

3 TWO (2) LOT BOUNDARY REALIGNMENT AT 450 SEVEN MILE ROAD, NAR NAR GOON

FILE REFERENCE INT2033843

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Dean Haeusler

RECOMMENDATION

That a Refusal to Grant Planning Permit T190501 be issued for Two (2) lot boundary re-alignment at 450 Seven Mile Road, Nar Nar Goon VIC 3812 on the following grounds:

- Fragmentation of productive agricultural land; and
- Impact to existing agricultural land uses.

Attachments

- | | | |
|---|------------------------------|---------|
| 1 | Locality Map | 1 Page |
| 2 | Proposed Plan of Subdivision | 2 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T190501
APPLICANT:	Mrs Tarryn McCann
LAND:	450 Seven Mile Road, Nar Nar Goon VIC 3812
PROPOSAL:	Two (2) lot boundary re-alignment.
PLANNING CONTROLS:	Green Wedge Zone Schedule 1 Land Subject to Inundation Overlay
NOTIFICATION & OBJECTIONS:	Section 52 Notice to adjoining neighbours, no objections received. Section 55 referral to Melbourne Water. No objection and no conditions required.
KEY PLANNING CONSIDERATIONS:	Agricultural land fragmentation Protection of existing agricultural uses
RECOMMENDATION:	Refusal

BACKGROUND:

- Planning permit application T190110 for the re-subdivision of the land into two (2) lots lapsed 13 August 2019.
- Planning permit application T110665 for use and development of a broiler farm (220,00 birds) lapsed 18 March 2014.

SUBJECT SITE

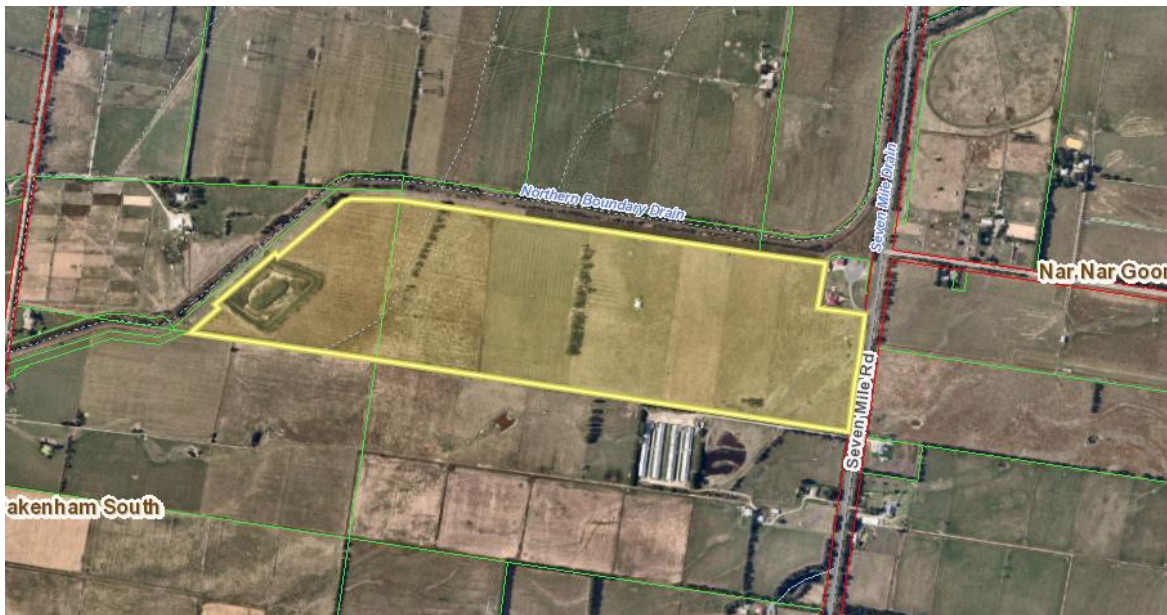


Figure 1: Site context plan

The subject site comprises two allotments legally identified as lot 2, PS520637 (37.56 hectares) and lot 2, TP834278 (9.62 hectares) and located on the western side of Seven Mile Road. Approximately 4 kilometres south of the Nar Nar Goon township.

