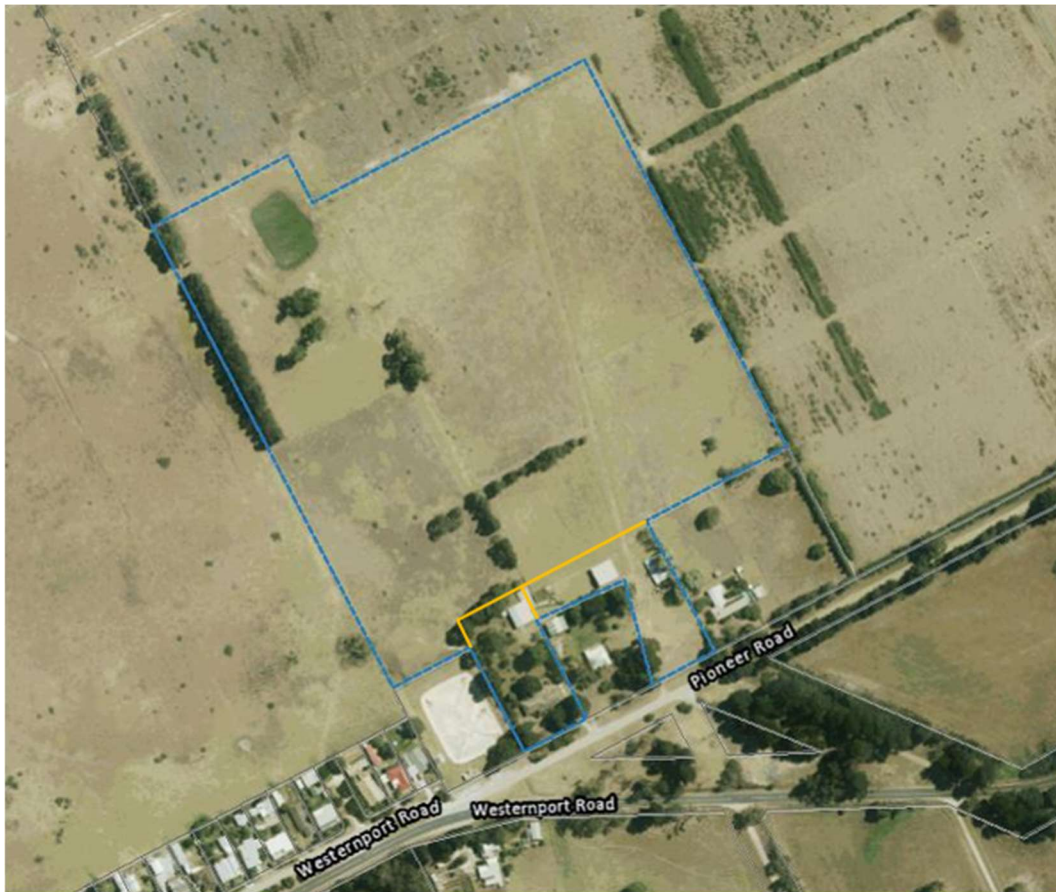
The following report presents the results of the field assessment, discusses potential impacts associated with the works and details relevant Commonwealth, State and local legislative implications and approvals required as part of the project. In particular, the report is intended to inform the planning process, providing an assessment of implications in accordance with the *Guidelines for the removal, destruction and lopping of native vegetation* (the Guidelines, DELWP 2017a). Other relevant legislation requiring consideration is the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), State *Flora and Fauna Guarantee Act 1988* (FFG Act) and *Catchment and Land Protection Act 1994* (CaLP Act).

## 1.1 Study Area and Surrounding Context

The subject land is roughly square shaped with irregular edges and covers approximately 9.7 hectares. The property is undergoing resubdivision and the boundary realignment that is the focus for this report is happening at the southern end (Map 1).

The property is accessed from Pioneer Road to the south, is bordered by a neighbouring property on the west and South East Sands land on the north and east. The study area is nearly entirely flat being located within the vast areas of this region historically comprising swamp land. The region comprises mostly cleared land for agricultural use with small patches of intact vegetation restricted to roadsides and the Lang Lang Primary School Arboretum c. 100m from the property entrance.

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**Map 1.** Current property boundary indicated by blue line and proposed new subdivision boundary indicated by yellow lines.



**Image 1.** Looking approximately east at the location of the boundary realignment, showing flat, cleared pasture with scattered large remnant and planted trees currently grazed by cattle (Abzeco 28/03/2024).

There is very little vegetation native to Victoria across the property and most trees are planted. Tree species on site include Narrow-leaved Black Peppermint *Eucalyptus nicholii*, Sydney Blue Gum

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*Eucalyptus saligna* and Southern Mahogany *Eucalyptus botryoides*, all native to Australia but exotic to this region. Four regionally significant species native to Victoria were recorded including Coast Manna Gum *Eucalyptus viminalis* subsp. *pryoriana*, Southern Blue Gum *Eucalyptus globulus* subsp. *bicostata*, Blackwood *Acacia melanoxylon* and Swamp Gum *Eucalyptus ovata* subsp. *ovata*, however all trees adjacent to the proposed subdivision boundary are planted. No remnant vegetation occurs along the proposed new subdivision boundary. The Coast Manna Gum and Swamp Gum trees are scattered paddock trees within the large lot 1 created to the north of lot 2 and lot 3, both of which have existing dwellings.

The open grazed areas in the large northern lot supports exotic grasses such as Bent Grass \**Agrostis* spp. and Perennial Ryegrass \**Lolium perenne* (Image 1).

The subject property is undergoing resubdivision and the new property boundary is the focus area for this report (Map 1), specifically vegetation within 2m of the proposed boundary, which is considered consequentially lost as a result of the realignment as per the Guidelines (DELWP 2017a). Following subdivision trees along boundaries can be removed for the construction and maintenance of a boundary fence without a planning permit. All proposed new boundaries have existing fence lines. Vegetation along can currently be removed for the operation and maintenance of an existing fence without a planning permit (Clause 52.17-7).

Based on the Department of Energy, Environment and Climate Action (DEECA) Native Vegetation Information Management (NVIM) Tool (DEECA 2023a), the study area occurs within the Gippsland Plain bioregion, the Melbourne Water Catchment Management Authority (MWCMA) and Cardinia Shire Council. The land is zoned Green Wedge Zone - Schedule 1 (GWZZ1) and is entirely covered by the Environmental Significance Overlay – Schedule 3 (SLO3) and the Bushfire Prone Area (BPA).

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## 2 Methods

### 2.1 Literature Review

Relevant literature and online databases were reviewed prior to the field assessment to obtain information on known ecological values associated with the study area, including the following:

- The Victorian Department of Energy, Environment and Climate Action (DEECA) Native Vegetation Information Management (NVIM) Tool (DEECA 2023a) and NatureKit (DEECA 2023b) for modelled data for Location categories (1, 2 and 3), habitat importance mapping for rare and threatened flora and fauna, and the modelled extent of current and historic Ecological Vegetation Classes (EVCs);
- EVC benchmarks for descriptions and characteristics of each bioregion (DEECA 2023c);
- The Victorian Biodiversity Atlas (VBA) for previously documented records of flora and fauna in the locality (DEECA 2023d);
- The Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW) Protected Matters Search Tool (PMST) for matters of National Environmental Significance (NES) listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act; DCCEEW 2023);
- Relevant literature, including the following:
  - The Guidelines (DELWP 2017a) and other explanatory documents relating to measuring value of native vegetation (DELWP 2017b), the Assessor's Handbook (DELWP 2018a), Applicant's Guide (DELWP 2018b) and relevant planning permit exemptions (DELWP 2017c); and,
- The VicPlan Maps Online (DTP 2023a) and Vicplan (DTP 2023b) for the zoning and overlays relevant to the study area;
- The latest Threatened List (DEECA 2023e) under the Victorian *Flora and Fauna Guarantee Act 1988* (FFG Act);
- Aerial photography of the study area.

### 2.2 Nomenclature and Taxonomy

Scientific and common names of plants follow the determinations of Walsh and Stajsic (2007), the Flora of Victoria Online (VicFlora 2023) and the VBA (DEECA 2023d). Names of plants are generally introduced in-text by use of the common name followed by the scientific name, and subsequently only refer to the common name.

Where an asterisk (\*) appears in-text as a prefix to all scientific names (flora and fauna), this indicates the entity to be exotic to Victoria or Australia. A hash (#) prior to a plant scientific name denotes those species native to Australia or Victoria but non-indigenous to the study area or to the relevant vegetation type.

### 2.3 Field Assessment

The field assessment was conducted on 28 March 2024. The Diameter at Breast Height (DBH) of trees were measured at 1.3 metres above ground height in accordance with Clause 52.17 of the Victorian Planning Provisions and the *Guidelines* (DELWP 2017a), and a list of observed vascular flora and

fauna species was compiled, with notes made of any incidental observations of any rare or threatened species or their habitat.

Ecological Vegetation Classes (EVCs) were determined using modelled pre-1750s and extant EVC mapping and published descriptions (DEECA 2023b, 2023c). The extent of native vegetation within the study area was mapped using ArcGIS version 10 and FieldMaps™ software, with GPS accuracy of +/-3 metres.

Where a patch of native vegetation was present, a habitat hectare assessment was conducted in accordance with the *Vegetation Quality Assessment Manual: Guidelines for applying the habitat hectares scoring method, Version 1.3* (DSE 2004).

## 2.4 Biodiversity Assessments Under the Guidelines 2017

Clause 52.17 of the Victorian Planning Provisions and the Victorian *Guidelines for the removal, destruction and lopping of native vegetation* (the Guidelines) are publicly available documents covering regulatory and technical requirements of assessing applications that propose to impact native vegetation. Guidelines for the determination of assessment pathways (DELWP 2017a) and the NVIM tool (DEECA 2023a) provide additional supporting information to assess applications that may impact native vegetation.

In accordance with the Guidelines (DELWP 2017a), native vegetation is defined by two categories (patches and scattered trees) as outlined below.

### **Patch**

A patch of native vegetation is either (DELWP 2017a):

- An area of vegetation where at least 25% of the total perennial understory plant cover is native;
- Any area with three (3) or more native canopy trees where the drip line of each tree touches the drip line of at least one other tree, forming a continuous canopy; or,
- Any mapped wetland included in the Current wetlands map (DELWP 2017a; 2018a).

The extent of patches (in hectares) is determined during a field assessment.

### **Scattered Trees**

A native canopy tree that does not form part of a patch.

Scattered trees are assigned to two size classes (Large or Small) based on the Diameter at Breast Height (DBH) benchmark in the applicable EVC (DELWP 2017a). Trees greater than or equal to the Large tree benchmark DBH are considered Large, while trees below the Large tree benchmark DBH are classified as Small.

A Large tree is assigned a default extent of 0.070 hectares (15 metre radius), while a Small tree has a default extent of 0.031 hectares (10 metre radius; DELWP 2017a; 2018a).

## 2.5 Survey Limitations

Biodiversity assessments generally do not capture all flora and fauna species present in the study area. Time and seasonal constraints, the lack of diagnostic features, especially when flora species are not flowering or transient fauna, can result in some species being absent or overlooked in short-term studies. For example, some rare and threatened orchids only flower intermittently and when not in flower may be very inconspicuous. Observations of fauna species are likewise limited by weather conditions, seasonality and the cryptic nature of some species.

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The flora survey was conducted in Autumn (March), which is generally a less than optimal period for the identification of most species, particularly spring-flowering herbs. As such, some flora species and lifeforms may have been missed, which would have otherwise been more conspicuous at other times in the year, such as orchids and annual species. Targeted surveys for rare or threatened flora and fauna species and detailed zoological survey comprising a range of techniques over different seasons were not conducted, as these tasks were beyond the scope of works.

Despite the stated limitations, the timing of the survey and condition of the vegetation was considered suitable to ascertain the extent, diversity and condition of the native vegetation on the subject land. Given the condition and very low diversity of indigenous species observed, results of the field assessment results are considered sufficient to inform a planning application for the proposed development.

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## 3 Flora Results

### 3.1 Species Observed

A total of 29 vascular plant species were recorded within the study area, comprising 4 indigenous species (one of which is planted), 13 non-indigenous Australian native species (all of which are planted) and 12 exotic species (see Appendix 1). Only two species were recorded within 2m of the proposed new subdivision boundary, tree 34 Southern Blue Gum *Eucalyptus globulus subsp. bicostata*, and tree Group G3 Spotted Gum *Corymbia maculata*, the latter being a cluster of 30 individuals. The remainder of the trees detailed in this report were greater than 2m away from the realignment and are not impacted. All of the proposed new boundary alignments have existing fences and as such the clearing of trees and vegetation is an existing use right.

Overall, vegetation within the study area is exotic dominated with very few naturally occurring indigenous species. Most of the diversity recorded were planted native and exotic trees to this region such as Golden Willow *Salix alba* var. *vitellina*. Remnant native vegetation is limited to one large Swamp Gum and three large Coast Manna Gum. Two small planted Coast Manna Gum (tree 2 & 4) were also recorded in a row of other evenly spaced planted native trees and shrubs of the same age.



**Image 2.** Native trees exotic to this region Spotted Gum *Corymbia maculata* along the boundary realignment

The understorey is completely depauperate of indigenous herbs, grasses and shrubs that would have once occurred here. Instead, exotic opportunistic species such as Panic Veldt-grass *Ehrharta erecta* and Large Quaking Grass *Briza maxima* have colonized these areas (Image 2).

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**Table 1. All trees (vegetation) recorded across the subject land at 7 Pioneer Road, Lang Lang, Victoria****Legend:**

P – Planted/non-natural origin

R – Remnant/indigenous origin

| Tree ID | Species   | Common name              | Origin | Height | Spread | DBH | Health | Structure | Retention Value |
|---------|---|--------------------------|--------|--------|--------|-----|--------|-----------|-----------------|
| 1       | <i>Eucalyptus leucoxylon</i> subsp. <i>megalocarpa</i>      | Large-fruited Yellow Gum | P      | 6      | 5      | 38  | Fair   | Fair      | Low             |
| 2       | <i>Eucalyptus viminalis</i> subsp. <i>pryoriana</i>         | Coast Manna Gum          | P      | 8      | 6      | 44  | Good   | Fair      | Medium          |
| 3       | <i>Kunzea</i> spp.  | Burgan                   | P      | 2.5    | 1      | 2   | Poor   | Poor      | Low             |
| 4       | <i>Eucalyptus viminalis</i> subsp. <i>pryoriana</i>         | Coast Manna Gum          | P      | 9      | 10     | 51  | Good   | Fair      | Medium          |
| 5       | <i>Eucalyptus leucoxylon</i> subsp. <i>megalocarpa</i>      | Large-fruited Yellow Gum | P      | 6      | 5      | 28  | Fair   | Poor      | Low             |
| 6       | <i>Eucalyptus viminalis</i> subsp. <i>pryoriana</i>         | Coast Manna Gum          | P      | 5      | 5      | 35  | Poor   | Poor      | Low             |
| 7       | <i>Acacia melanoxylon</i>                                   | Blackwood                | P      | 6      | 6      | 36  | Good   | Poor      | Low             |
| 8       | <i>Eucalyptus ovata</i> subsp. <i>ovata</i>                 | Swamp Gum                | R      | 10     | 11     | 72  | Poor   | Poor      | Medium          |
| 9       | <i>Salix alba</i> var. <i>vitellina</i>                     | Golden Willow            | P      | 8      | 6      | 41  | Fair   | Poor      | Low             |
| 10      | <i>Callistemon citrinus</i>                                 | Crimson Bottlebrush      | P      | 5      | 4      | 19  | Good   | Poor      | Low             |
| 11      | <i>Callistemon citrinus</i>                                 | Crimson Bottlebrush      | P      | 3      | 3      | 9   | Good   | Poor      | Low             |
| 12      | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>          | Southern Blue Gum        | P      | 10     | 5      | 48  | Good   | Fair      | Medium          |
| 13      | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>          | Southern Blue Gum        | P      | 9      | 8      | 32  | Good   | Good      | Medium          |
| 14      | <i>Eucalyptus camaldulensis</i> subsp. <i>camaldulensis</i> | River Red-gum            | P      | 10     | 6      | 43  | Good   | Poor      | Low             |
| 15      | <i>Callistemon citrinus</i>                                 | Crimson Bottlebrush      | P      | 3      | 2      | 9   | Fair   | Poor      | Low             |
| 16      | <i>Eucalyptus camaldulensis</i> subsp. <i>camaldulensis</i> | River Red-gum            | P      | 12     | 15     | 52  | Good   | Fair      | High            |
| 17      | <i>Eucalyptus camaldulensis</i> subsp. <i>camaldulensis</i> | River Red-gum            | P      | 12     | 15     | 56  | Good   | Fair      | High            |
| 20      | <i>Salix alba</i> var. <i>vitellina</i>                     | Golden Willow            | P      | 8      | 8      | 55  | Poor   | Poor      | Low             |
| 21      | <i>Salix alba</i> var. <i>vitellina</i>                     | Golden Willow            | P      | 8      | 8      | 45  | Poor   | Poor      | Low             |
| 22      | <i>Corymbia maculata</i>                                    | Spotted Gum              | P      | 8      | 7      | 32  | Good   | Fair      | Low             |
| 23      | <i>Angophora costata</i> subsp. <i>costata</i>              | Smooth-barked Apple      | P      | 4      | 5      | 13  | Poor   | Poor      | Low             |
| 24      | <i>Callistemon citrinus</i>                                 | Crimson Bottlebrush      | P      | 3      | 2      | 17  | Fair   | Poor      | Low             |
| 25      | <i>Corymbia ficifolia</i>                                   | Red-flowering Gum        | P      | 4      | 3      | 17  | Fair   | Poor      | Low             |
| 26      | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>          | Southern Blue Gum        | P      | 7      | 6      | 38  | Poor   | Poor      | Low             |
| 27      | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>          | Southern Blue Gum        | P      | 8      | 8      | 58  | Good   | Fair      | Low             |
| 28      | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>          | Southern Blue Gum        | P      | 8      | 8      | 60  | Good   | Fair      | Low             |
| 29      | <i>Eucalyptus</i> spp.                                      | Eucalyptus               | P      | 4      | 8      | 32  | Fair   | Poor      | Low             |

