

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	295 & 305 Railway Road, Koo Wee Rup VIC 3981 L26 LP5597 V11329 F608
The application is for a permit to:	Boundary Re-alignment (2 existing lots)
The applicant for the permit is:	Nobelius Land Surveyors Pty Ltd
The application reference number is:	T230379
You may look at the application and any documents that support the application at the office of the Responsible Authority:	<p>Cardinia Shire Council 20 Siding Avenue Officer 3809</p> <p>This can be done during office hours and is free of charge.</p> <p>Documents can also be viewed on Council's website: https://www.cardinia.vic.gov.au/advertisedplanningapplications</p>

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
- * be sent to the Responsible Authority in writing, at Cardinia Shire Council, PO Box 7, Pakenham, Vic, 3810 or email at mail@cardinia.vic.gov.au.
 - * include the name and address of the objector/ submitter.
 - * include the application number and site address.
 - * include the reasons for the objection, and
 - * state how the objector would be affected.

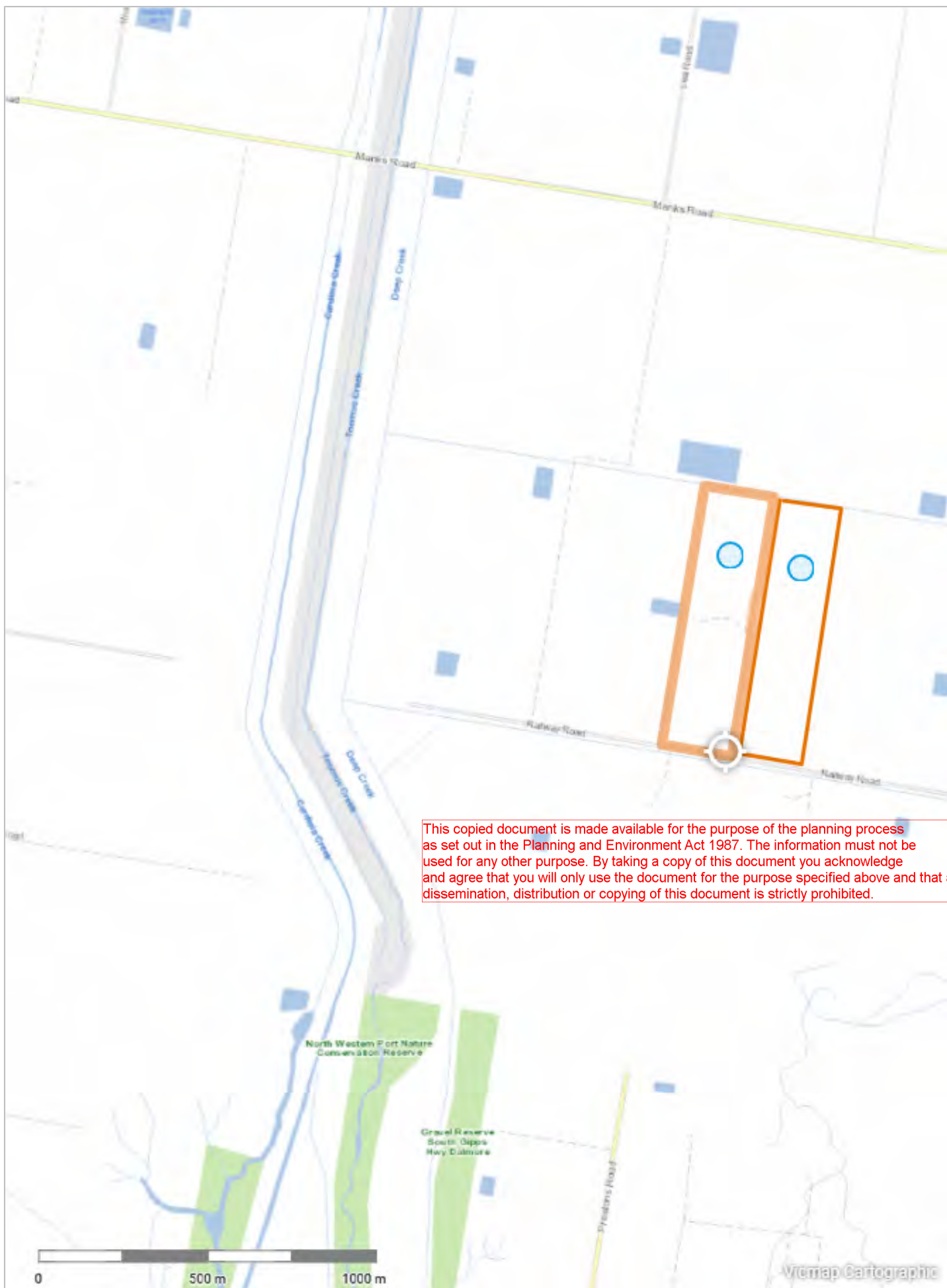
The Responsible Authority will not decide on the application before:	11 March 2024
--	---------------

If you object, the Responsible Authority will tell you its decision.

Please be aware that copies of objections/submissions received may be made available to any person for the purpose of consideration as part of the planning process.

For additional information or advice contact Cardinia Shire Council, Planning Department on 1300 787 624 or mail@cardinia.vic.gov.au.

Your objection/submission and personal information is collected by Cardinia Shire Council for the purposes of the planning process as set out in the *Planning and Environment Act 1987*. If you do not provide your name and address, Council will not be able to consider your objection/submission. Your objection/submission will be available free of charge at the Council office for any person to inspect and copies may be made available on request to any person for the relevant period set out in the *P&E Act*. You must not submit any personal information or copyright material of third parties without their informed consent. By submitting the material, you agree that the use of the material as detailed above does not breach any third party's right to privacy and copyright.



Application Summary

Portal Reference A32314FV

Basic Information

Proposed Use Two Lot Boundary Re-Alignment.
Current Use Existing dwelling & Outbuildings.
Site Address 295 Railway Road Koo Wee Rup 3981

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] Nobelius Land Surveyors Pty Ltd	PO BOX 461, Pakenham VIC 3810	W: 03-5941-4112 E: tarryn@nobelius.com.au
Owner	[REDACTED]		
Preferred Contact	[REDACTED] Nobelius Land Surveyors Pty Ltd	PO BOX 461, Pakenham VIC 3810	W: 03-5941-4112 E: tarryn@nobelius.com.au

Fees

Regulation Fee Condition	Amount	Modifier	Payable
9 - Class 9 VicSmart application to subdivide or consolidate land	\$214.70	100%	\$214.70
Total			\$214.70

Documents Uploaded

Date	Type	Filename
01-08-2023	Additional Document	Vol.3828 Fol.420.pdf
01-08-2023	Additional Document	Vol.11329 Fol.608.pdf
01-08-2023	Additional Document	Sub(TW) Ver A.pdf
01-08-2023	Additional Document	Railway Road Feature Plan.pdf



Civic Centre
20 Siding Avenue, Officer, Victoria

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

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

Email: mail@cardinia.vic.gov.au

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

☐ 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

Nobelius Land Surveyors P/L

PO BOX 461, Pakenham VIC 3810

W: 03-5941-4112

E: tarryn@nobelius.com.au

Submission Date

01 August 2023 - 03:28: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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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 8.30am–
5pm

Phone: 1300 787 624

After Hours: 1300 787 624

Fax: 03 5941 3784

Application to amend a current planning application



Application number:	T230379PA
Address of subject site	295 & 305 Railway Road, Koo Wee Rup VIC 3981

Pursuant to which section of the Planning and Environment Act 1987 is this amendment being made?		
Section 50:	Amendment to application at request of applicant before notice/advertising:	<input type="checkbox"/>
Section 50A:	Amendment to application at request of responsible authority before notice/advertising:	<input checked="" type="checkbox"/>
Section 57A:	Amendment to application after notice/advertising is given:	<input type="checkbox"/>

Applicant:	Nobelius Land Surveyors
Phone:	03 5941 4112
Email:	mail@nobelius.com.au
Postal Address:	20 Henry Street, Pakenham VIC 3810

What is the purpose of the amendment? Please list all changes:
Include both 295 & 305 Railway Road, Koo Wee Rup as part of this application.
Convert the current application from a VicSmart application to a standard planning permit application as a permit is required to subdivide land under Clause 44.04-3 (LSIO).
Substitute the previous proposed plan of subdivision PS916988M for an amended version noting that the powerline easement has been removed.

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Application to amend a current planning application



Declaration

I declare that all the information in this application is true and correct and the owner (if not myself) has been advised of the planning permit application.

Print name:

Signature:

Fees

Amendment in accordance with Section 50 or 50A

Nil

Amendment in accordance with Section 57A

40% of the fee applicable to the original permit class plus the difference in fees if the amendment changes the class of permit to that with a higher application fee.

Lodgement of application

Your application can then be sent via email, mail or submitted in person at Council's Civic Centre.

Assistance

If any assistance in completing this form is required, we recommend you contact Council's Statutory Planning Team on 1300 787 624 before lodging an application. Insufficient or unclear information may delay the processing of your application.

Note: Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of the planning process under the Planning and Environment Act 1987.