A single rural crossover is located toward to north-east of the frontage that services the allotments both used from grazing agriculture.

The site currently contains one agricultural building (hay shed) and scattered vegetation.

The topography of the land is generally flat.

The area is characterised by established rural properties with a variety of horticultural and agricultural uses on medium to large sized allotments. The surrounding properties are identified as follows:

North	Northern Boundary Drain; grazing parcels containing agricultural buildings
East	Seven Mile Road; agricultural parcels – one containing a dwelling and associated buildings
South	Broiler farm and dwelling (approx. 155,000 bird capacity)
West	Northern Boundary Drain, Agricultural allotment containing dwelling and agricultural buildings

PROPOSAL

Approval is sought to realign the boundaries between the two undeveloped lots under the same ownership at 450 Seven Mile Road.

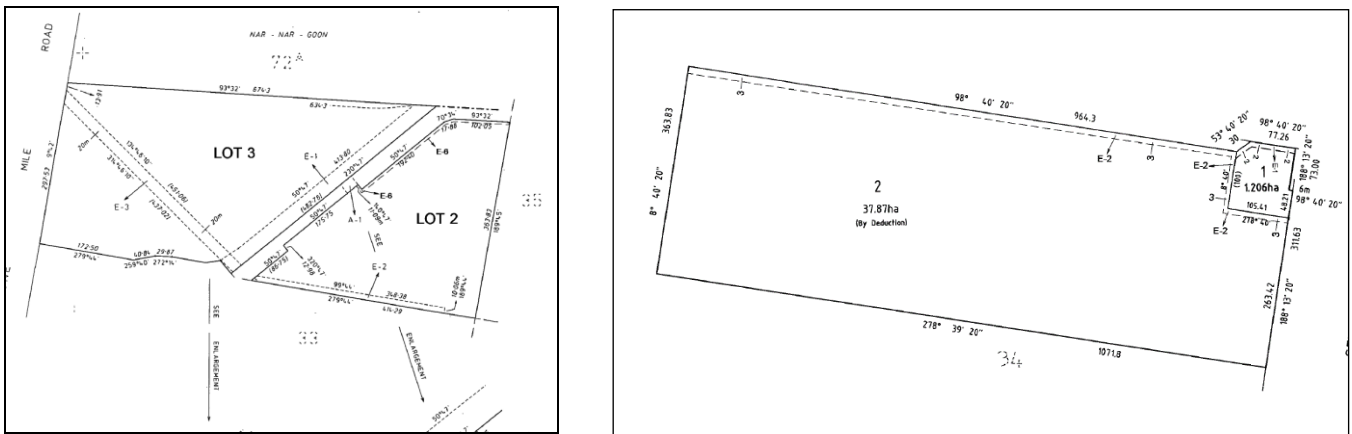


Figure 1: Existing lots

The realignment will alter the boundaries between Lot 2 of PS5206372 (37.56 hectares) and Lot 2 of TP834278 (9.62 hectares) to create lot 1 located with frontage of 151 metres to Seven Mile Road and depth of 106.58 metres.

Proposed lot 2 will form the remainder of the land totalling 45.78 hectares with a road frontage of 112.42 metres and maximum depth along the southern boundary of 1486.09 metres.

The proposed realignment is shown below:

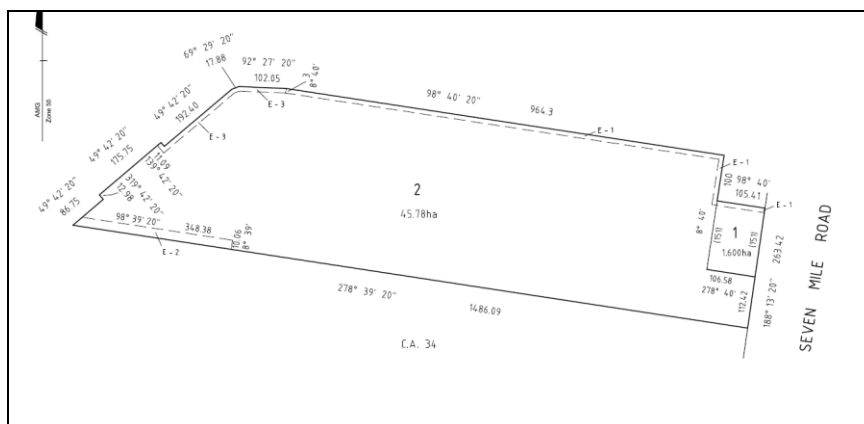


Figure 2: Proposed plan of subdivision

PLANNING SCHEME PROVISIONS

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 14.01-1 Protection of agricultural land