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|    |   |                                |   |    |    |    |      |      |     |
|----|---|--------------------------------|---|----|----|----|------|------|-----|
| 30 | <i>Corymbia maculata</i>                            | Spotted Gum                    | P | 10 | 10 | 43 | Good | Fair | Low |
| 31 | <i>Eucalyptus nicholii</i>                          | Narrow-leaved Black Peppermint | P | 6  | 6  | 50 | Good | Poor | Low |
| 32 | <i>Corymbia maculata</i>                            | Spotted Gum                    | P | 15 | 15 | 52 | Good | Good | Low |
| 33 | <i>Corymbia maculata</i>                            | Spotted Gum                    | P | 15 | 5  | 33 | Fair | Fair | Low |
| 34 | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>  | Southern Blue Gum              | P | 10 | 12 | 80 | Poor | Poor | Low |
| 35 | <i>Corymbia maculata</i>                            | Spotted Gum                    | P | 10 | 13 | 49 | Good | Good | Low |
| 39 | <i>Eucalyptus viminalis</i> subsp. <i>pryoriana</i> | Coast Manna Gum                | R | 15 | 13 | 84 | Fair | Fair | Low |
| 40 | <i>Eucalyptus viminalis</i> subsp. <i>pryoriana</i> | Coast Manna Gum                | R | 4  | 14 | 78 | Poor | Poor | Low |
| 41 | <i>Eucalyptus viminalis</i> subsp. <i>pryoriana</i> | Coast Manna Gum                | R | 20 | 15 | 90 | Fair | Fair | Low |
| 45 | <i>Eucalyptus saligna</i>                           | Sydney Blue Gum                | P | 18 | 18 | 52 | Good | Fair | Low |
| 46 | <i>Eucalyptus saligna</i>                           | Sydney Blue Gum                | P | 18 | 18 | 80 | Good | Fair | Low |
| 47 | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>  | Southern Blue Gum              | P | 15 | 15 | 80 | Fair | Poor | Low |
| 48 | <i>Corymbia ficifolia</i>                           | Red-flowering Gum              | P | 10 | 12 | 48 | Fair | Fair | Low |

**Table 2. All tree groups recorded across The subject land at 7 Pioneer Road, Lang Lang, Victoria**

**Legend:**








P – Planted/non-natural origin

| Tree Group ID | Species  | Common name         | Origin | Height | Spread | DBH   | Count |
|---------------|--|---------------------|--------|--------|--------|-------|-------|
| G1            | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i> | Southern Blue Gum   | P      | 10     | 10     | 30-40 | 8     |
| G2            | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i> | Southern Blue Gum   | P      | 10     | 10     | 35-45 | 14    |
| G3            | <i>Corymbia maculata</i>                           | Spotted Gum         | P      | 10     | 13     | 15-25 | 30    |
| G4            | <i>Eucalyptus botryoides</i>                       | Southern Mahogany   | P      | 18     | 15     | 40-80 | 7     |
| G5            | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i> | Southern Blue Gum   | P      | 15     | 5      | 25-50 | 100   |
| G6            | <i>Hakea salicifolia</i> subsp. <i>salicifolia</i> | Willow-leaved Hakea | P      | 3      | 5      | 15    | 50    |
| G7            | <i>Callistemon citrinus</i>                        | Crimson Bottlebrush | P      | 3      | 5      | 20    | 20    |

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-  Existing Property Boundary
-  Lot 1
-  Lot 2
-  Lot 3
-  Tree Group
-  Exotic Tree
-  Large Tree - Indigenous
-  Planted Native Tree



**Figure 1**  
**Study Area and Assessed Native Vegetation**  
 65 Pioneer Road, Lang Lang



Date: 2/05/2024 Scale: 1:2,250 (A4)  
 Created by: JP GDA 1994 MGA Zone 55  
 Job: 24026  
 File: 24026\_SouthEastSands\_65PioneerRoadLangLang  
 Note: Location of property boundaries, watercourse, roads and topography indicative only.

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## 3.2 Vegetation Assessment

The study area is historically modelled as supporting Swampy Woodland (EVC 937) and to a lesser extent Grassy Woodland (EVC 175) (DEECA 2023a; 2023c). Based on species composition Swampy Woodland (EVC 937) modelling is considered appropriate for the study area.

All the vegetation along the proposed new subdivision boundary has been historically modified and does not support any protected native vegetation of natural origin. Protected native vegetation is limited to 4 scattered Large remnant trees within the pasture area on lot 1.

## 3.3 Large Trees

Four large remnant trees were recorded within the study area. One large Swamp Gum *Eucalyptus ovata* subsp. *ovata* and three large Coast Manna Gum *Eucalyptus viminalis* subsp. *pryoriana*. No remnant large trees were recorded on the proposed new subdivision boundary.

## 3.4 Scattered Trees

No remnant scattered trees were recorded within the study area. All scattered remnant trees recorded were large.

## 3.5 Rare and Threatened Flora Species

No EPBC Act-listed or FFG Act-listed flora species were recorded in the study area.

The VBA contains previous records for 2 State-listed flora species and no EPBC Act-listed species within 5km of the study area (DEECA 2023d). Neither of the State-listed flora species, Spurred Helmet-orchid *Corybas aconitiflorus* or Wine-lipped Spider-orchid *Caladenia oenochila* have records within 1km of the study area.

The PMST search identified 14 additional EPBC Act listed flora species that have not been previously recorded but are considered to have the potential to occur in the local area, including Swamp Everlasting *Xerochrysum palustre* (DCCEEW 2023).

Given the previous site disturbance and modified condition of Swampy Woodland vegetation, the study area is considered unlikely to support any Commonwealth-listed flora species or State-listed species. Both listed species within 5km of the study area are tuberous orchids and are considered extremely unlikely to occur here due to long historical disturbance of the substrate. Targeted surveys for listed flora species are therefore not recommended as part of the proposed development.

Additionally, the PMST identifies no EPBC listed ecological communities as having the potential to occur within the local area (DCCEEW 2023).

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## 4 Fauna Results

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### 4.1 Fauna Habitat

The quality and estimated value of habitat for fauna within the study area was determined by assessment against the criteria described below.

#### *Habitat quality classification*

**Low:** Habitat areas classed as being of low quality are usually fragmented and have lost most structural elements such as tussock/hummock forming grasses or sedges, inter-tussock spaces, understorey shrubs, logs, rocks and hollow-bearing trees. Connectivity with higher quality patches may be limited or absent. Such patches are generally weed infested, have little or no natural regeneration and remaining indigenous species are under threat from invasive exotic species. No species of conservation significance are known or likely to occur there.

**Moderate:** Some structural elements have been lost, and invasive species may not be dominant over indigenous species but pose a significant threat. There is some connectivity with adjacent habitat of equal or greater quality. The patch may provide suitable habitat for fauna of conservation significance known or likely to occur in the area.

**High:** Most structural elements for fauna are present, understorey species are generally healthy and most life forms may be present. The patch is part of a mosaic of reasonably contiguous vegetation with connectivity to other areas of habitat. The patch provides suitable habitat for fauna of conservation significance known or likely to occur in the area, even if dominated by weeds.

### 4.2 Habitat Types and Assessment of Quality

The study area effectively supports a single habitat type in the form of planted trees of exotic origin.

The study site is extremely disturbed and devoid of understorey that would offer high quality habitat to fauna. The understory completely lacks structural complexity such as scattered and embedded rock, defined tussock and hummock grasses, woody debris and complex litter, and would only be suitable as low-quality habitat value for small mammals, reptiles and insects.

None of the canopy species support small hollows, fissures and cracks suitable for arboreal mammals, birds and micro-bats, however some tree species are likely to produce a high volume of nectar when in flower. Several bird species were noted within trees surrounding the study area at the time of assessment including Black-shouldered kite *Elanus axillaris*, Noisy Miner *Manorina melanocephala*, Galah *Eolophus roseicapilla*, Australian Magpie *Cracticus tibicen* and Australian Raven *Corvus coronoides*.

### 4.3 Habitat Suitability for Rare and Threatened Fauna

No EPBC Act or FFG Act-listed fauna species were recorded during the field assessment.

The VBA contains previous records for 7 EPBC Act-listed and an additional 13 State-listed fauna species previously recorded within a 5 km radius of the study area (DEECA 2023d). Many of the records are relatively dated and range from the 1960's, 1980's, 1990's and early 2000's and can likely be discounted within the study area. The only recent record of any EPBC Act-listed fauna species is of Southern Brown Bandicoot *Isodon obesulus obesulus*.

Recent records for FFG Act-listed fauna include Australian Grayling *Prototroctes maraena* and Eastern Great Egret *Ardea alba modesta*, both of which the habitat in focus of this report is completely unsupportive.

The PMST search identified at least 28 additional EPBC Act listed fauna species that are considered to have the potential to occur in the local area such as Growling Grass Frog *Litoria raniformis* (DCCEEW 2023), however, suitable habitat is considered absent or unlikely for all species within the study area.

A significant impact to EPBC or FFG Act-listed fauna species is considered unlikely, therefore targeted surveys for listed fauna species are not recommended as part of the proposed development.

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## 5 Native Vegetation Impacts

### 5.1 Impacted Trees

A total of 48 trees were recorded in the study area. Patches of trees of the same species and roughly the same age were recorded as a single tree number with details provided in tree notes. Trees within 2m either side of the realignment boundary were assumed consequentially lost as per the guidelines (DELWP, 2017a).

This includes tree 34 planted Southern Blue Gum *Eucalyptus globulus subsp. bicostata*, a species native to Victoria. Tree 34 has a DBH of 80cm, was recorded in very poor health. This tree is senescent and dying. The other trees being impacted is tree group G3 Spotted Gum *Corymbia maculata*, which is a cluster of 30 individual trees ranging in DBH from 5-50cm (Table 4.). This tree species is not native to the area.

Trees along the realignment boundary are summarised in Table 3., only trees 34 and group G3 being considered impacted by the new subdivision boundary (Figure 1).

**Table 3. Trees along the boundary realignment**

**Legend:**

P – Planted/non-natural origin

| Tree ID (T) | Species  | Common name                    | Origin | Height | Spread | DBH | Health | Structure | Retention Value |
|-------------|--|--------------------------------|--------|--------|--------|-----|--------|-----------|-----------------|
| 9           | <i>Salix alba</i> var. <i>vitellina</i>            | Golden Willow                  | P      | 8      | 6      | 41  | Fair   | Poor      | Low             |
| 29          | <i>Eucalyptus cosmophylla</i>                      | Cup Gum                        | P      | 4      | 8      | 32  | Fair   | Poor      | Low             |
| 30          | <i>Corymbia maculata</i>                           | Spotted Gum                    | P      | 10     | 10     | 43  | Good   | Fair      | Low             |
| 31          | <i>Eucalyptus nicholii</i>                         | Narrow-leaved Black Peppermint | P      | 6      | 6      | 50  | Good   | Poor      | Low             |
| 32          | <i>Corymbia maculata</i>                           | Spotted Gum                    | P      | 15     | 15     | 52  | Good   | Good      | Low             |
| 33          | <i>Corymbia maculata</i>                           | Spotted Gum                    | P      | 15     | 5      | 33  | Fair   | Fair      | Low             |
| 34          | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i> | Southern Blue Gum              | P      | 10     | 12     | 80  | Poor   | Poor      | Low             |
| 35          | <i>Corymbia maculata</i>                           | Spotted Gum                    | P      | 10     | 13     | 49  | Good   | Good      | Low             |
| 37          | <i>Callistemon citrinus</i>                        | Crimson Bottlebrush            | P      | 2      | 4      | 10  | Fair   | Poor      | Low             |

**Table 4. Groups of trees along the boundary realignment**






**Legend:**

P – Planted/non-natural origin

| Group ID (G) | Species                  | Common name | Origin | Height | Spread | DBH range | Tree Count |
|--------------|--------------------------|-------------|--------|--------|--------|-----------|------------|
| G3           | <i>Corymbia maculata</i> | Spotted Gum | P      | 10     | 13     | 5-50      | 30         |

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-  Existing Property Boundary
-  Lot 1
-  Lot 2
-  Lot 3
-  2m Boundary Buffer
-  G3
-  Exotic Tree
-  Planted Native Tree
-  Impacted Tree



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**Figure 2**  
**Subdivision Plan, Assessed Native Vegetation and Vegetation Impacts**  
 65 Pioneer Road, Lang Lang



Date: 2/05/2024 Scale: 1:2,250 (A4)  
 Created by: JP GDA 1994 MGA Zone 55  
 Job: 24026  
 File: 24026\_SouthEastSands\_65PioneerRoadLangLang  
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**Image 3.** Tree 9 Golden Willow *Salix alba* var. *vitellina* (Abzeco, 28/03/24).



**Image 4.** Tree 29 *Eucalyptus cosmophylla* Cup Gum (Abzeco, 28/03/24).

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**Image 5.** Tree 30 Spotted Gum *Corymbia maculata*, 31 Narrow-leaved Black Peppermint *Eucalyptus nicholii*, 32-33 Spotted Gum *Corymbia maculata* and 34 Southern Blue Gum *Eucalyptus globulus* subsp. *bicostata*, tree 34 to be impacted by realignment (Abzeco, 28/03/24).



**Image 6.** Tree 35 and cluster G3 Spotted Gum *Corymbia maculata*, Group 3 to be impacted by the subdivision boundary (Abzeco, 28/03/24).





**Image 7.** Tree 37 Crimson Bottlebrush *Callistemon citrinus* (Abzeco, 28/03/24).

## 5.2 Impacts to Protected Native Vegetation

The entire study area relevant to the boundary realignment is modelled as Location 1 (DEECA 2023a). No remnant assessable large trees or remnant scattered trees occur or are proposed to be impacted by the resubdivision (DELWP 2018a).

Trees that occur along the proposed boundaries are limited to planted Australian natives and exotic species with a low retention value (see Table 1).

One tree native to Victoria occurs along the proposed boundary (Trees 34). This tree is Planted Vegetation exempt from requiring a planning permit under Clause 52.17-7 of the Cardinia Planning Scheme (see Image 5). It is not of natural origin (Figure 1) and occurs on an existing fence line.

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## 6 Legislation and Regulations

The key biodiversity protection legislation and regulations potentially relevant to the study area are the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), the Victorian *Flora and Fauna Guarantee Act 1988* (FFG Act), the *Catchment and Land Protection Act 1994* (CaLP Act), and the Cardinia planning scheme (DTP 2023b). The Guidelines (DELWP 2017a) is the principal document that informs biodiversity regulation under the planning scheme.

The implications and requirements associated with the relevant legislation are summarised below.

### 6.1 *Environment Protection and Biodiversity Conservation Act 1999*

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the primary Commonwealth legislation for environment protection. Under the EPBC Act, an action will require approval from the Commonwealth Minister for the Environment if it has, will have, or is likely to have a significant impact on a matter of National Environmental Significance (NES) and it is not subject to certain specified exceptions.

Matters of NES trigger the Commonwealth's environmental assessment and approval responsibilities. These matters are: World Heritage properties, National Heritage Places, Ramsar wetlands of international importance, nationally listed threatened species and ecological communities, migratory species protected under international agreements, the Commonwealth marine environment, the Great Barrier Reef Marine Park, nuclear actions and water resources (coal seam gas development and large coal mining development).

If a project is likely to have a potential significant impact on a matter of NES, a referral to the Commonwealth Minister for the Environment is required. If the Minister considers it likely that a proposed action may have a significant impact on matters of NES, the action may be considered 'controlled' and requires a detailed assessment and the grant of a permit to proceed (DOE 2013).

#### **Implications**

EPBC Act-listed flora and fauna species were not recorded in the study area during the assessment. While there may be some impact to foraging habitat for fauna species such as Gang-gang Cockatoo, breeding habitat is not present in the study area and the species are not considered resident on site. As such, a significant impact to a matter of NES is considered unlikely and a referral to the Commonwealth Minister for the Environment is not required.

### 6.2 *Flora and Fauna Guarantee Act 1988*

The *Flora and Fauna Guarantee Act 1988* (FFG Act) is the primary State legislation for the protection of native plants, animals and ecological communities on public land and water in Victoria. Species and ecological communities can be listed as threatened under the Act based on determination by an independent Scientific Advisory Committee. Threatening processes may also be listed.

Vegetation communities, plants, animals and other taxa may be listed under the FFG Act if they are known to be in decline or under the threat of extinction. Listing is intended to protect threatened taxa or communities from further threats to their survival on public land in Victoria. Threatened taxa are listed under Section 10 (Schedule 2) of the Act. Whilst not immediately threatened, a number of species, genera and families of plants are protected under Section 46 of the Act to protect them from unauthorised clearing, harvesting and collection on public land.

A permit under the FFG Act is required to take (kill, injure, disturb or collect) Restricted Use Protected Flora (under Sections 47 and 47A), Generally Protected Flora (under Sections 47B and 47C) and listed fish (under Section 52) from public land. A permit is required to take components of listed ecological communities on public land.

A permit is also required to take, trade in, keep, move or process protected flora from private land from areas that are designated as Critical Habitat under the Act and for tree-ferns, grass-trees or sphagnum moss taken for the purpose of sale.

### 6.3 Catchment and Land Protection Act 1994

The *Catchment and Land Protection Act 1994* (the CaLP Act) seeks to protect Victorian land and water resources from degrading processes.