Cardinia Shire Council
Civic Centre
20 Siding Avenue, Officer

PO Box 7
Pakenham 3810 (DX 81006 Pakenham)

Phone: 1300 787 624
Email: mail@cardinia.vic.gov.au
Web: cardinia.vic.gov.au

National Relay Service (NRS)
TTY: 133 677 (ask for 1300 787 624)
Speak and Listen (speech-to-speech relay): 1300 555 727 (ask for 1300 787 624)

Translator Interpretation Service
131 450 (ask for 1300 787 624)

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

Page 1 of 1

VOLUME 03828 FOLIO 420

Security no : 124107831804V
Produced 24/07/2023 01:04 PM

LAND DESCRIPTION

Lot 27 on Plan of Subdivision 005597.
PARENT TITLE Volume 02689 Folio 656
Created by instrument 0757902 20/08/1914

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 LP005597 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: 305 RAILWAY ROAD KOO WEE RUP VIC 3981

DOCUMENT END

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PLAN OF SUBDIVISION
OF CROWN ALLOTMENTS 21,22,22^B & PARTS OF 17, 18 & 22^A
PARISH OF KOO-WEE-RUP
COUNTY OF MORNINGTON

VOL. 2689 FOL. 656
Measurements are in Links
Conversion Factor
LINKS X 0.201168 = METRES

APPURTENANCIES

AS TO LOT 27
TOGETHER WITH A RIGHT OF
DRAINAGE OVER THE LAND
COLOURED BLUE ON THIS
PLAN OF SUBDIVISION

ENCUMBRANCES

AS TO THE ROAD R1
ANY CARRIAGEWAY EASEMENTS
AFFECTING THE SAME

LP 5597

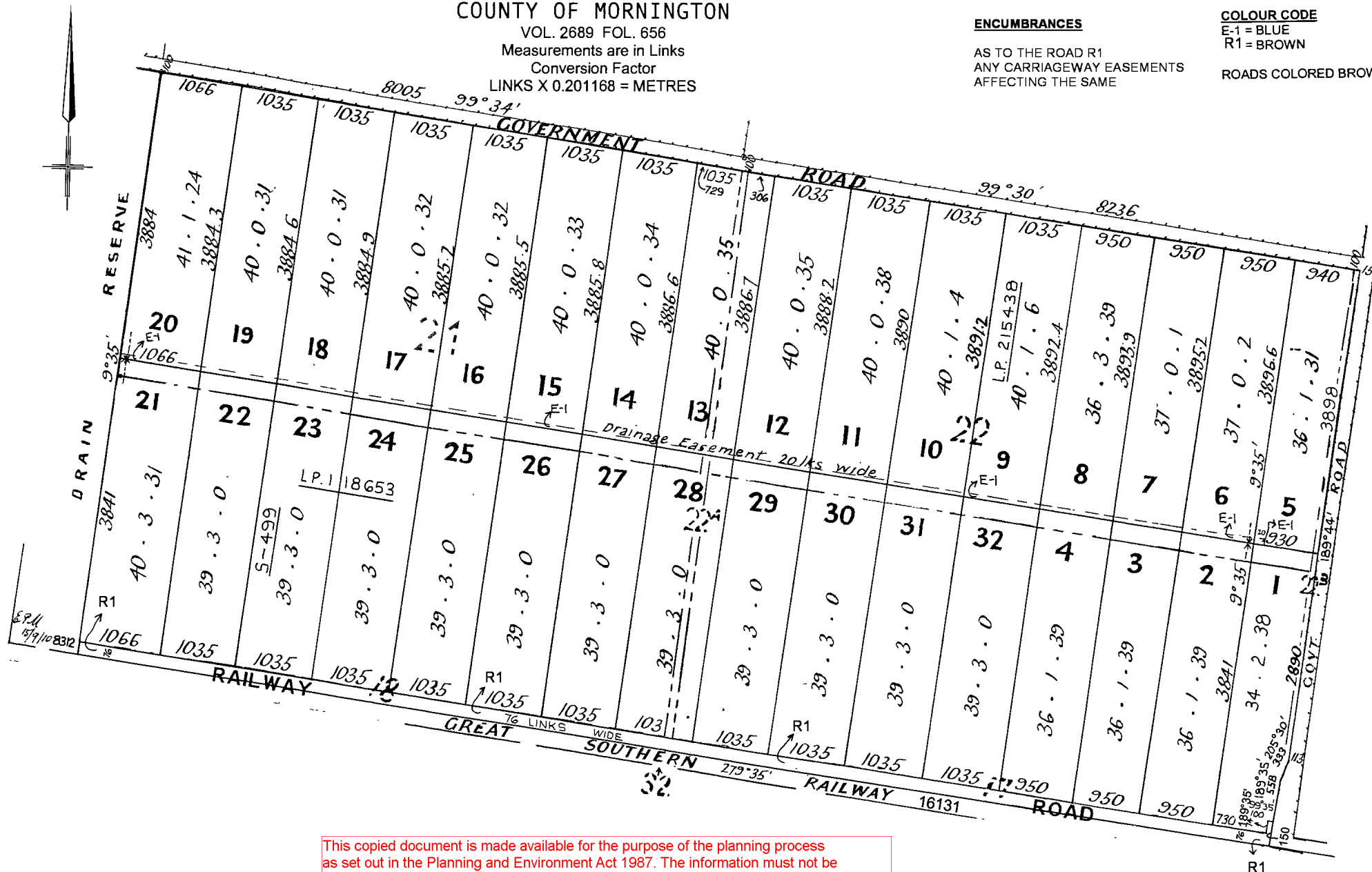
EDITION 4

PLAN MAY BE LODGED
04/10/11

COLOUR CODE

E-1 = BLUE
R1 = BROWN

ROADS COLORED BROWN



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RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

PLAN NUMBER

LP 5597

AFFECTED LAND/PARCEL	LAND/PARCEL IDENTIFIER CREATED	MODIFICATION	DEALING NUMBER	DATE	TIME	EDITION NUMBER	ASSISTANT REGISTRAR OF TITLES
LOT 27		APPURTENANCY NOTATION ADDED				2	AD
ROAD R1		EASEMENTS ENHANCED				3	AD
C.A. 21 (PARCEL IDENTIFIER)		RECTIFICATION (C.A. 21 IDENTIFIER AMENDED)	AG162570B			4	R.J.S.
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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 1

VOLUME 11329 FOLIO 608

Security no : 124107831736U

Produced 24/07/2023 01:03 PM

LAND DESCRIPTION

Lot 26 on Title Plan 474900C.

PARENT TITLE Volume 04035 Folio 881

Created by instrument AJ446231S 24/01/2012

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.

DIAGRAM LOCATION

SEE TP474900C 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: 295 RAILWAY ROAD KOO WEE RUP VIC 3981

ADMINISTRATIVE NOTICES

NIL

eCT Control 18030P DUFFY & SIMON

Effective from 20/03/2023

DOCUMENT END

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TITLE PLAN	EDITION 2	TP 474900C
Location of Land Parish : KOO-WEE-RUP Township : - Crown Allotments: 18 (PT) & 21 (PT) Section : - Base record : DCMB Last Plan Reference : LOTS 25 & 26 ON LP 5597 Derived From : VOL. 4035 FOL. 881 Depth Limitation : NIL		Notations <div style="border: 1px solid red; padding: 5px; margin-top: 10px;"> 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. </div> ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN
Description of Land/ Easement Information <p style="text-align: center;"><i>All that piece of Land, delineated and coloured</i></p> <p>red on the map in the margin, containing Seventy-nine acres and Two roods or -----</p> <p>thereabouts, being Lots 25 and 26 on Plan of Subdivision No.5597 lodged in the ----</p> <p>Office of Titles and being part of Crown Allotments Eighteen and Twenty-one Parish</p> <p>of Koo-wee-rup County of Mornington Together with a right of carriage way over --</p> <p>the road colored brown on said Plan of Subdivision and Together with a right of -</p> <p>drainage over the land colored yellow on the said map and a right to use any drain-</p> <p>which may be cut thereon for the passage or conveyance of water and drainage from -</p> <p>the said land colored red, or from all or any or either of the Lots on the said Plan</p> <p>of Subdivision with the right to enter upon the said land colored yellow for the --</p> <p>purpose of cutting drains thereon and of removing any obstruction to such passage</p> <p>or conveyance -----</p>		THIS PLAN HAS BEEN PREPARED BY LAND REGISTRY, LAND VICTORIA FOR TITLE DIAGRAM PURPOSES COMPILED: Date 12/05/05 VERIFIED: A. DALLAS Assistant Registrar of Titles COLOUR CODE BL=BLUE G=GREEN BR=BROWN P=PURPLE Y=YELLOW R=RED
LENGTHS ARE IN LINKS	Metres = 0.3048 x Feet Metres = 0.201168 x Links	Sheet 1 of 1 Sheets