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 Municipal strategic statement
- Clause 21.04-2 Agriculture
- Clause 22.05 Western Port Green Wedge Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions
- Clause 65 Decision guidelines
- Clause 66 Referral and notice provisions

Cardinia Shire's Liveability Plan 2017-2029

There is no direct link with the proposal and liveability plan however it should be noted that the preservation of agricultural land in the shire increases the connection between locally grown food and its consumption, with a positive impact to overall health of wellbeing of residents. The proposed realignment does not reduce productivity land but contributes to its erosion.

Zone

The land is subject to the Green Wedge Zone Schedule 1

Overlays

The land is subject to the Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

The proposal for a two (2) lot boundary re-alignment requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04-3 of the Green Wedge Zone a planning permit is required to subdivide land
- Pursuant to Clause 44.04-3 of the Land Subject to Inundation Overlay, a planning permit is required to subdivide land.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land.

Council has received no objections to date.

REFERRALSMelbourne Water

The application was referred to *the* floodplain management authority as a statutory referral. The authority had no objection to the proposal and provided no conditions.

INTERNAL REFERRALS

Strategic

Currently pending referral response.

DISCUSSION

Clauses 14.01-1S (Protection of agricultural land) and 14.01-1R (Protection of agricultural land – Metropolitan Melbourne)

Clauses 14.01-1S (Protection of agricultural land) and 14.01-1R (Protection of agricultural land – Metropolitan Melbourne) have objectives and strategies that seek to protect and support areas of agricultural production.

The objective of Clause 14.01-1S (Protection of agricultural land) is to protect the state's agricultural base by preserving productive farmland. Key strategies in this policy are:

- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect strategically important agricultural and primary production land from incompatible uses
- Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

Additionally, Clause 14.01-1R aims to protect agricultural land in Metropolitan Melbourne's green wedges and peri-urban areas to avoid the permanent loss of agricultural land in those locations.

The boundary realignment will consolidate the majority of land to one allotment, while 1.6 hectares is reserved for the second allotment where both lots will front Seven Mile road.

No specific basis for the subdivision has been given however it is considered each existing parcel is sufficiently large and capable of being used for agricultural purposes in accordance with the purpose of this area.

The realignment consolidates a large portion of land which is likely to improve the agricultural viability of one parcel but consequently diminish or remove the productive value of the smaller parcel as separate disposal of this parcel will likely have little agricultural potential.

The fragmentation of productive land and limited viability that is created will likely increase the chance of non-rural uses in an otherwise highly-productive area of the Shire resulting in permanent loss of agricultural land. While most uses will require further planning permission, the proposed realignment will erode agricultural potential and improve the prospects of alternative land use.

Further Indirect impacts include the limitation on the expansion of existing rural uses and conflict with established uses such as the broiler farm on adjoining land at 500 Seven Mile Road that has an estimated capacity of 155,000 birds (based on Broiler Code calculations).

In summary, it is submitted that the proposal does not align with the strategies of this policy in protection of agricultural land and off-site impacts that are facilitated as a result of this proposal.

Clause 21.04-2 (Agriculture)

Clause 21.04-2 (Agriculture) provides local content to support Clause 14.01 of the Planning Policy Framework. The objective of Clause 21.04-2 is to maintain agriculture as a strong and sustainable economic activity within the municipality.

The following strategies give effect to the policy objective:

- Protect agricultural land, particularly areas of high quality soils, from the intrusion of urban uses, inappropriate development and fragmentation which would lead to a reduction in agricultural viability, the erosion of the right of farmers to farm land, and ultimately the loss of land from agricultural production.
- Recognise the growing demand for food, both domestically and internationally, and capitalise on opportunities to export fresh produce and processed food products.