Under the Act, Landowners are required to conserve soil, protect water resources, eradicate 'Controlled' and 'Prohibited' weeds, eradicate pest animals and avoid actions that may result in land degradation on neighbouring properties. In certain instances, landowners may be served with a Land Management Notice that may prohibit or regulate land use or specify management actions required to be undertaken on their property.

### 6.4 Wildlife Act 1975 and Wildlife Regulations 2002 (Victoria)

The *Wildlife Act 1975* and *Wildlife Regulations 2002* is the primary legislation in Victoria providing for the management and protection of wildlife. The objective of the Act is to regulate the conduct of those involved in working with wildlife and establish procedures for the protection and conservation of wildlife and prevention of species extinctions.

#### Implications

Any persons engaged in the salvage, translocation and/or handling of native fauna during any works must have a management authorization under the *Wildlife Act 1975*.

### 6.5 Planning and Environment Act 1987

In Victoria, a permit is required to remove, destroy or lop native vegetation. Regulation of planning proposals with potential impacts to native vegetation is governed by Clause 12.01 (Biodiversity), Clause 52.12 Bushfire Protection Exemptions and Clause 52.17 (Native Vegetation) of Victorian planning schemes. Clause 52.17 references the requirements of the Victorian *Guidelines for the removal, destruction, or lopping of native vegetation* (the Guidelines, DELWP 2017a).

In accordance with the relevant planning scheme clauses, the Guidelines seek to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation (DELWP 2017a).

Strategic planning plays a primary role in avoiding and minimising the impacts of uses and developments on native vegetation. In Victoria, the three-step approach for ensuring the objective of no net loss at the permit level is (DELWP 2017a):

- Avoid the removal, destruction or lopping of native vegetation;
- Minimise impacts on Victoria's biodiversity from the removal, destruction and lopping of native vegetation; and,
- Unless an exemption applies, provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

### 6.5.1 Implications of Native Vegetation Clause 52.17

Under Clause 52.17-7 of the Cardinia planning scheme, vegetation on an existing fenceline can be removed for the operation and maintenance of an existing fence. All proposed new property boundaries have existing fences.

*Native vegetation that is to be removed, destroyed, or lopped to the minimum extent necessary to enable:*

- *the operation or maintenance of an existing fence; or*
- *the construction of a boundary fence between properties in different ownership.*

*The clearing along both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other side of the fence.*

All vegetation along the proposed new boundaries is Planted Vegetation. Under Clause 52.17-7 Planted Vegetation is exempt from the requirement to obtain a permit.

*Native vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding.*

Remnant indigenous trees occur within the large grazing parcel, lot 1. These scattered remnant trees remain protected and will not be impacted by proposed resubdivision of the land.

### 6.5.2 Cardinia Planning Scheme

The study area is covered under the Green Wedge Zone – Schedule 1 (GWZ1), as well as the Environmental Significance Overlay – Schedule 3 (SLO3) and the Designated Bushfire Prone Areas (BPA).

Relevant aspects of the zoning and overlays are discussed in further detail below.

#### **Green Wedge Zone – Schedule 1 (GWZ1)**

##### **Purpose**

*To implement the Municipal Planning Strategy and the 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.*

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## 7 Conclusions and Recommendations

The following requirements should be considered as part of proposed development:

- Under Clause 52.17-7 of the Cardinia planning scheme, vegetation on an existing fenceline can be removed for the operation and maintenance of an existing fence. All proposed new property boundaries have existing fences.
- All vegetation along the proposed new boundaries is Planted Vegetation. Under Clause 52.17-7 removal of Planted Vegetation is exempt from the requirement to obtain a planning permit.
- No remnant indigenous vegetation will be impacted by proposed resubdivision of the land.
- All proposed lots are greater than 0.4 ha. Remnant indigenous vegetation will remain protected under Clause 52.17 following subdivision.
- A permit for the removal of native vegetation is not required. An offset is not required.
- No flora or fauna species, or ecological communities listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) are relevant to the study area. As such, a referral under the EPBC Act is not required.
- No FFG Act-listed flora or fauna were recorded or considered likely to rely upon the study area, therefore a permit under Victoria's *Flora and Fauna Guarantee Act 1988* (FFG Act) is not required.

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## Appendix 1. Flora Recorded in the Study Area

### Legend:

- \* – Introduced/exotic species;
- # - native to Australia or Victoria but non-indigenous to the study area;
- en – Listed as endangered under the FFG Act;
- vu – Listed as vulnerable under the FFG Act;
- W** – Weed of National Significance (WONS);
- C** – Weed listed as regionally controlled under the CaLP Act;
- R** – Weed listed as regionally restricted under the CaLP Act.

| Origin | Scientific Name   | Common Name                    |
|--------|---|--------------------------------|
|        | <i>Acacia melanoxylon</i>                                   | Blackwood                      |
| *      | <i>Agrostis spp</i>   | Bent Grass                     |
| #      | <i>Angophora costata</i> subsp. <i>costata</i>              | Smooth-barked Apple            |
| *      | <i>Briza maxima</i>   | Large Quaking Grass            |
| #      | <i>Callistemon citrinus</i>                                 | Crimson Bottlebursh            |
| *      | <i>Cenchrus clandestines</i>                                | Kikuyu                         |
| #      | <i>Corymbia ficifolia</i>                                   | Red-flowering Gum              |
| #      | <i>Corymbia maculata</i>                                    | Spotted Gum                    |
| *      | <i>Cynodon dactylon</i>                                     | Couch                          |
| *      | <i>Ehrharta erecta</i>                                      | Panic Veldt-grass              |
| #      | <i>Eucalyptus botryoides</i>                                | Southern Mahogany              |
| #      | <i>Eucalyptus camaldulensis</i> subsp. <i>camaldulensis</i> | River Red-gum                  |
|        | <i>Eucalyptus globulus</i> subsp. <i>bicostata</i>          | Southern Blue Gum              |
| #      | <i>Eucalyptus leucoxylon</i> subsp. <i>megalocarpa</i>      | Large-fruited Yellow Gum       |
| #      | <i>Eucalyptus nicholii</i>                                  | Narrow-leaved Black Peppermint |
|        | <i>Eucalyptus ovata</i> subsp. <i>ovata</i>                 | Swamp Gum                      |
| #      | <i>Eucalyptus saligna</i>                                   | Sydney Blue Gum                |
|        | <i>Eucalyptus viminalis</i> subsp. <i>pryoriana</i>         | Coast Manna Gum                |
| #      | <i>Eucalyptus cosmophylla</i>                               | Cup Gum                        |
| #      | <i>Hakea salicifolia</i> subsp. <i>salificolia</i>          | Willow-leaved Hakea            |
| *      | <i>Holcus lanatus</i>                                       | Yorkshire Fog                  |
| *      | <i>Hypochaeris radicata</i>                                 | Cat's-ear                      |
| #      | <i>Kunzea spp.</i>  | Burgan                         |
| *      | <i>Lolium perenne</i>                                       | Perennial Ryegrass             |
| *      | <i>Lotus spp.</i>   | Trefoil                        |
| #      | <i>Pittosporum undulatum</i>                                | Sweet Pittosporum              |
| *      | <i>Rumex spp.</i>   | Dock                           |
| *      | <i>Salix alba</i> var. <i>vitellina</i>                     | Golden Willow                  |
| *      | <i>Sonchus oleraceus</i>                                    | Sow Thistle                    |

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## Attachment 1: Proposed Plan of Subdivision

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# PLAN OF SUBDIVISION

EDITION

PS 919917V

## LOCATION OF LAND

PARISH: LANG LANG

TOWNSHIP:

SECTION:

CROWN ALLOTMENT: 2 (PART)

CROWN PORTION:

TITLE REFERENCES: VOL 11225 FOL 115  
VOL 11225 FOL 116  
VOL 8746 FOL 407

LAST PLAN REFERENCE/S: LOT 1 AND 2 ON PS 613771D  
LOT 1 ON LP 77628

POSTAL ADDRESS: 7, 9 AND 65 PIONEER ROAD  
(At time of subdivision) LANG LANG 3984

MGA2020 CO-ORDINATES E 376 375  
(of approx centre of land N 5 765 488  
in plan) ZONE: 55

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## VESTING OF ROADS AND/OR RESERVES

## NOTATIONS

| IDENTIFIER | COUNCIL/BODY/PERSON |
|------------|---------------------|
| NIL        | NIL                 |

DEPTH LIMITATION: Does not apply

## NOTATIONS

### SURVEY:

This plan is/~~is not~~ based on survey.

### STAGING:

This ~~is~~/is not a staged subdivision

Planning Permit No. -

This survey has been connected to permanent marks No (s). -

In Proclaimed Survey Area No. -

### WARNING

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## EASEMENT INFORMATION

LEGEND A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)

Section 12(2) of the Subdivision Act 1988 applies to the whole of this plan

| Easement Reference | Purpose      | Width (Metres) | Origin     | Land Benefited/In Favour Of               |
|--------------------|--------------|----------------|------------|---|
| E-1                | DRAINAGE     | 2.01           | LP 200147U | LOTS ON LP 200147U                        |
| E-2                | DRAINAGE     | 2.01           | LP 77628   | LOTS ON LP 77628                          |
| E-3                | POWER LINES  | 12             | PS 613771D | SPI ELECTRICITY PTY LTD                   |
| E-4                | WATER SUPPLY | 4              | PS 613771D | SOUTH EAST WATER LIMITED                  |
| E-5                | WATER SUPPLY | 2              | PS 613771D | LOT 1 ON LP 77628 AND LOT 2 ON LP 200147U |
| E-6                | GAS SUPPLY   | SEE PLAN       | AC527348E  | LOT 1 ON LP 89200                         |

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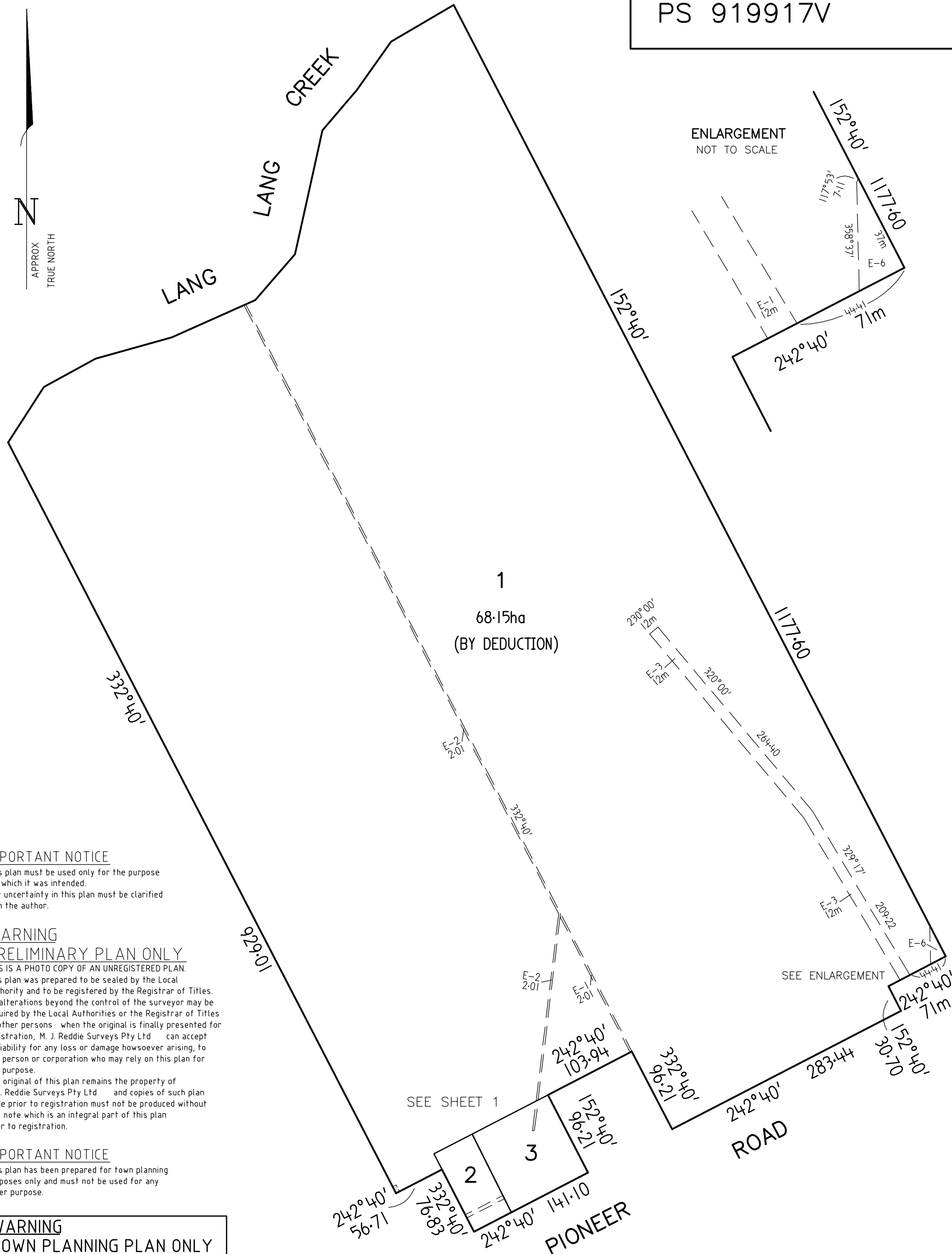
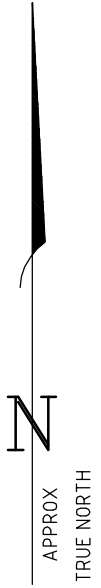
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SHEET 1 OF 3

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|   |                            |  |                             |         |
|---|----------------------------|--|-----------------------------|---------|
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|   | LUKE M. REDDIE / VERSION 1 |  |                             |         |

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SEE SHEET 2

1  
68.15ha  
(BY DEDUCTION)

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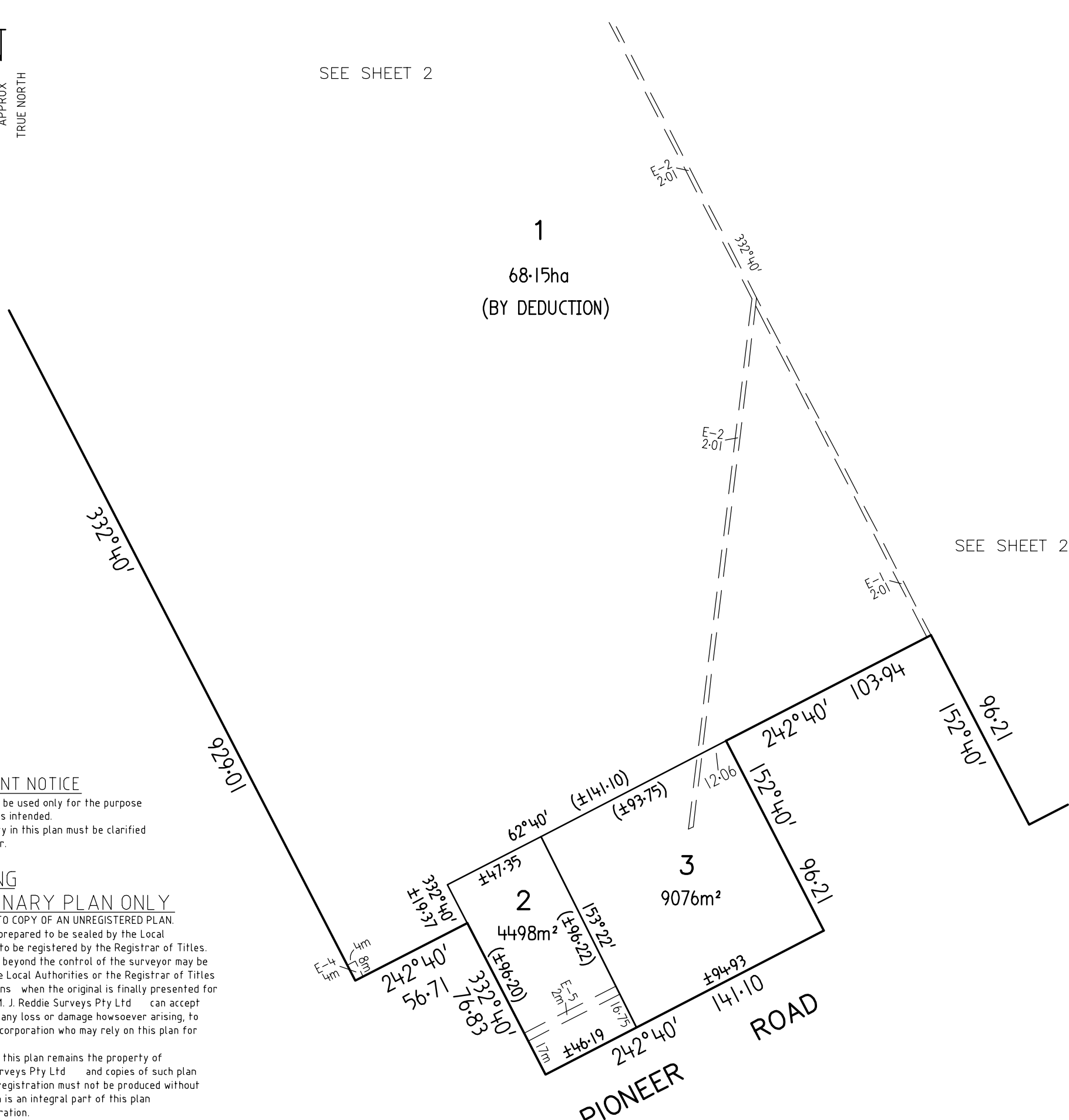
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SHEET 3

LUKE M. REDDIE / VERSION 1





21 July 2023

Director - Planning

Planning and Property Partners Pty Ltd

13/1 Collins Street

Melbourne 3000

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Dear [REDACTED]

**Re: Significant Ground Disturbance Assessment: Proposed Boundary Realignment Lots 1 PS613771, 1 LP77628 and 2 PS613771 (7, 9 and 65 Pioneer Road, Lang Lang)**

I have examined the Victorian *Aboriginal Heritage Act* 2006 and its regulations, the *Aboriginal Heritage Regulations* 2018, and conclude that the proposed boundary realignment of Lots 1 PS613771, 1 LP77628 and 2 PS613771 (7, 9 and 65 Pioneer Road, Lang Lang) does not require a mandatory Aboriginal cultural heritage management plan under section 46 of the Act.