MODIFICATION TABLE


RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

PLAN NUMBER

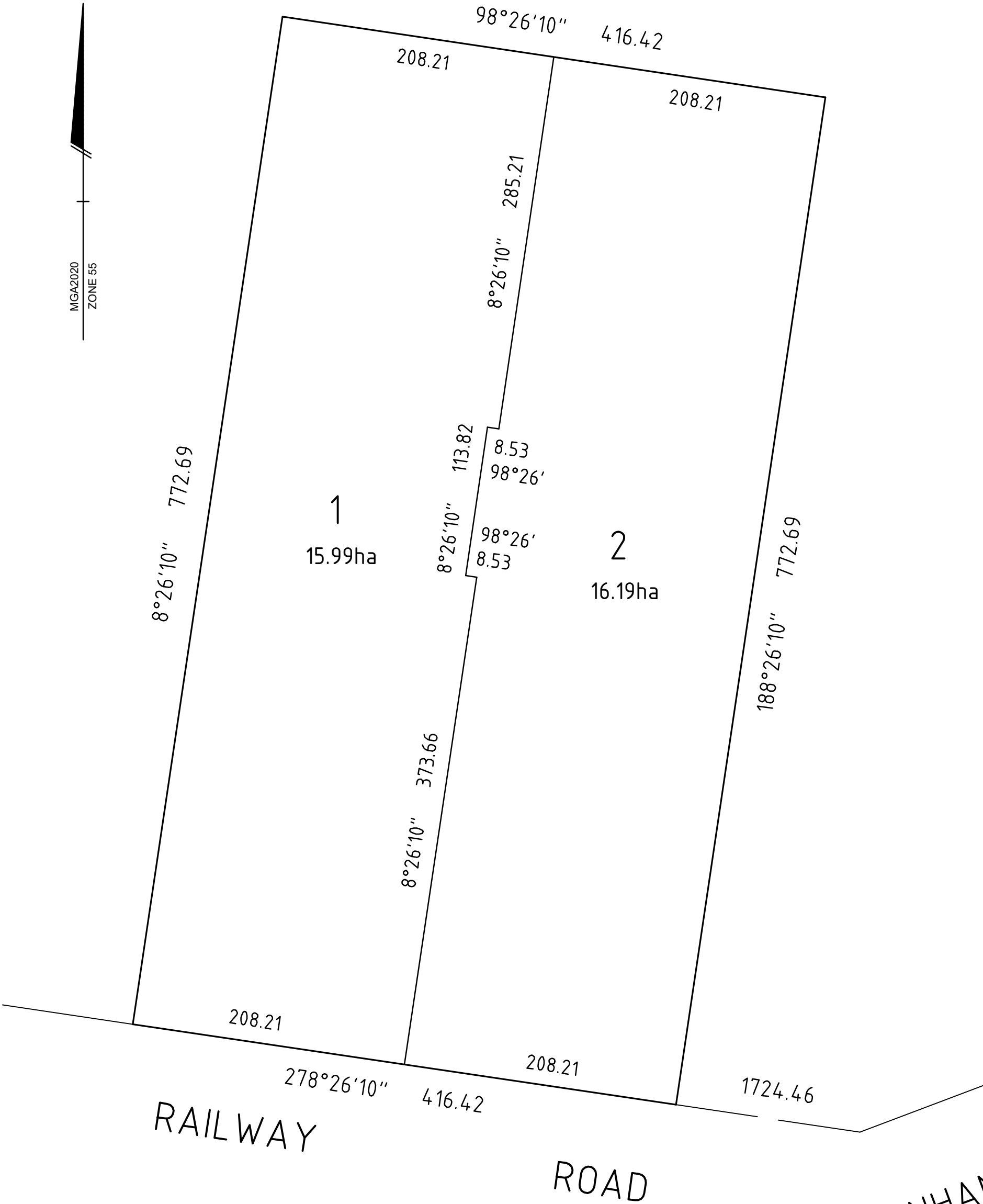
TP474900C

**WARNING: THE IMAGE OF THIS DOCUMENT OF THE REGISTER HAS BEEN DIGITALLY AMENDED.
NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.**

[illegible]

PLAN OF SUBDIVISION			EDITION 1	PS 916988 M		
LOCATION OF LAND PARISH: KOO WEE RUP TOWNSHIP: --- SECTION: --- CROWN ALLOTMENT: 18 & 21 (Parts) CROWN PORTION: --- TITLE REFERENCE: Vol. 11329 Fol. 608 & Vol. 3828 Fol. 420 LAST PLAN REFERENCE: Lot 26 on TP 474900 C & Lot 27 on LP 5597 POSTAL ADDRESS: 295 & 305 Railway Road, KOO WEE RUP 3981 (at time of subdivision) MGA CO-ORDINATES: E: 364 600 ZONE: 55 (of approx centre of land N: 5 771 900 GDA 2020 in plan)			Council Name: Cardinia Shire Council			
VESTING OF ROADS AND/OR RESERVES			NOTATIONS			
IDENTIFIER	COUNCIL/BODY/PERSON		<div>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.</div>			
NIL	NIL					
NOTATIONS						
DEPTH LIMITATION: DOES NOT APPLY						
SURVEY: This plan is based on survey. STAGING: This is not a staged subdivision. Planning Permit No. This survey has been connected to permanent marks No(s). 44 In Proclaimed Survey Area No. 71						
EASEMENT INFORMATION						
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)						
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of		
NOBELIUS LAND SURVEYORS  P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 mail@nobelius.com.au		SURVEYORS FILE REF: 21338 LICENSED SURVEYOR: T. D. WALKER VERSION B		ORIGINAL SHEET SIZE: A3	SHEET 1 OF 2	

MGA2020
ZONE 55



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PAKENHAM -
KOO WEE
RUP ROAD

NOBELIUS LAND SURVEYORS



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

SCALE
1:1000



LICENSED SURVEYOR: T. D. WALKER
VERSION B

ORIGINAL SHEET
SIZE: A3

SHEET 2

FEATURE PLAN

295 & 305 Railway Road

KOO WEE RUP








SCALE 1:2500 (A3)

DRAWN BY :

CHECKED : L.N

SURV. REF. NO. 21338

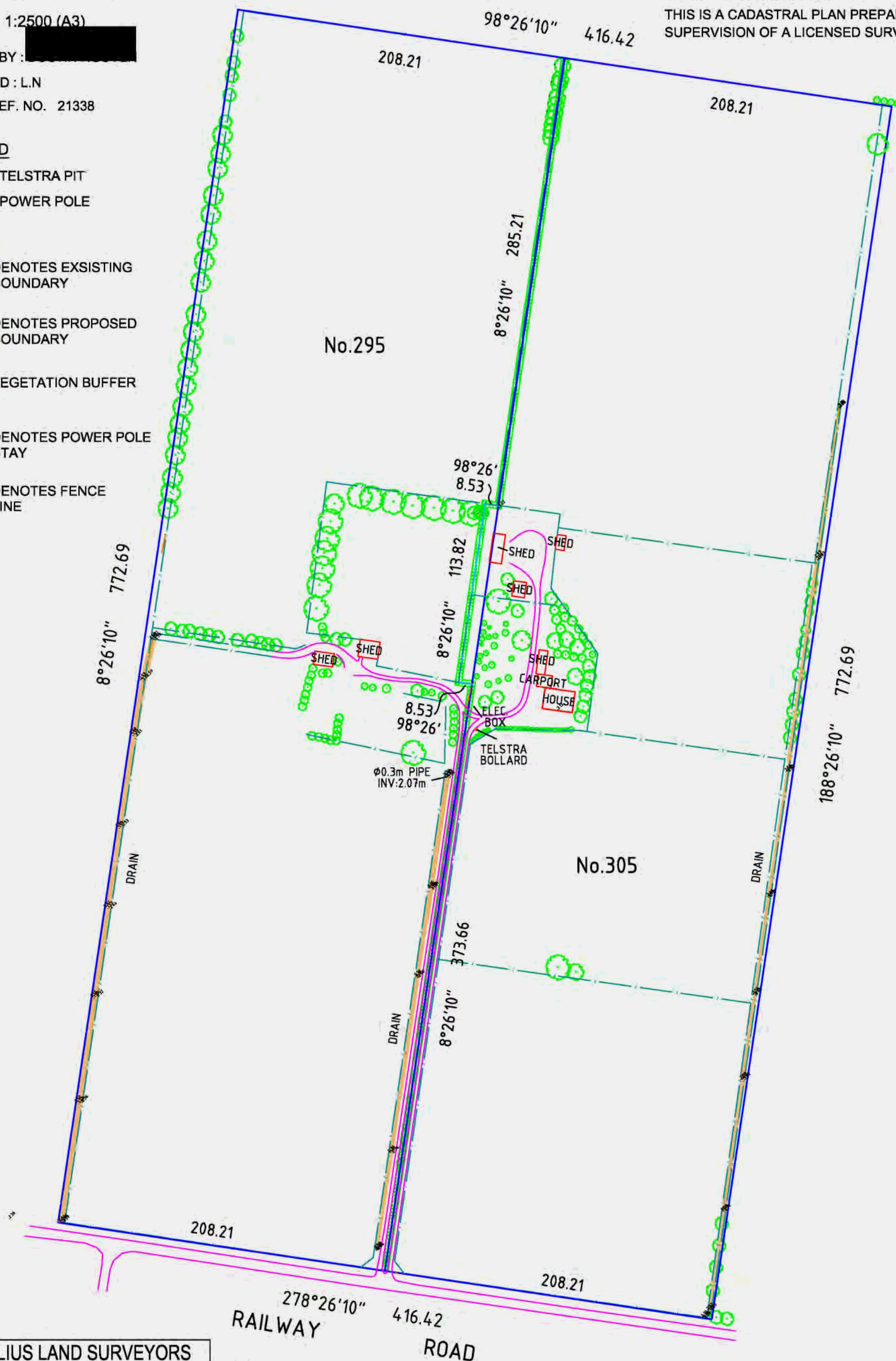
LEGEND

-  - TELSTRA PIT
-  - POWER POLE
-  - DENOTES EXSISTING BOUNDARY
-  - DENOTES PROPOSED BOUNDARY
-  - VEGETATION BUFFER
-  - DENOTES POWER POLE STAY
-  - DENOTES FENCE LINE

NOTE:

- THIS PLAN IS TO BE READ IN CONJUNCTION WITH THE 'RECORD OF HAVING RE-ESTABLISHED A PARCEL'. INFORMATION REGARDING TITLE BOUNDARIES AND/OR EASEMENTS SHOULD BE TAKEN FROM RE-ESTABLISHMENT PLAN.