The realignment does not align with the purpose of this policy in minimising intrusion of urban uses, fragmentation and erosion of the 'right to farm' as discussed in the assessment of Clause 14.01-1.

The proposal does not demonstrate an improvement in agricultural carrying capacity and there is no evidence presented to Council to suggest the current arrangement cannot be farmed. As a result, the realignment will likely undermine the capacity for surrounding agricultural land use through non-rural use of the land.

Clause 22.05 - Western Port Green Wedge Policy and Westernport Green Wedge Management Plan

This policy was introduced to give guidance in relation to the protection and management of the Western Port Green Wedge and further emphasise the objectives of Clause 21.04-2. A key vision contained in Clause 22.05 provides:

The Cardinia Western Port Green Wedge will be a permanent green and rural area. It will remain an internationally significant biodiversity habitat, while also strengthening its agricultural and horticultural role to become a truly innovative and productive farming district. Agriculture, horticulture and soil based food production for the long-term food security of Victoria is at the heart of this vision.

The relevant objectives include:

- To give effect to Council's vision for the Cardinia Western Port Green Wedge.
- To provide guidance and clear direction for preferred land uses for each of the 3 precincts.
- Further, relevant policies include that all use and development proposals within the green wedge should:
- Ensure that green wedge soils and their versatility are recognised as a finite resource and are protected accordingly.
- Maintain and protect the highly productive agricultural land from incompatible uses including non-soil based farming.

The subject site is located within Precinct 1, specifically identified for agriculture, horticulture and soil-based food production.

The vision of the precinct identifies this area as the hub of horticultural and agricultural food production to take advantage of highly versatile soils. Future direction for this precinct include encouraging lot consolidation to improve agricultural viability.

The proposal doesn't explicitly contradict the vision or future direction but does not further the principals of the strategy in protecting green wedge soils and protecting highly productive land. Through the approval of this form of boundary realignment, gradual fragmentation is encouraged that creates rural-residential style allotments that do not increase land productivity and effectively price-out neighbouring farms from consolidation and expansion opportunities.

Holistically, the proposal undermines the protective purpose of this Management Plan and is contrary to its vision of this precinct.

Green Wedge Zone - Schedule 1

The purpose of this zone includes:

- implementation of the planning policy framework;
- providing 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.

The schedule to the zone requires each lot be at least 40 hectares for subdivision applications however a permit may be granted to create smaller lots if the subdivision is the re-subdivision of existing lots provided:

- No additional lots are created.
- The potential to create new lots is not increased.
- The potential for the number of dwellings is not increased.

The proposal meets the technical requirements of the zone and does not increase lot capacity from the property or increase the potential number of dwellings however it is submitted that the proposal does not meet the objectives of the zone.

Relevant decision guidelines include:

Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses

The subdivision of the land in isolation is not expected to impact adjoining land uses

The maintenance of agricultural production and the impact on the rural economy

The subdivision is expected to undermine the rural economy through fragmentation and sale of smaller parcels.

The impact on the existing and proposed rural infrastructure.

The realignment will have no direct impact to rural infrastructure however the alignment and size of lot 1 may result in off-site effects to neighbouring farming properties.

It is anticipated the adjacent broiler farm would be impacted should this lot be used for residential purposes given the proximity to the farm and buffer zone to sensitive uses based on estimated bird numbers. It should be noted broiler farms can be contentious land uses and any introduction of sensitive land uses may compromise the ability to operate and expand.

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.

While not explicitly an 'expansion', flow-on effects of the proposal alignment would limit potential rural land uses, encouraging non-rural land use applications for the site.

The protection and retention of land for future sustainable agricultural activities.

The resubdivision does not contribute to the ongoing protection and retention of land for future agricultural use.

Clause 44.04 Land Subject to Inundation Overlay

The purpose of this overlay includes:

- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

In approving the proposed subdivision, Melbourne Water have determined that the proposal will not redirect or obstruct floodwater, stormwater or drainage water and will not have any significant impact on flood storage or increase flood levels or the flow velocities. The proposed boundary realignment will not have an impact on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance as it does not involve any physical change to the property.