I am qualified to comment on these matters as I meet the requirements of a 'heritage advisor' under s. 189 of the *Aboriginal Heritage Act* 2006, and have high level qualifications in both archaeology and the earth sciences (see Attachment 1 for my CV). I have particular expertise in understanding the formation of archaeological sites and Quaternary environments and have published extensively on these topics in high-profile, peer-reviewed scientific journals. I was lead author for the Quaternary chapter of the *Geology of Victoria* (Cupper *et al.* 2003), the current, premier reference to Victoria's geology. I am currently a Research Fellow in the School of Geography, Earth and Atmospheric Sciences at The University of Melbourne ([www.findanexpert.unimelb.edu.au/display/person20521](http://www.findanexpert.unimelb.edu.au/display/person20521)).

The Victorian *Aboriginal Heritage Regulations* 2018 (r.7) require an Aboriginal cultural heritage management plan for a proposed activity, if: (a) all or part of the activity area for the activity is an area of cultural heritage sensitivity (not subject to significant ground disturbance); and, (b) all or part of the activity is a high impact activity.

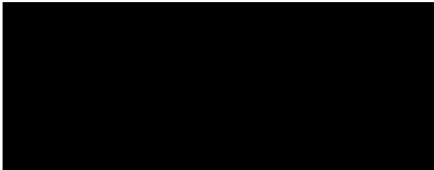


The second limb (part [b]) of regulation 7 is not met. According to r.49(1)(b), the subdivision of land into three or more lots is a high impact activity if the area of at least three of the lots is less than 8 hectares. The proposed activity proposes the subdivision of land into three or more lots. However, only two of the proposed reconfigured lots would be less than 8 hectares (one of the proposed reconfigured lots, 2 PS613771, would be approximately 69 hectares, greater than 8 hectares).

Therefore, a cultural heritage management plan under section 46 of the *Aboriginal Heritage Act* 2006 is not required for the proposed boundary realignment of Lots 1 PS613771, 1 LP77628 and 2 PS613771 (7, 9 and 65 Pioneer Road, Lang Lang).

Please feel free to contact me if you require any clarification of the above matters.

Kind regards,



**Principal Archaeologist**

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PLANNING &  
PROPERTY | **PARTNERS**

---

## TOWN PLANNING REPORT

7, 9, 65 Pioneer Road, Lang ang

June 2024

Prepared for *South East Sands (Property) Pty Ltd*

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**Table of Contents**

\

- 1. Introduction ..... 3
  - 1.1. Overview ..... 3
  - 1.2. Planning Controls and Permit Requirements ..... 3
- 2. Subject Site and Surrounding Context ..... 4
  - 2.1. Subject Site ..... 4
  - 2.2. Existing Vegetation ..... 7
  - 2.3. Surrounding Context ..... 8
  - 2.4. Cultural Heritage Sensitivity ..... 9
- 3. The Proposal ..... 10
- 4. Planning Context ..... 12
  - 4.1. Planning policy Framework ..... 12
  - 4.2. Local Planning Policy Framework ..... 12
  - 4.3. Zones ..... 12
  - 4.4. Overlays ..... 13
    - 4.4.1. Significant Landscape Overlay – Schedule 3 ..... 13
    - 4.4.2. Land Subject to Inundation Overlay ..... 14
  - 4.5. Particular Provisions ..... 15
    - 4.5.1. Clause 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions ..... 15
    - 4.5.2. Clause 52.17 - Native Vegetation ..... 15
  - 4.6. General Provisions ..... 16
- 5. Planning Assessment ..... 17
  - 5.1. Overview ..... 17
  - 5.2. Planning Policies ..... 17
  - 5.3. Planning Controls ..... 17
    - 5.3.1. Green Wedge Zone ..... 17
  - 5.4. Impact on Vegetation ..... 18
- 6. Conclusion ..... 20
- Appendix A – Title Documents ..... 21

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# 1. Introduction

## 1.1. Overview

This report has been prepared on behalf of *South East Sands (Property) Pty Ltd*, which is the landowner. It accompanies a planning permit application for a subdivision (boundary realignment) at 7, 9 and 65 Pioneer Road, Lang Lang (collectively referred to as the 'Subject Site'). More specifically, it has been prepared to respond to Cardinia Shire Council's ('Council') request for further information dated 14 February 2024.

The proposed subdivision seeks a rearrangement of existing lot boundaries and will not result in any additional lots. The proposal is allowed under the relevant restrictions on Title and under the Green Wedge Zone. The proposed subdivision is shown on Proposed Plan of subdivision PS919917V (version 1) and prepared by *M.J. Reddie Surveys Pty Ltd*. A detailed explanation of the proposal is set out at Section 3 of this report. It is further supported by a Biodiversity & Arboricultural Assessment Report prepared by *ABZECO Pty Ltd*.

## 1.2. Planning Controls and Permit Requirements

The Subject Site is in zoned Green Wedge Zone Schedule 1 ('GWZ1'). It is wholly affected by the Significant Landscape Overlay Schedule 3 ('SLO3'), and partially affected by a Land Subject to Inundation Overlay ('LSIO').

A permit is required for the proposed subdivision under Clauses 35.04-3 only.

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## 2. Subject Site and Surrounding Context

### 2.1. Subject Site

The Subject Site comprises three contiguous lots on the north side of Pioneer Road. They comprise:

- 7 Pioneer Road, Lang Lang;
- 9 Pioneer Road, Lang Lang; and
- 65 Pioneer Road, Lang Lang.

A complete Certificate of Title for each lot is provided at **Appendix A**. The associated title plans provide a detailed description of the existing lot dimensions.

Key features of each lot are summarised below.

#### 7 Pioneer Road

The lot is formally identified as Lot 1 on Plan of Subdivision 613771D.

It is irregularly shaped lot as shown in Figure 1 below. It abuts Pioneer Road in 2 sections – to the east and west of 9 Pioneer Road, and has an overall area of 10.04ha. The lot is encumbered by 2 drainage easements (E-1 and E-2), which are located along the eastern and running diagonally across the south-eastern portion of the Site, and 2 water supply easements (E-4 and E5), which are located in the south-western portion of the lot.

The land is encumbered by a Section 173 Agreement (Reference No. AH433369B) – this Agreement prohibits any further subdivision of this lot, other than a subdivision which does not create any additional lots<sup>1</sup>.

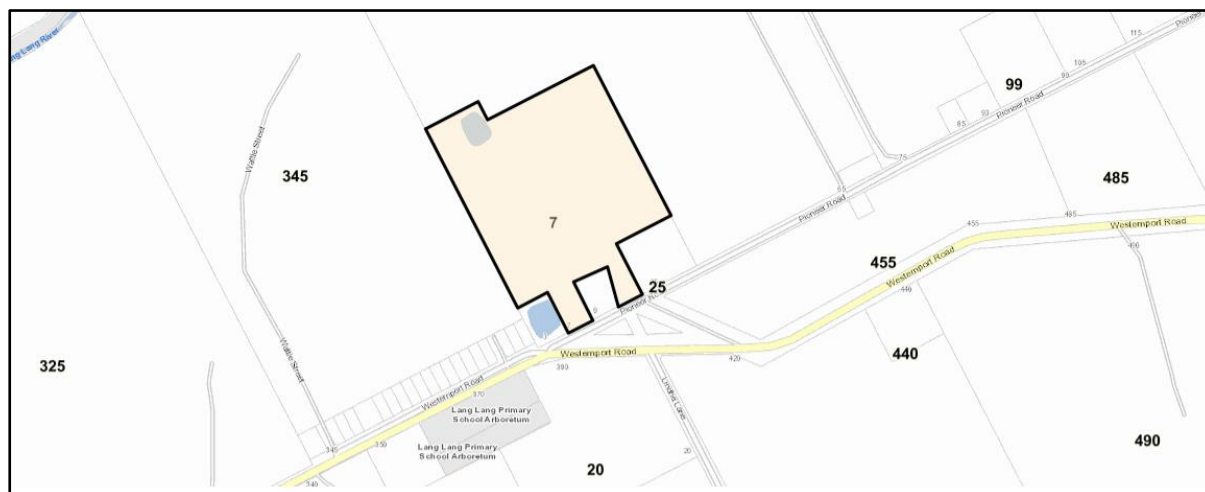


Figure 1 - Cadastral Plan - 7 Pioneer Road, Lang Lang

(Source: Lassi)

7 Pioneer Road is improved by an existing dwelling and outbuildings. Several internal fences current exist, which generally align with the proposed subdivision boundary as described in **Section 3**. A dam is located in the north-western corner of the lot. The dwelling is located within a domestic landscaped setting in the south-western corner of the lot. Other vegetation can be found in rows along existing fence lines as show in Figure 2. Land to the north of the dwelling is currently surplus to its residential needs.

<sup>1</sup> This Agreement lapses upon any future rezoning of the land that allows the land to be subdivided.



Figure 2 - Aerial Photograph – 7 Pioneer Road, Lang Lang

(Source: VicPlan)

### 9 Pioneer Road

9 Pioneer Road is formally known as Lot 1 on the Plan of Subdivision 077628. It is not encumbered by any restrictions on title.

9 Pioneer Road is an irregularly shaped lot with the following dimensions:

- Southern boundary – 48.62 metres;
- Western boundary – 72.42 metres;
- Northern boundary – 63.35 metres; and
- Eastern boundary – 70.31 metres.

This lot is straddled by 7 Pioneer Road on its three sides, as shown in Figure 3.

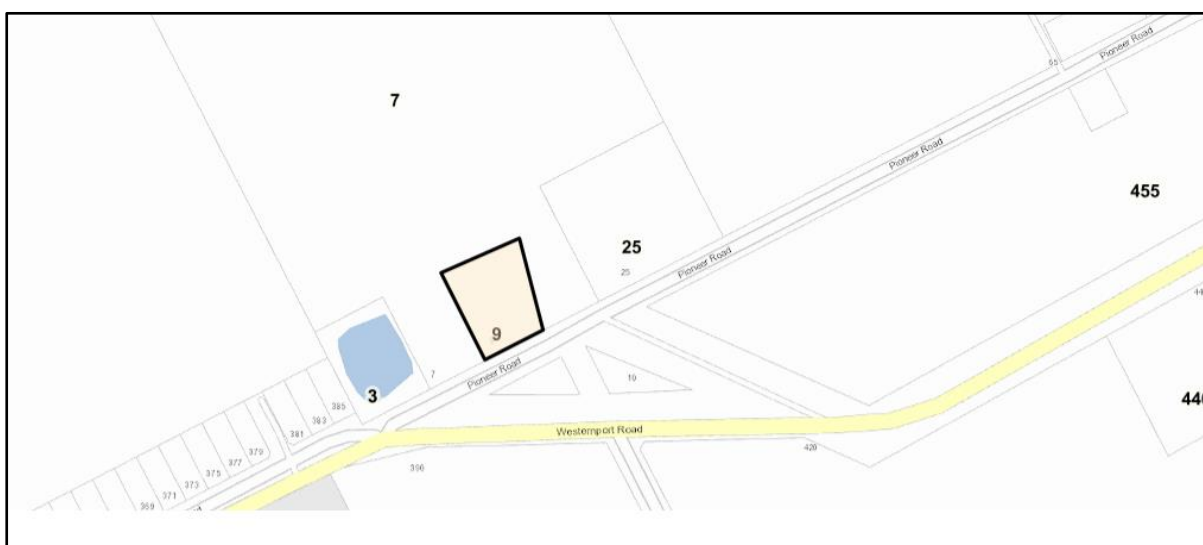


Figure 3 - Cadastral Plan - 9 Pioneer Road, Lang Lang

(Source: Lassi)

This lot is improved by a single dwelling located in the centre of the Site. An outbuilding is located in the north-western corner of the Site. Scattered vegetation is located throughout the lot.

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Figure 4 - Aerial Photograph - 9 Pioneer Road, Lang Lang

(Source: VicPlan)

### 65 Pioneer Road

65 Pioneer Road is formally described as Lot 2 Plan of Subdivision 613771D. This lot is encumbered by 3 Section 173 Agreements:

- 1) Agreement AH 433369B – which is the same Agreement as the one that encumbers 7 Pioneer Road.
- 2) Agreement AV149178V – which relates to the implementation of a Creek Management Plan; and
- 3) Agreement AV149179T – which relates to payment towards a proposed bypass.

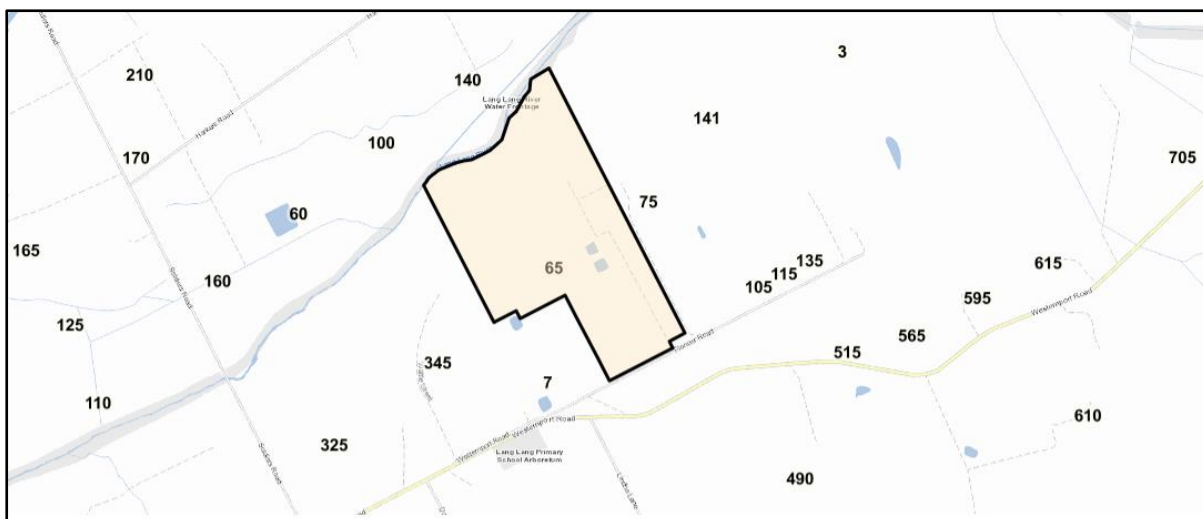


Figure 5 - Cadastral Plan - 65 Pioneer Road, Lang Lang

(Source: Lassi)

This lot is generally L-shaped. It is located to the north and east of 7 Pioneer Road. It extends between Pioneer Road to the south and the Lang Lang Creek to the north, and has an area of 59.07 hectares.

The lot is currently being used by South East Sands for sand extraction in accordance with the following approvals:

- Planning Permit (No T140337); and
- Work Authority (No. WA1516).

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A recent aerial photograph of the lot confirms that sand extraction activities are currently underway.



Figure 6 - Aerial Photograph (dated 25 February 2024) – 65 Pioneer Road, Lang Lang

(Source: Nearmap)

## 2.2. Existing Vegetation

ABZECO Pty Ltd has prepared a *Biodiversity & Arboricultural Assessment* report has been prepared for the Subject Site ('ABZECO Report').

As relevant, the ABZECO Report found the following vegetation along the new common boundaries between the 3 lots:

- Tree 9 – *Salix alba var. vitellina* (Golden Willow) – planted
- Tree 29 – *Eucalyptus* spp (Eucalyptus) – planted
- Tree 30 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 31 – *Eucalyptus nicholii* (Narrow-leaved Black Peppermint) – Planted
- Tree 32 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 33 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 34 – *Eucalyptus globulus subsp. Bicostata* (Southern Blue Gum) – Planted
- Tree 35 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 37 – *Callistemon citrinus* (Bottlebrush) - Planted
- Group 3 – a group of 30 *Corymbia maculate* (Spotted Gum) – Planted

The enclosed report provides further details relating to all surveyed vegetation.

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Figure 7 - Vegetation Assessment

(Source: ABZECO Report)

### 2.3. Surrounding Context

The Subject site is located to the east of the existing Lang Lang settlement. Except for a row of dwellings at 343 to 385 Western Port Road, the surrounding area is used for agricultural purposes.



Figure 8 – Aerial photograph of Subject Site and surrounds (photo dated 25 February 2024)

(Source: Nearmap)

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## 2.4. Cultural Heritage Sensitivity

Part of the Subject Site is subject to known areas of Aboriginal Cultural Heritage Sensitivity. This includes the north and south-eastern corner of 65 Pioneer Road, and the south portions of 7 and 9 Pioneer Roads.