THIS IS A CADASTRAL PLAN PREPARED UNDER THE SUPERVISION OF A LICENSED SURVEYOR.



NOBELIUS LAND SURVEYORS

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

NOTE:

- LEVELS SHOWN ON THIS PLAN ARE TO A.H.D BASED ON YALLOCK PM 103 (R.L. 3.255)

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MGA2020
ZONE 55
N

Arboricultural Assessment

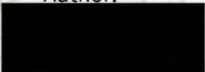
Location:

Within 4m of proposed title boundary at
295 and 305 Railway Road, Koo Wee Rup

Report Commissioned by:

Nobelius Land Surveyors

Author:



Grad. Cert. Arb.

Arbkey ref: 23-09-22RailwayKooWeeRup.docx

Date submitted: October 18, 2023

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1 Introduction

Arbkey has been engaged by Nobelius Land Surveyors to provide an Arboricultural Assessment for trees potentially affected by a proposed title boundary realignment at 295 and 305 Railway Road, Koo Wee Rup. For the report arbkey has:

- Identified and assessed the trees, providing their location, species, dimensions, useful life expectancy and health and structural condition.
- Allocated each tree an arboricultural value, indicating its merit for retention in the landscape throughout nearby disturbance.
- Calculated the size of the Tree Protection Zone (TPZ) in accordance with Australian Standard 4970, Protection of Trees on Development Sites.
- Provided comment on the affect and policy implications of the proposed boundary realignment.

2 Site Details

Minor realignment of the boundaries between two (2) rural properties is proposed at 295 and 305 Railway Road, Koo Wee Rup. The properties mostly consist of pasture with scattered buildings and sheds. Trees are scattered amongst the pastures, buildings, and existing fence lines (Figure 1).



Figure 1: Subject site – area of proposed boundary re-alignment.

2.1 Planning and Policy Context

The subject site is located within Special Use Zone – Schedule 1 of the Cardinia Planning Scheme (DEWLP 2023). The vegetation protection related planning or policy controls for the site and how they affect the assessed trees has been provided in Table 1.

Table 1: Vegetation controls at site

Planning/Policy Control	Overview of control	Assessed trees affected
52.17 Native Vegetation	A permit is required to remove, destroy or lop non-planted, locally indigenous vegetation. Vegetation removed to facilitate a fence between properties of different ownership is considered exempt	Potentially none. Trees 1-12 are considered exempt if removed for fence line between properties are within 1m of existing boundary

Trees within 10m of an existing dwelling, or 1m of an existing fence, constructed prior to September 2009 are exempt from planning scheme controls due to the site's location within a Bushfire Prone Area (DEWLP 2023).

Due to their ownership, any trees within adjacent third-party owned property must remain viable throughout works at the subject site unless under agreement with the tree's respective owner. Modification of trees in adjacent property may also be subject to permit approval.

2.2 Site Map

A site map detailing existing conditions and tree locations has been provided in Appendix 1: Site Map

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3 Methodology

On the 17 October 2023, Lachlan Scott undertook inspection of trees within 4m of a proposed title boundary between 295 and 305 Railway Road, Koo Wee Rup. The following information was collected for the trees:

- Tree Species
- Tree Location
- Height (m)
- Crown Spread (m)
- Diameter at Breast Height (DBH) at 1.4m (cm)
- Diameter at Base (DAB) at just above the root flare (cm)
- Health
- Structure
- Significance
- Photographs of tree

Only a ground based visual inspection was undertaken of all trees according to the principles of Visual Tree Assessment and tree hazard assessment described in Harris, Clark and Matheny (1999) and Mattheck and Breloer (1994).

Tree location has been derived using a feature survey provided by the client or if not present aligned using an RTK corrected GNSS receiver.

Height was measured on site using an impulse laser accurate to +/- 30cm. Crown spread values or drawings are indicative of crown size only, not shape or form.

A diameter tape was used to measure DBH. To prevent trespass, DBH has been estimated on adjacent sites.

Health, Structure and Significance are qualitative values derived from visual indicators and the authors experience and qualifications.

Full data collection definitions are available in Appendix 6: Data Definitions.

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3.1 Documents Reviewed

Table 2: Documents reviewed to assist in the compilation of this report

Document Name	DWG/Document #	Author	Document Description	Date compiled/drawn
295 & 305 Railway Road, Koo Wee Rup F+L Plan	21338	Nobelius Land Surveyors	Feature Survey and Title realignment location	NA
T230379 PA - Amended Further Information Letter	T230379 PA	Cardinia	Request for information	16 August 2023

4 Observations

4.1 Tree Details

23 trees were assessed (Table 3). Full details of the assessed trees have been provided in Appendix 2: Tree Details.

Table 3: Count of assessed species and their respective species origin

Genus Species	Common Name	Species Origin	Count of Trees	Tree IDs
<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	12	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
<i>Pinus radiata</i>	Monterey Pine	Exotic	10	14, 15, 16, 17, 18, 19, 20, 21, 22, 23
<i>Prunus cerasifera</i>	Cherry Plum	Exotic	1	13

5 Discussion

5.1 Arboricultural Value

All the assessed trees have been attributed an arboricultural value (Table 4). Arboricultural value is a calculated rating indicating the arboricultural merit of the tree for retention through any nearby disturbance. It is a qualitative combination of the trees ULE and significance values. Trees of higher arboricultural value should be prioritised for retention through works that may impact trees. Conversely, trees of low or no arboricultural value can often be removed to facilitate a development with little or no effect on wider landscape value.

Trees attributed an arboricultural value of 'Third Party Ownership' are located on adjacent land to the assessment. It is assumed that the owner of the tree attributes it a 'High' arboricultural value and requires its retention in the landscape.

Table 4: Overview of arboricultural value

Arboricultural Value	Count	Tree IDs
Medium	9	14, 15, 16, 17, 18, 19, 20, 21, 23
Low	13	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
None	1	22



Figure 2: Tree 23, *Pinus radiata* (Monterey Pine), attributed an arboricultural value of 'Medium'.

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5.2 Tree Protection Zone (TPZ) and Structural Root Zone (SRZ)

AS4970 (2009) specifies areas drawn radially from each tree's stem which indicate the area required for its stability (SRZ) and viability (TPZ) throughout nearby disturbance such as development. Further information on TPZs and SRZs has provided in Appendix 7: Tree Protection Zones and Encroachment

5.2.1 TPZ and SRZ details

TPZ and SRZ details for all trees has been supplied in Appendix 3: TPZ and SRZ details.

5.2.2 TPZ and SRZ Map

Maps detailing the TPZ and SRZ have been provided in Appendix 4: TPZ and SRZ Map.

6 Effects of newly proposed boundary on vegetation.

Cardinia Shire Council has raised concerns regarding the potential effect of the boundary realignment on vegetation. It is assumed this is due to the exemption to section 52.17 of the Cardinia planning scheme for 'native vegetation that is to be removed, destroyed, or lopped to the minimum extent necessary to enable the construction of a boundary fence between properties in different ownership'. No native vegetation is present within 1m of any of the newly proposed boundary. The native vegetation assessed within this report, Trees 1-12, are within 1m of an existing boundary that is not proposed for realignment. Trees 1-12 are already exempt from 52.17 if a fence was to be installed to the alignment of the current, and newly proposed, boundary.



Figure 3: Trees 2-12 along existing, unfenced boundary between sites. This boundary is not proposed for realignment.

7 Conclusions and Recommendations

Re-alignment of the boundary between 295 and 305 Railway Road, Koo Wee Rup is proposed. Arbkey has been engaged to assess the trees within 4m of the boundary between the sites. 23 trees were assessed. Additionally, the tree protection zone (TPZ) and structural root zone (SRZ) has been calculated for each tree as per AS4970 (2009).

Cardinia Shire Council has raised concerns regarding the potential effect of the boundary realignment on vegetation. It is assumed this is due to the exemption to section 52.17 of the Cardinia planning scheme for 'native vegetation that is to be removed, destroyed, or lopped to the minimum extent necessary to enable the construction of a boundary fence between properties in different ownership'. No native vegetation is present within 1m of any of the newly proposed boundary. The native vegetation assessed within this report, Trees 1-12, are within 1m of an existing boundary that is not proposed for realignment. Trees 1-12 are already exempt from 52.17 if a fence was to be installed to the alignment of the current, and newly proposed, boundary.

It is recommended that:

- If the TPZ of trees will be impacted during the actual development:
 - Prior to construction commencement, an Arboricultural Impact Assessment and Tree Management Plan should be prepared by a suitably qualified arborist. This would assess the impact of the final design and provide recommendations to protect any trees to be retained on the site throughout the development.