No conditions were required as part of Melbourne Water consent.

CONCLUSION

The relevant provisions of the Planning Scheme seek to preserve the agricultural values of the Western Port Green Wedge area given the existence of high quality soils required for horticultural activities and proximity to Metropolitan Melbourne, including its transportation and distribution networks.

Through the proposed realignment, incremental land fragmentation is established through the creation of a 1.6 hectare lot. This will likely diminish future agricultural use of the site and reduce carrying capacity to a point that agricultural use would not be viable and rural-residential use would ultimately transpire.

The resultant subdivision proposal would reinforce the rural residential allotments based on current land use decisions, assuring two lots with high quality soil are limited in their capacity to be effectively farmed, resulting in a loss of productivity and employment.

It is expected that a subdivision of this arrangement would further compound any existing residential/agricultural tensions in the context of particularly sensitive surrounding land uses.

This is not consistent with the purpose of the zone or prevailing policies that overwhelmingly seek to prevent these type of uses. It is further contrary to the strategic direction of state policy and the significant research and consultation undertaken in the implementation of the Western Port Green Wedge Policy to recognise the value of highly productive farming areas.

Accordingly, it is recommended that a Refusal to Grant Planning Permit T190501 be issued for a Two Lot Subdivision (boundary re-alignment) at 450 Seven Mile Road on the following grounds:

1. The proposal is inconsistent with Clause 14.01-1 “Protection of agricultural land” of the Planning Policy Framework,
2. The proposal is inconsistent with Clause 21.06-2 - Agriculture local policy),
3. The proposal is inconsistent with the purposes of the Green Wedge Zone -
4. Schedule 1, which aim to protect agricultural land from the intrusion of urban uses, inappropriate development and fragmentation.

T190501 PA Locality Map



Legend

- +— Railway
- Roads**
 - Freeway
 - Highway
 - Major Road
 - Minor Road
 - - 4WD
 - PROPOSED
- Lakes <50k
- Town Boundary
- LGAs
- Open Spaces (gener)
- Bunyip State Park
- Ocean

Notes




19-Mar-2020

1: 12,564

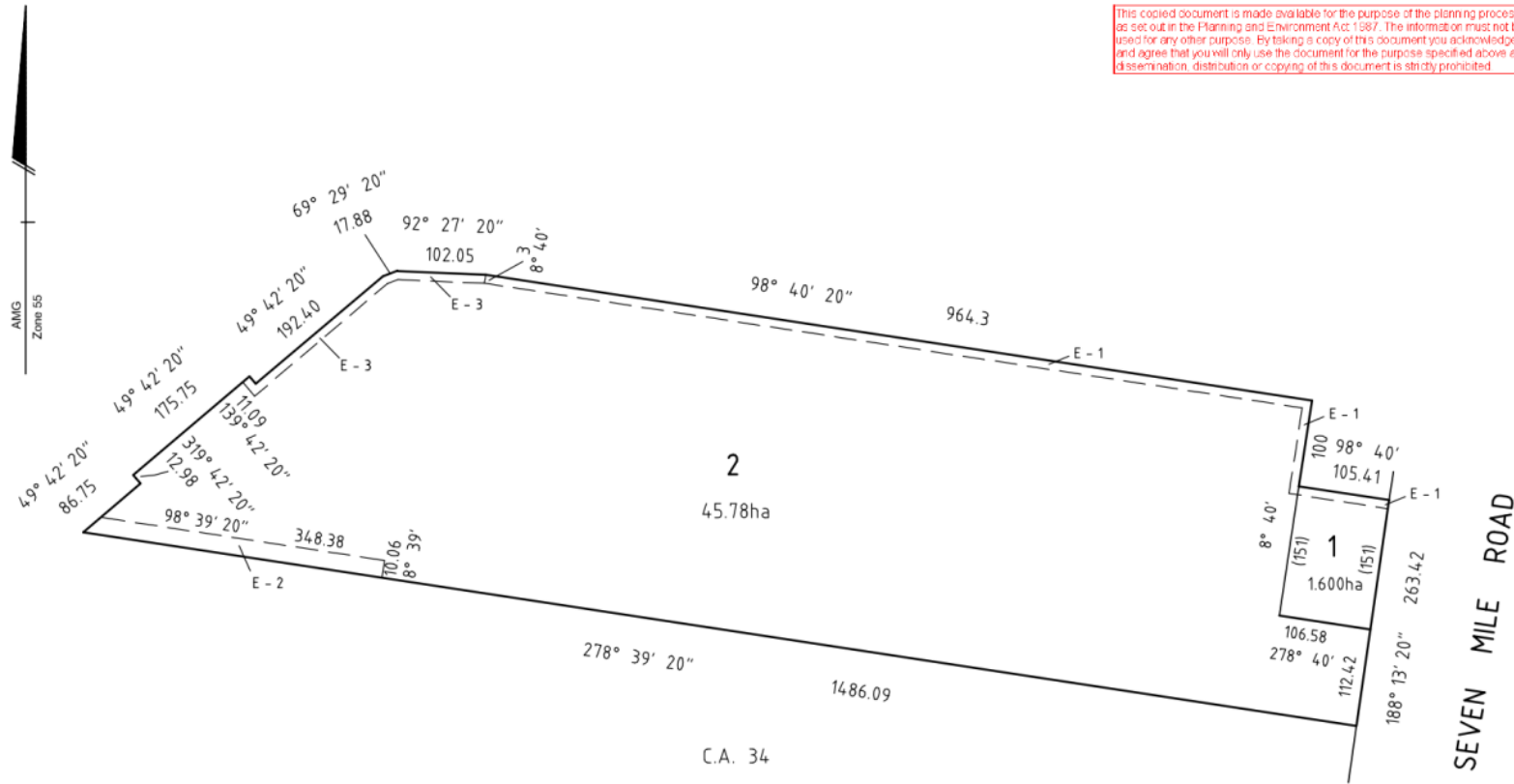
Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL



PLAN OF SUBDIVISION		EDITION 1	PS 829796 G	
LOCATION OF LAND PARISH: Koo Wee Rup TOWNSHIP: SECTION: H CROWN ALLOTMENT: 35, 35A, & 36 (Pts) CROWN PORTION: TITLE REFERENCE: Vol. 11235 Fols. 549 & 684 LAST PLAN REFERENCE: Lot 2 PS 520637A & Lot 2 TP 834278N POSTAL ADDRESS: 500 Seven Mile Road, Nar Nar Goon 3812 (at time of subdivision) MGA CO-ORDINATES: E: 373 400 ZONE: 55 (of approx centre of land N: 5 779 360 GDA 94 in plan)		Council Name: Cardinia Shire Council <div style="border: 1px solid red; padding: 2px; font-size: small;"> This copied document is made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The informant must not be used for any other purpose. By taking a copy of this document you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited. </div>		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON			
Nil	Nil			
NOTATIONS				
DEPTH LIMITATION: 15.24m Below the Surface				
SURVEY: This plan is not based on survey. STAGING: This is not a staged subdivision. Planning Permit No. This survey has been connected to permanent marks No(s). In Proclaimed Survey Area No. 71				
EASEMENT INFORMATION				
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
Easements and rights implied by Section 12(2) of the Subdivision Act 1988 apply to all of the land in this plan.				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	Water Supply	3	AH573452G	VOL.6030 FOL.980
E-2	Water Supply & Drainage	10.06	C/E E814513	State Rivers & Water Supply Commission
E-3	Water Supply	3	AH573453E	Lot 3 on TP 834278 N
NOBELIUS LAND SURVEYORS  P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 mail@nobelius.com.au		SURVEYORS FILE REF: 10079 LICENSED SURVEYOR: R. P. NOBELIUS VERSION C		ORIGINAL SHEET SIZE: A3 SHEET 1 OF 2

PS 829796 G

This copied document is made available for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By taking a copy of this document you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited.



NOBELIUS LAND SURVEYORS



P.O. BOX 461
PAKENHAM 3810
Ph 03 5941 4112
mail@nobelius.com.au

SCALE
1:1000



ORIGINAL SHEET
SIZE: A3

SHEET 2

LICENSED SURVEYOR: R. P. NOBELIUS
VERSION C