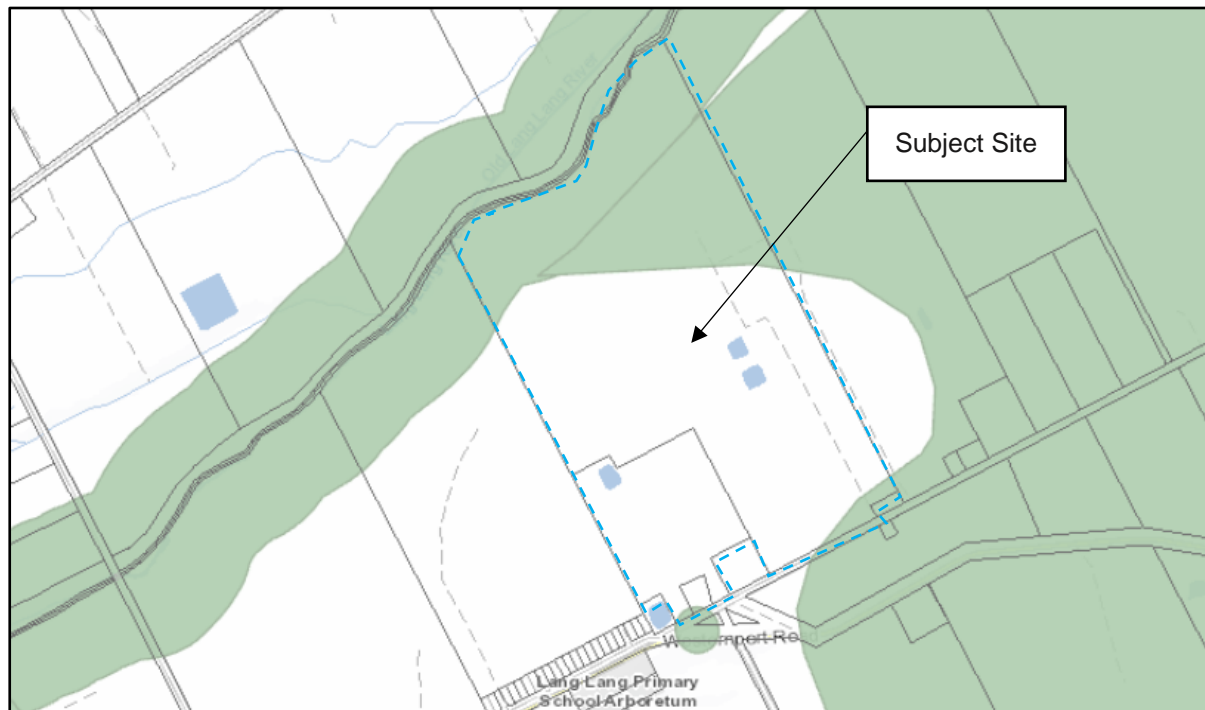


Figure 9 - Areas of Aboriginal Cultural Heritage Sensitivity (Subject Site outlined in blue)

(Source: VicPlan)

The proposed is not a high impact activity pursuant to Regulation 49(1)(b) of the *Aboriginal Heritage Regulations 2018*, as such no mandatory cultural heritage management Plan is required. The accompany letter from Dr. Matt Cupper (Principal Archaeologist) and dated 21 July 2023 sets out the applicable provisions of the Regulation in further detail.

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### 3. The Proposal

The proposal seeks for the approval for a boundary realignment of the Subject Site as described in proposed Plan of Subdivision PS 919917V.

7 Pioneer Road is current used for residential purposes. The large area of land at the rear is surplus to the residential use of the land. Its irregular shape result in maintenance challenges. This boundary realignment seeks to redistribute the surplus land to 9 and 65 Pioneer Road, in the following manner:

- The surplus land at the rear of 7 Pioneer Road is to be re-allocated to 65 Pioneer Road;
- The small area between 9 and 25 Pioneer Road is to be re-allocated to 9 Pioneer Road; and
- The depth of both 7 and 9 Pioneer Road will be extended to match the existing depth of 25 Pioneer Road.

The above changes result in the following realigned lots

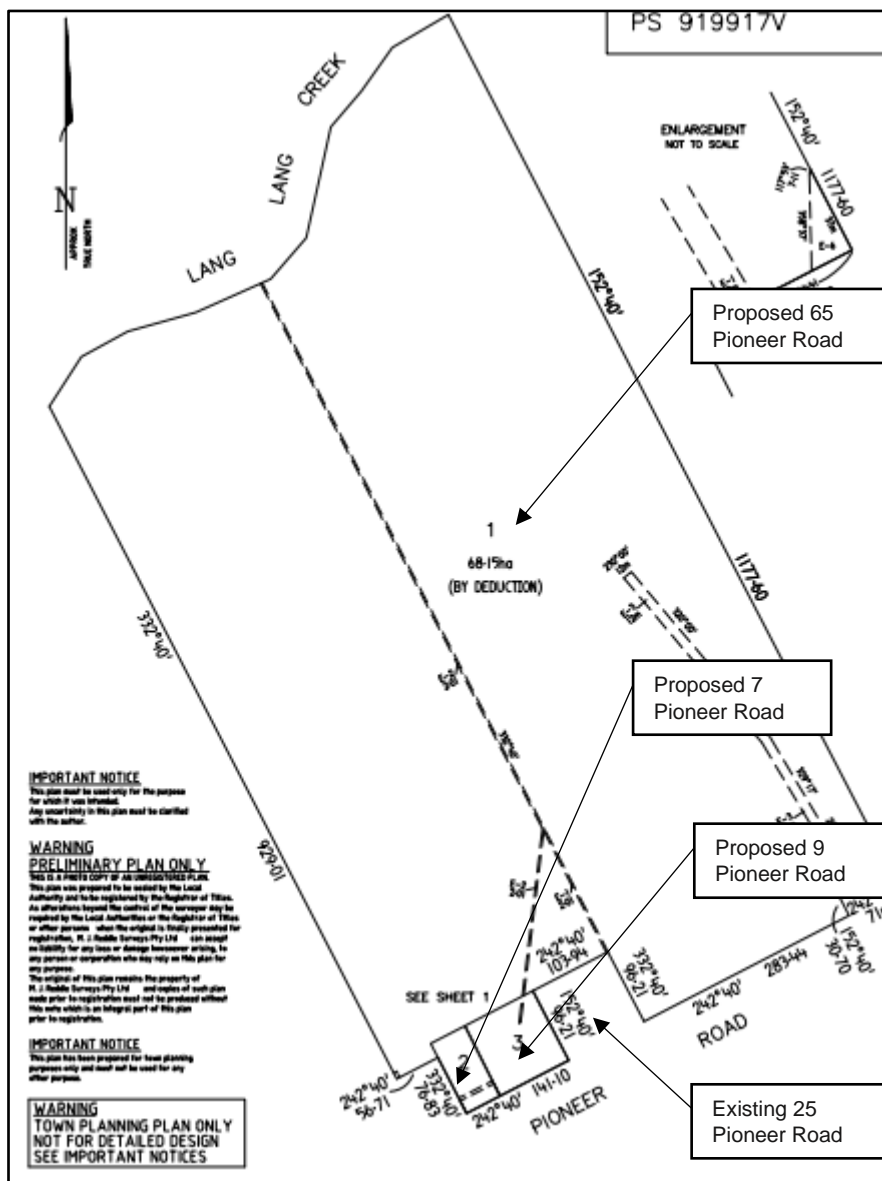


Figure 10 - Proposed PS 919917V

Source: M.J. Reddie Surveys Pty Ltd)

The new dimensions of the proposed lots can be described as follows:

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- 65 Pioneer Road (proposed Lot 1) – its western boundary increases from 589 metres to 929 metres; no changes are proposed to its other boundaries. This lot will have an increased site area of 68.15 hectare;
- 7 Pioneer Road (proposed Lot 2) – reduced to a rectangularly shaped lot of 46.19metres wide by 96.22 metres deep. This lot will have a reduced total area of 4,498 square metres; and
- 9 Pioneer Road (Proposed Lot 3) – increased to a rectangularly shaped lot of 94.93 metres wide by 96.21 metres deep. This lot will have an increased total area of 9,076 square metres.

No changes are proposed to existing easements over the Subject Site.

Neither 7 nor 9 Pioneer Roads are currently connected to any reticulated services. The proposed lots will continue to contain its existing effluent treatment areas within the revised boundaries. No changes are proposed to the existing residential uses of both lots.

Sand extraction activities at 65 Pioneer Road will continue in accordance with its existing Works Authority. No changes are proposed to this current land use.

The proposal does not seek to install any new fencing. Nor does it seek to remove any vegetation (native or otherwise) from the Subject Site.

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## 4. Planning Context

### 4.1. Planning policy Framework

The Planning Policy Framework ('PPF') provides general provision for land use and development in Victoria. Planning authorities must take into account of and give effect to the general principles and specific policies contained in the PPF. The following provisions of the Cardinia Planning Scheme are relevant to the proposal in a general sense.

- Clause 11.1-1R Green Wedges – Metropolitan Melbourne

State and regional provisions of the Planning Policy Framework seek to protect Victoria's Green Wedge land from inappropriate development.

### 4.2. Local Planning Policy Framework

The Cardinia Municipal Strategic Statement ('MSS') includes policy direction that reflects the diverse land uses and development intensity of the Shire. The policies are general in nature and rely on the application of the Local Planning Policies ('LPP') to achieve the broad strategic direction of the MSS. Of relevance to this application are the following Clauses within the MSS:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 22.05 – Western Port Green Wedge Policy

Building on the Regional policies at Clause 11.1, the relevant local planning policies acknowledge the Western Port Green Wedge area as an important asset. It includes high value agricultural land and internationally significant Ramsar wetlands. Within the Cardinia Shire Council, its Green Wedge land has also scope to build a successful tourism industry, which can make a positive contribution to the local economy and create local employment opportunities. The relevant policies acknowledge the competing demands by the various land uses that the Green Wedge land faces. The policies seek to ensure that these demands and associated pressures are appropriately managed, and that the liveability, economic values and scenic and natural qualities of the Green Wedge are not eroded over time.

### 4.3. Zones

The Subject Site are wholly zoned Green Wedge Zone – Schedule 1 ('GWZ1').

The purpose of GWZ is:

- *To implement the Municipal Planning Strategy and the 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.*

Pursuant to Clause 35.04-3, a permit is required to subdivide land. However, the following conditions apply:

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*Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.*

*A permit may be granted to create smaller lots if any of the following apply:*

- *The subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.*
- *The subdivision is by a public authority or utility service provider to create a lot for a utility installation.*

*A permit must not be granted which would allow a separate lot to be created for land containing a small second dwelling.”*

(emphasis underlined)

Schedule 1 specifies that a minimum subdivision size of 40 hectares applies to all land within the Shire. However, as the proposal is a boundary realignment where the number of lots is not increased, a permit may be granted for the proposal. As the proposal seeks to rearrange the boundaries between 3 lots, the proposal is not a class of VicSmart Application.

The relevant Decision guidelines at clause 35.04-6 include:

**General issues**

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.*

**Rural issues**

- *The impact on the existing and proposed rural infrastructure.*
- *The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses.*
- *The protection and retention of land for future sustainable agricultural activities.*

**Environmental issues**

- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The location of on site effluent disposal areas to minimise impact of nutrient loads on waterways and native vegetation.*

## **4.4. Overlays**

### **4.4.1. Significant Landscape Overlay – Schedule 3**

The Subject Site is wholly affected by Significant Landscape Overlay Schedule 3 ('SLO3').

The purpose of the LSO is:

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

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Schedule 3 includes the following Statement of Nature and Key Elements of Landscape:

*'The Heath Hill landscape extends east from the township of Lang Lang to Nyora in the south and Poowong in the east. The area, which has been recognised by the National Trust, includes landforms which range from alluvial river flats, through sandy heaths to rolling hills which reach elevations of 182 metres. The area is crossed by tributaries of the Lang Lang River which form a catchment area that drains into Western Port. The area contains one of the last extensive heathy woodland remnants in the Western Port region and is a mixture of cleared pasture land which contains clumps of indigenous areas of heath and Messmate forest, particularly along the stream and road lines. Scenic views are available from elevated points with views across the river flats and to Western Port. The environmental characteristics of the landscape are sensitive to any further fragmentation or development.'*

Pursuant to Clause 3 to SLO3, a permit is required to remove any vegetation it meets the exemption under Clause 52.12 (Bushfire Protection: Exemptions), or any following:

- *The vegetation is a tree overhanging the roof of a building used for Accommodation. This exemption only allows the removal, destruction or lopping of that part of the tree which is overhanging the building and which is necessary for fire protection.*
- *The vegetation is dead as a result of natural circumstances or the spread of noxious weeds and which has been assessed as being suitable for removal by an authorised officer of the responsible authority. This exemption does not apply to standing dead trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.*
- *It is the minimum extent necessary to maintain utility services for the transmission of water, sewage, gas, electricity, electronic communications or the like, provided that the removal, destruction or lopping is undertaken in consultation with the responsible authority.*
- *It is necessary for maintenance by the Cardinia Shire Council of works including any road, drain, essential service or public facility.*
- *The vegetation is seedlings or regrowth less than 5 years old, the land has been previously been lawfully cleared and the land is being maintained for cultivation or pasture.*
- *The vegetation is to be removed, destroyed or lopped by cutting only to obtain reasonable amounts of wood for personal use by the owner or occupier of the land. Personal use is wood used for firewood, the construction of fences on the same land, and hobbies such as craft. This exemption does not apply to:*
  - *Standing living and dead trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.*
  - *Living native vegetation on contiguous land in the same ownership with an area less than 10 hectares.*
  - *It is the removal of any vegetation from an existing dam wall where the vegetation may impact on the structural stability of the dam wall.*
  - *It is within 6 metres of an existing dwelling on a lot less than 0.4 hectares.*
  - *The vegetation is required to be pruned or lopped (but not removed) as part of normal domestic or horticultural practice for the species.*
  - *The vegetation is an environmental weed ...:*

The SLO3 does not contain any permit triggers for subdivision.

As the proposal does not include any proposal to remove any vegetation, no permit is required under the SLO3.

#### **4.4.2.Land Subject to Inundation Overlay**

The northern portion of 65 Pioneer Road is affected by a Land Subject to Inundation Overlay ('LSIO').

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Figure 11 - LSIO Mapping

(Source: VicPlan)

As the proposed realignment relate to boundaries that are outside of the affected area, no permit is required pursuant to Clause 44.04-3.

Pursuant to Clause 44.04-6, an application under this overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987*.

## 4.5. Particular Provisions

### 4.5.1. Clause 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions

The purpose of this Clause is:

- *To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values.*
- *To protect productive agricultural land from incompatible uses and development.*
- *To ensure that the scale of use is compatible with the non-urban character of metropolitan green wedge land.*
- *To encourage the location of urban activities in urban areas.*
- *To provide transitional arrangements for permit applications made to the responsible authority before 19 May 2004.*
- *To provide deeming provisions for metropolitan green wedge land.*

Pursuant to Clause 51.02-3, the responsible authority may approve subdivision of land to create a lot that is smaller than the minimum area specified under the zone if the subdivision the subdivision is the *re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.*

### 4.5.2. Clause 52.17 - Native Vegetation

Clause 52.17 does not contain any permit triggers relating to the proposed boundary realignment. A review against this provision is included in response to Council's request for further information.

The purpose of this Clause is:

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- *To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):*
  1. *Avoid the removal, destruction or lopping of native vegetation.*
  2. *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
  3. *Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*
- *To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.*

Pursuant to Clause 52.17-1, a permit is required to remove, destroy or lop native vegetation, including dead vegetation. A wide range of exemptions apply under Clause 52.17-7. The following exemptions are relevant:

|                           |   |
|---------------------------|---|
| <b>Fences</b>             | <p><i>Native vegetation that is to be removed, destroyed, or lopped to the minimum extent necessary to enable:</i></p> <ul style="list-style-type: none"> <li>• <i>the operation or maintenance of an existing fence; or the construction of a boundary fence between properties in different ownership.</i></li> <li>• <i>The clearing along both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other side of the fence.</i></li> </ul> |
| <b>Planted vegetation</b> | <p><i>Native vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding.</i></p> <p><i>This exemption does not apply to native vegetation planted or managed with public funding for the purpose of land protection or enhancing biodiversity unless the removal, destruction or lopping of the native vegetation is in accordance with written permission of the agency (or its successor) that provided the funding.</i></p>  |
| <b>Site area</b>          | <p><i>Native vegetation that is to be removed, destroyed or lopped on land, together with all contiguous land in one <u>ownership</u>, which has an area of less than 0.4 hectares.</i></p> <p><i>This exemption does not apply to native vegetation on a roadside or rail reservation.</i></p>   |

#### 4.6. General Provisions

Clause 65.02 includes general decision guidelines that apply to an application to subdivide land. In light of the type of proposed subdivision, the relevant decision guidelines are limited to the following:

- *The existing use and possible future development of the land and nearby land.*
- *The availability of subdivided land in the locality, and the need for the creation of further lots*
- *The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.*
- *The density of the proposed development.*
- *The area and dimensions of each lot in the subdivision.*
- 

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## 5. Planning Assessment

### 5.1. Overview

There are no planning policies or controls that specifically deal with a boundary realignment of the type proposed. Due to the Subject Site's location within the Green Wedge, there are broad planning policies that seek to prevent inappropriate use and development from occurring within this area. A response to the relevant planning policies is set out at **Section 5.2**.

The Green Wedge Zone includes a number of specific decision guidelines. Whilst there are decision guidelines that relate to subdivision, there are not specific directions relating to a boundary realignment (re-subdivision). A detailed assessment against the relevant decision guidelines is set out at **Section 5.3**.

In Council's RFI, it raised a number of questions relating to the proposal's potential impact on the natural environment, specifically on whether any significant native vegetation may be "deemed lost" as a result of the boundary realignment. Following a detailed biodiversity assessment, the proposal will not result in any unreasonable impact on existing native vegetation. A detailed discussion is provided at **Section 5.4**.

### 5.2. Planning Policies

There are no planning policies within the Cardinia Planning Scheme that provides specific directions for boundary realignment.

The proposal seeks the boundary realignment of existing lots. It does not include any change of use, development or vegetation removal. The proposed layout is more regular, logical and will provide better delineation of property boundaries. As such it will not result unreasonable fragmentation of Green Wedge land.

The resulting 7 and 9 Pioneer Road will continue to be of generous proportions and readily accommodate all effluent treatment within the proposed title boundaries. At these sizes, these lots will continue to provide housing without any unreasonable impact on the local environment.