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8 References

AS 4970, 2009, Australian Standard, Protection of Trees on Development Sites, Standards Australia

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<https://mapshare.vic.gov.au/vicplan/>

Harris, R.W., Clark, J.R. & Matheny, N.P., 1999, Arboriculture; Integrated management of landscape trees, shrubs, and vines, Prentice Hall, Upper Saddle River, New Jersey

IACA 2010, IACA Significance of a Tree, Assessment Rating System (STARS), Institute of Australian Consulting Arboriculturists, Australia

Mattheck, C. and Breloer, H. 1994, The body language of trees: a handbook for failure analysis, London: HMSO

9 Appendix 1: Site Map



Figure 4: Site Map – Existing Conditions

10 Appendix 2: Tree Details

Table 5: Details of assessed trees

Tree ID	Genus Species	Common Name	Species Origin	Height (m)	Crown Spread (m)	Total DBH (cm)	DAB (cm)	Health	Structure	Maturity	ULE (years)	Significance	Arboricultural Value	Notes
1	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	4	4	24.72	25	Fair	Fair	Mature	5 to 15	Low	Low	Small copse assessed as single tree
2	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
3	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
4	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
5	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
6	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
7	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
8	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
9	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken

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Tree ID	Genus Species	Common Name	Species Origin	Height (m)	Crown Spread (m)	Total DBH (cm)	DAB (cm)	Health	Structure	Maturity	ULE (years)	Significance	Arboricultural Value	Notes
10	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
11	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
12	<i>Melaleuca ericifolia</i>	Swamp Paperbark	Indigenous	5	2	19.21	20	Good	Fair	Mature	5 to 15	Low	Low	Dense copse of melaleuca stems. Difficult to map each stem. Assessed as group. Largest DBH taken
13	<i>Prunus cerasifera</i>	Cherry Plum	Exotic	3	2	17.09	42	Fair	Fair	Mature	5 to 15	Low	Low	
14	<i>Pinus radiata</i>	Monterey Pine	Exotic	11	8	71	80	Fair	Fair	Mature	5 to 15	Medium	Medium	
15	<i>Pinus radiata</i>	Monterey Pine	Exotic	12	9	56.36	65	Fair	Good	Mature	5 to 15	Medium	Medium	
16	<i>Pinus radiata</i>	Monterey Pine	Exotic	11	10	82	83	Fair	Fair	Mature	5 to 15	Medium	Medium	
17	<i>Pinus radiata</i>	Monterey Pine	Exotic	12	9	61	68	Fair	Fair	Mature	5 to 15	Medium	Medium	
18	<i>Pinus radiata</i>	Monterey Pine	Exotic	11	10	83	90	Fair	Fair	Mature	5 to 15	Medium	Medium	
19	<i>Pinus radiata</i>	Monterey Pine	Exotic	9	10	50.34	55	Fair	Fair	Mature	5 to 15	Medium	Medium	
20	<i>Pinus radiata</i>	Monterey Pine	Exotic	9	9	61.85	65	Fair	Fair	Mature	5 to 15	Medium	Medium	
21	<i>Pinus radiata</i>	Monterey Pine	Exotic	12	9	79	90	Good	Fair	Mature	15 to 40	Medium	Medium	
22	<i>Pinus radiata</i>	Monterey Pine	Exotic	13	10	87	95	Dead	Fair	Over-mature	0	Dead/Irreversible Decline	None	
23	<i>Pinus radiata</i>	Monterey Pine	Exotic	9	10	84	90	Good	Fair	Mature	15 to 40	Medium	Medium	

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11 Appendix 3: TPZ and SRZ details

Table 6: TPZ and SRZ details of assessed trees (AS4970 2009)

Tree ID	Genus Species	Common Name	SRZ radius (m) AS4970	TPZ radius (m) AS4970	TPZ Area AS 4970 (m2)
1	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.85	2.97	27.712
2	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
3	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
4	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
5	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
6	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
7	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
8	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
9	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
10	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
11	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
12	<i>Melaleuca ericifolia</i>	Swamp Paperbark	1.68	2.31	16.764
13	<i>Prunus cerasifera</i>	Cherry Plum	2.3	2.05	13.203
14	<i>Pinus radiata</i>	Monterey Pine	3.01	8.52	228.049
15	<i>Pinus radiata</i>	Monterey Pine	2.76	6.76	143.563
16	<i>Pinus radiata</i>	Monterey Pine	3.06	9.84	304.187
17	<i>Pinus radiata</i>	Monterey Pine	2.81	7.32	168.334
18	<i>Pinus radiata</i>	Monterey Pine	3.17	9.96	311.651
19	<i>Pinus radiata</i>	Monterey Pine	2.57	6.04	114.61
20	<i>Pinus radiata</i>	Monterey Pine	2.76	7.42	172.965
21	<i>Pinus radiata</i>	Monterey Pine	3.17	9.48	282.336
22	<i>Pinus radiata</i>	Monterey Pine	3.24	3.24	32.979
23	<i>Pinus radiata</i>	Monterey Pine	3.17	10.08	319.206

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12 Appendix 4: TPZ and SRZ Map



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13 Appendix 5: Tree Photos

Tree ID: 1



Tree ID: 2



Tree ID: 13



Tree ID: 14



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Tree ID: 15



Tree ID: 16



Tree ID: 17



Tree ID: 18



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Tree ID: 19



Tree ID: 20



Tree ID: 21



Tree ID: 22



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Tree ID: 23



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14 Appendix 6: Data Definitions

DBH (Diameter at Breast Height) is measured at 1.4 m above ground level or calculated from the total stem area if the tree was multi-stemmed at 1.4m above ground level in accordance with AS 4970 (2009).

DAB (Diameter at Base) is measured just above the root collar of a tree in accordance with AS 4970 (2009)

Health summarises qualitative observations of tree health and vigour made in the field:

Structure summarises qualitative observations of tree structure and stability made in the field:

Maturity summarises the life stage of the tree.

- Juvenile – The tree is in approximately the first 10% of its expected lifespan in its current environment
- Semi-mature – Tree is 10%-20% through its expected lifespan in its current environment and has not yet reached its mature dimensions.
- Mature – The tree is through 20%-90% of its expected lifespan in its current environment.
- Over-mature – The tree is through approximately 90% of its expected lifespan in its current environment

ULE (Useful Life Expectancy) indicates the anticipated remaining years of lifespan of the tree in its existing surroundings. The tree's lifespan is the time that it will continue to provide amenity value without undue risk or hazard and with a reasonable amount of maintenance.

Significance indicates the importance a tree may have on a respective site. The following descriptors are used to derive this value (adapted from IACA 2010):

High -

- Tree is good condition and good vigour
- The tree has a form typical for the species
- The tree is a remnant specimen or is rare or uncommon in the local area or of botanical interest or substantial age
- The tree is listed as a heritage item or threatened species or listed on a municipal significant tree register
- The tree is visually prominent and visible from a considerable distance when viewed from most directions due to its size and scale. The tree makes a positive contribution to the local amenity.
- The tree supports social or cultural sentiments or spiritual associations or has commemorative values
- The tree is appropriate to the site conditions

Medium -

- The tree is in fair condition and good or low vigour
- The tree has form typical or atypical of the species
- The tree is a planted locally indigenous taxa or a common species within the area.
- The tree is visible from surrounding properties, although not visually prominent
- as partially obstructed by other vegetation or buildings when viewed from a public space. The tree provides a moderate contribution to the amenity and character of the local area
- The tree is often partially restricted by above or below ground influences and/or resources.

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Low –

- The tree is in fair condition and good or low vigour
- The tree has form atypical of the species.
- The tree is not visible or is partly visible from surrounding properties due to obstructions.
- The tree provides a minor contribution or has a negative impact on landscape amenity or character of the local area.
- The tree is a juvenile specimen that can easily be replaced.
- The tree's growth is severely restricted by above or below ground influences and/or resources.
- The tree has a feature that has potential to become structurally unsound.
- The tree is listed as a noxious or environmental weed under state, federal or municipal policy

Dead/Irreversible Decline –

- The tree is structurally unsound or unstable
- The tree is dead or in irreversible decline

Third Party Ownership

- The tree is located on adjoining land to the assessment.

A tree is to meet several or all the criteria in a category to be classified in that group

Arboricultural Value is a calculated value indicating the merit of the tree for retention through any nearby developments. It is a qualitative combination of the trees ULE and Significance Values (Table 7).

Table 7: Matrix for the calculation of Arboricultural Value

ULE	Significance Value					
	>40 years	High	Medium	Low	Dead/Irreversible Decline	Third Party Ownership
	>40 years	High	Medium	Low	Low	Third Party Ownership
	15-40 years	High	Medium	Low	Low	Third Party Ownership
	5-15 years	High	Medium	Low	None	Third Party Ownership
	<5 years	Medium	Low	None	None	Third Party Ownership
	0 years	Low	None	None	None	Third Party Ownership

- High – Trees attributed a 'High' arboricultural value are generally of strong visual amenity and significant in the landscape. The utmost level of consideration should be given for the retention of these trees throughout development activities and/or nearby disturbance
- Medium – Trees attributed a 'Medium' arboricultural value are of moderate amenity value and have been attributed some value in the landscape. Trees attributed a 'Medium' arboricultural value should be retained and designed around during developments or nearby disturbance. If retention is not possible for these trees, removal and replacement can be often considered as an acceptable compromise.
- Low – Trees attributed a Low arboricultural value are of poor arboricultural merit. Removal and replacement is an acceptable compromise if designing around these trees is not possible.
- None – Trees attributed an arboricultural value of none have no arboricultural merit. Removal is usually acceptable or required for these trees.
- Third Party Ownership – The tree is located on adjacent land to the assessment. It is assumed that the owner of the tree attributes it a High arboricultural value and requires its retention in the landscape.

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15 Appendix 7: Tree Protection Zones and Encroachment

15.1 Structural Root Zones (SRZ)

SRZs are an indication of the area surrounding the base of a tree that is required for its stability. AS 4970 (2009) provides a method to calculate the SRZ of trees: The SRZ is calculated as

$$(DAB \times 50)^{0.42} \times 0.64$$

For grass like trees such as palms or tree ferns; SRZs are not calculated.

15.2 Tree Protection Zone (TPZ)

A Tree Protection Zone (TPZ) is considered one of the most effective ways to ensure the retention of trees throughout development. The aim of a TPZ is to secure the space around the tree so that no above or below ground activities or developments can affect the integrity of the tree's root system or above ground parts.

AS 4970 (2009) provides a method for calculating the standard area of TPZ's. For all broadleaf trees, the radius of the TPZ is calculated as:

$$12 * DBH$$

For grass like trees such as palms or tree ferns; TPZs are calculated as:

$$\text{Radius of extent of canopy} + 1\text{m},$$

Dead trees are attributed a TPZ of the same size as their SRZ as only their stability can now be protected and not their vigour

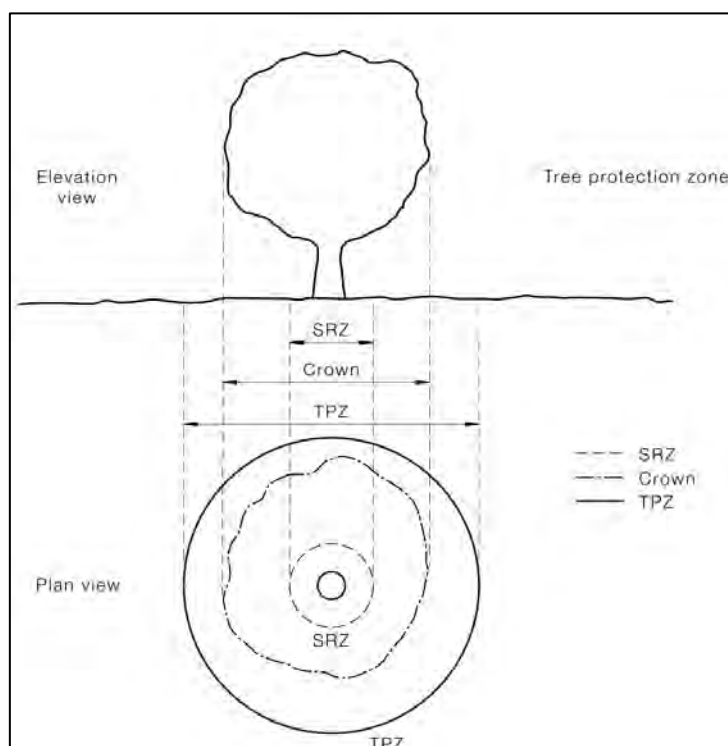


Figure 7: Diagram of TPZ and SRZ (AS 4970 2009)

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15.2.1 TPZ Encroachment:

AS 4970 (2009) allows the extents of 'calculated' TPZs to be varied, under certain conditions, to allow varying levels encroachment into TPZs. Encroachment is the term given to the level of impact of the footprint of a disturbance (such as a development or construction activity) on the calculated TPZ of a tree. Two levels of encroachment are classified within AS 4970:

15.2.1.1 Minor Encroachment

Where encroachment of a respective TPZ is limited to less than 10% of a TPZs area it is termed 'Minor Encroachment'. Minor encroachment and corresponding variations to a TPZ is considered acceptable while the lost area is compensated elsewhere while still being contiguous with the TPZ.

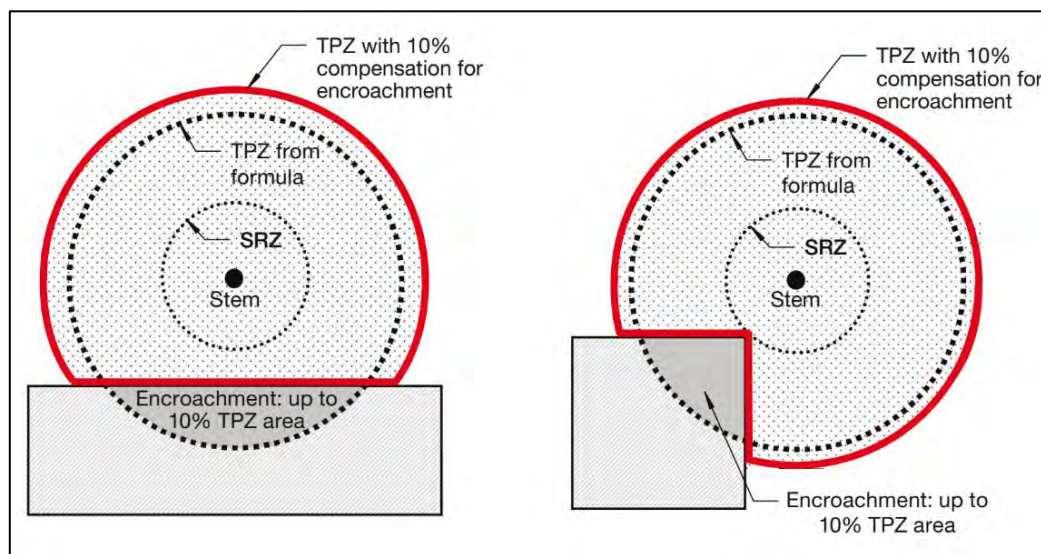


Figure 8: Examples of Minor TPZ encroachment and contiguous TPZ compensation (AS 4970 2009)

15.2.1.2 Major Encroachment

Where encroachment of the standard TPZ exceeds 10% of a TPZ it is termed 'Major Encroachment'. Major encroachment and corresponding variations to a TPZ can be considered acceptable providing the following conditions are met:

- The project arborist demonstrates the tree will remain viable through the encroachment.
- The lost area is compensated elsewhere while still being contiguous with the TPZ.

Regardless of encroachment, final TPZs and tree protection requirements should be clear to all parties during the entire construction process. Ideally all tree protection requirements should be outlined within a Tree Protection Management Plan (TPMP), prepared by a suitably qualified arborist, prior to the commencement of any construction activities

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15.2.2 Tree Protection Fencing

Tree protection fencing should be installed around the final area of the TPZs of trees to be retained. Fencing should always be installed before the commencement of any construction activities and secured for the life of the construction. TPZ fencing should consist of chain mesh fencing of a minimum of 1.8m in height connected by temporary concrete footings. Where applicable, a finer mesh such as shade cloth should be applied to prevent airborne contaminants entering the TPZ. Warning signs should be erected at regular intervals along the entire length of any TPZ fencing.

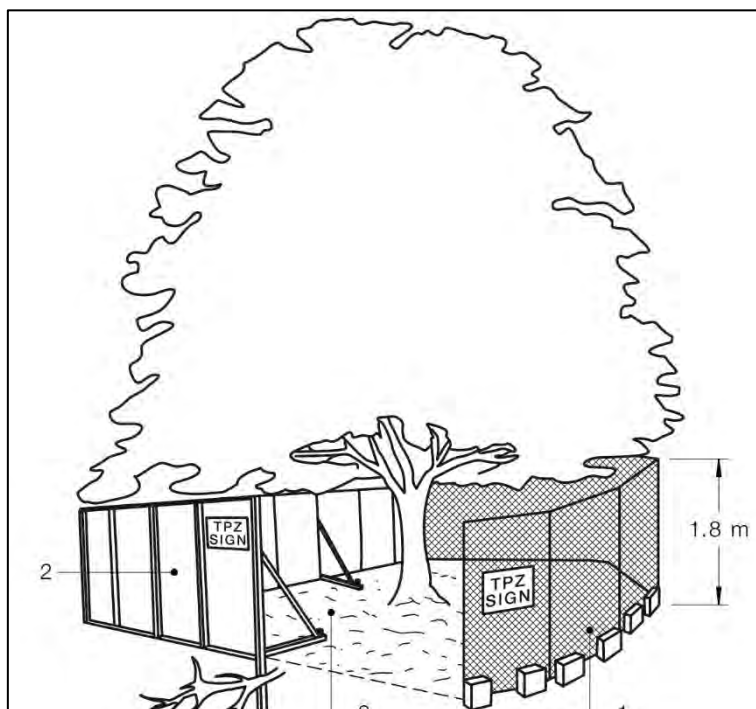


Figure 9: Examples of TPZ fencing (AS 4970 2009)

If the installation of tree protection fencing is not possible; alternative methods for protection of above and below grounds tree parts such a ground protection and physical barriers can be considered at the discretion of the project arborist.

15.2.2.1 General Tree Protection Guidelines

The following recommendations have been provided to as best practice guidelines to the establishment of a TPZ during the length of construction activities.

Exclude the following from taking place within any TPZ (adapted from AS 4970-2009):

- built structures or hard landscape features (i.e. paving, retaining walls)
- materials storage (i.e. equipment, fuel, building waste or rubble)
- soil disturbance (i.e. stripping or grade changes)
- excavation works including soil cultivation (specifically surface-dug trenches for underground utilities)
- placement of fill
- lighting of fires
- preparation of chemicals, including preparation of cement products
- pedestrian or vehicular access (i.e. pathways).

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24th October 2023

Nobelius Land Surveyors Pty Ltd
PO BOX 461
Pakenham VIC 3810

Statutory Planner
Cardinia Shire Council
mail@cardinia.vic.gov.au

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Dear [REDACTED]

APPLICATION NO.:	T230379 PA
PROPERTY NO.:	4719100900 and 4719101100
ADDRESS:	L26 LP5597 V11329 F608, 295 Railway Road, Koo Wee Rup 3981 L27 LP5597 V3828 F420, 305 Railway Road, Koo Wee Rup 3981
PROPOSAL:	Two (2) lot boundary realignment

Thank you for your request for further information under Section 54 of the *Planning and Environment Act 1987* dated 16th August, 2023 and for the extension of time to provide this information, with the new due date being 19th November 2023.