### 5.3. Planning Controls

#### 5.3.1. Green Wedge Zone

Pursuant to clause 35.04-1, more than 1 dwelling per lot is a prohibited use within the GWZ. As 7 and 9 Pioneer Road each contains an existing dwelling, any additional dwelling is prohibited on this lot. 65 Pioneer Road is currently used for a sand quarry. The additional land area to be transferred to this lot would not be able to accommodate a dwelling given the buffer distance requirements associated with the quarry. As such, the proposal does not result in an increase in the number of dwellings that the Subject Site could be used for. For this reason, the boundary realignment is not a prohibited type of subdivision pursuant to Clause 35.04-2. However, due to the total number of lots that form part of this proposal, it is not a class of VicSmart application.

As the proposal does not seek to alter, nor will it result in changes to existing land uses of the Subject Site, only a limited number of decision guidelines<sup>2</sup> are relevant in this matter. In particular:

- As set out in **Section 5.2** above, the proposal meets the policy objectives of the limited number of applicable planning policies;

<sup>2</sup> Which includes reference to the relevant provisions of the Clause 65. In this case, as outlined in Section 4, a limited number of decide guidelines of Clause 65.02 is relevant.

- The resulting lot sizes and dimensions is generally consistent with the established pattern of subdivision in surrounding area;
- The realignment of 7 Pioneer Road's northern boundary will not result in any unreasonable amenity impact from the existing sand quarry at 65 Pioneer Road. The applicable Work Authority includes a range of condition to mitigate any unreasonable acoustic, dust and visual impacts. The required bund has already been constructed. The redistribution of surplus land from 7 to 65 Pioneer Road will further ensure the quarry has control the required buffer areas, Thus further limiting the potential for land use conflicts to arise;
- The boundary realignment will not increase demand on the area's existing infrastructure;
- No part of the Subject Site is currently used for agricultural purposes,
- The Subject Site does not currently contain any significant vegetation. There is also no proposal to remove any vegetation;
- No changes are required to the existing effluent treatment arrangement at 7 and 9 Pioneer Road.

## 5.4. Impact on Vegetation

The proposal does not seek the removal of any vegetation from the Site.

In response to Council's request for further information, a biodiversity assessment has been completed for the Subject Site. It found the following:

- There is very little indigenous vegetation across the property;
- A total of 48 trees were recorded within the Subject Site;
- Almost all trees are planted;
- The remnant trees (Trees 8, 39, 40 and 41) within the Subject Site are scattered across the paddock at the rear of existing 7 Pioneer Road (i.e. area proposed to be redistributed to 65 Pioneer Road);
- There is existing fence along all proposed new boundaries;
- Almost all trees are more than 2m from the existing fence lines/proposed new boundary;
- Tree 34 and Group G3 are less than 2m from existing fence lines/proposed new boundary.

Aerial, site photos and map of assessed trees are provided within the accompanying ABZECO report.

Given the assessment, it is evident that the boundary realignment will have no net impact on existing vegetation on the Subject Site. It is noted that:

- Pursuant to Clause 52.17-1, no permit is required to remove vegetation that is not native to Victoria;
- Pursuant to Clause 52.17-7, native vegetation along an existing fence (up to 4 metres) can be removed without a permit. The ABZECO report has considered what vegetation would already be "deemed lost" given the existing fencing on the Subject Site. It has done so by applying a 2 metre buffer on either side of an existing fence. By doing so, it has found that Group G3 and Tree 34 are already considered to be "deemed lost".
- It is noted that this exemption can be applied to allow a clearing of up to 4 metres along one side and then up to 1 metre on the other side of the fence. For this reason, additional trees will need to be considered. All of these trees have been identified at **Section 2.2** of this report. All of these trees are planted species, which are also exempt from permit requirements under Clause 52.17-7. For this reason, they are already "deemed lost".

In addition to Clause 52.17-7, additional vegetation<sup>3</sup> removal permit triggers exist under SLO3. Given the height and locations of some of the trees, a permit would be required under the SLO3 to remove some of the trees along the proposed new title boundaries.

As this proposal does not seek to remove any vegetation from the Subject Site, no planning permit is triggered.

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<sup>3</sup> All vegetation, not limited to native vegetation



## 6. Conclusion

The proposed subdivision (realignment of boundaries) will not result in any unreasonable impact on Green Wedge land. The proposed subdivision sizes are consistent with the existing lot sizes.

As demonstrated in this report, the proposed re-configuration of existing boundaries presents a logical rearrangement of title boundaries. It will not result in any unreasonable impact on the existing land uses occurring on the Subject Site.

The proposal is worthy of Council's support.

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## Appendix A – Title Documents

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15 May 2024

Cardinia Shire Council  
Attn: Sasha Savanovic  
PO Box 7  
Pakenham Vic 3810

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By email: [mail@cardinia.vic.gov.au](mailto:mail@cardinia.vic.gov.au)

Dear [REDACTED]

**PLANNING PERMIT APPLICATION – 4691200150  
RESPONSE TO REQUEST FOR FURTHER INFORMATION  
7 Pioneer Road, Lang Lang**

We continue to act for *South East Sands (Property) Pty Ltd*, the permit applicant in the above matter.

We write in response to Cardinia Shire Council ('Council') correspondence dated 14 February 2024, Requesting Further Information ('RFI') pursuant to section 54 of the Planning and Environment Act 1987 (Vic).

This response seeks to address the matters raised in the request for further information and is accompanied by updated application material for the proposed development. To assist your consideration, please find herewith the following documentation in support of the application:

- A full set of Titles documents for the affected lots;
- Planning Report prepared by *Planning & Property Partners Pty Ltd*;
- Biodiversity & Arboricultural Assessment Report prepared by *ABZECO Pty Ltd*; and
- Letter from *Landskape Pty Ltd* with respect to obligations under the *Aboriginal Heritage Act 2006*, and its regulations, the *Aboriginal Heritage Regulations 2018*, dated 21 July 2023.

We request that this information supplement existing information lodged with the application and request that this form the basis of any decision on the application.

An itemised response to Council's request for further information is provided below. These should be read in conjunction with the above-mentioned documents.

**1. Outstanding Fees**

A full payment of \$1,415.10 towards the outstanding fees was completed on 4 June 2024. This information can be verified through Council's accounts department.

**2. Town Planning Report**

An accompanying Town Planning Report prepared by this office to be read alongside this letter to assist with Council's assessment of the proposal.

A planning permit is required under the Green Wedge Zone for the proposed boundary realignment. The accompanying town planning report provides a detailed response against all relevant planning provisions.

### 3. Environmental Assessment

A Biodiversity & Arboricultural Assessment Report has been prepared by *ABZECO Pty Ltd*. This report has been prepared to respond to Item 3 of Council's RFI.

### 4. Site plan

The proposal seeks to realign existing title boundaries only. It does not include the removal of any vegetation.

In response to Items 4 and 6 of Council's RFI, an aerial photograph of the Site existing vegetation on or adjacent to any existing or proposed boundaries is provided at Figure 1 of the accompanying *Biodiversity & Arboricultural Assessment report*. An extract is provided below.



### 5. Response to Clause 52.17

No permit is triggered under Clause 52.17-7. Please see the accompanying reports for further information. As such, the net gain considerations at Item 9 of Council's request are not applicable.

### 6. Hollow bearing trees

The accompanying Biodiversity & Arboricultural Assessment Report confirms that there are no hollow bearing trees.

### 7. Existing vegetation

A detailed assessment of the vegetation on the land can be found in the submitted Biodiversity & Arboricultural Assessment Report, including identification and description of the species found. The



submitted report further addresses all the matters specified in item 8 of the RFI letter.

**Conclusion**

We provide this response, supporting material and comments to assist in your consideration of the proposal, and trust that the above information is sufficient for Council to direct the application to public notice as soon as possible.

Please contact the undersigned or [REDACTED] (email: [REDACTED]) should Council have any queries regarding the correspondence.

Yours faithfully,



**Planning & Property Partners Pty Ltd**  
Encl: as state

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## ePlanning

### Application Summary

|                  |          |
|------------------|----------|
| Portal Reference | D32427LG |
| Reference No     | T230560  |

### Basic Information

|               |                                   |
|---------------|-----------------------------------|
| Cost of Works | \$0                               |
| Site Address  | 7 Pioneer Road Lang Lang VIC 3984 |

### 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 |
| <input type="checkbox"/> Note: During the application process you may be required to provide more information in relation to any encumbrances.                                  |                                   |

### Documents Uploaded

| Date       | Type                | Filename   |
|------------|---------------------|--|
| 17-09-2024 | Additional Document | Response to RFI Letter - Pioneer Road_ Lang Lang.pdf                 |
| 17-09-2024 | Additional Document | Planning Report Updated - Pioneer Road, Lang Lang FINAL 20240916.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

|                 |                                      |                                  |  |
|-----------------|--------------------------------------|----------------------------------|--|
| Site User       | Planning & Property Partners Pty Ltd | 13/1 Collins, Melbourne VIC 3000 | W: 03-8626-9000<br>E: bird@pppartners.com.au |
| Submission Date | 17 September 2024 - 05:02:PM         |                                  |  |

### Declaration

By ticking this checkbox, I, , 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

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

**Email:** mail@cardinia.vic.gov.au

Monday to Friday  
8.30amâ€"5pm  
**Phone:** 1300 787 624  
**After Hours:** 1300 787 624  
**Fax:** 03 5941 3784

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5pm  
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**Fax:** 03 5941 3784



PLANNING & PROPERTY | **PARTNERS**

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## TOWN PLANNING REPORT

7, 9, 65 Pioneer Road, Lang ang

September 2024

Prepared for *South East Sands (Property) Pty Ltd*

Level 13, 1 Collins Street, Melbourne VIC 3000 | +61 3 8626 9000 | [admin@pppartners.com.au](mailto:admin@pppartners.com.au) | [www.pppartners.com.au](http://www.pppartners.com.au)

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**Table of Contents**

1. Introduction ..... 3

    1.1. Overview ..... 3

    1.2. Planning Controls and Permit Requirements ..... 3

2. Subject Site and Surrounding Context ..... 4

    2.1. Subject Site ..... 4

    2.2. Existing Vegetation ..... 7

    2.3. Surrounding Context ..... 8

    2.4. Cultural Heritage Sensitivity ..... 10

3. The Proposal ..... 11

4. Planning Context ..... 13

    4.1. Planning Policy Framework ..... 13

    4.2. Local Planning Policy Framework ..... 13

    4.3. Zones ..... 13

    4.4. Overlays ..... 14

        4.4.1. Significant Landscape Overlay – Schedule 3 ..... 14

        4.4.2. Land Subject to Inundation Overlay ..... 16

    4.5. Particular Provisions ..... 16

        4.5.1. Clause 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions ..... 16

        4.5.2. Clause 52.17 - Native Vegetation ..... 17

    4.6. General Provisions ..... 17

5. Planning Assessment ..... 18

    5.1. Overview ..... 18

    5.2. Planning Policies ..... 18

    5.3. Green Wedge Zone ..... 20

    5.4. Impact on Vegetation ..... 21

    5.5. Impact on Waterways ..... 22

6. Conclusion ..... 23

Appendix A – Title Documents ..... 24

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# 1. Introduction

## 1.1. Overview

This report has been prepared on behalf of *South East Sands (Property) Pty Ltd*, which is the landowner. It accompanies a planning permit application for a re-subdivision (boundary realignment) at 7, 9 and 65 Pioneer Road, Lang Lang (collectively referred to as the 'Subject Site'). More specifically, it has been prepared to respond to Cardinia Shire Council's ('Council') request for further information dated 14 February 2024.

The proposed subdivision seeks a rearrangement of existing lot boundaries and will not result in any additional lots. The proposal is allowed under the relevant restrictions on Title and under the Green Wedge Zone. The proposed subdivision is shown on Proposed Plan of subdivision PS919917V (version 1) and prepared by *M.J. Reddie Surveys Pty Ltd*. A detailed explanation of the proposal is set out at Section 3 of this report. It is further supported by a Biodiversity & Arboricultural Assessment Report prepared by *ABZECO Pty Ltd*.

## 1.2. Planning Controls and Permit Requirements

The Subject Site is in zoned Green Wedge Zone Schedule 1 ('GWZ1'). It is wholly affected by the Significant Landscape Overlay Schedule 3 ('SLO3'), and partially affected by a Land Subject to Inundation Overlay ('LSIO').

A planning permit is required for the proposed subdivision pursuant to:

- Clause 35.04-3 of the Green Wedge Zone; and
- Clause 44.04-3 of the Land Subject to Inundation Overlay

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## 2. Subject Site and Surrounding Context

### 2.1. Subject Site

The Subject Site comprises three contiguous lots on the north side of Pioneer Road. They comprise:

- 7 Pioneer Road, Lang Lang;
- 9 Pioneer Road, Lang Lang; and
- 65 Pioneer Road, Lang Lang.

A complete Certificate of Title for each lot is provided at **Appendix A**. The associated title plans provide a detailed description of the existing lot dimensions.

Key features of each lot are summarised below.

#### 7 Pioneer Road

The lot is formally identified as Lot 1 on Plan of Subdivision 613771D.

It is irregularly shaped lot as shown in Figure 1 below. It abuts Pioneer Road in 2 sections – to the east and west of 9 Pioneer Road, and has an overall area of 10.04ha. The lot is encumbered by 2 drainage easements (E-1 and E-2), which are located along the eastern and running diagonally across the south-eastern portion of the Site, and 2 water supply easements (E-4 and E5), which are located in the south-western portion of the lot.

The land is encumbered by a Section 173 Agreement (Reference No. AH433369B) – this Agreement prohibits any further subdivision of this lot, other than a subdivision which does not create any additional lots<sup>1</sup>.

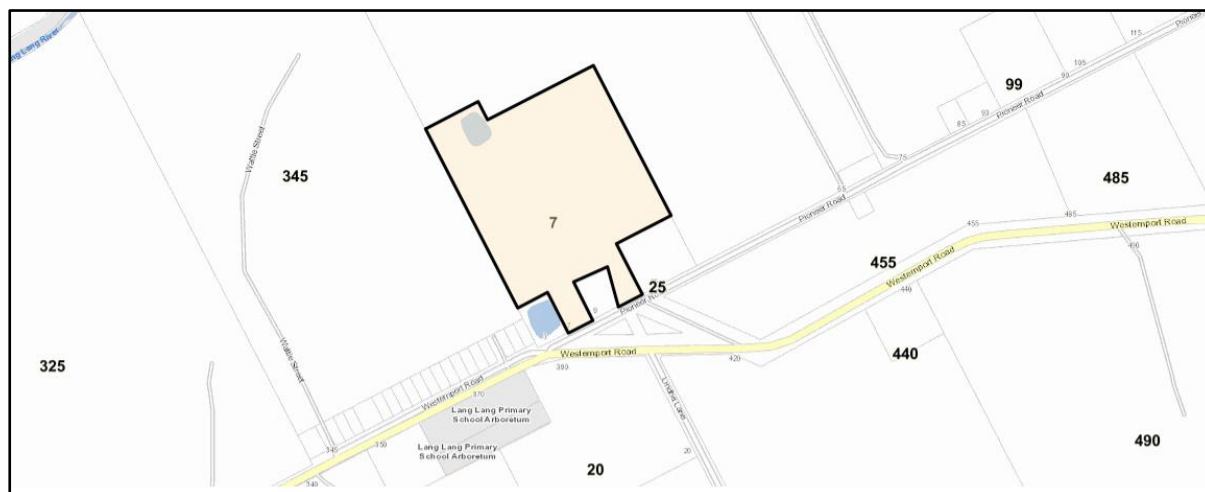


Figure 1 - Cadastral Plan - 7 Pioneer Road, Lang Lang

(Source: Lassi)

7 Pioneer Road is improved by an existing dwelling and outbuildings. Several internal fences currently exist, which generally align with the proposed subdivision boundary as described in **Section 3**. A dam is located in the north-western corner of the lot. The dwelling is located within a domestic landscaped setting in the south-western corner of the lot. Other vegetation can be found in rows along existing fence lines as show in Figure 2. Land to the north of the dwelling is currently surplus to its residential needs.

<sup>1</sup> This Agreement lapses upon any future rezoning of the land that allows the land to be subdivided.

This lot is currently used for residential purposes. The rear of the lot is used for very low density grazing purposes and is maintained by South-East Sands (Property) Pty Ltd through annual slashing. The animals kept on this property has visited the quarry operations from time to time.



Figure 2 - Aerial Photograph – 7 Pioneer Road, Lang Lang

(Source: VicPlan)

## 9 Pioneer Road

9 Pioneer Road is formally known as Lot 1 on the Plan of Subdivision 077628. It is not encumbered by any restrictions on title.

9 Pioneer Road is an irregularly shaped lot with the following dimensions:

- Southern boundary – 48.62 metres;
- Western boundary – 72.42 metres;
- Northern boundary – 63.35 metres; and
- Eastern boundary – 70.31 metres.

This lot is straddled by 7 Pioneer Road on its three sides, as shown in Figure 3.

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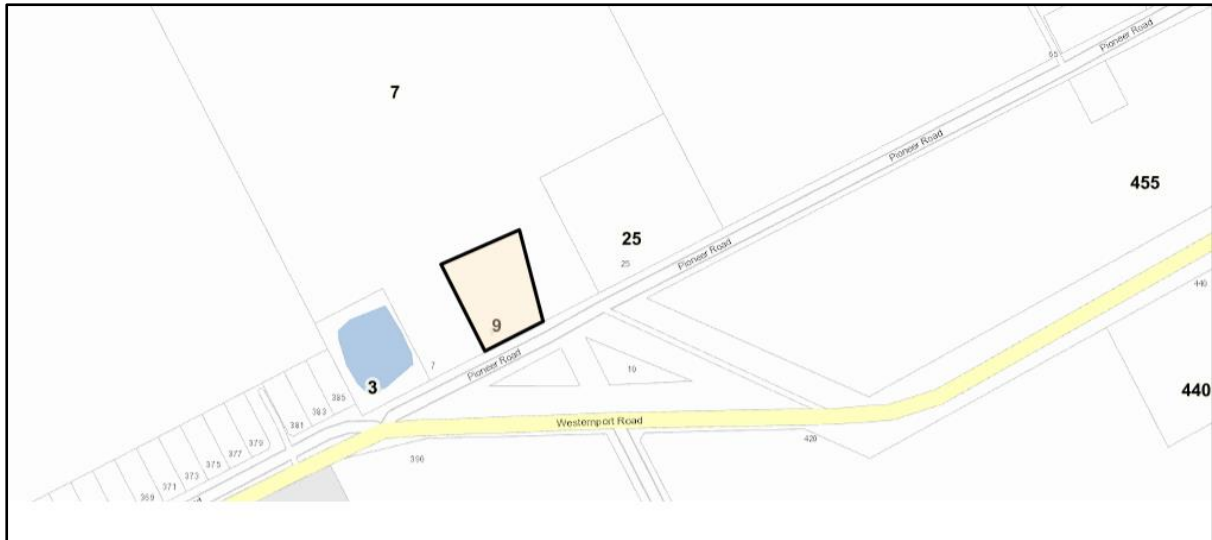


Figure 3 - Cadastral Plan - 9 Pioneer Road, Lang Lang

(Source: Lassi)

This lot is improved by a single dwelling located in the centre of the Site. An outbuilding is located in the north-western corner of the Site. Scattered vegetation is located throughout the lot. this lot is also currently used for residential purposes.



Figure 4 - Aerial Photograph - 9 Pioneer Road, Lang Lang

(Source: VicPlan)

### 65 Pioneer Road

65 Pioneer Road is formally described as Lot 2 Plan of Subdivision 613771D. This lot is encumbered by 3 Section 173 Agreements:

- 1) Agreement AH 433369B – which is the same Agreement as the one that encumbers 7 Pioneer Road.
- 2) Agreement AV149178V – which relates to the implementation of a Creek Management Plan; and
- 3) Agreement AV149179T – which relates to payment towards a proposed bypass.

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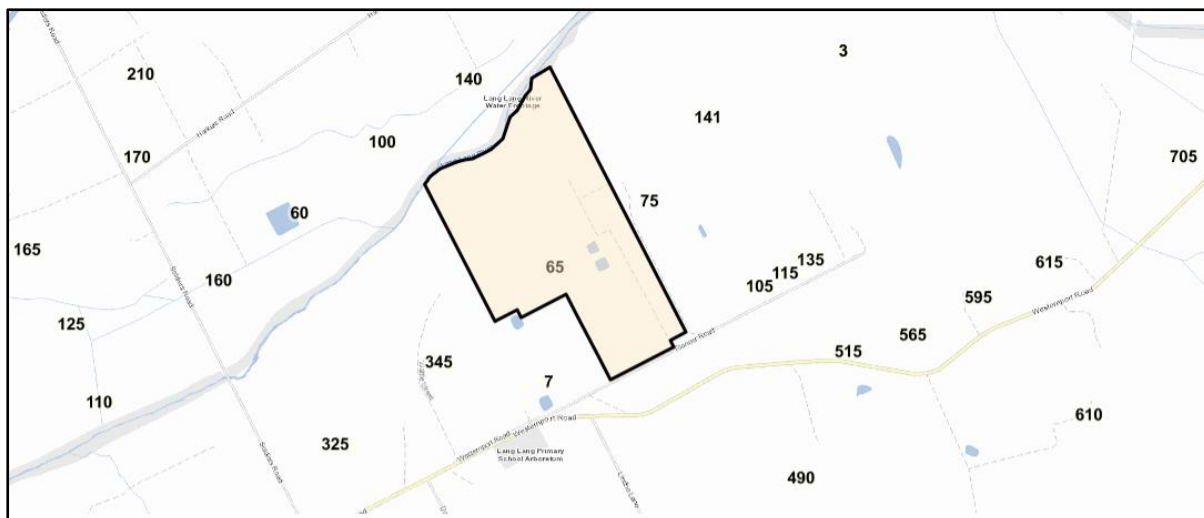


Figure 5 - Cadastral Plan - 65 Pioneer Road, Lang Lang (Source: Lassi)

This lot is generally L-shaped. It is located to the north and east of 7 Pioneer Road. It extends between Pioneer Road to the south and the Lang Lang Creek to the north, and has an area of 59.07 hectares.

The lot is currently being used by South East Sands for sand extraction in accordance with the following approvals:

- Planning Permit (No T140337); and
- Work Authority (No. WA1516).

A recent aerial photograph of the lot confirms that sand extraction activities are currently underway.



Figure 6 - Aerial Photograph (dated 25 February 2024) – 65 Pioneer Road, Lang Lang (Source: Nearmap)

## 2.2. Existing Vegetation

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ABZECO Pty Ltd has prepared a *Biodiversity & Arboricultural Assessment* report has been prepared for the Subject Site ('ABZECO Report').

As relevant, the ABZECO Report found the following vegetation along the new common boundaries between the 3 lots:

- Tree 9 – *Salix alba var. vitellina* (Golden Willow) – planted
- Tree 29 – *Eucalyptus* spp (Eucalyptus) – planted
- Tree 30 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 31 – *Eucalyptus nicholii* (Narrow-leaved Black Peppermint) – Planted
- Tree 32 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 33 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 34 – *Eucalyptus globulus subsp. Bicostata* (Southern Blue Gum) – Planted
- Tree 35 – *Corymbia maculate* (Spotted Gum) – Planted
- Tree 37 – *Callistemon citrinus* (Bottlebrush) - Planted
- Group 3 – a group of 30 *Corymbia maculate* (Spotted Gum) – Planted

The enclosed report provides further details relating to all surveyed vegetation.



Figure 7 - Vegetation Assessment

(Source: ABZECO Report)

### 2.3. Surrounding Context

The Subject site is located to the east of the existing Lang Lang settlement. Except for a row of dwellings at 343 to 385 Western Port Road, the surrounding area is used for agricultural purposes.

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Figure 8 – Aerial photograph of Subject Site and surrounds (photo dated 25 February 2024)

(Source: Nearmap)

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## 2.4. Cultural Heritage Sensitivity

Part of the Subject Site is subject to known areas of Aboriginal Cultural Heritage Sensitivity. This includes the north and south-eastern corner of 65 Pioneer Road, and the south portions of 7 and 9 Pioneer Roads.

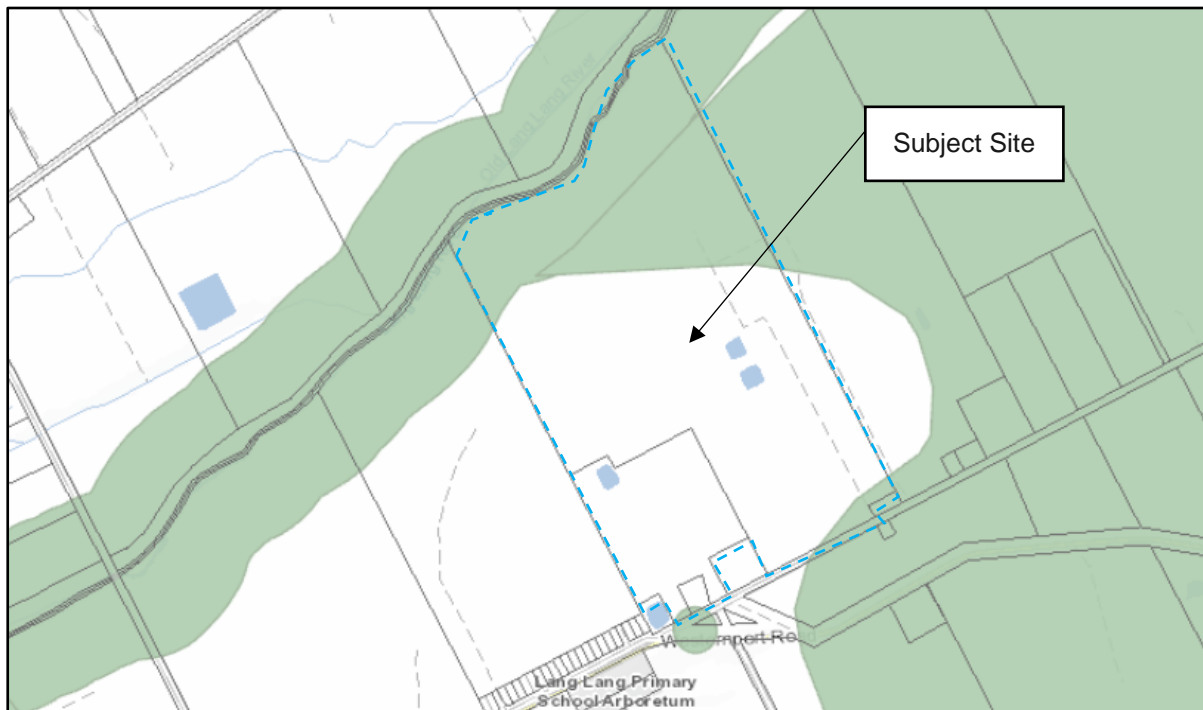


Figure 9 - Areas of Aboriginal Cultural Heritage Sensitivity (Subject Site outlined in blue)

(Source: VicPlan)

The proposed is not a high impact activity pursuant to Regulation 49(1)(b) of the *Aboriginal Heritage Regulations 2018*, as such no mandatory cultural heritage management Plan is required. The accompany letter from Dr. Matt Cupper (Principal Archaeologist) and dated 21 July 2023 sets out the applicable provisions of the Regulation in further detail.

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### 3. The Proposal

The proposal seeks for the approval for a boundary realignment of the Subject Site as described in proposed Plan of Subdivision PS 919917V.

7 Pioneer Road is current used for residential purposes. The large area of land at the rear is surplus to the residential use of the land. Its irregular shape result in maintenance challenges. This boundary realignment seeks to redistribute the surplus land to 9 and 65 Pioneer Road, in the following manner:

- The surplus land at the rear of 7 Pioneer Road is to be re-allocated to 65 Pioneer Road;
- The small area between 9 and 25 Pioneer Road is to be re-allocated to 9 Pioneer Road; and
- The depth of both 7 and 9 Pioneer Road will be extended to match the existing depth of 25 Pioneer Road.

The above changes result in the following realigned lots

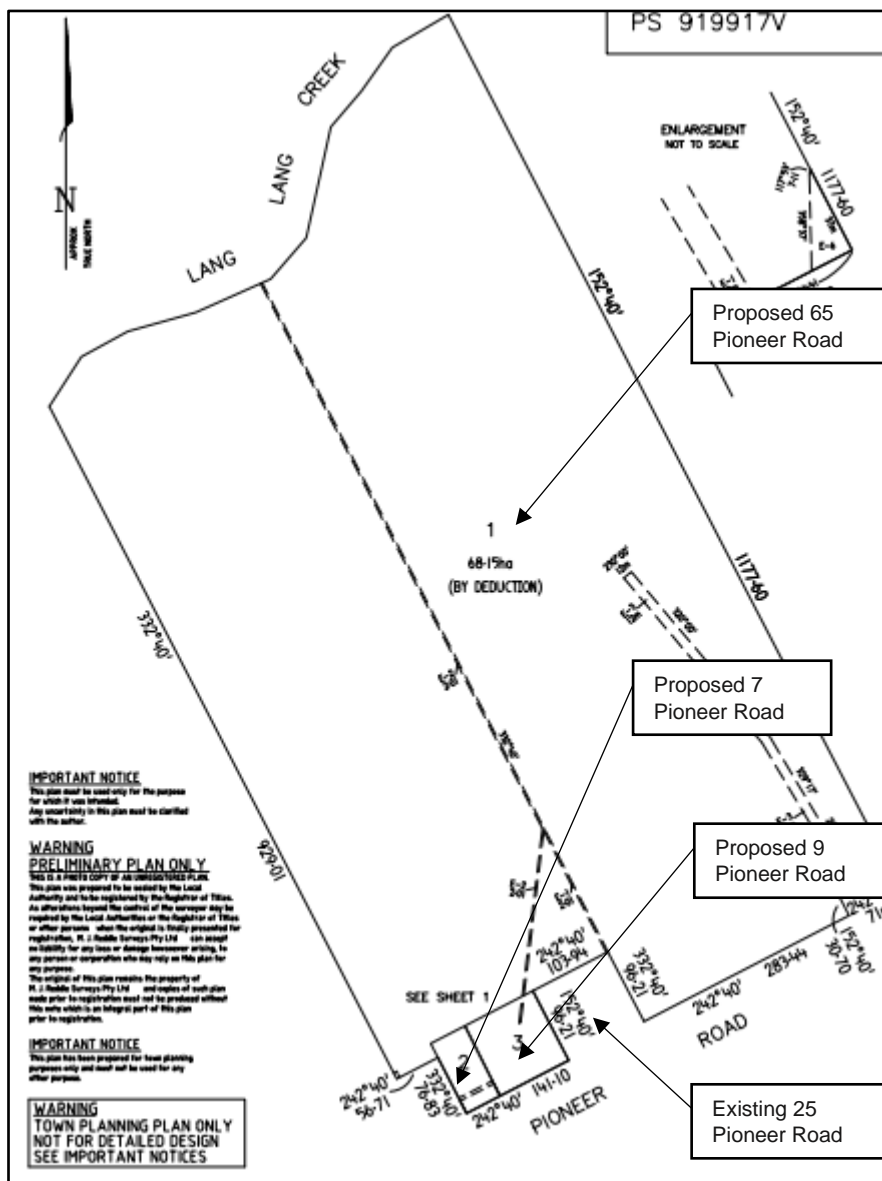


Figure 10 - Proposed PS 919917V

Source: M.J. Reddie Surveys Pty Ltd)

The new dimensions of the proposed lots can be described as follows:

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- 65 Pioneer Road (proposed Lot 1) – its western boundary increases from 589 metres to 929 metres; no changes are proposed to its other boundaries. This lot will have an increased site area of 68.15 hectare;
- 7 Pioneer Road (proposed Lot 2) – reduced to a rectangularly shaped lot of 46.19metres wide by 96.22 metres deep. This lot will have a reduced total area of 4,498 square metres; and
- 9 Pioneer Road (Proposed Lot 3) – increased to a rectangularly shaped lot of 94.93 metres wide by 96.21 metres deep. This lot will have an increased total area of 9,076 square metres.

No changes are proposed to existing easements over the Subject Site.

Neither 7 nor 9 Pioneer Roads are currently connected to any reticulated services. The proposed lots will continue to contain its existing effluent treatment areas within the revised boundaries. No changes are proposed to the existing residential uses of both lots.

Sand extraction activities at 65 Pioneer Road will continue in accordance with its existing Works Authority. No changes are proposed to this current land use.

The proposal does not seek to install any new fencing. Nor does it seek to remove any vegetation (native or otherwise) from the Subject Site.

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## 4. Planning Context

### 4.1. Planning Policy Framework

The Planning Policy Framework ('PPF') provides general provision for land use and development in Victoria. Planning authorities must take into account of and give effect to the general principles and specific policies contained in the PPF. The following provisions of the Cardinia Planning Scheme are relevant to the proposal in a general sense.

- Clause 11.1-1R Green Wedges – Metropolitan Melbourne

State and regional provisions of the Planning Policy Framework seek to protect Victoria's Green Wedge land from inappropriate development.

### 4.2. Local Planning Policy Framework

The Cardinia Municipal Strategic Statement ('MSS') includes policy direction that reflects the diverse land uses and development intensity of the Shire. The policies are general in nature and rely on the application of the Local Planning Policies ('LPP') to achieve the broad strategic direction of the MSS. Of relevance to this application are the following Clauses within the MSS:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 22.05 – Western Port Green Wedge Policy

Building on the Regional policies at Clause 11.1, the relevant local planning policies acknowledge the Western Port Green Wedge area as an important asset. It includes high value agricultural land and internationally significant Ramsar wetlands. Within the Cardinia Shire Council, its Green Wedge land has also scope to build a successful tourism industry, which can make a positive contribution to the local economy and create local employment opportunities. The relevant policies acknowledge the competing demands by the various land uses that the Green Wedge land faces. The policies seek to ensure that these demands and associated pressures are appropriately managed, and that the liveability, economic values and scenic and natural qualities of the Green Wedge are not eroded over time.

### 4.3. Zones

The Subject Site are wholly zoned Green Wedge Zone – Schedule 1 ('GWZ1').

The purpose of GWZ is:

- *To implement the Municipal Planning Strategy and the 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.*

Pursuant to Clause 35.04-3, a permit is required to subdivide land. However, the following conditions apply:

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*Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.*

*A permit may be granted to create smaller lots if any of the following apply:*

- *The subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.*
- *The subdivision is by a public authority or utility service provider to create a lot for a utility installation.*

*A permit must not be granted which would allow a separate lot to be created for land containing a small second dwelling.”*

(emphasis underlined)

Schedule 1 specifies that a minimum subdivision size of 40 hectares applies to all land within the Shire. However, as the proposal is a boundary realignment where the number of lots is not increased, a permit may be granted for the proposal. As the proposal seeks to rearrange the boundaries between 3 lots, the proposal is not a class of VicSmart Application.

The relevant Decision guidelines at clause 35.04-6 include:

#### **General issues**

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.*

#### **Rural issues**

- *The impact on the existing and proposed rural infrastructure.*
- *The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses.*
- *The protection and retention of land for future sustainable agricultural activities.*

#### **Environmental issues**

- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The location of on site effluent disposal areas to minimise impact of nutrient loads on waterways and native vegetation.*

## **4.4. Overlays**

### **4.4.1. Significant Landscape Overlay – Schedule 3**

The Subject Site is wholly affected by Significant Landscape Overlay Schedule 3 (“SLO3”).