Please find attached the following documents to assist with your assessment:

- Revised proposed Plan of Subdivision PS916988M prepared by Nobelius Land Surveyors
- Feature & Level Plan prepared by Nobelius Land Surveyors
- Arboricultural Assessment Report prepared by ArbKey (October 2023)
- Completed section 50A amendment form
- Receipt of council application fees

We wish to provide the following written responses to each of Council's requested items below:

FURTHER INFORMATION REQUIRED:

1. APPLICATION FORM

- a. *Provide a completed Section 50A form to include both land addresses as part of the application i.e., 295 and 305 Railway Road, Koo Wee Rup VIC 3981.*

Response: A Section 50A form has been completed and is provided for Council as part of this submission.

2. VICSMART INELIGIBLE

- a. *Upon review, this application is not eligible for the VicSmart pathway under the Land Subject to Inundation Overlay. This overlay does not offer any VicSmart provisions. Pursuant to Clause 44.04-3, a planning permit is required to subdivide land.*
- b. *The following is required to proceed with a standard planning permit application: Provide your consent to convert the current application from a VicSmart application to a standard planning permit application by completing a Section 50A form (amendment to a current planning permit application) – link provided above.*

Response: A planning permit is required to subdivide land pursuant to Clause 44.04-3 (Land Subject to Inundation Overlay).

We provide consent for Council to convert the current application from a VicSmart application to a standard planning permit application. As per item 1, a Section 50A amendment form has been completed and provided as part of this submission.

3. OUTSTANDING FEES

- a. Given the application does not qualify as a VicSmart, additional application fees of \$1,200.40 are required to be paid before the application can proceed. Upon assessment of this application, it is determined the following fees apply:

Class 9 (VicSmart application)	To subdivide or consolidate land	\$214.70
Class 19 (Subdivision)	To effect a realignment of a common boundary between lots	\$1,415.10
Total fees required		\$1,415.10
Fees paid to date		\$214.70
Fees Outstanding		\$1,200.40

If this fee has already been paid, please provide a copy of the receipt to confirm payment.

Response: Receipt of council application fees attached.

4. PROPOSED PLAN OF SUBDIVISION

- a. Amend the proposed Plan of Subdivision PS916988M to show the area of Lot 1 in hectares.

Response: Proposed Plan of Subdivision PS916988M has been revised to show the area of proposed Lot 1 in hectares (attached).

5. FEATURE AND LEVEL SURVEY PLAN

- a. Amend the Feature and Level Survey of the existing lots at 295 and 305 Railway Road, Koo Wee Rup to include the following details:
 - i. Show existing site conditions including location of fences, easements, utility services, drains and other site features.
 - ii. Show the existing and proposed boundaries shown in different colours to help clearly and easily differentiate between the boundaries and include a corresponding legend.
 - iii. Show the location of any existing and proposed fencing.
 - iv. Show the location of existing vegetation within 4 metres from the existing and proposed boundaries with setbacks dimensioned.
 - v. Identify any consequential native vegetation loss resulting from the creation of an exemption under Clause 52.17 (Native Vegetation) for vegetation removal to construct or maintain a fence along the proposed property boundaries between the proposed lots (if applicable).

Response: The revised Feature and Level Survey plan is provided for Council's review.

The implications of the proposal associated with native vegetation loss have been addressed in item 7 of this response.

6. WRITTEN SUBMISSION

- a. *Provide a brief description explaining the reasoning of why the proposed boundary realignment is being sought.*
- b. *Clarify if there are any buildings and works proposed i.e., any earthworks, fences or changes to the access and driveway proposed.*

Response: The boundary realignment is being sought to enable the landowner to separate the two lots. The landowner intends to retain one lot and sell the other. The current boundary between the two lots intersects with the existing shed and gardens to the north-west of the dwelling which the landowner would like to retain on their title. Each lot will retain one of the existing driveways and accessways to Railway Road. No buildings and works are proposed. It is proposed that the boundary will be shifted to the west in keeping with the existing fence separating the house yard from the paddock to the west:



ABOVE: PROPOSED BOUNDARY REALIGNMENT (CIRCLED IN RED)



ABOVE: PROPOSED COMMON BOUNDARY OVERLAID ON AERIAL IMAGE (RED DASHED LINE)

7. VEGETATION

- a. *Provide a vegetation retention and removal plan with a numbered legend identifying all vegetation within 4 metres of the proposed and existing boundaries (or vegetation located within 15 metres from any proposed subdivision works i.e., proposed crossovers, driveways, boundary fencing).*
- b. *Provide a numbered tree table identifying the following:*
 - i. *Species.*
 - ii. *Setback of vegetation from the proposed and existing boundaries.*
 - iii. *Identify whether the vegetation is to be retained, lopped, pruned or removed.*
 - iv. *Specify whether the vegetation removal qualifies for any exemptions, if applicable.*
 - v. *Specify whether the vegetation removal qualifies for any exemptions, if applicable.*
 - vi. *Diameter of tree trunk at Breast Height (DBH) which is 1.3 metres above natural ground level.*
 - vii. *Tree Protection Zone (TPZ) this can be calculated by multiplying the trunk diameter by 12. Indicate this radius on the plan.*
 - viii. *If any subdivision works are proposed, calculate the percentage of encroachment of the works into the Tree Protection Zone and indicate this encroachment area on the site plan.*
 - ix. *Should any native vegetation be proposed to be removed under Clause 52.17 Native Vegetation (unless it can be satisfactorily demonstrated that the removal is exempt), provide a completed Native Vegetation Removal Report.*

Please note:

- *It appears that some vegetation may be impacted by the proposed location of the new boundaries.*
- *Should the application propose the removal, destruction or lopping of any vegetation, a planning permit may be required under Clause 52.17 (Native Vegetation) of the Cardinia Planning Scheme, unless otherwise exempted by the scheme.*

Response: All vegetation is to be retained. No vegetation is proposed to be removed to facilitate the re-subdivision.

The proposal seeks to realign a small central section of the existing boundary between the two lots, and the balance of the common boundary will remain unchanged. The small section of new boundary fencing does not impact on any native vegetation. All trees within 4m of the proposed new boundary fence are planted ornamental species that form part of a hedgerow or garden bed (it is evident that they are planted – they are uniform in size, species and form a straight line).

An *Arboricultural Assessment* of the trees along the common boundary was undertaken by ArbKey in October, 2023 (attached for Council's review). A summary of the trees assessed within the report is provided below:



Left Top: The area of the site affected by the proposed boundary realignment (Photo: ArbKey)



Trees 2-12

Left Bottom: Trees 1-13 are all sited along the southern area of driveway and common boundary between 295 & 305 Railway Road. This section of the boundary is unchanged by the proposed boundary realignment and the following trees were assessed along the common boundary in this area:

- Trees 1-12, all indigenous Swamp Paperbarks (*Melaleuca ericifolia*)
- Tree 13, an exotic Cherry Plum (*Prunus cerasifera*)

The boundary is unchanged in this area of the site but the construction of a future boundary fence will enable the removal of these trees under the fence line exemptions tabled in 52.17-7. We note that these trees are not proposed to be removed by the landowners and have been assigned low or no arboricultural value.



Tree 23

Left: To the north, 9 trees were assessed, which comprised a hedgerow of exotic Monterey Pines (*Pinus radiata*). The existing boundary fence line in this section will remain unchanged by the proposed re-subdivision and the removal of these trees is already exempt from the requirement for a planning permit under the fence line exemptions of Clause 52.17-7. No trees are proposed to be removed as part of this proposal.

PRELIMINARY ASSESSMENT COMMENTS:

Clause 52.17 Native Vegetation and consequential loss

- There appears to be vegetation located within the vicinity of the proposed boundary realignment.
- If there is no existing fence line through these areas, the location of the new boundaries via the approval of this permit has the ability to create an exemption to remove vegetation to construct a fence pursuant to Clause 52.17-7 (Table of exemptions) resulting in 'consequential vegetation loss' even if no vegetation removal is proposed as part of the re-subdivision application.
- According to the Guidelines for the removal, destruction or lopping of native vegetation (DELWP, 2017) consequential vegetation loss is also required to be offset.
- To avoid this requirement, new boundaries should follow existing fence lines or be adequately setback from vegetation to avoid the creation of the exemption.

Response: As per the response above to item 7.

Cultural Heritage Management Plan (CHMP)

- The land is located in an area of Aboriginal Cultural Significance. Please provide a Cultural Heritage Management Plan (CHMP) or provide a written submission outlining why a CHMP is not required.

Response: The entirety of both lots are mapped within an area of cultural heritage sensitivity:



MAP - AREA OF CULTURAL HERITAGE (VICPLAN 2023)

Pursuant to r. 49 Subdivision of Land (*Aboriginal Heritage Regulations 2018*), the proposed re-subdivision does not trigger the requirement for a cultural heritage management plan to be prepared. A process list derived from the questionnaire at heritage.achris.vic.gov.au is provided below for Council's review which demonstrates how this was determined:

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Department of
Premier and Cabinet

Process List

Project Name: Railway Rd

Project Location:

Date: 16-Aug-2023

	QUESTION	ANSWER
Question 1	Is the proposed activity , or all the proposed activities, exempt?	No
Question 2	Are you undertaking a High Impact Activity as listed in the Aboriginal Heritage Regulations?	Yes
Question 3	Does your activity include significant ground disturbance?	No
Question 3(a)	Is your activity a subdivision of 3 or more lots for housing (where at least 3 of the lots are less than 8 hectares in size), or industrial subdivision in an area zoned for industry, or do you require a permit under the relevant planning scheme municipal council permit) to use the land for one of the following purposes?	No
Answer:	<u>ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED</u> YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN <u>FOR THIS PROJECT</u>	
	This process list is for information purposes only; the result must not be relied upon by a statutory authority in deciding whether a cultural heritage management plan is required for a proposed activity.	