The purpose of the LSO is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*

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- *To identify significant landscapes.*
- *To conserve and enhance the character of significant landscape.*

Schedule 3 includes the following Statement of Nature and Key Elements of Landscape:

*'The Heath Hill landscape extends east from the township of Lang Lang to Nyora in the south and Poowong in the east. The area, which has been recognised by the National Trust, includes landforms which range from alluvial river flats, through sandy heaths to rolling hills which reach elevations of 182 metres. The area is crossed by tributaries of the Lang Lang River which form a catchment area that drains into Western Port. The area contains one of the last extensive heathy woodland remnants in the Western Port region and is a mixture of cleared pasture land which contains clumps of indigenous areas of heath and Messmate forest, particularly along the stream and road lines. Scenic views are available from elevated points with views across the river flats and to Western Port. The environmental characteristics of the landscape are sensitive to any further fragmentation or development.'*

Pursuant to Clause 3 to SLO3, a permit is required to remove any vegetation it meets the exemption under Clause 52.12 (Bushfire Protection: Exemptions), or any following:

- *The vegetation is a tree overhanging the roof of a building used for Accommodation. This exemption only allows the removal, destruction or lopping of that part of the tree which is overhanging the building and which is necessary for fire protection.*
- *The vegetation is dead as a result of natural circumstances or the spread of noxious weeds and which has been assessed as being suitable for removal by an authorised officer of the responsible authority. This exemption does not apply to standing dead trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.*
- *It is the minimum extent necessary to maintain utility services for the transmission of water, sewage, gas, electricity, electronic communications or the like, provided that the removal, destruction or lopping is undertaken in consultation with the responsible authority.*
- *It is necessary for maintenance by the Cardinia Shire Council of works including any road, drain, essential service or public facility.*
- *The vegetation is seedlings or regrowth less than 5 years old, the land has been previously been lawfully cleared and the land is being maintained for cultivation or pasture.*
- *The vegetation is to be removed, destroyed or lopped by cutting only to obtain reasonable amounts of wood for personal use by the owner or occupier of the land. Personal use is wood used for firewood, the construction of fences on the same land, and hobbies such as craft. This exemption does not apply to:*
- *Standing living and dead trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.*
- *Living native vegetation on contiguous land in the same ownership with an area less than 10 hectares.*
- *It is the removal of any vegetation from an existing dam wall where the vegetation may impact on the structural stability of the dam wall.*
- *It is within 6 metres of an existing dwelling on a lot less than 0.4 hectares.*
- *The vegetation is required to be pruned or lopped (but not removed) as part of normal domestic or horticultural practice for the species.*
- *The vegetation is an environmental weed ...:*

The SLO3 does not contain any permit triggers for subdivision.

As the proposal does not include any proposal to remove any vegetation, no permit is required under the SLO3.

#### 4.4.2. Land Subject to Inundation Overlay

The northern portion of 65 Pioneer Road is affected by a Land Subject to Inundation Overlay ('LSIO').



Figure 11 - LSIO Mapping

(Source: VicPlan)

Pursuant to Clause 44.04-3, a permit is required to subdivide land.

The proposal must be referred to the relevant floodplain manager (Melbourne Water) pursuant to Section 55 of the Act.

Pursuant to Clause 44.04-6, an application under this overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987*.

#### 4.5. Particular Provisions

##### 4.5.1. Clause 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions

The purpose of this Clause is:

- *To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values.*
- *To protect productive agricultural land from incompatible uses and development.*
- *To ensure that the scale of use is compatible with the non-urban character of metropolitan green wedge land.*
- *To encourage the location of urban activities in urban areas.*
- *To provide transitional arrangements for permit applications made to the responsible authority before 19 May 2004.*
- *To provide deeming provisions for metropolitan green wedge land.*

Pursuant to Clause 51.02-3, the responsible authority may approve subdivision of land to create a lot that is smaller than the minimum area specified under the zone if the subdivision the subdivision is the *re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.*

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#### 4.5.2. Clause 52.17 - Native Vegetation

Clause 52.17 does not contain any permit triggers relating to the proposed boundary realignment. A review against this provision is included in response to Council’s request for further information.

The purpose of this Clause is:

- *To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):*
  1. *Avoid the removal, destruction or lopping of native vegetation.*
  2. *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
  3. *Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*
- *To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.*

Pursuant to Clause 52.17-1, a permit is required to remove, destroy or lop native vegetation, including dead vegetation. A wide range of exemptions apply under Clause 52.17-7. The following exemptions are relevant:

|                           |   |
|---------------------------|---|
| <b>Fences</b>             | <p><i>Native vegetation that is to be removed, destroyed, or lopped to the minimum extent necessary to enable:</i></p> <ul style="list-style-type: none"> <li>• <i>the operation or maintenance of an existing fence; or the construction of a boundary fence between properties in different ownership.</i></li> <li>• <i>The clearing along both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other side of the fence.</i></li> </ul> |
| <b>Planted vegetation</b> | <p><i>Native vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding.</i></p> <p><i>This exemption does not apply to native vegetation planted or managed with public funding for the purpose of land protection or enhancing biodiversity unless the removal, destruction or lopping of the native vegetation is in accordance with written permission of the agency (or its successor) that provided the funding.</i></p>  |
| <b>Site area</b>          | <p><i>Native vegetation that is to be removed, destroyed or lopped on land, together with all contiguous land in one <u>ownership</u>, which has an area of less than 0.4 hectares.</i></p> <p><i>This exemption does not apply to native vegetation on a roadside or rail reservation.</i></p>   |

#### 4.6. General Provisions

Clause 65.02 includes general decision guidelines that apply to an application to subdivide land. In light of the type of proposed subdivision, the relevant decision guidelines are limited to the following:

- *The existing use and possible future development of the land and nearby land.*
- *The availability of subdivided land in the locality, and the need for the creation of further lots*
- *The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.*
- *The density of the proposed development.*
- *The area and dimensions of each lot in the subdivision.*

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## 5. Planning Assessment

### 5.1. Overview

There are no planning policies or controls that specifically deal with a boundary realignment of the type proposed. Due to the Subject Site's location within the Green Wedge, there are broad planning policies that seek to prevent inappropriate use and development from occurring within this area. A response to the relevant planning policies is set out at **Section 5.2**.

The Green Wedge Zone includes a number of specific decision guidelines. Whilst there are decision guidelines that relate to subdivision, there are not specific directions relating to a boundary realignment (re-subdivision). A detailed assessment against the relevant decision guidelines is set out at **Section 5.3**.

In Council's RFI, it raised a number of questions relating to the proposal's potential impact on the natural environment, specifically on whether any significant native vegetation may be "deemed lost" as a result of the boundary realignment. Following a detailed biodiversity assessment, the proposal will not result in any unreasonable impact on existing native vegetation. A detailed discussion is provided at **Section 5.4**.

### 5.2. Planning Policies

There are no planning policies within the Cardinia Planning Scheme that provides specific directions for re-subdivision (boundary realignment).

The proposal seeks the resubdivision of existing lots. It does not include any change of use, development or vegetation removal. The proposed layout is more regular, logical and will provide better delineation of property boundaries.

As no formal agricultural uses currently occur on the land, the proposal will not result in the fragmentation of agricultural land. It should be noted that the proposal will not result in any creation of any additional dwellings to be constructed on the land. It will

- Providing a physical buffer that can be more easily controlled and accessed by the quarry to mitigate any potential land use conflicts. This includes the prevention of unauthorised access by people or animals;
- Provide clearly identifiable boundaries to facilitate future installation and ongoing maintenance of new fencing that would prevent unauthorised access. In some instances, the new fence will replace existing fence. It should be noted that the management of approximately 140m of boundary (this being the approximate total length of the new rear boundaries for 7 and 9) is much more effective than current extent of approximately 1,000m of common boundaries;
- Allow the Quarry convenient access to the dam at the rear of 7 Pioneer Road for management purposes. Currently access is required following significant rainfall events for management purposes;
- By removing animals from the rear area of 7 Pioneer Road, it allows the quarry to maintain the paddock in a more efficient way. Due to the presence of animals, using of chemicals as part of the paddock management is constrained

The resulting 7 and 9 Pioneer Road will continue to be of generous proportions and readily accommodate all effluent treatment within the proposed title boundaries. At these sizes, these lots will continue to provide housing without any unreasonable impact on the local environment.

The following section is provided in response to Council's specific requests dated 6 August 2024.

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*Clause 11.03-3S – Peri-Urban Area*

The objective of this Clause is to *manage growth in peri-urban areas to protect and enhance their identified valued attributes.*

The Site located outside of the urban growth boundary ('UGB') for Lang Lang. The UGB demarcates land that is strategically important for a variety of reasons and ought to be protected. The Site is zoned Green Wedge, which supports the objective of this Clause by regulating permissible land uses.

The resubdivision proposal will not result in any change to the current land use. Should the land use change on any of the resultant lots, the land use(s) must satisfy the Section 173 Agreement affecting the lot and any the requirements of the Green Wedge Zone (which is discussed in more detail at Section 5.3).

*Clause 13.07-1S – Land Use Compatibility*

The objective of this Clause is to *protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential off-site impacts.*

The proposal is for a rearrangement of existing lot boundaries. No changes are proposed to the existing land uses. Such this Clause is not relevant to the consideration of this request.

Notwithstanding the above, under the current Green Wedge Zoning of the land, a range of strict prohibitions / conditions apply to how the land may be used. It would ensure, through future land use application (if required) compatibility of land use(s) of the Site.

*Clause 14.03-1S – Resource Exploration and extraction*

The objective of this clause is to *encourage exploration and extraction of natural resources in accordance with acceptable environmental standards.*

Part of the area subject to this request is currently operating as a sand quarry under Planning Permit T140337 and Work Authority WA1516. The applicable statutory approvals include a range of conditions to protect established residential uses along Pioneer Road from the approved extractive activities, and to ensure the protection of the sensitive Lang Lang River corridor environs.

The resubdivision will not result in any changes to the established buffer and/or environmental protection requirements. As such the applicable objective is met.

*Clause 22.02 – Sand Extraction – Lang Lang to Grantville Region*

This policy recognises that the Lang Lang to Grantville region contains significant sand resources. The extraction of this resource will have significant economic, social and environmental effects on the area.

The proposal aligns with this policy (as relevant) in the following way:

- The resubdivision will not result in the approved statutory approvals for the sand quarry. In particular, it will not introduce potential future land use conflicts by reducing the buffer between extractive and residential activities;
- The current extraction activities are undertaken in accordance with a range of conditions to protect the amenity of existing nearby residential uses. The resubdivision will not have any impact on the Quarry's ability to continue to comply with these conditions.

- Based on the native vegetation assessment, the Site does not contain any significant biodiversity;
- The proposal will have no impact on the amenity, including visual, of existing and future residents of the locality. The conditions associated with the current statutory approvals for the quarry will continue to apply. Significant landscaping buffers have already been established as part of the establishment of the quarry.

#### *Clause 52.08 – Earth and Energy Resources Industry*

The Purpose of this Clause is to:

- *To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.*
- *To ensure that geothermal energy extraction, greenhouse gas sequestration, mining and petroleum production are not prohibited land uses.*
- *To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses.*

The proposal does not alter the current uses of the land. Although 65 Pioneer Road is currently used for a sand quarry, the proposed resubdivision will not in any way impact the existing operations at the Site. The consolidation of and rationalisation of common boundaries will protect the existing quarry from potentially incompatible land uses in future.

#### *Clause 52.09 – Extractive Industry and Extractive Industry Interest Area*

The Purpose of this Clause is to:

- *To ensure that use and development of land for extractive industry does not adversely affect the environment or amenity of the area during or after extraction.*
- *To ensure that excavated areas can be appropriately rehabilitated.*
- *To ensure that stone resources, which may be required by the community for future use, are protected from inappropriate use and development.*

Pursuant to Clause 52.09-1, this Clause applies to an application to develop land within 500 metres of, *inter alia*, within 500 metres of an existing extractive industry operation.

Given the nature of the proposal, no referral is triggered under Clause 52.09-3. The application requirements under Clauses 52.09-2, Clause 52.09-4, Clause 52.09-6 do not apply.

The proposal will not have any adverse impact on the Purpose to this Clause.

Pursuant to Clause 52.09-7, for an application to subdivide land, notice must be given in accordance with section 52(1)(c) of the Act to the Secretary of the department administering the *Mineral Resources (Sustainable Development) Act 1990*, this being the person specified as the person to be notified in Clause 66.05.

### **5.3. Green Wedge Zone**

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Pursuant to clause 35.04-1, more than 1 dwelling per lot is a prohibited use within the GWZ. As 7 and 9 Pioneer Road each contains an existing dwelling, any additional dwelling is prohibited on this lot. 65 Pioneer Road is currently used for a sand quarry. The additional land area to be transferred to this lot would not be able to accommodate a dwelling given the buffer distance requirements associated with the quarry. As such, the proposal does not result in an increase in the number of dwellings that the Subject Site could be used for. For this reason, the boundary realignment is not a prohibited type of subdivision pursuant to Clause 35.04-2. However, due to the total number of lots that form part of this proposal, it is not a class of VicSmart application.

As the proposal does not seek to alter, nor will it result in changes to existing land uses of the Subject Site, only a limited number of decision guidelines<sup>2</sup> are relevant in this matter. In particular:

- As set out in **Section 5.2** above, the proposal meets the policy objectives of the limited number of applicable planning policies;
- The resulting lot sizes and dimensions is generally consistent with the established pattern of subdivision in surrounding area;
- The realignment of 7 Pioneer Road's northern boundary will not result in any unreasonable amenity impact from the existing sand quarry at 65 Pioneer Road. The applicable Work Authority includes a range of condition to mitigate any unreasonable acoustic, dust and visual impacts. The required bund has already been constructed. The redistribution of surplus land from 7 to 65 Pioneer Road will further ensure the quarry has control the required buffer areas, thus further limiting the potential for land use conflicts to arise;
- The boundary realignment will not increase demand on the area's existing infrastructure;
- No part of the Subject Site is currently used for agricultural purposes,
- The Subject Site does not currently contain any significant vegetation. There is also no proposal to remove any vegetation;
- No changes are required to the existing effluent treatment arrangement at 7 and 9 Pioneer Road.

There are no valid planning reasons to refuse a resubdivision of this type, particularly where the proposal will make a positive contribution to the long-term management of the land, and supports the purpose of the zone. Most importantly, the creation of a large consolidated lot supported by applicable planning policies (as outlined at Section 5.2) and the Decision Guidelines of the GWZ. In particular:

- The proposal does not remove, reduce or fragment any productive agricultural land.
- The proposal will support the management of natural resources. In the immediate term, the resubdivision supports the current use and management of part of the site as a sand quarry, In the longer term, it creates additional opportunities for the rehabilitation and reuse of the quarry site.
- The creation of larger lots within the GWZ should be supported based on its longer term opportunities to accommodate sustainable agricultural or extractive industry uses, the improved ability to mitigate any unreasonable off-site amenity impacts within the land's title boundaries.

#### 5.4. Impact on Vegetation

The proposal does not seek the removal of any vegetation from the Site.

In response to Council's request for further information, a biodiversity assessment has been completed for the Subject Site. It found the following:

- There is very little indigenous vegetation across the property;

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<sup>2</sup> Which includes reference to the relevant provisions of the Clause 65. In this case, as outlined in Section 4, a limited number of decide guidelines of Clause 65.02 is relevant.



- A total of 48 trees were recorded within the Subject Site;
- Almost all trees are planted;
- The remnant trees (Trees 8, 39, 40 and 41) within the Subject Site are scattered across the paddock at the rear of existing 7 Pioneer Road (i.e. area proposed to be redistributed to 65 Pioneer Road);
- There is existing fence along all proposed new boundaries;
- Almost all trees are more than 2m from the existing fence lines/proposed new boundary;
- Tree 34 and Group G3 are less than 2m from existing fence lines/proposed new boundary.

Aerial, site photos and map of assessed trees are provided within the accompanying ABZECO report.

Given the assessment, it is evident that the boundary realignment will have no net impact on existing vegetation on the Subject Site. It is noted that:

- Pursuant to Clause 52.17-1, no permit is required to remove vegetation that is not native to Victoria;
- Pursuant to Clause 52.17-7, native vegetation along an existing fence (up to 4 metres) can be removed without a permit. The ABZECO report has considered what vegetation would already be “deemed lost” given the existing fencing on the Subject Site. It has done so by applying a 2 metre buffer on either side of an existing fence. By doing so, it has found that Group G3 and Tree 34 are already considered to be “deemed lost”.
- It is noted that this exemption can be applied to allow a clearing of up to 4 metres along one side and then up to 1 metre on the other side of the fence. For this reason, additional trees will need to be considered. All of these trees have been identified at **Section 2.2** of this report. All of these trees are planted species, which are also exempt from permit requirements under Clause 52.17-7. For this reason, they are already “deemed lost”.

In addition to Clause 52.17-7, additional vegetation<sup>3</sup> removal permit triggers exist under SLO3. Given the height and locations of some of the trees, a permit would be required under the SLO3 to remove some of the trees along the proposed new title boundaries.

As this proposal does not seek to remove any vegetation from the Subject Site, no planning permit is triggered.

## 5.5. Impact on Waterways

The proposal does not include any works that would result in a change in natural ground levels. The re-subdivision seeks the rearrangement of common lot boundaries a significant distance from land affected by the LSIO.

Given the above, the proposal will not result in any changes to the floor level.

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<sup>3</sup> All vegetation, not limited to native vegetation

## 6. Conclusion

The proposed re-subdivision (realignment of boundaries) will not result in any unreasonable impact on Green Wedge land. The proposed subdivision sizes are consistent with the existing lot sizes.

As demonstrated in this report, the proposed re-configuration of existing boundaries presents a logical rearrangement of title boundaries. It will not result in any unreasonable impact on the existing land uses occurring on the Subject Site.

The proposal is worthy of Council's support.

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## Appendix A – Title Documents

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