We trust that the above submitted information satisfies Council's request. Please do not hesitate to contact me should you have any questions or require further information.

Warm Regards,


Town Planner

Nobelius Land Surveyors

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VIC 3810

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06th February, 2024

Nobelius Land Surveyors Pty Ltd
PO BOX 461
Pakenham VIC 3810

Statutory Planner
Cardinia Shire Council
mail@cardinia.vic.gov.au

Dear Millita,

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APPLICATION NO.:	T230379 PA
PROPERTY NO.:	4719100900 and 4719101100
ADDRESS:	L26 LP5597 V11329 F608, 295 Railway Road, Koo Wee Rup 3981 L27 LP5597 V3828 F420, 305 Railway Road, Koo Wee Rup 3981
PROPOSAL:	Two (2) lot boundary realignment

Thank you for your request for further information regarding T230379PA.

Please find attached the following documents to assist with your assessment:

- Amended proposed Plan of Subdivision PS916988M prepared by Nobelius Land Surveyors
- Completed section 50A amendment form
- Photos of vegetation queried by Council

We wish to provide the following responses to each of Council's requested items below:

FURTHER INFORMATION REQUIRED:

1. APPLICATION FORM

- a. *Provide a completed Section 50A form to include both land addresses as part of the application i.e., 295 and 305 Railway Road, Koo Wee Rup VIC 3981.*

Response: A Section 50A form has been completed and is provided for Council as part of this submission, however, we note that correspondence from Council regarding this application already includes both addresses.

2. VICSMART INELIGIBLE

- a. *Upon review, this application is not eligible for the VicSmart pathway under the Land Subject to Inundation Overlay. This overlay does not offer any VicSmart provisions. Pursuant to Clause 44.04-3, a planning permit is required to subdivide land.*
- b. *The following is required to proceed with a standard planning permit application: Provide your consent to convert the current application from a VicSmart application to a standard planning permit application by completing a Section 50A form (amendment to a current planning permit application) – link provided above.*

Note: The Section 50A form pdf file provided was a corrupted file and could not be opened.

Response: We acknowledge that a planning permit is required to subdivide land pursuant to Clause 44.04-3 (Land Subject to Inundation Overlay).

As per the Section 50a amendment form we provided in October and have completed and provided again, we provide consent for Council to convert the current application from a VicSmart application to a standard planning permit application.

In response to the note above, the first section 50a amendment form was provided to Council in October 2023 and we were not advised that Council were having issues opening it until January 2024. A four month delay in notifying us of this only to require a new one that will restart the stat clock is frustrating.

3. VEGETATION

- a. *Provide an updated Arborist report, generally in accordance with the report submitted but updated to include all vegetation located **within 4 metres of the proposed boundary.***
- b. *Provide the following detailing details for vegetation located **within 4 metres of the proposed boundary:***
- i. *Species.*
 - ii. *Setback of vegetation from the proposed and existing boundaries.*

- iii. Identify whether the vegetation is to be retained, lopped, pruned or removed.
- iv. Specify whether the vegetation removal qualifies for any exemptions, if applicable.
- v. Specify whether the vegetation removal qualifies for any exemptions, if applicable.
- vi. Diameter of tree trunk at Breast Height (DBH) which is 1.3 metres above natural ground level.
- vii. Tree Protection Zone (TPZ) this can be calculated by multiplying the trunk diameter by 12. Indicate this radius on the plan.
- viii. Should any native vegetation be proposed to be removed under Clause 52.17 Native Vegetation (unless it can be satisfactorily demonstrated that the removal is exempt), provide a completed Native Vegetation Removal Report. The report can be created using the native vegetation removal tool. <https://mapshare.vic.gov.au/nvr>

Response: All vegetation is to be retained. No vegetation is proposed to be removed to facilitate the re-subdivision.

Consequential Loss

We acknowledge that Trees 1-12 are indigenous Swamp Paperbarks (*Melaleuca ericifolia*) and the future construction of a common boundary fence along the driveway will enable these trees to be removed without a permit under the 'fences' exemption tabled at Clause 52.17-7. We note that whilst these trees are not proposed to be removed, the 'fences' exemption will render them consequentially lost. Trees 1-12 have been nominated as having low significance and arboricultural value by ArbKey in the assessment report. All twelve trees have a DBH of less than 40cm and are too small to meet the offset requirements for a tree.

The proposal seeks to realign a small central section of the existing boundary between the two lots, and the balance of the common boundary will remain unchanged. The small section of new boundary fencing does not impact on any native vegetation. All trees within 4m of the proposed new boundary fence are planted ornamental species that form part of a hedgerow or garden bed (it is evident that they are planted – they are uniform in size, species and form a straight line). Please refer to our response to Council's preliminary comments below for further details.

An *Arboricultural Assessment* of the trees along the common boundary was undertaken by ArbKey in October, 2023 (attached for Council's review). A summary of the trees assessed within the report is provided below:



Left Top: The area of the site affected by the proposed boundary realignment (Photo: ArbKey)



Trees 2-12

Left Bottom: Trees 1-13 are all sited along the southern area of driveway and common boundary between 295 & 305 Railway Road. This section of the boundary is unchanged by the proposed boundary realignment and the following trees were assessed along the common boundary in this area:

- Trees 1-12, all indigenous Swamp Paperbarks (*Melaleuca ericifolia*)
- Tree 13, an exotic Cherry Plum (*Prunus cerasifera*)

The boundary is unchanged in this area of the site but the construction of a future boundary fence will enable the removal of these trees under the fence line exemptions tabled in 52.17-7. We note that these trees are not proposed to be removed by the landowners and have been assigned low or no arboricultural value.



Tree 23

Left: To the north, 9 trees were assessed, which comprised a hedgerow of exotic Monterey Pines (*Pinus radiata*). The existing boundary fence line in this section will remain unchanged by the proposed re-subdivision and the removal of these trees is already exempt from the requirement for a planning permit under the fence line exemptions of Clause 52.17-7. No trees are proposed to be removed as part of this proposal.

Please refer to our response to Council's preliminary comments below for further information on why an updated arborist report has not been prepared as requested.

PRELIMINARY ASSESSMENT COMMENTS:

Clause 52.17 Native Vegetation and consequential loss

There appears to be vegetation located within the vicinity of the proposed boundary realignment as circled in blue below:



Figure 1: Vegetation located along proposed boundary realignment

While Council acknowledges that an arboricultural assessment prepared by Arbkey has been provided, information regarding the existing vegetation which appears to be located within 4 metres of the proposed boundary realignment has not been provided.

This information is required in order to determine whether there will be any consequential native vegetation loss as a result of the proposed re-subdivision application.

Since there is no existing fence line through part of the proposed boundary realignment, the location of the new boundaries should a planning permit be issued has the ability to create an exemption to remove vegetation to construct a fence pursuant to Clause 52.17-7 (Table of Exemptions). This results in 'consequential loss of native vegetation' even if no vegetation removal is proposed as part of the re-subdivision application.

Response:

The vegetation shown in Council's marked up image has been excluded from the arborist's assessment report as the trees were either too small to be assessed, are noxious weeds or are tree stumps of non-indigenous species smaller than 1.3m high. We have provided photos of the vegetation within the areas circled in blue by Council and nominated on the aerial image below the location and direction that the photos were taken. A copy of each photo is also attached as part of this submission for Council's review.

The smaller trees circled to the south are small ornamental fruit trees (oranges and mandarins) which are planted – this is obvious given these trees do not naturally occur in this locality and are evenly spaced and uniform in size. This is shown in Photos 1 and 2 below:



Figure 1: Vegetation located along proposed boundary realignment



The hedgerow identified by Council is formed by a row of Crack Willow trees (*Salix fragilis* or *Salix alba*), a declared noxious weed species in Victoria. We note that even if these trees were indigenous to Victoria, they would be exempt from a permit under the 'planted vegetation' exemption tabled at Clause 52.17-7. Three willow tree stumps are present to the east of the shelter belt and no standing trees are within 4m of the proposed boundary. Photos 3 and 4 below show the uniform size and spacing of the willow hedgerow trees:



Figure 1: Vegetation located along proposed boundary realignment



As such, the vegetation described above is not native vegetation with the potential to be consequentially lost under the exemptions tabled at clause 52.17-7. No permit is currently required to remove the above-described vegetation under the Cardinia Planning Scheme.

Given the above, we submit that the above information negates the need for costly revisions to the arborist report.

Powerline Easement

The plans submitted as part of the response to further information appears to include the creation of a powerline easement (E-1 on proposed PS 916988M). Please confirm if you are seeking to create this easement pursuant to Clause 52.02 Easements, Restrictions and Reserves and as part of this application. If yes, please amend the application by providing a completed Section 50 Form – see link above. Please note, additional fees may be payable, this will be determined upon the receipt of further information.

Response:

An amended copy of proposed Plan of Subdivision PS916988M is provided as part of this response which has removed the powerline easement from the plan.

Referral of Application

Please note, following receipt of further information requested above, the application will be referred to relevant internal departments of Council and external authorities. Following which additional requests for further information may be requested and/or concerns raised.

Response:

Noted.

We trust that the above submitted information satisfies Council's request. Please do not hesitate to contact me should you have any questions or require further information.

Warm Regards,



Town Planner

Nobelius Land Surveyors

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